

Published: Jul 12, 2009 02:00 AM

Modified: Jul 10, 2009 04:42 PM

When it comes to elections, just wait for the big money

BY GENE R. NICHOL

CHAPEL HILL - For those many, still, who care deeply about the humiliating influence of cash register politics on the world's greatest democracy, these are infuriating times. And the U.S. Supreme Court is apparently readying to make things markedly worse. Where's Robert La Follette when we need him?

A couple of weeks ago, for example, The Associated Press reported that "big oil" is "lavishing funds" on Washington -- "accelerating [its] lobbying efforts faster than any other industry ... shattering last year's records." In "training their gusher profits on D.C.," the "investment" is purportedly "paying off" -- with legislative successes on an array of fronts.

The New York Times highlighted, concurrently, aggressive moves of hedge fund operators to curtail federal oversight. Their massive patronage was directed particularly toward Chris Dodd, Democratic chairman of the Senate Banking Committee, and Barney Frank, chairman of the House Financial Services Committee. Dodd and Frank apparently welcomed the courtesies -- as Obama administration and committee proposals fell closer in line with industry demands.

The Center for Public Integrity recently documented the astonishing campaigns of the pharmaceutical industry, granddaddy of all lobbying interests, spending over a billion dollars on federal politicians in the last decade. In turn, they've received "virtually everything they wanted." They've prevented the importation of cheaper foreign drugs, assured direct advertising of prescription drugs to consumers and worked hard to bar various Medicare efforts to negotiate lower prescription drug prices. The center anticipates, though, that these half-steps will pale in comparison to the fusillade launched "to fight comprehensive health care reform." Buckle up.

On the home front, Democracy North Carolina has helped illuminate various odd voting patterns on Jones Street. Insurance companies, having donated hundreds of thousands of dollars to North Carolina legislators, now enjoy unique tax breaks worth millions. Huge banks, retailers, drug makers and other multi-state corporations have, thus far, successfully fought combined tax reporting mechanisms that would reap, in fairness, at least \$45 million a year for state coffers. Their support for "good government" in Raleigh easily exceeds a million dollars annually.

Telephone giants like AT&T and Embarq, after springing for hundreds of thousands each, enjoy equipment tax breaks that cost the state \$31 million. The old saw "equal rights for all and special privileges for none" is apparently passé. It is Fourth of July ritual, like sparklers for the kids, not governing principle.

Sadly, in both capitals, this sounds like business as usual. Government of the lobbyists, by the fundraisers, for the corporations. But I began by saying things seemed destined to get worse. Here's why.

At the close of its term, the U. S. Supreme Court ordered re-argument in *Citizens United v. FEC* -- the case exploring whether a scathing anti-Hillary Clinton movie can be regulated under campaign finance laws. Rather than merely deciding the narrow, if difficult, issue before it, the court took the unusual step of demanding the parties return in September, before the normal start of term, to argue whether two foundational corporate financing cases should be overruled.

In one, *Austin v. Michigan Chamber of Commerce*, the justices ruled two decades ago that state governments can bar corporations from using their treasuries to support candidates for elected

office. The second, *McConnell v. Federal Election Commission*, held that the federal government can restrict the use of corporate and union funds to buy radio and TV ads, for or against a candidate, in the weeks preceding an election.

Campaign reform lawyers cringed. It's difficult to imagine that the justices would slate the odd rehearing, pose the boldest question and then conclude anything other than that Austin and *McConnell* are wrong. Both rest on the explicit premise that "the corrosive and distorting effects of immense aggregations of [corporate] wealth ... [would] unfairly influence elections." Justice Antonin Scalia and his previously dissenting colleagues have characterized that premise as "Orwellian" -- rooted "in the principle that too much speech is an evil." Scalia, it seems, is about to get his way.

Campaign finance reform, in the United States, has proven frustrating. Money flows like waters -- ever seeking the open path. And by cynically equating the payment of huge sums to, or on behalf of, greedy candidates with Tom Paine scribbling out copies of *Common Sense*, the Supreme Court has riddled our finance system with unpluggable holes.

Still, if American corporations, as a matter of constitutional law, are allowed to simply open their treasuries to support their favored candidates, all efforts to limit the influence of money on our politics will be ended. "Clean election" schemes, public financing moves, campaign contribution limits, PAC regulations -- all will be moot, swamped in a tsunami of corporate cash.

A government in which those who seek certain policies are allowed to give unlimited amounts of money to those who make the policies may be called many things. But it can't be called democratic. And it can't be called fair.

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