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Inside Campaign Finance: Myths and Realities

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INSIDE CAMPAIGN FINANCE: MYTHS AND REALITIES. By *Frank J. Sorauf.* New Haven: Yale University Press. 1992. Pp. x, 274. $30.

Reform-oriented commentators have labeled Frank Sorauf's[1] contributions to the campaign finance debate "anti-reform writing."[2] This description implies that Sorauf sides either with those satisfied with the campaign-finance-system status quo[3] or with free-market zealots who seek to dismantle the entire campaign finance regulatory system.[4] In reality, Sorauf falls within neither of these camps. Rather, he merely finds the dysfunctions of the present system less serious than reformers portray them and, accordingly, favors solutions less radical than those that most reformers propose. The reformers' misleading characterization of Sorauf may reveal less about his work than it does about their own prickliness toward anyone not adhering to their Chicken-Little outlook on the political world.[5]

A more intriguing question than how to categorize Sorauf's writing is why he has chosen to revisit a topic that he covered comprehensively only four years earlier in *Money in American Elections.*[6] The germ of an answer may lie in his more recent book's full title: *Inside Campaign Finance: Myths and Realities.* As the book progresses, it becomes increasingly clear that the "myths" Sorauf refers to are the characterizations of the American political system that reformers have made and that politicians and the mass media have faithfully parroted; the "realities" are those that Sorauf and other political scientists have exposed and that the general public has largely ignored. *Inside Campaign Finance* is not so much about reforming the campaign finance system as it is about reforming the reformers.

After a brief explanation of the history of campaign finance and the legal framework established by the Federal Election Campaign

1. Professor of Political Science, University of Minnesota.

2. *See, e.g.,* Daniel H. Lowenstein, *On Campaign Finance Reform: The Root of All Evil Is Deeply Rooted,* 18 HOFSTRA L. REV. 301, 329 (1989).

3. *See, e.g.,* Frank J. Fahrenkopf, *The Campaign Finance System Isn't Sick,* WASH. POST, Apr. 30, 1987, at A19.

4. *See, e.g.,* Gerald G. Ashdown, *Buying Speech: Campaign Spending, the New Politics, and Election Law Reform,* 23 NEW ENG. L. REV. 397 (1988); Sam Kazman, *Purer Politics, Greasier Pigs, and Other Wonders of Campaign Reform,* REGULATION, Summer 1992, at 62.

5. Reformers tend to describe the present state of campaign finance in only the most catastrophic terms. *See, e.g.,* BROOKS JACKSON, HONEST GRAFT: BIG MONEY AND THE AMERICAN POLITICAL PROCESS 295 (1988) ("America is becoming a special-interest nation where money is displacing votes."); PHILIP M. STERN, THE BEST CONGRESS MONEY CAN BUY 194-99 (1988); Lowenstein, *supra* note 1, at 366 ("Our campaign finance system is corrupt and its poison is a serious blight on American government . . . .").

6. FRANK J. SORAUF, MONEY IN AMERICAN ELECTIONS (1988).

Act (FECA)[7] and the Supreme Court's ruling in *Buckley v. Valeo,*[8] Sorauf sets the stage for the conflict between "myth" and "reality." Reform positions, he explains, are rooted in a progressive world view that both distrusts political money and sees it as the underlying cause of most political events (p. 24). According to Sorauf, this view "has come to dominate the American debate over campaign finance" (p. 24), so much so that "the most singular aspect of the debate . . . is its one-sidedness" (p. 23). The reformers' hegemony, he complains, "has created a separate epistemology of campaign finance . . . based on its own rules of evidence and grounded in the premise of the monetary root of all evil."[9]

Central to the ascendance of the reform perspective on campaign finance, according to Sorauf, is an unholy alliance between reformers and the national news media. The inherent advantage of the progressive view is that it "fits the imperatives of contemporary journalism," namely, finding simplistic, morally tinged, and easily recounted stories to feed to impatient audiences (p. 24). Reformers' portrayals of the campaign finance system as thoroughly corrupted by monetary influence meet these criteria, however inaccurate those depictions may be. On the other hand, "[t]here is little room — and little consumer tolerance — for the hedges and caveats, the uncertainties and complexities, of the academic accounts" that Sorauf and his colleagues offer (p. 25). Consequently, the media communicates the reform message, casually describing campaign accounts as "war chests," PACs as "special-interest representatives," and campaign contributions as "sewer money" (p. 26).

Sorauf explains that there are profound differences between political scientists' outlook on campaign finance issues and the reform mantra. In contrast to academic researchers, who view campaign finance as a subject of "endless complexity, of ambiguous causes, and of shared and dispersed influence," reformers' portrayals are "of dominant actors and great events, of clear and dramatic causes, a mesmerizing pageant of power and corruption" (p. 26). The propagation of these "Progressive-populist myths" (p. 163), Sorauf says, creates a Plato's cave effect, obscuring the complex realities of campaign finance

7. Federal Election Campaign Act of 1971, Pub. L. No. 92-225, 86 Stat. 3 (1972) (codified as amended at 2 U.S.C. §§ 431-456 (1988)).

8. 424 U.S. 1 (1976). In *Buckley,* the Court held that FECA provisions imposing mandatory expenditure limits on congressional campaigns, restricting independent expenditures to $1000 per year, and limiting the amount of personal wealth that candidates could expend on their own campaigns violated the First Amendment to the U.S. Constitution. 424 U.S. at 39-54. As Sorauf notes, this ruling left the FECA "a tattered remnant of its original self," and effectively spawned a hybrid legislative-judicial campaign finance system. P. 12. Sorauf has elsewhere criticized the Court's rationale in *Buckley. See* Frank J. Sorauf, *Caught in a Political Thicket: The Supreme Court and Campaign Finance,* 3 CONST. COMMENTARY 97 (1986).

9. P. 23. This view is clearly reflected in Lowenstein, *supra* note 2, at 301-02.

and compelling citizens "to watch the shadows projected on the vast wall in front of them . . . [in a] dance of distorted images" (p. 189).

The reform movement attacks our present campaign finance system on three basic grounds. First, the reform movement asserts that dependence on private "special interest" funding results in pervasive corruption of the political system.[10] One reform commentator representing this view claims that "under our present system of campaign finance, politicians and interest groups engage routinely . . . in felonious bribery that goes unprosecuted primarily because the crime is so pervasive."[11] Second, reformers complain that the campaign finance system creates powerful proincumbent biases in the electoral process that defeat democratic choice.[12] Finally, reformers allege that the system makes political campaigns too expensive, creating barriers to entry for potential candidates and causing fundraising to consume inordinate amounts of candidates' and politicians' time.[13]

Sorauf addresses these criticisms of the current system, but does not condemn them as baseless or imaginary. Instead Sorauf argues that in each case the criticisms are either exaggerated or mistakenly regarded as resulting from monetary influences. Sorauf first targets the "myth" that campaign contributions effectively purchase legislative votes. He mocks the presumption that "all transactions in campaign finance are bribes" and forms of " 'legalized corruption.' "[14] Such characterizations are convenient, according to Sorauf, because "there are no hard distinctions to make, no need to separate the positive from the negative, the useful from the destructive" (p. 162). The first fallacy in the bribery comparison, he says, is that it portrays a unilateral market, with the contributors as aggressive buyers of influence and candidates as passive, even reluctant sellers (p. 60). In reality, the exchange is bilateral and occurs in a market with a variety of prices, terms, and options for both buyer and seller (pp. 63-64). Sorauf points out that under a bilateral conception of the political marketplace, candidates' behavior and strategies can influence contributors just as easily as campaign contributors can influence politicians' legislative behavior (pp. 64-65).

Viewing the campaign finance market as bilateral therefore diminishes the significance of the correlations between campaign contribu-

10. *See, e.g.*, JACKSON, *supra* note 5, at 294-95; STERN, *supra* note 5, at 182-83.

11. Daniel H. Lowenstein, *Political Bribery and the Intermediate Theory of Politics*, 32 UCLA L. REV. 784, 848 (1985).

12. *See, e.g.*, STERN, *supra* note 5, at 35-37; Paul D. Wellstone, *True Election Reform*, CHRISTIAN SCI. MONITOR, Mar. 22, 1993, at 18.

13. *See, e.g.*, LARRY MAKINSON, THE CASH CONSTITUENTS OF CONGRESS 2 (1992); STERN, *supra* note 5, at 37, 99-100, 197-98; Michael Tackett & Christopher Drew, *"The best Congress that money can buy,"* CHI. TRIB., Dec. 7, 1992, § 1, at 1, 8.

14. Pp. 162-63 (citing Lowenstein, *supra* note 10, at 848, and AMITAI ETZIONI, CAPITAL CORRUPTION: THE NEW ATTACK ON AMERICAN DEMOCRACY 56-57 (1984)).

tions and voting behavior that reformers frequently display as evidence of the corruption pervading our political system.[15] To Sorauf, such correlations are unsurprising: "Contributors contribute to like-minded candidates, just as voters vote for like-minded candidates" (p. 165). The real question is which variable is independent and which is dependent, or in Sorauf's terms, "[d]oes the money follow the votes, or do the votes follow the money?" (p. 165). Sorauf suggests that the answer is a little of both, but that the cause-effect ambiguity confounds any clear interpretation of reformers' correlative evidence. Furthermore, he cites academic studies finding the views of even important campaign contributors to have little actual influence on legislative voting behavior.[16] He postulates that contributors are only influential when more important influences such as constituency opinion or party position are not pronounced, and in the sort of policy refinements crafted in legislative committees (p. 170). Sorauf concludes: "Contributors do not necessarily seek, or even expect, to score impressive policy victories measured by final roll-call votes. . . . [For them], the smaller accomplishments have to suffice" (p. 170).

Sorauf portrays conventional wisdom about the campaign finance system's role in securing incumbents' electoral advantages as similarly misguided. The reform position, as he describes it, is that "[i]ncumbents win so often because they outspend their opponents so greatly, and challengers fail to win because they lack the resources with which to mount a winning campaign" (p. 175). Sorauf believes that this logic suffers from the same cause-effect dilemma as do reformers' assumptions about the relationship between campaign finance and legislative behavior. The important question, he says, is: "Do candidates win because they spend more money, or do they get more money, and spend it, because they are likely to win?" (p. 175).

Sorauf answers that the progressive-populist "money is the root of all evil" presumption is even less supportable in the electoral context than in the legislative context. He points out that high incumbent reelection rates predate the campaign finance system installed by FECA

15. *See, e.g.*, ELIZABETH DREW, POLITICS AND MONEY 81-87 (1983); STERN, *supra* note 5, at 43-54.

16. Pp. 166-67 (citing Janet M. Grenzke, *PACs and the Congressional Supermarket: The Currency Is Complex*, 33 AM. J. POL. SCI. 1 (1989); W.P. Welch, *Campaign Contributions and Legislative Voting: Milk Money and Dairy Price Supports*, 35 W. POL. Q. 478 (1982); and John R. Wright, *PACs, Contributions, and Roll Calls: An Organizational Perspective*, 79 AM. POL. SCI. REV. 400, 411 (1985)); *see also* JOHN W. KINGDON, CONGRESSMEN'S VOTING DECISIONS 146-48 (3d ed. 1989) (finding interest-group position to be a weak predictor of voting behavior and finding opinions of constituencies and congressional colleagues to be much stronger predictors of congressional voting behavior than interest-group position); SORAUF, *supra* note 6, at 316 (describing PAC contributions as having "at most a modest influence . . . far less important than the voting constituency, the party or the values [of] the legislator"). *But see* Lowenstein, *supra* note 2, at 313-17 (criticizing the methodology and conclusions of the Grenzke and Wright studies).

in the 1970s.[17] Sorauf suggests that incumbency reelection rates are largely propelled by advantages of office that are entirely unrelated to campaign finance, such as the postal frank, media access, district offices, and government-paid staffs (p. 175). Sorauf also discusses research showing an inverse relationship between incumbent spending and incumbent electoral success. Thus, contrary to conventional wisdom, the more incumbents spend, the worse they do.[18]

Sorauf does not conclude, as do the reformers, that incumbents' reelection rates are so high because they can raise more money. Sorauf argues instead that incumbents can raise more money because their chances of reelection are so strong. Campaign contributors seeking to curry legislative favor do not count on their money to buy elections; they simply recognize that because money cannot offset incumbents' electoral advantages, supporting challengers is a futile exercise (pp. 67-70). Hence, "the greatest advantage the incumbents have is not their campaign money; it is the expectation early in the election cycle that they can and will win reelection" (p. 178).

Sorauf then turns his attention to the final set of reform criticisms: that campaign spending has become excessive and needs to be curtailed. He does not view this complaint as baseless, acknowledging several negative practical consequences of the upward spiral in expenditures: consumption of candidates' time, increased prominence of money brokers, and heightened barriers to entry for potential candidates.[19] But as a judgment about the value of campaigns, Sorauf feels that it reflects "a double standard, one code of behavior for the private sector and another for the public sector" (p. 187). He notes that campaign expenditures are dwarfed by advertising budgets of large corporations, comparing the $445.2 million spent on congressional campaigns in 1990 to Sears, Roebuck's $1.4 billion advertising tab for the same year (p. 187). Campaigns, Sorauf insists, are simply expensive; a $600,000 campaign budget for a House race provides funds for only two direct mailings and three television advertisements, an effort that is "something less than profligate" (pp. 188-89). Given this, Sorauf sees "a plausible argument that candidates spend too little, not too much, in congressional campaigns."[20]

Reformers emphasize public funding of campaigns and enhanced restrictions on campaign finance as the exclusive solutions to what they see as the deepening quagmire of corruption caused by our cur-

17. Pp. 70, 175. Even statistics cited in reform literature show that Senate reelection rates dipped after FECA's passage and House reelection rates are only slightly higher than in the pre-Watergate era. *See* MAKINSON, *supra* note 13, at 5.

18. Pp. 176-78 (discussing GARY C. JACOBSON, MONEY IN CONGRESSIONAL ELECTIONS (1980)).

19. Pp. 187-88. On this point, at least, Sorauf is in substantial agreement with the reformers. *See, e.g.*, STERN, *supra* note 5, at 37, 99-122; Tackett & Drew, *supra* note 13, at 8.

20. P. 189; *see also* Ashdown, *supra* note 4, at 417-20.

rent system.[21] Prominently featured in such proposals are capping campaign spending, banning campaign contributions from organized interests such as PACs and from out-of-state or out-of-district contributors, and providing substantial public subsidies for political campaigns. Essentially, the reformers seek to flush as much private, interested money out of the campaign finance system as possible, replacing it with a massive transfusion of untainted public funds.

Unsurprisingly, Sorauf rejects both the need for such major surgery and the efficacy of reformers' solutions. He calls banning PAC contributions "probably the worst reform idea of the post-1974 regime" (p. 199). Such a move would not only be unjustified, according to the author, but ultimately counterproductive. Sorauf argues that banning PAC contributions would increase the leverage of other contributors, disadvantage candidates from the inner city, and obscure the sources of contributions, all without significantly stemming the flow of interested money.[22] He regards spending limits as similarly flawed because they will increase the electoral system's incumbent bias and because large contributors can easily evade them (pp. 214-15). Sorauf also ridicules reformers' efforts to fund campaigns with public money as both politically unviable[23] and hopelessly naive (pp. 218-21), comparing the assumption that "one can find enough innocent, purposeless money" to "the stork theory of human reproduction" (p. 221). Reformers' goals, he declares, constitute "a search to find again a golden age of simpler, grass-roots, citizenly politics . . . [that] never existed except in our nostalgic longings" (p. 221).

The chasm between these academic "realities" about contributor influence and popular perceptions about contributors' roles in the political system is attributable to several factors, Sorauf explains. First, participants in the campaign finance system, especially the contributors themselves, tend to overplay the importance of financial interests in the legislative process (p. 171). Sorauf cites notorious campaign donor Charles Keating as symbolic of this tendency (p. 171). The misperception also stems from the power of anecdotal evidence to obscure empirical reality. Reformers and the media, Sorauf says, focus "on the limited, often dramatic event" that is "chosen to show a relationship, not because [it is] representative of the full universe of PAC-incumbent exchanges" (p. 165). Finally, the public be-

21. *See, e.g.*, JACKSON, *supra* note 5, at 301-12; STERN, *supra* note 5 at 180-84; Wellstone, *supra* note 12, at 18.

22. Pp. 199-201. A host of generally reform-oriented commentators and groups have recently echoed these concerns. *See* James A. Barnes, *Sticky Wicket*, 25 NATL. J. 1108, 1109 (1993); Sharon Berry, *Will Curbing PACs Hurt Black Reps?*, BLACK ENTERPRISE, Sept. 1993, at 25; Larry J. Sabato, *Bad Reform Ideas That Sound Good*, CAMPAIGNS & ELECTIONS, Apr.-May 1993, at 25.

23. *Cf.* Barnes, *supra* note 22, at 1110, 1112 (detailing political and public opposition to public funding).

lieves inferences of widespread political corruption because our political culture's progressive-populist values regarding the corrosive influence of money render them inherently credible. "The line between dispositions to believe and foregone conclusions," Sorauf comments, "is very thin" (p. 171).

Sorauf's critique of the contemporary political reform movement is convincing to the extent that it exposes reformers' claims about the evils of campaign finance as hyperbolic and even somewhat demagogic. He utilizes the voluminous statistics that twenty years of mandatory public disclosure of candidates' campaign finance data have produced[24] in a manner that is forceful, yet not manipulative. Perhaps the book's greatest strength is that it strives to paint a complete picture of campaign finance issues and thereby avoids leaving the reader thirsting to hear the story's other side. Among a literature abundant with one-sided diatribes, rhetorical excesses, and questionable conclusions, Sorauf's work stands as a thorough and carefully reasoned analysis of the effects of the election law reforms instituted in Watergate's aftermath.

Yet Sorauf's statistical analysis cannot completely explain away the problems associated with our campaign finance system. Political corruption and tainted elections are not worrisome only in the aggregate; they are antithetical to fundamental notions of democracy and therefore deeply disturbing whenever they occur. The evidence that such phenomena are present at least to some extent in the American political system is overwhelming and their existence is confirmed by politicians of all stripes.[25] To argue, as Sorauf seems to, that such incidents should be ignored because they are insufficiently widespread is akin to arguing that because the percentage of Americans who are murdered each year is tiny, homicide is not a serious social problem.

Even if *Inside Campaign Finance* does not prove that the malfunctions of the campaign finance system should go unaddressed, it exposes a significant and alarming rift between the system's reformers and the academic experts. Sorauf represents a legion of leading academics who dissent both from reformers' diagnoses of the maladies of our campaign finance system and from their proposed cures.[26] It appears, though, that the reformers, not Sorauf and his cohorts, are the ones shaping policy. Both the campaign finance reform bill that the

24. *See* 2 U.S.C. §§ 431-434 (1988).

25. *See* STERN, *supra* note 5, at 99-122; Lowenstein, *supra* note 2, at 331-34 (discussing statements of Rep. Matsui); Tackett & Drew, *supra* note 13, at 1 (discussing statement of Rep. Synar).

26. *See, e.g.*, Gary C. Jacobson, *Campaign Finance and Democratic Control: Comments on Gottlieb and Lowenstein's Papers*, 18 HOFSTRA L. REV. 369 (1989); Herbert E. Alexander, *Hidden Costs of Campaign Reform*, STATE GOVT. NEWS, Apr. 1990, at 16; Curtis Gans, . . . *And PAC-ing It In: Why Congress Hasn't Broken the Impasse — and How It Can*, WASH. POST, Dec. 6, 1992, at C5; Sabato, *supra* note 22.

Senate passed in 1993[27] and the House's 1993 bill[28] revolve around spending limits, public funding, and a drastic reduction in the role of private contributors — all remedies that Sorauf and other academic experts regard as unnecessary and counterproductive. This disjunction between expert opinion and legislative product suggests that the current round of campaign finance reforms will be no more successful at rooting out corruption and electoral bias than its predecessor of the Watergate era. Thus the rift between political scientists and the reform movement presents potentially serious repercussions.

Unfortunately, *Inside Campaign Finance* is unlikely to make Sorauf's message more audible above the din of reform rhetoric. Dense with statistics and primarily discursive in tone, its message buried in back pages, the book is truly an academic work. Certainly, there is nothing wrong with academic writing per se, but when an issue is on the political front burners, as campaign finance presently is, and one's opponents are as articulate and media-savvy as campaign finance reformers have proved themselves to be,[29] an academic tome is undoubtedly an inopportune forum. It is regrettable that a specious newspaper editorial can have more impact than a thoroughly researched and analytically cogent book like *Inside Campaign Finance*. However, it is difficult to see how academics can engineer the triumph of their "realities" over the reform movement's "myths" and thereby influence the next wave of campaign finance reforms while remaining ensconced in their ivory towers.

— *Michael R. Phillips*

27. S. 3, 103d Cong., 1st Sess. (1993).

28. H.R. 3, 103d Cong., 1st Sess. (1993). The House bill differs from the Senate's plan in several material respects, and the bills had not been reconciled before adjournment of the first session.

29. One important reason for the reform movement's ability to communicate its message effectively through the media is that many leading reformers are members of the media themselves. Prominent examples include Elizabeth Drew, who writes for the *New Yorker*, and Brooks Jackson, a member of the *Wall Street Journal* staff.