As we saw last week, during the past 20 years elections have turned into money-raising contests. About 90% of the time (literally), elections are won by the candidate who raises the most money. The money raised is huge: the average U.S. Senate race requires expenditure of $3.9 million, and some candidates have spent upwards of $25 million on a single contest. As a result, our elections are now largely decided by the WEALTH PRIMARY—a money-raising contest that precedes the real primary. Behind the scenes, the WEALTH PRIMARY determines who the candidates will be.[1]

The major sources of campaign money are wealthy individuals and corporations. Therefore, people who hold ideas unpopular with wealthy individuals and corporations, are generally prohibited from running for office, much less winning. Furthermore, after the election, the winners must curry favor with wealthy individuals and corporations because they need money for re-election. For example, the average U.S. Senator must raise $12,500 each week for 312 weeks (6 years) to acquire the $3.9 million needed to win re-election. Where do you get $12,500 in donations each week? Probably not from average Americans.

As a practical matter, this means that elected officials rub elbows with the well-to-do on a regular basis, and change their ideas, as needed, to release the necessary flow of cash. Or, alternatively, elected officials ARE the well-to-do. For example, 26% of U.S. Senators are millionaires, whereas only one-tenth of one percent of the general public are millionaires. Conversely, no candidates for U.S. Senate in recent memory have been poor—and none have descended into poverty after taking office. Yet 15.3% of the general public is poor. As a result, the spectrum of views of the American public is not fairly represented by today's elected officials.

Nationwide, elections today are comparable to elections in some southern states prior to the Civil Rights Act of 1964. For example, prior to 1964, some states discouraged African-Americans from running for office by requiring payment of a high "filing fee." To run for office in Texas, for example, you had to pay a "filing fee" ranging from $1000 to $6300. In 1972, the Supreme Court of the United States, in a case known as BULLOCK V. CARTER, declared that the Texas filing fees violated the equal protection clause of the U.S. constitution. The Court said high filing fees set up "barriers to candidate access to the primary ballot, thereby tending to limit the field of candidates from which voters might choose." The Court said, "the very size of the fees imposed under the Texas system" gave the electoral system "a patently exclusionary character." Many "potential office seekers lacking both personal wealth and affluent backers are in every practical sense precluded from seeking the nomination of their chosen party, no matter how qualified they might be, and no matter how enthusiastic their popular support," the Court said. As a result, the Court said, the Texas system unfairly (and illegally) gave "the affluent the power to place on the ballot their own names or the names of the persons they favor." Two years later in another case (LUBIN V. PANISH) the Court reaffirmed these views.

As we also saw last week, incumbents (those already in office) have a tremendous advantage over challengers because public money subsidizes the election campaigns of incumbents but not of challengers. Furthermore, holders of private wealth seek to influence the candidates by running the most money. As a result, in the U.S. House of Representatives in 1992, for example, the average incumbent had $692,000 to spend campaigning, while the average challenger had only $155,000. Under these circumstances, incumbents can easily overwhelm challengers—and do, almost 90% of the time.

Incumbents attract private money from two main sources: political action committees (PACs) and wealthy individuals. Small contribution (below $200.00 each) account for less that 20% of all campaign giving. [2] Direct contributions by corporations to candidates for federal office have been illegal since the Tillman Act of 1907; to side-step this prohibition, corporations, labor unions, interest groups, and other businesses sponsor political action committees that collect funds from their employees or members and funnel them to candidates. In 1992, PACs contributed $188 million, or 29% of the $659 million total spent in all federal elections. Business PACs outspent labor PACs by 3 to 1. Furthermore, PACs give overwhelmingly to incumbents and not to challengers. In 1992 the average House of Representatives incumbent received $222,000 from PACs—MORE THAN THE CHALLENGER HAD AVAILABLE TO SPEND ON HIS OR HER ENTIRE CAMPAIGN.

Contrary to what many people believe, wealthy individuals contribute even more than PACs—$233 million, or 35% of the total in 1992. The wealthiest 2% of Americans contributed 77% of this $233 million.

Of the total $659 million spent on federal elections in 1992, about 80% ($527 million) came from business interests, according to an analysis by the Center for Responsive Politics in Washington, D.C. It naturally follows that, in the give-and-take of passing new laws, business interests are generally favored over the interests of average Americans because, from a politician's perspective, businesses are paying the piper, so they get to call the tune.

As a result, the wages of working people have steadily diminished while corporate profits are setting records and executive salaries have gone through the roof; environmental laws are being weakened or ignored and environmentally-related illnesses are being permitted to increase; the burden of taxes has been gradually but relentlessly shifted from the wealthy and corporations onto middle-class Americans and the working poor; so-called "free trade" laws are encouraging corporations to move to the developing world where they can thumb their noses at the normal constraints of civilized behavior; job security, retirement benefits, and health insurance are becoming a thing of the past for millions of Americans; home ownership is beyond the reach of more and more working people; and all the while massive quantities of taxpayers' money are being wasted bailing out the failed experiments of Wall Street speculators and crooks.

The normal checks on the system—formerly available via the electoral process—are no longer accessible to average Americans in large part because of the corrupting influence of money in politics, especially the money of corporations and the corporate elite.

In response to the Watergate scandal, in 1974 Congress passed the Federal Election Campaign Act (FECA) to limit contributions to candidates for federal office. FECA was immediately challenged as an infringement on first amendment rights; the plaintiffs argued that "limiting the use of money for political purposes constitute[d] a restriction on communication violative of the First Amendment, since virtually all meaningful political communications in the modern setting involve the expenditure of money."

In BUCKLEY V. VALEO, the U.S. Supreme Court struck down the FECA law, thus saying in effect that pumping private money into elections is a form of free speech. This decision has allowed the wealthy to positively shout in elections, drowning out the voices of the majority of Americans—a situation clearly not consistent with our one-person- one-vote democracy.

Even if BUCKLEY V. VALEO were never overturned, we could get money out of politics with some straightforward reforms:

Remedy 1: A "Floor" of Public Financing: The first remedy would have the federal government provide minimal public financing, coupled with media vouchers, to all eligible congressional candidates to enable them to conduct viable campaigns. Eligibility would be determined according to some reasonable threshold of
public support, demonstrated perhaps by signatures on petitions. The level of financing could be set either in relation to each congressperson’s public subsidy, which is approximately $200,000, or the amount of money spent by the winner in the last election. Under this plan, publicly financed challengers could still be outspent by candidates raising private funds; that is, public money would guarantee a “floor” of public money and resources for non-affluent candidates, but the sky would still be the limit in terms of private money raised and spent.

Remedy 2: A voluntary system of total public financing: To address the concerns that a floor of public financing will not secure the equal protection rights of qualified non-affluent candidates competing with privately-financed candidates, we could go a step further. Under this plan, the government would not only establish a floor of public financing but would also provide eligible candidates with additional grants to match expenditures by privately-financed candidates that exceed the established floor. This remedy, in effect, would establish a system of total public financing of elections, thus getting rid of the financial inequality of the old system.

This remedy would be voluntary. Candidates who chose to opt out of the public system and compete instead in the wealth primary could do so. No caps would be placed on their campaign spending. Yet, those opting in, with the condition that they agree not to raise or spend any private money in the primary and general elections, could rely on the escalator of public financing for the protection of their rights to participate in the electoral process on an equal and meaningful basis.

Remedy 3: A system of total public financing with mandatory spending limits: The third remedy would be total public financing with mandatory spending limits, thereby limiting the need for the government to provide additional grants to match the expenditures of privately-financed candidates. This third remedy would require a reversal of the BUCKLEY V. VALEO ruling.

Our elections—the heart of our system of self-governance—have been systematically corrupted by private wealth. As a result, America finds itself in deepening trouble. Public financing of elections is a solution that seems simple, fair and affordable. Campaign finance reform is the key reform that makes other reforms possible. It is time to get private money out of our elections.

--Peter Montague

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Descriptor terms: campaign finance reform; congress; elections; corruption; wealth; poverty; legislation; laws; legislative process; corporations;