

The Donation Booth

We have secret ballots to avoid corruption. Why not keep campaign contributions secret too?

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"I think it's disingenuous for anybody in public life to say that it doesn't help you to be considered for [a trade mission] if you help the person who happens to win an election . . . And it is a good thing to do. That's the way the political system works."

--President Clinton

Thus sayeth the President. With this mindset, it's not surprising that Clinton was obsessed with learning the identity of his campaign contributors. But contrary to the President's views, giving donors preferential treatment is not "a good thing to do." And it's not the way the political system has to work.

If we could stop candidates from learning the identity of contributors, big donors would not be able to buy perks or policy. Mandating anonymous donations would make it harder for candidates to sell access or influence, because they would never know that the donor had paid the price.

Imagine a world with anonymous donations: No more selling nights in the Lincoln bedroom. No more ambassadorships or trade missions for successful fundraisers.

There is no good reason why politicians need to know the identity of their donors, or why donors need to reveal their identities. People can signal the intensity of their preferences by marching on Washington--barefoot if need be. An individual's power to influence government should not turn on personal wealth. Small donors are already effectively anonymous, because \$100 doesn't buy very much face time with the president. Mandating anonymity is likely to level the playing field of influence by making small contributions count for relatively more.

The privacy of the voting booth is a core feature of our democracy. This privacy makes it much more difficult for candidates to buy votes, because at the end of the day they can never be sure who voted for them. We should replicate the privacy of the voting booth by creating a "donation booth"--a screen that forces donors to funnel campaign contributions through blind trusts.

Several states have already experimented with prohibiting judicial candidates from learning who donates to their election or reelection campaigns. The logic of course is that judges don't need to know the identity of their donors: judicial decisions should be based on the merits of each case, not on contributors' money. But it is difficult to explain why this logic does not apply to the other two branches of government as well. Our experience

with judicial elections shows that donor anonymity can be enforced and can deter contributors who would otherwise seek to influence judicial decision making.

PAC Bundling and Soft Money

Mandating anonymous donations could also help mitigate two of the biggest influence abuses: PAC bundling and soft money. Even though political action committees (PACs) are not supposed to give more than \$5,000 to an individual federal candidate, PACs can bundle together individual \$1,000 contributions and pass them on *en masse*. PAC bundles are often 10 to 20 times greater than the statutory limit.

Our proposal would radically reduce the amount of bundling because candidates would not know the identity of the PAC that had procured the bundle of individual donations. Currently, the PACs make sure that the candidates understand who is responsible for the bundle. Under our proposal, PACs could still solicit contributions for candidates, but they could not buy access from the victors.

Channeling donations through blind trusts could also mitigate the "soft money" loophole that allowed Clinton and Dole to spend \$250 million more than what was intended by existing campaign finance regulation. Soft-money contributions to political parties can be used for television commercials that openly disparage the other party's candidate as long as the commercials refrain from using magic words such as "vote for candidate X." Reformers have attempted to stop "soft money" by expanding what counts as a campaign ad or allocating part of soft-money expenditures to candidates' campaign limits.

But "no disclosure" is better than "full disclosure." If we simply kept President Clinton in the dark about the identity of his soft-money contributors, he would have a much harder time extracting six-figure gifts from James Riady and company. Instead of trying to discern whether soft money is being used to promote a particular candidate, the donation booth would reduce the incentive for donors to write large soft-money checks in the first place.

How Would It Work?

The proposal might operate through a privatized system of blind trusts--operated by established trust companies with substantial, preexisting assets (of say, more than \$100 million). All candidates, political parties and political action committees would establish blind trust accounts at qualified institutions.

The core regulation would require that all donations to candidates, political parties, and PACs be made by mail to the blind trusts. Campaigns would no longer be allowed to accept money in cash or check. Large donors would have the option of having the trust disclose that they had given at least \$200, but under no circumstance would the trust identify a donor as having contributed more than \$200.

The blind trusts would then report to the candidates on a weekly or a biweekly basis the total amount that had been donated, but not detail any individual donations exceeding \$200. Representatives of the blind trust could not be employed in positions influencing access or policy--and as a prophylactic should be required not to privately communicate with candidates or campaign workers.

Candidates could still ask individuals for support, but could not close the deal. This by itself might free politicians from the current fund-raising marathon of constantly seeking contributions.

A candidate like Dole could still have fundraisers and limit invitations to rich, registered Republicans. But under our regime of mandated anonymity, the dinner could not be priced above cost. Instead, campaign workers could do no more than distribute postage-free envelopes addressed to the blind trust--so that attendees could later mail in a contribution.

The trust's books would be publicly audited only some number of years after the candidate left office. This *ex post* auditing would allow donors to be sure that their donations had in fact gone to their candidate and to allow the public to assess whether donations were--notwithstanding the trust--purchasing access or influence.

What's to stop a donor from telling a candidate on the sly about a large "soft money" contribution? Probably nothing. But talk is cheap. Anyone can claim to have voted for Clinton, but the voting booth makes it impossible to prove that you voted for him.

Most generally, non-donors should be able to easily mimic any signals of real donors. For example, we recommend a 10-day cooling-off period in which contributors could cancel their contribution. A cooling-off period would give non-donors as well as donors the ability to acquire canceled checks from the trust. And allowing donors to privately cancel their donations would also reduce the "mailbox" problem of donors trying to mail their contribution in the presence of a campaign worker.

Of course, candidates would still know a lot. Ross Perot would know how much he gave to himself. Clinton would know how many New Hampshire cocktail parties a particular supporter threw on his behalf. Donating your time to fundraising might still get you an ambassadorship. But the effect would be muted, because--as with PAC bundling--the candidate wouldn't be able to see how much money a particular person raised.

Mandating anonymous donations would undoubtedly lead some donors to directly purchase television ads supporting a candidate. Our constitution does not permit limiting individuals' ability to speak directly. Direct speech, uncoordinated with candidate campaigns, would therefore allow rich individuals to continue to signal their willingness to spend money on behalf of particular candidates.

But "direct speech" end runs would not completely undermine the effectiveness of mandated anonymity. Current law limits the ability of corporations and labor unions to

engage in direct speech. Moreover, independent "direct speech" ads are not as valuable to candidates (and therefore wouldn't purchase as much influence) because candidates cannot control their content. And few individuals have sufficient resources to purchase effective broadcast campaigns.

Undoubtedly candidates would find ways to identify some donors. But when you make something more costly, you are likely to produce less of it. In the end, we predict that mandating donor anonymity would substantially reduce the number of six-figure donations. This drop itself would be evidence that many donors are not donating merely to help their candidate win, but are also hoping to purchase access and/or influence.

Is It Politically Feasible?

Cynics will argue that any reform worth doing has no chance of passing. And more than likely the incumbent chairs of powerful congressional committees would want to oppose our proposal--because a large proportion of their "access" money would dry up.

But opponents would have difficulty explaining why they need to know the identity of their donors. An expanding group of CEOs is pledging not to give soft money to either political party. These and other donors should support our proposal, because mandated anonymity removes the political pressure to give.

At a minimum, we should change the law to give individual candidates the option of using blind trusts to finance their campaigns. The first question candidates should be asked when they announce their candidacy is whether they will commit to donor anonymity.

Unlike many of the other reforms that have been proposed, mandated anonymity is constitutional. Just as there is no constitutional right to be able to prove that you voted for Clinton, there is no constitutional right to be able to prove that you gave Clinton money. In either instance, you will be able to say that you did--you just won't be able to prove it.

A growing number of politicians are embracing full and immediate disclosure as the only effective means to discourage politicians from selling access or influence. But the opposite strategy of keeping the candidate as well as the public in the dark has a long pedigree. Maimonides long ago extolled the benefits of anonymous charity. We should remind ourselves why we choose to make voting a solitary act. The "donation booth" might not be a panacea, but it would keep faith with the simple and widely held belief that the amount of your political donation should not determine your access to government.