

Anonymously Yours

Forcing donors to make campaign contributions incognito could benefit the electoral process and the integrity of the government.

By Ian Ayres

HOW WOULD OUR political system behave if campaign donations were anonymous to the candidate? Large donations from individuals and corporations seeking political favors (and trying to avoid government reprimands) would evaporate, leaving our legislators and executives to decide issues on their relative merits, rather than by the agendas of deep-pocketed special interests. It would also be more difficult for candidates to raise war chests. Candidates would raise a lot less than the \$3 billion spent during the 2000 presidential and congressional campaigns, if large donors did not enjoy the quid pro quo of legislative favors, White House sleepovers and tickets to leadership breakfasts.

Chile is currently experimenting with just this approach. During the campaigns for its municipal elections in October, contributors gave anonymously. They deposited money in a generic account held by the election commission at the country's national bank, and then visited a separate election office, where they entered a private donation booth and used a computer to allocate their contribution to their chosen candidate or party.

We could adopt a similar approach, and require supporters to donate to their favorite candidates through blind trusts. The trusts would pass on the money—but not information about who contributed it—to the candidates. Donation booths would keep campaign contributions secret.

Critics of this plan claim that this will do little to stop someone from claiming to have contributed to a campaign. This is true, but will candidates believe them? The person making such a claim will have no proof; the advantage he exacts from such a claim will be minimal.

Of course, donors will not sit idly by. Perhaps they would show their canceled checks to the politicians as proof of a contribution. However, government can safeguard against this by granting all donors a cooling-off period—five days, for example—during which time they could request a refund. Candidates would never know whether the canceled checks represented committed donations, or money that was on its way back to the donor.

Another option is to combine the

advantages of disclosure and nondisclosure into a single system. We could maintain our policy of publicly disclosing campaign contributors, but give contributors the ability to request a refund, secretly, within five days. While disclosure and anonymity might seem like diametrically opposite goals, both share the same underlying ambition: that the public know just as much as the candidate about the identity of supporters. Disclosure assumes that they will both know a great deal; anonymity keeps both in the dark. A system of disclosed giving and anonymous refunds splits the difference. Under such a system, the public would be able to see a complete list of those who tried to influence a candidate, but a candidate could never be certain which backers actually contributed. While no anonymous-donor concept is going to work perfectly, a refund booth might deter influence peddling much more effectively than the current disclosure system does.

JUDICIAL PRECEDENT

Those who doubt the efficacy of anonymous contributions need not look far for examples. Ten states (Arkansas, Nebraska, North Dakota, South Carolina, South Dakota, Tennessee, Utah, Washington, West Virginia and Wyoming) have applied this idea to judicial elections.

In 1972, the American Bar Association (ABA) became concerned about allegations that judges were accepting campaign contributions from law firms that represented clients in their courts. The ABA drafted a Code of Judicial Conduct that essentially required that contributors remain anonymous. Granted, the states that have adopted this rule have not imposed rigorous requirements; often, for example, the candidate's campaign treasurer was allowed to know the donors' identities. Even so, candidates under this system reported having a much more difficult time raising money. A stricter federal system would need oversight by a body charged with keeping the information confidential. None of these problems are insurmountable. If anonymous contributions can work in our own judicial elections, the idea is worth applying to elections for our legislative and executive branches. ■

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