

FEATURES

- 1 Race, class and politics
- 2 Native rights
- 4 Today's leaders
- 6 Ballot initiatives
- 8 Sprawl, politics & justice
- 11 Who We Are
- 12 Faces of affirmative action
- ★ **catalyst**
good stuff from Western States Center
- 13 Building electoral power
- 16 Labor under attack



Danny Lyon, Magnum Photos

Charles Sherrod (Standing, right) registering voters for Student Non-violent Coordinating Committee, Georgia, 1963.

The role of money in elections is taken to court in several states

The color of money

by Maya Muir

The Western States Center's Money in Western Politics Project began in 1991 to track the flow of candidate and ballot measure contributors. Since that time our research has led us to become strong proponents of a voluntary full public financing option known as Clean Money Campaign Reform. Enacted in Maine and Vermont in the past couple of years, and on the ballot in Massachusetts and Arizona in November '98, Clean Money sets up a competing system to the status quo where candidates who refuse to use private wealth and private contributions are allocated a limited amount of public money to campaign.

In September, Public Campaign, a national voice for Clean Money Reform, coordinated a week of actions to highlight how private money disproportionately excludes people of color. Coinciding with these actions, Public Campaign released a report entitled "The Color of Money," which looks at the racial, class and geographic makeup of the financiers of our election system and how that affects legislative deliberations on the issues of our day. For more information, contact Public Campaign at: (202) 293-0222. The following article highlights some of the current trends in Campaign Reform.

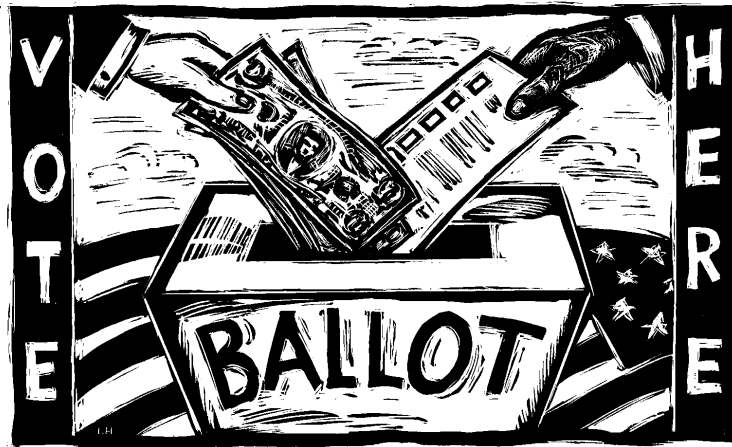
In 1996, John White, an African American who had represented poor and minority voters for 22 years in the Georgia House of Representatives, ran against Mark Taylor, a wealthy white businessman, for the state senate. White's opponent out-spent him 20 to one (White raised \$16,000; his opponent \$270,000, \$90,000 of which was his own money). White lost, and he believes money was the reason.

continued on page 20

The color of money

continued from page 1

"John White had a tremendous disadvantage not having the money to reach the people with television advertisements," says James Gibson, who canvassed rural Calhoun County in John White's campaign. "I knew White could better represent the people's interests, but he couldn't get to them the way his wealthy opponent could."



"African Americans are at a disadvantage when money is the deciding factor in whether you can participate in elections."

— Nelson Rivers

A few years earlier, African American Charles Sherrod had challenged Taylor, with the same results. Sherrod also has extensive experience in electoral politics in the South. He first came to Georgia in 1961 as a member of the Student Nonviolent Coordinating Committee to work on voter registration, and stayed, serving for a while on the Albany city council before running against Taylor. "There are points in campaigns where you know if you just had a thousand dollars you could do a commercial or send out a letter about some issue," Sherrod says of his experience. "For example in my case, you should have seen how Taylor's sign dwarfed mine. You could see his from about two miles away, whereas you had to walk over to my sign to see my picture."

Gibson adds, "Unless the campaign finance laws are changed to make the field equitable, unless there are caps for spending, the wealthy will continue to have a voice and access to the people, and consequently power."

The Georgia case

Gibson is not alone in this opinion. A multi-racial coalition of Georgia voters, candidates and civil rights organizations including Charles Sherrod, and the state National Association for the Advancement of Colored People (NAACP), has filed a lawsuit to challenge one way the dependence on money in politics excludes lower income people. (In fact, only 1 in 400 of American people contribute more than \$200 to campaigns.) The Georgia plaintiffs contend that wealth plays such great a role in deciding who gets elected that it violates the Equal Protection and First Amendment rights of lower-income voters and candidates. Known as Georgia State Conference of NAACP Branches v. Massey, the lawsuit asks the federal court to mandate the creation of publicly financed campaigns for state office.

Why NAACP involvement? If money excludes poorer segments of the population, it particularly excludes people of color. Nelson Rivers, director of the Southern Regional office of the NAACP, describes the situation like this: "Since African-Americans have decidedly less income and less disposable money, we're at a disadvantage when money is the deciding factor in whether you can participate. We're impacted negatively in a disproportionate way. Fighting this is a natural extension of our historic battle against injustice and exclusion at the ballot box."

In several other states, and with slightly different approaches, court cases are challenging the ways wealth influences elections, each with the aim of achieving a one person, one vote democracy. The link between these cases is the National Voting Rights Institute (NRVI) based in Boston, Massachusetts. This non-profit organization was founded to challenge this inequity in the electoral process through the court system and represents the plaintiffs or is otherwise assisting in each of these legal challenges, as well as in Georgia.

The claim of the Institute and the various plaintiffs is not without precedent. In the past,

the Southern poll tax functioned similarly to limit the vote to those who could afford to pay a fee. Poor voters challenged this as unconstitutional in 1937 and 1951, to no avail. However in 1966, in the heat of the civil rights movement, Annie Harper, a poor voter, challenged the poll tax in the Virginia state elections and was vindicated by the Supreme Court, which struck the tax down as unconstitutional.

Other cases

Attorneys such as NVRI's John Bonifaz are making a similar argument in contesting various examples of the "wealth primary" around the nation. ("Wealth primary" is a term coined by Bonifaz and American University law professor Jamin Raskin to describe the way monied contenders win by out-spending their opponents in primaries, effectively eliminating any real political alternative at that level.) Presently legal challenges are ongoing in seven states. Two of these cases, defenses of cities that have limited campaign spending, challenge a 1976 Supreme Court ruling, *Buckley v. Valeo*. Buckley struck down congressional campaign spending limits on First Amendment grounds, equating money with speech.

In addition to the Georgia case, the cases are:

- In Los Angeles County a coalition of civil rights organizations, voters and candidates outraged by the high price of winning a trial court seat (which often costs more than \$100,000) are mounting a constitutional challenge.
- In Cincinnati, total spending in city elections increased more than 480% in six years, with the highest candidate expenditure rising from \$75,000 to a new record of \$362,000 in 1995. That year the city enacted spending caps, challenging *Buckley v. Valeo*. The Institute represents Cincinnati in this landmark battle.
- In Ohio, the state supreme court amended the Ohio Code of Judicial Conduct to limit campaign expenditures in judicial elections. Several candidates filed a court challenge to this change. The Institute initiated and, with the Iowa Attorney General's Office, co-authored a friend-of-the-court brief before the federal appeals court hearing the case.
- In Albuquerque, city elections have been

conducted for over 20 years under reasonable limits on campaign expenditures. In 1997, a well-off mayoral candidate filed a court challenge to the limits. Albuquerque joined the legal struggle to overturn Buckley.


- In Vermont, a coalition of environmentalists, farmers, and low and modest income citizens labored for over two years to enact legislation limiting the dominance of wealthy interests in Vermont elections. Their victory was immediately threatened by a lawsuit seeking to overturn the legislation. The Institute intervened on their behalf to defend the reform.
- In Montana, due to a recent explosion of corporate spending on ballot initiatives, voters overwhelmingly passed an initiative prohibiting corporations from supporting the measures out of their general treasuries, allowing such expenditures only from segregated funds. Corporations and business associations filed suit in federal court arguing that this violated their free speech rights. Initiative proponents, led by the Montana Public Interest Research Group intervened to defend the new law. The Institute has joined the intervenor defense team.

In September, Cincinnati petitioned the Supreme Court for review of its spending limits, and voting rights activists around the country will be watching to see the results. "This challenge is critical to recognizing that no one has the First Amendment right to drown out other's voices with money," says NVRI's Bonifaz. It may also be crucial to turning the tide of voter apathy that has made elections a spectator sport in recent years—particularly in low income communities and communities of color, whose voices have been heard the least.



For more information on the National Voting Rights Institute, contact Sharon Basco, communications director, at the Institute: 294 Washington Street, Suite 713, Boston, MA 02108, Phone (617) 368-9100, Fax (617) 368-9101, Email: nvri@world.std.com

To get a copy of Public Campaign's "Color of Money", call (202) 293-0222.



Legal challenges in seven states attempt to create caps to campaign spending, or protect them where they already exist.