

“CLEAN ELECTIONS” PUBLIC FUNDING OF CAMPAIGNS: A CIVIL RIGHTS ISSUE FOR THE 21ST CENTURY

Over the past decade, progressive lawmakers in the General Assembly have tried to pass legislation to ban racial profiling, the practice by which police pull over a motorist for the offense of not being white. And year after year, the legislation has died in committee. Realizing that the General Assembly would probably never pass the bill, the NAACP, ACLU, and others brought a lawsuit against the State of Maryland to ban racial profiling. Only when it became clear that the court would rule in favor of the plaintiffs did Gov. Bob Ehrlich very reluctantly agree in 2003 to finally ban racial profiling. Justice – after a long, *long* delay -- was finally served.

Lawmakers have refused to act on many other civil rights issues. Unfortunately, on these issues, civil rights advocates do not have the option of taking the matter to court.

- A moratorium on the death penalty. During the 1990s, as DNA evidence was applied retroactively to closed murder cases, a number of states were forced to free dozens of inmates from death row who had been wrongfully convicted. As prisoners on death row are disproportionately of-color, the civil rights dimension of these monstrous miscarriages of justice became clear. In Maryland, too, a striking disproportion of death row inmates are of-color. Under these circumstances, it was clearly necessary to impose a moratorium on further executions until the University of Maryland could complete a comprehensive study of the even-handedness of the law's application. Shockingly, the General Assembly refused to approve a moratorium, so outgoing Gov. Parris Glendening instituted it by Executive Order. But, in 2003, new Gov. Bob Ehrlich reversed the Executive Order -- even as the UMD study concluded that racial disparities indeed exist in how the death penalty is applied in Maryland. The General Assembly backed up Ehrlich, refusing to vote for a moratorium.
- In-State Tuition Fees for Legal Immigrants. Thousands of children of legal immigrants in Maryland grew up here and attended high school here. Their families have, in some cases, paid U.S. taxes for decades. Yet, under current law, if these students have not yet become U.S. citizens, they must pay the out-of-state tuition fee to attend a Maryland public university, which is significantly higher than in-state tuition. Del. Sheila Hixson introduced a bill in 2003 to remedy this iniquity, but Gov. Bob Ehrlich vetoed it.
- Provisional ballots in disputed cases of voter identity. Challenging the authenticity of a voter's identity card is a common tactic employed by racist election judges trying to stop minorities from voting. It was used in Florida on Election Day 2000. To stop this racist practice, Delegate Obie Paterson sponsored HB 1110 in 2003, which would require that in cases of disputed identity, a voter would be allowed to cast a provisional ballot, which would count if the voter's identity could be verified after Election Day. This commonsense bill died in committee.

Maryland is a relatively progressive state. And the General Assembly is 70% controlled by the Democrats – the self-professed party of civil rights. So why do commonsense civil rights bills like these – and many more like them – go down to defeat year after year?

If of-color Marylanders have trouble enacting a full civil rights agenda in Annapolis, it is because they face a double political challenge.

First, some white lawmakers in the General Assembly simply have a tin ear – or worse -- when it comes to issues of concern to minorities. Second, even if these white lawmakers opened their ears, it is still difficult for minorities to get access to them. Both these problems are tightly linked to the role of money in politics.

To tackle the first problem, we obviously need to elect more of-color lawmakers. Although Maryland's population is 36% non-white, of-color Marylanders occupy only 23% of the seats in the General Assembly. Why do minorities have such trouble running for and winning office?

The redistricting process does not create enough minority districts in a Maryland rapidly becoming more diverse. And we need to complete the modernization of our voting procedures so that no more Florida-style fiascos ever happen again.

But another important part of getting minorities elected involves money. Without it, a prospective candidate cannot even think of running for office. But of-color Marylanders earn on average less than other Marylanders and thus often lack connections in the business world that would help them raise money.

One reason of-color candidates lack access to campaign cash is because so few minorities make campaign contributions. While there is no racial data kept on individual campaign contributors, one can get an idea of the civil rights dimension of campaign finance when looking at contributions by zip code. The average resident of District Heights zip code 20747, which is 90 percent black, gave \$0.14 to candidates for Maryland state office in the 1998 election. By contrast, the average resident of wealthy (and mostly white) zip code 20854 in Potomac gave \$11.10. **That's a 79:1 differential.** In 2002, Black zip codes give 5 ½ times less per capita in campaign contributions than did Maryland in general. But even among the few Black donors in 2002, they gave far less per contributor than did the average donor statewide – fully 3 ½ times less money.

Because minorities contribute so little, they lack access to politicians after the election, in turn making it difficult to enact a full civil rights agenda. During the General Assembly's frenzied 90-day session, lawmakers simply do not have enough time to return every phone call, let alone grant every request for a meeting. So, who gets the access to the politicians? Put yourself in the shoes of a busy lawmaker with a stack of phone messages on your desk. One of those messages is from a \$4,000 contributor to your campaign. Would you put that message near the top of the pile? Of course, you would. And how many of-color Marylanders write \$4,000 campaign contribution checks?

Towards a Solution: “Clean Elections” Public Funding of Campaigns

If privileged access to campaign cash represents one of the main electoral advantages whites have over minorities, strict limits on fundraising and expenditures seem to offer the surest way to level the playing field. But the Supreme Court refuses to countenance mandatory campaign expenditure limits, calling them a violation of free speech.

It is futile to tinker around the edges of a campaign finance system whose main features the courts declare sacrosanct. We need to adopt a proven alternative to that system. That alternative is Clean Elections reform.

Here's how it works:

- To participate, a candidate must demonstrate broad community support by collecting a large number of small contributions in the district he wishes to represent within a specified amount of time.
- If successful, he receives enough money from the public Treasury to wage a competitive campaign.
- If a privately financed opponent outspends him, he receives offsetting funds to keep pace, up to a certain limit.

Advantages of Clean Elections Reform:

- It enables citizens with community support but ordinary financial means to run for office.
- By encouraging electoral competition, Clean Elections reform widens debate. Policies formerly dismissed as “unrealistic” – universal health care, universal childcare, living wages – get a hearing.
- It frees candidates and lawmakers from incessant fundraising, removing the appearance and reality of corruption. Less time fundraising means more time listening to concerns of regular voters.
- Participation in the Clean Elections system is voluntary; by leaving the private campaign finance system alone, the Act is immune to judicial challenge.
- In Maine and Arizona, the number of candidates who participate doubles with each election cycle. In 2002, a majority of candidates in both states financed their campaigns solely with public funds; both incumbents and challengers used the system; and participation cut across party lines.
- Publicly funded candidates who win owe nothing to fat cat contributors, reducing the latter's privileged access in Annapolis.
- Maryland's Clean Elections system will cost less than \$2 per resident per year – a small price to pay for real democracy and significantly less than the current system, which lavishes pork on special interest contributors.
- *Clean Elections reform has already been implemented in Maine and Arizona, where it is accomplishing all the benefits described above, not least enabling more minority candidates to run for office and win.*

That's right, Clean Elections reform enables more of-color candidates to run for office and win. In 2002 in Arizona, 57% of Latino candidates and 100% of African American candidates used the publicly funded system, according to a study by the Piper Fund.

In 2004, Progressives Have an Unprecedented Opportunity To Enact Clean Elections Reform in Maryland

In 2002, the General Assembly passed a bill to create an official task force to examine Clean Elections reform and make recommendations for Maryland. This distinguished study commission, chaired by the Dean of Liberal Arts at the University of Baltimore, Carl Stenberg, will issue its final report in the autumn of 2003. The Stenberg Commission has already decided to recommend in favor of Clean Elections reform. Now it is finalizing a detailed draft statute, which it will submit shortly to the General Assembly.

Considering its distinguished membership, exhaustive deliberations, and what will surely be a persuasive report, the Stenberg Commission could do for campaign finance reform what the Thornton Commission did for public schools. The Stenberg report comes at the perfect time to enact major reform:

- **Everybody Agrees That Maryland Suffers from a Campaign Finance Problem.** The 2002 election cycle was by far the most expensive in Maryland's history. Special interests pumped \$75 million into the elections – double what they spent in 1998. Since 1990, the gubernatorial inflation rate has skyrocketed 726%. During the 2002 campaign, the media reported incessantly on the unprecedented sums of money spent. At least \$1 million in contributions from the gambling industry alone – timed to influence the high profile fight over legalization of slot machines -- has reinforced the general consensus that Maryland suffers from a campaign finance problem. Even the FBI is investigating the campaign finance mess in Annapolis.
- **Strong Support from the Media.** The *Washington Post* and *Baltimore Sun* both support Clean Elections reform, so editorials and newspaper stories will create a pro-Stenberg climate that lawmakers will find difficult to ignore.
- **Key Lawmakers Either Support Clean Elections or are Persuadable.** Gov. Ehrlich says he supports public funding of campaigns. The two committee chairs who will consider the bill, Del. Sheila Hixson and Paul Sen. Hollinger, are sympathetically inclined. Senate President Mike Miller has not ruled out support for the Stenberg recommendation (and, because of the FBI investigation, he can not simply torpedo it). Speaker Mike Busch is a progressive Democrat who will give this issue a fair-minded hearing.
- **Clean Elections Will Help Close the Budget Deficit.** Over the past year, Progressive Maryland, the NAACP, and allies have demanded closure of hundreds of millions of dollars in corporate tax loopholes as the best way to balance the state's budget. A focus on loopholes, in turn, has prompted the natural question: "How did they get there?" And this question, in turn, is giving advocates of Clean Elections one of our strongest arguments in favor of reform: tax loopholes are payola to corporate campaign contributors. If Maryland wants to climb out of this budget deficit and achieve more fiscal discipline in the future, the single best step we can take is to enact Maine-style campaign finance reform.
- **Clean Elections is Incumbent-Friendly.** When incumbent lawmakers learn how the system works in Maine and Arizona, they will see that this reform is in their self-interest. Already in Maine and Arizona, almost half of incumbents use the publicly funded system. And in both states 90% of incumbents still win re-election (as they do in Maryland). Why? Because incumbents enjoy plenty of other advantages over challengers besides a fundraising edge. They have superior name-recognition, more contacts among activists, better campaign skills, more experience, a proven track record, etc. Incumbents in both states like the system because it eliminates the worst aspect of their job (fundraising) and frees them after the election to vote their conscience (not as contributors and corporate lobbyists demand).
- **The NAACP, Maryland State Conference of Branches, Coalition of Asian Pacific American Democrats, and Southern Christian Leadership Conference already endorse public funding of campaigns.** But because progressives now have a good shot at enacting it, civil rights groups should make passage of the Stenberg recommendation a top priority in the 2004 session of the General Assembly.

The growing movement in Maryland to bring Clean Elections to our state, a movement includes Progressive Maryland, NAACP, SCLC, CAPAD, United Methodist Church, AARP, the League of Women Voters, Sierra Club, Common Cause/Maryland, American Jewish Congress, and dozens of other groups.
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