Voting with Dollars

A New Paradigm for Campaign Finance

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1 Reforming Reform

Campaign finance lives in a time warp, untouched by the regulatory revolution of the past generation. Reformers suppose that they can adapt well-established models to fix the problem of big money in politics. But they are wrong. Real progress requires us to rethink the very foundations of the enterprise.

The old paradigm has three elements. The first confronts big money as if it raised a problem similar to the one posed by polluters dumping garbage into a waterway. The Environmental Protection Agency not only restricts the garbage each polluter can dump but places an overall limit on the amount of junk in the river. Why not do the same when big money pollutes democratic politics?

To be sure, the Supreme Court has resisted this analogy in the name of the First Amendment—repeatedly striking down efforts to restrict overall campaign spending. But judicial intervention manages only to precipitate predictable boos from the left, and cheers from the right, with no serious efforts at reappraisal from either side.

The debate is no less pre-scripted when we turn to a second basic remedy. Why not reduce or eliminate the flood of private money by providing for publicly subsidized campaigns? Reformers invariably understand the injection of "clean money" as a centralized process—replete with heavy-handed requirements that favor incumbents, entrench existing parties, and alienate citizens from funding decisions. Their basic proposal would serve just as well for farmers or arms exporters. Apparently, only minor modifications are required before politicians can join the feast at the federal trough.

For conservatives, the prospect of a political feeding frenzy heightens anxieties provoked by rigid command and control over private fund-raising.

But even their opposition wanes as they turn to the third reform plank. The reigning paradigm demands full publicity for all contributions. The public has a right to know who is paying whom when. With every deal open and aboveboard, let the voters decide whether a big gift or giver taints the candidate's integrity. This full-information plank has gained increasing prominence over the past decade. Even strict conservatives concede that secret transfers of cash look suspicious.[1] If the public keeps demanding reform, the best way to channel protest is by insisting on full information. Still more recently, leading liberals have been coming to the same conclusion as they despair when confronting the intractable difficulties of implementing other parts of the traditional paradigm.[2]

We challenge the organizing premise of this now-familiar debate. All three pathways to reform draw from a century-long argument about the regulation of the economy. Whenever a policy wonk confronts the widget market, it is second nature to ask whether widgets generate harms to third parties that require command and control regulation, whether widget producers need subsidizing to achieve optimal levels of production, and whether widget consumers require better information to make informed choices.

These standard responses systematically mislead when we turn to our present subject. Command and control, bureaucratic subsidies, and full information are part of the problem, not part of the solution. We reject a paradigm drawn from the regulation of widgets and build on a more democratic tradition centered on the franchise. When dealing with the ballot, Americans do not champion the virtues of full information. We make it a crime for anybody to penetrate the sanctity of the voting booth. Nor do we suppose that votes, like widgets, may be sold to the highest bidder. Each citizen expects his ballot to have equal weight in the final decision.

Why not think of campaign finance in similar ways? It isn't enough to count every vote equally on election day. The American citizen should also be given a more equal say in funding decisions. Just as he receives a ballot on election day, he should also receive a special credit card to finance his favorite candidate as she makes her case to the electorate. Call it a Patriot card, and suppose that Congress seeded every voter's account with fifty "patriot dollars." If the 100 million Americans who came to the polls in 2000 had also "voted" with their patriot cards during the campaign, their combined contributions would have amounted to $5 billion—overwhelming the

$3 billion provided by private donors.[3] Under this scenario, would George W. Bush and Al Gore—two heirs of political dynasties—have emerged as the leading candidates? If so, would they have made different issues central to their campaigns?

Our patriotic initiative avoids many of the difficulties associated with traditional "clean money" proposals. The old paradigm creates a special bureaucracy charged with the delicate task of doling out funds to qualifying candidates and parties. But the Patriot program does not keep ordinary Americans on the sidelines while bureaucrats give politicians handouts. Our new paradigm makes campaign finance into a new occasion for citizen sovereignty—encouraging Americans to vote with their dollars as well as their ballots, giving renewed vitality to their democratic commitments.

We have only begun to tap the potential of voting with dollars. Our paradigm also points in a new direction for the regulation of private contributions. Liberals and conservatives have increasingly converged on the "full information" plank of the traditional reform agenda—to the point where it is fast becoming a Motherhood issue. Who could possibly complain about requiring candidates to reveal who is bankrolling their campaigns, and how much they are giving?[4]

We do. Full publicity makes sense only under one assumption—that the candidates themselves know the identity of their contributors. Because candidates will naturally be grateful to big givers, shouldn't they be obliged to share this knowledge with the public? Otherwise, ordinary voters can't subject political rhetoric to a basic reality test—matching each politician's words against the list of contributors who will come around after election day to assert, however discreetly, their claims to official favor.

But this argument begs a big question—why *should* candidates know how much money their contributors have provided? When we are dealing with widgets, this kind of knowledge is a self-evidently good thing—if the widget producer doesn't know who is paying for his goods, and how much money is on the table, he won't be able to figure out whether to accept deals or reject them.

This point doesn't apply here. A victorious politician is guilty of corruption if he delivers the goods to his campaign contributors in too obvious a fashion. The analogy with the ballot box provides a sounder guide for policy. The secret ballot came to America only during the late nineteenth century.

Voters previously cast their ballots in full view of the contesting parties, who carefully monitored each decision. Within this framework, corrupt vote-buying was commonplace. Party hacks could readily determine whether they got what they were paying for. No voter could receive his election day turkey without casting his ballot before the watchful eyes of the turkey's provider.

It was the secret ballot, not some sudden burst of civic virtue, that transformed the situation. Once a voter could promise to vote one way, and actually vote another, it was no longer easy for him to sell his vote. Even if he sincerely intended to perform his side of the bargain, vote-buyers could no longer verify the credibility of his commitment. Suddenly, the promise of a voter to sell his franchise for money became worthless—and as a consequence, vote-buying declined dramatically.[5]

We use the same logic in dealing with private contributions. On analogy with the secret ballot, we propose the "secret donation booth." Contributors will be barred from giving money directly to candidates. They must instead pass their checks through a blind trust. Candidates will get access to all money deposited in their account with the blind trust. But we will take steps to assure that they won't be able to identify who provided the funds. To be sure, lots of people will come up to the candidate and say they have given vast sums of money. And yet none of them will be able to prove it. As a consequence, lots of people who *didn't* give gifts will also claim to have provided millions of dollars.

The resulting situation will be structurally similar to the one created by the secret ballot. Protected by the privacy of the voting booth, you are free to go up to George W. Bush and tell him that you voted for him enthusiastically in 2000 even though you actually voted for Al Gore. Knowing this, neither the president nor you will be prone to take such protestations seriously.

The same "cheap talk" regime will disrupt the special-interest dealing we now take for granted. Just as the secret ballot makes it more difficult for candidates to *buy* votes, a secret donation booth makes it harder for candidates to *sell* access or influence. The voting booth disrupts vote-buying because candidates are uncertain how a citizen actually voted; anonymous donations disrupt influence peddling because candidates are uncertain whether givers actually gave what they say they gave. Just as vote-buying plummeted with the secret ballot, campaign contributions would sink with the secret donation booth.

But not to zero. There are lots of reasons for contributing to campaigns, and the new regime undercuts only one of them—the desire to obtain a quid pro quo from a victorious candidate. It would no longer make much business sense for a group of trial lawyers or oil barons to contribute big bucks to a candidate to encourage special-interest legislation. But the secret donation booth will not deter gifts from citizens who simply wish to express their ideological commitment to a candidate's causes without any expectation of special access or influence. These ideological gifts may well be very substantial, depending on the candidate's charisma and the attractiveness of her positions.[6] Nevertheless, the overall volume of private donations will generally be much lower.

Especially when Patriot is taken into account. Each voter already has 50 Patriot dollars at his disposal to support candidates and political organizations during the campaign. Only those who find this sum inadequate to express their convictions will dip into their private funds. Cumulating our two initiatives, it seems safe to predict that our new paradigm will generate a big change in the prevailing public-private mix of financing. During the last campaign more than $3 billion flowed into the campaign coffers of all aspirants for federal office, but we would be surprised if half this sum were generated under the new regime; in contrast, $5 billion or so would be coming into the campaign through the patriotic system. On conservative assumptions, public funds would dominate by a ratio of 2 to 1, and probably much more. At the same time, the total resources available for political speech would be much greater under the reformed system—in contrast to the $3-plus billion under the ancien régime, politicians would have more than $6 billion with which to engage the voters. The new paradigm, in short, promises an effective increase in both political equality *and* political expression. It achieves this result without compromising any of the basic liberties of citizens—even the freedom to give private contributions. As long as givers channel money through blind trusts, they should be free to give substantial amounts to the causes they favor.

This conclusion leads us to distance ourselves from the final, and most important, remedy in the traditional reform repertoire. Above all else, the great progressive goal has been to limit the amount of private money flowing into campaigns. Ever-more-rigorous restrictions are pursued on two levels: First, reduce the amount any particular giver can donate; second, reduce the total amount any candidate can spend. The reform legislation sponsored by

Senators John McCain and Russell Feingold is the best known recent example, but we have been through cycles of restriction before, and the results have consistently disappointed expectations.

The dismal cycle looks like this. Phase one: Legislators impose limitations in response to popular disgust at the role of big money in politics; phase two: Big givers devise legal loopholes enabling them to continue giving large sums; phase three: Reformers mobilize another wave of popular disgust, and we return to phase one.

The seemingly remorseless character of this cycle has greatly impressed liberal academics of late—leading them to question the efficacy of the traditional emphasis on command and control. According to this increasingly fashionable view, controlling the flow of campaign funds is like the effort to dam the Mississippi. You may stop the river from overflowing its banks at one point, but this triumph will lead to unexpected inundations elsewhere. Like water seeking its own level, private money will inexorably flow around reformist barriers to overwhelm the political process. Rather than damming the flow, sober reformers should simply inform the public about its true extent. Speaking broadly, the new "hydraulicists" urge the reform movement to reject its previous fixation on command and control and to make full information their first priority.[7]

We have already explained why the hydraulicist emphasis on full information is mistaken. We also think that these academics' despairing diagnosis of command and control is exaggerated. Direct control *can* sometimes be effective, and we shall be making strategic use of this tool. Nevertheless, there is a Sisyphean aspect to the struggle for ever-more-stringent and comprehensive controls. Restrictive command and control should no longer be the first priority of reform. It should function as a technique of last resort, filling in gaps left by structural measures like the secret donation booth. Requiring a blind trust doesn't place substantive limits on private fund-raising, but it does purge the practice of some of its worst features. We should consider additional restrictions only after assessing the dangers that remain even after special-interest deals are disrupted by the secret donation process mandated by the new paradigm. As long as a patriotic finance initiative assures the dominance of citizen funding in the overall mix, we believe that only very selective controls—targeted only at the very biggest givers—will seem sensible.

To sum up the new paradigm: We reject centralized campaign subsidies in favor of massive democratization through Patriot dollars; we reject full disclosure of private contributions in favor of the secret donation booth; we reject comprehensive controls on private money in favor of selective restrictions imposed only as a last resort.

We call this "voting with dollars" because it mimics two core attributes of the franchise: Citizens are given equal voting power, but they must exercise this power anonymously. The basic equality of citizens is expressed by their equal access to Patriot dollars. The secrecy of the ballot box is expanded to disrupt special-interest dealing in campaign finance.

We refuse, in short, to view the problem of campaign finance as if it represents the all-or-nothing choice of suppressing private contributions or leaving them unregulated. Our new paradigm uses anonymity to cleanse private giving of its worst abuses while allowing it to serve as a valuable supplementary support to the robust public debate fostered by billions of Patriot dollars allocated by millions of concerned citizens.

In the remainder of Part I we shall scrutinize these basic issues at greater length: What is really at stake in the choice between new and old reform paradigms? How do the different components of the new agenda fit—or fail to fit—together?

In Part II we begin the hard work required to convince traditional reformers, and ultimately ordinary citizens, to take the new paradigm seriously. Whatever the weaknesses of the old agenda, it is now a familiar part of the established debate. Reformers and legislators find it "natural" to argue about statutory details surrounding command and control, centralized subsidy, and "improved" information. Newfangled notions like Patriot dollars and secret donation booths won't stand a chance unless they achieve practical form in the shape of proposed legislation. We move down this path from theory to practice by considering key questions of statutory design: How to safeguard against massive corruption by sleazy types who offer to buy 50 Patriot dollars for 10 greenbacks? Who should qualify for a Patriot account? Who should be authorized to receive the money? When a patriot cardholder goes to her neighborhood automated teller machine, should she be able to spend all her money on any campaign she likes, or should the $50 be broken into subaccounts for presidential, Senate, and House races?

Similar questions arise in organizing the secret donation booth. Imagine, for example, that a big donor deposits a check for $100,000 into the booth and directs it toward a particular candidate. When the grateful politician receives word that his campaign balance has increased by this whopping sum, won't he make every effort to identify the big donor with precision? Isn't it naive to suppose that some clever bit of institutional engineering will stop the big donor from establishing that he was in fact the guy who forked over the dough?

Finally, it is essential to design adequate institutions to manage the new system. We take on this task in Chapter 9. The current Federal Election Commission is an icon of ineffectiveness. How might a new commission be organized to withstand the enormous political pressures generated by the joint operation of patriotic currency and the secret donation booth?

Our solution places central responsibility on a new five-member FEC consisting entirely of retired members of the judiciary. We do not suppose that these senior jurists can properly be placed entirely above politics—like all other major officials, they should be nominated by the sitting president and confirmed by the Senate. But once they have assumed office for a ten-year term, they should be given primary responsibility for making the appointments, and approving the regulations, required for the effective operation of the new paradigm.

If we can't provide plausible answers to these and similar design questions, we might as well fold our tents and return to the ivory tower. But even if we respond with realistic solutions, we are not home free. Although we may persuade you that the new paradigm can be transformed into an operational reality, we must still defend its constitutionality.

Since its epochal decision in *Buckley v. Valeo*, the Supreme Court has proved a formidable obstacle to reform under the old paradigm. Traditional reformers have responded in kind by casting the Court as Public Enemy Number One. In this familiar morality play, "real" reform must wait until the Court comes to its senses and overrules *Buckley*. Until this great moment of judicial redemption, realists can hope only for interstitial reforms—mere Band-Aids that barely patch over the diseases of the body politic.

In Chapter 10 we challenge this reformist apologia. By framing our proposals to comply strictly with all existing constitutional requirements, we establish that the new paradigm authorizes massive change *now*, and that activists need not content themselves with marginal improvements until the

dawning of the day of judicial repentance. Indeed, it is a mistake even to yearn for *Buckley*'s total repudiation. The case contains some principles of enduring importance.

We conclude our reflections with a model statute, accompanied by technocratic appendixes clarifying the operational dynamics of the new system. These operational matters need much technical improvement. But the only way forward is to expose the plan to more general scrutiny, encouraging sharp minds to plug loopholes and find problems that we have not yet glimpsed, let alone resolved.

We completed work on this book on August 10, 2001—at a time when the McCain-Feingold bill had passed the Senate but had not yet been considered in the House or conference committee. If the Senate bill makes it into law, there will be many textual changes. But we would be surprised if any will require a revision of our overall assessment of the legislation.

2 Patriot

Liberal democracy requires an awkward balance between two spheres of life. Within the sphere of democratic politics, we confront each other as moral equals, and we deliberate about our collective future. It is not good enough to say "I want it!" We must make a good-faith effort to justify public decisions as serving the public good. This is what responsible citizenship is all about.

The organizing principles of a liberal market are different. We come to the table with unequal assets, often vastly unequal. We bargain to further our private interest, without trying to justify our deals in terms of the greater public interest. It *is* good enough to say "I want it": That's what freedom is all about!

Our collective anxiety about campaign finance testifies to the uneasy coexistence of the spheres. Consider how Americans commonly try to reconcile liberal markets with democratic equality. The standard reconciliation, as we shall call it, is a straightforward two-step argument. Step one begins by conceding that the single-minded pursuit of self-interest may generate pervasive inequalities and inefficiencies. But if these prove unacceptable, we can always move to step two: It's our job as citizens to deliberate together and take corrective action—redistributing wealth from rich to poor and taking regulatory actions when markets fail.

This two-step, in turn, promises instant relief from tension. We can have our cake and eat it too by reminding ourselves that the market is ultimately under the control of democratic citizens—who can alter economic outcomes whenever they find them seriously deviating from their ideals of social justice.

All this is vaguely familiar from high school civics, but familiarity breeds

anxiety. When Americans contemplate the present state of campaign finance, there is a pervasive recognition that big money threatens to undermine the standard reconciliation.

The problem is obvious. If the deliberations of democratic citizens are crucial in the legitimation of market inequality, we cannot allow market inequalities to have an overwhelming impact on these deliberations. If this happens, we can no longer say that we, as citizens, have authorized the pervasive inequalities we experience as market actors. Politics will have been transformed into a forum in which big money praises itself.

Call this the circularity problem, which leads to a basic conclusion: The insulation of democratic politics from the rule of big money is, under the standard reconciliation, a necessary condition for the legitimation of big money in the marketplace itself.

This conclusion provides a distinctive rationale for distributing votes and money on a different basis. If each citizen received the same number of votes as he had dollars, a majority vote in favor of a tax scheme that placed a heavy burden on the poor would not serve to legitimate the resulting distribution of wealth. But when each citizen gets one vote, a majority vote in favor of a regressive tax scheme may represent something different—a judgment by the majority, after due deliberation, that the present distribution of wealth is too equal and that the public good may be served by making it more unequal.

Campaign finance reform continues the concern with circularity beyond the formal commitment to one person, one vote. Even when our votes count equally, inequality of private wealth may distort public deliberation in ways that are inconsistent with our mutual recognition as equal citizens. Although this concern motivates all reform work, we propose to translate its practical policy implications in a different way.

Our principal target is a logical flaw that lies at the heart of the traditional reform agenda. This familiar view links diagnosis to reform in a natural, but ultimately misleading, fashion.

Diagnosis: The problem requiring reform is the power of big money to undermine free and equal democratic deliberation.

Conclusion: Because private property is the problem, we should seek a regulatory solution that looks as unproperty-like as possible.

This is a non sequitur. Big money *is* the problem, but the best solution may still involve creative adaptations of the very institution that created the problem.

This is the guiding thought shaping the new paradigm. We place a high value on the decentralization, flexibility, and individual choice that a market system makes possible. The traditional embrace of centralized bureaucratic solutions sacrifices these values needlessly. The right response is to reshape the political marketplace and enable it to become more responsive to the judgments of equal citizens than to the preferences of unequal property owners.

Consider how Patriot retains many of the virtues of a private property/free market system. While private markets allow for the broad exercise of consumer sovereignty, Patriot does the same for citizen sovereignty—as a result of two structural modifications in the ordinary private-money system.

The first involves the principle of distribution. Patriot distributes dollars on the same egalitarian basis as the vote. Each American obtains a Patriot account in her capacity as an equal citizen, and it is up to her to decide how best to spend the new patriotic currency. Fifty dollars may not seem like much. But as millions of citizens vote their Patriots, they will have a big impact on the political marketplace.

It is hard to guess how many Americans will take advantage of their new patriotic opportunity. But as a thought experiment, suppose that it is the same as the number of voters on election day—this means 100 million Americans will contribute 5 billion Patriot dollars during the year when the presidency is up for grabs. What will be the consequences of this enormous infusion of cash?

Begin with a minimalist scenario—under which the $5 billion flows to the same actors in the same proportions as under the present system. If Candidate X gets 2 percent of all private money today, he would receive 2 percent of the total fund—consisting of both patriotic and private dollars—under the new paradigm. X would be getting more money when measured in absolute terms—for the total fund would be much larger than the three billion private dollars contributed to federal campaigns in the most recent campaign cycle.[1] But the relative financial standing of candidates and political organizations would not change. This outcome seems unlikely, but it raises a useful analytic question—should Patriot be considered a policy failure if it generated the minimalist outcome?

We do not think so, because the experience of political life in the patriotic world would be different. When Americans encounter a barrage of political advertisements on television today, they think of themselves as passive consumers—just as they do when viewing advertisements commending fancy cars or prescription medicines. But political advertising in the patriotic world will carry a different social meaning. Turning on the TV will become an occasion for citizens to reflect on their own communicative choices—should I send my Patriot dollars to insurgent X or political party Y? In turn, these questions will prompt millions of informal conversations as countless face-to-face groups consider their options together.

Nowadays, electioneering prompts affirmative activity from most citizens only on election day, when they spend the half-hour or so going to the polls. But the democratization of campaign finance will invite millions to take a small but active role throughout the election campaign. By casting their patriotic dollars, Americans will be giving renewed social meaning to their self-understanding as free and equal citizens, engaging in democratic deliberation.

The generation of social meaning is important in itself. The American republic is nothing other than a vast collection of human beings who take the trouble to take their common citizenship seriously, and on a regular basis. The millions of conversations and small decisions surrounding patriotic expenditure will provide an important new social context in which Americans will reaffirm their relationship as citizens, charged with the responsibility of steering the republic on a sound course.[2]

Call this the citizenship effect, and, so far as we are concerned, it seems worth a few billion dollars. But the minimalist scenario greatly understates Patriot's promise. Even assuming no change in the existing system of private finance, candidates and political organizations will soon learn that they need not rely on the small elite of private-money donors but can finance themselves through broad-based appeals to the patriotic citizenry. Given the dramatic change in the distribution in the supply of campaign funds, political entrepreneurs and organizations will enter the market to fill previously unexpressed forms of political demand. Call this the agenda effect.

We shall speculate later about the way the patriotic marketplace will reward some groups at the expense of others. At this point, it is enough to emphasize that the shifting supply of funds will not necessarily favor political liberals or conservatives. That will depend on the evolving beliefs of the general citizenry, and the vigor and imagination with which established and insurgent politicians and parties compete. The beauty of the patriotic marketplace is that it diminishes the importance of existing links between establishment politicians and established funding sources, instead requiring incumbents to be forever responsive to rising tendencies in public opinion. Incumbents who insulate themselves from their constituents will see rivals gaining a decisive advantage in patriotic fund-raising. The predictable result, in short, is not only the activation of the citizenship effect, but an ongoing demonstration of the power of citizen sovereignty to shape the parameters of representative government.

We have been ruminating upon one simple point that distinguishes patriotic dollars from private dollars: Voters possess 50 Patriots each, but vastly different numbers of private dollars. But our focus on the effective exercise of citizen sovereignty paves the way for a second basic difference, involving restrictions on alienability. We sometimes speak as if economic agents can spend private money for anything they like, but this is an exaggeration. One restriction is particularly noteworthy: Every democratic system makes it a crime for private-money holders to buy votes, even at prices that poor people would accept. This restriction expresses a foundational commitment to the standard reconciliation: Market inequality is legitimate only when it gains the deliberate assent of free and equal citizens, and so vote-buying threatens not only the reality of democratic deliberation but the very legitimacy of the distribution of property itself.

Symmetrical reasoning generates an equal but opposite restriction on the alienability of Patriot dollars. Just as an American cannot sell his vote for fifty private dollars, he should not be permitted to sell his Patriot account for fifty private dollars. We are not creating the new currency to enable Americans to spend an extra night at the movies or the ballpark. The aim is to break the circularity problem by enhancing the ability of Americans to act effectively in their capacity as free and equal citizens. It is a serious mistake to suppose that Patriot dollars can be treated by their recipients as if it were a grant of power over ordinary consumption goods. To the contrary, the purpose of Patriot is to allow citizens to decide, under appropriate conditions, whether American democracy should make an effort to redistribute private dollars, and if so, how many and in what ways.

Many will balk at any type of public finance. The idea that the government would simply give people $50 on the basis of their citizenship is abhorrent to their conception of small government. But notice that we are already doing the same thing with regard to another political asset—the vote. Just imagine how much the government could generate in revenue if it auctioned voting rights to the highest bidder. A lot more than the cost of the Patriot system! But our system forgoes these potential revenues in favor of political equality. Patriot merely expands this equal voting principle into the domain of public discourse—giving citizens more nearly equal power to have their ideas expressed in the preelection debate that frames the crucial issues for electoral decision.

Many Americans may reject the invitation to citizenship proffered by their Patriot accounts and simply let the $50 go untouched. Some may even deride the very idea of participating with their fellow citizens in the project of democratic self-government. If everybody felt that way, the republic would be on its deathbed. But we have not (yet) come to such a pass, and we should not allow skeptics to demoralize the rest of the citizenry by trading their Patriot accounts, or their votes, for a night at the racetrack. If they don't want to use their Patriot dollars to enhance public debate, these funds should simply expire at the end of the electoral campaign.

This is what happens with the vote—either you use it or you lose it. And for the very same reason—within the constitutional framework of American democracy, the vote is a vehicle through which citizens express their judgments about the public good.[3] Votes can't be "saved up," like private money, for private consumption at some future date. Either a citizen is sufficiently motivated by the project of self-government to go to the polls (in which case his vote should count on equal terms with the rest of us), or he is so apathetic that he fails to show up on election day (in which case his apathy should not give him the privilege of saving his vote for future use).

Although we base these restrictions on foundational democratic principles, they immediately generate a practical problem: What is to stop millions of cynical citizens from cashing in their Patriot dollars in "black market" transactions with corrupt politicians: "Psst, Joe American, how about selling me your fifty Patriots for ten privates! Both of us will be better off: You get to go the movies, and I get a head start on my less cynical opponents—if any of these innocents survive the first round of fund-raising competition!"

The problem isn't new. During the nineteenth century, Americans confronted a massive black market for votes—with machine politicians buying tons of ballots from the poor and ignorant at bargain prices. During this entire period, vote-buying was strictly illegal, but the threat of criminal prosecution was hollow. The practice was so common that it overwhelmed public prosecutors, who were easily diverted by sitting politicians to the investigation of other, "more serious," crimes.

Then some clever Australians hit upon a solution, which now strikes us as obvious but which represents one of the great leaps forward in the history of modern democracy. By creating a secret ballot, they drew a curtain between corrupt politicians and the voters, disrupting potential black-market transactions.[4] This elegant change in informational conditions accomplished something that the threat of criminal prosecution never achieved. Honest elections became a real possibility in the Western world. By disrupting the black market for votes, the secret ballot became the foundation for the construction of a parallel sphere of life—in which equal citizens, rather than unequal property owners, express their political judgments.

We propose an analogous measure to safeguard the integrity of Patriot dollars. Thanks to modern technology, citizens need not go to their voting precinct and draw a curtain before sending their Patriot dollars to candidates or political organizations. A trip to their neighborhood ATMs, or eventually a click of their mouse on the Internet, will suffice to allow citizens to vote their dollars in secrecy.

We shall defer these (crucial) details until Part II and instead focus here on the basic choices posed by our proposal. In particular, how does it compare with more traditional efforts to inject "clean money" into the political process?

Old vs. New

The old reform agenda seeks not to channel markets but to replace them. Rather than distributing Patriot dollars to citizens, and allowing them to choose the candidates and organizations most worthy of support, the old

reform agenda hands a pot of money to bureaucrats, who are supposed to dole it out by referring to criteria established by a statute.

This basic schema predictably generates a rush of aspiring politicos toward the till. Politicians are not shy, and if large bundles of free cash are in prospect, why not announce that you are running for the presidency? Even if you have no chance of winning, you will gain the precious opportunity for free publicity that may help you out in your next race for alderman.

Patriot solves this basic problem in the manner of other markets: Candidates compete with one another for scarce Patriot dollars, and those who can't persuade citizens to give will quickly fall by the wayside. But the old agenda does not have this simple solution available and must construct other criteria to separate serious from frivolous candidacies, lest "campaign reform" become a synonym for raids on the treasury by egomaniacal publicity hounds.

Call this the threshold problem—and it invites a series of trade-offs, all of them unsatisfactory compared to the patriotic alternative. The most basic involves the level of the threshold. A high threshold means that few candidates get money but that those who do all have a significant chance to win, and hence that the public will support a relatively large grant of public funds to subsidize these serious campaigns. Lowering the threshold encourages more insurgencies, but also more silly candidates, whose use of public funds for self-promotion may discredit the system, and who, in any event, serve as an excuse for underfunding all campaigns. After all, there is a limit to the amount of public money that should be spent on electioneering—the more candidates, the more money pouring out of the treasury. There is no way to repeal the iron law of the multiplication table, legislators will soberly explain to their constituents clamoring for reform.

But incumbents fail to mention that they are interested parties in the affair. They have a natural tendency to favor high thresholds—because most of them will be running for reelection, and won't be enthusiastic at the prospect of insurgents making life difficult. They also have an incentive to keep subsidies low—because they are already well known and established, while most challengers need lots more cash to get their names across.

Reform leaders who aren't legislators will predictably favor lower thresholds and higher subsidies, but even they can't avoid the basic mathematics of the situation—the more candidates, the more costly the subsidy, and the greater the tendency to starve the most serious candidates in order to free resources for the odd insurgency.

The basic threshold problem generates a host of other difficulties. One obvious way of filtering for serious candidacies is to give a favored position to the major parties, which have established track records of substantial voter support. Any candidate gaining the endorsement of the Democratic or Republican parties obviously has a lot better chance of winning at the polls than any candidate marching under the banner of the Natural Law Party. Although only a Martian would find this point problematic, it offends democratic principles to allow the major parties to feed too ostentatiously at the public trough while excluding others by the force of law—which they have every incentive to do, since they are the folks writing the reform legislation in the first place.

For decorum's sake, and to avoid constitutional challenge, the majors tend to offer third parties half a loaf. Minor parties that meet a lowish threshold get some money—but much less than the sums flowing to major-party candidates.[5]

A quick contrast to Patriot suggests that these epicycles are a product of the old agenda's central misconception—its fondness for bureaucratic solutions to the resource allocation problem. There is no need to design different thresholds for different parties. Simply leave it up to citizens: If they think a particular third party is worthy, they will have no problem marching up to the ATM and beaming it patriotic resources.

Better yet, Patriot provides a neat solution to another important problem. Even successful third parties lose political momentum over time, as the majors steal their issues or their complaints are made irrelevant by changes in the world. This means that a third party meeting statutory funding thresholds during one electoral cycle may encounter an embarrassment of riches during the next cycle. Consider the tragicomic situation of the Reform Party during the 2000 election. Because Ross Perot won more than 5 percent of the presidential vote in 1996, his party qualified for a subsidy of $12.5 million for 2000. But because the party was a creation of Perot, it confronted a crisis when the billionaire refused to run again—leaving the $12.5 million for any political entrepreneur ambitious enough to seize the prize. In this case, Pat Buchanan turned out to be the winner—despite his problematic relation to the ideology that drew millions to the Reform Party in the first place.[6]

Unsurprisingly, his success in gaining the party's nomination was accompanied by vicious infighting and the demoralization of thousands of Reform partisans who saw Buchanan stealing the party from them.

All this infighting and alienation is the predictable consequence of the traditional paradigm. Under Patriot, Buchanan would have had much less incentive to take over an ideologically uncongenial third party—both because Reform would no longer be guaranteed a pot of money on the basis of its past performance and because Buchanan could raise Patriot dollars from his hard-core supporters even when running as an independent. By the same token, Patriot would have squarely forced Perot's partisans to face up to their dilemma: Given Perot's departure from the scene, they must either generate a credible leader committed to Reform ideals or fail to raise patriotic contributions from the millions of voters who had formerly flocked to the Perot banner.

The threshold problem is even more intractable when it comes to funding primary races. The filtering mechanism provided by political parties during the final election is, by definition, unavailable. But some mechanism must be found to resolve the trade-offs required in determining the height of the threshold.[7] Consider the solution advanced by a citizen's movement now agitating for campaign reform at the state level. The Clean Money Initiative has recently scored stunning successes by taking a detour around state legislatures and appealing to the people through referenda. Maine's voters, for example, approved a clean money program that set the threshold at a level far lower than most sitting legislators would find comfortable. A candidate for governor, for example, must raise contributions of at least $5 from only 1,500 residents (out of 1.25 million in the state) to qualify for public money, and aspirants to the state legislature must satisfy even lower thresholds.[8] But low thresholds mean that states must limit the size of their subsidies or risk a run on the state treasury by a host of marginal candidates. In races involving larger constituencies, and more intense use of mass media, the trade-offs between level of threshold and size of subsidy quickly become forbidding.[9]

Nonetheless, we applaud Clean Money's embrace of market signals as a solution to its threshold problem. The reformers' statute requires prospective candidates to establish their democratic credibility by generating a broad base of support from small contributors of private money. When viewed from one angle, Patriot simply generalizes Clean Money's threshold mechanism into a comprehensive solution to the entire problem. Rather than using private money as a stepping stone to bureaucratic funding, it invites candidates to appeal to citizens for patriotic money on an ongoing basis. Rather than allow the proliferation and partisan exploitation of bureaucratic rigidities, Patriot invites the candidates, and their parties, to compete endlessly for citizen support in the patriotic marketplace.

Problems with Patriot?

Is Patriot's dynamic responsiveness to the citizenry an unalloyed good?

Perhaps not, or so a sophisticated defender of the bureaucratic approach may suggest. For all the populist complaint, the two-party system has served America well over the long haul. Won't Patriot encourage its replacement by the fragmented multiparty systems of Europe and Latin America?

America's two-party system has sustained itself for centuries, despite many changes in campaign finance and organization. As Maurice Duverger suggested, and later political scientists have confirmed, the secret of its staying power is the Anglo-American system of single-member geographic constituencies—where victory goes to the plurality winner without the need for a runoff if nobody gets a majority.[10] This "first past the post" system gives a third party overwhelming incentives to join forces with the major party closest to it. Otherwise, the more antagonistic major party will continually win elections with minority support simply because the opposition is splitting its majority between two or more parties. European systems of proportional representation do not impose this severe penalty—if a third party wins 20 percent of the vote, it gets 20 percent of the seats, rather than losing almost everywhere, as in Britain or the United States. This basic point accounts for multiparty systems in Europe and their relative absence in English-speaking countries. Even far-reaching changes in campaign finance will not repeal the basic electoral logic that generates two major parties.

Patriot will only make it harder for established party leaders to take their subsidies for granted. Rather than applying to a bureaucrat, they will be constantly obliged to appeal to citizens and compete for funds against insurgents. But it is a mistake to confuse the fate of particular party leaders with the fate of the two-party system.

A related critique has more bite. Under the old paradigm, major party candidates get equal subsidies even if one party obtained 60 percent of the vote in the previous election while the other gained 40 percent. Interparty parity is not guaranteed under Patriot. Candidates and parties popular early in the campaign will succeed in gaining more patriotic funds, and may then parlay their early advantage into further gains in popularity and patriotic support. This snowball effect is constrained by the bureaucratic system, which gives more resources to the less popular major-party candidate and thereby enhances her chance to appeal to the citizenry to reconsider their current inclinations.

We agree that snowballs can sometimes become a problem. But not often. Indeed, the objection does not even apply to primary contests. To the contrary, snowballs would have a salutary effect during this first campaign phase. Under Patriot, for example, John McCain's early successes on the campaign trail would have generated an enormous snowball of Patriot dollars, and rightly so: *shouldn't* early successes be rewarded by enabling the front-runners to define the terms of the competition while others stand in the shadows?

In contrast, bureaucrats under the old paradigm cannot respond to these groundswells of public opinion. They simply dole out equal chunks of cash to all politicians satisfying a threshold test of seriousness. Snowballs of patriotic cash serve as a much more efficient and responsive mechanism for identifying serious primary contenders. Rather than a problem, the snowball effect is a solution to the problem of narrowing the primary field to a few serious candidates.

And even during the general election campaign, the problem can be easily exaggerated. By this point, both major party candidates will have already established a substantial presence in the political arena. Given their prominence, they should not be allowed to blame the system if they fail to sustain their political momentum in the patriotic marketplace. It is up to them to figure out themes that will appeal to the patriotic public. They should not have a right to demand bureaucratic grants of public funds to compensate them for failures of outreach and political imagination.

Consider that only half of eligible Americans go to the polls during presidential elections and only one-third vote during "off-year" congressional elections.[11] Patriot will give candidates a tremendous new incentive to reach out to the "silent majority" currently disconnected from the entire democratic process. If one candidate succeeds in reaching out to millions of these citizens, and thereby obtains a significant fund-raising advantage over her competitor, this should be scored as a big plus for the new agenda over its bureaucratic alternative.

We concede, of course, that one of the major parties may, from time to time, select such a bad candidate that he will be snowballed under a landslide of patriotic dollars for his opponent—and that a bureaucratized alternative would allow him to disguise the demoralization of his campaign by the guaranteed injection of public funds. While a truly crushing defeat may be bad for democracy in the short run, it is probably healthy in the longer run—as the debacle prompts massive soul-searching and the rise of new leadership. As long as patriotic finance is available to more attractive leaders in the future, the defeated party will rise again.

Even in the short run, the new paradigm contains additional resources that will ameliorate the disaster. As we suggest in the next chapter, our second major reform—the secret donation booth—will encourage party loyalists to prop up unpopular campaigns with private money when candidates are doing especially poorly in the patriotic marketplace. In this and other ways, our two reforms function as parts of an interacting agenda. Our aim is to build a whole that is more than the sum of its parts.

3 The Donation Booth

New Haven is the home of Connecticut's Experimental Agricultural Station—give them two breeds of apple, and they will try to come up with a juicier and more robust hybrid. Only a couple of miles down the road is the Yale Law School, where we are in the same business. We are searching for policy hybrids that combine the best features of previously distinct breeds of social power: the electoral system and the market system.

In structuring the injection of "clean money" into political campaigns, we sought to marry the egalitarian ideals of the ballot box and the flexible response of the marketplace. Patriot emerged as the policy hybrid. We approach the problem of private contributions in a similar spirit. On the one hand, we argue against traditional reformers who aim for the complete elimination of private money from political campaigns. On the other, we reject the fashionable notion that full information can play the same cleansing role in politics that it plays in the marketplace. We propose a policy hybrid that channels private giving in publicly constructive directions.

The secret donation booth promises the effective control of existing pathologies without eliminating the positive features of private choice. By greatly reducing—if not entirely eliminating—the special-interest dealing and gross inequalities that scar the present reality, the new paradigm will enable Americans to create a culture of publicly responsible private giving that is worthy in its own right.

What is more, and as we have already begun to notice, Patriot isn't perfect. Like everything else in life, it has its problems—ones usefully addressed by the private giving that will continue to flow through the secret donation booth.