

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.

We offer a critique of two planks of the traditional reform agenda. We first take aim at the full information plank, and explain why the secret donation booth provides a better solution to the problem of private giving. We then explain why it is a mistake to replace private giving entirely with public funding. As long as Patriot dollars play the predominant role, the system will be strengthened by the addition of socially responsible private giving to the mix.

The Anonymity Tool

The case for full information is pretty straightforward in the marketplace.¹ When consumers and producers are ignorant about their options, they cannot identify the best deals available. Ignorantly supposing that the offer on the table is the best available, a seller or buyer makes a deal without recognizing that somebody else can maximize value at a lower price.

This straightforward point doesn't carry over to campaign finance. When I enter the market for a new car, I will naturally pay a lot of attention when somebody offers me accurate information on the relative attributes of Fords and Toyotas—if I buy a lemon, I will bear directly the brunt of the costs of my ignorance.

But when I act as a citizen, this is no longer true. My vote is only one of millions, and the chances of my deciding the outcome of a national election are tiny. Even the Bush-Gore election wasn't decided by a single vote—though it came pretty close! And in most national contests, the odds of tipping the balance are vanishingly small.

This does not make my vote meaningless. In going to the polls, I am affirming my equal standing as a citizen, and contributing my opinion as to the right course for the nation. Although my opinion may not decide the outcome, the republic would die without lots of citizens going to the polls; and that is enough to impose a duty on all citizens to join their fellow Americans in maintaining a crucial democratic institution.

Nevertheless, duty is a weaker motivator than self-interest, and this means that most voters will not be as well informed about the choice between Gore and Bush as they are, say, when deciding between Ford and Toyota. This basic point makes campaign finance important: If all voters responded to

the dictates of duty by informing themselves thoroughly, then it would be relatively unimportant how much money a candidate spent for campaign commercials. It is precisely because most Americans aren't inclined to spend much time and energy on political learning that campaign finance becomes important: The more money a candidate has, the greater his chance to transcend the knowledge barrier. At the same time, low voter motivation makes a full-information remedy a profoundly problematic aspect of the old reform paradigm.

Quite simply, if most voters pay scant attention to politics, they won't take the time to go through the lengthy lists of donors published in the name of "full information." Each side, in its political advertisements, will seek to exploit embarrassing donations to the other—and politicians will consider this cost when accepting money from notorious groups. But they will also consider that big gifts permit them to buy a lot more advertising and overwhelm any negative publicity with another round of positive ads or counterattacks. Dirty money is better than no money. Although a few informed citizens may punish a candidate by voting for someone else, tainted money gains more votes than it loses.²

If this weren't true, candidates and parties would voluntarily turn down large tainted gifts. But this doesn't happen.³ Indeed, if full information were a powerful remedy, we should expect interests to contribute to candidates they actually oppose—and thereby induce appalled voters to abandon the tainted candidate! But does anyone think that the trial lawyers who gave millions to Gore were trying to scare voters in Bush's direction or that the large gifts given by drug companies to Bush were an effort to secure the White House for Gore?

"Full disclosure" is an attractive sound bite, but it simply doesn't change the basic political incentives that encourage politicians to accept big money from special interests. Nor does it do much to expose contributors to criminal liability for bribery. The kinds of deals that are provable (money for access) are not illegal, and the kinds of deals that are illegal (money for influence) are not provable. At the end of the day, mandated disclosure may make us feel good about ourselves but it does little to insulate the political sphere from the corrupting influence of unequal wealth.

The secret donation booth gets to the heart of the problem. A candidate is less likely to sell access or influence if he can't be sure that the buyer has

actually paid the price. At the same time, a giver will be sorely tempted to say that she has given a large sum, then chisel on the deal. After all, if the candidate believes her, she will achieve her aim of special influence without paying the price; and if the candidate doesn't find her credible, any actual donation will have been spent for nothing.

Talk is cheap. And it is possible that the secret donation booth will generate enormous amounts of hot air. Thousands may flock to the candidate to promise gargantuan sums which never arrive through the blind trust—increasing candidate skepticism and making it harder and harder for special interests to buy special access and influence. To be sure, special interests may respond to their new credibility problem by inviting candidates to watch them deposit their gifts into the secret donation booth or by waving canceled checks returned from the blind trust. We will consider how to undercut these efforts in Chapter 8. But for now, it is sufficient to emphasize the distinctive aspect of our strategy: Rather than prohibiting true donors from speaking or sending ancillary signals, our system permits faux donors to send the same signals, and thereby create a regime of cheap talk that makes indisputable gift-giving impossible.

Another way to characterize cheap talk is “lying.” And some may oppose our reform on the ground that it is simply wrong for the government to promote or encourage lying in any form. This is a case of misplaced moralism. Recall the (possibly apocryphal) story of the Danish king wearing—and urging other Christians to wear—the yellow star during Nazi occupation. Was it wrong to present oneself as a Jew, and thereby make it more difficult for the Nazis to identify their victims? A more modern example: Suppose that the heterosexual neighbors of a harassed gay resident raise the rainbow flag in front of their homes—even though this might subject them to physical harm.⁴ Should this act of social solidarity be condemned merely because it creates a false impression among the harassers?

To be sure, our faux donors will not be acting from admirable motives. By hypothesis, they will be seeking to gain special advantage or influence. Nonetheless, their cheap talk will operate in precisely the same way as these more noble enterprises. Just as the Danish king sought “to ambiguate” the social meaning of the yellow star, the faux donors will ambiguate the social meaning of the sentence “I’m sending you a check for \$10,000.”⁵ If the Danish king had been successful, the star would no longer have stood for “Jew,”

but for “Jew or Gentile.” By the same token, everybody will know that nobody can credibly establish his gift under the new paradigm, and as a consequence, the claim about the \$10,000 check will no longer be taken as a statement of fact but as a metaphor: “The check may or may not have been deposited in the donation booth, but I heartily approve of your candidacy!”

Given the changed social context, we would urge our moralizing critics to consider whether they are indulging in rhetorical overkill in characterizing the cheap-talk regime as involving “lying” at all. We are dealing with a context in which puffing and exaggeration is socially expected and the very notion of “lying” doesn’t have much traction. At the very worst, we are dealing with “white lies” which cannot seriously mislead anybody but a fool.

And politicians are anything but fools. They are already dealing with similar statements on a continuing basis. A day does not pass without a constituent saying that he voted for the politician at the last election. If all such protestations were believed, successful politicians would suppose they had won unanimously! But because the voter cast his ballot behind a curtain, no politician takes such protestations as anything more than metaphorical statements of support—which is precisely the way they will interpret remarks about contributions under the new paradigm. We doubt that even the most rigorous moralist will challenge the secret ballot on the grounds that it promotes “lying”; but if this is true, it is only the novelty of the secret donation booth that provokes a similar response.

We also challenge a second premise of the moralist’s critique. Not only is it wrong to equate “cheap talk” with “lying”; it is also wrong to say that, by enacting the new paradigm into law, the state *endorses* lying. The system will work just as well if donors respond to the secret donation booth by creating a norm of silence—under which it is deemed improper to inquire or divulge how much one has given to particular candidates. This is the way most Americans have responded to the institution of the secret ballot. Nowadays it is a no-no to ask somebody how she voted—except for very close friends and family, such a question intrudes on one’s freedom, as a citizen, to cast one’s ballot without coercive oversight. Similarly, many people think it inappropriate to make a public declaration about their secret vote, except under special circumstances. It would be entirely proper for donors to adopt the same norm in a world of the secret donation booth. Such conscientious folk would be free, of course, to endorse candidates and

positions with enthusiasm, and proudly declare that they have made a contribution. But in deference to the system of campaign finance established by their fellow citizens, they refrain from saying how much they have given. If the state endorses anything, *this* is the position implied by the enactment of the new paradigm.

The moralist's critique may serve as a debater's point, but this is a dog that will not hunt. In enacting the new paradigm, the state does not endorse the efforts of citizens to exaggerate their gifts; if somebody wishes to break his silence and brag about his giving, it is he—not the state—who should take responsibility. And even if he chooses to exaggerate the extent of his gift, the braggart hasn't done something awful. While self-promotion isn't precisely admirable, since when has it become un-American? Especially when exaggerated claims won't mislead serious politicians, who are perfectly aware of the difference between cheap talk and cold cash.

We do insist on drawing a line that cannot be crossed. But this line distinguishes between cheap talk and decisive action, not between silence and speech. Under the new paradigm, no donor is allowed to attempt an end run around the secret donation booth by handing his favorite politician a bagful of cash or a personal check. Such direct transfers will be criminal felonies equivalent to the bribery of a high state official. But we reserve such severe sanctions for the small number of sociopaths intent on subverting the system by direct transfers of cash, not the large number of idle chatters.

Anonymity and Inequality

We have been exploring how the secret donation booth disrupts the special-interest dealing that corrupts existing politics. Our reform will also make a major contribution to the underlying problem of inequality in the provision of campaign funds. The donation booth will predictably reduce the total amount of private dollar contributions. (The secret ballot has been estimated to have decreased voter turnout by about 12 percent.⁶) And it will have a particularly powerful impact on the frequency of six- and seven-figure donations. Only the richest and most ideological Americans would seriously consider giving a million dollars to a candidate if the gift did not buy special

access and influence—or even allow for the fleeting fame produced by newspaper articles listing the biggest givers!⁷

The impact on big giving will be especially dramatic in a patriotic world with millions of citizens adding their mites of \$50. With 5 billion Patriot dollars already in the pool, large private-dollar donations are likely to be less pivotal in winning elections—and therefore less valuable to politicians, especially if their solicitation requires actions that will alienate large numbers of patriotic donors.

The reduction in big gifts means that small gifts will bulk larger within the overall mix of private contributions. Under the current system, somewhere between 4 and 12 percent of registered voters contribute something to federal campaigns, but only one-tenth of 1 percent give \$1,000 or more.⁸ During the 1996 cycle this amounted to 235,000 voters—who nonetheless contributed about one-half of the total.⁹ Unsurprisingly, the vast majority of big givers are rich—81 percent earned more than \$100,000 a year.¹⁰

Concentration ratios of this kind will decline under the new regime—though we will still be a long way from equality in private giving. Except for the most devoted ideologues, the average voter will have better things to do with her \$30,000 to \$40,000 a year than make anonymous gifts to politicians. And the tens of millions who earn \$20,000 or less will be even more emphatically underrepresented.

Which leads to an obvious question. Even if big private gifts drop by 50 percent or more under the new regime, why not set an even more ambitious goal? Why not abolish all forms of private giving?

The abolitionist arguments are straightforward. Americans don't have the right to buy extra votes on election day—we insist instead on the principle of one person, one vote. By the same token, our commitment to equal citizenship should extend to the distribution of Patriot dollars—"one person, fifty Patriots." If everybody is treated as an equal citizen at the ballot box, why shouldn't his claim to equal citizenship be respected during the election campaign?

This egalitarian point is not merely symbolic—though we hardly wish to trivialize the expressive dimensions of citizenship. Because most private funding will invariably come from the upper reaches of society, anything short of abolition will skew outcomes in favor of the rich. Granted, there are "limousine liberals" as well as "dirt-poor conservatives." But these are

exceptions to the general law linking class with political opinions. So private funding violates equality and favors the rich.

Let's get rid of it. It's as simple as that.

We don't think it is that simple, but we don't wish to belittle the basic anxieties that fuel the abolitionist argument. To the contrary, they go to the root of the circularity problem that fuels our own reformist concerns. No less than the abolitionists, we envision democratic politics as a distinct sphere of equal citizenship, which should never be reduced to a reflex of the surrounding system of economic privilege. When this vital insulation is stripped away—as is happening today—it is not only the political system that suffers a dramatic loss in democratic legitimacy but the economic system as well. The question is whether the substantial steps we have already proposed suffice to break the grip of circularity and allow space for a vibrant politics of equal citizenship; or whether, as the abolitionist suggests, even more must be done.

This is, we are happy to admit, a question open to good-faith disagreement. But a host of countervailing factors incline us against the abolitionist view—beginning with a realist caution. Even if the abolitionist proposal were adopted, there would be many other ways for the rich to project their influence. Owners of newspapers and Web sites are also much richer than average; yet surely a free press is absolutely central to the workings of a democratic society. The rich and powerful will always manage somehow to gain undue prominence for their opinions; the question is whether we can design a system of countervailing power to keep this tendency under control.

Our point, it should be emphasized, applies not only to capitalist economies. The twentieth century has taught us that socialist systems have an even harder time preventing the bosses of nationalized industries from dominating public policy. It is a mistake, then, to look upon abolitionism as if it were a great leap forward to a Utopia where democratic politics is, at long last, perfectly insulated from the unequal economic system within which it is embedded. Abolitionism simply drives wealth into the remaining channels of political influence—ranging from think tanks to television stations, from traditional newspapers to the latest Web page gimmick. These extra investments will give the wealthy less bang for their buck than political contributions (otherwise they would be making them today). The question posed by abolitionism is whether this marginal diminution of inegalitarian influence is offset by other factors of greater importance.

The Case for a Mixed System

We stand before you as unrepentant social engineers—minor-league players in a vast squad of structural reformers stretching back to 1787, when a few men in Philadelphia had the nerve to propose an untested scheme of government for a vast continent. The Founding Fathers mixed their Enlightenment faith in the science of institutional design with a sober appreciation of its ultimate limitations. We hope to follow them down this path as well—and these reflections lead us to recommend a mixed system, rather than one that relies exclusively on public finance through Patriot Co.

Begin by considering that Patriot is simply an enabling measure. It is up to each American to decide whether she will take the time and trouble required to use her Patriot account and to engage the issues and personalities thrown up by the campaign. She is free to ignore the whole affair, dismiss the campaign's sound and fury as meaningless noise, and let her \$50 account lapse unspent on election day. To be sure, the republic would be on its deathbed if all Americans took this tack. But this only makes the basic point: Patriot may empower citizens, but it cannot create them. Americans become citizens only through engagement in a much broader cultural enterprise—through which they encourage one another to participate in the democratic process on an ongoing basis. Every dinner table debate about politics, as well as every march on Washington, is part of this culture of active citizenship.¹¹ Patriot makes sense only as long as this culture is alive and well—offering Americans a new tool to revitalize their faith in democratic politics. But the tool should not be mistaken for the larger culture which it enables.

These Tocquevillian banalities, we suppose, will seem uncontroversial—but how do they help make a case for a mixed system of campaign finance? To see our point, put yourself in the position of a modestly active citizen—the millions of men and women who do not scoff when the question of Gore or Bush comes up at the dinner table or around the water cooler but engage in good-faith debates over who the better candidate is; who do not immediately turn to the sports channel or the movie reviews when the campaign bulks large on television talk shows or newspaper front pages. Imagine next that you get a little more involved in the personalities and issues of the campaign—to the point that you want to do more than simply defend your favored cause and candidate in casual conversation and vote for him on election day. What more could you do?

Go to a meeting, knock on some doors, write a letter to the editor, get on the Internet, and lots of other things—like giving \$100 to your side of the ongoing political debate. It is through activities like this that the culture of active citizenship reproduces itself. Without some people staying in active gear all of the time, and lots of people moving into gear some of the time, our civic culture will gradually disintegrate.

We do not wish to exaggerate the role of the \$100 contribution in sustaining this culture. It is simply one of many ways Americans show that they care about the fate of the country, and thereby encourage others to engage in the enterprise of active citizenship. But it is one way, and one not to be despised. Indeed, political gift-giving has become an increasingly important way in which Americans manifest their civic concern.¹²

Flatly prohibiting private campaign contributions would be a real loss to the civic culture—especially when we consider how the social meaning of small gifts will change within the new regime of campaign finance. Nowadays the entire practice of campaign contributions has been put under a cloud as a result of its notorious abuse by big money. Once the secret donation booth purges the practice of special dealing, its social meaning as an act of citizenship will be further enhanced.

To see our point, place yourself in the position of a hypothetical citizen in proud possession of her Patriot card. Early in the campaign, she goes to her ATM and votes \$50 for her favorite candidates. But as the campaign proceeds, she gets increasingly interested, and wants to contribute further: “My Patriot account may be empty, but this campaign is really important—and I want to put my *own* money where my mouth is!”

Thanks to the donation booth, she has no fear that her extra gift can be disparaged as an effort at pursuing her self-interest. The context makes it clear that she is making a genuine gesture of concern for the fate of her country. Indeed, her gift might inspire others to take the country a little bit more seriously in their own deliberations. It is by countless small acts that a culture of active citizenship re-creates itself over the generations.

When we put a concrete proposal on the table later in the book, we shall try to enhance further this citizenship effect. Our model statute will not insist on a strict regime of anonymity. If givers choose, they may authorize the trust to record their name on a list of contributors and publish it to the world. There is only one thing that the trust *must* keep secret: the amount

of their contribution in excess of \$200. This will make it possible for givers to stand up and be counted in public, and credibly state the precise amount of their small gifts—while making it impossible for candidates to identify how much big givers are giving.

We defer details until later, lest they divert attention from the main point: You don’t have to be a modern Tocqueville to note that our civic culture isn’t in the best of shape. Every act of civic engagement left undone—including private gifts when purged of the taint of special interest—is therefore a genuine loss, whose sacrifice should not be taken lightly.

To restate the point in more general terms: Within the new paradigm, voting with private dollars should count as a legitimate act of citizenship, as long as steps have been taken to enable citizens to vote with Patriot dollars as well. This conclusion, in turn, sets the stage for a more complicated defense of a mixed system of campaign finance.

Half of this argument consists of a series of critical appraisals of Patriot itself. In introducing the initiative, we have naturally emphasized the positive aspects of its promise of citizen sovereignty. But like all other good things in life, Patriot has its problems. The second half of the argument considers whether private giving, filtered by the donation booth, can help solve these problems. If the answer is yes, the mixed system of voting with public and private dollars yields a whole that is bigger and better than the sum of its parts.

The answer is yes.

Patriot has many weaknesses, but the ones we consider have a distinctive structure. All of them are inextricably intertwined with the good things about the program—they are the characteristic vices, as it were, of Patriot’s characteristic virtues. Given this intimate relationship, they are especially worthy of analysis—because there can be no hope of eliminating them within the patriotic framework, it would be especially heartening to discover that private giving through the donation booth can serve to compensate for vices that would otherwise be irremediable.

Let us begin, then, with one of Patriot’s greatest virtues—the way it encourages Americans to become more active citizens during the campaign as they deliberate with one another on the best way to vote their Patriot dollars. But there is a vice associated with this great virtue—what happens if most Americans fail this test of civic virtue and ignore the candidates?

The problem is especially acute during the earliest stages of the campaign. The overwhelming majority of Americans don't pay attention to the upcoming election before the primaries begin. Yet it is precisely at this time when the candidates will be urgently needing start-up funds. If they can manage to sustain themselves financially during these early months, some of their campaigns will take off by the time more Americans start paying attention and respond by showering patriotic dollars into their campaign chests. Call this the problem of selective attention.

How does private giving provide a solution? The donation booth is a means for more active citizens to put their money where their mouth is. Given their greater political involvement, they will appreciate the importance of an early gift in keeping promising candidacies afloat.¹³

Private giving won't be a perfect solution. It obviously favors candidates appealing to the rich, who can indulge the luxury of giving more readily. But this distributional point does not weigh so heavily in the start-up phases of the campaign, where costs are lower than those incurred in more intense campaigning. As long as candidates can find a smallish number of private givers to supplement the early trickle of patriotic contributions, they may stay alive long enough to reap a richer harvest.

The question of distributive justice becomes more complex when we focus on another vice-of-virtue problem. By flooding the system with citizen dollars, Patriot introduces a much-needed egalitarian counterweight into an increasingly plutocratic system of finance. But if we follow the path of abolitionism, and eliminate all private contributions, this renewed egalitarianism has its drawbacks.

Most Patriot dollars will be spent in support of candidacies that appeal to very broad constituencies, leaving minoritarian parties and candidates with fewer patriotic resources to push their programs. In the grand scheme of things, this is as it should be—political campaigns in a democracy are, first and foremost, contests for majority support, and the worst charge against a finance system is that it allows a moneyed minority to dominate the interests and ideals of a popular majority. Nevertheless, we believe that the majoritarian tendencies of Patriot can also be viewed as a vice—especially during the early phases of a campaign.

The primary season is a time when the vibrant expression of minoritarian positions and candidacies can play an especially constructive role in demo-

cratic politics. Even within the short term, they prod broader publics in new directions, leading major candidates to embrace positions they had previously believed beyond the pale. And in the longer run, the ideals voiced by minority candidates have regularly transformed themselves into mainstream beliefs.

Call this the minoritarian difficulty; the question is whether private giving, mediated by the donation booth, can compensate for this patriotic deficiency. The case for a mixed system looks good because, as we have noted, one should expect private-money contributions to be relatively important early in the season. But one further condition must be realized before we are home free—the distribution of private donations, as compared with that of early Patriot dollars, must be skewed to the minoritarian extremes away from the majoritarian center.

Speaking broadly, this condition won't be hard to satisfy. The secret donation booth tends to filter out self-interested contributions, while allowing an unimpeded flow of ideological gifts. Operationally speaking, the decisive question is: Will ideological contributions be skewed toward the extremes of public opinion?

Very likely. Although it is possible to imagine a world dominated by passionate centrists, twentieth-century politics has proliferated ideologies of the right and left in much greater abundance. The minoritarian case for a mixed system seems empirically well grounded.¹⁴

This same ideological skew is central to our final vice-of-virtue argument. This potential pathology arises toward the end of the campaign. From time to time, a major party may be captured by an ideological faction that nominates an extreme candidate who fails to attract broad support in the center. Patriotic contributions plummet, leaving the "major party" no choice but to launch a minor-league effort.

As we explained in Chapter 2, this snowball effect is a vice of one of Patriot's principal virtues—its commitment to citizen sovereignty, not bureaucratic centralization, as the organizing principle of campaign finance. It won't be easy to eliminate the problem entirely, but the ideological character of private donations helps ameliorate concern. An extremist takeover will predictably inspire right- or left-wing ideologues to step up their private giving in an effort to make the best use of their moment of major-party domination. To be sure, this compensating effect will give an advantage to

right-wing over left-wing ideologues—because the leftists will typically have less money to spare for private gifts. Worse yet, and in contrast to the first two vice-of-virtue problems, the snowball problem occurs at a late stage of the campaign, when costs are high. Although left-wing ideologues may be rich enough to compensate for selective-attention problems and minoritarian difficulties at the beginning of campaigns, they may have a harder time bankrolling a campaign experiencing powerful snowball effects. This will be easier for right-wing ideologues.

The structural disparity is unfortunate, but we need not claim that our mixed system is perfect—only that it is better than an abolitionist alternative banning private funding and relying exclusively on “clean money” distributed through the patriotic decisions of the general citizenry.

Our first argument for a mixed system emphasized the positive role that private giving plays in the American culture of active citizenship. Our second considered how the relatively active portion of the citizenry might use the private donation booth to compensate for some characteristic deficiencies in patriotic finance. Our final argument invites you to shift focus—from the acts of citizens to the incentives of legislators. How does the choice between a mixed system and an abolitionist approach change the incentives of these crucial decisionmakers?

Consider that sitting legislators already have great advantages over their potential electoral challengers. They have been working for a long time—some for a very long time—getting their names and opinions before the public. And by definition, they have been successful enough to win the prize of office. To make up for this long-term deficit in “informational capital,” challengers need lots of money.¹⁵ Worse yet, they have a tougher time getting on television for free. Sitting legislators constantly use the power of their office to make “news”—announcing local projects, voting on popular measures—and thereby appear on nightly newscasts while likely opponents smile grimly on the sidelines.¹⁶

Incumbents have more than informational capital going for them as they confront prospective opponents. They also find it easier to raise money—using their office to reward big donors and punish those who haven’t put money into the till. As a consequence, incumbents are unlikely to disturb the existing system—unless, that is, a reform movement gains powerful support

among ordinary citizens who are willing to punish incumbents at the ballot box for their fealty to the status quo.

Such a movement already exists, of course, but assume that it gains momentum over the next decade, and that its focus gradually shifts away from the old to the new reform paradigm—a big assumption! Confronting an aroused public, legislators find their maneuvering room restricted to two choices—either a mixed system or an abolitionist system relying exclusively on patriotic finance. If they seek to further their narrow self-interest as incumbents, which option will they prefer?

Our answer will seem counterintuitive, given the notorious reluctance of contemporary politicians to cut themselves off from private funding. But if you are willing to suspend disbelief long enough to countenance our hypothetical scenario, it will become clear that most self-interested incumbents would suddenly wish to abolish private giving entirely rather than endorse a mixed system. Consider that the secret donation booth will eliminate the incumbents’ main advantage in the private fund-raising business—they can no longer reward big donors, for they will no longer be able to identify them. And so far as ideological gifts are concerned, their opponents might often be in a position to compete effectively for money. By abolishing all private gifts, incumbents close off this threat, and can rely upon their superiority in informational capital to carry them to victory.

Once Patriot is made the exclusive source of campaign funding, an incumbent has another ace up his sleeve. Our model statute provides generous funding for Patriot accounts, but there is no reason for incumbents to agree—instead of seeding each voter’s account with \$50, why not “save some money” and appropriate only \$5?

This money-saving measure may or may not be popular with the voters, but one thing is clear—it will vastly reduce the chance that an electoral opponent will raise enough money to launch an effective challenge. For self-interested incumbents, the election-maximizing logic is clear—first deny challengers access to ideological gifts from the private sector; then starve them by underfunding Patriot.

But what makes sense for incumbents doesn’t make sense for the rest of us. There is a very real danger that politicians might, in response to the next wave of reformist agitation, use abolitionist demands for the elimination of private funding as a convenient fig leaf to transform Patriot into an insur-

ance policy for incumbents. Opponents of this scheme might eventually convince the Supreme Court to strike it down as unconstitutional. But then again, they might fail in this effort, and in any event, serious damage may be done in the interim.

Rather than relying on the Court, new paradigmgers should avoid the temptations of abolitionism in the first place. By using the donation booth to purge private giving of its taint, reformers deprive incumbents of their present fund-raising advantage with big givers, and give challengers a real chance to raise enough private money to offset the remaining incumbents' advantage in informational capital. The mixed system will also serve as a check on legislative incentives to starve Patriot. With private money still flowing through the donation booth, incumbents who don't expect to get much will have an incentive to oppose efforts to drive the patriotic allocation below \$50—for they will have to rely on patriotic finance for more of their resources.¹⁷

In drafting our model statute, we shall be making further efforts to deal with the underfunding problem. But even without them, the mixed system plays a key role in limiting the possibilities of abuse. Public and private components operate to check and balance the worst evils of either system functioning alone.

Competing Mixtures?

There are many ways of mixing public and private finance. Even supposing that a mixed system is best, why choose our particular combination?

A thought experiment will usefully illuminate the critical design issues. Consider an alternative that rejects Patriot and relies on a system of matching grants for private donations. This approach seeks to equalize financial resources through a progressive matching formula: If Jane Poor gives \$100, her favorite candidate will find his blind trust enriched, say, by \$300, but \$100 coming from Joe Bourgeois would generate only \$200, and the same amount from Bill Gates would yield the candidate \$100 (or maybe less). Compared with this familiar design option, our mixed system has two distinctive features. The first is unconditionality: Each American gets 50 Patriot dollars simply by registering to vote. In contrast, a matching-grant scheme

requires a citizen to sacrifice some of her private money in order to gain access to public funding. If Jane Poor gives zero dollars under a matching system, her favorite candidate gets nothing; but under our alternative, she is still free to give 50 Patriots even if she spends all her private dollars on food, rent, and clothing.

But of course, the unconditional character of the basic \$50 grant comes at a cost—especially to those who would have given anyway. Under a matching system, a private gift of \$100 or \$200 might generate a substantial subsidy, especially if it came from Ms. Poor. But under our scheme, there is no progressivity for private dollars: If anybody wants to spend more than 50 Patriots, all dollars count equally, and none are subsidized. Call this the no-subsidy principle.

The choice between the two systems comes down to this: What's so great about unconditionality and no-subsidy?

These two ideas have very different standing. Unconditionality is based on a basic political principle, while no-subsidy is based on a series of prudential considerations that seem compelling but are not on the same moral level.

Begin on the prudential side: To narrow our focus to the no-subsidy question, suppose that in addition to granting each voter 50 Patriot dollars, a progressive subsidy was provided for all private gifts—large for Jane Poor, nonexistent for Bill Gates. If we lived in an ideal world, we would not object to such a scheme. To the contrary, it would usefully ameliorate the pro-rich bias of our existing mixed proposal.

Nevertheless, you may have noticed that our world falls sadly short of the ideal, and we are reluctant to invite real-world politicians into this particular briar patch. Even if a consensus were reached on the proposition that the poor should be subsidized more than the rich, specifying the precise formula would provoke a partisan battle royal—with Democrats and Republicans fiercely manipulating the subsidy schedule to their partisan advantage. Even after they arrived at a statutory solution, the parties would be tempted to revisit the issue and rejigger the formula constantly to reflect changes in the political balance of forces.

One of our principal goals is to design a system that reduces such temptations. Campaign finance is an exquisitely sensitive matter to politicians, and every time they get involved in statutory revision, they may easily go on a partisan rampage, wreaking havoc on the entire structure. The best response

is prevention: Eliminate alluring statutory “solutions” before they generate endless partisan squabbling. In this particular case, abstinence comes at a price in terms of equal citizenship—after all, a progressive matching formula would indeed ameliorate the inequality problem that remains even after we have introduced 5 billion Patriot dollars into the mixed system. Nonetheless, it does so only at an unacceptable cost in politicization.

A progressive matching formula is also incompatible with a second objective: to design a system that is relatively simple for Americans to understand and for bureaucrats to operate. Progressive matching inevitably makes the administration of the donation booth a cumbersome affair, because donors must somehow establish their annual income to qualify their gift for the proper matching sum. Such a scheme not only is expensive to operate. It will strain the system in other ways—making it more difficult both to preserve donor anonymity and to safeguard against fraud.

Finally, any matching scheme will cost billions of additional dollars and compete with our first fiscal priority—which is to fund Patriot, a program that will cost \$5 billion, or more, during presidential election years. It seems smart to put first things first, and make Patriot our overriding fiscal goal. Subsidized private giving will have to wait, probably indefinitely.

This conclusion is entirely prudential—but no less compelling for that! In contrast, our decision to grant Patriot dollars unconditionally is based on basic—albeit controversial—political principles. To define the relevant questions, we continue our comparison with the matching-grant alternative—waiving all prudential objections for purposes of clarifying the moral issue at stake.

Suppose that somebody proposes to scrap our Patriot scheme entirely and replace it with a thoroughgoing matching-grant alternative. Because this eliminates our \$5 billion plus program, our rival can become more generous in his provision of progressive subsidies—perhaps a gift of \$10 from Jane. Poor will now net her favorite candidate \$50 or even more. Nevertheless, the scheme remains conditional. It is not enough for a citizen to register to vote. She must also sacrifice some of her private income to gain access to a share of campaign finance funds: If Jane gives zero, the candidate still gets zero. Under our proposal, Jane can give 50 Patriot dollars even if she gives zero private dollars. Is this a morally significant difference?

The question is less novel than it may seem at first glance. When we move

back in time, a similar issue was raised in connection with the right to vote. Advocates of poll taxes traditionally argued that it was not enough for Americans to register to vote or pass a literacy test. They should also be required to pay a special tax before gaining access to the ballot box. On this view, the sacrifice of some cash was required before an American could establish that he merited the franchise.¹⁸

But the nation has decisively rejected such reasoning.¹⁹ The right to vote is not something that must be purchased. An American may decide that her private needs are so pressing that she can't afford to pay the \$10 poll tax, but this should not bar her from the ballot box. The choices she makes as a private consumer do not disqualify her from making choices as a private citizen. To the contrary: Americans are citizens before they are consumers, and their basic citizenship rights depend neither on their wealth nor the intensity of their private desires. But if this is true on election day, shouldn't it also be true during the election campaign?

This is the point of the unconditional grant of Patriot dollars. Under modern conditions, it is wrong to treat campaign funding as a frill. Unless we find a way to democratize campaign finance, the right to vote will become mere shadow play. Within this setting, Patriot dollars are a form of citizenship power no less fundamental than the vote itself. Just as Americans no longer have to sacrifice private goods to gain access to the vote, they should not be required to sacrifice private goods to gain access to Patriot dollars. Only by combining votes and Patriot dollars can citizens regain a semblance of popular sovereignty in today's world—and they should be satisfied with nothing less.

This is, at least, the moral foundation of our initiative, and our ultimate reason for rejecting alternative mixed systems. What is more, matching-grant proposals make a hash out of the political, bureaucratic, and budgetary realities.²⁰ Sound democratic morality is perfectly compatible, in this case at least, with plain old common sense.

We have been fighting a two-front war—on one front, defending the secret donation booth against the traditional reformist prejudice in favor of full information; on the other, defending it against abolitionists who would eliminate private giving entirely. How much progress have we made?

It is premature to declare victory on the first front. We have explained

why full information won't accomplish very much (other than inviting us to feel good about ourselves). But we have not refuted all the serious objections to our own proposal. Most obviously, big donors and ambitious politicians will have powerful incentives to destroy the integrity of the secret donation booth, and will design clever ways to determine the precise identity of the donors who are depositing big checks into the blind trust. Unless we can credibly secure the system against sabotage, the case for the donation booth remains incomplete. Even if full information generates only small gains, this is better than a splashy proposal that looks good on paper but flops in practice. We shall take up this operational challenge in Part II.

We have accomplished more on the second front. Creative abolitionists may well design clever responses to one or another of our arguments for a mixed system. But we doubt that they can counter all of them. Voting with both public and private dollars not only promises to enhance the existing culture of active citizenship. It will also significantly improve on the operation of a purely patriotic system of campaign finance: Private dollars flowing through the donation booth will ameliorate problems that otherwise would be generated by the selective attention of most citizens, the tendency of Patriot dollars to starve minoritarian opinions, and the risk of the occasional snowball effect. No less important, it will check and balance tendencies by sitting politicians to starve their electoral opponents by underfunding Patriot.

All of these factors are significant. Together they add up to a very strong case.

But not open-and-shut. The abolitionist *can* respond to our cascade of arguments by recalling the intrinsic appeal of abstract principles of equality. Recall the simple analogy to the ballot box with which we began the argument: We do not give anybody the right to buy extra votes on election day merely because he is willing to pay for them. But if one person, one vote is the right way to proceed on election day, why not insist on one person, 50 Patriots during the preelection debate?

We do not deny the symbolic force of this question.²¹ But at the end of the day, we do not think it outweighs the prospect of a more vigorous and secure democracy offered by a mixed system.

4 Regulations of Last Resort

We have been pursuing a structural approach. Rather than telling people how much they can give, we have been reorganizing the process of giving. This structural emphasis contrasts sharply with the transactional focus of the old paradigm: Under existing federal law, for example, nobody can give any candidate more than \$1,000 during a particular campaign.¹

This focus on specific transactions is the product of generations of reform effort. Although activists certainly recognize the importance of (centralized) subsidies and (full) information in their overall strategy, they reserve their greatest passion for the effort to purge big gifts from politics. Senator John McCain's recent meteoric rise testifies to the power of this appeal—which made him a serious presidential candidate.

The old paradigm's transactional focus has had predictable consequences. As reformers succeed in abolishing one or another suspect transaction, donors and politicians respond by skirting the new law and designing new forms of dealing that permit business as usual. The current campaign against soft-money contributions provides an apt illustration. Existing law bans big contributions to candidates but permits big gifts to political parties. So big givers take advantage of this loophole to channel vast sums to the parties, which can legally spend the money for a host of activities that benefit their favored candidates.²

After years of public agitation, progressives have convinced the public to view soft money as if it posed *the* acid test for campaign reform. But success in plugging this loophole will only catalyze a new cycle of shattered expectations. The new reform legislation must define soft money contributions in legal language of greater or lesser clarity. As soon as the ink is dry on the statute books, big donors and ambitious politicians will make every effort