

The Globe and Mail (Canada)
June 23, 1992 Tuesday

FIFTH COLUMN
LAW AND SOCIETY

Bryan Schwartz looks at money and the freedom of speech

IN Canada, the "free marketplace of ideas" is distorted to some extent by legal restrictions. The rich, famous and sensitive can invoke antiquated libel laws to inhibit criticism. The "politically correct" camp can demand prosecutions under vague obscenity and anti-discrimination laws. But an even bigger problem than the muting of some is the shouting of others. Money can not only talk, it can drown out everyone else.

Governing parties can propagandize, on behalf of their policies and themselves, at unlimited public expense. Politically self-serving messages can be dressed up as news about government programs, constituency letters from MPs or campaigns for "competitiveness" or "national unity." A new law should establish the general principle that government-funded advertising should provide only information, not advocacy. Compliance should be monitored by an independent agency.

Governments can buy not only speech, but speakers. Journalists can be co-opted through covert offers of inside access and information, or by openly offering them public posts. University professors have a special responsibility to provide informed and independent commentary; yet those who receive government contracts and appointments can turn from critics into cheerleaders.

More government regulation of the press and universities is not the answer. The vitality of democratic discourse largely depends on the autonomy of the press and academia. People in these spheres are going to have to tighten up their own ethics. Governments could help by offering less temptation; e.g. by not creating unneeded commissions and advisory boards, and then giving the high-paid jobs and consulting contracts to their friends, whether previously purchased or newly acquired. The money could be diverted to agencies that distribute research funding according to review by peers, not politicians.

The whole practice of patronage is a free speech issue. The U.S. Supreme Court has found that the First Amendment can be violated by patronage hirings and dismissals. They interfere with the ability of prospective government employees to express their political views freely. Patronage is an unregulated and insidious form of election financing; established parties can secure the "volunteered" support of people with valuable campaign talents by implicitly promising future rewards. Political affiliation should be a prohibited form of discrimination in government hiring and contracting. It would be permitted only if it is a bona fide occupational qualification - e.g., serving as a political assistant to a minister.

Pork-barrelling involves rewarding parts of the country for their political support. The federal government has said an "economic union" principle should be put in the new Constitution. It should expressly prohibit economic discrimination against any area. The Senate would be charged with reviewing whether government spending responds to genuine differences in needs.

Private interests with fat wallets can have an out-sized influence on political debate. We should be loathe to repress the expressive capacity of any citizens, even the most wealthy and self-assertive. The "marketplace of ideas" is best improved by enabling more voices to be heard, not by stifling the ones already sounding. For example, there could be more free "air time" for during elections for all parties, even small ones. But we could eliminate various forms of unfair subsidies. Tax laws should severely restrict the ability of corporations to deduct political advertising as a business expense. Business and labour laws might better ensure that on political issues, stakeholders' money is not exploited by leaders to promote their personal opinions.

Current federal laws restrict spending by political parties, yet leave other organizations free to spend lavishly on specific causes. The massive pro-free trade campaign by the business lobby may have won the 1988 election for the Tories. The Lortie Commission has just recommended severe limits on all "third party" advertising. In one sense, the Lortie restrictions may be too sweeping. Individuals concerned about specific causes, including those orphaned by the political establishment, should be able to organize and make their voices heard.

While Lortie is too sweeping in its restrictions, some measures are needed to prevent the next election from again being dominated by the big corporations. The Charter of Rights and Freedoms does not protect their freedom of screech. The Supreme Court has said that the basic aim of the Charter is to protect individual citizens, not corporations, and that it should not be used unduly as means of protecting privilege against reform.

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