U.S. Supreme Court

BUCKLEY v. VALEO, 424 U.S. 1 (1976)

424 U.S. 1

BUCKLEY ET AL. v. VALEO, SECRETARY OF THE UNITED STATES SENATE, ET AL.

APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.
No. 75-436.

Argued November 10, 1975.
Decided January 30, 1976. *

[Footnote *] Together with No. 75-437, Buckley et al. v. Valeo, Secretary of the United States Senate, et al., on appeal from the United States District Court for the District of Columbia.

The Federal Election Campaign Act of 1971 (Act), as amended in 1974, (a) limits political contributions to candidates for federal elective office by an individual or a group to $1,000 and by a political committee to $5,000 to any single candidate per election, with an overall annual limitation of $25,000 by an individual contributor; (b) limits expenditures by individuals or groups "relative to a clearly identified candidate" to $1,000 per candidate per election, and by a candidate from his personal or family funds to various specified annual amounts depending upon the federal office sought, and restricts overall general election and primary campaign expenditures by candidates to various specified amounts, again depending upon the federal office sought; (c) requires political committees to keep detailed records of contributions and expenditures, including the name and address of each individual contributing in excess of $10, and his occupation and [424 U.S. 1, 2] principal place of business if his contribution exceeds $100, and to file quarterly reports with the Federal Election Commission disclosing the source of every contribution exceeding $100 and the recipient and purpose of every expenditure over $100, and also requires every individual or group, other than a candidate or political committee, making contributions or expenditures exceeding $100 "other than by contribution to a political committee or candidate" to file a statement with the Commission; and (d) creates the eight-member Commission as the administering agency with recordkeeping, disclosure, and investigatory functions and extensive rulemaking, adjudicatory, and enforcement powers, and consisting of two members appointed by the President pro tempore of the Senate, two by the Speaker of the House, and two by the President (all subject to confirmation by both Houses of Congress), and the Secretary of the Senate and the Clerk of the House as ex officio nonvoting members. Subtitle H of the Internal Revenue Code of 1954 (IRC), as amended in 1974, provides for public financing of Presidential nominating conventions and general election and primary campaigns from general revenues and allocates such funding to conventions and general election campaigns by establishing three categories: (1) "major" parties (those whose candidate received 25% or more of the vote in the most recent election), which receive full funding, (2) "minor" parties (those whose candidate received at least 5% but less than 25% of the votes at the last

election), which receive only a percentage of the funds to which the major parties are entitled; and (3) "new" parties (all other parties), which are limited to receipt of post-election funds or are not entitled to any funds if their candidate receives less than 5% of the vote. A primary candidate for the Presidential nomination by a political party who receives more than $5,000 from private sources (counting only the first $250 of each contribution) in each of at least 20 States is eligible for matching public funds. Appellants (various federal officeholders and candidates, supporting political organizations, and others) brought suit against appellees (the Secretary of the Senate, Clerk of the House, Comptroller General, Attorney General, and the Commission) seeking declaratory and injective relief against the above statutory provisions on various constitutional grounds. The Court of Appeals, on certified questions from the District Court, upheld all but one of the statutory provisions. A three-judge District Court upheld the constitutionality of Subtitle H. Held: [424 U.S. 1, 3]

1. This litigation presents an Art. III "case or controversy," since the complaint discloses that at least some of the appellants have a sufficient "personal stake" in a determination of the constitutional validity of each of the challenged provisions to present "a real and substantial controversy admitting of specific relief through a decree of a conclusive character, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts." Aetna Life Ins. Co. v. Haworth, 300 U.S. 227, 241 . Pp. 11-12.

2. The Act's contribution provisions are constitutional, but the expenditure provisions violate the First Amendment. Pp. 12-59.

(a) The contribution provisions, along with those covering disclosure, are appropriate legislative weapons against the reality or appearance of improper influence stemming from the dependence of candidates on large campaign contributions, and the ceilings imposed accordingly serve the basic governmental interest in safeguarding the integrity of the electoral process without directly impinging upon the rights of individual citizens and candidates to engage in political debate and discussion. Pp. 23-38.

(b) The First Amendment requires the invalidation of the Act's independent expenditure ceiling, its limitation on a candidate's expenditures from his own personal funds, and its ceilings on overall campaign expenditures, since those provisions place substantial and direct restrictions on the ability of candidates, citizens, and associations to engage in protected political expression, restrictions that the First Amendment cannot tolerate. Pp. 39-59.

3. The Act's disclosure and recordkeeping provisions are constitutional. Pp. 60-84.

(a) The general disclosure provisions, which serve substantial governmental interests in informing the electorate and preventing the corruption of the political process, are not overbroad insofar as they apply to contributions to minor parties and independent candidates. No blanket exemption for minor parties is warranted since such parties in order to prove injury as a result of application to them of the disclosure provisions need show only a reasonable probability that the compelled disclosure of a party's contributors' names will subject them to threats, harassment, or reprisals in violation of their First Amendment associational rights. Pp. 64-74.

(b) The provision for disclosure by those who make independent [424 U.S. 1, 4] contributions and expenditures, as narrowly construed to apply only (1) when they make contributions earmarked for political purposes or authorized or requested by a candidate or his agent to some person other than a candidate or political committee and (2) when they make an expenditure for a communication that expressly advocates the election or defeat of a clearly identified candidate is not unconstitutionally vague and does not constitute a prior restraint but is a reasonable and minimally restrictive method of furthering First Amendment values by public exposure of the federal election system. Pp. 74-82.

(c) The extension of the recordkeeping provisions to contributions as small as those just above $10 and the disclosure provisions to contributions above $100 is not on this record overbroad since it cannot be said to be unrelated to the informational and enforcement goals of the legislation. Pp. 82-84.

4. Subtitle H of the IRC is constitutional. Pp. 85-109.

(a) Subtitle H is not invalid under the General Welfare Clause but, as a means to reform the electoral process, was clearly a choice within the power granted to Congress by the Clause to decide which expenditures will promote the general welfare. Pp. 90-92.

(b) Nor does Subtitle H violate the First Amendment. Rather than abridging, restricting, or censoring speech, it represents an effort to use public money to facilitate and enlarge public discussion and participation in the electoral process. Pp. 92-93.

(c) Subtitle H, being less burdensome than ballot-access regulations and having been enacted in furtherance of vital governmental interests in relieving major-party candidates from the rigors of soliciting private contributions, in not funding candidates who lack significant public support, and in eliminating reliance on large private contributions for funding of conventions and campaigns, does not invidiously discriminate against minor and new parties in violation of the Due Process Clause of the Fifth Amendment. Pp. 93-108.

(d) Invalidation of the spending-limit provisions of the Act does not render Subtitle H unconstitutional, but the Subtitle is severable from such provisions and is not dependent upon the existence of a generally applicable expenditure limit. Pp. 108-109.

5. The Commission's composition as to all but its investigative and informative powers violates Art. II, 2, cl. 2. With respect to the Commission's powers, all of which are ripe for review, [424 U.S. 1, 5] to enforce the Act, including primary responsibility for bringing civil actions against violators, to make rules for carrying out the Act, to temporarily disqualify federal candidates for failing to file required reports, and to authorize convention expenditures in excess of the specified limits, the provisions of the Act vesting such powers in the Commission and the prescribed method of appointment of members of the Commission to the extent that a majority of the voting members are appointed by the President pro tempore of the Senate and the Speaker of the House, violate the Appointments Clause, which provides in pertinent part that the President

shall nominate, and with the Senate's advice and consent appoint, all "Officers of the United States," whose appointments are not otherwise provided for, but that Congress may vest the appointment of such inferior officers, as it deems proper, in the President alone, in the courts, or in the heads of departments. Hence (though the Commission's past acts are accorded de facto validity and a stay is granted permitting it to function under the Act for not more than 30 days), the Commission, as presently constituted, may not because of that Clause exercise such powers, which can be exercised only by "Officers of the United States" appointed in conformity with the Appointments Clause, although it may exercise such investigative and informative powers as are in the same category as those powers that Congress might delegate to one of its own committees. Pp. 109-143.

No. 75-436, 171 U.S. App. D.C. 172, 519 F.2d 821, affirmed in part and reversed in part; No. 75-437, 401 F. Supp. 1235, affirmed.
Per curiam opinion, in the "case or controversy" part of which (post, pp. 11-12) all participating Members joined; and as to all other Parts of which BRENNAN, STEWART, and POWELL, JJ., joined; MARSHALL, J., joined in all but Part I-C-2; BLACKMUN, J., joined in all but Part I-B; REHNQUIST, J., joined in all but Part III-B-1; BURGER, C. J., joined in Parts I-C and IV (except insofar as it accords de facto validity for the Commission's past acts); and WHITE, J., joined in Part III. BURGER, C. J., post, p. 235, WHITE, J., post, p. 257, MARSHALL, J., post, p. 286, BLACKMUN, J., post, p. 290, and REHNQUIST, J., post, p. 290, filed opinions concurring in part and dissenting in part. STEVENS, J., took no part in the consideration or decision of the cases.

Ralph K. Winter, Jr., pro hac vice, Joel M. Gora, and [424 U.S. 1, 6] Brice M. Clagett argued the cause for appellants. With them on the briefs was Melvin L. Wulf.

Deputy Solicitor General Friedman, Archibald Cox, Lloyd N. Cutler, and Ralph S. Spritzer argued the cause for appellees. With Mr. Friedman on the brief for appellees Levi and the Federal Election Commission were Attorney General Levi, pro se, Solicitor General Bork, and Louis F. Claiborne. With Mr. Cutler on the brief for appellees Center for Public Financing of Elections et al. were Paul J. Mode, Jr., William T. Lake, Kenneth J. Guido, Jr., and Fred Wertheimer. With Mr. Spritzer on the brief for appellee Federal Election Commission was Paul Bender. Attorney General Levi, pro se, Solicitor General Bork, and Deputy Solicitor General Randolph filed a brief for appellee Levi and for the United States as amicus curiae.Fn

Fn [424 U.S. 1, 6] Thomas F. Monaghan filed a brief for James B. Longley as amicus curiae urging reversal.

Mr. Cox filed a brief for Hugh Scott et al. as amici curiae urging affirmance.

Briefs of amici curiae were filed by Jerome B. Falk, Jr., Daniel H. Lowenstein, Howard F. Sachs, and Guy L. Heinemann for the California Fair Political Practices Commission et al.; by Lee Metcalf, pro se, and G. Roger King for Mr. Metcalf; by Vincent Hallinan for the Socialist Labor Party; by Marguerite M. Buckley for the Los Angeles County Central Committee of the Peace and Freedom Party; and by the Committee for Democratic Election Laws.

PER CURIAM.

These appeals present constitutional challenges to the key provisions of the Federal Election Campaign Act of 1971 (Act), and related provisions of the Internal Revenue Code of 1954, all as amended in 1974. 1 [424 U.S. 1, 7]

The Court of Appeals, in sustaining the legislation in large part against various constitutional challenges, 2 viewed it as "by far the most comprehensive reform legislation [ever] passed by Congress concerning the election of the President, Vice-President, and members of Congress." 171 U.S. App. D.C. 172, 182, 519 F.2d 821, 831 (1975). The statutes at issue summarized in broad terms, contain the following provisions: (a) individual political contributions are limited to $1,000 to any single candidate per election, with an overall annual limitation of $25,000 by any contributor; independent expenditures by individuals and groups "relative to a clearly identified candidate" are limited to $1,000 a year; campaign spending by candidates for various federal offices and spending for national conventions by political parties are subject to prescribed limits; (b) contributions and expenditures above certain threshold levels must be reported and publicly disclosed; (c) a system for public funding of Presidential campaign activities is established by Subtitle H of the Internal Revenue Code; 3 and (d) a Federal Election Commission is established to administer and enforce the legislation.

This suit was originally filed by appellants in the United States District Court for the District of Columbia. Plaintiffs included a candidate for the Presidency of the United States, a United States Senator who is a candidate for re-election, a potential contributor, the [424 U.S. 1, 8] Committee for a Constitutional Presidency - McCarthy '76, the Conservative Party of the State of New York, the Mississippi Republican Party, the Libertarian Party, the New York Civil Liberties Union, Inc., the American Conservative Union, the Conservative Victory Fund, and Human Events, Inc. The defendants included the Secretary of the United States Senate and the Clerk of the United States House of Representatives, both in their official capacities and as ex officio members of the Federal Election Commission. The Commission itself was named as a defendant. Also named were the Attorney General of the United States and the Comptroller General of the United States.

Jurisdiction was asserted under 28 U.S.C. 1331, 2201, and 2202, and 315 (a) of the Act, 2 U.S.C. 437h (a) (1970 ed., Supp. IV). 4 The complaint sought both a [424 U.S. 1, 9] declaratory judgment that the major provisions of the Act were unconstitutional and an injunction against enforcement of those provisions. Appellants requested the convocation of a three-judge District Court as to all matters and also requested certification of constitutional questions to the Court of Appeals, pursuant to the terms of 315 (a). The District Judge denied the application for a three-judge court and directed that the case be transmitted to the Court of Appeals. That court entered an order stating that the case was "preliminarily deemed" to be properly certified under 315 (a). Leave to intervene was granted to various groups and individuals. 5 After considering matters regarding factfinding procedures, the Court of Appeals entered an order en banc remanding the case to the District Court to (1) identify the constitutional issues in the complaint; (2) take whatever evidence was found necessary in addition to the submissions suitably dealt with by way

of judicial notice; (3) make findings of fact with reference to those issues; and (4) certify the constitutional questions arising from the foregoing steps to the Court of Appeals. 6 On remand, the District [424 U.S. 1, 10] Judge entered a memorandum order adopting extensive findings of fact and transmitting the augmented record back to the Court of Appeals.

On plenary review, a majority of the Court of Appeals rejected, for the most part, appellants' constitutional attacks. The court found "a clear and compelling interest," 171 U.S. App. D.C., at 192, 519 F.2d, at 841, in preserving the integrity of the electoral process. On that basis, the court upheld, with one exception, 7 the substantive provisions of the Act with respect to contributions, expenditures, and disclosure. It also sustained the constitutionality of the newly established Federal Election Commission. The court concluded that, notwithstanding the manner of selection of its members and the breadth of its powers, which included nonlegislative functions, the Commission is a constitutionally authorized agency created to perform primarily legislative functions. 8 [424 U.S. 1, 11] The provisions for public funding of the three stages of the Presidential selection process were upheld as a valid exercise of congressional power under the General Welfare Clause of the Constitution, Art. I, 8.

In this Court, appellants argue that the Court of Appeals failed to give this legislation the critical scrutiny demanded under accepted First Amendment and equal protection principles. In appellants' view, limiting the use of money for political purposes constitutes a restriction on communication violative of the First Amendment, since virtually all meaningful political communications in the modern setting involve the expenditure of money. Further, they argue that the reporting and disclosure provisions of the Act unconstitutionally impinge on their right to freedom of association. Appellants also view the federal subsidy provisions of Subtitle H as violative of the General Welfare Clause, and as inconsistent with the First and Fifth Amendments. Finally, appellants renew their attack on the Commission's composition and powers.

At the outset we must determine whether the case before us presents a "case or controversy" within the meaning of Art. III of the Constitution. Congress may not, of course, require this Court to render opinions in matters which are not "cases or controversies." Aetna Life Ins. Co. v. Haworth, 300 U.S. 227, 240 -241 (1937). We must therefore decide whether appellants have the "personal stake in the outcome of the controversy" necessary to meet the requirements of Art. III. Baker v. Carr, 369 U.S. 186, 204 (1962). It is clear that Congress, in enacting [424 U.S. 1, 12] 2 U.S.C. 437h (1970 ed., Supp. IV), 9 intended to provide judicial review to the extent permitted by Art. III. In our view, the complaint in this case demonstrates that at least some of the appellants have a sufficient "personal stake" 10 in a determination of the constitutional validity of each of the challenged provisions to present "a real and substantial controversy admitting of specific relief through a decree of a conclusive character, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts." Aetna Life Ins. Co. v. Haworth, supra, at 241. 11

I. CONTRIBUTION AND EXPENDITURE LIMITATIONS

The intricate statutory scheme adopted by Congress to regulate federal election campaigns includes restrictions [424 U.S. 1, 13] on political contributions and expenditures that apply broadly to all phases of and all participants in the election process. The major contribution and expenditure limitations in the Act prohibit individuals from contributing more than $25,000 in a single year or more than $1,000 to any single candidate for an election campaign 12 and from spending more than $1,000 a year "relative to a clearly identified candidate." 13 Other provisions restrict a candidate's use of personal and family resources in his campaign 14 and limit the overall amount that can be spent by a candidate in campaigning for federal office. 15

The constitutional power of Congress to regulate federal elections is well established and is not questioned by any of the parties in this case. 16 Thus, the critical constitutional [424 U.S. 1, 14] questions presented here go not to the basic power of Congress to legislate in this area, but to whether the specific legislation that Congress has enacted interferes with First Amendment freedoms or invidiously discriminates against nonincumbent candidates and minor parties in contravention of the Fifth Amendment.

A. General Principles

The Act's contribution and expenditure limitations operate in an area of the most fundamental First Amendment activities. Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution. The First Amendment affords the broadest protection to such political expression in order "to assure [the] unfettered interchange of ideas for the bringing about of political and social changes desired by the people." Roth v. United States, 354 U.S. 476, 484 (1957). Although First Amendment protections are not confined to "the exposition of ideas," Winters v. New York, 333 U.S. 507, 510 (1948), "there is practically universal agreement that a major purpose of that Amendment was to protect the free discussion of governmental affairs, . . . of course includ[ing] discussions of candidates . . . ." Mills v. Alabama, 384 U.S. 214, 218 (1966). This no more than reflects our "profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open," New York Times Co. v. Sullivan, 376 U.S. 254, 270 (1964). In a republic where the people are sovereign, the ability of the citizenry to make informed choices among candidates [424 U.S. 1, 15] for office is essential, for the identities of those who are elected will inevitably shape the course that we follow as a nation. As the Court observed in Monitor Patriot Co. v. Roy, 401 U.S. 265, 272 (1971), "it can hardly be doubted that the constitutional guarantee has its fullest and most urgent application precisely to the conduct of campaigns for political office."

The First Amendment protects political association as well as political expression. The constitutional right of association explicated in NAACP v. Alabama, 357 U.S. 449, 460 (1958), stemmed from the Court's recognition that "[e]ffective advocacy of both public and private points of view, particularly controversial ones, is undeniably enhanced by group association." Subsequent decisions have made clear that the First and Fourteenth Amendments guarantee "`freedom to associate with others for the common advancement of political beliefs and ideas,'" a freedom that encompasses "`[t]he right to associate with the political party of one's choice.'" Kusper v. Pontikes, 414 U.S. 51, 56 , 57 (1973), quoted in Cousins v. Wigoda, 419 U.S. 477, 487 (1975).

It is with these principles in mind that we consider the primary contentions of the parties with respect to the Act's limitations upon the giving and spending of money in political campaigns. Those conflicting contentions could not more sharply define the basic issues before us. Appellees contend that what the Act regulates is conduct, and that its effect on speech and association is incidental at most. Appellants respond that contributions and expenditures are at the very core of political speech, and that the Act's limitations thus constitute restraints on First Amendment liberty that are both gross and direct.

In upholding the constitutional validity of the Act's contribution and expenditure provisions on the ground [424 U.S. 1, 16] that those provisions should be viewed as regulating conduct, not speech, the Court of Appeals relied upon United States v. O'Brien, 391 U.S. 367 (1968). See 171 U.S. App. D.C., at 191, 519 F.2d, at 840. The O'Brien case involved a defendant's claim that the First Amendment prohibited his prosecution for burning his draft card because his act was "`symbolic speech'" engaged in as a "`demonstration against the war and against the draft.'" 391 U.S., at 376 . On the assumption that "the alleged communicative element in O'Brien's conduct [was] sufficient to bring into play the First Amendment," the Court sustained the conviction because it found "a sufficiently important governmental interest in regulating the non-speech element" that was "unrelated to the suppression of free expression" and that had an "incidental restriction on alleged First Amendment freedoms . . . no greater than [was] essential to the furtherance of that interest." Id., at 376-377. The Court expressly emphasized that O'Brien was not a case "where the alleged governmental interest in regulating conduct arises in some measure because the communication allegedly integral to the conduct is itself thought to be harmful." Id., at 382.

We cannot share the view that the present Act's contribution and expenditure limitations are comparable to the restrictions on conduct upheld in O'Brien. The expenditure of money simply cannot be equated with such conduct as destruction of a draft card. Some forms of communication made possible by the giving and spending of money involve speech alone, some involve conduct primarily, and some involve a combination of the two. Yet this Court has never suggested that the dependence of a communication on the expenditure of money operates itself to introduce a non speech element or to reduce the exacting scrutiny required by the First Amendment. See Bigelow v. Virginia, 421 U.S. 809 , [424 U.S. 1, 17] 820 (1975); New York Times Co. v. Sullivan, supra, at 266. For example, in Cox v. Louisiana, 379 U.S. 559 (1965), the Court contrasted picketing and parading with a newspaper comment and a telegram by a citizen to a public official. The parading and picketing activities were said to constitute conduct "intertwined with expression and association," whereas the newspaper comment and the telegram were described as a "pure form of expression" involving "free speech alone" rather than "expression mixed with particular conduct." Id., at 563-564.

Even if the categorization of the expenditure of money as conduct were accepted, the limitations challenged here would not meet the O'Brien test because the governmental interests advanced in support of the Act involve "suppressing communication." The interests served by the Act include restricting the voices of people and interest groups who have money to spend and reducing the overall scope of federal election campaigns. Although the Act does not focus on the ideas expressed by persons or groups subject to its regulations, it is aimed in part at equalizing the relative ability of all voters to affect electoral outcomes by placing a ceiling on expenditures for

political expression by citizens and groups. Unlike O'Brien, where the Selective Service System's administrative interest in the preservation of draft cards was wholly unrelated to their use as a means of communication, it is beyond dispute that the interest in regulating the alleged "conduct" of giving or spending money "arises in some measure because the communication allegedly integral to the conduct is itself thought to be harmful." 391 U.S., at 382 .

Nor can the Act's contribution and expenditure limitations be sustained, as some of the parties suggest, by reference to the constitutional principles reflected in such [424 U.S. 1, 18] decisions as Cox v. Louisiana, supra; Adderley v. Florida, 385 U.S. 39 (1966); and Kovacs v. Cooper, 336 U.S. 77 (1949). Those cases stand for the proposition that the government may adopt reasonable time, place, and manner regulations, which do not discriminate among speakers or ideas, in order to further an important governmental interest unrelated to the restriction of communication. See Erznoznik v. City of Jacksonville, 422 U.S. 205, 209 (1975). In contrast to O'Brien, where the method of expression was held to be subject to prohibition, Cox, Adderley, and Kovacs involved place or manner restrictions on legitimate modes of expression - picketing, parading, demonstrating, and using a soundtruck. The critical difference between this case and those time, place, and manner cases is that the present Act's contribution and expenditure limitations impose direct quantity restrictions on political communication and association by persons, groups, candidates, and political parties in addition to any reasonable time, place, and manner regulations otherwise imposed. 17 [424 U.S. 1, 19]

A restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached. 18 This is because virtually every means of communicating ideas in today's mass society requires the expenditure of money. The distribution of the humblest handbill or leaflet entails printing, paper, and circulation costs. Speeches and rallies generally necessitate hiring a hall and publicizing the event. The electorate's increasing dependence on television, radio, and other mass media for news and information has made these expensive modes of communication indispensable instruments of effective political speech.

The expenditure limitations contained in the Act represent substantial rather than merely theoretical restraints on the quantity and diversity of political speech. The $1,000 ceiling on spending "relative to a clearly identified candidate," 18 U.S.C. 608 (e) (1) (1970 ed., Supp. IV), would appear to exclude all citizens and groups except candidates, political parties, and the institutional press 19 from any significant use of the most [424 U.S. 1, 20] effective modes of communication. 20 Although the Act's limitations on expenditures by campaign organizations and political parties provide substantially greater room for discussion and debate, they would have required restrictions in the scope of a number of past congressional and Presidential campaigns 21 and would operate to constrain campaigning by candidates who raise sums in excess of the spending ceiling.

By contrast with a limitation upon expenditures for political expression, a limitation upon the amount that any one person or group may contribute to a candidate or political committee entails only a marginal restriction upon the contributor's ability to engage in free communication. [424 U.S. 1, 21] A contribution serves as a general expression of support for the candidate and his

views, but does not communicate the underlying basis for the support. The quantity of communication by the contributor does not increase perceptibly with the size of his contribution, since the expression rests solely on the undifferentiated, symbolic act of contributing. At most, the size of the contribution provides a very rough index of the intensity of the contributor's support for the candidate. 22 A limitation on the amount of money a person may give to a candidate or campaign organization thus involves little direct restraint on his political communication, for it permits the symbolic expression of support evidenced by a contribution but does not in any way infringe the contributor's freedom to discuss candidates and issues. While contributions may result in political expression if spent by a candidate or an association to present views to the voters, the transformation of contributions into political debate involves speech by someone other than the contributor.

Given the important role of contributions in financing political campaigns, contribution restrictions could have a severe impact on political dialogue if the limitations prevented candidates and political committees from amassing the resources necessary for effective advocacy. There is no indication, however, that the contribution limitations imposed by the Act would have any dramatic adverse effect on the funding of campaigns and political associations. 23 The overall effect of the Act's contribution [424 U.S. 1, 22] ceilings is merely to require candidates and political committees to raise funds from a greater number of persons and to compel people who would otherwise contribute amounts greater than the statutory limits to expend such funds on direct political expression, rather than to reduce the total amount of money potentially available to promote political expression.

The Act's contribution and expenditure limitations also impinge on protected associational freedoms. Making a contribution, like joining a political party, serves to affiliate a person with a candidate. In addition, it enables like-minded persons to pool their resources in furtherance of common political goals. The Act's contribution ceilings thus limit one important means of associating with a candidate or committee, but leave the contributor free to become a member of any political association and to assist personally in the association's efforts on behalf of candidates. And the Act's contribution limitations permit associations and candidates to aggregate large sums of money to promote effective advocacy. By contrast, the Act's $1,000 limitation on independent expenditures "relative to a clearly identified candidate" precludes most associations from effectively amplifying the voice of their adherents, the original basis for the recognition of First Amendment protection of the freedom of association. See NAACP v. Alabama, 357 U.S., at 460 . The Act's constraints on the ability of independent associations and candidate campaign organizations to expend resources on political expression "is simultaneously an interference with the freedom of [their] adherents," Sweezy v. New Hampshire, 354 U.S. 234, 250 (1957) (plurality opinion). See Cousins v. [424 U.S. 1, 23] Wigoda, 419 U.S., at 487 -488; NAACP v. Button, 371 U.S. 415, 431 (1963).

In sum, although the Act's contribution and expenditure limitations both implicate fundamental First Amendment interests, its expenditure ceilings impose significantly more severe restrictions on protected freedoms of political expression and association than do its limitations on financial contributions.

B. Contribution Limitations

1. The $1,000 Limitation on Contributions by Individuals and Groups to Candidates and Authorized Campaign Committees

Section 608 (b) provides, with certain limited exceptions, that "no person shall make contributions to any candidate with respect to any election for Federal office which, in the aggregate, exceed $1,000." The statute defines "person" broadly to include "an individual, partnership, committee, association, corporation or any other organization or group of persons." 591 (g). The limitation reaches a gift, subscription, loan, advance, deposit of anything of value, or promise to give a contribution, made for the purpose of influencing a primary election, a Presidential preference primary, or a general election for any federal office. 24 591 (e) (1), (2). The [424 U.S. 1, 24] $1,000 ceiling applies regardless of whether the contribution is given to the candidate, to a committee authorized in writing by the candidate to accept contributions on his behalf, or indirectly via earmarked gifts passed through an intermediary to the candidate. 608 (b) (4), (6). 25 The restriction applies to aggregate amounts contributed to the candidate for each election - with primaries, runoff elections, and general elections counted separately, and all Presidential primaries held in any calendar year treated together as a single election campaign. 608 (b) (5).

Appellants contend that the $1,000 contribution ceiling unjustifiably burdens First Amendment freedoms, employs overbroad dollar limits, and discriminates against candidates opposing incumbent officeholders and against minor-party candidates in violation of the Fifth Amendment. We address each of these claims of invalidity in turn.

(a)

As the general discussion in Part I-A, supra, indicated, the primary First Amendment problem raised by the Act's contribution limitations is their restriction of one aspect of the contributor's freedom of political association. [424 U.S. 1, 25] The Court's decisions involving associational freedoms establish that the right of association is a "basic constitutional freedom," Kusper v. Pontikes, 414 U.S., at 57 , that is "closely allied to freedom of speech and a right which, like free speech, lies at the foundation of a free society." Shelton v. Tucker, 364 U.S. 479, 486 (1960). See, e. g., Bates v. Little Rock, 361 U.S. 516, 522 -523 (1960); NAACP v. Alabama, supra, at 460-461; NAACP v. Button, supra, at 452 (Harlan, J., dissenting). In view of the fundamental nature of the right to associate, governmental "action which may have the effect of curtailing the freedom to associate is subject to the closest scrutiny." NAACP v. Alabama, supra, at 460-461. Yet, it is clear that "[n]either the right to associate nor the right to participate in political activities is absolute." CSC v. Letter Carriers, 413 U.S. 548, 567 (1973). Even a "`significant interference' with protected rights of political association" may be sustained if the State demonstrates a sufficiently important interest and employs means closely drawn to avoid unnecessary abridgment of associational freedoms. Cousins v. Wigoda, supra, at 488; NAACP v. Button, supra, at 438; Shelton v. Tucker, supra, at 488.

Appellees argue that the Act's restrictions on large campaign contributions are justified by three governmental interests. According to the parties and amici, the primary interest served by the limitations and, indeed, by the Act as a whole, is the prevention of corruption and the appearance

of corruption spawned by the real or imagined coercive influence of large financial contributions on candidates' positions and on their actions if elected to office. Two "ancillary" interests underlying the Act are also allegedly furthered by the $1,000 limits on contributions. First, the limits serve to mute the voices of affluent persons and groups in the election [424 U.S. 1, 26] process and thereby to equalize the relative ability of all citizens to affect the outcome of elections. 26 Second, it is argued, the ceilings may to some extent act as a brake on the skyrocketing cost of political campaigns and thereby serve to open the political system more widely to candidates without access to sources of large amounts of money. 27

It is unnecessary to look beyond the Act's primary purpose - to limit the actuality and appearance of corruption resulting from large individual financial contributions - in order to find a constitutionally sufficient justification for the $1,000 contribution limitation. Under a system of private financing of elections, a candidate lacking immense personal or family wealth must depend on financial contributions from others to provide the resources necessary to conduct a successful campaign. The increasing importance of the communications media and sophisticated mass-mailing and polling operations to effective campaigning make the raising of large sums of money an ever more essential ingredient of an effective candidacy. To the extent that large contributions are given to secure a political quid pro quo from current and potential office holders, the integrity of our system of [424 U.S. 1, 27] representative democracy is undermined. Although the scope of such pernicious practices can never be reliably ascertained, the deeply disturbing examples surfacing after the 1972 election demonstrate that the problem is not an illusory one. 28

Of almost equal concern as the danger of actual quid pro quo arrangements is the impact of the appearance of corruption stemming from public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions. In CSC v. Letter Carriers, supra, the Court found that the danger to "fair and effective government" posed by partisan political conduct on the part of federal employees charged with administering the law was a sufficiently important concern to justify broad restrictions on the employees' right of partisan political association. Here, as there, Congress could legitimately conclude that the avoidance of the appearance of improper influence "is also critical . . . if confidence in the system of representative Government is not to be eroded to a disastrous extent." 413 U.S., at 565 . 29

Appellants contend that the contribution limitations must be invalidated because bribery laws and narrowly drawn disclosure requirements constitute a less restrictive means of dealing with "proven and suspected quid pro quo arrangements." But laws making criminal [424 U.S. 1, 28] the giving and taking of bribes deal with only the most blatant and specific attempts of those with money to influence governmental action. And while disclosure requirements serve the many salutary purposes discussed elsewhere in this opinion, 30 Congress was surely entitled to conclude that disclosure was only a partial measure, and that contribution ceilings were a necessary legislative concomitant to deal with the reality or appearance of corruption inherent in a system permitting unlimited financial contributions, even when the identities of the contributors and the amounts of their contributions are fully disclosed.

The Act's $1,000 contribution limitation focuses precisely on the problem of large campaign contributions - the narrow aspect of political association where the actuality and potential for

corruption have been identified - while leaving persons free to engage in independent political expression, to associate actively through volunteering their services, and to assist to a limited but nonetheless substantial extent in supporting candidates and committees with financial resources. 31 Significantly, the [424 U.S. 1, 29] Act's contribution limitations in themselves do not undermine to any material degree the potential for robust and effective discussion of candidates and campaign issues by individual citizens, associations, the institutional press, candidates, and political parties.

We find that, under the rigorous standard of review established by our prior decisions, the weighty interests served by restricting the size of financial contributions to political candidates are sufficient to justify the limited effect upon First Amendment freedoms caused by the $1,000 contribution ceiling.

(b)

Appellants' first overbreadth challenge to the contribution ceilings rests on the proposition that most large contributors do not seek improper influence over a candidate's position or an officeholder's action. Although the truth of that proposition may be assumed, it does not [424 U.S. 1, 30] undercut the validity of the $1,000 contribution limitation. Not only is it difficult to isolate suspect contributions but, more importantly, Congress was justified in concluding that the interest in safeguarding against the appearance of impropriety requires that the opportunity for abuse inherent in the process of raising large monetary contributions be eliminated.
A second, related overbreadth claim is that the $1,000 restriction is unrealistically low because much more than that amount would still not be enough to enable an unscrupulous contributor to exercise improper influence over a candidate or officeholder, especially in campaigns for statewide or national office. While the contribution limitation provisions might well have been structured to take account of the graduated expenditure limitations for congressional and Presidential campaigns, 32 Congress' failure to engage in such fine tuning does not invalidate the legislation. As the Court of Appeals observed, "[i]f it is satisfied that some limit on contributions is necessary, a court has no scalpel to probe, whether, say, a $2,000 ceiling might not serve as well as $1,000." 171 U.S. App. D.C., at 193, 519 F.2d, at 842. Such distinctions in degree become significant only when they can be said to amount to differences in kind. Compare Kusper v. Pontikes, 414 U.S. 51 (1973), with Rosario v. Rockefeller, 410 U.S. 752 (1973).

(c)

Apart from these First Amendment concerns, appellants argue that the contribution limitations work such an invidious discrimination between incumbents [424 U.S. 1, 31] and challengers that the statutory provisions must be declared unconstitutional on their face. 33 In considering this contention, it is important at the outset to note that the Act applies the same limitations on contributions to all candidates regardless of their present occupations, ideological views, or party affiliations. Absent record evidence of invidious discrimination against challengers as a class, a court should generally be hesitant to invalidate legislation which on its face imposes evenhanded restrictions. Cf. James v. Valtierra, 402 U.S. 137 (1971). [424 U.S. 1, 32]

There is no such evidence to support the claim that the contribution limitations in themselves discriminate against major-party challengers to incumbents. Challengers can and often do defeat incumbents in federal elections. 34 Major-party challengers in federal elections are usually men and women who are well known and influential in their community or State. Often such challengers are themselves incumbents in important local, state, or federal offices. Statistics in the record indicate that major-party challengers as well as incumbents are capable of raising large sums for campaigning. 35 Indeed, a small but nonetheless significant number of challengers have in recent elections outspent their incumbent rivals. 36 And, to the extent that incumbents generally are more likely than challengers to attract very large contributions, the Act's $1,000 ceiling has the practical effect of benefiting challengers as a class. 37 Contrary to the broad generalization [424 U.S. 1, 33] drawn by the appellants, the practical impact of the contribution ceilings in any given election will clearly depend upon the amounts in excess of the ceilings that, for various reasons, the candidates in that election would otherwise have received and the utility of these additional amounts to the candidates. To be sure, the limitations may have a significant effect on particular challengers or incumbents, but the record provides no basis for predicting that such adventitious factors will invariably and invidiously benefit incumbents as a class. 38 Since the danger of corruption and the appearance of corruption apply with equal force to challengers and to incumbents, Congress had ample justification for imposing the same fundraising constraints upon both.

The charge of discrimination against minor-party and independent candidates is more troubling, but the record provides no basis for concluding that the Act invidiously disadvantages such candidates. As noted above, the Act on its face treats all candidates equally with regard to contribution limitations. And the restriction would appear to benefit minor-party and independent candidates relative to their major-party opponents because major-party candidates receive far more money in large contributions. 39 Although there is some [424 U.S. 1, 34] force to appellants' response that minor-party candidates are primarily concerned with their ability to amass the resources necessary to reach the electorate rather than with their funding position relative to their major-party opponents, the record is virtually devoid of support for the claim that the $1,000 contribution limitation will have a serious effect on the initiation and scope of minor-party and independent candidacies. 40 Moreover, any attempt [424 U.S. 1, 35] to exclude minor parties and independents en masse from the Act's contribution limitations overlooks the fact that minor-party candidates may win elective office or have a substantial impact on the outcome of an election. 41

In view of these considerations, we conclude that the impact of the Act's $1,000 contribution limitation on major-party challengers and on minor-party candidates does not render the provision unconstitutional on its face.

2. The $5,000 Limitation on Contributions by Political Committees

Section 608 (b) (2) permits certain committees, designated as "political committees," to contribute up to $5,000 to any candidate with respect to any election for federal office. In order to qualify for the higher contribution ceiling, a group must have been registered with the Commission as a political committee under 2 U.S.C. 433 (1970 ed., Supp. IV) for not less than six months, have received contributions from more than 50 persons, and, except for state

political party organizations, have contributed to five or more candidates for federal office. Appellants argue that these qualifications unconstitutionally discriminate against ad hoc organizations in favor of established interest groups and impermissibly burden free association. The argument is without merit. Rather than undermining freedom of association, the basic provision enhances the opportunity of bona fide groups to participate in the election process, and the registration, contribution, and candidate conditions serve the permissible purpose of preventing individuals [424 U.S. 1, 36] from evading the applicable contribution limitations by labeling themselves committees.

3. Limitations on Volunteers' Incidental Expenses

The Act excludes from the definition of contribution "the value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee." 591 (e) (5) (A). Certain expenses incurred by persons in providing volunteer services to a candidate are exempt from the $1,000 ceiling only to the extent that they do not exceed $500. These expenses are expressly limited to (1) "the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities." 591 (e) (5) (B); (2) "the sale of any food or beverage by a vendor for use in a candidate's campaign at a charge [at least equal to cost but] less than the normal comparable charge," 591 (e) (5) (C); and (3) "any unreimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate," 591 (e) (5) (D).

If, as we have held, the basic contribution limitations are constitutionally valid, then surely these provisions are a constitutionally acceptable accommodation of Congress' valid interest in encouraging citizen participation in political campaigns while continuing to guard against the corrupting potential of large financial contributions to candidates. The expenditure of resources at the candidate's direction for a fundraising event at a volunteer's residence or the provision of in-kind assistance in the form of food or beverages to be resold to raise funds or consumed by the participants in such an event provides material financial assistance to a candidate. The ultimate [424 U.S. 1, 37] effect is the same as if the person had contributed the dollar amount to the candidate and the candidate had then used the contribution to pay for the fundraising event or the food. Similarly, travel undertaken as a volunteer at the direction of the candidate or his staff is an expense of the campaign and may properly be viewed as a contribution if the volunteer absorbs the fare. Treating these expenses as contributions when made to the candidate's campaign or at the direction of the candidate or his staff forecloses an avenue of abuse 42 without limiting actions voluntarily undertaken by citizens independently of a candidate's campaign. 43 [424 U.S. 1, 38]

4. The $25,000 Limitation on Total Contributions During any Calendar Year

In addition to the $1,000 limitation on the nonexempt contributions that an individual may make to a particular candidate for any single election, the Act contains an overall $25,000 limitation on total contributions by an individual during any calendar year. 608 (b) (3). A contribution made in connection with an election is considered, for purposes of this subsection, to be made in the year

the election is held. Although the constitutionality of this provision was drawn into question by appellants, it has not been separately addressed at length by the parties. The overall $25,000 ceiling does impose an ultimate restriction upon the number of candidates and committees with which an individual may associate himself by means of financial support. But this quite modest restraint upon protected political activity serves to prevent evasion of the $1,000 contribution limitation by a person who might otherwise contribute massive amounts of money to a particular candidate through the use of unearmarked contributions to political committees likely to contribute to that candidate, or huge contributions to the candidate's political party. The limited, additional restriction on associational freedom imposed by the overall ceiling is thus no more than a corollary of the basic individual contribution limitation that we have found to be constitutionally valid. [424 U.S. 1, 39]

C. Expenditure Limitations

The Act's expenditure ceilings impose direct and substantial restraints on the quantity of political speech. The most drastic of the limitations restricts individuals and groups, including political parties that fail to place a candidate on the ballot, 44 to an expenditure of $1,000 "relative to a clearly identified candidate during a calendar year." 608 (e) (1). Other expenditure ceilings limit spending by candidates, 608 (a), their campaigns, 608 (c), and political parties in connection with election campaigns, 608 (f). It is clear that a primary effect of these expenditure limitations is to restrict the quantity of campaign speech by individuals, groups, and candidates. The restrictions, while neutral as to the ideas expressed, limit political expression "at the core of our electoral process and of the First Amendment freedoms." Williams v. Rhodes, 393 U.S. 23, 32 (1968).

1. The $1,000 Limitation on Expenditures "Relative to a Clearly Identified Candidate"

Section 608 (e) (1) provides that "[n]o person may make any expenditure . . . relative to a clearly identified candidate during a calendar year which, when added to all other expenditures made by such person during the year advocating the election or defeat of such candidate, exceeds $1,000." 45 The plain effect of 608 (e) (1) is to [424 U.S. 1, 40] prohibit all individuals, who are neither candidates nor owners of institutional press facilities, and all groups, except political parties and campaign organizations, from voicing their views "relative to a clearly identified candidate" through means that entail aggregate expenditures of more than $1,000 during a calendar year. The provision, for example, would make it a federal criminal offense for a person or association to place a single one-quarter page advertisement "relative to a clearly identified candidate" in a major metropolitan newspaper. 46

Before examining the interests advanced in support of 608 (e) (1)'s expenditure ceiling, consideration must be given to appellants' contention that the provision is unconstitutionally vague. 47 Close examination of the [424 U.S. 1, 41] specificity of the statutory limitation is required where, as here, the legislation imposes criminal penalties in an area permeated by First Amendment interests. See Smith v. Goguen, 415 U.S. 566, 573 (1974); Cramp v. Board of Public Instruction, 368 U.S. 278, 287 -288 (1961); Smith v. California, 361 U.S. 147, 151 (1959). 48 The test is whether the language of 608 (e) (1) affords the "[p]recision of regulation [that] must be the touchstone in an area so closely touching our most precious freedoms." NAACP v. Button, 371 U.S., at 438 .

The key operative language of the provision limits "any expenditure . . . relative to a clearly identified candidate." Although "expenditure," "clearly identified," and "candidate" are defined in the Act, there is no definition clarifying what expenditures are "relative to" a candidate. The use of so indefinite a phrase as "relative to" a candidate fails to clearly mark the boundary between permissible and impermissible speech, unless other portions of 608 (e) (1) make sufficiently explicit the range of expenditures [424 U.S. 1, 42] covered by the limitation. The section prohibits "any expenditure . . . relative to a clearly identified candidate during a calendar year which, when added to all other expenditures . . . advocating the election or defeat of such candidate, exceeds $1,000." (Emphasis added.) This context clearly permits, if indeed it does not require, the phrase "relative to" a candidate to be read to mean "advocating the election or defeat of" a candidate. 49

But while such a construction of 608 (e) (1) refocuses the vagueness question, the Court of Appeals was mistaken in thinking that this construction eliminates the problem of unconstitutional vagueness altogether. 171 U.S. App. D.C., at 204, 519 F.2d, at 853. For the distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application. Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on various public issues, but campaigns themselves generate issues of public interest. 50 In an analogous [424 U.S. 1, 43] context, this Court in Thomas v. Collins, 323 U.S. 516 (1945), observed:

"[W]hether words intended and designed to fall short of invitation would miss that mark is a question both of intent and of effect. No speaker, in such circumstances, safely could assume that anything he might say upon the general subject would not be understood by some as an invitation. In short, the supposedly clear-cut distinction between discussion, laudation, general advocacy, and solicitation puts the speaker in these circumstances wholly at the mercy of the varied understanding of his hearers and consequently of whatever inference may be drawn as to his intent and meaning.

"Such a distinction offers no security for free discussion. In these conditions it blankets with uncertainty whatever may be said. It compels the speaker to hedge and trim." Id., at 535.

See also United States v. Auto. Workers, 352 U.S. 567, 595 -596 (1957) (Douglas, J., dissenting); Gitlow v. New York, 268 U.S. 652, 673 (1925) (Holmes, J., dissenting).
The constitutional deficiencies described in Thomas v. Collins can be avoided only by reading 608 (e) (1) as limited to communications that include explicit words of advocacy of election or defeat of a candidate, much as the definition of "clearly identified" in 608 (e) (2) requires that an explicit and unambiguous reference to the candidate appear as part of the communication. 51 This [424 U.S. 1, 44] is the reading of the provision suggested by the non-governmental appellees in arguing that "[f]unds spent to propagate one's views on issues without expressly calling for a candidate's election or defeat are thus not covered." We agree that in order to preserve the provision against invalidation on vagueness grounds, 608 (e) (1) must be construed

to apply only to expenditures for communications that in express terms advocate the election or defeat of a clearly identified candidate for federal office. 52

We turn then to the basic First Amendment question - whether 608 (e) (1), even as thus narrowly and explicitly construed, impermissibly burdens the constitutional right of free expression. The Court of Appeals summarily held the provision constitutionally valid on the ground that "section 608 (e) is a loophole-closing provision only" that is necessary to prevent circumvention of the contribution limitations. 171 U.S. App. D.C., at 204, 519 F.2d, at 853. We cannot agree.

The discussion in Part I-A, supra, explains why the Act's expenditure limitations impose far greater restraints on the freedom of speech and association than do its contribution limitations. The markedly greater burden on basic freedoms caused by 608 (e) (1) thus cannot be sustained simply by invoking the interest in maximizing the effectiveness of the less intrusive contribution limitations. Rather, the constitutionality of 608 (e) (1) turns on whether the governmental interests advanced in its support satisfy the exacting scrutiny applicable to limitations [424 U.S. 1, 45] on core First Amendment rights of political expression.

We find that the governmental interest in preventing corruption and the appearance of corruption is inadequate to justify 608 (e) (1)'s ceiling on independent expenditures. First, assuming, arguendo, that large independent expenditures pose the same dangers of actual or apparent quid pro quo arrangements as do large contributions, 608 (e) (1) does not provide an answer that sufficiently relates to the elimination of those dangers. Unlike the contribution limitations' total ban on the giving of large amounts of money to candidates, 608 (e) (1) prevents only some large expenditures. So long as persons and groups eschew expenditures that in express terms advocate the election or defeat of a clearly identified candidate, they are free to spend as much as they want to promote the candidate and his views. The exacting interpretation of the statutory language necessary to avoid unconstitutional vagueness thus undermines the limitation's effectiveness as a loophole-closing provision by facilitating circumvention by those seeking to exert improper influence upon a candidate or office-holder. It would naively underestimate the ingenuity and resourcefulness of persons and groups desiring to buy influence to believe that they would have much difficulty devising expenditures that skirted the restriction on express advocacy of election or defeat but nevertheless benefited the candidate's campaign. Yet no substantial societal interest would be served by a loophole-closing provision designed to check corruption that permitted unscrupulous persons and organizations to expend unlimited sums of money in order to obtain improper influence over candidates for elective office. Cf. Mills v. Alabama, 384 U.S., at 220 .

Second, quite apart from the shortcomings of 608 (e) [424 U.S. 1, 46] (1) in preventing any abuses generated by large independent expenditures, the independent advocacy restricted by the provision does not presently appear to pose dangers of real or apparent corruption comparable to those identified with large campaign contributions. The parties defending 608 (e) (1) contend that it is necessary to prevent would-be contributors from avoiding the contribution limitations by the simple expedient of paying directly for media advertisements or for other portions of the candidate's campaign activities. They argue that expenditures controlled by or coordinated with the candidate and his campaign might well have virtually the same value to the candidate as a contribution and would pose similar dangers of abuse. Yet such controlled or coordinated

expenditures are treated as contributions rather than expenditures under the Act. 53 Section 608 (b)'s [424 U.S. 1, 47] contribution ceilings rather than 608 (e) (1)'s independent expenditure limitation prevent attempts to circumvent the Act through prearranged or coordinated expenditures amounting to disguised contributions. By contrast, 608 (e) (1) limits expenditures for express advocacy of candidates made totally independently of the candidate and his campaign. Unlike contributions, such independent expenditures may well provide little assistance to the candidate's campaign and indeed may prove counterproductive. The absence of prearrangement and coordination of an expenditure with the candidate or his agent not only undermines the value of the expenditure to the candidate, but also alleviates the danger that expenditures will be given as a quid pro quo for improper commitments from the candidate. Rather than preventing circumvention of the contribution limitations, 608 (e) (1) severely restricts all independent advocacy despite its substantially diminished potential for abuse.

While the independent expenditure ceiling thus fails to serve any substantial governmental interest in stemming [424 U.S. 1, 48] the reality or appearance of corruption in the electoral process, it heavily burdens core First Amendment expression. For the First Amendment right to "`speak one's mind . . . on all public institutions'" includes the right to engage in "`vigorous advocacy' no less than `abstract discussion.'" New York Times Co. v. Sullivan, 376 U.S., at 269 , quoting Bridges v. California, 314 U.S. 252, 270 (1941), and NAACP v. Button, 371 U.S., at 429 . Advocacy of the election or defeat of candidates for federal office is no less entitled to protection under the First Amendment than the discussion of political policy generally or advocacy of the passage or defeat of legislation. 54

It is argued, however, that the ancillary governmental interest in equalizing the relative ability of individuals and groups to influence the outcome of elections serves to justify the limitation on express advocacy of the election or defeat of candidates imposed by 608 (e) (1)'s expenditure ceiling. But the concept that government may restrict the speech of some elements of our society in [424 U.S. 1, 49] order to enhance the relative voice of others is wholly foreign to the First Amendment, which was designed "to secure `the widest possible dissemination of information from diverse and antagonistic sources,'" and "`to assure unfettered interchange of ideas for the bringing about of political and social changes desired by the people.'" New York Times Co. v. Sullivan, supra, at 266, 269, quoting Associated Press v. United States, 326 U.S. 1, 20 (1945), and Roth v. United States, 354 U.S., at 484 . The First Amendment's protection against governmental abridgment of free expression cannot properly be made to depend on a person's financial ability to engage in public discussion. Cf. Eastern R. Conf. v. Noerr Motors, 365 U.S. 127, 139 (1961). 55 [424 U.S. 1, 50]

The Court's decisions in Mills v. Alabama, 384 U.S. 214 (1966), and Miami Herald Publishing Co. v. Tornillo, 418 U.S. 241 (1974), held that legislative restrictions on advocacy of the election or defeat of political candidates are wholly at odds with the guarantees of the First Amendment. In Mills, the Court addressed the question whether "a State, consistently with the United States Constitution, can make it a crime for the editor of a daily newspaper to write and publish an editorial on election day urging people to vote a certain way on issues submitted to them." 384 U.S., at 215 (emphasis in original). We held that "no test of reasonableness can save [such] a state law from invalidation as a violation of the First Amendment." Id., at 220. Yet the prohibition of election-day editorials invalidated in Mills is clearly a lesser intrusion on

constitutional freedom than a $1,000 limitation on the amount of money any person or association can spend during an entire election year in advocating the election or defeat of a candidate for public office. More recently in Tornillo, the Court held that Florida could not constitutionally require a newspaper [424 U.S. 1, 51] to make space available for a political candidate to reply to its criticism. Yet under the Florida statute, every newspaper was free to criticize any candidate as much as it pleased so long as it undertook the modest burden of printing his reply. See 418 U.S., at 256 -257. The legislative restraint involved in Tornillo thus also pales in comparison to the limitations imposed by 608 (e) (1). 56

For the reasons stated, we conclude that 608 (e) (1)'s independent expenditure limitation is unconstitutional under the First Amendment.

2. Limitation on Expenditures by Candidates from Personal or Family Resources

The Act also sets limits on expenditures by a candidate "from his personal funds, or the personal funds of his immediate family, in connection with his campaigns during any calendar year." 608 (a) (1). These ceilings vary from $50,000 for Presidential or Vice Presidential candidates to $35,000 for senatorial candidates, and $25,000 for most candidates for the House of Representatives. 57 [424 U.S. 1, 52]

The ceiling on personal expenditures by candidates on their own behalf, like the limitations on independent expenditures contained in 608 (e) (1), imposes a substantial restraint on the ability of persons to engage in protected First Amendment expression. 58 The candidate, no less than any other person, has a First Amendment right to engage in the discussion of public issues and vigorously and tirelessly to advocate his own election and the election of other candidates. Indeed, it is of particular importance that candidates have the unfettered [424 U.S. 1, 53] opportunity to make their views known so that the electorate may intelligently evaluate the candidates' personal qualities and their positions on vital public issues before choosing among them on election day. Mr. Justice Brandeis' observation that in our country "public discussion is a political duty," Whitney v. California, 274 U.S. 357, 375 (1927) (concurring opinion), applies with special force to candidates for public office. Section 608 (a)'s ceiling on personal expenditures by a candidate in furtherance of his own candidacy thus clearly and directly interferes with constitutionally protected freedoms.

The primary governmental interest served by the Act - the prevention of actual and apparent corruption of the political process - does not support the limitation on the candidate's expenditure of his own personal funds. As the Court of Appeals concluded: "Manifestly, the core problem of avoiding undisclosed and undue influence on candidates from outside interests has lesser application when the monies involved come from the candidate himself or from his immediate family." 171 U.S. App. D.C., at 206, 519 F.2d, at 855. Indeed, the use of personal funds reduces the candidate's dependence on outside contributions and thereby counteracts the coercive pressures and attendant risks of abuse to which the Act's contribution limitations are directed. 59 [424 U.S. 1, 54]

The ancillary interest in equalizing the relative financial resources of candidates competing for elective office, therefore, provides the sole relevant rationale for 608 (a)'s expenditure ceiling.

That interest is clearly not sufficient to justify the provision's infringement of fundamental First Amendment rights. First, the limitation may fail to promote financial equality among candidates. A candidate who spends less of his personal resources on his campaign may nonetheless outspend his rival as a result of more successful fundraising efforts. Indeed, a candidate's personal wealth may impede his efforts to persuade others that he needs their financial contributions or volunteer efforts to conduct an effective campaign. Second, and more fundamentally, the First Amendment simply cannot tolerate 608 (a)'s restriction upon the freedom of a candidate to speak without legislative limit on behalf of his own candidacy. We therefore hold that 608 (a)'s restriction on a candidate's personal expenditures is unconstitutional.

3. Limitations on Campaign Expenditures

Section 608 (c) places limitations on overall campaign expenditures by candidates seeking nomination for election and election to federal office. 60 Presidential candidates may spend $10,000,000 in seeking nomination for office and an additional $20,000,000 in the general election campaign. 608 (c) (1) (A), (B). 61 [424 U.S. 1, 55] The ceiling on senatorial campaigns is pegged to the size of the voting-age population of the State with minimum dollar amounts applicable to campaigns in States with small populations. In senatorial primary elections, the limit is the greater of eight cents multiplied by the voting-age population or $100,000, and in the general election the limit is increased to 12 cents multiplied by the voting-age population or $150,000. 608 (c) (1) (C), (D). The Act imposes blanket $70,000 limitations on both primary campaigns and general election campaigns for the House of Representatives with the exception that the senatorial ceiling applies to campaigns in States entitled to only one Representative. 608 (c) (1) (C)-(E). These ceilings are to be adjusted upwards at the beginning of each calendar year by the average percentage rise in the consumer price index for the 12 preceding months. 608 (d). 62

No governmental interest that has been suggested is sufficient to justify the restriction on the quantity of political expression imposed by 608 (c)'s campaign expenditure limitations. The major evil associated with rapidly increasing campaign expenditures is the danger of candidate dependence on large contributions. The interest in alleviating the corrupting influence of large contributions is served by the Act's contribution limitations and disclosure provisions rather than by 608 (c)'s campaign expenditure ceilings. The Court of Appeals' assertion that the expenditure restrictions are necessary to reduce the incentive to circumvent direct contribution limits is not persuasive. See 171 U.S. [424 U.S. 1, 56] App. D.C., at 210, 519 F.2d, at 859. There is no indication that the substantial criminal penalties for violating the contribution ceilings combined with the political repercussion of such violations will be insufficient to police the contribution provisions. Extensive reporting, auditing, and disclosure requirements applicable to both contributions and expenditures by political campaigns are designed to facilitate the detection of illegal contributions. Moreover, as the Court of Appeals noted, the Act permits an officeholder or successful candidate to retain contributions in excess of the expenditure ceiling and to use these funds for "any other lawful purpose." 2 U.S.C. 439a (1970 ed., Supp. IV). This provision undercuts whatever marginal role the expenditure limitations might otherwise play in enforcing the contribution ceilings.

The interest in equalizing the financial resources of candidates competing for federal office is no more convincing a justification for restricting the scope of federal election campaigns. Given the limitation on the size of outside contributions, the financial resources available to a candidate's campaign, like the number of volunteers recruited, will normally vary with the size and intensity of the candidate's support. 63 There is nothing invidious, improper, or unhealthy in permitting such funds to be spent to carry the candidate's message to the electorate. 64 Moreover, the equalization of permissible campaign expenditures [424 U.S. 1, 57] might serve not to equalize the opportunities of all candidates, but to handicap a candidate who lacked substantial name recognition or exposure of his views before the start of the campaign.

The campaign expenditure ceilings appear to be designed primarily to serve the governmental interests in reducing the allegedly skyrocketing costs of political campaigns. Appellees and the Court of Appeals stressed statistics indicating that spending for federal election campaigns increased almost 300% between 1952 and 1972 in comparison with a 57.6% rise in the consumer price index during the same period. Appellants respond that during these years the rise in campaign spending lagged behind the percentage increase in total expenditures for commercial advertising and the size of the gross national product. In any event, the mere growth in the cost of federal election campaigns in and of itself provides no basis for governmental restrictions on the quantity of campaign spending and the resulting limitation on the scope of federal campaigns. The First Amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise. In the free society ordained by our Constitution it is not the government, but the people - individually as citizens and candidates and collectively as associations and political committees - who must retain control over the quantity and range of debate on public issues in a political campaign. 65 [424 U.S. 1, 58]

For these reasons we hold that 608 (c) is constitutionally invalid. 66

In sum, the provisions of the Act that impose a $1,000 limitation on contributions to a single candidate, 608 (b) (1), a $5,000 limitation on contributions by a political committee to a single candidate, 608 (b) (2), and a $25,000 limitation on total contributions by an individual during any calendar year, 608 (b) (3), are constitutionally valid. These limitations, along with the disclosure provisions, constitute the Act's primary weapons against the reality or appearance of improper influence stemming from the dependence of candidates on large campaign contributions. The contribution ceilings thus serve the basic governmental interest in safeguarding the integrity of the electoral process without directly impinging upon the rights of individual citizens and candidates to engage in political debate and discussion. By contrast, the First Amendment requires the invalidation of the Act's independent expenditure ceiling, 608 (e) (1), its limitation on a candidate's expenditures from his own personal funds, 608 (a), and its ceilings on overall campaign expenditures, 608 (c). These provisions place substantial and direct restrictions [424 U.S. 1, 59] on the ability of candidates, citizens, and associations to engage in protected political expression, restrictions that the First Amendment cannot tolerate. 67 [424 U.S. 1, 60]

II. REPORTING AND DISCLOSURE REQUIREMENTS

Unlike the limitations on contributions and expenditures imposed by 18 U.S.C. 608 (1970 ed., Supp. IV), the disclosure requirements of the Act, 2 U.S.C. 431 et seq. (1970 ed., Supp. IV), 68 are not challenged by appellants as per se unconstitutional restrictions on the exercise of First Amendment freedoms of speech and association. 69 Indeed, appellants argue that "narrowly drawn disclosure requirements are the proper solution to virtually all of the evils Congress sought to remedy." Brief for Appellants 171. The particular requirements [424 U.S. 1, 61] embodied in the Act are attacked as overbroad - both in their application to minor-party and independent candidates and in their extension to contributions as small as $11 or $101. Appellants also challenge the provision for disclosure by those who make independent contributions and expenditures, 434 (e). The Court of Appeals found no constitutional infirmities in the provisions challenged here. 70 We affirm the determination on overbreadth and hold that 434 (e), if narrowly construed, also is within constitutional bounds.

The first federal disclosure law was enacted in 1910. Act of June 25, 1910, c. 392, 36 Stat. 822. It required political committees, defined as national committees and national congressional campaign committees of parties, and organizations operating to influence congressional elections in two or more States, to disclose names of all contributors of $100 or more; identification of recipients of expenditures of $10 or more was also required. 1, 5-6, 36 Stat. 822 824. Annual expenditures of $50 or more "for the purpose of influencing or controlling, in two or more States, the result of" a congressional election had to be reported independently if they were not made through a political committee. 7, 36 Stat. 824. In 1911 the Act was revised to include prenomination transactions such as those involved in conventions and primary campaigns. Act of Aug. 19, 1911, 2, 37 Stat. 26. See United States v. Auto. Workers, 352 U.S., at 575 -576.

Disclosure requirements were broadened in the Federal Corrupt Practices Act of 1925 (Title III of the Act of Feb. 28, 1925), 43 Stat. 1070. That Act required political committees, defined as organizations that accept contributions or make expenditures "for the purpose of [424 U.S. 1, 62] influencing or attempting to influence" the Presidential or Vice Presidential elections (a) in two or more States or (b) as a subsidiary of a national committee, 302 (c), 43 Stat. 1070, to report total contributions and expenditures, including the names and addresses of contributors of $100 or more and recipients of $10 or more in a calendar year. 305 (a), 43 Stat. 1071. The Act was upheld against a challenge that it infringed upon the prerogatives of the States in Burroughs v. United States, 290 U.S. 534 (1934). The Court held that it was within the power of Congress "to pass appropriate legislation to safeguard [a Presidential] election from the improper use of money to influence the result." Id., at 545. Although the disclosure requirements were widely circumvented, 71 no further attempts were made to tighten them until 1960, when the Senate passed a bill that would have closed some existing loopholes. S. 2436, 106 Cong. Rec. 1193. The attempt aborted because no similar effort was made in the House.

The Act presently under review replaced all prior disclosure laws. Its primary disclosure provisions impose reporting obligations on "political committees" and candidates. "Political committee" is defined in 431 (d) as a group of persons that receives "contributions" or makes "expenditures" of over $1,000 in a calendar year. "Contributions" and "expenditures" are defined in lengthy parallel provisions similar to those in Title 18, discussed [424 U.S. 1, 63] above. 72 Both definitions focus on the use of money or other objects of value "for the purpose of . . . influencing" the nomination or election of any person to federal office. 431 (e) (1), (f) (1).

Each political committee is required to register with the Commission, 433, and to keep detailed records of both contributions and expenditures, 432 (c), (d). These records must include the name and address of everyone making a contribution in excess of $10, along with the date and amount of the contribution. If a person's contributions aggregate more than $100, his occupation and principal place of business are also to be included. 432 (c) (2). These files are subject to periodic audits and field investigations by the Commission. 438 (a) (8).

Each committee and each candidate also is required to file quarterly reports. 434 (a). The reports are to contain detailed financial information, including the full name, mailing address, occupation, and principal place of business of each person who has contributed over $100 in a calendar year, as well as the amount and date of the contributions. 434 (b). They are to be made available by the Commission "for public inspection and copying." 438 (a) (4). Every candidate for federal office is required to designate a "principal campaign committee," which is to receive reports of contributions and expenditures made on the candidate's behalf from other political committees and to compile and file these reports, together with its own statements, with the Commission. 432 (f).

Every individual or group, other than a political committee or candidate, who makes "contributions" or "expenditures" of over $100 in a calendar year "other than [424 U.S. 1, 64] by contribution to a political committee or candidate" is required to file a statement with the Commission. 434 (e). Any violation of these recordkeeping and reporting provisions is punishable by a fine of not more than $1,000 or a prison term of not more than a year, or both. 441 (a).

A. General Principles

Unlike the overall limitations on contributions and expenditures, the disclosure requirements impose no ceiling on campaign-related activities. But we have repeatedly found that compelled disclosure, in itself, can seriously infringe on privacy of association and belief guaranteed by the First Amendment. E. g., Gibson v. Florida Legislative Comm., 372 U.S. 539 (1963); NAACP v. Button, 371 U.S. 415 (1963); Shelton v. Tucker, 364 U.S. 479 (1960); Bates v. Little Rock, 361 U.S. 516 (1960); NAACP v. Alabama, 357 U.S. 449 (1958).
We long have recognized that significant encroachments on First Amendment rights of the sort that compelled disclosure imposes cannot be justified by a mere showing of some legitimate governmental interest. Since NAACP v. Alabama we have required that the subordinating interests of the State must survive exacting scrutiny. 73 We also have insisted that there be a "relevant correlation" 74 or "substantial relation" 75 between the governmental interest and the information required to be disclosed. See Pollard v. Roberts, 283 F. Supp. 248, 257 (ED Ark.) (three-judge court), aff'd, 393 U.S. 14 (1968) [424 U.S. 1, 65] (per curiam). This type of scrutiny is necessary even if any deterrent effect on the exercise of First Amendment rights arises, not through direct government action, but indirectly as an unintended but inevitable result of the government's conduct in requiring disclosure. NAACP v. Alabama, supra, at 461. Cf. Kusper v. Pontikes, 414 U.S., at 57 -58.

Appellees argue that the disclosure requirements of the Act differ significantly from those at issue in NAACP v. Alabama and its progeny because the Act only requires disclosure of the names of contributors and does not compel political organizations to submit the names of their members. 76

As we have seen, group association is protected because it enhances "[e]ffective advocacy." NAACP v. Alabama, supra, at 460. The right to join together "for the advancement of beliefs and ideas," ibid., is diluted if it does not include the right to pool money through contributions, for funds are often essential if "advocacy" is [424 U.S. 1, 66] to be truly or optimally "effective." Moreover, the invasion of privacy of belief may be as great when the information sought concerns the giving and spending of money as when it concerns the joining of organizations, for "[f]inancial transactions can reveal much about a person's activities, associations, and beliefs." California Bankers Assn. v. Shultz, 416 U.S. 21, 78 -79 (1974) (POWELL, J., concurring). Our past decisions have not drawn fine lines between contributors and members but have treated them interchangeably. In Bates, for example, we applied the principles of NAACP v. Alabama and reversed convictions for failure to comply with a city ordinance that required the disclosure of "dues, assessments, and contributions paid, by whom and when paid." 361 U.S., at 518 . See also United States v. Rumely, 345 U.S. 41 (1953) (setting aside a contempt conviction of an organization official who refused to disclose names of those who made bulk purchases of books sold by the organization).

The strict test established by NAACP v. Alabama is necessary because compelled disclosure has the potential for substantially infringing the exercise of First Amendment rights. But we have acknowledged that there are governmental interests sufficiently important to outweigh the possibility of infringement, particularly when the "free functioning of our national institutions" is involved. Communist Party v. Subversive Activities Control Bd., 367 U.S. 1, 97 (1961).

The governmental interests sought to be vindicated by the disclosure requirements are of this magnitude. They fall into three categories. First, disclosure provides the electorate with information "as to where political campaign money comes from and how it is spent by the candidate" 77 in order to aid the voters in evaluating those [424 U.S. 1, 67] who seek federal office. It allows voters to place each candidate in the political spectrum more precisely than is often possible solely on the basis of party labels and campaign speeches. The sources of a candidate's financial support also alert the voter to the interests to which a candidate is most likely to be responsive and thus facilitate predictions of future performance in office.

Second, disclosure requirements deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light of publicity. 78 This exposure may discourage those who would use money for improper purposes either before or after the election. A public armed with information about a candidate's most generous supporters is better able to detect any post-election special favors that may be given in return. 79 And, as we recognized in Burroughs v. United States, 290 U.S., at 548 , Congress could reasonably conclude that full disclosure during an election campaign tends "to prevent the corrupt use of money to affect elections." In enacting these requirements it may have been mindful of Mr. Justice Brandeis' advice:

"Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman." 80

Third, and not least significant, recordkeeping, reporting, [424 U.S. 1, 68] and disclosure requirements are an essential means of gathering the data necessary to detect violations of the contribution limitations described above.
The disclosure requirements, as a general matter, directly serve substantial governmental interests. In determining whether these interests are sufficient to justify the requirements we must look to the extent of the burden that they place on individual rights.

It is undoubtedly true that public disclosure of contributions to candidates and political parties will deter some individuals who otherwise might contribute. In some instances, disclosure may even expose contributors to harassment or retaliation. These are not insignificant burdens on individual rights, and they must be weighed carefully against the interests which Congress has sought to promote by this legislation. In this process, we note and agree with appellants' concession 81 that disclosure requirements - certainly in most applications - appear to be the least restrictive means of curbing the evils of campaign ignorance and corruption that Congress found to exist. 82 Appellants argue, however, that the balance tips against disclosure when it is required of contributors to certain parties and candidates. We turn now to this contention.

B. Application to Minor Parties and Independents

Appellants contend that the Act's requirements are overbroad insofar as they apply to contributions to minor [424 U.S. 1, 69] parties and independent candidates because the governmental interest in this information is minimal and the danger of significant infringement on First Amendment rights is greatly increased.

1. Requisite Factual Showing

In NAACP v. Alabama the organization had "made an uncontroverted showing that on past occasions revelation of the identity of its rank-and-file members [had] exposed these members to economic reprisal, loss of employment, threat of physical coercion, and other manifestations of public hostility," 357 U.S., at 462 , and the State was unable to show that the disclosure it sought had a "substantial bearing" on the issues it sought to clarify, id., at 464. Under those circumstances, the Court held that "whatever interest the State may have in [disclosure] has not been shown to be sufficient to overcome petitioner's constitutional objections." Id., at 465.

The Court of Appeals rejected appellants' suggestion that this case fits into the NAACP v. Alabama mold. It concluded that substantial governmental interests in "informing the electorate and preventing the corruption of the political process" were furthered by requiring disclosure of minor parties and independent candidates, 171 U.S. App. D.C., at 218, 519 F.2d, at 867, and therefore found no "tenable rationale for assuming that the public interest in minority party disclosure of contributions above a reasonable cutoff point is uniformly outweighed by potential contributors' associational rights," id., at 219, 519 F.2d, at 868. The court left open the question of the application of the disclosure requirements to candidates (and parties) who could

demonstrate injury of the sort at stake in NAACP v. Alabama. No record of harassment on a similar scale was found in this case. 83 We agree with [424 U.S. 1, 70] the Court of Appeals' conclusion that NAACP v. Alabama is inapposite where, as here, any serious infringement on First Amendment rights brought about by the compelled disclosure of contributors is highly speculative.

It is true that the governmental interest in disclosure is diminished when the contribution in question is made to a minor party with little chance of winning an election. As minor parties usually represent definite and publicized viewpoints, there may be less need to inform the voters of the interests that specific candidates represent. Major parties encompass candidates of greater diversity. In many situations the label "Republican" or "Democrat" tells a voter little. The candidate who bears it may be supported by funds from the far right, the far left, or any place in between on the political spectrum. It is less likely that a candidate of, say, the Socialist Labor Party will represent interests that cannot be discerned from the party's ideological position.

The Government's interest in deterring the "buying" of elections and the undue influence of large contributors on officeholders also may be reduced where contributions to a minor party or an independent candidate are concerned, for it is less likely that the candidate will be victorious. But a minor party sometimes can play a significant role in an election. Even when a minor-party candidate has little or no chance of winning, he may be encouraged by major-party interests in order to divert votes from other major-party contenders. 84 [424 U.S. 1, 71]

We are not unmindful that the damage done by disclosure to the associational interests of the minor parties and their members and to supporters of independents could be significant. These movements are less likely to have a sound financial base and thus are more vulnerable to falloffs in contributions. In some instances fears of reprisal may deter contributions to the point where the movement cannot survive. The public interest also suffers if that result comes to pass, for there is a consequent reduction in the free circulation of ideas both within 85 and without 86 the political arena.

There could well be a case, similar to those before the Court in NAACP v. Alabama and Bates, where the threat to the exercise of First Amendment rights is so serious and the state interest furthered by disclosure so insubstantial that the Act's requirements cannot be constitutionally applied. 87 But no appellant in this case has tendered record evidence of the sort proffered in NAACP v. Alabama. Instead, appellants primarily rely on "the clearly articulated fears of individuals, well experienced in the political process." Brief for Appellants 173. At [424 U.S. 1, 72] best they offer the testimony of several minor-party officials that one or two persons refused to make contributions because of the possibility of disclosure. 88 On this record, the substantial public interest in disclosure identified by the legislative history of this Act outweighs the harm generally alleged.

2. Blanket Exemption

Appellants agree that "the record here does not reflect the kind of focused and insistent harassment of contributors and members that existed in the NAACP cases." Ibid. They argue,

however, that a blanket exemption for minor parties is necessary lest irreparable injury be done before the required evidence can be gathered.

Those parties that would be sufficiently "minor" to be exempted from the requirements of 434 could be defined, appellants suggest, along the lines used for public-financing purposes, see Part III-A, infra, as those who received less than 25% of the vote in past elections. Appellants do not argue that this line is constitutionally required. They suggest as an alternative defining "minor parties" as those that do not qualify for automatic ballot access under state law. Presumably, other criteria, such as current political strength (measured by polls or petition), age, or degree of organization, could also be used. 89

The difficulty with these suggestions is that they reflect only a party's past or present political strength and [424 U.S. 1, 73] that is only one of the factors that must be considered. Some of the criteria are not precisely indicative of even that factor. Age, 90 or past political success, for instance, may typically be associated with parties that have a high probability of success. But not all long-established parties are winners - some are consistent losers - and a new party may garner a great deal of support if it can associate itself with an issue that has captured the public's imagination. None of the criteria suggested is precisely related to the other critical factor that must be considered, the possibility that disclosure will impinge upon protected associational activity.

An opinion dissenting in part from the Court of Appeals' decision concedes that no one line is "constitutionally required." 91 It argues, however, that a flat exemption for minor parties must be carved out, even along arbitrary lines, if groups that would suffer impermissibly from disclosure are to be given any real protection. An approach that requires minor parties to submit evidence that the disclosure requirements cannot constitutionally be applied to them offers only an illusory safeguard, the argument goes, because the "evils" of "chill and harassment . . . are largely incapable of formal proof." 92 This dissent expressed its concern that a minor party, particularly a [424 U.S. 1, 74] new party, may never be able to prove a substantial threat of harassment, however real that threat may be, because it would be required to come forward with witnesses who are too fearful to contribute but not too fearful to testify about their fear. A strict requirement that chill and harassment be directly attributable to the specific disclosure from which the exemption is sought would make the task even more difficult.

We recognize that unduly strict requirements of proof could impose a heavy burden, but it does not follow that a blanket exemption for minor parties is necessary. Minor parties must be allowed sufficient flexibility in the proof of injury to assure a fair consideration of their claim. The evidence offered need show only a reasonable probability that the compelled disclosure of a party's contributors' names will subject them to threats, harassment, or reprisals from either Government officials or private parties. The proof may include, for example, specific evidence of past or present harassment of members due to their associational ties, or of harassment directed against the organization itself. A pattern of threats or specific manifestations of public hostility may be sufficient. New parties that have no history upon which to draw may be able to offer evidence of reprisals and threats directed against individuals or organizations holding similar views.

Where it exists the type of chill and harassment identified in NAACP v. Alabama can be shown. We cannot assume that courts will be insensitive to similar showings when made in future cases. We therefore conclude that a blanket exemption is not required.

C. Section 434 (e)

Section 434 (e) requires "[e]very person (other than a political committee or candidate) who makes contributions [424 U.S. 1, 75] or expenditures" aggregating over $100 in a calendar year "other than by contribution to a political committee or candidate" to file a statement with the Commission. 93 Unlike the other disclosure provisions, this section does not seek the contribution list of any association. Instead, it requires direct disclosure of what an individual or group contributes or spends.

In considering this provision we must apply the same strict standard of scrutiny, for the right of associational privacy developed in NAACP v. Alabama derives from the rights of the organization's members to advocate their personal points of view in the most effective way. 357 U.S., at 458 , 460. See also NAACP v. Button, 371 U.S., at 429 -431; Sweezy v. New Hampshire, 354 U.S., at 250 .

Appellants attack 434 (e) as a direct intrusion on privacy of belief, in violation of Talley v. California, 362 U.S. 60 (1960), and as imposing "very real, practical burdens . . . certain to deter individuals from making expenditures for their independent political speech" analogous to those held to be impermissible in Thomas v. Collins, 323 U.S. 516 (1945).

1. The Role of 434 (e)

The Court of Appeals upheld 434 (e) as necessary to enforce the independent-expenditure ceiling imposed by 18 U.S.C. 608 (e) (1) (1970 ed., Supp. IV). It said:

"If . . . Congress has both the authority and a compelling interest to regulate independent expenditures under section 608 (e), surely it can require that there be disclosure to prevent misuse of the spending channel." 171 U.S. App. D.C., at 220 519 F.2d, at 869.

We have found that 608 (e) (1) unconstitutionally infringes [424 U.S. 1, 76] upon First Amendment rights. 94 If the sole function of 434 (e) were to aid in the enforcement of that provision, it would no longer serve any governmental purpose.

But the two provisions are not so intimately tied. The legislative history on the function of 434 (e) is bare, but it was clearly intended to stand independently of 608 (e) (1). It was enacted with the general disclosure provisions in 1971 as part of the original Act, 95 while 608 (e) (1) was part of the 1974 amendments. 96 Like the other disclosure provisions, 434 (e) could play a role in the enforcement of the expanded contribution and expenditure limitations included in the 1974 amendments, but it also has independent functions. Section 434 (e) is part of Congress' effort to achieve "total disclosure" by reaching "every kind of political activity" 97 in order to insure that the voters are fully informed and to achieve through publicity the maximum deterrence to corruption and undue influence possible. The provision is responsive to the legitimate fear that

efforts would be made, as they had been in the past, 98 to avoid the disclosure requirements by routing financial support of candidates through avenues not explicitly covered by the general provisions of the Act.

2. Vagueness Problems

In its effort to be all-inclusive, however, the provision raises serious problems of vagueness, particularly treacherous where, as here, the violation of its terms carries criminal penalties 99 and fear of incurring these sanctions [424 U.S. 1, 77] may deter those who seek to exercise protected First Amendment rights.

Section 434 (e) applies to "[e]very person . . . who makes contributions or expenditures." "Contributions" and "expenditures" are defined in parallel provisions in terms of the use of money or other valuable assets "for the purpose of . . . influencing" the nomination or election of candidates for federal office. 100 It is the ambiguity of this phrase that poses constitutional problems.

Due process requires that a criminal statute provide adequate notice to a person of ordinary intelligence that his contemplated conduct is illegal, for "no man shall be held criminally responsible for conduct which he could not reasonably understand to be proscribed." United States v. Harriss, 347 U.S. 612, 617 (1954). See also Papachristou v. City of Jacksonville, 405 U.S. 156 (1972). Where First Amendment rights are involved, an even "greater degree of specificity" is required. Smith v. Goguen, 415 U.S., at 573 . See Grayned v. City of Rockford, 408 U.S. 104, 109 (1972); Kunz v. New York, 340 U.S. 290 (1951).

There is no legislative history to guide us in determining the scope of the critical phrase "for the purpose of . . . influencing." It appears to have been adopted without comment from earlier disclosure Acts. 101 Congress "has voiced its wishes in [most] muted strains," leaving us to draw upon "those common-sense assumptions that must be made in determining direction without a compass." Rosado v. Wyman, 397 U.S. 397, 412 (1970). Where the constitutional requirement of definiteness is at stake, we have the further obligation to construe the statute, [424 U.S. 1, 78] if that can be done consistent with the legislature's purpose, to avoid the shoals of vagueness. United States v. Harriss, supra, at 618; United States v. Rumely, 345 U.S., at 45 .

In enacting the legislation under review Congress addressed broadly the problem of political campaign financing. It wished to promote full disclosure of campaign-oriented spending to insure both the reality and the appearance of the purity and openness of the federal election process. 102 Our task is to construe "for the purpose of . . . influencing," incorporated in 434 (e) through the definitions of "contributions" and "expenditures," in a manner that precisely furthers this goal.

In Part I we discussed what constituted a "contribution" for purposes of the contribution limitations set forth in 18 U.S.C. 608 (b) (1970 ed., Supp. IV). 103 We construed that term to include not only contributions made directly or indirectly to a candidate, political party, or campaign committee, and contributions made to other organizations or individuals but earmarked for political purposes, but also all expenditures placed in cooperation with or with the consent of

a candidate, his agents, or an authorized committee of the candidate. The definition of "contribution" in 431 (e) for disclosure purposes parallels the definition in Title 18 almost word for word, and we construe the former provision as we have the latter. So defined, "contributions" have a sufficiently close relationship to the goals of the Act, for they are connected with a candidate or his campaign.

When we attempt to define "expenditure" in a similarly narrow way we encounter line-drawing problems [424 U.S. 1, 79] of the sort we faced in 18 U.S.C. 608 (e) (1) (1970 ed., Supp. IV). Although the phrase, "for the purpose of . . . influencing" an election or nomination, differs from the language used in 608 (e) (1), it shares the same potential for encompassing both issue discussion and advocacy of a political result. 104 The general requirement that "political committees" and candidates disclose their expenditures could raise similar vagueness problems, for "political committee" is defined only in terms of amount of annual "contributions" and "expenditures," 105 and could be interpreted to reach groups engaged purely in issue discussion. The lower courts have construed the words "political committee" more narrowly. 106 To fulfill the purposes of the Act they need only encompass organizations that are under the control of a candidate or the major purpose of which is the nomination or election of a candidate. Expenditures of candidates and of "political committees" so construed can be assumed to fall within the core area sought to be addressed by Congress. They are, by definition, campaign related.

But when the maker of the expenditure is not within these categories - when it is an individual other than a candidate or a group other than a "political committee" 107 [424 U.S. 1, 80] - the relation of the information sought to the purposes of the Act may be too remote. To insure that the reach of 434 (e) is not impermissibly broad, we construe "expenditure" for purposes of that section in the same way we construed the terms of 608 (e) - to reach only funds used for communications that expressly advocate 108 the election or defeat of a clearly identified candidate. This reading is directed precisely to that spending that is unambiguously related to the campaign of a particular federal candidate.

In summary, 434 (e), as construed, imposes independent reporting requirements on individuals and groups that are not candidates or political committees only in the following circumstances: (1) when they make contributions earmarked for political purposes or authorized or requested by a candidate or his agent, to some person other than a candidate or political committee, and (2) when they make expenditures for communications that expressly advocate the election or defeat of a clearly identified candidate.

Unlike 18 U.S.C. 608 (e) (1) (1970 ed., Supp. IV), 434 (e), as construed, bears a sufficient relationship to a substantial governmental interest. As narrowed, 434 (e), like 608 (e) (1), does not reach all partisan discussion for it only requires disclosure of those expenditures that expressly advocate a particular election result. This might have been fatal if the only purpose of 434 (e) [424 U.S. 1, 81] were to stem corruption or its appearance by closing a loophole in the general disclosure requirements. But the disclosure provisions, including 434 (e), serve another, informational interest, and even as construed 434 (e) increases the fund of information concerning those who support the candidates. It goes beyond the general disclosure requirements to shed the light of publicity on spending that is unambiguously campaign related but would not

otherwise be reported because it takes the form of independent expenditures or of contributions to an individual or group not itself required to report the names of its contributors. By the same token, it is not fatal that 434 (e) encompasses purely independent expenditures uncoordinated with a particular candidate or his agent. The corruption potential of these expenditures may be significantly different, but the informational interest can be as strong as it is in coordinated spending, for disclosure helps voters to define more of the candidates' constituencies.

Section 434 (e), as we have construed it, does not contain the infirmities of the provisions before the Court in Talley v. California, 362 U.S. 60 (1960), and Thomas v. Collins, 323 U.S. 516 (1945). The ordinance found wanting in Talley forbade all distribution of handbills that did not contain the name of the printer, author, or manufacturer, and the name of the distributor. The city urged that the ordinance was aimed at identifying those responsible for fraud, false advertising, and libel, but the Court found that it was "in no manner so limited." 362 U.S., at 64 . Here, as we have seen, the disclosure requirement is narrowly limited to those situations where the information sought has a substantial connection with the governmental interests sought to be advanced. Thomas held unconstitutional a prior restraint in the form of a registration requirement for labor organizers. [424 U.S. 1, 82] The Court found the State's interest insufficient to justify the restrictive effect of the statute. The burden imposed by 434 (e) is no prior restraint, but a reasonable and minimally restrictive method of furthering First Amendment values by opening the basic processes of our federal election system to public view. 109

D. Thresholds

Appellants' third contention, based on alleged overbreadth, is that the monetary thresholds in the recordkeeping and reporting provisions lack a substantial nexus with the claimed governmental interests, for the amounts involved are too low even to attract the attention of the candidate, much less have a corrupting influence.
The provisions contain two thresholds. Records are to be kept by political committees of the names and addresses of those who make contributions in excess of $10, 432 (c) (2), and these records are subject to Commission audit, 438 (a) (8). If a person's contributions to a committee or candidate aggregate more than $100, his name and address, as well as his occupation and principal place of business, are to be included in reports filed by committees and candidates with the Commission, 434 (b) (2), and made available for public inspection, 438 (a) (4).

The Court of Appeals rejected appellants' contention that these thresholds are unconstitutional. It found the challenge on First Amendment grounds to the $10 threshold to be premature, for it could "discern no basis in the statute for authorizing disclosure outside the Commission [424 U.S. 1, 83] . . ., and hence no substantial `inhibitory effect' operating upon" appellants. 171 U.S. App. D.C., at 216, 519 F.2d, at 865. The $100 threshold was found to be within the "reasonable latitude" given the legislature "as to where to draw the line." Ibid. We agree.

The $10 and $100 thresholds are indeed low. Contributors of relatively small amounts are likely to be especially sensitive to recording or disclosure of their political preferences. These strict requirements may well discourage participation by some citizens in the political process, a result that Congress hardly could have intended. Indeed, there is little in the legislative history to

indicate that Congress focused carefully on the appropriate level at which to require recording and disclosure. Rather, it seems merely to have adopted the thresholds existing in similar disclosure laws since 1910. 110 But we cannot require Congress to establish that it has chosen the highest reasonable threshold. The line is necessarily a judgmental decision, best left in the context of this complex legislation to congressional discretion. We cannot say, on this bare record, that the limits designated are wholly without rationality. 111

We are mindful that disclosure serves informational functions, as well as the prevention of corruption and the enforcement of the contribution limitations. Congress is not required to set a threshold that is tailored only to the latter goals. In addition, the enforcement [424 U.S. 1, 84] goal can never be well served if the threshold is so high that disclosure becomes equivalent to admitting violation of the contribution limitations.

The $10 recordkeeping threshold, in a somewhat similar fashion, facilitates the enforcement of the disclosure provisions by making it relatively difficult to aggregate secret contributions in amounts that surpass the $100 limit. We agree with the Court of Appeals that there is no warrant for assuming that public disclosure of contributions between $10 and $100 is authorized by the Act. Accordingly, we do not reach the question whether information concerning gifts of this size can be made available to the public without trespassing impermissibly on First Amendment rights. Cf. California Bankers Assn. v. Shultz, 416 U.S., at 56 -57. 112

In summary, we find no constitutional infirmities in the recordkeeping, reporting, and disclosure provisions of the Act. 113 [424 U.S. 1, 85]

III. PUBLIC FINANCING OF PRESIDENTIAL ELECTION CAMPAIGNS

A series of statutes 114 for the public financing of Presidential election campaigns produced the scheme now found in 6096 and Subtitle H of the Internal Revenue [424 U.S. 1, 86] Code of 1954, 26 U.S.C. 6096, 9001-9012, 9031-9042 (1970 ed., Supp. IV). 115 Both the District Court, 401 F. Supp. 1235, and the Court of Appeals, 171 U.S. App. D.C., at 229-238, 519 F.2d, at 878-887, sustained Subtitle H against a constitutional attack. 116 Appellants renew their challenge here, contending that the legislation violates the First and Fifth Amendments. We find no merit in their claims and affirm.

A. Summary of Subtitle H

Section 9006 establishes a Presidential Election Campaign Fund (Fund), financed from general revenues in the aggregate amount designated by individual taxpayers, under 6096, who on their income tax returns may authorize payment to the Fund of one dollar of their tax liability in the case of an individual return or two dollars in the case of a joint return. The Fund consists of three separate accounts to finance (1) party nominating conventions, 9008 (a), (2) general election campaigns, 9006 (a), and (3) primary campaigns, 9037 (a). 117 [424 U.S. 1, 87]
Chapter 95 of Title 26, which concerns financing of party nominating conventions and general election campaigns, distinguishes among "major," "minor," and "new" parties. A major party is defined as a party whose candidate for President in the most recent election received 25% or

more of the popular vote. 9002 (6). A minor party is defined as a party whose candidate received at least 5% but less than 25% of the vote at the most recent election. 9002 (7). All other parties are new parties, 9002 (8), including both newly created parties and those receiving less than 5% of the vote in the last election. 118

Major parties are entitled to $2,000,000 to defray their national committee Presidential nominating convention expenses, must limit total expenditures to that amount, 9008 (d), 119 and may not use any of this money to benefit a particular candidate or delegate, 9008 (c). [424 U.S. 1, 88] A minor party receives a portion of the major-party entitlement determined by the ratio of the votes received by the party's candidate in the last election to the average of the votes received by the major parties' candidates. 9008 (b) (2). The amounts given to the parties and the expenditure limit are adjusted for inflation, using 1974 as the base year. 9008 (b) (5). No financing is provided for new parties, nor is there any express provision for financing independent candidates or parties not holding a convention.

For expenses in the general election campaign, 9004 (a) (1) entitles each major-party candidate to $20,000,000. 120 This amount is also adjusted for inflation. See 9004 (a) (1). To be eligible for funds the candidate 121 must pledge not to incur expenses in excess of the entitlement under 9004 (a) (1) and not to accept private contributions except to the extent that the fund is insufficient to provide the full entitlement. 9003 (b) Minor-party candidates are also entitled to funding, again based on the ratio of the vote received by the party's candidate in the preceding election to the average of the major-party candidates. 9004 (a) (2) (A). Minor-party candidates must certify that they will not incur campaign expenses in excess of the major-party entitlement and [424 U.S. 1, 89] that they will accept private contributions only to the extent needed to make up the difference between that amount and the public funding grant. 9003 (c). New-party candidates receive no money prior to the general election, but any candidate receiving 5% or more of the popular vote in the election is entitled to post-election payments according to the formula applicable to minor-party candidates. 9004 (a) (3). Similarly, minor-party candidates are entitled to post-election funds if they receive a greater percentage of the average major-party vote than their party's candidate did in the preceding election; the amount of such payments is the difference between the entitlement based on the preceding election and that based on the actual vote in the current election. 9004 (a) (3). A further eligibility requirement for minor- and new-party candidates is that the candidate's name must appear on the ballot, or electors pledged to the candidate must be on the ballot, in at least 10 States. 9002 (2) (B).

Chapter 96 establishes a third account in the Fund, the Presidential Primary Matching Payment Account. 9037 (a). This funding is intended to aid campaigns by candidates seeking Presidential nomination "by a political party," 9033 (b) (2), in "primary elections," 9032 (7). 122 The threshold eligibility requirement is that the candidate raise at least $5,000 in each of 20 States, counting only the first $250 from each person contributing to the candidate. 9033 (b) (3), (4). In addition, the candidate must agree to abide by the spending limits in 9035. See 9033 (b) (1). 123 Funding is [424 U.S. 1, 90] provided according to a matching formula: each qualified candidate is entitled to a sum equal to the total private contributions received, disregarding contributions from any person to the extent that total contributions to the candidate by that person exceed $250. 9034 (a). Payments to any candidate under Chapter 96 may not exceed 50% of the overall expenditure ceiling accepted by the candidate. 9034 (b).