# COMMENTARY

## IS THIS REALLY NECESSARY?

### THE ANTIDOTE FOR SACRAMENTO CORRUPTION: A WALL OF INTEGRITY

On April 5, 1989, the Assembly Select Committee on Ethics held hearings in Sacramento. Although some cynics consider its title to be an oxymoron, the Committee appeared to be meeting in good faith to consider several proposals to preclude conflicts of interest by legislators in carrying out their responsibilities. The legislature's record in ethical matters to that point had been moribund. It had refused to limit campaign contributions by individuals or PACs; refused to provide for public financing of campaigns—the only real option to ameliorate the current endemic corruption; refused to cut off the outside income of attorney legislators who continue lucrative legal practices on the side (often involving those with business before the legislature); refused to seriously consider measures to create a special prosecutor position to handle political crimes; and refused to limit the revolving legislator-turned-lobbyist door.

The legislature had the major ethical reform applicable to state government jammed down its throat by the people through the Political Reform Act of 1974. But for the electorate, there would not even be meaningful reporting of campaign contributors or a Fair Political Practices Commission. Most members of the legislature did not support this reform measure. They have not interfered with its provisions as applied to local officials or the executive branch, but have eviscerated its most important feature as applied to them. That is, where a California public official has a personal conflict of interest, he or she may not officially act. California law prohibits official acts where there are such conflicts and provides for criminal, civil injunctive, and civil penalties where the official improperly votes or acts. The 1974 Act passed by the electorate originally subjected legislators to FPPC enforcement and civil injunctive sanctions should they proceed to vote or otherwise act on a matter where they have a conflict of interest. But in 1980, the legislature amended the Act to remove *any* remedy for their own conflicts of interest (except for reprimands by its own ethics committee, which has never acted dispositively).

Then, in 1988, the United States Attorney began his indictments of California legislators for bribery, extortion, *et al.*; two have so far been convicted. Meanwhile, campaign contribution abuse reached a zenith of abusive influence. In 1987, legislative incumbents solicited and received $25 million— and 1987 was not even an election year. A slightly larger amount was collected in 1989, the next non-election year. Together with even larger election year fundraising, incumbents outraised their nearest challengers by thirty-to-one, with almost 90% of all contributions flowing from Sacramento PACs.

Then there were the honoraria. These cash payments were given to legislators for "speeches," which often consisted of nothing more than breakfast meetings with PAC pooh-bahs. Several legislators had been embarrassed by the revelation of $5,000 fees for breakfast conversation, followed by friendly legislative acts. Meanwhile, the legislature's dismal record in areas such as children's health, care of the elderly, crime, and transportation has been the vector result of policies favored by those well-funded in Sacramento. Those of us who attempt advocacy there are disgusted by the cynicism of legislators who simply will not vote against an organized special interest, and who repeatedly ask those advocating important reforms to go out in the hallway and satisfy the outrageous demands of monied interests before proceeding further. Perhaps the most flagrant example of such corruption is the major role of California's legislature in the savings and loan scandal of the past ten years—interplaying intimately with campaign contributions from those receiving a total deregulatory blank check to spend the federal taxpayer's precious assets.[1]

Surveys showed that the state's politicians were held in low repute. And two term limitation measures were heading toward the 1990 ballot, both polling overwhelming support. This was the setting for the April 5, 1989 hearing before the Assembly Ethics Committee. We testified, along with others, in order to try to impress upon sitting legislators the need for decisive action. It has long been our thesis that the most pernicious corruption threatening our society is the control of the state by those with a vested profit stake in its decisions. Those acting on behalf of the state must be independent, must decide issues on the merits and in the long-range interests of the citizenry they represent. Almost sounds like a naive cliche today, doesn't it? Recite basic American tenets about checks and balances and integrity, and the reaction is not boredom, but patronizing bemusement.

We delivered the following testimony to the Committee, and we reproduce it in full because of its relevance to subsequent events.

"Mr. Chairman and members of the Committee: My name is Professor Robert C. Fellmeth, Director of the Center for Public Interest Law.

As legislators, your job is important. I contend it is the most important position in our society—without peer. You have expansive powers, and may affirmatively act, or not act, to alter almost any aspect of our lives. You make laws and determine sanctions for their violation. You have the power to specify death. You compel payment of taxes and spend; in 1988-89, you will collect and spend $79 billion dollars. You create regulatory agencies to license, monitor, and discipline. You have created more than sixty of them operating under enabling statutes and your oversight covering pollution, worker safety, pesticides, coastal development, and the regulation of utilities, insurance, banking, real estate sales, alcohol sales, and 45 different trades and professions—from the physician who delivers us to the mortician who embalms us. You decide the rules of the marketplace, the obligations we owe to each other, and who pays in damages when those obligations are breached. You largely determine the quality of our lives, with the executive left to carry out your programs and the judiciary to interpret your intent.

To you we entrust much and we expect much. There are two things we expect above all else: that you protect democracy by making sure elections are competitive and fair, and that your public decisions are made on the merits.

After fair elections, you must build a wall of integrity. Because the importance of our legislators is unparalleled, the

public owes you consummate respect. You owe the public total fidelity. Your salary should be set by an independent commission. The standard should be a level of pay comparable to those of public servants with similar station and responsibility. The independent commission should be given authority to make this decision. It should be subject to alteration only by affirmative act of two-thirds of the legislature. This decision is no less self-interested than is the drawing of lines for districts and should likewise be so treated.

Ideally, that pay should be adequate and more than is currently extant. But that should be all a legislator receives. Period. No exceptions. No honoraria. None. No travel paid by private sources. None. No gifts outside of immediate family. None. No law practice. None. No personal use of campaign funds. None. All investments in blind trusts. All.

Such an absolute system works small hardships. Perhaps a legislator wants to write a book. Perhaps a group wants to pay his or her way for an educational trip. Perhaps investments are in areas unrelated to the votes of a member. Perhaps. But the bright-line test is warranted. It is clear. It is unmistakable. It is the wall of integrity which tells the world: the work of these people is so special and so important that we will brook no exceptions. They are now "ours." Nobody pays them but the People for whom they work. And it is an exclusive contract.

No employment for two years after leaving the legislature which involves legislative or regulatory (executive) contact for pay. And the same rules go for all legislative staff, for upper executive staff, for members of regulatory agency boards, and high officials.

Enforcement of these standards and other existing laws protecting the basic integrity of our democratic institutions requires a special prosecutor. Such a mechanism must provide for the kind of independence which takes elected prosecutors "off the hook" and which operates by automatic trigger. The early draft of such legislation by Senator Keene[2] lacks such a mechanism and is basically a restatement of the current powers of the Attorney General to prosecute a case or assign it out. The bill draft of Assemblymember Killea[3] is modeled after the current federal Independent Counsel Act and is preferable. It does no good to create an independent system and then wink at noncompliance or defer to an agency which has its own burdens in prosecuting such cases.

The remedies themselves should not be the draconian choice of no sanction or criminal prosecution. A system of civil penalties and injunctive relief should be created to provide a spectrum of response appropriate to the degree and intent of the violation.

I know this hearing focuses on proposals regarding income, honoraria, travel, and gifts, but these issues must be viewed in the context of our elections. In 1988, three incumbents were defeated. In 1986, no incumbent was defeated. Approximately 90 incumbents were running in each election. The turnover from death and retirement far exceeds turnover from electoral defeat. But it is not just the lack of turnover that is the problem. It is the margin. The average incumbent wins by almost three to one over the nearest challenger.

Political scientists ascribe to incumbency a natural 10% advantage. What we have is an incumbency advantage on a far different scale. We have gerrymandered districts without shame. And we have allowed the special interests to take over the financing of our campaigns. Incumbents raise, on average, thirty times the funds as their nearest challenger. Almost all of it comes from the Sacramento PACs. And much of it is collected by incumbents during non-election years when the givers and takers are focused on legislation, not elections. And amounts spent are increasing each election.

Proposition 73, enacted in 1988, is unlikely to change much. Its campaign contribution limits are set by fiscal year, allowing a couple to give $10,000 to each and every senatorial candidate. A single corporation's ten-member board of directors and their spouses could funnel $100,000 to every single candidate running. Political action committees can give more. And those committees are so liberally defined that the limitations imposed are ephemeral. There are no aggregate contribution limits. There are no spending limits of any kind. The security of what is statistically a lifetime job should provide the freedom to ignore all but the merits of bills. But that is not what is happening. Whatever the reality, many legislators seem to run from shadows, to build war chests for a preemptive strike.

There are now 780 registered lobbyists in Sacramento. That is six for each legislator. Ninety-five percent of them represent interests with a direct profit stake in public policy. Although their intensity of interest deserves to be considered in setting public policy, it should not determine that policy. The ultimate corruption of the body politic is to have the state reflect in vector-like fashion the preferences of those organized around an immediate profit stake in public policies. Left out of this equation are critical interests, however you may personally care about them, including the environment, the taxpayer, children, the consumer, the dispossessed, the future.

The answer is a wall of integrity around yourselves in your campaigns as well as afterwards. We contend that to build that wall and keep it secure is your most important task.

Campaign contributions must be meaningfully limited so disproportionate influence based on money contributed is precluded. There must be aggregate limits. There must be a ban on off-year fundraising. The loopholes of Proposition 73 must be filled. Ideally, Assembly terms should be four years rather than two, removing the burden of constant campaigning and making the elections more meaningful.

Most important, there must be public funding of campaigns. It is illogical to argue that taxpayer money should not be spent on campaigns. The $79 billion now being spent translates into over one-half billion dollars for each legislator. The financing of the total election from the general fund, even at high campaign spending levels, would cost much less than one-tenth of one percent of the amount the legislature spends. It is prudent to spend one-tenth of one percent to stimulate the sensible spending of the remaining 99.9% in the public interest.

If for some reason one opposes public funding, what about the Proposition 68 formula of voluntary tax check-offs? What about a 95% tax credit for contributions made to political campaigns?

The point is that under the *Buckley* case,[4] no spending limits are possible without the *quid pro quo* of a fund from which a candidate benefits in order to agree to limitations. Without spending limits and a level playing field, our system is in jeopardy. Without this reform, we do not have an effective democracy.

The basic structure of three-to-one or five-to-one matching contributions, with small contributions from the district yielding the five-to-one match, and with a threshold support of private contributions required, is embodied in Proposition 68, which won voter approval and which is properly the law. It is now before you also in AB 1844.[5]

There is strong movement for initiatives on redistricting, campaign reform, and the compensation questions before you today. That is not the most desirable way of legislating anything. You are locked in. You cannot refine a measure or correct an error. The approach we suggest is to opt for bright-line tests, clear prohibitions, and to delegate to

others decisions you should acknowledge are not best made by you.

The need for you to act does not arise from any dramatic single event, indictments notwithstanding. The real harm is a continuous leak, a bending, a gradual diminution in public confidence in you.

The restoration of meaningful elections and decisionmaking on the merits requires measures which are now sadly out-of-fashion: legislators will have to act against their narrow self-interest. They must endure the prospect of somewhat more competitive elections made possible by their own hand. They would have to reject any source of influence which compromises the fiduciary trust of their constituencies.

Some think these reforms are unrealistic in the world of politics, where status may depend upon being "sophisticated," being a "player," "looking out for number one." One is expected to try to "exert influence" to "increase power and prerogatives," to gain more "appointments," to control more "appropriations," to "get more ink," to enhance "territory," to get "perks."

Some of us believe you are better than that. That you know basic principles of fair elections and excessive special interest influence are at stake. And that you are indeed willing to act against your individual self-interest for a larger purpose."

The reaction to this testimony was both revealing and discouraging. An argument was immediately made that legislators "should be allowed to accept wedding presents if they get married." Several examples of allegedly legitimate presents were cited. And one legislator, considered public-spirited and conscientious, remarked: "You know, you act as if you have been talking to Jerry Brown [who had recently visited Mother Teresa]." The remark was made in a patronizing and dismissive manner with smirks of agreement all around. You see, gentle reader, this is the problem. They didn't get it. They didn't get it then, and you know something? They don't get it now. They haven't a clue.

They have joined the legislator tribe and are vying for advantage and perks with all the alacrity, and common sense, of a middle eastern monarch. What is ironic is that many of them will sacrifice individually. They will serve as legislators at well below market rates of compensation for their alternative services. Many work long hours. Many are honorable men and women doing what they see as work in the highest tradition of public spirit. But when it comes to sacrificing the power or authority of their institution, of subjecting each other to greater electoral competition, of cleansing the legislature *en masse* of corruptive influence—not a chance. The individual sacrifice is personal nobility. The institutional reform is betrayal of the tribe, and an admission that they are not sophisticated players but naive idealists (and hence implicitly weak). One wonders if this tribe realizes how pathetic they appear to those outside its confines.

Well, after that hearing, they did a few things. They enacted implementing legislation to Proposition 112, which limited their embarrassing honoraria, required a one-year waiting period prior to the revolving-door acceptance of lobbyist employment, and actually subjected their conflicts of interest to at least the potential jurisdiction of the FPPC. But don't get too excited. They did not really limit outside income in general; the revolving door still swings rather easily; and the legislature hardly fears the FPPC—whose appropriations it controls. This is no wall of integrity.

The failure of the legislature to act has produced an ethical catastrophe in Sacramento. Three things have combined to produce that result: the first is the little-discussed economic- political background; the second and third are very recent developments. The confluence of all three spells disaster for honest state government. Reviewing them in order:

**1. The growth of horizontal associations and the *Noerr-Pennington* doctrine.** We are now organized horizontally as a society. We used to relate to our clients, our customers, our students—vertically. We were a nation of entrepreneurs and independent tradespersons and farmers. We have moved into a nation of corporate or institutional employees. And we relate to our occupational peers horizontally. So we have created the modern political vehicle of power—the trade association. There are now almost 1,000 of them in Sacramento. And over 1,000 professional full-time lobbyists represent their interests, substantially more than were active when the testimony quoted above was delivered.

The people who employ lobbyists reported spending more than $193 million in the latest two-year period (1989-1990) to influence legislation, a 22% increase over the previous two-year reporting period. The biggest spender was the Western States Petroleum Association representing 50 oil industry companies. Second highest was the California Manufacturers Association. Third was the Association of California Insurance Companies. Fourth was the California Medical Association. The leading political powers in the state are the oil, insurance, medical, trial lawyer, alcohol, tobacco, and manufacturing industries, and the California Teachers Association. These are the same people delivering the campaign contributions. They have access to our legislature and our Governor.

Gentle reader, as an entity advocating policy in Sacramento for twelve years, let us tell you: these are not nice people. They are cynical operators, former staff and legislators, unabashedly out for number one—and using a bastardized version of the "adversary process, everyone has a right to representation" precept as their shallow ethical cover. These entities have veto power over our legislature. Any one of them can stop almost any reform measure. And there are twenty others like them. Left out of this mix are those representing the environment, children, long-range health and safety, any group which is unorganized or dispossessed. Left out as well is any obligation we have to our legatees who succeed us in the millennia to come.

All of this is frightening enough. But we have to add to this unfortunate ethical malaise a structural *coup de gras*. There is a doctrine in antitrust law which is very important to all of us. Under this doctrine, fixing prices collusively is a felony offense. With the rise of the horizontal associations as political powers, one can see the import of such a law. A charge agreed upon by most or all of the grocers or car dealers acts as a privately imposed tax on the consumers of those products. Hence, if any firm agrees on prices through an association, or even with other members of the association (even so few members that very little business is affected), it is a felony offense that even big business worshippers concede is properly prosecuted. And the law makes unlawful not just price fixing itself, but any collusion which *affects* price—for example, an agreement to allocate business, or to restrict supply.

But companion U.S. Supreme Court cases fashioned an exception to the collusion prohibition, termed the *Noerr-Pennington* doctrine.[6] Where money is assessed by a combination of competitors through such an association and is spent for political purposes, *i.e.*, to petition government, collusion is allowed. The full consequences of this policy judgment have not been thought through by the courts or by many policy analysts—but we submit it is a most serious impediment to the basic values of American government: the preservation of an incorruptible and independent state. For it has been interpreted by trade associa-

tions to allow the assessment of unlimited fees for political influence, including campaign contributions and lobbying.

Hence, when the Association of California Insurance Companies met in 1987 to finance its campaigns for and against various insurance initiatives on the 1988 ballot, it simply assessed the membership 1% of the premiums collected by each. An economist will tell you that it just agreed to fix prices 1% higher. The association acted only as the state may act in agreeing to an industry-wide assessment—which is a direct tax-like pass-through to the consumers of that industry. The insurance companies raised *$60 million*, more than the Republican or Democratic parties spent nationally on their 1988 presidential campaigns. And they did it easily. They lost some of their campaigns and won several, but they pushed the poll results significantly in their direction because of the monied advantage they had. And the counterforce provided by Nader and his credibility, and the media attention and citizen interest in the issue, is a regrettably atypical phenomenon. Ironically, even after the victory of Proposition 103, the unlimited resources available to this industry to litigate and delay the implementation of a statute which it opposes is itself testimony to the power of group assessment of fees across an industry.

The point which has not been fully absorbed or discussed by commentators is that this industry could just as well have raised $100 million. Or $200 million. And that other industries so horizontally organized have few financial limitations on these resources. They simply assess what they think it will take. We pay it.

Where is the check here? Where is the balance? Where is the pluralism? Is it to be merely the struggle between such horizontal groupings?

The major checks federally have been prohibitions on corporate contributions, and contribution limitations. California has had contribution limitations. They were not nearly as significant as Proposition 68's proposed $25,000 aggregate contribution limitation on all political contributions by a single PAC—the most badly needed reform currently absent. But it has been at least a $1,000 limitation per person and $2,500 per committee in contributions to each candidate for legislative and other statewide offices. At least there was some limitation. Or so we thought. Which brings us to point number two.

**2. The removal of all campaign contribution limitations by 1990 court decisions.** Two separate propositions were enacted in 1988, both of which provided for state campaign contribution limitations: Propositions 68 and 73.[7] Proposition 73 was no beauty. Written by state senators Montoya (since convicted of extortion and bribery), Johnson, and Kopp, this version limited contributors to $1,000 or $2,500 per *fiscal year.* Since a state senator has a four-year term, five fiscal years fall between terms. He or she would then collect the maximum from PAC friends each year. The actual limit would be $5,000 from individuals and $12,500 from committees. His or her challenger, appearing during the election year, would have one-fifth the incumbent's effective limit. U.S. District Court Judge Karlton saw through this self-serving system and quite properly declared it to be a device ensuring incumbency advantage and violative of basic first amendment/equal protection standards.[8]

The court pointedly mentioned that the method of limitation of Proposition 68 (which was enacted in the very same election) *did* pass muster. That initiative imposed a similar contribution limit by *election,* not by fiscal year. It also included a series of important reforms establishing spending limitations, a voluntary tax form check-off to fund a five-to-one match for any small local contribution to a qualifying candidate, and number of meaningful conflict of interest and other standards.

However, the California Supreme Court, in a baffling decision only five weeks later, declared that since Propositions 68 (pertaining only to the state legislative elections) and 73 (pertaining to all elections but confined to only three major provisions) both passed but occupied the same general subject matter, it would strike the whole of the proposition which passed with the fewer votes (Proposition 68).[9] In other words, the court, in its finite wisdom, found a proposition which had been almost entirely thrown out as unconstitutional to be in conflict with and therefore totally cancel another enactment which passed and which has very few comparable provisions. In oral argument, the court made clear that it felt it is just too complicated a task to take two measures and to figure out provision by provision which conflicts with which and what is left. Actually, this was a rather easy task in this case—but the issue is: *that is the job of the court—that is why we have a court system,* to do just this task in just this situation. They punted. And they punted backwards.

The end result of these two decisions is remarkable. **There are now no contribution limitations whatever on the amounts PACs may contribute to state political candidates.** We have not heard about this fact from the media. It has not been reported. We have mentioned this to some of our leading journalists and their reactions are interesting: "Really? That can't be right, can it? Are you sure?" Followed by befuddlement, confusion, and dismissal as they scramble for the next story about a major scandal. They have trouble absorbing the obvious: *this* is the major scandal. *Noerr-Pennington* combined with this fact is the Teapot Dome, Watergate, Iran-Contra, and savings and loan scandals all wrapped up together and squared...and then squared again. Too big. They didn't get it.

**3. The passage of a term limitation provision, requiring huge campaign treasuries to remain in political office.** Well, now we come to the *piece de resistance.* The voters got mad. They got even. In 1990, they rejected the sensible and balanced reform, Proposition 131, and went with the demagogic Proposition 140. Proposition 140's term limitations are too short. After six years, you are expelled from the Assembly; senators are restricted to eight years. And the initiative cut legislative staffs by 40%. Those of us who advocate policy in Sacramento can tell you that our dire predictions about these two elements are now coming to pass. The legislature did not cut their district office staffs—these people help them get elected. They cut their policy staffs the most. They now either refuse to carry complex or important legislation, or they openly rely on the staffs of the PACs to do all of the drafting and negotiating, *i.e.*, legislating. Both of these regrettable results are now occurring.

In addition, legislators now have to make some interesting decisions. They might have to get out of politics, in which case many will take jobs with the PACs; thus, they will spend the six or eight years they have left easing the way with their future employers. Or they will stay in political office. If that is their choice, they will have to accumulate a huge political campaign war chest. For they will have to challenge an incumbent in the other house after six or eight years. Those who are newly elected will have to face such challenges and will have to respond with massive campaign treasuries in kind. Campaign contribution needs and the good graces of the PACs now assume premium value.

Friends, we have trouble in River City.

The confluence of the three factors

we have outlined above is not threatening the sky with collapse. It has fallen. It is around our ankles right now. One interesting question is: where is the media? Why is none of this being discussed? Well, this issue has nothing to do with a celebrity. It is not a petty irony. It involves no individualized human drama of life and death. There is no Barbara Walters to feign concern and solicit tears. There is only institutional collapse, incentives for corruption in the here and now, day after day, without drama, as a rule and not an exception. The serious corruption doesn't count because *it's too prevalent; it is the rule, not the unusual.* The media reports on anti-reality—the exceptions, the unexpected little hypocrisies and twists. A million children can starve, but unless one starves locally—in an unusual, photogenic, and heart-rending, Cinderella-story way, with either pathos or happy ending and uplifting shared moment, forget it. But we digress, feeling the better for it.

Well, what do we do now? We have to reform the initiative system. We have to establish public financing of campaigns—I'm sorry, my friend, I hate the thought of funding those campaigns too, but it's us or the special interests. And those people are spending $79 billion of our money...for one-tenth of one percent, I vote that *we* buy them. We can't afford *not* to. And we have to have that wall of integrity. An absolute wall that is a bright line for all of us.

We *want* to admire these officials. We entrust them with so much. Why don't they understand that we want them above reproach? Mother Teresa? We should be so lucky. No, we don't ask for that. But we *do* ask that she be accepted as a rather worthy model to admire. To answer the legislators who laughed at the notion that they should be expected to be Mother Teresas: the sadness here is not that you have failed to emulate such an example, but that you reject it as a standard for personal aspiration, *that* you laugh at it. The most tragic consequence of your cynicism and acceptance of the incremental compromises leading you to where you are today is that you still do not understand how it happened, what it means, or how to extricate yourself. You have both led us down, and let us down.

## FOOTNOTES

1. For detailed background information on the role of the California legislature in the collapse of the savings and loan industry, *see* Oshiro, *Partners in Crime: California's Role in the $335 Billion Savings & Loan Heist*, 10:4 **Cal. Reg. L. Rep.** 1 (Fall 1990).

2. SB 1355 (Keene), introduced in 1989, died in the Senate in January 1990. The substance of the bill was included in Proposition 131, Attorney General John Van de Kamp's "Clean Government Initiative," which was defeated at the November 1990 election.

3. AB 410 (Killea), introduced in 1989, failed passage in the Assembly Public Safety Committee in early 1990. Lucy Killea is now a state senator.

4. *Buckley v. Valeo*, 424 U.S. 1, 96 S.Ct. 612, 46 L.Ed.2d 659 (1976).

5. AB 1844 (Vasconcellos), introduced in 1989, died in committee shortly before the end of the 1989-90 session.

6. The name of the doctrine derives from two U.S. Supreme Court cases: *Eastern Railroad Presidents Conference v. Noerr Motor Freight, Inc.*, 365 U.S. 127, 81 S.Ct. 523, 5 L.Ed.2d 464 (1961); and *United Mine Workers v. Pennington*, 381 U.S. 657, 85 S.Ct. 1585, 14 L.Ed.2d 626 (1965).

7. For complete background information on Propositions 68 and 73, *see* Zelman and Johnson, *1988: The Year of Decision for Campaign Finance Reform and California Democracy*, 8:2 **Cal. Reg. L. Rep.** 1 (Spring 1988).

8. *Service Employees Int'l Union v. Fair Political Practices Commission*, 747 F.Supp. 580 (E.D. Cal. 1990).

9. *Taxpayers to Limit Campaign Spending v. Fair Political Practices Commission*, 51 Cal. 3d 144 (1990).