

Washington Summit on Judicial Selection and Judicial Independence
November 11, 2005

Summary of Conclusions: workshops on campaign finance reform

A. Consensus

- Virtually all agreed that the current system has major problems. (At least one participant favored a ban on all limits on campaign funding.)
- In three of the four groups the majority favored imposing contribution limits. In two of the three favoring limits, that choice was mainly pragmatic, feeling that achieving more significant reform through a preferred commission/appointment system will be a challenging proposition.

B. Limitations of setting campaign finance limits

- We currently have an appointment system in place now. Campaign finance limits will only affect elections of a minority of the bench and will be negated through special interest soft money/independent expenditures. Those special interest funding sources should be made known to voters through good disclosure laws and a watchful media.
- Public financing of judicial elections, while perhaps desirable, is unlikely.
- Contribution limits necessitate a grassroots campaign, which are costly and require more time off the bench.
- Minority candidates may be disadvantaged by reduced ability to reach a broad base; minorities appointed to the bench draw opponents more often than non-minority appointees.
- There is no groundswell of public opinion in favor of change. Judges have opposed previous bills based on no family exception. Change may be seen as a partisan issue.

C. Advantages of setting campaign finance limits

- Reduces the appearance of bias or partiality.
- Reduces “arms race” and strong potential for misinformation to voters.
- An effort to level the playing field; unless a big player cannot succeed.
- Abuses in states like Texas and Alabama threaten Washington.
- Limits now apply to other elective positions; equity argument.
- Reasonable limits are hard to argue against.

D. Other campaign reform issues

- Voters require much better voter education, including on the benchmarks of a good judge. It is unclear what campaign speech limitations there are under Canon 7 as a result of White and White II.
- Current campaign rules require judges to sign contributor reports and swear to their accuracy, though judicial candidates are not supposed to know who contributed and in what amounts.

- **Should large campaign contributions require the successful candidate's recusal from matters involving the contributor?**

E. Strategic Suggestions

- **The Supreme Court is more of a target for partisan campaign activity. Could begin by applying limitations only to Supreme Court races**
- **Consider allowing family contributions as an exception to limits (though this benefits wealthy candidates)**