

“LAWS FOR SALE”

Former U. S. Sen. Ernest F. “Fritz” Hollings

MARCH 12, 2010 -- Matt Bai’s article in *The New York Times Magazine* is entitled, “Laws for Sale.” This is exactly what we in the Congress tried to prevent in 1971 and in 1974 when we limited spending in political campaigns. Maurice Stans, Richard Nixon’s fundraiser in the 1968 presidential race, was threatening and ingenious. All kinds of cash and money were flowing into the campaign that shocked both Republicans and Democrats. Stans made it appear that public office was up for sale.

So in 1971 by a vote of 88-2, we limited spending in federal campaigns. All contributions of \$100 or more had to be reported, and even the amount of money a candidate gave his or her own campaign was strictly limited. We included a check-off system for the taxpayers so they could earmark \$1.00 of their taxes to a presidential campaign fund. Our concern was that without government funding only the wealthy could afford to run an expensive presidential race.

In 1972, Stans pulled out all stops to amass a war chest for Nixon’s re-election. For example, Stans advised the South Carolina Textile Manufacturers Association that their “fair share” was \$350,000. Ten of them agreed to cough up \$35,000 apiece. So, in 1974, by a vote of 60-16, we again limited spending in federal campaigns. Under a formula using voting age population, Senator Thurmond and I were limited to \$336,904. This was thirty-five years ago. Fast forward for inflation and the increase in population, and a campaign today in South Carolina would be limited to \$3 million or \$4 million. This would give the Senator time to do his work rather than fundraise.

In my seventh time to be elected to the United States Senate in 1998, I had to raise \$8.5 million to prevail. Eight and a half million amounts to thirty thousand a week each week, every week, for six years. The task is not to start raising money the year ahead of election, but each year for six years. You have to travel the country as well as the state, and it’s impossible to raise enough on your own. You have to depend on the various political party or special interest committees.

Of course, the Democratic Senatorial Campaign Committee assisted in my 1998 campaign. To receive this help, senators fundraise during the six years for the Committee so that they can get its help at re-election time. This starts the partisanship. When you learn a Republican senator attended a fundraiser against you, you don’t want to have anything to do with that senator. Today, Senatorial Campaign Committees, Republican and Democrat, have injected themselves into the local campaign to control the Senate, solidifying the partisanship.

The United States Supreme Court, in the non-decision decision of *Buckley vs. Valeo*, set aside the 1974 Act, and amended James Madison’s free speech amendment to the Constitution. Madison never contemplated that “free speech” would be measured by money. The Court found the most expensive speech in politics (TV) “free.” The Court limited the “free speech” of contributors, but found no limits on the “free speech” of candidates. This was exactly the opposite of Congressional intent in the ’74 Act. Senator Russell Long included the presidential campaign fund in the 1974 Act so “every mother’s son could hope to be president” – not just the rich.

The *Buckley* opinion was *per curiam*. Justice Stevens did not participate, and none of the eight remaining members of the Supreme Court wanted to put his name on the opinion. Five of the eight justices only concurred with dissenting opinions. For three decades Congress has engaged in every attempt to correct the Court's corruption of federal elections – restricting soft money, public financing, etc. I have backed McCain-Feingold legislation and public financing.

But Congress is not about to vote to start a new spending program for politicians. Twenty years ago, I proposed a Joint Resolution to amend the Constitution authorizing Congress to regulate and control spending in Federal campaigns. Even the Governors' Conference asked that my amendment include state elections, which it did. My amendment received a bi-partisan majority vote in 1988 and 1993, but not the necessary 67 or 2/3rd majority vote necessary for a Joint Resolution. I lost subsequent attempts in 1995, 1997, 2000 and 2001.

By the turn of the century, the cancer in politics had metastasized so that in my last three years in the Senate, terminating in 2005, no Joint Resolution was called for consideration. The senators knew they had an advantage with a six-year office amidst the lobbyists and fundraising and didn't want to be caught voting against a Resolution limiting spending. Now the Supreme Court has authorized Corporate America in *Citizens United* to control elections, and all the suggested remedies continue to bait the Supreme Court.

Congress needs to return to its roots of 1971 and 1974. A simple Constitutional amendment "authorizing Congress to regulate or control spending in Federal elections" will make whatever Congressional Act count. The Congress can allow corporations to participate or not; permit public financing or not; limit the time for campaigns or not.

The Majority Leader, Mike Mansfield, used to have a vote at 9:00 o'clock every Monday morning in the United States Senate so that he could be guaranteed a quorum to do business. And he kept us in session until 5:00 o'clock Friday.

Today, Mondays and Fridays are set aside for money raising somewhere in the country, with fundraisers in Washington on Tuesday, Wednesday and Thursday. Many times we'd vote late into the night on Thursday so that we could catch an early plane for a Friday luncheon fundraiser in California. We raise money in early January. Lincoln's and Washington's birthdays have been merged for a week's break to fundraise in February. We have a St. Patrick's Day break in March, Easter in April, Memorial Day in May, and Fourth of July in July – all to fundraise. We have the month of August off, supposedly to spend time with your children, but you had better be out fundraising. There's a Labor Day break to fundraise in September, Columbus Day break in October, and again at Thanksgiving time.

When I left the Senate in 2005, we were canceling policy committee lunches on Thursdays so that we could go to the Democratic Headquarters for two hours to make money calls. It never stops. Money is in mind every waking moment. A Senator can't see everyone, but no fundraiser is ever left waiting. Today, United States Senators are no longer chosen by their states. Senator Scott Brown was an "also ran" weeks before his election, but \$14 million in last-minute contributions, mostly from out of state, put him over the top. Now with corporations allowed to contribute and campaign against you with unlimited funds, the Senator must go along with the corporate interest or forget about re-election.

All these restrictions, like requiring the corporate CEO to put his picture on the ad is

nonsense. Corporations will just contribute to some tax exempt, like “Americans for Tax Reform.” This entity receives written pledges to be against all taxes and never pay the government’s bill. I have constantly refused to make such a pledge, but a vote against Exxon Mobil on energy would be featured in my re-election by Americans for Tax Reform as me being a liberal tax and spender.

I just saw Donald Trump on “Morning Joe,” and he said China was making everything and “we weren’t making anything anymore.” Trump said he had friends in China, and they thought “we had the dumbest bunch of politicians in Congress;” that China was shipping everything over here tax free and that we ought to put a 50% tax on everything coming in from China. Donald Trump is on target but misses the mark. All coming in from China is not from China but from Corporate America’s off-shored production.

And Congress is not dumb. It’s smart. It’s doing exactly what Corporate America or the business leadership of the United States wants. Wall Street, the big banks, Corporate America, the United States Chamber of Commerce, the business leadership of the United States, want Congress to do nothing to stop the profits from off-shoring jobs or trade.

President George W. Bush borrowed and stimulated the economy \$5 trillion over eight years, and households borrowed and stimulated another \$7 trillion. By the time Paulson, the Federal Reserve, and Obama

stimulated, stimulation was spent; and the only way to save and stimulate jobs is to engage in the trade war, enforce our trade laws, and replace the corporate income tax with a 3% VAT. These are the steps rather than the 50% tariff. You cannot stop off-shoring. It has to be limited with a measured industrial policy by the President and Congress.

But the President and Congress is zeroed in on the money for re-election. Wall Street and Corporate America are against jobs or producing anything in the United States because it makes a bigger profit off-shoring. Wall Street and Corporate America furnish the contributions, so you please the business leadership by being for “free trade” and doing nothing. Who’s dumb is the media. Ask Joe Scarborough. He’ll tell you he’s for “free trade.” Ask my hometown newspaper. It editorializes for “free trade” -- *The New York Times*, *The Washington Post*, all for “free trade.” Even the brilliant writer, Tom Friedman, warns against protectionism.

But the world is still round and the people are smart. They know they are working their heads off, but the country is going out of business. Hence, the headline in *The Post and Courier* (3/11/10): “Poll Reveals a Frustrated America.” When the people get the message from the media that globalization is nothing more than a trade war with production looking for a cheaper country to produce and the President and Congress are keeping us AWOL in this war, that’s when we will start creating jobs and protecting our economy.

Senator Hollings of South Carolina served 38 years in the United States Senate, and for many years was Chairman of the Commerce, Space, Science & Transportation Committee. He is the author of the recently published book, [Making Government Work](#) (University of South Carolina Press, 2008).