

Daily Journal

www.dailyjournal.com

MONDAY, MAY 6, 2013

LITIGATION

Prop. C a step in the right direction

By Timothy D. Reuben

Proposition C on the ballot for the May 21 Los Angeles municipal election seeks to adopt a resolution in support of limits on political campaign spending, stating that “corporations should not have the constitutional rights of human beings.” It is a voter referendum that seeks to “instruct Los Angeles elected officials and area legislative representatives to promote that policy through amendments to the United States Constitution.” On April 29, the Los Angeles Times published an editorial recommending that voters reject it, describing Prop. C as a “muddled message” and characterizing it as “essentially a primal scream about the role of corporate (and other) money in politics.” While Prop. C is to some extent a “primal scream,” much of the LA Times’ analysis itself is a bit muddled, and its recommendation is just plain wrong: Prop. C should be passed. Simply put, there is too much money in politics and the massive expenditures by corporate and other special interest groups (yes, including unions) have perverted the process, such that the U.S. Senate does not even have the backbone to pass a modest gun bill. Only through this and other efforts to put pressure on both our local and national politicians will anything improve.

The first criticism of the LA Times is that California politicians would not be “bound” by Prop. C, increasing the odds that “it would most likely have little or no effect.” Obviously this conclusion is rather cynical — that none of our elected officials would listen to the electorate. But perhaps the LA Times is correct — our politicians don’t really care if the voters speak and ask for change — it will be business as usual — so don’t bother communicating the need for change, since our representatives will only ignore the message.

Perhaps a “primal scream” is just what we need to encourage a movement towards a genuine fix of our political institutions.

Yet even if this is true, so what? Only by communicating that there is popular support for a change to the political process will anything ultimately be accomplished. Prop. C does not mandate new law or purport to rewrite the Constitution; rather, it is a more modest and conservative approach — start by telling our government officials what is needed.

Rather than attempt to actually put into effect the actual changes necessary, Prop. C communicates that the electorate is sufficiently disgusted with the money in politics, that the process and indeed

the Constitution must change to improve the effectiveness of our representatives, and that we stop — as President Barack Obama commented — lurching from one political disaster to the next. And what is wrong with encouraging Los Angeles politicians to act, without tying their hands in doing so with some hastily written language? Many propositions are mandatory and historically have been written by special interests, sometimes with disastrous consequences. Prop. C does not do that; it seeks to communicate a policy and encourage a political grass roots swell to combat the business as usual expenditure of massive sums that influence — and perhaps dominate — our political process.

The second criticism is that Prop. C is vague. But that is a benefit — the proposition process is not a good place for the “disciplined and careful” process of amending the Constitution. The LA Times is correct that any such changes to the First Amendment or any other amendment to the Constitution must be carefully thought out by our best and brightest. Prop. C does not presume to do that — rather it provides a clear message that money is now making it impossible for our political institutions to work fairly and effectively.

In his book, “Republic Lost: How Money Corrupts Politics— and a Plan To Stop It,” Harvard

Law Professor Lawrence Lessig describes the systemic influence of money in politics and how the political process has been subverted by the legally allowed influx of money, often protected by the First Amendment. Many others call for publicly funded campaigns and an end to private financing by the richest in our society. Certainly all these issues must be considered in light of our First Amendment rights, and to the extent that solutions require amending that hallowed amendment or any other portion of the Constitution, these approaches should be embraced, not shied away from like the LA Times recommends. Perhaps a “primal scream” is just what we need to encourage a movement towards a genuine fix of our political institutions. Do not follow the LA Times, and instead, summon a primal scream at our elected officials, scream loudly to let them know that the money in our political system has sadly taken us very far from a government of the people, by the people and for the people.



TIMOTHY D. REUBEN
Reuben Raucher & Blum

Timothy D. Reuben is the founding principal of Reuben Raucher & Blum, a litigation boutique. He can be reached at treuben@rrbatorneys.com.