

In the

ORIGINAL

Supreme Court of the United States

CITIZENS AGAINST RENT CONTROL/
COALITION FOR FAIR HOUSING, ET AL.,

Appellants

v.

CITY OF BERKELEY, CALIFORNIA, ET AL.

No. 80-737

Washington, D. C.

October 14, 1981

Pages 1 thru 47

ALDERSON  **REPORTING**

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3 CITIZENS AGAINST RENT CONTROL/ :
COALITION FOR FAIR HOUSING, ET AL., :
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Appellants :
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v. :
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No. 80-737

Washington, D.C.

Wednesday, October 14, 1981

The above-entitled matter came on for oral argument
Supreme Court of the United States at 10:00
m.

APPEARANCES:

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NATALIE E. WEST, ESQ., City Attorney, 2180 Milvia Street, 5th Floor, Berkeley, California 94704; on behalf of the Appellees.

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1

P R O C E E D I N G S

2

CHIEF JUSTICE BURGER: We will hear oral arguments
3 first this morning in Citizens Against Rent
4 Control/Coalition against the City of Berkeley. Mr.
5 Parrinello, you may proceed whenever you're ready.

6

ORAL ARGUMENT OF JAMES R. PARRINELLO, ESQ.

7

ON BEHALF OF THE APPELLANTS

8

MR. PARRINELLO: Mr. Chief Justice and may it
9 please the Court, the question presented by this case is
10 whether limits on contributions to ballot measure campaign
11 committees violate the First Amendment guarantees of speech
12 and association.

13

Berkeley law limits to \$250 the amount that a
14 citizen may contribute to support or oppose a ballot
15 measure. This case arose out of a 1977 Berkeley election
16 where voters were asked to accept or reject a proposal which
17 would have enacted rent control in the city of Berkeley.

18

Groups of citizens associated together to oppose
19 the rent control ballot measure. Under Berkeley law, that
20 citizen association was deemed to be a campaign committee.
21 The committee solicited and received contributions in excess
22 of \$250.00. Shortly before the election, the city decided
23 that those contributions violated the campaign contribution
24 limit, and it ordered the committee to immediately forfeit
25 the excess funds to the city treasury.

1 Believing that the forfeiture would impair its
2 ability to communicate its message to the electorate prior
3 to election day, the committee and its supporters filed suit
4 and sought and obtained preliminary injunctive relief in the
5 superior court, and used the additional funds to communicate
6 its message to the voters prior to the election.

7 Thereafter, the committee moved for and obtained
8 summary judgment in the superior court, which held that the
9 campaign contribution limit violated the First Amendment.

10 The California Court of Appeals, by a vote of
11 three judges to none, affirmed the summary judgment. The
12 California Supreme Court, by a vote of four judges to three,
13 reversed, splitting on the constitutional issue.

14 The majority opinion of the California Supreme
15 Court failed to reconcile itself with, or even to recognize,
16 a prior decision of the United States Court of Appeals for
17 the Fifth Circuit, which struck down virtually identical
18 ballot measure contribution limits in the state of Florida.
19 That unanimous opinion of the Fifth Circuit, entitled Let's
20 Help Florida v. McCrary, is now pending before this Court.

21 It is important to emphasize that this case
22 involves ballot measure campaigns and ballot measure
23 campaign committees. It does not involve candidate
24 campaigns for public office.

25 A limitation on the amount that citizens may

1 contribute to a ballot measure campaign committee
2 simultaneously affects the exercise of fundamental First
3 Amendment rights in a number of ways. The effects can best
4 be viewed as two sides of the same coin.

5 On the one hand, ballot measure contribution
6 limits impair the ability of citizens to associate together,
7 to communicate their message to the voters as effectively as
8 possible on an issue of public importance. On the other
9 hand, these limits under attack here deprive the public of
10 vitally needed information and restrict their access to the
11 marketplace of ideas at the time when they need it most,
12 when they are being asked to decide issues for themselves.

13 The sole and only purpose of a ballot measure
14 contribution is to purchase or enhance communication of the
15 message to the voters. The sole and only purpose of a
16 limitation on ballot measure contributions to limit or to
17 restrict that vital communication.

18 QUESTION: How do you distinguish your case from
19 the First National Bank v. Bellotti?

20 MR. PARRINELLO: Your Honor, I believe that in our
21 case, it's very similar to First National Bank of Boston v.
22 Bellotti because there the court held that in the context of
23 a ballot measure campaign, there is no legitimate
24 governmental interest to support restrictions on First
25 Amendment rights in the form of campaign spending.

1 If anything, the restrictions here are more
2 onerous than the restrictions in Bellotti because they
3 affect the rights of citizens or national persons as well as
4 the rights of corporations.

5 QUESTION: Counsel, would your argument be the
6 same if the limits were much higher; for instance, \$5000
7 instead of \$250?

8 MR. PARRINELLO: Yes, it would, Your Honor.
9 Justice O'Connor, the principal reason that the argument
10 would be the same is that in the context of a ballot measure
11 campaign, there's no legitimate compelling governmental
12 interest to support any restriction on the citizen's ability
13 to communicate.

14 In the context of a ballot measure campaign, a
15 proposal embodied in such a measure, in such a ballot
16 measure, may target any number of citizens' rights. And the
17 ability of citizens to communicate their ideas with respect
18 to a ballot measure is important to the public's right to
19 know.

20 It seems to us that there is no legitimate
21 governmental interest to be supported.

22 QUESTION: Well, is it so much the public's right
23 to know as it is their right to express what they think?

24 MR. PARRINELLO: I believe it's both of those
25 rights, Mr. Chief Justice.

1 QUESTION: Even if it doesn't communicate very
2 much, your position would be it's still a right, even if
3 they present such a muddled message that no one gets it.

4 MR. PARRINELLO: That's absolutely correct, we
5 agree with that.

6 QUESTION: Does the state grant any quid quo pro
7 like limited liability as they did in the case of First
8 National Bank of Boston v. Bellotti here? Is the liability
9 of members of the CARC limited in the way that the members
10 of a corporation are?

11 MR. PARRINELLO: Not that I am aware of, Mr.
12 Justice Rehnquist.

13 QUESTION: They would be liable for acts of their
14 agents and for the same, just as an individual, and they
15 would not have corporate immunity.

16 MR. PARRINELLO: A corporation in California?

17 QUESTION: No, CARC, or your Citizens Against Rent
18 Control.

19 QUESTION: They would be responsible for the acts
20 of the association, that's correct. Although it would
21 frankly be unlikely that they would be held responsible for
22 such acts.

23 QUESTION: But that's as a matter of likelihood of
24 the acts taking place, rather than any principle of law that
25 insulates them from acts of individuals.

1 MR. PARRINELLO: I believe that's correct.

2 The purpose of a ballot measure campaign committee
3 is to express the community of interest or the joint
4 political beliefs of the contributors or association
5 members. In today's society, as this Court has noted,
6 speech or communication costs money, and it is the pooling
7 of individual resources in the form of campaign
8 contributions to a ballot measure committee that enhances
9 the effectiveness of that communication.

10 Ballot measures are often complex and post complex
11 issues, which if enacted will have effects that are unknown
12 to the average voter, or are difficult for the average voter
13 to perceive. These effects are best ascertained by
14 research, which is best purchased by committees which have
15 the ability to conduct that research through the resources
16 gained by the pooling of their contributors' contributions.

17 The committee then communicates to the voters the
18 results of that research, together with data, facts,
19 opinions and reasoning of its contributors for a single
20 purpose; to advocate the passage or the rejection of a
21 ballot measure. These communications in today's society
22 cost money; they take the form of mailings, newspaper
23 advertisements, television or other media advertising.

24 This ballot measure contribution limit, by
25 restraining that form of communication, imposes substantial

1 restraints upon the exercise of First Amendment rights.
2 Ballot measures often deal with issues and ask the voter to
3 decide issues which affect the property, private property
4 rights, which affect the community in which we live.
5 Indeed, these types of ballot measures often touch people's
6 lives directly.

7 The ballot measure process is a form of direct
8 democracy. It is where the citizens decide for themselves
9 issues of public importance. Citizens in this form of
10 democracy act as legislators, but they do not have the
11 resources available to them that legislators have to
12 determine whether or not to approve or reject certain
13 proposed laws, because they do not have legislative staff
14 and staff expertise.

15 It is particularly in the context of a ballot
16 measure campaign where the citizens have to decide important
17 issues for themselves that it is important for them to have
18 free access to all competing points of views. Any
19 restriction on that access to information cannot be
20 justified, particularly in the context of a ballot measure
21 campaign where First Amendment rights deserve perhaps the
22 greatest protection.

23 Ballot measures are inanimate. Unlike a
24 candidate, they have no voice and they have no personality.
25 As a result, ballot measures often suffer from low

1 visibility. In this context, a ballot measure campaign
2 committee is the agent and voice of its contributors and
3 members for a single purpose; to communicate a message to
4 the voters to vote for or against the proposal contained in
5 the ballot measure.

6 The City of Berkeley argues that even though
7 citizens may be limited by this contribution limit -- that's
8 \$250.00 -- that those same citizens may spend money as much
9 as they desire to communicate their views, so long as the
10 citizens spend that money independently of all others. But
11 it is not what First Amendment rights Berkeley has allowed
12 the citizens to continue to exercise; it is what they have
13 taken away. And the right that a contribution limit takes
14 away is perhaps the only effective means that most citizens
15 have to participate in the ballot measure campaign process.
16 That is the right to contribute.

17 A simple example will illustrate this point. The
18 largest single contributor to the committee here contributed
19 \$5000. That \$5000, if spent independently, would have been
20 able to purchase less than a third, approximately a third,
21 of a single mailing to all the voters in the City of
22 Berkeley at the time of this 1977 election. Because as the
23 record indicates, a single mailing to all Berkeley
24 registered voters at the time of this election cost almost
25 \$13,000.

1 So what we are saying is that the exercise of this
2 right to independently campaign or to have unlimited
3 expenditures is a right that only the very wealthy citizens
4 can enjoy. And indeed, there are very few other citizens
5 who even though they possess that right can exercise it.

6 I would like to, by way of example, show two other
7 effects of this ballot measure contribution limit.

8 Such a limit would prohibit two Berkeley citizens
9 who share a common view for or against a ballot measure from
10 spending \$300 each to purchase a newspaper ad, where each of
11 those two citizens advocates the passage or defeat of a
12 ballot measure. The limit would prohibit 20 citizens from
13 spending \$600 each to purchase the postage and writing
14 materials and printing materials necessary for those 20
15 citizens to send the informational pamphlet to Berkeley
16 voters, communicating their joint interest in opposing or
17 supporting a ballot measure.

18 The net effect and purpose, the net effect of a
19 contribution limit such as this will ultimately frustrate
20 people from participating in the political process because
21 it takes away from them the only effective means that they
22 have to participate, particularly in the context of a ballot
23 measure.

24 QUESTION: Of course, a lot of your arguments,
25 counsel, are equally applicable to candidate campaigns. But

1 you're stressing really the ballot measures.

2 MR. PARRINELLO: That's correct, Your Honor, our
3 arguments are applicable to candidate campaigns. The
4 distinction between the ballot measure campaign and the
5 candidate campaign is that there is no governmental interest
6 of vital importance that is served by a ballot measure
7 contribution limit; no logical connection between a ballot
8 measure contribution and its target -- the restriction of
9 the flow of communication to the voters -- and any
10 compelling governmental interest. As this Court has
11 indicated in Buckley, there is such a nexus or a compelling
12 governmental interest with respect to candidate contribution
13 limits.

14 QUESTION: Well, the California Supreme Court
15 purported to find a compelling interest, or several of
16 them. What do you have to say to their views?

17 MR. PARRINELLO: Justice White, the California
18 Supreme Court's findings of compelling interests were, in
19 sum, I believe two, which is that the government, the
20 contribution limit sustains the integrity or promotes the
21 integrity of the ballot measure process and promotes an
22 alert citizenry.

23 QUESTION: And avoids the appearance of money
24 dominating the campaign. That's the same -- the other side
25 of the coin.

1 MR. PARRINELLO: Correct. The other side of that
2 coin.

3 With respect to the appearance of money dominating
4 the campaign, all the California Supreme Court and the
5 Appellees are saying is that -- to recognize what this Court
6 has recognized, which is that money purchases communication
7 or enhances communication in the context of an election
8 campaign. And that communication may be persuasive upon the
9 voters. Indeed, that's its purpose.

10 But as this Court has pointed out, the fact that
11 speech or communication may be persuasive is not a reason to
12 suppress it. And that is something that the California --

13 QUESTION: You're just saying that the First
14 Amendment and our cases just foreclose using those interests
15 as a compelling interest.

16 MR. PARRINELLO: I believe that's correct.

17 QUESTION: Is that what you think our cases -- ?

18 MR. PARRINELLO: I believe that's what the cases
19 say. That's our reading of the cases.

20 But more importantly, there is no logical
21 connection between a ballot measure contribution limit here
22 whose only target is to restrict speech, and any
23 governmental interest including the promotion of the
24 integrity of the electoral process. Because as this Court
25 pointed out in its decision in Bellotti, particularly in the

1 context of the citizens making their own decision in a
2 referendum or a ballot measure campaign, that is where the
3 citizens need the access, the greatest possible access, to
4 conflicting points of view. And rather than promoting the
5 integrity of the electoral process, what a ballot measure
6 contribution limit does by restricting speech is to
7 denigrate or diminish the integrity of that process
8 ultimately.

9 The same can be said with respect to the Supreme
10 Court's determination, the California Supreme Court's
11 determination, of a compelling interest in maintaining an
12 alert citizenry. It's illogical to say that by restricting
13 information and communication on a vital issue of public
14 importance that that promotes an alert citizenry. How can
15 the deprivation of information to the citizens promote and
16 inform the alert citizenry? We believe that there is no
17 logical connection between a ballot measure contribution
18 limit, whose only effect is to reduce speech, and any
19 governmental interest.

20 QUESTION: Of course, Bellotti wasn't a
21 contribution case, was it?

22 MR. PARRINELLO: Bellotti, the issue posed in
23 Bellotti was whether or not contributions or expenditures
24 could be prohibited completely.

25 QUESTION: Well, what was involved was

1 expenditures, wasn't it?

2 MR. PARRINELLO: I believe the issue was
3 contributions or expenditures. But whether I'm right or
4 wrong in my recollection --

5 QUESTION: The big argument in the case was
6 whether business entities could spend money on matters in
7 which their property interests or corporate interests
8 weren't directly involved. And certainly, the Berkeley
9 ordinance doesn't prevent expenditures by corporations or
10 individuals in any amount, does it?

11 MR. PARRINELLO: No, it doesn't prevent
12 expenditures, but what it does is to limit the ability of
13 citizens to associate together by the pooling of their
14 resources.

15 QUESTION: I understand that, but it just isn't
16 covered by Bellotti.

17 MR. PARRINELLO: Our view is that the principles
18 in Bellotti, while perhaps not on all fours, do cover this
19 case in that in Bellotti, the court dealt with a restriction
20 on spending in the context of a ballot measure campaign, and
21 this case involves a ballot measure campaign as well. I
22 agree that it's not all fours with Bellotti, but we believe
23 the principles of Bellotti.

24 It is important to distinguish this case between
25 -- to distinguish ballot measure contributions and

1 contributions to candidate campaigns. A limitation on a
2 contribution to a candidate prevents corruption, prevents
3 the contributor from gaining or appearing to gain undue
4 influence over the candidate. In effect, money buys
5 allegiance, and large contributions have the threat to
6 purchase the allegiance or to purchase undue influence over
7 a particular candidate, and to cause that candidate, once he
8 or she assumes public office, to elevate the interests of
9 the large contributor above the interests of the candidate's
10 constituency, and thereby subvert the will of the people.

11 QUESTION: Well, could you tell me whether this
12 committee, when it received money, could independently
13 determine how to spend it?

14 MR. PARRINELLO: Your Honor, under California law,
15 the committee is in a fiduciary or trustee position with its
16 contributors so that it can only spend the money for the
17 purpose of advocating the passage or defeat of the ballot
18 measure. It could not spend the money for the purpose of
19 giving it to a candidate, for example.

20 QUESTION: I understand that, but what it said and
21 the particular content is decided by the committee.

22 MR. PARRINELLO: That's correct.

23 QUESTION: You don't run it by any contributor to
24 see if he agrees with it.

25 MR. PARRINELLO: It depends upon how the

1 particular committee is formed, but --

2 QUESTION: Well, I'm asking about this one.

3 MR. PARRINELLO: This particular committee had
4 approximately 125 people on a steering committee, which
5 basically decided the manner in which the campaign was going
6 to be run.

7 QUESTION: That may be, but it was the committee's
8 decision, not the contributors'.

9 MR. PARRINELLO: That's correct, except that under
10 the law in California the committee had to spend the money
11 for the purpose of advocating the defeat of this proposed
12 ballot measure in Berkeley.

13 QUESTION: Or support it.

14 MR. PARRINELLO: Well, in this particular case it
15 was --

16 QUESTION: It was organized to defeat it.

17 QUESTION: That's correct.

18 QUESTION: I know, but the particular content of
19 the communications were decided by the committee.

20 MR. PARRINELLO: That's correct. So with the
21 proviso that the committee had to spend the money for the
22 purposes of advocating the defeat of the measure.

23 QUESTION: Was it Proposition 13 that related to
24 the tax limitation in your state --

25 MR. PARRINELLO: That's correct, Mr. Chief Justice.

1 QUESTION: And these limits would apply on that
2 kind of a referendum, too, would it not?

3 MR. PARRINELLO: They would apply if the state of
4 California enacted them. At the present time, there are no
5 such limits on the state level but there are bills pending
6 in the legislature.

7 QUESTION: But I'm speaking of the principle
8 underlying this particular measure would have barred
9 individual citizens from contributing over \$250.

10 MR. PARRINELLO: That is absolutely correct.

11 The City of Berkeley also advocates that the
12 governmental interest in disclosure is served by a ballot
13 measure contribution limit. But at the present time and in
14 1977, the City of Berkeley had in effect perhaps the most
15 stringent disclosure laws in the nation. If the City of
16 Berkeley decides or deems that if existing disclosure laws
17 are not sufficient to meet its purposes it can draft
18 narrowly-restrictive disclosure laws which directly serve
19 the purpose of disclosure, but the government interest in
20 promoting disclosure cannot be served by suppressing speech,
21 which is what this ballot measure contribution limit
22 ultimately does.

23 The only purpose of a ballot measure contribution
24 limit is to equalize the relative voices of different
25 segments of our society. But the concept that government

1 may restrict the voices of some to equalize the voice of
2 others is formed in the First Amendment. The decision of
3 the California Supreme Court is contrary to precedents of
4 the United States Courts of Appeals for the Second, the
5 Fifth and the Ninth Circuits of the Michigan Supreme Court
6 and of appellate courts in Texas and California.

7 These courts, in scrutinizing ballot measure
8 spending and contribution restrictions, stated that in the
9 context of a ballot measure campaign where the only purpose
10 of a contribution was to enhance communication, that there
11 is no compelling governmental interest, no justifiable
12 interest, to warrant the suppression of vital First
13 Amendment rights.

14 The decision below is erroneous and it should be
15 reversed. The sole purpose and effect of a ballot measure
16 contribution limit is to restrict political communication
17 because it may be too persuasive.

18 QUESTION: Would this argument apply to restrict a
19 newspaper from having an editorial, the space of which would
20 cost more than \$250 for advertising purposes? Or would it
21 restrict a local broadcaster from editorializing one way or
22 the other?

23 MR. PARRINELLO: I do not believe so, because I
24 believe that a newspaper's editorial, as long as it was not
25 made in concert with any other newspaper or any other

1 campaign committee or individual, would be considered an
2 expenditure --

3 QUESTION: Usually, editorials of the newspaper,
4 depending on the size of it, represent the collective views
5 of anywhere from two or three to a half a dozen or more
6 people.

7 MR. PARRINELLO: I honestly don't know the answer
8 to that question. It's one I hadn't thought of. But it
9 could well under those circumstances.

10 Because the ballot measure contribution limit is
11 targeted at communication, because its purpose is to limit
12 communication, because it perceives that too much
13 communication is evil, we believe there is no compelling
14 governmental interest; indeed, no legitimate governmental
15 purpose, to support a ballot measure contribution limit.

16 And we respectfully request that the decision
17 below be reversed.

18 QUESTION: Counsel, I always ask the attorneys
19 what they mean by the word compelling.

20 MR. PARRINELLO: Mr. Justice Blackmun, in the
21 context of the exercise of these core First Amendment
22 rights, and governmental infringements on those rights, we
23 believe that government has the burden to demonstrate a
24 compelling interest to justify overriding those rights. And
25 by compelling --

1 QUESTION: You used the word again, and I merely
2 raised the question as to whether it isn't awfully easy to
3 fall into the habit of using a word that dictates the
4 result. And I feel a little more comfortable if we didn't
5 use the word compelling, whatever that means.

6 MR. PARRINELLO: I understand. I'll try to give
7 you my definition of it, which I believe is that in the
8 context of the exercise of these rights. It is a vital
9 governmental interest of overriding importance which
10 directly serves -- not randomly serves but directly serves
11 to promote an imminently threatened governmental interest.
12 And we believe that this ballot measure contribution --

13 QUESTION: You just say it's a strong enough
14 interest, it's just an interest that's strong enough to
15 overcome the interest on the other side.

16 MR. PARRINELLO: We don't believe it's a balancing
17 test. We believe that it's more than that.

18 QUESTION: Well, isn't that all it really is? If
19 it overrides it, it's compelling.

20 MR. PARRINELLO: We don't believe it is a
21 balancing test. We believe the burden is on the government
22 to demonstrate not merely that they have an interest and
23 that it's an important interest, but also that this law
24 directly serves that interest.

25 QUESTION: Do you know of any case in which this

1 Court has defined the term compelling and the phrase
2 "compelling interest"? I think the answer is probably no.

3 QUESTION: It made its first venture into the law
4 books in the case of Kramer v. Union Free School District,
5 did it not, without any explanation?

6 MR. PARRINELLO: I believe that's correct.

7 QUESTION: But you know of many cases where this
8 Court has used the term?

9 MR. PARRINELLO: Certainly the Court has used the
10 term in many, many First Amendment cases and --

11 QUESTION: Does it mean the same thing as fixed
12 scrutiny?

13 MR. PARRINELLO: I believe it does, with the
14 addition that the law is required to be narrowly drafted in
15 order to not burden unnecessarily First Amendment rights.
16 And we also believe this law is not narrowly drafted. Thank
17 you.

18 CHIEF JUSTICE BURGER: Ms. West?

19 ORAL ARGUMENT OF NATALIE E. WEST, ESQ.

20 ON BEHALF OF THE APPELLEES

21 MS. WEST: Mr Chief Justice, may it please the
22 Court, this case is not Bellotti. As Justice White
23 recognized, in Bellotti, the court's analysis was directed
24 at the prohibition of expenditures. This is a contribution
25 limitation. Expenditures are not restricted in any way.

1 QUESTION: Well, they're restricted by the
2 contributions, aren't they?

3 MS. WEST: No, Your Honor, every --

4 QUESTION: How can you spend more than you receive?

5 MS. WEST: You're speaking then of the campaign
6 committee which --

7 QUESTION: The voice can only be as loud and as
8 pervasive as the contributions permit. Is that not so?

9 MS. WEST: You're speaking of the campaign
10 committee which, under a contribution limitation, must raise
11 more funds from a greater number of people. That does not
12 limit the speech which the campaign committee can engage
13 in. In fact, it furthers an important democratic interest
14 because it broadens the base of the campaign committee by
15 requiring them to seek contributions from more --

16 QUESTION: Doesn't that fly in the face of one of
17 the rationales of our Buckley v. Valeo opinion, that in
18 order to have more different voices heard, we would suppress
19 -- at least according to the court of appeals here -- we
20 would suppress some voices in order that more could be heard?

21 MS. WEST: No, Justice Rehnquist, I think that
22 what the Berkeley ordinance does in this case is exactly
23 what the Court was espousing in Buckley. The contribution
24 limitation applies evenhandedly to all. Others who want to
25 participate, participate through the means of direct

1 expenditures.

2 I'd like to pick up for a moment on some of the
3 points made by appellant in his opening remarks. In
4 appellants' reply brief and in their statements today, they
5 demonstrate a fundamental misunderstanding of the difference
6 between expenditures and contributions.

7 The distinction between a campaign contribution
8 and a campaign expenditure turns on who controls the
9 speech. If I take \$200 and get together with a friend who's
10 got \$200 and we buy an ad in the newspaper, that is an
11 expenditure. That is not limited or restricted in any way
12 by the Berkeley ordinance. The Berkeley ordinance restricts
13 contributions, and as this Court has recognized in Buckley
14 and in your recent decision of California Medical
15 Association, quote, "contribution limitations impose a far
16 less of an impact on protected rights."

17 QUESTION: Except in your first example, you would
18 have to agree with your friend as to the form of the
19 advertisement, would you not?

20 MS. WEST: That's correct, that together we would
21 develop a joint communication, a joint message, and that is,
22 again, enhancing a very basic principle of democracy; to try
23 to increase and expand participation by individuals in the
24 process. That's one of the things that the Berkeley
25 ordinance seeks to do.

1 QUESTION: Ms. West, under that argument, would it
2 comply with the ordinance for a \$5000 contributor to say, I
3 want to approve all the advertising that you disseminate,
4 and then they let him do it. In exchange for \$5000 he gets
5 a veto on the advertisement.

6 MS. WEST: I think that that still would remain a
7 contribution, Justice Stevens, if the --

8 QUESTION: Why wouldn't it be a joint expenditure?

9 MS. WEST: A joint expenditure is if you have some
10 control in the content and the time, place and manner of the
11 communication.

12 QUESTION: Let's say he gets all those controls in
13 exchange for \$5000 --

14 MS. WEST: Then you go over the limit, the line,
15 and it probably becomes an expenditure. I'd like to point
16 out that under federal law, this exact same kind of
17 line-drawing has taken place as the FEC has adopted
18 regulations to distinguish independent expenditures which
19 are exempt from the \$1000 campaign contribution limitation
20 from the contributions. And --

21 QUESTION: Do you think it's clear under the
22 ordinance that my suggestion would be acceptable to the city
23 fathers?

24 MS. WEST: If you --

25 QUESTION: If the \$5000 contributors all get

1 together and say we have the right not only to just put the
2 money in the pool, but also, we want to pass on the time,
3 place and the forum of all publications. Then they would
4 say it's all right?

5 MS. WEST: If you put in \$5000 and you have some
6 control over the content of the message, over the time,
7 place and manner of the communication so that the
8 communication acknowledges your involvement in it, then you
9 -- it becomes an expenditure; it's no longer a contribution.

10 QUESTION: You think it's clear that the city
11 fathers would so interpret their ordinance?

12 MS. WEST: The definition of contribution turns on
13 control, and it's the same kind of distinction that this
14 Court made in the California Medical Association case. The
15 protected element of an expenditure is a disbursement that's
16 made independently in order to engage directly in political
17 speech.

18 QUESTION: Now are you talking about the
19 definition in Buckley or the definition in the Berkeley
20 ordinance?

21 MS. WEST: The two definitions are actually very
22 comparable. I'm talking about the analysis that this Court
23 has followed in order to distinguish --

24 QUESTION: No, I'm asking about what the ordinance
25 means. I had not understood that the city would permit a

1 \$5000 contributor to make a contribution in that amount
2 provided he insisted on control over the -- over, you know
3 -- approval of the message that was --

4 MS. WEST: I want to stress again, it's more than
5 just approval over the message. It's some kind of
6 involvement in the time, place and manner.

7 QUESTION: Well, all of these things. But is it
8 clear --

9 MS. WEST: If -- yes, it is. If the individual is
10 engaging in political speech by spending money and helping
11 to determine what the message is and determining where it's
12 going to be dispersed, how it's going to be communicated to
13 the electorate, then it becomes an expenditure and it is not
14 subject to the ordinance.

15 QUESTION: Well, you're telling me what Buckley
16 holds.

17 MS. WEST: I'm telling you what the situation is
18 under our local ordinance. Now, there's nothing in the
19 record of this case that would lead to a different result.
20 There's nothing in the --

21 QUESTION: Is there anything in the record that
22 shows that you're right?

23 MS. WEST: Justice Stevens, I would submit that
24 I'm right in order to be --

25 QUESTION: Well, is there anything in the record

1 that shows that they so construe the ordinance?

2 MS. WEST: But there's nothing in the record to
3 show that they construe it any other way.

4 QUESTION: No, that's not my question. Is there
5 anything in the record to show that they would approve of
6 \$5000 contributions as you just described them?

7 MS. WEST: No, the situation has never arisen.
8 Returning again to the situation that faces us in this case,
9 we are dealing with a contribution limitation which applies
10 in an evenhanded way to all participants in a political
11 campaign.

12 QUESTION: Ms. West, do you agree that the test to
13 be applied for its validity is a strict scrutiny test?

14 MS. WEST: That's a very significant question in
15 this case, Justice O'Connor, because a balancing test is the
16 appropriate test.

17 The governmental regulation affects the
18 communicative impact of the speech to some extent; a minor
19 extent but nevertheless to some extent. But the interests
20 being advanced by the City of Berkeley are themselves First
21 Amendment interests of the highest importance.

22 We are concerned with the integrity of the
23 electoral process, with improving the accuracy of speech,
24 the diversity of political speech.

25 QUESTION: Would you say the ordinance would fail

1 the so-called strict scrutiny test?

2 MS. WEST: I would submit that it wouldn't,
3 Justice Rehnquist. But to follow with Justice O'Connor's
4 question, then the appropriate test is to balance the impact
5 on protected rights, which is very minor, against the
6 importance of the governmental interests being advanced,
7 which are very significant.

8 QUESTION: You say you want as much diversity as
9 possible. How many newspapers do you have in Berkeley?

10 MS. WEST: We have two daily newspapers.

11 QUESTION: Well, suppose they both combine on one
12 issue on one side. Don't you need a whole lot to counteract
13 that? But don't you need more than \$250 to counteract that?

14 MS. WEST: But, Justice Marshall, the effect of
15 the contribution limitation is to require the campaign
16 committee to receive funds from diverse sources. In this
17 case, Citizens Against Rent Control received contributions
18 from over 1300 contributors. A handful of those made
19 contributions in excess of \$250.

20 What we're saying is that the vast majority of
21 contributors contribute less than \$250. Those individuals
22 can participate through means of campaign contributions to
23 the campaign committee. Other persons must make direct
24 expenditures. They can do so jointly with other people so
25 long as they take a role in --

1 QUESTION: Ms. West, my problem is that in 1981
2 \$250 would buy one bumper sticker, wouldn't it, about? I
3 don't think it would even buy the glue for the bumper
4 stickers, would it?

5 MS. WEST: Justice Marshall, the --

6 QUESTION: \$250 is just about -- it isn't even
7 walking around money.

8 MS. WEST: The facts of this case show, however,
9 that the campaign committee raised almost \$100,000 in
10 contributions of less than \$250. That is the local scene in
11 Berkeley, California.

12 Now there's another very important state interest
13 that's advanced by this regulation, and that is the state's
14 interest in disclosure.

15 Pacific Gas & Electric Company can spend all the
16 money it wants to in a Berkeley ballot measure campaign, but
17 it cannot do so under the name of Southwest Berkeley No, No,
18 No on W. By requiring entities to spend money, who wish to
19 spend money in excess of \$250.00 to spend money directly,
20 the city requires the disclosure, and thus better informs
21 the voters, of who is participating in election campaigns.

22 QUESTION: Ms. West, can't the city accomplish
23 that just as easily and far less restrictively by just
24 saying that anytime you contribute to a group or a fund,
25 that you have to disclose who the contributors really are?

1 I mean, that's far less restrictive, is it not, than the
2 Berkeley ordinance we, in fact, have?

3 MS. WEST: That type of disclosure does not serve
4 the interests that are particularly important in a ballot
5 measure campaign, where unlike a candidate campaign, there's
6 no person that gives identity. And what the situation that
7 you have, is that campaign committees adopt names like Let's
8 Help Florida, which is a group that seeks to legalize casino
9 gambling --

10 QUESTION: Maybe you misunderstand my question.
11 It is this: why can't Berkeley require that every person or
12 entity or corporation that contributes to this entity have
13 to disclose their identities and the amounts of their
14 contributions?

15 MS. WEST: Well, they do under current disclosure
16 law, but that information is disclosed on campaign
17 disclosure statements that are filed by the committee before
18 the election. What we submit here is that --

19 QUESTION: But can't Berkeley require a different
20 method of disclosure and a different timing, so that you can
21 achieve your goal in a less restrictive fashion?

22 MS. WEST: We've tried to design some approaches
23 that would achieve that goal, Justice O'Connor, and I don't
24 think that we can appropriately do so.

25 Let me just discuss some possible examples. We

1 thought one approach would be to require the disclosure of
2 the big contributors as part of the communication. But then
3 you get to a point where the disclosure, in fact, overwhelms
4 the communication. For example, in this case, imagine a
5 30-second radio spot that ends up by saying it's financed by
6 Citizens Against Rent Control/Coalition for Fair Housing,
7 California Association of Realtors, Mason-McDuffie Company,
8 Berkeley Board of Realtors, Apartment Political Act and
9 Committee, Mayor Monte Company, B.G. Management
10 Company, Southern Alameda County Board of Realtors.

11 The disclosure is part of the content in a
12 campaign context, and this Court recognized that in
13 Bellotti. Striking down the prohibition against corporate
14 expenditures, the Court pointed out that corporate
15 advertising is likely to be highly visible, that the
16 corporate identity will help the voters evaluate the source
17 of the message to make a well-informed decision. That's the
18 goal that we're trying to achieve in this case.

19 Now another disclosure possibility would be to
20 enact an ordinance that would require the campaign committee
21 to state the title of the message and its position on the
22 measure, and that would avoid the problem with the act of
23 misrepresentation. But nevertheless, it doesn't further the
24 disclosure because all you get is something along the lines
25 of Committee for Smoking and Non-Smoking Sections, No on 5,

1 but you don't know who it is.

2 So I would submit that in fact the city has
3 considered disclosure alternatives, and we have not been
4 able to identify an alternative that serves the -- furthers
5 the purpose in a content-neutral way in the way that this
6 type of a limitation does.

7 QUESTION: May I ask about present California
8 law? Does it require no pre-election disclosure?

9 MS. WEST: There are -- no, California law
10 requires two campaign disclosure statements to be filed
11 before the election by the committee.

12 QUESTION: Does the City of Berkeley have any
13 present pre-election disclosure laws?

14 MS. WEST: It's the same.

15 QUESTION: And what does the ordinance at issue
16 here today add to that?

17 MS. WEST: The ordinance required by imposing a
18 \$250 limitation, the ordinance serves a disclosure purpose
19 by requiring the contemporaneous disclosure of the source of
20 the communication.

21 I'd like to pick up on this Southwest Berkeley No,
22 No --

23 QUESTION: If someone wants to give more than \$250
24 or spend more than \$250, he has to spend it himself. And
25 then when he spends it, at the time he spends it the source

1 will be disclosed. That's what you mean, right?

2 MS. WEST: Yes. I'm sorry, Justice White. Thank
3 you. And then to move on, the point I was going to make is
4 to demonstrate how significant a part disclosure, the
5 contemporaneous disclosure can play in the evaluation of the
6 message, you remember from my brief in a 1974 ballot
7 measure, Pacific Gas & Electric company funneled over \$7000
8 into a committee called Southwest Berkeley No, No, No on W.
9 Southwest Berkeley is in the flatlands adjacent to
10 Emoryville and Oakland. It's the poorest section of town
11 with a high minority population.

12 The connotation of a communication that's labeled
13 Southwest Berkeley No, No, No on W is entirely different
14 from the connotation of Pacific Gas & Electric. I would
15 submit -- and we certainly acknowledge -- that Pacific Gas &
16 Electric can participate to the fullest extent in Berkeley
17 campaigns, but that it helps the voter evaluate the
18 communication when the source of that communication is made
19 immediately available.

20 QUESTION: Well, couldn't the city require that
21 the communication put on, this ad paid for by Pacific Gas &
22 Electric?

23 MS. WEST: As I stated to Justice O'Connor,
24 there's a real problem there. In that particular instance
25 we could have done that because there's only one. That was

1 only one entity; it was, in fact, a front for one entity.
2 But if there are a number of entities funneling substantial
3 amounts of money into the campaign committee then the
4 disclosure can actually overwhelm the message, as it would
5 in this case. If you were required to rattle down the names
6 of the over \$250 contributors each time you made a 30-second
7 radio spot, for example.

8 I don't want to overlook the very important
9 governmental interest in increasing and expanding voter
10 participation in election campaigns. The contribution
11 limitation seeks to achieve that goal in a number of ways.

12 First, campaign committees that are going to raise
13 money and participate in local campaigns must raise funds
14 from a greater number of persons. This has a very direct
15 impact in broadening the base of support and participation
16 in ballot measure campaigns.

17 Second, individuals who care to participate in a
18 campaign by spending more than \$250 must do so by making
19 direct expenditures, not contributions. This increases the
20 range and diversity of ideas that are expressed in the
21 marketplace of ideas; that in fact furthers the governmental
22 interest to promote involvement with citizens in helping
23 them understand the issues that they're being called upon to
24 debate.

25 We're not seeking to stifle debate in this case.

1 We're not seeking to cut off voices. What the City of
2 Berkeley is trying to do is to make the initiative as
3 representative of a broad base of people as possible, to
4 provide information to the voters so that they can
5 understand the diverse issues that are present in a ballot
6 measure campaign.

7 I would submit that this is enough of an interest
8 and enough of a showing to support what the city is trying
9 to do here with its contribution limitation.

10 The Court's decision in the case of California
11 Medical Association is particularly instructive because the
12 Court made it clear that -- the plurality opinion -- that
13 contributions are far less of an infringement on protected
14 rights than expenditures. Now using the appropriate
15 balancing test, the governmental restriction here can be
16 supported by the interests that I have stated.

17 In Bellotti, this Court referred to the showing by
18 the state of Massachusetts and indicated that Massachusetts
19 had made no showing that the voice of corporations was
20 overwhelming or even significant in ballot measure
21 campaigns. That particular sentence has been picked up and
22 repeated by most of the courts that have considered the
23 validity of contribution prohibitions and limitations in the
24 ballot measure context. And I would submit that that is an
25 over-broad reading of that sentence in Bellotti.

1 Again, Bellotti was looking at expenditure
2 limitations, and that sentence implies that if you had
3 evidence that the referenda process was being overwhelmed or
4 significantly impacted by corporate expenditure, that you
5 might even be able to support an expenditure limitation.
6 Here we're dealing only with a contribution limitation.

7 But if the Court wants to impose that strong a
8 standard and require a showing that large contributions are
9 overwhelming the political process and are causing some
10 improper functioning of the initiative process, there are
11 data beginning to evolve which shows that that may, in fact,
12 be true, that very large campaign contributions channeled
13 into the political process do not educate the voters, do not
14 inform the voters.

15 QUESTION: Ms. West, is there any evidence in the
16 record in this case for that proposition, or to support the
17 allegation that voters' perceptions are being affected? Or
18 are these just assumptions made on the basis of some social
19 science articles?

20 MS. WEST: At the time of the trial court decision
21 in this case there had not been the appropriate
22 documentation because most of this depends on campaign
23 disclosure laws that became vigorously enforced in the
24 mid-seventies, so that we've actually seen an emerging of
25 some documentation in the form of the social science

1 studies, just very recently. One of the first very complete
2 studies is one which is still in draft and will be published
3 in the spring in the UCLA Law Review, which I have furnished
4 to the appellants and to the Court in draft form. That's a
5 comprehensive study by Professor Daniel Lowenstein of
6 California Ballot Measures for 1968 through 1980, in which
7 he concludes that there are a number of instances in which
8 the outcome of ballot measure campaigns has been determined
9 by very large amounts of money funneled into a single
10 campaign committee that conveyed only a very narrow message
11 to the electorate.

12 QUESTION: Is the city's motivation in part, then,
13 to, in effect, muzzle the contributors with deep pockets to
14 enhance the relative voting strength of those with less
15 money, would you say?

16 MS. WEST: No, that's not, Justice O'Connor. I
17 think at the time this ordinance was passed and similarly,
18 at the time that the state act was passed, which was in the
19 summer of 1974, that was before this Court's decision in
20 Buckley. And at that time, I believe there was a thinking
21 that that sort of equalization theory underlies some of the
22 parts of the statute. But in the aftermath of Buckley, we
23 recognized that equalization is not an appropriate goal, and
24 that's where the expenditure limitations were invalidated,
25 both the local and the state expenditure limitations.

1 We're now left with a situation which is very
2 comparable to the federal situation; a limitation on
3 contributions and no limitation on expenditures. And we
4 submit that in this situation, there are other state
5 interests, completely unrelated to anything to do with
6 equalizing or muzzling, which more than support the very
7 important impact that this contribution limitation has on
8 the political process.

9 QUESTION: What authorities do you look to to say
10 that we shouldn't apply a strict scrutiny here?

11 MS. WEST: The Court had used a balancing standard
12 in Buckley and in Bellotti, and those are the two cases that
13 I think should govern this Court's interpretation of the
14 standard, of course, and the California Medical Association
15 opinion as well.

16 QUESTION: May I ask you a question about the
17 Lowenstein study?

18 MS. WEST: Yes.

19 QUESTION: You point out in your footnote on page
20 11 of your brief that when the money -- one-sided spending
21 in support of a proposition, it comes out about 50/50, that
22 half the time it's successful and half it isn't. Then you
23 have a footnote that says on the other hand, of the ten
24 propositions opposed by significant one-sided spending, none
25 were defeated.

1 MS. WEST: I'm sorry, Justice Stevens, it should
2 read nine. I communicated that typographical error to the
3 Clerk's office, but the briefs had already been --

4 QUESTION: I missed, okay, thank you.

5 MS. WEST: So please make that change right away.

6 (General laughter.)

7 QUESTION: Shouldn't that be submitted if it's
8 going to be advanced as a justification to some sort of a
9 form of cross examination? Shouldn't it be offered as
10 testimony and be subjected to the scrutiny of hostile cross
11 examination before it's just taken as a given? Particularly
12 if it's in draft form and is expected to appear six months
13 from now?

14 MS. WEST: Justice Rehnquist, I made it available
15 to the Court in draft form merely because I think it is very
16 instructive and I certainly wish that it were in final form
17 at this time.

18 Also, the Court's decision in this case does not
19 -- I would submit that the Court's decision in this case
20 does not have to rest on any of the information contained
21 therein, that the information that you have available
22 concerning the -- to support the state interest in promoting
23 more accurate campaign literature, more accurate campaign
24 speech through requiring disclosure and more diverse
25 campaign speech, through encouraging voter participation in

1 the process is sufficient, without any reference at all to
2 what the characteristics of large contributions have been in
3 the ballot measure context.

4 However, that information is before you and it is
5 available.

6 QUESTION: May I ask another question about -- I'm
7 sorry, I didn't mean to interrupt.

8 MS. WEST: I was just going to point out that, of
9 course, the Court can refer to things like that because what
10 you're being asked to do really are notice legislative facts
11 and not make a finding of a judicial fact.

12 QUESTION: But this was not something before the
13 legislature when it passed the -- .

14 QUESTION: It's important to remember that this
15 was an initiative measure. It was passed by the people, so
16 to the extent that it reflects the people's perceptions of
17 what the political process is, I would urge that the Court
18 give that the greatest deference, as is appropriate to the
19 interpretation of initiative measures.

20 QUESTION: You want us to consider it as a fact?
21 How can we? This is an unpublished document. How can we
22 consider it as a fact?

23 MS. WEST: Justice Marshall, I would submit you
24 don't have to consider that at all. The information, the
25 data contained in there, is all based on reports that are

1 published by the State Fair Political Practices Commission,
2 --

3 QUESTION: Shouldn't you or somebody go get the
4 originals? Isn't that the way you try lawsuits? Could you
5 have had this admitted in evidence?

6 MS. WEST: In 1977 this was not available. That's
7 part of the problem, that we're right on --

8 QUESTION: Could you have had this admitted when
9 you tried this case?

10 MS. WEST: No, Your Honor, because this --

11 QUESTION: Well how can you have it admitted here?

12 MS. WEST: I meant we couldn't have because it
13 wasn't available at that time. We were talking -- I
14 misunderstood your question.

15 QUESTION: On what basis would you have it
16 admitted if it was an unpublished document?

17 MS. WEST: I think that document is perfectly
18 appropriate for this Court to consider --

19 QUESTION: Why? Can we take judicial notice of it?

20 MS. WEST: Yes.

21 QUESTION: How? It's not even published.

22 MS. WEST: Justice Marshall, I appreciate your
23 comments on that. I think we have a difference of opinion
24 and I'm going to turn to Justice Stevens now.

25 QUESTION: I just wanted to ask you, you suggest

1 we take legislative notice of the outcome of all these
2 ballot measures, and this document is an example of some.
3 Do you happen to know what percentage of ballot measures of
4 this kind are successful? I imagine it's a minority, isn't
5 it?

6 MS. WEST: Well, this kind, you mean initiative
7 measures or all?

8 QUESTION: Well, whatever you consider the
9 relevant universe of ballot measures.

10 MS. WEST: Interestingly enough, in the Lowenstein
11 study, he indicates that over the last 12 years,
12 approximately half of all the measures before the voters on
13 a statewide level have been passed.

14 QUESTION: Is that right?

15 MS. WEST: Yes.

16 QUESTION: You mean just in California or
17 countrywide?

18 MS. WEST: Yes, yes, just in California.

19 QUESTION: And where would we find that
20 information?

21 MS. WEST: It's in the Lowenstein article. I am
22 not prepared to cite the exact page.

23 QUESTION: It's not in the record.

24 MS. WEST: No.

25 QUESTION: Thank you.

1 MS. WEST: On the basis of the information set
2 forth in our brief and the arguments that we've made today,
3 I think it's clear that the Berkeley ordinance imposes a
4 relatively minor infringement on protected rights; in fact,
5 almost no infringement on protected rights. Individuals'
6 ability to make contributions may be somewhat limited, their
7 ability to make campaign expenditures is not restricted in
8 any way.

9 That minor restriction is more than offset by
10 governmental interests of the very highest importance, and I
11 would urge that this Court affirm the decision of the
12 California Supreme Court. Thank you.

13 CHIEF JUSTICE BURGER: Very well. Do you have
14 anything further, Mr. Parrinello? You have four minutes
15 remaining.

16 ORAL ARGUMENT OF JAMES R. PARRINELLO, ESQ.

17 ON BEHALF OF APPLICANTS -- REBUTTAL

18 MR. PARRINELLO: Thank you, Mr. Chief Justice.

19 The Berkeley definition of a contribution does not
20 turn upon who controls the contribution. Section 205 of the
21 Berkeley ordinance, which appears in the Jurisdictional
22 Statement Appendix at A-60 defines committee -- and I will
23 paraphrase, but it defines committee as any person or
24 combination of persons that directly or indirectly makes
25 expenditures exceeding more than \$250 in a calendar year for

1 the purpose of influencing or attempting to influence the
2 action of voters for or against the passage of a ballot
3 measure.

4 The Berkeley ordinance in Section 206, again on
5 page 60 of Jurisdictional Statement Appendix, defines
6 contributions to that committee as a gift, subscription,
7 loan, advance or anything of value made directly or
8 indirectly in aid of or in opposition to a ballot measure.

9 The very example which I stated to the Court about
10 the two people wishing to buy a newspaper ad and spend \$600
11 to do so is directly covered by this ordinance, because
12 those two people are a combination of persons who equal a
13 committee which, by purchasing that newspaper ad, are making
14 an indirect expenditure.

15 QUESTION: But the city attorney tells us that's
16 an incorrect reading of the ordinance.

17 MR. PARRINELLO: I appreciate that, but there is
18 nothing in the ordinance that states -- and the law is a
19 matter for the Court to decide -- there is nothing in the
20 ordinance that states --

21 QUESTION: But it's not a matter for this Court to
22 interpret state ordinances, is it?

23 MR. PARRINELLO: It's not for the Court to
24 interpret state ordinances, I agree, if there's any doubt
25 about the meaning of this particular law. But the Court

1 does have the right and the power to interpret laws and
2 determine whether they meet constitutional requirements, and
3 this particular law does not. Because it does impose a
4 direct restraint on those very citizens to associate
5 together in any form to communicate their joint ideas.

6 QUESTION: Did the city declare a forfeiture here?

7 MR. PARRINELLO: The city did declare a
8 forfeiture, but the superior court enjoined the forfeiture,
9 and the funds were used in the campaign.

10 QUESTION: Does the superior court interpret the
11 ordinance one way or the other?

12 MR. PARRINELLO: As a matter of fact, no, there is
13 nothing in the record to state the manner in which the
14 ordinance was interpreted by the court. It simply took
15 notice of the limitation and struck it down as being
16 unconstitutional.

17 The city interest in disclosure can be met in
18 several ways which the City of Berkeley has not recognized.
19 At the present time, City of Berkeley law requires the
20 disclosure in pre-election report filings two times before
21 each election of all contributions larger than \$250.00, and
22 city law requires that local newspapers publish those
23 contributions in the names of the contributors twice before
24 each election.

25 So to say that the public --

1 QUESTION: Could they pay the newspapers for that
2 space?

3 MR. PARRINELLO: Yes, they could, or they could
4 require the committee, in effect, to pay for more frequent
5 disclosure in local newspapers.

6 But more importantly, the city doesn't say that it
7 has done anything about the apparent or perceived evil it
8 sees in the names of campaign committees, because it says
9 those names are misleading. Rather than suppress speech,
10 the City of Berkeley can regulate the names of the campaign
11 committees if it desires. The federal government has done
12 that with respect to candidate campaigns.

13 Thank you.

14 CHIEF JUSTICE BURGER: Thank you, counsel, the
15 case is submitted.

16 (Whereupon, at 11:00 a.m. the oral argument in the
17 above-entitled matter ceased.)

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CERTIFICATION

Alderson Reporting Company, Inc. hereby certifies that the attached pages represent an accurate transcription of electronic sound recording of the oral argument before the Supreme Court of the United States in the matter of:
Citizens Against Rent Control/Coalition for Fair Housing, Et Al.,
Appellants v. City of Berkeley, California, Et Al., 80-737

and that these pages constitute the original transcript of the proceedings for the records of the Court.

BY Sharon Lynn Connelly

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