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## **The Supreme Court and Ed Corsi's Life of Political Crime**

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In the winter of 2008, Ed Corsi decided that he was tired of stewing about the politics in his home of Geauga County, Ohio, and the country at large. He started a website, put Thomas Jefferson's quote, "The price of freedom . . . constant vigilance" at the top, dubbed the site "Gauga Constitutional Council," and set about blogging his thoughts on local and national politics. So began his life of political crime.

Over the next two years, Mr. Corsi and a few friends would sometimes gather to talk politics. He occasionally sponsored meetings featuring speakers (not political candidates) on public policy issues (not elections), and charged a nominal fee for seating to offset his costs. He and two friends passed out political pamphlets they made at the Geauga County Fair.

Mr. Corsi spent \$40 a month to maintain his website, and perhaps a couple hundred dollars a year in other expenses. According to the state of Ohio, however, these activities are illegal under campaign-finance laws because Mr. Corsi did not first register with the state, report to the state on his activities, and subject himself to the regulations governing the operation of a state political action committee.

When he was summoned to a hearing before the Ohio Elections Commission in April 2011, Mr. Corsi asked, "Do I have to hire a lawyer to [do] these things?" Commission Chairman Bryan Felmet replied, "Yeah, I guess so. I think that it's very complicated without going to those lengths." The commission ordered Mr. Corsi to register and report his activities to the state.

When the Supreme Court reconvenes in October, the big campaign-finance case will be *McCutcheon v. Federal Election Commission*, which nervous censors have dubbed "the next *Citizens United*." *McCutcheon* deals with the ability of affluent Americans to contribute to political parties and candidates. Never mind that the candidates and causes these people support represent the views of millions of citizens. "Reformers" argue, and many Americans seem to agree, that "big money" in politics must be regulated.

It is inconceivable, however, that America's founders thought the First Amendment would allow the government to routinely require citizens to report their political activity, and be subjected to such complex regulations. They wanted to prevent government from doing precisely this sort of thing. Yet Mr. Corsi lost in state court. Now he waits to see if the Supreme Court will agree to hear his case.

The "big money" in politics can afford the accountants, consultants and lawyers needed to cope with campaign- finance law. The burdens frequently fall more heavily on grass-roots politics—the very thing we ought to be encouraging. There also is abundant anecdotal evidence that the main result, if not the purpose, of campaign-finance laws is to allow political insiders and government officials to harass grass-roots activists. The IRS targeting scandals are merely the most prominent example of the way these laws are used by those in power to harass their opposition.

On his blog, Mr. Corsi was critical of Ed Ryder, the chairman of the Geauga County Republican Party and a member of the county Board of Elections, and of various officials and candidates supported by Mr. Ryder. The initial complaint against Mr. Corsi was filed by Mr. Ryder, who admitted spending two months to find out who constituted the "Gauga Constitutional Council," so he could file a complaint against Mr. Corsi.

In *Buckley v. Valeo* (1976), and again in *Federal Election Commission v. Massachusetts Citizens for Life* (1986), the Supreme Court held that the regulatory requirements of operating a political action committee could not be imposed on groups that lacked the primary purpose of supporting or defeating political candidates in elections. But across the country, states are flouting that command, imposing rigid requirements on ordinary citizens who are trying to express their political opinions.

In Colorado, for example, a group of friends calling themselves the Coalition for Secular Government operate a website on which they posted a long policy paper on abortion and church-state relations. The paper concluded by urging Coloradans to vote "no" on a ballot measure. For that, the state says they must register as a political committee and report their activities, income and expenses.

Most state statutes now simply ignore the Supreme Court and require that two or more citizens who spend even nominal amounts on politics to register and report to the government. Even printing yard signs or running an email list can trigger these requirements. In Ohio, a single dollar in expenditures will do, so be careful if you talk politics over a cup of coffee.

As a former commissioner at the Federal Election Commission, I have seen the effects these laws have on citizen participation and civic-mindedness. I have read the plaintive letters from citizens who could not afford a lawyer, and could not

believe their government was fining them for political activity.

In the past, both liberals and conservatives on the Supreme Court were sensitive to this problem. Liberal Justice William Brennan wrote the majority opinion in the *Massachusetts Citizens for Life* case. But that sensitivity appears to be vanishing.

Forty-seven years ago, in *Mills v. Alabama*, the court struck down a law prohibiting election-day newspaper editorials, noting, "there is practically universal agreement that a major purpose of [the First] Amendment was to protect the free discussion of governmental affairs."

Is that still true? Will the court leave millions of Americans who want to engage in politics at risk of prosecution? Will it leave Mr. Corsi hanging?

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