

By Steve Ford

Church bells did not ring, nor were fireworks shot off, to herald a recent ruling by some federal judges in a North Carolina money-in-politics case. But when the federal courts, having opened the spigots on special interest campaign contributions, now find a limitation they can live with - well, that's progress.

The case involved a challenge to a North Carolina law that's bold enough to tell lobbyists they can't do something many would surely like to do if given a chance. And bear in mind that legislators who passed the law also are disadvantaged by it.

They passed it, in 2006, because the odor of special interest influence in Raleigh had grown so rank that steps simply had to be taken. This step - forbidding lobbyists from contributing to campaigns for the General Assembly or the elective posts that make up the Council of State - was hardly a radical one. But it deprived candidates of a reliable source of funding and lobbyists of an easy way to ingratiate themselves with the folks whose decisions they were paid to sway.

The catch is, any time laws start putting restrictions on what people can do with their money in the political sphere, the laws have to be squared with the right to free speech. That's because of court rulings to the effect that in politics, money and speech are intertwined.

And the lobbyist contribution ban was challenged not by an agent for one of the big corporations that like to throw their weight around in the capital, but by a lobbyist for the ACLU - on free speech grounds. Sarah Preston argued that the absolute ban went too far, and that small contributions on the order of \$25 should be allowed if a lobbyist chose that means of signaling support for a candidate.

Preston's lawsuit seeking to have the ban thrown out as unconstitutional was given the cold shoulder last year by Eastern North Carolina's chief federal district judge, Louise W. Flanagan. The case then went to the 4th U.S. Circuit Court of Appeals in Richmond, where it was argued before a three-judge panel.

The panel's unanimous decision came down on Nov. 7, written by Judge Paul V. Niemeyer, an appointee of the first President Bush. The bottom line: Flanagan got it right in upholding the statute. Preston and her fellow lobbyists have plenty of other ways to help candidates they favor and express their approval besides giving money, the judges noted.

For instance, they can contribute to a political action committee and advise that committee as to whom it should back. They can go door to door in a candidate's behalf. They even can host fundraising events, so long as the expenses are paid by others. Cutting off one channel of "speech" - the one where a check gets written - doesn't affect the others.

The court's list of helpful hints probably is now posted on many a lobbyist's refrigerator. But as to money, whether a symbolic few bucks or a maxed-out \$4,000, it was the judges' view that the General Assembly was within its rights to turn this particular spigot off - not only when the legislature was in session, as had been the rule, but off, period.

This is the sort of ruling that has a way of showing up on the U.S. Supreme Court docket - especially since the Supremes have grown chilly toward rules that would cramp the style of folks itching to pour money into political campaigns. The Citizens United ruling last year allows corporations and unions to spend to their hearts' content from their treasuries to back or oppose candidates, so long as their efforts are "independent."

Now the dubious notion of independent expenditures is being taken to another level that threatens to shred a core principle in campaign finance rules: that individual contributions to a candidate can and should be subject to reasonable limits.

The idea - it's almost becoming quaint - has been to put a brake on the influence of wealthy donors to whom grateful candidates would be tempted to pledge the sun, moon and stars.

But tax-favored "social welfare" groups have become big campaign players, operating without contribution limits and often without disclosing who's giving the money. And this year's presidential campaigns have seen the rise of "super PACs" tied to specific candidates. They promote the candidates, and donors can kick in as much as they want. Limits, shlimits.

There's even a move in Congress to cancel out the optional public financing system for presidential candidates, which would further magnify the role of private money.

Triangle-area Democratic Rep. David Price has been a leader in trying to keep that public financing on the books. North Carolina is no stranger to the effects of big, special interest money on politics, but at least there are officeholders such as Price who understand what's at stake and the damage that can be done. Whenever they carry the day, let the bells peal and the fireworks glitter.