J. Hiebert, “Money and Elections: Can Citizens Participate Amidst Unrestricted Spending?” *CJPS* 31 (1998)

**Overview**

In 1996, the Alberta Court of Appeal struck down election spending limits for individuals, interest groups, corporations, and unions for violating the Cdn Charter of Rights and Freedoms. These spending restrictions were part of a complex regulatory regime that sought to promote fairness by controlling election spending of candidates and parties. Although the decision was not appealed to the nation’s highest court, the SCC disapproved the Alberta ruling in an unrelated decision. This suggests that spending limits are justifiable under the Charter. This paper argues that if new legislation is not introduced, the Alberta decision will continue to govern election conduct throughout the country and could undermine the democratic ideal of citizens participating in fair terms in the act of self-governance.

**Background**

* Legislation that Alberta court declared unconstitutional prohibited individuals and groups from spending more than $1,000 to produce, public, broadcast or distribute any advertisement that promoted or opposed, directly, a registered party or candidate. It did not oppose any restrictions on the amount of money that could be spent to advertise issues, as long at the issue was not linked directly to a candidate or party.
* Legislation was to protect the effectiveness of the strict regime of spending limits for candidates and parties
* Despite the perceived importance of regulating independent expenditures, Canada has undergone 4 consecutive federal elections (1984, 1988, 1993, 1997) in which candidate and party spending levels were strictly regulated while limits on independents expenditures not enforced
* Ds
* Hiebert argues that if money is unregulated in elections, its effects can undermine the democratic ideal that citizens participate on fair terms in the act of self governance (changes the purchasing power of individuals and issue areas)
* Ds
* A different criticism some make of limiting independent expenditures is that it places primacy on political parties during elections – the Alberta court indicated in its ruling that the objective of promoting a level playing field should not be pursued in a manner that restricts “meaningful third party input” –
  + In the court’s view, the legislation was inappropriate because rather than “trying to balance expenditures of outside groups, the press and parties” the legislation “bans input” and gives to parties “preferential protection”
* However – the court neither distinguished the role parties serve from that of interest groups nor acknowledged that spending limits affect candidates and parties differently than they do interest groups. The centrality of political parties rests on 3 primary functions: (1) parties organize the political processes of democratic parliamentary government; (2) political parties organize competition for public office; and (3) political parties give meaning to the vote

**Conclusion**

* How to allow for meaningful citizen electoral involvement while ensuring that money does not undermine the democratic ideal is one of the most difficult and complex challenges facing democratic politics
* Through its judgment, the court has been able to exercise considerable influence on the norms of federal election competition – which is troubling because the court only offered a partial view of the complex relationship between freedom of expression and democratic values
* Hiebert disagrees with court’s reading of this stating that a more robust model of democracy should seek to prevent those with wealth from influencing, through sheer purchasing power of commercial advertising, which issues are deemed to be important