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Censorship By Media Elites Will Ultimately Threaten the Republic

Michael E. Bailey*

In the past thirty months, my campaign, Bailey for Life for Congress, has raised nearly \$300,000, aired over 1000 television ads on the major network affiliates in Indianapolis, Evansville, Indiana, Louisville, and Cincinnati, printed and distributed over 1,000,000 campaign flyers, and hosted at least 150 campaign rallies. Although I have never held public office, I am, perhaps, one of the best known politicians in Indiana, Ohio, and Kentucky.

In 1992 I won the Republican primary in Indiana's Ninth Congressional District. The victory was a huge upset, as we beat the party's endorsed candidate by taking 60 percent of the popular vote. Despite winning 70,000 votes in the general election, we were defeated by Democrat Lee Hamilton, who has held office for thirty years. I was beaten this year in the Republican primary by a popular Republican state senator.

The losses I have suffered in political elections, however, cannot be compared with the incalculable advancements of my views in the public arena. Politics has given me a platform in which to advance my viewpoints and has provided a forum in which to challenge my fellow Americans with the many ideas that are missing in both the public and political debate. This aspect of the free and open exchange of ideas in the American democratic process is what puts our society on a higher moral plain than most other nations today.

Of course, both liberals and conservatives would applaud and vociferously defend "free speech" in the American democratic process. To censor any political speech would hinder the democratic process and threaten the purity of the American Republic. It is for this sole reason, I believe, that the "reasonable access law," which protects the free speech rights of political candidates running for both state and federal offices, was

* The Author was a 1991 and 1992 congressional candidate in Indiana.

passed by Congress and faithfully administered—at least until recently—by the Federal Communications Commission (FCC or Commission).

You see, I am one of those dreaded pro-life evangelical Christians. Not only am I in politics, but I have an agenda which is diametrically opposed to most of popular culture. It is my constitutional right of free speech which enables me to enter the political process and attempt to convince American citizens to turn back to the timeless Christian principles upon which this country was founded.

For the government to muzzle my voice is both unconstitutional and un-American, but that is exactly what is happening right now. Certain media elites in Louisville and Indianapolis have decided that the reasonable access law protecting federal candidates is no longer serving their best interests and, therefore, they have arrogantly defied the law.

To add insult to injury, the FCC has supported these lawbreaking media elites by refusing to act on cases which are as much as two years old. The end result of these violations of the law is that the American political process has suffered an enormous setback by the newly formed fourth branch of the American government—*television station management*.

In case it seems as if I am being too dramatic, let me explain. Millions of Americans believe, as I do, that abortion is murder. Within a few years America will have murdered over 30,000,000 unborn babies.¹ Christians believe that God will judge a nation that sheds the blood of the innocent unborn. For this reason, to protect America from the wrath of almighty God, I chose to air the truth of abortion in my 1992 Bailey for Life for Congress television ads. My motivation was to change the American conscience about the brutal killing of the unborn via airing the truth on network affiliate television. The truth of abortion is simply this: Abortion kills a living human being. The resulting evidence of abortion is a dead human baby.

When I first presented my controversial pro-life television ads, showing actual bodies of children murdered through abortion, to television stations in April of 1992, the station management reacted vehemently against them. Stations had five days between the time we presented them with the ads and the time our schedule began. Numerous stations appealed to the FCC, but were told by FCC staffers that they must run the ads uncensored and at the times we had purchased. Free speech and the American democratic process were upheld in 1992. The Bailey Campaign ran over 700 ads during our first bid for Congress. About half of these ads centered on endorsements of the pro-life movement.

1. *The Abortion Decision*, L.A. TIMES, June 30, 1992, at 10.

By the time our 1994 campaign came around, everything had changed. Station management at both WHAS-TV (Louisville/ABC) and WAVE-TV (Louisville/CBS) caved in to viewer complaints and decided to censor the Bailey Campaign by refusing to run our pro-life ads before 8 P.M. Although refusing to run television ads in the times requested by a federal candidate is a gross violation of the reasonable access law and, of course, the United States Constitution, station management arrogantly defied the law.

WHAS stated that over 1000 negative calls ultimately convinced them that the ads should not be run until after 8 P.M. Does public opinion have precedence over free speech? Of course, they failed to mention that in a poll of 18,000 people in 1992, over 60 percent supported my right to air the ads!

In addition, the banning of ads before 8 P.M. restricts a candidate's ability to reach the voting public. Ads placed after 8 P.M. are expensive prime-time spots. Ads placed after 11 P.M. do not reach television viewers who go to bed before that time.

WTHR-TV (Indianapolis/NBC) actually refused to air the ads at all, but finally agreed to accept the ads after 8 P.M. In each of these examples, the television stations claimed that the ads could be damaging to children, and that it was therefore their prerogative to restrict the ads until after 8 P.M.

The hypocrisy and arrogance of these television stations is astounding. For starters, these stations show dead bodies, starving people, and unspeakable acts of violence every single day. All of these things air before 8 P.M. Showing an aborted child is no different than showing a human being killed by any other tragedy in this world—except for the fact that it is not politically correct. But the real tragedy here is that the reasonable access law has been ignored merely because station management decided it no longer had to obey the law. To make matters worse, the FCC did not enforce the law.

The Bailey Campaign was forced to hire legal assistance and pursue three separate emergency appeals before the FCC. Throughout this appeal process, the media diligently attempted to discredit our ads and our campaign. The Bailey Campaign incurred great political and financial damage due to the perception that we had lost a legal challenge by the local television stations. With limited time and limited resources, our campaign lost the battle in the FCC. Shortly thereafter, we lost the Republican primary election.

Right now, I am angry enough to sue the stations, the FCC, and the federal government for violating my right of free speech. This violation cost me thousands of dollars in donations, undoubtedly was an embarrass-

ment to our campaign, and possibly cost me the election. In addition, because our ads were kept off the air before 8 P.M., hundreds of unborn babies, whose mothers might have seen the truth and made the decision to keep them, were aborted in the weeks that followed.

Placing the burden of appeal on the candidate, who has limited time and resources, rather than on the station, which has both time and money in abundant supply, is wrong. Stations must be forced to run all television ads submitted by federal candidates. If a station does not want to run the ad, that station should be the one to appeal to the FCC, not the candidate. The reasonable access law needs to be amended. The law should be rewritten to force the burden of appeal upon the television station, not the candidate. Obviously, the system is now broken.

It has been months since the Bailey Campaign first appealed to the FCC, and there still is no decision. Why should candidates be forced to spend money on legal fees defending themselves against the media elites who run these television stations via the public airwaves? Do we really want station managers to be the monitors of political speech? As a free nation, are we prepared to give these stations this kind of power over the political process?

Perhaps you are reading this, and you are militantly pro-choice. I doubt I am getting much sympathy from you. But let us imagine we are back in Nazi Germany in the early 1940s. You are running for office against Hitler. As part of your national campaign, you create television commercials showing the horror of the Nazi death camps. Dead Jewish children are explicitly shown in your ads. Should you be allowed to show these pictures? Of course—anything else would be blatant, unconstitutional censorship! My point is that some political discourse may be objectionable, distasteful, disgusting, and downright ridiculous, but such speech must be protected under both the United States Constitution and the reasonable access law, and must be enforced diligently by the FCC.

The inaction of the FCC was a victory for the television stations who demonstrated an obvious bias against the pro-life position. Think about what might be next. Perhaps stations may start censoring political speech that they find too religious. Maybe they will censor the political speech of leftist groups opposing nuclear power because such ads will show people dying of radiation. Who can guess? What is significant here is that a huge crack in the dam of free political speech has formed. Whether one is on the political left or right is of no consequence here. The basic constitutional right of free speech has been compromised.

Believe me, if the FCC rules against my constitutional right of free speech, there will be a price to pay. I am prepared to pursue this case

relentlessly, including taking it all the way to the Supreme Court. If I lose, all of America loses. Blatant unconstitutional censorship by media elites will ultimately threaten the Republic, and no one will escape unharmed.

