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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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RANDALL ET AL. *v.* SORRELL ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 04–1528. Argued February 28, 2006—Decided June 26, 2006*

Vermont's Act 64 stringently limits both the amounts that candidates for state office may spend on their campaigns and the amounts that individuals, organizations, and political parties may contribute to those campaigns. Soon after Act 64 became law, the petitioners—individuals who have run for state office, citizens who vote in state elections and contribute to campaigns, and political parties and committees participating in state politics—brought this suit against the respondents, state officials charged with enforcing the Act. The District Court held that Act 64's expenditure limits violate the First Amendment, see *Buckley* v. *Valeo,* 424 U. S. 1, and that the Act's limits on political parties' contributions to candidates were unconstitutional, but found the other contribution limits constitutional. The Second Circuit held that *all* of the Act's contribution limits are constitutional, ruled that the expenditure limits may be constitutional because they are supported by compelling interests in preventing corruption or its appearance and in limiting the time state officials must spend raising campaign funds, and remanded for the District Court to determine whether the expenditure limits were narrowly tailored to those interests.

Held: The judgment is reversed, and the cases are remanded.

382 F. 3d 91, reversed and remanded.

JUSTICE BREYER, joined by THE CHIEF JUSTICE and JUSTICE ALITO, concluded in Parts I, II–B–3, III, and IV that both of Act 64's sets of

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*Together with No. 04–1530, *Vermont Republican State Committee et al.* v. *Sorrell et al.,* and No. 04–1697, *Sorrell et al.* v. *Randall et al.,* also on certiorari to the same court.

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limitations are inconsistent with the First Amendment. Pp. 6–8, 10–29.

1. The expenditure limits violate the First Amendment's free speech guarantees under *Buckley*. Pp. 6–8, 10–11.

(a) In *Buckley,* the Court held, *inter alia*, that the Government's asserted interest in preventing "corruption and the appearance of corruption," 424 U. S., at 25, provided sufficient justification for the contribution limitations imposed on campaigns for federal office by the Federal Election Campaign Act of 1971, *id.,* at 23–38, but that FECA's expenditure limitations violated the First Amendment, *id.,* at 39–59. The Court explained that the difference between the two kinds of limitations is that expenditure limits "impose significantly more severe restrictions on protected freedoms of political expression and association than" do contribution limits. *Id.*, at 23. Contribution limits, though a "marginal restriction," nevertheless leave the contributor "fre[e] to discuss candidates and issues." *Id.*, at 20–21. Expenditure limits, by contrast, impose "[a] restriction on the amount of money a person or group can spend on political communication," *id.*, at 19, and thereby necessarily "reduc[e] the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached," *ibid.* For over 30 years, in considering the constitutionality of a host of campaign finance statutes, this Court has adhered to *Buckley*'s constraints, including those on expenditure limits. See, *e.g., McConnell* v. *Federal Election Comm'n,* 540 U. S. 93, 134. Pp. 6–8.

(b) The respondents argue unpersuasively that *Buckley* should be distinguished from the present cases on a ground they say *Buckley* did not consider: that expenditure limits help to protect candidates from spending too much time raising money rather than devoting that time to campaigning among ordinary voters. There is no significant basis for that distinction. Act 64's expenditure limits are not substantially different from those at issue in *Buckley*. Nor is Vermont's primary justification for imposing its expenditure limits significantly different from Congress' rationale for the *Buckley* limits: preventing corruption and its appearance. The respondents say unpersuasively that, had the *Buckley* Court considered the time protection rationale for expenditure limits, the Court would have upheld those limits in the FECA. The *Buckley* Court, however, was aware of the connection between expenditure limits and a reduction in fundraising time. And, in any event, the connection seems perfectly obvious. Under these circumstances, the respondents' argument amounts to no more than an invitation so to limit *Buckley's* holding as effectively to overrule it. That invitation is declined. Pp. 10–11.

2. Act 64's contribution limits violate the First Amendment because

those limits, in their specific details, burden protected interests in a manner disproportionate to the public purposes they were enacted to advance. Pp. 11–29.

(a) In upholding the $1,000 contribution limit before it, the *Buckley* Court recognized, *inter alia,* that such limits, unlike expenditure limits, "involv[e] little direct restraint on" the contributor's speech, 424 U. S., at 21, and are permissible as long as the government demonstrates that they are "closely drawn" to match a "sufficiently important interest," *id.*, at 25. It found that the interest there advanced, "prevent[ing] corruption" and its "appearance," was "sufficiently important" to justify the contribution limits, *id.*, at 25–26, and that those limits were "closely drawn." Although recognizing that, in determining whether a particular contribution limit was "closely drawn," the amount, or level, of that limit could make a difference, see *id.*, at 21, the Court added that such "distinctions in degree become significant only when they . . . amount to differences in kind," *id.*, at 30. Pointing out that it had "no scalpel to probe, whether, say, a $2,000 ceiling might not serve as well as $1,000," *ibid.,* the Court found "no indication" that FECA's contribution limitations would have "any dramatic adverse effect on the funding of campaigns," *id.*, at 21. Since *Buckley*, the Court has consistently upheld contribution limits in other statutes, but has recognized that such limits might *sometimes* work more harm to protected First Amendment interests than their anticorruption objectives could justify, see, *e.g., Nixon* v. *Shrink Missouri Government PAC,* 528 U. S. 377, 395–397. Pp. 12–13.

(b) Although the Court has "no scalpel to probe," 424 U. S., at 30, with exactitude whether particular contribution limits are too low and normally defers to the legislature in that regard, it must nevertheless recognize the existence of some lower bound, as *Buckley* acknowledges. While the interests served by contribution limits, preventing corruption and its appearance, "directly implicate the integrity of our electoral process," *McConnell, supra,* at 136, that does not simply mean the lower the limit, the better. Contribution limits that are too low also can harm the electoral process by preventing challengers from mounting effective campaigns against incumbent officeholders, thereby reducing democratic accountability. Where there is strong indication in a particular case, *i.e.*, danger signs, that such risks exist (both present in kind and likely serious in degree), courts, including appellate courts, must review the record independently and carefully with an eye toward assessing the statute's "tailoring," *i.e.,* toward assessing the restrictions' proportionality. See *Bose Corp.* v. *Consumers Union of United States, Inc.,* 466 U. S. 485, 499. Danger signs that Act 64's contribution limits may fall outside tolerable First

Amendment limits are present here. They are substantially lower than both the limits the Court has previously upheld and the comparable limits in force in other States. Consequently, the record must be examined to determine whether Act 64's contribution limits are "closely drawn" to match the State's interests. Pp. 13–19.

(c) The record demonstrates that, from a constitutional perspective, Act 64's contribution limits are too restrictive. Five sets of factors, taken together, lead to the conclusion that those limits are not narrowly tailored. *First,* the record suggests, though it does not conclusively prove, that Act 64's contribution limits will significantly restrict the amount of funding available for challengers to run competitive campaigns. *Second,* Act 64's insistence that a political party and all of its affiliates together abide by *exactly* the same low $200 to $400 contribution limits that apply to individual contributors threatens harm to a particularly important political right, the right to associate in a political party. See, *e.g.*, *California Democratic Party* v. *Jones*, 530 U. S. 567, 574. Although the Court upheld federal limits on political parties' contributions to candidates in *Federal Election Comm'n* v. *Colorado Republican Federal Campaign Comm.,* 533 U. S. 431, the limits there at issue were far less problematic, for they were significantly higher than Act 64's limits, see, *e.g., id.*, at 438–439, and n. 3, and they were much higher than the federal limits on contributions from individuals to candidates, see *id.*, at 453. *Third,* Act 64's treatment of volunteer services aggravates the problem. Although the Act excludes uncompensated volunteer services from its "contribution" definition, it does not exclude the expenses volunteers incur, *e.g.,* travel expenses, in the course of campaign activities. The combination of very low contribution limits and the absence of an exception excluding volunteer expenses may well impede a campaign's ability effectively to use volunteers, thereby making it more difficult for individuals to associate in this way. Cf. *Buckley, supra,* at 22. *Fourth,* unlike the contribution limits upheld in *Shrink,* Act 64's limits are not adjusted for inflation, but decline in real value each year. A failure to index limits means that limits already suspiciously low will almost inevitably become too low over time. *Fifth,* nowhere in the record is there any special justification for Act 64's low and restrictive contribution limits. Rather, the basic justifications the State has advanced in support of such limits are those present in *Buckley*. Indeed, other things being equal, one might reasonably believe that a contribution of, say, $250 (or $450) to a candidate's campaign was less likely to prove a corruptive force than the far larger contributions at issue in the other campaign finance cases the Court has considered. Pp. 19–28.

(d) It is not possible to sever some of the Act's contribution limit

provisions from others that might remain fully operative. Doing so would require the Court to write words into the statute (inflation indexing), to leave gaping loopholes (no limits on party contributions), or to foresee which of many different possible ways the Vermont Legislature might respond to the constitutional objections to Act 64. In these circumstances, the legislature likely would not have intended the Court to set aside the statute's contribution limits. The legislature is free to rewrite those provisions to address the constitutional difficulties here identified. Pp. 28–29.

JUSTICE BREYER, joined by THE CHIEF JUSTICE in Parts II–B–1 and II–B–2, rejected the respondents' argument that *Buckley* should, in effect, be overruled because subsequent experience has shown that contribution limits alone cannot effectively deter corruption or its appearance. *Stare decisis,* the basic legal principle commanding judicial respect for a court's earlier decisions and their rules of law, prevents the overruling of *Buckley*. Adherence to precedent is the norm; departure from it is exceptional, requiring "special justification," *Arizona* v. *Rumsey,* 467 U. S. 203, 212, especially where, as here, the principle at issue has become settled through iteration and reiteration over a long period. There is no special justification here. Subsequent case law has not made *Buckley* a legal anomaly or otherwise undermined its basic legal principles. Cf. *Dickerson* v. *United States,* 530 U. S. 428, 443. Nor is there any demonstration that circumstances have changed so radically as to undermine *Buckley*'s critical factual assumptions. The respondents have not shown, for example, any dramatic increase in corruption or its appearance in Vermont; nor have they shown that expenditure limits are the only way to attack that problem. Cf. *McConnell, supra.* Finally, overruling *Buckley* now would dramatically undermine the considerable reliance that Congress and state legislatures have placed upon it in drafting campaign finance laws. And this Court has followed *Buckley,* upholding and applying its reasoning in later cases. Pp. 8–10.

JUSTICE ALITO agreed that Act 64's expenditure and contribution limits violate the First Amendment, but concluded that respondents' backup argument asking this Court to revisit *Buckley* v. *Valeo,* 424 U. S. 1, need not be reached because they have failed to address considerations of *stare decisis.* Pp. 1–2.

JUSTICE KENNEDY agreed that Vermont's limitations on campaign expenditures and contributions violate the First Amendment, but concluded that, given his skepticism regarding this Court's campaign finance jurisprudence, see, *e.g.*, *McConnell* v. *Federal Election Comm'n,* 540 U. S. 93, 286–287, 313, it is appropriate for him to concur only in the judgment. Pp. 1–3.

JUSTICE THOMAS, joined by JUSTICE SCALIA, agreed that Vermont's

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Act 64 is unconstitutional, but disagreed with the plurality's rationale for striking down that statute. *Buckley* v. *Valeo*, 424 U. S. 1, provides insufficient protection to political speech, the core of the First Amendment, is therefore illegitimate and not protected by *stare decisis*, and should be overruled and replaced with a standard faithful to the Amendment. This Court erred in *Buckley* when it distinguished between contribution and expenditure limits, finding the former to be a less severe infringement on First Amendment rights. See, *e.g., Nixon* v. *Shrink Missouri Government PAC*, 528 U. S. 377, 410–418. Both the contribution and expenditure restrictions of Act 64 should be subjected to strict scrutiny, which they would fail. See, *e.g., Colorado Republican Federal Campaign Comm.* v. *Federal Election Comm'n,* 518 U. S. 604, 640–641. Pp. 1–10.

BREYER, J., announced the judgment of the Court and delivered an opinion, in which ROBERTS, C. J., joined, and in which ALITO, J., joined as to all but Parts II–B–1 and II–B–2. ALITO, J., filed an opinion concurring in part and concurring in the judgment. KENNEDY, J., filed an opinion concurring in the judgment. THOMAS, J., filed an opinion concurring in the judgment, in which SCALIA, J., joined. STEVENS, J., filed a dissenting opinion. SOUTER, J., filed a dissenting opinion, in which GINSBURG, J., joined, and in which STEVENS, J., joined as to Parts II and III.