Similarly, limitations upon the amount of funds a candidate could spend out of his own resources or those of his immediate family were voided. A candidate, no less than any other person, has a First Amendment right to advocate.[864] The limitations upon total expenditures by candidates seeking nomination or election to federal office could not be justified: the evil associated with dependence on large contributions was met by limitations on contributions, the purpose of equalizing candidate financial resources was impermissible, and the First Amendment did not permit government to determine that expenditures for advocacy were excessive or wasteful.[865]

The government not only may not limit the amount that a candidate may spend out of his own resources, but, if a candidate spends more than a particular amount, the government may not penalize the candidate by authorizing the candidate's opponent to receive individual contributions at higher than the normal limit. In *Davis v. Federal Election Commission*, the Court struck down, as lacking a compelling governmental interest, a federal statute that provided that, if a "self-financing" candidate for the House of Representatives spends more than a specified amount, then his opponent may accept more individual contributions than otherwise permitted. The statute, the Court wrote, imposed "a special and potentially significant burden" on a candidate "who robustly exercises [his] First Amendment right."[866] Citing *Buckley*, the Court stated that a burden "on the expenditure of personal funds is not justified by any governmental interest in eliminating corruption or the perception of corruption." This is because "reliance on personal funds *reduces* the threat of corruption, and therefore . . . discouraging use of personal funds[

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tion of any presidential candidate who received public funding. An equally divided affirmance is of limited precedential value. When the validity of this provision, 26 U.S.C. § 9012(f), was again before the Court in 1985, the Court invalidated it. FEC v. National Conservative Political Action Comm., 470 U.S. 480 (1985). In an opinion by Justice Rehnquist, the Court determined that the governmental interest in preventing corruption or the appearance of corruption was insufficient justification for restricting the First Amendment rights of committees interested in making independent expenditures on behalf of a candidate, since "the absence of prearrangement and coordination undermines the value of the expenditure to the candidate, and thereby alleviates the danger that expenditures will be given as a *quid pro quo* for improper commitments from the candidate." Id. at 498. *See also* Colorado Republican Campaign Comm. v. FEC, 518 U.S. 604 (1996) (the First Amendment bars application of the Party Expenditure Provision of the Federal Election Campaign Act, 2 U.S.C. § 441a(d)(3), to expenditures that the political party makes independently, without coordination with the candidate).

[864] 424 U.S. at 51–54. Justices Marshall and White disagreed with this part of the decision. Id. at 286.

[865] 424 U.S. at 54–59.

[866] 128 S. Ct. 2759, 2771, 2772 (2008). The statute was § 319(a) of the Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. 107–155, 116 Stat. 109, 2 U.S.C. § 441a–1(a), which was part of the so-called "Millionaire's Amendment."