

Money has always had an influence in electoral politics of the United States, and laws regarding campaign finance have been changed and modified in the past. However, a historic and monumental shift occurred on January 21, 2010. On this date The Supreme Court ruled on the *Citizens United v. Federal Election Commission* case in a manner that completely changed the way elections take place in America by lifting the ban on corporate spending in candidate elections.

This game changing decision had an unlikely source, and the ultimate decision awarded the plaintiff far more than they were seeking. It involved the right to air a documentary called "Hillary: The Movie," produced by Citizens United, a conservative nonprofit corporation, and was released during the Democratic presidential primaries in 2008.

This ruling overturned two previous decisions that put restrictions on corporate donations to candidates:

1. *Austin v. Michigan Chamber of Commerce* (1990)- which upheld restrictions on corporate spending to support or oppose political candidates
2. *McConnell v. Federal Election Commission* (2003)- which upheld the Bipartisan Campaign Reform Act of 2002 restricting campaign spending by corporations and unions.

President Barack Obama's statement that day summarized the effect of Citizen's United:

"It is a major victory for big oil, Wall Street banks, health insurance companies and the other powerful interests that marshal their power every day in Washington to drown out the voices of everyday Americans..."

Soon after this historic ruling, the Federal Court of Appeals for the District of Columbia decided in *Speechnow.org v. FEC*, that contributions to groups that only make independent expenditures could not be limited. This spawned a new type of political action committee, officially known as independent-expenditure only committees, but most commonly known as Super PACs. Super PACs can raise unlimited sums from corporations, unions and other groups, as well as individuals.

Technically, Super PACs are not allowed to coordinate directly with candidates or political parties and are required to disclose their donors, just like traditional PACs.

However, almost all take advantage of a technicality in the filing requirements in order to postpone disclosure until well after the elections. Also, while it is difficult to prove a direct connection to the candidate, former employees or even family members of the candidate often run "their" Super PACs, and the donors are usually closely associated to the candidate. Additionally, a recent FEC ruling has opened the door for the creation of Hybrid PACs or Super Super PACs which allows a Super PAC to also operate a regular PAC within their organization. This PAC within a PAC in turn is allowed to donate directly to candidates. Essentially acting as a money laundering operation to protect donors anonymity.

With a system to receive unlimited, virtually undisclosed donations from corporations and individuals, money has flowed in to the 2012 election cycle in a way never before seen. For example, Political expenditures for the Iowa caucus set a new all-time record, totaling over \$12 million, with an unprecedented two-thirds of this coming from Super PACs. A large proportion of these funds were spent on negative television advertisements and direct mailing against candidates. With so few people caucusing, this led to an average "price per vote" of about \$130. And this was just what was spent on on add buys!

Why does it matter?

In a post-Citizens United America, the average citizen no longer has a voice or influence over candidates and elected officials. To compete in this new system, Candidates must raise extraordinary sums of cash making them beholden to wealthy corporate donors both during the election cycle and once in office. There is no longer a need or even the capacity to listen to the will of the people.

Since our politicians view their corporate backers as constituents, officials are unlikely to suggest or vote for corrective legislation that would rob them of a critical campaign mechanism. Citizens United has broken the entire system threatening democracy, creating a new era where the government is indifferent to the will of the people, to benefit a handful of corporations, bankers and billionaires. This system reinforces itself, making these individuals and entities ever more powerful.

Movement Resistance

Citizens, activist and a number political leaders have begun to organize in response the danger posed by this new system of corporate control and together as a movement we have begun to stand up and fight to save our democracy.

The first large scale resistance to the looming threat of Corporatism in the post Citizens United era was fought and will soon be won in Wisconsin. The citizens of Wisconsin united in response to the anti-labor policies of their Koch-bought Governor, Scott Walker. Starting with a historic protest in their states capitol followed by a record breaking recall effort which collected over a Million signatures twice the 540,000 signatures which were required to force the recall. In the end the petition to recall Scott Walker was signed by a number equal to one third of all registered voters in the state.

The Occupy Wall Street and its related Occupy movements' message has been heard and in just three short months has changed the entire political narrative. Instead of focusing on austerity measures, politicians are now being forced to address the inequality of power in America.

Even traditional corporate media has recognized the change in the political narrative by naming "The Protester" as its Person of the Year. Stephen Colbert has already raised huge sums satirizing Super PACs, with a war chest reportedly approaching one million.

Legislative Actions

Federal Level

Senator Bernie Sanders introduced a proposed Constitutional amendment, S.J. Res 33, to ban corporate contributions to candidates and end their influence in the political process. It co-sponsored by Sen. Mark Begich (D-Alaska), and a similar resolution has been introduced in the House by Rep. Ted Deutch (D-Fla.). These resolutions state that corporations do not have the same constitutional rights as persons, that corporations are subject to regulation, that corporations may not make campaign contributions, and that Congress has the power to regulate campaign finance. Sanders said he has never proposed an amendment to the Constitution before, but said he sees no other alternative to reversing the Citizens United decision. "In my view, corporations should not be able to go into their treasuries and spend millions and millions of dollars on a campaign in order to buy elections," he declared, "I do not believe that is what American democracy is supposed to be about."

Six Democratic senators, Tom Udall (NM), Michael Bennett (CO), Tom Harkin (IA), Dick Durbin (IL), Chuck Schumer (NY), Sheldon Whitehouse (RI), and Jeff Merkely (OR), introduced a constitutional amendment that would effectively overturn the Citizens United decision and restore the ability of Congress to properly regulate the campaign finance system. This amendment resolves that both Congress and individual states shall have the power to regulate both the amount of contributions made directly to candidates for elected office and "the amount of expenditures that may be made by, in support of, or in opposition to such candidates." "By limiting the influence of big money in politics, elections can be more about the voters and their voices, not big money donors and their deep pockets," said Harkin of the amendment.

State Level

In a huge win for the cause of democracy the Montana Supreme Court upheld in *Western Tradition Partnership, Inc. v. Attorney General of Montana* (Dec, 2011) that Montana's state law prohibiting corporate spending in political races was constitutional. The decision concluded, "Montana has a compelling interest to impose the challenged rationally-tailored statutory restrictions" to prohibit "independent political expenditures by a corporation related to a candidate." Unfortunately, the case is being appealed and members of the Citizens United legal team have been hired to handle the appeal.

Virginia Lyons has made Vermont the first state to pursue a constitutional amendment to end corporate personhood. She introduced a resolution calling for, "an amendment to the United States Constitution ... which provides that corporations are not persons under the laws of the United States." And it's likely to pass the state legislature.

Local Level

Los Angeles was the first major city to call for an end to corporate personhood. The Los Angeles City Council voted unanimously to support a resolution, which calls on

Congress to amend the Constitution to establish that only living persons are endowed with constitutional rights and that money is not the same as free speech. Also, the nation's largest city, New York, passed a resolution "so that the expenditure of corporate money to influence the electoral process is no longer a form of constitutionally protected speech," and calls on Congress to begin the process of amending the Constitution. Madison and Dane County, Wisconsin, Boulder, Colorado, Missoula, Montana have passed similar measures as well.

In New Haven specifically, this resolution recognizes not only the threat to our democracy in *Citizen's United*, but also in the United States Supreme Court's subsequent ruling in *McCormish* which specifically attacked the New Haven values written into our Democracy Fund Ordinance.

The City of New Haven's first mayor Robert Sherman was not only a signer of the United States Constitution, he also proposed a compromise on congressional representation that combined facets of the two opposing plans by the large and small states. The result, called the Connecticut (or Great) Compromise, which allowed for the eventual ratification of the Constitution. In our city of New Haven at the center of the the Constitution State it comes down to us to.

Article V

Article V of the Constitution provides us with two different paths for proposing an amendment to the Constitution.

The first path requires two thirds of both houses of the congress to "deem it necessary." In the two years since the *Citizens United* ruling members in both the house and Senate have sponsored eight separate amendments on this issue. Unfortunately the 112th Congress has abrogated its duty to act in a swift and decisive manner to address any of these proposed amendments and protect the integrity of our electoral system.

Fortunately, Article V of the Constitution of the United States also provides a second path. The second path to a constitutional amendment requires Congress, on the application of the legislatures of two-thirds of the states, to call a constitutional convention for proposing amendments. Attempts to use this method have never resulted in a Congress calling a constitutional convention. However, to say that this method has failed would be a grave error since it has been a vital component in campaigns which have succeeded in amending the Constitution.

The passage of the 17th amendment, providing for the direct election of senators by the people, is the perfect example of how a nationwide pro-democracy movement like ours can successfully leverage the imminent threat of a Constitutional Convention to get an amendment passed. In 1900 Pennsylvania was the first state to have their legislature submit a request to congress to call a Constitutional Convention in order to add the 17th amendment to the Constitution. In 1901 an additional seven states followed suit. Over the course of the next 13 years 28 states passed nearly 70 resolutions calling on congress to call a Convention leaving them within one state of the two thirds required. When it became clear to Members of Congress that this amendment would be passing one way or the other, they choose to preempt a constitutional convention by introducing and passing the 17th amendment through congress. It is our assumption that the Congress would react similarly as a convention would threaten the status quo far more than an amendment.

The two largest and most prominent groups spending money to influence politics in the post- Citizens United world are the Koch brothers and Karl Rove's Crossroads Network. For 2012, the Kochs are planning to spend **\$200 million**, while American Crossroads and Crossroads GPS say they'll spend **\$240 million**.

Koch Brothers

Koch Family Foundations is the name for the charities associated with the family of Fred C. Koch. The most prominent of these are the Charles G. Koch Charitable Foundation and the David H. Koch Charitable Foundation, created by two of Fred C. Koch's sons, who own the majority of Koch Industries, an oil, gas, and chemical conglomerate, which is the U.S.A.'s second largest privately held company. Charles and David Koch are worth a reported \$21.5 billion each.

It is estimated that the Koch brothers have given more than \$196 million to dozens of political organizations. Tax records indicated that in 2008 the three main Koch family foundations gave money to thirty-four political and policy organizations, but other gifts by the Kochs are untraceable because current federal tax law permits anonymous personal donations to nonprofit groups.

For decades, they've been donors to academic institutions and public policy think tanks, but in recent years they have focused on more activist groups, primarily through twice-a-year donor summits held since 2003. These conferences consist of roughly 150 wealthy conservative business giants who are sworn to secrecy and few will talk publicly about the meetings.

It is difficult to determine how much of their own money the Kochs have directed or contributed to political efforts in recent years. To understand why, examine the organization Americans for Prosperity. It is comprised of two non-profit organizations, both of which the Kochs helped found and fund. The Prosperity groups are separately registered under sections 501(c)3 and 501(c)4 of the tax code, so they are not required to disclose the donors,

However, tax returns show their contribution intake nearly doubled between 2008 and 2009, when they reported receiving \$26.8 M in donations reported and emerged as a key organizing group behind the tea party movement and helped oppose President Barack Obama's health care plan. Last year, Americans for Prosperity pledged to spend \$45 million on rallies, canvassing, and advertisements criticizing Democrats in 50 swing House districts and half a dozen targeted Senate races.

Although many feel that spending by the groups aided the GOP in retaking the House, since Americans for Prosperity's advertisements ran all the year and did not explicitly support Republican, only some of them to be were required to be reported to the Federal Election Commission.

Karl Rove

The two Crossroads organization were among the biggest outside spending groups in the 2010 midterm elections. They reported to the Federal Election Commission a combined \$39 million of was spent on advertising and election communications as well as indeterminable amount on voter turnout efforts.

Ed Gillespie, a former chairman of the Republican National Committee, and Karl Rove, who served as senior adviser to President George W. Bush, launched American Crossroads in 2010 and later formed Crossroads Grassroots Political Strategies Crossroads Grassroots Political Strategies (Crossroads GPS) as a partner organization. The chairman of American Crossroads is Mike Duncan, another former RNC chairman. Its president and chief executive officer is Steven Law, a former deputy secretary of labor in the administration of George W. Bush. Law also served as general counsel to the U.S. Chamber of Commerce.

American Crossroads is a super PAC, allowed to raise and spend unlimited amounts provided all donations and expenditures are reported publicly. Crossroads GPS persistently refuses to disclose any information about who gives to it, as it is a 501c4 organization that does not have to disclose. Crossroads GPS is permitted to transfer donations to the Americans Crossroads and the original donors can therefore remain secret.

Resolution urging on the Connecticut General Assembly and United States Congress to call for a Convention to propose an amendment to the United States Constitution

WHEREAS, the United States Constitution does not mention corporations; and

WHEREAS, corporations were chartered by states with explicit definition of the purpose of the corporation; and

WHEREAS, in 1886 the United States Supreme Court granted corporations the protection of the law under Amendment XIV; and

WHEREAS, in 1893 the United States Supreme Court granted corporations the right to due process under Amendment V; and

WHEREAS, in 1906 the United States Supreme Court granted corporations protection from search and seizure under Amendment IV; and

WHEREAS, in 1925 the United States Supreme Court gave corporations freedom of the press and speech under Amendment I; and

WHEREAS, In 2010 the United States Supreme Court issued its decision in *Citizens United v. Federal Election Commission* holding that independent spending on elections by corporations and other groups could not be limited by government regulations; and

WHEREAS, in his eloquent dissent, Justice John Paul Stevens rightly recognized that "corporations have no consciences, no beliefs, no feelings, no thoughts, no desires. Corporations help structure and facilitate the activities of human beings, to be sure, and their 'personhood' often serves as a useful legal fiction. But they are not themselves members of 'We the People' by whom and for whom our Constitution was established"; and

WHEREAS, this decision rolled back the legal restrictions on corporate spending in the electoral process, allowing for unlimited corporate spending to influence elections, candidate selection, and policy decisions; and

WHEREAS, personhood rights afforded to corporations have allowed courts to strike down laws and overturn local and state regulations intended to protect natural persons in areas ranging from public health, to employee safety, to protection of the environment; and

WHEREAS, in 2011 the United States Supreme Court issued its decision in *McComish v. Bennett*, holding that Arizona's matching funds policy, which provides additional funds to a publicly funded candidate when expenditures by a privately financed candidate and independent groups exceed the funding initially allotted to the publicly financed candidate, substantially burdens political speech and is not sufficiently justified by a compelling interest to survive First Amendment scrutiny; and

WHEREAS, campaign finance reform over the last century has focused on one key question: how to prevent massive pools of private money from corrupting our political system. If an officeholder owes his election to wealthy contributors, he may act for their benefit alone, rather than on behalf of all the people; and

WHEREAS, this decision has overturned the right of the citizens to implement reforms designed to curb the power of special interests and to prevent to both corruption and the appearance of corruption—and so to protect our democratic system of governance; and

WHEREAS, in her eloquent dissent, Justice Elena Kagan rightly recognized that "the First Amendment's core purpose is to foster a healthy, vibrant political system full of robust discussion and debate. Nothing in Arizona's anticorruption statute, the Arizona Citizens Clean Elections Act, violates this constitutional protection. To the contrary, the Act promotes the values underlying both the First Amendment and our entire Constitution by enhancing the 'opportunity for free political discussion to the end that government may be responsive to the will of the people.'"

WHEREAS, the Court's decisions in *Citizens United* & *McComish* severely hamper the ability of federal, state and local governments to enact reasonable campaign finance reforms and regulations including any practical public financing; and

WHEREAS, corporations should not be afforded the entirety of protections or "rights" of natural persons, such that the expenditure of corporate money to influence the electoral process is a form of constitutionally protected speech; and

WHEREAS, several proposed amendments to the Constitution have been introduced in Congress that would allow governments to regulate the raising and spending of money by corporations to influence elections; and

WHEREAS, the 112th Congress has abrogated its duty to act in a swift and decisive manner to address any of these proposed amendments and protect the integrity of our electoral system; and

WHEREAS, Article V of the United States Constitution provides that the Congress, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments now;

THEREFORE, BE IT RESOLVED, that the New Haven Board of Alderpersons opposes the United States Supreme Court's interpretation of the United States Constitution in *Citizens United* regarding the constitutional rights of corporations, and in *McComish* regarding the constitutional right and will of the citizens of New Haven to enhance the opportunity for free political discussion in its Democracy Fund; and

BE IT FURTHER RESOLVED, that the New Haven Board of Alderpersons calls upon, and strongly urges its delegation to, the Connecticut General Assembly to call for a Constitutional Convention in order to pass an amendment which provides that: corporations are not people. They have none of the Constitutional rights of human beings. Corporations are not allowed to give money to any politician, directly or indirectly, and all elections must be publicly financed using strict and affordable contribution limits; and

BE IT FURTHER RESOLVED, that the New Haven Board of Alderpersons calls upon the members of the Connecticut Congressional Delegation to introduce the aforementioned amendment on corporate personhood and clean elections to the United States Constitution; and

BE IT FURTHER RESOLVED, The New Haven Board of Alderpersons shall encourage public discussion on the role of corporations in public life and urge other cities to foster similar public discussion.