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A Test for the Roberts Court

Published: April 25, 2007


The campaign finance system is like an overburdened dam: it holds back a flood of special-interest money, but there is a constant struggle to keep it from springing leaks. The Supreme Court hears arguments today in a case that could determine whether a major new leak opens up, one that would allow corporations and unions to pour unprecedented amounts of money into political campaigns. It is important that the court continue to keep this money out.

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Corporations have been prohibited since the early 1900's from contributing to political campaigns. This ban and a similar one imposed later on unions prevents these wealthy entities from buying elections and elected officials. The Supreme Court, in upholding these bans, has recognized that Congress has a compelling interest in preventing the "corrosive and distorting effects" of corporate and union contributions.

Corporations and unions have, not surprisingly, tried to get around the ban. One tactic they have used is bankrolling phony "issue ads": commercials that purport to educate the public about a policy issue, but are actually intended to elect or defeat a particular candidate. Today's case involves phony issue ads run on radio and television by a group called Wisconsin Right to Life, which accepted major contributions from corporations against Senator Russell Feingold, Democrat of Wisconsin.

The ads attacked Mr. Feingold and Wisconsin's other senator, Herb Kohl, for blocking President Bush's judicial nominees, and urged the public to contact the two men to complain. Clearly the ads' purpose was to try to prevent Mr. Feingold's re-election. Wisconsin Right to Life had made it clear that it was targeting him for defeat. Mr. Feingold's opponents were using the issue of judicial nominees against him. The ads ran shortly before the election, while the Senate was in recess and no votes on judges were being held. And they did not provide contact information for Mr. Feingold and Mr. Kohl.

The court ruled in 2003 that bogus issue ads like these were the "functional equivalent" of campaign ads, and upheld Congress's ban on the use of corporate and union money to pay for them. That case should be controlling, but since 2003, two new members — Chief Justice John Roberts and Justice Samuel Alito — have joined the court. Today's case will be a test of their respect for Congress's authority to regulate campaign finance practices, and for the court's recent precedents.

In last year's election, the voters clearly showed they are unhappy with the role special interests play in Washington. That frustration has grown with each new scandal involving Congress or the Bush administration. It would be disturbing if the court now changed the rules to make it easier for special interests to corrupt American democracy.

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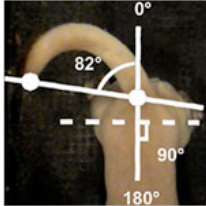
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