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EDITORIAL

The Court's Blow to Democracy

With a single, disastrous 5-to-4 ruling, the Supreme Court has thrust politics back to the robber-baron era of the 19th century. Disingenuously waving the flag of the First Amendment, the court's conservative majority has paved the way for corporations to use their vast treasuries to overwhelm elections and intimidate elected officials into doing their bidding.

Congress must act immediately to limit the damage of this radical decision, which strikes at the heart of democracy.

As a result of [Thursday's ruling](#), corporations have been unleashed from the longstanding ban against their spending directly on political campaigns and will be free to spend as much money as they want to elect and defeat candidates. If a member of Congress tries to stand up to a wealthy special interest, its lobbyists can credibly threaten: We'll spend whatever it takes to defeat you.

The ruling in *Citizens United v. Federal Election Commission* radically reverses well-established law and erodes a wall that has stood for a century between corporations and electoral politics. (The ruling also frees up labor unions to spend, though they have far less money at their disposal.)

The founders of this nation warned about the dangers of corporate influence. The Constitution they wrote mentions many things and assigns them rights and protections — the people, militias, the press, religions. But it does not mention corporations.

In 1907, as corporations reached new heights of wealth and power, Congress made its views of the relationship between corporations and campaigning clear: It banned them from contributing to candidates. At midcentury, it enacted the broader ban on spending that was repeatedly reaffirmed over the decades until it was struck down on Thursday.

This issue should never have been before the court. The justices overreached and seized on a case involving a narrower, technical question involving the broadcast of a movie that attacked Hillary Rodham Clinton during the 2008 campaign. The court elevated that case to a forum for striking down the entire ban on corporate spending and then rushed the process of hearing the case at breakneck speed. It gave lawyers a month to prepare briefs on an issue of enormous complexity, and it scheduled arguments during its vacation.

Chief Justice John Roberts Jr., no doubt aware of how sharply these actions clash with his confirmation-time vow to be judicially modest and simply "call balls and strikes," wrote a separate opinion trying to excuse the shameless judicial overreaching.

The majority is deeply wrong on the law. Most wrongheaded of all is its insistence that corporations are just like people and entitled to the same First Amendment rights. It is an odd claim since companies are creations of the state that exist to make money. They are given special privileges, including different tax rates, to do just that. It was a fundamental misreading of the Constitution to say that these artificial legal constructs have the same right to spend money on politics as ordinary Americans have to speak out in support of a candidate.

The majority also makes the nonsensical claim that, unlike campaign contributions, which are still prohibited, independent expenditures by corporations "do not give rise to corruption or the appearance of corruption." If Wall Street bankers told members of Congress that they would spend millions of dollars to defeat anyone who opposed their bailout, and then did so, it would certainly look corrupt.

After the court heard the case, Senator John McCain told reporters that he was troubled by the "extreme naïveté" some of the justices showed about the role of special-interest money in Congressional lawmaking.

In dissent, Justice John Paul Stevens warned that the ruling not only threatens democracy but "will, I fear, do damage to this institution." History is, indeed, likely to look harshly not only on the decision but the court that delivered it. The *Citizens United* ruling is likely to be viewed as a shameful bookend to *Bush v. Gore*. With one 5-to-4 decision, the court's conservative majority stopped valid votes from being counted to ensure the election of a conservative president. Now a similar conservative majority has distorted the political system to ensure that Republican candidates will be at an enormous advantage in future elections.

Congress and members of the public who care about fair elections and clean government need to mobilize right away, a cause President Obama has said he would join. Congress should repair the presidential public finance system and create another one for Congressional elections to help ordinary Americans contribute to campaigns. It should also enact a law requiring publicly traded corporations to get the approval of their shareholders before spending on political campaigns.

These would be important steps, but they would not be enough. The real solution lies in getting the court's ruling overturned. The four dissenters made an eloquent case for why the decision was wrong on the law and dangerous. With one more vote, they could rescue democracy.

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