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A Supreme Blow to Intimidation

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Rhode Island Sen. Sheldon Whitehouse is unhappy with Thursday's Supreme Court ruling that reins in his ability to harass political opponents. Perhaps he and his fellow intimidators should have been less brazen.

The justices celebrated the Fourth of July with one of their more important First Amendment rulings in decades. The high court's decision in *Americans for Prosperity Foundation v. Bonta* strikes down an attempt by California politicians to cast what Chief Justice John Roberts called "a dragnet for sensitive donor information from tens of thousands of charities each year." It also marked the court's belated if crucial recognition that the 21st century requires a new approach to disclosure.

The risks of "bomb threats, protests, stalking, and physical violence," the chief justice wrote, "seem to grow with each passing year," giving "anyone with access to a computer" the power to compile information to destroy others. And the opinion's references to past cases make clear the threat to donors doesn't come only from hackers or doxxers but from government itself.

Mr. Whitehouse didn't get a mention—the chief justice is a gentleman—but the senator can take a bow. For more than a decade, progressives have been weaponizing disclosure laws, using them to harass and intimidate political opponents. Illinois Sen. Dick Durbin forged a popular tactic in 2013, using a letter to attempt to expose and shame donors to the free-market American Legislative Exchange Council—a naked effort to cripple the group.

Since then, Mr. Whitehouse has taken on the lead harasser role. He cloaks his intentions in warnings about "dark money" and "front groups." But his threats have become so obvious that there is no longer any denying his objectives. Whether he's demanding confidential financial information from free-market nonprofits or insisting on new rules to expose the donors to organizations that submit court briefs, his targets are always on one side—the right—and his clear goal is to punish them.

He's been aided by the Democrats who ginned up the Internal Revenue Service scandal over the targeting of conservative nonprofits and liberal groups that launch boycotts of corporations whose executives and political-action committees contribute to political campaigns. And by the anonymous activists in 2008 who mined disclosure records to compile a database of contributors to California's Proposition 8, which banned same-sex marriage—used to target donors' homes and businesses and get people fired. With today's routine online doxxings, the Lincoln Project's

proposed blacklist, politicized prosecutors, cancel culture and campus tribunals, the Supreme Court can no longer pretend disclosure is benign sunshine.

Critics of *AFP* are already decrying it as a 6-3 "conservative" ruling, but what stood out was the bipartisan nature of the cause the court supported. Nearly 300 organizations signed friend-of-the-court briefs in support of the two right-leaning petitioners, groups that, as Chief Justice Roberts noted, span "the full range of human endeavors." It's not often you see agreement among the Pacific Legal Foundation, the NAACP, the Cato Institute, the Council on American-Islamic Relations, the National Association of Manufacturers and People for the Ethical Treatment of Animals. Even groups on the left have come to understand the sauce, the goose and the gander. Conservatives might not practice donor intimidation much, but give them time.

The breadth and depth of this coalition highlight the weakness of Justice Sonia Sotomayor's dissent. It seems willfully blind to today's partisan environment and its threats. It airily insists that there is no burden to nonprofits in complying and no risk that donors will be intimidated. Besides, she says, California is capable of keeping the information secure! She wrote these lines a few weeks after someone leaked the confidential tax data of thousands of Americans to ProPublica.

Mr. Whitehouse instantly issued a sky-is-falling statement, warning that we are "now on a clear path to enshrining a constitutional right to anonymous spending in our democracy." The dissenting opinion fretted that the majority "marks reporting and disclosure requirements with a bull's-eye." Expect the decision to rally the left's demands that the Supreme Court be packed with a liberal majority.

Yet as all these critics well know, the issue at hand was the disclosure of donors to *nonprofits.* The opinion doesn't touch the current reporting regime for donors to political campaigns. Transparency advocates might argue that this latter disclosure helps expose or guard against corruption or its appearance. But they've never had a reasonable argument that government should have the unfettered ability to snoop in Americans' private associational activities—even more so with today's high-tech tools and viciously partisan environment.

The court reinforced that on Thursday, and not a moment too soon. Americans can head off to their Independence Day festivities a little more confident about their First Amendment rights.