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## THE HILL'S Congress Blog

Where lawmakers come to blog

### Supreme Court decision is a victory for free speech

By Ilya Shapiro, Senior Fellow in Constitutional Studies, Cato Institute - 01/22/10 12:35 PM ET

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Critics of yesterday's decision say the sky of American democracy is falling. Supporters—including myself—say it's a great day for the republic and a vindication of the freedom of speech. How can this be? Are nonprofit think tanks and advocacy groups like my own Cato Institute, the ACLU, the NRA, and many other odd bedfellows who supported Citizens United all in the pockets of Wall Street, Big Oil, insurance companies, and others that President Obama assails as corrupting our politics? Leaving aside the issue of why the politician who got more of his campaign funding from Goldman Sachs than any other source would be going after the very industries that most support him, the asymmetry in this debate rests on the myth that money is an evil in the political system, and that therefore the American people want so-called campaign finance reform to "clean up" government.

Money is no more an evil in politics than it is in life generally. Some people may not like mud-slinging attack ads, but some people also don't like SUVs, the Super Bowl, the Jay Leno Show, and many other things that people spend money on—including donations to Cato, the ACLU, the NRA, etc. The problem with money in politics isn't the money, but rather the politics. So long as the government is powerful enough to dole out tax breaks, subsidies, stimulus funds, regulations, earmarks, and a whole host of other goodies (and baddies), those that stand to benefit (and lose) will spend money on the political process. The way to get rid of this behavior and spending—which is constitutionally protected in a whole host of ways: freedom of speech, freedom of association, the right to petition the government for redress of grievances, etc.—is to reduce the government's power to affect so many people's lives and transform economic incentives for businesses big and small. Reduce the size of government and K Street will melt away.

Finally, as my colleague Roger Pilon points out, 26 states have minimal campaign finance laws, with no evidence that those states have more corruption—or a more unequal "political playing field"—than states that strictly regulate. And that's because the real reason we have campaign finance regulations—the dirty little secret behind the whole convoluted regime—is that it's an incumbency protection racket. From the so-called "millionaire's amendment" that the Supreme Court struck down in 2008 to the limits on corporate and union advocacy that the Court struck down yesterday, McCain-Feingold and all other campaign finance legislation—passed by self-interested

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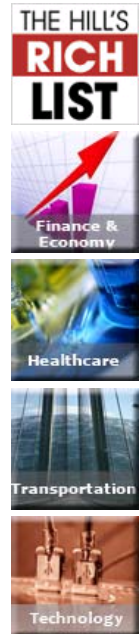
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politicians—is designed to make it harder for challengers. After-all, incumbents have the benefit of name recognition, taxpayer-funded travel to and around their home districts and states, taxpayer-funded campaign literature disguised as informational flyers touting all the great things a congressman is doing, and a host of other advantages.

The First Amendment is not a “loophole” for big business and those of us who want freer speech—without bureaucrats deciding who gets to speak when and how much—are not corporate shills. Free speech is the very foundation of our democracy, and we are the stronger today for the Citizens United decision.

**Comments (4)**

My summary is simple. The Founding Fathers, especially Jefferson and Madison, would totally disown what our democracy is fast becoming. Not to mention that it's ironic how these so-called "constructionists" on the Court (The Roberts 5), who claim that we should pay close attention to the intent of the Founding Fathers, are in reality more interested in the agenda of Corporate America - and have been for the past 2 years. You want "judicial activism". You have it here and now.

BY **DON** on 01/22/2010 at 13:26

The dems are furious, they had a monopoly with getting all that money from unions and the republicans could not get money from corporations. If they were they would be in favor of the decision but listen to Schuuuuumer and the rest of the left wing stupid idiots they do not want free speech they want only a one way dialog and the hell with the rest! We are in a democracy let every one contribute to who ever! Schuuuumer why don't you enact laws that will help business and then you would get some donations but do you blame them when you try everything to harm them!

BY **WILLIAM** on 01/22/2010 at 13:27

So, how much attention did this landmark ruling receive from the "Big 3" over at Fox News? Beck, Hannity, O'Reilly (and Van Susteren for good measure) uttered not a single word about it. After all, if something doesn't fit in with their current fascination with the Tea Party, just pretend it didn't happen and for their viewers, it probably didn't.

BY **DON** on 01/22/2010 at 13:33

How did the justices vote? (for or against) 5/4; 6/3 ????

BY **TOM** on 01/22/2010 at 14:07

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