

We the People Eugene

Fighting Corporate Rule

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Advisory Vote – measure 20-198

On Tuesday, November 6, 2012, Eugene voters overwhelmingly supported a call for Congress to pass an amendment restoring some of our democracy. The vote was on the following:

CAPTION: Advisory question on corporate/union constitutional rights and campaign spending.

ADVISORY QUESTION: Shall Congress send to States constitutional amendment reversing negative impact of the Citizens United case and limit independent campaign spending?

The results?

Yes	45,574	73.52 %
No.	16,413	26.48 %
Over Votes	11	
Under Votes	15,357	

This was put on the ballot by the Eugene City Council, at our insistence, on Wednesday, July 25, by a 6 to 2 vote. The summary that was in the voters’ pamphlet follows:

SUMMARY: This measure is an advisory question. Eugene voters are asked whether they support the City Council’s request that Congress send to the States a constitutional amendment reversing the impacts of the Supreme Court’s 2010 decision in Citizens United v. FEC. In Citizens United, the Supreme Court ruled that the First Amendment protects unlimited direct corporate and union spending to influence elections. On February 15, 2012, the City Council passed Resolution No. 5055. That resolution stated that corporations, unions and special interests should not have the same constitutional rights that natural persons possess. The resolution then stated action is needed to stop unlimited independent campaign expenditures by corporations, unions and special interest groups, which resulted from the Citizens United decision. Finally, the resolution asked Congress to send to the States a constitutional amendment reversing the impacts of Citizens United. A “yes” vote on this measure supports the Council’s resolution and request to Congress for the constitutional amendment. A “no” vote opposes the Council’s resolution and request for a constitutional amendment.

To discuss this measure, we held a town hall meeting on the evening of October 24, 2012 at the First United Methodist Church ([1376 Olive Street, Eugene](#)).

We discussed measure 20-198, and more broadly, what should be included in a Constitutional Amendment to address the Supreme Court’s 2010 Citizens United decision and other decisions that have weakened our democracy. We also discussed some dangers of an amendment, and what language should be used to address those dangers.

We are urging a yes vote on measure 20-198, and have submitted the following seven arguments:

We urge you to vote yes on Proposition 20-198, which asks Congress to amend the constitution to permit limits to be placed on campaign spending.

The amount of money spent on political campaigns has increased tremendously in recent years, and especially in the last two years. In 2010, by the narrowest of margins, the Supreme Court affirmed that money is speech and therefore that contributions to political campaigns cannot be limited. Justice Kennedy, writing for the majority, wrote that independent spending “does not give rise to corruption or the appearance of corruption.” This is nonsensical. There may not often be overt bribery, but the promise of huge campaign contributions in support of a political office holder, and the threat of huge contributions to support a future opponent, assuredly give rise to the perception, and very likely the reality, of pervasive corruption.

Moreover, we know less and less about who is making these contributions. The amount of so-called “soft” money has grown tremendously. In 2006, 1% of soft money came from groups that, by law, operated exclusively for the promotion of social welfare; in 2010, following the Supreme Court decision on Citizens United, 44% of the soft money came from those organizations, and they are not required to disclose their donors. This means that voters have no way to take into account who is paying for many of the ads intended to sway their votes.

If money is speech, then the more money someone has, the more they can drown out opposing views. The consequences of this imbalance of speech are reflected in the imbalance of power that has become brutally obvious. Nothing less than our democracy is at stake. Proposition 20-198 is a small step but important step. We urge that you vote “yes.”

Submitted by Bill Rodgers, member of the Board of Common Cause in Oregon, and supported by the Many Rivers Group of the Sierra Club, and by Karl Eysenbach, regional coordinator, Move On.

We urge a **YES** vote on measure 20-198, to call on Congress to amend the constitution. The current election is being distorted and overwhelmed by unlimited “independent” political campaigns, making it difficult for most people to appropriately influence political decisions.

The Citizens United (2010) Supreme Court decision said:

- No limitations whatsoever on “independent” political campaigns
- Not enough chance of corruption to have limitations

We disagree. Instead, we believe:

- Corruption and inordinate influence of massive wealth is clear
- There should be same limitations on “independent” campaigns as on candidate-driven campaigns
- Regulations should be content, political party, and candidate neutral

400 families have more than the combined wealth of half of the people in our country. To the extent that advertising is effective, these 400 families could control all political decisions. While political control is not quite this concentrated, many governmental decisions suggest that the 99% don't have sufficient political voice.

Barring an unlikely reversal of the Citizens United decision by the Supreme Court itself, the only way to address the problem is through a constitutional amendment.

We feel that citizens should push the amendment discussion further, and demand an amendment that prohibits political spending by corporations and other artificial entities. Why?

1. The privileges granted by people to corporations allow incredible concentration of wealth, which can distort political decisions not only by the elective process but by extensive lobbying.
2. Artificial entities are spending other peoples' money (shareholders/members) without their permission, often for political purposes with which the shareholders/members disagree.

Voting yes on the question does not advocate for this prohibition, but it makes it more likely further discussion will occur.

Submitted by Charlie Swanson

Business corporations accomplish many laudable ends that would be beyond the capability of natural persons and associations. They can do this because of special privileges granted by We the People through our elected representatives. These privileges, which include perpetual "life" and limited shareholder liability, allow corporations to amass wealth and capital on scales generally unachievable by natural persons. We grant these privileges and this access to concentrated wealth so that corporations can achieve certain socially beneficial results.

Unnatural distortion of the democratic process is not an intended result. But, increasingly, this is what we experience. Our energy policy is effectively set by energy corporations; our foreign policy by energy and military industrial corporations; our economic policy by financial corporations. The public policies that result from corporate campaign spending and lobbying reflect corporate priorities rather than public needs.

The trend must be reversed. However, in its Citizens United decision, the majority of the Supreme Court held (wrongly) that such political expenditures were protected by the First Amendment. Now these institutions that have amassed wealth as a result of special advantages extended by the State are encouraged to use that wealth to gain more advantages.

Our civic leaders were not always so willfully blind. In his *Detached Memorandum* (ca. 1817), James Madison warned of the potential political dangers posed by unchecked corporate influence: "The power of all corporations, ought to be limited in this respect. . . . [M]ust not bodies, perpetual in their existence, and which may be always gaining without ever losing, speedily gain more than is useful, and in time more than is safe?" Our Supreme Court, having forgotten such warnings, shields the corruption that has made a mockery of our entire political process.

Money is not speech. Corporations are not entitled to the constitutional rights of natural persons. We the People must instruct our political representatives to remove ALL corporate money from our political process.

Submitted by John Davidson

What does the Citizen's United decision say? Why is it so wrong?

The Supreme Court said that corporations can spend money on politics because corporations are associations, and people have a right to associate and jointly express a political viewpoint. People already could do this by forming a political action committee (a PAC), but the Court said allowing PACs isn't enough, writing:

“A PAC is a separate association from the corporation.”

The difference? A PAC includes only people who contributed money for the purpose of affecting an election. A business corporation includes shareholders who might be horrified that their money is being used to advance political views they oppose. So when people mobilize to either protect or curtail abortion rights, protect or curtail the right to own guns, protect or curtail environmental protections, protect or curtail rights to marry – all these people properly form PACs, and seek donations from people who share their opinion. But if corporate managers want to spend money on politics, all they have to do is write a check, and the shareholders are forced to fund it.

Some might argue that it's an investment – that shareholders benefit when the corporation buys political influence. This argument has several flaws. First, other groups aren't allowed to do this – the NRA can't force contributions from every gun owner, and the Sierra Club can't force contributions from everyone who likes clean air. And corporations don't have to report their political spending to shareholders, so there is no oversight. But the main flaw with this argument is that it doesn't matter. It is ridiculous to assume a shareholder supports any policy which might make him or her marginally richer. Human beings value all sorts of things, while a business corporation's legal obligation is to maximize shareholder profit.

Life, and politics, should be about more than that.

What else is wrong with the Citizens United reasoning?

The court majority claims that corporate-funding of election campaigns won't lead to a perception of corruption. No, really, that's what they claim:

“The appearance of influence or access, furthermore, will not cause the electorate to lose faith in our democracy.”

The decision goes on to claim that prohibiting corporate spending on politics:

“... would allow the Government to ban the political speech even of media corporations.”

This claim is quite misleading. Media corporations are trying to turn a profit. A newspaper prints editorials to lure readers. A theater shows a movie like “Fahrenheit 911” to sell tickets.

On the other hand, if a theater were to show the movie for free, it would quite properly be seen as engaging in politics. Business spending should lead to profit; that profit should not depend on manipulating public policy. A corporation which loses money in order to influence government is spending shareholder funds on a subject it should leave to shareholders.

One final absurdity in the opinion is the claim:

“There is, furthermore, little evidence of abuse that cannot be corrected by shareholders through the procedures of corporate democracy.”

Shareholder lawsuits against corporate managers are notoriously difficult – the “business judgment rule” gives corporate managers the benefit of the doubt and shareholders the burden of proof. On top of that, management is not required to reveal spending that has a political agenda. “Corporate democracy” is almost an oxymoron.

Let's not make our democracy a “corporate democracy”.

Isn't there another way to overturn Citizens United? Do we need to amend the Constitution?

Yes, and yes.

The cleanest way to overturn this turkey of a court ruling is to impeach the court members who voted for it. Congress has this power.

Congress could also pass legislation obligating a corporation to issue refunds to every shareholder who does not consent to the corporation's political spending.

Either of these could reverse Citizens United. But reversing Citizens United is not enough.

Corporations spend money not just to choose who is elected, but to guide what they do in office.

Corporations purchase influence in many ways:

- direct lobbying, which often exceeds election spending
- cushy jobs for former government employees
- politicians receiving investment tips
- payments to researchers and academics for biased studies and over-priced speeches
- many charitable contributions have political impact
- much legislation is written in corporate-funded think tanks, not by legislators
- much of "public relations" is aimed at avoiding government regulation

A constitutional amendment should prevent for-profit corporations from spending money for the purpose of influencing government policy. Only organizations formed for the sole purpose of influencing government policy should be allowed to make such expenditures.

The above 3 arguments are submitted by John Flanery

We urge a **YES** vote on measure 20-198, to call on Congress to amend the constitution, and make it clear (as the Eugene City Council said) that "corporations, unions and special interests should not have the same constitutional rights that natural persons possess."

People and corporations are different, and most have no trouble accepting that they should have different rights. The Constitution:

- Does not grant rights to people, but rather acknowledges some rights as inherent and inalienable because we are born a person
- Gives powers and obligations, not rights, to artificial entities created by people – states, Congress, etc.
- Never mentions corporations

The clear intent of our founders is that the people, through states, could choose what powers, duties, and privileges to give to entities that they create. Corporations have only obtained "rights" through creative Supreme Court decisions declaring that corporations are people. Thomas Jefferson warned us, "I hope we shall

crush in its birth the aristocracy of our moneyed corporations, which dare already to challenge our government to a trial of strength and bid defiance to the laws of our country.”

Incorporation grants legal benefits defined by the people of a state, and the Court giving rights to corporations removes the ability of people, municipalities, and states to regulate for the health and welfare of residents. The Court has ironically used rights of “people” (corporations) to take away rights of people.

Perhaps corporations need rights to protect people within the corporation, and the City Council resolution allowed this possibility. If some corporate rights are needed, we should:

- Specifically enumerate them.
- Be careful to not merely protect corporations from we the people

Submitted by Charlie Swanson

Comments Off on Advisory Vote – measure 20-198