

The Supreme Court overreach nobody is talking about

Written by By Rep. Raul Grijalva (D-Ariz.) and Rep. Keith Ellison (D-Minn.)
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One hundred years ago, the people of Montana raised their voices and voted to close the door on corporate money in politics. On Monday, without even hearing arguments, the Supreme Court kicked the door open, allowing corporate dollars to flood the Treasure State's elections. Lost between the rulings on Arizona's immigration law and the Affordable Care Act is the most dangerous threat to our democratic process since the Citizens United v. FEC case of 2010 – and few people seem to have noticed. In throwing out Montana's hundred-year-old state law forbidding corporate political contributions, the Court ignored the will of 75 percent of the American people and overturned an effective state precedent that protected Montana elections from the corruption of corporate money. This ruling compounds the damage to our democracy already done by the Citizens United decision, which has allowed millions of untraceable dollars to overwhelm our federal, state, and local elections.

The Montana statute was written in 1912 to stop the state's wealthy copper mine owners from using their fortunes to buy elections. The people of Montana approved the measure through a statewide ballot initiative. This popular measure protected Montana elections for 100 years and, most importantly, it worked exactly as the state intended.

At a time when large corporations have increasing political influence nationwide, Montana was a shining exception. Before Monday's decision the state law banned direct contributions by corporations, making sure individuals had the ultimate say. The state law kept the cost of the average state Senate race in Montana at \$17,000. As Montana Gov. Brian Schweitzer recently wrote in the New York Times, "These laws have nurtured a rare, pure form of democracy. There's very little money in Montana politics."

All of that changed this week.

With this ruling, on top of the millions of corporate dollars flooding federal elections, the Supreme Court opened the floodgates to corporate spending in state and local elections.

Even using Citizens United as a precedent, this ruling was unnecessary. As Justice Steven Breyer wrote in his dissent, "[E]ven if I were to accept Citizens United, this Court's legal conclusion should not bar the Montana Supreme Court's finding ... that independent expenditures by corporations did in fact lead to corruption or the appearance of corruption in Montana."

In other words, the Montana law was about preventing corruption in state politics, and it was working. The conservative majority didn't care. The Montana case provided the Court an opportunity to revisit the disastrous Citizens United decision. But the new status quo is exactly what the conservative majority wants.

We've seen this story play out since 2010 and we know what happens next. Outside spending in elections nationwide is up 1,600% over 2008 figures. If the pattern holds, corporations and special interests will gain unchecked influence over Montana's political process. This election cycle, outside groups called Super-PACs have raised more than \$220 million and spent \$124

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million. We still have five months until the election.

The American people see how this system works against them, so they are raising their voices to take back our democracy.

Hundreds of state and local governments, from Los Angeles to Minneapolis to New York, have already passed resolutions calling for a Constitutional amendment to overturn Citizens United. Dozens more cities this month participated in Resolutions Week, an effort by state and local governments to get money of out of politics. The message was simple: money should not be able to drown out the voice of the people.

More than a dozen senators and representatives have introduced their own Constitutional amendments seeking to overturn the law, and the Congressional Progressive Caucus has officially endorsed the Declaration for Democracy, which calls for an amendment to reverse Citizens United. Earlier this year, President Obama took the bold step of publicly supporting a constitutional amendment to place reasonable limits on campaign spending.

What happens next in Montana will provide a powerful example of how our political conversation changes when corporations are allowed to sway campaigns. The Congressional Progressive Caucus will continue to fight for a constitutional amendment to overturn Citizens United and put democracy back in the hands of the American people.

Grijalva and Ellison are co-chairs of the Congressional Progressive Caucus.