

Libertarians Call for Impeachment of Justice Kennedy

Calling the recent Supreme Court decision to allow unlimited corporate funding of electioneering “another serious violation of the constitution”, some Michigan Libertarians have begun a movement to impeach Justice Kennedy, the chief author of the opinion and the only sitting justice who also sided with the majority in the 2005 Kelo decision on eminent domain. That decision gave government the power to seize private property and give it to corporations promising higher tax revenues. These decisions show the court, and Kennedy in particular, has forsaken the rights of the individual in deference to big business.

“Either Justice Kennedy has forgotten the meaning of our founding documents, or he does not understand the plain language they contain, affirming the establishment of our government to protect the rights of the individual” says Will Tyler White, a Lansing area Libertarian activist. “Nowhere does the Constitution give any rights to corporations, which are legal constructs unable to vote or hold office”.

“If the First Amendment has any force,” Justice Kennedy wrote for the conservative majority, “it prohibits Congress from fining or jailing citizens, or associations of citizens, for simply engaging in political speech.”

Unfortunately, corporations are not simply “associations of citizens”. Corporations are created as a means to limit the liability of individuals and raise capital to earn a profit. Although stock holders own the corporations, many are multinational subsidiaries with substantial foreign ownership and little or no influence or control by any individual American citizen. Thus, a powerful foreign or domestic company can wield great influence over an election by expending large sums on hand-picked candidates representing their interests.

The so-called conservative majority of the court ignored its reputation for judicial restraint and overturned decades of law and legal precedent with a decision that corrupts the electoral process.

As Justice Stevens dissent in the opinion states “The Court’s ruling threatens to undermine the integrity of elected institutions across the Nation” and “Essentially, five

Justices were unhappy with the limited nature of the case before us, so they changed the case to give themselves an opportunity to change the law”. Such judicial activism, or “legislating from the bench” has been loudly criticized by politicians on many issues.

“The majority's approach to corporate electioneering marks a dramatic break from our past” Stevens dissent continues. “Congress has placed special limitations on campaign spending by corporations ever since the passage of the Tillman Act in 1907. . . We have unanimously concluded that this "reflects a permissible assessment of the dangers posed by those entities to the electoral process, . . . and have accepted the legislative judgment that the special characteristics of the corporate structure require particularly careful regulation. . . .”

The Court today rejects a century of history when it treats the distinction between corporate and individual campaign spending as an invidious novelty”.

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