



The Constitution... is a mere thing of wax in the hands of the judiciary, which they may twist and shape into any form they please.

Thomas Jefferson, Page 5

Settled law created by the courts allowing corporate exploitation of nature must become unsettled by a people's movement.

Ruth Caplan, Page 7

A divided Supreme Court transformed the First Amendment into a powerful tool for corporations seeking to evade democratic control.

Jeff Clements, Page 8

We must lend our hands, talents, and passions to building a grassroots movement to protect democracy from unchecked corporate power.

Riki Ott, Page 12

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Justice Rising

Grassroots Solutions to Corporate Domination

Courts & Corporations v. Our Common Good

by Jim Tarbell

Corporations and corporate-funded foundations have used the money-power of their treasuries to take over the US legal system. Corporations restarted a drive for control of our government as a backlash to FDR's New Deal. They built upon Gilded Age, pro-corporate, illegitimate Supreme Court grantings of corporate rights including: personhood-1886; due process-1893; protection from search and seizure-1906; and protection against regulatory "takings"-1922.

After World War II, this revitalized corporate power-drive seized upon the rabidly, free-market thinking of Austrian economists Ludwig Von Mises and Friedrich von Hayek whose quasi-religious philosophies raised a divine halo over elites and big business, while castigating government and "the crowds."

In the 1970s, corporate funding by groups like the Olin Foundation combined the corporate conservatives of the 1950s with a hybrid "law and economics" that used neoclassical economics as a basis for creating a legal analysis friendly to monopoly capitalism. In the ensuing years, billions of tax-exempt dollars meant to benefit our public good, instead inculcated judges and law school professors in pro-business legal theory while also co-opting the legal culture of America's premier law schools.

After years on the political and legal fringe, this legion of corporate legal warriors grabbed the majority-power of the US Supreme Court during George W. Bush's presidency, with the appointments of John Roberts and Samuel Alito. They burst into America's conscience with their 1/21/2010 decision against the Federal Election Commission that opened the door to unregulated corporate financing of political campaigns.

This characteristically manipulated Supreme Court decision exploded in an America already upset by the overt exercise of corporate political power first displayed by the bank bailout and then by the lobbyist-led effort to thwart real health care reform.

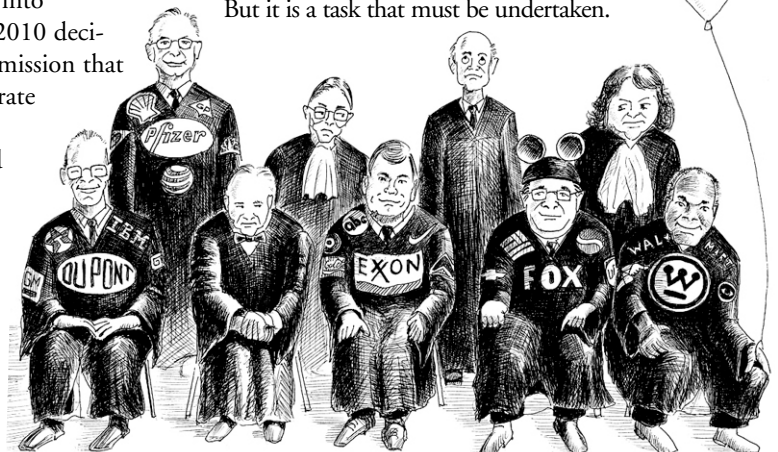
Poll after poll shows that Americans are dead set against this

decision. One early-February, bipartisan poll used this anger to explain why people across the country oppose the decision two to one. A more recent Washington Post/ABC poll points out that the outrage is spread across the political spectrum with 85% of Democrats, 76% of Republicans and 81% of Independents opposed to the decision.

Pro-democracy and community-rights groups are seizing upon this outrage to push constitutional change past the tipping point. Three strategies have emerged. A coalition of public-interest groups and business leaders under Free Speech for People are focused on ensuring that the First Amendment guarantees "the fullest free-speech rights for people and the press," but not for corporations (p. 8). A broader effort to strip corporations of all court-granted, constitutional rights has been joined by over fifty groups under the Campaign to Legalize Democracy and its Move to Amend project (p. 2). Citizens in Pennsylvania met recently to declare their intent to rewrite the state Constitution to preserve the right of local, self governance in the face of the corporate minority's imposition of "political, legal and economic systems that endanger our human and natural communities" (p. 2).

This *Justice Rising* provides the background to understand the historical context we find ourselves in, and the political tools to take action against the corporate takeover of our government. It will be a big task, and it may be a long task.

But it is a task that must be undertaken.



graphic: Tim Shields