

Free Speech for People

outcomes. As a result, Americans already are deeply estranged from their government. According to a 2007 Pew Research Center study, barely a third (34%) agree with the statement, "most elected officials care what people like me think," a 10-point drop since 2002. In Citizens United, the Supreme Court has confirmed that when it comes to politics and self-government, people may as well stay on the sidelines.

What can we do?

We must now do what Americans have always done to make our democracy and republic work. We must organize and work to overrule the Court in the way our founders intended and our Constitution provides: Adopt and ratify the 28th Amendment to the Constitution to protect American democracy.

That's what we did in the 1800s and 1900s to break down barriers to democratic participation based on race, gender, and economic class. That's what we did to get a Senate elected by the people; to win the right-to-vote for African-Americans, women, younger men and women, and to eliminate the use of the poll tax; that's what we did in 1913 to overrule the Supreme Court when it said that the people lacked the Constitutional authority to enact a federal income tax that would address gross disparities of wealth and power. Indeed, we Americans enacted most of the seventeen amendments that followed the ten original amendments of our Bill of Rights so we could expand democracy and eliminate barriers to democracy for everyone.

And that's what more and more Americans are doing now. A coalition of public interest and business leaders has launched Free Speech for People (www.FreeSpeechForPeople.org) to amend the Constitution, protect democracy and restore the First Amendment for people. They have been joined in this effort by Congresswomen Donna Edwards, American University Law Professor and Maryland State Senator Jamie Raskin, and many others. (Disclosure: I serve as general counsel of Free Speech for People).

In addition, a coalition of organizations and people at www.MoveToAmend.org is working to get corporate rights, as opposed to human rights, out of our Constitution. Only days after Citizens United, many thousands of Americans signed onto these efforts.

As with previous generations of Americans, we find that the democracy that we carry as an ideal cannot be fixed without first correcting a Supreme Court majority

that has lost its way. It is time to work for a 28th Constitutional Amendment to correct the Court, restore the First Amendment to the people's right, and remove unwarranted judicial barriers to our oversight of corporate power.

Your first reaction might be skepticism about the long odds or long-term nature of an amendment effort. But bear in mind two things. First, America, and democracy, is a long-term project. The corporate-rights movement took years to reach the point of Citizens United, and if it will take years to fix. That's all the more reason to get started now. Second, I don't think it will take too many years. I believe in the Supreme Court's ability to find its way back, and in the will of the American people to insist that it do so. Despite the challenges, Americans are ready to do what we've always done: insist, demand, and achieve a democracy that works for all people.

In reading recent cases creating corporate rights, I was surprised to discover common cause with former Justice William Rehnquist, whom I had regarded as a bedrock conservative on the Court. Instead, Justice Rehnquist frequently offered the most eloquent resistance and dissent when the Court began creating the corporate speech doctrine in the late 1970s and 1980s. I would like to end with his words in dissent in a case striking down a Massachusetts prohibition on corporate expenditures to influence citizen referenda.

Disagreeing with the majority, Justice Rehnquist closed his dissent with "[I] regret now to see the Court reaping the seeds that it there sowed [referring to the early corporate speech cases]. For in a democracy, the economic is subordinate to the political, a lesson that our ancestors learned long ago, and that our descendants will undoubtedly have to relearn many years hence."

Now is the time to relearn and get to work.

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graphic: Maguire

We must organize and work to overrule the Court in the way our founders intended and our Constitution provides:

THIS "FREEDOM OF SPEECH" THAT WE ALL ENJOY IS THE GREAT EQUALIZER! WOULDN'T YOU SAY?...



graphic: Matt Wuerker