

# Montana Pushes Back Against Citizens United

by Jeff Clements and Gwen Stowe

A century ago, Montana's massive copper mining corporations and those who controlled them—known as the “Copper Kings”—dominated state government and elections. “The corruption of Montana politics was by no means limited to bribery,” explains the state's current attorney general, Steve Bullock. “The ‘Copper Kings’ dominated political debate in Montana and drowned out Montanans’ own voices. This was corruption as it was understood since the framing of the Constitution: not mere theft or bribery, but harnessing government power to benefit a single corporate faction at the expense of the broader and more diverse interests represented by the people themselves.”

To stop the Copper Kings, Montana in 1912 passed the Corrupt Practices Act, which, for nearly a century, prohibited corporations from “pay[ing] or contribut[ing] in order to aid, promote or prevent the nomination or election of any person.” All that changed last year, when the Supreme Court's decision in Citizens United used a “corporate speech” theory of the First Amendment to strike down federal regulation of corporate election spending. Soon after, a state court in Helena ruled the Corrupt Practices Act unconstitutional under the Citizens United ruling.

But Attorney General Bullock is defending the state's right to regulate corporate corruption in its elections. The first direct challenge to Citizens United, called Western Tradition Partnership, Inc. v. Attorney General of Montana, is heading to the Montana Supreme Court, which is expected to decide later this year whether the people of Montana can preserve Montana's authority to regulate corporate power and to prevent corporate corruption of elections and government.

Montana argues that the Citizens United ruling did not consider the strong evidence that regulation is needed to combat corporate domination and corruption. The case also argues that Citizens United should not invalidate state laws that prevent corporate political spending from corrupting self-government in the states.

Free Speech for People, a national non-partisan campaign to overturn Citizens United and to adopt the People's Rights Amendment, is leading an effort to support Montana's fight, joined by the American Sustainable Business Council, the Montana-based American Independent Business Alliance, and Montana businesses. Free Speech for People and its business allies recently filed a

brief in the Montana Supreme Court to support Montana's challenge to Citizens United and the concept of corporate “rights.”

The brief argues, “Despite the early assumption [in Citizens United] that ‘corporate speech’ (i.e., the unregulated political spending of corporate

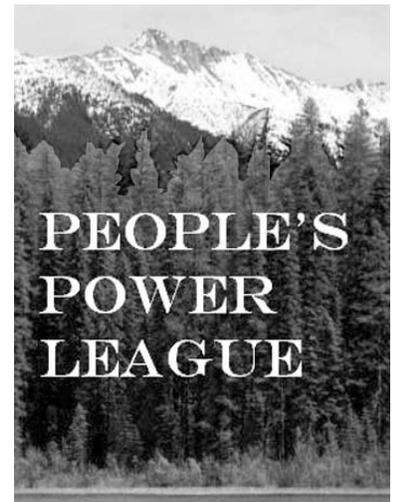
funds) might give ‘business’ a ‘voice,’ the thousands of small and medium-sized businesses that create most American jobs, and the vast majority of all American businesses that seek to compete on a level playing field without spending precious capital on politics, are losing ground to giant corporations that spend millions to buy unfair advantage.”

A 2010 Hart Research Associates poll shows opposition to Citizens United transcends party lines, with 79 percent of Americans, including Democrats (87 percent), independents (82 percent), and Republicans (68 percent) all supporting the passage of a Constitutional amendment to reverse the Court's decision.

Since the decision, nearly a million Americans have signed resolutions calling for such an amendment, and amendment resolutions are advancing in several state legislatures. Bills calling for a 28th Amendment to reverse Citizens United have also been introduced in the US House and Senate.

In February 2010 Congressional testimony, Attorney General Bullock said that one hundred years ago the passage of Montana's Corrupt Practices Act “represented nothing less than the voters taking back a government that belongs to them, and only to them.” It's time for that to happen again.

*This is an excerpt of an article Gwen Stowe and Jeff Clements wrote for YES! Magazine, a national, non-profit media organization that fuses powerful ideas with practical actions for a just and sustainable world. Gwen Stowe is an Associate and Jeff Clement is co-founder and general counsel at Free Speech for People.*



*The People's Power League was formed 100 years ago to fight corporate corruption in Montana and push for the passage of the Corrupt Practices Act. The group was reactivated to help save Montana's Corrupt Practices Act after the Citizens United decision endangered it..*

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