

Time to stand on thin ice

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The Supreme Court has imposed a fictitious alternate reality on American democracy, telling us to think of property as part of “we, the people” and see massive sums of money spent on elections by large corporations as “free speech.” We, the people, need to stand up in defense of democracy.

MADISON - Much too much is made of red voters and blue voters and red states and blue states, as if they make up two separate Americas (they do not) and their differences are forever irreconcilable (they are not). But for the moment anyway, there is no denying that [partisan divisions have intensified](#) in recent years and that America is [more politically polarized](#) than at any time in the last two decades.

Against this backdrop, it can be a challenge to find values and attitudes that unite Americans of every political persuasion. But people of every imaginable stripe stand on common ground when it comes to the broadly shared exasperation with money's dominion over democracy. Four out of five Republicans agree with four out of five Democrats and a supermajority of independents that the U.S. Supreme Court [messed up bad](#) when it ruled in 2010 that unlimited political spending is a constitutional right. Five years after the decision, it is as unpopular than ever. In fact, rather than slowly fading from memory the court's decision in the Citizens United case is becoming the symbol of how the economy and the government have been rigged in favor of a privileged few at the expense of everyone else.

It's helpful to remember that Supreme Court rulings come and Supreme Court rulings go. Our nation's highest court once ruled that people could be property. It took not only a presidential proclamation but a bloody civil war and amendments to the Constitution to relegate [that shameful decision](#) to its rightful place in the trash bin of history. Today's Supreme Court [blesses oligarchy](#) with the similarly warped logic that property can be entitled to the constitutional rights of a person. In time Citizens United will be tossed in the dumpster too.

Undoing the harm this ruling has done already and continues to do should not need to involve warfare but could very well require a constitutional amendment if the Supreme Court in the fairly near future does not come to its senses and overturn Citizens United before a [28th amendment](#) is ratified. How this all plays out and how promptly this inevitable outcome is brought about largely depends on legal creativity bordering on hubris.

It's been [written](#) that Abraham Lincoln's Emancipation Proclamation declaring 3 million slaves free was "based on a highly contentious, thin-ice reading of the presidential war powers." Ample evidence suggests Lincoln knowingly and dramatically exceeded his legal and constitutional authority, and the nation is so very fortunate that he did.

American democracy needs a modern-day equivalent of the Emancipation Proclamation. Whether in the form of an executive order, or an act of Congress, or measures enacted by states or local communities, the Supreme Court's ruling in Citizens United must be defied. The constitutional right of unlimited political spending invented by the court in its Citizens United decision must be exposed for what it truly is – the legalization of bribery.

Elected representatives of the people anywhere and everywhere should knowingly and dramatically exceed what the Supreme Court says is the limit of their legal authority and declare our government free from its current state of indentured servitude to billionaires and corporations. Whenever justices dictate injustice, legal ingenuity is required. Executive orders should be issued and laws should be passed declaring that giving more than \$200 to anyone holding or pursuing public office or any group helping to elect a politician is [a bribe and therefore a felony](#).

In throwing down this gauntlet, the Supreme Court's warped logic in Citizens United is countered with this alternative reasoning: If you wish to demonstrate your support for politicians, their parties or surrogates, giving \$200 is demonstration enough. Giving \$200 or less does not distinguish you much from your many fellow citizens who are likewise giving small amounts or the much larger number who give nothing at all. But go past the \$200 threshold and that puts you in the [top one-quarter of 1%](#) of the population. That makes you stand out, separates you from the crowd, and makes it start looking like you might want more than just the honor of participating in a democracy.

Lincoln-style hubris is needed because we are [beyond the point](#) where campaign financing can be reformed. It can't be reformed because we no longer have campaign finance in America. We have legal bribery and there's no reforming bribery. It has to be outlawed.

All laws and respect for the rule of law in general are demeaned and ultimately undermined when any law ceases to be rooted in reality. The reality is that Americans – Republicans, Democrats and independents alike – see big political donations for what they are, namely bribes. The law of this land needs to reflect that reality. Instead, the Supreme Court has imposed a fictitious alternate reality on us, ordering us to think of property as part of “we, the people” and see massive sums of money spent on elections as “free speech.” Just as a past court ordered all Americans, including President Lincoln, to accept that people could be regarded as property.

Lincoln defied that court. He was said to be on thin ice legally when he did. The ground held beneath his feet.

In defense of democracy in our time, we need to be willing to stand on what we're told is thin ice. Two hundred dollars is plenty. Anything more is a bribe.

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