

# IOWA TRANSPARENCY NEWSLETTER



## ‘Citizens United’ misunderstood

by Ilya Shapiro of Cato Institute

*Even after five years, critics of Supreme Court decision just can't get it right.*

Five years ago Wednesday, the Supreme Court issued its ruling in *Citizens United v. Federal Election Commission*, striking down limits on independent political spending. Probably the most

misunderstood case in modern legal history, *Citizens United* simply doesn't stand for what many people say it does.

For example, the Brennan Center for Justice described the case as “giving the wealthy more power to influence elections than at any time since Watergate and opening the floodgates for dark money.” A year ago,

leading campaign-finance activist Fred Wertheimer said that it “struck down the longstanding ban on corporate expenditures in federal elections, a move that ... created new avenues for corrupting our government.”

### Presidential mistakes

These laments echo President Obama's famous statement during his 2010 State of the Union Address: “The Supreme Court reversed a century of law that I believe will open the floodgates of special interests — including foreign corporations — to spend without limit in our elections.”

In that one sentence, the former law professor made four errors that are all too common.



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E-Mail: [Public.Interest.Institute@LimitedGovernment.org](mailto:Public.Interest.Institute@LimitedGovernment.org)

Phone: 319-385-3462

Fax: 319-385-3799

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First, *Citizens United* didn't reverse a century of law. The president was referring to the Tillman Act of 1907, which banned corporate donations to campaigns. Such donations are still banned. Instead, the decision overturned a 1990 precedent that upheld a ban on independent spending by corporations. That 1990 ruling was the only time the court allowed a restriction on political speech for a reason *other than* the need to prevent corruption.

Second, the "floodgates" point depends on how you define those terms. In modern times, nearly every election cycle has seen an increase in political spending, but there's no indication that there's a significant change in *corporate* spending. And the rules affecting independent spending by wealthy *individuals*, who are spending more, haven't changed at all.

Indeed, much of the corporate influence peddling in Washington that has reformers

concerned has nothing to do with campaign spending. Most corporations spend far more on lobbying lawmakers already in Washington than they do in political spending to choose which politicians come to Washington.

**No foreign invasion**

Third, *Citizens United* said nothing about restrictions on foreign spending in our political campaigns. In 2012, the Supreme Court summarily upheld just such restrictions.

Fourth, while independent spending on elections now has few limits, candidates and parties aren't so lucky. Even last year's decision in *McCutcheon v. FEC*, which struck down *aggregate* — not per-candidate — contribution limits, only affected the relatively few bigwigs (about 600 in the 2012 cycle) who had hit the \$123,200 cap. The amount that an individual can give to a single campaign remains untouched.

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And so, if you're concerned  
about the money spent  
on elections — though  
Americans spend more on  
Halloween — the problem  
isn't with big corporate



players. Exxon, Halliburton  
and all these “evil” companies  
(or even “good” ones) aren't  
suddenly dominating the  
conversation. They spend little  
on political ads because they  
don't want to alienate half of  
their customers.

On the other hand, smaller  
players now get to speak  
freely: groups such as the  
National Federation of

Independent Business, Sierra  
Club, the American Civil  
Liberties Union and the  
National Rifle Association.  
Even if we accept “leveling  
the playing field“ as a  
proper basis for regulation,  
the *freeing of associational  
speech* achieves that goal.

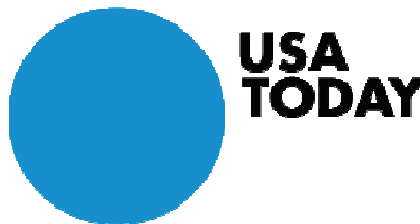
People don't lose rights when  
they get together, be it in  
unions, advocacy groups,  
private clubs, for-profit  
enterprises, or any other way.

By removing limits on  
independent political speech  
— spending by people  
unconnected to candidates  
and parties — *Citizens United*  
weakened the government's  
control of who can speak, how  
much, and on what subject.

That's a good thing.

*Ilya Shapiro is a senior fellow  
in constitutional studies at the  
Cato Institute.*

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## **Public Interest Institute to host “Fix the Dollar” presentation**

Public Interest Institute will be hosting a presentation, “Fix the Dollar,” a project of American Principles in Action. The Henry County presentation will be **Tuesday, February 10 from 7:00-8:00 p.m. at the Iowa Wesleyan College Library International Room.**

American Principles in Action states, “Our mission is to defend the liberty of the individual, which can only be protected when the wages, quality of life, and savings earned through the fruits of one’s labor are preserved by the maintenance of

sound currency.”

“If America had stayed with the gold standard, the Bank of England calculates, your real income would be 50% higher. That would solve a lot of problems. Moreover, there are solid reasons to believe that America can make up for lost time and create the kind of sizzling economic growth that would raise wages across-the-board, making up in a decade what ground was lost over the last 40 years.”

“By restoring the classical gold standard, and if possible changing a few laws so as to permit competing currencies, America can create a climate of equitable prosperity that will

generate tens of millions of good new jobs, end wage stagnation, restore a climate of opportunity wherein everyone – blue or white collar, of every age, race, and creed – can climb the ladder to affluence, balance the federal budget via economic growth, provide the resources to improve the natural environment, and fix our decaying national infrastructure.”

Please join Public Interest Institute on Tuesday, February 10 from 7:00-8:00 p.m. at the IWC Library International Room to hear this interesting and informative presentation.

**For more information on American Principles in Action, visit <http://fixthedollar.com/>**