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Rebuilding our Democracy Constitutionally

A Guest Newspaper Column by Evan Barrett & Bob Brown

June 16, 2016

Flag Day provided us the opportunity to reflect upon many positive things in our nation. But it also gave us the chance to reflect upon how much our democracy has been going downhill on a slide greased by political money. Much of the polarization and dysfunction of the federal government comes from money in politics and elections. The pernicious influence of excessive money has also begun to invade Montana's electoral processes.

The root cause of big money's dominance of politics was the 2010 "Citizens United" Supreme Court decision that enshrined corporations as people/citizens and guaranteed them the right to spend their funds to unduly influence American elections. That Supreme Court decision was used to eviscerate Montana's firewall against such excesses -- The Corrupt Practices Act of 1912. That Act was an initiative placed on the ballot and passed by the people of Montana, designed to curb the corruption of the infamous Montana Copper Kings, who had been buying elections and power. The Corrupt Practices Act declared that "corporations may not make... an expenditure in connection with a candidate or a political committee that supports or opposes a candidate or a political party." For 100 years, the Corrupt Practices Act protected our elections. Then in 2012, Montana reaffirmed the essence of the Corrupt Practices prohibitions in another initiative passed by 75% of the voters. It provided that:

- Rights under the US Constitution are the rights of human beings, not corporations,
- Money is property, not speech, and
- There should be a level playing field in campaign spending that allows all individuals, regardless of wealth, to express their views to one another and their government.

For over 100 years, though often "rough and tumble," our elections have had been essentially free of corruption. Big, outside money did not, by and large, play a role in here. However, since Citizens United, advocates of big money power both inside and outside of Montana are using Citizens United to rip apart any constraints and big money is starting to taint our elections.

Citizens United may well be the worst Supreme Court decision since the Dred Scott case in 1857, which affirmed slavery in the US, seeing those human beings as chattel to be used, abused, traded or sold. Interestingly, Dred Scott ruled that enslaved black humans *were not legally people*, while Citizens United ruled that corporations *were people*.

The Dred Scott decision was overturned by addition of the 13th and 14th Amendments to the US Constitution, which took until 1865 and 1868 respectively. Short of a Supreme Court reversal, the legal and political path to getting rid of Citizens United may also have to be a Constitutional Amendment. That's a tough row to hoe (passage by 2/3 of each house of Congress and ratification by ¾ of the states), but it may well be the only way to insure for the long-haul that people who participate in our elections are real human beings, not faceless corporate entities.

On Thursday, June 23rd at 7:00 PM at the UM Law School in Missoula folks will gather together to address how we can get started. A forum called "Building to Overturn Citizens United – How We Pass the 28th Amendment to the US Constitution" will feature two prominent leaders: Jeff Clements (of *American Promise* and *Free Speech for People*) and Montana's own retired Supreme Court Justice Jim Nelson, (Board member of *Free Speech for People* and Advisory Board member for *American Promise*) who has become a national leader on this important issue.

Fair elections are not a partisan issue. Montanans of all stripes – independents, Libertarians, Republicans and Democrats - want fair elections, free of the corrupting influence of big money and campaign money from corporations. As a well-known Democratic leader and a long-time Republican elected official, we are helping host this event. Join the effort, so that what Montanans have passed into law can become the law across the entire country. Let's pass a 28th Amendment to the US Constitution to reverse Citizens United and remove the pernicious influence of excessive money in our election processes.

-- *Evan Barrett, Democrat of Butte, has spent the last 46 years at the top level of Montana economic development, government, politics and education.*

-- *Bob Brown, Republican of Whitefish, is a former Montana Secretary of State, State Senate President and 28-year Legislator.*

(676 words in body)