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The January 21, 2010 Supreme Court decision in the case of Citizens United v Federal Election Commission (FEC) *fundamentally altered the role of corporations in the U.S political system. Upending over one hundred years of judicial precedent, this 5-4 ruling lifted previously establish limits on both the structure, and time-frame, of corporate speech as it related to political communication. Even more fundamentally, the ruling can be seen as a paradigm-shaping moment regarding the interaction of corporations, citizens, and democracy. Resting on notions of corporate personhood and speech protection under the First Amendment, the Supreme Court's decision will have far-reaching implications in the overlapping spheres of economics and democracy. Specifically, how does a campaign finance system that is increasingly open to corporate influence interact with ideas of deliberative democracy? The influence of corporate money into the democratic system, or the* appearance *of its influence, can have deleterious effects on civic participation and social trust. Using the work of Joshua Cohen as an intellectual – and organizational – framework, the* Citizens United *decision will be analyzed in the context of the constitutive elements of deliberative democracy."*

The law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread – Anatole France

While American democracy is imperfect, few outside the majority of this Court would have thought its flaws included a dearth of corporate money in politics – J. Stevens, *Citizens United v Federal Election Commission* - dissenting opinion

The January 21, 2010 Supreme Court decision in the case of *Citizens United v Federal Election Commission (FEC)* fundamentally altered the role of corporations in the U.S political system. Upending over one hundred years of judicial precedent, this 5-4 ruling lifted previously established limits on both the structure, and time-frame, of corporate speech as it related to political communication. Even more fundamentally, the ruling can be seen as a paradigm-shaping moment regarding the interaction of corporations, citizens, and democracy. Resting on notions of corporate personhood and speech protection under the First Amendment, the Supreme Court's decision will have far-reaching implications in the overlapping spheres of economics and democracy. Specifically, how does a campaign finance system that is increasingly open to corporate in-

fluence interact with ideas of deliberative democracy? The influence of corporate money into the democratic system, or the *appearance* of its influence, can have deleterious effects on civic participation and social trust. This is *not* to say, however, that corporations should have no speech rights when it comes to elections; rather, it is merely admitting the (long understood) potentially corrupting effect of amassed wealth on the U.S. electoral system (Raskin & Bonifaz, 1994).

Both supporters and critics argue that *Citizens United v FEC* is sure to lead to an influx of corporate and union money in the political system. Through direct contributions to candidates and parties, as well as to the creation and display of independent political advertisements, the general treasury funds of corporations are now "in play" with regards to political contributions (an important point to which we will return shortly). The beauty of this change in election finance law is in the eye of the beholder, however. As the 5-4 ruling would indicate, this is not a simple matter, nor one that is likely to go away in the near future. One must weigh the competing values of the First Amendment with the value of free and equitable democratic deliberation.

While there are indeed a great many legal arguments to be made about this case (and I would venture that a good deal are forthcoming), this research will examine the *Citizens United* decision within an ethical framework. Namely, how does the decision interact with notions of deliberative democracy and larger democratic principles? What does an influx of corporate money mean for citizen deliberation – a deliberation that often requires equal standing among citizens to function correctly? What are the democratic implications of corporate personhood in the context of campaign finance and deliberative democracy? Using the work of Joshua Cohen as an intellectual – and organizational – framework, the *Citizens United* decision will be analyzed in the context of the constitutive elements of deliberative democracy.

Citizens United and Background

Prior to a more in-depth examination of the *effects* of *Citizens United v FEC,* background information on the case may be helpful. Prior to the 2008 presidential election, a conservative non-profit corporation, Citizens United, produced a ninety minute documentary titled *Hillary: The Movie.* This film "focuses on Senator Hillary Rodham Clinton's 'Senate record, her White House record during President Bill Clinton's presidency . . . her presidential bid,' and includes express opinions on whether she would make a good president" (Lamberth, 2008). If Hillary Clinton had become the Democratic presidential nominee, Citizens United also planned to air commercial spots within the legally restricted time period leading up to an election (thirty days before a primary or sixty days before a general election) ("Bipartisan Campaign Finance Reform Act 2 USC 431," 2002; Lindbloom & Terranova, 2009). Furthermore, Citizens United had also planned to distribute the film on Video on Demand (VOD), potentially running afoul of Section 201 of the Bipartisan Campaign Reform Act of 2002 (BCRA) – which set limits of "electioneering communication" ("Bipartisan Campaign Fi-

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nance Reform Act 2 USC 431," 2002).

To fully address the legal workings of *Citizens United* would take this research far afield of an ethical analysis. For further detail, the works of Urofsky (2005), Smith (2001), and Gais (1996) provide a great overview of the issues involved. The relevant portion here is that the Supreme Court decision in *Citizens United v FEC* overturned two specific legal precedents and further weakened a long-standing tradition of attempting to hold the (capital) barbarians at the (campaign finance) gates. Both *Austin v Michigan Chamber of Commerce* (which restricted corporations from using general treasury funds to support or oppose candidates) and *McConnell v Federal Election Commission* (in which the Supreme Court upheld restrictions on the timing, source, and content of electioneering communication by corporations) were overturned in the *Citizens United* decision. Tracing the intellectual lineage of campaign finance law from the 1907 Tillman Act through the *Citizens United* decision, then, one can begin to draw conclusion regarding the ethical motivations for restricting the influenced of amassed wealth on campaign finance, as well as how those notions have changed over time ("Buckley v Valeo," 1976; "Federal Election Campaign Act, " 1971; "WRTL," 2007). With these legal precedents in mind, we can begin to get a historical perspective on the relations between corporate capital and campaign finance. It is surely not a panoramic view, but even such a snapshot will provide a legal foundation that we can now shift into considerations of deliberative democracy and the ethical (as opposed to legal) implications of the *Citizens United* ruling.

Prior to these considerations, however, a few qualifying statements may be worth keeping in mind. First, the *Citizens United* decision is not the end of American democracy, nor is it an inconsequential decision. The Supreme Court, in deciding to treat corporations as citizens in this case, have continued a recent trend regarding the increasing power or corporations in the U.S. Thus, even though the decision overturned legal precedent going back over a century, it was more *evolutionary* than *revolutionary*; the provisions of the *BCRA* had been under attack for much of the decade.

Second, corporate influence in politics and elections predated the *Citizens United* decision by roughly two centuries – this is not a new problem Thomas Jefferson said of corporations: “I hope we shall... crush in its birth the aristocracy of our moneyed corporations which dare already to challenge our government in a trial of strength, and bid defiance to the laws of our country” (Jefferson, 1816). The formation of political action committees (PACs) and various forms of “soft money” have ensured the continual flow of capital into the political/electoral process (Schultz, 2002). Justice Stevens, writing the majority opinion for the *McConnell v Federal Election Commission* wrote: “Money, like water, will always find an outlet” ("McConnell v Federal Election Commission (02-1674)," 2003). The changes brought about by *Citizens United* thus deal with the *extent* of corporate influence, not of its existence.

Deliberative Democracy

The concept of deliberative democracy has been something of a hot topic over the past few decades. The term, originally introduced by Joseph Bessette, has become a solid third camp in the debate over democratic forms (1980). Particularly prevalent in discussions of cyber-democracy and the potential of communication technologies as democratic tools, deliberative democracy has become a popular paradigm - competing with liberal individualist and communitarian approaches. Dahlberg writes of deliberative democracy:

> Deliberative democracy demands . . . free and open dialogue [in which] participants put forward and challenge claims and arguments about common problems, not resting until satisfied that the best reasons have been given and fully defended. Participants attempt to come to an understanding of their interlocutors and to reflexively modify their pre-discursive positions in response to better arguments. In the process, private individuals become public-oriented citizens. Rather than the self-seeking utility maximizers of liberal individualism, the deliberative model relies 'upon a person's capacity to be swayed by rational arguments and to lay aside particular interests and opinions in deference to overall fairness and the common interest of the collectivity' (2001, 157)

Deliberative democracy can then be generalized to rest on ideas of dialogue and equality. It is through rational discussion, achieved among equals, that a dialogic approach to political decision making can function. Where, and how, such discursive practices can take place is a matter of critical importance; the possibility of equality and open locations of discourse have led to a number of critiques of deliberative democracy (Besson & Martí, 2006). Although a full account of the nuances of such an approach is beyond the scope of this essay, the brief definition will help provide a foundation for Cohen's constitutive components of deliberative democracy. More thorough treatments of deliberative democracy can be found elsewhere (Gutmann, 2004).

As a way to conceptualize the nexus of deliberative democracy and the *Citizens United* ruling, Joshua Cohen's perspective will be useful. Drawing on the work on John Rawls' *A Theory of Justice,* Cohen offers three components of the ideal democratic order in a deliberative democracy:

1. In a well-ordered democracy, political debate is organized around alternative conceptions of the public good
2. the ideal democratic order has egalitarian implications that must be satisfied in ways that are manifest to citizens
3. democratic politics should be ordered in ways that provide a basis for self-respect, that encourage the development of a sense of political competence, and that contribute to the formation of a sense of justice (1989).

Each of these components will be examined in the context of the *Citizens United* ruling. Although there is some overlap between the points, keeping them separate will help to organize, and focus, the issues at hand.

1. In a well-ordered democracy, political debate is organized around alternative conceptions of the public good.

That democratic deliberation should be organized around various conceptions of the public good may seem like an overly optimistic / utopian position to take. This is due, in large part, to the dominance of capitalism as a way of seeing the world. Indeed, shades of capitalist rhetoric can be seen in liberal individualist models of democracy – or more specifically in economic theories of democracy – as they suggest a fundamentally competitive view of society and politics (Schumpeter, 1976). As Mary Dietz writes: "citizenship becomes less a collective, political activity than an individual, economic activity – the right to pursue one's interests, without hindrance, in the marketplace" (1992) Viewing the demos, as well as deliberation and public speech, in economic terms is not an ideologically neutral position – a point to which this manuscript will soon turn. Both the individualization of citizenship, as well as its economic foundation, are concerns for those supporting deliberative democracy. In contrast to the liberal individualist approach, deliberative democracy, or at least the kind envisioned by the likes of Rawls and Cohen, moves away an economic view of democracy. Rather, political discourse should orient itself toward conceptions of the common good – the concern should not be maximizing individual benefits, but rather fostering the public good (Cohen, 1989).

This is not to say that deliberation is the panacea to all the problems in democracy today. Rather, it indicates that when politics (ostensibly concerned with the public good) becomes privatized, it loses its ethical foundations. This concern with privatization brings us face to face with the concept of the "marketplace of ideas." Taking this metaphor seriously, two important implications come to the fore. First is the fundamentally dyadic nature of the marketplace concept; community and sociality are crowded out in favor of the two-sided transaction of "buyers" and "sellers." The ideological tendency of such a conception is then not one of public debate and discussion, but is more akin to consumer politics – shopping (a private activity) for ideas and political formations. The second implication of the "marketplace of ideas" branches out from this idea and considers the difference between being a citizen and a consumer. Citizenship contains in its shadow obligations and responsibilities missing from the world of the marketplace. The positive liberties of citizenship transcend the freedom of the market to buy or not buy and require an active participation and realization within the political and social community. The purchase of political voice and the implications of the market for the political realm have recently been explored by Lessig (2011), Bartels (2008), Gilens (2005), and Solt (2008); each presenting a picture in which the wealthy largely set the political and economic agenda. Liberals may be content that the state has not erected impediments to the exercise of market power (in the realm of ideas or otherwise), yet widespread disaffection and distrust of the political system suggests

those ideas being bought and sold in the marketplace are not sufficient for a flourishing citizen or body politic.

Although Cohen's first component of deliberative democracy is arguably the least applicable to the *Citizens United* decision, there are still compelling arguments to be made regarding their interaction. First is the tension between the public and the private: it is here that perhaps the largest discrepancy exists between the law and an ethical approach to the issue of campaign finance. The law leaves no doubt that corporate speech is in fact speech – and as political speech is of the highest order, it stands to reason that corporate political speech would be beyond the reach of government legislation. However, corporate speech is fundamentally different from political speech by a citizen.

The rulings in *Austin* and *McConnell* were not bans on corporate speech, but rather can be seen as time, place, and manner restrictions. Thus, the argument that corporate political speech was silenced by the BCRA, *Austin,* and *McConnell* is simply not correct: members of the corporation, both as individuals and as members of PACs, had the full spectrum of political speech rights. In weighing the competing claims of the interests of corporations with regards to the First Amendment against the interests of the public and the integrity of democratic discourse, the Supreme Court sided with the former.

Here the "individual" rights of corporations (a contentious point in and of itself) runs up against the ideal of deliberation existing of and for the public. Between both the individual political potential of its members, and the opportunities afforded by PACs, what public benefit could be derived from opening up the general treasury funds of a corporation for political advertising? The members of the corporation already had two existing paths. One of the potential consequences of the *Citizens United* ruling is that it will require capital consolidation for any speaker to develop a political voice – or at least an equal voice. It is not in the public good to have a tier of political speech that is beyond the means of most citizens.

Another concern regarding corporate expenditures is the issue of shareholder protection. Deliberative speech should accurately represent the views of those who are participating in the debate. There is a two-pronged criticism to be leveled here: first is the issue of shareholder protection, as due to financial structures corporate electioneering may use the funds of investors and shareholders in ways those shareholders would not approve (or know) of. Second, the increasing prominence of corporate donations to both major political parties would indicate that, if money equals speech, corporate political speech is often argued out of both sides of the mouth. If, indeed, corporate political spending is oriented around their (corporate) conception of the public good (a very questionable assumption to begin with), why would contributions flow to parties that often have opposing views (Mullins and Spencer, 2010)? Ideal deliberation is predicated on an honest and open debate of various conceptions of the public good – if, as Justice Kennedy implied, money = speech, campaign contributions to both parties or sides of an issue can be seen, at best as undermining deliberation, and at worst as corrupting the system. *Even if* large donations do not lead directly to political corruption, the appearance of *quid pro quo* itself has deleterious effects on public trust and political engagement (Lessig, 2011).

That corporations can donate to multiple parties is not in itself a problem – but it does

call into question the notion of corporate donations as speech promoting the public good. Unless one holds an opinion that corporate donations to both political parties are manifestations of a corporate belief in the sanctity of democratic institutions – with no expectations of a *quid pro quo* or other benefits – an increase in corporate money in the political system can not be viewed as a boon to deliberation regarding the public good. This is not to say that corporations should only be able to donate money to one party. If, as some have argued, electioneering communication has little impact, why would corporations expend vast amounts of money supporting both parties? This background is surely no smoking gun of corporate corruption – it is presented so as to offer some idea as to how the corporation is fundamentally different from individual citizens, even though the *Citizens United* ruling may argue to the contrary.

2. The ideal democratic order has egalitarian implications that must be satisfied in ways that are manifest to citizens

The emphasis on equality is a far more interesting question with regards to the *Citizens United* decision. If democracy is to function, or if open and free deliberation is to take place, social and economic inequalities must not factor into political discourse. Deliberative democracy does not require an egalitarian society, but it does require that when dealing with issues of the public good, the weight of one's arguments is more important that the weight of one's coffers. As Joshua Cohen writes: “in a just society political opportunities and powers must be independent of economic or social position – the political liberties must have a fair value – and the fact that they are independent must be more or less evident to citizens” (1989, 1). Equality of opportunity, access, and weight of political speech all factor into evaluations of the *Citizens United* ruling. It is again here worth remembering that *Citizens United* did not open up the floodgates of corporate campaign expenditures – it merely increased the flow.

Corporate Personhood

A key facet of the *Citizens United* decision rested on assumptions of corporate personhood. Where corporations are operating in the same marketplace of ideas as individual citizens, care must be taken to ensure than an inequitable distribution of social/political capital does not accompany the inequitable distribution of its economic counterpart. Chief Justice Marshal commented that “a corporation is an artificial being, invisible, intangible, and existing only in contemplation of law. Being the mere creature of law, it possesses only those properties which the charter of its creation confers upon it…” ("Trustees of Dartmouth v Woodward," 1819). In addition to its (paradoxically) incorporeal nature, the corporation also has

other important features relating to deliberative democracy and equality. Limited liability, perpetuity, and a degree of anonymity, along with the obvious aggregation of capital, are but a few of the advantages corporations enjoy in the marketplace of ideas. The very reason for the existence of corporations is the advantages they offer over individual action (primarily) in the economic sphere. Thus, while it may be necessary (legally) to treat a corporation as a person in the case of contracts and legal agreements, in the case of democracy the innate advantages corporations hold over individuals makes deliberation – which requires equality – an incredibly difficult goal. Instead of empowering citizens by giving them an equal share of speech in the political sphere, the *Citizens United* decision further abstracts the demos from the government - of which it is ostensibly in charge.

Equality of Access

If corporations are to be treated, politically, as individuals, then their inherent advantages create a tiered democracy. Equality of access to the political system is a necessary precondition for a functioning deliberative democracy: inherent social and economic distinctions undermine notions of trust and fairness. "Decisions resulting from deliberation may be more *fair* and *legitimate* because they result from reasons rather than arbitrary advantages. They may be *wiser* because they allow a broad range of perspectives and information to be pooled together" (Fung, 2003). This is not to say (necessarily) that social and economic inequality are problems to be remedied within the larger structure, merely that these cannot manifest themselves *politically* or in the context of ideal deliberation. This emphasis on equality permeates issues surrounding *Citizens United.*

In writing the majority opinion, Justice Kennedy wrote: "The fact that a corporation, or any other speaker, is willing to spend money to try to persuade voters presupposes that the people have the ultimate influence over elected officials" ("Citizens United v Federal Election Commission (08-205)," 2010). To take Justice Kennedy's thinking one step further, his notion presupposes the special role of money in shaping the will of the electorate. Even granting the overly idealistic assumption that citizens influence elected officials more so than financial interests, the conflation of speech with money is ethically problematic. If one dollar equals one vote, what does zero dollars equal? Or, to take another perspective, if the volume of one's political voice is determined by the volume of one's treasury – then the influence gap that already exists between those of differing socio-economic status further widens. The deliberative ideal that social and economic inequality not impact the political process cannot coexist with the notion that money equals speech. By minimizing the power of economic advantages, it will help "to ensure that the political agenda is not controlled by the interests of economically and socially dominant groups" (Cohen, 1989). As Sheldon Wolin writes: "Campaign contributions are a vital tool of political management. They create a pecking order that calibrates, in strictly quantitative and objective terms, whose interests have priority" (2008, 140).

Following larger social trends, then, the financing of political campaigns, and indeed

political speech, has shifted from the public good to a market product. It situates public speech as an alienable commodity and citizenship as a consumer good. Echoing the opening statement of this essay by Anatole France, the law, in its majestic equality, allow both the rich and the poor the right to pay tens of thousands of dollars for political speech. Of course, not *all* political speech costs money – there are always letters to the newspaper, local activism, blogging, participation in township meetings, political party participation, etc. These means of political speech are certainly more accessible to those of lower economic status, but they also have a small potential audience of which to influence. Even so, the influence of money in state and local elections is increasingly important (Schultz, 2002). It would be impossible to deny the necessity of money in running a political campaign or in any effort to get elected to public office. However, the influence of amassed wealth and stratified level of donations have anti-democratic (and certainly anti-deliberative) tendencies. Scott Thomas, commissioner for the Presidential Election Public Funding Program, writes:

> The underlying purpose of the program is to reduce the instance where candidates and their party apparatus would be susceptible to requests for favors by those who would arrange for funding the campaigns and conventions. Relying on funds raises from millions of individuals earmarking $3 of their taxes each year, rather than on funds raised from persons who can gather and forward batches of larger contributions, the candidates will encounter fewer *quid pro quo* situations as office holders (2003, 21).

There are democratizing effects to limiting the large donations, whatever the source, in political campaigns. Be it in the form of hard money, soft money, or independent advertising expenditures (such as in the case of *Citizens United),* there is an equalizing effect in reducing the value of individual contributors or contributions (Eom & Gross, 2007, 695). *Quid pro quo* corruption has traditionally been the concern of campaign finance law, but the commodification (and subsequent sale) of access to candidates is also problematic.

The explosive growth of the cost of political campaigns further opens realms that were previously public to the vicissitudes of the market. During the 2008 election cycle, over $5.3 billion dollars were spent between presidential and congressional races (Cummings, 2008). The Center for Responsive Politics, an organization that monitors the extent of money in politics, notes that the 2008 presidential election cycle saw a 27% increase in the amount spent during the 2004 campaign ("The Money Behind the Elections," 2010). This marketization of the public sphere is problematic in that markets and economic concerns are all primarily oriented around the notion of competition. Although this may fit in with a liberal individualist model of democracy, ideals of deliberation and the public good are primary concerned with cooperation. Embedded economic inequalities have a tendency to manifest themselves in the political process (Sanders, 1997, 347).

Beyond merely abstract ideas of money as a speech in the political sphere, the *Citizens United* decision overturned two specific provisions that addressed to role of money in cam-

paign finance: disallowing corporate general treasury funds to be used for political advertising, and overturning restrictions on corporations airing political advertisements within sixty days of a general election or thirty days of a primary. Together, these measures can be seen to aim at *limiting* undue influence of excessive corporate money in politics – not eliminating it altogether. Individuals could still participate in political speech through PACs or individual actions; corporations could still participate in electioneering communication, as long as it was not within thirty / sixty days of the applicable election.; and as long as the funds did not come from the general treasury. These restriction did not extend to the CEO of the corporation (or the head of the union, for that matter), its board of directors, shareholders, etc. The political rights of speech afforded to these individuals was undisturbed by campaign finance rulings. Thus, the primary ethical grounding for the *Citizens United* decision – corporate personhood – foundationally presupposes inequality of resources and access. As noted previously, the very purpose for the creation of corporations is the economic advantages they offer over individual ownership.

Democratic politics should be ordered in ways that provide a basis for self-respect, that encourage the development of a sense of political competence, and that contribute to the formation of a sense of justice

It is worth noting here the difficulty in syncing ethical ideals and practical progress. It is easy to lament the importance of money in politics, but the issue is not a cut and dry one. The ACLU, in their amicus brief for *Citizens United v FEC,* wrote: “like many other advocacy organizations, the ACLU has found that broadcast ads can be an important tool for promoting our ideological goals” ("Citizens United v Federal Election Commission," 2010). Such a perspective fits in well with the goal of any advocacy organization that is attempting to influence the political landscape, either through electing politicians or promoting issues. There are two primary concerns here: first is the practical aspect of arguing for the best possible changes within the existing system (as the ACLU does here); the other is arguing whether the system is structured in such a way that small fixes may be regressive. Perhaps the cure is worse than the disease.

Numerous authors have suggested difficulties, or indeed contradictions, in efforts to limit corporate funding on elections. David Ortiz, for example, has written that the notion of the uninformed and disinterested voter lies underneath many reformist perspectives on campaign finance (1998, 893). Otherwise, advertisements of any kind would only be as effective as the information they contained – information that voters would be seeking out in other locations. Paradoxically then, deliberative democratic critiques of *Citizens United* may rely on the assumption of an undeliberative (unengaged) voting populace. A potential solution to problems of inequality and low-information voters was offered by Karpowitz, Rafael, and Hammond; these authors suggested enclave deliberation as a means of aiding the deliberative ideal in the face of economic and social inequalities (2009). By focusing primarily on smaller deliberative gatherings, it will allow various groups to develop more fully their po-

litical potential before entering into larger-scale political deliberations. This helps to avoid the domination by a "privileged sector" that is educated and socialized into democratic discourse (Sanders, 1997).

More practical concerns are also raised against the notion of equality and deliberative democracy. Issues of incumbent protection, decreasing importance of individual contributions, and increased rent seeking from politicians are all concerns regarding campaign finance reform (Smith, 2001). The focus here is not on exploring the inner workings on campaign finance reform, but rather to present the case that campaign finance – framed in ethical or legal terms – is not a simple matter. The complexity of the interaction between political speech, the First Amendment, and economic capital has been a contested topic for at the very least a century. That shows no signs of changing.

Groups such as the ACLU have also criticized various attempts at campaign finance reform as often stifling the political speech of smaller organizations, unions, and corporations. There is a delicate balancing act, then, in weighing the competing claims of citizens and capital. Attempts at limiting the influence of "big money" in politics may have the unintended effect of limiting the ability of advocacy organizations to propagate their message. When dealing with electioneering communication, one also has to consider that advertising time, satellite, and cable and broadcast networks are finite, and highly demanded, commodities. The prohibitive expenses of these expenditures can serve to crowd out smaller organizations (forget individual citizens). As the *Citizens United* decision has fundamentally opened the airwaves to more direct corporate political expenditures, the opportunity for direct corporate influence on elections is increased.

Enclave deliberation and the arguments of groups such as the ACLU, however, are work-arounds for inequalities – they do not address the underlying issue – how do you balance the First Amendment's restrictions of government interference with existing inequalities that impact the sphere of political speech? Does the economic necessity of forming large coalitions to achieve a political voice in the larger public sphere conflict with democratic ideals? If the solution to bad speech is more speech, does this not *require* a diversity of viewpoints in political speech? Can problems created by political speech by Adelphia be cured by more speech from Enron? These are questions that will have to be answered, in one form or another, in the coming years. But they are worth thinking about now, particularly in relation to how we view the rights of business interests in the public sphere.

One of the more corrosive effects of the increasing importance of money in politics is its depoliticizing effect. While a deliberative democracy depends on an active and engaged citizenry, trends in the U.S. political system indicate that political participation is often correlated to class and economic status (Lijphart, 1997). By further opening up the political process to the demands of the market, the public service function of the government is becoming quasi-privatized. As the mechanisms of power become further and further removed from the demos, a fatalism sets in: if politics is controlled by money, what role do those without economic power play?

The issue of inequality also manifests itself in another way with regards to the *Citizens United* decision. Beyond the inequalities of opportunity, there is also the issue of unequal

weight of various actors in a deliberative democratic framework. Both social and economic capital elevate the speech of one group over another: the former through issues of civic trust and credibility, the latter through access to larger platforms and media. Both the medium and the identity of the speaker are relevant when issues of politics are involved – one would be hard pressed to argue that a letter to a local newspaper had the same effect as the Swift Boat Veterans for Truth had on the 2004 presidential campaign (Mitchell, 2006, 29). That various media have different impacts on voter opinions and the democratic process should come as no surprise: however, the varying weights (or potential impacts) of various types of political speech creates a tiered system where one dollar equals one decibel.

Given the difficulties in a pure deliberative environment, Lynn Sanders considers juries as microcosms of a larger deliberative ideal. By examining the workings (or shortcomings) of jury deliberation, greater insight can be had into how inequality impacts a deliberative environment. "participation on a jury seems to involve exactly the skills and capacities that Democrats hope Americans might practice in other settings . . ." (Sanders, 1997, 347). However, a closer examination of the jury environment would suggest that social and economic inequalities have a serious effect on deliberation.

> The most important democratic hope for deliberation is that deliberation in juries or elsewhere enhances citizenship by inspiring autonomy and a sense of community; in other words, it produces conditions of mutual respect. Yet again, social hierarchies and patterns of oppression may hamper this goal, afflicting deliberation sufficiently so that participation instills a sense of alienation rather than either autonomy or community (Sanders, 1997, 369).

The social and economic biases inherent in the U.S. have specific consequences within a deliberative environment. The weight afforded to specific positions, through various social hierarchies, alter the reception of the message. There is thus an interest – and an important one in a deliberative democratic context – in minimizing the deliberative advantages economic and social status offer. To bring this back to the *Citizens United* decision, the further opening of the political arena to corporations and "big money" exaggerates, rather than minimizes, the advantages social and economic status offer. If, as Thomas Stratmann argues, "a $100,000 increase in advertising increases the vote share by about .2 percentage points," economic position has a specific effect on both the voting and deliberation process (2009, 357). If money equals speech and limits on corporate expenditures are a limit on said speech, then the democratic process has indeed been captured by economic logic. This does not foster a development of political competence, but rather outsources politics from the public sphere to the private; from the intellectual realm to the economic one; and from the content of one's ideas to the content of one's wallet.

So What?

The Supreme Court decision in the case of *Citizens United v Federal Election Commission* is sure to have a lasting impact both on political campaigns in the future legal challenges that arise of campaign finance legislation. Resting on issues of corporate personhood and the notion that money equals speech, the most recent ruling represents not a revolution in the role of money and campaign finance, but rather an evolution. Since the Tillman Act of 1907, a gradual invasion of corporate and private finances into the role of political campaigns has been the standard. The gradual ascendance of capital in the public sphere is supported by the notion (repeated by the Supreme Court) that money = speech. If, in fact, one takes the position that money does equal speech, what are the larger implications of this in a deliberative democracy? In particular, what role does inequality play in the democratic sphere – do social and economic inequalities lead to political ones? The *Citizens United* decision is a specific moment in history that provides an opportunity to consider these questions.

The work of Joshua Cohen here provides one framework (among the many possible) through which to view the decision. Offering a Rawlsian perspective, Cohen's constitutive components of deliberative democracy allow for a somewhat compartmental evaluation of any deliberative environment. Concerned, generally, with 1) alternative conceptions of the public good; 2) egalitarian implications; and 3) political competence, Cohen's research sets up an idealized deliberative democracy against which real-world situations can be compared. It is in this context that the specifics of the *Citizens United* case present a compelling window into the contemporary state of deliberative democracy and campaign finance. By overturning limits of where corporate money may come from (general treasury instead of PACs), when corporate advertisements may be shown (within thirty days of a primary or sixty days of a general election), and insisting that regulation of corporate speech is in violation of a corporation's First Amendment rights, the *Citizens United* decision has further stratified the contemporary political environment. By cementing the idea that money equals speech, and expanding the role of corporate money in elections, political speech has been shifted toward a privatized good. If dollars are directly correlated with political speech and an increase in votes, what does that say for citizens without access to wealth? Or ideas who lack wealthy sponsors?

The Supreme Court ruling in the case of *Citizens United v Federal Election Commission* will have serious effects on the growing importance of the role of money in political campaigns. In a society that is seeing a growth in income disparity and economic segmentation, that political speech and campaign finance should be swept up in a wave of privatization should be in no way surprising. However, there are inherent dangers in the increasing capture of the governmental process by private interests – dangers that are only exaggerated in the wake of the *Citizens United* decision. The "marketplace of ideas" logic has gone too far when the demos can no longer afford to participate in the deliberative realm.

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