

*Shaun McCutcheon, a Republican activist from Alabama, has joined with the Republican National Committee to argue against individual aggregate campaign spending limits. Currently, an individual may give no more than \$123,200 in any one election cycle, abiding by limits both to individual candidates and to an overall limit. As Scotusblog explained, "In the last election cycle, 2011-2012, McCutcheon was prevented by the aggregate limits then in effect from going forward with a plan to contribute to twenty-eight different federal candidates ... and from donating what he planned to three committees set up by the national GOP."*

*"I'd like to see individuals have more influence," McCutcheon has said. "If the government tells you that you can't spend your money where you want, there should be a real, real good reason." John Ryder, general counsel for the Republican National Committee, argues that the current limit "stifles citizens' ability to engage in the political process by limiting the number of candidates they can support." Senate Minority Leader Mitch McConnell, R-Ky., filed a brief calling for the elimination of aggregate limits.*

*But advocates of stronger campaign finance laws argue that striking down aggregate limits will have a corrupting influence on U.S. politics. "Striking down these limits would create obvious possibilities for even the most blatant forms of corruption: solicitations for hundreds of thousands or millions of dollars, creating the opportunity for transactions exchanging contributions for anticipated political favors from officeholders," Reps. Chris Van Hollen, D-Md., and David Price, D-N.C., wrote in a brief supporting the FEC. Should the Supreme Court Uphold Personal Limits on Campaign Contributions?*

## **Limits Are Positive For Democracy:**

Removing aggregate contribution limits would only increase the level of corruption within our government – at least as "corruption" would have been understood by the Framers of our Constitution. The Framers gave us a "republic." But by a "republic," they meant a representative democracy. And by a representative democracy, they meant a government with a branch (Congress) that would be, as Federalist 52 puts it, "dependent on the People alone."

Focus on that word "alone": the Framers meant an exclusive dependence, one that would keep Congress focused on its number one job: representing "the People." And not one faction of the people over another: all the people. As Madison said in Federalist 57, "not the rich, more than the poor."

Under our current system of campaign finance, however, Congress has evolved a different dependence. Not upon "the People alone," but instead upon "the Funders" of campaigns. Members spend anywhere between 30 percent and 70 percent of their time raising money to fund their campaigns. But they raise that money from a tiny fraction of the 1 percent. No more than 150,000 Americans give even the maximum amount allowed to any one candidate. These are the contributors that members are most focused on, which means our Congress is dependent upon about .05 percent of America – one twentieth of one percent – to fund their campaigns.

This is a dependence. But it is a different and conflicting dependence from a "dependence on the People alone," because this .05 percent of America is not in any sense representative of America. Instead, our Congress has permitted a dependence to develop that corrupts the one intended by our framers. They have permitted, in other words, a kind of "dependence corruption" to evolve. Removing aggregate limits would only make this problem worse. As evidence from the states shows, when you remove limits on contributions, the business model of fundraising changes: candidates focus on even larger contributors, and hence the number of contributors falls. An even smaller percentage of America would thus become the relevant funders of campaigns, meaning the extent of this corruption would increase.

If Congress has the power to attack "corruption" – at least as that term was understood originally – then Congress should have the power to limit aggregate contributions. We have a long way to go to restore Madison's conception of a Congress "dependent on the People alone," and "not the rich, more than the poor." But the court – and especially the "originalists" on the court – should certainly permit the small step of limiting aggregate contributions to reduce dependence corruption.

Americans are outraged over the power of money on our government. In *Citizens United* the Supreme Court already increased the dominance of the wealthy and special interests on politics and policy. Now, in *McCutcheon v FEC*, the court is being asked to strike down one of the few remaining campaign finance laws that we have to fight corruption of our democratic government. After all, in a democracy the size of your wallet shouldn't determine the impact of your voice or your right to representation.

Coal executive Shaun McCutcheon and the Republican National Committee are asking the court to declare unconstitutional a law that says that no one person can contribute over \$123,000 per cycle directly to candidates, parties, and committees. That's more than twice the average American household's income. If the court makes the radical choice to overturn its own precedent and strike down this common sense limit, a single wealthy donor could contribute more than \$3.5 million to one party's candidates and committees.

That's why Demos and organizations representing almost 9.5 million Americans, including the NAACP, Communications Workers of America, Sierra Club, and Greenpeace, came together to tell the court: not another *Citizens United*.

Americans already think their government is corrupt because their elected representatives are more responsive to financial supporters than to constituents or even the public interest. And they're right. Research shows that government really is more responsive to the policy preferences of the donor class than to average Americans. This is true even when the policy preferences of the wealthy differ greatly from the majority of Americans, which often they do – particularly on economic issues. No wonder almost 80 percent of Americans believe that large political contributions are preventing government from solving the important issues facing America today.

When big money dictates what's possible in public policy the current and long-term needs of American families are put in jeopardy. When corporations and wealthy Americans bankroll political campaigns, there's little hope that they'll be made to pay their fair share of taxes or prevented from receiving a disproportionate share of tax breaks. Progress on upward mobility issues such as the minimum wage, paid sick leave and family friendly workforce policies is stalled despite widespread support because they are opposed by (or not a priority of) the donor class.

That's not how a representative democracy is supposed to work. We need a political system that is responsive to citizens to advocate effectively for policies that reflect the priorities Americans share. But elections are increasingly financed by those who personally profit from the continuation of harmful business and environmental practices. They can use their wealth to build political power, then use their political power to strengthen their economic positions. No wonder so many Americans think the deck is stacked against them.

Funding for our elections is already dominated by a tiny elite donor class. According to the Sunlight Foundation, 84 percent of the members of Congress elected in 2012 received more money from the 1 percent of the 1 percent than from all of their small donors combined. Removing aggregate contribution limits would make a bad situation worse, allowing more than \$1 billion dollars of new "McCutcheon Money" into our elections over the next two presidential cycles, according to Demos and U.S. PIRG projections.

It's no wonder research shows that, in contrast to the affluent, low-income Americans have little influence over public policy outcomes – in other words, our government's decisions. But the donor class doesn't have the same public policy preferences and priorities as the rest of America, and it don't look like the rest of America either.

Americans' confidence in Congress – and its ability to check itself, rather than just chase big checks – has fallen to historic lows. We are moving closer to a system best described by the cynic's golden rule – he who has the gold makes the rules. Striking the aggregate contribution limits would further corrode confidence in democratic government and the legitimacy of our elected representation.

There are policy solutions available now to empower citizens and fight the power of big money over government, like small donor public financing and effective disclosure regulations. But the Supreme Court must stop striking down the laws that protect our government from being captured by private economic interests. We have the right to protect our democracy from corruption.