

20TH ANNIVERSARY FOR THE
TRANSPORTATION TRADES DE-
PARTMENT, AFL-CIO

Mrs. MURRAY. Mr. President, I would like to recognize the Transportation Trades Department, AFL-CIO as it marks its 20th anniversary as an advocacy organization for America's transportation workers.

The Transportation Trades Department, TTD, has been an outstanding leader on behalf of the men and women who form the backbone of this critical industry. In the face of repeated economic and security challenges, these workers continue to do all they can to safely and efficiently move passengers and freight across town and across the globe. In these difficult times for the transportation industry and its employees, TTD has effectively brought workers' voices to bear on important policy debates in Washington.

TTD has been one of the leading advocates for a strong investment in our Nation's transportation infrastructure. They have been at the forefront, explaining to policymakers and the American people the need for a stronger, safer, and more efficient transportation network. New transportation investments are the building blocks of economic recovery, as they create skilled, family-supporting jobs. They help rebuild our Nation, facilitating faster and more efficient movement of people and goods. Throughout our Nation's history, strong investments in transportation infrastructure have proven to be a successful strategy to create good jobs and improve the quality of life for the American people.

As chairman of the Senate Transportation, Housing, and Urban Development Appropriations Subcommittee—and as a Senator from a State with many transportation hubs—I have enjoyed a close and productive relationship with TTD. Its leaders and front line workers have always brought a highly knowledgeable and responsible approach to their efforts. TTD has helped workers in such a large, complex industry speak with a clear and effective voice as our Nation seeks to address these important economic and homeland security issues.

I congratulate the Transportation Trades Department, AFL-CIO on this milestone anniversary and look forward to continuing to work closely with our nation's transportation workers.

CITIZENS UNITED v. FEDERAL
ELECTION COMMISSION

Mr. LEAHY. Mr. President, this evening the Senate will proceed to a vote on a well-qualified nominee for the seat vacated by Justice Alito when he was confirmed to the Supreme Court. Two weeks ago, I came to the floor to address one of the latest Supreme Court cases where Justice Alito's vote was both decisive and divisive. The decision in *Citizens United v.*

Federal Election Commission was a 5 to 4, and it illustrates how the change in just one justice on the Supreme Court can have serious consequences for hardworking Americans and for our democracy.

This controversial decision is receiving much attention for its conservative activism, its lack of deference to the elected branches, and its disregard for the rule of law. With the stroke of a pen, five Justices overturned a century of law to permit corporations to overwhelm and distort the democratic process. The five Justices in the activist conservative bloc reached out to grant corporations rights that were once reserved for individual Americans. This divisive decision puts the special interests of big oil, banks and insurance companies ahead of the interests of the American people.

I believe that corporations are not the same as individual Americans. This is certainly true in the context of the rights and freedoms enshrined in our Constitution. Corporations do not have the same rights, the same morals, the same ideals. Corporations cannot vote in our democracy. Corporations do not have the same motivations and interests as individual Americans. This is common sense. Contrary to the preferences of the five Justices who decided the *Citizens United* case, corporations were not part of the "People" who sought to establish a more perfect Union through the ratification of the Constitution and the adoption of the Bill of Rights.

I have heard many Republican Senators praise the *Citizens United* decision as a ringing endorsement for the free speech rights of corporations. Of course, what they fail to mention is that this decision does not just put the rights of corporations on equal footing with individual Americans. The moneyed corporations that can now dominate the airwaves and election discourse will prevent a multitude of individual voices from being heard. The biggest corporations can be the loudest and most dominant. What the Republican supporters of the *Citizens United* decision do not say is that these new rights for corporations come at the expense of our democratic principles by allowing corporate funded megaphones that will drown out the unamplified voices of hardworking Americans.

Two weeks ago, Justice Alito shook his head when President Obama warned Americans about the risks of money from foreign corporations flowing into our elections. But the conservative majority in *Citizens United* did not limit the new "speech rights" it granted corporations to purely American corporations. The corporation before the court in *Citizens United* appears to be domestic, leading some to argue that the precise holding of the case does not apply to foreign corporations. However, the legal rationale articulated by the slim majority will no doubt apply beyond non-profit corporations like *Citizens United*. For example, many observers

have concluded that the decision will apply to labor unions as well, even though no union was before the court in this case. The ambiguity about how this decision could apply to corporations with investors who are not American citizens, or directors who are not American citizens, to subsidiaries of foreign corporations and to multinational corporations threatens to introduce unprecedented foreign influence into our elections.

The court's ruling exacerbates the already existing loophole allowing campaign contributions from American subsidiaries of foreign corporations. Today, an American subsidiary of a multinational corporation is treated as an American corporation under the campaign finance laws. With the newly-expanded ability of corporations to make unlimited independent political expenditures, that right is conferred on U.S. subsidiaries of multinational corporations as well.

How will the Federal Elections Commission be able to police whether the actual source of a campaign contribution comes solely from the domestic entity, and not its foreign affiliations? When a multinational corporation funds a political advertisement, is the FEC expected to audit the foreign and domestic sides of the corporation, to ensure that the source of the contribution came purely from the U.S. subsidiary? How can the FEC ensure that American subsidiaries of foreign corporations do not become a front for foreign interests who want to influence American elections?

The American people do not want the domestic subsidiaries of foreign corporations to be able to drown out their voices during the upcoming campaign season. Saudi Aramco is estimated to be worth \$781 billion dollars. Petro China's estimated net worth is \$100 billion, with profits rivaling Exxon Mobil's in the tens of billions each year. Likewise, Venezuelan oil takes in tens of billions a year. The German insurance company, Allianz, is worth \$2.5 trillion; ING Group is valued at \$2 trillion. HSBC Holdings is valued at almost \$2.5 trillion, with annual sales of almost \$150 billion. Bank of America itself has sales of over \$100 billion a year. The temptation for these powerful corporations to begin exploiting the *Citizens United* decision will be great. Imagine the influence that a small percentage of these profits could buy to sway elections of legislators considering climate change restrictions or reform of the financial services industry.

I fear that the Supreme Court's decision here has invited foreign influence over our political process. Given the vague legal reasoning and disregard for legal precedent that the majority employed to expand corporate power in this case, it is now even uncertain whether those existing restrictions to prevent wholly foreign corporations from contributing directly to the political process can withstand a constitutional challenge.

The effect of the Court's decision also poses a serious threat to the ability of state and local governments to police their own elections. Twenty-four states currently have laws to restrain corporate spending on elections. All of those laws are now called into question in the wake of the Citizens United decision.

At a Senate Rules Committee hearing last week, Montana Attorney General Steve Bullock gave compelling testimony about the threat to Montana's century-old law prohibiting corporations from "paying or contributing in order to aid, promote or prevent the nomination or election of any person." That law was designed to ensure that "Corporations are represented in Montana campaigns, but on equal terms alongside other political committees, all of them speaking through purely voluntary associations of their money, ideas, and voices."

Montana's law, like many state and Federal campaign finance laws, is not new. It stemmed from what Attorney General Bullock described as "the infamous bribery of the Montana Legislature by Senator William A. Clark, which led to its refusal to seat him." In 1912, when Montana enacted its law, the "Copper Kings" dominated not only elections but all political debate in Montana and so the fed-up citizens of that state responded.

Now, the challenges to state campaign spending laws that are sure to follow Citizens United pose a grave threat to the will of Montana's people, as well as citizens in the 23 other states with laws on the books limiting corporate spending on elections. Attorney General Bullock testified that its elections for state senate cost an average of \$17,000. That is an insignificant expense to a large corporation subject to governmental oversight or regulation.

Like Montana, Vermont is a small state. It is easy to imagine large corporations flooding the airwaves with election ads and drowning out the voices of Vermont's citizens. I know that the people of Vermont, like other Americans, take seriously their responsibility as citizens to choose wisely when making choices on Election Day. Vermonters cherish their critical role in the democratic process and are staunch believers in the First Amendment, refusing to ratify the Constitution until the adoption of the Bill of Rights in 1791. The rights of Vermonters and all Americans to speak to each other and to be heard should not be undercut by corporate spending. I fear that is exactly what will happen unless both sides of the aisle join with President Obama to try to restore the ability of every American to be heard and effectively participate in free and fair elections.

In this connection, I urge Republicans to heed the advice of our former colleague from New Hampshire, Senator Warren Rudman. He recalls the time when Republicans were in favor of campaign finance reform, before they

flip-flopped on that issue as they have so many now that the American people have elected a Democratic President. I ask that his column from the February 5 Washington Post be included in the record at the conclusion of my remarks.

It is difficult to understand the Justices' lack of concern in Citizens United for the potential of massive corporate spending to distort elections, especially in light of the Supreme Court's ruling issued only months ago in *Caperton v. Massey*. In that case, Justice Kennedy wrote that the possibility of bias due to campaign contributions in a state judicial election meant that the judge was wrong not to recuse himself from deciding a case involving a defendant who had spent \$3 million supporting his election campaign to the bench. I agreed with that decision. There, Justice Kennedy wrote: "We conclude that there is a serious risk of actual bias—based on objective and reasonable perceptions—when a person with a personal stake in a particular case had a significant and disproportionate influence in placing the judge on the case by raising funds or directing the judge's election campaign when the case was pending or imminent." What I do not understand is how these same standards and obvious logic were not applied to corporate spending in election campaigns.

The campaign finance laws passed by Congress, as well as the 24 states that have enacted restrictions, reflect a clear reason for treating individuals and their free speech rights differently from corporations—especially foreign corporations—and their money. These laws were well-founded on principles dating back not just a century to the Tillman laws, but to the distinction dating back to the time of our Nation's founding.

As early as 1819, the great Chief Justice John Marshall acknowledged that "A corporation is an artificial being . . . the mere creature of law, it possesses only those properties which the charter of its creation confers upon it. . . ." That 191-year-old precedent is one of the many betrayed by the five Justice majority in Citizens United when it ignored the nature of corporations as artificial, legally-created constructions and wrongly described them merely as indistinguishable from other "associations of citizens." Corporations are created by governments and given special rights and privileges. They are not people. Describing them as indistinguishable ignores not only the long development of the law but logic and reality.

The threat posed by the Citizens United goes well beyond the specific limitations on corporate spending that were struck down in its decision. The same lawyers who initiated the Citizens United case are already seeking to overturn other limits on election spending and transparency in campaign fundraising. If those lawyers are successful in a case called *SpeechNow.org v. Federal Election Commission*—a

case currently before the United States Court of Appeals for the D.C. Circuit, a court like the Supreme Court controlled by Republican-appointed conservative activists—it could gut laws meant to ensure that the public knows who funds political ads. That means unaccountable groups would be free to distort elections with anonymous attack ads, unanswerable to the American people.

I fear that we have not seen the last of the efforts of the newly-constituted Supreme Court to knock down long-established precedents. The Citizens United decision may have a dramatic impact on American democracy, but it is only the latest in a growing set of examples of why every seat on the highest court affects the lives of all Americans.

TRIBUTE TO THE LYNN BROTHERS

Mr. LEAHY. Mr. President, lucky is the town that has a good civic minded newspaper.

Vermont is fortunate to have several, and two reasons for that are the brothers Emerson and Angelo Lynn. The Lynn brothers have shown how public spirited newspapering is also good business.

A profile of the Lynn brothers in a recent edition of Vermont's Seven Days newspaper, written by Ken Picard, opens with this: "Newspapermen Emerson and Angelo Lynn learned a long time ago that it's not enough for a community paper to be good. It's also got to do good. And the one that achieves both goals can thrive in its niche—even when larger corporate newspapers are struggling."

Emerson and Angelo Lynn—with roots in Kansas and newspapering in their heritage—have made their homes in Vermont since the 1980s, and it was the chance to publish newspapers that brought them to our State. Emerson has published the St. Albans Messenger since 1981. Angelo arrived soon after to purchase and publish the Addison County Independent.

The Messenger, the Independent and the other publications they own and manage have flourished under their management. Not only have they invested significant time and energy into the success of their own newspapers; they also generously mentor and support other local publishers.

This is a time of uncertainty and introspection in the Nation's newspaper businesses. Alternate media streams and a severe economic recession have driven down earnings and have driven some papers out of business. New formulas will be tried. But in the meantime, Emerson and Angelo Lynn have shown that the old formula of civic minded journalism can still work.

The Lynn brothers have been successful because they care deeply about where they live, and they invest in their communities in every sense, including their hearts and souls. They