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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. YODER).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 26, 2013.

I hereby appoint the Honorable KEVIN YODER to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed a bill of the following title without amendments in which the concurrence of the House is requested:

S. 298. An act to prevent nuclear proliferation in North Korea, and for other purposes.

MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 3, 2013, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 1 hour and each Member other than the majority and minority leaders and the minority whip limited to 5 minutes each, but in no event shall debate continue beyond 11:50 a.m.

CITIZENS UNITED DECISION DEEPLY FLAWED

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. SCHIFF) for 5 minutes.

Mr. SCHIFF. Late last year, the Supreme Court overturned a century-old Montana law that prohibited corporate spending in that State's elections. In the Montana case, the Supreme Court had the chance to revisit its deeply flawed 2010 decision in Citizens United. But despite the urgings of members of the Court itself and a public shell-shocked by the recent torrent of unregulated corporate expenditures, the Court chose instead to double down and reaffirm the conclusion of Citizens United that corporations are people—at least as far as the First Amendment is concerned.

As a legal decision, the Citizens United opinion was remarkable in many ways: in its willingness to overturn a century of jurisprudence, in its choice to issue as broad a ruling as possible rather than as narrow as the case and the Constitution required, and in its reliance on minority or concurring views in prior decisions rather than the prevailing opinions in those same cases. As Justice Stevens pointed out in a striking dissent, nothing had really changed since prior controlling case law except the composition of the Court itself. So much for stare decisis.

But what stood out most about Citizens United was not the Court's legal reasoning, but its staggering naivete, as the Court confidently declared:

> We now conclude that independent expenditures, including those made by corporations, do not give rise to corruption or the appearance of corruption.

Unfortunately, the five Justices who joined this opinion must be the last five Americans to feel that way. Certainly none of the evidence before the Court in Citizens United or the Montana case compelled a conclusion so at odds with reality.

To be fair to the present Court, they did not invent the distinction between direct contributions, which can be regulated, and independent expenditures, which may not. That flawed distinction goes back more than 35 years to Buckley v. Valeo, where the Court attempted to place limits on both forms of campaign spending. In Buckley, the Court felt that there was a compelling State interest in regulating contributions to candidates but that there was not yet sufficient evidence of a similarly compelling need to regulate independent expenditures, but the Court acknowledged the need to revisit that conclusion in the future if events should prove otherwise.

Events have most certainly proved otherwise following Citizens United. Since that decision, corporate expenditures have reached in the billions of dollars, and the ''independence'' of those expenditures—their theoretical separation from the officeholders they are intended to influence—is a fiction no one buys anymore. The proliferation of super PACs and their outsized influenced on House, Senate, and Presidential politics is beyond dispute by all except those five Americans who happen to sit on the Court.

But if the Montana case makes anything clear, it is that the Court has dug in. No amount of unrestrained spending, no appearance of impropriety or actual corruption of our system is likely to dislodge this newly entrenched precedent from the threat it poses to our democracy. Regrettably, a constitutional amendment is required for that.

Fortunately, one of the Nation's preeminent constitutional scholars, Harvard law professor Lawrence Tribe, has drafted one, which I have introduced as H. Res. 31. It provides simply:

> Nothing in this Constitution shall be construed to forbid the Congress or the States from imposing content-neutral limitations on private campaign contributions or independent election expenditures.

The amendment also allows, but does not require, public financing of campaigns when States choose to enact such laws, providing:

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