



Mike Dean, Executive Director, Common Cause Minnesota

Civic Caucus , 8301 Creekside Circle #920, Bloomington, MN 55437

March 26, 2010

Present: Verne Johnson (Chair); Paul Gilje, Jim Hetland (by phone) , Jan Hively (by phone), Dan Loritz, Tim McDonald, John Mooty, Wayne Popham (by phone), Clarence Shallbetter, Bob White

Executive summary:

*Mike Dean (executive director, Common Cause Minnesota) argues that the recent decision of the U.S. Supreme Court in **Citizens United v. Federal Elections Commission** dramatically alters the landscape of election funding in Minnesota and dilutes the influence of individuals in campaigns. Common Cause presents three strategies to offset the effects of the decision: Improve transparency of corporate contributions over the short term, and require shareholder approval for a corporation to make a political expenditure and boost public financing of campaigns as longer-term efforts.*

A. Context of the meeting - Mike Dean will visit with the Caucus today to comment on the effects of the January U.S. Supreme Court decision known now by the plaintiff *Citizens United*, which was decided by a vote of 5-4 in favor of the organization. The decision resolved a disagreement between Citizens United and the Federal Elections Commission (FEC) over the showing of a video critical of Hilary Clinton close to the 2002 elections. The FEC argued that the video and its supporting advertisements violated McCain-Feingold Act restrictions on corporate financing of political campaigns.

B. Welcome and introductions- Dean is executive director of Common Cause Minnesota, a statewide nonpartisan, nonprofit advocacy organization that works to promote fair and clean elections, protect the independence of the judiciary, and make government open and accountable to its citizens. Over the last year Dean has worked to transform a dormant state chapter of Common Cause into an important voice on good government issues in Minnesota.

Dean formerly was a senior account executive for Himle Horner, Inc., a public relations/public affairs firm that assists clients with public affairs, corporate communications, media relations, crisis communications and other areas.

Prior to joining Himle Horner, Dean directed the University of Minnesota's Legislative Network. In this role he managed grassroots activities and launched a successful online advocacy program that

quadrupled the number of university advocates. During that same period, Dean helped craft the grassroots strategy that resulted in the passing of the University of Minnesota stadium bill.

Previously, Dean worked as a national grassroots organizer for Common Cause in Washington, D.C. Dean graduated from the University of Wisconsin-Madison with a bachelor's degree in political science and international relations.

C. Comments and discussion -During Dean's visit with the Civic Caucus, the following points were raised:

Dean provided an overview of the origins and mission of Common Cause. The organization at one point had a large, strong presence in the state. After some years of dormancy Dean is working to rebuild the organization, and used the senate recount of the Coleman/Franken race to advocate for a series of reforms that have reintroduced Common Cause in Minnesota. Membership is growing. It is at 10,000 presently, with 3,000 dues-paying members. Dean's strategy for growing the organization's financial base is to demonstrate value at the capitol, then request support.

Common Cause was born of a commitment to assure that government is not controlled by special interests. They look at the ramifications of decisions and seek to remedy those that are harmful for the public interest. That is the work of the organization today, applied presently to campaign finance.

Effects of the Citizens United decision

"The *Citizens United* decision is extremely concerning," Dean said. "It overturned the 1907 law called the Tillman Act that banned corporate contributions from national political campaigns. I don't feel it was handled right-had no factual basis." The court sought the topic out. "The original suit did not include the constitutionality question," Dean lamented, echoing the dissenting opinion that argued the majority pulled it into the realm of constitutionality in order to write law.

"These are thoughtful people," a member observed, of the majority. So-though you don't agree-what would their position be, explained in the positive? "Explained in positive terms, the majority's opinion was that this got down to the purity of free speech." Overriding questions of corporate personhood, "free speech trumps everything in this decision," Dean said.

Writing for the majority, Kennedy reasoned that, "If the First Amendment has any force, it prohibits Congress from fining or jailing citizens, or associations of citizens, for simply engaging in political speech." He argued that there is no practical means for separating media from other forms of corporations or parsing media into news and other forms. The law as it stands, Kennedy said, would allow Congress to suppress political speech in newspapers, books, television and blogs.

Methods to offset the effect of the decision

Since this is now a constitutional matter, Dean said, it will be very difficult to nullify by means of a constitutional amendment. So Common Cause is promoting ideas to negate some of the effects that

they see coming from the ruling. There are three pillars to their strategy: Improve transparency of corporate contributions over the short term, expand shareholder authority *approval for a corporation to make a political expenditure* and boost public financing of campaigns as longer-term efforts.

1. Transparency: increase transparency through immediate disclosure of independent expenditures

"Common Cause and the Minnesota Chamber of Commerce are working to develop a compromise bill that will bring greater transparency to the state's campaign finance laws."

Require disclosure of corporate expenditures within 24 hours...

It should be done online, so that it may be quickly accessible.

...And make them available on the Campaign Finance Disclosure board website

A practical challenge is that money may reach campaigns in both direct and indirect ways. Direct money goes straight to supporting the candidate. Indirect money may be routed through a political caucus that supplements the candidate's campaign.

"Political money laundering" presents a challenge. "Someone may want to be more secretive," Dean said, "and may house his money in a corporation which then runs ads for the private individual's interests."

Justice Thomas wrote a separate concurring opinion in the case, departing from the majority's argument that corporate contributors should be required to reveal their identity. Citing in part the backlash against supporters of the Proposition 8 initiative in California last year, Thomas argued that the anonymity of free speech must hold in the case of corporations as well. Identity should be revealed only willingly, or in case-by-case decisions.

Require lobbyist disclosure

"Minnesota's lobbyist disclosure law should require lobbyists to disclose every significant contact they have with a legislator, legislative staff, or state agency employee." They should report who they contacted, what was discussed and at who's employ. These reports would be posted online.

Regulate issue ads the same way as "express advocacy"

This includes reporting publicly who is paying for the ad, how much, and what candidate was mentioned. This too would be posted online.

2. Expand and assert shareholders' rights

Guard the shareholders' interests by requiring affirmative approval for corporate political expenditures.

"Some of these organizations that have a single issue don't advocate that issue," Dean said, instead advocating on other matters.

Further, according to a Carlson School study (<http://tinyurl.com/yd7xadr>), "Corporate PAC giving directed by executives goes more often to personal preference than to the interests of the company."

Therefore, Dean argued, "As a shareholder you should be notified when donations are to be made or ads run, then it should be required you provide affirmative approval."

3. Increase the public-financing component of political campaigns

In Minnesota there have been two components to the public subsidy of campaigns: the political contribution refund and candidates agreeing to spending limits and receiving public financing.

The governor included the \$50 individual refund in his unallotments of 2009, so it is not currently active. On the public financing, "95-100 percent of candidates for state office follow this. I can't imagine what the state of politics in Minnesota would be if everyone had to spend more time fundraising."

Restore the Political contribution refund program, and increase it.

Despite the financial condition of the state, Dean argued, this is a core program with particular importance. Common Cause supports restoring the campaign contribution refund, doubling it to \$100 /person.

Move Minnesota toward full public financing

Do this through new, direct appropriation. Common Cause is convinced of the importance of public financing at the state level, and is devoted to it as a long-term item on their agenda.

"Certain individuals self-finance campaigns," a member observed. Another member expressed skepticism about the sheer size of the corporate contributions. How could that be affected by public financing? "The goal here is to level the playing field by raising all boats," Dean replied, saying he doesn't expect public financing itself to match the potential of private giving.

Pass a law banning expenditure by foreign corporations

Dean argued that the legislature should pass a law banning the participation of foreign-owned corporations in campaigning. Under Minnesota law, "foreign" refers to corporations with home registrations outside Minnesota. Ban foreign corporations from campaign contributions outright; as well as those with a majority of foreign ownership.

A member expressed skepticism that the court's decision included foreign entities. This is something to be determined, but it would be better to preempt with a law, Dean said.

A new paradigm for openness: Public = Online

All of this disclosure is unprecedented in both scope and rapidity. It is made possible, Dean argues, by the Internet. People file reports and they are posted right away, digitally, on the CFDB website.

"On the redesign of government, make government a platform on which people can come and access information and data. Technology opens up many opportunities. Data is [currently] housed in silos, not shared. Opening it up will allow collaboration."

Work underway this session

The basic strategy for Common Cause in this work is to first seek transparency, through state laws. Then they will work on shareholder rights and public finance, which are longer-term efforts.

Common Cause hopes to work with the MN Chamber hopes to get a bill through this session. Dean said he has had meetings in support of it with Simon (DFL), Winkler (DFL) and Kohls (R) in the House, and Sieben (DFL), Rest, and Gerlach (R) in the Senate. The Chamber, Minnesota Business Partnership, and League of Women Voters are actively working to find a compromise.

D. Closing

In closing Dean said that Common Cause is still looking to rebuild to its past stature, and is looking for partnerships, board members, and members of the organization. Presently they are involved in a coalition with the Minnesota Democracy Network, and the League of Women Voters. "How do we work on these issues together?"