

Opinion > Editorials

Let's do what's right for Maine

Wednesday, June 29, 2011

Monday's 5-4 ruling by the U.S. Supreme Court that the "matching funds" provision of Arizona's Clean Elections Act is unconstitutional is perplexing on several counts.

First and foremost is the mischaracterization by Chief Justice John G. Roberts in his written majority decision that Arizona's matching funds provision places a "burden" on privately financed candidates and independent political action groups.

"Arizona's matching-funds provision substantially burdens the speech of privately financed candidates and independent-expenditure groups without serving a compelling state interest," he wrote in the opinion joined by Justices Samuel Alito, Anthony Kennedy, Antonin Scalia and Clarence Thomas.

In her written minority decision, Justice Elena Kagan challenges both Roberts' notion that matching funds for publicly funded candidates impose a burden on privately funded opponents and his unbelievable assertion that there is no "compelling state interest" for Arizona's provision.

She writes: "(T)o invalidate a statute that restricts no one's speech and discriminates against no idea — that only provides more voices, wider discussion and greater competition in elections — is to undermine, rather than to enforce, the First Amendment.'

Kagan was joined by Justices Ruth Bader Ginsburg, Stephen Breyer and Sonia Sotomayor in the minority.

Given that Arizona's law was modeled after Maine's Clean Election Act, the Supreme Court ruling obviously upends Maine's own matching funds provision.

Luckily, Maine lawmakers on both sides of the aisle anticipated this possibility and with strong bipartisan support they drafted a resolve, LD 848, that would direct Maine's Ethics Commission to study the ruling and recommend possible changes to our Clean Election law in time for the 2012 legislative elections.

Final votes on this measure are among the unfinished business the 125th Legislature is supposed to take up before its adjournment sometime this week.

We strongly encourage lawmakers to approve the resolve.

Doing so would keep faith with the 80 percent of Maine voters who've said they want to keep big money and special interest influence out of our election process.

It would give lawmakers and the public an opportunity to craft new guidelines that take into consideration the U.S. Supreme Court's concerns and still protect the public's compelling interest in making sure elected officials who choose to be publicly funded — so as to spend more time meeting with voters than chasing after money to fund their campaigns — are not put at an immediate disadvantage against a privately funded opponent.

The estimated \$3,250 cost of this study is a small price to pay to ensure that the integrity of our Clean Election system remains intact.

We join with Justice Kagan in her affirmation of the objectives behind both Arizona's Clean Election law and our own: "Less corruption, more speech. Robust campaigns leading to the election of representatives not beholden to the few but accountable to the many."

We trust that lawmakers and Gov. Paul LePage will see the wisdom of adopting the LD 848 resolve so that we might find a way to make sure those objectives remain at the very heart of the Maine Clean Election Act.

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