

## Money in politics

政界金权

Sky's the limit

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The justices open the door to more campaign contributions

法院为竞选赞助敞开大门

SHAUN McCUTCHEON, a businessman from Alabama, wanted to give a symbolic \$1,776 to 28 Republican candidates for Congress in 2012. Because of federal limits imposed after the Watergate scandal, Mr McCutcheon was allowed to donate this sum only to 16 campaigns. On April 2nd, however, the Supreme Court ruled that he can get his chequebook out again. In *McCutcheon v. Federal Election Commission*, the justices voted 5-4 to strike down two "aggregate caps" on campaign contributions, leaving "base limits" of \$2,600 per candidate, per election intact. Where individuals had been limited to total contributions of \$48,600 to candidates for federal office and \$74,600 to political parties and political-action committees, they can now give as much as they like.

2012 年，亚拉巴马州的商人肖恩·麦克卡森曾想为竞选国会议员的 28 位共和党人象征性捐赠 1776 美金。但由于水门事件后强制实行联邦限度，麦克卡森只得用这笔款项资助了 16 场竞选。然而，根据最高法院 4 月 2 日的裁决，他又可以拿出支票簿来了。在麦克卡森起诉联邦选举委员会一案中，众法官以 5:4 的投票比例，最终取消了竞选献金的两处“总限额”，只对每名候选人一次全程竞选作 2600 美金的“基本上限”要求。相比过去，联邦政府部门的候选人所能接受个人捐款上限为 48600 美金，政党和政治行动委员会的上限则为 74600 美金；如今个人捐款已不再受限了。

"There is no right more basic in our democracy," Chief Justice John Roberts wrote in the court's plurality opinion, "than the right to participate in electing our political leaders." The First Amendment's freedom-of-speech guarantee includes the right to "contribute to a candidate's campaign." So although "money in politics may at times seem repugnant to some," it is entitled to "vigorous" protection. It is unconstitutional, Mr Roberts wrote, to "restrict the political participation of some in order to enhance the relative influence of others."

"我国民主政治中最基本的一项权利，"首席法官约翰·罗伯茨在法庭多数意见书中写道，"就是参与政治领导人选举。"第一修正案中的言论自由权规定了"为候选人竞选捐款。因此，尽管"政界金权有时会引起某些人的反感，"但这一权利有着"有力"保障。罗伯茨还写道，"为了提升某些人的相对影响力而限制其他人的政治参与"不合宪法规定。

The only good reason to curb campaign donations, the Court ruled, is to prevent corruption. So caps on donations to individual candidates make sense: a "financial quid pro quo", or appearance thereof, taints a \$1m cheque to someone running for Congress. But if it is lawful to give \$1,776 to one candidate, or 16, it is odd to argue that the same sum would corrupt the 17th recipient, or the 400th. "The Government may no more restrict how many candidates or causes a donor may support," Chief Justice Roberts wrote, "than it may tell a newspaper how many candidates it may endorse."

根据法庭判决，预防腐败是唯一一条限制竞选捐款的充分理由。这样一来，制定候选人的个人受捐总限额就合乎情理了：若是让国会议员候选人另外寻求一样补偿，或是让其支付公开露面的费用，他们便会脏了好好一张百万支票。但若是法律允许候选人个人接收 1776 美金，或允许 16 位候选人接收 1776 美金，第 17 个人或是第 400 个人就不会脏了这笔钱。"政府

不可对捐赠方资助的候选人人数或事业项数作限制，”首席法官罗伯茨写道，“也不可新闻中透露捐赠方所支持的候选人人数。”

In dissent, Justice Stephen Breyer and three other liberal justices argued that the ruling undervalues the “integrity of our governmental institutions”. Together with the Citizens United decision of 2010, Mr Breyer charged, McCutcheon “eviscerates our Nation's campaign-finance laws, leaving a remnant incapable of dealing with the grave problems of democratic legitimacy that those laws were intended to resolve.” The majority fails to understand what donor dollars can buy, fumed Mr Breyer. “The threat...posed by the risk of special access and influence,” he wrote, “remains real.”

斯蒂芬·布雷耶同其他自由派法官对此表示附和，他们声称这一裁决低估了“美国政府机构的廉正”。布雷耶以 2010 年出台的《公民联合决议》为据，起诉麦克卡森“一棍子打倒了美国竞选筹款法，该法旨在解决的民主合法性之严峻问题自此滞而无解。”布雷耶怒斥多数派没能理解捐赠方的手中的金权。“这一威胁...由特殊渠道和特殊影响造成，”他如是写道，“它一直存在着”。