

Toni Saldivar, "League Looks at... Sunshine Week, March 15-21--Transparency and Why We Need It." *The Oxford Press*. 15 February 2015.

Today marks the beginning of Sunshine Week, the national initiative promoting transparency in government. Established by the American Society of News Editors with the Reporters Committee for Freedom of the Press, this week-long observance stresses the importance of freedom of information for everyone.

Wednesday, March 18, at 7:00 PM in the LCNB Community Room in Oxford, The League of Women Voters of Oxford will host a public forum, "Transparency in Local Government." Oxford City Manager Douglas Elliott and City Council representative Dr. Edna Southard will discuss how Oxford's government is funded and how these funds are spent. They will also address financial challenges facing Oxford and other Ohio municipalities. "When we talk about funds for local government," said Dr. Southard, "we have to talk about not only local taxes, but also state and federal monies."

More than a generation ago, many states, including Ohio, passed "Sunshine Laws" to guarantee access to all public records kept by any public office, by non-profit organizations and by for-profit schools. In 1966, President Johnson signed a Federal Sunshine law, the Freedom of Information Act (FOIA) that went into effect in 1967. Voters had demanded access to government information with no unnecessary secrecy. Although national security requires certain levels of secrecy, the FOIA helped protect civil liberties.

Concerns about transparency in government continue with the focus largely on money, not only where tax money goes, but also where private money goes in campaign financing. Recent Supreme Court decisions have allowed secret or "dark" money to flood political campaigns. In 2010, the Court ruled in *Citizens United v. FEC* that First Amendment free speech rights for individuals applied to corporations. A corporation speaks by financing the widely disseminated messages the corporation wants to "say." Under the law, as it now stands, corporations have the constitutional right to speak through unlimited sums spent on political campaigns. The Court expected corporate spending to be kept in the sunshine by disclosure regulations enforced by the Federal Election Commission (FEC). The Court reasoned that if voters knew the sources of campaign financing, voters could judge the merits of campaign messages. But the FEC has not been able to enforce the disclosures that the Supreme Court assumed would keep corporate funding transparent to the public.

Also in 2010, the Supreme Court ruled unconstitutional limits on Political Action Committee (PAC) donations. Thus arose Super PACs, which may raise unlimited sums of money from corporations, unions, associations and individuals and then spend unlimited sums to advocate for or against political candidates. The Super PAC may not directly give to a candidate's own funds, but the candidate benefits, nevertheless, from the Super PAC's favor.

The 2014 Supreme Court ruling on *McCutcheon v. FEC* removed limits on an individual's aggregate campaign contributions. The five to four decision by the Court, in the words of the four dissenters, "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." What was the weakened Federal Election Commission to do? On February 11 of this year, it held a public hearing on "Corruption in the Political Process."

At that hearing, the President of the League of Women Voters of the United States, Elizabeth McNamara, stated the League's position: "The FEC has the authority and responsibility to develop new disclosure regulations and new rules covering so-called 'independent' expenditures [by SuperPACS]." It is a scandal, she asserted that "we will never know who paid for all the ads that bombarded" the public throughout the 2014 midterm elections. (The most expensive midterms in our history: \$3.77 billion, according to the Center for Responsive Politics.)

Voters have a right to know, McNamara asserted, who is funding political campaigns: "The most important thing we can do to preserve the integrity of our electoral process is to increase transparency and let the sunshine in. Disclosure is the key to allowing voters to make their own decisions and guard against the inevitable corruption that comes with secret money."

The *Citizens United* decision took for granted that full disclosure would be enforced. On the contrary, McNamara pointed out, the Supreme Court opened a "giant loophole for secret giving." Regulation must close this loophole, McNamara concluded, so that "our elected officials will be responsive to voters, not to the big money and the secret money from special interests. The stakes are too high, and the League will not stand by and let our political system be corrupted."

The chances of FEC action are slim. There was a bright spot in the February hearing. McNamara made clear that the League agrees with the Supreme Court's saying, in essence, that transparency in campaign financing is good and necessary, and that if voters want this transparency, voters must now demand Congressional action: legislation or constitutional amendment.