

Obama v. the Supremes

Alito wins the oral, and factual, argument.

In the case of *Barack Obama v. Supreme Court of the United States*, that was some oral argument on Wednesday night. With the Justices arrayed a few feet in front of him in the House chamber, President Obama blistered their recent decision defending free political speech for corporations and unions. As Democrats in Congress and Cabinet members rose and applauded around them, the Justices sat stern-faced, save for Samuel Alito, who was seen shaking his head and mouthing the words "Not true."

Bravo, Justice Alito.

We're not among those who think the Supreme Court is above criticism. Especially in recent decades as the judiciary has become more political, and has encroached on the powers of Congress and the executive, politicians in the other branches have an obligation to defend their powers. Mr. Obama may have exhibited bad manners in sandbagging the Justices without warning on national TV, but he has every right to disagree with their rulings.

But could a graduate of Harvard Law School at least get his facts right? "Last week, the Supreme Court reversed a century of law to open the floodgates for special interests, including foreign corporations, to spend without limit in our elections," Mr. Obama averred. "Well, I don't think American elections should be bankrolled by America's most powerful interests, or worse, by foreign entities."

Let's unpack the falsehoods. The Court didn't reverse "a century of law," but merely two more recent precedents, one from 1990 and part of another from 2003. *Austin v. Michigan Chamber of Commerce* in 1990 had set the Court in a markedly new direction in limiting independent corporate campaign expenditures. This is the outlier case that needed to be overturned.

Mr. Obama is also a sudden convert to *stare decisis*. Does he now believe that all Court precedents of a certain duration are sacrosanct, such as *Plessy v. Ferguson* (separate but equal, 1896), which was overturned by *Brown v. Board* (1954)? Or *Bowers v. Hardwick* (a ban on sodomy, 1986), which was overturned by *Lawrence v. Texas* (2003)?

The President's claim about "foreign entities" bankrolling U.S. political campaigns is also false, since the Court did not overrule laws limiting such contributions. His use of "foreign" was a

conscious attempt to inflame public and Congressional opinion against the Court. Coming from a President who fancies himself a citizen of the world, and who has gone so far as to forswear American exceptionalism, this leap into talk-show nativism is certainly illuminating. What will they think of that one in the cafes of Berlin?

Desperate Presidents do desperate things, and Mr. Obama's riff against the Supremes reveals a President who—let us try to follow Mr. Obama's admonition about changing the "tone" of our politics—lacks grace under pressure.