

the concept of corruption is no longer part of a coherent whole. Justices of the Supreme Court fixate upon particular words at the cost of history, context, and meaning. The concept of corruption becomes the narrow concept of *quid pro quo* corruption. The citizen, too, becomes atomized—a set of wants, a “consumer,” a “taxpayer”—and government is seen transactionally instead of as part of a social political whole.

The American democratic experiment is in the midst of a political disruption enabled by this conceptual disintegration. We could lose our democracy in the process. Four years after *Citizens United*, wealthy individuals have far more political power than they did, and groups of individuals without money have less. A country founded on political equality and the fight against corruption is burdened by political inequality, corrupting individuals and institutions. Americans don't trust their government, and we feel that the country is going in the wrong direction, not just as a matter of policy but as a democracy. The public—what Montesquieu called the common people—know that there is something deeply wrong about our political culture. In a recent poll, nearly 90 percent of Americans said that reducing corruption in the federal government was high priority.³

The dismemberment has also led to divergence. When people in bars and fast food restaurants talk about corruption, they may include violations of the federal bribery statute in their definition, but more likely they mean that their representatives aren't serving them, and they aren't doing so because of some other source of money and power. The public knows there is a deep misalignment where the government is used to serve private ends instead of the public good. Justice Kennedy thinks

corruption is defined by *quid pro quo*. I believe the public sees corruption more as our country's framers did.

A disconnect between meanings of corruption has happened before in culture, if not in law. In the Gilded Age, a prominent railroad lobbyist testified to Congress that “if you have to pay money to get the right thing done, it is only just and fair to do it. . . . If [the politician] has the power to do great evil and won't do right unless he's bribed to do it . . . I think it is a man's duty to go up and bribe him.”⁴ In our own gilded age, a wealthy venture capitalist recently suggested publicly that people's votes should be proportional to the amount of taxes they pay. He was not clear about whether he was joking or not, but he wanted to be outrageous. Then, as now, the dismemberment of shared meaning and history accompanies the threatened dissolution of self-government.

In American culture, one of the social functions of a word like *corrupt* is to support a system of government where the love of the public and the love of country are celebrated, where citizens do not imagine themselves as solely self-interested. The word *corruption* is itself a bulwark against temptation, separate from any criminal penalties that may attach to it. There are constant temptations to put private interests ahead of public ones—the language of corruption provides social pressure on the other side of that equation.

It is a concept with deep political power, important for its social role and its society-defining role. This differentiates it from other words with related legal roles, like *fiduciary* or *fiduciary duty*. While no one wants to be on a poster that reads, “The CEO of Bank of America violated his fiduciary duty!,” it does not carry the same indictment and political power as one