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The Court's Good Sense

OF THE MANY WAYS in which it is possible to commend the Supreme Court decision on the Federal Election Campaign Act of 1974, perhaps the simplest is to say that, the high court systematically undid the mischief of Representative Wayne Hays.

The Ohio Democrat — who heads both the House Administration Committee and the Democratic Congressional Campaign Committee — had used his strategic legislative position to assure the well-being of his fellow Democratic incumbents when the post-Watergate campaign finance bill was going through Congress.



The bill the Senate sent to Hays set stiff disclosure requirements for campaign finances, to be enforced by an independent Federal Election Commission. It limited the size of private campaign contributions and provided substantial public financing for all federal offices.

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WHEN THAT BILL reached the House Administration Committee, Hays went to work gutting it on behalf of the incumbents' club.

The first casualty was the provision giving public funds to candidates for the House and Senate. Hays was not about to allow the challengers to compete effectively against the incumbents by assuring them a parity of financial resources.

Hays also insisted that the majority of the members of the "independent" Federal Election Commission be appointed by Congress — hoping to assure that they would be dominated by the very people they were supposed to police.

It was those Hays-inspired revisions that the high court struck down in its decision last week while approving the basic and much-needed reforms.

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THE COURT CRACKED DOWN hard — and rightly so — on the spurious arguments for expenditure limitations that had been concocted by Hays and his allies and accepted in the court of appeals.

In addition to the strong affirmation of the practical reality that in modern society, freedom of speech requires the free expenditure of funds, the justices took measured but effective cognizance of the fact that the Hays' provisions had turned the supposed "reform law" into an incumbents' security bill.

In a final demonstration of good sense, the high court told Mr. Hays that the Constitution forbids his clever scheme to have Congress name the majority of the commission members.

The Congress now has the opportunity to build onto that sound foundation — by reconstituting the Federal Election Commission as a genuinely independent body, and by ending the anomaly of providing public financing for the presidential candidates, who need it least, but not for the congressional candidates, who need it most.