



Testimony of Cheri Quickmire

Before Government Administration and Elections Committee Supporting House Joint Resolution 3 calling for a Constitutional Amendment to Overturn the U.S. Supreme Court's ruling in *Citizens United v. FEC*

Good morning Chairman Musto and Chairman Jutila and distinguished members of the GAE Committee. Thank you for the opportunity to address you today. Common Cause commends the GAE Committee for bringing forward this resolution that addresses such a critical threat facing our democracy.

Common Cause is a nonpartisan citizens lobby and leading organization working to hold government accountable and reduce the undue influence of big money in politics. Common Cause fights to strengthen public participation and faith in our institutions of self-government and to ensure that government and political processes serve the general interest, and not simply the special interests. For more than 40 years, we have worked at both the state and municipal level to bring about honest, open and accountable government.

Common Cause supports amending the U.S. Constitution to reverse the *Citizens United v. FEC* ruling by clarifying that that unlimited campaign spending is not free speech and that corporations are not people with constitutional rights. The Supreme Court simply got it wrong in concluding that an artificial entity which only exists due to a state charter has a "right" to spend unlimited amounts of its general treasury funds to advance political ideas that its shareholders and customers may not agree with.

At least seven previous amendments to our Constitution have been passed to overrule misguided rulings by the U.S. Supreme Court. Article V of the U.S. Constitution empowers and obligates the people of the United States to use the constitutional amendment process to correct egregious decisions of the Supreme Court that threaten our democracy and the republican form of self-government. As legislators who have taken an oath of office to uphold and defend the Constitution of the United States, it is entirely appropriate for you to be considering this matter today.

Unlimited Campaign Spending is Not Free Speech

Long before we cast our ballots on Election Day, powerful interests have worked to narrow our choices as voters. In order to be seen as "viable," a prospective candidate must demonstrate the financial backing necessary to compete with other big-spending candidates. Because candidates know they need huge amounts of money on their side, they pick their battles wisely. Big donors unduly influence what issues are discussed in campaigns, which legislation gets taken up in Congress, and who government ultimately is accountable to.

Americans want fair, common sense rules where each candidate spends an equal amount and donors are limited on what any donor can give to influence the outcome of an election. But federal courts have ruled that limiting big money in politics to create a level playing field violates the First Amendment. The Court has mistaken freedom of speech with freedom of spending.

The U.S. Supreme Court held in *Buckley v. Valeo* that the appearance of corruption justified some limits on contributions to candidates, but it wrongly rejected other fundamental interests that the citizens of Connecticut find compelling such as creating a level playing field and ensuring that all citizens, regardless of wealth, have an opportunity to have their political views heard. Now, in the *McCutcheon v. Federal Election Commission* case to be heard in the fall of 2013, the Court may further back away from limiting contributions to candidates.

Courts have already used the flawed logic in *Buckley* to strike down common sense rules such as setting equal limits on what all candidates can spend on their campaigns, limiting contributions to independent political campaigns or so-called SuperPACs, and limiting contributions to ballot measure campaigns.

Justice Stevens observed in *Nixon v. Shrink Missouri Government PAC* that "money is property, it is not speech," while the Court upheld limits on campaign contributions so long as they did not drive a candidate's voice below the level of notice. But the current five member majority of the Court seems more intent on advancing their own ideology than on adhering to precedent or interpreting the text of the Constitution.

Corporations are not people with constitutional rights.

The Constitution exists to protect the rights of real people, living human beings. Corporations don't breath, fight in wars, or have children. We create corporations for specific economic purposes, and give them special powers and privileges to carry out their important role in society.

Yet in *Citizens United* and other cases, the Supreme Court ruled that corporations should be considered people with constitutional rights. While the shareholders who form corporations do indeed have rights that protect their property and other corporate interests, the Court failed to understand that We the People can limit the special powers we have granted corporations for

their intended purpose. For example, we don't have to let corporate treasury funds drown out the voices of real people in our elections.

As the United States Supreme Court recognized in *Austin v. Michigan Chamber of Commerce* (1990), the republican form of government is threatened by "the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public's support for the corporation's political ideas." When *Citizens United* reversed the decision in *Austin*, it created a serious threat to self-government by rolling back previous bans on corporate spending in the electoral process and allowing unlimited corporate spending to influence elections, candidate selection, policy decisions and public debate.

As four dissenting justices in *Citizens United* noted, corporations have special privileges not enjoyed by real people, such as limited liability, perpetual life, and favorable treatment of the accumulation and distribution of assets, which allow them to spend huge sums on campaign messages that have little or no correlation with the beliefs held by real people.

Further, corporations have used the artificial "rights" bestowed upon them by the courts to overturn democratically enacted laws that municipal, state and federal governments passed to curb corporate abuse. This has hamstrung local governments' ability to protect their citizens against corporate harms to the environment, to consumers, to workers, to independent businesses, family farms, and local economies.

Repairing the constitutional damage of *Citizens United* is only one necessary step. Connecticut has gone a long way with legislation to require disclosure of all funds spent to influence our elections and public financing that provides candidates with a way to campaign that doesn't require them to coddle up to wealthy interests. The Citizens' Election Program strives to ensure that voters can hear about all candidates and issues, not just the ones backed by big money.

Legislators in California, Hawaii, Massachusetts, Maryland, New Jersey, New Mexico, Rhode Island and Vermont have already gone on record in support of an amendment. In November 2012, voters in Montana and Colorado approved ballot measures by margins of three to one instructing Congress to pass such an amendment. It would do our state proud to add Connecticut to that list.

