

Statement of  
**The Honorable Russ Feingold**

United States Senator  
Wisconsin  
March 10, 2010

Opening Statement of U.S. Senator Russ Feingold  
Hearing on "We the People? Corporate Spending in American Elections after Citizens United"  
Senate Judiciary Committee

As Prepared For Delivery

"The Citizens United decision was a tragic mistake. A mistake because the Court reached out to decide constitutional questions that were not necessary to decide the case and not raised or addressed by the courts below. Tragic because the Court damaged its own reputation and integrity by reversing precedents unnecessarily and, most important, because it opened the door to a political system that, more than ever, can be dominated and distorted by corporate wealth.

"The Court showed a remarkable ignorance of how campaign money can affect legislative decisions. Just last term the Court held in the Caperton case that a state judge should have recused himself because one party to a case had made large independent expenditures to elect him. Yet the Court concluded in Citizens United, '[I]ndependent expenditures, including those made by corporations, do not give rise to corruption or the appearance of corruption.' And, incredibly, the Court even cast doubt on one of the central holdings in Buckley v. Valeo - that Congress can enact campaign finance laws not only to prevent actual corruption but also to prevent the appearance of corruption. The Court said in Citizens United, 'That speakers may have influence over or access to elected officials does not mean that those officials are corrupt. And the appearance of influence or access will not cause the electorate to lose faith in this democracy.'

"No matter what their political persuasion, all members of Congress strive to show their constituents that no one has influence over them, that no group has special access. The idea that these appearances have no effect on the confidence that the electorate has in us and in our democracy is naive, to put it mildly.

"What is perhaps most disturbing is that the Court made these pronouncements without allowing any opportunity for a factual record to be developed. When it considered a facial constitutional challenge to the McCain-Feingold bill, the Court had before it an enormous legislative record developed over many years on the corrupting influence of soft money, along with a huge amount of discovery taken in the case itself. The Citizens United Court overturned a century of federal and state law without considering such a record. The participation of the over 20 states whose laws were essentially thrown out in this case was limited to a single amicus brief. I simply do not understand why the majority felt it was justified in taking such a shortcut.

"We are in a period of great political turmoil, and the American people are expressing their opinions forcefully. They are rightfully demanding that their elected representatives listen to them and respond to their views and their needs. I think it is for that reason that so many people are baffled and angered by the Court's decision. The people I talk to in Wisconsin don't want elected officials to be more responsive to corporations. They don't think that corporations have too little power in our legislative process, or that they need to be able to spend freely to elect a legislature that will do their bidding. They want a government 'of the people, by the people and for the people,' as Abraham Lincoln famously put it in the Gettysburg Address. In its haste to impose its own skewed vision of the First Amendment, where a corporation has the same rights of political expression as a person, the Supreme Court seems to have forgotten that bedrock principle."

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