

Testimony of The Honorable Donna F. Edwards
Senate Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights
“Taking Back Our Democracy: Responding to *Citizens United* and the Rise of Super PACs”
July 24, 2012

Thank you, Chairman Durbin and Ranking Member Graham, for allowing me to testify at this important hearing to examine pending responses to the Supreme Court’s decision in *Citizens United v. Federal Election Commission (FEC)*¹ and related cases.

There is no doubt that we have entered an unprecedented era in our political system – an era in which super PACs rule, and “one person, one vote” is more appropriate for a history lesson than a description of our current elections process.

The danger of *Citizens United* was heralded by Justice Stevens in his dissenting opinion. He could not have been more prescient when he warned that it would “undermine the integrity

¹ 558 U.S. 50 (2010).

of elected institutions around the nation.”² Justice Stevens’ warnings materialized initially during the 2010 election. But that was just the opening salvo.

At the start of the 2012 Republican presidential primaries, we began to see the true scope and danger of the *Citizens United* ruling. Restore Our Future, a super PAC supporting former Governor Mitt Romney and run by his former staffers, poured nearly \$8 million into Florida; Winning Our Future, a super PAC supporting former Speaker Newt Gingrich made a \$6 million ad buy there. After being targeted by Restore Our Future, Speaker Gingrich concluded, “I think it debilitates politics. I think it strengthens millionaires, and it weakens middle-class candidates.” I could not agree more.

This is equal opportunity corrosion – Democratic leaning groups are preparing to play too, even while doing a little “catch

² 558 U.S. at 141.

up” with Republican leaning groups. Sadly, the landscape continues to darken as we march toward the 2012 general election. According to the Center for Responsive Politics, 678 groups organized as super PACs reported receipts of over \$280 million and independent expenditures of more than \$145 million already in the 2012 cycle.

Putting an end to the influence of secret money on our elections requires a three-legged stool approach. First, require increased disclosure of money in political campaigns; second, allow the public financing of candidates for Congress – if we don’t own our elections, who will; and third, amend the Constitution to give Congress the authority to regulate political expenditures. I am an original cosponsor of measures that do just that. Mr. Chairman, I want to thank you for your sponsorship of one of these, the Fair Elections Now Act, and I

would be remiss in not applauding Senator Whitehouse's leadership on the DISCLOSE Act.

While these interim reforms should be enacted into law to mitigate the influx of unregulated money in our elections, the *Citizens United* decision leaves Congress with really only one true option – to amend the Constitution. As a lawyer and someone who dedicated nearly 15 years to working on campaign finance reform, I do not take amending our nation's guiding document lightly. Indeed, as an advocate and a donor, I spent the better part of my career shunning attempts by reform groups that supported a constitutional amendment. That changed with *Citizens United*. I believe firmly that such bold action is warranted as we face the threat *Citizens United* poses to the health of our democracy. In its majority opinion, the Court was clear – Congress does not have the authority to regulate these

expenditures. Indeed, the Court doubled down on its conclusion in *SpeechNow.org* and in *Bullock*. Only an amendment to the Constitution can provide Congress with that authority.

Less than two weeks after *Citizens United* was released, I joined then House Judiciary Chairman John Conyers to introduce the first constitutional amendment to reverse the flawed decision. Our amendment would have given specific authority to Congress and the states to regulate corporate expenditures on political activity by imposing content-neutral regulations and restrictions on the expenditure of funds for political activity by any corporate entity excluding the media. Ranking Member Conyers and I reintroduced our amendment in this Congress as H.J. Res. 78.

We are now far from alone in this fight. Fourteen amendments (three in the Senate and eleven in the House) have

been introduced during the current Congress to address *Citizens United* and related cases. We all agree that corporate money and individual wealth can no longer dominate our politics. As usual, the public is way ahead of us.

275 cities and towns, from Albany to Pittsburgh to Kansas City to Missoula, have passed anti-*Citizens United* resolutions. The sponsors of a constitutional amendment came together and agreed to the Declaration for Democracy, a document that declares our support for amending the Constitution. Today, 1,854 public officials, including 92 members of the House and 28 Senators; over 2,000 business leaders; and thousands of ordinary citizens have signed their name to this Declaration.

Now, some have questioned the need for an amendment to fix this problem. The Supreme Court has answered that

question unequivocally in overturning Montana's century old limits on corporate spending.

The Supreme Court has closed the door to reasonable laws to regulate campaign finance – and except for disclosure, the constitutional amendment door is all that remains open. We owe it to the American people to find consensus and walk through it.

Thank you. I appreciate the opportunity to appear before the Subcommittee and am pleased to answer any questions.