

STATEMENT OF
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DEPUTY DEMOCRATIC LEADER

BEFORE THE U.S. SENATE JUDICIARY COMMITTEE HEARING
"EXAMINING A CONSTITUTIONAL AMENDMENT TO RESTORE DEMOCRACY TO THE
AMERICAN PEOPLE"

TUESDAY, JUNE 3, 2014

Good morning and thank you for the opportunity to testify today.

My name is Floyd McKissick, Jr. I am a longtime resident of North Carolina, and I have the honor of serving in the North Carolina State Senate, where I represent Durham and Granville Counties and act as Deputy Democratic Leader.

I first entered the legislature in 2007, so my time there can be roughly divided into two different periods: before *Citizens United*, and after.

I entered politics for the same reason I'm sure many of you did. I saw ways that North Carolina's government could work more effectively to make a difference for the people in my community who needed a hand up, a solid education, better jobs, and safer communities.

There's no need to romanticize that time before *Citizens United*. Like every state capital, there was conflict. Sometimes legislators were in agreement and sometimes we weren't. We debated and fought and compromised. I think, even then, donors with deep pockets had too much influence, but ultimately it was the voters who were in charge. Trying to hash out legislation that addressed a wide range of competing interests wasn't always easy, but that's how democracy works, and it worked for North Carolina.

All of that changed after *Citizens United*.

Suddenly, no matter what the race was, money came flooding in. Even elected officials who had been in office for decades told me they'd never seen anything like it. We were barraged by television ads that were uglier and less honest than I would have thought possible. And they all seemed to be coming from groups with names we had never even heard of. But it was clear that corporations and individuals who could write giant checks had a new level of power in the state.

Sometimes, we knew where the money was coming from. Sometimes we didn't. But I've lived long enough to know the billionaires and big corporations who opened their wallets wanted something in return.

In 2010 alone Americans For Prosperity, a group funded in large part by the Koch brothers, spent more than a quarter of a million dollars in North Carolina. Another group, Civitas Action, spent more. A new organization that sprang up, called Real Jobs NC, spent almost \$1.5 million dollars.

Overall, three quarters of all the outside money in state races that year were tied to one man: Art Pope. Pope and his associates poured money into 22 targeted races, and the candidates they backed won in 18.

In 2012, \$8.1 million in outside money flooded into the governor's race—a large portion of which was tied to Mr. Pope. And before he'd even been sworn into office, our new governor announced who would be writing the new state budget: surprise, surprise. It was Art Pope.

He could afford to spend lavishly, and he certainly got his money's worth.

When Justice Kennedy wrote his decision in *Citizens United*, he said that limitless outside spending “[does] not give rise to corruption or the appearance of corruption.” Try telling that to anyone who saw how the sausage got made in North Carolina.

There are winners and losers in every budget. And in the budget he produced, it's undeniable that Mr. Pope won big. Our state slashed corporate income taxes and lowered the share paid by the state's wealthiest people.

As for the losers, there were plenty. Tens of thousands of people lost their unemployment benefits. Public education funding was drastically cut back. Half a million low-income people were refused access to Medicaid that we'd already paid for. And while billionaires got a tax break, some working families actually got a tax hike.

But that's not all. After the tide of dark money flooded into our elections, we saw two more big changes that should cause us great concern.

First, it got harder for ordinary people to vote.

A month after the Supreme Court gutted Section 5 of the Voting Rights Act, North Carolina passed one of the most restrictive anti-voter laws in the country. It cut early voting down from 17 days to 10 days. It eliminated the ability of teenagers to preregister before their 18th birthday. And it eliminated same day voter registration. It also enacted a rigid voter ID requirement that required forms of ID that more than 300,000 North Carolinians don't have. Those restrictions have had the biggest impact on the students, the elderly, the poor, and people of color. Put simply: Art Pope, Americans For Prosperity and the Koch brothers paid big money to roll back the Civil Rights advances that generations of Americans have paid for in blood.

Second, it got even easier for rich people to pour even more money into elections.

Big donors got new opportunities to write even bigger checks to candidates, and they got more ways to avoid any kind of disclosure. And our public financing system was scrapped—even the part of the law that helped provide clean judicial elections, and which had always had bipartisan support. The result of that decision was particularly painful to me. This year, I watched one of our sitting Supreme Court Justices, Robin Hudson, attacked in the most despicable and dishonest way. A million dollars in outside money was poured into the primary race—with more than \$650,000 coming from a Washington-based organization trying to protect the anti-voter attacks pushed through the legislature.

Ads from a dark money group claimed that she coddled child molesters and “sided with predators” while on the bench. I can personally attest to Justice Hudson’s excellent character and it was painful to see her face such dishonest, dishonorable smears. Those ads were character assassination, plain and simple. And they were the result of the system created by the US Supreme Court. I have an article from the New York Times that gives more detail about those attacks, and I’d request that the committee enter it into the record.

I cannot think of a more vicious cycle than taking a little more power from the voters and handing it to the spenders. But once big money got into our elections, that’s exactly what happened.

Let me be clear: I personally oppose all of these changes. But I know in politics, sometimes you win and sometimes you lose.

What makes it most disturbing is the sense that I have—and which I know is shared is shared by other members of our legislature and many members of the public—that We the People are no longer the ones calling the shots. The question isn’t whether a law is popular, or whether a law is right. The question is who has the deepest pockets and who can buy the most ads to smear and discredit anyone who stands in their way. Art Pope has the same right as every citizen to *participate* in our democracy, but he doesn’t have the right to *buy* our democracy like he has in North Carolina. The same is true for the Koch brothers. They shouldn’t be able to hide behind groups like Americans For Prosperity to smear their opponents and buy a legislature or a governor’s mansion.

I believe that public service is a calling. We’re called to use our gifts to create laws, to exercise our judgment, and to administer our cities, our states and our nation. *Citizens United*, *McCutcheon* and other Supreme Court decisions have made a mockery of that sacred duty.

What’s left doesn’t look like democracy. Democracy is when the government represents the people. Today, it seems big money and big donors pull the strings, while ordinary people find it harder and harder for their voices to be heard.

You have the chance to restore our democracy, to restore the First Amendment, and to make clear that our government should represent all the people, not just the wealthy few.

I urge you to support SJ Res. 19.

Thank you.