

Richard, Chief Ethics Counsel, President George W. Bush; S. Walter Richey Professor of Corporate Law, University of Minnesota Law School, at NCLC 2018

Johannes Epke, American Promise Legal Counsel:

Richard, you've worked as chief White House Ethics Council and then more recently as a board member of the nonprofit Citizens for Responsibility and Ethics in Washington. You're now running for US Senate in Minnesota. I want to ask you about what Citizens United, and other cases, did to the legal conception of corruption and why that matters.

Richard Painter:

Well, we've had a problem with corruption for a long time. President Theodore Roosevelt spoke about the corporate interests dominating both the bosses of the Republican Party and the bosses of the Democratic Party, and I don't think too much has changed and that's very unfortunate. Citizens United is part of a trend of judicial activism by the United States Supreme Court in this arena, going back to the 1970s and the *Buckley v. Valeo* decision. This shouldn't be a partisan issue, voters across the political spectrum should be extremely angry. Even Barry Goldwater was strongly opposed to what the Supreme Court was doing in the 1970s, he didn't live to see the debacle of Citizens United. But this takes democracy away from the people and puts both of the major political parties in the hands of big business and whoever has the money to influence politics.

Voters are dizzy, discouraged younger voters are disengaged. We see more and more voters identifying themselves as Independents because they're sick and tired of the two major political parties raising money from PACs and depending on super PACs. People talking about a red tsunami or a blue wave, knowing that most of that's gonna be paid for on either side by the top 0.01%. We have no idea whether the people who are funding these elections are even Americans. Examples the Commissioner brought up were, you know, American citizens, some of them quite honorable people, Mike Bloomberg in particular. But it's still at the top 0.01% in the United States. But we have no idea who funds these 501-C-4 organizations that have been blessed by the Citizens United opinion, because those organizations don't disclose who their donors are. President Obama called for disclosure of who the donors are, for laws at least requiring disclosure. The Supreme Court wouldn't have thrown those out, but a Democratic controlled House and Senate refused to do that, while he had a Democratic controlled House and Senate, wasn't very long. But, you know, the point is that both political parties are complicit and we need to put a stop to this. **The voters are increasingly becoming angry at what's going on and angry voters make some very bad decisions.**

I remember going up to New Hampshire in February 2016, giving a speech about this and trying to warn people. It was right before the primary, about how we could be really angry about Citizens United and corruption in this country and we should be. There was a lot of corruption in the Weimar Republic in Germany, too, in the nineteen twenties leading up to the 1932 and '33 elections. And they didn't make a good decision. And that's the risk we face in our democracy. **That if we don't fix this and if we don't involve everybody, voters are going to start to look to totalitarian candidates. And we're experimenting with it this time with Donald Trump, but we'll probably be rid of him at some point. But this is gonna happen again. It's gonna be a far-right not a far-left authoritarian because voters**

are not gonna trust democracy and that's the most tragic part of this. We've got to fix it now.
[Applause]