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**Author of Supreme Court's Decision Unleashing Campaign
Spending Once Denounced the Influence of Campaign Cash**

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Yesterday, retired conservative Supreme Court Justice Sandra Day O'Connor sounded the alarm. Speaking at a DC symposium, [she said that](#) last week's *Citizen's United* decision unleashing corporate election spending with out restriction, "will energize an 'arms race' in judicial elections and be a 'problem for maintaining an independent judiciary.'"

No doubt about that. The problem of [corporate money in state judicial election campaigns](#) has long been recognized as a fundamental problem for our democratic government. It [doesn't always work](#) for them, but the problem is serious and enormous. In fact, guess who participated in a 2003 *Frontline* documentary called "[Justice for Sale](#)" to denounce this very trend? Why, that would none other than Justice Anthony Kennedy himself. Yes, the same [Justice Kennedy who wrote the](#) *Citizens United* opinion.

Kennedy, who said, "You have to remember that we live in a constitutional democracy, not a democracy where the voice of the people each week, each year, has complete effect. We have certain constitutional principles that extend over time. Judges must be neutral in order to protect those principles." Check out this unbelievable exchange between Bill Moyers and Kennedy:

Moyers: *The concern that each of you expressed last year in Philadelphia was in particular about campaign contributions to judicial races. Why do you see that as a threat to independence and neutrality?*

Kennedy: *Well, in part, it's because the campaign process itself does not easily adapt to judicial selection. Democracy is raucous, hurly-burly, rough-and-tumble. This*

is a difficult world for a jurist, a scholarly, detached neutral person to operate within. So, the whole problem of judicial campaigns is. . . difficult for us to confront. Now, when you add the component of this mad scramble to raise money and to spend money, it becomes even worse for the obvious reason that we're concerned that there will be either the perception or the reality that judicial independence is undermined.

Moyers: *Let me just give you some statistics from a poll conducted by the Texas state supreme court and the Texas state bar association, which found that 83% of the public think judges are already unduly influenced by campaign contributions. 79% of the lawyers who appear before the judges think campaign contributions significantly influence courtroom decisions. And almost half of the justices on the court think the same thing. Isn't the verdict in from the people that they cannot trust the judicial system there any more?*

Kennedy: *This is serious, because the law commands allegiance only if it commands respect. It commands respect only if the public thinks the judges are neutral. And when you have figures like that, the judicial system is in real trouble. And that's why we should have a national conversation about it.*

...

*There must be a rededication to the constitution in every generation. And every generation faces a different challenge. We weren't talking about this 30 years ago, because we didn't have money in elections. **Money in elections presents us with a tremendous challenge, a tremendous problem and we are remiss if we don't at once address it and correct it. . .***

Well, [he addressed it, alright](#), by “eras[ing] two of the court’s precedents and pan[ning] decades of legislative restrictions on corporate spending in election campaigns.”