

In the Wake of Citizens United – Should We Amend the Constitution?

The 2010 Supreme Court decision in *Citizens United vs. Federal Election Commission* held that spending by corporations, unions and individuals to influence elections – defined as “free speech” - could not be limited.

A growing chorus of individuals, cities and towns, state legislatures, businesses, and nonprofit organizations has called upon Congress to enact an amendment to the U.S. Constitution to overturn this decision. Many also call for an end to the concept of corporations as “people” which was established by previous court decisions. Six Congressional resolutions have already been introduced, including those by Congressman Jim McGovern of Massachusetts and Senator Bernie Sanders of Vermont. So far, 11 state legislatures have introduced or passed resolutions calling for an amendment. Eleven state attorneys general, including Massachusetts, have written to Congress supporting such an amendment. In Massachusetts alone, 13 cities and towns have passed resolutions of support for this strategy. Concord’s Town Meeting, which begins next Monday, includes Article 48, the People’s Rights Resolution - Free Speech, which will likely be heard on Wednesday night, April 25th, calling for Concord to join this movement.

One common theme for these various amendments is an objection to the use of the enormous wealth and power of large corporations to drown out the voices of individual citizens during elections, a concern iterated by past Supreme Court decisions as late as 2003. Efforts at strengthening disclosure of sources of funding for political messages, and public funding for campaigns, could be a part of the solution.

Examples of this are the Disclose Act of 2012, which would in part require disclosure of donor names within 24 hours for contributions of \$10,000 or more, and a recently announced coalition of wealthy individuals who are launching an organized effort to establish public funding of elections in New York State. New York has the least restrictive campaign finance laws in the nation, permitting individual gifts of up to \$60,800 directly to candidates for statewide office. The goal of the coalition is to establish a model of elections freed from the grip of big money. However, at this time the national picture seems far less promising, and support has been growing for a constitutional amendment to address this troubling issue.

A concern about the amendment strategy is the claim that this approach would be difficult and lengthy, and might distract from work being done on various legislative solutions.

Another objection is that no definitive version of an amendment has yet appeared. The lack of a universally accepted amendment, say supporters, is not necessarily a fatal flaw. Discussion and negotiation, after all, are the ways in which public policy has historically been decided. The important thing is to begin the process.

Supporters point out that amendments have been successfully enacted 27 times, including the Bill of Rights, abolition of slavery, presidential term limits, and voting rights for 18 year olds. Some amendments have taken more time than others. Even failed amendments, such as equal rights for women, gave supporters the long term vision and short term steps that caused steady progress.

An amendment must either be proposed by a two thirds vote of Congress or by a Constitutional Convention called by two thirds of the states, and then it must be ratified by three fourths of all state legislatures. Calling a Constitutional Convention to pass an amendment has never been done, and some fear that if this method is utilized, it might open the door to unwanted changes to an amendment. Others feel the risk is necessary.

The impact of the Supreme Court decision on our democracy, and the choices we make to protect that democracy, concern us all. Attend the last night of Town Meeting and give your informed attention and voice to this issue.

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