



DNC Platform Supports Constitutional Amendment to Limit Free Speech

[Michael Patrick Leahy](#) 5 Sep 2012

Political party platforms are usually filled with vague promises and general ideas. This year, [the 2012 Democratic Party Platform](#) offers support for a very specific constitutional amendment designed to strike down the Supreme Court's 2010 *Citizens United* decision and limit free speech in the guise of limiting campaign contributions:

"Our political system is under assault by those who believe that special interests should be able to buy whatever they want in our society, including our government. Our opponents have applauded the Supreme Court's decision in *Citizens United* and welcomed the new flow of special interest money with open arms. In stark contrast, we believe we must take immediate action to curb the influence of lobbyists and special interests on our political institutions.

"President Obama signed an executive order to establish unprecedented ethics rules so that those who leave the executive branch may not lobby this administration and officials may not accept gifts from lobbyists. **We support campaign finance reform, by constitutional amendment if necessary.**" (emphasis added)

The liberal group [People for the American Way's website](#) shows the twenty different versions of this proposed constitutional amendment that have been introduced to Congress by Democrats since the *Citizens United* decision. Though the platform doesn't say which of these constitutional amendments they support, the version most recently endorsed by the leading Democrats in Congress is [S. 29](#), introduced by Illinois Senator Dick Durbin, New Mexico Senator Tom Udall and twenty-three other Democratic Senators on November 1, 2011.

Here's the language of that proposed constitutional amendment:

IN THE SENATE OF THE UNITED STATES

November 1, 2011

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission by the Congress:

Article--

Section 1. Congress shall have power to regulate the raising and spending of money and in kind equivalents with respect to Federal elections, including through setting limits on--

(1) the amount of contributions to candidates for nomination for election to, or for election to, Federal office; and

(2) the amount of expenditures that may be made by, in support of, or in opposition to such candidates.

Section 2. A State shall have power to regulate the raising and spending of money and in kind equivalents with respect to State elections, including through setting limits on--

(1) the amount of contributions to candidates for nomination for election to, or for election to, State office; and

(2) the amount of expenditures that may be made by, in support of, or in opposition to such candidates.

Section 3. Congress shall have power to implement and enforce this article by appropriate legislation.'

As Ilya Shapiro [wrote at the Cato Institute](#), *Citizens United* affirmed free speech when it struck down the McCain-Feingold "Campaign Finance Reform" law:

The blogosphere has been abuzz on the heels of the Supreme Court's landmark *Citizens United* opinion. Hysterical criticisms of the speculative changes to our political landscape aside — including the President's misstatements in the State of the Union — one of the most common and oft-repeated criticisms is that the Constitution does not protect

corporations. Several “reform” groups have even drafted and circulated constitutional amendments to address this concern.

This line of attack demonstrates a fundamental misunderstanding of both the nature of corporations and the freedoms protected by the Constitution, which is exemplified by the facile charge that “corporations aren’t human beings.” . . .

The proposition that only human beings, standing alone, with no group affiliation whatsoever, are entitled to First Amendment protection — that “real people” lose some of their rights when they join together in groups of two or ten or fifty or 100,000 — is legally baseless and has no grounding in the Constitution. George Mason law professor Ilya Somin, also a Cato adjunct scholar, discusses this point here.

In any event, as Chief Justice Roberts said in his Citizens United concurrence: “The First Amendment protects more than just the individual on a soapbox and the lonely pamphleteer.” Justice Scalia makes the same point, explaining that the text of the Constitution “makes no distinction between types of speakers.” The New York Times isn’t “an individual American” but its speech is still protected under the First Amendment (regardless of any exemption for “media corporations” — whatever those are in a world where conglomerates own interests not limited to media, not to mention the advent of blogs and other “new” media).

If President Obama is re-elected, he is very likely to try and secure passage of this free speech restricting constitutional amendment endorsed in his party's platform. After all, how better to complete the transformation of America than to muzzle your political opponents?