

## Citizens United Constitutional Amendment Floated By Senate Democrats

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Sen. Dick Durbin (D-Ill.) chaired a hearing to discuss a constitutional amendment to fix the Supreme Court Citizens United ruling.

WASHINGTON -- Senate Democrats, battered by a tsunami of independent campaign spending and without legislative recourse, promoted a constitutional amendment Tuesday to reverse the Supreme Court's 2010 Citizens United ruling that freed corporations and labor unions to spend freely in elections.

Sen. Dick Durbin (D-Ill.), chairing a hearing of the Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights, said he had long opposed a constitutional amendment to reduce the influence of money in elections. But he "reached the conclusion that a constitutional amendment is necessary" after the torrent of money spent by independent groups after the Citizens United ruling, he said.

Durbin acknowledged amending the Constitution would be "an uphill battle and it might take years." The assertion underscores the difficulty that Senate Democrats have had in passing simple legislation that would increase campaign spending transparency.

Democrats have decried the Citizens United decision, which they say has empowered Republican donors, including corporations, to pump hundreds of millions into independent groups to elect more Republicans into office. Democrats sought to pass legislation to improve disclosure for this money, but have been rebuffed three times in the Senate, [failing to secure a single Republican vote](#).

The hearing featured two panels. The first featured three Democratic senators and one congresswoman, all of whom had introduced constitutional amendments to either reverse Citizens United or to overturn the 1976 Supreme Court ruling in *Buckley v. Valeo* that found government-imposed campaign spending restrictions to be unconstitutional.

Sen. Max Baucus (D-Mont.) called a constitutional amendment "the only way we can solve this."  
"We are seeing our country move toward an oligarchic government," Sen. Bernie Sanders (I-Vt.) said.  
"Citizens United is a part of that trend."

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Sen. Tom Udall (D-N.M.) explained the Buckley decision that stripped the 1970s campaign finance system of restrictions on the amount spent by each campaign. The decision is famous for stating that money provides the ability to speak in politics and, thus, spending could not be regulated without restricting speech.

"Americans' right to free speech is now determined by their net worth," Udall said as he bemoaned the current system. "The damage is clear. Elections become more about the quantity of cash and less about the quality of ideas."

A second panel featured former Louisiana Gov. Buddy Roemer, Harvard University law professor Lawrence Lessig and Cato Institute senior fellow Ilya Shapiro. Roemer, who ran for Republican nomination for president this year and refused to accept contributions above \$100, echoed Udall's sentiments. "It's corrupt when the size of your contribution determines your place in line," he said.

Lessig said the public, through civic conventions, should propose potential Citizens United fixes to Congress instead of looking to Congress for an answer. "The people have lost faith in their government," Lessig said. "They have become convinced that the government has become more responsive to ... the funders."

Lessig said there are two elections today: the voting election and the money election. "It is only the very few who can compete at all," Lessig said, referring to the money election.

Shapiro was the lone dissenter. The Cato fellow had been invited by Sen. Lindsey Graham (R-S.C.) to share the policy beliefs of Libertarians and Republicans. Shapiro supported Citizens United and money in politics. No Republican senator sitting on the subcommittee showed up to ask questions.

"Citizens United is one of the most misunderstood major cases ever," said Shapiro, echoing an argument previously made by Minority Leader Sen. Mitch McConnell (R-Ky.) Shapiro argued that the case was far more limited than its critics say and that it expanded speech rights rather than threatened democratic institutions, as Democrats and the other panelists argued.

Shapiro called for Congress to "liberalize the system" by eliminating campaign contribution limits and reducing disclosure of contributions to only those deemed large enough to be corrupting.

When pressed on this latter point by Sen. Sheldon Whitehouse (D-R.I.), Shapiro stated that a corrupting amount may be \$500,000 or more. He further stated that a \$10,000 contribution -- far above the \$2,500 limit a donor can give per election -- may be corrupting in an election for dog catcher.

Whitehouse recounted a run-in with a Marine who lost his legs in Afghanistan on the way to the hearing. If the U.S. can ask a Marine to go to Afghanistan and lose his legs, said Whitehouse, "We can ask the Koch brothers to disclose their contributions and deal with some impolite blogging."

While the senators' chairs were largely empty throughout the hearing, the audience seats were filled. Activists and advocacy groups packed the hearing to support a constitutional amendment. Durbin mentioned that a petition signed by more than 1 million Americans had been delivered by advocacy organizations working to get states, cities and local municipalities to oppose Citizens United.