



Think Tank Takes: Citizens United amendments threaten free speech

By: John Samples – April 23, 2013

In *Buckley*, the [U.S. Supreme] Court said that corruption arises when "contributions are given to secure a political quid pro quo from current and potential office holders, the integrity of our system of representative democracy is undermined."

Campaign contributions show support for a candidate and his positions; the donor hopes to help a candidate win an election and carry out his promises. But they can also degenerate into a kind of bribery: a candidate can promise a favor in return for a contribution.

The contribution determines the promised actions of the candidate rather than the promised positions and actions attracting the contributions. By limiting contributions, the Court concluded, Congress could make such quid pro quos less likely.

Preventing this type of corruption also justifies a congressional ban on contributions by corporations. To this day, even after *Citizens United*, corporations cannot directly contribute to candidates.

Quid pro quo corruption depends on a person giving money to a candidate and receiving something in return. What if a person or group doesn't give money directly to the candidate and just spends money on speech supporting or opposing a candidate?

Such independent spending leads to speech, not a corrupt exchange of a donation for a favor. Many of these proposed amendments would give Congress power to regulate or prohibit independent spending on speech. ...

Fears about the putative political and electoral consequences of the *Citizens United* decision have fostered several proposals to amend the Constitution. Most simply propose giving Congress unchecked power over political speech, power that will be certainly abused.

The old and new public purposes cited for restricting political spending and speech are not persuasive in general and do not justify the breadth of power granted under these amendments. Americans should defend -- not amend away -- the freedom of speech recognized by the First Amendment.