



Written by [Joe Wolverton, II, J.D.](#) on August 3, 2015

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Citizens United for Free Speech

There is a movement to ban groups of people from contributing to election campaigns. Such a move is not only anti-freedom but is bound to have ruinous ripple effects.

On January 21, 2010, the U.S. Supreme Court ruled in *Citizens United v. FEC* that it is unconstitutional to restrict independent political expenditures by corporations, unions, and other associations such as political action committees (PACs).



According to Cenk Uygur, the host of the left-wing online news show *The Young Turks*, this ruling worsened the influence of moneyed interests in the American political system. Uygur announced the creation of Wolf PAC on October 19, 2011 during the Occupy Wall Street demonstration at Zucotti Park in New York City. Wolf PAC's goal is "ending corporate personhood and publicly financing all elections in our country," and placing restrictions on large monetary donations to political candidates, parties, and groups.

Wolf PAC plans to accomplish this by pushing for an amendment to the Constitution that would declare that corporations are not people and as such enjoy none of the Constitution's protection of basic civil rights. Specifically, the Wolf PAC proposal looks to limit corporate campaign contributions by effectively overturning the *Citizens United* decision via a new amendment.

Wolf PAC believes that Congress is too corrupt to pass such an amendment itself, and therefore advocates a Convention of the States (constitutional convention) to propose the amendment. Resolutions calling for such an amendment have passed in California, Illinois, New Jersey, and Vermont, and are pending in Connecticut, Delaware, Hawaii, Maryland, and New Hampshire.

The movement to end "corporate personhood" via a constitutional amendment is clearly gaining steam. But what did the *Citizens United* ruling really do, and what might happen if Wolf PAC gets its wish?

Before analyzing the particulars of the *Citizens United* ruling, let's look at the language of the proposed Wolf PAC amendment. The proposed "28th Amendment" offered by Wolf PAC reads:

Corporations are not people. They have none of the Constitutional rights of human beings. Corporations are not allowed to give money to any politician, directly or indirectly. No politician can raise over \$100 from any person or entity. All elections must be publicly financed.

There are a couple of fundamental problems with this proposal that need to be addressed before launching a more detailed examination of the issue.



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Corporations and Rights

First, Wolf PAC is right in one respect: “Corporations” do not have rights. But that’s not the end of the story. The *Citizens United* decision doesn’t claim that they do, so the idea that the Constitution needs to clarify that concept is ridiculous.

The decision recognizes that corporations are not organic entities with rights and responsibilities that must be established independently of other entities. That is to say, the Congress and the court need not determine the “rights” of corporations because they have already determined the rights of people, and a corporation is nothing more than a collection of people.

As the majority held in the *Citizens United* case, the First Amendment’s protection of free speech extends to individuals, and by extension “associations of individuals.”

And people have rights. Rights given to them by their Creator. Rights that are unalienable. And despite their democratic demeanor, these facts are repulsive to Wolf PAC.

They do not want to reduce the rights of corporations, for they know as well as anyone else that corporations do not have rights. The people who combine to create corporations, however, do have rights — including the right to contribute to political campaigns — and Wolf PAC knows that sometimes the people in corporations are going to express their political preferences in ways that Wolf PAC wants to outlaw.

That’s the rub. Wolf PAC isn’t interested in promoting America’s “core values” or in protecting the political process from the evils of money; rather, they are interested in the same thing that interests all socialists, progressives, and “reformers”: silencing those with whom they disagree.

Ironically, Wolf PAC has not published the “specific amendment language” because they claim they want to “hear all sides.” That is, all sides that agree with their side.

Wolf PAC has a vision for America, an America where government is empowered to enforce a secular socialist agenda and to protect that power behind the wall of an amendment.

This is the way socialists have always moved their agenda forward.

The French political economist Frédéric Bastiat wrote about this phenomenon in his book *The Law*, published in 1850:

But, unfortunately, law by no means confines itself to its proper functions. And when it has exceeded its proper functions, it has not done so merely in some inconsequential and debatable matters. The law has gone further than this; it has acted in direct opposition to its own purpose. The law has been used to destroy its own objective: It has been applied to annihilating the justice that it was supposed to maintain; to limiting and destroying rights which its real purpose was to respect. The law has placed the collective force at the disposal of the unscrupulous who wish, without risk, to exploit the person, liberty, and property of others. It has converted plunder into a right, in order to protect plunder. And it has converted lawful defense into a crime, in order to punish lawful defense.

Let’s move on to the second clause of the Wolf PAC amendment that claims that “corporations have



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none of the constitutional rights of human beings.” Constitutionalists will recognize a couple of problems with this statement, as well.

First, there is no such thing as a “constitutional right.” Rights are derived from God, not from government. The Constitution may protect certain of those rights, but nothing in the Constitution can be construed to give or deny rights that are held inherently inviolate by children of God. And the Ninth Amendment makes this fact very clear:

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Second, human beings do have rights, including the right to speak and the right to express that speech in the form of financial contributions to candidates. The notion that people surrender their rights when they come together in a group is nonsensical and not supported by any principle of political science.

Families, for example, are associations of individuals, and should the Wolf PAC amendment ever be ratified, its terms would certainly apply to families, churches, or any other collection of individuals.

This, it would seem, is likely the intent of the proposed amendment. It isn’t meant to prevent corporations from donating money and influencing elections, but rather to restrict the rights of human beings who have a habit of wanting to spend money to put power in the hands of those whom they believe will use that power to promote policies favorable to the donors.

History and experience reveal that money is not the root of all political evil. That distinction belongs to the immense power that has been given to government, power that can be purchased.

Misguided Approach

The Wolf PAC approach is misguided in many ways, but particularly in that it attempts to restrict the exercise of fundamental rights. In the United States, a person may spend his money however he wants. If several people come together to form artificial organizations, the rights of the individuals are retained as members of a group. These people may pool their money and spend it on anything: cars, buildings, staplers, and politicians.

Politicians, for their part, are all too happy to take the money offered them. In fact, the politicians will do nearly anything — kiss babies, go bowling, flip waffles, and make endless promises — to dip their buckets in the streams of cash.

It can be argued that although the money seems to go from people or groups of people to politicians, it never really changes hands as the money given to politicians is tied to a quid pro quo. Politicians take the money, purchase power, then use the money to do favors for the donor. The favors are aimed at growing the group that gave the money and those new profits are funneled back to the politician who continues consolidating power.

Something that apparently eludes Wolf PAC and others who want to abolish the rights of those who oppose their socialist agenda is that the currency passed from corporation to candidate, from people to politician, is often used on projects that benefit the community at large, not just the corporation.

For example, if a company gives money to a legislator in exchange for the latter’s promise to sponsor a



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bill opening new markets to the former and then once the politician completes his part of the bargain, the company builds a pediatric cancer wing on a local hospital and names it after the politician, there are a lot of sick kids and their parents who won't care where the money for the medical care comes from. In fact, they would be much worse off had the transaction never taken place.

And that's the problem with the Wolf PAC proposal. Rather than treat the disease, they prefer to kill the patient.

The cure is found not in restricting rights, but in eliminating the encouragement to use those rights to elect politicians who will use the money to enlarge the scope of the government that gives them their power.

If I know that lawmakers can't do anything to benefit my bottom line, then I won't bother spending any money on them. Unless, of course, I simply want to support them for our similar views of the rightful role of government. If I know that no matter how much I pay a politician, he'll never be able to put roadblocks of regulations in the path of my competitor, then I won't try to buy him. If I know that no matter how much my company would benefit from opening a new theatre of some foreign war or getting the United States involved in some international conflict, there is no way a politician could make that happen, then I'm not going to bother buying one.

It is for this very reason that the Founding Fathers wrote a constitution that granted a slate of "few and defined" powers to the federal government. They knew from their own sad experience and from their study of republics throughout history that politicians will accumulate power to the detriment of liberty unless they are tightly bound by a written constitution whose provisions are upheld by a virtuous citizenry.

The bottom line, then, regarding the restrictions on the use of money by individuals or groups is that in a free society, there is no justification for allowing the government to deny them their fundamental right of free speech, including the spending of money as an expression of that speech. Instead of making it illegal for any politician to accept over \$100 "from any person or entity," those interested in fixing the problem should work to make it impossible that even \$1 be used by politicians to do anything that lies outside the constitutional restrictions on their power.

As Robert Levy wrote in an article published by the Cato Institute in 2010:

As for money, it's just a symptom. We have a big money problem because we have a big government problem. By restraining the regulatory and redistributive powers of the state, we can minimize the influence of big money. Restoring the Framers' notion of enumerated, delegated, and limited federal powers will get government out of our lives and out of our wallets. That's the best way to end the campaign-finance racket, and root out corruption without jeopardizing political speech.

A similar analysis of the real problem with politics and money was made in that same year by Connor Boyack, president of the Libertas Institute:

Our problem is not companies participating in the political process — after all, companies are merely a group of individuals who each retain their right to free speech, and can collectively exercise that right — but rather the tolerance by every American of elected



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individuals abusing their authority of office and exceeding the limits placed upon them by the Constitution and the oath they swore to support and defend it.

Money as Speech

Finally, many advocates of the Wolf PAC proposal make the claim that spending money is not the same as speech. That is certainly true as far as the bare definitions of the key words go, but anyone can see that there is an undeniable correlation between spending money and being heard in the marketplace of ideas.

In the Levy article, this very point is made:

True enough, the expenditure of money is not the same as speech. But if the expenditure is for the exclusive purpose of generating speech, it should be protected to the same extent as the speech itself. Exercising the right to speak almost always costs money, especially if the speaker intends to reach a large audience. The right to speak necessarily encompasses the right to pay for the speech, just as the right to counsel encompasses the right to hire a lawyer, and the right to free exercise of religion includes the right to contribute to a church of one's choice. In each of those cases, the expenditure of money is protected not because "money is speech" or "money is a lawyer," or "money is religion," but rather because spending money is integral to the right to speak, to have legal counsel, and to exercise religious freedom. Government limits on spending for speech necessarily restrict the speech itself.

Cato's inclusion of the practice of religion among the rights that can be expressed in a variety of ways exposes another problem with Wolf PAC's amendment.

In fact, there is something more sinister than campaign finance reform lurking in the vague language of Wolf PAC's proposed "28th Amendment."

Given that the wording explicitly robs corporations of any "constitutional rights," one need only imagine the ends to which this provision might be put.

For example, suppose that there were a corporation whose leadership and rank and file were committed to upholding a particular religious prohibition on contraception. Then, suppose that as part of their collective expression of their God-given right to worship according to the dictates of their own consciences, this corporation refuses to enforce a federal mandate that it provide their employees with subsidized health insurance plans that include provisions for contraceptives.

Under the constitutional concept of individual liberty, that corporation would be justified in refusing to obey the offensive federal "law." There is no way that anyone could find a sensible, logical argument that these religious adherents, by associating together in a corporation, abandoned their right to freely exercise their faith.

In a country where the Wolf PAC proposal is the law of the land, that corporation would be forced to do exactly as the government demands, as they have no rights, including, one imagines, the right to act according to the dictates of a particular religious doctrine.



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Imagine, now, a similar situation. A corporation believes that it has a moral obligation to avoid even the appearance of evil, and it believes that homosexual relations are evil. Accordingly, the company establishes a policy of refusing to bake cakes for “gay weddings.”

As pointed out in the previous example, people who combine into companies do not do so to the detriment of their natural rights. Their unalienable right to practice the religion of their choice is intact, regardless of their corporate status, and that right extends to denying service to those who practice lifestyles they find unacceptable.

Such a policy would not, in fact, deny the people access to “marriage,” but would simply be an appropriate and legally acceptable expression of the baker’s right to exercise his religion; therefore, there is no diminution of rights at all. With the Wolf PAC approach, however, the baker would be forced to contribute to the “wedding,” therefore denying him of one of the most fundamental rights.

Under that scheme, this corporation would have no right of refusal and would be forced to violate their moral obligation in order to comply with the mandates of a “law” protecting the “right” of an individual to marry a person of the same sex.

Finally, as our country drifts farther from its moral moorings and becomes more and more secular, is it not possible that even on-demand abortions could be made mandatory in future iterations of government-funded health insurance?

If so, the Wolf PAC amendment would force all pro-life corporations to not only cover such atrocities for their employees, but it would also deny them the ability to donate money to candidates they believe would work to reverse the murderous mandate. In fact, the language of the proposed 28th Amendment would prevent even individuals from spending their money to try to make such changes.

Political Whims Will Be the Law

Furthermore, if the principle is established that corporations may be limited in their freedom of speech or freedom of religion because they are not people, then any limits whatsoever could be imposed on them, depending on the political whims and agendas of those who hold the political reins of power.

This, it seems, has not occurred to Wolf PAC, and if it has, perhaps their intent is not only the silencing of those with whom they disagree, but also the dismantling of the republican system of government established by the Constitution. The 28th Amendment would kill liberty; it would be death, not in one bloody blow, but by a thousand paper cuts.

Slowly the socialist agenda would be adopted, not in one fell swoop, but by amending the Constitution over and over until the elimination of free enterprise that would have been impossible to achieve legislatively becomes the law of the land through the amendment process.

Art Thompson, the CEO of The John Birch Society, sees this possibility in Wolf PAC’s proposal. Thompson said:

If the Wolf-Pac amendment [makes] corporations non-persons relative to campaign contributions, what else will the amendment do to the status of corporations? Will this be a back door to the elimination of business corporations as we know it? And if so, what will this do to the system of free enterprise that we have now? In other words, is this a means, a backdoor if you will to a socialist agenda by amendment?



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Denying corporations the ability to influence elections through the financing of candidates or issues doesn't shrink the scope of the rights of those corporations, for they have none. The damage is done to the rights of the individuals who comprise those corporations. These rights — the right of free speech, the right of free exercise of religion, and others — are the inheritance of all humans and that inheritance is not forfeited simply because individuals combine into companies or other associations.

If liberty is to be protected, then the amendment proposed by Wolf PAC must be opposed. If such a scheme should be foisted on the American people by way of a constitutional amendment, the fundamental rights they once enjoyed will be given and taken not by God, who is the source of them, but by a government that has usurped that role.

While there is no theory of natural law that would allow a government to deny a people their natural rights — the right to associate, the right to exercise religion, the right to speak freely, etc. — such rights are being denied all the time. In the case of the Wolf PAC proposal, for example, all of these rights would be taken from people who associate in corporations. The organizations they form would be prohibited from using the resources they collect from individuals to influence the political system, thus opening a back door to the denial of basic liberties that is the ultimate goal of Wolf PAC and other similarly minded socialists.

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