

THE GOVERNMENT BY THE PEOPLE CAMPAIGN

Amending the Constitution to Overturn
Citizens United v. FEC



INTRODUCTION TO THE GOVERNMENT BY THE PEOPLE CAMPAIGN

In January of 2010, the United States Supreme Court upended our political system with its decision in *Citizens United v. FEC*. The decision, in which the Court ruled that Congress and the states were barred from limiting corporate spending to influence elections for public office, represents an unprecedented attack on the core democratic values of the Constitution, and all people -- progressive, centrist and conservative alike -- should be deeply concerned about its implications.

The decision undermined more than a century of laws regulating the influence of corporations in elections. Not only is the decision a radical departure from longstanding precedent, it defies common sense: it argues that corporations and American citizens have identical rights under the Constitution to spend money to influence elections. As Justice Stevens pointed out in his dissent, corporations are not people. They cannot vote, they cannot hold office, and they should not be allowed to pour billions of dollars into our system of government.

Subsequent decisions following *Citizens United* have further weakened our nation's campaign finance laws and our democracy. For example in March, 2010, the D.C. Circuit Court of Appeals in *Speech Now v. FEC* struck down contribution limits to entities that only make independent expenditures. In so doing, the court relied on the factually incorrect premise upon which *Citizens United* was based - that "independent expenditures, including those made by corporations, do not give rise to corruption or the appearance of corruption." This decision created the legal basis for what are now known as super PACs, which have given a handful of multimillionaires and billionaires a vehicle to anonymously exert unprecedented influence over our elections. The resulting debacle is unfolding in front of our eyes. The 2012 election cycle will be, by far, the most expensive in American history. And, despite what the ultra-conservative majority on the Court believes, where corporate and special interest money goes, corruption and bad governance follow. We need to close the floodgates now. The future of our democracy depends on it.

The only way to completely fix the Court's disastrous decision is to enact a Constitutional Amendment restoring the American people's ability to limit corporate and special interest influence on elections. Make no mistake, we face an uphill battle. Amending the Constitution is deliberately difficult, but our nation has risen to the challenge in the past. Many of the rights we today take for granted - from the expansions of civil rights to advancements in economic justice - were achieved through amending the Constitution.

We need you to be a part of this movement. You can use our Talking Points (page 3) and our Frequently Asked Questions (page 4) to start conversations with your friends, your family, your neighbors and your community about this issue. You can find out what's happening on the ground - and how you can help - at *Joining the Movement* (page 6). You can write a letter to your representatives, using our Sample Letter (page 6) as a guide. You can ask your town, city, or state to pass a resolution in favor of an amendment by sharing our Sample Resolution (page 7) with your local councilmember or state legislator or pass one in your religious congregation (page 8) or student government (page 9.)

And, of course, be sure to visit our website, www.PFAW.org to sign our petition and keep abreast of the most up-to-date information.



TALKING POINTS ABOUT A CONSTITUTIONAL AMENDMENT

- ✓ At its most fundamental level, our Constitution creates a democratic system designed to engage citizens in the act of self-governance. The Supreme Court's decision is deeply dangerous to that system.
- ✓ The Court had long held that corporate spending on elections could be regulated by Congress and the states. What was different in 2009 when the Citizens United case was taken up was the make-up of the Court. With the replacement of more moderate justices with ultra-conservatives, the new majority seized the opportunity to reverse earlier decisions, thereby undermining more than a century of established law.
- ✓ The Citizens United decision does not support free speech; it mocks it. Permitting giant corporations and powerful special interests to spend so much on elections to drown out the voices of individual Americans is a perversion of First Amendment values. We need to restore the balance and protect free speech and democracy for the people of this country.
- ✓ As Justice Stevens pointed out in his dissent, corporations are not people. Despite their contributions to society, they are not actually members of it. They do not have a right to vote or to run for office, and they cannot be given unlimited power to influence elections.
- ✓ The Supreme Court's decision threatens the democratic system set up by our Constitution. Constitutional amendments are warranted in only the most extreme circumstances. This is one of them.



People For The American Way: Congressional Panel on Citizens United

FREQUENTLY ASKED QUESTIONS ABOUT CITIZENS UNITED AND ITS EFFECTS

What is Citizens United?

Citizens United v. FEC was a case decided by the Supreme Court on January 21st, 2010. Although the case itself focused on a fairly narrow statutory question (whether a feature length film on Pay-Per-View was subject to the restrictions of the McCain-Feingold campaign finance law) the Supreme Court majority used it to issue a much broader decision that not even the parties had asked them to address. In a 5-4 decision, the Court ruled that laws preventing corporations from making independent expenditures from their general treasuries were unconstitutional, undermining a legal framework that had been in place for more than a 100 years. It also held that electoral spending done independently of a nominee's campaign does not give rise to even the perception of corruption and therefore cannot be limited on that basis, therefore opening the door to "super PACs" that can accept unlimited contributions from both corporations and the billionaires who run them if they act independently.

So, what's that mean?

The ruling means that corporations and individuals can spend an unlimited amount of money to support or defeat a particular candidate. As long as they don't coordinate with a candidate's campaign or give to it directly, they can spend as much as they want running ads, making phone calls, knocking on doors to help elect or defeat a candidate for any public office—local, state or federal. The Court, at least for now, has left intact the prohibition against corporations making direct donations to candidates, an issue not raised in Citizens United. And it also upheld Congress and the states' authority to require disclosure of who is behind the political ads and other expenditures that are now inundating the nations' election campaigns.

Will I see a lot more spending by these giant corporations and outside special interests this year?

Yes, you certainly will see more ads, if you haven't already. In addition to expenditures by corporations either directly or through non-profit organizations, the Citizens United decision and subsequent decisions also cleared the way for the creation of super PACs. These 'independent-expenditure only committees' can raise unlimited funds from corporations and wealthy individuals, and are quickly changing the political landscape.

Corporations have a lot of money to spend. In 2008, for instance, Exxon Mobil posted profits of \$48 billion. If they spent just two percent of that, it would be more than the 2008 Obama and McCain presidential campaigns combined – that's a lot of ads. And until Congress passes disclosure requirements, corporations can conceal their political donations by hiding behind 501(c)(4) organizations, making their political spending anonymous and untraceable.

But even if you aren't yet seeing the ads, that doesn't mean the ruling isn't already having an effect. Corporate lobbyists are already making it perfectly clear to elected officials what policies they want in place, and many politicians will simply give the big business what it wants to avoid a barrage of attacks.

Why do we have to pass a Constitutional amendment? Can this ruling be fixed through legislation?

Lots of people, in and out of Congress, are proposing legislative reforms to help mitigate the effects of the ruling. Examples include public financing to help level the field, laws to require shareholder approval before corporate money is spent, and disclosure regulations that would enact more transparency for campaign financing. All of the legislation being proposed is important and People For the American Way supports many pieces of it.

Unfortunately, given the breadth of the Supreme Court decision, it's not possible to completely fix the problem with legislation alone. The most complete alternatives are to amend the Constitution or to change the make-up of the Court so the decision can be reversed.

What would the Amendment say?

We and a number of allies are working with legal scholars and constitutional experts to determine the precise language of the amendment. This is a weighty matter, so we want to be careful in crafting the amendment, but the basic principles we support are clear: we need an amendment that restores the American people's ability to regulate corporate and special interest influence in elections.

JOINING THE MOVEMENT – UTILIZING UNITED4THEPEOPLE.ORG

People For the American Way, and a growing number of allied organizations have come together to press for constitutional remedies to undo what the Supreme Court has done. Under the banner of [United For the People](#), organizations and public officials are pledging their support for amending the Constitution to overturn Citizens United and related cases.

Activists are using the United4 website to plug into current campaigns, observe the movement's progress, and place public officials on the record in support of the amendment strategy – and that's where you come in!

The American People are calling upon public officials at all levels of government to rally for an amendment. And those officials are starting to listen.

Check out [PFAW's webpage](#) tracking the local, state, and federal resolutions that have been introduced and passed in support of an amendment. Also, check out the [United4 list](#) of public officials that are pledging their support for overturning Citizens United and related cases by amending the Constitution.

You can help move things forward by encouraging your local and state governments to pass resolutions and by demanding that public officials in your area go on record in support of an amendment. Here are some helpful tips on how you can make this happen:

- 1) Finding power in numbers. There are many citizen-led efforts already underway. Visit [United4thePeople.org](#) to view these campaigns, and email amendment@pfaw.org if you would like to assume a leadership role in your community. By connecting with like-minded activists, you'll be able to participate in collective actions that will receive the media attention that the movement deserves; and that can rarely be achieved by individual action.
- 2) Passing Resolutions. Many local and state governments are [passing](#) resolutions encouraging their congressional representatives to vote for an amendment that would overturn Citizens United. By proposing a similar resolution to your local municipality, you can help place the issue front and center

Activists mark the 2nd Anniversary of the Citizens United decision in Baltimore, MD



in your community – and for public officials. When these resolutions are voted on – even in the unusual event that they do not pass – be sure to report back to amendment@pfaw.org with results of the vote so that we can place the supporting public officials on the United4 list. We offer sample resolutions that you can introduce in your local government, student government, and faith congregation below.

- 3) Plugging in Public Officials.** Check the [United4 endorsers list](#) to see if your local officials, Congressman and Senators are on the list. If they are not, find out why not?

It's the job of the people to ensure that the Citizens United amendment becomes the defining issue of our time. It's possible that these officials are not aware that their constituents are part of this movement – let them know!

Schedule meetings with your city councilmembers, state representatives, and congressional representatives; write letters encouraging them to support the initiative; and utilize social media and conventional media outlets to inform the public about the issue and the need for public officials to support constitutional remedies.

Inform public officials about the [United4thePeople website](#), and encourage them to become an endorser. If you're meeting with a public official in person, have them sign the Declaration for Democracy:

"I, _____, declare my support for amending the Constitution of the United States to restore the rights of the American people, undermined by Citizens United and related cases, to protect the integrity of our elections and limit the corrosive influence of money in our democratic process."

For more ways you can sign up a public official, visit the ['Add an Official Page'](#) on the United4 site.

Sample Letter to Elected Officials

[DATE], 2012

The Honorable _____

U.S. House of Representatives/U.S. Senate

Washington, DC 20515

Dear Representative/Senator _____:

I am writing to urge you to support a Constitutional amendment to reverse the U.S. Supreme Court's disastrous decision in *Citizens United v. FEC*, and restore the power of the American people to the democratic process.

The Supreme Court's decision in *Citizens United v. FEC* represented an unprecedented attack on the core democratic values of the Constitution. My concern about the decision doesn't stem from my political leanings, but from my values as a voter and citizen.

In a government "by the people, for the people," voters like me shouldn't have our voices drowned out by wealthy corporations. My vote as a citizen of [STATE] should mean more to my elected officials than the size of a corporation's bank account, and my letter to you should have more influence than the threat of a million dollar negative ad campaign in the next election.

The Supreme Court's decision in *Citizens United* not only overturned a century of laws, but devalued the equal rights that the Constitution grants to all Americans. And it did so by defying common sense, arguing that corporations and American citizens have the same rights under the Constitution.

A Constitutional amendment is not a step to be taken lightly, but it is necessary in cases like this, when the core of our democracy is threatened. I urge you to protect the power of my vote, and the constitutional rights of all [STATE] citizens, by supporting a constitutional amendment to reverse *Citizens United*.

I encourage you to become an endorser of the 'Declaration for Democracy,' which reads:

"I, _____, declare my support for amending the Constitution of the United States to restore the rights of the American people, undermined by *Citizens United* and related cases, to protect the integrity of our elections and limit the corrosive influence of money in our democratic process."

Please visit United4thePeople.org to make your endorsement official.

Sincerely,

[YOUR NAME]

Sample State/City Resolution

RESOLUTION TO SUPPORT AMENDING THE UNITED STATES CONSTITUTION TO RESTORE THE PEOPLE'S POWER TO LIMIT CORPORATE INFLUENCE IN ELECTIONS AND POLICYMAKING

Due to the incorrect interpretation of the Constitution and the adverse impact on the rights of people in our democracy in the U.S. Supreme Court decision in Citizens United vs. Federal Election Commission (FEC), local, state, and federal elected officials must take action to restore the authority of the American people to restrict the undue influence of corporations on our elections and public policy.

WHEREAS, the Supreme Court's 5-4 decision in Citizens United v. FEC broke with long-settled legal precedents that acknowledged the power of citizens through their elected representatives to limit corporate influence in elections;

WHEREAS, the Supreme Court's radical rewrite of the First Amendment's protections will permit even greater corporate influence over our political process by allowing unlimited spending from corporate profits to favor or oppose candidates;

WHEREAS, the Supreme Court's decision will allow the free speech rights of a corporation to dilute and outweigh the free speech rights of ordinary citizens, because of the vast financial resources corporations have for spending money to influence elections compared with regular people;

WHEREAS, the Supreme Court's elevation of corporate "rights" may have constitutional repercussions that go far beyond this one case and will undermine the ability of the people to regulate corporations in numerous policy areas affecting people's health, wealth, and opportunities;

WHEREAS, the American people, through their local, state, and federal governments, must reclaim their rightful place as sovereigns in our democracy and protect the electoral process from corporate domination;

WHEREAS, fair elections are fundamental to the health and well-being of our democracy; and

WHEREAS, the City Council/State of _____ believes that corporations are not entitled to the samerights in our elections as people.

NOW, THEREFORE, BE IT RESOLVED BY THE ELECTED OFFICIALS OF CITY/STATE THAT:

The City/State of _____, strongly condemns the Supreme Court's ruling in Citizens United vs. FEC and supports amending the U.S. Constitution to limit corporate influence and restore democracy in our elections for the benefit of the American people.

PASSED and APPROVED this the ____ day of (month), 2012.

Sample Faith Congregation Resolution

A RESOLUTION IN SUPPORT OF AMENDING THE UNITED STATES CONSTITUTION TO RESTORE THE PEOPLE'S POWER TO LIMIT CORPORATE SPENDING IN ELECTIONS

Due to the dangerously overreaching Supreme Court decision in Citizens United vs. Federal Election Commission (FEC), federal, state, and local governments must now take the necessary steps to restore the authority of the American people to restrict the undue influence of corporations on our elections.

WHEREAS, the Supreme Court's January 21, 2010, decision in Citizens United v. Federal Election Commission (FEC) aggressively deviated from long-settled law limiting corporate spending in our elections; and

WHEREAS, the radical view of the First Amendment in Citizens United will now permit extraordinary corporate influence over our political processes by allowing unlimited independent spending from corporate general treasuries; and

WHEREAS, the Supreme Court's decision has elevated free speech rights of a corporation to be equal to the free speech rights of a person; and

WHEREAS, the Supreme Court's elevation of corporations in this case may have constitutional repercussions that go far beyond this one case; and

WHEREAS, the American people, through their federal, state, and local governments, should reclaim their constitutional right to protect the electoral process from corporate domination; and

WHEREAS, fair elections are fundamental to the security of a democracy; and

WHEREAS, we are a body of men and women of faith who believe in the values of justice and fairness committed to ministering to the social, spiritual, and physical development of all people, and thus find it our responsibility to advocate the restoration authority and electoral power to the citizens of the United States of America.

THEREFORE, BE IT RESOLVED, that the

_____ stand in agreement and believe that corporations should not have the same first amendment rights as people and urge our local and state legislatures to adopt and send to the United States Congress a resolution in support of amending the Constitution to restore the ability of the American people to limit corporate spending in our elections.

BE IT FURTHER RESOLVED, that this Resolution be presented for adoption at our various state, regional and national denominational gatherings and that an executed copy of this Resolution, inscribed with the leadership signature be presented to each member of Congress representing our district.

Dated this _____ of _____ A.D., 20____, at the (location)_____

Signed By: _____

Sample Student Government Resolution

RESOLUTION TO SUPPORT AMENDING THE UNITED STATES CONSTITUTION TO RESTORE THE PEOPLE'S POWER TO LIMIT CORPORATE INFLUENCE IN ELECTIONS AND POLICYMAKING

Due to the incorrect interpretation of the Constitution and the adverse impact on the rights of people in our democracy in the U.S. Supreme Court decision in *Citizens United vs. Federal Election Commission (FEC)*, local, state, and federal elected officials must take action to restore the authority of the American people to restrict the undue influence of corporations on our elections and public policy.

WHEREAS, the Supreme Court's 5-4 decision in *Citizens United v. FEC* broke with from longsettled legal precedents that acknowledged the power of citizens through their elected representatives to limit corporate influence in elections;

WHEREAS, the Supreme Court's radical rewrite of the First Amendment's protections will permit even greater corporate influence over our political process by allowing unlimited spending from corporate profits to favor or oppose candidates;

WHEREAS, the Supreme Court's decision will allow the free speech rights of a corporation to dilute and outweigh the free speech rights of ordinary citizens, because of the vast financial resources corporations have for spending money to influence elections compared with regular people;

WHEREAS, the Supreme Court's elevation of corporate "rights" may have constitutional repercussions that go far beyond this one case and will undermine the ability of the people to regulate corporations in numerous policy areas affecting people's health, wealth, and opportunities;

WHEREAS, the American people, through their local, state, and federal governments, must reclaim their rightful place as sovereigns in our democracy and protect the electoral process from corporate domination;

WHEREAS, fair elections are fundamental to the health and well-being of our democracy; and

WHEREAS, the Student Government of _____ believes that corporations are not entitled to the same rights in our elections as people.

NOW, THEREFORE, BE IT RESOLVED BY THE STUDENTS OF (COLLEGE/UNIVERSITY) THAT:

The Student Government of _____, strongly condemns the Supreme Court's ruling in *Citizens United vs. FEC* and supports amending the U.S. Constitution to limit corporate influence and restore democracy in our elections for the benefit of the American people.

APPROVED this the _____ day of (month), 2012.

TALKING POINTS ABOUT A CONSTITUTIONAL AMENDMENT

- ✓ Our Constitution creates a democratic system designed to engage citizens in the act of self-governance. The Supreme Court's decision is deeply dangerous to that system.
- ✓ With the replacement of more moderate justices with ultra-conservatives, the new majority seized the opportunity to reverse earlier decisions, thereby undermining more than a century of established law.
- ✓ The Citizens United decision does not support free speech; it mocks it. We need to restore the balance and protect free speech and democracy for the people of this country.
- ✓ CORPORATIONS ARE NOT PEOPLE.
- ✓ Constitutional amendments are warranted in only the most extreme circumstances. This is one of them.

