

***Goodbye First Amendment  
Hello Twenty-Eighth  
Amendment***



**Concerned Citizen,**

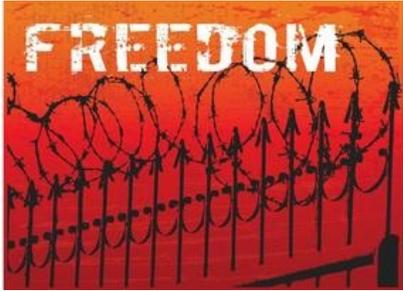
I have put this pamphlet together to inform you of my concern regarding the current campaign to pass a twenty-eighth amendment to the United States Constitution. Using the slogans: “corporations are not people” and “get money out of politics,” the stated goal of this amendment is to overturn the U.S. Supreme Court’s decision that protects our right to join together to promote our causes.

This ill conceived campaign will take away the Constitution’s protection from your right to influence government. It will prevent you from joining with and supporting others who share your beliefs of what government should be and should do.

I am distributing this pamphlet to you, a voter in Montana. I am presently running for election to represent Montana House District 3. If I receive enough help, I will mail this pamphlet to the voters in Flathead County, and then to the voters of Montana and to the teachers of American Government in our schools.

I would appreciate it if you can find the time to read and study my concerns. And then, if you agree with what I am saying, to help me fight the battle.

Thank you,



## ARE YOU READY TO GIVE UP YOUR FREEDOM?

Various constitutional amendments have been proposed with the intent of overturning the *Citizens United v. FEC* decision. This decision protected your right to assemble with others to fight for your issues.

Nineteen states have formally enacted some form of a 28<sup>th</sup> Amendment resolution that would take away your right to assemble together and speak as a group. Twenty more states had resolutions pending in 2017. Over 800 municipalities have passed 28<sup>th</sup> Amendment resolution. These proposals eliminate the Constitution's protection of your right to freely assemble to speak in favor of your political causes.

Although not shown on the ballot Montanans voted on in 2012, Ballot Initiative I-166 established a state policy that the government can limit “**expenditures for the benefit of any campaign by any source, including corporations, individuals, or political committees.**” This was similar to resolutions of other states. [Emphasis added by editor].

If this 28<sup>th</sup> Amendment becomes law: when the Republicans are in power they will be able to take away your right to affect policy with corporations such as: the Montana Education Association-Montana Federation of Teachers, American Civil Liberties Union, the National Association for the Advancement of Colored People, or the Southern Poverty Law Clinic.

When the Democrats are in power, they will be able to use this new 28<sup>th</sup> Amendment to take away your right to affect policy with corporations such as: Montanans for Life, the National Rifle Association, Americans for Prosperity, and the Chamber of Commerce. A couple of examples of proposed amendments that would take away your rights include:



**End Citizens United, Democrats Fighting for Reform** requests you to sign their "Stop the NRA Survey." One of the questions they have on their site is:

**Did you know that End Citizens United is one of the largest groups in the country working to STOP special interests like the NRA?<sup>1</sup>**

Another group, **Move to Amend**, has proposed a 28<sup>th</sup> Amendment that states:

**Artificial entities established by the laws of any State, the United States, or any foreign state shall have no rights**

under this Constitution and are subject to **regulation** by the People, through Federal, State, or local law.<sup>2</sup>

The **privileges** of artificial entities shall be determined by the People, through Federal, State, or local law, and shall not be construed to be **inherent or inalienable**. - - -

And then another group, **Democracy for All**, has proposed a similar 28<sup>th</sup> Amendment that states:

**“- - Congress and the States shall have power to (regulate and set reasonable limits on the raising and spending of money) and may (implement this article), - - including - - by prohibiting (corporations or other artificial entities created by law) from spending money to influence elections. - - -<sup>3</sup>**

The progressive organization Fight for Reform says,

**“The BEST way to win massive Democratic victories is to END Republican SuperPACs for good.”**

If not opposed now, this 28<sup>th</sup> Amendment will repeal your First Amendment **"right of the people peaceably to assemble, and to petition the Government for a redress of grievances."**

**What was not considered when passing I-166** was, of course corporations are not people, but they are assemblies of people coming together for a common cause. Sometimes the

cause is to produce products and provide services; sometimes the cause is to raise issues and get preferred political candidates elected to public office.

Alone you can not afford to provide nation-wide television ads for your favorite candidate or cause, but if you get together (assemble) with like minded individuals you can have your voice heard.

### **WHEN VOTING FOR I-166, MONTANANS WERE DECEIVED**

The description of I-166, drafted by Jonathon Motl and approved by Secretary of State Linda McCulloch, was deceptive.

When voting 3 to 1 in favor of I-166, because it was not on the printed ballot, Montana voters did not see **Section 3 Policy (2)(e)**, which states:

**the people of Montana intend that a level playing field in campaign spending includes limits on overall campaign expenditures and limits --expenditures for the benefit of any campaign by any source, including corporations, individuals, or political committees.**

They also did not see **Section 4. Promotion of policy by elected or appointed officials. (1)(c)** which states:

**Montana's congressional delegation is charged with proposing a joint resolution offering an amendment to the United States constitution that - - establishes that campaign contributions or expenditures by corporations, [including the NRA and ACLU ☺] whether to candidates or ballot issues, may be prohibited by a political body at any level of government**

**THE DECEPTIVE LANGUAGE THAT APPEARED  
ON OUR BALLOTS RE: I-166**

-----  
**INITIATIVE NO. 166  
A LAW PROPOSED BY INITIATIVE PETITION**

Ballot initiative **I-166 establishes a state policy that corporations are not entitled to constitutional rights because they are not human beings**, and charges Montana elected and appointed officials, state and federal, to implement that policy. With this policy, the people of Montana establish that there should be a level playing field in campaign spending, in part by prohibiting corporate campaign contributions and expenditures and by limiting political spending in elections. Further, Montana's congressional delegation is charged with proposing a joint resolution offering an amendment to the United States Constitution establishing that corporations are not human beings entitled to constitutional rights.

[ ] FOR charging Montana elected and appointed officials,

state and federal, with implementing a policy that corporations are not human beings with constitutional rights. [ ] AGAINST charging Montana elected and appointed officials, state and federal, with implementing a policy that corporations are not human beings with constitutional rights.

This was deceptive since it did not mention that I-166 would **delete the First Amendment's protection of the people's right to peaceably assemble.**

**The actual text of I-166 is included in this pamphlet, starting at page 16.**

**SOME OF THE PLAYERS**

In 2012, I-166 was submitted to then Attorney General Steve Bullock for review and received his approval. The sponsor of I-166 was Jonathan Motl. In 2013 Motl was appointed Commissioner of Political Practices by then Governor Steve Bullock.

Motl co-founded MontPIRG in 1981 and served two terms on the National Governing Board of Common Cause. MontPirg is a member of U.S. PIRG. Both MontPIRG and Common Cause are extreme leftist groups which are at least partially funded by George Soros through his Open Society Foundations. - Isn't it amazing that one of the world's richest men, who is most active politically, pretends he wants to get money out of politics?

## RECENT HISTORY ABOUT FIRST AMENDMENT FREEDOMS

Your right to freely speak about candidates and issues at election time was damaged when Republican Senator John McCain joined with Democrat Senator Russ Feingold to introduce the Bipartisan Campaign Reform Act of 2002. This act restricted our rights to freely campaign for issues and candidates.

The McCain-Feingold Act was an attack on the First Amendment to the U.S. Constitution. As such, it restricted the non-profit organization, Citizens United, from providing information regarding candidate Hillary Clinton to the voters.

According to **the Library of Congress**:

Citizens United (Citizens), a tax-exempt, nonprofit corporation produced a documentary movie about Hillary Clinton to coincide with the 2008 election cycle. Entitled “Hillary: The Movie,” and featuring personalities such as Ann Coulter and Dick Morris, Citizens’ documentary critically reviewed Clinton’s record as First Lady, senator and presidential candidate and expressed opinions about whether or not she would make a good president. Citizens planned releases of and advertising for the movie around important milestones of the 2008 election—state presidential primaries and caucuses, the Democratic National Committee Convention, and the presidential

election.

Citizens foresaw that its movie and advertising might be considered electioneering communications subject to BCRA's sections 201, 203 and 311. It therefore sought an injunction to block the FEC from enforcing those sections on the grounds they violated the First Amendment to the U.S. Constitution. BCRA’s section 403 sets rules for constitutional challenges to its provisions. Such claims are to be adjudicated by a three-judge panel of the United States District Court for the District of Columbia. Appeals from this court go directly to the United States Supreme Court. 2 U.S.C. 437h note (PDF)

The District Court refused to grant Citizens’ request in *Citizens United v. FEC*, 530 F. Supp. 2d 274 (D.D.C. 2008). The court noted that the Supreme Court upheld BCRA’s section 203 in *McConnell v. FEC*, 540 U.S. 93, 115 (2003) and rejected the argument that the funding of electioneering communications “constituting express advocacy or its functional equivalent” is protected under the Constitution’s First Amendment. “As applied” challenges--specific applications of the law to certain communications--are a different matter. In *FEC v. Wis. Right to Life, Inc.*, 551 U.S. (2007) (WRTL), the high court held that advertisements only constitute express advocacy or its functional equivalent if they are “susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.” The

district court held that Citizens' movie was the "functional equivalent of express advocacy"—its critique of Clinton's presidential character, candidacy, and qualifications was intended to influence voters that she should not be elected

While the movie may have been subject to BCRA section 203, the FEC conceded that advertising for the movie was not. However, Citizens objected to BCRA's disclosure and disclaimer requirements, claiming they did not apply because they were not "express advocacy or the functional equivalent" under WRTL. The district court held that McConnell and WRTL did not apply that standard to the disclosure and disclaimer requirements, provisions to which the Supreme Court had shown some approval in the past.

Citizens appealed the case to the U.S. Supreme Court, challenging the constitutionality of BCRA sections 201, 203 and 311. - - -

After hearing arguments on the case in March 2004, the Supreme Court did not render an opinion on the case. Instead the case was rescheduled for reargument on whether or not the court should reverse prior holdings sanctioning laws that restrict how corporations can make political contributions. The Court phrased its question in this way:

For the proper disposition of this case, should the Court

overrule either or both *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652 (1990), and the part of *McConnell v. Federal Election Comm'n*, 540 U.S. 93 (2003), which addresses the facial validity of Section 203 of the Bipartisan Campaign Reform Act of 2002, 2 U.S.C. §441b?

The Austin opinion held that a Michigan law that prohibited non-media corporations from using general funds to make political contributions, requiring such contributions to be made through "separate segregated funds" set up for political purposes, was constitutional. As noted above, McConnell held that section 203 in BCRA is also constitutional. If the Supreme Court overrules these precedents, Congress could be constitutionally prohibited from regulating most forms of corporate and union campaign spending.



In 2009 the American Civil Liberties Union filed an *Amicus Curiae Brief* in support of the non profit group, Citizens United.

**In their brief the ACLU argued that the First Amendment doesn't allow the government to restrict Citizens United from purchasing broadcast, cable, or satellite communications made within 60 days of a general election or 30 days of a primary election and funding these**

## **purchases from the nonprofit's general funds.**

In *Citizens United v. Federal Election Commission*, the United States Supreme Court agreed with the ACLU and threw out the unconstitutional Bipartisan Campaign Reform Act.

Hillary Clinton was incensed by the Supreme Court's decision. She stated that if she was successful in her campaign she would overturn the decision either legislatively or by her choice of candidates to serve on the U.S. Supreme Court.

She publically stated that she would only appoint supreme court justices who were committed to overturning the decision. Many extreme leftist groups joined Hillary in the quest to muzzle their Republican opponents from saying bad things about them when campaigning.



Montana Supreme Court Justice James C. Nelson made a brilliant dissent in *Montanans Opposed to I-166 v. Bullock*, 2012 MT 168 (Mont 2012). In his dissent, Justice Nelson pointed out that Attorney General Bullock "should have

rejected the measure as being facially unconstitutional under § 13-27-312(7), MCA." Justice Nelson went on to say:

## II. False Promises

¶20 Second, and a point seemingly lost on those promoting the I-166 exercise, **the Supreme Court did not rely on corporate "personhood" in its decision in Citizen United.** Rather, the Supreme Court relied on the propositions, **first, that expenditures (by a person or an organization) on political communication are a form of "speech," and second, that "citizens [have the right] to inquire, to hear, to speak, and to use information to reach consensus."** *Citizens United*, 130 S. Ct. at 898 (emphasis added). It should be noted that these propositions were not created in *Citizens United*. Rather, they can be traced to *Buckley v. Valeo*, 424 U.S. 1, 96 S. Ct. 612 (1976) (per curiam), and *Bellotti*, 435 U.S. 765, 98 S. Ct. 1407. Notably, the Supreme Court observed in *Bellotti* that

[t]he court below framed the principal question in this case as whether and to what extent corporations have First Amendment rights. We believe that the court posed the wrong question. The Constitution often protects interests broader than those of the party seeking their vindication. The First Amendment, in particular, serves significant societal interests. **The proper question therefore is not whether corporations "have" First Amendment rights**

**and, if so, whether they are coextensive with those of natural persons. Instead, the question must be whether [the statute at issue] abridges expression that the First Amendment was meant to protect.**

435 U.S. at 775-76, 98 S. Ct. at 1415. The Bellotti Court stated further that "[t]he inherent worth of the speech in terms of its capacity for informing the public does not depend upon the identity of its source, whether corporation, association, union, or individual," 435 U.S. at 777, 98 S. Ct. at 1416, and that "the First Amendment goes beyond protection of the press and the self-expression of individuals to prohibit government from limiting the stock of information from which members of the public may draw," 435 U.S. at 783, 98 S. Ct. at 1419 (emphasis added).

¶21 Hence, the Supreme Court broke no new ground in *Citizens United* when it defined the constitutional protection of speech from the perspective of the listener. "[I]t is inherent in the nature of the political process that voters must be free to obtain information from diverse sources in order to determine how to cast their votes," and the First Amendment does not allow "the exclusion of a class of speakers from the general public dialogue." *Citizens United*, 130 S. Ct. at 899. Quite the contrary, the First Amendment protects the "open marketplace" of ideas, *Citizens United*, 130 S. Ct. at 899, and prohibits restrictions on political speech based on the speaker's

identity, *Citizens United*, 130 S. Ct. at 902-03. Because voters must be free to obtain information from diverse sources, it is a violation of the First Amendment to control expression by distinguishing among different speakers and the subjects upon which they may speak. *Citizens United*, 130 S. Ct. at 898-99. The Supreme Court held that this country's law and tradition require more expression, not less, *Citizens United*, 130 S. Ct. at 911, and that "[w]hen Government seeks to use its full power, including the criminal law, to command where a person may get his or her information or what distrusted source he or she may not hear, it uses censorship to control thought," *Citizens United*, 130 S. Ct. at 908 (emphasis added).

- - -

"¶41 Presumably, under the Court's approach, if some group got sufficient signatures to put on the ballot an initiative which adopted a policy and philosophy that, contrary to *Loving v. Va.*, 388 U.S. 1, 87 S. Ct. 1817 (1967), Caucasians should not inter-marry with Native Americans or African Americans and which charged state and local officials with working diligently to carry out that policy, then, so long as the Attorney General found no fault with the ballot language, this patently and facially unconstitutional measure would have to be put to the vote. I cannot agree with such a cabined and absurd interpretation of § 13-27-312(7), MCA." <sup>4</sup>

THE COMPLETE TEXT OF INITIATIVE NO. 166 (I-166) <sup>5</sup>

BE IT ENACTED BY THE PEOPLE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. [Sections 1 through 4] may be cited as the “Prohibition on Corporate Contributions and Expenditures in Montana Elections Act.”

NEW SECTION. Section 2. Preamble. The people of the state of Montana find that:

(1) since 1912, through passage of the Corrupt Practices Act by initiative, Montana has prohibited corporate contributions to and expenditures on candidate elections;

(2) in 1996, by passage of Initiative No. 125, Montana prohibited corporations from using corporate funds to make contributions to or expenditures on ballot issue campaigns;

(3) Montana’s 1996 prohibition on corporate contributions to ballot issue campaigns was invalidated by *Montana Chamber of Commerce v. Argenbright*, 226 F.3d 1049 (2000). Montana’s 1912 prohibition on corporate contributions to and expenditures on candidate elections is also being challenged under the holding of *Citizens United v. FEC*, 558 U.S. \_\_\_\_\_, 130 S.Ct. 876 (2010). This decision equated the political speech rights of corporations with those of human beings.

(4) in 2011 the Montana Supreme Court, in its decision, *Western Tradition Partnership, Inc. v. Attorney General*, 2011 MT 328, upheld Montana’s 1912 prohibition on corporate contributions to and expenditures on candidate campaigns, stating in its opinion as follows:

(a) examples of well-financed corruption involving corporate money abound in Montana;

(b) the corporate power that can be exerted with unlimited corporate political spending is still a vital interest to the people of Montana;

(c) corporate independent spending on Montana ballot issues has far exceeded spending from other sources;

(d) unlimited corporate money into candidate elections would irrevocably change the dynamic of local Montana political office races;

(e) with the infusion of unlimited corporate money in support of or opposition to a targeted candidate, the average citizen candidate in Montana would be unable to compete against the corporate-sponsored candidate, and Montana citizens, who for over 100 years have made their modest election contributions meaningfully count, would be effectively shut out of the process; and

(f) clearly the impact of unlimited corporate donations creates a dominating impact on the Montana political process and inevitably minimizes the impact of individual Montana citizens.

NEW SECTION. Section 3. Policy. (1) It is policy of the state of Montana that each elected and appointed official in Montana, whether acting on a state or federal level, advance the philosophy that corporations are not human beings with constitutional rights and that each such elected and appointed official is charged to act to prohibit, whenever possible, corporations from making contributions to or expenditures on the campaigns of candidates or ballot issues. As part of this policy, each such elected and appointed official in Montana is charged to promote actions that accomplish a level playing field in election spending.

(2) When carrying out the policy under subsection (1), Montana’s elected and appointed officials are generally directed as follows:

(a) that the people of Montana regard money as property, not speech;

(b) that the people of Montana regard the rights under the United States Constitution as rights of human beings, not rights of corporations;

(c) that the people of Montana regard the immense aggregation of wealth that is accumulated by corporations using advantages provided by the government to be corrosive and distorting when used to advance the political interests of corporations;

(d) that the people of Montana intend that there should be a level playing field in campaign spending that allows all individuals, regardless of wealth, to express their views to one another and their government; and

(e) that the people of Montana intend that **a level playing field in campaign spending includes limits on overall campaign expenditures and limits on large contributions to or expenditures for the benefit of any campaign by any source, including corporations, individuals, or political committees.**

NEW SECTION. Section 4. Promotion of policy by elected or appointed officials.

(1) Montana’s congressional delegation is charged with proposing a joint resolution offering an amendment to the United States constitution that accomplishes the following:

(a) overturns the U.S. Supreme Court’s ruling in *Citizens United v. Federal Election Commission*;

(b) establishes that corporations are not human beings with constitutional rights;

(c) establishes that campaign contributions or expenditures by

corporations, whether to candidates or ballot issues, may be prohibited by a political body at any level of government; and

(d) accomplishes the goals of Montanans in achieving a level playing field in election spending.

(2) Montana’s congressional delegation is charged to work diligently to bring such a joint resolution to a vote and passage, including use of discharge petitions, cloture, and every other procedural method to secure a vote and passage.

(3) The members of the Montana legislature, if given the opportunity, are charged with ratifying any amendment to the United States constitution that is consistent with the policy of the state of Montana.

**NEW SECTION. Section 5. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act.]

**NEW SECTION. Section 6. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**NEW SECTION. Section 7. Effective date.** [This act] is effective upon approval by the electorate.

**NEW SECTION. Section 8. Codification instruction.** Sections [1 through 4] are intended to be codified as an integral part of Title 13 and the provisions of Title 13 apply to sections [1 through 4].

## ENDNOTES

1. [http://act.endcitizensunited.org/page/s/stop-the-nra-survey?source=MS\\_EM\\_SURV\\_2017.11.06\\_B4\\_Stop-NRA\\_X\\_F1\\_S1\\_C1\\_\\_all-ac&firstname=John&lastname=Leguizamo&email=johnnylegs@aol.com&zip=12401](http://act.endcitizensunited.org/page/s/stop-the-nra-survey?source=MS_EM_SURV_2017.11.06_B4_Stop-NRA_X_F1_S1_C1__all-ac&firstname=John&lastname=Leguizamo&email=johnnylegs@aol.com&zip=12401)
2. <https://movetoamend.org/wethepeopleamendment>
3. <https://freespeechforpeople.org/the-amendment/democracy-for-all-amendment/>
4. [https://scholar.google.com/scholar\\_case?case=5712297551201491113&q=Montanans+Opposed+to+I-166+v.+Bullock&hl=en&as\\_sdt=6,27](https://scholar.google.com/scholar_case?case=5712297551201491113&q=Montanans+Opposed+to+I-166+v.+Bullock&hl=en&as_sdt=6,27)
5. <http://sos.mt.gov/portals/142/elections/archives/2010s/2012/I-166.pdf?dt=1485210031834&dt=1485211768696&dt=1485212332235&dt=1518891660323>

CANDIDATES WHO SUPPORT THE FIRST AMENDMENT	SOURCE OF INFORMATION
Steve Daines for U.S. Senate P.O. Box 1598 Helena, MT 59624	See position statement at: <a href="https://www.stevedaines.com/getthefacts/">https://www.stevedaines.com/getthefacts/</a> Contact at: <a href="mailto:info@stedaines.com">info@stedaines.com</a>
Matt Rosendale for U.S. Senate 1954 Hwy 16 Glendive, MT 59330 <u>Campaign Address:</u> PO Box 4907 Helena, MT 59604-4907 (406) 763-1234	See position statement at: <a href="http://www.mattformontana.com/">http://www.mattformontana.com/</a>  Contact at: <a href="https://www.mattformontana.com/contact">https://www.mattformontana.com/contact</a>
Greg Gianforte for Congress 1419 Longworth HOB Washington, DC 20515 Phone: (202) 225-3211	See position statement at: <a href="https://gregformontana.com/issues/">https://gregformontana.com/issues/</a> Contact at: <a href="https://gianforte.house.gov/contact/email">https://gianforte.house.gov/contact/email</a>
Jerry O’Neil for Montana HD-3 (406) 250-2503	this pamphlet states my position <a href="http://jerryoneil.com/">http://jerryoneil.com/</a>

CANDIDATES WHO OPPOSE THE FIRST AMENDMENT	SOURCE OF INFORMATION
Jon Tester for U.S. Senate Washington, DC Office 724 Hart Senate Office Building Washington, DC 20510-2604 202-224-2644 FAX: 202-224-8594	End Citizens United (ECU) endorsed Jon Tester for U.S. Senate. “Tester has a proven track record of fighting to overturn Citizens United and working to reform the broken campaign finance system.” <a href="http://endcitizensunited.org/press-releases/end-citizens-united-endorses-jon-tester-senate/">http://endcitizensunited.org/press-releases/end-citizens-united-endorses-jon-tester-senate/</a>
Steve Bullock for President	<a href="https://corporationsarenotpeople.com/news-views/page/4/">https://corporationsarenotpeople.com/news-views/page/4/</a>