national RIGHT TO LIFE committee, inc.

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RE: Coming Senate vote on S. J. Res. 19, to remove First Amendment protection for political speech

Dear Senator:

On June 18, a Judiciary Committee subcommittee approved a new version of S. J. Res. 19, a proposed constitutional amendment to remove First Amendment protections for speech about those who hold or seek political office. The full Judiciary Committee reportedly will mark up this measure on July 10, and Majority Leader Reid has stated that it will come before the full Senate. The National Right to Life Committee (NRLC), the federation of state right-to-life organizations, is strongly opposed to S. J. Res. 19, and urges you to oppose this radical measure. **NRLC will include the roll call on S. J. Res. 19 in our scorecard of key roll calls of the 113th Congress.**

The First Amendment of the Bill of Rights provides in part that "Congress shall make no law . . . abridging the freedom of speech, or of the press . . ." While the First Amendment applies broadly, first and foremost it was intended to provide immutable protection for the right to speak freely about those who hold or seek political power.

It is precisely that form of speech – speech about those who hold or seek offices of power in government, at the Federal or state level – that is targeted by S. J. Res. 19. The original S. J. Res. 19 would have granted Congress and each state legislature essentially unlimited power to regulate, ration, or criminalize speech about those who hold or seek political office. The subcommittee substitute is even worse – it confers power on Congress and state legislatures to ration or even criminalize "the raising and spending of money by candidates and others *to influence elections*" [italics added for emphasis], which sweeps in even speech that does not mention candidates or political parties. It should be obvious that any type of public communication on pending political issues, or commentary on those who hold or seek political office, may "influence elections," so the proposal effectively would cut the heart out of the First Amendment.

A separate, overlapping clause explicitly empowers Congress and the states to pass laws "prohibiting" corporations or other legal entities "from spending money to influence elections." Thus, unlimited legal power would be conferred on political officeholders to prohibit any criticism, direct or indirect, from issue-oriented citizen groups of any ideological stripe, including the National Right to Life Committee.

The authority to ration, prohibit, and even criminalize political speech would not be limited to television advertising or any other particular modes of communication. Rather, these powers would apply across the board, to every mode of communication – print

(including books), electronic, broadcast, movies, internet, etc. Moreover, the federal courts would lose the power to require that government limits on speech must be viewpoint-neutral; Congress and state legislatures would be empowered to criminalize spending by just one side in any political debate.

Among the many incumbent-protection-racket proposals that have been put forth under the banner of "campaign finance reform," this radical constitutional amendment is the most ambitious power grab – a naked attempt to permanently empower the political patrician class to substantially insulate its members from criticism by and accountability to the plebeians. Perhaps a lone speaker standing on a stool in the park, upbraiding the local congressman for a recent vote, could remain outside the scope of the restrictions that would flow from S. J. Res. 19 – but if she first went to a local copy shop to buy some leaflets to draw listeners to her presentation, she could no longer rely on the protection of the First Amendment.

The proposal contains a third clause: a rule of construction asserting that it does not give Congress or the states "the power to abridge the freedom of the press." This clause, given the context, actually makes the proposal even worse, because it effectively confers on officeholders the power to define what types of media/entertainment corporations qualify for privileged status as designated "press," retaining a right that may now be denied to all other entities and individuals – the right to engage in speech that might "influence elections." The severing of general freedom of speech from the re-defined freedom of "the press" invites systematic abuse, including de facto political alliances between certain favored media/entertainment corporations and certain politicians, and/or intimidation of media outlets that may fear loss of their privileged "press" status if they do not conform to the expectations of the Powers That Be. Especially for groups that advance causes that are out of favor with the "mainstream news media" or with Hollywood, the rule of construction provides further evidence that S. J. Res. 19 proposes to replace the First Amendment with constitutional protection for an oligarchy.

In the NRLC scorecard of key roll calls of the 113th Congress, a vote for S. J. Res. 19 will be accurately characterized as a vote to empower elected lawmakers, federal and state, to restrict and criminalize speech that is critical of their positions and votes on crucial public policy issues, including abortion. NRLC urges you to reject the frontal assault on the First Amendment embodied in S. J. Res. 19.

Sincerely,

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