



(202) 626-8820

June 25, 2012

RE: S. J. Res. 29

Dear Senator:

The National Right to Life Committee (NRLC), the federation of state right-to-life organizations, urges you to oppose S. J. Res. 29, a proposed constitutional amendment that would cut the heart out of the First Amendment to the U.S. Constitution. NRLC reserves the right to include any roll call on S. J. Res. 29 in our scorecard of key roll calls of the 112th 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 absolute 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. 29. Under the proposal, Congress would be granted virtually unlimited power to regulate and ration speech about those who hold or seek federal office, including both congressional and executive offices. This power would extend to “the raising and spending of money and in kind equivalents with respect to Federal elections,” including (but not limited to) “the amount of expenditures that may be made by, in support of, or in opposition to such candidates.”

S. J. Res. 29 would grant to state officeholders an equivalent power to regulate spending “made by, in support of, or in opposition to” state candidates – legislative, executive, or judicial.

It is predictable that this language will be construed to encompass not only any money spent for overt appeals to elect or defeat “candidates,” but also to disseminate any speech that criticizes “candidates” or that portrays their actions or positions in a light that they find unflattering. There is no exemption for the “institutional” news media, or for any medium of communication. The power to regulate and ration political speech would extend to every mode of communication – print, electronic, broadcast, internet, etc.

The power to regulate and ration would also extend to “in kind equivalents,” which could include volunteer labor, including donations of time and talent by professionals and celebrities.

IN OPPOSITION TO S. J. RES. 29, ATTACK ON FIRST AMENDMENT, 2

“Candidates” will, of course, include all current office holders. Incumbent office holders frequently vote on matters of public controversy, and if S. J. Res. 29 were part of the Constitution, it is predictable that incumbent office holders will employ the power granted to inhibit or punish those who criticize them – partly if the criticisms are reaching an audience of any appreciable size. Among the many incumbent-protection-racket proposals that have been put forth under the banner of “campaign finance reform,” this proposed 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. 29 – but if he first went to a local copy shop to buy some leaflets to draw listeners to his presentation, he could no longer rely on the protection of the First Amendment. His “expenditure” would be deemed permissible, or criminal, solely at the pleasure of those who already hold the reins of power.

One other thing is predictable: If S. J. Res. 29 were part of the Constitution, the sweeping powers it grants to those who hold political office would, in time, be employed with particular ruthlessness towards individuals or groups who advance causes that are out of favor with important political elites – as has already occurred in some so-called “liberal democracies.”

Because NRLC believes that S. J. Res. 29 would have a crippling effect on the ability of the National Right to Life Committee to continue to effectively advocate on behalf of members of the human family who cannot speak on their own behalf – unborn children, and the medically dependant and disabled – NRLC strongly opposes this measure. In the NRLC scorecard of key roll calls of the 112th Congress, a vote for S. J. Res. 29 will be accurately characterized as a vote to empower elected lawmakers, federal and state, to restrict and punish speech that is critical of their votes and positions on public policy issues.

NRLC urges you to reject the frontal assault on the First Amendment embodied in S. J. Res. 29.

Sincerely,



Carol Tobias
President



David N. O'Steen, Ph.D.
Executive Director



Douglas Johnson
Legislative Director