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A new constitutional amendment? Even if it fails, it may work

Mark Pattison Catholic News Service | Apr. 26, 2013
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The process to amend the U.S. Constitution can be a long and winding road that may have no end. Just ask those who have been working for the Human Life Amendment since shortly after abortion was legalized in 1973.

The closest any of various proposals to protect the unborn came to amending the Constitution was the Hatch-Eagleton Amendment in 1983, introduced by Sens. Orrin Hatch, R-Utah, and Thomas Eagleton, D-Mo.

It was the only such amendment to get debated on the floor of either chamber of Congress. But it garnered only 49 votes -- far less than the 67 needed to reach the required two-thirds majority in the Senate; a two-thirds majority in the House is also required.

Even so, those who have backed a constitutional amendment to overturn the Supreme Court's 1973 decision in *Roe* v. *Wade* have seen in the succeeding years a string of successes, however small, that partially achieve the amendment's aims. Pro-lifers also point to polls showing growing public support for protecting fetal life and less support for abortion.

Consider the Equal Rights Amendment, with its own rocky history. First introduced in Congress in 1923, it wasn't until 1972 when both the House and the Senate gave it the requisite two-thirds support. But after an initial flurry of ratifications in state legislatures, it stalled out at 35 states, three shy of the needed 38 to signal three-fourths acceptance -- even after Congress passed a controversial bill extending the ratification deadline another three years.

Still, there is undeniable evidence of the economic and societal gains made by women since then, even without a constitutional amendment.

Now, a new constitutional amendment movement is taking shape, designed to get big money and the so-called "dark money" out of politics. Called "Represent.us," the amendment would have the effect of overturning the Supreme Court's 2010 Citizens United decision, which nullified key provisions of the McCain-Feingold political campaign finance reform law that authorized Congress to enact laws limiting campaign contributions.

In Citizens United, the court found that corporations and labor unions have a First Amendment right to protection from government limits on political expenditures. "If the First Amendment has any force, it prohibits Congress from fining or jailing citizens, or associations of citizens, for simply engaging in political speech," said the 5-4 decision.

Citizens United says its goal is to restore "citizens' control" over the government, promoting among other things limited government and "freedom of enterprise."

Since the ruling, dozens of groups of uncertain origin and under no obligation to release a list of members or donors have sprung up at the federal and state level to buy advertising on television and radio, almost always

indulging in negative attack ads against candidates, ballot proposals and legislation.

"As a nonpartisan organization, it's not about who gets elected by how money influences the policies that get made," said Patrick Carolan, executive director of the Franciscan Action Network, which has been working with Common Cause and Public Citizen on limiting the influence of money on the political process. Carolan cites Jesus' teaching in the Gospel of Matthew: "You can't worship both God and money."

Represent.us also is pushing the American Anti-Corruption Act, operating on the premise that every elected official should be considered corrupt until he or she signs on in support of the bill, which has not been introduced. To date, it has collected more than 350,000 online signatures of support, though backers say they want 1 million.

Its supporters include a former Republican chairman of the Federal Election Commission, the head of the D.C. Tea Party Patriots, two figures in 2011's Occupy movement, and investment banker Ted Roosevelt IV, great-grandson and namesake of the century-ago president.

Among its provisions are: a ban on Congress raising funds from the special interests they regulate; a $500 campaign contribution limit from lobbyists, their clients and supervisors; a one-year lobbying ban for ex-House members and two years for ex-senators; extend a ban on federal contractors' campaign contributions to their PACs and lobbyists; ban collaboration between an individual candidate's campaign and supposedly independent super-PACs; monthly disclosure by members of Congress on how much time they spend fundraising; require the disclosure of the identity of campaign-cash "bundlers"; and offer citizens a $100 tax rebate if they agree to abide to contribution limits.

Josh Silver, who co-founded the media think tank Free Press and is now behind Represent.us, said anyone who finds their favored legislation stymied in Congress should support the amendment.

"This has to be one of your issues," Silver said in Denver during an April 6 panel discussion at the National Conference for Media Reform, adding it would take a wide range of allies across the political spectrum to push the bill through.

Carolan of the Franciscan Action Network echoes Silver.

"We spend a lot of time on issues like immigration reform and human trafficking. I feel very strongly they're all affected by the corrosive effect of money in politics," he said. "So if we're going to change the paradigm. ... first we have to get the money out of politics."

The last time the Constitution was successfully amended was in 1992, when it limited changes to congressional pay. It was the 17th time the Constitution was amended following passage of the first 10 amendments that make up the Bill of Rights; two other proposed amendments failed to get the requisite three-fourths support of the states.

An amendment can be proposed one of two ways: get two-thirds of both houses in Congress to agree or through a constitutional convention called by two-thirds of state legislatures. Then it must be ratified by three-fourths of all state legislatures or three-fourths of the states must have individual constitutional conventions to ratify it.

The Constitution is meant to be a living, breathing document, Silver said. "If we go another 20 years without an amendment, we're going to have a pretty angry and dejected country," he said.

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