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2016 Constitution Day Essay Contest: Honorable Mention

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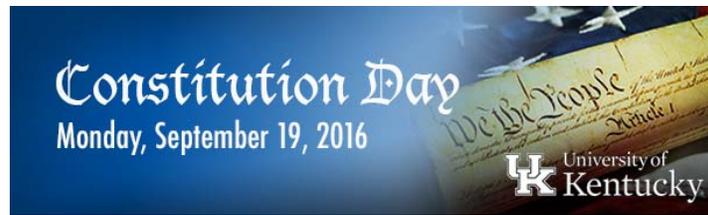
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Constitution Day, created in 2004 by an act of Congress, mandates that all publicly funded schools provide educational programming on the history of the U.S. Constitution, which was adopted by delegates to the Constitutional Convention on Sept. 17, 1787. This year's Constitution Day at UK is Monday, September 19th (see <http://www.uky.edu/UGE/constitution-day-2016>). Under direction from the Office of the President and the Provost, the Division of Student and Academic Life will lead a cross-campus gathering of support for offering Constitution Day activities at the University of Kentucky. Staff and faculty work with many different student organizations and units on campus to develop a campus-wide approach to the celebration of our rights and responsibilities as citizens of the U.S. and to develop habits of citizenship in a new generation of Americans. The general thematic topic this year is focusing on "Freedom of Expression, Identity and the U.S. Constitution."

An essay contest for undergraduates is sponsored by the UK Scripps Howard First Amendment Center, the Office of the President and the Provost's Division of Student and Academic Life. The essays are blind-judged by former UK journalism students who are lawyers, UK professors and media law professors at other universities. The entries are scored on the following criteria: historical and legal accuracy of the content, the strength and logic of the argument, the original ideas presented, the organization of the argument, including the thesis, and the quality of the writing. The winners are announced the First Amendment Celebration, 7:00 p.m. Tuesday, Sept. 27, in the Kincaid Auditorium of the Gatton College of Business and Economics.

The essay, which cannot exceed 750 words, addressed this writing prompt:

During the Republican National Convention in Cleveland in July, protesters tried to burn a flag of the United States. Although such an act offends many people, the Supreme Court ruled in 1898 and again in 1990 that burning the flag is expressive conduct – an act of speech – and protected by the First Amendment. In another First Amendment decision, the Supreme Court ruled unconstitutional the attempt by Congress to regulate the spending of money during political campaigns. In the *Citizens United* decision in 2010, the majority said campaign contributions are also protected speech. That means businesses, unions, and organized groups can spend as much money as they choose for ads supporting or opposing candidates as long as they don't coordinate such spending with the candidates' campaigns.

Essays must address this question: Should Congress propose an amendment to the Constitution that would allow the federal government and states to make it a crime to burn the United States flag and another amendment to allow legislatures to place limits on the amount of money flowing into political campaigns?

Drew Brinkman – Honorable Mention

On Freedom of Expression

I believe true freedom of expression and censorship can never coexist in a system. The two are fundamentally different, the first permitting the entirety of opinions and beliefs on all mediums, the latter denying at least some portion of those. With that said, in order for us as a nation to protect the rights enumerated in the First Amendment, we cannot allow either the banning of flag burning or campaign ads from private entities. Both the burning of the American flag and private campaign ads need to stick around, lest we sacrifice our freedom of expression.

The American flag being burnt, in a sense, is an American practice. Few other nations allow the desecration of a national symbol. In America, it is a guaranteed right. The act is a simple and symbolic protest against the state of the nation, and protest itself is specifically mentioned in the First Amendment. The practice has been a controversy through American history, flaring up recently with protests outside the RNC, but existing since the creation of the flag itself.

As long as people have been burning the flag, others have been trying to stop the practice. It can be viewed as a sign of great disrespect to the nation and to the men and women who have died for its cause. When viewed through that lens, it's hard to think that it can mean anything else. Yet burning a flag holds an important position in American culture, as the ultimate symbol of our freedom to express. Removing this symbol, or removing any form of expression, removes true freedom of speech from America.

The importance of our ability to burn the American flag remaining a right seems apparent, the importance of privatized campaign ads is a little murkier. The purpose of the first is pure, or as pure as is possible when desecration of a nation's flag is concerned. Private ads on political campaigns are a route to subvert laws on campaign contributions. Instead of bowing to the maximum allowed campaign donation, a private entity can spend unlimited funds to create an ad or campaign nonaffiliated to the official campaign. These ads are protected speech under the first amendment, sharing their opinion on a candidate.

The consequence of this is that the limits on donations to a political campaign are rendered almost useless. Election season is still primarily financed by hefty donors and not the masses who are to vote on election day. This is allowed by abusing our right to express an opinion. Private entities, like wealthy individuals, PACs, and businesses, take advantage of this to support a candidate, and through that, policy and our nation's future.

At first glance, the immediate reaction is a necessity for reform to be implemented on these private ads. The future of the nation should rest in the hands of all its citizens, not the one percent. It is not fair that through a loophole, politics are commanded by the dollar and not the people. An amendment could allow for campaigning to be considered unprotected speech and therefore regulated. However, as soon as unprotected speech enters the American lexicon, freedom of expression is dead.

As stated in the introduction, censorship and true freedom can't coexist. Even the phrase "protected speech" begets its counterpart "unprotected speech," which sounds to me like it's straight out of a pseudo totalitarian rule. Free speech is a staple of United States, one of the reasons that our country was founded. It is not without reason that the very first amendment to the constitution guaranteed citizens this right. The men that wrote that document and ratified the Bill of Rights saw it necessary to see it was ensured in perpetuity.

And so for a different reason, the unsavory practice of privatized campaign ads is as necessary as that of flag burning. In the eyes of many, the nation would be better off without either. I argue they are both a necessary evil, and that "It's free speech!" is a valid defense. There are many things better left unsaid and many opinions better left unheld, but there are those who do both, and I am proud to respect their right to do so. If we protect burning the flag in order to defend our freedom to express, we are left to protect campaign ads for the same reason. We must abide by both until we find the pressure so unbearable that a path to censorship is a preferable alternative.

