

No on HJM 6A

Even before but especially in the aftermath of *Citizens United*, there is growing skepticism in the integrity of our election system. Public concern over the skyrocketing costs of political campaigns is justified, but amending the U.S. Constitution is unlikely to cure this problem and will definitely create new – and even bigger – problems.

If the Constitution is amended in response to *Citizens United*, it will mark the first time in our nation's history that the Constitution has been amended to erode the fundamental protections of free expression provided in the First Amendment. Such an historic change will have implications far beyond campaign finance.

The First Amendment's free speech guarantee requires us to look with skepticism at any effort to limit political speech. The right to speak freely about the legitimate issues of the day is at the core of the First Amendment and must not be curtailed. Any system designed to limit what individuals as well as corporations (including non-profits and unions) can spend legally on political speech, means entrusting the government to decide how much speech is enough in a political campaign, and what speech qualifies as political.

It is more speech – not censored speech – that will keep us moving forward.

Further, in calling for an amendment that might erode the constitutional rights of statutory entities, including corporations, HJM 6A would have a host of unintended consequences that

could jeopardize the privacy of all Americans. For example, if a corporation is denied constitutional rights, the government would not need a probable cause warrant to search the records of corporations that hold very private information about Americans.

The *Citizens United* decision did not mention, rely upon or in any way depend upon the concept of "corporate personhood." So abolishing corporate constitutional rights as it applies to elections would have no effect on the court's analysis in these types of cases and, instead, could have a host of unintended consequences.

In an effort to solve one problem, HJM 6A would expose us to many others and we respectfully urge that you reject the Memorial.

Don't Want Corporations to Have Rights? Then the ACLU Suit Is Dead

If progressives had their way, the ACLU's latest challenge to the NSA's domestic surveillance would easily be dismissed. *ACLU v Clapper*, filed in the wake of the Snowden revelations, is based on the ACLU's First and Fourth Amendment rights, which, according to progressives, ACLU should not possess. It is, after all, a corporation, and constitutional amendments aggressively promoted by progressives would limit constitutional rights to "natural persons."

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I have repeatedly stressed the dangers of an amendment limiting constitutional rights to "natural persons," noting that it would deprive every non-profit, citizens advocacy group as well as small and large businesses of both First and Fourth Amendment rights, exposing them to warrantless searches and outright censorship of political speech. *ACLU v Clapper* makes clear that these threats to civil liberty are not theoretical.

Excerpt from Wendy Kaminer's piece in Atlantic Monthly, which can be found here:

<http://www.theatlantic.com/national/archive/2013/06/dont-want-corporations-to-have-rights-then-the-aclu-suit-is-dead/276917/>



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