

June 2, 2014

The Hon. Chuck Grassley
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Ranking Member Grassley,

In the wake of the Supreme Court's *Citizens United v. FEC* ruling four years ago, millions of Americans across the political spectrum have mobilized in support of a constitutional amendment that would overturn that ruling and restore republican democracy to the people. As you know, on Tuesday, June 3, 2014, the US Senate Judiciary Committee will hold an historic hearing on this matter. We write to urge you to support S.J. Res. 19, a constitutional amendment to establish that Congress and the states have the power to regulate and limit election spending.

People across the nation, regardless of their political affiliation, are making clear that corporations or unions should not be able to spend general treasury funds to influence elections. Moreover, large majorities of voters across the political spectrum oppose allowing wealthy individuals to make unlimited expenditures that drown out the voices of ordinary citizens. [More than 100 Republican officials since the *Citizens United* ruling](#) have joined the call for a constitutional amendment that would end our current system of unlimited campaign spending.¹ Most of those officials have done so by voting for resolutions in their state legislatures calling for such an amendment.

Further, public opinion research has long indicated robust popular support for an amendment, across party lines. For example, a [2010/2011 Peter Hart poll](#) found that 79% of Americans, including 68% of Republicans, 82% of independents, and 87% of Democrats support such an amendment.² And, a [2012 Associated Press poll](#) found that 83% of Americans, including 81% of Republicans, 78% of independents, and 85% of Democrats believe "there should be limits on the amount of money corporations, unions, and other organizations can contribute to outside organizations trying to influence campaigns for President, Senate, and U.S. House."³

¹ *Across the Aisle: The Growing Trans-partisan Opposition to Citizens United*, Report compiled by Free Speech For People, June 2013.

² Free Speech For People Nationwide Voter Survey, conducted by Hart Research Associates, December 2010-January 2011.

³ Morgan Little, "Poll: Americans largely in favor of campaign spending limitations," *Los Angeles Times*, September 16, 2012, citing [The AP-National Constitution Center Poll, August 2012](#).

The best poll, of course, is an actual vote of the people, such as the statewide votes held in November 2012 in Colorado and Montana on ballot questions calling for a constitutional amendment. Both votes demonstrated similarly strong support: 74% of Coloradans approved Amendment 65; Montanans approved Initiative 166, also by 74%, while simultaneously backing Mitt Romney for President by a margin of more than 10 points.

In addition, [more than 2000 business leaders throughout the nation have joined in support of an amendment](#).⁴ They understand that a political system which allows the largest corporations in our country to exercise disproportionate influence over our public policy stifles competition in the marketplace and harms our economy.

No one has a First Amendment right to drown out other people's speech. The Supreme Court stated this clearly in its 1949 case in *Kovacs v. Cooper*.⁵ In *Kovacs*, a union in the city of Trenton was blaring its message with a soundtrack going down every street. In response, the city passed an ordinance requiring that sound trucks could only go down every third street. The Supreme Court upheld the ordinance as a reasonable regulation on the manner of speech. It found that public streets served other public purposes that needed to be protected and, as Justice Jackson wrote in his concurrence, "freedom of speech for Kovacs does not...include freedom to use sound amplifiers to drown out the natural speech of others."⁶ The DC Circuit Court of Appeals in *Buckley v. Valeo* recognized this very point in finding the campaign spending limits at issue in that case to be constitutional: "It would be strange indeed," the appellate court said, "if, by extrapolation outward from the basic rights of individuals, the wealthy few could claim a constitutional guarantee to a stronger political voice than the unwealthy many because they are able to give and spend more money, and because the amounts they give and spend cannot be limited."⁷

As James Madison wrote in The Federalist Papers No. 57:

*Who are to be the electors of the federal representatives? Not the rich, more than the poor; not the learned, more than the ignorant; not the haughty heirs of distinguished names, more than the humble sons of obscure and unpropitious fortune. The electors are to be the great body of the people of the United States.*⁸

⁴ Testimony by David Levine, CEO and Co-Founder, American Sustainable Business Council, before the Subcommittee on the Constitution, Civil Rights, and Human Rights, U.S. Senate Committee on the Judiciary, July 23, 2012.

⁵ *Kovacs v. Cooper*, 336 U.S. 77 (1949).

⁶ *Id.* at 97 (Jackson, J., concurring).

⁷ *Buckley v. Valeo*, 519 F. 2d 821, 841 (D.C. Cir. 1975), affirmed in part and reversed in part, 424 U.S. 1 (1976).

⁸ James Madison, *The Federalist*, No. 57.

We do not take lightly proposals to amend the Constitution, and we recognize, as did James Madison, that we should do so only on “great and extraordinary occasions.”⁹ We believe the nation now faces such an occasion.

We urge you to support a 28th Amendment to the Constitution that restores that fundamental promise of our Republic: government of, by, and for the people.

Sincerely,

John Bonifaz
President
Free Speech For People

David Levine
Chief Executive Officer
American Sustainable Business Council

Michael Russo
Federal Program Director
US PIRG

Arn Pearson
Vice President for Policy and Litigation
Common Cause

⁹ James Madison, *The Federalist*, No. 49.