

# **HOW TO CHOOSE? SO MANY CONSTITUTIONAL AMENDMENTS....**



By Greg Colvin

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There is a growing movement of people fed up with corporations-as-persons, money-as-speech, elections-for-sale in America. They are ready to amend the US Constitution as the only sure way to reverse the Supreme Court's decisions in *Citizens United v. FEC* and *Buckley v. Valeo*. But what's the best amendment? Sanders/Deutch or Udall/Sutton? Move To Amend or Free Speech for People?

Here are twelve questions to put the choice of language in an analytical framework. Every drafter should be able to answer them.

1. What is the main purpose? Is it to drive the big money, from all sources, out of elections? Or is it to abolish corporate personhood?
2. If none of the rights extended to corporations are still protected by the Constitution, what would the consequences be -- outside of the realm of elections?
3. What would happen the day after the amendment was adopted? Would corporate and business spending in elections stop immediately or would legislation and litigation be required?
4. What kinds of legal entities does the amendment apply to?
  - a. business corporations
  - b. nonprofit corporations
  - c. labor unions
  - d. other forms of organization (associations, trusts, LLCs, partnerships)
  - e. all of the above
5. How should the campaign spending of individuals (including candidates) be regulated?
  - a. no limits on personal spending
  - b. authorize Congress and the states to set limits
  - c. set dollar limits in the Constitution
  - d. prohibit completely

6. Should all campaign contributions and expenditures be publicly disclosed? Or should Congress and the states allow small donations to be anonymous? In view of all that secret money that flows through nonprofit groups for political “issue ads,” how do we force them to disclose their sources?
7. Should public financing of campaigns be required, permitted, or prohibited?
8. Does the amendment cover both candidate elections and public votes on ballot measures?
9. Are all levels of government covered: federal, state, city, town, and county?
10. Is any special wording needed to protect freedom of the press?
11. Should other subjects be covered in the amendment, such as making election day a holiday, shortening the campaign season, simplifying voter registration, requiring paper ballots, addressing voter disenfranchisement?
12. Should there be two or more amendments to carry different aspects of these issues, or one unified proposal?

**...and of course, is the language as brief and clear as it can be?**

My answers would be:

1. Drive big money out of elections.
2. Takes a lot of legal study to be sure about this.
3. Immediate effect.
4. e. - although the business entities are the biggest danger.
5. b. – use legislation to set limits.
6. Legislatively, force disclosure of all large donors whose money is used for politics.
7. Permit.
8. Both.
9. All.
10. No.
11. No.
12. One, though some days I think abolishing corporate personhood should be separate.

This is the sixth piece I’ve written this year on this subject. In January I proposed a simple version: only citizens can vote, only citizens should finance campaigns. In April I compared the main alternatives offered at that time. In November I pointed out the problems with a single focus on corporate personhood, followed by two blogs praising Deutch and then Sanders for what they introduced -- as the best so far. (Go to <http://www.ourfuture.org/users/new-2753> to access them.)

But what I really think we need is for all the proponents to get their ideas out on the table, have a big summit conference, test each approach using criteria such as these twelve, and forge a unified amendment.