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Corporations are not people; Constitution needs to say so

Viewpoint

January 21, 2015

By ARIANNA FEINBERG and BRODIE LOCKARD , For The Maui News

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Five years ago, a U.S. Supreme Court decision changed the course of democracy in America.

Do you remember the nonstop ads this fall about the GMO moratorium? Monsanto, Dow and other multinational corporations spent \$7.9 million on ads against Maui's Voter Initiative on Genetically Engineered Organisms, more than \$350 for every "no" vote.

There is an enormous issue here, but it's not just GMOs. It's Citizens United.

Jan. 21 is the fifth anniversary of Citizens United, the Supreme Court's decision on what corporations and unions can spend to sway voters through independent communications like TV ads. It removed all limits on such spending. All limits.

Citizens United led to other court decisions that allowed "super PACs," the political action committees through which wealthy individuals can also spend unlimited amounts on "independent expenditures," e.g., TV ads and mailers.

In the first election after Citizens United, outside spending nationally increased 346 percent over the previous midterms. In the first presidential election after Citizens United, it increased 206 percent.

In last year's election, more super PAC money was spent in Hawaii than in any election cycle in state history: \$10 million on ballot initiatives and \$5.9 million on candidates.

Only an amendment can change it

Because Citizens United is a Supreme Court decision, the president and Congress can do nothing about it directly. The only way to change it now is by amending the U.S. Constitution.

The process is to build support nationally for an amendment by passing state, county and city resolutions. These resolutions pressure members of Congress to introduce a federal resolution for a constitutional amendment. Once that passes both the Senate and House by a two-thirds vote, three-fourths of the states must ratify it. And then the Constitution will be amended, just as it was designed to be by its framers.

If this sounds unlikely and extreme, consider that the women's suffrage movement created the 19th Amendment 45 years after a Supreme Court decision ruled that the U.S. Constitution gave women no right to vote. In hindsight, women voting doesn't seem particularly extreme.

Time for an update

Today, corporations and money play far greater roles in politics than in 1787. The Constitution badly needs an update to clarify what corporations and money are and are not.

Corporations are not people, and the Constitution needs to say so. They don't go to high school, have children or die. They are artificial legal entities that were originally meant to be temporary but they have thinly accumulated constitutional rights over many decades

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through inconsistent application of case law, as interpreted by pro-corporate judges.

Money is not speech, and the Constitution needs to say so. Proponents of Citizens United argue that it protects free speech by allowing anyone to speak without limitation. That sounds reasonable. But imagine five people in a room trying to have a conversation and only one has a microphone that no one else can afford. Each time someone tries to speak, the person with the microphone drowns the others out. That, in effect, is what Citizens United has allowed. Is that free speech?

Support is broad and growing

Sixteen states - Hawaii was first - and nearly 600 cities and counties have passed resolutions supporting an amendment to reverse Citizens United and related decisions. The City and County of Honolulu and Hawaii County have passed such resolutions. The time is ripe for the Maui and Kauai county councils to pass resolutions. They will contribute, in the spirit of actual free speech, to the movement to pass an amendment.

What you can do

We urge the councils to pass resolutions. They will hasten the day when corporations stop buying elections on Maui, in Hawaii and across America. We urge you the reader to write to our county council members and our U.S. senators and representatives to get money out of politics by amending the U.S. Constitution. We've amended it before to create a more just and free society and we can do it again.

* Brodie Lockard is a volunteer organizer with Public Citizen and a board member of Common Cause Hawaii. Brodie is an Oahu resident and works as a video game designer. Lockard can be reached at blockard@iname.com. Arianna Feinberg is a volunteer for Common Cause Hawaii's Maui Chapter. Feinberg is a lifelong resident of Maui. She is a small-business owner, Ka Ipu Kukui fellow and political activist. Feinberg can be reached at ariannafeinberg@gmail.com.

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