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**TESTIMONY IN OPPOSITION TO 16-S 2589,  
RELATING TO A NATIONAL CONSTITUTIONAL CONVENTION  
March 30, 2016**

The ACLU of RI strongly opposes this bill, which proposes the calling of a federal constitutional convention to pass a constitutional amendment to overturn the U.S. Supreme Court's controversial *Citizens United* decision on campaign finance laws and the First Amendment. Whatever one's view of that court ruling and whether it has "weakened American democracy," the "solution" advanced by this bill is totally inappropriate and would itself greatly weaken American democracy. Considering that only little more than a year ago, Rhode Islanders rejected the call for a state constitutional convention, there is no basis for passing a resolution that calls for a much more problematic convention at the national level.

The resolution is proposing a constitutional amendment designed to limit the reach of the First Amendment. This sets an extraordinarily dangerous precedent, and would be the first time in history the First Amendment was eroded through the constitutional process. The Supreme Court has issued numerous First Amendment decisions over the years – think of its flag-burning rulings, for example – that have stirred anger and protest even greater than this one. If it is acceptable to respond in this way to campaign finance rulings that some groups disapprove of, it opens the door to many other constitutional amendment proposals on contentious free speech issues.

Proposing a constitutional amendment to overturn the Court's decision would be troubling enough, but this resolution goes further and calls for a constitutional *convention* to propose the resolution. This path is fraught with danger. Despite the resolution's attempt to limit what a constitutional convention might do, there is significant and respected commentary in the academic and judicial communities that a constitutional convention, once called, cannot be limited to the issue for which it was convened. Instead, it could become a wide-ranging free-for-all, able to propose any set of constitutional amendments it chose to. We have only one precedent in this respect: the constitutional convention that was called for the specific purpose of amending the Articles of Confederation, and which instead created an entirely new Constitution.

In any event, approving the concept of a constitutional convention to deal with an issue of disagreement like this sets the stage for approval of constitutional conventions on many other issues. In fact, the last call for a national constitutional convention approved by the RI General Assembly was to propose an amendment to overturn *Roe v. Wade*. And the last constitutional convention push to come close to succeeding in the country was in the 1980's, when states fell only two states shy of getting enough supporters of a constitutional convention to propose a balanced budget amendment to the Constitution. That effort has been resurrected, and is garnering greater support around the country than this one. In short, proponents of this resolution should be careful what they wish for.

We urge rejection of S-2589.