

 **END CORPORATE RULE. LEGALIZE DEMOCRACY.**

# MOVE TO AMEND

## Corporate Hijacking of the 1st Amendment [political “free speech”]

One in a series of briefs on how corporate constitutional rights harms you,  
your family, your community, your environment and your democracy

### Corporations and the U.S. Constitution

Corporations are not mentioned in the U.S. Constitution. They are legal creations of governments, intended to provide useful goods and services. No voter, citizen, social movement or elected official has ever granted corporations constitutional rights – intended exclusively for human beings. Corporate entities have gained constitutional rights solely from rulings by activist Supreme Court Justices.

### What is the 1st Amendment of the U.S. Constitution?

The Amendment, one of ten known as the “Bill of Rights” and added to the Constitution all at once, declares, in part, that governments shall “make no law. . . abridging the freedom of speech.”

### When did corporations first win this constitutional right?

1978 - *First National Bank of Boston v. Bellotti*, 435 U.S. 765

The Supreme Court anointed corporations political “free speech” protections under the 1st Amendment when the Court in a controversial decision reversed a Massachusetts law prohibiting corporations from spending money to influence legislation unrelated to their business. Supreme Court Justice William Rehnquist stated in his dissent that, “the Congress of the United States, and the legislatures of 30 other States of this Republic have considered the matter, and have concluded that restrictions upon the political activity of business corporations are both politically desirable and constitutionally permissible.” Laws preventing corporate spending in political elections in those 30 states were, nevertheless, struck down and, thus, allowing for the first time corporate speech on public policy issues.

### Notable cases where this constitutional right was hijacked by corporations:

The Bellotti case is the most notable and significant Court decision that hijacked the political free speech rights of the 1st Amendment.

### What about Citizens United?

It’s widely believed that the Citizens United vs. FEC (558 U.S. 310) Supreme Court decision of 2010 was the first time money spent in political elections was equated as 1st Amendment-protected free speech and when corporations were first granted corporate constitutional rights. In fact, the decision was based on neither doctrine, but rather on (a) the right of persons to listen to speech, regardless of the source, and (b) the corporation simply being an association of people with collective free speech rights.

A person has no more the constitutional right to “listen” as (s)he has the right to speak at will, for as long as (s)he may want for hours on end before, say, a city council meeting – including being prohibited from speaking at all if the message isn’t germane or the person may live outside the community. Should one person be allowed to advocate for the murder of a politician if another person claims (s)he has the right to “listen” or hear such speech? Of course not. Reasonable limits or in some cases prohibitions on both speaking and hearing are legitimate. Furthermore, nowhere was there reference in Citizens United to the rights to be heard from individuals whose voices are drowned out since they aren’t wealthy or don’t own a corporation. These rights are completely absent when calculating corporate free speech.

When it comes to corporations being nothing more than an association of persons, corporate leaders want it both ways. When it's convenient for corporations to be separate from their shareholders to avoid being personally liable for a corporate malfeasance, corporate agents argue that there's an impenetrable shield between the separate corporate entities and the individuals (employers and/or shareholders and bondholders) connected to them. Yet, when it's convenient for corporations to wield their immense political influence through lobbying and political campaign donations (or investments), then the corporate "voice" is simply the "harmony" of the collective human voices of those associated with it.

It's absolutely true, however, that the effect of the Citizens United decision was a dramatic increase of the political influence of corporate entities and wealthy individuals in elections. While corporations are still prohibited by law from donating directly to candidates and candidate campaigns, their political influence in shaping political messages through the funding of political campaign advertisements has been profound.

### **How corporate hijacking of this amendment harms you, your family, communities and the environment**

The flood of money from corporations (as well as from wealthy individuals) in elections is a major factor in what issues are publicly discussed (and how they're discussed), whose interests are heard and who gets elected. Problems and solutions important to low-income, working class, people of color and other historically-oppressed constituencies are not addressed during political campaigns – as well as issues and solutions addressing our increasing environmental crisis. An increasing amount of political money is shielded by phony "front groups" in which donors are not disclosed and known (i.e. called "dark money").

Corporate-funded political ads either distort issues most favorable to corporate interests or attack or support political candidates on superficial concerns. Public negativity from the onslaught of attack ads generates political cynicism, fueling a belief that all politicians are corrupt, which can suppress voter participation. Candidates barraged by negative attack ads funded by corporate entities often lose unless there are other corporate entities on their side and/or who can counter "money power" with grassroots "people power" of supporters who more directly engage voters. Fearful of corporate-funded attack ads, many candidates avoid addressing certain issues and doing anything about those issues even if elected. These issues are often those of greatest concern to people without the wealth to donate to candidates.

### **Prominent opposition to the corporate hijacking of the 1st Amendment**

Dissenting in the Bellotti case, Supreme Court Justice White asserted the impact of this decision: "It has long been recognized, however, that the special status of corporations has placed them in a position to control vast amounts of economic power which may, if not regulated, dominate not only the economy but also the very heart of our democracy, the electoral process...The State need not permit its own creation to consume it."

### **Take Action**

We will never have an authentic democracy so long as corporations possess any inalienable constitutional rights, including corporate hijacking of the 1st Amendment by the Supreme Court. That's why Move to Amend educates and organizes to abolish ALL corporate constitutional rights and hijacks. Inalienable rights are for human beings, not artificial legal creations of government.

*Join Move to Amend! Sign the petition at <https://movetoamend.org/motion>.  
To get involved, call 916-318-8040.*

***End Corporate Rule. Legalize Democracy. Move to Amend!***

To read other briefs on corporate hijacking of the 1st (excluding political “free speech”), 4th, 5th and 14th Amendments as well as the Contracts and Commerce clauses of the U.S. Constitution, go to <https://movetoamend.org/toolkit/corporate-hijacking-us-constitution>

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