

 **END CORPORATE RULE. LEGALIZE DEMOCRACY.**

MOVE TO AMEND

Corporate Hijacking of the 4th Amendment

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

Why this series?

Many believe corporate hijacking of the constitution begins and ends with money in elections (i.e. First Amendment “free speech” rights permitting corporations to spend money to influence elections). But the threat to people, communities, the environment and democracy itself is much greater and includes additional parts of the First Amendment, as well as other amendments of our constitution.

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 4th Amendment of the U.S. Constitution?

One of the original Bill of Rights (first 10 Amendments), it was designed to protect individual right to privacy, including protection against unreasonable searches and seizures without a warrant.

When did corporations first win this constitutional right?

1906 - *Hale v Henkel*, 201 U.S. 43

Corporations didn't have privacy protections prior to this case. Many corporate charters stipulated that books and records of corporations had to be transparent to ensure public accountability.

An especially notable case where this constitutional right was hijacked by corporations:

1978 - *Marshall v. Barlow's Inc.*, 436 U.S. 307

Surprise Inspections of Business Premises Prohibited

When an OSHA inspector tried to do a routine inspection of Barlow's Inc. (an electrical and plumbing installation business), the company's president refused to allow the inspector to enter the nonpublic employee area. Relying on the 4th Amendment's "right of the people to be secure in their persons [and] houses . . . against unreasonable searches and seizures," the company's president protested that the inspector lacked a search warrant. This protest should have been dismissed because Section 8(a) of the Occupational Safety and Health Act of 1970 (OSHA) did not require a search warrant for inspections of safety hazards and violations of OSHA regulations, which led the Secretary of Labor to seek an order to compel compliance with the OSHA inspection. Rejecting the Secretary of Labor's argument that surprise inspections are

reasonable and essential to OSHA's enforcement, the Supreme Court ruled that OSHA's Section 8(a) was unconstitutional because it authorized inspections without a warrant.

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

These judicial decisions treat artificial commercial entities like natural persons, even though the 4th Amendment's language seems to contemplate only human beings, their homes and personal effects. The result is that governmental attempts to protect the public from a myriad of dangers stemming from private commercial activities (e.g., food contamination, drug impurities, automobile defects, and environmental hazards) are thwarted by removing the advantage of surprise inspections, thus allowing businesses to hide, alter or disguise dangerous conditions.

Members of the Court disagreed with granting corporations 4th Amendment rights

In his dissent in *Hale v Henkel*, Justice Harlan stated, that as a result of this decision, "...the power of the government, by its representatives, to look into the books, records and papers of a corporation of its own creation, to ascertain whether that corporation has obeyed or is defying the law, will be greatly curtailed, if not destroyed."

Take Action

Lack of an authentic democracy is due not only to corporate campaign donations (or investments) or domination of the media. We'll never have democracy so long as corporations possess any inalienable constitutional rights, including never-intended 4th Amendment search and seizure privacy rights. 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.*

To read other briefs on corporate hijacking of the 1st, 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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