



Myths of Harmful “Unintended Consequences” of Abolishing Corporate Personhood

Every reform effort or legislation can be questioned by raising the specter of “unintended consequences.” But House Joint Resolution 48 only eliminates corporate constitutional rights (CCRs) that *We The People* never granted to corporations. Below are some of the alleged unintended consequences of the We The People Amendment and Move to Amend’s responses.

1. Eliminating CCRs would cause huge financial disruption of the American economy.

Corporations did not have or need CCRs to become the most powerful and dominant economic institutions in the 1800’s. Their size and influence have only grown since then. If eliminating CCRs caused any economic angst, Congress and/or the States can enact appropriate legislation to address specific problems. Financial disruption does not appear to be an issue.

2. Eliminating CCRs would subject corporations to government overreach.

Per state statute, corporations already have the right to sue in a court of law to protect their interests. Existing federal and state statutes already protect corporations from unlawful searches and seizures, e.g., California Penal Code, Title 12, Chapter 3 (search warrants); United States Code, Title 18, Chapters 109, 205 (searches and seizures). Under HJR 48 corporate shareholders, officers, and employees, as well as association members, all retain their rights as individuals, so no legitimate rights will be lost.

3. Eliminating CCRs would result in corporations being forced to disclose proprietary information.

Trade secrets are protected by both federal and state laws. The federal Defend Trade Secrets Act and Uniform Trade Secrets Act, which most states have passed. The former provides protections of financial, business, scientific, technical, economic, and engineering related trade secrets if the owner has taken basic measures to keep such information secret.

4. Eliminating CCRs would jeopardize non-profit corporations and associations.

Each of the rights the Supreme Court has created for corporations (Equal Protection & Due Process [14th Amend.], No surprise inspections/searches [4th Amend.], Due Process and compensation for government takings [5th Amend.] Political and commercial speech & “right not to speak [1st Amend.], Jury trial in criminal case [6th Amend.], Freedom from double jeopardy [5th Amend.], and Jury trial in civil case [7th Amend.] could be conferred statutorily on for-profit or non-profit corporations by Congress or the States.

5. Eliminating CCRs would make non-profits such as Planned Parenthood subject to unreasonable searches and seizures.

Even absent statutory protections the U.S. Supreme Court has already recognized the right of corporations to represent their members’ constitutional rights under appropriate circumstances. In *NAACP v. Alabama*, 357 U.S. 449 (1958) the Alabama attorney general obtained an injunction against the Alabama branch of the NAACP for violating that state’s incorporation laws and sought information including the names and addresses of its members. The NAACP complied with the AG’s demands except for providing the membership information. This occurred at the height of the Civil Rights movement.

The Supreme Court found the NAACP as a non-profit corporation did not itself have the right to object to the AG's demand, but it had the right to assert its members' rights where they could not assert their rights themselves without giving up those same rights (i.e., identify themselves). See pp. 458-459. So even under this worst case scenario a non-profit would not need CCRs, but could assert its members' rights to protect them and their rights.

See Why Non-Profit Corporations Do Not Have, Deserve or Need Constitutional Rights (<https://movetoamend.org/why-non-profits-do-not-have-deserve-or-need-constitutional-rights>) for more information.

Contrast the preceding hypothetical and unfounded consequences with just a few of the known and highly detrimental consequences of CCRs:

- **Corporate political spending is 1st Amendment “political speech.”**
The result: The 2008 Great Recession nearly brought down the U.S. economy, caused in part by corporate political campaign contributions. Shielded as First Amendment-protected “free speech,” that corporate lobbying resulted in repeal of many market protections such as the Glass-Steagall Act. Corporate profits greatly increased but many people lost their homes and retirement savings. *Buckley v. Valeo* (1976).
- **Corporations have a 1st Amendment right not to speak.**
The result: A federal Court prevented the National Labor Relations Board from ordering businesses to post a rule at the workplace, thus making it more difficult to inform workers of their rights while employers can post anything as long as it does not contain a threat or promise of benefit. *National Assoc’n of Manufacturers v. NLRB* (2013).
- **Corporations have 4th Amendment protections.**
The result: Governmental attempts to protect the public from a plethora of dangers stemming from private commercial activities (e.g., food contamination, drug impurities, automobile and airplane defects, dangerous conditions, worker safety violations, and environmental hazards) are thwarted by eliminating surprise inspections. *Marshall v. Barlow’s, Inc.* (1978).
- **Corporations have 5th Amendment protections.**
The result: Certain regulations enacted by a State against corporations are “regulatory takings” and illegal without just compensation -- not instances of legitimate examples of using its police power to protect public health, safety and welfare. *Pennsylvania Coal Co. v. Mahon* (1922).

Corporations have a legal mandate to maximize profit for shareholders. It is our elected official’s responsibility to protect the economy, the environment and the public. Public welfare requires us to reign in unchecked corporations that have hijacked the Constitution and our legal system which has made it impossible to hold them legally responsible without an amendment to the Constitution to make clear that their proper place is accountable to the government and the people.

Move to Amend believes the real danger that desperately requires redress are the actual, known consequences of CCRs wrought by large and wealthy corporations. In fact, we have a bigger problem if we do not act to curtail corporate power.

As Supreme Court Justice Louis Brandeis wrote: “We must make our choice. We may have democracy, or we may have wealth concentrated in the hands of the few, but we can’t have both.”

End Corporate Rule. Legalize Democracy. Move to Amend!

<https://movetoamend.org/>