[9] Based on the 14th Amendment: Ted Nace, *Gangs of America: The Rise of Corporate Power and the Disabling of Democracy* (2005), p. 248; see *Louis K. Liggett Company v. Lee*, 288 U.S. 517 (1933).

[10] See American Academy of Pediatrics (see http://www2.aap.org/sections/media/resources.cfm#policy).

[11] "NOAA: 2012 to Rank as Second Costliest U.S. Year Since 1980" (http://www.guardian.co.uk/environment/2012/dec/21/climate-change-natural-disasters); "Climate Change Kills 400,000 a Year, New Report Reveals (http://www.thedailybeast.com/articles/2012/09/27/climate-change-kills-400-000-a-year-new-report-reveals.html); http://www.huffingtonpost.com/2011/11/07/health-costs-of-climate-c_n_1080473.html; "Human Health Impacts and Adaptation" (http://www.epa.gov/climatechange/impacts-adaptation/health.html).

[12] "House panel okays more defense money than requested" CBSNews.com, May 10, 2012 (http://www.cbsnews.com/8301-250_162-57431781/house-panel-oks-more-defense-money-than-requested/)

[13] Jeffrey D. Clements, *Corporations are Not People* (San Francisco, CA: Berrett-Koehler Publishers, Inc., 2012), see pp. 86-87 (data from Senate Office of Public Records as of Jan 31, 2011).

[14] *The Week*, January 25, 2013, under "Noted."

[15] See http://www.usda.gov/documents/ac21_report-enhancing-coexistence.pdf, pp. 9, 58-59; also http://www.monsanto.com/newsviews/Pages/why-does-monsanto-sue-farmers-who-save-seeds.aspx.

[16] "Ball Park Franks Fiasco: 21 Dead, $200,000 Fine" (http://www.commondreams.org/views01/0726-04.htm); and Jeffrey D. Clements, *Corporations are Not People* (San Francisco, CA: Berrett-Koehler Publishers, Inc., 2012), see pp. 39-47.

[17] See http://www.law.com/corporatecounsel/PubArticleFriendlyCC.jsp?id=1202573593552&slreturn=20130021175158.

[18] Ibid.

[19] See http://en.wikipedia.org/wiki/Strategic_lawsuit_against_public_participation; also http://www.huffingtonpost.com/michele-simon/pink-slime-lawsuit-may-be_b_1919830.html.

[20] "For Americans Under 50, Stark Findings On Health," *New York Times*, Jan 9, 2013.

[21] The proportion of school children qualifying for free and reduced price lunches in the Portland, OR schools has risen from less than a third in the 1990's to 53% currently (*The Oregonian*, Jan 2, 2013); see charts from the Congressional Budget Office, The Tax Foundation, and The Senate Joint Committee on Taxation at http://www.motherjones.com/politics/2011/02/income-inequality-in-america-chart-graph;

[22] http://www.oecd.org/els/healthpoliciesanddata/49105858.pdf) the U.S. has the highest rate of increase in obesity of all other OECD countries.

[23] Huston, A.C., Bickham, D. S., Lee, J. H., & Wright, J. C. (2007). From attention to comprehension: How children watch and learn from television (pp. 41-64). In N. Pecora, J. Murray, & E. A. Wartella (Eds.), *Children and television: Fifty years of research.* Mahwah NJ: Lawrence Erlbaum.

[24] Thom Hartmann, *Unequal Protection* (San Francisco, CA: Berrett-Koehler Publishers, Inc., 2010). See especially pp. 252-253.

- a population that outspends all other countries on health care without excellence in health quality indicators that would reflect this,[20]
- hugely increased income disparity resulting in a steep decline of the middle class and sharply increasing rates of childhood poverty,[21]
- epidemic rates of adult and childhood obesity,[22]
- loss of childhood innocence, increased fearfulness, and aggressiveness due to widespread and increasingly explicit violence in the entertainment media and videogames,[23]
- trade agreements facilitated by international corporations resulting in the over-ruling of American regulations and loss of American jobs from out-sourcing to other countries,[24] and of course,
- perceptions of our government as corrupt and unresponsive to everyday people, thereby discouraging citizen participation.

Urgency of This Situation

We believe the evidence is clear that our democracy is in crisis, already exhibiting many of the characteristics of a plutocracy, and affecting our population in major and clearly negative ways. When compared with this, change-related problems for some public interest-serving statutory entities seem to us to be small and easily addressed by current governmental processes.

We expect that this will be especially true once the huge involvement of the mega-corporations and ultra-wealthy in our political system is reduced in scope and power until it is comparable to that of everyday citizens, small business owners, and public interest nonprofits. This will require truly effective campaign finance reform, which cannot be accomplished until the very controversial legal fictions of corporate personhood and money as speech are reversed.

The only solution we can trust is a constitutional amendment addressing these issues.

-- Oregonians for Restoring Constitutional Democracy
Jan 2013

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[1] Howard Jay Graham, *Everyman's Constitution: Historical Essays on the Fourteenth Amendment, the "Conspiracy Theory", and American Constitutionalism*. Madison: State Historical Society of Wisconsin, 1968.

[2] Thom Hartmann, *Unequal Protection* (San Francisco, CA: Berrett-Koehler Publishers, Inc., 2010). See especially pp. 94-97.

[3] Ibid. (See pages 16-19, 42-44 regarding 1886 *Santa Clara* decision); Jeffrey D. Clements, *Corporations are Not People* (San Francisco, CA: Berrett-Koehler Publishers, Inc., 2012), see pp. 17-26 regarding Lewis Powell, U.S. Chamber of Commerce memo, *Buckley v. Valeo*).

[4] *Citizens United v. FEC, 2012*; *First National Bank of Boston v. Bellotti, 1978*.

[5] Based on the 4th Amendment. *Marshall v. Barlow's, Inc*., 436 U.S. 307 (1978); *See v. City of Seattle*, 387 U.S. 541 (1967); *Dow Chemical v. The United States*, 476 U.S. 227 (1986).

[6] Based on the 1st Amendment: *Pacific Gas & Electric Co. v. Public Utility Commission of California*, 475 U.S. 1 (1986); see http://www.nytimes.com/2012/03/01/business/us-judge-rejects-gruesome-cigarette-labels.html?_r=0.

[7] *Lorillard Corporation v. Reilly*, 533 U.S. 525 (2001).

[8] See http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1240832/pdf/ehp0110-000445.pdf; Thom Hartmann, *Unequal Protection* (San Francisco, CA: Berrett-Koehler Publishers, Inc., 2010) See page 251.

While undesirable to our nation's founders, the expansion over the years of corporate privileges came through the legislative process, not through constitutional rights. However, this explosion of privileges apparently wasn't enough for the large corporations. They wanted more - the same rights as real people, and many Supreme Court Justices gradually obliged them, beginning with a court reporter (and former railroad president) in *Santa Clara County v. Southern Pacific Railroad*, 1886.

Corporate Constitutional Rights

Activist Supreme Court decisions have granted constitutional rights to corporations under the 1st, 4th, 5th, 6th, 7th, and 14th amendments. Often involving justices with conflicts of interest,[3] the Court has, for example, granted statutory entities the right to

- spend unlimited amounts of corporate treasury dollars to electioneer against citizen initiatives, and for or against political candidates,[4]
- prevent regulatory inspections,[5]
- withhold from the public, information that might protect consumers,[6]
- market tobacco products to children and youth;[7]
- pollute the public air, water, and land without accountability,[8]
- move into communities even when the people have voted to keep them out,[9]
- market junk food and violent "entertainment" to our children despite pediatricians' warnings and evidence of negative impacts.[10]

Supreme Court decisions giving corporations constitutional rights, and classifying money as speech, have resulted in the wielding of too much political power by the largest corporations and the most wealthy citizens. Does anyone really believe that the long-standing and harmful American denial of the reality of the climate crisis is unrelated to too much corporate power in the media and halls of Congress, as it was previously able to deny the major health impacts of smoking tobacco? What about the effects of such corporate power on the nation's ability to improve its health care system? On the nation's huge military budget and policies that involve military action?

Negative Impacts

The impacts of this disproportionate power on our nation's population are many and severe, including

- crops destroyed, people killed and uprooted by scientist-predicted increases in severe storms, heat-waves, droughts, hurricanes and floods due to climate change,[11]
- a proposed defense budget that exceeds the amount requested by the military[12]
- $20 billions spent by corporations on lobbying between 1998 and 2010 (and $0.4 billion by unions),[13]
- a recent "model daily schedule" recommendation to some new members of Congress that they allot 4 hours per day to calling potential donors,[14]
- small farm owners being sued by Monsanto because their farms were contaminated by wind-born genetically modified and patented seeds[15]
- people getting sick and dying from food contamination and chemically polluted environments[16]
- corporate patenting of human genes,[17] and control over supplies of essential medicines,[18]
- citizens threatened with being sued by a corporation over possible effects of citizens' speech on corporate economic interests,[19]

How Do Court-Granted Corporate Constitutional Rights Harm We the People?

It seems that many people understand why the Move to Amend movement objects to the legal doctrine formulated in the 1976 Supreme Court decision, *Buckley v. Valeo*, that money spent in politics is the same as speech and therefore protected by the constitution. That clearly indicates that the wealthy have much more speech in such a system, e.g., they can control the microphone and drown out the speech of everyday people.

However, the reasons why the movement advocates for reversing the legal fiction that corporations are persons with constitutional rights are a little more difficult to articulate in brief form. Of course, it is obvious to most people that there is much overlap between the ultra-wealthy elite and those who control, and profit most from, the mega-corporations. Both groupings currently exert far more power in the United States than is healthy for a true representative democracy.

This brief document is an attempt to explain the fundamental evidence underlying the conclusion that the United States has become deeply compromised by *Supreme Court-granted* constitutional rights for corporations created under statutes, such as business corporations, nonprofits, unions, and associations.

Corporations in the Post-Colonial Infancy of the Nation

There is no mention of corporations in the Constitution or its amendments. Arguments that the framers of the 14th Amendment intended it to cover corporate entities have been *unequivocally* debunked.[1]

Post-colonial corporate charters were granted by state legislatures. The following table shows the differences between corporate charters during those earliest years of our nation and now.[2]

Post-Colonial	Now
• Chartered for a clear purpose, usually a public good, such as building a bridge.	• General purpose charters with no fixed national allegiance.
• Charters revocable if their purpose was not fulfilled.	• Private and publicly-traded entities with no checks on fulfillment of purpose
• Charters for a limited time (20-30 years)	• Possibility of perpetual existence
• Charter-specified limits on attainable profits, and usually defined goals related to the public interest.	• Maximization of shareholder profit goal above all other goals, including the public good.
• Liability and responsibility of corporate owners and stockholders often *not* limited.	• Owners and stockholders exempted from standard civil and criminal liability
• Not allowed to own stock in another corporation.	• Corporations may buy or merge with other corporations.
• Prohibited from making *any* political contributions, direct or indirect.	• Disproportionate influence in the political process.