

WHY ABOLISH ALL CORPORATE CONSTITUTIONAL RIGHTS

The Program on Corporations, Law & Democracy (POCLAD, www.poclad.org) has educated, advocated and organized for the past 15 years against the rights of corporations to govern. Through historical and legal research, writings, speaking, workshops and strategic discussions, we helped build widespread awareness of what we called “corporate personhood” - the corporate acquisition of constitutional rights intended solely for natural persons that have usurped the rights of *We the People* to govern ourselves. We worked on this issue before it was popular, fashionable or newsworthy.

Corporations are creations of the state. As we documented in many resources over many years, they couldn't exist in any form without the legal sanctioning of government. Since citizens are the source of all legitimate power in any representative democracy, *We the People* have the power to define corporations any way we see fit. *We the People* have rights and authority. Originally, corporations only possessed privileges bestowed by the state.

The appointed-for-life US Supreme Court “found” corporations in numerous places in the US Constitution over the past 124 years. These “findings” gave rights to corporations, including many of those in the Bill of Rights. In other words,

illegitimate corporate power didn't begin in 2010. The corporate perversion of rights and the Constitution have resulted in the destruction of our communities, economy, politics and natural world in many ways for a very long time.

POCLAD believes ALL corporate constitutional rights should be abolished, including:

- **1st Amendment Free Speech rights.** Corporations use these rights, meant to protect human beings from the power of the state, to influence elections through political “contributions” (more like “investments”); to advertise for guns, tobacco and other dangerous products over the objections of communities; to avoid having to label genetically modified foods.

- **4th Amendment Search and Seizure rights.** Corporations have used these rights to avoid subpoenas for unlawful trade and price fixing, and to prevent citizens, communities and regulatory agencies from stopping corporate pollution and other assaults on people or the commons.

- **5th Amendment Takings, Double Jeopardy and Due Process corporate rights.** Corporations must be compensated for property value lost (e.g. future profits) when regulations are established to protect

homeowners or communities. Corporations cannot be retried after a judgment of acquittal in court. The granting of property to a corporation by a public official cannot be unilaterally revoked by a subsequent public official or Act of Congress.

- **14th Amendment Due Process and Equal Protection corporate rights.** These rights, originally enacted to free slaves from oppression, were gradually extended to corporations by the courts. Corporations have used these rights to build chain stores and erect cell towers against the will of communities; oppose tax and other public policies favoring local businesses over multinational corporations; and resist democratic efforts to prevent corporate mergers and revoke corporate charters through citizen initiatives.

- **Commerce Clause-related corporate rights.** Corporations have used this section of the Constitution (Art 1, Sec 8), for example, to ship toxic waste from one state to another over the “health, safety, and welfare” objections of communities - claiming the waste isn't actually “waste” but “commerce.”

- **Contracts Clause-related corporate rights.** The Supreme Court ruled in *Dartmouth vs. Woodward* (1819) that a corporation is as a party in a private contract based on the

Contracts Clause (Art 1, Sec 10) rather than being a creature of public law. Even though the state creates a corporation when it issues a charter, that state is not sovereign over the charter, merely a party to the contract. Thus, corporations became “private contracts” with the state and, therefore, shielded from many forms of control by *We the People*.

Since the problem of corporate constitutional rights is multidimensional, the solution must be comprehensive.

The threat to authentic democratic self-governance comes from the fact that corporations have been defined as legal persons. As we see it, corporations have exercised this illegitimate status in many ways. Addressing only one or two of those ways won't reverse the profound corporate threat to *We the People* having ultimate power to govern.

One hundred and sixty years ago, those who believed the section of the Constitution (Art 4, Sec 2) defining people as property (slavery) was fundamentally immoral didn't call for ending one or two dimensions of slavery. They didn't organize to establish a Slavery Protection Agency, nor ask slaveholders to sign a voluntary code of conduct to treat slaves a little less harshly. They called for abolition of the institution of slavery.

As a reflection of that thinking, POCLAD and others who hold that defining property as people (“corporate personhood”) is fundamentally immoral and a threat to real people and the planet, believe that we should not limit our vision and actions. Let's set out to amend the constitution in a way that abolishes all rights wrongly granted to the corporate form during the last two centuries. Let's put an end to the institution of corporate personhood itself.

Nothing less is worth the considerable time and learning, grit and energy required to amend the Constitution.

Why not make the result worth the effort?

A Publication of the PROGRAM ON CORPORATIONS, LAW & DEMOCRACY

By What Authority (ISSN: 524-1106) is published by the Program on Corporations, Law & Democracy. The title is English for *quo warranto*, a legal phrase that questions illegitimate exercise of privilege and power. We the people and our federal and state officials have long been giving giant business corporations illegitimate authority. Today, a minority directing giant corporations and backed by police, courts, and the military, define our culture, govern our nation, and plunder the earth.

By What Authority reflects an unabashed assertion of the right of the sovereign people to govern themselves.

POCLAD is a group of 11 people instigating democratic conversations and actions that contest the authority of corporations to govern. Our analysis evolves through historical and legal research, writing, public speaking, and working with organizations to develop new strategies that assert people's rights over property interests.

BWA is a tool for democracy proponents to rethink and reframe their work. To that end we encourage readers to engage us with comments, questions, and suggestions.

POCLAD
P.O. Box 246
South Yarmouth, MA 02664-0246
508-398-1145; 508-398-1552 (fax)
people@poclad.org; www.poclad.org

POCLAD is a project of the Jane Addams Peace Association

David Cobb, CA
Karen Coulter, OR
Greg Coleridge,* OH
Mike Ferner, OH
Dave Henson, CA
Ward Morehouse, MA
Lewis Pitts, NC
Jim Price, AL
Virginia Rasmussen,*+ NY
Kaitlin Sopoci-Belknap, CA
Mary Zepernick,* MA

*BWA editorial board
†BWA editor

Distribution policy: POCLAD welcomes all interested people to join our mailing list. Please consider an annual minimum contribution of \$25 to support POCLAD's ongoing work (or whatever you can afford).

Copyright 2009 by the Program on Corporations, Law and Democracy. The content of BWA has been copyrighted only to ensure that it is not appropriated by others. POCLAD encourages the noncommercial reproduction and widespread distribution of material in BWA without prior approval, provided the material is unchanged and attribution is given both to BWA and the author(s). Please send us two copies of any material so reproduced.