

# Challenging Corporate Power, Asserting the People's Rights

## Session III — Corporate Personhood

In Session II we noted the 1886 Supreme Court decision that gave corporations the same rights and protections as human beings, and in this session we explore that phenomenon in depth. The 14th Amendment to the Constitution was ratified in 1868 in order to protect the rights of newly freed slaves. Section 1 reads as follows:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privilege or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The U.S. Constitution and the country's legal foundations were rooted in the sanctity of property rights and the individual. So it was clear to corporate lawyers, following the burst of corporate growth and influence during the Civil War, that it would be necessary to get the Supreme Court to declare the corporation equivalent to a "person" with the same 14th Amendment protection of the laws. Only with this designation could the corporate form pursue growth, wealth, and power free from the restraining will of the people.

In 1936 the dean of the John Marshall Law School said, "In the entire Constitution and the Amendments thereto, the word 'person' is used thirty-four times; in thirty-three times, it refers only and can refer only to creatures of flesh and blood. And in the 14th Amendment the word is used five times, ...it is obvious that natural persons alone can be meant, as only natural persons can be born or naturalized, become citizens..." Nevertheless, in 1886 lawyers for the Southern Pacific Railroad achieved their goal with the Supreme Court declaring that the 14th Amendment applied to corporations.

This session explores the cultural impact of this decision. What has it meant for the role of us human persons, and the organizing of people's movements for full inclusion and personhood, when the biggest, wealthiest, and most powerful "persons" are our own corporate creations?

### Readings:

- 1 – "The Birth" and "The Rule," by Kalle Lasn and Tom Liacas (2 pages)
- 2 – "Gangs of America," by Ted Nace (2 pages in condensation)
- 3 – "Timeline of Personhood Rights and Powers," by Jan Edwards (5 pages)
- 4 – "Should Not the 14<sup>th</sup> Amendment to the Constitution of the United States be Amended?" excerpts by Edward T. Lee (3 pages)
- 5 – "Corporations Behave as if They are More Human than We Are," by George Monbiot (1 page)
- 6 – "Corporate Citizens," by Carl Pope (1 page)
- 7 – Corporate Personhood Resolution, City of Point Arena (2 pages)
- 8 – "Democracy in St. Thomas," by James Allison (2 pages)
- 9 – "Tea Time in Humboldt County (CA)," by Jim and Tomi Allison (2 pages)

**Discussion Questions:**

1. In what ways do so-called “corporate persons” have more rights under the law today than human persons? What are the differences in the limits and resources of each?
2. How does the existence of these artificial “persons” affect (a) our sense of self and our identity, and (b) our relationship to the natural world and the other living creatures in it?
3. What is meant by the term “judge-made law” and what has been its impact?
4. How has the evolution of our democracy been shaped by the conferring of personhood status to corporations at a time when it was denied to the majority of human beings?
5. What can be gained when a community organizes to pass a resolution against corporations having personhood status under law?

**Supplementary Materials:**

- “The Santa Clara Blues: Corporate Personhood versus Democracy,” by William Meyers. History and analysis of how corporations acquired the rights of human beings. Available online at [www.reclaimdemocracy.org/pdf/primers/santa\\_clara\\_blues.pdf](http://www.reclaimdemocracy.org/pdf/primers/santa_clara_blues.pdf).
- “Can Corporations be People?” Workshop, Jan Edwards and Molly Morgan, Minneapolis, June 2002. Available as DVD from Lois Fiedler, [loisfiedler@sbcglobal.net](mailto:loisfiedler@sbcglobal.net) (phone 408-294-0981). Excellent overview of history and legal timeline, about 40 minutes long.

# 1600-1886 The Birth of the Corporate “I”

by Kalle Lasn & Tom Liacas

## I The BIRTH

**The modern** corporation came to life in the hands of nine men. In *Santa Clara County vs. Southern Pacific Railroad*, an 1886 dispute over a railbed, the US Supreme Court made an historic decision. It held that, under the Constitution, a private corporation was a “natural person,” entitled to all the rights and privileges of a human being.

This single legal stroke changed America fundamentally. From that moment on, the country’s citizens would have to think of corporations very differently. Every corporation — though it was still technically only an idea, a paper phantom — nonetheless had its own “life” now, its own “ego.” They could compete directly against real people and demand equal treatment under the law. Were corporations suddenly as powerful as people? No. Because of their vast financial resources, they were now much *more* powerful. They could defend and exploit their rights and freedoms more vigorously than any individual. In real terms, the corporation was actually *more free* than any private citizen. The whole intent of the American Constitution — that all citizens have one vote, and exercise an equal voice in public debates — had been under-mined.

The birth of the corporate “I” could not have been anticipated in 1600, when Queen Elizabeth I of England chartered the first corporations of the Anglo-American tradition, essentially to exploit and colonize foreign lands.

As North America was colonized, corporations like the Massachusetts Bay Company and the Hudson’s Bay Company were there every step of the way. Most companies during that period had a charter life of 20 years to accomplish their goals. These early corporations were conceived as institutions serving the public interest. They were temporary structures granted the right to operate for a fixed period of time, with fixed capital, to achieve fixed goals.

To lay claim to the whole of the New World, though, the British Crown needed huge amounts of capital. To encourage investment in such a large and risky enterprise, the Crown agreed to insulate investors from legal and financial responsibility for the undertaking, beyond the amount of their investment. In other words, investors were not liable, in the last resort, for the debts of their company. That decision blew apart one of the bedrock principles of common law: individual responsibility. For the first time, business investors were privileged with limited liability.

Colonials feared these chartered entities. They recognized the way British kings and their cronies used corporations as robotic arms to maintain their sovereignty and control over the affairs of the colonies. The American Revolution was in large part a revolt against what Thomas Jefferson called this “remote tyranny.”

The Declaration of Independence freed Americans not only from Britain but also from the control of British corporations, and for 100 years after the document’s signing, Americans remained deeply suspicious of corporate power. The 200 or so corporations operating in the US by the year 1800 were kept on short leashes. They weren’t allowed to participate in the political process. They couldn’t buy stock in other corporations. And if one of them acted improperly, the consequences were severe. In 1832, President Andrew Jackson vetoed a motion to extend the charter of the corrupt and tyrannical Second Bank of the United States, and was widely applauded for doing so. That same year the state of Pennsylvania revoked the charters of ten banks for operating contrary to the public interest.

The people — not the corporations — were in control.

By the middle of the 19th century, the nation’s commercial engine was humming, and corporations were becoming an indispensable part of business life. They pushed for and gained extended rights and freedoms in their charters. Then, in a series of landmark decisions, state legislators, one after another, enacted “free incorporation laws” that gave corporations the right to engage in any kind of business they wanted. This was a crucial step in the evolution of the corporate form. Corporations were no longer limited to activities that served the public good, yet they continued to enjoy the extraordinary “limited liability” exemption from investor responsibility that they had historically obtained in the name of public service.

During the Civil War, corporations bagged huge profits from procurement contracts. They took advantage of the chaos and corruption of the times to buy judges, legislatures and even presidents. They forced amendments to laws limiting their profits and, in hundreds of cases, won minor legal victories extending their rights and privileges.

They had immense political clout. Civil society was reeling, unable to keep up. Then came *Santa Clara*, that pivotal 1886 decision, which gave corporations the final boost they needed — “natural person” status under the law. It was one of the greatest blunders in legal history, and it triggered the corporations’ hundred-year march to global power.

## >>> 1886-1999 The Era of Great Corporate Bodies

# II The RULE

**Today we live** in the shadow of a super-species, a quasi-legal organism that competes with humans and other life-forms in order to grow and thrive. This new species has a number of capacities and powers that we mortal humans can only dream of. For one thing, it can “live” in many places simultaneously. It can change its body at will — shed an arm or a leg or even a head without harm. It can morph into a variety of new forms, absorb other members of its species, or be absorbed itself. Most astoundingly, it can live forever. To remain alive, it only needs to meet one condition: its income must exceed its expenditures over the long run.

The story of the evolution of corporations has a strange, sci-fi air about it. Once upon a time we humans con-strutted a legal entity, only to watch helplessly as it broke its bonds and stormed the global village.

Between 1890 and 1930, America was transformed, at lightning speed, by a corporate invasion of everyday life. Giant companies like DuPont, US Steel and Standard Oil grew to dominate commerce. Factories, hotels, department stores and amusement parks began to dot the landscape. Street-lights, electric signs, the telegraph, mail-order catalogs, fashion shows — all celebrated the new industrial message.

By the 1930s, corporations employed more than 80 percent of the people and produced most of America's wealth. The large corporations were now too big and powerful to challenge in the courts, which consistently favored their interests. Employees found themselves without recourse if, for example, they were injured on the job (if you worked for a corporation, you voluntarily assumed the risk, was the courts’ position). During this period, many of the original ideals of the American Revolution were forgotten or watered down, and America was increasingly a corporate state, governed by a coalition of government and business interests.

In the post World War II years, corporations merged, consolidated, restructured and metamorphosed into ever larger and more complex units of resource extraction, production, distribution and marketing. In the 1990s, corporations put aside their traditional competitive feelings toward each other and forged tens of thousands of co-branding deals, marketing alliances, co-manufacturing projects and R&D agreements, and created a global network of common interests.

By 1997, 51 of the world’s largest economies were not countries but corporations. Today, the top 100 companies control 33 percent of the world’s assets, but employ only one percent of the world’s workforce. General Motors is larger than Denmark; Wal-Mart bigger than South Africa. The mega-corporations roam freely around the globe, lobbying legislators, bankrolling elections and playing governments against each other to get the best deals. Their private hands control the bulk of the world’s news and information flows.

By the closing years of the 20th century it was no exaggeration to say that corporations were setting the world’s industrial, economic and cultural agendas. Civil society was in retreat and it looked as if, in the coming century, corporations would indeed rule the world. But then civil society scored two quick victories: an international campaign scuttled the Multinational Agreement on Investment (MAI), which would have greatly extended global corporate powers. And on November 30, 1999 — the cusp of the millennium — citizens shut down a meeting of the World Trade Organization in Seattle. After a phenomenal 200-year run, the corporate ego had fallen prey to its own arrogance. The superspecies suddenly looked much more like a dinosaur. >>>

**ADBUSTERS NO. 31, Aug/Sept 2000**

Nace, Ted (2003). ***Gangs of America: The Rise of Corporate Power and the Disabling of Democracy.*** San Francisco: Berrett-Koehler.  
Condensed by James Allison, June-July 2004.

Both cases reached the Supreme Court, but San Mateo was quickly withdrawn and faded out of sight. Santa Clara was decided in favor of the railroads and, by one of the great flukes of American history, gained mythic fame as the case that gave the corporations their Fourteenth Amendment personhood. The taint on the case has only recently become apparent to scholars who discovered that the court ruling said nothing at all about corporate personhood. As published in the Supreme Court Reporter, Vol. 6 (1886) the Santa Clara decision, written by Justice Harlan, discourses on fences and mortgages, and concludes that these narrow technical matters fall on the side of the railroads. It is another compilation of Supreme Court decisions that alludes to corporate personhood. In United States Reports, Vol. 118, J. C. Bancroft Davis, Reporter (1886), the following paragraph, prefatory to Harlan's decision, appears in a section called "Statement of Facts":

"One of the points made and discussed at length in the brief of counsel for defendants in error was that 'Corporations are persons within the meaning of the Fourteenth Amendment to the Constitution of the United States.' Before argument Mr. Chief Justice Waite said: The Court does not wish to hear argument on the question whether the provision in the Fourteenth Amendment to the Constitution, which forbids a State to deny to any person within its jurisdiction the equal protection of the laws, applies to these corporations. We are all of the opinion that it does."

Another such reference appears in the "Headnotes," annotations prepared by the Court Reporter to summarize the opinion. The first sentence says that "The defendant Corporations are persons within the intent of . . . the Fourteenth Amendment . . ."

The consensus among students of this bizarre episode of Supreme Court history is that Chief Justice Waite made a personhood comment from the bench that was not supposed to be part of the Court's Santa Clara decision. Nevertheless, Court Reporter Davis chose to highlight that comment as the main point of the case. In Santa Clara Waite probably stopped oral argument about corporate personhood because the Court had recently covered that ground in San Mateo. He wanted to settle Santa Clara on narrower technical grounds; he was not ready to break new constitutional ground. Even Justice Field thought that the court had avoided the issue of corporate personhood in its Santa Clara decision. Davis' motivation remains unclear, but those who have studied the matter have pointed out his ties to railroad interests and his status as a political player.

Fallacious though it was, the Supreme Court soon began to treat the Santa Clara decision as a personhood precedent. In another case five months later, Justice Harlan wrote a dissenting opinion that quoted Waite's oral comment as if it were a part

of the Santa Clara decision. Unfortunately, the legal status of headnotes was not decided until 1905, when the Court ruled in *United States v. Detroit Lumber Co.* that headnotes and statements of facts are not part of the Court's decision. On the question of the validity of the Santa Clara precedent, it seems that time validates Supreme Court decisions, even those based on imaginary precedent.

Why did Chief Justice Waite comment as he did? Why did the Court embrace its decision as a personhood precedent? In each case the answer seems to be "Roscoe Conkling."

Conkling, a former Senator, had been hired by the Southern Pacific Railroad and charged with one task: to persuade the Supreme Court that Congress had intended that corporations be considered persons under the Fourteenth Amendment. Conkling's ace in the hole was that he had been a member of the committee that wrote the amendment. The committee's intent had never been revealed, but Conkling had documentary evidence, a secret journal of the committee's deliberations, that he brought with him in 1882 when he argued a case very like Santa Clara before the Supreme Court. Over 50 years later a Stanford law librarian, Howard Graham, found as he examined the journal that Conkling had deceived the Court by switching key words so as to prove his point about the intent of the committee. His trick was to claim that the committee had gone back and forth between two alternative words—first "person," then "citizen," and finally "person"—because the broader legal meaning of that word could include corporations. Graham discovered that the switch had not occurred. All drafts of the amendment had used "person" consistently. In his argument to the Court, Conkling had made a great show of emphasizing the switch, all the while claiming that the committee had feared that if the word "citizen" were used corporations would not have the protections the committee meant them to have.

Imagine Chief Justice Waite a few years later, confronted with Santa Clara. He is not quite ready to break new constitutional ground, but he has already bought Conkling's claims. He acknowledges them orally, but not as a written precedent-setting decision. Court Reporter Davis, a railroad sympathizer with a mind of his own, plays up Waite's comments in the notes he writes to accompany the written record of the case. As Justice Harlan writes the Court's opinion on Santa Clara he relies on technicalities, not personhood, but five months later he cites Santa Clara as a personhood precedent. The reason for his change is unknown, but the deed is done: Corporations have become persons by judicial fiat, carelessness, gall and chicanery. And the Santa Clara decision contains no judicial rationale for the deed.

# Timeline of Personhood Rights and Powers

<u>People Gain or Lose Rights and Powers</u>	<u>Year</u>	<u>Corporations Gain or Lose Rights and Powers</u>
<b><i>Somerset's Case</i></b> [England, 1772] An English judge rules slavery does not exist in England. A slave becomes free by stepping on English soil. The colonists wonder if slavery will soon be abolished in all English colonies. Runaway slaves attempt to flee to England to gain their freedom.	1772	
	1776	<b>Revolutionary War Begins</b> [1776]
	1789	<b>U.S. Constitution</b> [1789] The writers of the Constitution were very interested in protecting their property. Without using the words "slave" or "slavery," they made slavery legal and institutionalized it. "No person held in Service or Labour in one State, under the laws thereof, escaping into another, shall, in Consequence of any regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due." [Art. 4, Sec. 2]
<b>Bill Of Rights</b> [1791] The first 10 Amendments to the U.S. Constitution were adopted to protect We the People from excesses of government. At this time, We the People meant only white males who owned property and were over 21 years old. The states decided how much property must be owned to qualify to vote or run for office. (New Jersey women who met property and residency requirements could vote when the Constitution was ratified, but the state revoked that right in 1807.)	1791	
	1803	<b><i>Marbury v. Madison</i></b> [1803] This case established the concept of judicial review. The Supreme Court ruled that they were Supreme and Congress did not contest it. This gave them the power to make law.
	1819	<b><i>Dartmouth College v. Woodward</i></b> [1819] A corporate charter is ruled to be a contract and can't be altered by government. The word "corporation" does not appear in the Constitution and this ruling gave the corporation a standing in the Constitution. It also made it difficult for the government to control corporations, so states began to write controls into the charters they granted. The Supreme Court had "found" the corporation in the Constitution.
<b>States Begin to Loosen Property Requirements</b> for white males to obtain voting and citizenship rights. [1840 on]	1840	
<b><i>Dred Scott v. Sanford</i></b> [1857] Supreme Court decides that slaves are property and Congress cannot deprive citizens of their property. Slaves are "not citizens of any state" and "have no rights a court must respect." This decision is the functional opposite of <i>Somerset's Case</i> .	1857	
	1861	<b>Civil War Begins</b> [1861]
<b>13th Amendment</b> [1865] Slavery is abolished in the U.S. and any place subject to its jurisdiction. This amendment changed the third paragraph of Article 4, Section 2 of the Constitution.	1865	
<b>14th Amendment</b> [1868] Black males are now citizens of the USA: "...nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."	1868	<b><i>Paul v. Virginia</i></b> [1868] Corporate lawyers argued that under the privileges and immunities clause, corporations are citizens. Supreme Court ruled that corporations are <b>not</b> citizens under Article IV, Section 2. "The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."
<b>15th Amendment</b> [1870] Black males get the right to vote. "The right of citizens... to vote shall not be denied or abridged... on account of race, color, or previous condition of servitude."	1870	

### ***Minor v. Happersett*** [1874]

Women argued that under the 14th Amendment equal protection clause, the U.S. Constitution established that their right to vote could not be denied by the state. The Supreme Court rejected this stating that the 14th Amendment was only intended to apply to black males.

### **Compromise of 1877**

To settle a disputed presidential election, the Republicans made a deal with the Democrats (the party of slavery) that if the Republican Hayes became president, he would remove the Union troops from the South, the last obstacle to the reestablishment of white supremacy there.

*Of the 14th Amendment cases brought before the Supreme Court between 1890 and 1910, 19 dealt with African Americans, 288 dealt with corporations.*

### ***Plessy v. Ferguson*** [1896]

The Supreme Court ruled that state laws enforcing segregation by race are constitutional if separate accommodations are equal. Black males effectively lost 14th Amendment rights and much access to the “white world.” *Plessy* legalized “Jim Crow” laws.

### 1873 ***Slaughterhouse Cases*** [1873]

The Supreme Court said: “...the main purpose of the last three Amendments [13, 14, 15] was the freedom of the African race, the security and perpetuation of that freedom and their protection from the oppression of the white men who had formerly held them in slavery.” Corporations were not included in these protections.

1874

### 1877 ***Munn v. Illinois*** [1877]

Supreme Court ruled that the 14th Amendment **cannot** be used to protect corporations from state law. They did not actually rule on personhood.

### 1882 ***The Railroad Tax Cases*** [1882]

In one of these cases, *San Mateo County v. Southern Pacific Railroad*, it was argued that corporations were persons and that the committee drafting the 14th Amendment had intended the word person to mean corporations as well as natural persons. Senator Roscoe Conkling waved an unknown document in the air and then read from it in an attempt to prove that the intent of the Joint Committee was for corporate personhood. The court did not rule on corporate personhood, but this is the case in which they heard the argument.

### 1886 ***Santa Clara County v. Southern Pacific Railroad*** [1886]

“The court does not wish to hear argument on the question whether the provision in the 14th Amendment to the Constitution, which forbids a State to deny to any person within its jurisdiction the equal protection of the laws, applies to corporations. We are all of the opinion that it does.” This statement by the Supreme Court before the hearing began gave corporations inclusion in the word “person” in the 14th Amendment to the Constitution and claim to equal protection under law. (The case was decided on other grounds.)

### 1889 ***Minneapolis & St. Louis Railroad v. Beckwith*** [1889]

Supreme Court rules a corporation is a “person” for both due process and equal protection.

### 1893 ***Noble v. Union River Logging*** [1893]

For the first time corporations have claim to the Bill of Rights. The 5th Amendment says: “...nor be deprived of life, liberty, or property, without due process of law.”

1896

### 1905 ***Lochner v. New York*** [1905]

“Lochner” became shorthand for using the Constitution to invalidate government regulation of the corporation. It embodies the doctrine of “substantive due process.” From 1905 until the mid 1930s the Court invalidated approximately 200 economic regulations, usually under the due process clause of the 14th Amendment.

*Slavery is the legal fiction  
that a Person is Property.  
Corporate Personhood is the legal  
fiction that Property is a Person.*

**17th Amendment** [1913]

The U.S. Senate is now elected by the people, instead of appointed by state governments.

**19th Amendment** [1920]

Women finally get the vote after 75 years of struggle. "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex."

***Louis K. Liggett Co. v. Lee*** [1933]

Justice Brandeis dissents: "The Prevalence of the corporation in America has led men of this generation to act, at times, as if the privilege of doing business in corporate form were inherent in the citizen; and has led them to accept the evils attendant upon the free and unrestricted use of the corporate mechanism as if these evils were the inescapable price of civilized life, and hence to be borne with resignation. Throughout the greater part of our history a different view prevailed."

**National Labor Relations Act of 1935**

The National Labor Relations Board required employer neutrality when it came to the self organization of workers. It was a violation of the act if an employer interfered in any way with a union organizing drive.

***Conn. General Life Ins. v. Johnson*** [1938]

Justice Black dissents: "I do not believe the word 'person' in the Fourteenth Amendment includes corporations."

***Hague v. C.I.O.*** [1939]

The Court denies an incorporated labor union 1st Amendment rights. Only the individual plaintiffs, not the labor union or the ACLU, could invoke 1st Amendment protections. "[A corporation] cannot be said to be deprived of freedom of speech and of assembly, for the liberty guaranteed by the due process clause is the liberty of natural, not artificial persons."

- 1906 ***Hale v. Henkel*** [1906]  
Corporations get 4th Amendment "search and seizure" protection. Justice Harlan disagreed on this point: "...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."
- 1908 ***Armour Packing Co. v. U.S.*** [1908]  
Corporations get 6th Amendment right to jury trial in a criminal case. A corporate defendant was considered an "accused" for 6th Amendment purposes.
- 1913
- 1917 **U.S. enters World War I** [1917]
- 1919 ***Dodge v. Ford Motor Co.*** [1919]  
Michigan Supreme Court says, "A business corporation is organized and carried on primarily for the profit of the stockholders. The powers of the directors are to be employed for that end." "Stockholder primacy" is established. This is still the leading case on corporate purpose.
- 1920
- 1922 ***Pennsylvania Coal Co. v. Mahon*** [1922]  
Corporations get 5th Amendment "takings clause": "...nor shall private property be taken for public use, without just compensation." A regulation is deemed a takings.
- 1933 ***Louis K. Liggett Co. v. Lee*** [1933]  
The people of Florida passed a law that levied higher taxes on chain stores. The Supreme Court overturned the law citing the due process and equal protection clause of the 14th Amendment and the Interstate Commerce clause.
- 1935
- 1936 ***Grosjean v. American Press Co.*** [1936]  
A newspaper corporation has a 1st Amendment liberty right to freedom of speech that would be applied to the states through the 14th Amendment. The Court ruled that the corporation was free to sell advertising in newspapers without being taxed. This is the first 1st Amendment protection for corporations.
- 1938
- 1939
- 1941 **U.S. enters World War II** [1941]
- 1947 **Taft-Hartley Act** [1947]  
Corporations are granted "free speech" in the union certification process, usurping the worker's right to "freedom of association" and greatly weakening the Labor Relations Act of 1935.

**Wheeling Steel Corp. v. Glander** [1949]  
Justice Douglas dissents. Regarding the ruling that corporations are given rights as persons under the 14th Amendment, he said, "There was no history, logic or reason given to support that view nor was the result so obvious that exposition was unnecessary."

1949

*Judge-made law  
is not democracy.*

**Brown v. Board of Educ. of Topeka** [1954]  
Public schools cannot be racially segregated. Often said to have overturned *Plessy*. The Supreme Court recognized that separate was not equal.

1954

**Civil Rights Act** [1964]

This act ended voting discrimination and literacy testing as a qualification for voting, established the Commission on Equal Employment Opportunity, and ended discrimination in public facilities.

1963

**U.S. ground troops in Vietnam War**  
[1963]

1964

**24th Amendment** [1964]

Poll taxes, which were used to keep Blacks and others from voting in some states, were abolished. "The right... to vote ... shall not be denied... by reason of failure to pay any poll tax or other tax."

1967

**See v. City of Seattle** [1967]

Supreme Court grants corporations 4th Amendment protection from random inspection by fire department. The Court framed the question in terms of "business enterprises," corporate or otherwise. An administrative warrant is necessary to enter and inspect commercial premises.

**26th Amendment** [1971]

Voting age changed from 21 to 18 years of age. Passed to recognize that if 18-year-olds could be drafted into military service, they should be allowed to vote.

1970

**Ross v. Bernhard** [1970]

Corporations get 7th Amendment right to jury trial in a civil case. The Court implies that the corporation has this right because a shareholder in a derivative suit would have that right.

1971

**Reed v. Reed** [1971]

Women get the 14th Amendment. There were earlier cases where it was assumed that women had equal protection. This was the case in which the 14th was ruled to apply to women.

**Roe v. Wade** [1973]

The Supreme Court rules that state statutes against abortion are vague and infringe on a woman's 9th and 14th Amendment rights (to privacy). Abortion is legalized in the first trimester of pregnancy.

1973

1976

**Buckley v. Valeo** [1976]

The Supreme Court rules that political money is equivalent to speech. This ruling expanded the First Amendment's protections to include financial contributions to candidates or parties.

**U.S. v. Martin Linen Supply** [1976]

A corporation successfully uses the 5th Amendment to protect itself against double jeopardy to avoid retrial in an anti-trust case.

**Virginia Board of Pharmacy v. Virginia Consumer Council** [1976]

The Supreme Court protects commercial speech. Advertising is now free speech.

***First National Bank of Boston v. Bellotti***  
[1977]

Dissent by Justices White, Brennan, Marshall: "...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 our economy but the very heart of our democracy, the electoral process... The State need not allow its own creation to consume it." Rehnquist also dissented: "The blessings of perpetual life and limited liability ... so beneficial in the economic sphere, pose special dangers in the political sphere."

***Pacific Gas & Electric Co. v. Public Utilities Commission*** [1986]

Dissent by Justices Rehnquist, White, Stevens: "To ascribe to such entities an 'intellect' or 'mind' for freedom of conscience purposes, is to confuse metaphor with reality."

1977 ***First National Bank of Boston v. Bellotti***  
[1977]

The First Amendment is used to overturn state restrictions on corporate spending on political referenda. The Court reverses its longstanding policy of denying such rights to non-media business corporations. This precedent is used, with *Buckley v. Valeo*, to thwart attempts to remove corporate money from politics.

1978 ***Marshall v. Barlow*** [1978]

This case gave corporations the 4th Amendment right to require OSHA to produce a warrant to check for safety violations.

1986 ***Pacific Gas and Electric Co. v. Public Utilities Commission*** [1986]

Supreme Court decided that PG&E was not required to allow a consumer advocacy group to use the extra space in their billing envelope, upholding the corporation's right **not** to speak and protecting the corporation's "freedom of mind."

1990 ***Austin v. Michigan Chamber of Commerce*** [1990]

Supreme Court upholds limitations on corporate spending in candidate elections. First Amendment rights can be infringed if the state has a compelling interest.

1996 ***International Dairy Foods Association v. Amestoy*** [1996]

Supreme Court overturns a Vermont law requiring the labeling of all products containing bovine growth hormone. The right not to speak inheres in political and commercial speech alike and extends to statements of fact as well as statements of opinion.

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*This timeline was compiled by Jan Edwards with much help from Doug Hammerstrom, Bill Meyers, Molly Morgan, Mary Zepernick, Virginia Rasmussen, Thomas Linzey, Jane Anne Morris, and Richard Grossman.*

*(revised June 2002)*

**SHOULD NOT THE 14th AMENDMENT TO THE  
CONSTITUTION OF THE UNITED STATES  
BE AMENDED?**

An Address  
to the  
Gary, Indiana, Bar Association  
November 20th, 1936  
by  
Edward T. Lee  
Dean of  
The John Marshall Law School  
Chicago

President Fletcher and Members of the Gary Bar:

As you know, the 14th Amendment to the Constitution of the United States, ratified in 1868, is one of three “War Amendments,” following the close of the Civil War. The 13th Amendment abolished slavery, the 15th forbade the denial of the franchise to citizens of the United States on account of race, color or previous condition of servitude.

Section 1 of the Amendment reads as follows:

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are *citizens* of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of *citizens* of the United States; nor shall any State deprive any *person* of life, liberty, or property, without due process of law; nor deny to any *person* within its jurisdiction the equal protection of the laws.”

In the entire Constitution and the Amendments thereto, the word “person” is used thirty-four times; in thirty-three times, it refers only and can refer only to creatures of flesh and blood. And in the 14th Amendment, the word is used five times, three times in Section 1, and in four of the five times it is used, it is obvious that natural persons alone can be meant, as only natural persons can be born or naturalized, become citizens, be deprived of life and liberty, be electors, hold any civil or military office, or furnish the basis of representation in Congress. Being used then thirty-three times out of thirty-four in one and the same sense, and in the 14th Amendment four times out of five in the same sense, the Rule of Interpretation would require that this should be held to be the meaning of the word when used elsewhere, unless specifically narrowed or enlarged...

The people must know and understand; their laws must be expressed in such language as they can understand. And when this amendment was under consideration in Congress and in the State legislatures they understood that the word “person” meant a human being. And for seventeen years the Supreme Court of the United States shared with the plain people this understanding of the meaning of the word “person.”

In 1885, however, the field was prepared for a “revolution of our Constitutional Law,” to use the language of Charles A. Beard of Columbia University, an authority on American history, of whom you people of his native State of Indiana may be justly proud. In that year there appeared for the defendant in the case of *San Mateo County v. Southern Pacific Railroad Company*, 116 U. S. 138, a trio of great lawyers, Wm. M. Evarts, Attorney-General under Johnson, Secretary of State under Hayes, George F. Edmunds, a leader of the U. S. Senate, practicing law on the side, and a former distinguished U. S. Senator, then a corporation lawyer, Roscoe Conkling of New York, whose political power had vanished when, after resigning in a huff in a fight for patronage with President Garfield, the legislature of his State refused to re-elect him.

The defendant railroad alleged that it was in danger of being deprived of its property in violation of the 14th Amendment, Section 1. Conkling, in his argument told the Court that he had been a member of the Joint Committee of Fifteen of Congress on Reconstruction that had framed the 14th Amendment (which later had been steamrolled through Congress in 1868 by the radical republican faction under Thaddeus Stevens and Charles Sumner). He exhibited to the Court and read extracts from the forgotten Journal of that Committee. It was in manuscript form and had never been ordered printed and distributed by Congress. On the basis of this Journal and his asserted knowledge as a member of the Committee, he claimed that the word “person” used in Section 1 was intended to be applied to corporations as well as to natural persons. He did this notwithstanding the fact that Mr. Justice Miller had said, in 1882, in the Slaughter-House Cases, 16 Wallace 36:

“On the most casual examination of the language of these Amendments [13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup>], no one can fail to be impressed with the one pervading purpose found in them all, lying at the foundation of each, and without which none of them would have been even suggested :—we mean the freedom of the slave race, the security and firm establishment of that freedom, and the protection of the newly made free man the citizens from the oppression of those who had formerly exercised unlimited dominion over him. \* \* \* That its [the 14<sup>th</sup> Amendment’s] main purpose was to establish the citizenship of the negro can admit of no doubt.”

The Court, however, did not pass upon the point raised by Conkling in the San Mateo case, as the railroad company paid the amount of taxes involved and the case was dismissed.

But in the following year, in the case of Santa Clara County vs. Southern Pacific Railroad Company, 118 U. S. 394, — case similar to the San Mateo County case — Chief Justice Waite, at the opening of the case said:

“The Court does not wish to hear arguments on the question whether the provision of the 14<sup>th</sup> Amendment to the Constitution which forbids a State to deny any person within its jurisdiction the equal protection of the laws, applies to corporations. We are all of the opinion that it does.”

Arthur T. Hadley, then President of Yale University, in an article entitled “Constitutional Position of Property in America,” published in the Independent,\* a leading journal of its day, wrote in 1908:

“The Fourteenth Amendment was framed to protect the negroes from oppression by the whites, not to protect corporations from oppression by the Legislatures. It is doubtful whether a single one of the members of Congress had any conception that it would touch the question of corporate regulation at all.”

Nor did anyone else suppose such a thing. Congress and the States were not intending to give to corporations the rights given to natural persons, any more than they intended to give the black man rights that the white man did not or could not possess.

Neither in the Declaration of Independence, nor in the Constitution of the United States, is the word “corporation” used. Did the men who wrote the Declaration of Independence and pledged “Our lives, our fortunes, and our sacred honor,” fought the Revolutionary War and framed the Constitution of the United States, have in mind that “artificial being, invisible, intangible, and existing only in contemplation of law” — the corporation?

In a book entitled “The Fourteenth Amendment and the States,” (1912) Charles Wallace Collins, tells that in the first forty-four years of the life of this Amendment 604 cases were taken to the Supreme Court of the United States, of which only 28 involved a question concerning the negro race, and 312 concerned a corporation as the principal party. Since then this disproportion has been maintained, private corporation litigation continually leading in number of cases. Gradually the door was closed to a crack for the negro, after his “250 years of unrequited toil” and thrown wide-open to the “bear that walks like a man.”

Collins concludes:

“Although it was a humanitarian measure in origin and purpose and was designed as a charter of liberty for human rights, it has become the magna charta of accumulated wealth and organized capital.”

Corporations, as we know, are creatures of the State. Many of them are formed by citizens of a State who go into another State for the purpose of securing a more favorable charter, then return to the State where they intend to operate, there obtain a license as a foreign corporation and so become practically independent both of the State of their creation and of the State of their domicile; and in time of legal trouble they seek the Federal courts and finally the Supreme Court of the United States as their place of refuge and security. Against their momentum, the individual is oftentimes, helpless. And the material resources and the legal talent are with the

corporation. Even a State is frequently at a disadvantage in these respects, and its sovereignty is “cribbed, cabined and confined” by its own corporations, under the present interpretation of this amendment. As a consequence, greater and greater strain is placed upon the Supreme Court and upon the Federal courts — a strain which would be better born if distributed among the forty-eight States of the Union.

Joint Resolution presented to the U. S. House and Senate by Edward T. Lee:

“ARTICLE \_\_\_\_\_”

“SECTION 1. The provisions of section 1 of the fourteenth amendment to the Constitution of the United States shall be held to apply only to natural persons and not to corporate or other artificial persons created by law....”

## Corporations Behave As If They Are More Human Than We Are

by George Monbiot

Published on Thursday, October 5, 2000 in the *Guardian* of London

The location of the boundaries of our humanity is perhaps the key moral question of our age. Whether a test-tube baby should be selected so that his cells can be used to save the life of his sister, whether one conjoined twin should die so that another can live, whether partial human embryos should be cloned and reared for organ transplants confront us with problems we have never faced before. Medical advances, both wonderful and terrifying, are eroding the edges of our identity.

The new Human Rights Act is intended to provide us with some of the guidelines we need to help sort this out. It insists that we have an inalienable right both to life itself and to the freedom without which that life would be wretched. But while the rights it guarantees have proved fairly easy to define, it is, curiously, the concept of humanity which turns out to be precarious.

Human beings, you might have thought, are animate, bipedal creatures a bit like you and me. But the lawyers would have it otherwise. Big companies might not breathe or speak or eat (though they certainly reproduce), but they are now using human rights laws to claim legal protections and fundamental liberties. As their humanity develops, so ours diminishes.

Last month, a quarrying company called Lafarge Redland Aggregates took the Scottish environment minister to court on the grounds that its human rights had been breached. Article 6 of the European Convention determines that human beings should be allowed a fair hearing of cases in which they are involved “within a reasonable time.” Lafarge is insisting that the results of the public inquiry into its plan to dig up a mountain in South Harris have been unreasonably delayed. The company, as the campaigning academic Alastair McIntosh has argued, may have good reason to complain, but to use human rights law to press its case sets a frightening precedent.

It is a concept developed in the US. The 14th amendment to the constitution was introduced in 1868 with the aim of extending to blacks the legal protections enjoyed by whites: equality under the law, the right to life, liberty and the enjoyment of property. By 1896, a series of extraordinary rulings by a corrupt, white and corporate-dominated judiciary had succeeded in denying these rights to the black people they were supposed to protect, while granting them instead to corporations.

Though black people eventually reclaimed their legal protections, corporate human rights were never rescinded. Indeed, while they have progressively extended the boundaries of their own humanity, the companies have ensured that ours is ever more restrained.

Firms in the US have argued that regulating their advertisements or restricting their political donations infringes their “human right” to “free speech.” They have insisted that their right to the “peaceful enjoyment of possessions” should oblige local authorities to grant them planning permission, and prevent peaceful protesters from gathering on their land.

At the same time, however, they have helped to ensure that the “social, economic and cultural” rights, which might have allowed us to challenge their dominance, remain merely “aspirational.” As the solicitor Daniel Bennett has pointed out, article 13 of the European Convention, by which we could have contested the corporations’ absolute control of fundamental resources, has been deliberately excluded from our own Human Rights Act.

The rise of corporate human rights has been accompanied by an erosion of responsibilities. Limited liability allows firms to shed their obligations towards their creditors. Establishing subsidiaries — regarded in law as separate entities — allows them to shed their obligations towards the rest of us. And while they can use human rights laws against us, we can’t use human rights laws against them, as they were developed to constrain only the activities of states. As far as the law goes, corporations are now more human than we are.

The potential consequences are momentous. Governments could find themselves unable to prevent the advertising of tobacco, the dumping of toxic waste or the export of arms to dictatorships. Yet in Britain the public discussion of this issue has so far been confined to the pages of the *Stornoway Gazette*.

The creatures we invented to serve us are taking over. While we have been fretting about the power of nanotechnology and artificial intelligence, our domination by bodies we created but have lost the means to control has already arrived. It is surely inconceivable that we should grant human rights to computers. Why then should they be enjoyed by corporations?

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Guardian Newspapers Limited 2000

Carl Pope

# Corporate Citizens

Many Sierra Club members fondly recall William O. Douglas, the late Supreme Court Justice and member of the Club's Board of Directors, for his ringing argument that "trees should have standing," the right to be represented in court. Unfortunately, Douglas' argument was made in a dissent, not a majority opinion. Although the Club was ultimately successful in *Sierra Club v. Morton* in blocking the Disney Corporation's efforts to build a ski resort at Mineral King (now part of Sequoia National Park), it was allowed to intervene only because its members hiked in Mineral King. The valley itself — its trees, streams, and wildlife — was denied standing. Courts exist to resolve disputes among human beings, the majority ruled, not between humans and trees. To this day, environmental groups go to court on behalf of their members, not the wild places they seek to save. (The Sierra Club Legal Defense Fund did include an endangered Hawaiian bird, the palila, as a plaintiff in a lawsuit several years ago, but was careful to include humans as well.)

Some nonhumans, however, are welcome in U.S. courts. In 1886, the Supreme Court declared corporations to be "legal persons" under the law. Corporations were granted not only standing to sue, but virtually the full range of rights granted to people. For example, corporations are allowed to spend unlimited sums to defeat environmental initiatives, because campaign spending limitations have been ruled to interfere with their right to free speech. Like people, corporations cannot be restricted in their ability to acquire other businesses (except within the increasingly ignored boundaries of the Sherman Antitrust Act). In an effort to preserve family farms, for instance, some states barred corporations from owning farms — only to have those prohibitions struck down by the courts.

In another famous dissent, Justice Douglas argued that the decision to make corporations persons under the law was "without logic, history, or rationale." In early America, state legislatures could both grant charters to corporations and revoke or limit their rights. But by the end of the 19th century, an era in which federal courts consistently sided with powerful economic interests, corporations were given full constitutional rights — while their actual human owners and directors were absolved of liability for their debts and responsibility for their actions. Limiting liability is, after all, the primary purpose of the corporate form — hence the British shorthand for a corporation, "Ltd."

There is little else that is limited about corporations, however. Since they exist to maximize profits (shareholders can sue them if they don't), they are compelled by their nature to grow and grow, consuming more natural resources and encouraging more consumption. This has made them major obstacles to the defense of clean air and water and the preservation of wildlife habitat.

It's time for environmentalists to join the debate on the proper function of these economic machines in a democratic society. The destructive role of unchecked corporations is amply demonstrated in Russell Morkhiber's Sierra Club book, *Corporate Crime and Violence* (1988). And the people are ready to listen: a June poll for the Preamble Center for Public Policy revealed a striking increase in public anger at corporate behavior, with seven out of ten Americans blaming corporate greed for layoffs, declining wages, and the economic problems of the middle class.

How can we make these gigantic economic engines accountable for their actions? Rejecting the concept that they deserve the same constitutional rights as individuals would be a powerful first step. Environmentalists should urge closer scrutiny and more effective regulation of corporations, in their overall behavior and governance as well as their environmental performance. Society should treat them as what they are — forms of business organization, not individuals.

At the very least, we should remember William O. Douglas and treat the natural world as well as we treat fictitious entities. True, trees are not people — but neither are Exxon or DuPont. One can certainly argue whether grizzly bears ought to have particular rights — voting seems inappropriate — but it is hard to argue that corporations deserve the protections accorded to living, breathing individuals while entire ecosystems lack the legal standing to be represented in our courts. If we're going to grant standing to fictitious entities, we could make the law a more reliable protector of everyone's long-range interests by opening the courthouse doors to the salmon and the sequoia. By doing so, we might even see Justice Douglas' vision translated from the text of his dissents to the fabric of our society.

Sierra Magazine Nov-Dec 1996

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# **Northern California City Challenges Corporate Personhood**

## **A New Strategy for Placing Limits on Corporate Power**

### **June 2000**

How many people know that under U.S. law corporations are persons? And that, as a result, corporations have been able to amass ever greater power to influence democratic processes and restrain governmental regulation? For example...

- Do advocates for campaign finance reform know that corporations cannot be prevented from contributing money to political campaigns? Corporate personhood means that any restraints on campaign contributions represent an abridgment of corporate rights to free speech.
- Do those who favor increased public monitoring of the operations of oil refineries, chemical manufacturers, paper mills, silicon chip makers, hospitals, or other plants generating toxic waste or emissions know that corporations can deny access to their premises by citizens wishing to determine whether government regulations are being followed? Personhood means that corporations are protected from warrant-less search and seizure.
- Do supporters of local, independent businesses know that citizens cannot limit access by, or create special requirements for, any corporation that wishes to conduct business in their community? Corporate personhood means that such practices would infringe on corporate rights to equal protection.
- Do labor rights supporters know that people lose their rights to free speech and freedom of association, as well as other Bill of Rights protections, when on corporate property? Personhood reinforces a corporation's private property rights.

### **News Item**

On April 25, 2000 the City Council of Point Arena, California, passed by a vote of 4 to 1 a resolution that rejects the concept of corporate personhood.

### **Why This Is Significant**

- This is the first such action taken in the United States.
- It represents a new strategy designed to restrain corporate power. Rather than use incentives and regulations to guide corporate behavior — practices that at best result in incremental gains in the public interest — the citizens of Point Arena have asserted their democratic right to challenge a fundamental aspect of corporate existence. They have taken a step to assert sovereignty over corporations.
- Citizens of other cities, including Eugene, Oregon, and Santa Cruz, California, are initiating campaigns to challenge corporate personhood.
- Communities and groups across the United States and Canada are pursuing complementary tactics designed to define what corporations can and cannot do.
- These activities are manifestations of a new movement supporting the spread of political and economic democracy.

## **Brief Background**

The Supreme Court first gave corporations, a legal creation, personhood (for purposes of the 14th amendment) in an 1886 decision. Other court cases led to full corporate personalization in 1910. Corporations have used this court-assigned status since the late 19th century to advocate successfully for having the protections and rights granted to people by the U.S. Constitution and Bill of Rights. As a consequence, corporations have been able to limit governmental efforts at regulation, constrain the workings of democracy, and subordinate the rights of people.

Members of the Redwood Coast Chapter of the Alliance for Democracy were inspired to challenge corporate personhood by the work of the Program on Corporations, Law and Democracy (POCLAD), devoted to "instigating democratic conversations and actions that contest the authority of corporations to govern." Alliance members engaged members of the community of Point Arena in learning about corporate personhood, its history and consequences, and the consequences of revoking it. They then placed a Resolution on Corporate Personhood before the City Council. Following sessions of public debate and revisions of the original document, the City Council adopted the following resolution:

### **Resolution on Corporate Personhood in the City of Point Arena**

Whereas, the Citizens of the City of Point Arena hope to nurture and expand democracy in our community and our nation; and

Whereas, democracy means governance by the people and only natural persons should be able to participate in the democratic process; and

Whereas, interference in the democratic process by corporations frequently usurps the rights of citizens to govern; and

Whereas, corporations are artificial entities separate and apart from natural persons, are not naturally endowed with consciousness or the rights of natural persons, are creations of law and are only permitted to do what is authorized under law; and

Whereas, rejecting the concept of corporate personhood will advance meaningful campaign finance reform.

Now, therefore, be it resolved that: the City Council of the City of Point Arena agrees with Supreme Court Justice Hugo Black in his 1938 opinion in which he stated, "I do not believe the word 'person' in the 14th Amendment includes corporations;" and

Be it further resolved that: the City of Point Arena shall encourage public discussion on the role of corporations in public life and urge other cities to foster similar public discussion.

For more information, contact Jan Edwards, 707-882-1818, [janedwards@mcn.org](mailto:janedwards@mcn.org). If you would like to have an article submitted for publication, contact Alis Valencia, 707-964-7964, [avalencia@mcn.org](mailto:avalencia@mcn.org).

website: <http://www.iiipublishing.com/alliance.htm>

## Democracy in St. Thomas

James Allison  
June 12, 2006

St. Thomas Township, on Highway 30, is home to about 5,600 south-central Pennsylvanians. Rebel troops in gray marched through the township on their way to defeat in Gettysburg. About 140 years later, in 2003, a corporation bought 416 acres of St. Thomas land, mainly apple orchards, with plans to dig a limestone quarry there. The outfit was St. Thomas Development Inc., a subsidiary of a Philadelphia-area real estate and construction company. From a 90-acre pit, 280 feet deep, would come a half million tons of limestone annually. Eventually there might also be a concrete/asphalt plant. The corporation expected to create 20 plus jobs.

As the corporation would say little about the quarry's impact on the quality of life in St. Thomas, dozens of curious citizens formed FROST (Friends and Residents of St. Thomas Township) and began to investigate. They found reasons to worry about air and noise pollution attendant on blasting and the crushing of rock, about heavy truck traffic around the quarry, and about adverse effects on water wells, property values and the aquifer. With the township's elementary school only 1,000 feet away, they worried about airborne silicate dust and the pulmonary health of developing children.

Township supervisors said they were powerless to stop the project, as there was no restrictive zoning ordinance. Republican Frank Stearn, then a FROST member, decided to run for township supervisor himself. He ran as a write-in candidate in opposition to the quarry, despite long odds against any write-in entry late in the game. He won the election.

On his first day on the job, Feb. 18, 2004, Stearn received a letter from the corporation's lawyer. The letter warned him to recuse himself on matters concerning the quarry. Otherwise the corporation might sue, in which case St. Thomas municipal government might find itself liable, and any quarry vote might be void. Attorney Timothy Sandefur, a property rights specialist, agreed: **The corporation has a constitutional right to do business in a way that a majority of the community might deplore.**

Stearn's fellow Supervisors followed the corporate line. They prevented him from discussing or voting on any aspect of the quarry project.

FROST attorney Thomas Linzey countered that a corporation should not be able to nullify an election. The corporate position would simply emasculate any candidate who runs on a platform contrary to any corporate interest. What is fair or democratic about that? It is time to examine the **200 years of finely crafted law that have somehow stolen our constitutional rights and given them to corporations, including the right to run our communities as the citizens see fit.**

On April 7, 2005, the *Class Action Reporter* (vol. 7, no. 68) noted that U.S. Middle District Judge Yvette Kane had ruled against the FROST claim of \$49 million in damages. Kane ruled that the alleged injuries were “indirect and largely ephemeral.” She added that she had very nearly declared the suit frivolous and required FROST to pay the company’s attorney fees. She said that **FROST attorney Linzey had ignored numerous decisions in constitutional law that established corporate rights.**

On appeal, Judge Ronald L. Buckwater, U.S. 3rd Circuit Court of Appeals, ruled against FROST on April 10, 2006. According to him, FROST lacked standing in filing the lawsuit, as its members suffered no real, direct injury from the corporation’s threat. FROST has not decided whether to appeal further.

In a parallel development, in February 2006 Franklin County Court Judge Doug Herman ruled that Supervisor Stearn could vote in quarry matters. Oddly, Stearn proceeded to *approve* the quarry project. Notwithstanding his turnabout, the corporation proceeded to appeal the Herman ruling.

Back in St. Thomas, excavation began in late April, 2006.

## **Tea Time in Humboldt County (CA)**

On June 6, 2006, the voters of Humboldt County will stamp "Pass" or "Fail" on Measure T. Reminiscent of the Boston Tea Party, another rebellion against rampant corporate power, Measure T would enhance local control by keeping "foreign" corporate money out of local elections. The measure specifies that financial contributions in Humboldt County elections come only from individuals, local businesses and local organizations.

Measure T has a long history and two recent defining events. In 1999 Wal-Mart mounted a \$250,000 campaign to change Eureka's zoning laws. In 2004 Houston-based Maxxam, the parent of Pacific Lumber Company, mounted a \$300,000 effort to recall a popular District Attorney who had sued Pacific Lumber for fraud. The suit alleged a corporate concealment of information whose disclosure would have reduced logging in watersheds so as to protect salmon habitat and downstream properties.

These long-range corporate strikes left a poor impression among local targets. In 2004 a student at Humboldt State University did a telephone survey of registered county voters that revealed considerable opposition to corporate influence in the electoral process. For example, 78% agreed that corporate contributions made political corruption more likely. Confronted with the proposal that any corporation, regardless of its place of incorporation, should be able to contribute financially to local elections, 72% disagreed. Asked if they would be more likely to support a local corporation than a non-local one, 86% said "yes."

Here are some of the salient points of the ordinance proposed by Measure T. Only natural persons have civil and political rights; as legal creatures, corporations have no legitimate civil or political rights. Corporate contributions in elections undermine democratic processes. The ordinance proposes to keep non-local corporations from contributing to Humboldt County elections. A local corporation is one whose employees all reside in Humboldt County. Its primary place of business and corporate headquarters are in Humboldt County. It is not owned in whole or part by another corporation. Its stockholders (if any) all reside in Humboldt County. The District Attorney is responsible for enforcing this ordinance, but every citizen of Humboldt County has the right to sue to compel compliance with the ordinance. All actions shall be brought in the Superior Court of California, Humboldt County.

Supporters of Measure T include the Humboldt Coalition for Community Rights, numerous labor organizations, the Democratic and  
Session III, Reading 9, page 1

Green parties of Humboldt County, and many veterans of city and county government--mayors and city council members, past and present, and the Humboldt County District Attorney. The opposition includes the Eureka and Fortuna Chambers of Commerce, the Republican and Libertarian parties of Humboldt County, the mayor of Fortuna, and two newspapers. Several local members of WILPF are working for Measure T. Further information is available at [www.votelocalcontrol.org](http://www.votelocalcontrol.org) (a pro-T site) and [www.measuretno.org](http://www.measuretno.org) (a con-T site).

The complete text of Measure T can be seen at [www.bloomingtonwilpf.org](http://www.bloomingtonwilpf.org) (click on "Local Agenda").

**P.S.: On June 6 the voters of Humboldt County adopted Measure T by a sizable margin, 55%-45%.**

Jim and Tomi Allison  
Contact Persons, Corporations v. Democracy Issue Committee