

 END CORPORATE RULE. LEGALIZE DEMOCRACY.

MOVE TO AMEND

Corporate Hijacking of the 14th Amendment

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

Why this series?

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

Corporations and the U.S. Constitution

Corporations are not mentioned in the U.S. Constitution. They are legal creations of governments, intended to provide useful goods and services. No voter, citizen, social movement or elected official has ever granted corporations constitutional rights – intended exclusively for human beings. Corporate entities have gained constitutional rights solely from rulings by activist Supreme Court Justices.

What is the 14th Amendment of the U.S. Constitution?

It's one of three Amendments enacted during the Reconstruction era (along with the 13th and 15th) to establish civil rights for freed slaves. It contains three major provisions:

- The "Citizenship Clause" grants citizenship to all persons born or naturalized in the United States.
- The "Equal Protection Clause" says that a state may not deny to any person within its jurisdiction the equal protection of the laws. (Equal protection means the same rights, privileges, and protections to all citizens are guaranteed.)
- The "Due Process Clause" declares that states may not deny any person "life, liberty or property, without due process of law." (Due process means fair treatment in the judicial system to everyone.)

When did corporations first win this constitutional right?

The *fiction* that corporations have constitutional rights arose out of a court reporter's false, unofficial comment that the Supreme Court had given corporations the same 14th amendment rights as natural persons in *Santa Clara County v Southern Pacific Railroad*, 118 U.S. 394 (1886). (Comments have no legal validity.) The Court's decision made no such ruling. In fact, the Court explicitly ruled that it would not decide the constitutional question because the case could be (and was) decided on other grounds.

For more information, see Hartmann, *Unequal Protection: How Corporations Became "People" and How You Can Fight Back*, 2d ed., 2010, pp. 14-48.

The 14th Amendment does not mention corporations or give them the constitutional rights of persons. Section 1 of this amendment states that no state can "deprive any person of life, liberty, or property." Cases that create or follow corporate constitutional rights ignore these facts. The Supreme Court has never explained or justified why an artificial person like a corporation should have the same constitutional rights as natural persons. Every case granting corporate constitutional rights based on *Santa Clara* rests upon an unsupported falsehood -- an invention by the combined actions of one court reporter and later by Supreme Court decisions.

What the ruling became

Santa Clara became a "precedent" or cover for *Minnesota & St. Louis Ry. Co. v. Beckwith* (129 U.S. 26, 1889) and all other subsequent Supreme Court decisions explicitly concluding that corporations possessed equal protection and/or due process constitutional rights -- rights which were originally intended for freed slaves. Perhaps the Supreme Court justices who used the *Santa Clara* case as "precedent" thought or hoped that nobody would dig up the real history of the origins of corporate constitutional rights. The *Santa Clara* decision was a corporate coup d'état.

Notable cases where this constitutional right was hijacked by corporations:

Lochner v. New York (198 U.S. 45, 1905). The Court overturned a maximum 60-hour work week law for employees of the state's dangerous bakery industry, citing interference with the due process freedom of contract right of employers and employees to set their own contract terms. The decision sparked similar decisions which resulted together in the invalidation of several hundred federal and state corporate-related laws and regulations protecting workers (including children), consumers and communities.

Louis K. Liggett Co. v. Lee (288 U.S. 517, 1933)

The people of Florida passed a law that levied higher taxes on chain stores than on locally-owned stores. The Supreme Court overturned the law citing the due process and equal protection clause of the 14th Amendment and the Interstate Commerce clause.

"Of the 150 cases involving the Fourteenth Amendment heard by the Supreme Court up to the *Plessy v. Ferguson* case in 1896 that established the legal standing of "separate but equal," 15 involved blacks and 135 involved business entities."

- The Hijacking of the Fourteenth Amendment, by Doug Hammerstrom

http://reclaimdemocracy.org/wordpress/wp-content/uploads/2012/07/fourteenth_amendment_hammerstrom.pdf

Members of the Supreme Court disagreed with granting corporations 14th Amendment rights

"I can only conclude that the Santa Clara case was wrong and should be overruled... There was no history, logic or reason given to support that view nor was the result so obvious that exposition was unnecessary...If they [the people] want corporations to be treated as humans are treated, if they want to grant corporations this large degree of emancipation from state regulation, they should say so. The Constitution provides a method by which they may do so. We should not do it for them through the guise of interpretation." - Justice Douglas, dissenting opinion in *Wheeling Steel Corp. v. Glander* [337 U.S. 562]

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

Corporations have wielded the 14th Amendment as a shield to evade democratic control to protect the health, safety and welfare of people and communities. Corporations have successfully sued or threatened lawsuits as a deterrent against communities favoring local businesses over chain stores, opposing the siting of cell phone towers, and other corporate actions on the basis of "discrimination" or "due process" rights violations under the 14th Amendment. This amounts to "discrimination" in favor of corporate rights over human and community rights. It also profoundly inhibits the basic right to decide by people to safeguard their own health, safety and well being.

Take Action

Lack of an authentic democracy is due not only to corporate campaign donations (or investments) or domination of the media. We'll never have an authentic democracy so long as corporations possess any inalienable constitutional rights, including the 14th Amendment's due process and equal protection rights. That's why MTA educates and organizes to abolish ALL corporate constitutional rights and hijacks. Inalienable rights are for human beings, not artificial legal creations of government.

Join Move to Amend! Sign the petition at <https://movetoamend.org/motion>.

To get involved, call 916-318-8040

To read other briefs on corporate hijacking of the 1st, 4th and 5th Amendments as well as the Contracts and Commerce clauses of the U.S. Constitution, go to

<https://movetoamend.org/toolkit/corporate-hijacking-us-constitution>

End Corporate Rule. Legalize Democracy. Move to Amend!