

# Timeline of Personhood Rights and Powers

<u>People</u> Gain or Lose Rights and Powers	<u>Year</u>	<u>Corporations</u> Gain or Lose Rights and Powers
<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	
<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.*

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## Some notes on the Timeline

– Jan Edwards

Jane Anne Morris, corporate anthropologist, told me, “The corporate lawyers have made you a road map. All you need to do is follow the road backwards.” I wanted to see this road more clearly, and so I began to lay out the law cases in this timeline.

On one side I put all the cases, win or lose, that pertained to corporations, but limited to firsts on the road toward corporate personhood. On the other side are some landmarks of people’s rights, especially those clearly linked to personhood. Much more could be added to the people’s side (for example, all the cases involving Native Americans) but the corporations side is rather complete concerning corporate personhood.

As one looks at the timeline, it is apparent that people get their rights primarily by constitutional amendment (the Bill of Rights being the first 10 amendments) and corporations get rights by Supreme Court rulings. This relates directly to the issue of democracy. Judge-made law (even though we sometimes like their rulings) is not democracy.

The Supreme Court has used different theories over time to decide cases regarding corporate rights. At the beginning of the Court and until 1886, they regarded corporations as artificial entities. We can see this in their written opinions. After 1886, corporations were regarded as legal persons by the Court. In the 1960s there was another shift in reasoning. The court seems to no longer care whether a corporation is a person or not. The new reasoning revolves around the question of what are the rights. What is the history and intent of, say, the First Amendment? What best serves the First Amendment? This shift in theory is interesting and important as we consider arguing a case at the Supreme Court.

The timeline contains excerpts of several famous judges’ dissents, beginning in the 1930s. The Court has not been unified on the issue of corporate personhood rights since. Many important recent rulings were 5 to 4. The judges do not split along traditional right-left lines on this issue, with Rehnquist writing great dissents, basically saying corporations are not persons. This is the view of a strict constructionist — corporations are not mentioned in the Constitution.

I will let the cases speak for themselves, except for a comment on *Somerset’s Case*. This English case is included on what is otherwise a US timeline because of its personhood significance. In 1772, four years before the Revolutionary War, the English Court ruled that slavery was illegal in England and a slave was free on free soil (England being free soil). This caused a uproar among the wealthy in the colonies as they feared it would not be long before slavery was outlawed there as well. This ruling convinced the Southern plantation owners to join the fight for independence. So impressed were the “Founding Fathers” with *Somerset’s Case* that they wrote the opposite into their new Constitution (Article 4, Sec.2). In 1857, the Supreme Court had a chance to decide virtually the same question with *Dred Scott* — is a slave free on free soil? — and they decided no. This infuriated the free states who felt their rights were being trampled and contributed to the chain of events leading to the Civil War.

The cases involving women and their fight for the 14<sup>th</sup> Amendment are a bit short-changed in the timeline. In sticking with my “first” rule, *Minor v. Happersett* is on the timeline, but there are other interesting cases worth mention. Susan B. Anthony went to the polls and cast a vote in 1872, justifying her right to vote on the 14<sup>th</sup> Amendment. She was found guilty in a lower court, and it never went to the Supreme Court. In *Bradwell v. Illinois* (1873) a married woman sued under the 14<sup>th</sup> Amendment to practice law. She was denied and the opinion of Justice Bradley is a particularly strong explanation of how a woman’s personhood comes from her husband. In *Commonwealth v. Welosky* (1931) the Massachusetts Supreme Court ruled that women cannot sit on juries, and explains “to the effect that the word ‘person’ in construing statutes shall include corporations . . . it has also been held not to include women.”1931! Women were finally protected under the 14<sup>th</sup> Amendment in 1971 in *Reed v. Reed*.

There may soon be another case added to the end of the timeline, when the Supreme Court decides *Nike v. Kasky*. The question probably will be narrowed to: Does a corporation have a right to protected political speech if the issue on which they are speaking has been made political by another party and they are speaking to defend themselves? The political speech that Nike Corporation seeks is the right to lie or to tell something other than truth. If this was truth, they need no protection. The question of commercial speech and the truth in advertising laws are in danger, as the slippery slope of what is a political issue and thus protected speech is argued in courts around the country.

The principles of corporate personhood have made their way into international law. All former English colonies have similar corporate personhood rights. More research needs to be done on other countries’ laws, but it is safe to say the wind is blowing in the direction of greater corporate rights worldwide. The takings clause of the 5<sup>th</sup> Amendment first granted to corporations in 1922 is now the basis for the North American Free Trade Act (NAFTA). And the whole concept of the World Trade Organization (WTO) is that corporations can govern. This is the idea behind corporate constitutional rights.

Many human people helped with this timeline and they are listed at the end. But I should also acknowledge Carl Mayer, whose article, “Personalizing the Impersonal,” (*Hastings Law Journal*, March, 1990) gave me a big start on the timeline cases.

I will end with another quote from Jane Anne Morris. “Scratch any issue activists are working on today, and underneath you will find corporate personhood.” This is why we think it is so important to work to Abolish Corporate Personhood.

*June, 2003*