

OUR HIDDEN HISTORY

#1 in a series of primers on corporations and democracy from *ReclaimDemocracy.org*



ReclaimDemocracy.org

222 South Black Ave.
Bozeman, MT 59715
(406) 582-1224
info@ReclaimDemocracy.org

Other leaders in the movement to restore citizen authority over corporations:

Program on Corporations, Law & Democracy (POCLAD)

PO Box 246
S Yarmouth, MA 02664
603-473-8637
poclad.org

Women's International League for Peace and Freedom

1213 Race St.
Philadelphia, PA 19107
215-563-7111
www.wilpf.org

Community Environmental Legal Defense Fund

2244 Lindsay Lot Rd
Shippensburg, PA 17257
717-530-0931
celdf.org

...and an incredible research resource:

Public Information Network

PO Box 95316
Seattle WA 98145
(206) 723-4276
endgame.org

Today, corporations wield immense power over our government, public lands, even our schools. But this was not the intent of our country's founders.

In 1776 we declared our independence not only from British rule, but also from the corporations of England that controlled trade and extracted wealth from the U.S. (and other) colonies. Thus, in the early days of our country, we only allowed corporations to be chartered (licensed to operate) to serve explicitly as a tool to gather investment and disperse financial liability in order to provide *public* goods, such as construction of roads, bridges or canals.

After fighting a revolution for freedom from colonialism, our country's founders retained a healthy fear of the similar threats posed by corporate power and wisely limited corporations exclusively to a business role. These state laws, many of which remain on the books today, imposed conditions such as these:

- A charter was granted for a limited time.
- Corporations were explicitly chartered for the purpose of serving the public interest--profit for shareholders was the means to that end.
- Corporations could engage only in activities necessary to fulfill their chartered purpose.
- Corporations could be terminated if they exceeded their authority or if they caused public harm.
- Owners and managers were responsible for criminal acts they committed on the job.
- Corporations could not make any political contributions, nor spend money to influence legislation.
- A corporation could not purchase or own stock in other corporations, nor own any property other than that necessary to fulfill its chartered purpose.

For 100 years after the American Revolution, citizens and legislators tightly controlled the corporate chartering process. Having thrown off English rule, the revolutionaries made certain that legislators issued charters one at a time and for a limited number of years and authority was wielded through laws like those summarized here in each state.

Because of widespread public opposition, early legislators granted very few corporate charters, and only after debate. Citizens governed corporations by detailing operating conditions not just in charters but also in state constitutions and state laws. Incorporated businesses were prohibited from taking any action that legislators did not *specifically allow*.

States limited corporate charters to a set number of years. Unless a legislature renewed an expiring charter, the corporation was dissolved and its assets were divided among shareholders. Citizen authority clauses limited capitalization, debts, land holdings, and sometimes, even profits. They required a company's accounting books to be turned over to a legislature upon request. The power of large shareholders was limited by scaled voting, so that large and small investors had equal voting rights. Interlocking directorates were outlawed. Shareholders had the right to remove directors at will.

In Europe, charters protected directors and stockholders from liability for debts and harms caused by their corporations. American legislators rejected this corporate shield. The penalty for abuse or misuse of the charter was not a plea bargain and a fine, but dissolution of the corporation.

In 1819 the U.S. Supreme Court tried to strip states of this sovereign right by overruling a lower court's decision that allowed New Hampshire to revoke a charter granted to Dartmouth College by King George III. The Court claimed that since the charter contained no revocation clause, it could not be withdrawn. The Supreme Court's attack on state sovereignty outraged citizens. Laws were written or re-written and new state constitutional amendments passed to circumvent the *Dartmouth* ruling. Over several decades starting in 1844, nineteen states amended their constitutions to

make corporate charters subject to alteration or revocation by their legislatures. As late as 1855 it seemed that the Supreme Court had gotten the people's message when in *Dodge v. Woolsey* it reaffirmed state's powers over "artificial bodies."

But the men running corporations pressed on. Contests over charter were battles to control labor, resources, community rights, and political sovereignty. More and more frequently, corporations were abusing their charters to become conglomerates and trusts. They converted the nation's resources and treasures into private fortunes, creating factory systems and company towns. Political power began flowing to absentee owners, rather than community-rooted enterprises.

The industrial age forced a nation of farmers to become wage earners, and they became fearful of unemployment--a new fear that corporations quickly learned to exploit. Company towns arose, and blacklists of labor organizers and workers who spoke up for their rights became common.

When workers began to organize, industrialists and bankers hired private armies to keep them in line. They bought newspapers to paint businessmen as heroes and shape public opinion. Corporations bought state legislators, then announced legislators were corrupt and said that they used too much of the public's resources to scrutinize every charter application and corporate operation.

Government spending during the Civil War brought these corporations fantastic wealth. Corporate executives paid "borers" to infest Congress and state capitals, bribing elected and appointed officials alike. They pried loose an avalanche of government financial largesse. During this time, legislators were persuaded to give corporations limited liability, decreased citizen authority over them, and extended durations of charters.

Attempts were made to keep strong charter laws in place, but with the courts applying legal doctrines that made protection of corporations and

corporate property the center of constitutional law, citizen sovereignty was undermined. As corporations grew stronger, government and the courts became easier prey. They freely reinterpreted the U.S. Constitution and transformed common law doctrines.

One of the most severe blows to citizen authority arose out of the 1886 Supreme Court case of *Santa Clara County v. Southern Pacific Railroad*. Though the court *did not* make a ruling on the question of "corporate personhood," thanks to misleading notes of a clerk, the decision subsequently was used as precedent to hold that a corporation was a "natural person."

“ There can be no effective control of corporations while their political activity remains. To put an end to it will be neither a short nor an easy task, but it can be done.”
— President Theodore Roosevelt, 1910

From that point on, the 14th Amendment, enacted to protect rights of freed slaves, was used routinely to grant corporations Constitutional "personhood." Justices have since struck down hundreds of local, state and federal laws enacted to protect people from corporate harm based on this illegitimate premise. Armed with these "rights," corporations increased control over resources, jobs, commerce, politicians, even judges and the law.

” Over the next half century, as a United States

Congressional committee concluded in 1941, "The principal instrument of the concentration of economic power and wealth has been the corporate charter with unlimited power..."

Many U.S.-based corporations are now transnational, but the corrupted charter remains the legal basis for their existence. By rewriting the laws governing corporations in such fundamental ways as the following, we citizens can reassert the convictions of those who struggled successfully to free us from corporate rule in the past:

- * The corporation is an artificial creation and must not enjoy the protections of the Bill of Rights
- * No corporation should exist forever
- * Corporate owners and officers must be liable for any harms they may cause

See our website for more in-depth accounts of this "Hidden History" and ideas for creating change.



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Resources

For more detailed reading we suggest:

[Unequal Protection](#) by Thom Hartmann

[When Corporations Rule the World](#), (2001 edition) by David Korten

[Taming the Giant Corporation](#) by Nader, Seligman & Green (out of print--contact us)

[The Transformation of American Law 1780-1860](#) by Morton Horwitz

[The Divine Right of Capital](#) by Marjorie Kelly

[Santa Clara Blues](#) by Bill Meyers (free on our website)

[Taking Care of Business](#) by R. Grossman and F. Adams (free on request to our donors)

Please contact ReclaimDemocracy.org for more on turning these ideas into action. We are a (501c3) non-profit organization working to revoke illegitimate corporate power and revive grassroots democracy. Contributions are tax-deductible.

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Thanks to POCLAD for their groundbreaking research.