

1. **The United States Isn't a Country - It's a Corporation!**
2. **The "Conspiracy Theory" of the Fourteenth Amendment**

-ooOOOoo-

The United States Isn't a Country - It's a Corporation! -

by Lisa Guliani

"We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."

— Preamble of the original "organic" Constitution

"We hold these truths to be self-evident. That all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness."

— Excerpted from the Declaration of Independence of the original thirteen united states of America, July 4, 1776

Fourth of July 2002 has come and gone, and Americans honored the holiday with a renewed patriotic fervor that reminded me of the Bicentennial celebrations of 1976. As is customary, traditional fireworks displays took center stage and scores of people turned out to witness the dazzling show in the summer sky. With mixed feelings, I sat with friends on a crowded Pennsylvania sidewalk beneath a glittering, mesmerizing explosion of color, pondering the keen sense of sadness and betrayal that overwhelmed my spirit. Looking around at the huge crowds gathered for the annual events, I thought silently, "We are not free." In truth, we have not been a free people for a very long time.

We celebrate this day in honor of our "independence". We call ourselves a free people in a land of liberty. Our anthems proudly sing the praises of this nation, and we raise our

voices, wave our flags and join in song — but how many Americans realize they are not free?

This is a myth perpetuated by the powers-that-be in order to avoid any major civil unrest, and to keep us all living under the thumb of a militaristic corporate Big Brother within the illusions that have been created for us. The truth of the matter is this: what freedom has not been stolen from us, we have surrendered willingly through our silence and ignorance. As Americans, most of us have no idea how our freedoms are maintained — or lost. Apparently, our ancestors didn't have a good grasp of this either. It is sad, but it is also very true.

Don't point to that beloved parchment, the Constitution, as a symbol of your enduring freedom. It is representative of a form of government which seemingly no longer exists in this country today. The Constitution has been thrown out the window, the Republic shoved aside and replaced with a democracy. The thing is; most people in this country remain unaware that this is so because they simply do not know the truth — what lies beyond the myths. Your so-called government is not going to tell you, either.

To even begin to understand what has happened to the Republic, we must look backward in time to the period following the Civil War. We must go back to the year 1871, which was the beginning of the decline of the Republic. When we examine what happened during that time in our history, we begin to piece together this troubling, perplexing puzzle that is "America" — only then should we answer as to whether we are indeed a "free" people or not.

So, let's roll backward into the past for a moment. It is time we learned what they didn't teach us in school. It is far more interesting than what they DID tell us. I think you'll stay awake for this lesson.

The date is February 21, 1871 and the Forty-First Congress is in session. I refer you to the "Acts of the Forty-First Congress," Section 34, Session III, chapters 61 and 62. On this date in the history of our nation, Congress passed an Act titled: "An Act To Provide A Government for the District of Columbia." This is also known as the "Act of 1871." What does this mean? Well, it means that Congress, under no constitutional authority to do so, created a separate form of government for the District of Columbia, which is a ten mile square parcel of land.

What??? How could they do that? Moreover, WHY would they do that? To explain, let's look at the circumstances of those days. The Act of 1871 was passed at a vulnerable time in America. Our nation was essentially bankrupt — weakened and financially depleted in the aftermath of the Civil War. The Civil War itself was nothing more than a calculated "front" for some pretty fancy footwork by corporate backroom players. It was a strategic maneuver by European interests (the international bankers) who were intent upon gaining a stranglehold on the neck (and the coffers) of America.

The Congress realized our country was in dire financial straits, so they cut a deal with

the international bankers — (in those days, the Rothschilds of London were dipping their fingers into everyone's pie) thereby incurring a DEBT to said bankers. If we think about banks, we know they do not just lend us money out of the goodness of their hearts. A bank will not do anything for you unless it is entirely in their best interest to do so. There has to be some sort of collateral or some string attached which puts you and me (the borrower) into a subservient position. This was true back in 1871 as well. The conniving international bankers were not about to lend our floundering nation any money without some serious stipulations. So, they devised a brilliant way of getting their foot in the door of the United States (a prize they had coveted for some time, but had been unable to grasp thanks to our Founding Fathers, who despised them and held them in check), and thus, the Act of 1871 was passed.

In essence, this Act formed the corporation known as THE UNITED STATES. Note the capitalization, because it is important. This corporation, owned by foreign interests, moved right in and shoved the original "organic" version of the Constitution into a dusty corner. With the "Act of 1871," our Constitution was defaced in the sense that the title was block-capitalized and the word "for" was changed to the word "of" in the title. The original Constitution drafted by the Founding Fathers, was written in this manner:

"The Constitution for the united states of America".

The altered version reads: "THE CONSTITUTION **OF** THE UNITED STATES OF AMERICA". **[Emphasis supplied]** It is the corporate constitution. It is NOT the same document you might think it is. The corporate constitution operates in an economic capacity and has been used to fool the People into thinking it is the same parchment that governs the Republic. It absolutely is not.

Capitalization — an insignificant change? Not when one is referring to the context of a legal document, it isn't. Such minor alterations have had major impacts on each subsequent generation born in this country. What the Congress did with the passage of the Act of 1871 was create an entirely new document, a constitution for the government of the District of Columbia. The kind of government THEY created was a corporation. The new, altered Constitution serves as the constitution of the corporation, and not that of America. Think about that for a moment.

Incidentally, this corporate constitution does not benefit the Republic. It serves only to benefit the corporation. It does nothing good for you or me — and it operates outside of the original Constitution. Instead of absolute rights guaranteed under the "organic" Constitution, we now have "relative" rights or privileges. One example of this is the Sovereign's right to travel, which has been transformed under corporate government policy into a "privilege" which we must be licensed to engage in. This operates outside of the original Constitution.

So, Congress committed TREASON against the People, who were considered Sovereign

under the Declaration of Independence and the organic Constitution. When we consider the word "Sovereign," we must think about what the word means.

According to Webster's Dictionary, "sovereign" is defined as: 1. chief or highest; supreme. 2. Supreme in power, superior in position to all others. 3. Independent of, and unlimited by, any other, possessing or entitled to, original and independent authority or jurisdiction.

In other words, our government was created by and for "sovereigns" — the free citizens who were deemed the highest authority. Only the People can be sovereign — remember that. Government cannot be sovereign. We can also look to the Declaration of Independence, where we read: "government is subject to the consent of the governed" — that's supposed to be us, the sovereigns. Do you feel like a sovereign nowadays? I don't.

It doesn't take a rocket scientist or a constitutional historian to figure out that this is not what is happening in our country today. Government in these times is NOT subject to the consent of the governed. Rather, the governed are subject to the whim and greed of the corporation, which has stretched its tentacles beyond the ten-mile-square parcel of land known as the District of Columbia — encroaching into every state of the Republic. Mind you, the corporation has NO jurisdiction outside of the District of Columbia. THEY just want you to think it does.

You see, you are presumed to know the law. This is ironic because as a people, we are taught basically nothing about the law in school. We are made to memorize obscure factoids and paragraphs here and there, such as the Preamble, and they gloss over the Bill of Rights. But we are not told about the law. Nor do our corporate government schools delve into the Constitution in any great depth. After all, they were put into place to indoctrinate and dumb down the masses — not to teach us anything. We were not told that we were sold-out to foreign interests and made beneficiaries of the debt incurred by Congress to the international bankers. For generations, American citizens have had the bulk of their earnings confiscated to pay on a massive debt that they, as a People, did not incur. There are many, many things the People have not been told. How do you feel about being made a beneficiary of somebody else's massive debt without your knowledge or consent? Are we gonna keep going along with this??

When you hear some individuals say that the Constitution is null and void, think about how our government has transformed over time from a municipal or service-oriented entity to a corporate or profit-oriented entity. We are living under the myth that this is lawful, but it is not. We are being ruled by a "de facto," or unlawful, form of government — the corporate body of the death-mongers — The Controllers.

With the passage of the Act of 1871, a series of subtle and overt deceptions were set in motion — all in conjunction and collusion with the Congress, who knowingly and deliberately

sold the People down the river. Did they tell you this in government school? I doubt it. They were too busy drumming the fictional version of history into your brain — and mine. By failing to disclose what THEY did to the American People, the people became ignorant of what was happening. Over time, the Republic took it on the chin to the point of a knockdown. With the surrender of their gold in 1933, the People essentially surrendered their law. I don't suppose you were taught THAT in school either. That's because our REAL history is hidden from us. This is the way Roman Civil Law works — and our form of governance today is based upon Roman Civil Law and Admiralty/Maritime Law — better known as the "Divine Right of Kings" and "Law of the Seas", respectively. This explains a lot. Roman Civil Law was fully established in the original colonies even before our nation began and is also known as private international law.

The government which was created for the District of Columbia via the Act of 1871 operates under Private International Law, and not Common Law, which was the law of the Constitutional Republic. This is very important to note since it impacts all Americans in concrete ways. You must recognize that private international law is only applicable within the District of Columbia and NOT in the other states of the Union. The various arms of the corporation are known as "departments" such as the Judiciary, Justice and Treasury. You recognize those names? Yes, you do! But they are not what you assume them to be. These "departments" all belong to the corporation known as THE UNITED STATES. They do NOT belong to you and me under the corporate constitution and its various amendments that operate outside of the Constitutional Republic.

I refer you to the UNITED STATES CODE (note the capitalization, indicating the corporation, not the Republic) Title 28 3002 (15) (A) (B) (C). It is stated unequivocally that the UNITED STATES is a corporation. Realize, too, that the corporation is not a separate and distinct entity from the government. It IS the government. YOUR government. This is extremely important. I refer to this as the "corporate empire of the UNITED STATES," which operates under Roman Civil Law outside of the Constitution. How do you like being ruled by a cheesy, sleazy corporation? You'll ask your Congressperson about this, you say? HA!!

Congress is fully aware of this deception. You must be made aware that the members of Congress do NOT work for you and me. Rather, they work for the Corporation known as THE UNITED STATES. Is this really any surprise to you? This is why we can't get them to do anything on our behalf or to answer to us — as in the case with the illegal income tax — among many other things. Contrary to popular belief, they are NOT our civil servants. They do NOT work for us. They are the servants of the corporate government and carry out its bidding. Period.

The great number of committees and sub-committees that the Congress has created all work together like a multi-headed monster to oversee the various corporate "departments." And, you should know that every single one of these that operates outside the District of Columbia is in violation of the law. The corporate government of the UNITED STATES has no

jurisdiction or authority in ANY state of the Republic beyond the District of Columbia. Let this sink into your brain for a minute. Ask yourself, "Could this deception REALLY have occurred without the full knowledge and complicity of the Congress?" Do you think it happened by accident? You are deceiving yourself if you do. There are no accidents or coincidences. It is time to confront the truth and awaken from ignorance.

Your legislators will not apprise you of this information. You are presumed to know the law. THEY know you don't know the law, or your history for that matter, because this information has not been taught to you. No concerted effort has been made to inform you. As a Sovereign, you are entitled to full disclosure of the facts. As a slave, you are entitled to nothing other than what the corporation decides to "give" you — at a price. Be wary of accepting so-called "benefits" of the corporation of the UNITED STATES. Aren't you enslaved enough already?

I said (above) that you are presumed to know the law. Still, it matters not if you don't in the eyes of the corporation. Ignorance of the law is not considered an excuse. It is your responsibility and your obligation as an American to learn about the law and how it applies to you. THEY count on the fact that most people are too uninterested or distracted or lazy to do so. The People have been mentally conditioned to allow the alleged government to do their thinking for them. We need to turn that around if we are to save our Republic before it is too late.

The UNITED STATES government is basically a corporate instrument of the international bankers. This means YOU are owned by the corporation from birth to death. The corporate UNITED STATES also holds ownership of all your assets, your property, and even your children. Does this sound untrue? Think long and hard about all those bills you pay, all those various taxes and fines and licenses you must pay for. Yes, they've got you by the pockets. Actually, they've had you by the ass for as long as you've been alive. In your heart, you know it's true. Don't believe any of this? Read up on the 14th Amendment. Check out how "free" you really are.

With the Act of 1871 and subsequent legislation such as the purportedly ratified 14th Amendment, our once-great nation of Sovereigns has been subverted from a Republic to a democracy. As is the case under Roman Civil Law, our ignorance of the facts has led to our silence. Our silence has been construed as our consent to become beneficiaries of a debt we did not incur. The Sovereign People have been deceived for hundreds of years into thinking they remain free and independent, when in actuality we continue to be slaves and servants of the corporation.

Treason was committed against the People in 1871 by the Congress. This could have been corrected through the decades by some honest men (assuming there were some), but it was not, mainly due to lust for money and power. Nothing new there. Are we to forgive and justify this crime against the People? You have lost more freedom than you may realize due

to corporate infiltration of the so-called government. We will lose more unless we turn away from a democracy that is the direct road to disaster — and restore our Constitutional Republic.

In an upcoming article, we'll take a closer look at the purportedly ratified 14th Amendment and how we became "property" of the corporation and enslaved by our silence.

I am saddened to think about the brave men and women who were killed in all the wars and conflicts instigated by the Controllers. These courageous souls fought for the preservation of ideals they believed to be true — not for the likes of a corporation. Do you believe that any one of the individuals who have been killed as a result of war would have willingly fought if they knew the full truth? Do you think one person would have laid down his life for a corporation? I think not. If the People had known long ago to what extent their trust had been betrayed, I wonder how long it would have taken for another Revolution. What we need is a Revolution in THOUGHT. We change our thinking and we change our world.

Will we ever restore the Republic? That is a question I cannot answer yet. I hope, and most of all — pray — that WE, the Sovereign People, will work together in a spirit of cooperation to make it happen in this lifetime. I know I will give it my best shot — come what may. Our children deserve their rightful legacy — the liberty our ancestors fought so hard to give to us. Will we remain silent telling ourselves we are free, and perpetuate the MYTH? Or, do we stand as One Sovereign People, and take back what has been stolen from the house of our Republic?

Something to think about — it's called freedom.

My heartfelt thanks goes out to the following people for their gracious and generous assistance in researching this subject: Ken S. of American Revolution II Online News, Paul Walker of RMN News, Bob Taft, Stanooch, and Willy Whitten — true Patriots, one and all.

Further reading:

* US CODE: Title 28,3002. Definitions

(15) "United States" means

- (A) a Federal corporation;
- (B) an agency, department, commission, board, or other entity of the United States;
- (C) an instrumentality of the United States.

* Thomas J. DiLorenzo: [Truth About the 14th Amendment](#)

http://www.serendipity.li/jsmill/us_corporation.htm

-ooOOoo-

The United States of America is a corporation endowed with the capacity to sue and be sued, to convey and receive property. 1 Marsh. Dec. 177, 181. But it is proper to observe that no suit can be brought against the United States without authority of law.”

Bouvier’s Law Dictionary, 5th definition of “United States”

“In clause (4), the words ‘United States’ are substituted for the words ‘Federal Government’.”
10 U.S.C.S., '2231(4), History: Ancillary Laws and Directives, p. 19

UNITED STATES CODE, TITLE 28, PART VI, CHAPTER 176, Judicial and Judiciary Procedure, SUB CHAPTER A, Sec. 3002. Definitions (15), p. 564, "United States" means -

- (A) a Federal corporation;
- (B) an agency, department, commission, board, or other entity of the United States; or
- (C) an instrumentality of the United States

"The government of the United States is a foreign corporation with respect to a state."
In re Merriam, 36 N. E. 505, 141 N. Y. 479, affirmed 16 S. Ct. 1073, 163 U. S. 625, 41 L.Ed. 287.

CALIFORNIA COMMERCIAL CODE

SECTION 9301- 9342

9307. (h) The United States is located in the District of Columbia.

"Upon the other hand, the corporation is a creature of the state. It is presumed to be incorporated for the benefit of the public”.

Hale v. Henkel, 201 US 43, 74-75.

“The United States as drawee of commercial paper stands in no different light than any other drawee. As stated in *United States v. National Exchange Bank*, 270 U.S. 527, 534, 46 S.Ct. 388, 389, 'The United States does business on business terms.' It is not excepted from the general rules governing the rights and duties of drawees 'by the largeness of its dealings and its having to employ agents to do what if done by a principal in person would leave no room for doubt.'"Id., 270 U.S. at page 535, 46 S.Ct. at page 389.

Clearfield Trust Co. v. United States, 318 U.S. 363 (1943)

“It is, we think, a sound principle, that when a government becomes a partner in any trading company, it divests itself, so far as concerns the transactions of that company, of it’s sovereign character, and takes that of a private citizen. Instead of communication to the company its

privileges and prerogatives, it descends to the level with those with whom it associates itself, and takes the character of which belongs to its associates, and to the business which is to be transacted”.

Bank of the U.S. v. The Planters’ Bank of Georgia, 22 U.S. 904, 9 Wheat 904, 6 L.Ed. 244 (1827)

Where the Fed. Gov. is a party to commercial paper, it is bound by same rules which govern private persons.

Continental American Bank v. U.S., C.C.A. La. (1947) 161 F.2d 93.

The government assumes all responsibilities of private persons when it issues commercial paper.

U.S. v. First National Bank, 138 F.2d 681.

“...the states are separate sovereigns with respect to the federal government”.

Heath v. Alabama, 474 U.S. 187

PURCHASES FROM UNITED STATES — The use of property purchased by a consumer from the United States, or any agency or instrumentality thereof, is exempt from use tax except when property has been declared “surplus property” pursuant to the Surplus Property Act of 1944.

REVENUE: N/A, SECTION: 6402

CALIFORNIA STATE BOARD OF EQUALIZATION

Sales and Use Taxes: Exemptions and Exclusions

California Revenue and Taxation Code Part 1, Division 2

May 2005

Publication No. 61 • LDA

SECTION A SALES AND USE TAX EXEMPTIONS AND EXCLUSIONS, p. 21

UNITED STATES — Sales and leases to the United States or its incorporated agencies and instrumentalities, any incorporated agency or instrumentality wholly owned by the United States or by a corporation wholly owned by the United States, and sales to the American National Red Cross are exempt from sales tax. (SECTION 6381)

REVENUE: N/A, SECTION: 6402

CALIFORNIA STATE BOARD OF EQUALIZATION

Sales and Use Taxes: Exemptions and Exclusions

California Revenue and Taxation Code Part 1, Division 2

May 2005, Publication No. 61 • LDA

SECTION A SALES AND USE TAX EXEMPTIONS AND EXCLUSIONS

p. 40

The privileges and immunities clause of the Fourteenth Amendment protects very few rights because it neither incorporates any of the Bill of Rights nor protects all rights of individual citizens. See ***Slaughter-House Cases***, 83 U.S. (16 Wall.) 36, 21 L.Ed. 394 (1873). Instead, this

provision protects only those rights peculiar to being a citizen of the federal government; it does not protect those rights which relate to state citizenship.

Jones v. Temmer, 829 Fed. Supp. 1226 (1993)

"A citizen of the United States is a citizen of the federal government ..."

Kitchens v. Steele, 112 F.Supp 383

Status of citizenship of United States is a privilege, and Congress is free to attach any preconditions to its attainment that it deems fit and proper.

In re Thanner, D.C.Colo.1966, 253 F.Supp. 283. See, also, **Boyd v. Nebraska**, Neb.1892, 12

S.Ct. 375, 143 U.S. 162, 36 L.Ed. 103; **Application of Bernasconi**, D.C.Cal.1953, 113 F.Supp. 71;

In re Martinez, D.C.Pa.1947, 73 F.Supp. 101; **U.S. v. Morelli**, D.C.Cal.1943, 55 F.Supp. 181; **In re**

De Mayo, D.C.Mo.1938, 26 F.Supp. 696; **State v. Boyd**, 1892, 51 N.W. 602, 31 Neb. 682.

-ooOOoo-

The "Conspiracy Theory" of the Fourteenth Amendment

GRAHAM, The "Conspiracy Theory" of the Fourteenth Amendment, 47 Yale L. J. 371 - 375

(1938): In an argument before the Supreme court of the United States in 1882(1) Roscoe Conkling, a former member of the Joint Congressional Committee which in 1866 drafted the Fourteenth Amendment, produced for the first time the manuscript journal of the Committee, and by means of extensive quotations and pointed comment conveyed the impression that he and his colleagues in drafting the due process and equal protection clauses intentionally used the word 'person' in order to include corporations. 'At the time the Fourteenth Amendment was ratified' he declared, 'individuals and joint stock companies were appealing for congressional and administrative protection against individous and discriminating State and local taxes. One instance was that of an express company, whose stock was owned largely by citizens of the State of New York...' The unmistakable inference was that the Joint Committee had taken cognisance of these appeals and had drafted it's text with particular regard for corporations.

"Coming from a man who had twice declined a seat on the Supreme Bench, who spoke from first had knowledge, and who submitted a manuscript record in support of his stand, so dramatic an argument could not fail to make a profound impression. Within the next few years the Supreme Court began broadening it's interpretation of the Fourteenth Amendment, and early in 1886 it unanimously affirmed Conkling's proposition, namely that corporations were "persons" within the meaning of the equal protection clause(3). It is literally true therefore that Roscoe Conkling's argument sounded the death knell of the narrow 'Negro-race theory' of the Fourteenth Amendment expounded by Justice Miller in the Slaughterhouse cases. By doing this it cleared the way for the modern development of due process of law and the corresponding expansion of the Court's discretionary powers over social and economic legislation. Viewed in perspective, the argument is one of the landmarks in American

constitutional history, an important turning point in our social and economic development.

“Conkling’s argument has figured prominently in historical writing since 1914 when B. B. Kendrick unearthed and edited the manuscript copy of the Journal which Conkling used in court. Checking the record in light of his major propositions, historians became convinced of the fundamental truth of Conkling’s story. Repeatedly, it appeared from the Journal, the Joint Committee had distinguished in it’s drafts in the use of the words ‘person’ and ‘citizen’. Under no circumstances could the terms have been confused. Moreover, as the Committee had persistently used the term ‘person’ in those clauses which applied to property rights and the term ‘citizen’ in those clauses which applied to political rights, the force of this distinction seemed plain: corporations as artificial persons, had indeed been among the intended beneficiaries of the Fourteenth Amendment. Convinced on this point, historians developed an interesting theory: the drafting of the Fourteenth Amendment has assumed something of the character of a conspiracy, with the due process and equal protection clauses inserted as double entendres. Laboring ostensibly in the interests of the freedmen and of the ‘loyal white citizens of the South’, the astute Republican lawyers who made up the majority of the Committee had intentionally used language which gave corporations and business interests generally increased protection against State legislatures.

“What appeared to be corroboration for this viewpoint was presently found in the speeches of Representative John A. Bingham, the Ohio Congressman and railroad lawyer who almost alone of the members of the Joint Committee and been responsible for the phraseology of Section One. Bingham, it appeared both from the Journal and the debates on the floor of House, had at all times shown a zealous determination to secure to ‘all persons’ everywhere ‘equal protection in the rights of property’. Moreover, he had developed and defended it’s phraseology in most vigorous fashion. As no other member of the Joint Committee, or of Congress, gave evidence of a similar desire to protect property rights, and none manifested his partiality for the due process clause, it seemed logical to conclude that Bingham’s purpose had in fact been far more subtle and comprehensive than was ever appreciated at the time. Bingham had been the mastermind who ‘put over’ this draft upon an unsuspecting country. The fact that he had tried and failed to secure the inclusion of a ‘just compensation’ clause in Section One as still another restraint upon State’s powers over property, and the fact that in 1871, five years after the event, he declared he had framed the section ‘letter for letter and syllable for syllable’ merely served to strengthen these suspicions.

"Impressed by this cumulative evidence, and alive to its historical implications, Charles A. and Mary R. Beard, in 1927, developed in their *Rise of American Civilization* what is still, a decade later the most precise statement of the conspiracy theory. Undocumented, and with conclusions implicit rather than explicit, the Beards’ thesis was this: Bingham, ‘a shrewd ..and successful railroad lawyer,...familiar with the possibilities of jurisprudence’, had had much broader purposes than his colleagues. Whereas they were ‘bent on establishing the rights of Negroes’, he was ‘determined to take in the whole range of national economy’. Toward this end he had drafted the due process and equal protection clauses and forced them upon the

Committee by persistent efforts. Quoting Bingham's speeches and Conkling's argument in support of the view that corporations had been among the intended beneficiaries of the draft, the authors concluded: " 'In this spirit, Republican lawmakers restored to the Constitution protection for property which Jacksonian judges had whittled away and made it more sweeping in its scope by forbidding states, in blanket terms, to deprive any person of life, liberty, or property without due process of law. By a few words skillfully chosen every act of every state and local government which touched adversely the rights of persons and property was made subject to review and liable to annulment by the Supreme Court at Washington'.

"Thus, while the Beards nowhere expressly state that Bingham was guilty of a form of conspiracy, this is none the less a fair inference from their account, and it is one which has been repeatedly drawn. Numerous writers, accepting the Beards' account and popularizing it, have supplied more explicit interpretations. Thus E. S. Bates, in his *Story of Congress*, declares that Bingham and Conkling in inserting the due process phraseology, 'smuggled' into the Fourteenth Amendment 'a capitalist joker'.

"Despite widespread acceptance and a prestige which derives from the Beards' sponsorship, the conspiracy theory has not gone unchallenged. Numerous writers have expressed varying degrees of disapproval and skepticism. Constitutional historians in particular appear reluctant to accept its implications, although they, no more than the sponsoring school of social historians, have as yet presented their case in documented detail. One thus observes the curious paradox of a theory which cuts across the whole realm of American constitutional and economic history and which is itself a subject for increasing speculation and controversy, yet which has developed piecemeal, without systematic formulation or criticism".

For further comment on the "conspiracy theory", see Corwin, *Liberty Against Government* (1948), Appendix II.

NOTE

Not until comparatively recent years did any Justice of the Court question the holdings of the 1886 and 1889 that corporations may claim the benefit of the equal prosecution clause (*Santa Clara County v. Southern Pacific R. R. Co.*, 118 U.S. 394) and the due process clause (*Minneapolis & St. Louis R. R. Co v. Beckwith*, 129 U.S. 26) of the Fourteenth Amendment. In 1938, Mr Justice Black, dissenting in *Connecticut General Life Insurance Co. v. Johnson*, 303 U.S. 77, 85-90, stated he did not believe, "the word 'person' in the Fourteenth Amendment includes corporations". He urged, therefore, that the Court "should now overrule previous decisions which interpreted the Fourteenth Amendment to include corporations". Mr Justice Douglas, with Black, J., concurring, developed the same thesis in his dissent in *Wheeling Steel Corp. v. Glander*, 337 U.S. 562, 576 (1949). Mr Justice Jackson commented on these dissenting opinions in a special opinion in the *Glander* case. *Id.* At 574 - 576. See also Freund, *On Understanding the Supreme Court*, 30 - 34 (1949); Mendelson, *Mr Justice Black and the Rule of Law*, 4 *Midwest J. of Pol Sci.* 250, 251 (1960)

1. See *San Mateo County v. Southern Pacific R. R.*, 116 U.S. 138...
2. See Waite, J., in *Santa Clara County v. Southern Pacific R. R.*, 118 U.S. 394, 396 (1886). This case involved the same questions as the *San Mateo* case argued three years before

-ooOOOoo-

There can be no sanction or penalty imposed upon one because of the exercise of a constitutional right".

Sherar v. Cullen, 481 F. 945

"[T]he Legislature, either by amending (section 1382) or otherwise, may not nullify a constitutional provision."

Rost v. Municipal Court of Southern Judicial Dist., County of San Mateo (1960) 85 A.L.R.2d 974, 979 Headnote 5.

California Government Code

§4. No action or proceeding commenced before this code takes effect, and no right accrued, is affected by this code, but all procedure thereafter taken therein shall conform to the provisions of this code so far as possible.

§54950 DECLARATION OF LEGISLATIVE PURPOSE. "In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created".

"**The people** of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative. Through the medium of their Legislature they may exercise all the powers which previous to the Revolution could have been exercised either by the King alone, or by him in conjunction with his Parliament; subject only to those restrictions which have been imposed by the Constitution of this State or of the U.S."

Lansing v. Smith, 21 D. 89., 4 Wendel 9 (1829) (New York)

"D." = Decennial Digest

Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am.Dec. 89

10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228;
37 C Nav.Wat. Sec. 219; Nuls Sec. 1`67; 48 C Wharves Sec. 3, 7.
NOTE: Am.Dec.=American Decision, Wend. = Wendell (N.Y.)

CONSTITUTION FOR THE STATE OF CALIFORNIA 1849

To the People of California

The undersigned, Delegates to a Convention authorized to form a Constitution for the State of California, having to the best of their ability, discharged the high trust committed to them, respectfully submit the accompanying plan of Government for your approval.

Acknowledging the great fundamental principles, that all political power is inherent in the people, and that Government is instituted for the protection, security and benefit of the people, the Constitution presented for your consideration, is intended only to give such organic powers to the several departments of the proposed government as shall be necessary for its efficient administration: and while it is believed no power has been given, which is not thus essentially necessary, the Convention deem individual rights as well as public liberties are amply secured, by the People still retaining not only the great conservative power of free choice and election of all officers, agents and representatives, but the unalienable right to alter or reform their governments whenever the public good may require.

A free people, in the enjoyment of an elective government, capable of securing their civil, religious and political rights, may rest assured these inestimable privileges can never be wrested from them, so long as they keep a watchful eye on the operations of their government, and hold to strict accountability, those to whom power is delegated.

But it is confidently believed, when the government as now proposed, shall have gone into successful operation, when each department thereof shall move on harmoniously, in its appropriate and respective sphere; when laws based on the [35] eternal principles of equity and justice, shall be established; when every citizen of California, shall find himself secure in life, liberty and property...

The putting into operation of a Government, which shall establish justice, ensure domestic tranquility, promote the general welfare and secure the blessings of civil, religious and political liberty, shall be an object of the deepest solitude to every true hearted citizen, and the consummation of his dearest wishes. The price of liberty is eternal vigilance, and thus it is not only the privilege but the duty of every voter, to vote his sentiments. No freeman of this land who values his birth-right and would transmit unimpaired to his children, an inheritance so rich in glory and in honor, will refuse to give one day to the service of his country.

...a constitution intended to secure the peace, happiness and prosperity of the whole people, but that their numerical and political strength may be made manifest, and the world see, by

what majority of freemen, California the bright star of the west, claims a place in the diadem of that glorious Republic, formed by the union of thirty one sovereign states”.

"It has come to be well recognized that the liberty and the pursuit of happiness in which the individual is protected by the constitution of the United States and of the state applies as fully to his right to contract, his right to follow a legitimate vocation, untrammelled by unnecessary regulations, as it does to the freedom from arrest or restraint of his person. This subject has received recent consideration by this court, and it is unnecessary to do more than refer to *Ex parte Dickey*, 144 Cal. 234, [103 Am. St Rep. 82, 77 Pac. 924.]"

Ex parte Hayden (1905) 147 Cal. 649, 650.

“An officer who acts in violation of the Constitution ceases to represent the government”.

Brookfield Const. Co. v. Stewart, 284 F. Supp. 94.

"...an officer may be held liable in damages to any person injured in consequence of a breach of any of the duties connected with his office... The liability for nonfeasance, misfeasance, and for malfeasance in office is in his 'individual', not his official capacity..."

70 Am. Jur. 2nd Sec. 50, VII Civil Liability.