

Activating My Democracy

- MIDDLE SCHOOL -

LESSON
3

Rights & Privileges

Understanding the
balance of power

ultimate
CIVICS



Activating My Democracy

Civics lessons and resources for grades 6–8
Second Edition, 2017

Explores how to: (1) Move ideas into action; (2) Understand values and liberties (3) Rights, privileges, and the balance of power; (4) Trace the historic roots of the democracy crisis in current events; (5) Repair a democracy and protect our liberties; and (6) Use our rights to defend what we love.

Empowers: Youth by nurturing self-efficacy and teaching skills and strategies to take control of their destiny.

Engages: Youth as change agents to define their roles as global citizens during a critical time in human history.

Contributors

Our Children's Trust
Sunnyside Environmental School teachers (grades 6–8)
Young Voices on Climate Change

Special thanks:
for occasional gifts from those able to pay it forward
and the Jane Smith Turner Foundation

Riki Ott, PhD
Ultimate Civics, a project of Earth Island Institute

Rights & privileges

Understanding the balance of power

Rationale

Alexander Hamilton reflected upon the great democracy experiment in the Federalist Papers. He reasoned, "Why has government been instituted at all? Because the passions of men will not conform to the dictates of reason and justice, without constraint." (No. 15, 1787–88)

Our Founders were well aware of inherent weaknesses in human nature. They were also aware that two such weaknesses, fear of other and love of power, were built into the constitutional framework in the form of slavery – without every using the word.

The great democracy experiment rests on an unstable, undemocratic foundation. The Founders created a balance of power among the three branches of government to add stability to the whole – and keep human nature in check.

During the first 100 years, the time period covered in this lesson, the internal threat from fear of other manifested in predictable ways, as discrimination against race, gender, and class and in a civil war that nearly tore the nation apart. Love of power manifested in unexpected ways, as evidenced by writings of the times, through an early break in the balance of power. These internal threats persist in practice and continue to defy the underlying principles of our democratic ideal.

This lesson and the next offer a fresh perspective of American history through the lens of legal system. By examining key changes in the U.S. Constitution and Bill of Rights from inception to present, it becomes clear that these basic operating instructions have radically changed since ratification and, further, that many of these changes were made without the consent or knowledge of most Americans.

This lesson on Rights and Privileges focuses on the role of the judiciary branch in: (1) preserving discriminatory practices; and (2) establishing and empowering a legal fiction that currently wields power over the people.

**"What is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself."
~ James Madison, Federalist, No. 51, 1788**



Democracy is a work in progress. It lives in the minds and hearts of ordinary citizens, and it requires constant vigilance and work to make it function properly.

If we as a nation and people are to ever achieve the ideal as stated in the Preamble of our Constitution, we must teach our children the difference between the ideal and the real; the principles that underlie our goals and where we are in practice in this great democracy experiment. This way, we begin to understand what we can do to close the gap between the ideal and the real by strengthening our democracy against the ever-present internal threats to our liberties and nation.

Enduring Understanding for Civics Grades 6-8*

- Ability to describe the intended powers and limits of the three branches of government and public officials within the U.S. government. (D2.Civ.4.)
 - Describe the roles of political, civil, and economic organizations in shaping people's lives. (D2.Civ.6.)
 - Analyze ideas and principles contained in the founding documents of the United States, and explain how they influence the social and political system. (D2.Civ.8.)
 - Assess specific rules and laws as a means of addressing public problems. (D2.Civ.12.)
- *C3 Framework for Social Studies State Standards*
<http://www.socialstudies.org/system/files/c3/C3-Framework-for-Social-Studies.pdf>

Essential Questions

- What were the intended powers and limits of our three branches of government?
- What is the meaning of an "internal threat" to our government?
- What are three ways to change laws?

Learning Objectives

Students can:

- Describe three ways that have been used to change our laws.
- Understand and describe two types of internal threats to our democracy.
- Explain the concept of judicial review and how it shifted the balance of power.
- Explain how the concept of "person" under the Constitution has changed over time.
- Describe the struggle for human rights during our first 100 years and how it influenced the struggle for rights and privilege for artificial persons.

"This member of the Government was at first considered as the most harmless and helpless of all its organs. But it has proved that the power of declaring what the law is, ad libitum, by sapping and mining slyly and without alarm the foundations of the Constitution, can do what open force would not dare to attempt."

~ Thomas Jefferson to Edward Livingston, 1825

"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



Rights & privileges

Lesson 3

Students critically examine the conceptual framework of the Constitution and Bill of Rights and learn about internal threats institutionalized in these documents. Students are introduced to a third entity that existed at the time of founding – corporations; students explore the early government’s dilemma of how to interpret the Constitution and where to fit corporations into the legal framework. Students are introduced to the current democracy crisis through the concept of “judicial review” and its effect on the balance of power. Interactive exercises challenge students to reflect on the balance of rights, powers, and privilege.

Time

Approximately 50 minutes: interactive exercises supported by films and power point slides.

Materials

- Power point notes and slides
- One pocket copy of Declaration of Independence and U.S. Constitution per student
- One double-sided ½-sheet copy per student of Core Vocabulary on one side and WORKSHEET “People” – What did the Founders mean? on the other
- One ½-sheet copy per student of the Exit Ticket Rights & Privileges
- TIMELINE files
 - » One single-sided copy of the “poster HEADERS” file on white paper
 - » One double-sided copy of the “posters BLUE” file on ultra blue paper
 - » One double-sided copy of the “posters YELLOW” file, printed on sun yellow paper
 - » One double-sided copy of the “posters ORANGE” file on ultra orange paper
 - » If possible, 60 clear protective covers for POSTERS
 - » Arrange blue, yellow, and orange POSTERS in chronological order
 - » Insert header POSTERS as follows:
 - Founding documents: at beginning before 1789 POSTER
 - Balance of power shifts: before 1803 POSTER
 - Who is a “person”? before 1857 POSTER
 - Corporations gain human rights: before 1893 POSTER
 - Powers & privileges: before 1907 POSTER
 - Popular movements: before 1954 POSTER
 - What is “speech”? before 1976 POSTER
 - (Mostly) violations of civil liberties: before 2001 POSTER
- One (1) film
 - Three Branches of Government School House Rock* <https://www.youtube.com/watch?v=-EISWIY9bG8>
- Clothes pins or clips and a 60-foot long sturdy chord or wire to hang up POSTERS in a long single row or, if necessary, a double row, starting second row with “Popular Movements”



Preparation

- Review lesson materials, including power point notes and slides, films, teaching guides for exercises, and vocabulary
- Download and cue film for viewing
 - » Slide 5 – *Three Branches of Government*
- Arrange desks into working groups
- Hang POSTERS along a wall in the classroom
- On poster paper to side of white board, write:
 - » Essential questions
What were the intended powers and limits of our three branches of government?
What is the meaning of an “internal threat” to our government?
What are three ways to change laws?
 - » Vocabulary
Democracy corporation
Republic internal threat
sovereign standing

“But you must remember, my fellow citizens, that eternal vigilance by the people is the price of liberty, and that you must pay the price if you wish to secure the blessing. It behooves you, therefore, to be watchful in your States as well as in the Federal Government.”

~ Andrew Jackson, Farewell Address, March 4, 1837



Power Point Notes

Lesson 3

1. *Ultimate Civics!* COVER SLIDE

Today, we are going to examine our government – the concepts on which it was created and how it evolved over time.

Our essential questions are:

- What were the intended powers and limits of our three branches of government?
- What is the meaning of an “internal threat” to our government?
- What are three ways to change laws?

2. Definitions & forms of “democracy”

- What is the definition of a democracy?
Hint, if needed: From the Greek words “demos” or people and “kratia” or power
<CLICK>
<CLICK>
 - » the people rule
- There are two forms of democracy:
<CLICK>
 - » big “D” Democracy – rule by the majority
 - » Republic – representative government, in which citizens vote to elect people to represent their interests and concerns
 - » These are Core Vocabulary. So fill in definitions on your WORKSHEET.

Our Founders set up a Republic. Here’s why.

<CLICK>

- Say, 3 sheep and 1 alpaca are in a pasture. The sheep think the alpaca looks scary. The sheep vote to send the alpaca far away.
 - » In a Democracy, even though the alpaca voted against the measure, the majority rules, and the sheep can legally send the alpaca away.
<CLICK>
 - » In a true democracy, there is no legal power that protects the minority.

<CLICK>

- » In a Republic, the 3 sheep could never vote to send the alpaca away, because the alpaca has individual rights that must be respected.
<CLICK>
- » The alpaca gets to stay.

3. “People” – What did the Founders mean?

- What are the first three words of the Constitution? (We the People)

<CLICK>

- Who penned those words? What kinds of people wrote those words?
<CLICK>



- » White men with property and, in some states, of the “right” religion)
- » Who was left out? (American Indians, African American slaves, women, immigrants, white men without property)
- » What percentage of the population did they represent? (about 4 percent, counting children)

4. The ideal: We the People govern ourselves

Founders imagined a democratic Republic: “We the People” would govern ourselves. (“We the People” is in quotes to remind us that, at the time, the Founders meant only certain people.)

- “We the People” are “sovereign” – we are the rulers. We have unalienable rights. And we are free from government interference in our private spaces. (This is Core Vocabulary: Fill in your WORKSHEET.)
 - » What does “sovereign” mean? (People are the ultimate power, not government.)
 - » Which right gives people the ability to claim other natural rights not listed in the Constitution? (9th Amendment in Bill of Rights)
 - » Which right gives people the ability to claim freedom from unreasonable search and seizure in their personal private spaces? (4th Amendment)

<CLICK>

Founders imagined a government of, for, and by “the people.” They imagined a clear separation – a power line – between private citizens and the government, between Rulers and the ruled.

<CLICK>

- The government would be tasked with duties and held accountable.
 - » The government is accountable to whom? (We the People)
 - » Who assigns the duties? (We the People through elected representatives)
 - » Who holds the government accountable? (We the People if the elected officials fail)
 - » Government operates in the public space, where people come together to identify and address social problems.

The Founders knew that any government has the potential to get corrupted.

<CLICK>

Our government is like a wolf – it only acts as expected when people are observant, discuss issues, and work together to fix threats.

5. Framework: Constitution & Bill of Rights

The framework of our government is the U.S. Constitution and Bill of Rights. These are the supreme laws of our land.

Here’s how this is supposed to work.



SHOW FILM

- To review, what are the three branches and what do they do? Discuss first.
 - <CLICK>
 - » Legislative branch/ Congress: makes the law
 - » Judicial branch/ Supreme Court: interprets the law



- » Executive branch/ President and agencies: enforces the law

<CLICK>

- A system of checks and balances was created to prevent any one branch from seizing and consolidating power.
 - » What is the danger of consolidation of power? (It is an internal threat that corrupts and destroys a democracy.) <CLICK>
 - » If one or more branches take too much power, who is the ultimate check and balance? (We the People)

6. Timeline of Powers & Privileges

Let's have a look at the Timeline of Powers & Privileges that is hanging along the wall.

- What is the first thing you notice? (3 colors and lots of data cards) <CLICK>
 - » In this Timeline, BLUE is a victory for human rights.
 - » YELLOW and ORANGE data cards are different forms of "internal threats." (This is Core Vocabulary: Fill in your WORKSHEET.)

Internal threats are weaknesses inside of a system that can destroy it. We the People must overcome internal threats to our liberties and democracy.

- » YELLOW is for internal threats that stem from our fears of other - our prejudices. Yellow data cards are setbacks in the struggle for recognition of human rights and power.
- » Together, the BLUE and YELLOW data cards tell the story of the 96

percent who were left out of the Constitution.

- » ORANGE is for internal threats that stem from our greed - our love of power. Orange data cards tell a never-ending human story about a desire for "more" - more wealth, more power over other people, more privileges for special treatment.
- Data cards are key legal rulings that made or changed the laws, or changed the way laws were interpreted. There are three ways to change laws. <CLICK>
 - » Look for amendments: An "amendment" is an official rule change in the Constitution. <CLICK>
 - » Now look for acts: (Hint: Blocks 3, 5, 6 and 8) An "act" is a bill or legislation that Congress passes. If the President signs the act, it becomes a new law. Acts have to conform with constitutional law. <CLICK>
 - » Everything else is a lawsuit that changed how a law was interpreted. In such cases, the court decides how to interpret the law.

What else do you notice about the Timeline? (Explain details that match what students observe.)

- Dates: 1789 to present
These struggles for recognition of rights, power, and privilege have been going on since before our country was founded.
- Organized into 8 sections: We are going to explore how our history is shaped by different laws - laws that were created by different groups



of people in response to perceived threats to their rights and power.

- Color pattern: Blue data cards are surrounded by orange and yellow ones. One big blue section is followed by mostly yellow and orange data cards, leading to the present.
 - » This pattern repeats because the people respond to internal threats to their liberties – the blue, and
 - » and then power holders respond to retain their power over the people – the yellow and orange.

Let's take a closer look at some of this drama.

7. 1789–1791: Founding Documents

The Constitution and Bill of Rights are our founding documents. Together, they establish the supreme laws of our country.

- Why is the Constitution in yellow? (legalized slavery)
 - » Teacher unclips data card and reads back side, first paragraph.
 - » Have students turn to Article IV Section 2 (clause 3) to follow along during reading of second paragraph.
- Why is the Bill of Rights in blue? (recognizes unalienable rights)
 - » Teacher unclips data card and asks student to read the back side.
 - » Hang up data card after reading.

In this section, the Bill of Rights is meant to limit the power of government. Even the Founders worried that their creation would seek power over the people. They were right to worry.

Society in every state is a blessing, but government, even in its best state, is but a necessary evil: in its worst state, an intolerable one.

~ Thomas Paine, *Common Sense*, 1776

**ultimate
CIVICS**

Before we learn the story behind the next section, let's make a statement to anticipate what happens next.

Instructions



- First, let's review what we learned in this section. Our whole government rests on an unstable, undemocratic foundation. The Founders knew it.
- Consider this: When asked what form of government the Founders had created, Benjamin Franklin famously replied, <CLICK>
 - » "A Republic, madam, if you can keep it."
 - » What do you think Benjamin Franklin meant? What did he anticipate might happen because of the Constitution's unstable foundation?

<CLICK>

- Then, turn to a partner and finish this statement.
"We think that people without legal rights (the 96 percent) will _____
... and people with legal rights (the 4 percent) will _____."
- Ask what students decided.

Republics are founded upon the consent of the minority of people who draft the

RESOURCE

Perspectives on the Constitution: A Republic, if you can keep it

<https://constitutioncenter.org/learn/educational-resources/historical-documents/perspectives-on-the-constitution-a-republic-if-you-can-keep-it>



principles, but a republic's survival depends on the active involvement of the majority of people – the consent of the governed.

The new nation was about to face the problem of implementing principles of the founding minority when those principles and protected rights and liberties did not apply to all citizens.

8. Of kings and corporations

Besides creating a government, the Founders had to decide how to handle corporations.

A "*corporation*" is a group of persons with a legal license or charter to do business. (This is Core Vocabulary: Fill in your WORKSHEET.)

About 20 large corporations were doing business in the colonies under charters from European nations and rulers such as the King of England.

These corporations were chartered to exploit the New World. Under their royal charters, they were granted rights to granted privileges to do business. They were allowed enter into enter contracts, own property, incur debt, sue or be sued.

The royal charters also allowed them to collect fees and taxes for the crown, pass laws, quarter soldiers in people's homes.

<CLICK>

- For example, what corporation was the target of the Boston tea party? (East India Company)

Charter privileges could be transferred or sold to other businesses if approved by the authority. Charter privileges were removed if charter terms are violated.

- Are charter rights the same as inalienable rights? Why or why not?
 - » No. Charter rights are privileges for business purposes; the

privileges were granted and could be removed by a ruler.

- » Humans as natural persons are born with natural rights that cannot be bought, sold, transferred, or denied.

After the American Revolution, the Founders wanted to do business with the royal corporations, but under new rules – their rules. In Europe, corporations had great wealth and power to influence government. The Founders did not want this to happen in the United States.

9. Founders' dilemma: How to control corporations?

The Founders had to figure out how to control these large corporations and where to fit them in their conceptual model.

<CLICK>

Here is their conceptual model again: "We the People" as sovereign with rule over the government.

- Where do you think the Founders put these powerful royal corporations – which side of the Power Line? Above it with the rulers? Or below it with the ruled?
 - » (Hint: This is something that had already proven to be dangerous for the people, so it needed to be watched and controlled.)
 - <CLICK>
 - » Accountable to the people!

<CLICK>

Granting corporate charters was a duty assigned to STATE governments – just like passing a bill into law. Corporate charters had:

- » Rules, rules, RULES!
- » And one of the rules was to follow the rules and laws.



<CLICK>

Some of the rules were:

- » Corporations had to provide a public service. They couldn't be only for private profit.
- » Corporations were banned from political activity. They couldn't influence government. Corporations had an expiration date like 3 to 5 years or 20 years.
- » Corporations that did not play by the rules were ended – their charters were cancelled.

Besides the corporations, back then most people did business as people.

<CLICK>

- » A baker, a grocer, a cobbler...
- » Everyone had to follow the rules – even the royal corporations.

Remember!

<CLICK>

Everyone or thing on the “ruled” side of the power line could be a threat to people’s liberties if they didn’t follow the rules.

10. Who are “We the People?”

Our legal system was grounded in British Common Law, dating back to the Magna Carta. It included an understanding that legal entities, creatures of law like corporations, were “*artificial persons*” for legal purposes.

<CLICK>

So when a law said, “A person shall do this or that” – it applied to artificial persons as well as “*natural persons*,” meaning humans.

<CLICK>

The Constitution and Bill of Rights never defines the word “person,” although it is used lots of times – or words like person, citizen, and people.

Instructions for WORKSHEET “People” – What did the Founders mean?

- Ask: What do you think the Founders meant?



- » Turn to a partner. Read and discuss each of the nine examples on the WORKSHEET.
 - » Circle your answer “H” for human or “A” for artificial for each example.
 - » Then tally the number of circles for “human persons” and “artificial persons” when you are done. Enter these numbers at the bottom.
- Ask the class: What do you think the Founders meant by the concept “person”? Why? Support your answer with evidence from the WORKSHEET or Constitution.

<CLICK>

The basic separation of artificial corporate persons with privileges and natural persons with inalienable rights remained intact for the first 100 years. There was no advantage to be gained for corporate owners to argue that their property had rights when entire classes of human persons, like African Americans and women, were still considered property with no rights.

RESOURCE

What is corporate personhood?
<http://www.amendmentgazette.com/what-is-corporate-personhood/>



11. Concept of “judicial review”

Let’s go back to our Timeline.

- In the second section on Balance of Power Shifts, observe two data cards. Neither are amendments or acts.
 - » What does this tell you? (Both are lawsuits.)
 - » This means the U.S. Supreme Court is the main player during this section.

Let’s think about what was going on at this time from 1790s to 1819 – about 30 years. The three different branches of government had different opinions on how to interpret the new Constitution and Bill of Rights – and how to share power. This activity brought legal challenges to court.

In *Marbury v. Madison*, the court had to decide what happens when an act of Congress conflicts with the U.S. Constitution. Congress had passed new laws to give itself and the Executive branch more power than was authorized in the Constitution. (See Resources: Midnight Judges Act.)

<CLICK>

In 1803, the Supreme Court decided to give itself the power to overrule congressional and executive actions that conflicted with the Supreme Court’s interpretation of the Constitution. This is called, “*judicial review*.”

This drew sharp criticism from Thomas Jefferson, among others. He penned an initial warning: The Constitution on this hypothesis is a mere thing of wax in the hands of the judiciary, which they may twist and shape into any form they please.” (Letter to Spencer Roane, 1819.)

- » Did the Constitution give this power to the judiciary?
No, it made the branches co-equal
- » What did this decision do to the system of checks and balances?



RESOURCES

Midnight Judges Act of 1801

On his last day as president, President John Adams tried to appoint over fifty new justices in an attempt by the Federalists to take control of the federal judiciary before Thomas Jefferson took office. The appointments were made under two newly-passed acts, including one that extended the original authority of Supreme Court in order for the president to make his appointments.

<http://www.american-historama.org/1790-1800-new-nation/1801-judiciary-act-midnight-judges.htm>

Marbury v. Madison, 1803

<http://www.americanbar.org/content/dam/aba/migrated/publiced/lawday/marbury.authcheckdam.pdf>

<CLICK>

Destroyed it – the other two branches cannot challenge the judiciary’s interpretation of the Constitution

This power of judicial review, as practiced, became an internal threat to our liberties and democracy, as we’re about to see.

12. Corporations gain “standing” in the Constitution

Another issue at this time involved control of corporations. Royal corporations were used to dealing with royalty – kings or the highest government in the land. They did not like being controlled by the states. Dartmouth College had a royal charter granted by the King of England in 1769. Dartmouth brought a

lawsuit to challenge state control.

In 1819, the Supreme Court made up that corporate charters were contracts under the Constitution, and states could not interfere with such contracts.

<CLICK>

This decision also gave corporations “standing” in the Constitution. This gave artificial persons the ability to bring lawsuits in federal courts to challenge constitutional law. (This is Core Vocabulary: Fill in WORKSHEET.)

RESOURCES

Constitution, Contract Clause,
(Article I, Sec. 10, Clause 1)
“No State shall... pass any...
Law impairing the Obligation of
Contracts.”

Dartmouth College v. Woodward,
1819

[http://www.americanbar.org/
groups/public_education/
initiatives_awards/students_in_
action/dartmouth.html](http://www.americanbar.org/groups/public_education/initiatives_awards/students_in_action/dartmouth.html)

This created a new actor under the Constitution.

- How many times is the word “corporation” in the Constitution? Zero. The court read a new meaning into the law.
- Does the Supreme Court have the authority to create new actors under the Constitution? No. The Framers created a way for people to amend the Constitution, not the Supreme Court.

This decision gave rise to the modern American business corporation and the “free

enterprise” system – largely free of state controls, that is.

Both of these lawsuits changed the Constitution without officially amending it. And this was just the beginning.

13. 1800–1820: Balance of power shifts

These two rulings set the stage for most of what follows. What’s next?

Instructions



- Turn to your group and discuss.
- Read and consider the quote in the slide.
- Then finish the statement on the slide.
- Discuss as a class when the students are ready.

Teacher’s Discussion Guide

- Clue 1: Wealthy business owners could afford to use the court to consolidate power over the people. The court might continue to give power to its creation – until it overpowered rule by the real people.
- Clue 2: Consolidation of power is internal threat that destroys democracy.
- Clue 3: Since the corporation or artificial persons are not mentioned in the Constitution, the only way for this new actor to expand its powers is through the court with more creative interpretation of the law.
- Statement, Supreme Court will: use creative rulings to further empower its creation with human rights.
- Statement, corporations will: seek to expand their power by gaining human rights through the courts.



“I hope that we shall crush in its birth the aristocracy of our monied corporations, which dare already to challenge our government to a trial of strength, and bid defiance to the laws of our country.”

~ Thomas Jefferson, 1802

14. 1820–1880s: Clash of Values

The third time block spans the Civil War, the build up and aftermath – when our fears and prejudices threatened to tear our nation apart. The Suffragists, Abolitionists, and African Americans advocated equal protection under federal and state laws.

By now, corporations had become very popular, thanks to the 1819 Supreme Court decision that states could not interfere with a contract.

The Civil War period increased growth of manufacturing – and built fortunes of people who owned the large corporations: steel makers, bankers, sugar trusts, textiles, railroads, and, in time, oil. Now these powerful business barons wanted their businesses to have real rights – just like real people.

Tensions over slavery ran high, as westward colonization led to more territories and more states applying for statehood. In 1820 and 1821, Congress managed a tense agreement, known as the Missouri Compromise. This limited the spread of slavery in U.S. territories, but created a great divide between Northern free states and Southern slave states.

- In **1857**, the Supreme Court overturned the Missouri Compromise, ruling that Congress lacked authority to ban slavery in U.S. territories. The Court ruled that African Americans were not citizens of any state, had no

standing, and “no rights a court must respect.”

- » Instead of settling the slavery question, this ruling further increased tensions.
- » Dred Scott and his family were emancipated in May 1857, after legal battles spanning 11 years, when his owner married an abolitionist in Massachusetts.

RESOURCES

KaaVonia Hinton, 2014, *To Preserve the Union: Causes and Effects of the Missouri Compromise* (Capstone Press)

<http://www.capstonepub.com/library/products/to-preserve-the-union/>

Dred Scott v. Sandford (sic) case, 1857

http://landmarkcases.org/en/landmark/cases/dred_scott_v_sandford

<http://www.history.com/topics/black-history/dred-scott-case>

15. Civil War Amendments & Acts

The Civil War led to passage of three amendments that overruled judge-made law.

Read these from Timeline:

- 13th Amendment abolished slavery in U.S., states, and territories, “except as a punishment for crime.” This led to increased arrests of African Americans and slavery of another form: as prisoners of law – from Reconstruction to present.



RESOURCES

Women's rights movement timeline
<https://www.infoplease.com/spot/womens-rights-movement-us>
Abolitionists movement timeline
<https://www.infoplease.com/spot/timeline-key-moments-black-history>

Black Americans in Congress
<http://history.house.gov/Exhibitions-and-Publications/BAIC/Historical-Data/Constitutional-Amendments-and-Legislation/>

NAACP criminal justice fact sheet
<http://www.naacp.org/criminal-justice-fact-sheet/>

- » This led to increased arrests of African Americans and slavery of another form: as prisoners of law – from Reconstruction to present.
- 14th Amendment declared that all U.S. citizens were entitled to equal protection and due process rights against federal and state governments.
 - » So the 14th Amendment became a portal, like an entrance, to use Bill of Rights protections against the state government and to limit the powers of state governments.
 - » The 14th Amendment also created a penalty for states that denied the vote to male citizens 21 or older.
- 15th Amendment recognized voting as a fundamental right for all citizens and forbade any state to deprive a citizen

of his vote, because of race, color, or previous servitude.

- Each of these amendments also gave Congress power to enforce these new articles of the Constitution.
 - » Teacher or student reads from Timeline: Civil Rights Acts – the backside.
 - » Many ex-slaves hid in Louisiana swamps to avoid harsh and discriminatory practices during and after Reconstruction.

16. Courts: Who or what is a “person”?

During this violent time period, powerful businessmen, African Americans, women, Knights of Labor, and Populists all struggled for rights and power under the new rules.

This one part of the 14th Amendment caught the attention of wealthy businessmen:

“... nor shall any State deny to any person within its jurisdiction the equal protection of laws.”

<CLICK>

After all, their corporations were “artificial persons.”

- During the first 20 years after the 14th Amendment passed, 307 lawsuits were brought to the courts.
<CLICK and talk>
 - » Only 19 of these lawsuits were brought by human persons – women and African American men.
 - » The other 288 were brought by corporations seeking equal protection under the 14th Amendment – human rights for artificial persons and equal protection under federal and state laws!



This is the thing about power: Some people can never get enough. A democracy is supposed to keep this behavior in check.

It was up to the courts to decide if the 14th Amendment applied to artificial persons.

- What do you think the courts decided?

17. The court does not wish to hear

In 1886, Supreme Court Justice Morrison Waite made an offhand remark from the bench before hearing a case about railroad taxes. Waite said, "The court does not wish to hear argument on the question whether the ... 14th Amendment equal protection of the laws, applies to corporations. We are all of opinion that it does."

<CLICK>

The ruling in *Santa Clara County vs. Southern Pacific Railroad* was interpreted to give 14th Amendment equal protection to corporations under federal and state laws.

<CLICK>

The "corporate person" now has a 14th Amendment flag to represent equal protection under the law.

Note that 12 years earlier, the Courts had denied women the right to equal protection under the 14th Amendment in 1874, but then

RESOURCE

Santa Clara County v. Southern Pacific Railroad case, 1886
An offhand remark creates the doctrine of corporate personhood
<http://www.nolo.com/legal-encyclopedia/content/south-pac-rr-case.html>

Courts granted this right to artificial persons.

- When did women finally get equal protection in the form of the vote? Look down the timeline... (1920)

18. Supreme Court changed balance of power

Here's our Power Line and conceptual framework, again.

Instructions



- What happened to corporations after this court decision? Why?
- Turn to a partner and discuss.
- Discuss as a class.

Discussion Guide

In effect, the Supreme Court changed the balance of power – again!

<CLICK>

It moved corporations above the Power Line with people.

<CLICK>

This meant that artificial persons have the same status in law and are entitled to the same legal protections as real people!

<CLICK>

This made it very difficult to hold corporations accountable to the people.

<CLICK>

We know that anything that consolidates wealth and power is an internal threat to liberties of real people.

Our rights are supposed to limit the power of government and any thing or institution that people create. People need protection AGAINST government and corporate power, not FOR them.



Reflection



- Write your name on your exit ticket and fill it out first.
- Then use your answers and Timeline observations to reflect on this lesson. Use the back of the exit ticket to write.
- What did you learn?
- What is your take home?
- Discuss as a class when the student are ready. Allow about 5 minutes for class reflections.

19. Ultimate Civics! COVER SLIDE



Vocabulary

Core Vocabulary

corporation: a group of people with a license (charter) to do business

Democracy: rule by majority

internal threat: a weakness within a system capable of destroying the whole

Republic: rule by representative government

standing: ability of a person or entity to bring a lawsuit in court

sovereign: ultimate or supreme power

Legal Vocabulary

act: a bill or legislation passed into law by a government

amendment: an official rule change made to a constitution, law, contract, or other legal document

due process: a fair legal process

free enterprise: an economic system in which private business operates in competition and largely free of state control

judicial review: power of courts to review and overrule actions of the executive and legislative branches

lawsuit: a process by which a dispute between people or legal entities is decided in court

private sphere: a part of society in which a person enjoys some authority, free from government interruption

public sphere: a part of society in which people freely come together to identify and address societal problems

SCOTUS: Supreme Court of the United States

Super PACs: a Political Action Committee that can raise and spend unlimited amounts of money to elect or defeat political candidates

