

TROJAN FIRST AMENDMENT

In his book, *Unequal Protection*, Thom Hartman shows how corporations (specifically, railroads) used the 14th Amendment—which ostensibly guaranteed African Americans the same rights other citizens enjoyed—to enshrine the concept of corporate personhood in our legal system.

With the passage of the Fourteenth Amendment, the owners of the what were then America's largest and most powerful corporations – the railroads – figured they'd finally found a way to reverse Paine's logic and no longer have to answer to "we, the people." They would claim that the corporation *is* a person. They would claim that for legal purposes, the certificate of incorporation declares the legal birth of a new person, who should therefore have the full protections the voters have under the Bill of Rights.

[snip]

Acting on behalf of the railroad barons, attorneys for the railroads repeatedly filed suits against local and state governments that had passed laws regulating railroad corporations. They rebelled against restrictions, and most of all they rebelled against being taxed.

The main tool the railroad's lawyers tried to use was the fact that corporations had historically been referred to under law not as "corporations" but as "artificial persons." Based on this, they argued, corporations should be considered "persons" under the free-the-slaves Fourteenth Amendment and enjoy the protections of the constitution just

like living, breathing, human persons.

It's an important lesson in history—but also an important lesson in Trojan Horses. That is, when you're passing legislation, you might want to think about the unintended consequences the most powerful entities in the State might make of that legislation.

Case in point is the reporter shield bill just passed 398-21 in the House. The bill gives several acceptable reasons why the government can force a reporter to reveal her sources in a criminal investigation (after exhausting all other means of learning the source and proving the public interest in disclosing the source outweighs the public interest in the free flow of information). Those reasons are: