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“CORPORATIONS ARE PEOPLE, MY FRIEND:” THE MERITS OF THE EXPANSION OF CORPORATE FIRST AMENDMENT RIGHTS IN THE MODERN ERA

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THE FIRST AMENDMENT – CORPORATE PERSONHOOD – Where corporations are considered legal “persons,” First Amendment protections may be broadened and extend rights similar to those of natural persons. Two schools of thought compete as to whether or not corporations are “persons” and should enjoy any constitutional protection. This article examines the “corporate personhood” doctrine and analyzes both sides of the argument for broadening First Amendment protections for corporations.

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I. BACKGROUND

In the wake of the Supreme Court's *Citizens United*¹ and *Hobby Lobby*² decisions, it appears that American Constitutional jurisprudence is increasingly moving toward a broadening of First Amendment rights for corporate entities. This article will highlight the details of this movement, and analyze potential First Amendment implications for future decisions based on current "corporate personhood" precedent. The doctrine of corporate personhood recognizes corporations as legal persons separate in identity from the natural persons who form them.³ Such legal persons are therefore liable for their own actions, or actions of their agents, may be represented in court, and may live past the death of their owners and founders.⁴ While few, if any, Supreme Court justices actually use the term "corporate personhood," many of the Court's decisions related to the rights of corporations rely in some way on an understanding that corporations have rights similar to, if not the same as, those of their incorporators.⁵ This doctrine serves as a basis for the limited liability of the corporate form and the ability of a corporation to exercise rights that are enumerated in the Constitution for persons.

While many see the merits of the doctrine of corporate personhood, others argue that it should be abolished.⁶ Those who want to see the end of corporate personhood argue that the influence that corporations have because of their largess unduly burdens American politics and dilutes the attention that Congressional representatives give to their natural person constituents.⁷ While the opponents to corporate personhood have grown in number as Supreme Court decisions, such as those from *Citizens United v. Federal Election Commission*⁸ and *Burwell v. Hobby*

1. 558 U.S. 310 (2010).

2. 134 S. Ct. 2751 (2014).

3. Corporate personhood, as a legal theory, states that corporations have the same rights as "natural" people in many, if not all, respects. See 1 William Blackstone, Commentaries *455 (On Corporations).

4. *Id.*

5. See *Tr. of Dartmouth Coll. v. Woodward*, 17 U.S. 518 (1819); *United States v. Cong. Of Indus. Orgs.*, 335 U.S. 106 (1948); *Marshall v. Barlow's, Inc.*, 436 U.S. 307 (1978); *First Nat'l Bank v. Bellotti*, 435 U.S. 765 (1978); *Citizens United v. FEC*, 558 U.S. 310 (2010); *Burwell v. Hobby Lobby*, 134 S. Ct. 2751 (2014).

6. Nina Totenberg, *When Did Companies Become People? Excavating the Legal Evolution*, NPR.org, (July 28, 2014), <http://www.npr.org/2014/07/28/335288388/when-did-companies-become-people-excavating-the-legal-evolution>.

7. See *Citizens United*, 558 U.S. at 479 (Stevens J., dissenting).

8. *Id.*

*Lobby Stores, Inc.*⁹ have been announced, they still have not swayed the Court, and will not likely do so in the future.

II. THE LEGAL HISTORY OF CORPORATE PERSONHOOD

While the personhood of corporations has been a settled legal theory for many years in American Common Law, recent decisions by the Supreme Court expanding the understanding of corporate rights have brought that fiction to the forefront of the American political mind.¹⁰ The Court's attitude towards rights in general has been favorable, and the court has applied a variation on strict scrutiny to any laws limiting corporate rights.¹¹ A brief inquiry into the history of Corporations in American Constitutional Law jurisprudence shows that the First Amendment rights enjoyed by corporate entities have been expanding,¹² and that such expansion will likely continue into the future. This expansion is viewed by its proponents as an effective way to combat the effects of broad Commerce Clause jurisprudence, which has allowed Congress to regulate corporations and other individuals with little to no restraint by the courts.¹³

Throughout its history, the Supreme Court has upheld the principle of corporate personhood and has used it in their decisions.¹⁴ Justice Marshall, in the case of *Trustees of Dartmouth College v. Woodward*,¹⁵ maintained the Constitutional protection of established corporate charters from interference by a state legislature, and used terminology from Sir William Blackstone's *Commentaries* in his opinion.¹⁶ When describing what kind of corporation Dartmouth College was, Marshall referred to it as an "eleemosynary" corporation, and utilized Blackstone's definition of such corporations of "those which are created for the promotion of religion, of charity, or of education."¹⁷ Marshall was familiar

9. See *Hobby Lobby*, 134 S. Ct. at 2787 (Ginsburg J., dissenting).

10. See When Did Companies Become People? Excavating the Legal Evolution, *supra* note 6.

11. See *Citizens United*, 558 U.S. at 340.

12. See cases cited *supra* note 5.

13. See *NFIB v. Sebelius*, 132 S. Ct. 2566, 2585 (2012) ("It is now well established that Congress has broad authority under the [Commerce] Clause.").

14. See cases cited *supra* note 5.

15. 17 U.S. 518 (1819).

16. *Id.* at 569-701 (referring to Sir William Blackstone sometimes as "Mr. Justice Blackstone" and others as merely "Blackstone,").

17. *Id.* at 645.

with the *Commentaries*, as his “father had subscribed to the first American edition of the *Commentaries*, [and Marshall] found much to like in Blackstone, especially when it supported his opinions.”¹⁸ *Dartmouth* established corporate personhood in America, because it granted corporations Constitutional protections against state action.¹⁹

The traditional authority over a corporation is the government of the state in which it is incorporated, and that state has the ability to establish whatever laws it might think proper to perform its duty to all of its citizens.²⁰ As *Dartmouth* showed however, the power state governments have over corporations is not absolute, and a corporate charter once established cannot be amended, except by such means as are established in the charter itself.²¹ Not only was *Dartmouth* one of the first cases the Supreme Court heard in the United States in which a corporation was a party, but it laid a foundation in American common law that allowed corporate entities to have identities separate from their individual members for the first time in American constitutional law.²²

Over the course of American history following the Civil War and the subsequent amendments to the Constitution, corporations gained more rights as a result of the federal protections of the Constitution being applied to the states through the Fourteenth Amendment.²³ In 1893, a corporation successfully claimed protection under the Constitution in the case of *Noble v. Union River Railroad Company*.²⁴ While corporate personhood had already been established in the American legal system

18. Greg Bailey, “Blackstone in America: Lectures by an English Lawyer Become the Blueprint for a New Nation’s Laws and Leaders,” *THE EARLY AMERICAN REVIEW*, Vol. 1 No. 4 (1997).

19. *Tr. of Dartmouth Coll.*, 17 U.S. at 712.

20. *Tr. of Dartmouth Coll.*, at 574-75. “The legislature of New-Hampshire [represents] the public, and therefore claims a right to control all property destined to public use.” *Id.*

21. *Tr. of Dartmouth Coll.*, at 712.

22. *Id.* at 654. “The body corporate ... has rights which are protected by the [C]onstitution.” *Id.*

23. U.S. Const. amend. XIV § 1.

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; 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.

Id.

24. 147 U.S. 165, 176 (1893).

before the *Noble* case, it affirmed the Supreme Court's view of corporations as legal persons who have standing.²⁵ The Supreme Court's ruling in the 1948 case of *United States v. Congress Of Industrial Organizations*,²⁶ in part established that the Court would recognize the First Amendment Rights of associations such as labor unions.²⁷ The Court did not feel constrained to discuss the First Amendment rights of corporations specifically; however it did find that, as a matter of course, a union publication, which endorsed certain candidates for office, did not violate a federal law which at the time prohibited corporations from making an expenditure related to an election.²⁸ While the ruling did not purport to make any statements on corporate First Amendment rights, it certainly had to assume that corporations had such rights²⁹ in protecting them from the federal law in question.

Supreme Court precedent following the Civil War laid the groundwork for modern corporate persons to claim protection under the Constitution equivalent to that of a natural person. As time went on, American corporations gained recognition of more specific rights from the Supreme Court.³⁰ In the 1970 case *Ross v. Bernhard*,³¹ the Court declared that the right to trial by jury was extended to Corporations by the Seventh Amendment.³² The *Ross v. Bernhard* case continued the trend of guaranteeing federal and Constitutional rights to corporations which had previously been considered at the mercy of the state of incorporation.³³

In 1978, two major cases regarding corporate personhood came onto the American common law table.³⁴ In *Marshall v. Barlow's Inc.*,³⁵ Justice White delivered the opinion of the Court, establishing that "warrantless searches are generally unreasonable, and [] this rule applies to

25. *Id.* at 172. "Any person who will sustain personal injury by such refusal may have a mandamus to compel its performance." *Id.* (emphasis added).

26. 335 U.S. 106 (1948).

27. *Id.* at 121.

28. *Id.* at 123-24.

29. *Id.* at 121.

30. See, e.g., *Ross v. Bernhard*, 396 U.S. 531 (1970); *Marshall v. Barlow's, Inc.*, 436 U.S. 307 (1978); *First Nat'l Bank of Boston v. Bellotti*, 435 U.S. 765 (1978).

31. 396 U.S. 531 (1970).

32. *Id.* at 533.

33. *Id.*

34. See *Marshall v. Barlow's*, 436 U.S. 307 (1978); *First Nat'l Bank v. Bellotti*, 435 U.S. 765 (1978).

35. 436 U.S. 307 (1978).

commercial premises as well as homes.”³⁶ This in effect extended the Fourth Amendment to include corporate premises as well as personal business locations, continuing the trend of the extension of federal rights to corporations.³⁷ The recognition that corporations were assured of the same rights as individuals, and that such rights could be enforced in the same ways for both natural born persons and corporate entities, is significant to the doctrine of corporate personhood. Guaranteeing corporations rights under other amendments not only expanded the specific rights that corporations could take advantage of, but solidified the standing of the rights that they had already been granted, such as those from the First Amendment.

Later on in 1978, in *First National Bank of Boston v. Bellotti*,³⁸ the court again encountered the concept of corporations having free speech rights under the First amendment. Justice Powell, delivering the opinion of the Court said: “We thus find no support... for the proposition that speech that otherwise would be within the protection of the First Amendment loses that protection simply because its source is a corporation.”³⁹ In his opinion, Justice Powell laid out the corporate personhood argument, detailing why corporate entities need and have Constitutional protections of free speech.⁴⁰ Justice Powell refused to consider the question of “whether corporations ‘have’ First Amendment rights,”⁴¹ assuming that as a fact, and focused his opinion on the question of “whether [the law in question] abridge[s] expression that the First Amendment was meant to protect. We hold that it does.”⁴² Justice Powell’s opinion took as granted that the First Amendment rights of corporations were co-extensive with those of individuals, leading him to discount the argument made by the state that corporate speech should be limited to matters related to the business they have an interest in.⁴³

While the Supreme Court has gradually recognized the rights of corporations over the course of Constitutional jurisprudence, First Amendment rights have been a particular source of controversy for the Court in recent years, especially as those rights apply to the First Amendment

36. *Id.* at 312.

37. *Id.* at 311.

38. 435 U.S. 765 (1978).

39. *Id.* at 784.

40. *Id.* at 776-84.

41. *Id.* at 776.

42. *Id.*

43. *Id.* at 781.

activities of corporate entities.⁴⁴ In the contentious case of *Citizens United v. Federal Election Commission*,⁴⁵ the Court's opinion, as well as the concurring opinions, detail many of the reasons for corporate entities to enjoy the rights usually reserved to natural persons, and why those rights are to be respected under the constitution.⁴⁶ In the opinion of the court, Justice Kennedy attempts to avoid obstructing protected speech, saying "First Amendment standards ... 'must give the benefit of the doubt to protecting rather than stifling speech.'"⁴⁷ After establishing in his opinion that free speech should generally prevail, Justice Kennedy goes on to opine that "the Court has recognized that First Amendment protection extends to corporations," citing a multitude of cases including *First National Bank of Boston v. Bellotti*.⁴⁸ Kennedy continues to establish that speech should not be treated differently based on the identity of the speaker.⁴⁹ In this continuation of the Court's acknowledgement of corporate personhood and the rights of corporations, Kennedy protects the Constitutional rights of corporations concerning free speech.⁵⁰

Further, in his concurring opinion Justice Scalia writes partly in support of the majority and partly in response to the dissent written by Justice Stevens.⁵¹ Justice Scalia's responds to Justice Stevens' dissent quickly, pointing out that the Framers' attitudes towards corporations, while interesting, are irrelevant unless they are reflected in the Constitution itself.⁵² Later responding to the argument that the First Amendment was written to protect the rights of individual persons, Scalia does not disagree, but adds that "the individual person's right to speak includes the right to speak in association with other individual persons."⁵³

Scalia's argument, while not expressly using the term, invokes the doctrine of corporate personhood as its foundation. He argues that associations of individuals, whether they be for profit or not, have the right to be heard in the political process, and also have a greater ability

44. See *Citizens United v. FEC*, 558 U.S. 310 (2010); *Burwell v. Hobby Lobby*, 134 S. Ct. 2751 (2014).

45. *Citizens United*, 558 U.S. at 314.

46. *Id.*

47. *Id.* at 327.

48. *Id.* at 342.

49. *Id.* at 343.

50. *Id.*

51. *Id.* at 385 (Scalia, J., concurring).

52. *Id.* at 386.

53. *Id.* at 392.

to do so than the individuals themselves would have on their own.⁵⁴ Justice Scalia points out that “[the First] Amendment is written in terms of ‘speech,’ not speakers.”⁵⁵ His concurring opinion holds that in today’s world, the principal way the modern economy operates is through the speech of corporations, saying “we should celebrate rather than condemn the addition of this speech to the public debate.”⁵⁶ Justice Scalia, in his concurring opinion, defended the rights of corporate entities under the principle of corporate personhood by arguing that associations of individuals, by necessity, have the same First Amendment rights as the individuals that make up that organization.⁵⁷

In their opinion and concurrence in the *Citizens United* case, Justices Kennedy and Scalia brought the doctrine of corporate personhood into modernity, providing a basis for future cases to rest on.⁵⁸ Both justices favored corporate First Amendment rights in the general sense, establishing that the court favors allowing First Amendment activities to go on absent some limiting factor.⁵⁹ Neither justice found a corporate person to have significantly less rights than a natural person.⁶⁰ Further, Justice Scalia’s concurrence blurs the line between natural and legal persons in celebrating the ability of individuals to achieve greater extent of speech by associating with other individuals in the corporate form.⁶¹

Moreover, the First Amendment protections corporations enjoy were further expanded in *Burwell v. Hobby Lobby*,⁶² which once again brought the topic of corporate personhood to the forefront of American politics.⁶³ In *Hobby Lobby*, the Court cited to the first section of the United States Code, which defines “person” as including “corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals[.]”⁶⁴ In finding that federal statutes applied to corporations as well as individuals, the Court ensured that

54. *Id.*

55. *Id.*

56. *Id.* at 393.

57. *Id.* at 392-93.

58. *Id.* at 342-43; *Id.* at 392 (Scalia, J., concurring).

59. *Id.* at 347; 392-93 (Scalia J., concurring).

60. *Id.*

61. *Id.* at 392-93.

62. See *Burwell v. Hobby Lobby*, 134 S. Ct. 2751 (2014).

63. See *When Did Companies Become People? Excavating the Legal Evolution*, *supra* note 6.

64. 1 USCS § 1 (Lexis 2014, current through PL 113-185).

the Hobby Lobby Corporation could claim the protection of the guarantees from the Religious Freedom Restoration Act (“RFRA”).⁶⁵

While the decision was narrowly drawn, and only applied to closely held corporations,⁶⁶ the social effects of a decision like *Hobby Lobby* are undeniable. With the *Hobby Lobby* decision following on the heels of the *Citizens United* case in the timeline of Constitutional jurisprudence, the controversial doctrine of corporate personhood has earned itself a long-term place on the stage of American politics and legal world. As such, it is important for those struggling with the concept of corporate personhood to be able to acknowledge the basis for it in order to effectively advocate for or against the expansion of corporate rights in the future. However, the significant likelihood that corporate rights will continue to gain legal ground should be on the forethought of both sides of any debate predicated on the fictional legal personhood of corporate entities.

In its Constitutional precedent over the course of American history, the Supreme Court has continually relied on William Blackstone for his legal authority on major legal issues, and has specifically found his words to be helpful in establishing precedent regarding corporations.⁶⁷ From *Dartmouth* to *Hobby Lobby*, the Supreme Court has consistently found that expanding rather than detracting from the Constitutional guarantees afforded to corporations is the correct interpretation of the Constitution’s protections of “persons.”⁶⁸ A recognition of corporate personhood is therefore not only a proper legal analysis of the Constitution, but it is also consistent with an understanding of western common law tradition. The impact that has been felt from British common law’s influence on American common law is much broader than a simple recognition of the legal rights of corporations, but corporate personhood is hardly an insignificant part of either Constitutional law or common law precedent.

While many point to such early political theorists as William Blackstone to justify the expansion of corporate rights under the theory of corporate personhood, others look at the history of the development of corporations in a very different light. While the rights established in

65. *Hobby Lobby*, 134 S. Ct. at 2769.

66. *Id.* at 2774.

67. See, e.g., *Tr. of Dartmouth Coll. v. Woodward*, 17 U.S. 518 (1819) (Chief Justice Marshall’s multiple references to Blackstone); *Citizens United v. FEC*, 558 U.S. 310 (2010) (Scalia, J., concurring) (Justice Scalia referencing Blackstone in his concurrence).

68. See cases cited *supra* note 5.

early Supreme Court cases such as *Dartmouth* are not often contested, the expansion of corporate rights to include First Amendment protections are disputed as being novel and unprecedented.⁶⁹ Admittedly, within the framework of the doctrine of corporate personhood, the concept of First Amendment rights expanding to include corporate entities is new. Even if *Belotti*'s protection of the First Amendment rights of corporations is accepted as the precedential basis for such rights, those rights would still only have been recognized for less than 40 years.⁷⁰ In the scheme of American politics, that period of time is very slight, and if English common law is to be the basis for the understanding of corporate personhood, it is an even shorter period of time. However, the strong arguments made, and the composition of the majority opinions of recent Supreme Court cases regarding corporate rights suggests that such rights will continue to develop in the future.⁷¹ The key consideration should not be whether such development is appropriate, but more realistically, how much expansion can be expected and what forms it will take.

III. CORPORATE PERSONHOOD IS HELPFUL TO UNDERSTANDING
SUPREME COURT PRECEDENT, AND PROVIDES A SOLID FOUNDATION
FOR FUTURE DECISIONS REGARDING CORPORATE FIRST AMENDMENT
RIGHTS TO REST ON.

The legal history set forth above tracks the rise of the corporation as the primary form of engagement in business over American history. There can be no doubt that, following the Industrial Age, there have been more corporations formed than at any time previous.⁷² The ubiquity of corporations means that the laws which govern such entities, and the rights they enjoy, will be even more important as time goes on. Historically, laws affecting corporations would affect a minority of citizens, those who worked for corporate entities. In the current economy, those same laws will now affect a larger portion, if not the vast majority, of citizens. Even so, corporations properly enjoy similar rights to the

69. *Citizens United v. FEC*, 558 U.S. 310, 425 (2010) (Stevens, J., dissenting) (calling the equation of corporate and individual rights under the First Amendment "unprecedented").

70. *See First Nat'l Bank v. Bellotti*, 435 U.S. 765 (1978).

71. *See cases cited supra* note 5.

72. *Id.* at 387 (Scalia J., concurring).

people who make up their owners, shareholders, and overall stakeholders.⁷³ Such rights allow like-minded people to enter into voluntary associations for business purposes without sacrificing the rights they would have in smaller, micro-level, endeavors.⁷⁴ Non-profit corporations, and other not-for-profit entities allow natural persons to pool resources for personal or altruistic reasons, without having the motivating factor of making a financial gain to prevent such organizations from acting for the benefit of society at large.⁷⁵ For-profit companies tend to be the target of anti-corporate scorn, specifically because they are formed for the purpose of making a profit, and those who oppose the extension of rights to such entities argue that the purpose of achieving profit inhibits a corporation's ability to do anything else.⁷⁶

However, just as no person operates in a vacuum of economics, no corporation can serve only the interest of profit.⁷⁷ While achieving a profit is most often the purpose of a corporate entity, a corporation's actions cannot only have the effect of making a profit.⁷⁸ Since the effect of a corporation's actions reaches far beyond the scope of the economic realm, governments often attempt to regulate corporations, and to restrict them in ways that they would not restrict natural persons.⁷⁹ Any step that the law can make towards recognizing that corporations serve the will of their owners, and are therefore extensions of their persons deserving of the same rights, will bring the law closer to reflecting actual economic society.⁸⁰ Many of the cases dealing with the rights of

73. *Burwell v. Hobby Lobby*, 134 S. Ct. 2751, 2768 (2014).

74. *Id.* at 2767-68.

75. *Id.* at 2771.

76. *Id.* at 2796-97 (Stevens, J., dissenting).

77. *Id.* at 2771.

While it is certainly true that a central objective of for-profit corporations is to make money, modern corporate law does not require for-profit corporations to pursue profit at the expense of everything else, and many do not do so. For-profit corporations, with ownership approval, support a wide variety of charitable causes, and it is not at all uncommon for such corporations to further humanitarian and other altruistic objectives.

Id.

78. *Id.* "So long as its owners agree, a for-profit corporation may take costly pollution-control and energy-conservation measures that go beyond what the law requires. A for-profit corporation that operates facilities in other countries may exceed the requirements of local law regarding working conditions and benefits." *Id.*

79. See, e.g., *U.S. v. Cong. Of Indus. Orgs.*, 335 U.S. 106 (1948). (demonstrating Congress regulating corporations by prohibiting them from spending money in support of a candidate.

80. *Hobby Lobby*, 134 S. Ct. at 2769, 2771.

corporations in recent years have ruled in this way,⁸¹ and it appears that the rights of corporate persons will continue to become coterminous with those of the natural persons who form them.

Even those who fear the growth of corporate influence in America should not fight this development of corporate rights, because a recognition of corporate personhood will mean greater protections for the rights of all persons, natural and legal alike.⁸² By recognizing the doctrine of corporate personhood, corporations become an ally in the struggle to maintain the Constitutional rights of citizens rather than a rival gobbling up rights that should properly be reserved for natural persons.⁸³ The doctrine of corporate personhood not only explains the reason for legal precedent involving corporations, but also provides a staunch basis for future decisions to be made. If the Supreme Court were to explicitly adopt the doctrine of corporate personhood rather than adopt it in a *de facto* manner as they have thus far,⁸⁴ it would provide greater understanding of the case law up to this point, and would serve to align the interests of natural persons with those of corporate entities. Until now, the Court has only advanced the rights of corporations in a general sense, seeing such rights only as derivative of the rights of the corporations' natural owners, and not as existing around the corporate form.⁸⁵ Moving forward, the Court will likely continue to defend the rights of corporations, even without specifically endorsing corporate personhood. However, if a case were to reach the Supreme Court that would push them to discuss the issue, the Court would likely adopt corporate personhood in defense of the rights of corporations.⁸⁶ This would be good news for natural persons, who would then enjoy the defense of rights in conjunction with corporations.⁸⁷

81. See, e.g., *Tr. of Dartmouth Coll. v. Woodward*, 17 U.S. 518 (1819); *U.S. v. Cong. Of Indus. Orgs.*, 335 U.S. 106 (1948); *Marshall v. Barlow's, Inc.*, 436 U.S. 307 (1978); *First Nat'l Bank v. Bellotti*, 435 U.S. 765 (1978); *Citizens United v. FEC*, 558 U.S. 310 (2010); *Burwell v. Hobby Lobby*, 134 S. Ct. 2751 (2014); see also *Hobby Lobby*, 134 S. Ct. at 2771.

82. *Id.* at 2768-69.

83. *Id.*

84. See, e.g., *Tr. of Dartmouth Coll. v. Woodward*, 17 U.S. 518 (1819); *U.S. v. Cong. Of Indus. Orgs.*, 335 U.S. 106 (1948); *Marshall v. Barlow's, Inc.*, 436 U.S. 307 (1978); *First Nat'l Bank v. Bellotti*, 435 U.S. 765 (1978); *Citizens United v. FEC*, 558 U.S. 310 (2010); *Burwell v. Hobby Lobby*, 134 S. Ct. 2751 (2014).

85. *Citizens United v. FEC*, 558 U.S. 310, 423-24.

86. *Id.* at 376; *Hobby Lobby*, 134 S. Ct. at 2772.

87. *Id.* at 2768.

The Court has appropriately recognized that corporations can exercise freedom of religious exercise through the actions of their owners.⁸⁸ As Justice Alito argued in *Hobby Lobby*, a business does not lose the religious identity of its owners just because it has incorporated.⁸⁹ In *Braunfeld v. Brown*,⁹⁰ the Court entertained the religious exercise claims of five Jewish merchants from Pennsylvania.⁹¹ Justice Alito and the *Hobby Lobby* majority argued that if those merchants had chosen to be incorporated rather than operate as a partnership, their freedom of religious exercise should not, and would not, be suddenly taken away.⁹² The difficulty with the rejection of corporate religious exercise is not that it refuses to allow rights to an entity that did not previously have such rights, but that it divests the owners of such corporations of their rights if they choose to participate in broader economic activity.⁹³ The Court has been unwilling to revoke rights in such a way, and the Court's protection of corporate free exercise rights therefore includes the protection of individual rights as well.⁹⁴

To limit corporations by not allowing them to exercise speech rights under the First Amendment would, in effect, stifle the voice of the American people.⁹⁵ Gone are the days of the lone orator on his soapbox extolling the virtues or vices of the heated political issues of the day, endorsing a candidate, or arguing against his rival. In the modern world, the key to finding a voice in the political world is to join with others of the same or similar values to add a multitude of voices and speak with the powerful voice of an entity.⁹⁶ Disallowing the ability of the ordinary person to enter the political realm through a corporate voice would mean that only the very rich, those with access to the national stage, would have the opportunity to exercise their First Amendment rights to any real effect. The labor union newsletter, the university publication, and company advertisements are all examples of corporate speech, and would all be open to assault by Congress if corporate rights are not pro-

88. *Id.* at 2771-72.

89. *Burwell v. Hobby Lobby*, 134 S. Ct. 2751, 2767 (citing *Braunfeld*, *infra* note 90).

90. 366 U.S. 599 (1961).

91. *Burwell v. Hobby Lobby*, 134 S. Ct. 2751, 2767.

92. *Id.*

93. *Id.*

94. *Id.* at 2768-69.

95. *See* *Citizens United v. FEC*, 558 U.S. 310, 393 (Scalia, J., concurring).

96. *Id.* at 339 (quoting *McConnell v. FEC*, 540 U.S. 93, 251 (2003)); *Id.* at 469, (Stevens J., dissenting).

tected. Such restriction would be harmful to the political life of American citizens, and would directly contradict the text and spirit of the First Amendment's protection of free speech, which ensures that speech, not the type of speaker, is protected from undue government restriction.⁹⁷ Protection of corporate speech, therefore, protects the speech of the underlying owners and participants in the corporation.

The First Amendment can be a particular source of controversy because it provides for rights to free speech, exercise of religion, freedom of the press, and freedom of assembly.⁹⁸ The rights to speech and exercise of religion alone, if not all of the rights, appear to be rights only able to be exercised by natural persons.⁹⁹ However, all of these rights may be properly understood to be vested in corporate entities by virtue of their personhood.¹⁰⁰ The freedom of assembly, for one, could easily be seen as a basis for corporate formation in general, because a corporation is nothing if not a voluntary association of individuals.¹⁰¹ The freedom of press too could hardly be seen as protecting the rights of individuals only, as newspaper companies would certainly have been the major source of press even at the time of the writing of the Constitution.¹⁰² These companies would have had all of the major signs of a corporation, including living past the death of their founders, and being in business for the purpose of making a profit.¹⁰³ The freedoms of speech and religious exercise are therefore the two rights that require an understanding of corporate personhood in order to apply them to corporations, as corporations in and of themselves cannot physically speak or participate in religious exercise. Corporate personhood allows for the owners of corporations to keep their own rights and to operate a corporation without surrendering those rights.

97. *Id.* at 392. "The Amendment is written in terms of 'speech,' not speakers." *Id.*

98. U.S. Const. amend. I. "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." *Id.*

99. See Annie-Rose Strasser, *Elizabeth Warren Explains: 'No, Governor Romney, Corporations Are Not People'*, ThinkProgress.org (Sept. 5, 2012), <http://thinkprogress.org/politics/2012/09/05/803891/elizabeth-warren-corporations-people/>.

100. 1 William Blackstone, Commentaries *455-56 (On Corporations).

101. *Citizens United*, 558 U.S. at 389 (Scalia J., concurring).

102. *Id.* at 390.

103. *Id.*

A. Corporate Advocates

Drawn from recent Supreme Court cases which have delved into this topic, several sources of law support the premise that corporations are legal persons.¹⁰⁴ Dating back to William Blackstone and English Common Law, the immortality of corporations, as well as their ability to shield their owners from personal liability, was recognized as a beneficial asset.¹⁰⁵ Blackstone effectively examined the subject through the case of a university, explaining that a separate legal personhood was needed for the employees of the university to exert any authority over the students.¹⁰⁶ Without the legal fiction of a corporate person to delegate to its agents the task of teaching, mentoring, and protection the students of the university, none of the employees would have any authority over the students.¹⁰⁷ However, Blackstone's understanding of a corporation was based on those that were available at the time, which were few and often were limited to some particular purpose.¹⁰⁸ At the time of the founders, more and more substantial corporations existed and operated within the economy of the time.¹⁰⁹ While these corporations were often created for limited purposes, they were given the necessary rights to fulfill those purposes by the states in which they were incorporated.¹¹⁰ Additionally, many non-corporations enjoyed the rights that today are thought of as part in parcel with being a corporation.¹¹¹ Colonial newspapers, for instance, were businesses which survived their owners and would operate for the purpose of making a profit.¹¹² The history of English and American companies provides a deep tradition of recognizing the doctrine of corporate personhood.

In modern statutory law, 1 U.S.C.S. § 1¹¹³ states that when there is no context to the contrary, the word "person" in any federal statute should be construed as to apply to both corporations as well as natural

104. See 1 USCS § 1, *supra* note 64; cases cited *supra* note 5; 1 William Blackstone, Commentaries *455 (On Corporations).

105. 1 William Blackstone, Commentaries *455 (On Corporations).

106. *Id.* at 455-56.

107. *Id.*

108. *Id.* at 458 (detailing the differences between "civil" and "eleemosynary" corporations).

109. *Citizens United v. FEC*, 558 U.S. 310, 426, fn. 53 (Stevens J., dissenting).

110. *Id.* at 427 (Stevens, J., dissenting).

111. *Id.* at 390. (Scalia J., concurring).

112. *Id.*

113. 1 USCS § 1, *supra* note 64.

individuals.¹¹⁴ The plain meaning of the text includes corporations in any bill or law which refers to persons, clearly evidencing Congress' understanding of corporations as legal persons.¹¹⁵ While this part of The Dictionary Act¹¹⁶ provides a textual basis for corporate personhood, it also suggests Congressional intent for corporate entities to have the same rights as individual citizens as a result of Congressional legislation, at least as far back as the middle of the Nineteenth century, when the Dictionary Act was passed.¹¹⁷ The wording of the Dictionary Act supplies the basis for both textual and intent interpretations of corporations as legal persons.

In early American Supreme Court cases, the rights of corporate entities were recognized by the Court in cases like *Dartmouth v. Woodward*.¹¹⁸ The reliance on Sir William Blackstone by the justices in those early cases supports the theory that they were of a mind that corporations were persons in the legal sense, as Blackstone theorized.¹¹⁹ Likewise, in contemporary cases, any discussion of the rights of corporations begins with a recognition of these historical precedents and the assumption that corporate entities enjoy the same rights as individuals.¹²⁰ Corporate personhood theorists allude to the precedent offered by the cases from *Dartmouth* to *Hobby Lobby* in defending it as a deeply rooted concept in American law.¹²¹ Additionally, the vast majority of states in the United States have incorporation statutes that allow companies to incorporate for any lawful purpose.¹²² Such states do not limit the word lawful in their incorporation statutes, meaning that they would recognize any corporate action as lawful, which would be lawful for an individual to perform.¹²³

114. *Id.*

115. *Id.*

116. *Id.* (the Dictionary Act was provides guidance regarding the meaning of common words used in laws passed by Congress.) *Id.*

117. *Id.*

118. Tr. of *Dartmouth Coll. v. Woodward*, 17 U.S. 518, 569-701.

119. See *id.*; see also *id.* at 569-701 (referring to Sir William Blackstone sometimes as "Mr. Justice Blackstone" and others as merely "Blackstone.,").

120. See *Burwell v. Hobby Lobby*, 134 S. Ct. 2751, 2769 (2010); *Citizens United*, 558 U.S. at 376.

121. See *When Did Companies Become People? Excavating the Legal Evolution*, *supra* note 6.

122. See, e.g., 15 Pa. Const. Stat. § 1301 (LEXIS 2014) ("Corporations may be incorporated under this subpart for any lawful purpose or purposes."); Cal. Corp. Code § 207 (LEXIS 2014) ("a corporation shall have all of the powers of a natural person"); see also *Hobby Lobby*, 134 S.Ct. at 2770-71.

123. 15 Pa. Const. Stat. § 130 (2014); Cal. Corp. Code § 207 (2014).

Finally, proponents of corporate personhood point to the public policy benefits that the doctrine provides.¹²⁴ Benefits such as limited liability for owners, which is often chief among the minds of business students, are joined by other benefits, such as the ability for natural persons to pool resources to achieve a common goal and to act as one unit rather than many smaller units, and the ability of the organization to survive the natural people who incorporate it.¹²⁵ Many elements of the modern economy would not be possible without corporate personhood, supporters argue.¹²⁶ The New York stock exchange, for example, would necessarily have difficulties if corporations were not separate and distinct entities with their own identity, as that concept is the basis on which equity in a corporation can exist. Many look to the stock exchange as a measure of economic growth, and so if activity on the stock exchange were to slow down, consumer confidence in the economy would decrease, and the economy itself would be negatively affected.¹²⁷ Such breadth of basis for corporate personhood across the various sources of law suggests to many that any First Amendment right of an individual should extend to those voluntary associations which that individual enters into.¹²⁸ The Supreme Court has relied on all of these different sources at various points in time in upholding the rights of corporations under the Constitution.¹²⁹ Supporters of the corporate personhood doctrine embrace that history, and assert that future cases will continue to play out in favor of the recognition of corporate rights.¹³⁰

The titular quote of this article submitted Mitt Romney to a significant amount of backlash from anti-corporate advocates asserting that,

124. See Jack Welch & Suzy Welch, *It's True: Corporations Are People*, WSJ.com (July 15, 2012), <http://www.wsj.com/articles/SB10001424052702303740704577524823306803692>.

125. *Citizens United*, 558 U.S. at 314, 465 (Stevens J., dissenting); *Commentaries*, *supra* note 105, at 455.

126. *Citizens United*, 558 U.S. at 393, (Scalia J., concurring) (describing corporations as “the principle agents of the modern free economy.”).

127. The Conference Board, *Consumer Confidence Survey Technical Note*, The Conference Board (February 2011), https://www.conference-board.org/pdf_free/press/TechnicalPDF_4134_1298367128.pdf. “The Consumer Confidence Index and its related series are among the earliest sets of economic indicators available each month and are closely watched as leading indicators for the U.S. economy.” *Id.*

128. *Citizens United*, 558 U.S. at 342.

129. See cases cited *supra* note 5.

130. See *infra* Part IV.

in fact, corporations were not people.¹³¹ Corporate personhood supporters, however, realized how little his statement mattered in the long-run because his statement was a mere recognition of the current state of the law in America.¹³² Supporters of corporate personhood argue that all of the various elements and sources of law: text, intent, precedent, tradition, and public policy, support the doctrine of corporate personhood.¹³³ The Supreme Court has shown that it too is in favor of corporate rights,¹³⁴ which supporters argue makes the Court in favor of rights in general. Corporate Personhood, as many see it, is here to stay, and is a good thing that will help advance the interests of all.¹³⁵

B. Corporate Detractors

There are many concerns raised by the growth of corporate First Amendment rights, particularly the growth that has happened in recent years through landmark Supreme Court cases.¹³⁶ Americans who believe that corporations have too many rights have led charges in the political branches, as well as the judicial branch of government to challenge the rights of corporations, and the corporate personhood principle.¹³⁷ Detractors from corporate personhood argue that corporations cannot enjoy the First Amendment rights that their underlying founders and contributors enjoy because they do not have a corporeal body.¹³⁸

131. Annie-Rose Strasser, *Elizabeth Warren Explains: 'No, Governor Romney, Corporations Are Not People'*, ThinkProgress.org (Sept. 5, 2012), <http://thinkprogress.org/politics/2012/09/05/803891/elizabeth-warren-corporations-people/>.

132. Jack Welch & Suzy Welch, *It's True: Corporations Are People*, WSJ.com (July 15, 2012), http://www.wsj.com/articles/SB10001424052702303740704577524823306803692_

133. James Pethokoukis, *Why Romney's right that 'companies are people'*, Reuters.com (Aug. 11, 2011), <http://blogs.reuters.com/james-pethokoukis/2011/08/11/why-romneys-right-that-companies-are-people/>.

134. See cases cited *supra* note 5.

135. *Why Romney's right that 'companies are people,' supra* note 133.

136. See *When Did Companies Become People? Excavating the Legal Evolution*, *supra* note 6.

137. See *Elizabeth Warren Explains: 'No, Governor Romney, Corporations are not People,' supra* note 131; *Preview of United States Supreme Court Cases: Citizens United v. Fed. Election Comm'n*, AmericanBar.org (September 9, 2009) http://www.americanbar.org/publications/preview_home/publiced_preview_briefs_sept09.html (Amicus briefs in support of Appellee).

138. See *Citizens United v. FEC*, 558 U.S. 310, 343 (2010) (rejecting the argument that "political speech of corporations or other associations should be treated differently under the First Amendment simply because such associations are not natural persons.").

Some of those who argue against the premise of corporate personhood assert straw men arguments to strike down, such as arguing that corporations could not be convicted of criminal charges, and therefore cannot enjoy other rights of natural persons.¹³⁹ The various arguments against corporate rights are calculated to counteract the historical reasons that corporate personhood exists.¹⁴⁰

Critics of corporate personhood also point to the history of corporations in America and find that the early American corporations were usually quite limited.¹⁴¹ Such corporations often had severe limitations on purpose, scope, and time of operation, and were most commonly used to perform public services, such as building infrastructure for the growing nation.¹⁴² With the ubiquity of for-profit and not-for-profit corporations alike in the modern world, discussions regarding the rights of corporate entities in the context of American history will often compare the corporations of early America against modern corporations, and find that today's corporations are given more rights than are necessary to fulfill their objectives of turning a profit for their shareholders.¹⁴³ Additionally, challengers of corporate personhood, like Justice Stevens in *Citizens United*, argue that corporations at the time of the founding, though limited in scope, were the subject of disdain among the founders.¹⁴⁴ Justice Stevens' citations to historical sources painted the picture of founding fathers who saw no place for corporations in the republic that they were creating and did not anticipate corporations to be considered in the same light as individuals when it came to discussions of rights.¹⁴⁵ This understanding of Constitutional intent leads some to argue that corporations were not meant to be protected under the Constitution at all, or at least as vigorously as natural persons are.¹⁴⁶ Justice Stevens, and those who agree with him, argue that the use of the word "person" in the Constitution could not have conceivably be expanded to include corporate entities by the founders, and that a reading of the Constitution that includes that interpretation is inherently flawed.¹⁴⁷ These arguments counter the intent and tradition arguments that are

139. See *It's True: Corporations Are People*, *supra* note 132 (comment asserting that corporations should be subject to criminal liability).

140. *Citizens United*, 558 U.S. at 425-27 (Stevens, J., dissenting).

141. *Id.* at 426-27.

142. *Id.*

143. *Id.* at 428-29.

144. *Id.*

145. *Id.* at 429.

146. *Id.* at 427.

147. *Id.* at 428.

used in advancing the rights of corporations in American case law and academic exercises.

Even though the text of The Dictionary Act specifically includes corporations in its definition of “person,” those who argue against corporate personhood invoke the part of the definition that provides it will not apply when the context of a statute indicates otherwise.¹⁴⁸ Opponents of corporate personhood often will argue that the context of a particular statute dictates that the court find that corporations were not meant to be included in the use of the word “person.”¹⁴⁹ The Court had not found this to be the case however, and has most often applied the plain language of 1 USCS § 1 as it is stated.¹⁵⁰ Additionally, even though the relevant precedent favors the expansion rather than the deduction of corporate rights, invoking an understanding of the doctrine of corporate personhood, opponents argue that the cases from early American jurisprudence have to be read with an understanding of what corporations were like at the time.¹⁵¹ They argue that applying corporate precedent from the 19th and early 20th centuries to today’s corporations ignores the fundamental differences that modern corporations have from those that came before.¹⁵² Namely, that states of incorporation have nearly all expanded the rights of corporations dramatically in the last century.¹⁵³ To these opponents of corporate personhood, a pragmatic approach to the legal status of corporations is necessary to appropriately deal with them.

Perhaps the most persuasive argument that is available to those who disagree with corporate personhood is one based in public policy. Anti-corporatists argue that the main benefits of corporate personhood can be bestowed on corporations without granting them legal personhood.¹⁵⁴ This would be desirable for those who dislike corporate personhood because they oppose the growing power that corporations have in American politics.¹⁵⁵ To detractors from corporate personhood, the idea of corporations stepping in where individuals used to control is to be avoided and the relative benefits of being able to exercise personal

148. 1 USCS § 1, *supra* note 63.

149. *Citizens United*, 558 U.S. at 420 (Stevens, J., dissenting).

150. *Burwell v. Hobby Lobby*, 134 S. Ct. 2751, 2768 (2014).

151. *Citizens United*, 558 U.S. at 426-27 (Stevens, J., dissenting).

152. *Id.* at 425-33.

153. *Id.* at 427.

154. *Id.* at 465.

155. *But see Citizens United*, 558 U.S. at 344 (citing *United States v. Auto. Workers*, 352 U.S. 567, 57 (1957) (Douglas, J., dissenting)).

rights in an economic sphere is outweighed by the cost of corporate influence in the political sphere.¹⁵⁶

Specifically within the realm of First Amendment rights, people who are against corporate personhood look at the outcome of *Citizens United* as proof that corporations have too much of an ability to sway elections.¹⁵⁷ They respond to the argument that corporations by definition serve the will of those who own and manage them, by arguing that people could give money to candidates whom they agree with on an individual basis, and that corporate entities should not be making political contributions.¹⁵⁸ Additionally, many who believe that corporations are not persons also believe that money does not equate to speech, and that the Court is incorrect to protect the rights of corporations to donate funds to political organizations or candidates under the First Amendment, over and above the same rights of natural persons.¹⁵⁹ Despite the common phrase that “money talks,” certain Americans think that the corporate money in politics has gotten too verbose and that it should be regulated as being aside from speech.¹⁶⁰ Those who disagree with the doctrine of corporate personhood have many arguments to attack the idea, but ultimately, there is no reason to believe that such arguments will gain any traction with American courts as they stand today, or in the foreseeable future. The Supreme Court has addressed many of these arguments head on or in passing, and has found nearly all of them lacking.¹⁶¹ If it follows the path it is currently on, the Court will most likely continue to broaden the understanding of corporate rights.

IV. CORPORATE PERSONHOOD WILL CONTINUE TO HAVE AN INFLUENCE ON AMERICAN LAW.

As previously discussed, the fiction of corporate personhood has an impressively long and detailed history in American Common Law, dating back to before the Founding Era.¹⁶² The corporate person has enjoyed the defense of western law in statutory text, precedent, tradition,

156. *Id.*

157. *Id.* at 394, 433, 459 (Stevens J., dissenting).

158. *Id.* at 467.

159. *Id.*

160. *Id.*

161. *See, e.g., Citizens United*, *supra* note 1 (Majority, as well as concurring opinions, addressing the arguments made by the dissenting justices).

162. *See Commentaries*, *supra* note 105.

and academia.¹⁶³ Additionally, the public policy implications of the corporation as a person have been positive for the nation and for the world economy.¹⁶⁴ Sir William Blackstone's writings setting forth the basis for corporate personhood theory were used extensively by early Supreme Court decisions regarding corporations, particularly by Chief Justice Marshall.¹⁶⁵ Blackstone's writings are also a key element of American legal tradition and understanding of corporate personhood.¹⁶⁶ From *Dartmouth* to *Hobby Lobby*, the concept of corporate personhood gradually grew and evolved into a legal doctrine.¹⁶⁷ The Dictionary Act provided Congressional approval of corporate personhood, and confirmed the early Supreme Court decisions, which expanded the interpretation of the rights of corporations.¹⁶⁸ The various ways in which an argument against corporate personhood can be countered are too numerous to put aside lightly, and the Supreme Court has not displayed any intent to do so. Rather, the Court has shown that it considers the rights of corporations to be nearly the same, if not the exact same, as the rights of individuals.¹⁶⁹

This has not stopped dissenters from trying to overturn the Court's precedent regarding corporations, and a few justices have tried to argue against the idea of corporate personhood, or at least have tried to limit it.¹⁷⁰ Their arguments often relate back to the supposed disdain for corporations during the Founding Era, or attempt to argue that corporations as they exist today are so different from their Revolutionary Era counterparts as to require a different set of rules.¹⁷¹ Dissenters have likewise relied on public policy grounds to argue that corporations have undue influence on American politics under the First Amendment, and that the fact of the effectiveness of their speech alone should provide a legal

163. See 1 USCS § 1, *supra* note 64; cases cited *supra* note 5; *Commentaries*, *supra* note 105.

164. See *It's True: Corporations Are People*, *supra* note 132.

165. Tr. of *Dartmouth Coll. v. Woodward*, 17 U.S. 518, 569-71 (1819); see also *id.* at 569-701 (referring to Sir William Blackstone sometimes as "Mr. Justice Blackstone" and others as merely "Blackstone,").

166. *Id.*

167. See cases cited *supra* note 5.

168. 1 USCS § 1, *supra* note 64.

169. *Citizens United*, 558 U.S. at 342 (citing *Bellotti*, *supra* note 38) ("political speech does not lose First Amendment protection 'simply because its source is a corporation.'").

170. *Id.* at 394-95 (Stevens J., dissenting) (calling limitations on campaign spending by corporations "permissible").

171. *Id.* at 425-32.

basis for limiting it.¹⁷² The arguments, while based in pragmatism, often fall short of capturing the full picture of how corporations operate.¹⁷³ If supporters of corporate personhood look at corporations through rose-colored glasses, then detractors look at them through the opposite spectrum. Despite these arguments, a majority of the Courts have consistently held that corporate rights should be expanded, not contracted.¹⁷⁴

A rejection of the concept of corporate personhood would possibly have extremely detrimental results. Whether or not it is specifically invoked in Supreme Court precedent, the concept of the legal personhood of corporations is fundamental to the limited liability and immortality of the corporate form. Without a separate corporate identity, the chief reasons for seeking incorporation would disappear, exposing countless people to liability for actions that they themselves did not do.¹⁷⁵ If large companies still existed after a rejection of corporate personhood, additional legal hurdles would slow down business to a standstill, having a detrimental effect on the economy.¹⁷⁶ Even if the chief effects of corporate personhood could somehow remain without the recognition of the doctrine, persons engaged in the business of a corporation would necessarily shed some rights while engaging in economic activity.¹⁷⁷ Not only would this be detrimental to the rights of natural persons, but would limit the actions able to be taken by the majority of Americans working for large companies.¹⁷⁸ While the Court has not significantly contemplated the impact that rejecting corporate personhood would have on the nation in its opinions, it is clear that the Court considers the benefits of recognizing the rights of corporations to be important.

V. CONCLUSION

The arguments against corporate rights are relatively recent in their conception, and do not have as solid a grounding in legal precedent or tradition as the doctrine of corporate personhood enjoys.¹⁷⁹ Relying on public policy arguments, opposition to corporate personhood is often dependent on the proposition that individual persons are somehow

172. *Id.* at 450.

173. *Burwell v. Hobby Lobby*, 134 S. Ct. 2751, 2770-71 (2014).

174. *See* cases cited *supra* note 5.

175. *Citizens United*, 558 U.S. at 351.

176. *Id.* at 393 (Scalia J., concurring).

177. *Id.* at 421 (Stevens J., dissenting).

178. *Id.*

179. *Id.* at 446.

harmd by associations of people taking part in the political process.¹⁸⁰ While those who detract from the idea of corporate personhood will continue to bring challenges against it in the political and legal arenas, the vast wealth of jurisprudence and tradition that backs up the First Amendment rights of corporations indicates that such rights will continue to grow rather than be subject to pruning.¹⁸¹

Generally, the Court's attitude towards rights has been that rights should always be favored, unless some compelling governmental interest is at stake, applying a variation on a strict scrutiny analysis on any legislation attempting to limit the rights of corporations.¹⁸² This belief on the part of the Supreme Court that rights should be protected as a general matter should not be heartening only to corporate persons, but to natural persons as well. A Court that is in favor of protecting and expanding rights, rather than looking for way in which they can be circumnavigated or cut down entirely should be the goal of the American people. As long as the Court holds corporate rights equivalent to the rights of natural persons, each will benefit from the protection of the rights of the other.

Corporate entities are made up of neither angels, nor demons, but of people, and by allowing corporations the same First Amendment rights as the people who form them, corporations can more easily reflect the stakeholders whom they represent. No natural person can see into the future, but the substantial amount of precedent showing that the Court favors rights in general, and the rights of the corporate person specifically, indicates that such rights will continue to expand despite vehement opposition from those who disagree with it. The Supreme Court will properly continue to endorse the doctrine of corporate personhood by its opinions in cases involving the question of corporate rights. The expansion of such rights will continue to benefit corporations and the natural people who own, manage, purchase from, and live around them.

180. *Id.* at 450.

181. *See, e.g.,* *Tr. of Dartmouth Coll. v. Woodward*, 17 U.S. 518 (1819); *U.S. v. Cong. Of Indus. Orgs.*, 335 U.S. 106 (1948); *Marshall v. Barlow's, Inc.*, 436 U.S. 307 (1978); *First Nat'l Bank v. Bellotti*, 435 U.S. 765 (1978); *Citizens United v. FEC*, 558 U.S. 310 (2010); *Burwell v. Hobby Lobby*, 134 S. Ct. 2751 (2014).

182. *Citizens United*, 558 U.S. at 340.