

years and kept losing. But they got the idea into public discourse, especially among people employed by the railroads.

Then, in 1886, they got a break. The railroads had brought four cases concerning taxes to the Supreme Court, including *Santa Clara County v. Southern Pacific Railroad*. In Santa Clara County, there was a tax provision that allowed persons paying mortgages on their property to deduct the amount of their mortgages from their taxes. Southern Pacific Railroad had a huge mortgage and wanted its mortgage costs deducted from its taxes, which would make a lot of profit for the railroad and cost Santa Clara County a lot of tax money.

The case was argued in the Supreme Court, with Chief Justice Morrison Waite presiding. Waite had earlier been a railroad lawyer. The court recorder was J. C. Bancroft Davis, formerly president of a small railroad.

The precedent of corporate personhood came out of this case. But the precedent did not come from any argument in the case or anything written in favor or against by any of the justices. The precedent came from an oral remark by Chief Justice Waite that was taken down by court reporter J. C. Bancroft Davis. The remark appeared in the headnotes for the case and nowhere else. The headnote quoted Waite as saying:

The court does not wish to hear argument on the question whether the provision in the Fourteenth Amendment to the Constitution, which forbids any state to deny any person within its jurisdiction the equal protection of the laws, applies to these corporations. We are of the opinion that it does.

That set the precedent, which was then cited in succeeding cases.

Bear in mind, as we go through the list of cases, that British common law defined corporations and their shareholders in such a way as to legally separate the properties of the shareholders from the properties of the corporation, so that the shareholders were free of certain liabilities of the corporations—hence the LLC, the limited liability corporation. Each of the following court decisions violated this essential property of corporations, by automatically attributing to corporations certain of the constitutional rights