

The Pink Oleo Saga

Why So Many Good State Laws Are “Unconstitutional” (and What We Should Do About It)

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What's pink, French, and unconstitutional?

Hint: The story of this early “frankenfood” provides an advance script for the current global “free trade” frenzy. Over a century ago, its introduction was an occasion for greasing the skids toward establishing a U.S. “free trade” zone, one that is as devastating to local democracy as the WTO and NAFTA are to national sovereignty.

Why would the Supreme Court throw out state laws requiring oleomargarine to be colored pink? Why would state legislators pass such seemingly silly laws to begin with?

Why are provisions that protect citizens against fraud, safeguard their health, and protect local industry *unconstitutional* in the eyes of the Supreme Court? A recent example applies to corporate agriculture. A South Dakota constitutional amendment—passed by 59% in 1998—prohibited most corporate ownership of land used for agriculture. In 2004, the U.S. Supreme Court effectively threw it out. Nebraska’s even stronger anti-corporate agriculture constitutional amendment, first passed in 1982, was ruled unconstitutional in 2006 by a lower federal court—citing the South Dakota case.¹ Why do such measures garner the dreaded *unconstitutional* label?

Probably for the same reason that has stood for over a century: they interfere

with the care and feeding of large corporations. They challenge the Supreme Court’s policy, evident since at least the 1870s, of nurturing and protecting corporations against the very states that created them. After corporate lawyers do the research and outline possible arguments, the Court has only to cut-and-paste a decision.

The myth that the Supreme Court began its turn toward “business interests” only since the early Nader years (as claimed by Jeffrey Rosen in the recent “Supreme Court, Inc.” in the March 16, 2008 *New York Times Magazine*) ignores the long history that fills the pages of *Gaveling Down the Rabble*.

Commerce Clause to the Rescue

But even the Supreme Court needs to point to something in the Constitution that justifies its consistent pro-corporate decisions. The handy constitutional clause that has become a favorite is the domestic version of international “trade barrier” language: the *commerce clause* of the U.S. Constitution.

“The Congress shall have power... to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.”
[Article I, section 8, clause 3]

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The late-nineteenth century Pink Oleo saga provides a perfect example for a quickie workshop on how the Supreme Court uses “free trade” to get rid of good state laws.

After the mid-nineteenth century, more than one inventor around the world sought to turn slaughterhouse offal into something that people could be convinced to eat. If it had a long shelf life and was cheap to make, all the better. The successful solution came from Frenchman Hippolyte Mège-Mouriès, who obtained a U.S. patent for oleomargarine in 1873. Its commercial potential was quickly appreciated, as Mark Twain captured in a chapter of *Life On the Mississippi* written in 1883. The gleeful conversation takes place between two businessmen on a riverboat.

“You can’t tell it from butter; by George, even an *expert* can’t!... We’re going to have that entire trade... You are going to see the day, pretty soon, when you can’t find an ounce of butter to bless yourself with... we can sell it so dirt-cheap that the whole country has *got* to take it... There’s more money in oleomargarine than—why, you can’t imagine the business we do.” [emphasis in original]

Oleomargarine’s introduction into a nation long accustomed to the joys of udder butter churned up controversy. The “Oleo Wars” that ensued pitted state legislators against the growing power of meatpacking corporations. Corporate

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By What Authority (ISSN: 524-1106) is published two times a year by the Program on Corporations, Law & Democracy. The title is English for *quo warranto*, a legal phrase that questions illegitimate exercise of privilege and power. We the people and our federal and state officials have long been giving giant business corporations illegitimate authority. Today, a minority directing giant corporations and backed by police, courts, and the military, define our culture, govern our nation, and plunder the earth. **By What Authority** reflects an unabashed assertion of the right of the sovereign people to govern themselves.

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BWA is a tool for democracy proponents to rethink and reframe their work. To that end we encourage readers to engage us with comments, questions, and suggestions.

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efforts to put oleomargarine in the nation's pantries tell the archetypal story; at issue was whether state and local governments would determine their own laws, or have terms dictated to them by distant corporations.

The original oleomargarine was made not from vegetable oils (as it is today) but from slaughterhouse by products subjected to industrial processes in a factory. Mere inspection of a firkin of manufactured oleomargarine could not determine whether it had been made from inferior, doctored, or even dangerous ingredients. To add insult to possible injury, sometimes this easily adulterated industrial food product was fraudulently sold as real dairy butter. In addition, many feared that competition from oleomargarine would threaten the growing dairy industry. Health, consumer protection, and economic concerns were closely intertwined.

In response to citizen concerns, state legislatures started passing laws against oleomargarine. At the time, protectionist measures of this ilk were nothing out of the ordinary. In 1884, the New York state legislature prohibited the sale or manufacture of oleomargarine. In 1885, Pennsylvania followed suit. These and other overtly protectionist acts reflected the people's will to use their imperfect representative democracies to keep out a product they feared would endanger them.

Manufacturers and purveyors of oleomargarine as a cheap butter substitute (and source of profits) were not pleased at this legislative attention. A variety of laws and a matching variety of corporate challenges evolved into a cat-and-mouse game between legislature and court ostensibly over artificial butter. Pennsylvania's outright ban on oleomargarine was an early target.

On the same day that the 1885 Pennsylvania law was passed, a Harrisburg grocer (Powell) was arrested for selling oleomargarine. Lawyers representing corporations that manufactured and sold

oleomargarine argued on his behalf that their product was clean, pure, and yummy, and that the right to make and sell it was covered by the Constitution. On the other side, defenders of the Pennsylvania ban argued that its intent to protect health and prevent fraud made it a legitimate exercise of a state's "police power," the legal term for the power to pass whatever laws are necessary and appropriate to protect its citizens.

State Courts Upheld Rights of Legislatures to Protect People

A Pennsylvania court found the ban to be well within legislative powers. In 1888, the U.S. Supreme Court also upheld it, strongly endorsing a state's police power. The Court affirmed that protecting and preserving public health and morals was one of the main tasks of legislation, and that public policy should be determined not by courts but by legislatures. If some were dissatisfied with the legislative outcome, then appeal should be to the legislature, or to the ballot-box, not to the judiciary.²

But "Big Oleomargarine" tried again a few years later. In 1893, a Pennsylvania resident (Schollenberger) and registered agent for a Rhode Island oleomargarine-manufacturing corporation sold a tub of oleomargarine in Pennsylvania. After the Pennsylvania Supreme Court again upheld the state's ban, the case was appealed to the U.S. Supreme Court. Meanwhile, states were also trying out a more colorful approach.

State legislatures that wanted to keep oleomargarine out of their states—and there were many of them—did not give up when their oleo bans were threatened by commerce clause arguments. Instead, they started to see pink as a way to regulate oleomargarine.

In 1890, the Vermont legislature prohibited the manufacture of oleomargarine in that state, and specified that it could be sold in Vermont only if colored pink. In 1891 Minnesota, West Virginia, and New Hampshire passed similar laws. Not long afterwards, an alert Minnesota oleomargarine S.W.A.T. team carried out

What the Supreme Court thinks is “unconstitutional” under the commerce clause “trade barrier” doctrine? A sampling includes:

- laws discouraging “chain stores” from wrecking local economies
- laws requiring food labels to include information about ingredients, place of origin or organic standards,
- laws banning import of goods made with child labor, or under other repressive labor conditions,
- laws favoring state residents’ subsistence needs (from natural gas to fish) over the desire of corporations seeking to export for profit.
- laws requiring imported toxic waste to be pretreated and inspected,
- laws requiring country-of-origin labels on meat,
- state constitutional provisions limiting corporate agriculture,
- laws limiting export of state water resources,
- laws requiring a corporation to adhere to certain conditions in order to do business in your state.

For discussion of these examples and more, see *Gaveling Down the Rabble*.

a pantry raid and confiscated a quantity of not-pink oleomargarine that had been imported from Missouri by Armour Packing Co., a New Jersey corporation. A federal court upheld Minnesota’s pink law as an appropriate use of the state’s police power. Things were looking good for the “pink is beautiful” movement.

But it was not to last. Corporate lawyers challenged the “pink oleo” laws just as they had challenged the oleomargarine bans. Both the Minnesota Pink Law and the Pennsylvania Oleo Ban reached the U.S. Supreme Court in 1898.

Because only ten years earlier the U.S. Supreme Court had upheld an oleo ban as a legitimate use of a state’s police power, defenders of the Pennsylvania law reiterated tried-and-true arguments about protecting and preserving public health. Little did they know that a new argument would be offered and the Supreme Court would go for it. This time, “Big Oleo” trumped arguments about state police power and public health and welfare by playing the commerce card. **The oleomargarine corporation lawyers argued that the Pennsylvania oleomargarine ban was what today the WTO tribunals would call an illegal trade barrier.** The U.S. Supreme Court was persuaded, and, basing its decision on the U.S. Constitution’s commerce clause, the late nineteenth century analog of what today is touted as “free trade,” ruled the Pennsylvania law unconstitutional.

The Supreme Court’s reasoning had two steps. First, it determined that oleo was included in the “interstate commerce” category. Inclusion in this category had consequences, which were the second step. An item of interstate commerce might be *regulated* by a state, but could not be *prohibited*, said the Supreme Court. “Absolute prohibition of an unadulterated, healthy, and pure article” goes beyond the allowable use of the state police power. A state cannot prohibit the import from another state of a “lawful article of commerce,” because that amounts to regulating interstate commerce, which is a power of the U.S. Congress.³

The decision took a big bite out of a state’s police power. The ban that had been okay in 1888 was unconstitutional by 1898. Now, a state would have difficulty banning the import of anything that the Supreme Court could be persuaded was an article of commerce (and by the late twentieth century, this included toxic waste, air pollution, and nuclear waste, among many other things).

Pink wouldn’t work either: again the high court sided with the corporations against the states. States’ pink oleo laws were unconstitutional because the pinkness requirement was as much a burden on commerce as a ban. The reasoning was that if a state lacked the power to prohibit the import of something (in this case, oleomargarine), then it also lacked the power to require that the imported item

be adulterated in such a way that it would be unsalable. As for example, by requiring that oleomargarine be pink... or blue or red or black (other colors mentioned by the Supreme Court)... or impregnated with an “offensive smell.”⁴

In ruling against blue or stinky oleomargarine laws, the Supreme Court took another bite out of an already dwindling state police power. Legislatures, responding to a new situation (in this case, the appearance of a new product) acted to protect citizens against inferior products, fraud, and economic disruption. In this, they were supported by farmers and dairy corporations. So far, it sounds democratic enough, a routine use of the police power.

But then lawyers working on behalf of corporations hoping to profit from this new product challenged the states’ power to take such action.⁵ These challenges, being constitutional in nature, brought the matter before federal courts and ultimately to the Supreme Court. In evaluating the issue and explaining their decision, the justices had exactly the kinds of discussions that must have previously occurred in state legislatures, and prior to that, on street corners and in hayfields scattered throughout the states.

They discussed the invention, composition, and manufacture of oleomargarine; methods of determining its purity; testimony from an analytical chemist; the fact that it was used by armies and navies throughout Europe; and what size and type of container it might be packaged in. The justices then gave their opinion that oleomargarine was obviously safe and widely recognized as a food item, and that butter and oleomargarine were “substantially identical.” In short, they had the kind of discussion that we might want a legislature to have. But they are not legislators.

“Free Trade” Constitutionalized in Commerce Clause

Using the commerce clause, the “free trade” mantra of the time, they decided that states could not ban the manufacture, import, and sale of a substance that obvi-

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ously many states wanted to ban. In other words, Supreme Court justices legislated their own opinions by declaring unconstitutional those laws they disagreed with. **The Supreme Court acted as a legislature.** If we step back from the Supreme Court's musings on oleomargarine chemistry and pink dye as a burden on commerce, we can see the oleomargarine rulings for what they were: direct assaults on people's power to govern themselves and shape their communities.

The language of commerce (or trade), shrouded in the gravitas of constitutionality, is a ruse to disguise a corporate elite's efforts to escape government actions taken to protect the public welfare. It has long been understood that corporate interests use the judicial lever to undo legislative deeds.

"The old fights of state against nation were largely smoke screens to hide an attempt by some private interest to invoke the aid of the Court in combating public regulation. In large measure, this is the case today." [in 1943]⁶

The underlying issue is not whether butter is better, or whether pink margarine is repulsive, or even whether food policy (or economic policy) should be a local, state, or national matter. **The issue is who should decide public policy: the people acting through a legislature, or a handful of judges.**

Courts provided a more favorable forum than did legislatures for a "rematch" between corporations and states. Commerce clause rulings exempted corporations from the concrete exercise of state and local power, while delivering them into the kinder and gentler hands of the federal judiciary. In *Gaveling Down the Rabble*, I show how Supreme Court Justices since the 1870s used trade barrier language based on the Constitution's commerce clause to promote the corporate agenda by invalidating state and local laws that threatened corporate power.

Why Don't We Hear More About the Commerce Clause?

At state and local levels, the body politic's democratic impulses have been tightly constrained by commerce clause rivets, so that these days, we rarely hear of the commerce clause or "trade barrier" language. Two reasons explain this low profile.

First, the work has been done, the lessons learned, the precedents established. Between 1910 and 1919, for instance, the Supreme Court struck down 83 state laws under commerce. Since 1990, the number is only 13. Legislators got the message. In time, there were fewer cases heard or appealed, and fewer appeals accepted by the Supreme Court. This is the justices' way of indicating, "Been there, done that"; the domestic "free trade" zone is a *fait accompli*, rarely discussed, and disputed only around the edges.

Second, the grab bag of pro-corporate doctrines available to the Supreme Court is bulging with possibilities. For example, Massachusetts' selective procurement law, the so-called "Burma Law," was thrown out in lower federal courts partly on commerce arguments, but the Supreme Court chose other grounds to nix the law.

Recent mention of the commerce clause in the mainstream media has involved state laws on medical marijuana and interstate wine sales, and the fact that much federal environmental law is justified by a "nexus" link to interstate commerce. (See *Gaveling's* Chapter Five.)

1. Morris counts, plus statistics from Bernard Gavitt's 1932 book, *The Commerce Clause*.
2. *Crosby v. National Foreign Trade Council*, 530 U.S. 303 (2000); *NFTC v. Natsios*, 181 F. 3d 38 (1st Cir., 1999); *NFTC v. Baker*, 26 F. Supp. 2d 287 (D. Mass., 1998).

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Like the "Oleo Wars," other controversies decided under the commerce clause amounted to corporate challenges of state and local laws, with the role of arbiter falling to the U.S. Supreme Court. Analogous struggles were played out over other staples, and in other industries, with surprisingly few variations to this day.

The transformation of the commerce clause into a wish-fulfillment machine for

corporate lawyers was breathtaking. The harm to democracy done by the commerce clause "doctrine" is as damaging to democracy as the "separate but equal" doctrine was to human rights. Both deserve the same fate.

If African-American schoolchildren in unheated schoolrooms could understand "separate but equal" and in the face of horrible violence courageously demand its rejection, then today, those of us striving for justice and sustainability ought to be able to see the Supreme Court's commerce clause doctrine for the anti-democratic pro-corporate scam that it is. I can only hope that we can begin to show the same courage in working to reject it.

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Endnotes:

1. The Court refused to hear an appeal of a federal court's order preventing enforcement of the South Dakota measure, on grounds that included commerce (*S.D. Farm Bureau v. Hazeltine* (2004)). The Nebraska case was *Jones v. Gale*, 470 R. 3d 1261 (2006) 8th Cir. Neb.
2. The state court case that found the law constitutional was *Powell v. Commonwealth*, 114 Penn. St. 265 (1887). The U.S. Supreme Court case that upheld the ban was *Powell v. Pennsylvania* (1888).
3. *Schollenberger v. Pennsylvania* (1898).
4. *Collins v. New Hampshire* (1898). The lower federal court case that had previously upheld Minnesota's law was *Armour Packing Co. v. Snyder*, 84 Fed. 136 (1897).
5. See Martha C. Howard's excellent work, *The Margarine Industry in the U.S.: Its Development Under Legislative Control* (Columbia Univ. dissertation, 1951).
6. George D. Braden, "Umpire to the Federal system," 10 *Univ. of Chicago Law Rev.* 27 (1942-3).
7. *Fargo v. Stevens* (1887); *Leloup v. Port of Mobile* (1888); *Fargo v. Hart* (1904); *Ludwig v. Western Union Tel. Co.* (1910); *Atchison, T. & S.F. Ry. v. O'Connor* (1912); *Looney v. Crane Co.* (1917); *N. J. Bell Tel. Co. v. State Board* (1930). State and local efforts to protect their economies against things like chain stores and "big box" stores continued, but tended to use more indirect means, such as zoning details or parts-per-million regulations. Corporate strategies also evolved, often using the Fourteenth Amendment's equal protection and due process clauses, or other corporate constitutional "rights," to force their way into communities.

The Spirit of Change

by Greg Coleridge

Barack Obama was awakened during the night following his latest Democratic Party Presidential debate. Two ghosts stood before him. "We are the spirits of Samuel Adams and William Lamb."

"Who?" Obama asked in a daze, unsure if he was hallucinating from lack of sleep.

"We're the ghosts of *real* change."

"I am the spirit of Samuel Adams, a revolutionary for American liberty and promoter of the Declaration of Independence."

"And I am the spirit of William Lamb, a founder of the U.S. Populist movement in the 1880's-1890's, supporter of the Omaha Platform, and organizer of the People's Party."

Obama was puzzled. "You're both dressed funny, but more to the point, why are you here?"

"We've come to talk. You, Clinton, even McCain, speak constantly about 'change.' We've watched your debates, read news on your light screens, and..."

"Light screens? Do you mean televisions and computers?"

"Ah yes, that's what you call them. Anyway, all you candidates talk about is who will bring change to this country: real change, fundamental change, policy change to address unmet needs and give citizens more power."

"Sounds especially like me," Obama said assuredly.

"We're not so sure," said the ghosts in unison. "We believe political change in our times was more profound than anything being proposed now."

And so Sam, Lamb and "Bam," advocates from three turbulent periods in U.S. history, huddled to discuss political change.

SAM: I agitated for the greatest change in the history of our nation, political independence from Great Britain. The Declaration of Independence, passed on July 4, 1776, presented a lengthy list of "repeated injuries and usurpations" by the British government and asserted that the 13 colonies were "Free and Independent States."

LAMB: Weren't you a signer?

SAM: Yes, one of 56 signers of the Second Continental Congress, a revolutionary, illegal body.

BAM: Did the British consider you and your ilk "terrorists"?

SAM: A renegade if not worse, in part for supporting the Declaration. I said in 1776, "Is not America already independent? ...Why not then declare it."¹ The power and inspiration of the Declaration were these unequivocal assertions: "*All Men are created equal and endowed by their creator with certain unalienable Rights... That to secure these Rights, Governments are instituted among Men, deriving their just Powers from Consent of the Governed... [and] whenever any Form of Government becomes destructive of these Ends it is the Right of the People to alter or abolish it, and to institute new Government... [in fact] it is their Duty to throw off such Government, and to provide new Guards for their future Security.*"

The essence of the document, revolutionary then and now, was the conviction that people can and should be governing—not kings, popes or generals.

British rule could not be "reformed." The King's army and crown corporations could not be made accountable to the public. They all had to be replaced, so I worked for revolutionary change, for a system of self-rule.

LAMB: The Declaration was an inspiration to us Populists. But be honest, Sam, sixty-nine percent of the Declaration's signers

held colonial office under England. Many who supported both it and the revolution were colonial lawyers, landowners and merchants, including you, who only wanted independence from Great Britain to impose their own brand of political and economic control. Following the revolution, did you not say, "In monarchy the crime of treason may admit of being pardoned or lightly punished, but the man who dares rebel against the laws of a republic ought to suffer death"?²

SAM: I did?

LAMB: Yup.

SAM: Still, I opposed the British Stamp Act, helped organize the Boston Tea Party and the Committees of Correspondence, colonists who organized into small groups to share information and mobilize the public.

LAMB: You were a great communicator, organizer and agitator Sam, but it was selective. **Your instigation of mob protests was directed only at British rule and wealth, not the consolidation of power by colonial elites. This omission carried over to the Declaration, which ignored inequalities of property, and I ask, "How could people have equal rights, with stark differences in wealth?"**³ The Declaration was a form of manipulation to focus anger and attention only on British rule.

BAM: While the Declaration is as inspirational as many of my speeches, there are several glaring omissions, notably independence for black slaves, women and native people. The draft of the Declaration included a grievance against the King for transporting slaves but was removed before adoption. Native people were called "the merciless Indian Savages..." and there was no room for women in "All men are created equal."

LAMB: Change during your period, Sam, was not as dramatic as during my lifetime. I helped organize the largest and most elaborate democratic mass movement in US history: Populism. It was a mass *democratic insurgency* among "plain people"—farmers and urban workers—to respond to the impoverishment of millions of farmers and workers by banks, railroads, and the consequences of economic and political centralization.

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The Spirit of Change

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BAM: I haven't heard much about the Populists.

LAMB: Most people of your day haven't. We've been largely erased from history books. Only our "spirits" remain.

The Populists sought to create a democratic movement to counter the hierarchical culture of the day. It was "a new way of looking at society, a way of thought representing a shaking off of individual forms of deference... individual self-respect and collective self-confidence... class consciousness... growing political sensibility... the mass expression of a new political vision."⁴

BAM: Now I see why there's not much known in our culture about you people.

LAMB: The creation of this democratic movement for revolutionary change was achieved in sequential steps: forming organizations, recruitment, education, and political action. State farmers Alliances were the original organizing base. I organized over 100 sub-alliances in Texas alone and eventually the National Farmers Alliance. We recruited through large-scale Populist-sponsored farmers cooperatives and I was the Texas' Alliance's first purchasing and traveling agent. Hundreds of newsletters and 40,000 "lecturers" were disseminated throughout Texas. We educated members continually, our version of the Committees of Correspondence, Sam. Collective political action bridging farmers and laborers was achieved through the Populist Party, which I helped launch.

SAM: This still doesn't sound very revolutionary, pal. You weren't talking about overthrowing the government.

BAM: Promoting major change through a political party is my goal, too.

LAMB: It was revolutionary, Sam, and there is a difference, Bam, between Populist goals and yours.

Populists constantly talked about "the coming revolution" through ballots not bullets. Revolution meant creating a "third party of the industrial millions" and overthrowing the two party system. We saw

many elections as rigged and the electoral college as undemocratic. We tried to bring the corporate state under popular control through democratic politics.⁵

As fellow Populist Tom Watson said, "It's useless to ask Congress to help us, just as it was folly for our forefathers to ask for relief from the tea tax; they revolted and so should we."⁶

The unifying platform for Populist revolution, the "Second Declaration of Independence," was the Omaha Platform. The 4000 delegates to the first People's Party Convention in Omaha, Nebraska, adopted it on July 4, 1892-116 years after the first Declaration.⁷

SAM: Where's Nebraska?

LAMB: Later Sam. The Omaha Platform, like the Declaration, spoke to the grievances and demands for major change within the context of its time.

BAM: What did it say? Perhaps I should include elements of it in the Democratic Party platform if I'm the Presidential candidate.

LAMB: The Omaha Platform's Preamble states:

"The conditions which surround us best justify our cooperation; we meet in the midst of a nation brought to the verge of moral, political, and material ruin. Corruption dominates the ballot box, the Legislatures, the Congress, and touches even the ermine of the bench. The people are demoralized; most of the States have been compelled to isolate the voters at the polling places to prevent universal intimidation and bribery. The newspapers are largely subsidized or muzzled, public opinion silenced, business prostrated, homes covered with mortgages, labor impoverished, and the land concentrating in the hands of capitalists."⁸

BAM: Sounds like something Dennis Kucinich would say!

LAMB: The Omaha Platform was a culmination of ideas and strategies from farmers and workers over a six-year period. Like the Declaration, it listed both grievances and fundamental prescriptions.

The platform called for abolishing the national banking system giving private banks control over money and credit; public own-

ership or control of the railroads, telegraph and telephone in the interests of the people; a federal graduated income tax; prohibition of alien land ownership; direct election of US Senators; the citizen initiative, referendum and recall; the secret ballot; and maybe most creatively, adoption of a "sub-treasury" system to expand currency based not on gold or silver but on agricultural products.

SAM: Still, many of these changes were "reformist." What's so radical about direct election of Senators if the Senate is part of a political system favoring a small number of elites?

LAMB: Some of our planks were less radical than others. The Progressives, those who followed the Populists, pushed for the more modest measures. Some eventually became law. Other proposals were more substantial, such as public control of banks, railroads and telephones. The goal of its financial sections, the key portions of the Platform, were radical: to transfer control of the monetary system from the nation's corporate banks and return it "in the name of the whole people," to the U.S. Treasury.⁹

All our demands, however, sought to shift the balance of power, economic and political, toward "plain people." These changes were as revolutionary in our time as forcing the British out of the colonies in yours.

Changes advocated by the Populists, however, transcended its political platform and cooperative buying and selling programs. The crux of Populism was creating a democratic culture. Populists attempted to build a cooperative community or commonwealth within the framework of American capitalism, one that put people at the center of the political and economic decisions affecting their lives. It became a movement culture that was understood, accepted and lived by millions of citizens.¹⁰

Progressives didn't go that far. After the Populists were defeated in 1896, those who sought change accepted the corporate state and tried merely to temper its worst abuses through the creation of "regulatory" laws and agencies. This is the political and economic model you, Bam, and others working for "change" are stuck with today.

SAM: The Populists failed in the end. It was hardly revolutionary if it didn't yield much change.

LAMB: True, we didn't win. Elements of the Omaha Platform are now law, but there is no cooperative, democratic culture. Isn't the same true of the Declaration and those who worked for true self-governance in 1776? Its essence of a government operating with the "consent of the governed" has not been realized. Today, those claiming that **We the People** have not only a right but a duty to revolt if unalienable rights are not secured would be called "extremists," even "terrorists" and treated accordingly.

BAM: A fundamental shortcoming of the Populists was their excluding blacks. Populist structures and members were often racist. In fact, many who call themselves "Populists" in recent times hold racist beliefs.

LAMB: That's a sad truth. The radical dream of early Alliance founders in Texas was to create an interracial farmer-labor coalition. Alliance lecturers organized many black Alliances which led to the Colored Farmers' National Alliance. Nevertheless, internal and external racism impeded social unity, economic cooperation, and electoral victory.



BAM: The change I speak of today is tied to offering real hope. I believe we can make government better, more responsive to people. We can control special interests and restore faith and trust in public officials. Hillary Clinton believes much the same. Even McCain supported campaign finance reform.

I believe we can make health care universal, increase labor and environmental provisions of NAFTA and other trade agreements, temporarily suspend home foreclosures, begin immediately to bring some troops home from Iraq, and strengthen ethics in government. This is a small part of my progressive change agenda that I can create with the support of voters. Clinton supports many of the same programs.

Other former Democratic Party candidates were even more radical. John Edwards spoke out against corporate power. Dennis Kucinich promoted a single-payer health care system, eliminating the role of insurance corporations all together, and called for undoing NAFTA.

My vision of change will be fueled if economic conditions worsen for Americans.

LAMB: Nothing you or any other Presidential candidate suggests will reduce corporate constitutional rights and powers or promote people's self-governance.

With due respect, Bam, **deep change was never brought about by those in positions of power. It occurs when people act together in insurgent movements. And insurgent movements are not a function of hard times, but of insurgent cultures. Difficult times crush people. Insurgent cultures provide real hope and make possible those processes of organizing, recruiting, educating and politicizing that create and sustain change.**¹¹

BAM: How can you say this? My messages of change and hope are drawing record numbers to my campaign. People are inspired, energized, empowered.

LAMB: True. But don't mistake attraction to your campaign with behaviors necessary for a healthy democracy. As Populism declined, little stood in the way of growing political and economic concentration. Democratic aspirations were replaced by mass resignation and plenty of escape into consumerism, entertainment and drugs.

You and your message fill a void only because people of your time do not know and have never experienced an authentic insurgency movement for self-governance. Not just to end a war, expand civil rights or create environmental protections, but a movement affirming individual and collective self-confidence in seeking real political and economic democracy.

SAM: Bam, missing in your and other presidential candidates' analysis is the larger issue of how the power and authority of "We the People," as promoted in the Declaration and Preamble of the U.S. Constitution, has been usurped.

LAMB: By the wealthy class and business corporations, I might add. We need changed rules not only changed faces.

SAM: That's what I thought the Declaration tried to do in 1776.

LAMB: And the Omaha Platform 116 years later, in 1892.

BAM: Do you two realize that 116 years after 1892 is this year, 2008?

LAMB: Rather than working for the adoption of a single national declaration or platform at this time, The Program on Corporation, Law and Democracy (POCLAD) urges decentralized, participatory gatherings to study the Declaration of Independence and Omaha Platform, along with democracy campaigns and cooperative programs from current grassroots organizations. They've collected it all in a *Democracy Insurgency Movement* packet. This will add another seed to those already sown across the country, one that may lead to a "Third Declaration of Independence" and genuine governance by "consent of the governed."

BAM: It sounds like a dream, like my experience tonight.

LAMB: A dream? It all depends on the people and their determination to create *real* change.

Greg Coleridge is a POCLAD principal and works for the Northeast Ohio American Friends Service Committee.

To order a *Democracy Insurgency Movement* packet, contact POCLAD at people@poclad.org or call 508-398-1145.

Endnotes

1. Charles A. Beard and Mary R. Beard, *History of the United States*, New York: The Macmillan Company, 1949, p. 140.
2. Howard Zinn, *A People's History of the United States*, New York: Harper & Row Publishers, 1980, p. 94.
3. Zinn, p. 73.
4. Lawrence Goodwyn, *The Populist Moment, A Short History of the Agrarian Revolt in America*, Oxford: Oxford University Press, p. 33.
5. *Ibid.*, p. 124.
6. *Ibid.*, p. 88.
7. *Ibid.*, p. 277.
8. The Omaha Platform.
9. Goodwyn, *op. cit.*, p. 93.
10. *Ibid.*, p. 164-5.
11. *Ibid.*, p. 61.

Deep Democracy Retreats Scheduled in California

Democracy Unlimited of Humboldt County (DUHC) offers two weekend retreats in 2008 titled "**Community Organizing for Deep Democracy.**" Workshop participants will learn tangible strategies and concrete actions to engage their communities in the challenge of creating citizen sovereignty over corporations.

DUHC invites activists and organizers, trainers and educators working for economic, environmental or social justice. All will take away a greater understanding of the history of corporate power as well as effective means to resist and deny that power.

Dates and Locations:

August 8 to 10 at Democracy Unlimited headquarters in Eureka, CA, on the Redwood Coast of Northern California.

October 10 to 12 at the Occidental Arts and Ecology Center in Occidental, CA. OAEC is a nonprofit organizing and education center and organic farm on 80 beautiful acres in Western Sonoma County.

For more information or to register, contact Democracy Unlimited at INFO@DUHC.org or phone (707) 269-0984.

DUHC, founded in 1998, is a community-based, grassroots organization using education and action to challenge corporate rule. Visit their website at www.duhc.org for current projects and educational services.

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