

## The Struggle For Democracy: Activists Take The Offense

by Virginia Rasmussen

*Remarks at the Empowering Democracy Conference, New York City, April 13, 2002 by Virginia Rasmussen, Women's International League for Peace and Freedom (WILPF), Program on Corporations, Law and Democracy (POCLAD)*

Empowering democracy. This phrase reaches the heart of every social justice activist's work. What does it mean to give power to democracy? It relates to making real the people's legal authority to govern. Whatever the focus of our particular struggle, success hinges fundamentally on our having the power to bring the change we envision. Every issue is anchored in the struggle for that legal authority.

In his book, *The First American Revolution: Before Lexington and Concord*, Ray Raphael tells us about a democratic moment in Massachusetts history. In 1774, six months before the shot heard 'round the world,' crowds of men numbering in the thousands deposed every Crown-appointed official in rural Massachusetts. This was in response to Parliament's Massachusetts Government Act, which virtually withdrew the considerable self-governance granted to the colonists by the 1691 Massachusetts Charter. In Worcester, 4,622 militiamen lined Main Street and instructed the British-appointed officials to walk the gauntlet, hats in hand, as they recited their resignations 30 times so all could hear. In every county outside Boston, the British lost control and never regained it. Raphael claims that, "Through it all, the revolutionaries engaged in a participatory democracy which far outreached the intentions of the so-called "Founding Fathers."<sup>1</sup>

What is it about this glimpse of times past that's important for us today? Those colonists possessed some critical characteristics that we, despite all our material and technological pizzazz, now have in small measure. They assumed themselves capable of self-governing; they displayed the attitudes and behaviors of people who took for themselves the authority to be in charge. This story reveals the essence of democratic culture and helps us grasp what the work of activists struggling to empower democracy must be about: building a culture of communities with the assumptions, attitudes, and authority of sovereign citizens.

This is a challenging task. In *The Populist Moment*, Lawrence Goodwyn describes us as 'not only culturally confused, our confusion makes it difficult for us even to imagine our confusion.'<sup>2</sup> But more and more people are cutting through the fog; our confusion is lifting.

The right to assume that our basic nature just might be decent, cooperative, and compatible with self-governing has been stolen by the few who rule over us. And we're figuring it out. Our right to learn and live by the attitudes and behaviors of self-governance has been denied to us by the few who are in charge. And we're figuring it out.

Our authority to be a nation of self-governing people was given away to the corporation, a 'legal fiction' created to serve us. We intended the corporation to concern itself with business and commerce, but it now dominates our politics and government. It was redesigned and legally empowered over

the last 150 years to scoop up wealth and power. It has amassed so much legal authority in the USA that a propertied few, shielded by corporate 'rights,' now govern the many. And having seized most power and wealth in this country, those few now write international agreements they would have us believe are about 'trade,' but which, in fact, foist corporate governing rights on every nation of the world.

What's an activist to do? WE'RE MAD AS HELL AND WE'RE NOT TAKING IT ANY MORE! What was done in the name of the Enron Corporation has made people furious Ñ not only because it engaged in criminal activity like financial fraud and insider trading, but because most of what the Enron Corporation did was perfectly legal. Even worse, the laws condoning those actions were essentially written by Enron operatives and their cohorts: laws that allow them to pick candidates and bankroll them into office; make energy policy and define energy debate; hide debt in ghost entities called partnerships; buy and sell fictional 'derivatives'; put profits in tax-free, off-shore banks, eliminating Enron Corporation's tax burden in four of the last five years... all quite legal. It's legal for corporations to fund think tanks that tell us how to think and what to believe; to endow university chairs, write textbooks, control research. In a nation of self-governing people, these are our debates to define and decisions to make, and more and more activists are figuring it out.

We're fed up with behaving like subordinates content to influence the decisions of corporate boards and the

corporate class. Having influence is valuable, but influencing is not deciding. We're weary of waging long, hard battles simply for the 'right to know.' Knowing is critical, but knowing is not deciding. We're tired of exercising our right to dissent as the be-all and end-all. Dissent is vital, but dissenting is not deciding. Influencing, knowing, dissenting, participating all are important to a democratic life, but not one of them carries with it the authority to decide, the power to be in charge.

#### LAUNCHING THE OFFENSIVE

More and more people are taking this power, shifting goals and strategies in order to defy corporate authority over our lives, work, communities, values, law and politics, culture and future. These initiatives are directed toward public officials, attorneys general, elected boards, and legislatures. We're not taking the subordinate role of asking the Enron Corporation to behave a little better. We're not content with putting a corporate-designed and -controlled regulatory agency on Enron's trail. Regulatory law protects corporations from pesky people. It enables and protects the corporate agenda as it was intended to do. We're catching on that the language and strategy, actions and arenas that frame our work determine its outcome. If we seek democratic outcomes, we must frame activism in the people's sovereign authority to rule.

Coalitions of citizens and activist organizations around the country are conducting community-based study groups, learning how corporations acquired legal powers way beyond those possessed by human beings. We are getting clear that corporate lawyers relied on judges to turn into law whatever business practices gave corporate actors power over people and natural resources. They interpreted state-granted corporate charters to be contracts over which states were no longer sovereign; they made gifts of private property to corporate claimants that transformed We the People into trespassers. They saw to it that a corporation's future profits and the decision-making in its name are

constitutionally protected from us -- beyond the people's authority.

We are learning that the commerce clause, prohibiting states from interfering with interstate commerce, was the first incarnation of a free-trade agreement. Corporate insiders and their judge advocates used it to declare that laws protecting workers, communities, children, and the environment are unconstitutional impediments to free-flowing commerce. We are finding an early model for powerful international trade tribunals in the unelected, unaccountable Supreme Court.

Where is the people's authority in this picture? Why do corporate entities have rights at all? Rights are for people. Corporations should have privileges only, to do what we ask of them. This was once obvious to people, until corporations were declared 'persons' under the law by the Supreme Court in 1886. The court extended 14th Amendment protections of due process of law to the corporate form, protections intended for recently freed slaves. From the day of that decision, corporate lawyers have not stopped seeking and winning protection after protection for corporations while African Americans have struggled to realize the promise of the 14th Amendment in their lives.

Endowed with legal personhood status, the corporate form then acquired the protections of the Bill of Rights. First Amendment free speech rights for 'corporate persons' leave real people in the electoral dust; Fourth Amendment protections from search and seizure for 'corporate persons' trump workplace safety and health law. Now corporate lawyers say that the Fifth Amendment protects corporations from any government 'taking' without 'just compensation.' They are making the case that any environmental regulation encroaches on corporate property 'rights.' Some federal judges are agreeing, awarding compensation based on alleged lost future profits. The final curtain on environmental regulation may well be coming down. Indeed, corporate rights of

private property give them power over the people, and their personhood rights bring them protection from the people.

Unless we challenge corporatized law and culture, activists will be waging defensive battles against harm after endless harm forevermore.

Where do we take action to oppose corporate rule? To our communities for conversation and learning, to the culture for reflection and rethinking, to town boards, public officials, and state legislators. This is where we have legal standing. In these arenas we have the opportunity to empower democracy, to write true democratic law. Such law can only arise from the will of the people and the vision of a democratic culture. It will never arise in the arenas of oppression: corporate boardrooms, courts of law, or regulatory bodies.

The people in ten townships of south central Pennsylvania passed ordinances to protect family farms that are locally owned and managed. They wanted to prevent corporate hog farms from invading their communities. They could see that battles about parts per million of hog pollution in their creeks, or square feet of stinking hog waste in lagoons, was waging a fruitless battle on the corporation's terms. Like the 18th-century Massachusetts democrats before them, they sought to define their own lives and work, economies and communities.

In response to this assertion of people's authority, lawyers for the farm bureau and agribusiness corporations filed a lawsuit declaring that Belfast Township has no constitutional authority to pass such an ordinance. They state that the Constitution's equal protection and due process clauses, its no takings clause, its commerce clause, its contracts clause, its privacy protections, its 14th Amendment protections are all stacked against the people and for the corporations. This action strengthened the people's and township supervisors' resolve, convinced as they are that the Constitution should be in service to people and not to property organized in the corporate form. At a recent meeting of Pennsylvania

municipalities, 350 township governments voted to oppose the stripping away of local governmental control over corporate farming and sewage sludge management. This is forceful evidence of a growing determination to drive self-governance into the Constitution, which is what our activist labors must be about.

This is not anti-corporate work. This is the work of healing our body politic, of coming to the defense of our common good. It's the work of empowering democracy.

We are among generations of people who've struggled for the right to be self-governing. There were always those who understood, who pulled themselves together, took the offense, organized resistance, demanded democratic alternatives, established some of their own. And while their efforts were often ridiculed, crushed, or coopted, they offered lessons to inform this generation's work. Knowing their stories is essential if we are to create our own. Like our activist forebears, we are pulling ourselves together and pushing into the Constitution and the rule of law that was asserted by those in Massachusetts who tossed out British rule in 1774, and by our Declaration of Independence and the American Revolution: the right of the people to govern.

It's a radical task, a large and long one. Whom do we summon to this assignment?

Poet and author Annie Dillard has this to say: There is no one but us. There is no one to send, nor a clean hand nor a pure heart on the face of the earth, nor in the earth, but only us, a generation comforting ourselves with the notion that we have come at an awkward time, that our innocent fathers are all dead -- as if innocence had ever been -- and our children unfit, not yet ready, having each of us chosen wrongly, made a false start, failed, yielded to impulse and the tangled comfort of pleasures and grown exhausted, unable to seek the thread, weak, and involved. But there is no one but us. There never has been. 3

#### ENDNOTES

1 Raphael, Ray, *The First American Revolution: Before Lexington and Concord*, The New Press, New York, 2002.

2 Goodwyn, Lawrence, *The Populist Moment: A Short History of the Agrarian Revolt in America*, Oxford University Press, NY, 1978, p. ix.

3 Dillard, Annie, *Holy the Firm*, Harper and Row, New York, 1977, p. 56.

# Our Corporate Elite and the Constitution

## by Richard Grossman and Ward Morehouse

*An excerpt from the foreword to The Elite Consensus: When Corporations Wield the Constitution*

Over the past 200 years, all over the world but especially in the United States, legal systems have been changed to accomplish two things: limit the legal liabilities of corporations, and give corporations the rights and protections of citizens' by extending 'constitutional rights to corporations.'

So writes George Draffan in *The Elite Consensus*, a concise volume about techniques employed by the few to govern the many.

What has this meant for people seeking justice and peace? Time and again we have come together to assert in the face of insane corporate plans: Not In Our Names. Not Here. Not There. Not Anywhere. Millions have devoted their lives to organizing against one corporate assault after another.

This civic work has been vital to save life and land, to lift the human spirit, to teach children. But more and more people are seeing that resistance to corporate assaults while necessary will not end corporate rule. So like many who lived under monarchy rule in this continent's English colonies, people today are evolving from asking our rulers to be a little less bad to organizing for independence and self-governance.

George advances this exciting evolution as he dissects the elite consensus larger than any industry pitching its manufactured histories, destructive values, false choices, American Empire; selling its mantra of endlessly increasing production as the source of liberty and security.

He unveils this consensus forged in every generation by the corporate class: it is 'to

build and maintain power itself.' To thwart democracy. To govern the Earth.

The Revolutionary Era's propertied and slave-owning gentlemen denied rights to the people living all around them who created their comfort and wealth, who did their work. They wrote law to keep the histories, experiences, needs, and aspirations of the denied from being represented in the halls of government. And they labeled their own stolen powers as 'constitutional rights.'

After the Civil War, men of property used the corporation to consolidate their grip over the nation's investment, labor, resources, and role in the world. Using the wealth that their Constitution had helped them amass, they redesigned the corporation to serve as their political - their governing - institution. And as they had previously wrapped themselves, they wrapped the corporation in the nation's sacred text.

Today, corporate lobby and propaganda associations, think tanks, charities, foundations, and other juridical clones masquerade as We the People. They sport goodness and mercy monikers like 'Patriotic Citizens for Secure Jobs and All-American Energy' and 'Good Neighbors for Fair Chemicals.' In public offices, on talk shows, in op-ed pages, in speeches with elected officials, at tribunals of global multilateral agencies, and in advertisements everywhere, their spokespeople are perpetually saying what they are paid to say.

In this book George examines the full range of such institutions wielding the Constitution - from the World Bank, the International Monetary Fund, and the World Trade Organization to the Council on Foreign Relations, the Cato Institute, NATO, and the United Nations. He includes the public relations and advertising corporations into which elites pour hundreds of billions of tax-

deductible dollars and identifies corporate propagandists posing as journalists.

George's first chapter, 'Cultural Power: The Colonization of our Minds,' examines how mass media, PR, and other corporations shape people's understanding of the way things are supposed to be. George also describes how well-endowed corporate foundations, think tanks, and lobby groups do their daily work.

Chapter two probes the judicial system, along with corporate use of the rule of law as a means of leveraging authority. Chapter three focuses on the reality that many industries and services are oligopolies dominated by a few corporate conglomerates wealthier than most nations.

Next, George looks at the iron fist inside the PR-camouflaged corporate glove. He helps us remember that when people challenged governance by the corporate few, public officials have responded with violence. Abolitionists, suffragists, Knights of Labor, Populists, Socialists, and Wobblies of the past; war resisters, civil and human rights advocates, labor and environmental activists of past and present - all have experienced the nation's police, courts, national guards, militias, and jails compelling obedience to the elite's corporations.

The second part of *The Elite Consensus* profiles leading terrorist corporations, such as the Chamber of Commerce, the Trilateral Commission, and the Council on Foreign Relations. George provides useful information about the origins, budgets, directors, and work of each. We learn, for instance, that Defense Secretary Donald Rumsfeld was a director of the Hoover Institution (which had placed many of its members in the Reagan administration). So was David Packard of military and electronics giant Hewlett-Packard Corporation. We see that in the mid-1990s, National Public Radio

correspondent Anne Garrels spent two years in Russia as a fellow with the Council on Foreign Relations.

As icing on the cake, George ranks corporate expenditures for writing laws, links top lobbyists with their corporate clients, follows corporate money as it violates the body politic, and summarizes studies examining creative corporate extractions of public funds.

George Draffan's profiles bring our country's elite consensus to life!

The Elite Consensus reveals how a propertied class that long ago figured out how to write and keep on writing the Constitution thwarts democratic impulses and public actions over and over again. Because George's analysis complements the publications of the Program on Corporations, Law and Democracy, POCLAD is pleased to join The Apex Press in creating this new edition of George's book.

Whether you are contesting corporate-manufactured news of the day; charging a politician, judge, or corporate executive with usurpation; wringing single-issue struggles from regulatory agencies and driving them into the Constitution; or otherwise asserting the people's sovereign authority to govern: we urge you to keep The Elite Consensus by your side.

The Elite Consensus: When Corporations Wield the Constitution, by George Draffan.\* Published for POCLAD by The Apex Press, 2002. Prices: \$14.95 for one copy (plus \$4.00 S&H) ; \$12.95 each for two to five copies (plus \$4 S&H for the first book and \$1 S&H for each additional book.). Make checks payable to POCLAD and mail to: P.O. Box 246, South Yarmouth, MA 02664-0246. For greater quantities or for credit card orders call 800.316.2739.

\*This is an updated and retitled version of The Corporate Consensus: A Guide to the Institutions of Global Power, published by the Blue Mountains Biodiversity Project, 2000.

Publication of the PROGRAM ON CORPORATIONS, LAW & DEMOCRACY

**By What Authority** (ISSN: 524-1106) is published 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.

POCLAD is a group of 11 people instigating democratic conversations and actions that contest the authority of corporations to govern. Our analysis evolves through historical and legal research, writing, public speaking, and working with organizations to develop new strategies that assert people's rights over property interests.

**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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