

ratitor's corner

23 September 2003

September Equinox, 6:48pm, EDT

**We're All In Prison**  
**And Most Of Us Don't Know The Door Is Unlocked**

Today, the Sun, appearing to travel along the ecliptic, reaches the point where it crosses the equator into the southern celestial hemisphere. Today day and night are of equal length.

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Today rat haus reality completes its eighth revolution around our Sun and begins its 9th cycle. Since last Spring I have experienced a re-alignment of focus and attention to deeper dynamics beyond and beneath the crimes against humanity of 11 September 2001. From this place I am re-assaying ratical priorities and emphasis. A striking feature in our culture is the specific set of illusions in which each of us chooses to imprison our thoughts and awareness. While print and broadcast media promote a chimerical representation of reality mostly through omission -- whether by distortion, lack of contextual analysis, or disinforming opinion stated as obvious, incontestable fact -- it is always our choice of what we accept and adopt as the lens through which we view the world and our place in it.

On September 13th Nina and I were waiting in Boston's Logan airport to travel to California to visit a dear friend who is terminally ill. Two days after the second year anniversary that supposedly changed the world, I was struck by the thought, "This is what it feels like to be living inside The Empire." We had just come through the security fence and had been thoroughly inspected and detected. Now *everyone* gets the royal scrutinizing, not just random individuals. Gore Vidal's words from July 2002 clanged around inside my head: "Just take a plane anywhere today and you are in the hands of an arbitrary police state. . . . this is joy for them, for the federal government. Now they've got everybody, because everybody flies."

During the inspection I felt like I was a criminal suspect being arrested at the scene of some crime. Being patted down, frisked, and scanned with the electric wand, I thought how docile such techniques are making almost everyone. Like the frog placed in a pot of cool water who, as the water is brought to a boil, does not realize it is imperative to get out until it is too late to escape annihilation, here in the United States we are, all of us, acquiescing and colluding in our own physical as well as psychological imprisonment. The breadth and depth of this collusion -- while certainly "coming around again" here in the land of the free and home of the brave as it has previously in such periods as Germany in the 1930s and the French Revolution and Reign of Terror at the end of the 18th century -- has been going on since long before nine-one-one. We have been living inside The Empire all our lives. Whose empire is this?

Last spring I was pondering a growing sense of necessity to reassess the direction and emphasis of rat haus reality. Since 11 September 2001 most of the time spent on ratical has been developing and expanding the Crimes Against Humanity section. The rule of corporate governance that stamps and defines our time was at the top of the "highlight" list. The primacy of this hierarchical system of command and control is the fundamental structure driving our system of capitalism and corporate-driven globalization. I decided I wanted to find a new angle through which to focus this lens.

On May 18th I attended the Rethinking 9/11 Chautauqua teach-in produced by David Kubiak in Kennebunkport, Maine. The next day I was able to sit in with Richard Grossman (co-founder of the Program on Law, Corporations and Democracy (POCLAD)), his wife Mary, and Peter Kellman (POCLAD member) who had come over to meet with Kyle Hence (co-founder of UnansweredQuestions.org and 911CitizensWatch.org) and others. I was extremely interested hearing Kyle emphatically state his concern that "We're at a turning point now" [in the history of the U.S. with the loss of the Bill of Rights, the movement towards an overt police state, etc.] and Richard's response of "Are we? I don't think this is a turning point."

I first heard POCLAD co-founders Richard Grossman and Ward Morehouse speak in California in January 1996. Inspired by their presentation, I began creating the Ending Corporate Governance section the following month, filling it with articles that Richard had sent me. Some weeks after May 19th I wrote him a letter requesting that he add an item to his "to do" list

along the lines of your 1999 piece, "The WTO, The US Constitution, and Self-Government" that discusses the issues of the purported "loss of liberties" caused by 9/11 in the larger context of how the Constitution and its history has only ever privileged the few, high-lighting underlying dynamics such as how we've never actually enjoyed true first amendment "rights" (especially since the latter 1800s) . . .

In my scattered notes you spoke of how the Constitution privileges the few; the higher you get, the less accountability; the Supreme Court is presided over by unelected for-life persons -- the Supreme Court is the King; the ever-present dynamic is the limits placed on the majority to make the rules of law. And Peter pointing out that decision-making about the economy was made into private law -- it's not part of politics; how in many gatherings you've asked participants to identify and share a democratic experience with just a handful of people coming up with examples involving governing institutions and processes.

Regarding 9/11 you described how people become experts on one thing, say these bombings, but they don't see the overarching picture of how the culture/society operates.

This initiated a highly engaging exchange. I have been re-invigorated studying longer-term historical perspectives to see where we the people stand in 21st century America in relation to our 18th century forebearers. During the culmination of the American Revolution, propertied white men rejected a decentralized model of governance articulated in the Articles of Confederation for a Constitution and a judicial usurpation (especially a Supreme Court) that insulated them from the general populace and protected their interests and privilege. From the start the implementation of their rule of law system was in opposition to genuine democratic expressions.

Richard has generously made available his letters and writings going back more than a decade. These have opened me to a wider range of history and expanded my perspective. One example is a letter to a colleague on the USA PATRIOT Act, We The People, Corporations and the U.S. Constitution. In it he questions the framework of analysis presented in Center for Constitutional Rights (CCR) staff attorney Nancy Chang's November 2001 pamphlet, "The Silencing of Political Dissent . . . How The USA PATRIOT Act Undermines The Constitution."

I appreciate Nancy's efforts -- I know how much work goes into producing such a work, and how challenging it is to rush such a piece through. However, I think the pamphlet is conceptually flawed. Or, perhaps there is simply a need for a different pamphlet. Either way, here's some stuff to provoke. . . .

Isn't there is need for a pamphlet which *BEGINs* with people's histories and the Constitution? Which asks questions, such as: have government denials of people's rights been "episodes" -- or the "norm"? What *IS* the Constitution?

Whose obedience was the Constitution written to compel?

. . . what do all the activist newsletters and tracts I'm getting these days mean when they say that people need "to defend the Constitution" against Bush and Ashcroft? Which people? What in the Constitution should people at CCR defend? What in the Constitution do people seeking to rein in the USA Empire need to challenge and change? What constitutional histories and definitions do we accept? Must we reject and challenge? . . .

What about civil liberties and the First Amendment prior to 11 September (something CCR lawyers know a great deal about)? . . . whose rights to freedom of speech and political association does the usa patriot act place in jeopardy? The managers and trustees of Philip Morris Corporation? Of CitiCorp? Of ExxonMobil Corp? Of TimeWarner Corporation or Boeing Corporation? Of other corporations, including non-profit ones like the Harvard Corporation, or the Heritage Foundation corporation or the RAND Corporation or the Ford Foundation? Of the managers and trustees of the New York Times Corporation? Of writers and editors of *The Weekly Standard*? Of Donald Rumsfeld? Of Justice Sandra Day O'Connor? Of CIA and FBI agents? Of police chiefs? The usa patriot act does nothing to jeopardize freedom of speech and freedom of association of such "persons." Why not?

What about "workers?" Before 11 Sept, they had *NO* freedom of speech or association rights at work if they worked for a corporation. And if they worked for government, these rights were already quite limited . . . despite the Bill of Rights, and because of the Bill of Rights. (nb: the Homeland Security Act stripped many thousands of federal employees of their lawful rights to join labor unions. [Added later]) . . .

When corporations wield the Constitution -- triggering the armed might of the nation against people seeking to function as self-governing -- they strip humans of our ability to govern ourselves. When public officials enable corporations, these public officials deny people's right to "self-governance." They are usurpers. This is the case in "normal" times. This was true in the "good old days" -- whenever they were.

When public officials wield the Constitution to undermine, silence and isolate people holding contrary views, values and perspectives, they deny people's alleged fundamental right to "self-governance."

It is because people's human right to self-governance has been denied for so long by judges, legislators, executives and corporate managers wielding the Constitution against the people . . . by the armed forces, police, jails -- that the USA became a global and legally racist empire . . . that the USA's propertied and then corporate class were able to create a society deriving wealth and power from poisoning, destroying and exploiting people and the Earth at home and abroad.

When this empire was attacked on 11 Sept, the leaders of empire (and the empire culture their corporate institutions -- business, educational, artsy, charitable -- had put in place) responded as programmed.

I have the greatest respect and admiration for the wonderful folks at CCR -- they defend people who need defending, people who are resource-less and alone. They relentlessly challenge illegitimate power and authority. But like dedicated people immersed in the details of any discipline (whether hydrology or forestry or radiation or toxicology or law . . . ), they have little time to think and talk and reflect on big pix. Their world is the world of courts and deadlines and overwork and law schools; it's easier not to question assumptions.

For ten years, colleagues and I have been examining the corporation -- the dominant institution of our era. It wasn't long before this work brought us to diverse USA histories -- particularly of people's movements for self-governance and justice and rights (starting with the Revolution itself), to the Constitution, to the courts, to the "rule of law," to grand myths and subtle assumptions.

Several years ago, we wrote that the Constitution was the first NAFTA, the ratification process the first "fast track," and the Bill of Rights the first "side agreement." I believe this . . . and more. . . .

Hasn't "government" always been quick to use the Constitution and its monopoly on "legitimate violence" to prevent not only liberty and justice but even free and open public discussion? Why do community groups have to labor for years and years just to get one of their "issues" acknowledged as genuine?

Generation after generation, large numbers of people tried to turn the nation away from a global empire built on destruction, denial of rights and laws which enabled steadily increasing concentrations of wealth. Over and over again, such folks sought justice from all branches of government, including the Supreme Court. With hope in their hearts, they invoked the sacred Constitution. Public officials could have sided with these people.

Overwhelmingly, public officials chose otherwise.

Time after time, men of property and corporations dedicated to building a global empire turned to the august justices of the Supreme Court. They, too, invoked the Constitution. The justices could have ruled to define these men of property and their corporations as subservient to the body politic. But the justices chose otherwise.

The few times in over 200 years that federal judges sided with the rabble, wasn't it because people had been mobilizing vast movements for years and years and years . . . educating themselves and one another, confronting and challenging illegitimate power? Because people had been organizing despite being beaten and jailed and killed by police in service to the propertied?

This nation's constitutional history is overwhelmingly about denial of people's collective rights to self-governance, and denial of people's individual rights to participate in activities enabling collective self-governance. There is documentation galore. . . .

The Constitution was written by propertied men representing a minority of other propertied men fearful of the decentralized power and authority unleashed by the Revolution and written into the Articles of Confederation. So they wrote a plan of governance which made it easy for future generations of the propertied to keep future masses in line using "the rule of law" -- that is, by "legally" employing state violence and other means to shape people's values, thoughts and actions. Over time, they got proficient at camouflaging their rule behind corporate fairy tales and democratic myths. This work has of course been aided by their control over the training of lawyers.

Although I disagree with Richard's choice of the word 'myths' above (see "The New Myth For Our Species: The Creation of Consciousness," *ratitor's corner*, 2001 September equinox), this piece has nonetheless facilitated the initiation of a fuller exploration and examination of how people's living histories of America the Beautiful have been obscured, marginalized and misinformed by privileged persons seeking always to protect and extend their personal wealth, influence, and power. The pursuit of such exclusive self aggrandizement and private power is as old as the dawn of so-called civilization. It is evident in the political power exercised by proxies of mighty slave holders like George Washington, Thomas Jefferson and James Madison, who used their domination of southern state governments to direct the United States government in its formative period.

In "The Rule Of Law versus Democracy" (published in POCLAD's *By What Authority*) author Doug Hammerstrom describes how a rule of law in the United States was initially defined, then extended, to serve the interests of the wealthy, white, male minority. The codification of this rule of law subordinated all other mediating processes human societies had previously used. It is essential to recognize the political nature of law; the rule of law we have inherited has definite and distinct biases; it is not impartial nor disinterested.

The Federalists who drafted the Constitution did not trust the majority to make social or political decisions and successfully created a system in which the property-owning elite would rule. The constitutional role of the courts is an integral part of that system. The Federalists made certain that law would become the supreme medium of discourse to resolve conflicts in the new republic. Community values, religion, morality, and other mediating processes long used by human societies were subordinated to the rule of law.

As evidence of their awareness of the power of judges to rule the nation, when the Federalists lost the presidency to Jefferson in the election of 1800, their response was to pack the courts with Federalist judges, including John Marshall as the Chief Justice of the Supreme Court. In more than 30 years in this role, Marshall made many highly political decisions and established the doctrine of judicial review, by which the unelected Supreme Court could overturn legislation by Congress and the states. . . .

Among the other ways laws were twisted by judges in the 19th century was changing the basis of contract law from examining the fairness of contracts to the laissez faire doctrine of *caveat emptor* -- let the buyer beware. This doctrine served the few who wanted everyone and everything to be viewed as a commodity in which they could speculate. However, for the vast majority it meant that the force of law amplified the raw power of those in command of the greatest resources. Laissez-faire contract law made the rule of the jungle the rule of law.

The class bias of judges is most clearly seen in labor law, which 19th century judges chose to develop from a concept called "master and servant." One of the features of labor law in that era was the criminal prosecution of workers' collective bargaining attempts as "conspiracy." Employers were not similarly treated for their collective efforts. . . .

Once they had changed the law, the attorneys and judges responsible for doing so used the legal commentary propaganda tool to persuade people that the new law had always been thus. They not only hid the fact that they had transformed it, but also that the flexible conception of the law had been used as an instrument for social engineering. They did this by creating an intellectual framework that gave common law rules the appearance of being apolitical and inevitable. The categories of law that existed in the late 1800s were enshrined as ancient principles. The legal commentators took advantage of the infatuation with objectivity in this era by making law seem like science. But law is created from opinions, not repeatable experiments. While the result of a valid scientific experiment will be the same no matter who conducts it, each judge's decision of what precedents are relevant to resolving a particular conflict between interests, and how those interests should be balanced, is just opinion that can vary widely from one person to another.

The clever despot, observed French philosopher Michel Foucault, binds us by the chains of our own ideas. We who seek to build democracy must not be bound by the false assertion that the rule of law is democratic. A re-examination of history teaches us that our powerful legal system is a massive fortress against popular sovereignty. One of our most important tasks is to revisit fundamental questions that were resolved by undemocratic means in the past. An even deeper aspect of our work is to bring hope to replace the despair people have internalized because of the futility of their own decision-making when the courts and the wealthy have usurped that power. .

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We hear daily the hollow rhetoric that we live in the contemporary world's foremost democracy, but an examination of the legal history of the US exposes just the opposite. The Federalists succeeded in their goal of creating a Constitution that protects property rights from the "rabble." They were less successful at protecting political rights. The task of nurturing democracy remains for us. Part of that task must be to recognize the political nature of law. We must not let the changes we seek be constrained by believing that the law that *does* exist is the only law that *can* exist. In combating the power of corporations we cannot concede the legitimacy of that power simply because current law sanctions it.

Webster's defines **opinion** as "a belief not based on absolute certainty or positive knowledge but on what seems true, valid, or probable to one's own mind; what one thinks; judgement." Law is created from opinions. These opinions, cast in the purported sanctity of "the law," condition our thinking and perceptual awareness in fundamental ways we are rarely, if ever, conscious of. How often have we seen such critical analysis as the above presented in newscasts, daily papers, school history books, periodicals, or TV shows? The rule of law we are told we must live by is the result of opinions handed down by specific people. Whose opinions? What world views and whose interests are represented by the majority of those opinions?

In the 1803 Supreme Court case *Marbury v. Madison*, Chief Justice John Marshall affirmed in the opinion for the court, "The government of the United States has been emphatically termed a government of laws, and not of men." For a number of generations after 1776, it was the exclusive (and exclusionary) province of white property-owning males to create and legitimize a rule of law based primarily on a hierarchy of their beliefs informed by their own self-interests.

All too often that rule of law is ignored, violated by its own authority. Consider the hundreds of formal treaties with indigenous peoples of North America that were later universally reneged upon by United States federal and/or state authorities. Or the massacres at Wounded Knee in 1890, or Sand Creek in 1864 where three official investigations (by the U.S. House of Representatives, the Senate, and the Army) all concluded there had been massive and systematic violations of virtually every combatant provision of the Lieber Code (Instructions for the Government of Armies of the United States in the Field, 24 April 1863). Not a soul was ever prosecuted.

Throughout history our system of government has been very selective about which aspects of its vaunted and emphatic rule of law it chooses to enforce. How often have we examined the deep-seated biases contained in our our own rule of law? Of how it favors the privileged few while excluding the many? How does this square with the international fantasy of "the land of the free with liberty and justice for all"?

Last year Richard and Ward wrote "When Corporations Wield the Constitution," published as the Foreward in George Drafan's book, *The Elite Consensus* (Apex Press: 2003). In it they articulate a concise summary of how we the people were not included in the rule of law at the nation's inception. Despite over 200 years of struggle, we still have the immense job ahead of realizing the promises of the American Revolution for the benefit of all. And since, as we are told, our so-called democracy is being exported to other purportedly less fortunate cultures, the benefit of all will truly become the whole world.

Contrary to the democratic ideals unleashed by the American Revolution, the law in this newly-formed republic denied rights to women, African American slaves, indentured servants, Native peoples, and white males without property. All these human beings were written out of "We the people."

Who represented their needs and aspirations? Not the men meeting behind closed doors in Philadelphia's Constitution Hall that hot summer of 1787. These men not only denied rights to the majority but also built barriers to democratic processes into their Constitution: indirect election of the president through the electoral college, indirect election of US senators by state legislators, a commerce clause, a contracts clause, an appointed Supreme Court as an eternal closed-door constitutional convention,[1] to name a few.

The Revolutionary Era's propertied and slave-owning gentlemen who wrote the Constitution used law to keep the histories, experiences, needs, values and aspirations of the denied from being transformed into public policy. Parading their stolen powers as "constitutional rights," they provided future elites with the "legal" means to expand their rule even after whole classes of people had won the right to vote, to run for public office, to own property, to speak, to go to school, to form unions, to serve on juries and testify in court, to enjoy public accommodations, etc.

Since Southern slaveowners and northern men of property controlled the mechanisms of governance in the nation's early years, they saw no need to muscle up the corporation -- a tool of kings with which they had direct experience. These men who were doing very well did not want rival ruling power controlled by others, like the East India Company, to arise in their midst. So their state legislators wrote corporate charters -- and then state corporation laws -- limiting how long corporations could exist and limiting their real property and capital holdings. Laws in all states specified corporate purpose, banned corporations from owning other corporations, preserved rights of minority shareholders, made directors and shareholders liable for corporate debts and harms, and barred corporate involvement in elections and lobbying.

The culture regarded corporations as subordinate to the sovereign people.

After the Civil War, however, the men setting out to industrialize this land with machines and workers without rights made the corporation their ruling institution. As men of property had wrapped the Constitution around themselves in 1787, men of the Gilded Age enlisted judges and legislators to wrap the nation's sacred text around their new financial and industrial conglomerates.

By the end of the 19th Century, corporations had been baptized in the contract, commerce, property and personhood pools the Revolutionary elite had dammed into the Constitution one hundred years before. Public officials in New Jersey, and then Delaware, lay down for Rockefeller's Standard Oil Corporation, for the DuPont family and for men of great wealth controlling everything from food to steel to matches to armaments to whiskey. Robber barons began buying up other corporations, using them to create *even more* corporations swaddled in the Constitution.

A century later, corporate lobbying and propaganda think tanks, charities, foundations and other corporate 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 and

Democratic Chemicals." On talk shows; in op-ed pages; in seances with elected officials in governors' offices, legislatures and judges' chambers; at meetings of the World Trade Organization and the United Nations; at international conferences; and in endless advertisements, corporate shills say what they are paid to say. They tell governments what to do.

More people are coming to understand that the era of corporate governance we find ourselves living in most resembles a cross between a runaway train and malignant cancer. The interlock between corporate or private power and our predatory system of capitalism champions the acolytes of M-O-R-E without limits. With insatiable acquisition as the priority, our nation continues to exhibit an immature nature that has not yet learned the art of co-operation and sharing as a healthier mode of survival.

Those who have achieved or inherited financial fortunes are susceptible to becoming isolated and alienated from other people, from nature, from the world as a whole. This dynamic explains what we have seen in human history when pursuit of physical security reaches pathetically addictive levels of behavior. In her book, *Jung: His Life and Work*, (Perigee Books: 1976) Barbara Hannah relates an interesting account of how money affects those who are awash in it: a stunted inner growth and estrangement from experiencing deep relatedness to and an interdependence with other people (and by extension the world as a whole) can be an all-to-common result.

In 1913 a fabulously rich American, daughter of a multimillionaire and wife of an unusually rich man, made up her mind that she needed an analysis. She calmly informed Jung that a far better house than his own was being bought for him in America and that all the arrangements were being made to bring his family over from Europe! She could hardly believe her ears when Jung flatly refused her offer, remarking that he analyzed in Switzerland and that if she wanted an analysis she must come there. She had to recognize, like Mohammed, that, since the mountain so unreasonably refused to move to her, she must go to the mountain. This was the first of a series of shocks that she had to undergo, for she was so convinced that there was nothing that money would not buy that it had entirely divorced her from reality. This alienation from ordinary reality is a common phenomenon with millionaires, because they have been able to buy their way out of difficult situations too often. In fact, when the money is inherited, as it was in this case, they have never come up against the struggle for existence that so much matured the student Jung, for example. (pp.109-110)

Through their years of study and exploration of a more inclusive history of our ancestors, Richard and Ward invite us to join in challenging the nation's corporate class over its grab of governing authority. It is crucial for us and the sake of all that follows us here, to teach ourselves and others the facts of how illegitimate usurpers of our self-governing authority -- what we are told our whole lives democracy is supposed to be all about -- have come to occupy their current positions of privilege. Challenging these usurpations is an essential task. In previous generations, most people understood usurpation to mean the illegitimate seizure of public governing authority by private forces. Again, from "When Corporations Wield the Constitution:"

Wielding such power generation after generation breeds a special arrogance. Consider this: a few years ago, leaders of Travelers Group and Citibank corporations decided to merge. There was one minor problem: such a merger was against the law. But confident that in no time they could pass a new law wiping out a fifty-year old law, they went full speed ahead.

Their confidence was justified. A *New York Times* Corporation photograph adorning our POCLAD walls captures a blissed-out elite consensus moment at the White House. The caption reads:



"Depression-Era Rules Undone. Alan Greenspan, left, the Federal Reserve Chairman, and Congressional leaders applauded President Clinton yesterday after he signed the Financial Services Modernization Act, which allows merging of banks, securities firms and insurers. It repeals parts of the Glass-Steagall Act."

Why do corporations get away with it? Because with few exceptions, civic activists have not looked closely at this history. They have not contested the nation's corporate class over its grab of governing authority.[2] So let's look more closely at how the nation got into this mess.

Until the Civil War, political power was held primarily by the representatives of large slave holders like George Washington, Thomas Jefferson and James Madison, who used their domination of southern state governments to direct the United States government. The constitution that they wrote guaranteed profits from the new government's denial of human rights by, among other things, directing government to guarantee the return of all "persons held to service or labor in one State"[3] to their rightful owners. ("Persons" here meant both African American slaves and white slaves better known today as indentured servants.) The Constitution provided as well that the armed might of the United States would aid states against rebellions (called "domestic violence"[4]) by workers -- whether they were chattel slaves or wage slaves.

Their Constitution also decreed their domination of politics and lawmaking. A slave was to count as "3/5 of a person"[5] for assigning representation in the House of Representatives and the Electoral College. This meant that slave state elites could turn their ownership of human beings into domination over congressional and presidential elections.[6]

The rise of northern industrialists after the Civil War brought the end of slave master rule and the beginning of rule by corporate kings. As happened after the Revolution had been won, Southern and Northern men of property again united. They wrote slavery out of the Constitution with the "Civil War Amendments,"[7] and wrote corporations in. Industrialists then used government to defeat organized resistance by women, former slaves, farmers, workers and small businessmen seeking to reconstruct the nation as a democracy based on free labor and equal rights. They did the same to Native peoples seeking to preserve their independence.

These elites stole the presidential election of 1876.[8] They then established "new trends in legal doctrine and political-economic theory" to enable "the corporate reorganization of the property-production system." [9]

After ratification of the 13th, 14th and 15th amendments, judges and legislators concocted constitutional doctrines legalizing racial segregation and exploitation,[10] and denial of workers' rights no matter the worker's race, creed, gender or color.[11] As a result, men of property could call upon sheriffs, militias, police, jails and courts to enforce Jim Crow, anti-free labor, anti-union, anti-strike, conspiracy and sedition laws at local, state and national levels. They directed the coercive force of law -- legalized violence -- to prevent the majority from using elections, lawmaking and lawsuits to remedy harms or pass the laws they wanted.

Over succeeding generations they directed government force and violence to deny African Americans, Native peoples, Asians, women, immigrants from the global south, war resisters -- anyone spouting anti-elite values -- their most fundamental rights.

These industrialists were simply acting in an old tradition. After all, the forebears of the new corporate class had written a constitution trashing the Declaration of Independence's "all men are created equal; that they are endowed by their Creator with certain unalienable Rights; that among these are Life, Liberty, and the pursuit of Happiness. That to secure these right, Governments are instituted among Men, deriving their just powers from the consent of the governed . . ."

So for more than two centuries, the nation's elite minority has arrayed government against the assembling, speaking out and petitioning by African Americans, enslaved and free; by working people and their unions; by Native peoples and immigrants; by family farmers and small businesspeople. They have arrayed government against people whose lands and labor they desired; or whose appearance, thoughts, speech, assembling and governing they feared.[12]

They did this despite the plain and simple language of the Constitution's very first amendment: "Congress shall make no law . . . 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."

Since 1868, they did this despite the plain and simple language of the 14th amendment: ". . . 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."

They did all this without writing the words "slave," or "segregation," or "labor union," or "foreigner," or "unAmerican," or "separate but equal," into the nation's plan of governance. While raving about "democracy," "liberty," "freedom." While making gods of the "Founding Fathers."

Now that's wielding the Constitution!

There is another word which does not appear in the Constitution -- "corporation."

Men of property have had no difficulty encouraging Supreme Court justices to find corporations in the nation's sacred text. Beginning with the 1819 *Dartmouth College* case, [ 13 ] judges bestowed the privileges upon corporations which white, male, propertied human persons had already seized for themselves. This, of course, meant the denial of *everyone else's* rights.

During railway workers' 1894 strike against the Pullman Corporation, the justices upheld local judges who had banned American Railway Union officials from speaking with members and had thrown union leaders in jail. For a unanimous Court, justice David Brewer declared: ". . . the army of the Nation, and all its militia, are at the service of the Nation to compel obedience to its laws." [14]

This is not the language justices used when human persons petitioned them for redress of grievances. (See, for example, *Dred Scott*, [15] *Plessy*, [16] *Minor*, [17] *Mackay*, [18] *Brown*, [19] and hundreds of Supreme Court decisions).

On the contrary: judges decreed that corporations could brandish those "due process of law" and "equal protection of the laws" powers of the 14th Amendment and the "due process" clause of the 5th Amendment. They expanded corporations' commerce, contract and other constitutional authority. In so doing, they barred municipal, state and congressional legislation making the economy subject to public law, or directing government power to kick corporations out of village squares, elections, government halls, judges' chambers and the Constitution.

Since World War II, judicial gifts of 1st Amendment powers to corporations have continued undermining the ability of voters to instruct elected legislators. As Professor Mark Tushnet observed: "The 1st amendment has replaced the due process clause as the primary guarantor of the privileged. Indeed, it protects the privileged more perniciously than the due process clause ever did . . ." [20]

Today, corporate directors and their non-profit corporations straddle the twin pillars of the 14th and 1st amendments, as Matt Wuerker portrays on the cover of this book. Unleashing their intellectuals, propagandists and lobbyists for hire, buying the loyalty of or silencing community groups, schools and the press (including public radio and public television), they drive the nation's debate, values, investments, technologies, legal relationships and wars.

Non-profit corporate creations of today's elites subvert people's ability to "secure the blessings of liberty to ourselves and our posterity." [21] They shut people up and out of any decisionmaking which counts. Their Supreme Court nullifies any people's laws which even minimally challenge corporate authority. [22]

The majority of people in these United States are constitutionally disabled.

No wonder people are exhausted and disillusioned from forays into campaign finance reform, corporate responsibility, EPA, NLRB, SEC, NRC, FDA, FCC and other corporate regulatory struggles. No wonder there is so much cultural pressure on communities, concerned citizens -- and even academics and public interest lawyers -- against linking people's multiple single-issues struggles against corporate assaults. No wonder that people are instructed over and over again (often by many leaders of environmental, human rights and labor groups) that we must not aspire to anything more than begging for "acceptable" levels of corporate class lobbying, election domination, wage enslavement and Earthly poisoning.

No wonder people are rethinking their work in this corporate world.

The title of this ratiotrial is inspired by the writings of Mowlana Jalaluddin Rumi , specifically from two lines of his poetry:

Why do you stay in prison  
when the door is so wide open?  
*Like This*, p.36 and  
*The Essential Rumi*, p.3

There are many illusions we began learning as children that condition our perceptions to collude in our own social imprisonment. The door out of this prison is wide open and most of us do not see it. Closely examining the ways of our world and how it works will open the door to our living more fully and creatively in the life of our time.

Such examination is enhanced by the comprehension of how the nation state called America got into its current mess. It is not a recent development. The governing system put in place by the Founders' Constitution empowered a minority to control the law and to direct the armed might of the nation. To explore the dimensions of this fact necessarily involves shedding wistful notions about how our society operates, who benefits, and who is shut out. The Revolutionary Era's slave-owner class wrote the Constitution. Beginning in the 19th century, the corporate class adopted it. Acknowledging this allows one to start looking at our world from other perspectives and vantage points.

In "Who Were The Populists?" Richard takes the occasion of Bill Moyers' speech, "This is Your Story - The Progressive Story of America. Pass It On," to describe how

Populism was the last people's movement which told the truth about past and present -- told the truth about the present in order to unlock the past; unlocked the past in order to see the truth about the present. Populism was not about ending "corruption" or "excess." It was about ending private governance which had been the rule -- private governance first by a slave owning class, and then by a corporate class. It was about stopping **public officials** from using law and armed force to enable the few to deny the many. So the reason a "resurgent conservatism" in the late 1970s galloped so quickly and successfully was that the New Deal, and then the Fair Deal -- along with post WWII liberal theology and civic organizing -- did not contest the corporate class' authority to use the law of the land to govern.

The two Deals did not set out to strip men of property and their corporations of the illegitimate privileges and constitutional powers they had seized from the Revolution on. They did not *talk* about such matters. Those who dared to raise such issues were disappeared during the great corporate+government redscare years.

The New Deal and Fair Deal and New Frontier and the Great Society changed many people's lives for the better. But they left the history, language and constitutional doctrines of minority rule -- and the institutions of minority rule -- intact. They did not provide succeeding generations with tools to see or to confront the greatest concentration of wealth and power of all time.

In this critique the significant distinction is made between Populism, and, subsequent to it, what is termed the Progressive era. In his speech, Moyers lumped Populism with Progressivism and

by extolling the Progressive Era's legacy of regulatory and administrative law, [Moyers] joins countless 20th century leaders and historians in denying the Populist Movement. What they all work so hard to deny, alas, is the largest democratic mass movement in US history, a massing devoted to building upon the trampled ideals of the American Revolution and the Declaration of Independence.

Populists were farmers, workers and like-minded intellectuals challenging usurpations galore declared lawful by men of property. Populists had no interest in regulating destructive and rights-denying corporate behaviors. Daring to trust their own experiences with banking, railroad, grain, land, insurance, and manufacturing magnates (and their corporations), they had no illusions that permitting and disclosure -- the basis of "progressive" regulation -- would fix a corporate state.

This piece references historian Lawrence Goodwyn's 1978 book, *The Populist Moment, A Short History of the Agrarian Revolt in America*. Goodwyn writes, "Heretics in a land of true believers and recent converts," Populists had seen "the coming society and they did not like it." In the later 1800s, a collective problem for farmers was the lack of access to affordable credit; they were being charged 30 to 80 percent interest by the banks. Speaking in St. Louis in 1989 on the 100th anniversary of the Populist Sub-Treasury Plan for financial reform, Goodwyn described the narrow framework of political thought people have been confined to during the twentieth century.

Observe what happens if we put aside public pretense and apply serious democratic standards to twentieth century life. Democratic social relations: can we conceptualize a democratic marriage? A democratic workplace? Can we conceptualize a democratic system of money, credit and exchange at the heart of all our material relations, operating not for the benefit of bankers but for the benefit of society?

Judging by the politics of the twentieth century up to now, future historians will have to conclude that these concepts were not politically admissible within the received culture of American democracy. People did not act politically as if they thought they were admissible.

When the wealth of our society is equitably shared amongst all of we the people, for the benefit of all, we will see the possibility of decentralized governing processes implemented: universal health care; truly affordable housing for all; jobs serving the needs and building equity in each community; inclusive mass transit minimizing the need for cars in urban areas; decentralized energy generation employing renewables including solar, wind, and tidal energy; the commons -- air, water, forests, fisheries, culture, knowledge, and public services -- will not be subject to private exploitation.

There is a push underway to address the missing trillions of dollars the U.S. government cannot account for in fiscal years 1998 through 2000. But what about all the money that has been accrued by the privileged minority that has controlled the law and armed might of America going all the way back to the founding fathers and the slave-owning class that wrote

the Constitution? Whose interests did these people represent? What magnitude of financial wealth has been openly concentrated by this minority for over 200 years?

One measure of a truly democratic society is how the financial wealth of a nation is equitably distributed amongst all its people. How different that culture would be from our current status where the privileged few benefit at the expense of many. Continuing with Goodwyn's 1989 address:

[T]hese co-ops [the Populists] created were going to try to do for the farmers collectively what they could not do individually: gain access to credit. People joined the Alliance Co-op and the Alliance grew. . . . Eventually the Alliance penetrated into 42 states and there were 2 million people who, in effect, developed a new way to think.

Along the way, in their struggle to get large-scale co-ops functioning, they discovered that the banking community in America did not cooperate. They discovered, too, that the problem of the Alliance was the problem of individual farmers: lack of access to credit. One of their number, Charles Macune, felt the pressure of this failure more acutely than anyone else, because as spokesman for the Alliance he had made projections for people -- "Join us, and collectively we'll try to change the way we live." And he was not able to deliver on his promise. He'd tried a thing called the joint note plan and it hadn't worked; again the bankers wouldn't cooperate.

So in the summer of 1889, brooding about the political trap he was in, brooding about the plight of the nation's farmer, brooding about the structure of the American economic system, he came to the Subtreasury Plan . . . the Plan's one compelling breakthrough, which is just as logical and humanitarian and democratic now as it was then. He thought you could mobilize the capital assets of the nation in an organized way to put them at the disposal of the nation's people.

Commercial media personnel cite polls to validate their assertions regarding what Americans supposedly think. How would a news story be reported concerning what Americans think about realizing the unfulfilled promises of the American Revolution? What would happen if a Presidential candidate proposed the United States mobilize its capital assets in an organized way and put them fully at the disposal of we the people? The ruling plutocrats and institutions of private power would mount a smear campaign, promulgated through the media, ranging from ridicule and abuse to character assassination against anyone having the audacity to suggest self-governing, egalitarian beliefs.

This is precisely what guided the Populists. Their story is not a theory or an intellectual exercise; it is an extraordinarily rich and vital moment of our living history. As Richard points out in his exposition of this monumentally significant instance of living democracy (that has since been largely erased from the public mind as ever having happened),

[The Populists'] goal was to end special privilege, make all institutions democratic, render all corporate entities subordinate, replace competition with cooperation. They came to understand that for the American people to own and control not only their own labor but also the money system and all necessities of life, they would have to gain authority over the mechanisms of governance.

To do this, they realized they would have to change the country's minority rule Constitution.

Men of property (such as Mark Hanna) who joined to crush the nation's largest democratic mass movement named the post-Populist era as "Progressive." Yet the years 1900-1920 saw increasing economic concentration, a resurgence in white supremacy and denial of African American and Native People's rights, a new militant patriotism targeting immigrants and rationalizing violent imperial expeditions, massive assaults upon workers and unions. The misnamed Progressive Era

helped destroy the historical memory of "the egalitarian current that was part of the nation's wellspring." [ *The Populist Moment* , p.319] It drove serious thought and debate about restructuring banking, manufacturing and agriculture, about the nature of the corporation itself, outside the realm of the "rational" -- and far off the public agenda.

Until WWI, a few organizing campaigns (by Wobblies, for example) were still about challenging usurpations (a word, by the way, most people understood to mean illegitimate seizure of public governing authority by private forces) and demanding rights. But what Populists saw as usurping, Progressives and their heirs embraced as efficient and productive. Historian Lawrence Goodwyn:

The economic, political, and moral authority that 'concentrated capital' was able to mobilize in 1896 generated a cultural momentum that gathered in intensity until it created new political guidelines for the entire society in 20th century America. . . . After McKinley's impressive victory in 1896, these patterns become fully consolidated within the new generation of the Progressive era and proved adequate during a brief time of further testing during the New Deal. They have remained substantially unquestioned since, and broadly describe the limits of national politics in the second half of the 20th century. . . . The narrowed boundaries of modern politics that date from the 1896 campaign encircle such influential areas of American life as the relationship of corporate power to citizen power, the political language legitimized to define and settle public issues within a mass society yoked to privately owned communications and to privately financed elections . . . In the aggregate, these boundaries outline a clear retreat from the democratic vistas of either the 18th century Jeffersonians or the 19th century Populists. [*The Populist Moment*, pp.264-5]

That we have just lived through a century that saw an emphatically direct retreat from the democratic vistas of either the 18th century Jeffersonians or the 19th century Populists is something people yearning for a better world need to be discussing and analysing. This history cries out to be reclaimed; its promises and ideals would encourage the current coming of age generation as well as everyone older. However, with a sycophant state press that would have made the now-defunct U.S.S.R. planners green with envy, it remains for each of us to inform ourselves and share what we learn with everyone we can. The only way the world ever changes is when people educate themselves and begin taking action.

This is not to say that the conditions of more than a century ago, that gave rise to the momentum of societal democratic renewal, can replicate today what occurred then. But the inspiration and hope such examples provide to nurture people's imagination and dreams of manifesting a world that works for all are welcome and vitally needed right now.

Either Bill Moyers is ignorant of the unfulfilled hope and promise of the Populist movement or he is towing the line of establish orthodoxy that promotes an ever-narrowing vision of what America is and where it is going. As Richard makes the point, we cannot rely on status quo media personnel to help in the reclamation and renewal of our own history and as yet unfulfilled democratic aspirations.

Moyers declines to finger the Progressive Era as a time when propertied elites mobilized pre-emptively for limited reforms; when the giant corporation solidified its grip as the dominant institution -- the only source of progress, jobs, liberty, efficiency and security. It was a time when our culture embraced a corporate *system* as both ideal and inevitable.

Ever since, this corporate system has channeled civic activism into relentless regulatory energy sinks . In those disabling political arenas, the most that even *majorities* of people could accomplish was to make corporate behaviors a little less destructive and oppressive. There would be no discussions about first principles, about self-governance, about ideals . . . about which parts of the Constitution are the people's and which belong to the corporate class.

It snowballed from there. The New Deal picked up not the Populist perspective and agenda but Progressive diversions.

"In many ways, land centralization in American agriculture was a decades-long product of farm credit policies acceptable to the American banking community. The victory won by the goldbugs in the 1890s [that is, won by corporate leaders inside and outside government --rg] thus was consolidated by the New Deal reforms. These policies had the twin effects of sanctioning peonage and penalizing family farmers. The end result was a loss of autonomy by millions of Americans on the land." [*The Populist Moment*, p. 269]

Post-WWII liberals limited their aspirations to making corporate capitalism plus global imperialism a little less bad . . . and denied realities galore. No wonder Clinton and Gore helped corporate managers drive their nonsense even deeper into law and culture.

Every paragraph of Moyers' speech is diversion-city. I will limit myself here to one last point: towards the end, Moyers speaks of what happened in the 1960s and 1970s. I'll pass over silliness like Democrats "went too far too fast, overreached at home and in Vietnam . . ." and go right to the heart:

The failure of Democratic politicians and public thinkers to respond to popular discontents . . . allowed a resurgent conservatism to convert public concern and opinion into a crusade to resurrect social Darwinism as a moral philosophy, multinational corporations as a governing class, and the theology of markets as a transcendental belief system.

This is nonsense. The "failure" he speaks of began with the Constitution -- a plan of governance written by a few to deny rights to the many. This failure was sustained by slavemasters North and South. It was privileged by the structures of governance set up by the Constitution; was rejuvenated by the merging of "defeated" slaveocracy with emerging northern capital to end Reconstruction -- the killing of what DuBois called the "Second American Revolution." It was advanced by government plus corporate leaders wielding "the law" and large-scale violence vs. small farmers, workers, Socialists, Anarchists, Greenbackers, African Americans, Native Peoples, women, sex educators, free lovers, Wobblies, and others mobilizing not only for "rights," but also to turn their values and visions into public policy. The "failure" was deepened by colonialism and imperialism, by great world wars . . .

(And is Moyers suggesting that global corporations were **not** acting as the governing class during the 1940s and 1950s?)

Tragically, DuBois' Second American Revolution still did not resolve a foundational conflict embedded in the 1776 creation: the institution of slavery was not dealt with at the time the Constitution was written. In the nation's first years, the president was from a slave state: Washington, Jefferson, Madison, and Monroe, each of whom served two terms in office, were from Virginia. The framers of the Constitution codified slavery in Article I, §2 (apportioning slaves as equivalent to three-fifths of a person for purposes of representation), Article I, §9 (ensuring that importation of slaves would be legal until at least 1808), and Article IV, §2 (declaring that "[n]o person held in Service or Labour in one State, under the laws thereof, escaping into another, shall, in Consequence of any regulation therein, be discharged from such Service of Labour, but shall be delivered up on Claim of the Party to whom such Service of Labour may be due").

In "The Birth Of The White Corporation" (*By What Authority*, Spring 2003) Jeffrey Kaplan explores "The primary engine of white United States history has been the use of property, the ownership of things, as a means of domination over people -- and the use of people as property, for slavery was the original basis for wealth in white America." He points out that in 1883, as the U.S. Supreme Court was hearing arguments claiming the corporation is a natural person, it also invalidated enforcement of civil rights for African Americans in the ruling of *Civil Rights Cases* (109 U.S. 3).

This was the first of a series of decisions that led to the Court's approval of racial segregation. The Court eventually held that both corporate personification and racial segregation were

justifiable under the Fourteenth Amendment, which was passed with the explicit purpose of protecting the rights of former slaves after the Civil War. This connection is more than a mere oddity of US legal history. These court decisions are part of a common social structure in which the exercise of social power through property rights continues to mask the concomitant disempowerment of people of color. In effect, what the courts decided is that corporations are people while African Americans are not; and that, while property could no longer be held in the form of black skins, it could still be invested in white ones.

The legal, economic, and political legacies we have inherited as Americans place an especially weighty responsibility upon each of us as self-reflecting beings capable of choosing between right and wrong, between life and non-existence. Whether we recognize it or not, those of us living in the United States have the most political power of anyone on the planet. In the final analysis, it is for all of us to decide where we stand and where our actions will be aligned.

We have available to us the facts and understanding of our nation's past to determine what the essential elements of "unfinished business" are that remain to be addressed. To reclaim the unfulfilled promises of the American Revolution, including the professed right to self-governance, will require addressing the unfinished business of usurpations enacted through the U.S. Constitution. To reiterate, prior to World War I, most people understood usurpations to mean the illegitimate seizure of public governing authority by private forces.

The open door out of the prison we inhabit is information that is widely available and accessible. Learning how our world came to be the way it is liberates our awareness and informs our choices. Speaking on the release of his new book, *Perversions of Justice, Indigenous Peoples and Angloamerican Law*, author and professor Ward Churchill describes how we have an obligation to become informed. Once informed, it is our obligation to act on that information.

Having been conditioned your entire lives, the way we are all conditioned our entire lives, to receive sound-bite answers to questions we have never had the critical ability to form in our minds, forecloses our ability to interrogate reality and draw conclusions from it. That is the function of the media. That is the function of the educational system you understand. It's not to teach you to think critically, which is educational in value. It's to teach you what to think. That's indoctrination.

That's a rather different thing, to be indoctrinated than to be educated. We have this problem here in this population called "ignorance." And some of this population actually is. But when you say the word "ignorant" it's supposed to mean you didn't have the information: "I didn't know about it. I was ignorant of it." No, that's to be uninformed. And truly, there are a lot of people uninformed about a lot of things here. Uninformed is one thing. Ignorance is another.

We've got an ignorant leadership. We've got an ignorant intelligentsia. Ignorant means to have the information right there in front of you and ignore it. To draw conclusions in the face of the evidence; to pretend that the evidence does not exist -- clear evidence of genocide and war crimes -- to pretend it's something else. That's ignorance. That's close to being a synonym for duplicity. That is something very different than being uninformed. You have an obligation to become informed. Once informed, a person has an obligation to act upon the information, not to become an ignorant individual as a result.

In the Introduction to *The Populist Moment*, Lawrence Goodwin articulates the sequential process of democratic movement-building that was expressed during the Populist revolt. The work people did then, striving to realize first principles and ideals that America is supposed



to stand for, provides an immensely useful instance that can be customized to our own time and place.

The sober fact is that movements of mass democratic protest -- that is to say, coordinated insurgent actions by hundreds of thousands or millions of people -- represent a political, an organizational, and above all, a cultural achievement of the first magnitude. Beyond this, mass protest requires a high order not only of cultural education and tactical achievement, it requires a high order of *sequential* achievement. These evolving stages of achievement are essential if large numbers of intimidated people are to generate both the psychological autonomy and the practical means to challenge culturally sanctioned authority. A failure at any stage of the sequential process aborts or at the very least sharply limits the growth of the popular movement. Unfortunately, the overwhelming nature of the impediments to these stages of sequential achievement are rarely taken into account. The simple fact of the matter is that so difficult has the process of movement-building proven to be since the onset of industrialization in the western world that all democratic protest movements have been aborted or limited in this manner prior to the recruitment of their full natural constituency. The underlying social reality is, therefore, one that is not generally kept firmly in mind as an operative dynamic of modern society -- namely, that mass democratic movements are overwhelmingly difficult for human beings to generate.

How does mass protest happen at all, then -- to the extent that it does happen?

The Populist revolt -- the most elaborate example of mass insurgency we have in American history -- provides an abundance of evidence that can be applied in answering this question. The sequential process of democratic movement-building will be seen to involve four stages: (1) the creation of an autonomous institution where new interpretations can materialize that run counter to those of prevailing authority -- a development which, for the sake of simplicity, we may describe as "the movement forming"; (2) the creation of a tactical means to attract masses of people -- "the movement recruiting"; (3) the achievement of a heretofore culturally unsanctioned level of social analysis -- "the movement educating"; and (4) the creation of an institutional means whereby the new ideas, shared now by the rank and file of the mass movement, can be expressed in an autonomous political way -- "the movement politicized."

Imposing cultural roadblocks stand in the way of a democratic movement at every stage of this sequential process, causing losses in the potential constituencies that are to be incorporated into the movement. Many people may not be successfully "recruited," many who are recruited may not become adequately "educated," and many who are educated may fail the final test of moving into autonomous political action. The forces of orthodoxy, occupying the most culturally sanctioned command posts in the society, can be counted upon, out of self-interest, to oppose each stage of the sequential process -- particularly the latter stages, when the threat posed by the movement has become clear to all. In the aggregate, the struggle to create a mass democratic movement involves intense cultural conflict with many built-in advantages accruing to the partisans of the established order.

Offered here in broad outline, then, is a conceptual framework through which to view the building process of mass democratic movements in modern industrial societies. The recruiting, educating, and politicizing methods will naturally vary from movement to movement and from nation to nation, and the relative success in each stage will obviously vary also.[4] The actions of both the insurgents and the defenders of the received culture can also be counted upon to influence events dramatically.

Within this broad framework, it seems helpful to specify certain subsidiary components. Democratic movements are initiated by people who have individually managed to attain a high level of personal political self-respect. They are not resigned; they are not intimidated. To put it another way, they are not culturally organized to conform to established hierarchical forms. Their sense of autonomy permits them to dare to try to change things by seeking to influence others. The subsequent stages of recruitment and of internal economic and political education (steps two, three, and four) turn on the ability of the democratic organizers to develop widespread methods of internal communication within the mass movement. Such democratic facilities provide the

only way the movement can defend itself to its own adherents in the face of the adverse interpretations certain to emanate from the received culture. If the movement is able to achieve this level of internal communication and democracy, and the ranks accordingly grow in numbers and in political consciousness, a new plateau of social possibility comes within reach of all participants. In intellectual terms, the generating force of this new mass mode of behavior may be rather simply described as "a new way of looking at things." It constitutes a new and heretofore unsanctioned mass folkway of autonomy. In psychological terms, its appearance reflects the development within the movement of a new kind of collective self-confidence. "Individual self-respect" and "collective self-confidence" constitute, then, the cultural building blocks of mass democratic politics. Their development permits people to conceive of the idea of acting in self-generated democratic ways -- as distinct from passively participating in various hierarchical modes bequeathed by the received culture. In this study of Populism, I have given a name to this plateau of cooperative and democratic conduct. I have called it "the movement culture." Once attained, it opens up new vistas of social possibility, vistas that are less clouded by inherited assumptions. I suggest that all significant mass democratic movements in human history have generated this autonomous capacity. Indeed, had they not done so, one cannot visualize how they could have developed into significant mass democratic movements.[5]

Discovering new ways of looking at things frees us to experience the sort of autonomy Goodwyn describes. Psychological autonomy gives one the practical means to challenge culturally sanctioned authority. To stand outside the oppressive hierarchical system we grew up in releases our creativity and affords access to unexplored energies.

An example of where our creativity can be expressed and directed is the "Model Legal Brief to Eliminate Corporate Rights," just released by the Community Environmental Legal Defense Fund, Inc.

The Brief was created to support community leaders and organizers across the United States who are launching state and local campaigns confronting the array of judicially-bestowed constitutional rights wielded by corporations. The Brief deals not only with "corporate personhood" -- the doctrine by which corporations claim Bill of Rights protections to deny communities their right to self-governance -- but also with corporate "rights" claimed under the Commerce and Contracts Clauses of the U.S. Constitution.

The extensively footnoted Brief recounts the well-settled legal proposition that local, state, and federal governments were established to secure and protect peoples' rights, including their right to a republican form of government, where the few are prevented from governing the many. It then argues that it is axiomatic that corporations are public entities created by the States, and thus, that they lack any authority within this nation's frame of governance to deny rights.

The Brief concludes by declaring that the judiciary has a special responsibility to protect the rights of people due to its prior and ongoing bestowal of constitutional rights upon corporations.

Thomas Linzey, Executive Director of the Legal Defense Fund, explained that "for the filing of the Brief, we are seeking cases in which corporations have brought suit against governments using their judicially conferred constitutional rights as both a sword and a shield against the people of these United States. The Brief is thus intended both for use in the Courts as well as in communities across this nation -- to provide a legal framework for developing arguments to eliminate corporate personhood and the variety of corporate rights asserted by corporations that are used to deny the rights of people and nature."

The Brief is a work in process of a joint drafting project involving Richard Grossman, and attorneys Thomas Linzey and Daniel Brannen. I received a copy from Richard and Thomas Linzey and their permission to post it on ratical. Writing this today, I have created a hyperlinked version of the original to augment and facilitate its use as an educational and

organizing tool.

Having only begun to absorb its meaning and implications, I find this work reminding me of Richard's 1993 elegant collaboration with Frank T. Adams, *TAKING CARE OF BUSINESS - Citizenship and the Charter of Incorporation*. When I first read *Taking Care of Business* in 1996 I was struck by ideas and facts I had never thought nor been aware of before. That work described the history of sanctioning the existence and authority of corporations in the United States through charters granted by the state. It was instrumental to me in sharpening the focus of what has been called the charter revocation movement.

Today, this Model *Amici Curiae* Brief to Eliminate Corporate Rights reflects the evolving awareness and understanding of what we face in contesting the true nature of the usurpation of our sovereign inalienable rights guaranteed by our republican form of government. The Summary of Argument at its beginning re-asserts what our democracy is supposed to be based on.

The people of these United States created local, state, and federal governments to protect, secure, and preserve the people's inalienable rights, including their rights to life, liberty, and the pursuit of happiness. It is axiomatic that the people of these United States -- the source of all governing authority in this nation -- created governments also to secure the people's inalienable right that the many should govern, not the few. That guarantee -- of a republican form of government -- provides the foundation for securing people's other inalienable rights and vindicates the actions of people and communities seeking to secure those rights.

Corporations are created by State governments through the chartering process. As such, corporations are subordinate, public entities that cannot usurp the authority that the sovereign people have delegated to the three branches of government. Corporations thus lack the authority to deny people's inalienable rights, including their right to a republican form of government, and public officials lack the authority to empower corporations to deny those rights.

Over the past 150 years, the Judiciary has "found" corporations within the people's documents that establish a frame of governance for this nation, including the United States Constitution. In doing so, Courts have illegitimately bestowed upon corporations immense constitutional powers of the Fourteenth, First, Fourth, and Fifth Amendments, and the expansive powers afforded by the Contracts and Commerce Clauses.

Wielding those constitutional rights and freedoms, corporations regularly and illegitimately deny the people their inalienable rights, including their most fundamental right to a republican form of government. Such denials are beyond the authority of the corporation to exercise.

Such denials are also beyond the authority of the Courts, or any other branches of government, to confer.

Accordingly, the constitutional claims asserted by the [x corporation] against [y government] must be dismissed because those claims deny the people's rights to life and liberty, and their fundamental right to self-governance.

During the Cold War, freedom of thought was extolled as a light that distinguished us from communist and authoritarian countries. The United States was superior because we weren't indoctrinated in supposedly shallow beliefs like those espoused by our purported adversaries. Yet it was during this post World War II period that one of the most pernicious ideas defining our culture today came of age.

Certain ideas condition our minds and culture so thoroughly we no longer recognize their weight or their power. In 1985 Richard Grossman wrote "Uprooting 'Growth' as Metaphor: 20th Century Reflections for the 21st."

This paper reflects his own process of growth and thinking that led to the creation of the Program on Law Corporations and Democracy. In it he urges expunging "the language of growth and the system of growth from the hearts and minds of those seeking democracy, fairer sharing of the world's wealth, and the integration of ecological principles into our lives and works." I have found this helpful in sharpening my focus on how the metaphorical idea of growth in our culture has largely replaced the practice of critical thinking. This idea is intrinsic to our belief that the prison door is locked.

Donald McCloskey noted in "The Rhetoric of Economics": "A good metaphor depends on the ability of its audience to suppress incredulities or to wish to ... on the ability of its audience to suppress imagination ... An unexamined metaphor is a substitute for thinking."

Growth as used by the purveyors is just such a good metaphor. It has become so dead as to be worshipped safely -- often elaborately -- by people with vastly different needs. It has become so big as to be empty, so inert as to have no real use except as a club for bashing people seeking specificity, quality and equity. . . . Growth, as metaphor and as politics, rationalizes that harm to individuals or communities or to the Earth pales in comparison with having growth and free markets. . . .

What growth as metaphor and as politics conceals most are the social relations, the investments, technologies and production processes which the controllers of growth utilize to maintain their control and cause harm. As Frances Moore Lappé and Joseph Collins note in *World Hunger: 10 Myths* (1979), referring to agricultural business growth: "We must come to understand that a strategy emphasizing increased production while ignoring who is in control of that production is not a neutral strategy. It does not 'buy time' -- that is, feed people while the more difficult social questions of control can be addressed. No. Such a strategy is taking us backward, itself creating even greater impoverishment and hunger." . . .

Tapping into deep-seated yearnings for better lives and personal development, the metaphor growth helps people confuse the spectacle of M-O-R-E with powerful human aspirations. Generations are maturing, have matured, smokescreened. They seek the vast goals of dead symbolisms, the soothing hopes that thrive amidst unexamined inference. Many have learned how not to see the unseen hands; many are hoppers who crave to believe that if the mysteries of finance and ownership, plus the wonders of technology, are left to their neutral natural unravellings in our behalf, then we will have the tangibles we need and crave. And, if quantity is vast enough, equity, social justice and self-realization as well.

With few exceptions, reformers in left-liberal-progressive folds are no less locked into growth, possess no less secret hopes for growth. They expend so much energy and time arguing with the purveyors and salespeople of growth in the language of growth, trying to mobilize masses behind adjustments to growth, the fixing up of growth. They marshal indices and histories of this growth and that growth to make their cases.

. . . Few advocates of equity and justice acknowledge that the political and social relationships comprising the great growth dynamic **are** what have created the very inequities and destruction they are seeking to lessen. And so for the most part, political and economic debate has been limited to putting cosmetics on a dead metaphor, like lipstick on a corpse: balanced growth orthodox growth renewed growth vigorous growth solid growth explosive growth natural growth continuous growth slow growth no growth jobless growth long-term growth sustainable growth equitable growth exceptional growth sluggish growth lopsided growth rapid growth overall growth deliberate growth phenomenal growth substantial growth uneven growth rekindled growth negative growth restored growth robust growth limited growth expanded growth

export-led growth productivity-led growth qualitative growth maximum growth. . . .

In "Standing By Words" (1979, in *Poetry & Politics*, 1985), Wendell Berry encourages me to believe that I am not indulging in semantic quibble. Berry writes: "When language is detached from its origins in communal experience, it becomes 'arbitrary and impersonal.' If one wishes to promote the life of language, one must promote the life of community." As [James] Fallows shows in his *Atlantic* article, entitled "America's Changing Economic Landscape" (not a neutral mixed metaphor, given the irrelevance of both land and scape in quantitative thought and language), immersion in dead metaphors leads to extolling of destruction. . . .

Fallows' is the kind of language Berry calls tyrannical, because in addressing "quantity, exclusively, language is almost without the power of designation because it is used conscientiously to refer to nothing in particular. Attention rests upon percentages and abstract functions. It is not language that the user will likely be required to stand by or act on, for it does not define any personal ground for standing or acting. Its only practical utility is to support with 'expert opinion' a vast, impersonal technological action already begun ... It holds in contempt, not only all particular grounds of the private fidelity and action, but the common ground of human experience, memory, and understanding from which language rises and on which meaning is shaped." . . .

People coming to the political arena motivated by health and environmental issues in the early 1970s thus found themselves put on the defensive by fellow victims of the growth system who had embraced the promises and strategies of growth. . . . The reality of growth politics, in concert with upper class traditions of the Theodore Roosevelt era conservation movement, encouraged institutionalizing environmentalists to believe they could do better by dealing with the purveyors of growth than by mobilizing great numbers of disparate victims of growth to help build political power to have America's overdue debate to plot democracy.

There were too many people, institutions, traditions and bad histories in the way. Take, for example, a labor connection. It is interesting that the most powerful, liberal union -- the United Auto Workers -- was the principal labor organization which reached out to befriend the fledgling environmental movement in the late 1960's. . . . Nevertheless, the union was so locked into the growth consensus, into the politics of growth and the language of growth and the contracts of growth (with wages pegged to productivity increases yet), that its own basic interests were not seen to be served by a truly radical environmental movement.

By a truly radical movement, I mean one which sought not permission from the purveyors of growth, but rather to unmask the growth system and to change it; which sought to explain health and environmental destruction in the same light as high and persistent unemployment, meaningless work, persistent poverty, interventionism abroad while showing the way to changes in values and relationships between citizens and producers; and which waged each campaign in ways that made these connections clearer and clearer, and concentrated on helping people and communities not currently part of the decision-making to achieve more and more self-governing authority. . . .

Much of the left still harkens back to the great growth 60s -- when so many "social" gains were achieved because GNP was measured through the roof. And irony of ironies, many environmentalists also look back to those same days. Worldwatch Institute's *State of the World 1985* details human tragedy around the globe due to destruction of air, water and soil in pursuit of growth. But Worldwatch is no less growth nostalgic than the left. There is no suggestion that the promises and strategies of M-O-R-E are not neutral, as Lappé and Collins said, but masquerades for maintenance of control and inequity. The book's final chapter is titled "Getting Back on Track." What track did they have in mind? The 60s. And the book's recommendations? Like *The Limits To Growth*, scientists and technologists must take the lead in stimulating new growth, better growth, sustainable growth. It is not for people to take charge of their own resources, labor and communities. Self governance is not an option.

As the US goes to high-tech and services, uncomely corporations are bringing old and new growth to other lands. But who's looking at the way international purveyors of growth, together with corporatized governments, are tightening their grip over everything and everybody? Who's redefining all the frilly environmental issues in those countries? After all, the planet needs M-O-R-E. . . .

[L]et us talk about what we want. Let's have long overdue debates on history, production, equity, work, ecology and democracy -- not in the tongues of the purveyors but in the language of life and quality -- the language of free human beings.

Imagine we the people governing ourselves. Challenging global corporations and militarized governments. Choosing to leave people, places and species around the Earth alone. Crafting equitable financial and trading relationships with less powerful counties and countries. Figuring out resource, labor and production democratically. Subtly refurbishing people and the Earth. Traveling across issue, constituency and country borders talking not L-E-S-S, but D-I-F-F-E-R-E-N-T.

A different perceptual awareness of ourselves and our world is crucial to the future of life on earth. What we are discovering and exploring today will transcend the growth reality that has served as the primary justification for the current era of American imperial expansion since the end of World War II. There are other examples of development, creativity, and purpose that we can look to for inspiration and ideas.

"Hau de no sau nee" (ho dee noe sho nee) means People Building a Long House. It is the name for the confederation of peoples known to whites as the Six Nations as well as by the French term, Iroquois.

Another matter that surprised many contemporary observers was the Iroquois' sophisticated use of oratory. Their excellence with the spoken word, among other attributes, often caused Colden and others to compare the Iroquois to the Romans and Greeks. The French use of the term Iroquois to describe the confederacy was itself related to this oral tradition; it came from the practice of ending their orations with the two words *hiro* and *kone*. The first meant "I say" or "I have said" and the second was an exclamation of joy or sorrow according to the circumstances of the speech. The two words, joined and made subject to French pronunciation, became Iroquois. The English were often exposed to the Iroquois' oratorical skills at eighteenth-century treaty councils.

--"Chapter 3, "Our Indians Have Outdone the Romans",  
*Forgotten Founders, Benjamin Franklin, the Iroquois  
and the Rationale for the American Revolution,*  
by Bruce Johansen, Gambit: 1982, p. 41

In the aftermath of World War II, people involved in creating the United Nations were examining historical precedents to see which cultures they could draw upon to help create and define this world body. One example they found exceedingly informative was the Hau de no sau nee, of whom it can be said exemplify the oldest living participatory democracy on Earth.

So far the United States has only implemented a very limited form of representative governance. The interests of those who have been represented by elected persons constitute a specific minority of the whole society: propertied men representing a minority of other propertied men fearful of the decentralized power and authority unleashed by the Revolution.

Since before Columbus mistook the West Indies for India, the Hau de no sau nee have evolved a participatory form of governance where all people are involved. It is very different from what people raised in United States culture know and have experienced.

A great body of work describes how the founders of the United States were influenced by the Hau de no sau nee. But because of their own backgrounds and interests, the American founders were very selective in what they borrowed to fashion the governing structures of America.

In a 1991 PBS interview, Oren Lyons, the Faithkeeper of the Turtle Clan, Onondaga Council of Chiefs of the Hau de no sau nee, provides much illumination regarding the limitations embedded in the way the United States was created.

[In] stepping back from the world and looking at it from a distance and looking at it from the time, you would say that in North America at that time, they took an ember, they took a light from our fire and they carried that over and they lighted their own fire and they made their own nation. They lighted this great fire. And that was a great light at that time of peace. Because that's what they said they were following. And that came about.

In 1776 there was this great light and this Earth, if you saw the Earth from back, you would see this brilliance. Then, as time went on, the brilliance died down. It began to die down. And what happened?

The question that you asked was, first of all, they refused to deal with the history of slavery right at the time. That light started to die immediately.

They refused to use spirituality as part of their nation. It died a little bit more. We said, 'You're going to have trouble. Our advice to you was a spiritual center.' And you say, 'You separate the church from the state.' But you already had conflict. So they separated them. And we said, 'Problem coming.'

And so then, what was beginning to happen, the things that were brought from across the sea began to reassert themselves once they established their position and became strong. And the light diminished more.

So when you came through the 19th century, the 19th century is a terrible page in the history of America, [of] what happened to Indians. It's a terrible page when many, many millions of people were killed and died. And so this process died. And suddenly, at the end of the century, the turn of the century (the 20th century), the word was to carry a big stick and to talk softly. . . . But what was that? That was imperialism. Again, an expansion of power over, dominion over. It was not agreeing with.

So we are now facing another situation. Can we get this light, can we get this great light to come again? And that's up to this generation. That's up to, really, we're elders, you and I now. I mean, we can say from our older position, 'It looks like a lost cause.' But if you were to speak to the young man, the young person, the young woman, she'd say, 'No. This is my life. I shall survive. You can't tell me that it's lost. That's my determination.' She will say, and he will say that, and they are saying it.

So we can say, 'Well, it looks bad from here.' And from there they say, 'Well, it's looks tough, but it isn't lost.' And that's the law that they were talking about from Gunyundiyo, when he said, 'Don't let it be your generation.' And the law prevails, what we call the Great Law, the common law, the natural law. . . . The law says if you poison your water, you'll die. The law says that if you poison the air, you'll suffer. The law says if you degrade where you live, you'll suffer. The law says all of this. If you don't learn that then you can only suffer. There's no discussion with this law. . . .

That's really a spiritual law. That's a very important thing for people to understand. When you transgress, there's a time . . . People don't operate in the world time or say the time of the mountain. They operate in the time of the human being. And that's probably not a good idea. Because the time of the human being is rather short.

And yet, when you're dealing in the time of an oak tree or a time of one of the great Sequoias and you kill that tree [with] your technology today. You can take a chainsaw and in 10 minutes kill a tree that's 400 years old. There's no way that you can make that tree grow. You'll have to wait another 400 years for it to get to that position.

So the technology has overtaken the common sense of human beings and the understanding of time. And just as the time of the ant is very, very short, the time of the mountain is very long, the rivers. The time of the human being has to be passed along. And if you don't have a reference point, if you don't have a good understanding of what this time is, then you can get yourself and your people and your generation into a whole lot of trouble. I think that's where we are right now.

The above, expressed from another perspective, another world view that stands outside our own hierarchical form, provides a rich example of how the door to our own prison is wide open. Terry Tempest Williams' account of the March 8th Code-Pink Rally in Washington D.C. gives voice to what exists within each human being:

To witness Alice [Walker]'s deep calm -- and then to hear her speak of meeting Martin Luther King as a young woman in high school. She said, "I now understand that his calm came from being a free man, he was his own sovereign, his obligation was to follow his own conscience."

Each of us must answer to follow and our own conscience. An autonomy of spirit and action exists in us from our birthright as human beings. No one and no thing can take that away. The only authority we are beholden to is the contract of life with the creator. Writing in 1995 Oren Lyons expressed more of the vision of living democracy human beings were born to manifest and express.

There is a higher authority and we are subject to its laws. There are no appeals courts for these laws. There is only the law and we will suffer in direct proportion to our transgressions against it.

Good people, we now talk about the ultimate authority, that law that governs all life on this planet. "This lonely blue dot on the fringes of a great galaxy" as my good friend Carl Sagan puts it.

A thousand years ago or more we the Haudenosaunee, the Iroquois, were given the rules and processes of democracy. The principles of this democracy are: *Peace* in mind and community, *Equity*, which is justice for the people, *and the power of the good minds*, which embodies good health and reason.

This democracy established power in the people who joined of their own free will. It established the process of informed consent. It balanced the duties of governance between men and women. It gave women the duty of choosing leadership, that was then ratified by consensus of the people. It also gave women the power of recall. It provided the principle of representation of people in government, as well as accountability by leadership.

It established respect as a law. It established access to all leaders and an open forum on all issues, and it did not discriminate on the basis of gender or age. It promoted freedom as a responsibility and above all it was based upon the spiritual laws of nature.



This was a seamless government that inspired Benjamin Franklin to say "...this is a government that seems indissoluble." It inspired the roots of western democracy that we know today. All this from indigenous peoples.

This Democracy is all inclusive. Democracy is direct access to leadership. Democracy is equal protection under law. True democracy does not abide privilege, nor centralized control of power. Leadership is privileged only to serve. And the leaders needs come last after the people.

These expressions about first principles, about ideals and self-governance are simultaneously nourishing and provocative. They speak to the search for meaning each of us was born to explore. If we were locked away in a prison camp for the remainder of our lives we would still need to find a purpose to give our life meaning. For those of us not currently confined in a physically manifested federal, state, or county prison, we still must confront the debilitating feeling that we are powerless to effect positive change that honors and serves life's needs. How can that be when we are daily told how we live in the world's foremost democracy? What makes us choose to stay in prison when the door is so wide open?

Many things are not what they appear to be. We Are Not At War -- The 9/11 bombings Are Crimes Against Humanity. The sole case presented against Osama bin Laden & Al Qaeda for those bombings would not stand up in a court of law. Thus, We Do Not Know The Actual Sponsorship of 9/11. Scrutinizing an extraordinarily detailed timeline of 9/11 leaves any thoughtful person with a bulging list of questions the U.S. government has steadfastly sought to avoid answering. The super-set of this, our world of today gone awry, is the fact that the Constitution of the United States, that we live by and pledge our allegiance to, does not represent the democratic aspirations that drove the American Revolution.

Finding out whose interests were served and how they engineered and directed the 9/11 bombings is critical to the world's well-being. The resultant bid to establish a Pax Americana abroad and further degradation of people's rights inside America must likewise be duly examined. However, unless we understand and acknowledge that the basic founding principles of this country -- especially people's right to and responsibility for self-governance -- were railroaded from the start, then all that is toiled for to address the increasing imbalances generated by 9/11 will be for naught.

*basic call to consciousness* (Book Publishing Company: 1978) is a collection of position papers presented in 1977 by the Haudenosaunee to the Non-Governmental Organizations of the United Nations in Geneva which had asked for papers describing the conditions of oppression suffered by Native People in the Americas. The Haudenosaunee position is delivered from a perspective which sees The People with historical roots extending back tens of thousands of years. It is a geological kind of perspective, in which modern man is an infant, occupying a mere spec of time in the vast spectrum of human experience. At this time in human evolution, we the people must include all people on earth for us to survive and mature as a species.

The Haudenosaunee tell of a spiritual being called the Peacemaker who changed their minds. Oren Lyons describes how, "He brought a message, the Great Peace. And it was a long process of how he changed the minds of all of these men who at that time were leaders by strength and by force. Then he stepped in there and changed that whole process to deliberation and thought. And he convinced these warriors at that time (who were the leaders) to join with him. And he changed their minds. . . ." The Peacemaker planted "[a]

Tree of Peace, a Great Peace, a great law. It's a spiritual law. He said, 'When you become afraid or when you become weak or when you become not able to carry,' he says, 'it's the spiritual law that will stiffen your spine.' He said, 'That's where your strength is. So you must make your laws in accordance with those spiritual laws and then you will survive.' He called that council the Council of the Good Minds. He said the Hoyanni -- that's what it means, the all-good, the good, peacemakers. So that's what he set up. And when he uprooted this great tree and he asked the Nations to come forward and cast their weapons of war, he says, 'We now do away with the warriors and we do away with the war chiefs. And in their place we plant the Council of the Good Minds who will now counsel for the welfare of the people.'"

In *basic call to consciousness*, author Sotsisowah explains "Other political philosophers and organizers have come to the conclusion that governments can be formed for the purpose of establishing tranquility, but the Peacemaker went considerably further than that. He argued not for the establishment of law and order, but for the full establishment of peace. Peace was to be defined not as the simple absence of war or strife, but as the active striving of human beings for the purpose of establishing universal justice." (p.10)

Although there is a written form of The Great Law of Peace, the Haudenosaunee's founding constitution is an oral tradition defining the functions of the Grand Council and how the native nations resolve disputes between themselves and maintain peace. Dennis Kucinich's sponsorship of HR 1673, to create a United States Department of Peace, is a step towards developing a healthy maturity. To do away with war chiefs and develop the power of the good minds is crucial to our continuance. As Oren Lyons has expressed, the democracy all of us yearn for, "is all inclusive. Democracy is direct access to leadership. Democracy is equal protection under law. True democracy does not abide privilege, nor centralized control of power. Leadership is privileged only to serve. And the leaders needs come last after the people."

In the United States there is much to revisit, discover, and explore concerning what constitutes living peace and freedom. We would do well to proceed with a beginner's mind that is open to the unknown possibilities of existence. Alice Walker understands that Martin Luther King's calm came from his awareness that he was a free man, that he was his own sovereign, and that his obligation in life was to follow his own conscience. When we are born we are free human beings. We know the experience of autonomy by our birthright as self-reflecting, sentient beings. It is left to each of us to live by, follow, and answer to our consciences. It alone is the final arbiter of what we make of our time here; of what we value and give significance to, what we cherish, what we honor.