

# By What Authority

A PUBLICATION OF THE PROGRAM ON CORPORATIONS, LAW & DEMOCRACY

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*By What Authority*, the name of our publication, is English for *quo warranto*.

*Quo warranto* is the sovereign's command to halt continuing exercise of illegitimate privileges and authority. Evolved over the last millennium by people organizing to perfect a fair and just common law tradition, the spirit of *By What Authority* animates people's movements today.

We the people and our federal and state officials have long been giving giant business corporations illegitimate authority.

As a result, a minority directing giant corporations privileged by illegitimate authority and backed by police, courts, and the military, define the public good, deny people our human and constitutional rights, dictate to our communities, and govern the Earth.

*By What Authority* is an unabashed assertion of the right of the sovereign people to govern themselves.

## CHALLENGING EMPIRE'S STORY

By the POCLAD

### INTRODUCTION

Alarmed by revelations since September 11 about what this country's leaders think and what they are prepared to do at home and abroad to impose their will, growing numbers of people are working to get beyond war protest and peace advocacy as usual. People are talking with others who have long been engaged in single issue defensive struggles about the origins of government+corporate assaults they share. They are taking important steps towards conceiving a nationwide democracy movement strong and sustained enough to get the USA Empire off the backs of people in other countries, and in community after community here at home.

As spring comes to these United States, we sketch out our thoughts on this crucial work abudding:

### HOW AND WHAT WE THINK

The two most important things we learn as children are to walk and talk. Then we go to school and are told to sit down and shut up. This does not make it easy to learn how to question authority and think for ourselves — essential for self-governing people.

We in POCLAD wanted to learn why, despite single issue defensive work we and millions of others had been doing for the past century, governing power and wealth continued to concentrate in fewer and fewer hands. Our goal was to deepen and broaden discussions bubbling up regarding what people can do *collectively* to replace government by the few.

Among other things, we identified the challenge of preventing private wealth from mobilizing public resources and public power...of blocking the corporate class from using the rule of law against the many. We learned quite a bit from looking at ruling classes and people's movements of yesteryear. For example, we discovered that our ancestors, more than we knew, struggled across issue, gender, racial, and class lines to promote cooperative, peaceful visions and democratic institutions...only to be thwarted by men of property using government to impose *their* values and *their* will.

**Colonized people, in seeking to liberate themselves, need to relearn how to walk and talk for themselves.**



English colonists unhappy with King George and Parliament began by beseeching them to be less oppressive. As the propertied class gained experience in running colonial legislatures, in the last third of the 18th century a handful of

## By What Authority

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Readers are encouraged to get back to us with comments, questions and suggestions. Please include a way for us to contact you, should BWA want to quote you with attribution.

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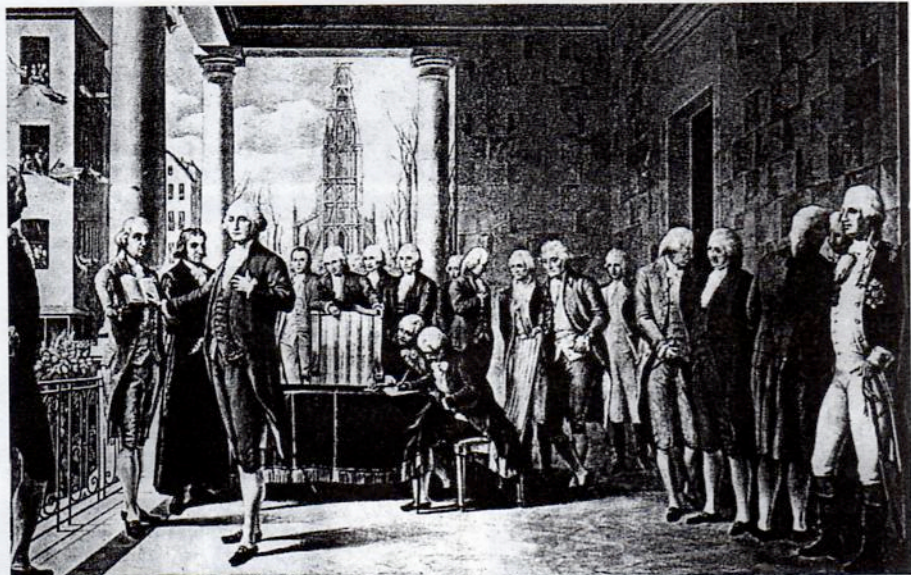
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these began to think seriously about independence. Of course, many from the “lower” classes had begun decolonizing their minds as well.

In essence, these people had to change how they *thought* about themselves, the past, and the future. They had to reject the notion that God had chosen the British crown; that royal values and laws were automatically just, efficient, and for everyone’s good.

Thinking people taught themselves to reject what they had formerly embraced as gospel. In the process, radical ideas and ideals sprung up and spread around the land: all men created equal (a start!); unalienable rights; self-governance. Different classes had different tasks: upper classes to preserve the idea that the aristocracy and landed were the only ones capable of governing; the “rabble” to rethink not only monarchy, but also the “leveling” possibilities being unleashed.

**In response to this delicate moment after the Revolution, the aspiring new rulers were becoming wizards at getting people to believe they were all in this together.** Howard Zinn explains:

“Around 1776, certain important people in the English colonies made a discovery that would prove enormously useful for the next two hundred years. They found that by creating a nation, a symbol, a legal unity called the United States, they could take over land, profits, and political power from favorites of the

British Empire. In the process, they could hold back a number of potential rebellions and create a consensus of popular support for the rule of a new, privileged leadership.

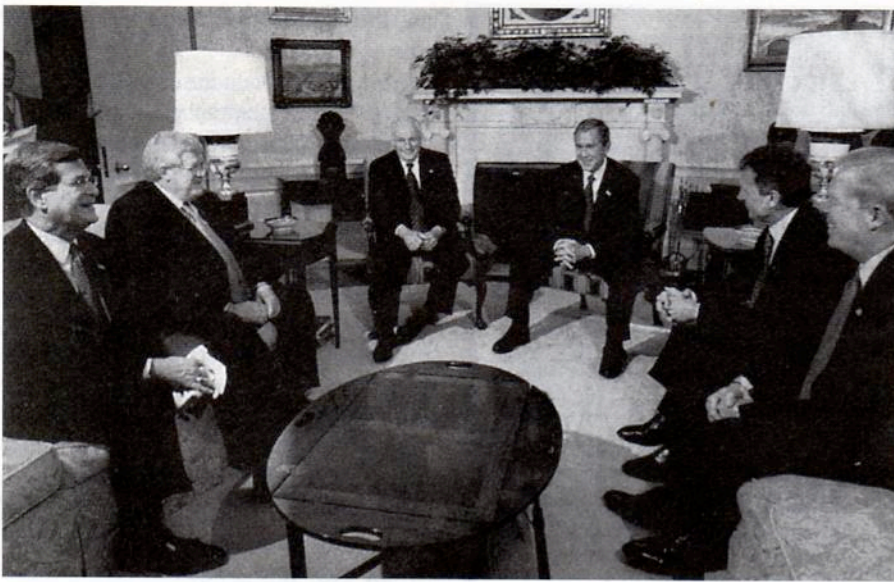
“When we look at the American Revolution this way, it was a work of genius, and the Founding Fathers deserve the awed tribute they have received over the centuries. They created the most effective system of national control devised in modern times, and showed future generations of leaders the advantages of combining paternalism with command...”<sup>1</sup>

### THE WIZARD’S STORY

Essential to their system of control was the **RIGHT STORY**, to be handed down through generations. An elite story worth its salt encourages people to doubt their own experience, intelligence and intuition. It becomes the cultural context for rulers and their courtiers to explain the historical roots of both ordinary and cataclysmic events — obscuring histories of past struggles, and how public funds and publicly authorized force came to support some systems, structures and ideas, while downplaying, even suppressing, others.

The **STORY** continually reinforces people’s feelings of being inadequate to the task of governing. It inhibits them from seeing patterns in what opinion shapers present as unconnected events. It





creates a framework of history — a popular, optimistic myth that infuses the culture through elementary school pageants, July 4th celebrations, editorials, museums, etc. — enabling elite propagandists to use shorthand language (such as democracy, freedom, the market, free enterprise, efficiency, progress, development) and powerful symbols (America, the flag, founding fathers, the Constitution) to discourage questioning and marginalize or ridicule those who wonder how things might have worked out differently.

**A masterful story makes it difficult for anyone but governing elites to sound rational. It guides how cataclysmic events are understood by the populace. The official USA story, perfected by men of property over two hundred years, goes something like this:**

Brave pioneers and colonists seeking liberty come to these shores...subdue wilderness and perpetuate the European Enlightenment and scientific method of reason and rationality...reluctantly revolt against tyrannical English king and parliament...brilliant founding fathers write constitution creating a democratic republic...plant seeds for free enterprise system that would become the envy of the world...constitution not perfect but provides for course corrections like ending slavery and granting women's suffrage...USA compelled by manifest destiny to expand from the Atlantic to Pacific as day follows night...through

intelligence, creativity, hard work, business sense, technological tinkering and the invention of the modern corporation, USA reaches out to world markets to create jobs, prosperity and open society at home...reluctantly bails out weak European countries in WWI...leads the free world to victory over fascism and godless communism...again, reluctantly accepts responsibility for law and order around the world through free trade directed by great global corporations and international bodies and the most powerful military in history...USA is rightfully admired by most people in the world...and disliked by a few irrational, cultish, brutish, Marxist, jealous, Luddite malcontents abroad and alas, at home...

### SEPTEMBER 11

Thus the story — symbols, soundbites and all — was firmly in place on September 11, when two major symbols of U.S. dominance were attacked, killing nearly 3000 people. **Not only was the story in place, but also its delivery systems: the corporate press; federal legislators, with no one breaking ranks save one in the House; "important" people at every level weighing in with the official line.** Troublesome questions? Out trots ex-lefty David Horowitz and Lynn Cheney et al screaming about the "hate America Left." Corporate spokesman George W. Bush mouths

"we're in this together" and "you're either fer us or agin' us."

Who is "us"? Antifederalists or Federalists? Knights of Labor or Robber Barons? Rosa Parks or Bull Connor? Sitting Bull or General Custer? Ron Kovic or General Westmoreland? The National Lawyers Guild or the Supreme Court? You or the corporate decision-makers?

It's instructive to see the elite's intellectuals laying out their values and goals. For instance, "The National Interest,"<sup>2</sup> published by the Nixon Center (which Canadian media mogul Conrad Black and this nation's own Henry Kissinger co-chair), devoted a special Thanksgiving issue to *thinking* after September 11. The editor opens the discourse quoting Paul Girardoux: **"The privilege of the great is to watch catastrophe from a distance,"** then adds: **"...that is what America as a great power has been doing for more than a century."**

Corporate media drill sergeant Charles Krauthammer chimes in: "...we have been given an organizing principle of power similar to those of the seventy years preceding the end of the Cold War. ... (W)hat happened is that radical Islam has become the successor to Soviet Communism, which was a successor to fascism, as the organizing principle of American foreign policy..."

New York Times Corporation columnist Thomas Friedman is also helpful. "Markets function and flourish only when property rights are secure and can be enforced...And the hidden fist that keeps the world safe for Silicon Valley technologies to flourish is called the US Army, Air Force, Navy and Marine Corps."

### PULLING BACK THE CURTAIN

At the nation's founding, **10% of the population used the Constitution and the law to deprive the majority of basic human rights...and the Constitution enabled the few to govern the many in the future...even if African-Americans, Native Americans, workers, and women should gain the right to vote, the right to hold property, the right to due process of**





Program On Corporations, Law & Democracy  
 PRESS RELEASE: February 5, 2002

**STATE OFFICIALS SHOULD SEIZE ENRON'S ASSETS**  
 Enron Corporation Story Is About Democracy, Not Business,  
 Asserts Program on Corporations, Law & Democracy

State officials have enabled Enron Corporation—and all giant corporations—to usurp the people's right and ability to govern ourselves, charges the Program on Corporations, Law & Democracy.

Government officials seized Al Qaeda's assets. POCLAD calls upon attorneys general in every state where Enron Corporation did or does business to seize all Enron's assets.

State governments charter corporations in We the People's names. State legislators, governors, attorneys general and secretaries of state are the men and women who have unleashed more than 3,000 Enron corporate entities upon the land. They've been treating businesses as "legal persons," "corporate citizens," and "corporate constituents." With congresspeople and judges, they have given corporate managers authority to buy up other corporations and write laws.

Much attention has been focused on insider trading, shredding, and corrupt accountants. But the real work of Enron Corporation's trustees and executives was to use public resources to sell fictions called "derivatives." The real purpose of Enron Corporation remains socially acceptable: redesigning the nation's energy and other policies—ultimately, governing the nation—in order to siphon wealth from community after community.

As is true with all corporations, making policy and laws is "legal." And the corporate executives who drive this work are lionized and rewarded by US culture.

In the Enron Corporation bankruptcy now unfolding, state elected officials must wield the public's authority and clout against giant corporate creditors and their silk-stocking lawyers. If the public's representatives don't act, Enron corporate directors, corporate creditors and their lawyers will use the last two hundred years of corporate constitutional manipulations to waltz off with the Enron plunder.

To stop other Fortune 500 corporations from using this history to govern the country, people need to rewrite corporation laws in all 50 states.

Corporate resistance to democracy is not new. In every generation people have struggled to build democratic institutions, as seen in the following quotations.

**from the 1879 California Constitution:** ". . . the exercise of the police power of the State shall never be so abridged or construed as to permit corporations to conduct their business in such a manner as to infringe on the rights of individuals or the general well-being of the State." [Article 12, Section 8] . . . "Every private corporation, and every individual or association of individuals owning, operating, managing, or controlling any . . . pipeline, plant or equipment . . . for the production, generation, transmission, delivery or furnishing of heat, light, water or power. . . to or for the public, is hereby declared to be a public utility." [Article 12, Section 23]

**from the New Hampshire Constitution:** "Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and function of all corporations should be so limited and regulated as to prohibit fictitious capitalization." [Article 83, added in 1904; still current]

**from the 1873 Minnesota Grangers:** "We, the farmers, mechanics and laborers of Minnesota, deem the triumph of the people in this contest with monopolies essential to the perpetuation of our free institutions and the promotion of our private and national prosperity."

law, the right to free speech some of the time.

How did the founders do it? They created a strong central government that keeps democratic action in communities and states at a minimum. In the plan of governance laid out in the Constitution, the Electoral College selected the president; U.S. Senators were chosen by state legislatures; Supreme Court justices were appointed by the indirectly elected president and confirmed by the indirectly elected senators. The commerce, contract and property language of the Constitution gave Supreme Court justices plenty to work with to keep the privileged in power.

**Like the 10% of yore, today's governing elite use public authority and public power — laws, courts, jails, and the military — to prevent the majority from expressing and working towards their visions of this nation; from participating in the framing of ideas and public policy debates; from operating effectively in election, lawmaking and judicial arenas — in other words, from uniting to take and exercise power.**

Eugene Debs was given a ten-year sentence under the Espionage Act — unanimously upheld by the Supreme Court — for denouncing U.S. entry into World War I. Wartime and post-war Red Scares have jailed or deported anarchists and socialists; spied on people and put their names on lists that lost them jobs and more; censored visions and views that diverged from the approved line.

In 1946, General Electric Corporation president Charles Wilson named two threats to the U.S. empire: "Russia abroad, labor at home." The corporate solution was Cold War both abroad and at home, affording cover for silencing union leaders, academics, activists, even a few elected officials, who advocated a different global order — the "commies" who raised questions about which decisions are public and which private.

War is useful for selling people on the idea that the *right-thinking* are *in it together* — endless wars: on drugs, on stars, on workers, on trees and water, on information and the airwaves, on the commons. Last October Dick Cheney announced that the war "may never end. At least, not in our lifetimes." What a



bonanza for the beneficiaries of the official story!

Governors, state legislators, attorneys general, and secretaries of state create corporations upon demand. At their moment of creation these mere legal fictions wield commerce, contracts and property privileges of the Constitution, and thanks to corporate legal personhood, First Amendment freedoms of speech and association; Fifth Amendment due process of law; and Fourteenth Amendment due process and equal protection of the laws. Thus have the propertied classes holding public office colluded with "private" corporations to use public resources and public power to build empire here at home.

3 Wars and corporations are both about EMPIRE. Like wars, great corporations are about violence to people, species and places. They are about denying people and species access to place, to the Earth, to the commons — sources of life.

Today, the governing done by the corporate class and most harms to life, liberty and property are regarded by U.S. law and culture as "legal" — necessary for the good life — while communities and activists are consigned to Byzantine regulatory "remedies," diverted into single-issue struggles against relentless corporate+government assaults.

POCLADer Greg Coleridge spotted these words chiseled into granite above the main entrance of the Department of Commerce in Washington, DC: 3

COMMERCE  
DEFIES EVERY  
WIND,  
OVERRIDES  
EVERY TEMPEST,  
INVADES  
EVERY ZONE

ENTER ENRON. The official story is that Enron Corporation and Arthur Andersen, LLC are rogue companies, even criminal — shredding, shilling, shelling and generally taking advantage of "unfortunate" regulatory lapses and loopholes. Yet Enron Corporation, chartered in the mid 1980s, did in 15 short years what it was designed and programmed to do: redefine energy policy, values, systems; rewrite state energy laws and revise federal regulations; create new policy discussions about derivatives and such — all the while bilking billions of

dollars from workers, investors, and community after community.

Cataclysmic events offer a peek behind the curtain for those who have eyes to see. In the wake of both September 11 and the Enron Corporation revelations, the fix was in and the scramble on to define the problem and forestall attempts to examine its roots. The stories: the USA was attacked by evil fanatics for its values and ideals, because "we" are envied, not because of what this country does to protect and expand its Empire; Enron Corporation is a problem of business, not of democracy, and can be addressed by punishing miscreants, exercising oversight, and tightening regulations.

### ABOUT EMPIRE

James Madison, father of the Constitution, expressed his class concerns about security. What danger did he identify? Tyranny of the majority — ie., democracy.

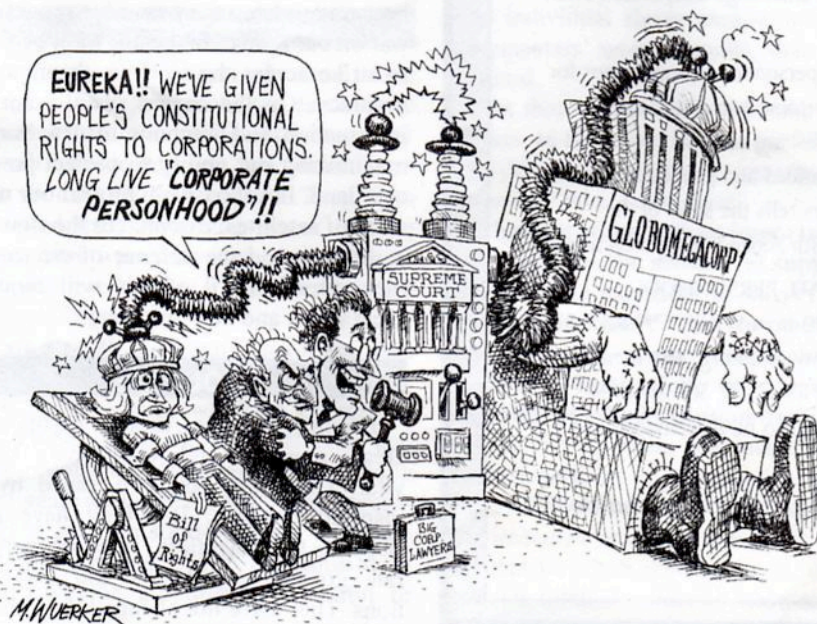
When have leaders of any empire ever felt secure enough? They never do. They never can. That's why such people keep turning to more denial of rights at home and more violence abroad, applying their skills to convince the majority that their deeds are done for the good of all...for this symbol, that ideal...or the war on terrorism.

In previous generations, threats to the symbols and institutions of empire have led to the theft of promised freedoms — more empire. Consider: the fugitive slave law; judicial edicts defining labor unions as criminal conspiracies; WWI's Espionage Acts; Japanese internment and post-WWII loyalty oaths; the FBI sending spies and provocateurs into civic groups (eg., Cointelpro).

Growing numbers of people today are rightfully alarmed at the empire's erosion of civil liberties in the name of fighting terrorism: USA Patriot Act; soaring military budget; the Axis of Evil — war without end, amen.

Human beings with brains and colleagues and friends need not swallow this whole.

Remember that phrase from the Nixon Center: "The privilege of the great is to watch catastrophe from a distance...that





# RESOURCES and ACTIONS to CHALLENGE EMPIRE

POCLAD has developed "Rethinking The Corporation/ Rethinking Democracy" seminars, along with analyses collected in *Defying Corporations, Defining Democracy, Building Unions*, and forthcoming publications. With this work, we seek to contribute to others' breaking away from "corporate fairy tales and democratic myths." Contact us for our resource brochure, *POCLAD WORKS!*

## ABOLISH CORPORATE PERSONHOOD!

THIS BLACK AND WHITE BUMPER STICKER is also the title of an organizing packet available from the Women's International League for Peace & Freedom, the latest resource in WILPF's national campaign to Challenge Corporate Power, Assert the People's Rights.

It provides historical background on corporate personhood; suggestions for implementing the campaign; a Matt Wuerker cartoon; two songs and a "melodrama"; examples of what we gain by abolishing corporations' rights as "legal persons"; sample resolutions for organizations and municipalities. The pamphlet "Santa Clara Blues" by William Meyers tells the story of the Supreme Court decision to give corporations 14th Amendment protections.

THE ORGANIZING PACKET TO ABOLISH CORPORATE PERSONHOOD, including the bumper sticker, is available for \$10 from WILPF, 1213 Race St., Philadelphia PA 19107, or downloadable from [www.wilpf.org](http://www.wilpf.org). The bumper sticker can be ordered separately: \$1 each; 60¢ for 10-99; 50¢ for 100+. WILPF's ten-session study group curriculum can also be downloaded, or ordered for \$15.

For more information on the WILPF campaign and resources, contact Molly Morgan, 619-523-5587; [morganm@sdsc.edu](mailto:morganm@sdsc.edu).

is what America as a great power has been doing for more than a century."

Whose "America"? When experts at corporate think tanks (or Congress, or the White House, or the New York Times Corporation) declare that "*We are all in this together*," people can ask: Who's "we"?

Are you one of the "greats" who watch from a distance? Were the millions of people, from Wounded Knee to Love Canal, from Ludlow to Plessy v. Ferguson, from Utah downwinders to workers at Fernald and neighbors at Hanford? How about the poor in every corner of the land? Are they among the privileged *watching* catastrophe, or are they condemned to be *engulfed* by it?

Who did this condemning? The men who work feverishly to find a "successor to Soviet Communism." Look at what G. W. Bush was saying *before* September 11 to see the elite's never-ending search for an effective "organizing principle of power." On 13 February, 2001, he advanced the following at the Joint Forces Command headquarters in Norfolk, VA.

"Eleven years after the end of the cold war, we are in a time of transition and testing, when it will be decided what dangers draw near or pass away, what tragedies are invited or averted...First, we must prepare our nation against the dangers of a new era...we must extend our peace by advancing our technology...The best way to keep the peace is to redefine war on our terms...In the air, we'll be able to strike across the world with pinpoint accuracy...On the oceans, we'll connect information and weapons in new ways, maximizing our ability to project power over land. In space, we'll protect our network of satellites, essential to the flow of commerce and the defense of our common interests. All of this will require great effort and new spending..."

## ABOUT US

People's struggles to stop harms and create remedies and justice have been vital. They have educated, saved lives, inspired heroism. But they have not *stopped* the relentless flow of corporate+government deaths and destructions. They have not changed the values,



constitutional doctrines, or the culture of empire which considers these inevitable.

Peace and anti-war, anti-nuke, anti-toxics and human rights struggles have been valiant, giving people powerful tools and needed expertise. But they are not enough.

Other species, mountains, rivers and oceans — along with the Milky Way — expect more from activist Earthlings than regulating the destruction of the planet. They demand more than people giving away our humanity to institutions of property and capital for cheap porridge or promises to govern a little less harshly.

**This nation (and the world) is overdue for peace, justice, ecological, human rights, and worker rights struggles to mature into movements for democratic self-governance.** There is growing popular resistance to U.S. Empire: propping up dictators and wealthy elites; devouring everything in sight in its fixation on maximum production of everything possible.

This is not a moment to feel content about tinkering with campaign finance rules for corporations and the wealthy, or voting for the human equivalent of paper vs. plastic. This is not a time to feel satisfied if radio or TV stations let a few people on the air who have something different to say. **Dissent is not enough. The task in the coming months is to shine the lights of history and analysis upon the lies paraded as the U.S. Story.**

Farmers in Pennsylvania have done just that since corporate hog farms have invaded their communities. Their strategy hasn't been to *regulate* how much harm the factory farms could do. They have asserted their governing power in nine townships to pass laws *banning* corporate ownership of farms. They asserted their governing power.

As a result, corporate operatives have been forced out into the open with their real beliefs about who's in charge. In December 2001 the Farm Bureau and other corporate strategists launched a suit against one of the township governments, with no subtlety in the language of the complaint: "The Township does not have the authority...to prohibit or

regulate corporate ownership or operation of farmland or farming operations...Giving preference to 'family' farmers and banning 'corporate' farming violates the PA and US Constitutions in several respects, including without limitation, equal protection, due process, taking without just compensation, and rights guaranteed under the commerce clauses...The regulation is unconstitutional..."

The complaint evokes the First, the Fifth and the Fourteenth Amendments. **But whose equal protection? Whose due process of laws? Whose Constitution and Bill of Rights? Corporations' or We the People's?**

These questions inspire people to move from single issue defense to challenging the corporate class and elected officials who have been giving away our fundamental authority to govern ourselves.

Abolitionists understood that the Constitution did not offer a remedy. To them, it was "a covenant with death, an agreement with hell." They worked hard to tear away the curtain that early generations of the propertied elite had draped around that document. They did not educate, agitate and organize to make slave conditions a little less terrible. They did not spend years getting Congress to create a Slavery Protection Agency. They understood that to the extent they could help individual slaves escape, and limit slavemasters' worst assaults, that would be good.

But they understood something more, as this 1847 resolution by the Western Anti-Slavery Society meeting in Alliance, Ohio, made clear:

**That it is of the highest importance to guard against the mistake of supposing opposition to extension of slavery, or to the Fugitive Slave Law or the Dred Scott Decision, or any other incident of the Slave Institution, as necessarily opposition to the institution itself.**

Like the colonists who made mincemeat of the English monarchy's story and the Abolitionists who challenged the empire's institution of slavery, it is essential that we, their political heirs, change how we think, in order to learn to walk

and talk like self-governing people...not subjects of the Empire.

#### ENDNOTES

1. Zinn, Howard, *A People's History of the United States*, Harper Perennial, New York, 1980, p. 59.
2. "The National Interest," #65-9, Thanksgiving 2001, Nixon Center, Washington, D.C.

## Coming this Spring

POCLAD's  
Defying Corporations,  
Defining Democracy  
Tour continues:

talks  
provocations  
workshops  
book-signings

Portland, OR, March 28  
New York, April 12  
Wash., DC, April 19  
Raleigh-Durham, late April  
Cleveland, mid-May  
Detroit, mid-May  
and Your Town?

Contact Mike Ferner for more information, to help promote one of the above, or to schedule a stop in Your Town this spring and beyond.

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