

From Protest to Rebellion

Lessons for Building a Democracy Movement, from Tom Paine to the Populists



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Recommended background reading on topics covered here

The Populist Moment: A Short History of the Agrarian Revolt in America by Lawrence Goodwyn (this is a condensed edit of his earlier book, [Democratic Promise](#)).

Defying Corporations, Defining Democracy, Dean Ritz, Ed. A collection of essays on strategy for revoking corporate power."

"**A Hidden History of Corporations**" and "**The Inherent Rules of Corporate Behavior**" are among several articles (in print-friendly format like this flier) available for free at ReclaimDemocracy.org (see "Primers" page).

When Tom Paine published his pamphlet "Common Sense" in January of 1776, six months before the Declaration of Independence was signed, he had a clear objective: to transform protest into rebellion.

Though armed clashes began several months earlier in Massachusetts and the South, colonists generally viewed themselves as English subjects fighting a tyrannical king and government. For all of their anger, colonists were protesting the king and Parliament for disregarding rights, not challenging the government's legitimacy.

Paine rejected not only King George III, but the entire British system as inherently oppressive and prodded his readers to establish their own nation. Rather than treating royalty with customary deference, he mocked it. Paine derided the founder of England's feudal monarchy, William the Conqueror, as "a French bastard landing with an armed banditti and establishing himself King of England against the consent of the natives."

"Common Sense" was wildly successful. By the spring of 1776 newspapers were reporting on "innumerable converts to independence," including "tens of thousands of common farmers and tradesmen." Though Paine called with burning urgency for the colonies to break away from Britain, he began by persuading readers that the source of the colonists' problems went far beyond corrupt or abusive English government to the very structure of rule by hereditary kings and nobility.

Paine's approach may inform our own strategy as we struggle to halt oppression at the hands of the dominant institution of our time -- the corporation. Today's corporations not only wield immense power over our law and government, they also control many physical conditions of our existence. Agribusiness dominates our food supply; the oil, energy and chemical industries determine what's in the air we breathe; and, to a frightening extent, corporations influence whether we live in peace or in war.

Of course corporations are no more a part of the natural order than was the English monar-

chy. One hundred and fifty years ago, they didn't exist in the form we know them today. U.S. citizens strictly controlled corporations via state legislatures, which resorted to incorporation largely to enable projects with public benefits such as building highways or canals. State legislatures explicitly defined them as entities subordinate to democracy, possessing limited privileges and no inherent rights.

Legislatures typically limited corporations' lifespans, the amount of property they could own, acceptable business activities, and set a maximum profit allowed before the business would revert to public ownership. Many states forbade businesses from lobbying, influencing elections, or even attempting to sway public opinion! Corporations violating these limits risked dissolution -- a corporate death penalty.

During the Industrial Revolution, wealthy businessmen, especially railroad executives, succeeded in winning dramatic expansions of corporate privilege. By 1890 most long-standing restrictions had been removed, and the U.S. Supreme Court had granted corporations the legal standing of natural persons, i.e. "corporate personhood."

Soon the Court bestowed Bill of Rights protections upon them, but with virtually none of the responsibilities borne by human beings. The Supreme Court effectively had subordinated the rights of citizens to institutions with the power to undermine our personal liberties and democracy.

A powerful resistance movement arose with the Farmers' Alliance in the 1880s, which built cooperatives to bypass the iron grip bankers and large merchants held over their land and livelihoods. But those impoverished farmers soon realized that dismantling the political power of corporations was vital to their cause. In 1892 they launched the last serious challenge to two-party domination -- the Populist Party. The Populists aimed to replace existing banks with a democratically-controlled financial system and nationalize railroads and telegraph networks. They were not socialists -- quite the contrary -- but they realized that a free market was impossible when oligarchies controlled the arteries of commerce.

Diverting and Diluting Activism

The regulatory system installed during the early 1900s was *initiated largely by corporate leaders* seeking to redirect this insurrection against corporate power. Big business succeeded overwhelmingly in channeling Populist rebellion against the corporate power structure back into protest against individual, separate abuses. The regulatory reforms placed the adjudication of these individual grievances in the hands of agencies dominated by the business entities they purported to control. The regulatory system remains today what a U.S. Attorney General reassured corporate leaders it would be at the turn of the century -- "a barrier between corporations and the people."

Perhaps we should tear down that barrier rather than repeatedly entangle ourselves within it. Pursuing bureaucratic remedies such as environmental impact reports and e-mailing regulatory officials intertwined with (or who came straight from) the industry may be necessary tactics, but they fail utterly as an ongoing strategy. We delude ourselves if we think that the new industrial aristocracy will be any more responsive to the people than the old feudal one, or that our votes will solve structural problems. So long as we permit wealth -- both corporate and private -- to dominate political life, "democracy" will be a platitude from the mouths of demagogues rather than a reality.

The extension of corporate "rights" has reached a level unthinkable a few decades ago. In 1978, the U.S. Supreme Court overturned a Massachusetts law that barred corporations from spending company resources to influence certain ballot initiatives. The justices in *First National Bank of Boston v. Bellotti*, deemed the law a violation of the First Amendment. As a result, corporations increasingly are attempting direct lawmaking, including blatant examples in 2004 in California (they succeeded in eviscerating the nation's strongest consumer protection law) and Montana (where they failed to reverse a citizens' ban on the use of cyanide in gold mining).

Courts subsequently have ruled that municipalities attempting to control the placement of cell phone towers are violating corporate civil rights. Corporations selling computerized voting machines

now claim the 4th Amendment prevents citizens from ensuring that proprietary software isn't used to manipulate elections.

So what can we do if traditional means of protest won't work? In simple terms, we need to build a political movement to reclaim democracy, starting where democracy begins -- at the community level. Citizens can press local and state governments to pass laws challenging corporate personhood. Such ordinances and resolutions could be much like the ones more than 350 communities have passed in opposition to the "Patriot Act" -- and for a similar reason: our rights as citizens are in grave danger.

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Monsanto wants to deny us the right to know the origins of our food. How will we respond?

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Seeds of Change

A "progressive" undertaking? Not necessarily. Nebraska, South Dakota and several other largely conservative Midwestern states have passed laws forbidding corporate ownership of farms. At least 11 townships in rural Pennsylvania have done the same. True conservatives recognize that corporations were established strictly as business entities and should remain so.

Small business owners have helped lead successful efforts from Port Jefferson, New York to Solvang, California that subordinate presumed corporate "rights" by banning or capping the number of chain restaurants allowed to operate there. Many more communities are proactively excluding big box stores through size caps or limits on chains, rather than repeatedly fighting defensive battles. In addition to accomplishing worthy goals, these efforts provoke needed debate about rights of communities vs. those assumed by corporations and considering our role as citizens, rather than mere consumers.

Citizens can further such efforts by learning ways corporate legal privileges strip us of the power to stop corporations from doing harm in our communities. For example, if a company repeatedly breaks health, safety or environmental laws, thanks to corporate personhood, public officials may be blocked from making surprise inspections of corporate property. They first must obtain a warrant just as if it were personal property. Of course, this enables companies to conceal dangers and imperils public welfare.

Eventually, local officials may follow the lead of tiny Porter Township, Pennsylvania. When agribusiness giant Synagro complained that a law controlling use of toxic sludge as fertilizer violated its constitutional rights, the community passed the first U.S. ordinance to declare that corporations have no constitutional rights within local jurisdiction. Just months later, that 2002 ordinance was replicated in a neighboring community.

These efforts demonstrate that, with the right language and framing of issues, exposing the insolence of corporations can inspire radical, proactive challenges to the legitimacy of corporate privileges. If that defiance were to spread, corporate executives would face tough decisions on whether to concede significant privileges or risk confrontation on a scale not seen since the Boston Tea Party and the ransacking of East India Company property (then the world's second-largest corporation).

Of course it isn't just Americans whose rights are threatened. Perhaps the most significant U.S. export isn't grain or pharmaceuticals, but the legal and institutional structure of corporate control. Soon after assuming control of Iraq, U.S. authorities declared the nation must accept foreign investment and corporatization of its (previously national) oil industry before a permanent government takes charge. In other words, democracy is permissible only after the most important economic decisions for the future of Iraqis have been decided for them and transnational corporations control their economic lifeblood.

But instituting corporate rule typically is done without armies. Trade treaties such as NAFTA and GATT really are globalized versions of the "Interstate Commerce Clause" of the U.S. Constitution, which

the Supreme Court often uses to invalidate state laws (laws banning corporations from importing and dumping hazardous waste from other states, for example).

Opportunities from Corporate Overreaching

Groups advocating for individual causes need not sacrifice their focus. But perhaps they could re-frame some issues within the context of corporate domination and introduce long-term structural solutions to their constituencies, even while doing imperative short-term work.

Opportunities for such structural focus abound. For example, in 2003, Monsanto lawyers sued Oakhurst Dairy, a family-owned Maine business. Oakhurst's offense? Using labels that stated, "Our farmers' pledge: No artificial growth hormones." Though nobody contested the label's accuracy, Monsanto claimed such statements were an "unfair business practice" because they imply inferiority of products derived from cows fed artificial hormones. Not surprisingly, the transnational giant persuaded Oakhurst to back down and dilute the statement.

Monsanto executives clearly aim to establish corporate rights as superceding any right we have to know the origins of our food, and it won't stop with Oakhurst. How will we respond?

Notably, meatpacking giants needed no legal action to prevent a small beef producer from ensuring its animals were free of mad cow disease, federal regulators did their dirtywork by forbidding the testing!

Corporations increasingly are exercising illegitimate political power over our own local governments as well. In California's Contra Costa County, local officials enacted a size cap on new "supercenters." Wal-Mart had no immediate plans to build in the area, but company officials didn't like the precedent. Wal-Mart hired signature gatherers (paying them far more than most store employees) to put an initiative on the March ballot overriding the size cap, then waged a massive ad campaign that overwhelmed opponents and effectively bought its desired outcome.

The Contra Costa law admittedly was flawed, and Wal-Mart failed in its attempt to replicate that scenario in a Los Angeles suburb weeks later, but let's focus on the root issue. Will citizens -- the demos of democracy -- or corporations control our communities?

In 2003, Nike Inc. tried to convince California's Supreme Court that the state's Unfair Business Practices Act infringed upon Nike's "right" to publish false or misleading communications. The court disagreed, and last June the U.S. Supreme Court declined to decide the *Nike v. Kasky* case. Rather than accept the decision and ensure its PR campaigns are reasonably accurate, Nike joined a corporate consortium that succeeded in emasculating the law via the aforementioned ballot initiative. Auto dealers kicked in millions, and Microsoft, Edison, Bank of America and many more companies created a warchest that overwhelmed opposition.

Going to the Roots

Thanks to the 1978 *Bellotti* ruling, corporate spending to "express free speech" and wage campaigns to pass such initiatives has no limits. So how should we respond to Wal-Mart, Nike, et al, using their vast wealth to re-write laws? Do we simply vow to work harder and fundraise better next time, or will we instead work to build a Democracy Movement by rejecting the legitimacy of corporations engaging in law-making?

Properly framed, these situations are opportunities to enlist citizens of widely varying views to work for vital structural changes. If, that is, organizations working to transform paradigms can gain support from the foundations and organizations that tend to focus overwhelmingly on damage control efforts.

Such work could trigger major growth in awareness and engagement against corporate constitutional privileges much as Seattle did for opposing secondary structures of corporate rule like the WTO. Our success will depend on dismantling foundations of corporate power, such as corporate constitutional rights, not pleading to regulatory agencies or replacing Republicans with Democrats

Let's heed Tom Paine's approach and transform our myriad single-issue protests into rebellion that tears down the inherently anti-democratic structures of corporate rule and builds genuine representative democracy. It's no small task to change the rules, but sensible people don't continue playing a rigged game.

By Jeff Milchen and Jeffrey Kaplan



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Many more articles by these writers are available on our website.

RECLAIMDEMOCRACY.ORG is a tax-exempt non-profit (501c3) organization working to revoke illegitimate corporate power and revive grassroots democracy. Contributions are tax-deductible.

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