

Richard Grossman Letter to Ralph Nader

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Ralph Nader,
Washington DC

Dear Ralph,

Greetings. I am responding to your invitation to join Citizen Works' Corporate Reform Board. I would like to be of assistance, and to that end I share some thoughts with you.

I do not believe that the Sarbanes bill was a good start. Indeed, I see it as a dead end. The early summer may have been a "corporate reform moment." But it was far from a democracy moment. Or a fix-the-Constitution moment. Or a reframing civic action moment.

I do not believe that "corporate reform" is helpful as an intellectual or as an organizing concept. Isn't the evidence overwhelming that neither energizing debates nor commensurate civic struggles arise out of corporate reform advocacy and blather about corporate ethics?

It is my sense that a major task over the coming years is to encourage energizing explorations, discussions and debates about how in these United States the few govern the many -- as they have done on this continent for hundreds of years enabled by the rule of law.

Maybe when enough people -- including self-defined civic activists -- aspire to more than a "less destructive" and "less oppressive" corporate state, and when people across the culture question the undemocratic foundations of fundamental law, citizen movements will challenge the usurpations and the values of the few.

Isn't this what the whole Earth is craving?

In the USA, folks will have to stop worshipping the Constitution and fairy tale history. The nation will need to give up its Founding Father Fetish, and turn against drivel like that oozed by Thomas Friedman as published by the *New York Times* Corporation on 9/4: "The right to admonish Americans on questions of morality is not an entitlement, but something earned only through a shared commitment to constitutional government."

From where can such refocus come? The thousands of civic groups which exist across the land? Citizen Works and Public Citizen?

Since refocus is not emerging out of such groups, it makes sense to ask why.

So many groups and their leaders have invested energy and resources in single issue struggles against government and corporate assaults upon life, liberty, property, and democratic processes. So much popular hope has been based on false constitutional history plus laws celebrated as sweeping democratic reforms but which were designed to empower the corporate class. When it comes to analysis and reflection on past goals, tactics and strategies, people strain to do more of what they have long been doing. They hunger for unexamined quick fixes like that offered by ex-Skadden & Arps operative Bob Hinkley and his 28 little words.

So isn't it logical that our corporate class has been able to divert the nation's -- and civic activists' -- attention away from the Constitution and the fundamental law of the land? Away from great citizen mobilizations of Abolitionists and Populists and Socialists and Peacemakers who regarded the Constitution and the whole realm of democratic self-governance as their natural arenas of struggle? After all, there exists today no deeply-rooted locus of democratic analysis and struggle -- no citizens' movement -- clear enough and strong enough to influence public debate . . . much less to refashion civic campaigns into constitutional confrontations.

The majority of civic groups play into corporate strengths with their conviction that today's corporations are essential for jobs, security, progress and the good life; with their obsessions over corporate "excesses;" parts-per-million; paper vs. plastic, single instances of waste, fraud and abuse; accounting and securities reforms; campaigns to label this harm and that horror; regulatory and administrative agencies.

Activist leaders have gotten what they have been asking for -- and thanking the corporate class for -- over much of the last hundred years. Why should anyone expect different analyses, goals, demands and strategies to emerge now without intentional effort? Without ferment? Without provocation and confrontation?

Let's face it: there aren't many groups talking about corporations routinely denying people's basic rights. About stripping corporations of claims to the Constitution -- for example, by banning ALL corporate involvement in the shaping of ideas (directly or through corporate shell groups from the Heritage Foundation to the Chlorine Institute and the American Broadcasters Association)? About the flawed bases of celebrated labor and environmental laws.

The many leaders, trustees and funders of civic organizations who my colleagues and I have been in touch with over the past decade have not shown much interest in looking at the fundamental law which enables the few running the country's corporations to force the many out of elections, out of legislatures, out of judges' chambers, out of our schools, out of our own village squares. They have not been open particularly to *talking about* challenging corporate governance of the nation.

Corporate operatives continue to wield the Constitution against most people, species and places in this country. Campaign finance reform that does not redesign elections is supposed to be a remedy? Hog manure regs which preempt communities from making the rules for food production and land use? More OSHA inspectors who can't inspect without a warrant? More toxic chemical laws which legalize corporate poisoning? More union members denied constitutional rights at work? More telecom, banking, energy, disease care, etc., laws which strip more rights from people?

I enclose a new article of mine, "Wresting Governing Authority from the Corporate Class: Driving People Into the Constitution," along with my colleague Peter Kellman's "Building Unions." We started off looking at the corporation -- and here's where we and a small but growing number of people have journeyed.

Ralph, you know well that recent revelations about Enron, World-Com and other corporations in the news are not the source of this nation's problems. You know well that the several billion dollars siphoned off by some corporate officers, directors and accomplices over the last few years add up to a small fraction of the trillions which the corporate class easily, regularly and legally takes from the majority thanks to the coercive force of the state.

You know well that Enron Corporation executives' shaping of intellectual and political climates for shaping energy policies, and their rewriting of energy laws, are but the tip of the corporate governance iceberg.

If corporate reform is not a good start, what is? How about Robert Dahl's *How Democratic is the American Constitution?* Cautious, restrained and limited, Dahl nonetheless talks heresy by asking questions, being logical, and not getting side-tracked on the minutiae of reform. He leads readers through some second looks at history, and focuses not on simple solutions but on fundamentals. For example,

- ". . . how well does our constitutional system meet *democratic* standards of the present day? p. 3
- "Does anyone today really believe that when the working classes, women, and racial minorities were excluded from political participation, their interests were adequately considered and protected by those who were privileged to govern over them?" p. 132
- "That it took three-quarters of a century and a sanguinary civil war before slavery was abolished should at the least make us doubt whether the document of the Framers ought to be regarded as a holy writ." p. 16
- In particular, I am not entirely sure that we can redesign our present hybrid [constitution] so that it facilitates either greater consensus or stronger majoritarianism." p. 146

Dahl tortuously acknowledges that a propertied, merchant and slave-owning minority used the Constitution and the rule of law to deny the majority's fundamental human, civil and political rights. He suggests that the way this nation was launched has prevented the flowering of democracy down to today. Among other things, he notes how extraordinarily

difficult the rule of law has made it for majorities to gain their rights, promote their values and secure justice . . . and how long (I would add how bloody, thanks to "legal" state violence) each and every people's struggle has been.

He concedes that there have been painfully few victories for the majority, even when people did all the right things: educated themselves and many others, organized masses, petitioned their legislators, *became* legislators, forced the passing of laws, even changed the Constitution.

The word "corporation" does not appear in Dahl's book. What an opportunity lost for exploring how privileged, smart and aggressive corporate operatives have used the men of property's, merchants' and slave-owners' Constitution to seize and expand power. What an opportunity lost for exploring today's corporate rule in the context of real constitutional and other hidden US histories.

And so Dahl does not address how today's corporate class wields the Constitution and the Bill of Rights -- uses our own government to implant corporate visions and spread corporate values and goals. He does not explain how today's public officials enable corporate managers and directors to deny people's rights -- including the right to govern ourselves. He does not explore how the rule of law has long defined corporations, and what corporations are designed to *do*, as beyond the people's sovereign authority.

He does understand that very different reflection, discussion and debate need to be launched, to seep across the land -- and that this will take time and effort. Does he believe that discussions alone will transform this plutocracy? He does not mention civic action, or social movements. Apparently, he has pinned his hopes on "intellectuals and scholars" without acknowledging that most such men and women are in thrall to their corporate benefactors, and are in fact way behind a small but evolving rabble.

Then there is Hertzberg's 5 page discussion of Dahl's book in the 29 July *New Yorker* (enclosed). Talk about timid! Hertzberg is so careful to establish that Dahl is not a "crank" (line 4), and "is about as covered with honors as can be."

Hertzberg's summary of Dahl's main points is a watering down of Dahl's own self-censorship. It is riddled with contradictions -- for example, denouncing the Supreme Court's gathering power "unto itself" while praising the Court for its "democratic" decision in *Brown vs. Board of Education*.

Hertzberg does not refer to the two-hundred year run by propertied classes and then by their corporations. He goes along with Dahl that "we [1] do as well as anyone in maintaining civil liberties [what I call argument by mere assertion -RG] -- thanks mainly to the Bill of Rights, one part of the Constitution with which Dahl doesn't have a beef." But he adds, praise be: "And although Dahl doesn't mention this, we [1] seem to be getting straight A's in world domination."

He writes about Madison's conversion to majority rule, "where the people govern themselves, and where, of course, the majority govern." But he does not see that Madison's minority rule constitution empowered the few to use government to deny the many long into

the future.

Hertzberg declares: "As [Dahl] knows very well -- and has written a book to prove -- our system is a lot less democratic than it should be. We didn't choose it; it was here when we arrived."

Then, alas, he offers his concluding wisdom . . . revealing how much he has been colonized: "We just have to live with it [the system which was here when we arrived]. Better we should do so with our eyes open."

Nobody's perfect.

But he did get the *New Yorker* to run five pages (sort of) about Dahl's book. Circumscribed as these pages are, they are more likely to open minds to history, reflection and provocative talk than the reams of drivel written and spoken about Enron . . . than recent hearings, newspaper exposes, debates and legislation erupting from public officials, pundits and all the very important people.

As you'll see from the enclosed, we are encouraging people to act on what they know from experience: that in this country, the few still govern the many. That the USA cannot be properly called a democracy. That the FCC and the EPA and the FDA and the SEC can perhaps make minority rule a little less destructive, but that working through the FCC or the EPA or the FDA or the SEC denies people opportunities to reframe, reveal, see, smoke real power out of the closet. (Think back to the corporate class in the 1970s using government to clamp down on a culture of resistance and liberty, and admitting through Samuel Huntington that the '60s had been about too much democracy; look at corporate fixers in Pennsylvania today instructing courts to nullify local anti-corporate farming laws because the Constitution denies the people in these townships authority to trample upon corporate "rights").

For decades and decades, Ralph, people have done the right thing. You know that. They've organized. Mobilized. Resisted and resisted and resisted. Advocated the sane. The logical. The fair. The democratic. The ecological. And how people have studied! They've become experts on energy, redlining, forestry, hydrology, taxation, the Periodic Table of the Elements, the nuclear fuel cycle; on the School of the Americas, Cointelpro, the Supreme Court and the World Trade Organization . . .

They've passed laws. Redirected billions of taxpayer dollars. Stopped corporate + government investments, even wars. You have spent a lifetime in this work, inspiring millions, creating dozens of organizations and joining with thousands to save countless lives. You know what sustained and massive effort is required just to get a corporate insanity considered a problem, just to lessen a single giant harm.

Yet after the dust settles on each single issue struggle, the rule of law still enables the few to deny the many. The few still rule over the many . . . set the nation's values, frame national and local debate. The culture still declares their corporations as indispensable.

POCLAD has been helping people acknowledge that every time they resisted corporate assaults, or mobilized communities and ecosystems to demand remedies and sane

investment / production / work, they ran smack into the rule of law. Into the Constitution and so into the courts, police and jails . . . the armed might of the nation.

Logic compels those who harbor non-corporate visions for this nation to figure out why; to discover what people need to know and do so that millions of people coming out of diverse campaigns can come together to challenge the law of the land.

So instead of a Corporate Reform Board, Ralph, why not a Constitutional Reform Board? Wouldn't that be way more energizing? More educational? More fun?

I'll be happy to talk with you about all this -- by phone, or in person when I come to Washington DC around the first weekend in November.

These are terrible times. More righteous government killing is in the air. Many people of good will despair. Yet people are resisting. They are experimenting with ideas and actions, putting their heads and hearts together to act in solidarity with people all across the planet.

I send you my good wishes.

In Solidarity,

PS: By the way: does *anyone* in DC want to talk about such matters? Fred Krupp or John Sweeney or Ron Blackwell or John Cavanagh or Carl Levin? Environmental or human rights funders? ACLU officers? Who wants to assess what has and hasn't worked? To move beyond false victories, and denials and accommodations?

How about some vigorous public debates when I am in Washington -- not with corporate moguls or their shills to discuss how to make corporations less dictatorial and destructive; but among people who aspire to democratic self-governance?

(Enclosed as well is an excerpt from Daniel Berrigan's 1970 book *No Bars to Manhood*, with which I closely identify.) ##

1. which "we?"