

DOG DAYS AT COMPANY HEADQUARTERS

BUSINESS ACCOUNTABILITY AND THE CORPORATE CHARTER

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THE CORPORATE CHARTER

CHARTERS HAVE BEEN used by kings and governments to select who organizes capital, labor, and natural resources, and who creates wealth. In the U.S. the Constitution gives this power to the states. Therefore, we, the people, have the constitutional authority—and a civic obligation—to grant *and* revoke charters.

Few states issue charters with anything more in mind than gathering statistics or taxes. So it is up to us in each state to force every corporation granted a charter in our name to operate in our—and the Earth's—best interest. Or to revoke that corporation's charter.

There is a rich, passionate but deliberately ignored history of U.S. citizens trying to protect themselves against corporations. The privilege of incorporation was widely distrusted in the nineteenth century, and often the subject of anti-charter agitation. As Justice Louis D. Brandeis wrote, "There was a sense of some insidious menace inherent in large aggregations of capital, particularly when held by corporations."

Nonetheless, during the last 150 years, we have been intimidated, snookered or outmaneuvered by our charterees and their apologists in the legislatures, courts and public relations firms. We have permitted corporations to become "persons" under the law. We have let them determine the "social definitions under which their own economic wrongdoing is differentiated from real crime," as one sociologist noted. Corporations invest, divest and destroy behind the cloaks of limited liability and business confidentiality. Like George III, they trace their powers virtually from Divine Right, equating corporate production and profits with our freedom and well-being.

The legal tools available to us, as Yale professor Martin Chirelstein has observed, become "blunt and clumsy" whenever management's "business judgement is placed at issue." Consequently, workplace health and environmental laws are inherently limited from the very moment of their legislative birth. As far back as 1941 the Temporary National Economic Committee, appointed

by Congress, understood this when it concluded in its final report and recommendations:

The principal instrument of concentration of economic power and wealth has been the corporate charter with unlimited power—charters which afforded a detour around every principle of fiduciary responsibility; charters which permitted promoters and managers to use the property of others for their own enrichment and to the detriment of the real owners; charters which made possible the violation of law without personal liability;

charters which omitted every safeguard of *individual and public welfare* which common sense and experience alike have taught are necessary.

Today we need to ask one another if we haven't spent enough time, energy and money niggling with these well-guarded, intentionally-constructed, meticulously insulated corporations. Don't we harm ourselves and the Earth when we let the very real monster of corporate law block our paths? Don't we demean the tradition of active citizenship when we give our rights away? Wouldn't it be liberating and exhilarating to reclaim our civic rights? ■