

***Censorship, Inc.* by Lawrence Soley, New York: Monthly Review Press, 2002**

reviewed by Chris G. Hudson

Which is the greater Constitutional threat? Does it lie within the statutory power and officialdom wielded by the state? Or is it embedded in the tremendous wealth and control of the modern multinational corporation? Such is the dichotomy reinforced by Lawrence Soley in *Censorship, Inc.* and it is the perceived underrepresentation of the latter in legal histories of the First Amendment which he seeks to redress.

Soley promptly takes the liberal bait and characterizes creeping concern over state power as the province of "Waco wackos, paranoid militiamen," and the "hard-right Republicans." He makes the generalization that federal courts have become more protective of speech while the consolidation of corporate power has continued apace. He has arranged and cataloged within the book the means by which corporations have asserted their increasing power into four broad categories: control of the labor process, civil litigation, acceleration of privatization of property, and control of the media. Critical to all of these categories was the 1886 U.S. Supreme Court ruling that equated the legal status of corporations with persons and all of the attendant "rights" inherent to individuals. Thus the Fourteenth Amendment to the Constitution, originally drafted with the intent of redressing past inequalities has since been consistently turned on its head to challenge legislation designed to protect workers.

Censorship, Inc.'s greatest strength resides in its recitation of historical examples of the way corporations limit debate. In the company towns of the late nineteenth/early twentieth century, workers were encouraged to embrace the "freedom" to consume life's necessities as provided by the company store(s) while the security of employment was leveraged against their complicity in their own exploitation alternately by the velvet glove of paternalism and the iron fist of the Pinkertons. Under modern capitalism, many of the relations have become rationalized and mediated by the state but the result of tying one's economic security to one's livelihood remains the same. Those individuals who dare to speak out against their oppression largely face financial, psychological and quite possibly physical ruin.

Other detailed examples provided by Soley run the gamut from occupational blacklisting and its coordination by relevant industrial associations to the Strategic Lawsuits Against Public Participation (SLAPP suits) often filed by corporations as much for their power to intimidate as for their stated intent, to the proliferation of private shopping mall property in the last half of the twentieth century and the concomitant decrease in Supreme Court rulings in favor of free speech and distribution of political literature on such property.

And so upon identification of the problem, any purported leftist worth their salt must eventually address the eternal question of "what is to be done?" Even allowing for the collective stuttering that tends to accompany the left's response to such inquiry, Soley is less than conclusive. He acknowledges the weight of over 100 years of case law recognizing corporations as individuals and consequently recommends the relatively small steps of campaign finance reform and anti-SLAPP legislation as pioneered by the State of California. A fundamental question which he skirts throughout the bulk of his material, whether intentionally or not, is the question of the role of the state under capitalism which took up so much radical debate in the 1970s. Privileging the role of private enterprise in censorship over that of government tends to preclude a view of the state as an instrument used by the ruling class against the ruled. As Michael Tigar identified in *Law & the Rise of Capitalism*, individuals eventually recognize via the class struggle that any given legal ideology contains both rules that seek to maintain the established system of social relations and rules that seek to embody at least neutrality if not outright progressive principles. This was the case during the overthrow of feudalism by capitalism and it is currently the crisis faced by bourgeois ideology as the contradictions of capitalism continue to sharpen and the system of social relations outgrows its utility for the greater part of humanity. In this light, the threats to freedom of speech from private enterprise so aptly codified by Soley represent the struggle by the ruling class to maintain its control over the sick body of capitalism. The state does its best balancing act by affirming this control through its favorable rulings towards private property and accommodating challenges to its legitimacy through its favorable First Amendment rulings. The legal victories obtained in these interstices are only part of the large challenge of replacing capitalism with something more humane. While far from inevitable in the face of state and corporate control, it's absolutely necessary.