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The Coming Decline of Anti-Regulatory Conservatism

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The anti-regulatory effort constructed in the 1970s has influenced American society, but its own success may lead to its demise.

When it comes to the need for federal regulation, the American political system is currently deeply divided along ideological and partisan lines. This division has a number of causes, but a good part of the division can unquestionably be attributed to

what Professor [Thomas McGarity](#) has referred to as the anti-regulatory “idea infrastructure” and the “influence infrastructure” constructed by conservatives in the early 1970s and continued thereafter—ideas intended to block and roll back public protections along with tactics for implementing those anti-regulatory ideas.

That conservative effort has succeeded for many years, but the country has paid a steep price in terms of increased risks from the unbridled pursuit of profit. The 2018 congressional election may portend a looming backlash against the political right, with its own intransigent opposition to common sense public protections leading to its demise.

A particularly influential intellectual component of the conservative idea infrastructure was an August 1971 [memorandum](#) that sprang from a surprising source: soon-to-be Supreme Court Justice [Lewis Powell, Jr.](#) At the time, Powell was a prominent corporate lawyer and a member of many corporate boards. His memo to his friend, Eugene Sydnor, Jr., Chairman of the [Education Committee](#) of the [U.S. Chamber of Commerce](#), was widely circulated within the business community at the time and essentially became a “call-to-arms”—an urgent plea to business leaders to enter the political arena and vigorously resist regulatory initiatives.

The premise of the Powell memo was that the American free enterprise system was under a broad-based attack from those he [regarded](#) as “extremists of the left,” including college professors, the media, intellectual and literary journals, and politicians. As Powell [put](#) it, “the business and enterprise systems are in deep trouble and the hour is late.”

To combat the perceived attack on business, Powell suggested aggressive political action. Among other things, he [called](#) on the Chamber to establish “a staff of highly qualified scholars in the social sciences who do believe in the system,” along with an effective speakers bureau to spread anti-regulatory ideas. He also [urged](#) the Chamber to insist upon equal time on the college speaking circuit and in the media and to “evaluate social science textbooks” to assure “fair and factual treatment of...our enterprise system.”

Powell’s memo also helped create a climate of fear among businesspeople that led to equally aggressive political engagement by organizations such as the [National Association of Manufacturers](#), the [Business Roundtable](#), and the [National Federation](#)

of [Independent Business](#), along with the Chamber. The well-funded lobbying efforts of these and other organizations, together with a concerted effort to influence public opinion in an anti-regulatory direction, gradually enjoyed considerable success.

Although the precise tactics Powell urged were only partially adopted, over the course of the next decade, the right wing began building what has grown into a massive, pseudo-intellectual infrastructure, at least as adept at communicating its ideas as it has been in achieving policy change. One objective, achieved in great degree, was the effort to create public distrust of academics. More significantly still, the business groups that followed Powell's strategy blunted and reversed the trend toward federal (and in some cases state) regulation that characterized the early 1970s and established anti-regulatory conservatism as a powerful force in American politics.

The Powell memo provides a vivid example of what [Richard Hofstadter](#) famously [labeled](#) “the paranoid style in American politics.” Business never faced any grave threat. Even though some liberal critics of the late 1960s and early 1970s passionately derided “the system” and “the military-industrial complex,” the primary goal of 1970s liberalism was *not* to replace free enterprise with a system of centralized government control of American industry, as Powell suggested. Instead, during that contentious period, activists on the left generally focused their efforts on ending racial [segregation](#) and the [Vietnam War](#), abating environmental [pollution](#), and promoting worker [safety](#). The attack on free enterprise that Powell so excitedly warned against was a fantasy.

The Powell memo was written at an especially fraught time for American society, when deep conflicts over Vietnam and civil rights too often [led](#) to violence. Given the tenor of those times, Powell's misunderstanding of his opponent's aims may have been understandable. Nonetheless, the metastatic nature of his paranoia, along with the persistence of the aggressive anti-regulatory political tactics he called for, has [proven](#) incredibly damaging to efforts to protect and promote Americans' quality of life.

Since 1971, the United States has undergone many changes. In recent years, the American electorate has [become](#) more diverse, and a small cadre of people has accumulated vast amounts of wealth. Meanwhile, everyday workers—with whose labor the one-percent's wealth is built—have seen their wages stagnate. The quantity and quality of health care has [become](#) a major political issue, and corporate lobbyists have come to [dominate](#) the federal rulemaking process.

It is possible to interpret the midterm elections of 2018 as the beginning of a trend toward popular support for more active government regulation. But it is too soon to draw such a conclusion.

Whether it is now or later, however, the extreme right-wing agenda that has dominated the Republican party since the 1970s, together with its outright rejection of virtually any effort to stem pollution, mitigate climate change, and protect workers and consumers, will almost certainly fall victim to the right-wing movement's own success to date.

The rigid intransigence of the political right, in the face of rapid political and economic change, led to dramatic changes in policy from the late 1970s until quite recently. But the stubborn adherence to a "political correctness" on the right, the unrelenting drive for profit-friendly policies, no matter how much they may endanger health, safety, and the environment, may herald the demise of this agenda's political strength.



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