



# Threats Then and Threats Now

The Powell Memo's Anti-Capitalist Alarm Bell

By Richard Morrison & Iain Murray

September 2023

CONFIDENTIAL MEMORANDUM

ATTACK ON AMERICAN FREE ENTERPRISE SYSTEM

DATE: August 23, 1971

TO: Mr. Eugene B. Sydnor, Jr.  
Chairman  
Education Committee  
U.S. Chamber of Commerce

FROM: Lewis F. Powell, Jr.

This memorandum is submitted at your request as a basis for the discussion on August 24 with Mr. Booth and others at the U.S. Chamber of Commerce. The purpose is to identify the problem, and suggest possible avenues of action for further consideration.

Dimensions of the Attack

No thoughtful person can question that the American economic system is under broad attack.\* This varies in scope, intensity, in the techniques employed, and in the level of visibility.

There always have been some who opposed the American system, and preferred socialism or some form of statism \*variously called: the "free enterprise system", "capitalism", and the "profit system". The American political system of democracy under the rule of law is also under attack, often by the same individuals and organizations who seek to undermine the enterprise system.

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or generated by American business. The Boards of ...  
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who are leaders in the system.

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## Executive summary

In 1971 Lewis Powell, a prominent Republican lawyer who would go on to serve on the Supreme Court, wrote a memo warning about increasing political hostility to free enterprise in the United States. He identified several related threats and recommended to his friends at the U.S. Chamber of Commerce that they undertake a campaign of free-market education and advocacy. The memo, though originally directed specifically at the Chamber, began circulating among conservative activists and philanthropists, convincing many of its readers to pursue activism to support a capitalist economy and the property, association, expression, and due process rights that make it possible. Many leaders of the modern conservative movement were influenced by Powell's warning and adopted one or more of his recommendations for countering the threats he outlined.

Eventually, the Powell Memo would have another major influence – this time, on left-leaning policy advocates who were hostile to its goals. To some progressive critics, the Powell Memo was a sort of secret master plan for what they saw as a right-wing takeover of American democracy. Every conservative economic policy victory for half a century was described, after the fact, as fitting into the nefarious plan the memo had laid out. Whereas Powell and his allies saw their efforts as restoring a more virtuous pre-existing balance between private and governmental power, progressives saw the conservative movement as a dangerous unbalancing of a reasonable equilibrium – the *de facto* détente by which post-World War II Republicans had effectively accepted the New Deal's expansion of federal power as permanent.

While many of the strategies Powell recommended in 1971 yielded significant policy wins, it is reasonable for advocates of free markets and limited government today to look at the United States roughly half a century later and ask whether we face a similar array of threats. Government spending and the federal deficit have grown dramatically. Regulation of all kinds has increased, as have the compliance costs borne by Americans. Dynamism and economic growth since 1971 have been significantly slower than the 1945 to 1971 era Powell was looking back at.

The Marxist radicals and Maoist revolutionaries of the early 1970s may be a spent force now, but their respectable professional-managerial progeny exert a great deal of influence in the government, advocacy groups and, still surprising to some, corporate America. The threats they represent are worth assessing and countering with the same seriousness that Powell and his allies brought to the battle of ideas over 50 years ago.

## A memo's long shadow

On August 23, 1971, Richmond attorney and former American Bar Association president Lewis F. Powell, Jr. sent a 34-page memo to his friend Eugene B. Syndor, Jr., chairman of the U.S. Chamber of Commerce's Education Committee. He gave that memo the provocative title "Attack on the American Free Enterprise System."<sup>1</sup> "[T]he American economic system is under broad attack," Powell wrote, outlining growing threats to capitalism in the United States. He acknowledged that the U.S. system of private ownership and provision of goods had always faced criticism, even some that "has been wholesome and constructive." The threat of 1971, however, he judged "quite new in the history of America."

The novelty came chiefly from the source of the criticism. There were "Communists, New Leftists, and other revolutionaries" attacking economic freedom, of course, but Powell considered those avowed radicals to be a small minority and "not yet the principal cause for concern." The larger worry was that anti-capitalism had grown beyond the "extremists of the left" and now included voices from "perfectly respectable elements of society," such as academics, reporters, politicians, scientists, members of the clergy, and other public intellectuals. Powell also argued that while only a small percentage of people in those identified groups were part of the attack, the ones who were had a disproportionate impact on public opinion because they were unusually outspoken and articulate, though still mistaken, in their criticisms.

<sup>1</sup> Lewis F. Powell, Jr. "Attack of the Free Enterprise System," August 23, 1971, <https://scholarlycommons.law.wlu.edu/cgi/viewcontent.cgi?article=1000&context=powellmemo>.

Powell's memo wasn't the first time that free enterprise advocates became worried about anti-business sentiment, but it was unusual in focusing on widespread *cultural* threats, not specific legislative or regulatory ones. Powell mentions very few actual government policies as threats in the text of the memo, though he does suggest that U.S. courts were becoming increasingly hostile to property rights in general.

Because the memo was a private communication between Powell and the senior staff of the U.S. Chamber, its initial public impact was not a factor, but the memo was eagerly read by its intended audience. In the years after 1971 the number of organizations advocating for market economics and property rights expanded far beyond the small handful of large organizations like the U.S. Chamber and the National Association of Manufacturers that had been the go-to sources for "pro-business" policy in Washington, D.C. for decades. Many ideological nonprofit organizations were formed to advance missions broadly consistent with Powell's suggestions, including the Pacific Legal Foundation (1973), the Heritage Foundation (1973), the Cato Institute (1977), the Competitive Enterprise Institute (1984), and the Institute for Justice (1991).

The memo has cast a long shadow over the past half century – perhaps longer than is justified. Powell's principles were shared by many leaders in the liberty movement. Not all of those leaders were directly influenced by having read the memo itself.<sup>2</sup> Many contemporary historians, however, have pointed to the memo as the defining first cause of modern right-of-center politics in the U.S. Many writers who are sympathetic to progressive policy goals and antagonistic to Powell's perspective have presented it as evidence of a multigenerational master plan or even a malignant conspiracy.

Looking back from the perspective of 2023, we can acknowledge an undeniable influence of Powell's 34 typewritten pages. But this also suggests a question for our own time: Do we face a similar threat to the institutions of a market economy today? Those who are worried about such contemporary threats frequently point to alarming poll results, such as those reported in June 2021, which found that 18-34 year-olds are almost evenly split between those who view capitalism positively and those who view it negatively (49% vs. 46%). Among Generation Z adults (ages 18-24), "perceptions of capitalism are truly underwater: 42% have a positive view and 54% have a negative view," Axios reported.<sup>3</sup>

Even more alarming to many, major U.S. corporations have embraced some of the progressive social movements that Powell himself saw as a threat, leading to the rise of what some conservative observers have termed "woke capital."<sup>4</sup>

The willingness of corporate America to lend support to its left-wing critics has been compounded by the fracturing, in recent years, of the long-time political alliance known as fusionism. Fusionism was originally understood by its originator Frank Meyer as the view that American-style conservatism consists of "a dual mandate to preserve both liberty and virtue."<sup>5</sup> In that sense fusionism is a single, indivisible approach to political economy.

Many subsequent and current observers, however, have used the term to describe a political reality in which traditionalist conservatives and small-government libertarians (often antagonistic in other realms) are strategically allied in opposing new burdens and restrictions on private enterprise.<sup>6</sup> Over the last several years, that alliance has been shaken. As the 2020 book *The Socialist Temptation* summarized, "Fusionism has broken down, perhaps irrevocably."<sup>7</sup>

<sup>2</sup> William Schambra, an alumnus of the Hudson Institute and the Lynde and Harry Bradley Foundation, wrote in 2019 that when a friend of his had asked him for a copy of the memo years before, he replied that he had never read it. Schambra recounted: "I had *heard* of it by then, but only because persistent rumors had it that my entire career was but a fulfillment of the Memo's mandate." William A. Schambra, "Probing more into the persistent myth of 'the Powell Memo,'" *Philanthropy Daily*, August 7, 2019, <https://www.philanthropydaily.com/probing-more-into-the-persistent-myth-of-the-powell-memo/>.

<sup>3</sup> Felix Salmon, "America's continued move toward socialism," Axios, June 25, 2021, <https://www.axios.com/americas-continued-move-toward-socialism-84a0dda7-4b8d-483a-8c4e-0c2e562c4e67.html>. Laura Wronski, "Axios|Momentive Poll: Capitalism and Socialism," <https://www.surveymonkey.com/curiosity/axios-capitalism-update/>, accessed September 13, 2021.

<sup>4</sup> Ross Douthat, "Woke Capital," *The New York Times*, February 28, 2018, <https://www.nytimes.com/2018/02/28/opinion/corporate-america-activism.html>.

<sup>5</sup> Stephanie Slade, "Freedom and Virtue: Masters of Their Own Domains," Online Library of Liberty, June 7, 2021, <https://oll.libertyfund.org/page/liberty-matters-frank-meyer-fusionism-stephanie-slade>.

<sup>6</sup> Jonah Goldberg, "Fusionism Today," *National Review*, November 15, 2018, <https://www.nationalreview.com/magazine/2018/12/03/frank-meyer-fusionisms-impact-today/>.

<sup>7</sup> Iain Murray, *The Socialist Temptation*, (Washington, D.C.: Regnery Gateway, 2020), p. 211.

## New Deal to the new left

Powell considered 1971 to be an especially perilous time for the free enterprise system, but it was definitely not the first era in which businesspeople felt under attack. The early 20th century, for example, was an era of increasing radicalization among loosely connected groups of socialists, communists, syndicalists, and anarchists. Those activists campaigned for goals ranging from expropriating certain categories of property and nationalizing industry to a complete overthrow of the U.S. constitutional order. This led to an understandable anxiety among many Americans that radical elements of the labor movement were planning revolutionary political action consistent with high-profile assassinations across Europe and the then-recent Bolshevik revolution in Russia, which resurrected the ideas of an obscure 19th century economist named Karl Marx.<sup>8</sup>

The interwar era also saw the increasing popularity in the U.S. of voluntary clubs and associations focusing on constitutionalism, limited government, and free enterprise and explicitly opposing socialism and communism. Even more significant developments – well within Powell’s own professional lifetime – came during the mid-1930s when many business leaders at the national level opposed President Franklin Roosevelt’s New Deal agenda, fearing, among other things, confiscatory tax rates, new legal privileges for labor unions, and an erosion of property rights.<sup>9</sup>

During World War II, as with World War I, emergency wartime measures took precedence over policy preferences of both labor unions and capitalists. Significant expansions of federal authority over the economy aroused far less public outcry than would have been the case during peacetime. Fortunately, the concentration of power in Washington necessitated by the war effort did not entirely sideline private enterprise as a force in society. Private industry led

the way in creating the arsenal of democracy and U.S. companies emerged with an enhanced reputation, as essential partners in the war effort.<sup>10</sup>

As a geopolitical stalemate with the Soviet bloc set in after World War II, many U.S. corporations created new employee education and public relations campaigns focused on justifying the American system of free enterprise. Labor unions too emphasized the fruits of capitalism as something for workers to enjoy, spurred on by the Soviet Union’s suppression of organized labor. Even into the 1960s, though, most individual firms still did not actively lobby for and against legislation in Congress.<sup>11</sup> Washington, D.C.-based trade associations, which did lobby on behalf of large numbers of firms, were also not nearly as sophisticated, well-funded, or aggressive as they would later become.

In 1965, however, a young Ralph Nader launched a new era of anti-corporate activism with his book *Unsafe at Any Speed: The Designed-In Dangers of the American Automobile*, which attacked the U.S. auto industry and General Motors in particular for allegedly disregarding safety concerns. Many consumers were also increasingly concerned about nutrition and food safety and topics like pesticide residues in the food supply, inspired by the attack on DDT in Rachel Carson’s famous 1962 bestseller *Silent Spring*.<sup>12</sup> Dramatic events like the Cuyahoga River fire and the Santa Barbara oil spill, both in 1969, also mainstreamed support for further environmental regulation. Flotsam on the surface of the Cuyahoga River near Cleveland, Ohio had caught fire many times before 1969, but it was not until that year that news media attention made it into a national story and a symbol of Rust Belt industrial pollution of U.S. waterways. In Santa Barbara’s case, it was an ill-fated drilling project at Union Oil’s Platform A off the California coast that caused crude oil to seep up from the seabed and begin washing up on the area’s normally picturesque beaches. When noxious blobs of

<sup>8</sup> Frederick Lewis Allen, “The Big Red Scare,” in *Only Yesterday*, (New York: Bantam Books, 1931, 1957), pp. 31-52. Magness and Makovi recently detailed about how obscure Marx’s theories actually were before being thrust back into prominence by the Bolshevik revolution. Phillip W. Magness and Michael Makovi, “The Mainstreaming of Marx: Measuring the Effect of the Russian Revolution on Karl Marx’s Influence,” *Journal of Political Economy*, No. 2, Vol. 131, February 2023, <https://www.journals.uchicago.edu/doi/pdf/10.1086/722933>.

<sup>9</sup> George Wolfskill, *The Revolt of the Conservatives: A History of the American Liberty League, 1934-1940*, (Cambridge, MA: The Riverside Press, 1962).

<sup>10</sup> Arthur Herman, *Freedom’s Forge: How American Business Produced Victory in World War II*, (New York: Random House Trade Paperbacks, 2013), p. x.

<sup>11</sup> Lee Drutman, “How corporations turned into political beasts,” *Business Insider*, April 25, 2015, <https://www.businessinsider.com/how-corporations-turned-into-political-beasts-2015-4>.

<sup>12</sup> Despite the fact that the concerns raised by Carson in *Silent Spring* were mainly about health of wild birds and other animals rather than the human health effects of DDT, the anti-pesticide focus of the book and its popularity worked to reinforce skepticism among the general public about whether widely-used agricultural pesticides were, if fact, safe for humans. For more on the negative humanitarian effects of Carson’s work, see Richard Tren, “DDT Saves Lives in Fight against Malaria,” Competitive Enterprise Institute, *OnPoint* No. 101, November 1, 2005, <https://cei.org/studies/ddt-saves-lives-in-fight-against-malaria/>.

petroleum and oil-covered wildlife eventually showed up on national news broadcasts, California native Richard Nixon made the trip from the White House to inspect the damage, which itself generated even greater press coverage.<sup>13</sup>

At the same time a self-described “new left” arose, inspired by the thinking of figures such as Herbert Marcuse. Its activists aimed to radicalize not the working man but various excluded or underclass groups such as racial minorities alongside students and artists as a new vanguard of the left. They embraced anticorporate and environmentalist messages as part of their activism.

During the 1960s, concerns like these inspired a raft of new legislation responses, including the Clean Air Act of 1963 (and subsequent amendments), the Truth in Lending Act (1968), the National Environmental Policy Act (1970), and the Fair Credit Reporting Act (1970), creating a sense of rising hostility to and increasing regulatory burdens on American corporations. Many business leaders also thought that the popular anger inspired by critics like Rachel Carson and Ralph Nader was misplaced and based on misinformation or out of context anecdotal data.<sup>14</sup>

## Powell’s threat assessment

By the time Powell was drafting his memo in the summer of 1971, U.S. business leaders looked out over then-contemporary America and saw an alarming rise of political radicalism that threatened to disrupt the most basic institutions of society as well as economic stagnation that threatened the American Dream.

The radical politics that confronted conservatives of that time encompassed a huge range of movements and goals, from free speech on college campuses and efforts to end of the Vietnam War to anti-colonialism and support for third world liberation abroad.<sup>15</sup> American society was also dealing with the simultaneous demands of multiple identity-based “new left” political groups, including the Black Power movement, feminist activism, gay liberation, Chicano political power, and the American Indian Movement. All of these were in addition to renewed labor union organizing and more traditional socialist critiques of a market economy.

The usually self-described radical and revolutionary activists of the time were not just controversial because they were attempting to change mores and values. Some also turned to violence. Several months before Powell’s memo was submitted, a bomb detonated in the U.S. Capitol. The March 1st blast blew doors off their hinges and knocked plaster off of walls, but fortunately did not kill anyone. A half hour before the blast, one of the bomb-makers phoned the Capitol police, warning them to initiate an evacuation, saying “This is in protest of the Nixon involvement in Laos.”<sup>16</sup>

Violent unrest at home, however, was only an echo of the primary conflict of the Cold War itself. The communist threat was aggressive, expansionist, and actively hostile to American interests. Just a few years prior, in 1968, a Soviet-led invasion had crushed a nascent liberalization program, known as the “Prague Spring,” in then-communist Czechoslovakia. The invasion was so belligerent and overreaching that even other communist parties and movements around the world denounced it.<sup>17</sup>

<sup>13</sup> The physical impact of the 1969 blaze itself did not justify the dramatic media coverage it generated, with environmental law expert Jonathan Adler concluding that “Much of the Cuyahoga story is mythology...a fable with powerful symbolic force.” Jonathan H. Adler, “Fables of the Cuyahoga: Reconstructing a History of Environmental Protection,” Case Western University School of Law Faculty Publications No. 191 (2002), [https://scholarlycommons.law.case.edu/faculty\\_publications/191](https://scholarlycommons.law.case.edu/faculty_publications/191).

Lorraine Boissoneault, “The Cuyahoga River Caught Fire at Least a Dozen Times, but No One Cared Until 1969,” *Smithsonian Magazine*, June 19, 2019, <https://www.smithsonianmag.com/history/cuyahoga-river-caught-fire-least-dozen-times-no-one-cared-until-1969-180972444/>.

Jon Hamilton, “How California’s Worst Oil Spill Turned Beaches Black And The Nation Green,” National Public Radio, January 28, 2019, <https://www.npr.org/2019/01/28/688219307/how-californias-worst-oil-spill-turned-beaches-black-and-the-nation-green>

<sup>14</sup> For a response to Carson’s criticism of DDT and its subsequent ban in the U.S. and many other countries, see Roger Bate, “How Precaution Kills: The Demise of DDT and the Resurgence of Malaria,” in Michael Gough, ed., *Politicizing Science: The Alchemy of Policymaking* (Washington, D.C.: Hoover Institution Press, 2003), pp. 261-282, [https://www.hoover.org/sites/default/files/uploads/documents/0817939326\\_261.pdf](https://www.hoover.org/sites/default/files/uploads/documents/0817939326_261.pdf).

Regarding Nader’s most high-profile claim – that the Chevrolet Corvair was especially unsafe and prone to rollover because of its rear axle design – a National Highway Traffic Safety Administration report later concluded that “the [1960-1963] Corvair quantitatively meets or exceeds the standards set by contemporary cars in stability tests, cornering tests and roll-over tests. For this reason, the panel concluded that the 1960-1963 Corvair does not have a safety defect and is not more unstable or more likely to rollover than contemporary automobiles.” See Edwin L. Resler, Jr., Paul H. Wright, and Ray W. Caldwell, “Panel Evaluation of the NHTSA Approach to the 1960-1963 Corvair Handling and Stability,” Department of Transportation, Report No. A-3971, January 25, 1972, <https://ntrl.ntis.gov/NTRL/dashboard/searchResults/titleDetail/PB211014.xhtml#>.

<sup>15</sup> The Third World Liberation Front was first organized on the campus of UC Berkeley in 1969, emphasizing domestic political action in solidarity with oppressed and disfranchised populations in developing countries. See “The Third World Liberation Front,” *The Berkeley Revolution*, <https://revolution.berkeley.edu/projects/twlf/>, accessed September 20, 2021.

<sup>16</sup> John W. Finney, “Bomb in Capitol Causes Wide Damage,” *The New York Times*, March 2, 1971, p. 1, <https://timesmachine.nytimes.com/timesmachine/1971/03/02/81875458.html>.

<sup>17</sup> Christopher Hitchens, “The Verbal Revolution: How the Prague Spring broke world communism’s main spring,” *Slate*, August 25, 2008, <https://slate.com/news-and-politics/2008/08/the-prague-spring-broke-world-communism-s-main-spring.html>.



Given all of this background – much of it unacknowledged in the memo – it is not surprising that Lewis Powell adopted such an embattled tone when considering the threat to free enterprise in America.

## Powell's false apocalypse

Powell thought that public opinion, especially youth culture, was turning against capitalism. While many of his contemporaries in conservative politics made similar observations, the memo offers little actual data to support this conclusion. The argumentation of the memo itself consists mostly of assertions, with illustrative anecdotes sprinkled throughout. This contributes to the impression that Powell was allowing his overall perception of societal upheaval and disorder, common among conservatives at the time, to color his judgment about how prevalent anti-capitalist sentiment actually was.

One of the few quantitative pieces of evidence that Powell does cite is a poll of college students on a dozen campuses, reported in the *Richmond Times-Dispatch*, which found, “Almost half the students favored socialization of basic U.S. industries.”<sup>18</sup> That would no doubt have been a concerning finding among free-market defenders, but we should also remember that government ownership of major industries was much more common in those years. Between the end of World War II and the premiership of Margaret Thatcher, large swathes of the industrial economy in Britain were nationalized, and the UK was one of the America's closest NATO allies during the Cold War. The United States had some of its own, more temporary, history of nationalization. The federal government seized control of the railroad industry during World War I and President Harry Truman seized steel producing facilities in 1952, during the Korean War.<sup>19</sup> Those were temporary emergency measures, though, not justified as part of an evolution toward a more socialist economy.

Other public opinion polling from the era paints a less extreme picture. In 1971, for example, Americans were already significantly more likely to consider both

“big government” and “big labor” more of a threat than “big business.” Big government would increase its share of the “biggest threat” responses in future polls, almost uninterrupted, for the next couple of decades.<sup>20</sup> Sociologist Seymour Lipset, writing for *Foreign Affairs* in 1971, also argued that “[the] growth in radical-left sentiments among [American college students] have not involved the total young adult age group,” and observed that “...persons over 50 have been more numerous and more consistent in their opposition to the [Vietnam] war than have all other groups.”<sup>21</sup>

*Life* magazine, in response to concerns that young Americans (aged 15 to 21) were embracing radicalism and antisocial attitudes, published a survey in 1971 with the headline summary “Change, yes – upheaval, no.” The most admired public figures among high school and college students were Robert F. Kennedy, Bill Cosby, Neil Armstrong, and John Wayne, while the least admired public figures were Fidel Castro, George Wallace, Ho Chi Minh, and Eldridge Cleaver, one of only a handful of domestic leftist figures who Powell had named in the memo itself as ideological threats. Sixty-seven percent of respondents said that they would be willing to work some day for a company that handles defense contracts (an especially touchy subject at the time), and 63 percent *opposed* marijuana legalization. When asked specifically about politics, 20 percent described themselves as conservative, 39 percent middle of the road, and 23 percent liberal. Only 5 percent were self-described radicals.<sup>22</sup>

Many conservative critics at the time imagined the changes that they were seeing would continue to spiral ever further out of control in subsequent years. Yet there was good reason to expect a reversion to the mean in political affairs after the initial popularity of radical political campaigns. The modern thermostatic model of politics suggests that the public expresses an increased desire for political action on an issue they think is being neglected, but then deprioritizes that issue as soon as they perceive a move in the desired direction. According to University of Texas political scientist Christopher Wlezien, “changes in

<sup>18</sup> Powell, p. 5.

<sup>19</sup> Steve Lohr, “U.S. not always averse to nationalization, despite its free-market image,” *The New York Times*, October 13, 2008, <https://www.nytimes.com/2008/10/13/business/worldbusiness/13iht-nationalize.4.16915416.html>.

<sup>20</sup> Jeffrey M. Jones, “Record High in U.S. Say Big Government Greatest Threat,” Gallup, December 18, 2013, <https://news.gallup.com/poll/166535/record-high-say-big-government-greatest-threat.aspx>.

<sup>21</sup> Seymour M. Lipset, “Polls and Protest,” *Foreign Affairs*, April 1971, <https://www.foreignaffairs.com/articles/united-states/1971-04-01/polls-and-protests>.

<sup>22</sup> “Change, yes – upheaval, no: The younger generation, it turns out is not breathing fire,” *Life*, January 8, 1971, <https://t.co/5zgDhBI65O?amp=1>.

the public's preferences for more policy activity are negatively related to changes in policy."<sup>23</sup> This suggests that radicalism, within electoral politics at least, is inherently self-correcting and that U.S. political attitudes, over the long term, tend toward the center.

Politically, the cultural doom that Powell foresaw managed to turn around in under a decade.

Despite universities, national newsrooms, and various other culturally influential institutions being as left-wing as ever, the American people voted for a conservative, free-market president in 1980. Ronald Reagan swept incumbent president Jimmy Carter out of office with a 489-49 electoral college landslide, accompanied by Republicans winning a majority of Senate seats, marking the first time since 1954 that the Republican Party had controlled either chamber of Congress. Reagan also managed to win almost 51% of the popular vote despite the presence of third-party candidate and former Republican member of Congress John Anderson, who took 6.6% of the total.<sup>24</sup>

### Advocacy: not just for plutocrats

Powell was not the only conservative political observer who had concluded that free enterprise was under assault. It should come as no surprise that many of those like-minded individuals threw themselves into building a movement to protect the traditions of the American economic system. While Powell listed his recommended actions neatly for his friends at the Chamber to quickly digest, few were particularly novel, even for 1971. Free-market activism, corporate education campaigns, public speaking tours, higher education donations, and tracking and rebutting anti-market intellectuals were all popular strategies for organizations going back to at least the 1920s.<sup>25</sup>

What ultimately makes the Powell Memo most notable is not what the Chamber of Commerce did in response but how the entire movement was enlarged and diversified. The vast majority of activism that can be arguably linked to the Memo and its early promoters

within the world of politics and philanthropy grew out of new organizations that were founded after, in some cases many years after, the memo itself was written.

Many politically involved people on the right were working to defend the institutions of a free economy and contain the growth of the regulatory state throughout the 1970s and 80s. It wasn't until a couple of decades after the memo was written that progressive opponents of Powell's vision re-discovered it. The left-wing characterization of the memo as a political offensive by a handful of plutocrats against the public interest is rebutted by two important realities. First, the efforts suggested and inspired by the memo were primarily reacting to overreach by left-leaning activists themselves. Second, when confronted with effective free-market activism, progressive advocacy groups were quick to adopt the same methods.

In the last half-century of ideological advocacy at the national level, the left has matched the right and vice versa in successive waves of fundraising and activism, each seeking an advantage for its evolving portfolios of issues. Political and non-profit donations have been used by both sides to fund everything from pamphlets to TV ads to grassroots lobbying to website development. Those campaigns were meant to influence elections, public school curricula, new legislation, and judicial opinions. None of those strategies, embraced and practiced by both sides, are illegitimate or anti-democratic.

Powell's warning certainly inspired many movement leaders over the years to organize and work toward the goal of a free society that respects individual rights. That's a positive outcome that we should celebrate regardless of how we assess his original memo. While Powell's sense of being under siege was almost certainly colored by social changes he (and many other conservatives) disliked for other reasons, he was certainly correct that popular enthusiasm for a market economy at the time was suffering and could use a robust defense. Powell can be forgiven for not being as optimistic as later political events would warrant.

<sup>23</sup> Christopher Wlezien, "The Public as Thermostat: Dynamics of Preferences for Spending," *American Journal of Political Science*, Vol. 39, No. 4 (Nov., 1995), pp. 981-1000

<sup>24</sup> Adam Clymer, "John Anderson, Who Ran Against Reagan and Carter in 1980, Is Dead at 95," *The New York Times*, December 4, 2017, <https://www.nytimes.com/2017/12/04/us/politics/john-anderson-who-ran-against-reagan-and-carter-in-1980-is-dead-at-95.html>.

<sup>25</sup> The Sentinels of the Republic, a conservative activist founded in 1922, boasted in promotional literature that they had "card-indexed more than 2000 radical propagandists making it comparatively easy to check their movements and counteract their activities." See Wolfskill, pp. 231-234.

## Socialism on the upswing?

When comparing the current state of the country to half a century ago, we need to keep in mind that support for greater government control of economic life has waxed and waned throughout U.S. history. The cultural associations of supporting increased governmental power have changed dramatically as well. Today's Millennials and Zoomers, having grown up after the fall of the Iron Curtain – and with no memories of the Soviet invasions of Hungary, Czechoslovakia, and Afghanistan – have entirely different definitions of “socialist” policies than do Americans who grew up with nuclear bomb drills in their classrooms.

In current attitudes, socialism as a concept is moderately popular but much less popular than capitalism, and the balance of support for socialism vs. capitalism hasn't changed much in recent decades. In the Fall of 2022, the Pew Research Center published an analysis of American attitudes toward capitalism and socialism, and found that 36% of U.S. adults say they view socialism somewhat (30%) or very (6%) positively, down from 42% who viewed the term positively in May 2019. Conversely, 60% viewed socialism either somewhat (27%) or very (33%) negatively. That puts socialism 24 points underwater with the American public, while capitalism walked away with a 21-point approval margin.<sup>26</sup>

With historic polling, we can track the ups and downs of American attitudes over the decades in more detail. We can see that large portions of the population in prior generations were concerned about increasing socialization or upset at what they perceived to have been an unacceptably high level of socialist influence already. In a poll released just a few weeks before Mao proclaimed the founding of the People's Republic of China in 1949, 43% of Americans said yes when asked if they thought “we have socialism in the United States today.” In another question from the same poll, only 14% of Americans said they wanted to move *more* in

the direction of socialism, while 64% wanted less movement in that direction. Fifteen years later, 48% agreed with the statement that “there is a definite trend toward socialism in this country.” In 1965, almost a third of Americans thought that the country had a government of “moderate socialism” already.<sup>27</sup>

As the Vietnam War faded from relevance, the Cold War ended, and the immediate military threat from the Warsaw Pact countries faded, the meaning of terms like socialism and communism shifted in the mind of Americans. When a 2018 Gallup poll found that 51% of young adults (aged 18-29) had a positive view of socialism, many conservatives and libertarians despaired. The Cato Institute's David Boaz responded to that news by questioning whether the under-30 set even knew what it was they were supposedly supporting. The traditional definition of socialism calls for government control of the means of production. This was the case not just in the Soviet Union, but even in the 20th century manifestos of left-wing political parties in NATO countries. Yet almost none of the nation's youthful poll respondents thought the federal government had too little power: Only 8 percent agreed with that premise in 2018.<sup>28</sup>

Moreover, answers to other questions in similar polls suggest that while younger voters may support a variety of policies that would lower the cost of, for example, healthcare and higher education, they do not long for the government apparatus that would accompany an actual socialist state. In a 2016 Gallup poll, support for “capitalism” *per se* came in at 56%, but similar terms garnered much greater support. Americans supported “free enterprise” at 79%, “entrepreneurs” at 86%, and “small business” at 92%.<sup>29</sup> Those are stratospherically high approval ratings in a public opinion environment in which approval of Congress is often lower than 30% (it was 23% in September 2022).<sup>30</sup>

<sup>26</sup> “Modest Declines in Positive Views of ‘Socialism’ and ‘Capitalism’ in U.S.,” Pew Research Center, September 19, 2022, <https://www.pewresearch.org/politics/2022/09/19/modest-declines-in-positive-views-of-socialism-and-capitalism-in-u-s/>.

<sup>27</sup> Lydia Saad, “Gallup Vault: Americans’ Views of Socialism, 1949-1965,” Gallup, August 10, 2018, <https://news.gallup.com/vault/240749/gallup-vault-americans-views-socialism-1949-1965.aspx>.

<sup>28</sup> David Boaz, “Young People Like ‘Socialism,’ but Do They Know What It Is?,” *National Review*, October 25, 2018, <https://www.nationalreview.com/2018/10/socialism-popular-young-voters-bernie-sanders/>.

<sup>29</sup> Frank Newport, “Americans’ Views of Socialism, Capitalism Are Little Changed,” Gallup, May 6, 2016, <https://news.gallup.com/poll/191354/americans-views-socialism-capitalism-little-changed.aspx>.

<sup>30</sup> Megan Brennan, “Recent Congressional Approval Trending Higher,” Gallup, September 26, 2022, <https://news.gallup.com/poll/401864/recent-congressional-approval-trending-higher.aspx>.

## ESG and other threats to free enterprise

We must be clear-eyed in separating out cultural trends that we may find unwelcome or inappropriate from ones that are actually an attack on property, association, and speech rights. Today's version of that can be seen in phenomena like environmental, social, and governance (ESG) investing theory, government policies enacted to support it, and similar attempts at creating "social credit score" style policies for consumers, investors, and corporate managers.

Even before the current vogue for ESG-themed policy, for example, federal officials during Barack Obama's presidency attempted to regulate financial institutions without authorization from Congress under the guise of protecting the public reputation of banks.<sup>31</sup> Operation Choke Point was launched in 2011 to target "high-risk" banking industry customers. It attempted to demonize legal businesses in politically disfavored industries, negatively affecting their ability to access financial services. This multi-agency effort by the Department of Justice, Office of the Comptroller of the Currency, and Federal Deposit Insurance Corporation, among others, went after businesses, like firearms dealers, which activists and members of Congress had repeatedly tried, and failed, to target legislatively.<sup>32</sup>

The Biden administration's whole-of-government policy on climate change bears similarities to this approach, by which climate policy goals that have been repeatedly rejected by Congress are being moved forward via executive action and in coordination with theoretically independent private-sector entities.<sup>33</sup> Policymaking initiatives at agencies traditionally concerned with financial regulation and fiscal and

monetary policy, from the Securities and Exchange Commission and Federal Reserve to the Department of Treasury and the Office of the Comptroller of the Currency, are violating legal and constitutional limits by venturing into environmental regulation.<sup>34</sup>

There are two main problems with this whole-of-government executive approach in general and to ESG-related issues in particular. The first is that it stretches the authority of agencies beyond their statutory and constitutional limits. Congress created each of the federal government's agencies via statute to accomplish specific missions with specific tools. Agencies have some freedom to implement the goals Congress have assigned them via promulgating particular rules, but they are not allowed to unilaterally redefine their own missions. The U.S. Supreme Court has made it clear that when agencies stray too far from their clear legislative authority and attempt to weight in on unrelated "major questions," they engage in unconstitutional policymaking.<sup>35</sup>

The second problem is that subjecting corporations and individuals to frequently opaque administrative enforcement deprives them of their judicial due process rights. This leads to the practice of "regulation by enforcement," meaning that regulated entities can never actually be sure of what the law is at any given moment in time and are thus liable to either inefficiently over-comply with the requirements at issue or be vulnerable to what is effectively blackmail by government officials, who can suggest with a mere letter (or blog post) that the subject of enforcement scrutiny has committed an offense.<sup>36</sup>

<sup>31</sup> Iain Murray, "Operation Choke Point: What It Is and Why It Matters," Competitive Enterprise Institute *Issue Analysis* 2014 No. 1, July 2014, <http://cei.org/sites/default/files/Iain%20Murray%20-%20Operation%20Choke%20Point.pdf>.

<sup>32</sup> Richard Morrison et al., "Comment letter on the proposed Securities and Exchange Commission rule 'The Enhancement and Standardization of Climate Related Disclosures for Investors,'" Competitive Enterprise Institute, June 16, 2022, pp. 10-11, <https://www.sec.gov/comments/s7-10-22/s71022-20131635-302011.pdf>.

<sup>33</sup> Wayne Crews, "The Threat from Biden's Whole-of-Government Regulatory Approach," *National Review*, October 26, 2022, <https://www.nationalreview.com/2022/10/the-threat-from-bidens-whole-of-government-regulatory-approach/>. Alex Trembath, "Wholly Misplaced: A climate policy that subordinates all other competing interests to environmental goals is unrealistic and undesirable," *City Journal*, May 31, 2022, <https://www.city-journal.org/joe-biden-climate-policy-was-bound-to-disappoint>. Wayne Crews, "SEC's Climate Disclosure Rules Advance Biden's Epic Whole-Of-Government Regulatory Agenda," *Forbes*, March 21, 2022, <https://www.forbes.com/sites/waynecrews/2022/03/21/secs-climate-disclosure-rules-advance-bidens-epic-whole-of-government-regulatory-agenda/?sh=71129e72229f>.

<sup>34</sup> Richard Morrison et al., "Comment letter on the proposed Securities and Exchange Commission rule 'The Enhancement and Standardization of Climate-Related Disclosures for Investors,'" Competitive Enterprise Institute, June 16, 2022, <https://www.sec.gov/comments/s7-10-22/s71022-20131635-302011.pdf>. Andrew N. Vollmer, "The SEC Lacks Legal Authority to Adopt Climate-Change Disclosure Rules," Mercatus Center, April 12, 2022, <https://www.mercatus.org/publications/financial-regulation/sec-lacks-legal-authority-adoptclimate-change-disclosure-rules>. Christina Parajon Skinner, "Central Banks and Climate Change," *Vanderbilt Law Review*, Volume 74, Number 5, 2021, pp. 1301-1364, <https://vanderbiltlawreview.org/lawreview/wp-content/uploads/sites/278/2021/10/Central-Banks-and-Climate-Change.pdf>.

<sup>35</sup> *West Virginia v. Environmental Protection Agency*, U.S. Supreme Court, June 30, 2022, [https://www.supremecourt.gov/opinions/21pdf/20-1530\\_n758.pdf](https://www.supremecourt.gov/opinions/21pdf/20-1530_n758.pdf).

<sup>36</sup> Wen Fa, "Put 'regulation by enforcement' where it belongs: The trash," *The Hill*, December 5, 2018, <https://thehill.com/opinion/finance/419863-put-regulation-by-enforcement-where-it-belongs-in-the-trash/>.

## New politics, new free market coalitions

Is the small-government coalition in the United States up to confronting this and related threats? Over the past several years, we have seen an unraveling of the fusionist alliance between conservatives and libertarians and a move from a political culture defined by economics. This presents both a challenge and an opportunity.

Across the globe we have seen a political realignment. Where previously the aligning theme of politics was economic – particularly over the size and responsibilities of government in relation to the economy – the central theme appears to have changed to one of identity. Conservatives increasingly define themselves by national identity, while progressives define themselves by attachment to transnational institutions and/or various sub-identities such as race, gender/sexual identity, or other defining characteristics. The challenge is that economic ideology, while still important, falls in salience when it relates to the political debates of the day. The case for small government, insofar as it was primarily an economic argument, needs to be restated in other terms.

This may not be as difficult an exercise as it seems at first blush. Americans are still wary of government overreach and censorship, including of the kind we saw during the Covid-19 pandemic. It is now becoming apparent that progressive elements within government pressured social media companies, for example, to ensure compliance with their wishes.<sup>37</sup> This is the Operation Choke Point playbook in action once again. Many corporate actions of this sort can be seen as responding to a kind of progressive governmental protection racket.

We can guard against this in the future with a combination of deregulation, regulatory reform, and what the Competitive Enterprise Institute's Wayne Crews calls "abuse of crisis prevention" measures.<sup>38</sup> However, the case for these actions needs to be put in terms that match people's concerns over identity, not in economic terms. This is particularly the case when conservatives attempt to use the governmental protection racket for their own cultural ends, as may have happened in Florida's disputes with Disney.<sup>39</sup>

Another opportunity lies in the emergence of a new strand in progressive economic thought that is much more open to the virtues of the free market. The self-described "supply side progressives," eco-modernists, and other advocates of an abundance agenda believe that private activity can deliver progressive goals, but that much of the regulatory bureaucracy, such as the National Environmental Policy Act permitting system, is obstructive to those ends.<sup>40</sup> President Obama's head of the Office of Information and Regulatory Affairs, Cass Sunstein, has written of the prevalence of what he terms "regulatory sludge" in administrative proceedings, and the need to clear it out.<sup>41</sup> *New York Times* essayist Ezra Klein has termed the whole-of-government tendency of industrial policy to include all sorts of project-unrelated terms and conditions "everything-bagel liberalism" and called for its rethinking.<sup>42</sup> This shift provides an opportunity for new coalitions to promote free enterprise.

While these reforms taken together might not provide the answers conservatives want to the problem of corporate power, they will certainly reduce the power of a progressive elite over American corporations.

<sup>37</sup> Jacob Sullum, "Under Government Pressure, Twitter Suppressed Truthful Speech About COVID-19," *Reason*, January 2, 2023, <https://reason.com/2023/01/02/under-government-pressure-twitter-suppressed-truthful-speech-about-covid-19/>; Will Duffield, "Jawboning against Speech," *Cato Institute Policy Analysis* No. 934, September 12, 2022, <https://www.cato.org/policy-analysis/jawboning-against-speech>.

<sup>38</sup> Wayne Crews, "The Greater Reset: An 'Abuse-Of-Crisis Prevention Act' To Restore Limited Government," *Forbes*, October 13, 2021, <https://www.forbes.com/sites/waynecrews/2021/10/13/the-greater-reset-an-abuse-of-crisis-prevention-act-to-restore-limited-government/?sh=50f548178163>.

<sup>39</sup> Eric Boehm, "Ron DeSantis Confirms (Again) That His Attack on Disney Was Political Retribution," *Reason*, May 16, 2023, <https://reason.com/2023/05/16/ron-desantis-confirms-again-that-his-attack-on-disney-was-political-retribution/>.

<sup>40</sup> Lauren Anderson, "To Decarbonize, Let's Rethink Permitting for Large Infrastructure Projects," *The Breakthrough Institute*, April 21, 2020, <https://thebreakthrough.org/issues/energy/large-infrastructure>; Richard Morrison, "The Abundance Agenda: Energy, the Master Resource," *Discourse*, March 28, 2023, <https://www.discoursemagazine.com/abundance/2023/03/28/the-abundance-agenda-energy-the-master-resource/>.

<sup>41</sup> Cass R. Sunstein, "Sludge and Ordeals," 68 *Duke Law Journal* 1843-1883 (2019), <https://scholarship.law.duke.edu/dlj/vol68/iss8/6>.

<sup>42</sup> Ezra Klein, "The Problem with Everything-Bagel Liberalism," *The New York Times*, April 2, 2023, <https://www.nytimes.com/2023/04/02/opinion/democrats-liberalism.html>.

## Resisting new threats to American freedoms

We can learn important lessons from the success and failures of the free-market movement since the 1970s. Many of today's fights are analogous to the past. The proposed solution on the left is almost always the same: expand the power of government regulators to control the lives of American citizens. Even when the reason for shrinking the realm of voluntary action shifts from, say, addressing overpopulation and resource depletion to stopping climate change, the policy recommendations are eerily similar.<sup>43</sup>

Yet ever since progressive theorists, wielding ideas of social control imported from Europe, began promoting plans to “manage” us, freedom-loving Americans of all background have united to say, “No.”<sup>44</sup> That was true in the decades leading up to 1971 when the taxpayer protection associations of small-town America were urging fiscal responsibility, when conservatives fought FDR's confiscation of gold, and when anti-communists defended our government from Soviet infiltration during the Cold War.

Americans who seek to maintain and expand economic freedom may well disagree on any number of other issues. They should fight over those others only after they have presented a united front against the expansion of government authority. It is very much in the interest of conservatives and libertarians to stay allied because of the potential for ESG and social credit score type policies to expand far beyond finance and “responsible investing” to encompass topics like abortion, gender identity, foreign policy, and Second Amendment freedoms.

The U.S. government has a history of attempting to force social policy preferences through bank regulation, as we saw in Operation Choke Point. An even more dramatic example arose across the United States' northern border in February 2022, when Prime Minister Justin Trudeau's government froze access to the bank accounts of hundreds of Canadian citizens who were protesting Covid-19 lockdown policies. Ottawa's acting police chief said at the time “If you are involved in this protest, we will actively look to identify you and follow up with financial sanctions and criminal charges.”<sup>45</sup> Subsequent inquiry suggests the Trudeau government didn't even follow the legal definition of “emergency” contained in the law it claimed justified these actions.<sup>46</sup> But the accounts were still frozen.

If policies like this are allowed to expand unchecked, a future corporatist world will make no distinction between freezing your bank account because of your oil and gas investments and freezing it because you criticized a judicial ruling on religious freedom. Once such a system comes into existence, the people who control it will have every incentive to expand its reach until it controls every aspect of our lives. New threats of this variety may not be bigger than the entire Soviet nuclear arsenal of Powell's day, but are at least as dangerous as a caucus of radical college professors.

<sup>43</sup> Alex Trembath and Vijaya Ramachandran, “The Malthusians Are Back,” *The Atlantic*, March 23, 2023, <https://www.theatlantic.com/ideas/archive/2023/03/population-control-movement-climate-malthusian-similarities/673450/>.

<sup>44</sup> Many authors have described the introduction of the ideas of progressive administrative governance from German academic sources, like professors at the University of Heidelberg, to American theorists, in the late 19th century. Philip Hamburger, *Is Administrative Law Unlawful?* (Chicago, University of Chicago Press, 2014), Kindle location 7866-14661. Blake Emerson, “Origins of Progressivism: German Theories of the State from Hegel to Habermas,” in *The Public's Law: Origins and Architecture of Progressive Democracy* (Oxford: Oxford University Press, 2019), pp. 23-60. Steve Soukup, *The Dictatorship of Woke Capital: How Political Correctness Captured Big Business* (New York: Encounter Books, 2021), pp. 23-34.

<sup>45</sup> Ian Austen, “Canada Ends Its Freeze on Hundreds of Accounts Tied to Protests,” *The New York Times*, February 22, 2022, <https://www.nytimes.com/2022/02/22/world/americas/canada-protest-finances.html>.

<sup>46</sup> Marieke Walsh, “Federal government rejected CSIS definition of national-security threat when it invoked the Emergencies Act,” *The Globe and Mail*, November 17, 2022, <https://www.theglobeandmail.com/politics/article-federal-government-rejected-csis-definition-of-national-security/>.

the Board of Directors of the Chamber accepts the fundamental premise of this paper, namely, that business and the enterprise system are in deep trouble, and the hour is late.

L.F.P., Jr.

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We in America already have moved very far indeed toward some aspects of state socialism, as the needs and complexities of a vast urban society require types of regulation and control that were quite unnecessary in earlier times. In some areas, such regulation and control already have seriously impaired the freedom of both business and labor, and indeed of the public generally. But most of the essential freedoms



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