

THE POWELL MEMORANDUM

CONFIDENTIAL MEMORANDUM

ATTACK ON AMERICAN FREE ENTERPRISE SYSTEM

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

DATE: August 23, 1971

FROM: Lewis F. Powell, Jr.

This memorandum
basis for the discussion on
at the U.S. Chamber of Commerce
problem, and suggest possible
consideration.

Dir

No thoughtful
economic system is under bro
intensity, in the technique
visibility.

There always
system, and preferred socialis

*Variously called: the "free enterprise
and the "profit system". The American
democracy under the rule of law is at
the same individuals and organizations
the enterprise system.

BACKGROUND—

The Powell Memorandum: When National Chamber Director Eugene B. Sydnor, Jr., became chairman of our Education Committee, he discussed with his neighbor and long-time friend, Lewis F. Powell, Richmond attorney, ways to provide the public a more balanced view of the country's economic system.

At Mr. Sydnor's request, Mr. Powell, based on his broad experience as chairman of the Richmond City School Board, as well as the Virginia State Board of Education, prepared a memorandum in which he incorporated a number of possible approaches. The memorandum covered a broad range of educational and other activities for study and consideration by the National Chamber.

The memorandum was dated August 23, 1971, two months before Mr. Powell was nominated to become a member justice of the Supreme Court of the United States.

It has been under study and evaluation by Chamber officers and staff members. Several of its approaches have been put into practice. Others would require substantial new resources to carry out.

Recently, Jack Anderson, the syndicated columnist, wrote several columns discussing the memorandum. Mr. Anderson obtained a copy of the memorandum without the knowledge or permission of the National Chamber.

Anyone reading the Powell memorandum will easily conclude that it objectively and fairly deals with a very real problem facing the free enterprise system.

To give all members of the National Chamber an opportunity to read the memorandum and to allow each to evaluate all the points raised, WASHINGTON REPORT presents the document in its entirety.

ATTACK ON AMERICAN FREE ENTERPRISE SYSTEM

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 (executive vice president) 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.¹ 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 (communism or fascism). Also, there always have been critics of the system, whose criticism has been wholesome and constructive so long as the objective was to improve rather than to subvert or destroy.

But what now concerns us is quite new in the history of America. We are not dealing with sporadic or isolated attacks from a relatively few extremists or even from the minority socialist cadre. Rather, the assault on the enterprise system is broadly based and consistently pursued. It is gaining momentum and converts.

Sources of the Attack

The sources are varied and diffused. They include, not unexpectedly, the Communists, New Leftists and other revolutionaries who would destroy the entire system, both political and economic. These extremists of the left are far more numerous, better financed, and increasingly are more welcomed and encouraged by other elements of society, than ever before in our history. But they remain a small minority, and are not yet the principal cause for concern.

The most disquieting voices joining the chorus of criticism, come from perfectly respectable elements of society: from the college campus, the pulpit, the media, the intellectual and literary journals, the arts and sciences, and from politicians. In most of these groups the movement against the system is participated in only by minorities. Yet, these often are the most articulate, the most vocal, the most prolific in their writing and speaking.

Moreover, much of the media—for varying motives and in varying degrees—either voluntarily accords unique pub-

1.) Various 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.

licity to these "attackers," or at least allows them to exploit the media for their purposes. This is especially true of television, which now plays such a predominant role in shaping the thinking, attitudes and emotions of our people.

One of the bewildering paradoxes of our time is the extent to which the enterprise system tolerates, if not participates in, its own destruction.

The campuses from which much of the criticism emanates are supported by (i) tax funds generated largely from American business, and (ii) contributions from capital funds controlled or generated by American business. The boards of trustees of our universities overwhelmingly are composed of men and women who are leaders in the system.

Most of the media, including the national TV systems, are owned and theoretically controlled by corporations which depend upon profits, and the enterprise system to survive.

Tone of the Attack

This memorandum is not the place to document in detail the tone, character, or intensity of the attack. The following quotations will suffice to give one a general idea:

William Kunstler, warmly welcomed on campuses and listed in a recent student poll as the "American lawyer most admired," incites audiences as follows:

"You must learn to fight in the streets, to revolt, to shoot guns. We will learn to do all of the things that property owners fear."

The New Leftists who heed Kunstler's advice increasingly are beginning to act—not just against military recruiting offices and manufacturers of munitions, but against a variety of businesses:

"Since February, 1970, branches (of Bank of America) have been attacked 39 times, 22 times with explosive devices and 17 times with fire bombs or by arsonists."²

Although New Leftist spokesmen are succeeding in radicalizing thousands of the young, the greater cause for concern is the hostility of respectable liberals and social reformers. It is the sum total of their views and influence which could indeed fatally weaken or destroy the system.

A chilling description of what is being taught on many of our campuses was written by Stewart Alsop:

"Yale, like every other major college, is graduating scores of bright young men who are practitioners of the politics of despair. These young men despise the American political and economic system . . . (their) minds seem to be wholly closed. They live, not by rational discussion, but by mindless slogans."³

2.) Richmond News Leader, June 8, 1970. Column of William F. Buckley, Jr.

3.) N.Y. Times Service article, reprinted Richmond Times-Dispatch, May 17, 1971.

4.) Stewart Alsop, Yale and the Deadly Danger, Newsweek May 18, 1970.

A recent poll of students on 12 representative campuses reported that:

"Almost half the students favored socialization of basic U.S. industries."⁵

A visiting professor from England at Rockford College gave a series of lectures entitled "The Ideological War Against Western Society," in which he documents the extent to which members of the intellectual community are waging ideological warfare against the enterprise system and the values of western society. In a foreword to these lectures, famed Dr. Milton Friedman of Chicago warned:

"It (is) crystal clear that the foundations of our free society are under wide-ranging and powerful attack—not by Communist or any other conspiracy but by misguided individuals parroting one another and unwittingly serving ends they would never intentionally promote."⁶

Perhaps the single most effective antagonist of American business is Ralph Nader who—thanks largely to the media—has become a legend in his own time and an idol of millions of Americans. A recent article in *Fortune* speaks of Nader as follows:

"The passion that rules in him—and he is a passionate man—is aimed at smashing utterly the target of his hatred, which is corporate power. He thinks, and says quite bluntly, that a great many corporate executives belong in prison—for defrauding the consumer with shoddy merchandise, poisoning the food supply with chemical additives, and willfully manufacturing unsafe products that will maim or kill the buyer. He emphasizes that he is not talking just about 'fly-by-night hucksters' but the top management of blue-chip business."⁷

A frontal assault was made on our government, our system of justice, and the free enterprise system by Yale Professor Charles Reich in his widely-publicized book: "The Greening of America," published last winter.

The foregoing references illustrate the broad, shotgun attack on the system itself. There are countless examples of rifle shots which undermine confidence and confuse the public. Favorite current targets are proposals for tax incentives through changes in depreciation rates and investment credits. These are usually described in the media as "tax breaks," "loop holes" or "tax benefits" for the bene-

5.) Editorial, Richmond Times-Dispatch, July 7, 1971.

6.) Dr. Milton Friedman, Prof. of Economics, U. of Chicago, writing a foreword to Dr. Arthur A. Shenfield's Rockford College lectures entitled "The Ideological War Against Western Society," copyrighted 1970 by Rockford College.

7.) *Fortune*, May, 1971, p. 145. This *Fortune* analysis of the Nader influence includes a reference to Nader's visit to a college where he was paid a lecture fee of \$2,500 for "denouncing America's big corporations in venomous language... bringing (rousing and spontaneous) bursts of applause" when he was asked when he planned to run for President.

fit of business.* As viewed by a columnist in the Post, such tax measures would benefit "only the rich, the owners of big companies."⁸

It is dismaying that many politicians make the same argument that tax measures of this kind benefit only "business," without benefit to "the poor." The fact that this is either political demagoguery or economic illiteracy, is of slight comfort. This setting of the "rich" against the "poor," of business against the people, is the cheapest and most dangerous kind of politics.

The Apathy and Default of Business

What has been the response of business to this massive assault upon its fundamental economics, upon its philosophy, upon its right to continue to manage its own affairs, and indeed upon its integrity?

The painfully sad truth is that business, including the boards of directors and the top executives of corporations great and small and business organizations at all levels, often have responded—if at all—by appeasement, ineptitude and ignoring the problem. There are, of course, many exceptions to this sweeping generalization. But the net effect of such response as has been made is scarcely visible.

In all fairness, it must be recognized that businessmen have not been trained or equipped to conduct guerrilla warfare with those who propagandize against the system, seeking insidiously and constantly to sabotage it. The traditional role of business executives has been to manage, to produce, to sell, to create jobs, to make profits, to improve the standard of living, to be community leaders, to serve on charitable and educational boards, and generally to be good citizens. They have performed these tasks very well indeed.

But they have shown little stomach for hard-nose contest with their critics, and little skill in effective intellectual and philosophical debate.

A column recently carried by the Wall Street Journal was entitled: "Memo to GM: Why Not Fight Back?"⁹ Although addressed to GM by name, the article was a warning to all American business. Columnist St. John said:

"General Motors, like American business in general, is plainly in trouble because intellectual bromides have been substituted for a sound intellectual exposition of its point of view."

Mr. St. John then commented on the tendency of business leaders to compromise with and appease critics. He cited the concessions which Nader wins from management, and spoke of "the fallacious view many businessmen take toward their critics." He drew a parallel to the mistaken tactics of many college administrators:

"College administrators learned too late that such appeasement serves to destroy free speech, academic freedom and genuine scholarship. One campus radical

8.) The Washington Post, Column of William Raspberry, June 28, 1971.

9.) Jeffrey St. John, The Wall Street Journal, May 21, 1971.

* Italic emphasis added by Mr. Powell.

demand was conceded by university heads only to be followed by a fresh crop which soon escalated to what amounted to a demand for outright surrender."

One need not agree entirely with Mr. St. John's analysis. But most observers of the American scene will agree that the essence of his message is sound. American business "plainly in trouble"; the response to the wide range of critics has been ineffective, and has included appeasement; the time has come—indeed, it is long overdue—for the wisdom, ingenuity and resources of American business to be marshalled against those who would destroy it.

Responsibility of Business Executives

What specifically should be done? The first essential—a prerequisite to any effective action—is for businessmen to confront this problem as a primary responsibility of corporate management.

The overriding first need is for businessmen to recognize that the ultimate issue may be *survival*—survival of what we call the free enterprise system, and all that this means for the strength and prosperity of America and the freedom of our people.

The day is long past when the chief executive officer of a major corporation discharges his responsibility by maintaining a satisfactory growth of profits, with due regard to the corporation's public and social responsibilities. If our system is to survive, top management must be equally concerned with protecting and preserving the system itself. This involves far more than an increased emphasis on "public relations" or "governmental affairs"—two areas in which corporations long have invested substantial sums.

A significant first step by individual corporations could well be the designation of an executive vice president (ranking with other executive VP's) whose responsibility is to counter—on the broadest front—the attack on the enterprise system. The public relations department could be one of the foundations assigned to this executive, but his responsibilities should encompass some of the types of activities referred to subsequently in this memorandum. His budget and staff should be adequate to the task.

Possible Role of the Chamber of Commerce

But independent and uncoordinated activity by individual corporations, as important as this is, will not be sufficient. Strength lies in organization, in careful long-range planning and implementation, in consistency of action over an indefinite period of years, in the scale of financing available only through joint effort, and in the political power available only through united action and national organizations.

Moreover, there is the quite understandable reluctance on the part of any one corporation to get too far out in front and to make itself too visible a target.

The role of the National Chamber of Commerce is therefore vital. Other national organizations (especially those of various industrial and commercial groups) should join in the effort, but no other organizations appear to be as well situated as the Chamber. It enjoys a strategic position, with a fine reputation and a broad base of support. Also—and this is of immeasurable merit—there are hun-

dreds of local Chambers of Commerce which can play a vital supportive role.

It hardly need be said that before embarking upon any program, the Chamber should study and analyze possible courses of action and activities, weighing risks against probable effectiveness and feasibility of each. Considerations of cost, the assurance of financial and other support from members, adequacy of staffing and similar problems will all require the most thoughtful consideration.

The Campus

The assault on the enterprise system was not mounted in a few months. It has gradually evolved over the past two decades, barely perceptible in its origins and benefiting from a gradualism that provoked little awareness much less any real reaction.

Although origins, sources and causes are complex and interrelated, and obviously difficult to identify without careful qualification, there is reason to believe that the campus is the single most dynamic source. The social science faculties usually include members who are unsympathetic to the enterprise system. They may range from a Herbert Marcuse, Marxist faculty member at the University of California at San Diego, and convinced socialists, to the ambivalent liberal critic who finds more to condemn than to commend. Such faculty members need not be in a majority. They are often personally attractive and magnetic; they are stimulating teachers, and their controversy attracts student following; they are prolific writers and lecturers; they author many of the textbooks, and they exert enormous influence—far out of proportion to their numbers—on their colleagues and in the academic world.

Social science faculties (the political scientist, economist, sociologist and many of the historians) tend to be liberally oriented, even when leftists are not present. This is not a criticism *per se*, as the need for liberal thought is essential to a balanced viewpoint. The difficulty is that "balance" is conspicuous by its absence on many campuses, with relatively few members being of conservative or moderate persuasion and even the relatively few often being less articulate and aggressive than their crusading colleagues.

This situation extending back many years and with the imbalance gradually worsening, has had an enormous impact on millions of young American students. In an article in *Barron's Weekly*, seeking an answer to why so many young people are disaffected even to the point of being revolutionaries, it was said:

"Because they were *taught* that way."¹⁰

Or, as noted by columnist Stewart Alsop, writing about his alma mater:

"Yale, like every other major college, is graduating scores of bright young men . . . who despise the American political and economic system."

As these "bright young men," from campuses across the

10.) *Barron's National Business and Financial Weekly*, "The Total Break with America, The Fifth Annual Conference of Socialist Scholars," Sept. 15, 1969.

country, seek opportunities to change a system which they have been taught to distrust—if not, indeed “despise”—they seek employment in the centers of the real power and influence in our country, namely: (i) with the news media, especially television; (ii) in government; as “staffers” and consultants at various levels; (iii) in elective politics; (iv) as lecturers and writers, and (v) on the faculties at various levels of education.

Many do enter the enterprise system—in business and the professions—and for the most part they quickly discover the fallacies of what they have been taught. But those who eschew the mainstream of the system, often remain in key positions of influence where they mold public opinion and often shape governmental action. In many instances, these “intellectuals” end up in regulatory agencies or governmental departments with large authority over the business system they do not believe in.

If the foregoing analysis is approximately sound, a priority task of business—and organizations such as the Chamber—is to address the campus origin of this hostility.

Few things are more sanctified in American life than academic freedom. It would be fatal to attack this as a principle. But if academic freedom is to retain the qualities of “openness,” “fairness” and “balance”—which are essential to its intellectual significance—there is a great opportunity for constructive action. The thrust of such action must be to restore the qualities just mentioned to the academic communities.

What Can Be Done About the Campus

The ultimate responsibility for intellectual integrity on the campus must remain on the administrations and faculties of our colleges and universities. But organizations such as the Chamber can assist and activate constructive change in many ways, including the following:

Staff of Scholars

The Chamber should consider establishing a staff of highly qualified scholars in the social sciences who do believe in the system. It should include several of national reputation whose authorship would be widely respected—even when disagreed with.

Staff of Speakers

There also should be a staff of speakers of the highest competency. These might include the scholars, and certainly those who speak for the Chamber would have to articulate the product of the scholars.

Speaker's Bureau

In addition to full-time staff personnel, the Chamber should have a Speaker's Bureau which should include the ablest and most effective advocates from the top echelons of American business.

Evaluation of Textbooks

The staff of scholars (or preferably a panel of independent scholars) should evaluate social science textbooks, especially in economics, political science and sociology. This should be a continuing program.

The objective of such evaluation should be oriented

toward restoring the balance essential to genuine academic freedom. This would include assurance of fair and factual treatment of our system of government and our enterprise system, its accomplishments, its basic relationship to individual rights and freedoms, and comparisons with the systems of socialism, fascism and communism. Most of the existing textbooks have some sort of comparisons, but many are superficial, biased and unfair.

We have seen the civil rights movement insist on re-writing many of the textbooks in our universities and schools. The labor unions likewise insist that textbooks be fair to the viewpoints of organized labor. Other interested citizens groups have not hesitated to review, analyze and criticize textbooks and teaching materials. In a democratic society, this can be a constructive process and should be regarded as an aid to genuine academic freedom and not as an intrusion upon it.

If the authors, publishers and users of textbooks know that they will be subjected—honestly, fairly and thoroughly—to review and critique by eminent scholars who believe in the American system, a return to a more rational balance can be expected.

Equal Time on the Campus

The Chamber should insist upon equal time on the college speaking circuit. The FBI publishes each year a list of speeches made on college campuses by avowed Communists. The number in 1970 exceeded 100. There were, of course, many hundreds of appearances by leftists and ultra liberals who urge the types of viewpoints indicated earlier in this memorandum. There was no corresponding representation of American business, or indeed by individuals or organizations who appeared in support of the American system of government and business.

Every campus has its formal and informal groups which invite speakers. Each law school does the same thing. Many universities and colleges officially sponsor lecture and speaking programs. We all know the inadequacy of the representation of business in the programs.

It will be said that few invitations would be extended to Chamber speakers.¹¹ This undoubtedly would be true unless the Chamber aggressively insisted upon the right to be heard—in effect, insisted upon “equal time.” University administrators and the great majority of student groups and committees would not welcome being put in the position publicly of refusing a forum to diverse views. Indeed, this is the classic excuse for allowing Communists to speak.

The two essential ingredients are (i) to have attractive, articulate and well-informed speakers; and (ii) to exert whatever degree of pressure—publicly and privately—may be necessary to assure opportunities to speak. The objective always must be to inform and enlighten, and not merely to propagandize.

Balancing of Faculties

Perhaps the most fundamental problem is the imbalance of many faculties. Correcting this is indeed a long-range

11.) On many campuses freedom of speech has been denied to all who express moderate or conservative viewpoints.

and difficult project. Yet, it should be undertaken as a part of an overall program. This would mean the urging of the need for faculty balance upon university administrators and boards of trustees.

The methods to be employed require careful thought, and the obvious pitfalls must be avoided. Improper pressure would be counterproductive. But the basic concepts of balance, fairness and truth are difficult to resist, if properly presented to boards of trustees, by writing and speaking, and by appeals to alumni associations and groups.

This is a long road and not one for the fainthearted. But if pursued with integrity and conviction it could lead to a strengthening of both academic freedom on the campus and of the values which have made America the most productive of all societies.

Graduate Schools of Business

The Chamber should enjoy a particular rapport with the increasingly influential graduate schools of business. Much that has been suggested above applies to such schools.

Should not the Chamber also request specific courses in such schools dealing with the entire scope of the problem addressed by this memorandum? This is now essential training for the executives of the future.

Secondary Education

While the first priority should be at the college level, the trends mentioned above are increasingly evidenced in the high schools. Action programs, tailored to the high schools and similar to those mentioned, should be considered. The implementation thereof could become a major program for local chambers of commerce, although the control and direction—especially the quality control—should be retained by the National Chamber.

What Can Be Done About the Public?

Reaching the campus and the secondary schools is vital for the long-term. Reaching the public generally may be more important for the shorter term. The first essential is to establish the staffs of eminent scholars, writers and speakers, who will do the thinking, the analysis, the writing and the speaking. It will also be essential to have staff personnel who are thoroughly familiar with the media, and how most effectively to communicate with the public. Among the more obvious means are the following:

Television

The national television networks should be monitored in the same way that textbooks should be kept under constant surveillance. This applies not merely to so-called educational programs (such as "Selling of the Pentagon"), but to the daily "news analysis" which so often includes the most insidious type of criticism of the enterprise system.¹² Whether this criticism results from hostility or economic ignorance, the result is the gradual erosion of confidence in "business" and free enterprise.

This monitoring, to be effective, would require constant examination of the texts of adequate samples of programs. Complaints—to the media and to the Federal Communications Commission—should be made promptly and strongly when programs are unfair or inaccurate.

Equal time should be demanded when appropriate. Effort should be made to see that the forum-type programs (the Today Show, Meet the Press, etc.) afford at least as much opportunity for supporters of the American system to participate as these programs do for those who attack it.

Other Media

Radio and the press are also important, and every available means should be employed to challenge and refute unfair attacks, as well as to present the affirmative case through these media.

The Scholarly Journals

It is especially important for the Chamber's "faculty of scholars" to publish. One of the keys to the success of the liberal and leftist faculty members has been their passion for "publication" and "lecturing." A similar passion must exist among the Chamber's scholars.

Incentives might be devised to induce more "publishing" by independent scholars who do believe in the system.

There should be a fairly steady flow of scholarly articles presented to a broad spectrum of magazines and periodicals—ranging from the popular magazines (*Life*, *Look*, *Reader's Digest*, etc.) to the more intellectual ones (*Atlantic*, *Harper's*, *Saturday Review*, *New York*, etc.)¹³ and to the various professional journals.

Books, Paperbacks and Pamphlets

The news stands—at airports, drugstores, and elsewhere—are filled with paperbacks and pamphlets advocating everything from revolution to erotic free love. One finds almost no attractive, well-written paperbacks or pamphlets on "our side." It will be difficult to compete with an Eldridge Cleaver or even a Charles Reich for reader attention, but unless the effort is made—on a large enough scale and with appropriate imagination to assure some success—this opportunity for educating the public will be irretrievably lost.

Paid Advertisements

Business pays hundreds of millions of dollars to the media for advertisements. Most of this supports specific products; much of it supports institutional image making; and some fraction of it does support the system. But the latter has been more or less tangential, and rarely part of a sustained, major effort to inform and enlighten the American people.

If American business devoted only 10% of its total annual advertising budget to this overall purpose, it would be a statesman-like expenditure.

12.) It has been estimated that the evening half-hour news programs of the networks reach daily some 50,000,000 Americans.

13.) One illustration of the type of article which should not go unanswered appeared in the popular *"The New York"* of July 19, 1971. This was entitled "A Populist Manifesto" by ultra liberal Jack Newfield—who argued that "the root need in our country is 'to redistribute wealth'."

The Neglected Political Arena

In the final analysis, the payoff—short of revolution—is what government does. Business has been the favorite whipping-boy of many politicians for many years. But the measure of how far this has gone is perhaps best found in the anti-business views now being expressed by several leading candidates for President of the United States.

It is still Marxist doctrine that the "capitalist" countries are controlled by big business. This doctrine, consistently a part of leftist propaganda all over the world, has a wide public following among Americans.

Yet, as every business executive knows, few elements of American society today have as little influence in government as the American businessman, the corporation, or even the millions of corporate stockholders. If one doubts this, let him undertake the role of "lobbyist" for the business point of view before Congressional committees. The same situation obtains in the legislative halls of most states and major cities. One does not exaggerate to say that, in terms of political influence with respect to the course of legislation and government action, the American business executive is truly the "forgotten man."

Current examples of the impotency of business, and of the near-contempt with which businessmen's views are held, are the stampedes by politicians to support almost any legislation related to consumerism" or to the "environment."

Politicians reflect what they believe to be majority views of their constituents. It is thus evident that most politicians are making the judgment that the public has little sympathy for the businessman or his viewpoint.

The educational programs suggested above would be designed to enlighten public thinking—not so much about the businessman and his individual role as about the system which he administers, and which provides the goods, services and jobs on which our country depends.

But one should not postpone more direct political action, while awaiting the gradual change in public opinion to be effected through education and information. Business must learn the lesson, long ago learned by labor and other self-interest groups. This is the lesson that political power is necessary; that such power must be assiduously cultivated; and that when necessary, it must be used aggressively and with determination—without embarrassment and without the reluctance which has been so characteristic of American business.

As unwelcome as it may be to the Chamber, it should consider assuming a broader and more vigorous role in the political arena.

Neglected Opportunity in the Courts

American business and the enterprise system have been affected as much by the courts as by the executive and legislative branches of government. Under our constitutional system, especially with an activist-minded Supreme Court, the judiciary may be the most important instrument for social, economic and political change.

Other organizations and groups, recognizing this, have been far more astute in exploiting judicial action than American business. Perhaps the most active exploiters of

the judicial system have been groups ranging in political orientation from "liberal" to the far left.

The American Civil Liberties Union is one example. It initiates or intervenes in scores of cases each year, and it files briefs *amicus curiae* in the Supreme Court in a number of cases during each term of that court. Labor unions, civil rights groups and now the public interest law firms are extremely active in the judicial arena. Their success, often at business' expense, has not been inconsequential.

This is a vast area of opportunity for the Chamber, if it is willing to undertake the role of spokesman for American business and if, in turn, business is willing to provide the funds.

As with respect to scholars and speakers, the Chamber would need a highly competent staff of lawyers. In special situations it should be authorized to engage, to appear as counsel *amicus* in the Supreme Court, lawyers of national standing and reputation. The greatest care should be exercised in selecting the cases in which to participate, or the suits to institute. But the opportunity merits the necessary effort.

Neglected Stockholder Power

The average member of the public thinks of "business" as an impersonal corporate entity, owned by the very rich and managed by over-paid executives. There is an almost total failure to appreciate that "business" actually embraces—in one way or another—most Americans. Those for whom business provides jobs, constitute a fairly obvious class. But the 20 million stockholders—most of whom are of modest means—are the real owners, the real entrepreneurs, the real capitalists under our system. They provide the capital which fuels the economic system which has produced the highest standard of living in all history. Yet, stockholders have been as ineffectual as business executives in promoting a genuine understanding of our system or in exercising political influence.

The question which merits the most thorough examination is how can the weight and influence of stockholders—20 million voters—be mobilized to support (i) an educational program and (ii) a political action program.

Individual corporations are now required to make numerous reports to shareholders. Many corporations also have expensive "news" magazines which go to employees and stockholders. These opportunities to communicate can be used far more effectively as educational media.

The corporation itself must exercise restraint in undertaking political action and must, of course, comply with applicable laws. But is it not feasible—through an affiliate of the Chamber or otherwise—to establish a national organization of American stockholders and give it enough muscle to be influential?

A More Aggressive Attitude

Business interests—especially big business and their national trade organizations—have tried to maintain low profiles, especially with respect to political action.

As suggested in the Wall Street Journal article, it has been fairly characteristic of the average business executive

to be tolerant—at least in public—of those who attack his corporation and the system. Very few businessmen or business organizations respond in kind. There has been a disposition to appease, to regard the opposition as willing to compromise, or as likely to fade away in due time.

Business has shunted confrontation politics. Business, quite understandably, has been repelled by the multiplicity of non-negotiable “demands” made constantly by self-interest groups of all kinds.

While neither responsible business interests, nor the United States Chamber of Commerce, would engage in the irresponsible tactics of some pressure groups, it is essential that spokesmen for the enterprise system—at all levels and at every opportunity—be far more aggressive than in the past.

There should be no hesitation to attack the Naders, the Marcuses and others who openly seek destruction of the system. There should not be the slightest hesitation to press vigorously in all political arenas for support of the enterprise system. Nor should there be reluctance to penalize politically those who oppose it.

Lessons can be learned from organized labor in this respect. The head of the AFL-CIO may not appeal to businessmen as the most endearing or public-minded of citizens. Yet, over many years the heads of national labor organizations have done what they were paid to do very effectively. They may not have been beloved, but they have been respected—where it counts the most—by politicians, on the campus, and among the media.

It is time for American business—which has demonstrated the greatest capacity in all history to produce and to influence consumer decisions—to apply their great talents vigorously to the preservation of the system itself.

The Cost

The type of program described above (which includes a broadly based combination of education and political action), if undertaken long term and adequately staffed, would require far more generous financial support from American corporations than the Chamber has ever received in the past. High level management participation in Chamber affairs also would be required.

The staff of the Chamber would have to be significantly increased, with the highest quality established and maintained. Salaries would have to be at levels fully comparable to those paid key business executives and the most prestigious faculty members. Professionals of the great skill in advertising and in working with the media, speakers, lawyers and other specialists would have to be recruited.

It is possible that the organization of the Chamber itself would benefit from restructuring. For example, as suggested by union experience, the office of President of the Chamber might well be a full-time career position. To assure maximum effectiveness and continuity, the chief executive officer of the Chamber should not be changed each year. The functions now largely performed by the President could be transferred to a Chairman of the Board, annually elected by the membership. The Board, of course, would continue to exercise policy control.

Quality Control is Essential

Essential ingredients of the entire program must be responsibility and “quality control.” The publications, the articles, the speeches, the media programs, the advertising, the briefs filed in courts, and the appearances before legislative committees—all must meet the most exacting standards of accuracy and professional excellence. They must merit respect for their level of public responsibility and scholarship, whether one agrees with the viewpoints expressed or not.

Relationship to Freedom

The threat to the enterprise system is not merely a matter of economics. It also is a threat to individual freedom.

It is this great truth—now so submerged by the rhetoric of the New Left and of many liberals—that must be reaffirmed if this program is to be meaningful.

There seems to be little awareness that the only alternatives to free enterprise are varying degrees of bureaucratic regulation of individual freedom—ranging from that under moderate socialism to the iron heel of the leftist or rightist dictatorship.

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 remain: private ownership, private profit, labor unions, collective bargaining, consumer choice, and a market economy in which competition largely determines price, quality and variety of the goods and services provided the consumer.

In addition to the ideological attack on the system itself (discussed in this memorandum), its essentials also are threatened by inequitable taxation, and—more recently—by an inflation which has seemed uncontrollable.¹⁴ But whatever the causes of diminishing economic freedom may be, the truth is that freedom as a concept is indivisible. As the experience of the socialist and totalitarian states demonstrates, the contraction and denial of economic freedom is followed inevitably by governmental restrictions on other cherished rights. It is this message, above all others, that must be carried home to the American people.

Conclusion

It hardly need be said that the views expressed above are tentative and suggestive. The first step should be a thorough study. But this would be an exercise in futility unless 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.

14.) The recent “freeze” of prices and wages may well be justified by the current inflationary crisis. But if imposed as a permanent measure the enterprise system will have sustained a near fatal blow.