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Shifting Coalitions: Business Power, Partisan Politics, and the Rise of the Regulatory State

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Shifting Coalitions: Business Power, Partisan Politics, and the Rise of the Regulatory State

by

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Abstract

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by

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The central claim of this dissertation is that organized business's rise to political power and its variable relationship with the Republican Party are tightly linked. Indeed, I argue that business's political renaissance in the late twentieth century is tied to an increasing reassertion of power within the Republican coalition. Whereas analysts of business power typically highlight the organizational tools developed by business groups to assure unity within an otherwise diverse array of interests and pursue their political comeback, I will show that attention to the relationship between business and the GOP enables us to situate these tools — business's deployment of PACs, for example, or their increasing attention to elite-level lobbying — in a larger partisan political context. As we will see, and in contrast to existing scholarship, business's relationship with the conservative movement of the postwar period and the Republican establishment varied over time. Careful attention to the reasons underlying that variability make clear that business's central place within the Republican Party has never been guaranteed, but rather is the result of hard effort and creative defense.

To my father, who found the path,

my mother, who kept me on it,

and to my wife, who might just see me through to the end.

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I owe an incredible and continuing debt to so many people. I can only hope that I have been worthy of their time and attention.

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It is impossible to thank my family – including my nana and my brother, Ariel – in this short space. Suffice it to say that my parents, Helen and Zinovy, worked as hard as they possibly could to make sure I would never have to live their disappointments. And if this project comes to mean anything, all credit is rightfully theirs.

When I applied to graduate school, I knew only that if I got into Berkeley, I was going. I suppose I knew it would change my life, even if I couldn't possibly anticipate exactly how. Berkeley brought me wonderful friends – among them, Kim Twist, Stephen Goggin, John Hanley, Morris Levy, Daniela Levy, and Matthew Gichohi. But it also brought me Ruth Bloch Rubin, whose fingerprints are all over this dissertation. I am skeptical that someone so brilliant, creative, warm, and funny should spend as much time with me as she does. But I am thankful she seems to disagree.

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Chapter 1 | Evaluating Business Power

"How politically powerful is American business?"[1] Answering this question has taken on greater urgency in the generation since David Vogel considered the political influence of American business. The financial crisis of 2008, the accompanying "Great Recession," rising economic inequality, stagnating real wages, increasing executive pay, changes in the rules governing campaign spending and contributions, and the variety of legislative and administrative projects designed to address – or to exacerbate – these phenomena have helped to popularize the field of political economy and, with it, the study of business power. If, as Vogel suggests, the rise of industrial capitalism in the late nineteenth and early twentieth centuries created a fundamental "tension" between "the nation's central economic institutions and its democratic heritage," then the rise of post-industrial, finance-based capitalism in the late twentieth and early twenty-first centuries has emphatically reasserted that tension.

Consider the Chamber of Commerce. A formidable player in the electoral arena, the Chamber spent over $33 million during the 2010 midterm elections, making it, according to the Center for Responsive Politics, "the biggest spender among organizations that were not national party committees."[2] Two years later, the group would go on to spend more than $35 million on congressional races alone.[3] In the 2004 elections, the Chamber "deployed 215 people in 31 states, sent 3.7 million pieces of mail, made 5.6 million phone calls and sent more than 30 million e-mail messages on behalf of its candidates." In that year, nearly all of the candidates receiving the Chamber's endorsement won.[4] Such was the Chamber's power in 2006, that Rahm Emanuel, then serving as chairman of the Democratic Congressional Campaign Committee, declared the Chamber "worried him more than the Republican Party did."[5]

The Chamber's influence and financial might extend beyond electoral politics. Due, in part, to the savvy strategy of the group's litigation arm – the National Chamber Litigation Center (NCLC) – the Supreme Court's "business rulings" under Chief Justice John G. Roberts, Jr. have been "far friendlier to business than those of any court since at least World War II."[6] For example, in 2011, the Chamber, in concert with the Business Roundtable, successfully persuaded a federal appeals court to overturn a Securities and Exchange Commission ruling concerning so-called "proxy access," which would have aided shareholders seeking to unseat members of corporate boards of directors. Citing the Chamber's argumentation, the appeals court overturned

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[1] David Vogel, *Fluctuating Fortunes: The Political Power of Business in America* (New York: Basic Books, 1989), 3.

[2] Center for Responsive Politics, http://www.opensecrets.org/outsidespending/detail.php?cmte=US+Chamber+of+Commerce (date accessed: July 15, 2013).

[3] Sheryl Gay Stolberg, "Pugnacious Builder of the Business Lobby," *New York Times*, June 1, 2013.

[4] Gretchen Morgenson and Glen Justice, "Taking Care of Business, His Way," *New York Times*, February 20, 2005.

[5] Tom Hamburger and Alexander C. Hart, "White House Takes on the U.S. Chamber," *Los Angeles Times*, October 25, 2009.

[6] Adam Liptak, "Corporations Find a Friend in the Supreme Court," *New York Times*, May 4, 2013.

the SEC on the grounds that the agency had not conducted an adequate assessment of the rule's costs and benefits.[7] Moreover, business's victories in the legal arena affect its conduct in the electoral one. The Supreme Court's ruling in *Federal Election Commission v. Citizens United* (2010) has ushered in an era of tremendous business participation in financing political campaigns directly and indirectly, through independent expenditures in support of those campaigns.

The Chamber also exercises considerable influence through its lobbying efforts. In 2012, the Chamber of Commerce spent $136 million lobbying state and federal governments, more than three times the lobbying budget of its next closest competitor, the National Association of Realtors.[8] The Chamber's impact may also be measured cumulatively. From 1998-2013, the Chamber spent almost $1 billion on its lobbying efforts; the next highest spender, General Electric, spent less than $300 million during the same period.[9] A year into his White House tenure, President Barack Obama directly criticized the Chamber for its public and vociferous opposition to a proposed consumer financial protection agency.[10] In 2009, the Chamber also "intensified" its efforts to help craft the terms of federal regulation of over-the-counter trading of derivatives in what would become the Dodd-Frank Wall Street Reform and Consumer Protect Act of 2010.[11] And, in 2012, the Chamber ran a variety of advertisements in Washington, D.C.'s Union Station that criticized proposed changes to SEC rules governing money markets, with the express aim of targeting bureaucrats and other decision-makers on their home commutes.[12]

The Chamber, of course, is only one of several major groups seeking to represent the political interests of business. Nevertheless, its continued influence on the political process – from direct lobbying of elected officials, to the work of the NCLC, to its apparent grassroots reach – attests to the current influence business wields over the political process. If the recent debate over the Patient Protection and Affordable Care Act of 2010 (ACA), the Dodd-Frank Act, or any number of recent efforts to add to federal regulation of the environment are any indication, there is little doubt that business is a preeminent political force in contemporary American politics.

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[7] Haley Sweetland Edwards, "He Who Makes the Rules," *Washington Monthly*, March-April 2013.

[8] Stolberg, "Pugnacious Defender."

[9] Center for Responsive Politics, http://www.opensecrets.org/lobby/top.php?showYear=a&indexType=s (date accessed: July 16, 2013).

[10] Tom Hamburger and Alexander C. Hart, "White House Takes on the U.S. Chamber," *Los Angeles Times*, October 25, 2009.

[11] *See* Kara Scannell, "Big Companies Go to Washington to Fight Regulations on Fancy Derivatives," *Wall Street Journal*, July 10, 2009.

[12] Edwards, "He Who Makes the Rules." These lobbying efforts have not been uncontroversial within the group: a number of prominent member companies have left the group because of its opposition to proposed Environmental Protection Agency (EPA) rules, acting under statutory authority provided by the Clean Air Act of 1970, that would establish limits on greenhouse gas emissions. *See, e.g.,* Clifford Krauss, Kate Galbraith, "Climate Bill Splits Exelon and Chamber of Commerce," *New York Times*, September 29, 2009.

Business Politics in Historical Context

Business's contemporary influence in American politics is far from unprecedented.[13] Indeed, over the course of American history, business profoundly shaped the broad contours of American economic and political development. Over the post-Civil War period, as Richard Bensel documents, monetary policy – one of two key issues (along with the tariff) driving postbellum politics at the national level – was carefully crafted within the executive branch to benefit certain business interests: "[f]inance capitalists, wealthy creditors, and the capital-exporting Northeast."[14] The legal system of the late nineteenth century was, according to Charles Epp, largely shaped by the "managerial revolution in American business," responsible for producing "the first nongovernmental organizations with the capacity and the interest to pursue long-term, strategic litigation."[15]

Railroads affected American political development in other ways. "[E]ntwined with the state," in Richard White's terms, railroads were symbiotic partners with government in forging the rules of America's industrial revolution:

> Governments subsidized them, secured their rights of way, regulated them, and protected them. By the end of the [nineteenth] century...the government suppressed their workers and protected the rights – and enforced the obligations – of their owners and managers in the name of public good and public order. The railroads, in turn, were agents of the expansion of these states.[16]

Business has been responsible for development even in defeat: the perceived corruption of the Gilded Age, for instance, stoked the anger of the Populists and spurred the reforms of the Progressive era. In consequence, the extent to which business interests exercise a disproportionate or "excessive" influence on government, public policy, and law in the United States has long been a frequent topic of academic, journalistic, and popular debate. Scholars and interested observers of American government cannot help but observe that, in Charles

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[13] Jacob Hacker and Paul Pierson, for instance, entitle their chapter on the Clinton Administration's economic policies "Building a Bridge to the 19th Century." Jacob S. Hacker and Paul Pierson, *Winner-Take-All Politics: How Washington Made the Rich Richer — And Turned Its Back on the Middle Class* (New York: Simon & Schuster, 2010), 194; *see also* Vogel, *Fluctuating Fortunes*, 3-4.

[14] Richard Franklin Bensel, *The Political Economy of American Industrialization, 1877-1900* (New York: Cambridge University Press, 2000), 356.

[15] Charles R. Epp, *The Rights Revolution*: *Lawyers, Activists, and Supreme Courts in Comparative Perspective* (Chicago: University of Chicago Press, 1998), 45. The role of corporate, particularly railroad interests, in transforming the legal profession was not lost on contemporary observers: in 1905, Louis Brandeis reflected that "lawyers have, to a large extent, allowed themselves to become adjuncts of great corporations." Quoted in Epp, *Rights Revolution*, 46.

[16] Richard White, *Railroaded: The Transcontinentals and the Making of Modern America* (New York: W.W. Norton, 2011), xxiii.

Lindblom's words, business interests appear to consistently occupy a "privileged position" in national and local political arenas.[17]

And yet, despite the heights of power it has frequently reached, history has shown that business is not a monolithically powerful force in American politics – rather, its influence has ebbed and flowed. As Vogel observes, business's fortunes fluctuate. Indeed, the American Liberty League, founded by three Du Pont brothers to channel their opposition to the New Deal, foundered on the rocks of its association with its patrician creators. Its negative reputation was such that, during the 1936 presidential elections, Republican Party officials requested that the League remain a silent partner in Republican challenger Alf Landon's campaign, despite Landon's financial reliance on the organization.[18]

In the postwar period, too, business power has vacillated from relative power to relative weakness. After World War II, business successfully pursued a series of long-sought reforms to the system of labor-management relations established during the "second" New Deal.[19] In part a response to a series of devastating strikes in 1946, the Taft-Hartley Act of 1947, in particular, reflected the political ambitions of a newly empowered business community, which had already successfully campaigned to end wartime price controls. Noting that "*Business Week* deemed the bill 'a New Deal for America's employers,'" Kim Phillips-Fein suggests that Taft-Hartley signaled an important change in the relative power of business and labor. Although "unions had fought the bill bitterly," business won significant changes to the nation's labor laws – including congressional authorization of state-level "right to work" laws.[20] Business would press its advantage in the wake of prominent congressional hearings into corruption within the ranks of organized labor. 1959's Landrum-Griffin Act was the culmination of "how far business had come in the years since the strike wave of 1946."[21]

Nevertheless, less than a decade after these triumphs, business again "found itself on the political and ideological defensive."[22] In the ten-year period roughly spanning the presidential administrations of Lyndon Baines Johnson, Richard Nixon, and Gerald Ford, business struggled with an array of political and cultural defeats. Deep and profound changes in federal regulatory

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[17] Although this phrase has entered somewhat general use in the literature on politics and business, it was initially coined in Charles E. Lindblom, *Politics and Markets: The World's Political-Economic Systems* (New York: Basic Books, 1977), 170-88.

[18] Kim Phillips-Fein, *Invisible Hands: The Making of The Conservative Movement from the New Deal to Reagan* (New York: W.W. Norton, 2009), 20.

[19] *See, e.g.,* William E. Leuchtenberg, *Franklin D. Roosevelt and the New Deal: 1932-1940* (New York: Harper Perennial, 2009).

[20] Phillips-Fein, *Invisible Hands, 32.*

[21] Elizabeth A. Fones-Wolf, *Selling Free Enterprise: The Business Assault on Labor and Liberalism, 1945-1960* (Urbana, IL: University of Illinois Press, 1994), 278.

[22] Vogel, *Fluctuating Fortunes*, 7.

law represent perhaps the greatest indicators of business weakness. Vogel summarizes the nature of the change:

> When contrasted to either the previous quarter-century or the subsequent half-decade, this period witnessed a significant decline in the political influence of business. A loose coalition of middle-class based consumer and environmental, feminist and civil rights organizations, assisted on occasion by organized labour, aided by a sympathetic media and supported by much of the intelligentsia, were able to influence both the terms of public debate and the outcomes of government policy in a direction antithetical to the interests of business.[23]

Yet, by the middle of the Carter Administration, business had again regained the advantage, defeating a proposed consumer protection agency once and for all, fending off labor law reform, and shepherding legislation ensuring more favorable capital gains tax rates, among other legislative successes. "1977 and 1978," according to Hacker and Pierson, "marked the rapid demise of the liberal era and the emergence of something radically different."[24] The pendulum has not yet swung back.

We can begin to understand business's path to contemporary power by focusing on the historical variability of business influence. By paying attention to the ways in which business extricated itself from its decade of wandering in the political wilderness, we can develop an improved sense of the factors that shape the variability in business power and the reasons underlying business's post-1978 record of success. And, in so doing, we can better comprehend how established and organized political interests, the "winners" of prior political contestation, respond when their privileged position comes under threat.

Business Power, Republican Politics

Business's fluctuating fortunes are not the only consistent characteristic of modern business politics in the United States. Dating to the pre-New Deal era, business has entered the political arena largely to oppose state – and particularly regulatory – expansion. Businessmen, to adopt another trenchant Vogel characterization, "distrust their state."[25] Particularly when compared to its counterparts in other economically advanced democracies, the American "business community has been remarkably consistent in its opposition to the enactment of any government policies that would centralize economic decision making or strengthen the authority of government over the business system as a whole."[26]

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[23] Vogel, "The Power of Business in America: A Re-Appraisal," *British Journal of Political Science*, Vol. 13, No. 1 (January 1983), 20.

[24] Hacker and Pierson, *Winner-Take-All Politics*, 99.

[25] Vogel, "Why Businessmen Distrust Their State: The Political Consciousness of American Corporate Executives," *British Journal of Political Science*, Vol. 8, No. 1 (January 1978), 45-78.

[26] Ibid., 50.

To better comprehend the reasons why, we might also focus on the how. Businessmen do not distrust the state generically; rather, business's distrust of the state, with perhaps greater acuteness in the Reagan era and after, has taken on a specific, *Republican* coloration. Indeed, as scholars of public opinion have emphasized, the consistency of the public association between Republicans and business in the post-New Deal era is remarkable.[27]

Examples of this phenomenon in recent years are plentiful, from Chamber-led opposition to federal health care reform efforts after the election of President Barack Obama in 2008, to continued business-led opposition to legislation and administrative rule-making concerning workplace safety, environmental pollution, climate change, the federal tax system, and the minimum wage, to name only a few. Business groups, again led by the Chamber, spent heavily in support of Republican candidates in both the 2012 and 2010 elections. In 2010, 86 percent of the money distributed by the Chamber's Political Action Committee (PAC) went to Republicans.[28] In 2012, of its total independent expenditures – approximately $32 million – the Chamber spent more than one-third opposing Democratic candidates. The group spent no money opposing GOP-sponsored candidates. The Chamber spent over $1 million in support of Republican candidates, but only $300,000 in support of Democratic ones.[29] Spending aside, in 2012, the Chamber of Commerce endorsed 40 candidates running in House races – only two were Democrats. In Senate races, the Chamber endorsed 12 Republicans and no Democrats.[30] In the two years after President Obama's election, a grassroots political operation developed by the group, known as Friends of the U.S. Chamber, helped to facilitate over 1 million constituent communications with members of Congress. Over 70 percent of the communications expressed opposition to the ACA.[31]

The Chamber is only one of many national business groups that cooperate closely with Republicans. Seeking to overturn the ACA – a key goal of the national Republican Party – the National Federation of Independent Business (NFIB) served as lead plaintiff before the Supreme Court. In the 2010 elections, of the $1 million donated by the Associated General Contractors, a group that represents home builders, 80 percent went to Republican candidates.[32] Overall, by the 2012 elections, more than 60 percent of the $1.8 billion given to political candidates by business-

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[27] *See, e.g.,* Donald Green, Bradley Palmquist, Eric Schickler, *Partisan Hearts and Minds: Political Parties and the Social Identities of Voters* (New Haven, CT: Yale University Press, 2004), 8-9.

[28] Hamburger, "New Lobbying Force Taking Shape in D.C.," *Los Angeles Times*, September 3, 2010.

[29] Center for Responsive Politics, http://www.opensecrets.org/outsidespending/detail.php?cmte=US+Chamber+of+Commerce&cycle=2012 (date accessed: July 16, 2013).

[30] Stolberg, "Pugnacious Builder."

[31] Hamburger, "New Lobbying Force."

[32] Jonathan Weisman, "A Bet Gone Awry for G.O.P. Donors," *New York Times,* March 29, 2012.

affiliated groups went to GOP-affiliated candidates.[33] And, to a large extent, their efforts have been reciprocated by GOP officials.[34]

As in the case of business power, business proximity to the GOP has also characterized other historical eras. Richard Bensel characterizes the post-Civil War Republican Party as a "political agent promoting industrial expansion."[35] In Bensel's view, the party served as a broker between the constitutional system and the interests of American business: allocating control of the "three great developmental policies" of the late nineteenth century – an unregulated national market, a protective tariff, and the maintenance of the gold standard – to the "respective branches of the federal government."[36] Likewise, Phillips-Fein documents the close links between business groups opposing the New Deal and the Republican Party.[37]

Those links continued into the postwar period as well. The passage of the Taft-Hartley Act was ensured by Republican majorities in both houses of Congress (most recently achieved in 1928), whose victory in the 1946 midterm elections was, in part, assured by the large-scale support of the business community. Elizabeth Fones-Wolf highlights the extensive nature of business involvement in a public relations campaign to support the legislation: "The NAM alone spent over $3 million in the public relations drive that featured full-age ads in 287 daily papers in 193 key industrial centers."[38]

Like business's political ascendancy, however, that close relationship with the Republican Party has not been a constant feature of the postwar political landscape. Indeed, in the postwar period, Democrats – from John F. Kennedy to Barack Obama, and including many members of Congress – have closely collaborated with business. Cathie Jo Martin, among other scholars, has documented the extensive nature of that collaboration, demonstrating that apparent business-driven initiatives have often stemmed from Democratic sources.[39]

Perhaps more importantly, business has also suffered at Republican hands. Consider Vogel's summary of business's post-1968 predicament: "From 1969 through 1972, virtually the entire American business community experienced a series of political setbacks without parallel in

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[33] Rep. Darell Issa (R-CA), for instance, wrote to over 150 companies in December 2010, requesting that they "identify federal regulations that are restraining economic recovery and job growth." John D. McKinnon, Colleen McCain Nelson, and Dana Mattioli, "CEOs Vow to Work with Obama Team," *Wall Street Journal*, November 8, 2012.

[34] Binyamin Applebaum, "GOP Asks Business Which Rules to Rewrite," *New York Times*, January 5, 2011.

[35] Bensel, *Political Economy of Industrialization*, 518.

[36] Ibid.

[37] Phillips-Fein, *Invisible Hands*.

[38] Fones-Wolf, *Selling Free Enterprise*, 43.

[39] Cathie Jo Martin, *Shifting the Burden: The Struggle Over Growth and Corporate Taxation* (Chicago: University of Chicago Press, 1991); Daniel Gross, *Bull Run: Wall Street, the Democrats, and the New Politics of Personal Finance* (New York: PublicAffairs, 2000).

the postwar period."[40] That series of unprecedented setbacks – a landmark set of statutory changes to the federal government's regulatory structure, including the National Environmental Policy Act of 1969, the Clean Air Act of 1970, the Occupational Safety and Health Act of 1970, and the Clean Water Act of 1972, to name only some of the the most significant pieces of legislation – largely arrived on the scene with the active support of President Richard M. Nixon, only the second Republican to hold the White House since Herbert Hoover.[41]

Nixon did not develop these programs alone – far from it. With strong Democratic majorities in both houses of Congress favoring increased regulation, business was likely to take its lumps.[42] Nevertheless, the historical record is clear: the Nixon White House not only failed to rein in the regulatory efforts of Congress, it actively aided and abetted them. Indeed, the modern regulatory state is the result of a partnership between Republican and Democratic politicians, in whose creation business failed to exercise meaningful influence. That failure resulted in a "catch-up" politics over the next two decades, as business retroactively sought to limit the reach of those regulatory changes.

Although scholars have treated business's rise to power and its variable relationship with the Republican Party as unrelated developments, the central claim presented here is that these two phenomena are, in fact, tightly linked. Business's broader political renaissance is tied to an increasing reassertion of power within the Republican coalition. Whereas analysts of business power typically highlight the organizational tools developed by business groups to assure unity within an otherwise diverse array of interests and pursue their political comeback, careful attention to the relationship between business and the GOP enables us to situate these tools – business's deployment of PACs, for example, or their increasing attention to elite-level lobbying – in a larger partisan political context. For their part, analysts of business's relationship to the conservative movement of the postwar period typically characterize the business-Republican relationship as unchanging. In this context, careful attention to that relationship allows us to see that business's central place within the Republican Party is not guaranteed. Instead, it results from hard effort and creative defense.

Contextualizing Business's Place in Party Politics

How can we understand business's failure to prevent its ostensible coalitional partners from supporting and implementing significant and durable changes in the configuration of the American regulatory state? To adopt a term initially coined by Paul Frymer, business's inability to influence regulatory policymaking during the first Nixon Administration reflected business's "captured" position within Republican ranks.[43] Conceptually, interest-group capture reflects

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[40] Vogel, *Fluctuating Fortunes*, 59.

[41] The 1972 Clean Water Act was passed over Nixon's veto of the legislation.

[42] *See* Vogel, *Fluctuating Fortunes*, 11. A broader response to his argument is contained elsewhere in this chapter.

[43] Paul Frymer, *Uneasy Alliances: Race and Party Competition in America* (Princeton, NJ.: Princeton University Press, 1999).

meaningful inequalities within political coalitions. The groups sustaining those coalitions do not all get equal priority in implementing their policy wish lists. In particular, as Frymer identifies, the concerns of groups representing African-Americans, despite their importance to the post-New Deal Democratic coalition, have often been shunted aside by Democratic policymakers. And yet, Democratic leaders have not been punished for this lack of attention because, Frymer argues, African-Americans are unable to exit the Democratic Party coalition. Unwelcome in the GOP, where their presence would create fundamental disruptions, African Americans cannot credibly threaten to leave the Democratic Party for a different, more responsive partisan representative.

Let us revisit business's key failures in the regulatory arena. Overall, business was unable to stall the creation of federal regulatory structures designed, for the first time, to "shape and influence virtually every important decision made by nearly every large firm."[44] The regulators empowered by these new statutory requirements – governing environmental protection, workplace safety, workplace discrimination, consumer product safety, among other domains – tended to approach regulated entities, as Robert Kagan emphasizes, with a particularly adversarial style.[45] Style aside, the sheer number of traditional bureaucratic regulators increased, with the federal personnel responsible for administering these laws growing from 9,707 in 1970 to 52,098 in 1975. In addition, these new "social" regulatory statues created a new, and growing, class of citizen regulators, who regularly turned to the courts to establish aggressive timetables for statutory enforcement.[46]

In my account, business was not simply "asleep at the wheel," unaware of, or uninterested in, the impact of these potential regulatory changes. Rather, it needed to change something fundamental about its place within the broader political environment, even if part of its response would hinge on augmenting its existing capacities – fundraising, for instance – in lieu of developing new alliances or approaches. Not only did Nixon Administration officials take business groups' support for Republican policy initiatives for granted, but they also relied on business weakness to enable their own efforts to expand the Republican coalition. Given the centrality of organized labor to the Democratic coalition, along with the increasing importance of new groups favoring increased regulation of business, Republican leaders could remain secure in the knowledge that business lacked a credible exit strategy from the GOP. Despite occasional alliances between business groups and Democratic politicians in the postwar period, White House officials recognized that more permanent collaboration between the two was effectively impossible.[47]

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[44] Vogel, "The Power of Business in America," 26.

[45] Robert A. Kagan, *Adversarial Legalism: The American Way of Law* (Cambridge, MA.: Harvard University Press, 2001), *see* esp. ch. 9.

[46] Vogel, "The Power of Business in America," 24. On the rise of private litigation as an important regulatory tool, *see* Sean Farhang, *The Litigation State: Public Regulation and Private Lawsuits in the U.S.* (Princeton, NJ: Princeton University Press, 2010).

[47] As Frymer contends, the most powerful contributor to the continuation of a group's captured status is the perception held by party leaders that "appeals to the group will *disrupt* the party's electoral coalition." Frymer, *Uneasy Alliances,* 8, emphasis in the original.

The consequences for business groups were disastrous. The Nixon White House took full advantage of its freedom to develop what it came to call the "New Majority." In particular, the administration proposed a variety of regulatory and other policymaking initiatives to cultivate voters interested in labor, environment, and consumer issues. The clear intent behind this effort was to "preempt" Nixon's opposition – to fragment it by co-opting significant elements of its political program.[48] Critically, the successful preemptive politics of the Nixon White House hinged on business's coalitional weakness. Nixon's freedom to remake the regulatory state to accommodate his own political ends required that business remain a quiescent force within the Republican Party.

Political Power, Coalitional Unity

Without the capacity to leave the Republican fold, business's chief political challenge was to regain meaningful political relevance within the Republican Party. As business approached the remaining two years of the Nixon presidency and the following two years of Gerald R. Ford's interregnum, its political influence reached an apex when it worked in tandem with other actors within the GOP coalition – in particular, ideological conservatives, then in the process of organizing Ronald Reagan's primary challenge against Ford. Nevertheless, despite its success in working with the conservative movement to force Ford to reverse his position on *common situs* picketing legislation, business largely eschewed closer formal ties with both the Republican Party and with these potential, Republican-affiliated coalitional partners. Indeed, although they shared similar political goals (at least on economic and regulatory matters), business and conservative groups maintained at best an arms-length relationship at an organizational level in the period between Nixon's election in 1968 and Carter's in 1976.[49] Here, although Steven Teles and Kim Phillips-Fein have identified occasional linkages between business and conservatives – with Phillips-Fein, in particular, highlighting the anti-regulatory agenda of many ideological conservatives – the historical record is clear that business groups did not coordinate their political activities with groups representing conservatives during this period.[50]

Instead, business (as it frequently had done over the course of the postwar years) relied on a strategy of grassroots political engagement, seeking to influence large-scale public opinion through a series of broad-based communications initiatives, designed to increase public awareness of the business contribution to American society and welfare. That grassroots

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[48] Stephen Skowronek, *The Politics Presidents Make: Leadership from John Adams to Bill Clinton* (Cambridge, MA: Harvard University Press, 1997).

[49] Beginning around the time of the AFL-CIO merger in 1955, the NAM, in particular, began to distance itself deliberately from the far right politics that had characterized the organization, beginning with its stringent opposition to the New Deal. As a component piece of this maneuver, NAM "purge[d]" itself of members affiliated with the John Birch Society during the early 1960s. In addition, the group came to support "big-spending military-industrial companies." Jonathan Soffer, "The National Association of Manufacturers and the Militarization of American Conservatism," *The Business History Review*, Vol. 75, No. 4 (Winter 2001), 777.

[50] Phillips-Fein, *Invisible Hands*; Steven M. Teles, *The Rise of the Conservative Legal Movement: The Battle for Control of the Law* (Princeton, NJ: Princeton University Press, 2008).

involvement, however, did not materially affect its political fortunes, and many individuals affiliated with business's political role increasingly came to question its effectiveness.[51] Business also experimented with a variety of other political strategies, borrowed from both adversaries in the labor, consumer, and environmental movements, as well as from insurgent conservatives within the Republican Party.

Business's avoidance of close partisan ties is not surprising. Democrats held consistent control of Congress in the years after 1948, and controlled the White House between 1960 and 1968. Indeed, as Mark Mizruchi has emphasized, the pre-Nixon period represented the heyday of the Committee for Economic Development (CED), a liberal, academic-oriented group designed to develop centrist, business-oriented public policy proposals.[52] For their part, conservative groups, especially during the 1976 primary fight between Ford and Reagan, were critical of the perceived closeness of senior Republican politicians – Ford chief among them – to "big business." Motivated, in part, by the success of George Wallace's 1972 presidential campaign, conservatives sought to align themselves with disaffected, often-working class voters, who believed that America's political and economic elite had lost touch with defining moral values.[53]

The election of President Jimmy Carter altered this centripetal dynamic. Two groups representing the political interests of business – the Chamber of Commerce and the Business Roundtable, a relative newcomer on the Washington scene – responded to Carter's election (the only Democrat to hold the White House in the twenty-four years between 1968 and 1992) in radically divergent ways. The Roundtable, like several other business organizations that had studiously maintained a non-partisan approach to politics, elected to work closely with the Administration. As the Carter White House sought to develop an aggressive approach to combating inflation, the Roundtable believed that it had encountered an opportunity to achieve meaningful regulatory relief for high-profile member companies, including General Electric, General Motors, DuPont, and others. In exchange, the Roundtable offered its cooperation with the president's anti-inflation policies, which depended heavily on private-sector cooperation. The Chamber, in contrast, opted pursued a categorical alternative, rejecting any cooperation with the Carter White House and instead choosing to work much more closely with insurgent conservatives to promote the interests of Carter's eventual challenger, Ronald Reagan.

Four years later, Reagan's 1980 victory – and the Chamber's corresponding ascent to power – emphasizes the successful nature of the bet made by the Chamber on fostering closer ties with Republican officials and other groups within the Republican orbit. As with *common situs* picketing, the Chamber's experience teaches a powerful lesson: that political influence within a coalition may be effectively achieved without the threat of exit, but instead through

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[51] *See* Benjamin C. Waterhouse, *A Lobby for Capital: Organized Business and the Pursuit of Pro-Market Politics, 1967-1968* (Ph.D. Diss., Harvard University, Department of History), 128-130.

[52] Mark S. Mizruchi, *The Fracturing of the American Corporate Elite* (Cambridge, MA: Harvard University Press, 2013), 37-44.

[53] Jefferson Cowie, *Stayin' Alive: The 1970s and the Last Days of the Working Class* (New York: New Press, 2010).

closer cooperation. The Chamber was rewarded with the capacity to work closely with the new presidential administration in remaking the regulatory state along lines long urged by conservatives, including those within the business community.

Coalitional engagement, despite its clear benefits, came at a cost: for business, deeper incorporation into the Republican Party, and increased cooperation with powerful Republican-affiliated actors, compromised its programmatic flexibility. Business's alliance with the White House meant that its "political fortunes...now became highly dependent on decisions made by" the Reagan Administration.[54] Moreover, participation in the Republican coalition, in close concert with ideologically conservative groups, made the possibility of political moderation more difficult. As Benjamin Waterhouse highlights, business's involvement in the Reagan Administration exacerbated a previously latent tension between ideological conservatives and the business community, as the Reagan White House and the business community sought to balance the priority of deficit reduction with its commitment to lower taxes, regardless of the consequences.[55] For the Chamber, that tension came to a head in 1982, during which the Chamber's president, Richard L. Lesher, an avowed supporter of "supply-side" economic theory, fought with the group's chairman, L. Paul Thayer, a more traditional business conservative, over the group's support for tax increases that would help to reduce the federal deficit.[56] Those tensions help to explain business's challenges in the post-Reagan period. Indeed, as elaborated in chapter five, business's political problems in the contemporary area (where they exist) largely concern managing its interests in the context of the competing goals sought by other actors within the GOP coalition.[57]

Theoretical Payoffs

Treating business as a captured interest offers new analytical traction and an important contrast with prior scholarship. Rather than suggest that the Republican Party always acts to implement the policy preferences of organized business groups, I argue that business must actively work to maintain its power within the GOP.[58]

Recent accounts of the relationship between political parties and interest groups have characterized parties as the agents of "intense policy demanders," organized groups that seek

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[54] Vogel, *Fluctuating Fortunes*, 284.

[55] Waterhouse, *A Lobby for Capital*, 304-341

[56] Ann Crittenden, "A Stubborn Chamber of Commerce Roils the Waters," *New York Times*, June 27, 1982; Timony D. Schellhardt, "Chamber of Commerce Showdown Looms After Split on Tax Increase," *Wall Street Journal*, August 30, 1982; John F. Berry, "U.S. Chamber Unlikely Scene of Feud Over Power, Politics," *Washington Post*, November 15, 1982; Waterhouse, *A Lobby for Capital*, 323-328.

[57] For a competing account, focusing on business fragmentation during this period, *see* Mizruchi, *The Fracturing of the American Corporate Elite*, ch. 8.

[58] Significant contrasting works include, John H. Aldrich, *Why Parties?: A Second Look* (Chicago: University of Chicago Press, 2011); Anthony Downs, *An Economic Theory of Democracy* (New York: Harper and Row, 1957); Thomas Ferguson, *Golden Rule: The Investment Theory of Party Competition and the Logic of Money-Driven Political Systems* (Chicago: University of Chicago Press, 1995).

political control to accomplish particular policy ends.[59] Such policy demanders, leveraging their capacity to shape the candidate nomination process, are able to deploy the party as a vehicle for enacting and then enforcing their policy preferences. Like accounts of contemporary business influence, this view of parties as agents operating on behalf of group interests interests hearkens back to pre-20th century American party politics.[60]

In the postwar period, in contrast, I find that politicians and policy demanding groups have often engaged in a more competitive struggle for control of the party. Their interests are frequently at odds: groups within the party fold require that officeholders remain attentive to their objectives, whereas officeholders themselves are frequently interested in expanding their political coalitions, working to court new groups and voters. Even powerful interest groups, like business, must work to achieve and maintain political relevance within its party "home." Faced with politicians interested in expanding their universe of potential voters, the risk of failure is evident: the political agenda of captured groups within the party will be subordinated to that of others.

If we take seriously this view of business as a captured interest, then we must revisit the standard account of business's role in the development of the modern American regulatory state. Terry Moe, among others, has contended that regulatory bureaucracies and enabling statutes are often the result of clashing political interests. When business cannot achieve its first preference – usually to avoid regulation entirely – it seeks to weaken the resulting regulatory mechanisms to the maximum possible extent.[61] The result of these efforts is often a set of weak and effective regulatory schemes.[62] In contrast, acknowledging the historical limitations of business influence over regulatory structure leads to a different possible pathway for opponents of regulation to restrict its scope. As we will see throughout this dissertation, business weakness during the moment of regulatory creation meant that business was forced to fight a rearguard action. It often sought to limit retroactively the extent of federal regulation – particularly over the environment and the workplace. As a result, rather than emphasize the moment of creation as especially "enduring and consequential," we ought to highlight the importance of subsequent efforts by adversaries of stricter regulatory efforts to weaken or otherwise restrict robust regulatory regimes retroactively.[63] Indeed, the history of business politics during the Ford,

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[59] Kathleen Bawn, Martin Cohen, David Karol, Seth Masket, Hans Noel, and John Zaller, "A Theory of Political Parties: Groups, Policy Demands and Nominations in American Politics," *Perspectives on Politics*, Vol. 10, No. 3 (September 2012), 571-597.

[60] *See* Bensel, *The Political Economy of American Industrialization*. More broadly, 19th-century politics at the national level tended to pit aggregated economic and regional interests against one another in a series of battles over economic and monetary policy, typically concerning tariff rates and the nature of the currency in circulation.

[61] *See, e.g.,* Hacker and Pierson, "Business Power and Social Policy: Employers and the Formation of the American Welfare State," *Politics and* Society*,* Vol. 30, No. 2 (June 2002): 277-325.

[62] *See*, in particular, Terry M. Moe, "The Politics of Bureaucratic Structure," in John E. Chubb and Paul E. Peterson, eds., *Can the Government Govern?* (Washington, DC: Brookings Institution, 1989).

[63] Ibid., 277.

Carter, and Reagan White Houses can be fairly characterized as a desperate struggle to undo mistakes made during Nixon's first four years in office.

Tactics of the Struggle

Several additional theoretical insights emerge when we consider the ways in which business sought to extricate itself from its captured position in the years between 1972 and 1980. First, business power was most able to influence policymaking during the Ford years when it worked most closely with other GOP-affiliated actors. This effectiveness suggests that political relevance, influence, and power within a political coalition does not come necessarily through the threat of exit, but from the work of unity. Indeed, the Chamber's decision to double-down on a strategy of engaging more closely with conservatives, signaled in part by its opposition to collaboration with the Carter Administration, reflects the important place of such a strategy in the arsenal of perhaps the most important business group of the past three decades. Moreover, with the election of Ronald Reagan, the Chamber's cooperation with these coalitional allies proved prescient: the Chamber replaced the Roundtable as the focal point for the articulation of business interests in Washington.

Second, business's efforts to adopt tactics initially pioneered by others suggests that there is no necessary link between political power and tactical innovation. Newly powerful political actors – the consumer and environmental movements, for instance – tend to pioneer the use of new strategies to achieve their ends. More recent entrants to the environmental movement, including the Environmental Defense Fund, as well as older groups like the Sierra Club, seized the opportunities afforded by federal statutes permitting and encouraging the deployment of citizen suits to hold both government officials and corporate executives accountable to the objectives of those same statutes. Likewise, as examined in chapter three, conservative organizations like the American Conservative Union were the first to identify the political possibilities of financial resources provided to candidates by nominally independent groups. In contrast, leading business groups largely relied on co-opting new approaches developed elsewhere, including greater attention to campaign finance as a tool of political involvement and the use of litigation as an increasingly important component of their political arsenal. To adopt Mark Galanter's terminology, if business is the prototypical "have," then it is possible that business, unlike its political competitors, may be able to afford to sit back and allow others to innovate.[64] As it sees those innovations successfully employed, business's resources then enable it to adapt these new political approaches to its own purposes and objectives.

Explaining Coalitional Engagement

More broadly, business's coalitional engagement is itself a political variable, as evidenced by the competing approaches pursued by the Chamber and the Roundtable during the Carter Administration. How can we understand why the Chamber pursued greater ties with other Republican groups, whereas the Roundtable largely avoided such ties? As further developed in

[64] Marc Galanter, "Why the 'Haves' Comes Out Ahead: Speculations on the Limits of Legal Change," *Law and Society Review*, Vol. 9, No. 1 (Autumn 1974): 95-160.

chapter four, I propose a two-fold answer. The first strand of the analysis emerges from the work of McGee Young, who has argued that interest groups representing similar memberships typically operate like competing firms offering similar products.[65] Applying Young's ideas to the Chamber-Roundtable competition, I observe that, in their effort to distinguish themselves from their competitors and attract new members, the Chamber and the Roundtable adopted different political tactics in the hopes that emphasizing their differences would draw sympathetic members to their cause. Divergent political strategies were, on this account, the result of each group's need to separate it from its competitors in the same marketplace.

The second strand examines the gains from trade each group believed it could generate. For the Roundtable, profitable cooperation with the Carter White House meant the possibility of relief from regulations key group members perceived to be onerous. In exchange for the Roundtable's cooperation in the fight to combat inflation – largely executed through voluntary private sector actions – the Roundtable was able to extract regulatory concessions from the Carter Administration, who, for their part, remained anxious that the Roundtable continue to promote the White House's preferred policies. For the Chamber, the gains from trade stemmed from a different source: opposition to the Carter White House meant closer collaboration with other Republican-affiliated actors, insurgent conservatives in particular. By working together, these groups hoped to elevate a Republican to the White House. In the event of a political victory, both sets of actors would be able to exercise real political political clout in a sympathetic administration. Both groups, in short, believed that their approach would reap meaningful and tangible rewards for their members.

Crucially, however, the competition between the Chamber and the Roundtable reveals that business's political power and influence necessarily depend on other actors. For the Chamber, its play for influence hinged on working with insurgent conservatives to promote the presidential candidacy of Ronald Reagan, which, in turn, required the Chamber to speak up in favor of social issues – prayer in schools, for instance, or affirmative action – that business had largely avoided.[66] For the Roundtable, its influence hinged on cooperation with a Democratic presidential administration. Although such collaboration had the virtue of signaling to Republican political actors that business could, in fact, credibly work outside of its historical political home, the Roundtable's association with the Carter White House also served to isolate the group from other business constituencies, including groups (the Chamber among them) seeking to represent the interests of small business.[67] That dependence on other actors – and their fate – is perhaps best demonstrated by the course of business politics after Reagan's 1980 election. The Roundtable's affiliation with the Carter Administration meant that the group was forced to cede ground to the Chamber upon Reagan's electoral victory, the result of many political and other forces beyond business's direct control. In turn, the Chamber was able to

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[65] McGee Young, *Developing Interests: Organizational Change and the Politics of Advocacy* (Lawrence, KS: University Press of Kansas, 2010), 6, 11.

[66] Phillips-Fein, *Invisible Hands*, 205.

[67] *See* Vogel, *Fluctuating Fortunes*, 201-202.

leverage its own affiliation with the policy changes inaugurated by Reagan to cement its status as the preeminent group representing the political interests of business in the aftermath of Carter's defeat. For its part, the Roundtable would never return to the heights it had attained through its collaboration with Carter.

As with Nixon, focusing on coalitional engagement also enables a reconsideration of the Carter presidency. Carter's close working relationship with several leading individuals and firms within the Roundtable provides an opportunity to revisit the standard characterization of the Carter White House as a "disjunctive" presidency, in Skowronek's formulation.[68] On this account, Carter was attempting to swim against the political tide – caught between popular (and populist) anti-government sentiment on the one hand and, on the other, an array of commitments to Democratic policy demanders seeking more government intervention. Carter's presidency, then, amounted to several half-hearted and failed attempts to rejuvenate the dying New Deal coalition. If, however, we take seriously Carter's alliance with the Business Roundtable as a plausible reconfiguration of traditional coalitional arrangements, the Carter presidency appears more as a prequel, or an anticipation, of later efforts by senior Democratic leaders, including President Bill Clinton and the Democratic Leadership Council (DLC) with which he is frequently associated, to ally themselves with groups representing the political interests of business. Those efforts, even during the Carter Administration, took on added urgency in light of the decreasing membership and diminishing political capacity of organized labor.

Business's Political Triumph?

The evidence is clear that something fundamental about business's approach to politics shifted in the years between 1976 and 1980, including business's rates of contribution to Republican candidates (including Republican challengers facing Democratic incumbents), as well as business's capacity to begin to roll back components of the regulatory state, rather than simply oppose new extensions.[69] In 1976, three-quarters of business-affiliated Political Action Committee (PAC) contributions went to incumbents, with a "major share" of these being "liberal Democrats." By 1978, that figure had almost reversed, with 61 percent going to Republicans.[70]

Mizruchi, among others, contends that the coincident disappearance of an identifiable "corporate elite" during this period has meant that business has ceased to concern itself with the interests of the broader public, instead seeking to maximize the gains of individual executives, firms, or shareholders. In particular, the post-New Deal settlement between business, government, and organized labor — in which business agreed to accommodate government intervention in the economy and to tolerate labor as a junior partner in firm-level decision-making — "began to unravel."[71] The result, according to Mizruchi, is a myopic, but powerful,

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[68] Skowronek, *The Politics Presidents Make.*

[69] Pierson and Hacker, *Winner-Take-All Politics*, ch. 4.

[70] Vogel, *Fluctuating Fortunes,* 210.

[71] Mizruchi, *The Fracturing of the Corporate Elite*, 7.

set of interest groups participating in the political arena for highly parochial reasons and for very narrow ends. Although Mizruchi identifies several factors that help to explain his diagnosis, he pays limited attention to the central political fact underlying business politics over the past three decades: not only has business become more closely incorporated into the Republican Party, forging closer ties with other Republican-affiliated groups, but it also has increasingly gained the capacity to steer the party in a variety of important policy directions. Indeed, the triumph of forces opposed to meaningful government-business cooperation, instead favoring a more antagonistic relationship between government and business, is crucially linked to the reestablishment of business as a key actor within the Republican coalition (occasional cooperation with Democrats during the Clinton and Obama years notwithstanding).

Certainly, Mizruchi is right to highlight an array of changes in the economic structure of business that, beginning in the 1970s, affected its political orientation, including the short-term pressures on executives now charged with maximizing shareholder value, important alterations in the structure and role of American banks, and the pressures of global capitalism, competition and economic upheaval. But, if we reframe the question to focus on the reasons underlying sharply partisan nature of business politics in the contemporary period, then the answers Mizruchi offers seem to offer less analytical traction. Despite the importance of the transformative economic events of the period, neither added emphasis on shareholder accountability, nor greater attention to international markets necessarily lead – on their own – to opposition to tax increases that would balance the budget, nor to opposition to environmental regulations that many, especially large, businesses had come to accept as legitimate rules of the economic game. In short, we cannot extrapolate the relative increase in business's partisanship from structural, economic factors. Instead, I contend, business's sharpened partisan elbows are the result of the historical process traced in this dissertation.[72]

Business inherited a set of ideological commitments from its coalition partners, ones that replaced its traditional, pragmatic emphasis on balanced federal budgets with a more philosophical commitment to limited government at any cost. As Kathleen Bawn and several co-authors write, ideology represents "a coalitional bargain among diverse policy demanders, to which some voters may also subscribe," rather than a coherent set of values or beliefs held by political actors.[73] At minimum, those new commitments created new tensions within the business community: where business had previously been free to advocate deficit reduction as its first priority, it was now pulled in multiple directions by its new ideological commitments.

That coalitional bargain comes with other strings attached: when the bargain is threatened, other affiliated groups or officeholders may police the violations. A deeply embedded position within a coalition, despite its accompanying influence, constricts a group's capacity to maneuver politically as it attempts to court new allies. Indeed, the post-1980 history of business politics suggests that the pull of prospective or actual coalitional allies exerts

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[72] Martin, Phillips-Fein, Waterhouse, and several edited volumes by Julian Zelizer and collaborators present similar approaches.

[73] Bawn et al., *A Theory of Parties,* 590.

meaningful pressure on business, both empowering it when it works in concert with co-partisan forces, and constraining it when it seeks to buck coalitional trends. Witness public criticism of the Business Roundtable in the late 1990s for inappropriate generosity to Democrats. As then-chair of the Republican National Committee, Haley Barbour, put it: "The best way to be friends [with the Business Roundtable] is to be upfront with them." Barbour's message was clear: the Roundtable should contribute more to the Republicans than it was giving.[74]

That fear is particularly acute given competition among similar groups, each seeking to exploit missteps by the other for favor within the coalition. The Chamber, for instance, appeared ready to endorse Clinton's 1994 health-care initiative, only to pull back – anxious to preserve its conservative credentials relative to the Roundtable – when the latter endorsed a competing plan, sponsored by Rep. Jim Cooper (D-TN). Despite having released public testimony in support of the Clinton plan, the Chamber then warned that bill not be used even as a "starting point for future legislation."[75] Closer coalitional ties with other Republican-affiliated groups meant that, for business, the possibilities of a Roundtable-like, durable partnership with Democrats became more difficult.

More generally, this analysis suggests that interest groups affiliated with the nation's two major political parties must also respond to broader polarizing forces. The Chamber's increasingly embedded position within the Republican Party brought (and continues to bring) it real influence. In contrast, the Roundtable's alternative approach led the group to a position of relative weakness during the Reagan era — one that has continued today, as the group focuses on a small set of issues of greatest concern to its member chief executives themselves.[76] The Roundtable's very moderation has, on this account, led to its relative undoing, at least in comparison with the status and power of other business groups. The group represents a political strategy, executed to great effect during the Carter Administration, that has lost a durable political home. It is, as the post-Reagan history of these two groups chronicled in chapter five demonstrates, challenging at best to maintain a non-partisan approach to politics in a polarized and polarizing world — one in which affiliation with a party entails a marriage with an array of ideologically vocal partners.

The implications for an analysis of business's capacity to shape regulatory policy are relatively straightforward. We should not expect business to act as a moderating force with respect to its political approach to more government regulation, nor should we anticipate that business will be able to buck broader political trends. I return to this issue in the conclusion.

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[74] Helene Cooper, "GOP, Stung by Large Donations to Democrats, Takes Tougher Stand Against Corporate America," *Wall Street Journal*, January 9, 1997.

[75] David Rodgers, "Business Delivers Another Blow to Health Plan," *Wall Street Journal*, February 4, 1994.

[76] On the recent history of the Roundtable, *see* Louis Jacobson, "The Roundtable's Turnaround," *National Journal*, June 28, 2003; for an account of issues it has recently advocated, *see* Gretchen Morgenson, "Business Lobby Seeks to Limit Investor Votes on Options," *New York Times*, June 6, 2002; Alan Murray, "CEOs Get Off the Ropes on Executive Pay" *Wall Street Journal,* July 5, 2006; Jessica Holzer, "Court Overturns SEC's 'Proxy Access' Rule," *Wall Street Journal*, July 22, 2011.

Defining Business, Locating the Party

So far, we have used a variety of terms – chief among them "business" and "party" – that require further discussion and explanation. In this project, I use the umbrella terms "business" and "business interests" to refer to the economic actors at the center of this study.[77] In so doing, I am conscious of the fact that these terms represent a somewhat diverse and fragmented group, including peak associations, trade associations, and individual corporations.[78] The variation captured by these two terms rightfully leads many scholars to remain wary of the terms "business" or "business interests."

Although there is likely to be a heterogeneity of business preferences at a granular level, this dissertation depends on the proposition that there are also points of general agreement across many types of business groups. Particularly when we examine the development of nationwide systems of business regulation, much of the heterogeneity of the business community disappears. Put another way, it is the very ambitiousness of the regulatory systems considered in this dissertation that makes it "legitimate to generalize about the political fortunes of business."[79] In response to the construction of the modern American regulatory state, business interests – from the smallest to the largest corporation – come not only to share a political fate but to seek a related configuration of political objectives.

As the rest of this dissertation shows, generalization about business interests is also historically appropriate. Despite the comparative weakness of American peak associations representing business interests, they, along with certain large and well known corporations and their leaders, have historically carried the political flag of American business on a nationwide scale. Officials within the presidential administrations included in this project routinely considered the views of what they referred to as the "business community" or simply "business" when considering the impact of proposed policies. Like their predecessors and successors in the White House, they turned to a select number of groups and individuals – the Chamber of Commerce, the NAM, the Business Council, representatives of the automobile industry, General Electric, certain individual members of those groups, and later, the Business Roundtable – to

[77] As a related point, I generally shy away from the term "employers," which many scholars use to refer to the set of actors under inquiry in this project (*see, e.g.*, Peter Hall and David Soskice, "An Introduction to Varieties of Capitalism" in Hall and Soskice, eds., *Varieties of Capitalism* (New York: Oxford University Press, 2001), along with much of the literature that follow from or responds to the "Varieties of Capitalism" argument developed there and elsewhere by Hall, Soskice, and various collaborators). I do so because it seems to me that important entities in the post-industrial economy like banks, technology firms, and venture capital firms are important not in their capacity as employers, but in other ways, including as providers of capital or goods and services, or as sources of innovation.

[78] Depending on the particular time-period and question, business interests can refer to a wide range of entities, from a recently formed private equity partnership to a long-standing blue chip manufacturing corporation, like I.B.M. or G.E, to an organization bringing together the interests of employee-owned companies. As Vogel summarizes, "The interests of business are not monolithic: firms can use politics either to compete with each other or to advance their collective interests." Vogel, *Fluctuating Fortunes*, 12.

[79] Ibid.

represent the views of the business community.[80] Each of these groups explicitly claimed to represent the interests of large segments of American business as a whole, rather than particular industries or corporations. Likewise, each of these groups was historically accepted by political actors as the appropriate ambassadors of American business.[81]

For a broad definition of the political party, I rely largely on the work of Bawn and her co-authors, who have proposed a definition that places intense policy demanders at the center of partisan coalitions. This emphasis on the role of groups stands in contrast to definitions proposed by previous works that privilege politicians or officeholders by conceptualizing them as the leaders of partisan "teams." Rather, on a policy demander-driven account, politicians and other officeholders play "managerial" roles within the party, "facilitating efforts by policy demanding groups."[82] There are two advantages to this group-based definition. First, empirically, it captures the importance of organized groups to modern American politics. The contemporary political environment, as Hacker and Pierson contend, is best characterized as an "organized combat," in which groups compete to control the reins of power and implement their preferred policies.[83] Without a group-based definition of the party, enduring political polarization – and its attendant impact on public policy debates – are difficult to explain. Alternative approaches cannot account for the "outsized impacts on government" of organized groups.[84]

Second, and more conceptually, a group-centered approach to defining the party helps to center the relationship between groups and officeholders that lies at the heart of the dissertation. The fundamental tension within a political party, on this account, is the push-and-pull of policy demanders on the one hand – jostling for influence, making sure that their preferred issues are at the top of the agenda queue, and working with other affiliated groups to join hands and push jointly favored policies – and politicians and officeholders on the other – striving to organize the chaos. In addition, adopting a group-based definition of the political party enables us to conceive of multiple groups operating within a party coalition as moons orbiting a planet: the actions of any individual group affects the others, but individual groups are free to make their own political choices, even if they must live with political consequences for which they are not fully responsible.

Parties are amorphous institutions: as V.O. Key famously identified, there at least three possible contexts in which we might examine political activity.[85] Building on the work of Scott

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[80] For a similar argument, *see* Waterhouse, *A Lobby for Capital*, ch. 1.

[81] Nevertheless, by focusing on these particular associations, much is excluded. This paper does not, for instance, consider the politics of trade, agriculture, small business, or international finance.

[82] Bawn et al., *A Theory of Parties,* 581. Contrasting views include Aldrich, *Why Parties?* and Downs, *An Economic Theory of Democracy*.

[83] Hacker and Pierson, *Winner-Take-All Politics,* 113.

[84] Bawn et al., *A Theory of Parties*, 591.

[85] V.O. Key, Jr., *Politics, Parties, and Pressure Groups,* 5th ed. (New York: Crowell, 1964).

James, Daniel Galvin, and Sidney Milkis, I argue that the presidency is a crucial locus of party activity for three primary reasons. This is not to say that other power centers, from Congress to the courts, are unimportant to the analytical narrative developed here.[86] Rather, I hope to persuade the reader that a focus on the presidency is justified, without contending that it is the only strategy available to students of business politics. First, presidents are instrumental in helping to manage party coalitions, as Galvin's work in particular has highlighted. Galvin shows that even presidents who have been accused of active hostility to partisan ends, Nixon in particular, play an important role in the fate of the party. Overall, Republican presidents especially, Galvin contends, work diligently to improve their party's organizational capacities and, in turn, its electoral chances.[87] As a result, analysis of the relationship between presidents and business groups provides one fruitful point of entry into the broader analysis of business's place in partisan coalitions.

Second, control over White House policymaking – both in terms of legislative proposals and administrative rule-making – represents a critical "prize" for intense policy demanders, including business groups.[88] As James summarizes, "Parties expend considerable resources to win and retain the presidency because of its tangible contribution to party power. Indeed, competition for the presidency was the impetus behind the emergence of the American two-party system and it remains its principal glue to this day."[89] They do so because of the resources inherent in the institution, from control over the veto and appointment powers, to the capacity to set policy guidelines for the federal bureaucracy or to influence the content of legislative proposals in Congress. And, as laid out in the rest of this dissertation, these tools were crucial in shaping – whether by deliberate action, or calibrated inaction – the development of federal business regulation. Moreover, in the fragmented American political system, the president and the executive branch of government more broadly are uniquely responsible for national policymaking. Just as peak-level business groups represent the key focus of study in this dissertation because they represent business at the national level, so too the White House represents the key location for the activities analyzed here.

Third, the structure of modern presidential administrations presents the opportunity to obtain multiple analytical perspectives on the state of American politics. Presidential administrations contain an array of diverse bureaucratic agents, many of whom frequently articulate their sympathies (or antipathies) toward certain groups. Perhaps more importantly, White House staff frequently raise private disagreements, commission independent analyses, and interact with a wide variety of other important political actors, from legislators and legislative

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[86] For this view, *see* Vogel, *Fluctuating Fortunes*, 11.

[87] Daniel Galvin, *Presidential Party Building: Dwight D. Eisenhower to George W. Bush* (Princeton, NJ: Princeton University Press, 2010), chs. 1 and 3.

[88] For a related use of this term, *see* Hacker and Pierson, "Presidents and the Political Economy: The Coalitional Foundations of Presidential Power," *Presidential Studies Quarterly*, Vol. 4, No. 1 (March 2012): 101-131.

[89] Scott C. James, *Presidents, Parties, and the State: A Party System Perspective on Democratic Regulatory Choice, 1884-1936* (New York: Cambridge University Press, 2000), 10-11.

staff to media to influential individual private figures and groups. As a result, each presidential administration offers multiple perspectives or analytical windows on business groups' political influence, capacities, goals, and relationships – all of which I seek to exploit in this dissertation.

Methods and Alternative Explanations

The ebbs and flows of business's involvement in coalitional politics – from their high point during the early rollout of the New Deal to their relative low point in the period stretching from World War II to the end of the Johnson Administration and back to their contemporary high point – represent an unfolding historical process. Analyzing that process requires the tools of historical, development-oriented scholarship.

Consequently, without discounting the immense contribution of Vogel's *Fluctuating Fortunes to* the study of business's place in American politics, the analysis I develop in the following chapters departs from Vogel's in two fundamental, and related, ways. Vogel presents a two-pronged argument about the factors that influence business's relative power in the United States. He writes, "The relative political power of business is *not* a function of the business cycle...Rather, what *is* critical is the public's perception of the long-term strength of the American economy."[90] Vogel draws our attention to two related features of the political environment in which business operates. The first is public opinion – business power is highest, according to Vogel, when the public views it most favorably. But, public opinion is not quite an independent variable in the analysis: it, in turn, hinges on broader macro-economic performance. Somewhat counterintuitively, Vogel suggests that the public will be most tolerant of restrictions on business when the economy is booming. When, however, the economy is in more dire straits, the broader public grows increasingly concerned about its own economic fortunes. Clutching their collective pocketbooks, Americans are more willing to provide business with political latitude, fearful that additional restrictions on business's freedom of movement will further reduce overall macro-economic performance.

In many ways, Vogel is right to identify the links between economic crisis and business power. The 1970s witnessed a period of tremendous economic transformation and dislocation. For firms, the decade ushered in an era of globalized economic competition. For policymakers, the era shook traditional economic orthodoxy to its core – stagflation upended reigning economic models, while attention to resource scarcity created unanticipated anxieties. For workers, particularly those outside of the college-educated, professional class, the era augured a continuing period of economic instability.[91]

And yet, the politics of economic crisis are fundamentally open-ended, critically dependent on the beliefs of policymakers, the availability of proposed solutions, and perceptions of past efforts to address related or antecedent problems. Particularly in the initial phases of economic crisis, politicians and business leaders alike may react in ways that are difficult to

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[90] Vogel, *Fluctuating Fortunes*, 8, emphasis in the original.

[91] On the anxieties created by this period, especially for worker, *see* Cowie, *Stayin' Alive*.

predict in advance. Making any project of historical analysis more difficult, these reactions may be difficult to understand from a contemporary vantage point. Moreover, their reactions do not always (or necessarily) lead to more business latitude. Although perhaps the best twentieth-century example is the New Deal itself, we will see in chapter two that the Nixon Administration responded to the first incarnation of the inflation crisis by instituting government wage and price controls. In its initial incarnations, the wage and price control program was positively received by business.[92]

Moreover, like other initially open-ended political phenomena, crisis response is frequently path-dependent. Responses available at the point of origin may be unavailable, or perceived to be politically unpalatable, as the crisis develops. Again, Roosevelt's "100 days" represents a canonical example: his ability to remake the American state was, in large part, the function of the complete discrediting of prior approaches to combating the Great Depression. Similarly, as we will see in chapter four, the Carter Administration's response to high inflation hinged, in part, on its own analysis of Nixon-era wage and price controls. Without discounting the importance of the sense of economic transformation that pervades the period, on its own, that crisis mentality provides useful analytical context, while nevertheless lacking satisfactory explanatory power.

Even well-informed individual decision-makers frequently lag behind the times. Business groups and leading spokespeople continued to prioritize challenging the political capacity of organized labor well into the 1970s, a period which subsequent scholarship has shown was largely characterized by labor's declining political influence, much of it due to other factors.[93] Moreover, in 1977 – two years after business had successfully prevented the passage of legislation creating a federal consumer protection agency and one year before it would successfully oppose modest changes in labor law and a renewed push to pass consumer protection legislation – NAM President R. Heath Larry continued to worry about the power of sixties-era activists. According to Larry, "many of the young people who marched against conventional values" during the 1960s now held "positions of power in Washington."[94]

Finally, there is no direct or necessary mechanism between changing popular views of business and business's political fate. This is not to say that such views do not matter. On the contrary, for instance, even the relatively pro-business administration of Gerald Ford worried that, in the anti-business climate of the mid-1970s, it would be perceived or caricatured as overly close to business interests. Nevertheless, policymakers – and the policy demanders that pressure them to act – represent crucial *intervenors* between popular views and policy change. That process of translation is largely opaque to the broader public, particularly as policy demanders and officeholders work to craft the finer details of individual statutes or administrative rules. In contrast, organized groups, business chief among them, possess the resources to invest in

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[92] Waterhouse, *A Lobby for Capital*, ch. 3.

[93] For a brief overiew, *see* Hacker and Pierson, *Winner-Take-All Politics*, 57-58.

[94] Cited in Waterhouse, *A Lobby for Capital*, 70.

ensuring that those details are favorably implemented. Consequently, it is crucial that analysts of business politics explore the "cognitive maps" policymakers and business leaders use as they work to shape the political system to their benefit.[95]

In part, this concern with positing a direct link between voter perceptions and business strength is based on available data about public views of business. Indeed, as Mark A. Smith has highlighted, unity across business groups on particular issues often leads to public skepticism (rather than public acceptance) of business goals.[96] These data do not clearly reflect an improving public climate for business. In May 1976, senior figures within the President Ford Committee discussed a poll carried out by the firm of Louis Harris in which 10 percent of respondents named "big business" as "the biggest threat" to the "well-being of the United States" and another 32 percent cited a combination of of "big business, big labor, and big government."[97] Although 32 percent of respondents considered "big government" on its own more dangerous than big business, and 15 percent cited "big labor," the poll's results suggest that the American public was not necessarily primed for a resurgence of business power based on popularity alone. Two years later (after business's key legislative triumphs), the Harris survey did reflect a change in Americans' attitudes toward business, but the results were somewhat mixed. 44 percent of those surveyed felt that "'businessmen's complaints about excessive government regulation of business'" were "justified, compared to 32 percent who disagreed. (In 1976, 39 percent believed the complaints of business were justified, compared to 35 percent who disagreed.) Likewise, in 1978, "only 24 percent opt[ed] for more government regulation of business, 30 percent want[ed] less, and 40 percent want[ed] essentially no change." In contrast, two years earlier, "31 percent of the public wanted more government regulation of business, 27 percent wanted less regulation, and 30 percent wanted about the same amount as before."[98]

To some extent, these results reflect the limited results of business's campaign to change public hearts and minds. More broadly, however, it is hard to interpret them as signs that the public had definitively become more supportive of business's efforts to diminish the extent of government regulation – with the nation having lived through a transformative period of regulatory change and a Democrat in the White House, many supporters of government regulatory initiatives may well have adopted a "wait-and-see" attitude toward further expansion of the regulatory state. Likewise, critiques of an overly formal, inflexible, and adversarial approach to economic and social regulation had arisen even among supporters of augmented regulatory efforts, making it difficult to interpret survey questions like those posed by the Harris firm.

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[95] Credit due to Paul Pierson for this formulation.

[96] Mark A. Smith, *American Business and Political Power: Public Opinion, Elections, and Democracy* (Chicago: University of Chicago, 2000).

[97] Fred Slight to Rogers Morton, May 17, 1976, "1976, President Ford Committee (4)," Box 18, Anderson Files, GRF.

[98] Harris Survey, October 16, 1978, folder "Regulation Reform [CF, O/A 539] [1]," Box 268, Eizenstat Files, JCL.

Instead, this dissertation focuses on privately articulated views of key actors from the White House to the boardroom. It emphasizes how officials in the White House, including Presidents Nixon, Ford, Carter, and Reagan (as well as other national political leaders) viewed and treated the organized business community. And, it illustrates how the leaders of key business groups responded. In this way, it echoes the project outlined by Howell Harris in his landmark study of American business during the 1940s: "To illuminate the different ways in which businessmen of different political persuasions interpreted the challenges to their power...from workers, the public, and the state."[99] As a result, I rely primarily on an extensive array of primary archival sources, drawn largely from the records left by the four presidential administrations examined here, as well as from the major business groups I discuss. In their totality, these records work demonstrate the political logic of the central actors involved in the development of the American regulatory state as they sought to build and expand their power and influence, respond to political and economic circumstances, and collaborate on both policy and electoral matters. In this sense, these records serve as a crucial (and under-explored) window into the real and perceived challenges faced by key political and business actors, illuminating their proposed solutions and their limitations.

Plan of the Dissertation

This dissertation proceeds chronologically. In chapter two, I begin the analysis with an an account of business politics during the first Nixon Administration (1969-1972). Without discounting the merits of analyses that seek to gain insight into policymaking during this era by highlighting Nixon's personal political goals and resentments, the chapter seeks to reorient the conversation by emphasizing the structural political conditions that enabled Nixon's political creativity. As a result, the chapter highlights businesses captured status within the Republican coalition during this period, as well as its consequences for regulatory policymaking. In addition, it focuses on business's own sense of its political priorities, demonstrating that business's response to the creation of new regulatory structures was hamstrung, in part, by business's view of the continuing threat posed by organized labor.

Chapter three tracks the second Nixon and Ford Administrations (1973-1976). Here, I demonstrate the continued limitations of business power within the Republican coalition. The chapter highlights three key goals of business groups during this era – defeating a proposed consumer protection agency, heading off legislation permitting *common situs* picketing, and ensuring that changes to federal election law would be most advantageous to business. I find that business was most effective when its goals aligned with those of other actors within the Republican coalition, as in the common situs picketing case. Nevertheless, business linkages with these other actors, and with the Republican Party more broadly, remained highly attenuated. In addition, the chapter highlights the extent to which business's political strategies were largely adopted from

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[99] Howell J. Harris, *The Right to Manage: Industrial Relations Policies of American Business in the 1940s* (Madison, Wis: University of Wisconsin Press, 1982). *See also* Vogel, "Why Businessmen Distrust Their State: The Political Consciousness of American Corporate Executives," *British Journal of Political Science*, Vol. 8, No. 1 (January 1978), 45-78.

In chapter four, I consider business politics during the Carter Administration (1977-1980), the one Democratic White House examined in this dissertation. This chapter focuses on the competition between the Business Roundtable and the Chamber of Commerce, as they sought to represent the political interests of the national business community. Here, I highlight the different choices made by the two groups – the Roundtable choosing to engage constructively with the Carter White House and the Chamber choosing, by and large, to oppose association with the Carter Administration. I consider the advantages the two groups derived from these strategies, the benefits to the Carter Administration of its collaboration with the Roundtable, and the consequences for theories of business politics.

In chapter five, I complete the account by examining the implications of Ronald Reagan's electoral victory and subsequent presidential administration (1981-1988) for the Chamber and the Roundtable. This chapter emphasizes the benefits and costs to business groups of increased coalitional embeddedness. Seeking to shed light on the largely durable victory the Chamber achieved over the Roundtable through its cooperation with the Reagan campaign team (in the general election and after Reagan had gained control of the White House), I focus on several battles over tax policy.

Chapter six offers concluding thoughts, returning to many of the themes laid out in this introductory chapter.

Chapter 2 | Nixon and Business: Examining the Politics of Regulation

On January 1, 1970, President Richard M. Nixon signed into law the National Environmental Policy Act (NEPA) of 1969. In his accompanying New Year's message to the nation, the President rung in the decade by highlighting the importance of environmental protection. He wrote, "The 1970s absolutely must be the years when America pays its dividends to the past by reclaiming the purity of its air, its water, and our living environment. It is literally now or never."[1] For the next year, Nixon presided over the creation of the Environmental Protection Agency, the elaboration of the role of the Council on Environmental Quality (established by the NEPA), and the passage of the Clean Air Act. For the first time in the history of the nation's patchwork system of environmental regulation, the federal government had devised a comprehensive set of nationwide environmental rules of conduct. It had, in addition, entrenched a new system of private regulatory enforcement through litigation, inviting private citizens and groups to initiate lawsuits when governments or private actors fell short of statuary standards.[2] In other regulatory arenas too, the Nixon Administration ushered in fundamental change: in 1970 alone, Nixon signed the Occupational Safety and Health Act, the Consumer Product Safety Act, and the Cigarette Advertising Act, reshaping federal regulation of the workplace and instituting significant federal regulation of consumer products.[3] In short, the Nixon White House did more than simply expand the American state. It changed the state's fundamental configuration.

While applauded by environmental, consumer, and workplace-safety advocates, Nixon's transformation of American regulatory law represented a crucial defeat for organized business. As core members of the coalition that had brought Nixon — only the second Republican president to hold the White House since Herbert Hoover — to office, their defeat raises a set of pressing questions about the power and capacity of organized business interests to shape and influence both politics and policy. Indeed, given solid Democratic majorities in both houses of Congress, we would expect that business's attention to the executive branch during this period would be particularly heightened. Perhaps, given widespread popular sentiment in favor of action on environmental and consumer issues, some amount of regulatory change was inevitable. What is striking, however, is the extent and scope of that regulatory change and the limited voice

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[1] Rick Perlstein, *Nixonland: The Rise of a President and the Fracturing of America* (New York: Scribner, 2008), 460.

[2] Although the Nixon Administration was not the first to rely on private litigation as a deliberate aspect of the American way of regulating (to paraphrase Robert Kagan), it cemented and legitimated its use as a national regulatory tool. For an introduction to the use of private enforcement litigation as a regulatory tool, *see* Robert A. Kagan, *Adversarial Legalism: The American Way of Law* (Cambridge, Mass.: Harvard University Press, 2001); Sean Farhang, *The Litigation State: Public Regulation and Private Lawsuits in the United States* (Princeton, N.J.: Princeton University Press, 2010).

[3] *See* Vogel, *Fluctuating Fortunes*, 83-92. Indeed, although this chapter focuses much of its attention on environmental regulation, increasing federal efforts to regulate workplace safety represented a second important focus of business political activity during the last quarter of the twentieth century.

of the organized business community in its configuration.[4]

This chapter explores how and why a Republican, pro-business President, was largely able to overcome his organized business's opposition to enact dramatic regulatory reforms. Nixon's apparent freedom to recreate the regulatory state, unconstrained by the stated preferences of the organized business community, is often attributed to his heavily personalized brand of politics. Lacking a meaningful set of ideological commitments, Nixon instead pursued an agenda that liberally co-opted his opponents' policies. As Vogel argues, "Faced with a choice between his personal political interests and those of business, the president invariably chose the former."[5]

Without minimizing the importance of Nixon's personal politics, this chapter focuses on the structural conditions that enabled the president to fragment his political opponents by incorporating significant elements of their program. In this view, Nixon's freedom to co-opt liberal proposals was itself a function of the relative weakness of organized business. To use categories developed by Stephen Skowronek and Paul Frymer, Nixon's "preemptive" politics were founded upon business's status as a "captured interest" within the Republican coalition, unable to exercise significant influence over the direction of regulatory politics.[6] This approach — like Skowronek's — shifts our attention away from the unique features of the Nixon presidency and toward a more generalizable analysis of the political conditions Nixon encountered. Here, however, I examine not only the structural conditions that facilitated Nixon's preemptive activity, but also the consequences of that activity for his putative coalitional partners. In particular, I consider the attempts made by organized business groups to generate greater political influence in the wake of their regulatory failures.

This chapter emphasizes the different place of business within the Republican, as compared to Democratic, political coalitions of the postwar period.[7] For Democratic presidents, as Cathie Jo Martin has identified, business interests represent an alternative set of coalition

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[4] For an influential contrary account, *see* Terry M. Moe, "The Politics of Bureaucratic Structure," in John E. Chubb and Paul E. Peterson, eds., *Can the Government Govern?* (Washington, DC: Brookings Institution, 1989).

[5] Vogel, *Fluctuating Fortunes,* 91; *see also* Milkis, *The President and the Parties*, 234.

[6] On the use of this term, *see* Paul Frymer, *Uneasy Alliances: Race and Party Competition in America* (Princeton, N.J.: Princeton University Press, 1998), 8; for the concept of preemption in presidential politics, *see* Stephen Skowronek, *The Politics Presidents Make: Leadership from John Adams to Bill Clinton* (Cambridge, Mass.: Harvard University Press, 1997), 43.

[7] Richard Bensel, among others, has demonstrated the exceptionally close links between Republicans and business interests from the party's founding. *See*, *e.g.,* Richard Franklin Bensel, *The Political Economy of American Industrialization, 1877-1900* (New York: Cambridge University Press, 2000). Separately, before World War II, Democrats and business groups found common ground on the issue of more liberal trade policy, among other issues.

partners to whom they may turn when they encounter opposition from their traditional allies.[8] Because the business community's support is necessary for the president's preferred set of policies to pass, business interests are free to demand the terms on which they will agree to enter the newly expanded coalition. In contrast, within the Republican Party under Nixon, business interests were largely playing political defense in an attempt to preserve the regulatory status quo. As I demonstrate, the Nixon White House largely took business political support for granted. Indeed, Nixon Administration officials viewed the political mobilization of business as a vehicle for the dissemination of their own political agenda, rather than a source of political pressure. In one measure of business's subordinate status within the Republican Party, it was the Nixon Administration — rather than business groups or individual business leaders — that directed the organized business community to cooperate more closely with ideological conservatives through the development of the American Enterprise Institute (AEI).[9] Moreover, Nixon's aides tended to dismiss business's independent efforts to mobilize for political purposes. Business's captured position meant that they were forced to watch as Nixon attempted to expand his universe of potential political allies, from environmentalists and leaders of the consumer movement to labor union leaders and rank-and-file members. And, in turn, these attempts further reduced the political leverage of business groups, whose support was no longer necessary for the Administration to pursue its legislative priorities.

For business groups, their irrelevance in the regulatory policymaking arena — even as their supposed allies held the reins of presidential power — occasioned a set of political and organizational responses that I explore in this and subsequent chapters. In this chapter, I highlight both the consequences of business's prior focus on combating the political influence of organized labor, as well as the limitations of its initial efforts to augment its grassroots mobilization capacities. We will see that business's efforts to develop a groundswell of popular support for the "free enterprise system," previously explored by historians Elizabeth Fones-Wolf, Benjamin Waterhouse, and Kim Phillips-Fein, exposed business groups to the danger of co-optation. Without political independence from Republican actors, business groups found that their homegrown grassroots communication tools could be redeployed to promote the political agenda of the Republican Party, rather than their own aims and objectives. Organized business would have to identify new political strategies before it could regain significant control over the regulatory process.

More broadly, this chapter is intended to set the stage for the dramatic reconfiguring of the relationship between the Republican Party and the organized business community discussed

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[8] Martin, for instance, contends that it was only when Presidents Kennedy and Johnson met "considerable opposition from Congress over their controversial commercial-Keynesian agenda" that they looked to organized business to help push through their political objectives. Cathie Jo Martin, "Business and the New Economic Activism: The Growth of Corporate Lobbies in the Sixties," *Polity*, Vol. 27 (Autumn 1994), 51; *see also* Martin, *Shifting the Burden: The Struggle Over Growth and Corporate Taxation* (Chicago: University of Chicago Press, 1991). On coalitional expansion more broadly, *see* David Karol, *Party Position Change in American Politics: Coalition Management* (New York: Cambridge University Press, 2009).

[9] As we will see, the Nixon White House pursued this aim for its own political purposes. The effort, however, gained limited traction because of business's then-dominant focus on mass political communication.

in the next several chapters of this dissertation. It provides crucial historical context for the reanimation of organized business interests as a crucial set of "intense policy demanders" within the Republican coalition.[10] Indeed, an examination of the politics of business from the AFL-CIO's merger in 1955 through the first four years of the Nixon Administration reflects a profoundly attenuated relationship between organized business groups and their historical allies within the Republican Party. As I demonstrate in the final section of the chapter, the political strategies initially pursued by organized business in the wake of their political defeats during this period did not depend on elite political linkages. Consequently, sustained attention to the period before 1972 suggests that a historically informed view of the relationship between interest groups and political parties in the United States should not assume *a priori* that political parties act as the agents of organized interests. At minimum, the limited nature of the ties between the organized business community and the Republican Party suggests that the relationship between intense policy demanders and political parties is itself a developmental process that takes place over time and in response to particular political challenges.

This chapter is laid out in four primary sections. In the first section, I consider the politics of organized groups in the years immediately preceding Nixon's ascension to the White House. In the second section, I document business's limited influence over policymaking in the first Nixon White House. (I take up the second Nixon Administration in the next chapter.) In the third section, I examine organized business groups' initial responses to their political weakness within Nixon's Republican coalition. A final section offers several concluding thoughts.

After Taft-Hartley

Previous examinations of business's failure to prevent a seismic reshaping of the American regulatory state have pointed to two features of the political landscape in which business operated. First, they suggest, business was insufficiently mobilized for political ends during this period. Noting that the business community was both internally divided and organizationally atomized, these accounts posit that business writ large suffered from an "inability to recognize its self-interest."[11] Second, scholars argue, the business community faced an electorate broadly favorable to new economic regulation, particularly with respect to controls on environmental pollution. In this climate of relative adversity, the political capacity of business to oppose economic regulation was necessarily limited.[12]

Without a doubt, these explanations have much to offer. However, they leave a central empirical question unanswered: What were business groups doing politically during this period,

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[10] Bawn et al.

[11] David Vogel, *Fluctuating Fortunes: The Political Power of Business in America* (New York: Basic Books, 1989), 14.

[12] *See, e.g.,* Richard J. Lazarus, *The Making of Environmental Law* (Chicago: University of Chicago Press, 2004).

and why were they doing it? What did they seek from the regulatory state?[13] Rather than focus on the potentially consequential activities business groups *did not* carry out, in this section, I highlight and contextualize what business *did* achieve, focusing in particular on their economic and political priorities. I demonstrate that the nation's leading business organizations — the Chamber of Commerce, the NAM, and the nascent Business Roundtable (as well as its predecessors) — continued to focus largely on limiting the political and economic might of their traditional adversary: organized labor. Business sought to persuade the public that labor had amassed a dangerous quantity of political and economic power, while simultaneously emphasizing the importance of business's own contributions to American society. Doing so however meant that business groups, focused on fighting the last war, were unprepared to react or respond to the rising threat of regulatory change.

The Taft-Hartley Act of 1947 embodies the triumph of organized business in reshaping labor-management relations after the end of the Second World War. In its aftermath, however, business groups remained politically anxious about their political and economic power relative to organized labor, "even if from a contemporary perspective," as Elizabeth Fones-Wolf suggests, these anxieties "seem unfounded."[14] These anxieties about the power of organized labor were only aggravated upon the merger of the nation's two major labor confederations, the American Federation of Labor (AFL) and the Congress of Industrial Organizations (CIO) in 1955. An internal NAM memorandum captured the spirit of anxiety facing business in the immediate aftermath of the merger, warning, "One of the gravest threats on the domestic front is the vastly increased size and power of organized labor now that the AFL and the CIO have merged into one giant organization...Labor unions today possess a private power of unprecedented scope and influence."[15]

Business organizations communicated these fears publicly and privately. In its 1956 Public Relations Program, the NAM echoed concerns about the size and power of organized labor in the aftermath of the AFL-CIO merger. The organization described the newly merged AFL-CIO as "the largest organization and most powerful political force in the country today."[16] And, providing evidence of the organization's tolerance for hyperbole, in a 1956 news bulletin for members, the NAM Employee Relations Division suggested, "The merging of these forces

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[13] Because of this focus on government regulatory activity, this chapter (and the larger dissertation project) necessarily exclude other important political activities of business groups in areas ranging from the politics of the federal budget, agriculture, and trade, among other important areas of business politics.

[14] Elizabeth A. Fones-Wolf, *Selling Free Enterprise: The Business Assault on Labor and Liberalism, 1945-1960* (Urbana and Chicago: University of Illinois Press, 1994), 4.

[15] Sybyl S. Patterson to NAM Field Staff, January 3, 1956, "Union Monopoly and Antitrust — Labor," Box 61A, Series V, Accession 1411, NAM Papers, Hagley Museum and Library, Wilmington, DE ("NAM").

[16] "1956 Public Relations Program for NAM Campaign Against Labor Monopoly Abuses," February 1956, "Union Monopoly and Antitrust — Labor," Box 61A, Series V, NAM.

[the AFL and the CIO] creates a combination of wealth and power such as history has never yet seen...The merger holds potential for an invisible labor government imposed on every citizen."[17]

This spirit of anxiety was far from a trumped-up ruse to mobilize potentially apathetic supporters. Internal warnings about the implications of the AFL's merger with the CIO were equally dire. A confidential report to the NAM Board of Directors suggested, "In the collective bargaining field, this monopoly power will make possible centralized control over collective bargaining demands, techniques and contracts to a far greater degree than in the past." The AFL-CIO merger meant that "Bargaining power can be developed on a nation-wide, across-the-board basis, with demands, strikes, boycotts and other activities time and coordinated not only between employers but also between entire industries."[18] Instead, in the almost 20-year period between the AFL-CIO's merger in 1955 and President Nixon's reelection in 1972, national-level business organizations continued to devote significant resources to combating the perceived power and size of organized labor. Moreover, as we will see in the remainder of this section, the continuity of the political strategies used by organized business, their internal analysis, and the external rhetoric used to fight organized labor during this period is striking.

Indeed, even into the early 1970s, business groups were largely focused on combating the power of organized labor. In a letter to senior Nixon aide Charles W. Colson written in late 1970, Chamber of Commerce Executive Vice President Arch N. Booth listed two primary concerns of businessmen: inflation and "union monopoly power." Booth wrote to Colson, "Business management wants organized labor to operate under the same rules as business — particularly with reference to antitrust laws and political financing."[19] In early 1971, these concerns were repeated in a meeting organized by William J. Baroody, then-head of the American Enterprise Institute (AEI), with several Nixon Administration officials. According to one staff member who attended the meeting, "The importance of controlling the accelerating demands of labor was the primary objection raised by practically all of the group. They stressed the importance of locking labor into a position from which they could not depart."[20] Similarly, G.E. Chairman Fred Borch announced at a meeting of the Business Council that the "overriding concern of the business community was the continued increase in wage rates."[21] This focus on earlier political battles, in part, explains the relative inattention of the organized business community to the development of new federal regulatory structures during the initial years of the Nixon Administration. And, in the same year, the Labor Law Study Group (LLSG), a precursor

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[17] "Some Facts About the AFL-CIO Merger," January 10, 1956, NAM Employee Relations Division, "Labor — AFL-CIO Merger," Box 72, Series V, NAM.

[18] Report to Board of Directors, October 28, 1955, "Labor — AFL-CIO Merger," Box 72, Series V, NAM.

[19] Booth to Colson, November 20, 1970, folder Chamber of Commerce (F. Ritter Shumway, Arch Booth) Mtg. With Pres, 11/24/70, 11:30 a.m., Box 23, WHSF, SMOF, Colson, RNPL.

[20] Krogh, memorandum to file, January 26, 1971, folder American Enterprise Institute — 1971, Box 32, WHSF, SMOF, Colson, RNPL.

[21] Flanigan, memorandum for the President's file, November 5, 1970, folder "Business Advisory Council [2 of]," Box 1, White House Central Files (WHCF), FG 85 (Business Advisory Council), RNPL.

organization to the Business Roundtable sought to embark on a "massive public relations campaign designed...'to expose the *fact* of labor power and its *impact on the average citizen*.'"[22]

Union Monopoly Power

Business groups employed a variety of strategies to combat what they perceived to be the outsized power of organized labor. In particular, they regularly attempted to use the nation's antitrust statutes to try to limit the political and economic influence of the post-merger AFL-CIO. The justification was straightforward: the New Deal-era federal statutory regime protecting organized labor had achieved its intended effect. As NAM's General Counsel presented the issue in an address before the Antitrust Section of the New York State Bar Association, "[L]abor unions are not the weak and exploited victims of massive corporate conspiracies that they are still seeking to portray themselves to be. Labor unions have, in a very real sense, attained their 'majority.'" He continued by declaring that unions therefore no longer deserved any exemptions from the application of federal antitrust law.[23]

These efforts continued from the passage of the Taft-Hartley Act through the end of the 1960s. They reached their apex, however, with a multi-year campaign organized by the NAM, including the development of a NAM-funded, but institutionally separate "Center for the Study of Union Monopoly Power." In 1961, the *New York Times* suggested this campaign to ensure that labor unions would be subject to the provisions of the Sherman Antitrust Act might well "provoke a battle as fierce as the one that already rages over so-called state 'right to work' laws."[24] The campaign to "Curb Union Monopoly Power" was designed "[t]o identify the problems, clarify the issues, and place proper emphasis on the causes of the abusive use of union monopoly power." In its "Outline of Internal Structure," the NAM's Industrial Relations Division, authors of the campaign, emphasized its priority of place within the organization's hierarchy of political objectives: "Effective action to deal with the union monopoly issue will demand the best abilities available to the NAM. Furthermore, the nature and complexity of the issue require that every Division of the organization bring to bear its special expertise, in full cooperation with every other Division."[25] The group planned a campaign that would involve

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[22] Cited in Waterhouse, *A Lobby for Capital*, 105, emphasis in the original.

[23] "Organized Labor and the Antitrust Laws," Remarks of Lambert H. Miller, January 26, 1956, "Union Monopoly and Antitrust — Labor," Box 61A, Series V, NAM.

[24] *The New York Times*, "N.A.M. Opens Fight on Unions' Power," October 7, 1962.

[25] "A Program to Curb Union Monopoly Power, undated, NAM Industrial Relations Division, "Union Monopoly Power, Center for the Study of," Box 61A, Series V, NAM.

legislative, research, and public relations components, with the research responsibilities to be handled by a NAM spin-off organization, the Center for the Study of Union Power.[26]

The campaign against union monopoly power continued throughout the 1960s, even as groups representing organized business, particularly the NAM, sought a more moderate public profile.[27] A 1961 editorial in the *Wall Street Journal* reflected, "When a giant union and an entire industry are locked in a dispute which threatens the well-being of the U.S., a disruption in the economy is possible only because Congress has exempted organized labor from the antitrust laws which apply to all other Americans."[28] Adopting a similar tack, the Chamber of Commerce emphasized the need to regulate union power in its public and private efforts. A Chamber pamphlet entitled "Facts About National Issues of Importance to All Americans," for instance, suggested, "The fastest growing issue in the area of labor problems is whether — and how — steps should be taken to cope with the monopoly power of unions and the increasing economic strength of union officials."[29]

These combined efforts to curb union monopoly power found support among conservative, largely Southern, Democrats and anti-labor Republicans, including Sens. Sam Ervin (D-NC), Strom Thurmond (D-S.C.), John Tower (R-TX), Barry Goldwater (R-AZ), and others. Over the course of the early 1960s, these members of Congress frequently introduced a series of bills designed to amend the Sherman Antitrust Act, although most languished in committee.[30] Even as late as 1967, a public relations firm hired to conduct a public relations campaign for the LLSG echoed decades-old concerns about labor union power in a private memorandum to the group. The memorandum characterized "the power that unions possess

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[26] "Expected Attendance, Center for the Study of Union Monopoly," November 21, 1961, Union Monopoly Power, Center for the Study of," Box 61A, Series V, NAM. Among the individuals organizing the campaign were Frederick G. Atkinson, Edward A. McCabe, and Theodore R. Iserman, all of whom would become leaders of the LLSG. McCabe had served as an administrative assistant to President Eisenhower on labor issues, and had spent years lobbying on behalf of business. *See* James A. Gross, *Broken Promise: The Subversion of U.S. Labor Relations Policy, 1947-1994* (Philadelphia: Temple University Press, 1995), 204.

[27] The group's overhaul was designed with political relevance in mind: beginning around the time of the AFL-CIO merger, the NAM began to distance itself deliberately from the far right politics that had characterized the organization, beginning with its stringent opposition to the New Deal. As a component piece of this maneuver, NAM "purge[d]" itself of members affiliated with the John Birch Society during the early 1960s. In addition, the group came to support "big-spending military-industrial companies." Jonathan Soffer, "The National Association of Manufacturers and the Militarization of American Conservatism," *The Business History Review*, Vol. 75, No. 4 (Winter 2001), 777. Led by a new, full-time president, Werner P. Gullander, the NAM's internal organizational changes reflected the changing nature of American business. As professional managers of large corporations came to take on increased importance in the American political economy of the 1950s and 1960s, NAM's internal composition reflected these realities. Philip H. Burch, "The NAM as an Interest Group," *Politics & Society*, Vol. 4 (Fall 1973): 97-130.

[28] "An Arsenal and Union Power," *The Wall Street Journal*, August 23, 1961.

[29] "Facts About National Issues of Importance to All Americans," Compiled by the Chamber of Commerce of the United States, Legislative Division, "Chamber of Commerce of the United States Publications, 1962, F-M, Box 24, Series II, Accession 1960, U.S. Chamber of Commerce Papers, Hagley ("Chamber").

[30] *See, e.g.,* "Union Monopoly Power Bulletin," Chamber of Commerce of the United States, Labor Relations and Legal Department, December 1963, "Union Monopoly and Antitrust — Labor," Box 61A, Series V, NAM.

today" as "the power that corrupts, the absolute power that corrupts absolutely." Citing an unnamed "labor writer," the memorandum continued, "Unions have the power to starve America, freeze America, immobilize America, render America weak and defenseless."[31]

Reforming Labor Law

A concerted push to reform labor law itself (rather than the nation's antitrust statutes) represented a second major focus of organized business activity during this period. Here, business groups focused their attention on changes to several aspects of post-Taft-Hartley labor relations. The first set of changes concerned "employee rights": groups representing employers hoped to establish the right of individual employees to opt out of labor union membership, sought a corresponding individual right not to be subject to fines for crossing picket lines or violating other union rules, and desired a legal guarantee of consistent secret-ballot elections to verify a given union's majority support. The second set concerned "employer rights": business groups hoped to preserve and protect the employer's "right to manage," limit so-called "coalition bargaining" — the practice of permitting representatives of multiple labor unions to attend collective bargaining sessions for a single union's new labor contract, guarantee that employers could verify a union's majority support (by election) upon request, and end the ability of striking employees to claim active status as employees. The third category concerned "procedural rights": employers hoped to prevent labor unions from "forum shopping," thereby limiting their "appeals of NLRB decisions to the circuit court responsible the area in which the alleged unfair labor practice occurred," and to permit employers (in addition to unions and individual employees) to seek injunctions in federal court to contest NLRB decisions.[32]

The justification for labor law reform focused not only on unchecked union power, but also on the obsolete nature of the laws governing labor-management relations. In a report written for a NAM task force on labor law reform in the summer of 1967, Douglas J. Soutar, Vice President of the American Smelting and Refining Company and a key figure in the LLSG, described as the "growing awareness that the infirmities afflicting collective bargaining today have as their root cause the aggregation of union power." He noted that union power had not only grown far beyond what Congress had intended in passing the several statutes governing contemporary labor-management relations, but also that those same statutes had become increasingly outdated. Soutar wrote, "Legislation of a long past era direct to circumstances that no longer exist has lead [sic] to union power far beyond Congressional intent." Soutar employed dramatic language: he warned of the "excessive—and constantly growing—power of the trade

[31] "Background Memorandum: The Need for Labor Law Reform, December 14, 1967, "Labor Law Reform — Separation of Powers," Box 62B, Series V, NAM.

[32] Labor Law Reform Study: Amendments to the Labor Management Relations Act, September 1969 Draft, folder "Labor Law Reform Study," Box 72, Series V, NAM; "How 21-Point Labor Law Reform Program Is Reflected in Legislation," Attachment to Board of Directors Report, U.S. Chamber of Commerce, February 16, 1971, "Board Reports 373rd Feb 25-26, 1971," Box 4, Series I, Chamber.

union movement," which, he believed, had "acquired a position of dominance over American industry and the American economy."[33]

Likewise, despite its status as a latecomer to the playing field, the Business Roundtable — and its component predecessor organizations, including the LLSG, the March Group, and the Construction Users Anti-Inflation Roundtable (CUAIR) — saw combating labor as their primary goal.[34] The Roundtable sought to develop an "even-handed point of view" on the issue of labor-management relations.[35] And, the group's formal name was to be the "Business Roundtable — for Responsible Labor-Management Relations." As late as 1973, the Roundtable's "Statement of Program," indicated that the group's major legislative goal, in addition to wage and price stabilization, was "labor law reform." The group considered labor law reform to be more important than "national health insurance, workmen's compensation and federal takeover of unemployment compensation…[and] labor-management relations covering government employees."[36] Both public and private documents from the Roundtable reflect an overriding focus on labor law reform. In the November 1972 press release announcing the group's formation, the Roundtable noted that its primary purpose was to "help improve labor-management relationships."[37] And, in an internal memorandum drafted several weeks later, a Dupont executive indicated that the self-styled "Washington Representatives" of the companies forming the March Group understood that the Roundtable's "immediate objectives would concern themselves with labor legislation and the NLRB."[38]

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[33] Douglas J. Soutar to NAM Task Force on Labor Law Reform, July 7, 1967, "Labor Law Reform — Association Task Force — Labor," Box 62B, Series V, NAM.

[34] *See* Waterhouse, *A Lobby for Capital*, 105-106.

[35] W.B. Murphy, Roger M. Blough, and Fred J. Borch, "Special Message to the Members of Labor Law Study Committee and Construction Users Anti-Inflation Roundtable," November 1, 1972, "Business Roundtable 1972," Box 5, CBM; "

[36] Statement of Program," Business Roundtable, April 25, 1973, "Business Roundtable Jan.-June 1973," Box 5, CBM.

[37] Press Release, "Formation of The Business Roundtable — For Responsible Labor-Management Relations was announced today," November 16, 1972, "Business Roundtable March Group 1972-1973," Box 7, CBM.

[38] Robert F. Kelly, Confidential Memorandum to File, November 30, 1972, "Business Roundtable March Group 1972-1973," Box 7, CBM. The Roundtable's focus on labor law reform emerged from its origins as a merger between three separate organizations, two of which — the LLSG and the CUAIR — emphasized labor law reform as core pieces of their mission. The LLSG was founded 1965, the fruit of a joint effort by the Chamber and the NAM to "research the present situation in federal law, analyze needs, and propose constructive solutions to restore equity and fair play between employers, employees, and unions." Roger Blough, an influential early founder of the Roundtable and a partner at the prominent New York law firm White and Case, captured its purpose in late 1972: "The work of [the LLSG] encompasses the selection of areas where changes in labor law are needed, assisting in the drafting of proposed legislation, advocating a business point of view in pending litigated labor cases, and trying to improve the public climate for adoption of constructive legislation." Hill and Knowlton, Inc., Draft press release, October 24, 1967, "Labor Law Reform," Box 62B, Series V, NAM; Blough, "Memorandum re Labor Law Study Group and Construction Users Anti-Inflation Roundtable," October 30, 1972, "Business Roundtable Labor Law Study Committee 1968-1972," Box 5, CBM. For a related discussion of the LLSG's origins, *see* Waterhouse, *A Lobby for Capital*, 104-106; Gross, *Broken Promise*, 200-223.

Business's focus on labor law reform was distinctive for the unchanging nature of the issues that business believed to be in need of reform. For over two decades, high-powered business executives and trade association leaders focused on the same specific provisions of American labor law. A 1962 transcript of a radio broadcast between the Chamber's Executive Vice President and two labor-law experts (one of whom was an employee of the Chamber), the participants raised many of the same issues that the Chamber would highlight in its 21-point program almost a decade later, contesting pro-union National Labor Relations Board (NLRB) rulings on issues relating to employer free speech, secondary boycotts, and so-called "blackmail picketing."[39]

Reforming the NLRB

The National Labor Relations Board (NLRB) was a constant focus of business political activity. The Chamber of Commerce, in particular, was unsparing in its criticism of the Board. In a 1969 pamphlet for Chamber members on the "Need for Labor Law Reform," for instance, the Chamber declared that the "NLRB has distorted the intent of Congress by explicitly promoting and entrenching union power, even at the expense of employee rights." In the same document, the Chamber indicated that the NLRB's efforts allowed unions to "set up a totalitarian rule over the employees with no avenue of easy escape."[40]

Likewise, the LLSG's draft statement of purposes and objectives reflected a clear belief that the federal government had consistently tilted the playing field within the domain of labor-management relations in labor's favor. In the view of the LLSG's founders, "The excesses of labor union power have been building for 35 years. Federal law has granted unions special privileges and immunities. Federal agencies have favored unions with partisan administration of the law. Federal and state courts have tended to defer too readily to the alleged expertise of the [biased] National Labor Relations Board."[41] The group was particularly critical of the NLRB. Twenty years after the passage of the Taft-Hartley Act, the LLSG announced in an internal summary of its activity designed to attract funding and participation from high-level business leaders that it was "very apparent that the NLRB has not interpreted and administered the Act with even-handed justice; that it conceives the Act to be a mandate to foster unionism (even against the wishes of employees) and that it is guided by a 30-year-old philosophy that unions are weak institutions, dependent on government protection and promotion."[42]

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[39] "NLRB — Time for Reform," part of the radio broadcast series "What's the Issue," produced by the Chamber, September 16, 1962, Box 24, Series II, Chamber. Equal speech rights for unions and employers were guaranteed by the Taft-Hartley Act; blackmail picketing and secondary boycotts were prohibited by the Landrum-Griffin Act of 1959.

[40] "The Need for Labor Law Reform," 1969, Box 26, Series II, COC.

[41] John Oliver to McCoy, May 5, 1972, "Description of the Objectives and Activities of the Labor Law Study Group," "Business Roundtable Labor Law Study Committee 1968-1972," Box 7, CBM.

[42] Oliver to J.A. Dallas, November 4, 1968, "Labor Law Study," "Business Roundtable Labor Law Study Committee 1968-1972," Box 7, CBM.

The Labor Law Reform Study, drafted by three prominent business-oriented labor attorneys known as the "Troika"— Gerard Reilly, Guy Farmer, and Theodore Iserman — and reviewed by a "blue-ribbon" panel of approximately 150 lawyers across the country, provided a blueprint for the legal change sought by these affiliated constellations of business organizations.[43] The Study proposed a series of reform proposals, organized into three sections: "Employee Rights, Employer Rights, and Procedural Subjects."[44] The Study, as Gross suggests, "was designed to increase the ability of employers to resist unionization or, if already organized, to widen the scope of permissible bargaining weapons that could strengthen their bargaining positions. Other proposed amendments were intended to prevent the Board from imposing more powerful remedies for employer violations of the law."[45]

Business groups also consistently sought to devolve the NLRB's responsibilities to hear and decide unfair labor practice cases to federal district courts.[46] In late 1967, an internal NAM memo indicated that the group, like the Chamber, supported vesting jurisdiction of unfair labor practice cases in federal district judges, rather than the NLRB. If such a divestment of jurisdiction were not politically possible, the memo suggested, the Chamber and the NAM agreed that "if a special labor court is practicable or a possible chance, they would not oppose such a move."[47] NAM's general counsel made the group's position clear: "[O]ur view has always been that while we would prefer this jurisdiction in the Federal district courts, we would accept a special labor court if that was the only practicable possibility for relieving the [NLRB] of its jurisdiction in this area."[48] These efforts to strip away the NLRB's jurisdiction over unfair labor practice cases continued into the early 1970s. Chamber testimony before the Senate Judiciary Committee in the summer of 1970 suggested that "asking short term politically oriented members of the National Labor Relations Board to act as judges in unfair labor practices cases, 'is like asking a baseball pitcher to be his own umpire.'" Instead, the Chamber argued, federal district courts should be authorized to handle unfair labor cases.[49]

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[43] Gross, *Broken Promise*, 202. Reilly had served on the NLRB's board under Roosevelt and Truman and had developed a reputation as a politically conservative member of the board; Farmer, an Eisenhower appointee, had served as the NLRB's chairman during Eisenhower's first term.

[44] Labor Law Reform Study: Amendments to the Labor Management Relations Act, September 1969 Draft, "Labor Law Reform Study," Box 72, Series V, NAM.

[45] Gross, *Broken Promise*, 205.

[46] *See, e.g.,* Report to Board of Directors, Labor Relations Committee, U.S. Chamber of Commerce, February 16, 1971, "Board Reports 373rd Feb 25-26, 1971," Box 4, Series I, Chamber; "Labor Law...in the Public Interest," Labor Relations & Legal Department, U.S. Chamber of Commerce, 1961, Box 23, Series II, Chamber.

[47] Lambert H. Miller to William K. Zinke, November 22, 1967, "Labor Law Reform," Box 62B, Series V, NAM.

[48] Miller to Zinke, November 22, 1967, "Labor Law Reform," Box 62B, Series V, NAM. One virtue of a federal "Labor Court" composed of 15 judges serving 20-year terms was that nominations for the new Labor Court would be considered by the Senate Judiciary Committee, then considered favorable to business interests.

[49] "National Chamber Supports Senate Measure Giving Federal Courts Jurisdiction in Labor Dispute Cases," Press Release, July 21, 1970, "Board Reports 373rd Feb 25-26, 1971," Box 4, Series I, Chamber.

This focus on the institutional bias of the NLRB was, by 1968, over a decade old.[50] Efforts to strip the NLRB of its jurisdiction over unfair labor practices received an animating push from Sen. Sam Ervin (D-NC). Under Ervin's leadership, the Senate Subcommittee on the Separation of Powers, part of the Senate Judiciary Committee, held hearings throughout 1968 designed to evaluate the NLRB's execution of its judicial function.[51] Unsurprisingly, given the anti-union composition of the Committee and its close relationship to the LLSG, the Ervin Committee's report was critical of the agency.[52] In its view, the NLRB,

> in the exercise of broad delegated powers, has viewed the [National Labor Relations Act, as amended by Taft-Hartley] largely in terms of union-management conflicts, and has given excessive weight to the development of unionism to the detriment of other purposes of the statute.

Concluding their report, the Committee offered a damning critique of the NLRB. "The Board has frequently exercised power that has not been delegated to it, has applied double standards, and has acted in other ways inconsistent with the act and the intent of Congress."[53]

Consequences and Implications

Business's single-minded focus on labor — the power of labor unions, the bias of the federal government in the domain of labor-management relations, and the importance of leveling the playing field through labor law reform — is not surprising. As many scholars of business politics during this period have suggested, the representatives of the fractious organized business community in America could find more common ground on this issue than on any other.[54] According to one member of the Business Council: "In the specific area of labor legislation, we all willy-nilly have more interests in common that in any other field I can think of, and we are likely to be most effective with respect to those issues around which we can truly coalesce."[55] Moreover, in a political environment with somewhat limited regulation of business activity at the federal level, the business community's focus on arguably the most aggressive regulatory force —the NLRB — makes sense.

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[50] A bill embodying this concept had been approved by the House Committee on Education and Labor as early as 1954, receiving consistent support over the course of the decade from Sen. John Tower (R-TX) upon his election to the Senate in 1961, and from Rep. Philip Landrum (D-GA), co-author of the 1959 Landrum-Griffin Act.

[51] On their face, the hearings were meant to examine the role of all federal administrative agencies, but no agency other than the NLRB was discussed during the hearings.

[52] Gross, *Broken Promise*, 209-214.

[53] "Summary Analysis of S. 3671," NAM Law Department, April 15, 1970, "Separation of Powers," Box 62B, Series V, NAM.

[54] Vogel, *Fluctuating Fortunes*, PN; Gross, *Broken Promise*, 201.

[55] Remarks by Malcolm L. Denise before the Business Council, May 8, 1971, "The Business Council — 1971," Box 4, CBM.

Nevertheless, the emphasis on the politics of labor drove the political organization of business in unintended directions. First, the effort to reform labor law and eliminate the NLRB provided a political and institutional template with which business sought to combat the expansion of workplace regulation in the aftermath of the 1964 Civil Rights Act. Business groups consistently sought to prevent the Equal Employment Opportunity Commission (EEOC) from gaining robust enforcement power, particularly in the form of the capacity to issue "cease-and-desist" orders.[56] And, they felt, if the EEOC were to be granted aggressive investigative powers, any efforts by the new agency to enforce its judgments should take place in a *de novo* trial in federal court trial, rather than at the level of an agency administrative proceeding.[57] Like their Republican allies in Congress, business groups explicitly identified the link between the two agencies in their internal documents. For instance, in a note to members of the NAM's Manpower and Personnel Policy Subcommittee, the Subcommittee's chairman informed members that the Nixon Administration's plan to augment the enforcement powers for the EEOC would "create another 'NLRB' type agency with the consequent accumulation of still another body of administrative law." He warned members, "Should this proposal empower the EEOC with cease-and-desist authority similar to that of the NLRB, it could lead to the kinds of problems industry has been experiencing with the NLRB."[58]

Second, business's focus on the NLRB enforcement model meant that peak-level business associations were poorly equipped to deal with the significant political and economic changes that reshaped the regulatory playing field in the late 1960s and early 1970s. These changes included increased federal regulatory capacity in domains other than labor relations and the rise of other potential business antagonists, including new, active citizens groups and public interest law firms. Instead, business groups simply reframed their focus on organized labor's pernicious effects on high-profile, salient changes in the nation's political economy. In an echo of the immediate postwar period, as the inflation crisis of the early 1970s became a central focus of economic and political concern, business groups simply emphasized the role of unions in promoting inflation, rather than focusing on the perils of union monopoly power or the injustice of federal favoritism toward labor unions.[59] Several principals of the LLSG believed that the transition out of President Nixon's wage and price control program might a meaningful opportunity to address "the conditions which necessitated the freeze, including the wage-push

[56] Sean Farhang, *The Litigation State: Public Regulation and Private Lawsuits in the U.S.* (Princeton, N.J.: Princeton University Press, 2010), esp. ch. 4.

[57] Lyle H. Fisher to members of the Manpower and Personnel Policy Subcommittee, July 10, 1969, "1969 — Civil Rights — EEOC Legislation," Box 64, Series V, NAM.

[58] Fisher to members of the Manpower and Personnel Policy Subcommittee, June 9, 1969, "1969 — Civil Rights — EEOC Legislation," Box 64, Series V, NAM.

[59] *See* Meg Jacobs, *Pocketbook Politics: Economic Citizenship in Twentieth-Century America* (Princeton, N.J.: Princeton University Press, 2005).

inflation.... The imbalance in collective bargaining and the excessive power of organized labor...were part of the problem and must be dealt with in any viable solution."[60]

Third, as we will see in the next chapter, the business community's focus on labor unions and labor relations critically configured the broader political tactics the community used to respond first to the perceived political and economic threat posed by organized labor and later to new political threats.

Captured Business

Soon after Nixon's election to the White House in 1968, business groups would learn that they faced a new and unexpected political obstacle — the Nixon administration. Particularly in the early years of the Nixon Administration, business interests found that White House staff largely took their support for granted. They were no longer alternative coalitional partners whose support was necessary for controversial policies to pass, as they had been under Presidents Kennedy and Johnson. Rather, business interests were expected to support the Administration's positions without complaint, or at least not to protest publicly. This shift of coalitional position — from a set of interests wooed by the White House, to a set of interests whose loyalty was presumed — fundamentally altered the ability of those interests to shape and influence White House policymaking.

Organized business's leverage was further diminished by a political climate hostile to its goals of limiting the advance of the regulatory state. Indeed, by the early 1970s, White House aides tended to view the president's connection to organized business as a political liability. Even as Nixon's aides were planning his 1972 re-election campaign, they encouraged the president to distance himself from business. Senior White House staff member Charles W. Colson wrote that the Administration was "stuck with the big business label and it will be hard to shed...Obviously, from a P.R. standpoint, no visible association with big business or establishment-type events should be considered for the President." Colson, ever the political realist, was aware that deemphasizing the Nixon's connection to business would have limited political cost. "[T]the business community isn't going to go with McGovern or Humphrey."[61]

Others in the Administration advocated a similar approach. Concerned bout political appearances, John D. Ehrlichman, Nixon's chief domestic policy advisor, discouraged the president from attending a proposed meeting of the Business-Government Relations Council — an offshoot of the Business Council, composed of the Washington representatives of major corporations. "There is too much legislation pending before the Congress, such as phosphates and air pollution, for us not to wind up placing the President in an awkward position were such a

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[60] Frederick G. Atkinson to Oliver, October 18, 1971, "Business Roundtable Labor Law Study Committee 1968-1972," Box 7, CBM.

[61] Colson to Haldeman, May 17, 1972, folder "HRH Memos I [5/10/72-2/16/72] [3 of 3], Box 4," White House Special Files (WHSF), Staff Member and Office Files (SMOF), Charles W. Colson, Richard Nixon Presidential Library and Museum, Yorba Linda, California (RMN).

meeting held."[62] Likewise, staffers feared that meeting with business leaders at the White House — particularly when those meetings resulted in the alleviation of problems raised by business leaders — would "give rise to political attacks."[63] As one aide wrote: "The President hasn't done any other environmental events for quite a while and meeting with the tycoons doesn't seem like the place to start; that they have no substantive agenda they want to discuss with him, but rather they want to just prove their access and clout to themselves."[64]

Dismissing Business

Even as they worked to distance the Administration from organized business groups, Nixon's aides tended to dismiss the political savvy of the nation's leading businessmen and their trade groups. Peter M. Flanigan, one of the President's two liaisons to the business community (the other was Colson) wrote the president that the "complaints of business leaders often arise because of a rather unsophisticated view of politics and government."[65] Moreover, Nixon Administration officials had limited respect for the business community as an independent political force. While "the business community *could be* a powerful instrument in influencing legislation, Flanigan argued, Colson agreed that the "business community's political clout [was] minimal."[66] Demonstrating limited command of political developments within the business community, Colson told White House chief of staff H.R. ("Bob") Haldeman that the chairman of U.S. Steel was "setting up high-level business 'roundtable' to discuss" Nixon's move to suspend the construction wage floor established by Davis-Bacon Act.[67] In fact, as we have seen the

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[62] Cole to Flanigan, September 21, 1970, folder "EX BE 4 Industry [3 of 7] February 1970-March 1971," Box 29, White House Central Files (WHCF), Subject Files, Business - Economics (BE), RNPL. For his part, Colson was concerned that the group's members were insufficiently senior for the President to meet with them. *See* Sloan to Ehrlichman, September 4, 1970, folder "EX BE 4 Industry [3 of 7] February 1970-March 1971," Box 29, WHCF, BE, RNPL.

[63] Crawford to Flanigan, April 21, 1971, folder "EX BE 4 Industry [4 of 7] April-July 26, 1971," Box 29, WHCF, BE, RNPL. Crawford did not that "a more substantively oriented series of discussions with businessmen...would give businessmen a feeling we are concerned with their most pressing problems, not just in general and sometimes esoteric conversations which may not be closely related to the real sources of their unhappiness with the Administration."

[64] Fairbanks to Cole, January 8, 1973, folder "National Industrial Pollution Control Council (NIPCC) [from CFOA 774]," Box 143, WHCF, SMOF, John C. Whitaker, RNPL.

[65] Flanigan to Nixon, March 22, 1971, "Our Relations to the Business Community," folder "EX BE 4 Industry [3 of 7] February 1970-March 1971," Box 29, WHCF, BE, RNPL.

[66] Flanigan to Timmons, November 16, 1972, folder "Ehrlichman, John [3 of 3]," Box 108, WHCF, SMOF, William E. Timmons, RNPL, emphasis added; Colson, memorandum regarding "Political Strategy," May 21, 1971, folder "HRH Memos I [5/10/72-2/16/72] [3 of 3]," Box 4, WHSF, SMOF, Colson, RNPL. Nevertheless, Colson added, "It is a source of support we cannot overlook; the attitude of business leaders has an impact on the white collar, professional category as to which Muskie has shown surprising strength in the pools." Colson did not believe it would take much effort to make sure business interests were in the Administration's pocket. He wrote, "This has been the most activist Administration in history in the field of anti-trust, the environment and consumer issues….All we have to do to help business in the pocketbook is to begin to slow down dramatically in the anti-trust field, gradually in the other two."

[67] Colson to Haldeman, February 26, 1971, folder "HRH Memos - 1971 January-June 1971 III [3 of 5]," Box 3, WHSF, SMOF, Colson, RNPL.

Construction Users Anti-Inflation Roundtable had been established several years earlier to bring together a range of high-level executives affected by high wage costs in the construction industry (including both construction companies and end-users) and to discuss possible responses.[68]

Correspondence between Colson and Haldeman provides further evidence of the White House's relatively limited attention to organized business. In mid-1971, Haldeman prodded Colson to focus special attention on deploying the business community as a set of communications adjuncts for the White House. Colson responded by pleading for more time. He wrote to Haldeman, "We have not begun to utilize our business friends...however, frankly because I have not been able to devote the time go get it really organized."[69] Colson, in turn, instructed a subordinate that he should focus on "development of our resources on the Hill, in the business community, among the governors, etc. from a PR standpoint, that is, getting them to do more for us vocally." Further highlighting the White House's limited ties with organized business groups, Colson contrasted the "legislative area" where he believed his aide would "have no trouble" with the "business area" where Colson believed "there is something of a problem, which needs work."[70] Likewise, in the thick of the 1972 presidential election, Haldeman wondered about whether the Nixon Administration could work with the Business-Industry Political Action Committee (BIPAC), to that point the most prominent vehicle for organized business in the arena of campaign finance. Haldeman asked Colson, "What's happened to BIPAC [the Business-Industry Political Action Committee? If they're still in existence wouldn't they be a valuable group for us to work with? If they are not, is there any reason to believe that they could be rejuvenated and would this be desirable?"[71]

When the business community did raise substantive policy concerns, Nixon's staff members were quick to counter the points made. In early 1970, John C. Whitaker, a member of Ehrlichman's Domestic Policy Council responsible for environmental policy, acknowledged that NAM President W.P. Gullander had been critical of federal air and water pollution laws. But he countered by emphasizing the benefits to business of the White House's regulatory initiatives. He noted, in particular, that Gullander had ignored the leveling effect national air and water pollution laws would have on all business: with nationwide regulations, all businesses would be

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[68] *See* Waterhouse, *A Lobby for Capital*, 105-106.

[69] Colson to Haldeman, July 7, 1971, folder "HRH Memos II [7/1/71-5/2/72] [4 of 4]," Box 4, WHSF, SMOF, Colson, RNPL.

[70] Colson to Barker, July 7, 1971, folder "HRH Memos II [7/1/71-5/2/72] [4 of 4]," Box 4, WHSF, SMOF, Colson, RNPL. Colson, however, was particularly pleased when it came to his attention that the president of a major tobacco company had criticized potential Democratic presidential nominee George McGovern and endorsed Nixon in a letter sent to 45,000 shareholders. Colson reflected, "I hope there is a program underway...to see that this is done by every major corporation." Colson to Cashen, October 11, 1971, folder Henry Cashen, Memos For [1 of 2], Box 6, WHSF, SMOF, Colson, RNPL. *See also* Ernest Holsendolph, "Head of Liggett & Myers Backs Nixon in Letter to Stockholders, *New York Times,* October 11, 1971. The missive took advantage of a recent amendment to the federal election laws that permitted electioneering in corporate communications to stockholders and union communication with rank-and-file members.

[71] Haldeman to Colson, September 11, 1972, folder "HRH Memos 1969-70 (COMPLETE) II [4 of 4]," Box 2, WHSF, SMOF, Colson, RNPL.

competing in the same regulatory environment. Dismissing Gullander's concerns, Whitaker wrote that the NAM president "misses the point that, if all States have the same air and water standards, the injustice of a competitor's product in another state would be reflected in a lower market price if the water and air standards were lower in that State."[72] To the extent that business groups raised concerns with Nixon's landmark regulatory legislation, their warnings and grievances went largely unheeded.[73] Brushing aside the business community's opposition, Senior Nixon advisor (and future Federal Reserve Chairman) Arthur Burns noted "general agreement" in favor of "legislation to legalize common situs picketing," a key bugbear of business groups.[74]

And, when imposing nationwide wage and price controls in mid-1971, the Nixon Administration justifiably felt it had little to worry about in terms of business opposition — limitations on wages affected organized labor to a greater extent than limitations on price increases affected business. As Waterhouse summarizes, "Corporate leaders' intense fear of inflation, combined with their collective sense of political powerlessness, put them—at first—in the awkward position of supporting an economic plan that ran counter to every tenet of free market capitalism."[75] Indeed, although business opposition to the wage and price control regime would later solidify and intensify, there is limited evidence that alterations to that regime were driven by business, in contrast to the immediate postwar era, during which business sought to "dismantle" the Office of Price Administration.[76] Despite growing business antagonism to controls, Nixon announced a second wage and price freeze in the summer of 1973, approximately six months after permitting a loosening of controls during what became known as "Phase III" of the anti-inflation effort.[77]

Mobilizing Business

When they were not dismissing the business community's concerns over the growth of federal regulation, the Nixon administration was targeting organized business as a potential tool to mobilize grassroots support for certain programs and messages. Haldeman instructed Colson that the White House needed to "develop a hard core group of protagonists in several key areas," including the "National Business Leadership." Haldeman had in mind a fan club, not a partner.

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[72] Whitaker to Stans and Train, February 20, 1970, folder "National Association of Mfgs. (4 of 4)," Box 88, WHSF, SMOF, Colson, RNPL.

[73] The subject of one luncheon hosted by the Chamber and attended by several heads of major trade associations, including the American Petroleum Institute (API) and the Automobile Manufacturers Association (AMA) was "proposed legislation with regard to pollution." The White House was certainly aware that business groups were "very concerned over future restrictive government legislation." Hofgren to Flanigan, December 29, 1969, folder US Chamber of Commerce, Box 118, WHSF, SMOF, Colson, RNPL.

[74] Burns to Nixon, April 20, 1969, folder "President (9)," Box A17, Burns Papers, GRF.

[75] Waterhouse, *A Lobby for Capital*, 134.

[76] Jacobs, *Pocketbook Politics*, 10.

[77] Burns to Nixon, April 20, 1969, "President (9)," Box A17, Burns Papers, GRF.

What the Administration needed "are people who automatically speak up for the Administration and particularly for the President in an enthusiastic way at all times in all places."[78] Given Haldeman's instructions, it is not surprising that Colson believed his primary role as business liaison was "mobilizing groups for political purposes." Moreover, the Nixon White House increasingly came to view business as "just another" coalitional partner. Institutionally, at least in terms of Colson's administrative bailiwick, organized business groups was lumped in with other types of groups the Administration was interested in cultivating. Colson described his own job as linking up "with all organized groups," covering "the gauntlet from labor to business to youth to specific industry groups." Colson's overall goal was "to have our lines out with as many organized constituencies as possible."[79]

The Administration also sought to exploit business's own communication tools for its own purposes. Colson, for instance, suggested to Ehrlichman that a series of closed circuit telecasts for NAM members could be useful for the Administration to communicate with businesspeople across the country. He wrote, "The NAM is totally in our pocket politically...and they have therefore geared both of their planned telecast programs to Administration goals and Administration spokesmen, giving us an opportunity to get our message across to the grass roots of American business."[80] Likewise, after a meeting with Booth, another Nixon staffer volunteered, "The U.S. Chamber is anxious and willing to work in developing business support for the Administration."[81]

On the rare occasions that the White House made what it perceived to be potentially unpopular, pro-business decisions, the White House demanded the full public support of the organized business community. In early 1971, for instance, the President suspended the Davis-Bacon Act's construction industry wage supports in response to business complaints about the inflationary effect of rising wages in the industry. Officials within the Administration believed that the move carried significant political risk, especially among rank-and-file union members and labor leaders whose support the Administration was working assiduously to secure. Anticipating vocal public criticism, Haldeman instructed Colson, "Be *sure* we follow up on

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78 Haldeman to Colson, March 29, 1971, folder "George Bell 1970-71 [I] [2 of 2]," Box 5, WHSF, SMOF, Colson, RNPL. Likewise, senior Nixon aide Bryce Harlow suggested that the "that the job of organizing Washington trade associations to support Administration legislation is a full-time effort for one man." Harlow's vision of the job entailed being "fully involved with businessmen in developing Administration support among the business community. Flanigan to Haldeman, October 17, 1969, folder EX BE 4 Industry [1 of 7] 1969, Box 29, White House Central Files (WHCF), Business-Economics Subject File (BE), RNPL. In response to Haldeman's directive, Colson told his subordinate George Bell to obtain a list of "hard-core loyalist business supporters" compiled Flanigan and to "[r]eview it to see that they are always supplied with material and that the list is added to as appropriate." Colson to Bell, May 3, 1971, folder George Bell 1970-71 [I] [2 of 2], Box 5, WHSF, SMOF, Colson, RNPL.

79 Colson to Higby, February 5, 1971, folder "HRH Memos - 1971 January-June 1971 III [4 of 5]," Box 3, WHSF, SMOF, Colson, RNPL.

80 Colson to Ehrlichman, April 7, 1971, folder "National Association of Mfgs. (1 of 4)," Box 88, WHSF, SMOF, Colson, RNPL.

81 Hofgren to Flanigan, December 29, 1969, folder "US Chamber of Commerce," Box 118, WHSF, SMOF, Colson, RNPL.

getting some strong business support for our Davis/Bacon move...When we take courageous action, we've got to be sure that we not only get the heat from the people on one side, but also the credit from people on the other."[82] Colson, in turn, ordered assistant: "The President asked me last evening to get a letter sent by a very prominent business leader...The letter should strongly praise the President's courage in making the Davis/Bacon decision, should say what a great job he has done in his Administration, etc. etc."[83]

Administration officials were, in consequence, quick to complain when their business allies did not act to support their desired political message. Referring to an analysis of mail volume in ten different congressional offices in response to Nixon's announcement of his "New Economic Policy," Colson complained about the limited pro-Nixon efforts of the Chamber of Commerce: "I think you will see from the attached quick analysis that our friends on the outside are doing a *lousy* job of cranking up mail." He suggested to an aide: "I would use this report as the basis for calling the Chamber and some of the other organizations who claim they can crank up mail and tell them they are just doing nothing."[84] Similarly, when the Chamber of Commerce's Public Affairs Committee recommended limitations on individual campaign contributions, Colson was livid. Colson's response made clear that he believed the White House could influence the Chamber's decision. He emphasized to a key subordinate that the issue was "extremely important" and told him to "find out who's on the Committee that is making this ridiculous recommendation. Find out from Dixie Davis [the Chamber's legislative liaison] who we've got to talk to and let's start getting to the key directors this time ahead of time. Get out on this one and charge fast."[85]

Nixon's other business liaison, Flanigan, was separately carrying out Nixon's instructions "to organize a cadre of pro-administration business leaders across the country who will support our programs." The centerpiece of this effort was a project known as "Gideon's Army." Conceived of and executed by Flanigan, the goal of the endeavor was to "enlist a limited number, beginning at perhaps 25, of very powerful business supporters...to talk around the country with confidence and to support [the President's] programs and the performance of the Administration." Flanigan suggested to Nixon that by making Gideon's Army "an elite corps,"

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[82] Haldeman to Colson, February 24, 1971, folder "HRH Memos - 1971 January-June 1971 II [5 of 5]," Box 2, WHSF, SMOF, Colson, RNPL, emphasis in the original.

[83] Colson to Bell, February 25, 1971, folder "HRH Memos - 1971 January-June 1971 II [5 of 5]," Box 2, WHSF, SMOF, Colson, RNPL. The Administration was successful in its efforts. Fred J. Borch, Chairman of the Board of GE, head of the Business Council, and an influential early member of the Business Roundtable and its predecessors drafted and sent a letter intended to reach over 400 prominent business leaders. His letter was effusive in its praise for the Administration, calling Nixon's decision to suspend the Davis-Bacon Act one of the most courageous steps that any President has taken in many years." Borch's letter noted that the decision was difficult for the Administration because of the White House's connection to labor leaders in the construction industry. Borch, undated draft letter, folder "HRH Memos - 1971 January-June 1971 III [3 of 5]," Box 3, WHSF, SMOF, Colson, RNPL.

[84] Colson to Cashen, September 21, 1971, folder "Henry Cashen [I] [1 of 2]," Box 6, WHSF, SMOF, Colson, RNPL, emphasis in the original.

[85] Colson to Cashen, June 4, 1971, folder "Henry Cashen [I] [1 of 2]," Box 6, WHSF, SMOF, Colson, RNPL.

and "making them believe they are," they would "be able to counter the businessman's penchant for complaining and replace it with positive talk."[86] Flanigan also proposed a series of informal dinners for business leaders at the White House in order to facilitate business-government communication. Gideon's Army continued through the 1972 elections, and involved, at minimum, several meetings per year. Flanigan also worked to integrate the group into Nixon's 1972 reelection efforts.[87]

Throughout his first term in office, Nixon took conscious advantage of existing business-government collaboration to pursue its political objectives. White House Officials, for instance, recognized that the National Industrial Pollution Control Council (NIPCC) could effectively allow them to appear superficially responsive to the business community, while largely ignoring their substantive concerns. In their view, the NIPCC, established in 1970 "as a means for focusing the efforts of and tracking the impact on the business community of the emerging environmental regulations" had "performed a useful safety valve function." More crudely, as one Nixon advisor wrote in response to a request by the NIPCC to meet with the president, "[T]he function of NIPCC, as we have discussed, is in my view to keep these guys off the backs of the President and his staff, not to waste the President's time."[88] Even the consistently pro-business Commerce Department considered the NIPCC to be merely a showpiece of business-government interaction. NIPCC, in its view, was designed only to "give the business community a feeling of participation in the development of matters relating to them."[89]

The Business Council — established within the Commerce Department by Franklin D. Roosevelt and spun off as an independent advisory board during the Kennedy Administration — represented another possible vehicle for similar objectives.[90] In late 1969, for instance, Flanigan reported to the President that he and Fred Borch, chairman of the Council and General Electric (and later an influential founding member of the Business Roundtable), had "developed a program that could result in our using...the Business Council to indicate the strong approval of the Administration's program by the business community."[91] As had become routine, however, Colson later complained that even the Business Council was insufficiently supportive of the

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[86] Flanigan to Nixon, March 22, 1971, "Our Relations to the Business Community," folder EX BE 4 Industry [3 of 7] February 1970-March 1971, Box 29, WHCF, BE, RNPL.

[87] Flanigan to Clark MacGregor, July 17, 1972, "folder EX BE 4 Industry [6 of 7] 1972," Box 30, WHCF, BE, RNPL.

[88] Fairbanks to Cole, January 8, 1973, folder "National Industrial Pollution Control Council (NIPCC) [from CFOA 774]," Box 143, WHCF, SMOF, Whitaker, RNPL. By 1973, however, the White House was in the process of considering whether the NIPCC had outlived its mandate, suggesting that the organization had "contributed little of substance." Fairbanks to Tod Hullin, January 4, 1973, folder "National Industrial Pollution Control Council (NIPCC) [from CFOA 774]," Box 143, WHCF, SMOF, Whitaker, RNPL.

[89] Flanigan to Connally, April 2, 1971, folder "EX BE Business-Economics [4 of 13] January-June 197," Box 1, WHCF, BE, RNPL.

[90] Waterhouse, *Lobby for Capital*, 21.

[91] Flanigan to Nixon, October 4, 1969, folder "Business Advisory Council [1 of 2]," Box 1, WHCF, FG 85 (Business Advisory Council), RNPL.

Administration. He told Flanigan that "our friends on the Business Council are continuing to dump all over us at every opportunity" and suggested that the two men needed "to do something to get these fellows on the track."[92]

Using Business: The American Enterprise Institute

Beginning with the president himself, officials in the Nixon White House also viewed business as an instrument for financing pet political causes — in particular, the development of AEI as a full-fledged counterweight to the liberal Brookings Institution.[93] According to Nixon, "most liberal legislation first sees the light of day [at] Brookings"; accordingly, Republicans needed their own academically respected source of policy and analysis and development.[94] Moreover, senior officials in the Administration — echoing concerns raised by soon-to-be Supreme Court Justice Lewis F. Powell, Jr. in his well-known memorandum to the Chamber of Commerce — believed that the business community was insufficiently involved in the process of nationwide idea generation. As Colson expressed the issue to the President, businessmen simply did not recognize the urgent need for "an independent, intellectual resource committed to our philosophy of government with strong ties to the academic world."[95] Articulating a similar point of view, Council of Economic Advisors (CEA) Chairman Paul McCracken, told the Business Council on June 23, 1972 that the business community took "far too myopic a view of the processes of idea-generation and public policy." In his view, it was "simply not good for our society that so important a group continue such underparticipation in the idea-policy process."[96]

"Massive business support" for AEI was required if the institute was to serve as a

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[92] Colson to Flanigan, February 18, 1972, folder "Business Advisory Council [2 of 2]," Box 1, WHCF, FG 85 (Business Advisory Council), RNPL.

[93] Nixon's instrumental role in AEI's development has largely been missed by prior scholars, who, like Kim Phillips-Fein, suggest that business's concerns about threats to the "free enterprise system" led them directly into the arms of men like Baroody. *See, e.g.,* Phillips-Fein, *Invisible Hands,* 173. The Nixon White House's dissatisfaction with Brookings was such that, by late 1972, Chuck Colson would order, ""We are to send no one to Brookings, we are to allow no one to go to Brookings, no Administration speakers or spokesmen at any level, no participants in any seminars, meetings, or anything of the kind. Put the total embargo on hard…!" Colson to Pat O'Donnell, November 16, 1972, "Colson, Charles - Pending (1)," Box A131, Laird Papers, GRF.

[94] Flanigan to Stans, February 16, 1970, folder "[Stans, Maurice Memoranda] [Apr. 1969-Dec. 1971] [1 of 2]," Box 10, WHSF, SMOF, Peter M. Flanigan, RNPL; Flanigan to Chapin, January 12, 1970, folder "EX BE Business-Economics [2 of 13] January-June 1970," Box 1, WHCF, BE, RNPL. Baroody's oldest son, William Jr., was then an assistant in Laird's Defense Department. Beginning in 1973, he would serve as the business liaison for the Nixon and Ford Administrations. *See* Cole to Booth, February 27, 1973, folder "Chron File February 1973 (3) (CFOA 1035)," Box 8, WHCF, SMOF, Kenneth R. Cole, RNPL.

[95] Colson to Nixon, June 11, 1970, folder "American Enterprise Institute - III [1 of 2]," Box 32, WHSF, SMOF, Colson, RNPL.

[96] McCracken, "From Ideas to Public Policy," Paper presented at the Business Government Relations Council, Homestead, Hot Springs, West Virginia, June 23, 1972, folder "EX BE Business-Economics [10 of 13] July-December 1972," Box 2, WHCF, BE, RNPL. McCracken served on AEI's board for decades and was a close personal friend of Baroody's. McCracken further suggested that business leaders should push their counterparts in academia on issues of intellectual balance and fairness, encouraging businessmen to ask whether university departments were "reasonably balanced in terms of the various pertinent schools of thought or points of view."

"counter-balance" to Brookings. As part of that effort, Nixon delegated Defense Secretary Melvin R. Laird to speak with GE Chairman Fred Borch, whose allies within the business community agreed "to put together a strong financial supporting group for AEI."[97] The ad hoc group of businessmen identified Harold Boeschenstein, then-Chairman of Owens-Corning Fiberglass, as the right man to head their venture.[98] Each member of the group was expected to contribute at least $10,000 to AEI on an annual basis.[99] As with other issues requiring business support, the Administration used meetings of the Business Council to prod Borch to expedite the business-AEI alliance.[100]

The Administration, however, soon grew disaffected with the pace of Boeschenstein's activity. In the White House's view, Boeschenstein was "typical of most businessmen," who "look[] upon A.E.I. as simply another business oriented 'Chamber of Commerce' type organization."[101] Colson was particularly concerned that businessmen identified AEI too closely with the "Goldwater wing of the party." He believed, however, that he and others working on Nixon's behalf could remove the "earlier Goldwater stigma" through their own increasingly close association with Baroody and AEI.[102] As a result, Nixon requested that John Swearingen, then-chairman of Standard Oil of Indiana, replace Boeschenstein as head of the ad hoc group of businessmen.[103] Swearingen was a particularly appealing bridge because of his position in the oil industry: in addition to his role at Standard Oil, he was Chairman of the Special Services Committee of the American Petroleum Institute (API), of which the chief executives of all the

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[97] Flanigan to Chapin, January 12, 1970, folder "EX BE Business-Economics [2 of 13] January-June 1970," Box 1, WHCF, BE, RNPL.

[98] Flanigan to Stans, February 16, 1970, folder "[Stans, Maurice Memoranda] [Apr. 1969-Dec. 1971] [1 of 2]," Box 10, WHSF, SMOF, Peter Flanigan, RNPL. The group included U.S. Steel's Roger Blough, George Champion, former Chairman of Chase Manhattan, Michael Haider, Chairman of Standard Oil of New Jersey, Al Nickerson, Chairman of Mobil, and Birny Mason, Chairman of Union Carbide. Undated notes, July 1969 [? from folder title], Folder 5, Box 60, Baroody Papers, LOC.

[99] Hofgren to Haldeman, February 13, 1970, folder American Enterprise Institute - III [2 of 2], Box 32, WHSF, SMOF, Colson, RNPL. Boeschenstein, Borch, and McCracken met with Roger Blough, then-head of U.S. Steel and a future founding member of the Business Roundtable, Henry T. Bodman, then-head of the National Bank of Detroit, who remained an actively involved with AEI and the Hoover Institution, George Champion, chairman of the Chase Manhattan Bank, and Thomas S. Gates, Jr., who had served as Eisenhower's Secretary of Defense and later became CEO of J.P. Morgan. Boeschenstein to Blough, Bodman, Champion, Gates, and Russell, January 23, 1970, folder Links Club - A.E.I. 1-29-70, Box 21, WHCF, SMOF, McCracken, RNPL.

[100] Colson to Haldeman, Jun 15, 1970, folder HRH Memos 1969-1970 (COMPLETE) III [3 of 4], Box 2, WHSF, SMOF, Colson, RNPL.

[101] Colson to Harlow, enclosing draft memorandum to the President, May 19, 1970, folder American Enterprise Institute - III [1 of 2], Box 32, WHSF, SMOF, Colson, RNPL.

[102] Colson to Harlow, enclosing draft memorandum to the President, May 19, 1970, folder American Enterprise Institute - III [1 of 2], Box 32, WHSF, SMOF, Colson, RNPL.

[103] Colson to Sohmer, September 22, 1970, folder American Enterprise Institute - III [1 of 2], Box 32, WHSF, SMOF, Colson, RNPL. Hofgren to Colson, March 3, 1970, folder American Enterprise Institute - IV [1 of 2], Box 32, WHSF, SMOF, Colson, RNPL.

major American oil companies were members.[104] Working with AEI's Baroody, Swearingen developed "territorial boundaries for each of [the] committee members," identifying the geographical areas in which each member was to contact business executives.

Leading Administration figures, including Laird, McCracken, Federal Reserve Chairman Arthur Burns, and former senior White House aide Bryce Harlow continued their involvement in fundraising for AEI: Laird, for instance, held a fundraising lunch at the Pentagon in mid-July, 1971 for approximately a dozen executives. For his part, Colson kept Haldeman apprised of Swearingen's fundraising activities.[105] By the end of 1970, the Nixon Administration had helped commit a combination of businessmen and foundations, including Swearingen's Standard Oil of Indiana and J. Howard Pew, to providing over $2 million per year to AEI, more than doubling AEI's operating budget.[106] The connection between AEI and Swearingen bore further fruit several years later, when Baroody used Swearingen's assistance to house a research project on energy at API.[107] Moreover, Swearingen and other businessmen affiliated with the project sought to promote the White House's involvement in their communications with other interested parties. Swearingen's standard solicitation letter, for instance, noted that he "became interested in the American Enterprise Institute several years ago at the request of President Nixon." Reflecting Nixon's political approach, Swearingen added that AEI "has done some very worthwhile things to help combat the ultra-liberal, big-government oriented people who guide much of academic thought and fill many influential posts in in government."[108]

In sum, the organized business community found itself at best a junior partner in the Republican coalition, a resource to be tapped when Republican officeholders required either financial or communications-related assistance. In part because business groups lacked a credible exit strategy from the Republican coalition, their views were frequently minimized by senior-level White House officials. The next section of this chapter explores the consequences of this captured status, highlighting Nixon's efforts to expand his coalition and Nixon's policymaking efforts.

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[104] Indeed, the Administration sought to take full advantage of Swearingen's professional network. In early 1970, for instance, a member of Flanigan's staff had organized a set of meetings with other executives at Standard Oil to discuss support for AEI within the oil industry.

[105] Colson to H.R. Haldeman, September 16, 1970, folder "American Enterprise Institute - III [1 of 2]," Box 32, WHSF, SMOF, Colson, RNPL; Baroody to Swearingen, November 16, 1971, Folder 9, Box 60, Baroody Papers, LOC; Swearingen to Baroody and Colson, October 13, 1970, Folder 3, Box 63, Baroody Papers, LOC. Colson was also concerned about possible alternatives to the business-AEI alliance, including an initiative by the National Industrial Conference Board, run by future NAM president Alexander B. Trowbridge, to obtain "corporate and foundation funding for a long range study on what the goals of the United States should be." Colson believed that this initiative would conflict with "and certainly compete[] for dollars with AEI," and, therefore, should be stopped if at all possible. Colson to Stans, January 22, 1971, folder American Enterprise Institute — 1971, Box 32, WHSF, SMOF, Colson, RNPL.

[106] Colson to Haldeman, December 30, 1970, folder American Enterprise Institute — 1971, Box 32, WHSF, SMOF, Colson, RNPL.

[107] Phillips-Fein, *Invisible Hands*, 174.

[108] Swearingen to W. Clement Stone, October 6, 1972, Folder 10, Box 56, Baroody Papers, LOC.

Substantive Consequences

Business's structurally weakened position within the Republican coalition meant that Nixon and his senior political staff were free to shop for additional coalition partners. Chief among these were certain components of the organized labor movement, including specific unions — the Teamsters and building trades unions, in particular — and specific labor leaders, including AFL-CIO head George Meany, New York construction union chief Peter Brennan, and Teamsters leader Frank Fitzsimmons, whom Nixon Administration officials assiduously courted and cultivated.[109] As Nixon himself instructed Colson, "I think it is very important that we get across to the leaders of the labor movement; particularly in the construction trade, the Teamsters, etc., who are our friends, the fact that RN is with them all the way and is going to do everything he can to find a way to help them."[110] Colson responded by telling the president that "our friendships in the labor movement are as good today as ever." He indicated, however, that he was "trouble[d]" by the "lack of communication" between Nixon and Meany and suggested that he would shortly have a recommendation for the President "on a meeting with Meany simply so that he understands that the door remains open."[111] Even after the 1972 election, Nixon indicated that he wished "during the course of the coming year, to speak at some good labor events." He believed that doing to was "important symbolically."[112] When confronted by business groups about these overtures, we will see that the Nixon White House provided limited reassurance about their political and policy-related consequences.

Nixon and Labor

The Administration centered its efforts to attract organized labor around the ideal of the "workingman," particularly workers within the construction industry. Bolstered by violent "hardhat" antagonism to anti-war street protests in New York, staff members, Colson chief among them, strongly pushed the proposition that this demographic could be moved from the Democratic to the Republican column, creating what came to be known as the "New Majority."[113] In Colson's words, "I cling to the proposition that the hardhats are an important part of our political coalition."[114] Colson was also willing to live with the political consequences of appealing to rank-and-file union members, including criticism by organized business interests. In his view, "The American working man represents the strength and character of this country.

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[109] For an excellent overview of Nixon's overtures to organized labor, *see* Cowie, *Stayin' Alive*, 125-166.

[110] Nixon to Colson, March 8, 1971, folder "Memorandums for the President II [2/70-1/24/72] [4 of 4]," Box 1, WHSF, SMOF, Colson, RNPL.

[111] Colson to Nixon, March 15, 1971, folder "Memorandums for the President II [2/70-1/24/72] [4 of 4]," Box 1, WHSF, SMOF, Colson, RNPL.

[112] Colson to Parker, November 16, 1972, folder "Dave Parker [1972]," Box 11, WHSF, SMOF, Colson, RNPL.

[113] *See, e.g.,* Colson to Haldeman, September 14, 1970, folder "Hodgson/Usery/Colson Mtg. With President, Nov. 23, 1970, 3:30pm," Box 22, WHSF, SMOF, Colson, RNPL. On the protests, *see* Cowie, *Stayin' Alive*, 135-136.

[114] Colson to Haldeman, April 7, 1971, "folder HRH Memos III [12/19/70-6/30/71] [2 of 3]," Box 4, WHSF, SMOF, Colson, RNPL.

This President, regardless of what the business community urges, what the polls show, or what Republican orthodoxy would dictate, is not going to do anything that undermines the working man's economic status."[115] He reminded Haldeman that "Labor should not be written off. Anything can happen, George Meany might die, the Democrats might nominate McGovern, even Kennedy could be vulnerable with labor."[116]

The Nixon-Labor alliance extended beyond mere symbolism and into to the realm of policy and consultation, with important consequences for organized business. Senior Administration officials were typically responsive to the complaints raised in informal meetings by Meany and other labor leaders. When Meany expressed disapproval of family policy legislation (the Family Assistance Plan), Colson wrote to Haldeman that the legislation was "counter productive politically to our efforts with the average middle-class working man and the labor movement. I think in this area Meany's personal feelings are particularly significant." Although he realized the administration couldn't "abandon" its support for the legislation, Colson believed they should "soft pedal" their position.[117] Similarly, in response to a presidential request from December 15, 1970, Flanigan institutionalized regular meetings between Meany and CEA Chairman Paul McCracken in order to "keep George Meany apprised of the Administration's economic views and to give him an opportunity to express his opinions to our economic advisors."[118] The White House even pushed business leaders "to turn off their anti-labor legislative campaign," a particular point of concern for the President himself in the months before the 1972 elections.[119] Given the centrality of anti-labor initiatives for business groups, this move reflects the relative (if temporary) weight of organized labor within the Nixon White House. Nixon's attention to organized labor also helps to explain the politics underlying the passage of the Occupational Health and Safety Act of 1970: as Charles Noble argues, "support for OSHA...could contribute the pursuit of working-class votes; it could symbolize the administration's concern for the 'silent majority.'"[120]

These initiatives were, unsurprisingly controversial, particularly after the 1970 midterm elections, in which organized labor gave Nixon's congressional allies a serious public

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[115] Colson to Bell, July 26, 1971, folder "George Bell 1970-71 [II] [1 of 2]," Box 5, WHSF, SMOF, Colson, RNPL.

[116] Colson to Haldeman, November 4, 1971, folder "HRH Memos June-December 1971 I [3 of 4]," Box 3, WHSF, SMOF, Colson, RNPL.

[117] Colson to Haldeman, October 7, 1970, folder "HRH Memos 1969-1970 (COMPLETE) II [3 of 4]," Box 2, WHSF, SMOF, Colson, RNPL.

[118] Flanigan to Nixon, January 13, 1971, folder "Labor Campaign II [2 of 3]," Box 71, WHSF, SMOF, Colson, RNPL; *see* Haldeman to Flanigan, December 15, 1971, folder "Labor Campaign II [2 of 3]," Box 71, WHSF, SMOF, Colson, RNPL.

[119] Colson to Cashen, April 3, 1972, folder "Henry Cashen, Memos For [2 of 2]," Box 6, WHSF, SMOF, Colson, RNPL; Colson to Cashen, March 31, 1972, folder "Henry Cashen, Memos For [2 of 2]," Box 6, WHSF, SMOF, Colson, RNPL.

[120] Charles Noble, *Liberalism at Work: The Rise and Fall of OSHA* (Philadelphia: Temple University Press, 1986), 90.

challenge.[121] One Nixon aide argued that "it was a mistake for the Administration to woo the leaders or organized labor...We had a big Labor Day dinner for them and in other ways sought their favor. In return, they went out and bludgeoned us with rhetoric and money spent for the opposition."[122] Another echoed similar concerns: "*Politically*, the leaders of organized labor have *not* been friends of this Administration, and this hostility is likely to be even more pronounced in the two years leading up to the next presidential election." He suggested, instead, that Nixon could do more to support business's mobilization efforts and, in particular, emphasized the potential role of BIPAC. Again emphasizing the perceived lack of business political clout, the memo concluded, "The Administration could lend its quiet support to a little noticed but increasingly effective effort to elect business-oriented candidates to Congress. The Business-Industry Political Action Committee, an answer to COPE, is one effort."[123] These critiques of Nixon's overtures to the organized labor movement highlighted the importance of remaining close to Republicans' "traditional constituency," by taking a "more antagonistic stance towards organized labor."[124]

As we would expect given the anti-union political orientation of these traditional constituencies, the Administration's allies within the organized business community criticized these efforts to move closer to organized labor. These complaints suggest that business leaders chafed at their position within Nixon's political coalition — mere spectators observing the potential alliance between Nixon and Labor unfold. They also, however, reflect the modest expectations of organized business groups, given their limited influence within the Republican fold. In mid-1971, Colson told then-OMB Director George P. Shultz, "The Chamber of Commerce people called me today to urge that if the President was to see Meany as the [Washington] Post reported business should also get 'equal time.'" The essence of the Chamber's complaint was that business was being treated unequally — that the Nixon Administration seemed "to be catering to the enemy and those who are loyally supporting us have not been consulted." Nixon's chief liaison to the business community simply noted that he had attempted to reassure the Chamber that its concerns would be balanced with those of organized labor: "I explained...that I was sure that the President would be evenhanded in his relations with both business and labor."[125]

Even these relatively muted entreaties did not sway the president: after "decisively" siding with Colson's "hardhat" strategy in the summer of 1971, Nixon would ultimately credit

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[121] See Cowie, *Stayin' Alive*, 146.

[122] Keogh to Shultz, December 4, 1970, folder "Labor Campaign [I] [1 of 2," Box 71, WHSF, SMOF, Colson, RNPL.

[123] Unsigned memorandum, November 30, 1970, forwarded to Hodgson, Shultz, and Colson by John R. Brown, December 4, 1970, folder "Labor Campaign [I] [2 of 2," Box 71, WHSF, SMOF, Colson, RNPL, emphasis in the original.

[124] Walker to Nixon, cited in Cowie, *Stayin' Alive*, 146.

[125] Colson to Shultz, August 30, 1971, folder "EX BE Business-Economics [7 of 13] August-October 1971," Box 2, WHCF, BE, RNPL.

that strategy with his electoral landslide in his 1972 campaign against George McGovern.[126] And, as we will see, even when the Nixon Administration did begin to pay more attention to business's policy priorities — particularly on environmental and workplace regulation — business's gains were more attributable to the missteps of their opponents than to any new pressure tactics the business community had developed.

Changing Policy Priorities

In late 1969, like many of his colleagues in the White House, Whitaker, Nixon's chief domestic policy advisor on the environment, had clearly spoken out in favor of environmental regulation, identifying that issue as the "largest issue in the nation," after "Vietnam and inflation."[127] By the middle of 1971, however, Whitaker had begun to equivocate, openly questioning his earlier certainty about the merits of environmental regulation and, in particular, highlighting the limited political gains the Nixon Administration had been able to derive from their pro-regulation policies. "There is a wide presumption that the environment is a very important issue," he stated in a memorandum to several colleagues, including Ehrlichman and Flanigan. "Does the data enclosed or other data you can supply *objectively* support this conclusion. [sic] If the environment is an issue, can you quantify it? For example: (a) Is there a particular block of voters the issue appeals to?"[128]

Whitaker's apparent change of heart mirrored a growing attentiveness within the Administration to the regulatory concerns of the business community. In the aftermath of a meeting on April 12, 1971 between Nixon and Commerce Secretary Maurice H. Stans regarding "areas of Government activity which caused business to feel it was being harassed," Nixon personally directed "that action be taken to reduce any such harassment." Flanigan, in turn, served as Nixon's emissary within the White House, telling key officials of the President's desire that 'business not be made a whipping boy," instructing them to including adopt a "less antagonistic attitude toward business," and suggesting that they give "more consideration to economic impact" in their actions." Overall, Flanigan's message was simply: agency heads were to 'appear,' ad [sic] well as 'be' reasonable with regard to business."[129]

EPA Administrator Ruckelshaus and Russell Train, chairman of the President's Council on Environmental Quality (CEQ), were particular targets of the initiative to reduce what business believed constituted "harassment." Colson indicated to Ehrlichman that the business allies of the

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[126] Cowie, *Stayin' Alive*, 148, 161.

[127] Whitaker to Nixon, November 26, 1969, folder "[Possible President's Message on the Environment] [from OA 3872]," Box 62, WHCF, SMOF, Whitaker, RNPL, emphasis in the original

[128] Whitaker to Ehrlichman, Flanigan, Cole, Ruckelshaus, and Train, May 12, 1971, folder "Environment, General — 1971 [from OA 8142] [2 of 3]," Box 59, WHCF, SMOF, Whitaker, RNPL, emphasis in the original.

[129] Flanigan to Staff Secretary, June 7, 1971, folder "EX BE 4 Industry [4 of 7] April-July 26, 1971," Box 29, WHCF, BE, RNPL. Flanigan met with, among others, Attorney General John Mitchell, Environmental Protection Agency (EPA) Administrator William Ruckelshaus, Equal Employment Opportunity Commission (EEOC) Chairman William Brown, the White House's consumer representatives, Virginia Knauer.

Administration had become increasingly disaffected with Ruckelshaus, who had been "totally inaccessible" to industry. He suggested that Ruckelshaus would "have to get the cooperation of industry to do his job effectively" and that the Administration did not "need any more irritants with the business community." Ehrlichman, Colson believed, should "talk to Ruckelshaus with a view to being sure that he gains the confidence of industry — and that our policies appear, at least to be administered even-handedly."[130] Later, Whitaker echoed Colson's concerns, telling Ehrlichman that it would be a good idea for Ruckelshaus to meet with the President for an attitude adjustment.[131] Likewise, motivated by feedback he had receive from organized business interests, Flanigan also recommended to Ehrlichman that he speak with Ruckelshaus upon his return from an August vacation.[132] Ruckelshaus got the message. "From time to time now," Ehrlichman later told the president, "you will be noticing Bill Ruckelshaus saying a number of things designed to sock the consumers into a realization that the cost of the environment will be very high and that the air quality laws are very impractical."[133]

Ehrlichman's communication with Nixon reflects the White House's adoption of the language of cost-benefit analysis of regulatory impact, which it would later institutionalize. In a speech before the National Petroleum Council, Commerce Secretary Stans gave voice to this recalibration of the balance between the political and economic benefits of regulation against its costs. He told his audience, "We cannot have single track minds in which the environmental issue overrides everything...We need to weigh environmental goals against economic reality and say: 'Wait a Minute, how do the benefits compare with the costs?'" Stans concluded with a core question: "[H]ow do we develop public and private policies in which economics and technology are factored into every environmental assessment?"[134]

This change in emphasis from the benefits to the costs of regulation did not stem from renewed recognition of business's role as a core coalitional partner for the White House.[135]

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[130] Colson to Ehrlichman, February 17, 1971, folder "Environmental Protection Agency, 1971 [from OA 8143] [1 of 4]," Box 64, WHCF, SMOF, Whitaker, RNPL.

[131] Whitaker to Ehrlichman, September 1, 1971, folder "Environmental Protection Agency, 1971 [from OA 8143] [4 of 4]," Box 64, WHCF, SMOF, Whitaker, RNPL.

[132] Flanigan to Ehrlichman, August 6, 1971, folder "EX FG 298 Environmental Protection Agency 11/1/71-[1972, Folder 1 of 3]," Box 1, WHCF, FG 298 (Environmental Protection Agency), RNPL.

[133] Ehrlichman to Nixon, March 1, 1973, folder EX FG 298 Environmental Protection Agency 1/1/73-4/30/73, Box 2, WHCF, FG 298, RNPL.

[134] "Wait a Minute," address delivered before the 25th Anniversary Meeting of the National Petroleum Council, July 15, 1971, folder Quality of Life [from CFOA 769] [1 of 3], Box 146, WHCF, SMOF, Whitaker, RNPL.

[135] To some extent, the Administration internally denied that anything had changed at all. Administration officials articulated the view that the Administration had always been committed to a moderate position on issues of social regulation, one that struck a balance between business interests and the environmental and consumer movements. Even in the face of economic crisis, White House aids claimed that Nixon's core approach to balancing business and other interests remained one of fundamental "ambivalence." Whitaker told Nixon, "From the beginning, or strategy has been to move well out in front on the issue while attempting to avoid the radical 'economy-be-damned' approach of environmental advocates like Muskie." Whitaker to Nixon, November 20, 1972, folder "Chron File: December 1972 (CFOA 1035)," Box 8, WHCF, SMOF, Cole, RNPL.

Indeed, the Nixon Administration continued to identify ways to publicize its regulatory efforts. In the early spring of 1972, for instance, Whitaker suggested that the signing of environmental legislation — in his words, "whichever environmental bill is first sent down for signature" — could provide an opportunity for the Administration either to "encourage the Congress to act on the other twenty-odd [bills] still on their agenda" or to "escalate the rhetoric and box [Congress] around more directly for their inaction."[136]

Instead, in another consequence of business's captured position, the White House's tack toward a more anti-regulation position was based, in part, on a perception — held by the president himself — that the Administration's efforts to win over non-traditional potential coalitional partners had failed to reap the promised political benefits.[137] As Haldeman told Ehrlichman and Whitaker in late July of 1971, the president "wants you to know that he is deeply troubled because he feels that he's been sucked in too much on issues such as welfare, the environment and the consumer issue. He feels we now have him in a position where he doesn't feel comfortable. We need to get into his speeches more of a sense of conviction; not just mouthing what the liberals want to hear."[138] Nixon felt particular sympathy with a critique expressed by Tom Shepard, publisher of *Look* magazine, of the United States as it entered the "Ding-a-Ling era": a period driven by the "common premise that [the country] is in bad shape morally and physically, that things are getting worse, that Big Business is the chief culprit and that, unless the Establishment is overturned and drastic reforms instituted , we are all doomed."[139]

Nixon and his aides were disappointed with the reception they had received from environmentalists and those at the forefront of the consumer movement. Although the president had been given credit on some environmental issues, including his actions after a high-profile oil spill off the coast of Santa Barbara, California in 1969, other decisions had cut the other way in the view of those committed to environmental preservation and conservation. Whitaker warned the president that the "vocal environmentalists" would "never be satisfied." In his view, "[T]heir job depends on trying to get ever more concessions to their viewpoint," and, consequently, " a stance of reason and moderation on this issue comes out looking negative." As was typical of

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136 Whitaker to Train, March 24, 1972, folder Legislation — General [from CFOA 773] [2 of 3], Box 140, WHCF, SMOF, Whitaker, RNPL.

137 Other relevant causes included critiques by respected economists of cost-independent regulation, as well as later economic shocks, including the 1973 oil embargo. Administration officials later acknowledged that they had not fully anticipated the implications of social regulatory legislation, particularly on the environment. As Bryce Harlow told Sen. Barry Goldwater (R-AZ), "It is obvious that the full implications of the Clean Air Act, including such considerations as economic and social impact or dispersion of responsibilities among levels of government, were unseen, or at least not clearly foreseen, when the Act was passed. Some of its requirements, particularly as interpreted by the courts, just can't be achieved." Harlow to Goldwater, January 25, 1974, folder "EX FG 298 1/1/74-5/30/74," Box 2, WHCF, FG 298, RNPL.

138 Haldeman to Ehrlichman and Whitaker, July 30, 1971, folder "Tom Shepard Article — Look [from OA 8146] [2 of 2]," Box 103, WHCF, SMOF, Whitaker, RNPL.

139 Thomas R. Shepard, Jr., "The Ding-a-Ling Era," speech given before the Rotary Club of Chicago, The Sherman House, Chicago, Illinois, July 20, 1971.

Administration officials, Whitaker partly blamed the "liberal-dominated press," which was "inherently suspicious" of Nixon. The media, Whitaker suggested, was

> enthralled by the vocal minority of environmental activists who seek to whipsaw the Administration by saying that the forceful, positive things that have been accomplished — which even they cannot deny — are the product of a small band of 'white hats' (basically Ruckelshaus and Train) within the Administration. They then try to show that these forces of enlightenment are being undercut by you and your staff (and Maurice Stans), who are more interested in making sure business turns a profit than in getting on with the job of cleaning up the environment.[140]

Disappointed by a lack of results from their effort to court new partners for their coalition, the Nixon White House was forced to attend — to a slightly greater extent — to an old ally, organized business interests.

Accordingly, by the summer of 1971, the Administration had begun to institutionalize the new politics of cost-benefit analysis, a process that would be continued by Nixon's successors — both Republican (Ford and Reagan) and Democratic (Carter).[141] At that time, CEA Chairman McCracken led a study designed to "estimate the economic impact of pollution control." McCracken, on leave from the University of Michigan, where he was a professor of business administration believed that his study, reflecting a broad academic consensus, would assist the Administration in assessing the "cost impacts" of federal pollution regulations "on particular segments of the economy."[142] As a follow-up to McCracken's study, Nixon personally "asked that an analysis be made of the effects of each environment bill submitted by the Administration on the economy."[143] Within Ehrlichman's Domestic Policy Council, aides were working on a set of institutional tools that would broaden McCracken's study of pollution regulations into a full-blown effort to ensure that the costs and the benefits of regulation would be taken into account in the course of agency decision-making. They called this effort the "Quality of Life" review. Applied to decisions "involving public health, safety, consumer interests, or the environment," the process was designed to make sure that agency decision-making relating to these matters "reflects systematic and explicit consideration of a number of issues (e.g., costs, distribution of costs, benefits expected from the policy versus hazard of delaying or not following the policy,

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[140] Whitaker to Nixon, December 3, 1971, folder "The Environmental Issue — Presidential Involvement [from CFOA 770]," Box 133, WHCF, SMOF, Whitaker, RNPL.

[141] For a general overview of the history cost-benefit analysis of regulation in these four administrations, *see* Christopher M. Heimann, et al., "The Impact of Cost Benefit Analysis on Federal Administrative Law," *Administrative Law Review*, Vol. 42, No. 4 (Fall 1990), 545-654.

[142] McCracken to Whitaker, Train, Ruckelshaus, Stans, and Rice, August 9, 1971, folder Quality of Life [from CFOA 769] [1 of 3], Box 146, WHCF, SMOF, Whitaker, RNPL.

[143] Cole to Whitaker, August 10, 1971, folder Quality of Life [from CFOA 769] [1 of 3], Box 146, WHCF, SMOF, Whitaker, RNPL.

alternatives and their consequences) in addition to usual programming considerations."[144] Authority for Quality of Life review was assigned to the Office of Management and Budget (OMB), which wasted little time notifying Ruckelshaus of its new capacities.[145]

The White House was internally blunt about the purpose of the Quality of Life review process, noting that even the very name represented "a euphemism for ensuring that economic, social and technological data are factored into the environmental decision-making process — is being used for every major environmental regulatory decision."[146] Whitaker indicated that its purpose was "to both improve...decision making by assuring that we have the factual basis for realistic cost/benefit analysis, and to identify what types of legislative or administrative action may be required to soften any dislocations within the economy."[147] In short, the Administration was attempting to use the quality of life review process to "force a broader economic and technological overview of EPA decisions than they were being accorded in house."[148]

Limitations: Adversarial Legalism

This effort to roll back the excesses of the dramatic regulatory changes that had taken place in the early years of the Nixon Administration notwithstanding, business's captured position meant that it could not capitalize on the White House's dissatisfaction with its potential consumer- and environment-oriented allies. These groups had come to depend on the use of private enforcement litigation — the practice of relying on private lawsuits (or the threat of private lawsuits) by private parties to enforce federal statutes — as a critical tool. Consequently, meaningful limits on the use of private enforcement litigation would have dealt a serious blow to business's adversaries. Despite its increasing opposition to the use of private enforcement litigation, however, organized business was largely unable to prevent its expansion under Nixon.

As Sean Farhang has argued, business groups and their Republican allies historically preferred that regulatory enforcement be carried out at the judicial, rather than the administrative,

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[144] Memorandum, Domestic Policy Council, August 12, 1971, folder Quality of Life [from CFOA 769] [1 of 3], Box 146, WHCF, SMOF, Whitaker, RNPL.

[145] Edward E. David, Jr. to Nixon, draft memorandum, September 20, 1971, folder Quality of Life [from CFOA 769] [1 of 3], Box 146, WHCF, SMOF, Whitaker, RNPL.

[146] Whitaker to Nixon, December 3, 1971, folder The Environmental Issue — Presidential Involvement [from CFOA 770], Box 133, WHCF, SMOF, Whitaker, RNPL.

[147] Whitaker to Cole, August 5, 1971, folder Quality of Life [from CFOA 769] [1 of 3], Box 146, WHCF, SMOF, Whitaker, RNPL.

[148] Fairbanks to Stan Anderson, December 7, 1972, folder Environmental Protection Agency [from COA 771] [1 of 7], WHCF, SMOF, Whitaker, RNPL.

level.[149] Business groups also tended to view the legal system as a hedge against traditional regulatory efforts.[150] Nevertheless, by mid-1970, organized business interests had begun to communicate their opposition to further private litigation to their allies in the Nixon White House. Business groups had increasingly come to believe that private enforcement litigation represented a trojan horse out of which cascading threats to business might emerge. In particular, they hoped to use their agreement not to oppose cease-and-desist authority for the EEOC (which they believed would pass anyway) in exchange for concessions on other issues relating to the use of litigation in pursuit of employee rights — particularly class action suits. As one aide told Ken Cole, Ehrlichman's deputy, "The provisions for class actions in Title VII are a source of serious irritation for the business community." Highlighting a concern about the elasticity of the process of legally defining a class, he added, "If it were not feasible to eliminate class actions, it would be desirable to modify existing provisions to ensure at the outset of litigation that the 'affected class' on whose behalf a suit is brought is specifically defined." Indeed, if cease-and-desist was to be a political reality, business groups believed that the EEOC, with its new power to issue cease-and-desist orders, "should be made the exclusive mechanism for enforcing Title VII rights. At the very least, there should be a provision eliminating the possibility of private suits where a complainant chooses to go the EEOC route." The goal was to "minimize harassment and multiplicity of law suits."[151]

Business also sought modifications in the NEPA, which had quickly become a formidable tool of environmentalists. The American Petroleum Institute (API), for instance, was concerned about the breadth of the NEPA's language, focusing here on the statute's requirement that federal agencies generate an environmental impact statement when issuing new rules. This breadth had meant that "necessity" for an environmental impact statement "must be determined on a case-by-case basis through the judicial process." The result, the group anticipated (correctly, in

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[149] On the issue of whether the Equal Employment Opportunity Commission (EEOC) would be granted so-called "cease-and-desist powers," — that is, the power to open and pursue its own investigations and administrative trials — conservative opposition was motivated by a view that bureaucratic enforcement agencies would be hostile to business interests. Agencies were typically biased against business in large part because they tended "to favor one or another of the groups whose interests are protected by their statute," including labor unions or racial minorities, as then-Assistant Attorney General William H. Rehnquist wrote in a memorandum to Attorney General Richard D. Kleindienst. In Rehnquist's view, "Administrative agencies are inferior to courts as finders of fact. They lack objectivity." And, he continued, "There is reason to believe this would be particularly true of EEOC." William H. Rehnquist to Richard G. Kleindienst, undated memorandum, folder EEOC [Equal Employment Opportunity Commission], Box 33, WHSF, SMOF, Dean, RNPL.

[150] Considering potential workplace safety regulation, for instance, one high-ranking Chamber official mused, "If legislation of the type under consideration is adopted, such questions as the number of hours that employees may work, the qualifications required of employees who perform specific tasks, and the size of work crews could very well become matters of regulation. Consequently, if any legislation is adopted, extensive due process and fair hearing requirements must be included in order to prevent abuse." Memorandum, Anthony J. Obadal, U.S. Chamber of Commerce, April 7, 1970, folder US Chamber of Commerce, Box 118, WHSF, SMOF, Colson, RNPL.

[151] Silberman to Cole, April 6, 1971, folder Equal Employment Opportunity, Box 63, WHCF, SMOF, Timmons, RNPL. Officials within the Administration disagreed about whether cease and desist was a fait accompli in the legislature, especially given the opposition of conservative Republicans and southern Democrats. *See* Richard Cook to Cole, April 19, 1971, "EEOC Legislation," folder Equal Employment Opportunity, Box 63, WHCF, SMOF, Timmons, RNPL.

retrospect), was “a flood of future litigation,” not only to determine whether the “procedural requirements” of the NEPA had been met, but also “to determine whether the particular federal agencies have made the proper decision, based upon the environment considerations required by NEPA.”[152] The American Mining Congress was less equivocal:

> Enforcement [of federal statutes] should be left to public officials and all citizen suit authority should be stricken...The public interest in pollution abatement is evident...However, it does not follow that it is in the public interest to provide each of us with access to the courts for the purpose of enforcing the law or regulations whenever we believe the responsible public official is not doing the job as we think it should be done.[153]

NAM’s congressional testimony from late 1970 reflected similar thinking.[154]

Moreover, business’s allies within the White House, including Flanigan and Commerce Secretary Maurice H. Stans, were not only critical of private litigation enforcement, but rather prescient in their analysis of the institutional causes that were encouraging it. In their view, the threat posed by legal public interest groups to business interests was real, especially in the environmental arena, and they recognized it soon after the passage of environmental statutes enabling public interest environmental litigation. They presented their analysis of the threat in the language of economic crisis, arguing that public interest litigation was a contributing factor to the growing energy crisis. “The basic problem,” wrote one advisor, “is that environmental activists granted standint [sic] to sue, have hired top-flight attorneys and are finding U.S. judges (primarily in D.C.) who are willing to strangle Federal programs willy-nilly in the name of environmental perfection.” The culprit, according to the memorandum, was the NEPA. “Given the long-term impact of this trend in litigation,” its author recommended that Nixon “appeal to environmentalists and Federal judges to weigh the overall impact of their particular courtroom actions, in part as a warning to the Supreme Court which will surely face these issues before long.” The memorandum also recommended that the public needed to be educated as to the “overall impact of a series of unrelated and rather specific lawsuits.”[155] Flanigan believed that

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[152] API, “Amendments to NEPA, March 24, 1972, folder NEPA [National Environmental Policy Act] Amendments [from CFOA 774] [1 of 2], Box 143, WHCF, SMOF, Whitaker, RNPL. Here, at least some officials within the White House agreed with the thrust of the conclusions, suggesting that the API analysis “raise[d] many points in a knowledgeable way.” White House aides also noted that that they had tried to “build up case law to support an arbitrary-or-capricious standard respecting agency NEPA actions,” in an attempt to limit the involvement of the courts.” Lettow to Fairbanks, March 28, 1972, folder NEPA [National Environmental Policy Act] Amendments [from CFOA 774] [1 of 2], Box 143, WHCF, SMOF, Whitaker, RNPL.

[153] Overton to Randolph, November 16, 1970, folder Air Pollution Bill (Air Quality Control Bill) [from OA 8182] [1 of 4], Box 24, WHCF, SMOF, Whitaker, RNPL.

[154] Recommendations of the National Association of Manufacturers to the Conference Committee on H.R. 17255, October 7, 1970, folder Air Pollution Bill (Air Quality Control Bill) [from OA 8182] [1 of 4], Box 24, WHCF, SMOF, Whitaker, RNPL. r

[155] Loken to Nixon, draft memorandum, January 24, 1972, folder Section “102” [Environmental Impact Statements] [from CFOA 1138] [1 of 2], Box 60, WHCF, SMOF, Whitaker, RNPL.

the draft memorandum "very clearly set[] forth the contribution which environmental litigation [was] making to the energy crisis." Although he did not feel ready to approach the President with its conclusions, he did suggest the memorandum could form the basis of a "long and heartfelt" discussion with Train, the chairman of CEQ.[156]

Stans was of a similar mindset. In a memorandum to Ehrlichman on citizen suit provisions in legislative drafts of the Clean Air Act, he identified the underlying social and institutional causes that had led to increased private enforcement litigation:

> Without doubt, there has been increasing pressure in recent years to expand the opportunities for private citizens to bring suit to promote their conceptions of the 'public interest.' Changes in the law of standing, coupled with decreasing reluctance of the courts to make broad scale social policy, have fueled and in turn been fueled by 'public interest' law suits.

Furthermore, Stans was critical of the role of "attorneys involved in such efforts," who, he suggested, "have been euphemistically referred to as 'private attorneys general'" and "who, very recently, have been joining forces in so-called 'public interest law firms.' The cost to the federal government of increasing reliance on private litigation enforcement would be "substantial." More broadly, he wrote, "[T]he obvious implications of this trend reach well beyond the pollution area and present basic governmental policy questions about the role of the courts, the efficacy of government enforcement activities, and the nature of our political decision-making process generally." In consequence, Stans recommended a number of limitations on the ability of private individuals to bring suit.[157] More broadly, officials in the Nixon Administration both understood and anticipated the power of left-leaning public interest firms. As Nixon aide Lyn Nofziger wrote to Colson, "Why not organize a non-profit group known as the 'Lawyers for a Lawful America' or something? The purpose is to go to court and use the law to preserve America in the way the ACLU, the rural legal assistance people, the lawyers who take far out cases, use it to destroy America...Why not a militant conservative legal aid group? Why not?"[158] Colson responded, "This is a splendid idea. You are quite right — the other side has used it effectively for years as a very successful technique."[159]

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[156] Flanigan to Whitaker, February 3, 1972, folder Section "102" [Environmental Impact Statements] [from CFOA 1138] [1 of 2], Box 60, WHCF, SMOF, Whitaker, RNPL.

[157] Stans to Ehrlichman, undated memorandum "National Air Quality Standards Act of 1970," folder Air Pollution Bill (Air Quality Control Bill) [from OA 8182] [2 of 4], Box 24, WHCF, SMOF, Whitaker, RNPL. Stans's proposed limitations included awarding attorney fees to the prevailing party, restricting the capacity to bring suit only to those adversely affected by the conduct in question, and imposing a moratorium on litigation concerning a particular statute until two years after its enactment. Stans also suggested giving courts significant latitude to impose equitable settlements, which he believed would lead to an appropriate balancing of environmental and economic concerns

[158] Nofziger to Colson, December 3, 1969, folder Anti-News Media & Lawyers, Box 37, WHSF, SMOF, Colson, RNPL.

[159] Colson to Nofziger, December 8, 1969, folder Anti-News Media & Lawyers, Box 37, WHSF, SMOF, Colson, RNPL.

A general consensus within the business community and the assistance of senior pro-business officials, however, failed to change the conflicted nature of the Administration's point of view regarding the merits of citizen suit provisions and public interest law firms more generally. It also failed to achieve substantive policy change on the issue of private enforcement regulation. Indeed, despite the support of Flanigan and Stans (among others), officials charged with administering the new regulatory state typically spoke out in favor of private litigation enforcement. The Administration's ultimate position on the issue of citizen suits in what would become the Clean Air Act favored private enforcement litigation: a position paper drafted by OMB staff members, which represented an "agreed upon" consensus within the Executive Branch, reflected, "Such suits can make an important contribution to the effective enforcement of air pollution control measures.[160] Likewise, in 1972, prior to vetoing the legislation for other reasons, the White House proposed that a citizen suit provision be added to the Clean Water Act.[161]

Indeed, other voices from within the White House consistently weighed in on the side of public interest firms. In the view of the Council for Environmental Quality, "Having private organizations with an appropriate environmental interest and with an ability to litigate environment protection cases, supplements governmental efforts and helps fill gaps in the Government's programs."[162] The Legal Advisory Committee of CEQ also endorsed private litigation and recommended that "certain substantive and procedural impediments to the conduct of such litigation should be abolished, or substantially eased."[163] Overall, as draft congressional testimony of CEQ's general counsel put it, the Nixon Administration "supports citizen suits to

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[160] Hyde to Rice, November 5, 1970, folder Air Pollution Bill (Air Quality Control Bill) [from OA 8182] [4 of 4], Box 24, WHCF, SMOF, Whitaker, RNPL.

[161] Gordon Harrison and Sanford M. Jaffe, "Public Interest Law Firms: New Voices for New Constituencies," *American Bar Association Journal*, Vol. 58 (May 1972), 461. In their final forms, however, the citizen suit provisions of the Clean Air Act and the Clean Water Act are somewhat different: the latter allows citizen suits for civil penalties, in addition to citizen suits for injunctive relief. *See* James L. Thompson, "Citizen Suits and Civil Penalties Under the Clean Water Act," *Michigan Law Review*, Vol. 85, No. 7 (June 1987), 1656-1680.

[162] Memorandum, Council on Environmental Quality, "Charitable Status of Private Litigation to Protect the Environment," September 25, 1970, folder Public Interest Law Firms, Box 61, WHSF, SMOF, John W. Dean III, RNPL.

[163] Report of the Legal Advisory Committee to the President's Council on Environmental Quality, December, 1971, folder Council on Environ. Quality [from CFOA 770] [1 of 3], Box 126, WHCF, SMOF, Whitaker, RNPL. These perceived constraints included: "a. the defense of lack of standing; b. the defense of sovereignty immunity; c. the extent to which environmental decisions by administrative agencies...are required to be sustained unless arbitrary or capricious" and several others.

enforce environmental laws in appropriate circumstances."[164]

In late 1970, these internal debates over private enforcement litigation played out in a battle over the possibility of removing the tax-exempt status of "public interest" law firms, a conflict that highlights the under-explored role of the tax system, and the deliberate choices of officials in the executive branch, as crucial components of the "support structure" underlying U.S.-style adversarial legalism.[165] Like officials in CEQ, newly installed EPA Administrator William Ruckelshaus announced his vigorous support for private litigation enforcement in the environmental law arena. Ruckelshaus framed the issue in terms of adversarial fairness, explicitly pointing to the need to balance business's built-in advantages in financing litigation: "The conservation groups are extremely upset over the potential decision of the IRS and wonder how they can compete with a business which writes off legal costs as an expense of doing business, while they must finance their legal expenses independent of any such tax advantage."[166]

Aides outside of the Administration's environmental policy-making apparatus agreed. An early 1972 memorandum from Nixon's Energy Policy Group (headed by Charles DiBona, later the long-time president of API, and hardly a bastion of pro-environment sympathy) reflected a belief that private litigation — in this case under the NEPA — was neither particularly burdensome nor particularly worrisome: "The judicial role under NEPA...appears to be in line with the traditional one of ensuring that governmental process prescribed by statute is working correctly without attempting to second-guess the actual agency decision as to the proper balance to strike between environmental concerns and other national goals." In short, the memorandum suggested, "this is a reasonable judicial approach, which should be endorsed." Although the memorandum acknowledged that courts had "extended standing to challenge agency action under NEPA to citizens and citizen groups on a broad basis," it concluded that this type of extension meant that courts were involved in "helping to ensure that the agency decision-making process is both response to the public and at the same time not subjected to undue and untimely

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164 Timothy Atkeson to James F.C. Hyde, Jr., February 17, 1972, draft memorandum, folder [Legislation] [Citizen Suits, S. 1032] [from CFOA 773], Box 140, WHCF, SMOF, Whitaker, RNPL. Similarly, when charged with considering the extension of citizen anti-pollution litigation to manufactured products (rather than the underlying manufacturing process), CEQ's general counsel was skeptical of the argument that private litigation enforcement would lead to harassment of business through frivolous litigation. Appealing to previous Administration precedent, the general counsel concluded, "There seems no basis for refusing to support the proposed provisions consistent with our previous support for citizen suits in the air and water quality legislation. Atkeson to James F.C. Hyde, Jr., January 6, 1972, folder Legislation — General [from CFOA 773] [2 of 3], Box 140, WHCF, SMOF, Whitaker, RNPL.

165 On the IRS investigation into the tax-exempt status of public interest legal groups, *see* Richard N. Goldsmith, "The IRS Man Cometh: Public Interest Law Firms Meet the Tax Collector," *Arizona Law Review*, Vol. 13 (1971), 857-885. For the concept of a legal "support structure," *see* Charles R. Epp, *The Rights Revolution: Lawyers, Activists, and Supreme Courts in Comparative Perspective* (Chicago: University of Chicago Press, 1998).

166 Ruckelshaus to Garment, October 27, 1970, folder Public Interest Law Firms, Box 61, WHSF, SMOF, Dean, RNPL. CEQ Chairman Train too wrote to the IRS Commissioner to express his support for private enforcement litigation, calling it an "important private supplement to our governmental efforts." Train to Thrower, September 30, 1970, folder Public Interest Law Firms, Box 61, WHSF, SMOF, Dean, RNPL.

delay.[167]

The Pattern Repeats: Consumer Class Action Litigation

On consumer issues too, the effectiveness of business groups opposing the expansion of regulation by litigation was limited. Here, business's ability to oppose consumer class action and related provisions was further compromised by the fact that even "informed representatives of the business community agree[d] that the Administration [was] politically compelled" to act on consumer issues.[168]

Even as early as 1969, business groups had made clear to the Administration that its support of consumer class action litigation, given "its potential for expansion by the Congress," would be "viewed by business in the context of a strong consumer message, as well as other non-business oriented legislation, as indicating an unfavorable Administration attitude toward business." Business's allies in the Commerce Department and elsewhere made the case against consumer class action suits. The department's general counsel expressed his belief that draft legislation permitting "one or more consumers to bring civil class actions in the Federal District Courts was "at the same time ambiguous and one with potential for far reaching, unforeseeable consequences." He summarized, "The proposed act is devoid of protection against, and in my view will encourage, costly and unfounded strike suits….This combination….will result, in my judgment, in costly and embarrassing harassment of many legitimate businesses in the United States."[169] Flanigan too reflected that the Administration had "three serious problems with the Democrats' class action proposals: (a) class actions are complex, expensive, time-consuming litigation unsuited to remedying fairly consumer small claims; (b) class action jurisdiction for all possible consumer frauds might clog the federal courts (the Chief Justice thinks so); and (c) the possibility of mammoth attorneys' fees would promote strike suits and other harassment of business."[170]

Nevertheless, the White House remained concerned that "[a] retreat on this well-publicized class action commitment at this point will probably be treated by much of the national press as...a sellout to the interests."[171] Consequently, Nixon's consumer message to Congress of October 1969 reflected limited presidential support for a federal consumer class action law —

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[167] Memorandum, "Litigation Arising Under the National Environmental Policy Act," January 31, 1972, folder NEPA(National Environmental Policy Act) — J.B.L.'s file, Box 58, WHCF, SMOF, Energy Policy Office (John F. Schaefer), RNPL.

[168] Flanigan to Nixon, February 19, 1971, folder EX BE 2-1 Deceptive Practices [7 of 9] February-June 1971, Box 5, WHCF, BE, RNPL.

[169] Lynn to Flanigan, October 8, 1969, folder EX BE 2-1 Deceptive Practices [1 of 9] 1969, Box 4, WHCF, BE, RNPL.

[170] Flanigan to Ehrlichman, February 5, 1971, folder EX BE 2-1 Deceptive Practices [7 of 9] February-June 1971, Box 5, WHCF, BE, RNPL.

[171] Rose to Flanigan, October 27, 1969, folder EX BE 2-1 Deceptive Practices [1 of 9] 1969, Box 4, WHCF, BE, RNPL. Rose noted that the bill in question created a very limited federal private right of action.

one that would have permitted private citizens to bring damage suits, but only after a successful Justice Department prosecution of the same businesses. Nixon's own consumer representative, however, had testified several months earlier in favor of a broad right to consumer class action litigation, stating, "We believe that the private bar is the sleeping giant of the consumer protection field; that no governmental agency could do the job of aiding consumers as well as an aroused bar properly motivated."[172]

Caught between business's threats and its perceptions of the pro-consumer zeitgeist, the Administration's consistent solution to its political dilemma was to advocate for the most moderate bills available authorizing consumer class suits.[173] To the extent possible, it also sought to try to work with congressional allies to delay any legislative action. With the credibility of its consumer advocate on the line — and with it, the Administration's broader trustworthiness on the consumer issue — the risk of undermining the Administration's pro-consumer position was considered "sufficiently great so that we should go with what is after all a watered-down and agreed-to-be equitable class action bill."[174] In other ways too, the Administration sought to limit the abilities of consumers to use the legal system while at the same time appearing responsive to the public sentiment behind consumer legislation. For instance, the White House attempted to create a "trigger" provision, under which class actions could be pursued only after a successful prosecution by an enforcement agency, either the Department of Justice or, potentially the Federal Trade Commission.[175]

On the broader issue of establishing a federal consumer protection agency, Nixon also attempted to position himself as a moderate, over business's objections. As one advisor summarized, the Administration's "major objective...would be to secure for the President the consumer protection initiative, to neutralize pressures in the Congress to create an independent consumer advocacy agency, and to get underway an advocacy program limited in scope and intensity.[176] Likewise, the president's moves to establish a more pro-industry position on pending congressional water pollution legislation were only half-hearted. As the White House's

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[172] *Congressional Quarterly*, March 13, 1970, 750.

[173] *See, e.g.,* O'Neill to Haig, March 6, 1974, folder EX BE 2 Domestic Trade [6 of 6] 1972-1974, Box 4, WHCF, BE, RNPL.

[174] Rose to Flanigan, October 27, 1969, folder EX BE 2-1 Deceptive Practices [1 of 9] 1969, Box 4, WHCF, BE, RNPL. Rose noted that the bill in question created a very limited federal private right of action.

[175] Flanigan to Ehrlichman, February 5, 1971, folder EX BE 2-1 Deceptive Practices [7 of 9], Box 5, WHCF, BE, RNPL.

[176] Loken to Flanigan, December 7, 1970, folder EX BE 2-1 Deceptive Practices [5 of 9] October 27-December 1970, Box 5, WHCF, BE, RNPL. Business interests were particularly concerned about the role of a formal advocate position, contemplated in certain drafts establishing the potential new consumer protection agency. Members of Flanigan's staff, for instance, were worried about the prospect that the advocate would be granted the ability to intervene in judicial proceedings. Characterizing these issues as ones of "major concern of the business community," one aide wrote that the ability of the advocate to initiate judicial review of agency action was "a key focus of debate, the consumers insisting the advocate needs this 'club,' and the business community believing this is an undesirable power to block settlements and lengthen administrative proceedings." Loken to Flanigan, August 5, 1971, folder EX BE 2 Domestic Trade [5 of 6] November 1970-1971, Box 4, WHCF, BE, RNPL.

position was developed in late 1971 and early 1972, Nixon's aides urged the president to support "softening the impact" of such legislation on "the private sector," rather than vetoing it outright.[177]

Grass-Roots Politics and Education

How did business respond to the political challenges it faced during the first Nixon Administration? From the point of view of contemporary politics, that response is striking because it did not initially draw on what we imagine to be the political advantages of business groups, including access to political elites and deep pockets. Instead, organized business groups, from the grassroots-driven Chamber of Commerce to the elite-oriented Business Roundtable, offered similar diagnoses and cures to the problems they believed they faced. In part driven by the example of the labor organizations they sought to combat, the organized business community highlighted the importance of attention to the broader public, at one point even contemplating the development of "*Sesame Street* of economics."[178]

Here, too, the Powell Memorandum, in which Powell identified "a broad attack" on the "American enterprise system," offers a potential historical starting point (although it did not specifically mention business's treatment at the hands of the Nixon White House). Powell believed that the sources of the attack were "varied and diffused," but focused his analysis on the "disquieting voices joining the chorus of criticism," including "the college campus, the pulpit, the media, the intellectual and literary journals, the arts and sciences." In Powell's analysis, the clear political problem facing business was a lack of effective public communication. He proposed several lines of possible counterattack, the majority of which focused on delivering a pro-business message to different strata of American society. Powell, for instance, recommended that individual corporations designate an executive vice president, whose responsibility would be to "counter — on the broadest front — the attack on the enterprise system."[179] And, he recommended that business focus particular attention on college campuses: helping to fund and hire faculty members sympathetic to business, making pro-business speakers available, and evaluating textbooks to ensure appropriate voice would be given to pro-business ideas.

Yet Powell's diagnosis of the issues confronting the organized business community was by no means unique. In fact, the historical record suggests that Powell represents a consensus position on the nature of the business community's political ills. Each of the major political organs of the business community believed that it was crucial for organized business to improve its public profile through increased efforts to communicate with the American public on what Powell called the "broadest" possible level. Rather than focus on elite lobbying, they suggested that business intensify its efforts to conduct a long-term, meaningful grassroots communications campaign, designed to help ordinary Americans understand and appreciate the contribution of the

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[177] Whitaker to Cole, September 8, 1972, folder "Water Bill III [1 of 3]," Box 114, WHCF, SMOF, Whitaker Files, RNPL.

[178] Phillips-Fein, *Invisible Hands*, 194; Waterhouse, *A Lobby for Capital*, 111-130;

[179] Powell, "Confidential Memorandum."

"free enterprise system" to their quality of life. In doing so, business leaders were drawing on the lessons that had helped them fend off organized labor during the decades after the passage of Taft-Hartley in 1947.[180]

Labor Law Reform

Predating the Powell Memorandum by several years, the labor law reform effort was characterized by significant attention to public opinion and grassroots mobilization efforts. In 1967, the NAM and Chamber's Joint Trade Association Task Force (a precursor to the LLSG) hired a respected public relations firm to develop a "Communications Action Plan." The group outlined the purpose of the plan: "The overall program is designed to promote a 'ground swell' of public opinion and sentiment leading to labor law changes. The result for the mass of voters will be a collective sense of urgency that 'something must be done' to correct an unfair and otherwise improper situation in the life and fabric of the country." The group proposed a wide array of communications efforts, including a Labor Law Newsletter, "newspaper and radio/TV exposure," and a journal directed at an audience of federal and state civil servants. Echoing several of Powell's later suggestions, a second component of the plan was to target the "special interest 'publics,'" including employees, trade associations, lawyers, legislators, shareholders, educators, minority leaders and clergy. The Task Force planned to spend approximately $700,000 over two years to achieve its goals.[181] It also planned a variety of other publicity efforts, including the development of a news kit for print and broadcast media, the placement of "major articles in special journals," and the establishment of a "speaker's bureau," designed as an "intensive effort...to engineer either speeches bearing entirely on labor law, or speeches in which a strong mention is possible."[182]

The Task Force paired the work of its public relations advisors with a series of professionally commissioned surveys evaluating public opinion toward organized labor. NAM President W.P. Gullander summarized the group's findings, believing that they reflected "public disenchantment with...the excessive size and strength of labor unions."[183] In own draft to the Task Force of its survey results, the group communicated, "There has been a notable rise during the last year [1967] in public belief that unions are big enough," adding, "The desire for close government regulation of unions has also risen during the past year." The ORC did not find that meaningful segments of the public believed that either labor laws or government agencies were especially biased toward organized labor. However, they did identify a widespread belief in the

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[180] Elizabeth A. Fones-Wolf, *Selling Free Enterprise*, 285-290.

[181] Draft "Communications Actions Plan for Joint Trade Association Task Force, March 15, 1967, "Labor Law Reform — Association Task Force — Labor," Box 62B, Series V, NAM.

[182] "Supplementary Material — Agenda," January 6, 1967, "Labor Law Reform — Association Task Force — Labor," Box 62B, Series V, NAM.

[183] W.P. Gullander, "The Public Interest and Labor Law Reform" *NAM Reports*, June 1967, "Labor Law Reform J.P. Stevens Statement," Box 62B, Series V, NAM.

importance of "free speech for both unions and management," as well as a public linkage between union demands and inflation.[184]

For its part, the LLSG hired the world's largest public relations firm to coordinate its public education efforts.[185] On April 5, 1967, the group's Washington Representative, a G.E. executive, described the imperative of developing a "Public Education Campaign," which he characterized as "the most current job to be done." He wrote that the LLSG ought to expect limited public understanding of the group's more than 25 proposed amendments to extant labor laws, summarizing, "It is this *lack of knowledge* on the part of the public that needs to be in focus as the *Public Education Program* is developed."[186] In the group's opinion, public education was a necessary prerequisite for political activity. As one speaker before the NAM's Industrial Relations Committee put it, "[B]efore we can realistically expect the Congress to act affirmatively upon a major review and appropriate revision of labor statutes...we must (a) identify the evils and the public interest in their correction; [and] (b) inform the general public in greater depth about [the] imbalance in power which now exists as between union leaders and management."[187]

As a result, in a background memorandum to the LLSG, its public relations advisors emphasized that the LLSG's "principal objective" was to increase public understanding of the perceived problems in the labor law arena: "to alert the public to a greater awareness of the crisis in labor relations, to the role of the NLRB and the courts in contributing to the crisis and to the need for remedial legislation."[188] They developed a detailed communications plan for the LLSG, suggesting that the group's public relations effort would be broken down into four parts, including the "[1] preparation and placement of publicity...[2] the planning, writing, and distribution to selected key groups certain written materials such as booklets and background memoranda...[3] the preparation of speech materials...[and 4] "the preparation and placement of editorial or statement-type newspaper advertisements in important cities."[189] In addition, the consultants sought to target specific publications with reputations in the industry as thought leaders, including *Harper's*, *The Atlantic*, and *Commentary*, worked to prepare scripts for radio

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184 Public Thinking On Unions and Labor Legislation in Late 1967," A Report Prepared for the Joint Trade Association Task Force, Opinion Research Corporation, December 1967, "Public Thinking About Unions Opinion Research Survey 1967," Box 62B, Series V, NAM.

185 Gross, *Broken Promise*, 206. As Gross details, in addition to the LLSG, the firm had long-term links to the steel industry, and represented the aircraft, oil and gas, pharmaceutical, and tobacco industries, as well as the Kingdom of Saudi Arabia.

186 Memorandum from R.T. Borth, April 5, 1967, "Labor Law Reform J.P. Stevens Statement," Box 62B, Series V, emphasis in the original.

187 Robert F. Duemler, "The Outlook for Labor Law Revision," remarks before the Industrial Relations Committee of the NAM, March 7, 1967, Labor Law Reform J.P. Stevens Statement," Box 62B, Series V, NAM.

188 Hill & Knowlton, Inc., "Background Memorandum: The Need for Labor Law Reform," December 14, 1967, "Labor Law Reform — Separation of Powers," Box 62B, Series V, NAM.

189 Hill & Knowlton, Inc., "Communications Plan in Support of Labor Law Revision," May 1967, Unlabeled Folder, Box 62B, Series V, NAM.

commentators, and considered working with middle- and high-school textbook publishers to use materials plan.[190] The firm justified their communications plan on three grounds, emphasizing the mobilization of "public understanding and support for legislation and "the importance of "provid[ing] legislators with visible evidence of constituency support for a program."[191] By 1972, the LLSG proposed to spend more than $1.2 million on public relations, out of a total budget of $1.7 million. In contrast, the group's proposed spending on amicus briefs was only $100,000.[192]

The Business Roundtable

The Roundtable inherited the LLSG's focus on public opinion and mobilization. Founded on the principle that the chief executives of America's largest companies needed to increase their political involvement, the Roundtable's chief resource was, in consequence, those same CEOs. And yet, the Roundtable was slow to recognize this advantage. Speaking at the Roundtable's Annual Meeting in 1973, Dupont Chairman and President Charles B. McCoy underlined his belief in the importance for the Roundtable of public education efforts rather than elite lobbying. McCoy told his colleagues, "[E]verything the components of the Business Roundtable are trying to accomplish involves economic education...Economic education in simplest terms means improving public understanding of the U.S. [economic] system."[193]

In an earlier address before the Business Council in the early summer of 1971, McCoy reflected that business trade associations were, at that point, largely ineffective. He suggested, "There is an obvious feeling that these organizations are really protective societies, set up to preserve the status quo." He also highlighted what he perceived as their limited public profile: "These associations have done many worthwhile things in the public interest, but for one reason or another that light doesn't show very brightly outside the bushel basket." In McCoy's view, the central problem was business's reactivity — they were consistently perceived as opponents of reform. He reflected, "It would help if we could encourage the associations to take a more visible stance where we have positive suggestions for reforms and progress, and we can put ourselves in a position of leadership instead of opposition."[194] Business's failure, for McCoy, resulted from the inadequate cultivation and development of the public understanding of business's role of business in American politics. In his terms, the "public accepts and supports...damaging regulations and laws in part because it does not relate them to the vigor of

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[190] Gross, *Broken Promise*, 207-208.

[191] Hill & Knowlton, Inc., "Communications Plan in Support of Labor Law Revision," May 1967, Unlabeled Folder, Box 62B, Series V, NAM.

[192] John Oliver to McCoy, May 5, 1972, "Business Roundtable Labor Law Study Committee 1968-1972," Box 7, CBM.

[193] Remarks by C.B. McCoy, Business Roundtable Annual Meeting, New York, New York, June 11, 1973, "Business Roundtable Jan.-June 1973, Box 5, CBM.

[194] "How Should Business Respond to Its Critics?" May 7, 1971, Remarks by C.B. McCoy, President and Chairman of the Board, E.I. du Pont de Nemours and Company, The Business Council, Hot Springs, Virginia, "The Business Council 1971," Box 4, CBM.

the economy and thus to their own well-being." McCoy went on to detail the limitation of Americans' understanding of the financial and economic underpinnings of the U.S. economy. He concluded, "[T]he Business Roundtable should take on the task of trying to improve understanding, particularly at the secondary school level, of how our business system works."[195]

The Roundtable's internal records and public statements mirror McCoy's talking points. In a press release issued on November 16, 1972 announcing the formation of the Roundtable, the group stated, "The Business Roundtable also seeks as a long-range goal to achieve better public understanding of our economic system and more constructive industrial relations practices."[196] Consistent with the press release, its internal 1973 "Statement of Program," for instance, indicated that the group's goals included, in order: (1) "More adequate attention to economic education"; and (2) "Better public communications and understanding." "Improved government relations" came in fourth to the first two objectives.[197] The group's official summary of its objectives, drafted in late 1973, echoed" the Statement of Program. The document indicates that Roundtable's "basic purposes" were, in addition to providing a forum to exchange policy recommendations, "to earn public appreciation of the contributions by business to society; to obtain a better balance in labor-management relations; and to strengthen the voice of business on these matters."[198]

An emphasis on a politics of mass communication continued as these three groups evolved over the course of the 1970s. The Chamber of Commerce in particular focused its energies on this strategy, as it sought to "build a strong popular movement to defend capitalism and free enterprise."[199] When Richard L. Lesher took the helm of the Chamber in 1975, he made grassroots outreach a foundation of the Chamber's political activity, working to expand the organization's efforts to mobilize and communicate with members and to deepen the links between local chambers and the national chamber. From 1975 to 1982, Lesher increased the Chamber's membership from 50,000 to 250,000, largely recruiting small companies with 50 employees or fewer.[200] The Chamber also came to exploit increasingly sophisticated information technology. As a result, at least one contemporary consumer activist referred to the Chamber as the "Mr. Outside" of corporate lobbies, contrasting its efforts with those of the Roundtable, which had, by the mid-1970s begun to pursue an increasingly "insider" lobbying strategy. The

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[195] Remarks by C.B. McCoy, Business Roundtable Annual Meeting, New York, New York, June 11, 1973, "Business Roundtable Jan.-June 1973, Box 5, CBM.

[196] "Formation of the Business Roundtable — For Responsible Labor-Management Relations was announced today," November 16, 1972, "Business Roundtable, March Group, 1972-1973," Box 7, CBM.

[197] W.B. Murphy to Members of the Business Roundtable, April 25, 1973, "Business Roundtable Jan.-June 1973," Box 5, CBM. Again reflecting the continued primacy of labor law reform, the group's fifth and final objective was the achievement of "a better balance in labor-management relations."

[198] "Summary of the Objectives of the Business Roundtable," November 28, 1973, "Business Roundtable Executive Committee, 1973-1973," Box 6, CBM.

[199] Phillips-Fein, *Invisible Hands*, 204.

[200] Ann Crittenden, "A Stubborn Chamber of Commerce Roils the Waters," *Washington Post*, June 27, 1982.

Chamber also continued to increase its fundraising efforts, particularly in congressional races, after having raised $35.3 million in 1980.[201] By 1982, Lesher had even established a series of television programs, including a daily news show, designed to spread the Chamber's political message to ordinary citizens, in addition to a viewer call-in show and a Sunday discussion program hosted by Lesher himself. In total, the Chamber produced 5 hours of daily programming. As part of this effort, which the Chamber called "The American Business Network" or "BizNet," the Chamber constructed a $2 million television studio and spent approximately $5 million on the effort to develop its satellite-based transmission capabilities.[202] The Chamber's predecessor effort, a weekly TV show, reached 90 percent of American households. At approximately the same time, the Chamber's flagship magazine, *Nation's Business*, had seven million paid subscribers.

Consequences

Observers credit these strategies for changing the nation's political discourse and serving to help develop business's political capacity for unified political action.[203] Nevertheless, this focus on public education meant that, during the late 1960s and early 1970s, the political organs of organized business were not, on their own, working to develop elite-level institutional capacity. The efforts of these groups were, in consequence, largely non-partisan. Despite the historically important presence of organized business interests within the Republican Party, business did not immediately seek to intensify this relationship. The historical record, in fact, suggests that business approached their Republican allies on an *ad hoc*, rather than on a systematically coordinated, basis. For instance, in a letter describing the efforts of the Legislative Task Force of the LLSG, the group's Washington Representative indicated that the task force "*decided* that we would work closely with the Republicans who are intending to release their own 'State of the Union Message,' because we feel it quite important the Republicans not put themselves in an embarrassing position of supporting inadequate or needless labor legislation." The letter also indicated the group had met only briefly with Senate Minority Leader, Everett M. Dirksen (R-IL).[204]

Other representatives of business were similarly wary of closer ties with Republicans, at least in part because hedging their partisan bets seemed like a winning strategy in an era of continuing Democratic control of Congress — a theme explored in chapter four of this project. In a memorandum on a potential NAM takeover of the Business-Industry Political Action Committee (BIPAC) drafted for NAM President E. Douglas Kenna, NAM's then-General

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[201] Ibid.

[202] Edward Cowan, "News With a Business Point of View," *New York Times*, June 3, 1983. At the time, Lesher estimated that local chambers would spend between $10,000 and $20,000 to receive broadcasts and $5,000 annually for programming. William J. Lanouette, "Chamber's Ponderous Decision Making Leaves It Sitting on the Sidelines," *National Journal*, July 24, 1982.

[203] *See, e.g.,* Waterhouse, *A Lobby for Capital*, 130, 183.

[204] Borth to Frederick G. Atkinson and Virgil B. Day, November 23, 1966, "Labor Law Reform — Association Task Force — Labor," Box 62B, Series V, NAM, emphasis added.

Counsel wrote, “Being identified as a principal fund raiser for one party could make our legislative efforts considerably more difficult. We have always tried to work with whichever political party has control of the Administration and the Congress, and have had a fair degree of success in doing so.”[205] Indeed, there is some evidence to suggest that minimizing public awareness of ties between the labor law reform movement and the Republican Party was part of a deliberate political strategy. Dirksen, for instance, suggested to the LLSG that they keep a low political profile because a greater degree of public prominence would be harmful to the group’s overall goals.[206] In addition, as I explore in the next chapter, the historical record indicates that these groups did not develop closer ties with other group interests affiliated with the Republican Party — particularly, the growing conservative movement.[207] And, as we have seen, this lack of political and institutional entrepreneurship meant that political officials and especially those working within the Nixon Administration, rather than the representatives of business themselves, initially drove the effort to better integrate business into the GOP coalition.

Conclusion

American business found itself in a situation of profound crisis during the first Nixon Administration. The agents most responsible for its predicament shared one surprising characteristic — they, and the White House they served, were Republicans, representatives of the traditional party of American business. Far from dictating policy terms, business groups during the late 1960s and early 1970s found themselves captives of the party they had long dominated. In turn, GOP leaders were able to turn the captured position of business into leverage with groups outside of their traditional coalitional orbit, including organized labor. Without diminishing the importance of personalities, this chapter has attempted to demonstrate that business’s own political situation created the structural conditions that facilitated these efforts to enlarge the Republican coalition.

The next chapter traces the evolution of business politics through Nixon’s abortive second term and into the Ford interregnum, with a continuing focus on the implications of the political strategies that business chose to pursue — in particular, the view that an emphasis on grassroots communication would lead to a business political resurgence — and on the strategies that business, in consequence, did not choose to pursue — namely, greater involvement in the institutional Republican Party.

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[205] Richard D. Godown to E. Douglas Kenna, undated memorandum, “BIPAC,” Box 70, Series V, NAM.

[206] Gross, *Broken Promise*, 207.

[207] The NAM supported the goals of the nascent Right to Work Legal Defense Fund, but kept the group at arms length.

Chapter 3 | Tenuous Ties: Ford, Business, and the Republican Party

Richard Nixon won the 1972 presidential election over Democratic challenger George McGovern in a historic landslide. For organized business groups, however, the Republican victory was met with limited celebration. As we saw in the previous chapter, Nixon's first term in office did little to revitalize business power after eight long years of a Democratic White House. Likewise, Nixon's election campaign reflected the relative weakness of business groups within his "New Majority," even after their grassroots communications efforts had begun to take shape. The 1972 campaign largely avoided a focus on traditional Republican constituencies and instead sought to develop new ties with "ethnic groups, blue-collar workers, [and] ideological groups."[1] As was typical of the Nixon White House's relationship with business, the president's reelection effort relied on co-opting the grassroots communication capacities of business groups for the candidate's own ends. Although Nixon's advisors believed that their campaign depended on "business leaders standing up for their political beliefs," allowing "the businessman to tell his story," they sought to dictate the content of that story, and in particular, emphasize "the importance of the President's re-election."[2]

Indeed, even by early 1973, the Administration was still making pro-business policy initiatives contingent on the full and unconditional support of the organized business community. The White House's chief congressional liaison was particularly concerned about having the full backing of organized business groups if the Administration were to abandon the prospect of supporting any consumer agency legislation. As he told OMB Director Roy L. Ash, "[T]he Administration should not sponsor or endorse any consumer agency legislation this year – but only if the outside groups (GMA, Chamber of Commerce, NAM, etc.) sign in blood that they will vigorously pursue this course publicly and privately."[3] In other words, the Administration leads, and business follows.

Nevertheless, the four years between 1973 and 1977 – split between the final two years of the Nixon Administration and the two-year interregnum of President Gerald Ford – marked a key period of transformation and experimentation for the business community. In these years, business groups, including the U.S. Chamber of Commerce, the National Association of Manufacturers, and the Business Roundtable, sought to expand their political power within Republican ranks, respond to broad-based public disaffection with the Republican brand stemming from the Watergate crisis, and manage their political resurgence even as Democrats continued to dominate congressional policymaking. Compared to the large-scale political losses suffered by business during Nixon's first term, these efforts were largely successful. Particularly during the Ford years, business was able to beat back the establishment of a consumer protection

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[1] Baroody, talking points for meeting with President Ford, undated draft, folder "Notes for Memo to the President re OPL, 8/11/74," Box 62, Baroody Papers, GRF.

[2] "Communications Support Program," Business and Industry Committee, Committee for the Re-Election of the President, July 25, 1972, Box 33, Baroody Papers, GRF.

[3] Timmons to Roy L. Ash, March 17, 1973, folder Consumer Protection Agency (3 of 3), Box 29, WHCF, SMOF, Timmons, RNPL.

agency along with a proposed revision of the nation's labor laws to permit *common situs* picketing.[4] At the same time, however, business continued to remain divorced from institutionalized party politics, with important consequences for its ability to influence policy outcomes. Consequently, business's independent capacity to direct the Nixon and Ford White Houses remained limited in fundamental ways.

This chapter emphasizes two critical aspects of business's continuing political transformation. First, it highlights the limitations of business's ties with other, increasingly influential actors within the Republican coalition – focusing, in particular, on business's relationships with conservatives interested in remaking the Republican Party into a more ideologically streamlined force.[5] More broadly, we will see that business limited its investment in the institutional Republican Party. Instead, as we saw previously, organized business interests largely concluded that their political failures stemmed from a broader lack of public engagement with ordinary Americans. The solution, in their view, was not necessarily to develop existing party institutions in their image, but, instead, to educate the public about the economic contributions of the organized business community. In this sense, business opted for the soapbox rather than the back room. Nevertheless, the fate of common situs picketing legislation reflects the idea that business was politically strongest – and had the highest capacity to affect policymaking by Republican officeholders – when it acted in concert with other Republican-affiliated groups. Here, in contrast to previous scholarship, I suggest that the key to business's policy success during this period was the unity of the Republican coalition within which business groups were embedded, rather than mere unity among business groups.[6]

Second, the chapter emphasizes the tentative, trial-and-error nature of business's political strategies during this period. The rise of new interest or pressure groups is often linked to innovation. Insurgent conservatives from Richard Viguerie to Karl Rove pioneered new political strategies, deploying direct mail advertising for political purposes. Similarly, civil rights, consumer, and environmental groups revolutionized the use of litigation for regulatory ends. In contrast, during this period, we will see that business most often exploited established tactics initially developed both by labor and other adversaries, as well as by putative coalitional allies, including the conservative insurgents. To borrow from Charles Tilly and Sidney Tarrow, in many cases business preferred to "buy" rather than "make" or construct a repertoire of response.[7] In fact, many of the particular defensive strategies we associate with business were extracted and modified from the very same groups that business leaders viewed as threatening, due to their

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[4] This term is used to describe the ability of one union at a particular worksite to support a strike being carried out by another union at the same worksite.

[5] Steven M. Teles's *The Rise of the Conservative Legal Movement*: *The Battle for Control of the Law* (Princeton, N.J.: Princeton University Press, 2008) and Phillips-Fein's *Invisible Hands*, however, highlight some important exceptions to this generalization.

[6] Many observers of this period have contended that business unity during the mid-to-late 1970s is the key variable in business's political success during this period. For a sampling, *see* Vogel, *Fluctuating Fortunes*; Waterhouse, *A Lobby For Capital*, Mizruchi, *The Fracturing of the Corporate Elite*.

[7] Charles Tilly and Sidney Tarrow, *Contentious Politics* (Boulder, CO: Paradigm Publishers, 2006).

skill at navigating a particular political landscape, or from groups with whom they had only minimal ties, despite a superficially similar political orientation. In sum, business success, on my account, is more often than not the result of analysis and learning, rather than political innovation.

The chapter proceeds as follows: in the first section, I revisit the position of organized business groups – including an assessment of their power and influence – in the second Nixon and Ford Administrations. The second section traces business's influence on three separate policy initiatives, including the proposed consumer agency, changes to federal election law, and common situs picketing, highlighting the attenuated ties between business groups and Republican political actors. In the third section, I discuss the nature of business learning during this period. The final section concludes.

Deploying Business

The 1972 presidential election did not generate significant changes in the relationship between the Nixon White House and the organized business community. Although White House staff increasingly distanced themselves from domestic policy as the Watergate crisis drained the Administration's energy, the contours of its strategies for handling business politics remained largely the same. Nixon (and later Ford) aide William J. Baroody, Jr. – son of AEI President William J. Baroody, Sr. and previously a key staff member for Rep. Melvin R. Laird (R-WI) – replaced Colson as the White Houses's point person in its efforts to engage business. In particular, the Nixon Administration continued to emphasize the role of groups like the Chamber of Commerce and the NAM in supporting the White House's policy priorities through grassroots – or grassroots-like – engagement.

Business and Nixon's "Citizens Initiatives"

One initiative Baroody developed in this regard was a "Citizens Committee to Keep the Lid on Taxes," (later, the Citizens Committee Against a Tax Increase) designed to "help generate support for [Nixon's] position in the [1973] budget battle with Congress."[8] The Citizens Committee was modeled on earlier Administration efforts to establish "astroturf" lobbying groups directed by White House staff, including "Citizens for a New Prosperity," with which the Citizens Committee Against a Tax Increase shared an executive director, and "Citizens for Peace with Security."[9] Prominent Republican-affiliated businessmen – many of them involved with both the Business Council and the Business Roundtable – were involved in the effort.[10]

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[8] Baroody, Jr. to Haldeman, February 20, 1973, folder "Citizens for a New Prosperity," Box 32, Baroody Papers, GRF. They included Hewlett-Packard co-founder David Packard, GE Chairman and CEO Fred Borch, Alcoa CEO John D. Harper, and PepsiCo CEO Don Kendall, as well as former CEA Chair Paul McCracken and former senior Nixon aide Bryce Harlow.

[9] On the latter group, *see* Perlstein, *Nixonland*, 424-426.

[10] Baroody, memorandum for the record, February 14, 1973, folder "Memos to the Record (2)," Box 35, Baroody Papers, GRF; Baroody to Ash, March 13, 1973, folder "Chron File (11) - March 11-14, 1973," Box 42, Baroody Papers, GRF.

Later, Baroody worked to generate business support for the president as he sought to fend off Nixon's impeachment. Here, he worked to have members of key business groups, including NAM and the Business and Industry Political Action Committee (BIPAC), as well as the National Right to Work Committee "write letters, send telegrams [and] phone and meet members of Congress."[11] Both efforts were quite sophisticated in the extent to which they deployed individual business leaders and groups for particular purposes. On water pollution, policy, for instance, Baroody "activated" a list of "appropriate members..for the target list of Congressmen." In addition, he worked with Packard to forward a Citizens' Committee advertisement directly to members of Congress. Similarly, the Citizens Committee worked to contact stockholders and employees "urging communication with Congress," sent letters to executives of Fortune 1000 companies, and organized a budget conference headlined by AEI scholar Murray Weidenbaum, later Chair of Council of Economic Advisers under President Reagan.[12]

Relying on generic, non-partisan labels like that of the Citizens Committee, Nixon's deployment of business's grassroots capacities was in keeping with his broader political efforts to de-emphasize what Baroody termed "institutional" labels. Nixon advisors believed that the president's political success hinged on downplaying traditional partisan labels: "the Nixon majority was composed of blue collar workers, ethnics and others who were primarily Democrats and who voted for RN without switching to the GOP."[13] The White House sought instead to develop alliances along "philosophical" lines. They believed that Nixon had successfully "personalized and therefore isolated" his Democratic political opposition by depriving it of support "deriving from institutional (party) loyalties which it might otherwise, under more traditional circumstances, have expected to claim."[14] In other words, the White House sought to remind potential supporters of its ideological (but not partisan) approach to politics, enabling it to find common ground with Democratic voters who nevertheless agreed with Nixon's approach to a variety of issues facing the country, ranging from urban to foreign policy.

The Nixon White House went to great lengths to hide its involvement in these ostensibly authentic citizens' organizations, occasionally employing Joseph Baroody's – the brother of Bill Jr. and son of Bill Sr. – public relations firm to serve as "the outside link" in a wide variety of projects. As Baroody described his firm's role: "The original concept was that if there were any activities which were needed to influence the Congress, the press, certain voter blocks and the public, but which would be ineffective or even counterproductive if directed from the White House or the official campaign organization," Wagner & Baroody would step in. After the election, he added, the White House could "use these same techniques to create the citizens

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[11] Flanigan and Baroody to Nixon, March 25, 1974, folder "Subject File Impeachment Support Program (1)," Box 33, Baroody Papers, GRF.

[12] Baroody to Haldeman, April 6, 1973, "Chron File (19) - April 6-9, 1973," Box 43, Baroody Papers, GRF.

[13] Baroody to Ford, January 23, 1975, folder "President Ford Memos (2) 1/75-2/75," Box 87, Baroody Papers, GRF.

[14] Baroody to Ash, Clawson, Cole, Cook, Dam, Korologos, Timmons, March 8, 1973, folder "Citizens for a New Prosperity," Box 32, Baroody Papers, GRF.

pressure groups, lobbies and other PR oriented pressure groups necessary to support the programs of the Administration."[15]

Business groups – particularly the Chamber – were mostly happy to oblige these efforts. Chamber Executive Vice President Arch N. Booth, "assured" Baroody that the chamber would "cooperate in every way" with the White Houses's effort to limit federal spending.[16] Several weeks later, Booth indicated that he was upset with a senior Nixon domestic policy advisor, who had failed to send along an Administration "talking paper" that Booth had hoped to use "to guide the business community."[17] Similarly, the Chamber's legislative director suggested to Baroody that an article prepared by the White House explaining the president's budget program would be "very useful to [the Chamber] in helping counter some of the arguments being generated across the country." In addition, he told Baroody, "[A]s soon as you folks have identified the key Congressmen to target on in the budget battle, I'd like to know who they are so we can begin some rifle-shooting."[18] As Baroody reported to Haldeman, the Nixon Administration's efforts to "turn on such organizations as the Chamber of Commerce on the spending issue" were successful: both the NAM and the Chamber assisted the White House by "generating letters and telegrams of support...to Congressmen and Senators," and "placing "full page ads in major media newspapers supporting cuts in federal spending, and in addition, listing the names and addresses of the congressmen and senators in each area."[19] Overall, the legislative director told the White House that he hoped there would be "reasonable similarity between [the Chamber's] position and the Administration's...so that [the Chamber's] efforts [could] supplement those of the Administration." Underlining the Chamber's subordinate role, he added, "Of course, to the extent possible, it would be preferable to talk before the Administration's positions are finalized."[20] In one smaller indication of the Chamber's place in the White Houses's consciousness, one of Nixon's aides simply "did not show up" at a lunch scheduled to enable him to meet with the Chamber's top executives. "No call was made" to cancel.[21]

Continuity under Ford

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[15] Baroody to Colson, November 27, 1972, folder "Notes, ca. 1973 (4)," Box A137, Laird Papers, GRF. Joseph Baroody was also involved in laundering money designed to support Nixon's reelection campaign. *See* Perlstein, *Nixonland*, 592.

[16] Baroody to Haldeman, March 27, 1973, folder "Chron File (15) - March 26-28, 1973," Box 43, Baroody Papers, GRF.

[17] Baroody, memorandum for the record, April 17, 1973, folder "Memos to the Record (3)", Box 35, Baroody Papers, GRF.

[18] Davis to Baroody, March 20, 1973, folder "Miscellaneous (2)," Box 35, Baroody Papers, GRF.

[19] Baroody to Haldeman, March 3, 1973, folder "Chron File (9) - March 1-6, 1973," Box 42, Baroody Papers, GRF; Baroody to Haldeman, March 27, 1973, folder "Chron File (15) - March 26-28, 1973," Box 43, Baroody Papers, GRF.

[20] Davis to Cole, April 9, 1973, folder "Chron File (2), April 10-17, 1973," Box 43, Baroody Papers, GRF.

[21] Baroody, memorandum for the record, April 17, 1973, folder "Memos to the Record (3)", Box 35, Baroody Papers, GRF.

Though these efforts to leverage business's growing grassroots capacity diminished during Ford's tenure in office, senior Ford officials similarly sought to deploy business capacity as an auxiliary lobbying force for Administration priorities. For instance, then-senior aide to chief of staff Donald Rumsfeld, Richard B. Cheney wrote to Baroody to request a "fairly detailed informational packet" prepared by the NAM on a bill proposing a consumer protection agency. Cheney indicated, "Supposedly, they've done an analysis of previous votes, made some predictions and some crude headcounts concerning people that might be persuaded to vote to sustain a veto."[22] Two months earlier, Cheney had written to Ford's staff secretary requesting a copy of a letter President Eisenhower had written "to the top four or five hundred corporate leaders in the country," which, he believed had been "very successful." Cheney hoped that the letter could serve "as a model for something we might want to do."[23]

Ford's senior advisors were conscious of the broad unpopularity of business interests. Because of the energy crisis of 1973-74, the oil industry was a particular concern. One member of Ford's legislative liaison staff described his anxieties about overly close ties between the energy sector and the White House as follows:

> The oil industry has absolutely fallen on its face in the past year and a half and I am fearful that in a sense they are looking to us to bail them out, help justify their existence and generally establish a liaison which in my opinion could be potentially dangerous to the President. I think this is the wrong time for there to be any appearance that the President is 'in bed' with that industry... No question about the capital needs of that industry and the problems it faces but I think we should deal with them at arms length as we would any other industry group.[24]

Similarly, another Ford advisor worried about a dinner with coal industry representatives "becoming characterized as a White House-industry lobby event. He warned, "We have to be very sensitive to avoid the impression that these events are essentially designed to help the industry lobbyists with others being invited simply for cosmetic effect...I do not think that the Washington lobbyists should be seated at the head table with the President."[25]

In addition, they believed that Ford – with the right combination of style and substance – could reanimate Nixon's "New Majority," and even expand it. The newly created Office of Public Liaison (OPL), for instance, was designed to enable Ford to "reach out to those elements that have been considered our adversaries…[including] much of the labor movement, many minorities, and some ideological groups. To implement this approach we might, for example, call in environmentalists to explain that we are in favor of striking a balance between

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[22] Cheney to Baroody, June 23, 1975, folder "Cheney, Richard," Box 21, Baroody Files, GRF.

[23] Cheney to Jones, February 19, 1975, folder "Staff Secretary Files - WH Memos - Cheney, Dick (10)," Box 10, Jones Files, GRF. Folder has letter too.

[24] Bennett to Friedersdorf, April 23, 1975, folder "Energy, April - May 1975," Box 12, Friedersdorf Files, GRF.

[25] Duval to Cannon, March 22, 1975, folder "Coal Industries Dinner with the President - 1975/03/21," Box 8, Connor Files, GRF.

environmental concerns and needs of growth, and request their help in finding this delicate balance."[26] As a result, Ford officials were typically cautious in their approach to cooperation with business interests, often seeking to balance the views of business with other perspectives, including those of organized labor.[27]

Relatedly, the new Administration's first reaction to combating the inflation crisis it inherited was to initiate a series of inflation-related conferences and summits in the fall of 1974.[28] As Baroody advised Gen. Alexander Haig, Nixon's chief of staff, on the day of Nixon's resignation, "[T]he seriousness of our economic problems and the deep-seated concern which exists here and abroad makes it highly desirable to move quickly to communicate with key elements of the private sector through a series of economic meetings and conferences."[29] Baroody, however, told the president that he was worried about "the manner in which we currently propose to treat consumer and labor groups in the pre-summit meetings." He continued, "I do not necessarily object to separate consumer and labor meetings with or without Presidential participation, but I believe deeply that everything related to the economic summit is going to be perceived and should be perceived as the symbolic and actual demonstration of the Ford Administration approach to problem-solving. In my view, it is essential, therefore, that consumer and labor interests be included in all appropriate pre-summit meetings."[30]

Nevertheless, the Ford Administration was more committed from the beginning than its predecessor to cooperating with organized business groups in generating Administration policy, rather than simply expecting business to fall in line once the Administration had established a particular policy approach. Baroody — one of the few holdovers from the Nixon White House to maintain a senior role in the Ford Administration — was a key player in this regard.[31] He consistently advocated for a "mechanism to permit the private sector to have an earlier input into [the Administration's] policy-making process." As Baroody told Ford, several advantages would accrue from such consultations. First, he suggested, the Administration would be perceived to be "responsive to the frequent complaints that are heard from these groups that they are brought in for consultation only after policies have already been adopted." Second, in Baroody's view, providing business groups "the opportunity to have an input in the development stage," would mean that the White House "could expect a greater degree of support from the private sector when we send our legislation to the Hill." Third, Baroody simply felt that "it would be useful to

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[26] Baroody, "Talking points for meeting with President Ford," undated draft, folder "Notes for Memo to the President re OPL, 8/11/74," Box 62, Baroody Papers, GRF.

[27] Baroody to Greenspan and Seidman, March 18, 1975, folder "Baroody, William J. (White House Public Liaison Office (2))," Box 171, Seidman Files, GRF.

[28] *See* Waterhouse, *A Lobby for Capital*, 207-209.

[29] Baroody to Haig, August 9, 1974, "Notes for Memo to the President re OPL, 8/11/74," Box 62, Baroody Papers, GRF.

[30] Baroody to Ford, August 17, 1974, folder "President Ford Memos (1) - 1974," Box 87, Baroody Papers, GRF.

[31] Cite one of the articles that makes this point.

our officials as they develop policy to have the knowledge and expertise of the private groups that are affected available to them."[32]

Acting on these ideas, Baroody expanded business consultation. Under his leadership, the Ford White House established a formal series of "Tuesday" and "Wednesday" meetings in which various sectors of the business community were invited to the White House for informal consultations, as well as several White House-sponsored "field conferences" designed to extend private sector-government discussions beyond the capital. At one point, Baroody estimated that OPL interacted with over 17,000 individuals through this combination of efforts, including roughly 2,400 invitees for the Tuesday meetings and approximately 600 at the more intimate Wednesday gatherings.[33] On regulatory reform too, the Ford White House sought to "begin a dialogue with the business community," noting that "[s]everal journalists and businessmen share our concern that business leaders in the past have been shortsighted and that the business community should play an active role in halting Government encroachment on [the] free market system."[34] Likewise, Ford's legislative liaison staff were concerned about business opposition to congressional efforts to expand access to class action suits by individuals not personally damaged by antitrust violations. As one advisor wrote, "I have no idea of the merits of the industry's arguments, however, if this bill is anti-business, we may not want to be in a position of endorsing it."[35]

The Nature of Business Power within the Republican Party

The ideological affinities between the organized business community and the Ford Administration make it difficult to assess the business community's influence.[36] During his congressional career, Ford had been a reliable vote in favor of conservative policies. From the moment he took office, Ford took pains to remind the business community that he and his Administration were at least philosophically sympathetic to business's priorities, from the need to combat inflation to the need to reduce government regulation. In the spring of 1975, Ford told an audience, "It is like a spring tonic to appear before a meeting of the Chamber of Commerce." In the speech, Ford criticized "runaway spending," and highlighted regulatory reform as a key goal of his Administration, suggesting, "[W]e must examine the whole ranges of existing rules and regulations to determine whether modifications could lower costs without significantly

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[32] Baroody to Ford, March 25, 1975, folder "President Ford Memos (3) 3/75-11/75," Box 87, Baroody Papers, GRF.

[33] Baroody to Ford, January 23, 1975, folder "President Ford Memos (2) 1/75-2/75," Box 87, Baroody Papers, GRF.

[34] Schmults to Morris, November 22, 1975, folder "Reg. Ref. - Gen. 8/75 - 12/75," Box 34, Schmults Files, GRF.

[35] Friedersdorf to Buchen and Hills, September 22, 1975, folder "Congressional - Legislation: General (2)," Box 7, Buchen Files, GRF.

[36] For a broader introduction to the study of the influence of lobbyists on political officials, *see* Richard L. Hall and Frank W. Wayman, "Buying Time: Moneyed Interests and the Mobilization of Bias in Congressional Committees," *American Political Science Review*, Vol. 84, No. 3 (Sep. 1990): 797-820; Hall and Alan V. Deardorff, "Lobbying as Legislative Subsidy," *American Political Science Review*, Vol. 100, No. 1 (Feb. 2006): 69-84.

sacrificing their objects."[37] And, on proposed legislation to control toxic substances, Ford's advisors opted for a proposal that "imposes the least burden on the industry, but contains provisions for eliminating those toxic substances that are now known to be harmful or will later be found unacceptable."[38] Relatedly, as we saw in the previous chapter, it was the growing personal antipathy between the Nixon White House and the elements of the consumer and environmental movements Nixon had sought to court – rather than business power per se – that seems to explain many of the favorable policy developments for business of the end of Nixon's first term in office. In particular, Nixon's decision to veto water pollution legislation (ultimately overridden by Congress) seems to have been driven by Nixon's disappointment at his reception by potentially left-leaning allies, rather than by a change of business capacity.

Despite these difficulties, the following section of this chapter focuses on three key policy initiatives that business groups opposed during the Ford presidency – a renewed push by consumer advocates to establish a consumer protection agency, proposed revisions to federal elections law perceived to advantage organized labor over organized business, and a labor-sponsored initiative to permit common situs picketing – in an effort to consider the nature of business influence on national-level policymaking during the mid-seventies. The historical record suggests that, although business groups placed significant pressure on elected officials to oppose the creation of consumer protection agency, President Ford's veto of that legislation stemmed from his own personal beliefs about the inadvisability of expanding government bureaucracy. Similarly, Ford's advisors largely dismissed business concerns on election law as overblown. In contrast, Ford's decision to veto common situs picketing legislation clearly resulted from pressure by a combination of business and conservative groups. As we will see, business's independent efforts met with particular success when they were joined with those of other actors within the Republican coalitional orbit, who were able to pressure the Ford White House to change its mind on common situs picketing because of the possibility that they would mount an independent primary challenge to the president.

Assessing Business Influence: The Consumer Protection Agency

Without a doubt, business groups – often working in concert – mounted a set of sophisticated and aggressive efforts against a proposed consumer protection agency in the years between 1970, when an agency dedicated to the protection of consumers was first proposed, and 1978, when a renewed push to pass consumer protection legislation with Democrat Jimmy Carter in the White House failed to garner even a majority of votes in the House of Representatives. In the aftermath of the post-Watergate midterm congressional elections of 1974, that effort faced a steep challenge, given strong Democratic majorities in both chambers that were newly emboldened to pass consumer-friendly legislation. In particular, anti-consumer agency activists in the Ford White House and outside worried about changes in the composition of the Senate. A successful filibuster by opponents of consumer agency legislation during the 93rd Congress

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[37] Ford address to Chamber, April 28, 1975, folder "Regulatory Reform, October 30-31, 1975," Box 29, Cannon Files, GRF; *see also* Waterhouse, *A Lobby for Capital*, 210-211.

[38] Cannon to Connor, November 10, 1975, folder "Clean Air Strategy (1)," Box 9, Humphreys Files, GRF.

(1973-1974) was sustained by only one vote – yet seven of the senators voting to sustain that filibuster were not returned to office. At least some Ford staffers even believed the president would have to offer a "comprehensive and credible alternative" to the strong consumer agency bill that would likely pass in their present anti-Republican environment.[39]

Led by the president himself, the White House, however, adopted a position that was more conservative than even some elements of the organized business community – who preferred that Ford sponsor a more business-friendly consumer agency proposal around which moderates and conservatives could rally. Domestic policy advisor James Cannon told chief of staff Rumsfeld, "My understanding of the President's private position is: *He does not like the Senate Bill S. 200* [the proposed consumer agency legislation]*, but he has asked the Domestic Council to talk with each Cabinet Member and come up with alternatives before he takes a public position on this issue.*"[40] Ford ultimately opted not to propose an alternative. Instead, the president preferred to establish an internal White House review of agency-level policies designed to ascertain whether consumer needs were adequately met by existing executive-branch procedures.[41] Cannon summarized the president's approach:

> Your objectives, as we understand them, are: 1. Prevent, if possible, the passage of legislation creating a consumer protection agency. 2. Have enough votes to sustain a veto of S. 200, which would create a Consumer Advocacy Agency, if Congress should pass it or similar legislation. 3. Demonstrate, at the same time, your Administration's concern for consumers, and your belief that consumer concerns can be well represented through existing government structures, which were created to advance the public interest.

When the proposed legislation easily passed both chambers, Ford Administration policy centered on the likelihood of sustaining a presidential veto in the Senate, where 28 senators voted against S. 200 in the final floor vote on the bill. Here, relying on the vote-counting skills of lobbyists from General Motors, NAM, and Proctor & Gamble, the Administration was confident that would be able to sustain a veto.[42]

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[39] Baroody to Ford, January 11, 1975, folder "President Ford Memos (2) 1/75-2/75," Box 87, Baroody Papers, GRF.

[40] Cannon to Rumsfeld, March 27, 1975, "Consumer Protection Agency - Administration Alternative Plan (2)," Box 10, Marsh Files, GRF, emphasis in the original.

[41] Consistent with Ford's position that reform of federal regulatory activity would benefit consumers as well as other economic actors, the president directed his staff to establish a procedure to "study federal regulatory activity," during which the White House would also examine "the extent to which consumer interests are adequate to protect consumer interests." Ford also approved a proposal originating with Baroody to establish an Office of Consumer Advocate in each agency and department. Cannon to Ford, April 3, 1975, folder "Domestic Council - Decision Papers (2)," Box 5, Baroody Files, GRF; Cannon to Ford, March 14, 1975, folder "Cannon, James," Box 21, Baroody Files, GRF; Marsh to Rumsfeld, January 18, 1975, folder "Baroody, William 1/75," Box 73, Marsh Files, GRF.

[42] Baroody to Marsh, May 20, 1975, folder "Baroody - Miscellaneous Correspondence (2)," Box 2, Valis Files, GRF; Friedersdorf to Marsh, May 23, 1975, folder "Memo Chronological File May 1975," Box 1, Friedersdorf Files, GRF.

Ford's advisors were divided over the president's decision not to present an Administration proposal, taking different positions on the reception that choice would have among influential sectors of the business community. Baroody, for instance, informed Ford that his contacts in the business world feared the political consequences of the president's decision not to propose a more conservative, business-friendly consumer bill.[43] In his words, "They advised me that the business community felt that they could no longer wait for Administrations leadership due to ever-increasing time pressures. They have decided to introduce alternative consumer legislation to 2.200, which could provide opponents of CPA with 'something to vote *for*,' before voting to sustain your possible veto of S. 200 [the consumer agency bill]."[44] Baroody also warned that, without an Administration proposal, the "liberal element of the business community" would be forced "to back S. 200 and oppose us on a veto."[45]

In contrast, other influential voices within the Administration – including OMB director James Lynn and deputy director Paul O'Neill – believed that the Administration's actions were in keeping with the "substantial amount of opposition in the business community to any CPA legislation." As O'Neill summarized, "On the merits, a CPA is not needed nor is it likely to be able to achieve the goals of its proponents."[46] Lynn, for his part, told the president, "CPA is a 'fringe' political issue–the far left and far right in Congress disagree strongly with each other on CPA...Endorsement of CPA would probably alienate an important conservative coalition of Congressmen and Senators."[47] Other advisors believed that the president was better off proposing nothing because a consumer protection agency would be established in any event.[48] In sum, although it is difficult to evaluate business's direct impact on Ford's pivotal decision to veto consumer protection legislation, at minimum, suggestive evidence exists that Ford could have opted to support an alternative congressional proposal. Had he done so, he would have been met with at least some support from critical segments of the business community. That he did not do so seems to reflect his own political philosophy as much as it does business pressure.

Federal Election Law: Writing Off Business

On another issue of importance to business – 1976 amendments to the Federal Election Campaign Act (FECA) of 1971 – Ford's advisors were even more willing to minimize the

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[43] Baroody placed particular stock in the opinions of Bryce Harlow – a Proctor & Gamble executive and former Nixon aide particularly influential in business political circles – along with other leaders of the "Washington business steering committee for legislative-political strategy."

[44] Baroody to Ford, March 27, 1975, folder "President Ford Memos (3) 3/75-11/75," Box 87, Baroody Papers, GRF.

[45] Undated memo, Baroody to Ford, folder "Agency for Consumer Advocacy (1)," Box 1, Baroody Files, GRF.

[46] O'Neill to Buchen, Marsh, Baroody, Cavanaugh, February 7, 1975, folder "Agency for Consumer Advocacy (1)," Box 1, Baroody Files, GRF. Same folder contains an example letter from Mobil re opposition to S. 200.

[47] Lynn to Ford, February 21, 1975, folder "Knauer, Virginia (4)," Box 23, Baroody Files, GRF.

[48] Loen to Friedersdorf, March 19, 1975, folder "BE 2-1 4/1/75 - 5/31/75," Box 4, WHCF Subject File, GRF.

complaints of business.[49] As Vogel summarizes, the business community had "no substantive impact in shaping the legislation." On the contrary, he notes that election reform legislation was enacted largely on the basis of pressure from organized labor.[50] In particular, Ford's key advisor on issues of election law – White House counsel and Ford's former law partner, Philip W. Buchen – consistently played down claims made by business groups, including the Chamber about the negative impact the proposed legislation would have on business's capacity to participate actively in the electoral process. Buchen, for instance, told the president that the Chamber had solicited its members urging them to oppose the FECA Amendments through member communications with the White House. Buchen, however, dismissed the political and policy-related importance of those communications: "The solicitation was impassioned and, in my opinion, it misrepresented or overstated the effects on business of the Amendments enacted by Congress...I have my doubts that people who sent communications in opposition to the bill fully understand all aspects of the legislation or appreciate the consequences of your attempting to get better legislation out of Congress at this time."[51] Later, Buchen told the president that the objections of corporations to the bill were "based more on emotion than on an analysis of the bill."[52]

In his recommendations, Buchen methodically took apart the claims business groups had made regarding the legislation. One provision of the 1976 FECA amendments removed the capacity of corporate Political Action Committee's (PACs) to communicate with non-management employees who were not also shareholders. Here, Buchen suggested that this possible handicap was relatively minor: "Although the Conference Bill reduces the potential subjects for unlimited solicitation of political contributions to corporate PAC's," the bulk" of contributions to business-friendly PACs "would likely come in any event from shareholders and management employees because of their greater resources and their community of interest."[53]

Buchen and other advisors also reflected that the legislation would hurt organized labor more than business groups, even if they also damaged business's political capacity to some extent. A second provision of the legislation limited an individual PAC's contribution to any candidate to $5,000 per election. When calculating that $5,000 limit, the law proposed to treat multiple PACs of a particular corporation as one combined entity: under the terms of this "non-proliferation" provision, any contributions from PACs affiliated with the same corporation would be treated as though they came from the same source and therefore made subject to the $5,000

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[49] These amendments were passed in the wake of the Supreme Court's decision in *Buckley v. Valeo* (1974) striking down significant portions of the 1971 law.

[50] Vogel, *Fluctuating Fortunes*, 118.

[51] Buchen to Ford, May 10, 1976, folder "Federal Election Campaign Act Amendments of 1976: Memo (3)," Box 16, Marsh Files, GRF.

[52] Buchen to Ford, April 14, 1976, folder "Federal Election Campaign Act Amendments - 1976 (4)," Box 14, Buchen Files, GRF.

[53] Buchen to Ford, April 22, 1976, folder "Federal Election Campaign Act Amendments of 1976: Memoranda, 2/76-5/76 (1)," Box 16, Marsh Files, GRF.

limit. The key to the White Houses's analysis was that the provision also applied to the PACs of "single international union and all of its locals or to a national COPE and all of its state affiliates," dramatically limiting the possible contributions labor-related PACs could make to Democratic candidates. As Buchen suggested, the "aggregation principle would have an immediately greater impact on Union PAC's which at present probably outnumber active and sizeable [sic] PAC's of businesses."[54] Similarly, conservative Rep. Guy Vander Jagt (R-MI) advised Ford's legislative liaison staff, "[D]espite the erroneous contention of the NAM and the Chamber of Commerce that the bill reported by the Conference gives labor advantages over the business community...speaking strictly political...the impact of business and industry PAC's on the outcome of elections is minimal at best. So even if all PAC [activity] were stopped it is not that much of a problem." PACs, on this account were more important to Democratic than Republican members of Congress: in 1974, PAC contributions "went 5% to Republican challengers and 55% to Democratic incumbents."[55]

Indeed, Buchen had criticized earlier versions of the FECA amendments because of his perception that they were overly favorable to labor at business's expense.[56] Strikingly, at least from a contemporary perspective, Buchen and a coterie of other senior Ford advisors saw *Buckley* – and its rejection of limitations on campaign expenditures by individuals or groups independent of a particular candidate – as an "undesirable" decision. As they advised the president,

> The limits on individual contributions to a candidate stimulate the formation of independent groups by special interests, wealthy individuals, big business and big labor. Furthermore, it encourages candidates to abjure responsibility and control for what is said and done on their behalf by independent groups. A Pandora's box of mischief is opened. The fundamentals of our electoral process have been altered unintentionally and without consideration of the overall effects.[57]

Their analysis was motivated by business's lack of engagement in campaign financing and by labor's dominance of the field.

In turn, business's relative lack of participation in campaign financing – at least through the 1976 presidential election – can be used as a proxy for its continued lack of engagement with the institutional Republican Party. In the summer of 1975, roughly a year before the general election of 1976 had begun to heat up, the chairwoman of the Republican National Committee

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[54] Buchen to Ford, April 24, 1976, folder "Federal Election Campaign Act Amendments of 1976: Memo (2)," Box 16, Marsh Files, GRF.

[55] Leppert to Friedersdorf, May 1, 1976, folder "Federal Election Campaign Act Amendments of 976: Memo (3)," Box 16, Marsh Files, GRF.

[56] Buchen to Rockefeller, March 3, 1976, folder "Federal Election Campaign Act Amendments - 1976 (1)," Box 14, Buchen Files, GRF.

[57] Buchen, Rogers Morton, and James Connor to Ford, February 4, 1976, "Federal Election Campaign Act Amendments - 1976 (1)," Box 14, Buchen Files, GRF.

(RNC), Mary Louise Smith, wrote to a key Ford advisor informing him of "an imminent financial crisis." In particular, she noted that during the RNC had made a "maximum effort...to work with and encourage the Chairman of the Republican National Finance Committee in developing initiatives to generate funds from large contributors on a direct solicitation basis. At the end of that month, little demonstrable progress has been made in increasing major contributions." In addition, she warned, "More important, there has been no solid commitment to future levels of fund-raising from major contributors...Although we are exactly on target for budgeted expenditures, the almost total lack of income from large contributors has brought us to the present crisis."[58] Although Smith did not mention corporate contributions directly, it is easy to imagine that corporations and individual businessmen would likely have been found among the "major contributors" whose absence she lamented.

Several months later, the situation had not improved. Officials from the RNC indicated that the $1.7 million they hoped to raise from "large contributors" between September and December 1975 was "more than than three times the amount raised from major contributors during the first eight months of this year." As a result, they warned a Ford senior political advisor, "[I]t is important to understand that even if we raised $8 million this year and there were no budget over runs, the RNC would still begin 1976 with only about $390,000 cash reserves." As a result, the RNC chairman would recommend "curtailing" at least some RNC operations.[59]

A postmortem analysis conducted by the President Ford Committee (PFC) in the wake of Ford's loss to Carter in the 1976 election similarly reflects "the general lack of corporate political activity in this election campaign." Citing an article in the *Wall Street Journal* entitled "Bashful Business," the analysis suggested that low levels of corporate political activity included "included lack of information about FEC rulings on corporate partisan political communications, fear of stockholder derivative suits resulting from expenditure of corporate funds for political purposes, and general management inexperience with political activity." Perhaps more puzzling, the report noted that "[t]ime and money were the major barriers to a more effective business and professional program" within the PFC. Looking forward, the report suggested an "increase of coordination" with the Chamber, the NAM and other business groups. In addition, it recommended that the RNC establish a program for corporate managers and business leaders "to emphasize the importance of corporate political activity." The proposed program would cover (among other issues) "understanding and interpreting the Federal Election Campaign Act," the "establishment and effective operation of corporate Political Action committees," and the creation of "in-house corporate programs designed to promote ongoing political participation and education." The report's authors also reflected that the RNC should sponsor "[r]egular regional meetings of corporation executives," which would combine "'how to' seminars and information exchange sessions, workshops for political activity, Q&A sessions with attorneys on legal

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[58] Smith and Obenshain to Hartmann, July 11, 1975, folder "RNC (3)," Box 28, Hartmann Files, GRF.

[59] Milbank to Hartmann, September 26, 1975, folder "Rep. Nat. finance Comm.," Box 28, Hartmann Files, GRF. Same folder contains doc that describes new RNC activities under FECA and list of major contributors. Same box, "The Right Report," has more nasty things from Viguerie about the Ford Administration

issues."[60] Even as of 1977, in a speech before the Business-Government Relations Council, Bryce Harlow lamented,

> I am sad about the corporate PAC performance. I think we have got to do something far better, and as some of you know, I have been urging widespread support of BIPAC, even by the business PAC, to get our weight hard behind a reconfiguration of the Congress, which the present PAC system has great difficulty doing. Unless we sharply improve this area, our traditional party friends in Congress will no longer get mad but will just get even.[61]

In another reflection of the continued limitations of business's relationship with the Republican Party at its highest levels, Ford's campaign planners also sought to keep their distance from "big business." As an early draft of Ford's campaign plan compiled in late August of 1975 suggested, growing public concern with "big business – big business, big government, big labor" represented one important issue for the president. The plan's authors were especially concerned about their party's links to large-scale businesses: "For years, the Republican Party has been tagged with the shibboleth that it is the party of big business. And, yet, during Republican Administrations there has been traditionally more activity in the anti-trust area – a direct challenge to 'big business' – than ever has existed during the years of Democratic administrations." Consequently, they suggested, "An effort must be made to develop this issue along with emphasizing the reduction of the size of government and attacking the inordinate power of organized labor."[62] Ford's chief pollster further developed this theme in discussions with the chairman of the PFC, suggesting that an "anti-bigness, anti-concentration of power theme might be a good one for the administration for several reasons."[63] He also told then-chief of staff Cheney that the president needed to "violate his stereo-type [sic] as a classic Republican," advising Ford to "stay away from all of the traditional Republican cliches. and reiterating the importance of the "anti-bigness or concentration of power idea."[64]

Common Situs Picketing

[60] "Final Report, Business and Professional Groups for President Ford," Toby Knox, Executive Director, November 10, 1976, folder "Business and Professional Groups - Final Report," Box F20, PFC Records, GRF.

[61] Harlow to Business-Government Relations Council Annual Meeting, Homestead, Hot Springs, Va., September 16, 1977, Folder 3, Box 64, Baroody Papers, LOC.

[62] President Ford Committee Campaign Plan, August 29, 1975, folder "Callaway Subject File - Campaign Strategy - August 1975 (1)," Box A1, PFC Records, GRF.

[63] Teeter to Callaway, December 5, 1975, folder "12/5/75 To Bo Callaway - Recommendations on Themes (Issues/PRograms) for Administration and Campaign," Box 63, Teeter Papers, GRF.

[64] Teeter to Cheney, November 12, 1975, folder "11/12/75 To Dick Cheney - Analysis of Early Research and Strategy Recommendations," Box 64, Teeter Papers, GRF.

At minimum, despite business cooperation with the Administration to sustain a presidential veto, business groups did not lead to Ford's veto of consumer protection legislation, nor did they successfully convince the Ford White House to oppose the 1976 FECA amendments. In contrast, however, a combination of business and conservative pressure did lead Ford to change his position on common situs picketing legislation. Here, the record is clear that the president "was forced to make a turnabout," ultimately leading to a veto.[65]

As we have seen, the Ford White House inherited the Nixon Administration's emphasis on cultivating ties with organized labor groups and the labor rank-and-file. Consistent with this interest in incorporating elements of the labor movement into the "New Majority," the White House sought to compromise with labor on the issue of common situs picketing, provided certain policy-related conditions were met.[66] Moreover, Ford's advisors worried about the political costs of vetoing the legislation – one going as far as to suggest that, if Ford did intend to veto the proposal, "it might be a good idea to have Labor or someone else leak an analysis of the pros and cons so that the public can see that there are some difficult issues involved. If this isn't done, a veto may look like a flip flop by the President for solely political reasons."[67]

White House staff and other Ford advisors, however, were clear about the vehemence with which both conservative and business groups opposed permitting common situs picketing. PFC Chairman Bo Callaway, for instance, told Cheney, "I continue to hear a great deal of concern about the president's tacit support...of legislation now pending before the Senate on 'common situs' picketing…[I] know how emotional it is with a great many people. I don't pretend to have the answer here but believe that the President should be personally involved because this is one that will be a major issue both with construction unions and with NAM, Chambers of Commerce, etc."[68] Another advisor reflected that the common situs issue was "building to unnecessarily dangerous proportions." He continued, "The President's stand is indefensible with many Republicans. He may well feel he has a good deal with labor...however, I do not care how good the deals are."[69] For his part, Baroody summarized, ""The response from business and conservatives [on common situs picketing] has been intense, and, with the possible exception of the consumer protection agency, more unified than on any other issue. These sectors are flat out against common situs and are extremely intense in their opposition to a Presidential signing."[70]

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[65] Loen to Marsh, January 9, 1976, folder "94th Congress - Working Philosophy of the Congressional Relations Office," Box 4, Friedersdorf Files, GRF.

[66] Loeffler to Friedersdorf, November 21, 1975, folder "Common Situs Picketing - H.R. 5900," Box 5, Loen and Leppert Files, GRF.

[67] Schmults to Cheney, December 16, 1975, folder "Common Situs Picketing (1)," Box 10, Schmults Files, GRF.

[68] Callaway to Cheney, August 11, 1975, folder "Callaway Subject File - Cheney, Richard," Box A1, PFC Records, GRF.

[69] Jones to Cheney, November 21, 1975, folder "Subject File - Common Situs Picketing," Box 19, Jones Files, GRF.

[70] Baroody to Cheney, November 20, 1975, folder "Baroody - 'Eyes Only' (3)," Box 46, Baroody Papers, GRF.

Consistent with these strongly held views, the Ford White House received a significant volume of communication from both business and conservative groups on the common situs picketing issue. According to one estimate, by the winter of 1975, the White House had received over 560,000 communications on the issue – the "bulk" coming from "contractor groups and the National Right to Work Committee," an influential conservative group organized to promote right-to-work and other anti-labor legislation. Ford's advisors also noted that they had "received a significant volume of mail from party leaders and contributors," in addition to local businesspeople, many of whom indicated that Ford would "lose their support" if he did not veto common situs picketing.[71] A second estimate suggested that the White House had received over 441,000 letters and cards opposing common situs, compared to 112 in favor: "Although 422,000 have been cards and form letters, which reflects the intensely organized nature of this campaign, Roland Elliot's office [Ford's director of correspondence] advised...that they 'can think of no other legislative issue' that has provoked such a response."[72]

The Chamber of Commerce and the Business Roundtable were both active on the issue as well, voicing their opposition to proposed legislation and later providing support after Ford's veto. In January 1976, approximately a month after that veto, Alcoa's John D. Harper (then-co-chair of the Roundtable) forwarded a report suggesting that no local labor unions had "given any indication or made any statements to the effect that [they were] increasing [their] demands or planning on being tougher at the bargaining table because of the President's veto of common situs."[73] Likewise, the Associated General Contractors were "really doing a good job to thank the President for vetoing the common situs bill," having "certainly worked hard in building up pressure prior to the veto."[74]

Crucially, however, Ford's decision to veto common situs legislation hinged on the importance of the issue to insurgent conservatives, who were in the process of organizing a primary challenge to Ford, led by Ronald Reagan. Ford's advisors were worried about the consequences for Ford's primary chances of approving legislation favored by organized labor:

> For the President, who is running in primaries against a more conservative opponent, his signature will not ever be explainable. To most Republicans in the more conservative areas of our country (West Texas for example) most labor leaders should be permanently imprisoned and open shops should be decreed by a Constitutional Amendment. There is no deal that the President can make that can mollify this basic gut conservative Republican emotional reaction. Since the conservatives, and responsible businessmen I might add, form the key basis for our financial support as well as campaign leadership, I think you run the risk of

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[71] Cannon to Ford, December 1975 [likely]], folder "Common Situs Picketing - Meeting with the President, December 18, 1975," Box 8, Cannon Files, GRF.

[72] Baroody to Cheney, November 20, 1975, folder "Baroody - 'Eyes Only' (3)," Box 46, Baroody Papers, GRF.

[73] Seidman to Ford, January 16, 1976, "Construction-Situs Picketing (3)," Box 51, Seidman Files, GRF.

[74] Callaway to Cheney, January 13, 1976, folder "Pres. Ford Committee: Callaway, Bo," Box 2, Morton Files, GRF.

> losing a large percentage of these people through resignation...The President's present position is a *loser*.[75]

Others passed on similar warnings about the dangers of motivating a primary challenge led by conservatives by supporting common situs picketing legislation. Baroody, for instance, conveyed the threat of a "massive mailing campaign" to be organized by the National Right to Work Committee directed to voters "the various primary states about a month to six weeks before each primary. The subject of the mailings will be common situs and how the President 'caved in' to big labor pressure." According to Baroody, Reagan's top two fundraisers – Richard Viguerie and Morton Blackwell, both leading figures in the conservative movement – would cooperate with these efforts. Baroody added, "In addition, the Reagan Committee (through Viguerie) also would send out a series of mailings on common situs to voters in the primary states attacking the 'President's weakness and vulnerability' to big labor."[76]

Lessons Learned?

It is difficult to know what the fate of common situs picketing legislation might have been in the absence of a business-conservative alliance, just as it is difficult to speculate about how Ford's policy on the 1976 FECA amendments might have changed if conservatives had added their voices in concert to those of business in opposing certain features of the legislation. It is also difficult to fault business for having an ally in the White House generally committed to opposing the creation of a consumer protection agency for reasons not directly connected to business pressure. Nevertheless, common situs picketing represents one important instance where business groups were able to alter the president's initial policy position significantly, obtaining the most crucial policy concession from the White House of this period. The cooperation of conservative and other Republican-affiliated groups was instrumental in that process: business groups were most powerful when they acted in concert with other groups within the Republican orbit. And, as we will see in the next two chapters, the Chamber of Commerce would develop increasingly close ties with the conservative movement, while other groups, particularly the Business Roundtable, would seek to keep their distance from insurgent conservatives with divergent implications for the respective political power and policy influence of these two groups. For now, however, we can conclude this section by suggesting that business power during the late Nixon and Ford periods was at its apex not simply when business groups acted in unified pursuit of common objectives, as other scholars have identified, but also when business groups worked together with other groups within the Republican orbit to accomplish shared goals.

Business Strategies

Business groups, however, did not immediately learn political lessons from their successful cooperation with insurgent conservatives. In fact, as I demonstrate in the following

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[75] Jones to Cheney, November 21, 1975, folder "Subject File - Common Situs Picketing," Box 19, Jones Files, GRF, emphasis in the original.

[76] Baroody to Cheney, November 20, 1975, folder "Baroody - 'Eyes Only' (3)," Box 46, Baroody Papers, GRF.

section, business groups largely kept their distance – common situs picketing notwithstanding – from the conservative challenge to Gerald Ford, only later adopting and adapting some of the tactics the conservative insurgents had used in their almost successful primary challenge. Indeed, business's political strategies during this period represented a tactical grab-bag of possibilities, designed to increase business's political power during a time when its public and political profile, as we have seen, was at a low ebb.

Conservative Innovation

Conservatives challenging President Ford for the 1976 Republican presidential nomination — and not organized business groups — quickly grasped the potential of changes in campaign finance laws. They focused, in particular, on the unlimited expenditures that independent groups unaffiliated with a political campaign could deploy on a candidate's behalf. Conservatives also sought to leverage the benefits of coordinated activity across groups and PACs. One Ford advisor, for instance, considered the reasons for Reagan's "unexpected" success – especially in achieving high electoral turnouts – in several state-level Republican caucuses. In his view, "A clear patter [sic] is emerging: these turnouts now do not seem accidental but appear to be the result of skilled organization by extreme right wing political groups in the Reagan camp operating almost invisibly through direct mail and voter turnout efforts conducted by the organization themselves." In his view, led by conservative fundraising and direct-mail pioneer Richard Viguerie, individual "wealthy sponsor[s]" like Joseph Coors – heir to the brewing fortune and founder of the conservative Heritage Foundation – or by "special interest groups like the NRA," conservative groups had put the Ford campaign "in danger of being out-organized by a small number of highly motivated *right wing nuts*, who are using funds outside of the Reagan campaign expenditure limits."[77] Another Ford advisor noted, ""An unprecedented amount of conservative money will be spent in Congressional races during 1976. During the last to years a half dozen conservative interest groups have set up substantial PAC's." This advisor cited Rep. Ron Paul's (R-TX) victory in a special congressional election as "[t]he first evidence of the strength of the conservative money and, just as important, the new conservative teamwork and cooperation among these groups."[78]

The newsletter of the American Conservative Union (ACU), a key conservative group, echoed similar themes in its March 1976 edition: "The key to ACU's effort was the January 30 decision of the U.S. Supreme Court upholding the constitutionality of independent expenditures on behalf of candidates for public office." The organization was careful to note that its effort was "entirely independent of the official Reagan campaign and is not authorized or cleared with

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[77] Undated, author unclear (Valis?), "An Explanation of the Reagan Victories in Texas and the Caucus States," "Subject File - Reagan, Ronald (2)," Box 25, Jones Files, GRF, emphasis in the original.

[78] Valis, memorandum for the record, April 26, 1976, folder "Hughes Subject File - Reagan Campaign (2)," Box B8, PFC Records, GRF.

the local and state Reagan committees.[79] Ford's political advisors, however, felt that they could see through this approach:

> The American Conservative Union (ACU) 'Reagan Project' has sent out a mailing to 'fellow Conservatives'...This two-page solicitation letter has the traditional Reagan pablum; in addition, on page two of the letter, the ACU specifically notes: '...The Supreme Court recently struck down the limits on *independent* expenditures by individuals and organizations–as long as they're not coordinated with the candidate's campaign. ACU–with your help–*can conduct an unlimited effort on behalf of Governor Reagan*–not subject to the Federal election law ceiling. We plan to do exactly that. The opportunity is too great, the issues to crucial, to settle for anything less than an absolute, all-out effort. *ACU can give the extra push that will elect Ronald Reagan to the Presidency*…'[80]

Conservatives, rather than business, also seized upon the political opportunities available to individual wealthy sponsors interested in politics, coming in for criticism from senior Nixon and Ford Administration officials for doing so. Even in October 1974, Nixon and Ford political aide Patrick Buchanan anticipated the positive impact of campaign finance reform on dissent conservatives. He told Ford, "It is not at all wise or healthy for the Republican Party right now to have the President sign into law legislation, the effect of which will be to provide a tremendous economic incentive to disconsolate conservatives to set up their own political party, in the election of 1976."[81] For his part, Cheney hoped that a *Washington Post* report concerning Joseph Coors' "pervasive influence with the Reagan wing of the Republican Party" could represent "a fairly major crack at the Reagan wing of the Party and an effort to demonstrate that much of the Reagan effort is really a front for Joseph Coors and that Coors may have problems by using this tax exempt foundation to support political activities." Cheney also suggested that the White House "should take a look at what, if any, relationship currently exists between the Administration and Joseph Coors."[82]

Indeed, a select few key right-wing foundations, including the Scaife, Smith-Richardson, and Pew Foundations, provided the bulk of AEI's financial support, even with respect to a proposed Center for the Study of Government Regulation – a key issue for organized business. In fiscal year 1974, for instance, out of AEI's new and increased contributions of $697,325, the largest contribution was Smith Richardson's grant of $200,000; the largest corporate contribution

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[79] ACU, *Battleline*, March 1976, Vol. X, No. 3, folder "Subject File - Reagan, Ronald (4)," Box 25, Jones Files, GRF.

[80] Bob Visser and Tim Ryan to Stu Spencer, April 27, 1976, "Hughes Subject File - Reagan Campaign (2)," Box B8, PFC Records, GRF, emphasis in the original

[81] Buchanan to Ford, October 11, 1974, folder "Staff Secretary Files - WH Memos - Cheney, Dick (1)," Box 10, Jones Files, GRF.

[82] Cheney to Rumsfeld, May 1, 1975, folder "Reagan, Ronald," Box 18, Cheney Files, GRF.

came in at only $50,000.[83] Similarly, for fiscal year 1975, roughly half of the receipts of pledges made in 1973 and 1974 came from the Lilly Foundation.[84] In that year, although corporations came to contribute a more significant fraction of the new and increased contributions figure of $365,428, the Earhart, Lilly, and Smith Richardson Foundations alone contributed $350,000 in "special new grants."[85]

In part with the assistance of wealthy sponsors, conservatives also outspent other Republican-affiliated groups, including business. Ford advisors anticipated that more than $3 million would be spent by conservative organizations in the 1976 election, including the National Conservative Political Action Committee, the Gun Owners of America Campaign Committee, The Committee for the Survival of a Free Congress sponsored by Heritage Foundation founders Paul Weyrich and Joseph Coors, the Conservative Victory Fund and the National Right to Work PAC.[86] In contrast, as we saw earlier, the RNC believed that it would be exceedingly unlikely to raise even $1.7 million from large contributors during the last quarter of 1975. Indeed, Wayne Valis, an aide to Baroody, who later served as President Reagan's business liaison, characterized the Business-Industry PAC — one of the business community's leading campaign finance vehicles — as a "more cautious organization." He added, "I don't believe it works closely with the other conservative groups on Presidential politics at the moment."[87]

With the exception of certain individuals, including Heritage's Coors, there is little evidence to suggest that business groups worked closely with conservatives during this time period. On the common situs issue, for instance, both sought the same goal, but achieved it by working independently. Here, one measure of business detachment from the conservative causes is the extent of business involvement in the American Enterprise Institute, despite challenges to its conservative bona fides by the Heritage Foundation.[88] As one business executive interested in supporting AEI's proposed "Center for the Study of Government Regulation wrote to Baroody, "[V]ery few in the business community, who should be most concerned, are even aware that American Enterprise Institute exists much less aware of the important role which it is playing. It would be difficult otherwise to explain the lack of financial support your institution has received."[89] Even as of 1978, only thirty percent of AEI's annual budget of more than $7 million

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[83] AEI, New and Increased Contributions Over Prior Year, Fiscal Year 1974, Folder 8, Box 58, Baroody Papers, LOC.

[84] AEI, New and Increased Contributions Over Prior Year, Fiscal Year 1975, Folder 8, Box 58, Baroody Papers, LOC.

[85] AEI, Receipts in Fiscal Year 1975 of Special New Grants, Folder 8, Box 58, Baroody Papers, LOC.

[86] Valis, memorandum for the record, April 26, 1976, "Hughes Subject File - Reagan Campaign (2)," Box B8, PFC Records, GRF.

[87] Valis, memorandum for the record, May 4, 1976, folder "Cheney Notes," Box 50, Baroody Papers, GRF.

[88] Cite P-F.

[89] John E. Morrissey, VP, Distribution, Super Valu Stores, Inc., to Baroody, March 20, 1975, Folder 9, Box 45, Baroody Papers, LOC.

– or approximately $2.5 million – was derived from corporate support.[90] By comparison, AEI's Baroody frequently passed along an estimate that business payed approximately $1.3 billion in annual dues to trade organizations and provided approximately $1 billion in philanthropic contributions."[91] As Baroody told the Business Council in the winter of 1972 in a speech designed to persuade leading corporate executives to increase their involvement in conservative institutions, "Given the magnitude of business's contributions portfolio, I am not suggesting that a real revolution in corporate contributions patterns is required. Simply a minimal shift in corporate allocation of financial resources would permit major expansions in the programs of public policy research centers that are not the creatures of any interest (business, labor, foundation, government, or political party) but who share a belief in the fundamental values of a free society."[92]

A second measure is the rhetoric of the conservative insurgency itself. Here, the movement did not mince words. In one solicitation for Reagan, Sen. Paul Laxalt (R-NV) wrote, "*Ronald Reagan has a problem*. Funds are very tight. He has no 'sugar-daddies' bankrolling his campaign, but must count upon the loyal support of thousands of Americans such as yourself."[93] Although Laxalt was referring obliquely to then-Vice President Nelson R. Rockefeller (R-NY), a favorite target of conservative insurgents, the broader message was clear: Reagan was a different kind of Republican. In 1977, Reagan himself made the point explicitly in a speech at the Conservative Political Action Conference, telling his audience: "The New Republican Party I envision will not be, and cannot be, one limited to the country club-big business image that, for reasons both fair and unfair, it is burdened with today. The New Republican Party I am speaking about is going to have room for the man and the woman in the factories, for the farmer, for the cop on the beat…"[94]

Moreover, the Ford White House, like the Nixon Administration, consistently acted on the view that business — a "traditional" Republican constituency — and the conservative insurgency represented substantively different constituencies in terms of social and economic class and political outlook. As one Ford aide put it: "Many of the members of these [conservative] groups are not loyal Republicans or Democrats. They are alienated from both parties because neither takes a sympathetic view toward their issues. Particularly those groups controlled by Viguerie hold a 'rule or ruin' attitude toward the GOP."[95] Indeed, as the primary

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[90] Baroody to Robinson F. Barker, September 21, 1978, Folder 2, Box 4, Baroody Papers, LOC.

[91] Baroody to BGRC, June 29, 1971, Folder 8, Box 86, Baroody Papers, LOC.

[92] Baroody address to the Business Council, Hot Springs, VA, October 20, 1972, folder "American Enterprise Institute - General, 1971-72," Box A52, Laird Papers, GRF.

[93] Paul Laxalt, undated campaign materials for Reagan, folder "Reagan, Ronald (1)," Box 164, Hartmann Papers, GRF, emphasis in original.

[94] Cited in Cowie, *Stayin' Alive*, 228. For a broader discussion of the more populist strains in Reagan's version of Republicanism, *see* ibid.,

[95] Undated, author unclear (Valis?), "An Explanation of the Reagan Victories in Texas and the Caucus States," folder "Subject File - Reagan, Ronald (2)," Box 25, Jones Files, GRF.

campaign against Reagan wore on into the spring of 1976, Baroody told Ford that he had mistakenly focused on "standard GOP issues only (economic, big government, over-regulation, etc.). [Ford's] very significant accomplishments in these areas are largely discounted particularly by an ideologically committed conservative majority in the primary and convention states," whose political priorities lay elsewhere.[96] Like the Nixon Administration, the Ford White House also used certain figures within the Republican orbit, including Sen. Barry Goldwater (R-AZ), Chairman of the Council of Economic Advisors Alan Greenspan, or conservative economist Milton Friedman to "touch base with the conservatives."[97] In these meetings, the White House sought to emphasize issues of overlap with conservatives, including Ford's opposition to welfare reform, an income supplement program, and national health insurance – all of which represented issues on the relative periphery of business's political consciousness.

In the aftermath of Ford's loss to Jimmy Carter in the 1976 presidential election, however, certain business groups and individuals took the lessons of the conservative-driven PAC revolution to heart. Given the success of conservative mobilization in the 1976 Republican presidential and congressional primaries, it is not surprising that the 1978 congressional elections marked a distinct shift in business PAC strategy. As Vogel has documented, business-related PACs doubled their contribution to congressional candidates in four short years, giving \$9.8 million in 1978 as compared to \$4.4 million in 1974 – an amount that would double again to 19.2 million in 1980.[98] Moreover, Vogel has identified "a marked contrast between the pattern of corporate campaign contributions in 1976 and the pattern in 1980." Vogel notes that corporate PACs significantly diminished their contributions to Democratic incumbents and worked more closely with conservative PACs. Indeed, in 1978, the Chamber of Commerce, working with the NAM and the Study of Free Enterprise at the University of Southern California inaugurated a series of conferences designed in part to educate businesspeople about the potential of political action committees. Kim Phillips-Fein draws particular attention to Justin Dart – one of the leaders of business's limited efforts in support of Ford – who encouraged his colleagues that the key to business's political power was the PAC: "A company that doesn't have a PAC is either apathetic, unintelligent, or you've got a death wish."[99]

In sum, the political potential of the combination of political action committees working in tandem – but not officially cooperating with – candidates for office was initially demonstrated by insurgent conservatives, not business groups. Instead, business groups adopted these strategies only in the wake of conservative success. I explore the additional links developed between conservative groups and business groups – particularly the Chamber of Commerce – in the next two chapters of the project.

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[96] Baroody to Ford, May 7, 1976, folder "Office of Public Liaison - Memos and Plans," Box 63, Baroody Papers, GRF.

[97] Cheney to Connor, January 16, 1975, folder "Cheney, Richard (1)," Box 7, Connor Files, GRF; Cheney to Ford, November 13, 1975, folder "Goldwater, Barry," Box 16, Cheney Files, GRF.

[98] Vogel, *Fluctuating Fortunes*, 209.

[99] Phillips-Fein, *Invisible Hands*, 186.

Learning from the Opposition

Business did not learn only from its putative allies within the Republican Party, however. In fact, as this next and final section of this chapter lays out, business also adopted strategies taken from its political opposition. As Harlow summarized in a speech before the Business Roundtable, "What our real friends in Washington have long yearned for, and keep pleading for, is some business equivalent to COPE, Common Cause, or even Nader's Raiders."[100]

Even dating back to the immediate postwar period, business groups suffered from what Waterhouse has called a "crisis of confidence," itself a corollary of the strong focus on the dangers of union power we explored in the previous chapter.[101] The organized business community remained consistently skeptical about the power of its national representatives to affect the nation's regulatory politics. In 1962, for instance, an internal report on the "Major Roots of Union Power, a component of the campaign to curb union monopoly power, the authors analyzed union control of "public sympathy" and labor's hold on "effective political action." Business, according to the report, was weak, whereas labor was strong. The report emphasized labor's advantage on campaign finance: "Through COPE [the AFL-CIO's Committee on Political Education], the unions are now able to collect and expend enormous sums of money in the political arena." What's more, the report outlined a view that the collective bargaining process was structurally biased against individual employers, who were willing to trade small gains on wages for much longer-term, more significant concessions to organized labor. As a consequence, individual employers consistently found themselves at the mercy of labor unions. The subcommittee authors concluded: "Many employers are opportunists...Their philosophy is to settle today and take their chances on tomorrow."[102]

Almost a decade later, such pessimism also characterized the early years of the Business Roundtable. In a memorandum discussing internal organization and political strategy for the Roundtable, a consulting group — hired by the organization to "help clarify the goals and objectives of The Roundtable and to make some basic policy program recommendations for the Public Information Committee — shared its view that the "success of the Business Roundtable experiment is not assured." The group continued, "The record of business men sticking together in tough fights is not encouraging and that weakness was rather vividly reflected in our interviews" with Roundtable members. According to the consultants, their interviews reflected little consensus about how to respond to Lewis Powell's call to arms to the business community: "No total attack program was serious put forward."[103] They continued by outlining the lack of consensus within the Roundtable on the issue of how business ought to organize collectively in order to challenge its diminishing place in public life. "There were indeed pleas for programs to

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[100] Harlow to BRT, June 17, 1974, Folder 3, Box 64, Baroody Papers, LOC.

[101] Waterhouse, *A Lobby for Capital*, xx.

[102] "Major Roots of Union Power," Preliminary Report of Subcommittee on Sources of Union Power, October 30, 1962, "Union Monopoly Power, Center for Study of," Box 61A, Series V, NAM.

[103] *See* the previous chapter for a discussion of the Powell Memorandum.

combat economic ignorance 'over a 25-year span,' to explain the role of profit, to 'educate' the public on Labor power and its effects, to present the mechanics and dangers of inflation and some bemoaning of the low estate of free enterprise." Overall, this advisory group asked, "Was this resignation to defeat, myopia, or just not knowing what to do about it? The latter, we think."[104]

Likewise, the sense of inferiority harbored by organized business groups did not abate. In a letter to Irving Shapiro, then-Senior Vice President at DuPont, a senior DuPont attorney described a meeting of several senior business executives, many affiliated with the Business Roundtable, held in the spring of 1972.[105] The letter reported that Borch (despite his connections to the Nixon Administration, explored elsewhere in the dissertation project), in particular, felt that "industry is not doing an effective job in Washington." And, Borch felt, "Labor is obviously able to accomplish much more than industry." Harlow suggested that "business needs to overcome a reluctance to act," while Ford "wondered" if business could even solve its internal problems "because of the difficulty industry has in speaking in one voice on anything. In short, even in the spring of 1972, "There was general agreement that a serious problem existed."[106]

This crisis of confidence, as Vogel argues, meaningfully shaped the development of business political capacity during this period. He suggests, "The degree to which, throughout most of the 1970s, business saw itself as functioning within the political shadow of its adversaries is reflected in the particular political strategies that business adopted." As we have seen, business groups had long both feared and opposed the political power of organized labor. Beginning in the early 1960s, however, they sought to emulate the political tactics that they believed had made the AFL-CIO successful. They focused particularly on the organization's lobbying skills, of which "business ha[d] traditionally been most in awe."[107] Moreover, as the liberal public interest became increasingly prominent over the course of that decade and into the 1970s, business also began to consider emulating the approaches to politics and policy that they believed had made those organizations successful in pushing for increased government regulation of the environment and the workplace.

What's more, over the course of the period between 1974 and 1978, individuals interested in resuscitating the public power of organized business had begun to reconsider the wisdom of

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[104] "Study for the Business Roundtable," Cook, Nelson, and Tuthill, Inc., February 12, 1973, "Business Roundtable Policy Committee, 1972-1974," Box 6, Accession 1815, C.B. McCoy Papers, Hagley (CBM).

[105] They included Fred Borch, chairman of GE and former head of the Business Council, Henry Ford, II, the head of Ford Motor Company, John D. Harper, chief executive of Alcoa, Charles B. McCoy, DuPont's own chief executive, and Bryce Harlow.

[106] Roy A. Wentz to Irving S. Shapiro, March 27, 1972, "Business Roundtable, March Group, 1972-1973," Box 7, CBM. The letter also noted that only 24 out of the first 100 companies on the Business Council had representatives in Washington.

[107] Vogel, "The Power of Business in America: A Re-Appraisal," *British Journal of Political Science*, Vol. 13, No. 1 (January 1983), 30.

relying on elevating business's public profile through grassroots communication and education. As one executive described the problem,

> In the last fifteen years particularly, business and industrial companies and their associations have spent uncounted millions and in the distribution of printed material. The polls repeatedly show that business has never had a lower rating, a poor image and less credibility...Our business and industrial friends should be persuaded that their own efforts in this regard have been singularly ineffective and that they should welcome a different approach.[108]

Others, including members of the Chamber of Commerce's Committee on Business Overview – established in the wake of the Powell Memorandum's all to action for the purpose of "monitor[ing] progress in improving business credibility" – echoed similar themes.[109] One member worried about business's stale political approaches: "I do not hold out any hope for the problem eloquently described in the Powell Memorandum as long as the people discussing it adhere to the idea that the answer is to 'tell industry's story.' This is stillborn by every criterion I know; and yet when people get together in meetings, either of your Committee or of the Business Roundtable, the idea will not die."[110] Another suggested, "If our Committee...takes the 'safe' and narrow course of restricting our labors to doing a little more and a little better of that which we know how to do – economic education – it will, I believe, be the second cubbyholing of the Powell Memorandum by the Chamber of Commerce."[111]

As a result, business sought to look elsewhere for inspiration. A crucial focus of business counter-mobilization was the AFL-CIO's Committee on Political Education (COPE). The COPE model relied in large part on the mobilization of sympathetic voters. COPE not only aggressively pursued voter registration efforts, focusing particular attention on members of organized labor, but also sought to collect increasing amounts of data on public opinion, election law, and the demographics of its membership.[112] COPE was organized explicitly as a grass-roots, campaign organization. Indeed, the AFL-CIO's lobbying arm, the legislative department, was formally and operationally separate from COPE's electioneering efforts.[113]

Consequently, the business community's first foray into the field of political action committees, BIPAC, Business-Industry Political Action Committee, was formed with the explicit

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[108] Karl Bendetsen to D.K. Ludwig and John D. Harper, September 26, 1978. Harper then sends to Baroody, November 15, 1978, writing, "I will call you in the next day or so about what we might do with regard to these suggestions." Folder 6, Box 61, Baroody Papers, LOC.

[109] Purposes and Objectives of the Business Overview Committee, May 26, 1976, Folder 6, Box 88, Baroody Papers, LOC.

[110] George Hammond to Whyte, October 31, 1974, Folder 6, Box 88, Baroody Papers, LOC.

[111] John A. Howard to William G. Whyte, June 5, 1974, Folder 6, Box 88, Baroody Papers, LOC.

[112] Jonathan Cottin and Charles Culhane, "Committee on Political Education," in Judith G. Smith, ed., *Political Brokers: Money, Organizations, Power, and People* (New York: Liveright/National Journal, 1972).

[113] J. David Greenstone, *Labor in American Politics* (Chicago: The University of Chicago Press, 1977), 335.

intent of serving as a political counterweight to COPE's financing efforts on behalf of labor-friendly candidates.[114] NAM's director of public affairs and the first head of BIPAC made the connection explicit in an interview with the *AFL-CIO News* on May 18, 1963. He told the *News* that he had "always admired the COPE operation...No organization in politics could function except along the COPE pattern."[115] BIPAC's own marketing materials described it as an organization designed to "serve as the political action arm of business and industry and to enable the business community to exert the political influence to which it is entitled." According to BIPAC, "every other group or economic interest" of the age possessed "an organization which exerts political influence in congressional campaigns." It drew particular attention to COPE. "Labor unions, for example have developed enormous political power through COPE...and other union organizations which raise money for candidates sympathetic to the aims of organized labor."[116] Like COPE, BIPAC explicitly eschewed elite lobbying, in favor of an approach to political influence driven by campaign contributions.[117] And, like COPE, BIPAC devoted its energies primarily to congressional elections, rather than state-level or presidential elections.

Business's focus, as well as that of its allies, on COPE's political influence did not end with BIPAC's creation nor with the end of the 1960s. Political strategists for the President Ford Committee were particularly concerned about early drafts of the 1976 FECA amendments precisely because they believed these amendments would unduly advantage state and local COPE entities at the expense of business and business-friendly PACs. One memorandum from PFC staff to White House counsel Buchen focused on the provision of proposed legislation that permitted corporate PACs to solicit contributions only from stockholders or officers, but allowed labor unions to solicit contributions from all members. Its authors wrote, "The removal of employees from this provision essentially isolates corporate employees from in-house political activity. Moreover, if they are members of a union, only one group – organized labor – will be permitted to solicit their funds for political purposes while at work. This provision has the potential of creating a national political force unequaled in power – COPE."[118]

A related analysis noted that the Ford Administration had "continuously taken the position that the law must provide equal opportunity for political activity by corporation [sic] and unions. No longer will this field be preempted by COPE. Accordingly, we have concentrated on the structure of PAC's and limitations incumbent therein, and on the importance of the issue of non-proliferation." As a result of this focus, the authors noted, "[A]ll qualified corporate and union PAC's will be limited to a $5,000 aggregate contribution per Federal candidate per election, even though there may exist more on than one PAC within the corporate or union

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114 BIPAC Certificate of Registration, August 1, 1963, "BIPAC," Box 70, Series V, NAM.

115 *AFL-CIO News*, May 18, 1963.

116 "The Facts About BIPAC," undated pamphlet, "NAM Action Kit," Box 70, Series V, NAM.

117 Jonathan Cottin, "Business-Industry Political Action Committee," in Smith, ed., *Political Power Brokers*, 124.

118 PFC Legal Staff to Buchen, February 21, 1976, "Federal Election Campaign Act Amendments - 1976 (1)," Box 14, Buchen Files, GRF.

structure."[119] The Ford White House, as we have seen, was willing to live with limitations on business political activity provided that these limitations affected state and local COPE organizations more significantly. Similarly, in mid-1975, the influential right-wing philanthropist John M. Olin forward an analysis of AFL-CIO contributions to members of the House Ways and Means Committee to AEI's Baroody noting, "I direct your attention to the continued pressure being exerted by organized labor with respect to whatever influence and pressure they can make on the House Ways and Means Committee...I find it difficult to understand how anyone could expect legislation inimical to AFL-CIO and organized labor to be successful in view of the record of contributions I send to you herewith."[120]

Leveraging the Judicial System

Business groups also attempted to learn from their opponents' increasingly successful deployment of the judicial system as a strategic political weapon. Many recent accounts of business's renewed focus on the legal arena during the early-to-mid-1970s have focused on a segment of the Powell Memorandum. In a small section toward the end of the Memorandum, Powell drew attention to the potential of the judicial system to serve as an arena in which business could pursue its political aims by highlighting the efforts of business's opponents in deploying the American legal system for their own objectives. He noted, "Other organizations and groups...have been far more astute in exploiting judicial action than American business." Powell singled out "groups ranging in political orientation from 'liberal' to the far left" as the "most active exploiters of the judicial system."[121]

Building on these ideas, in 1972, in an effort to ensure that the judicial system would receive "input from adversary positions," a second internal Chamber of Commerce memorandum proposed the creation of a "Total Environment Law Firm." The document's authors reflected, "[S]elf-appointed groups referred to as 'public interest law firms' have largely preempted legal representation of 'the public interest' in environmental issues." The Chamber believed that organized business interests had been "caught off guard" by "this relatively new mechanism...the 'public interest law firm'" and its allies in government (particularly within the EPA). Business interests, in the Chamber's view, had initially hoped that they could placate the new environmental movement simply by complying with new federal environmental statutes. Instead, the memorandum's authors indicated, their cooperative instincts had been met by additional demands from their adversaries. They wrote, "This new breed of preservationists maintains that quality standards are licenses to pollute, and therefore unacceptable, that every

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[119] Bob Visser and Tim Ryan to Jim Connor, April 7, 1976, "Federal Election Campaign Act Amendments - 1976 (4)," Box 14, Buchen Files, GRF.

[120] Olin to Baroody, April 29, 1975, Folder 8, Box 60, Baroody Papers, LOC.

[121] Lewis F. Powell, Jr. to Eugene B. Sydnor, Jr., August 23, 1971, "Confidential Memorandum." Available at: http://law.wlu.edu/powellarchives/page.asp?pageid=1251.

citizen has a right to as clean an environment as is technically possible, and that private litigation to achieve this goal should be pursued."[122]

The memorandum's authors proposed the creation of a "counter-balancing legal force." In their view, this force would be a "*public interest law firm concerned with the total environment* (physical, social, and economic), which could question administrative decisions on their relativity to the intent of the law, and in terms of principle as to adequacy in the best public interest." Seeking to take advantage of tax exemptions granted to other public interest firms, the Chamber memorandum suggested that the "T.E. firm" would be a "'shell' organization" with a small staff. Its purpose would be to initiate litigation and prepare *amicus* briefs, rather than defending polluters from suits brought by environmental public interest firms or the Environmental Protection Agency.[123] Eventually, the ideas in the memorandum would lead to the creation of the Chamber's litigation arm, the National Chamber Litigation Center, in 1977.[124]

In its limited sense of the political potential of the judicial system, the business community echoed a similar gap in the activities of the organized labor movement. For instance, in a letter to then-head of the NAACP's Legal Defense Fund, Jack Greenberg, then-AFL-CIO Associate General Counsel Thomas E. Harris confided the limitations of the organization's legal activities. He wrote,

> The AFL-CIO is not itself involved in litigation very often and does not make any attempt at planning [the] over-all litigation strategy of its affiliates. When we know that a number of affiliates are involved in the same type of litigation, such as the current suits being financed by the right-to-work crows, we may get the affiliates involved together with a view to planning a common strategy. This, however, simply involves agreeing upon a common legal position and perhaps dividing up the work rather than pushing one case while holding up another.

On Title VII litigation, in particular, Harris noted, "[O]ur affiliates have never been in agreement on what positions they would take." Harris concluded, "I don't think that unions have ever succeeded in planning and executing a litigation strategy as the NAACP and the INC Fund have in the school desegregation field."[125]

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[122] Memorandum, "Total Environment Law Firm," U.S. Chamber of Commerce, 1972, "Total Environment Law Firm U.S. Chamber of Commerce," Box 74, Series V, NAM. *See also* Jefferson Decker, "Lawyers for Reagan: The Conservative Litigation Movement and American Government, 1971-87," Ph.D. Diss., Columbia University, 2009.

[123] Memorandum, "Total Environment Law Firm."

[124] For the NAM, participation in the judicial arena had become more appealing given the favorable political climate created in the wake of Nixon's election to the White House in 1968. As NAM General Council Miller analyzed the situation in early 1971, "In view of the changes in personnel on the NLRB, the Supreme Court and other federal courts, I believe it would be beneficial for the NAM to begin to take a more active posture with respect to filing amicus briefs and intervening in other ways." Miller to J.P. Matturro, February 22, 1971, "Richard Godown — Jan-March 1972," Box 75, Series V, NAM.

[125] Thomas E. Harris to Jack Greenberg, July 13, 1973, unprocessed records of the AFL-CIO legal department, George Meany Memorial Archives, Silver Spring, Maryland.

Of course, organized business interests were not unique among those opposed to the liberal public interest movement in their mimicry of those same groups. Ann Southworth, for instance, has traced the development of conservative public interest law firms designed explicitly to take up issues ignored by traditional public interest groups on the left, including the ACLU and the NAACP. Many of these groups modeled their activities and organizational forms on liberal public interest law firms.[126] Likewise, Steven M. Teles has described the activities of what he calls the first generation of the conservative reaction to the liberal public interest movement, arguing that this initial set of conservative public interest groups failed because of their close connections to individuals in the business community.[127] Nevertheless, what is striking is that these two sets of actors — the nascent conservative movement and the nation's peak-level business associations — held each other at relative arms length in the development of their respective legal capacities, just as they did in other areas of political involvement and the mobilization of capacity. Certainly, individual members of the business community were instrumental in creating and establishing the conservative public interest movement, with mixed success.[128] Nevertheless, the historical record is clear that organized business groups were not directly involved in the creation or formation of parallel conservative organizations.

Developing Intellectual Capacity

A third component of the organized business counter-mobilization was the development of independent intellectual capacity. In the previous chapter, we saw that it was through institutions like the American Enterprise Institute that Republican politicians worked to establish and deepen the links between the organized business community and the conservative movement. The Nixon Administration viewed the Brookings Institute as the key incubator of Democratic public policy ideas, and sought to construct a Republican-oriented alternative. In the course of this effort, officials within the Nixon White House, including the president himself, sought to incorporate elements of the business community into this effort.

Likewise, within the business community, AEI was both understood and sold as a counterweight to liberal policymaking – albeit one that would rely on the same basic set of strategies that had made Brookings successful. Addressing the Business Council several times over the course of the first half of the 1970s, Baroody frequently reminded his audience about the importance of intellectual competition – his watchword for the need to create a set of conservative-oriented centers for the study of public policy. And, in 1974, Baroody's standard solicitation letter for corporate contributions reflected, "It is certainly safe to say that the long-term trendline in public policy has been toward more rather less regulation of business...toward more rather than less government intervention in the private sector. And–growing public hostility to business is a fact. Effective competition of ideas is the American Enterprise

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[126] Ann Southworth, "Conservative Lawyers and the Contest Over the Meaning of 'Public Interest Law,'" *UCLA Law Review*, Vol. 52: 1223-1278 (2005).

[127] Steven M. Teles, *The Rise of the Conservative Legal Movement*: The Battle for Control of the Law (Princeton, N.J.: Princeton University Press, 2008), ch. 3.

[128] Ibid.

Institute's approach to the problem."[129] Sen. James L. Buckley (R-NY) echoed these ideas in his own address to the Business Council in 1974: "[I]f our business community is to harness its enormous resources and talents…[i]t will...have to develop a better understanding of the intellectual forces that have been at work over the past forty years."[130]

In individual discussions, Baroody compared AEI to Brookings more directly. Baroody reminded David Packard that the two of them had discussed "the basic problem which AEI faces in attempting to provide effective competition in the marketplace of ideas." For Baroody, that problem was the "lack of a substantial financial base to assure flexibility, continuity and the ability to move rapidly on targets of opportunity." In contrast, Baroody wrote, "As you know, the infusion of some $35 to $40 million by the Ford Foundation into Brookings in less than a decade made a major difference in the impact of that institution."[131] Several years earlier, Baroody and Standard Oil's John Swearingen attempted to convince Henry Ford to use his influence with the Ford Foundation to rebalance the Foundation's contributions to Brookings with contributions to AEI. They suggested that "the Ford Foundation give consideration, in view of its some $25 million of investment in the Brookings, to perhaps a grant of say $15 million to a research center whose staff and cooperating scholars on university campuses can generate responsible but varying points of view to be fed into the mainstream of public policy thinking."[132]

Conclusion

The late Nixon and Ford Administrations represent a period of critical transition for organized business groups. Faced with the prospect of continued indifference from putative political allies, business groups responded with a diverse array of new strategies, many drawn from similar efforts successfully executed by business's political opposition. Despite their distance from other members of the Republican coalition – and their relative lack of investment in the Republican Party as an institution – business groups were most effective when working in tandem with other elements of that coalition. Indeed, after the 1976 elections, some business groups, chief among them the Chamber of Commerce, would work much more closely with conservative insurgents seeking to remake the Republican Party in a more conservative image. Other business groups, including the Business Roundtable, would continue to pursue a non-partisan political strategy. As recounted in the next chapter, in the case of the Roundtable, that strategy would mean close cooperation with the incoming Carter Administration, particularly on regulatory matters. The consequences of these two competing approaches for contemporary American politics represent the subject of the final two chapters of this dissertation.

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129 Baroody to Lewis A. Lapham, Bankers Trust New York Corporation, May 31, 1974, Folder 5, Box 56, Baroody Papers, LOC.

130 James L. Buckley, Address to the Business Council, Hot Springs, Virginia, October 11, 1974, Folder 18: Business Council, Drawer 18, Series III, William E. Simon Papers microfiche, GRF.

131 Baroody to Packard, December 15, 1975, Folder 5, Box 61, Baroody Papers, LOC.

132 Baroody to Swearingen, August 17, 1970, Folder 3, Box 63, Baroody Papers, LOC.

The stakes of the analysis presented in this chapter for a broader account of business's political power are two-fold. First, in contrast to previous accounts that emphasize the importance of intra-business unity for business power, my account suggests that coalitional coordination is an equally important, and previously overlooked variable. Their own unity aside, business groups were able to exercise maximum influence over the White House when working with ideological conservatives, who were in the process of mounting a primary challenge to a sitting president. As they sought a way out of their captured position within Republican ranks, business groups found their greatest leverage by working within the Republican field, rather than seeking greater power outside of it. One possible option for generating additional political power, in other words, required business to bind itself ever more closely to coalitional partners within the Republican orbit, rather than seeking its fortune outside of the party that had largely ignored its policy objectives over the previous eight years.

Second, the historical record makes clear that American business in the postwar period has not generally been a political trailblazer. Instead, business has generally appropriated political strategies initially pioneered by other political actors. One lesson, then, from the recent history of business political activity is that actors need not innovate to wield power.

Chapter 4 | Divergent Trajectories: Carter and the Politics of the Business Roundtable and U.S. Chamber of Commerce

On February 5, 1978, the *New York Times* described the influence of the Business Roundtable on the Carter Administration in an article entitled "The Big Businessmen Who Have Jimmy Carter's Ear."[1] In the article, the *Times* reflected that "big business" leaders were able to exercise greater influence within the Democratic Carter White House than they were in the administrations of Carter's Republican predecessors, Richard Nixon and Gerald Ford. The businessmen "closest to the President" were four leaders of the Business Roundtable: DuPont CEO Irving S. Shapiro, General Electric Chairman Reginald H. Jones, General Motors Chairman and CEO Thomas A. Murphy, and AT&T Chairman John D. deButts. As I trace out in this chapter, the Administration's archival records confirm the *Times'* reporting. The Carter Administration worked extensively with these four individuals, and occasionally along with several other leading CEOs within the Business Roundtable, as it sought to promote Administration policies. In short, when Carter Administration officials considered working with the business community, they had in mind a short list of several key CEOs within the Business Roundtable.

In turn, the Roundtable attempted (with some critical caveats) to work *with* government to accomplish some of their shared ends and to generate good will with the Administration on issues of disagreement. As we will see, the group sought to leverage a particular set of institutional advantages to extract favorable treatment—particularly in key areas of regulatory policy, including auto emissions and antitrust regulation—from a Democratic White House. Where compromise was possible, the Roundtable sought to cooperate with the Carter Administration and was rewarded for their efforts. As David Vogel elaborates, "In contrast to most individual corporations and trade associations, the Roundtable attempted to come up with 'positive alternatives' to policies with which it disagreed, rather than simply opposing them."[2] Consequently, in contrast to previous works that have concentrated on business's capacity to prevent the passage of legislation it opposes, this chapter represents one attempt to understand the causes and consequences of business-government collaboration.

Nevertheless, consistent with American business's traditionally anti-statist approach to politics, during a period roughly coinciding with the apex of the Roundtable's influence within the Carter White House, the U.S. Chamber of Commerce moved decisively away from a position of occasional cooperation with government to one of active opposition.[3] Under the leadership of Richard L. Lesher, chosen to serve as president of the organization in late 1975, the Chamber opted to deepen its links with the growing conservative political movement, becoming, in Kim

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[1] Louis M. Kohlmeier, "The Big Businessmen Who Have Jimmy Carter's Ear," *New York Times*, February 5, 1978.

[2] Vogel, *Fluctuating Fortunes*, 201.

[3] On business anti-statism, *see*, for instance, Phillips-Fein, *Invisible Hands;* Vogel, "Why Businessmen Distrust Their State: The Political Consciousness of American Corporate Executives," *British Journal of Political Science*, Vol. 8, No. 1 (January 1978), 45-78

Philips-Fein's terms, "a social movement for capitalism."[4] Aligning itself with more ideologically conservative forces within the Republican Party, the Chamber's oppositional approach allowed it to deepen coalitional links with other conservative groups disaffected by the growth of the federal regulatory state. As the previous chapter demonstrated, those links were particularly weak even as late as the Ford-Reagan primary fight in late 1975 and early 1976. And, as the final chapter of this dissertation demonstrates, the positions adopted by the Chamber during the Carter years bore fruit with the election of Ronald Reagan to the White House.

In this sense, the Chamber reintroduced an approach to the politics of business, absent for at least the three decades following World War II, in which business organizations were fully integrated into the coalitional orbit of only one of the two major American political parties. Whereas the Roundtable continued to practice a politics of regular accommodation with Democrats, itself a consistent feature of business's role in politics since the end of World War II, the Chamber, given a changing political environment and increased competition within the world of business associations, chose to forge a path of renewed commitment to the Republican Party and allied groups. For scholars of the relationship of parties and interest groups, the theoretical stakes of this change are high: as developed in this and other chapters, an interest group's decision to operate within the orbit of one political party as one out of a set of "intense policy demanders" is a historically contingent one.[5] In short, we cannot take business's relationship with the GOP as given.

Lessons from Divergent Trajectories

The divergent political strategies adopted by the Chamber and the Roundtable offer an important opportunity to consider the "fluctuating fortunes" of business organizations. How should we understand competition within the business community for priority of place in national politics? More broadly, how do differences between groups representing similar constituencies and operating in a similar political ecosystem affect partisan politics and regulatory policy? One critical benefit of the Chamber-Roundtable comparison is that it allows us to compare the response of two similar organizations to the same set of political and economic pressures. As many analysts have noted in attempting to explain the politics of business during the mid-to-late seventies, Jimmy Carter presided over a tumultuous economy in the midst of deep, durable change. American economic actors during this period faced a series of challenges: a combination of high unemployment and inflation rates known as stagflation, increasing international economic competition, changing patterns of corporate management, the declining importance of labor unions and leaders, the decade's second energy crisis, and an overall sense of economic malaise. Juxtaposing the political strategies of the Chamber and the Roundtable enables us, in effect, to "hold constant" these changing economic pressures to isolate the political variables at play in the two groups' divergent behavior.

The Fluctuating Fortunes of Business Groups

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[4] Phillips-Fein, *Invisible Hands*, 202.

[5] Bawn et al., "A Theory of Parties," 7.

Three critical lessons, which form the theoretical backbone of this chapter, emerge from this compare-and-contrast exercise. The first concerns the nature of interest group competition itself. Like other economic actors, political interest groups competing for similar membership strive to "differentiate" the product they are offering to potential members. As McGee Young observes, groups that successfully identify a "niche environment" tend to survive; those that do not, fade away.[6] Consistent with Young's analysis of the struggle between the National Small Business Association (NSBA) and the National Federation of Independent Business (NFIB), the evidence presented in this chapter suggests that the Chamber responded to a changed competitive environment among large-scale trade associations by throwing its lot in with insurgent ideological conservatives within the Republican Party.[7] In so doing, the Chamber sought to offer to the business community what the Roundtable could not: ideological opposition to the reigning New Deal economic orthodoxy. As we will see, the Roundtable responded by doubling down on its strategy of elite-level bargaining, seeking a mutually productive *modus vivendi* with the Carter White House.

This chapter departs from Young's analysis, however, on the issue of the affinity or "fit" between an interest group's political orientation and the outside political environment. In his comparison of the NFIB and the NSBA, Young suggests that secular political trends tend to advantage one interest group over others competing for a similar set of members. Groups face similar pressures to adapt their organizations to "better fit the new institutional environment," but not all groups are equally able to do so.[8] Consistent with Young's account, the conservative insurgency represented one set of political pressures pushing the Chamber into an increasingly developed set of linkages with those groups and individuals seeking to remake the Republican Party, ultimately culminating in Reagan's 1980 electoral triumph. The Roundtable, however, evidently did not see an incongruity between its rapprochement with the Carter Administration and its political environment. Instead, it responded to a different set of political incentives. Here, in particular, the Roundtable benefited from the Carter Administration's fear that alone it could not contain the inflationary crisis and the President's corresponding desire to obtain business cooperation for a set of voluntary programs designed to combat that crisis. As laid out in this chapter, the Roundtable reaped tangible rewards from this strategy.

In contrast to Young, I argue that time horizons, rather than congruity or fit, represent the critical difference between the Chamber and the Roundtable. The Roundtable was willing to bargain with the Carter White House for short-term, but significant, regulatory gains, while the Chamber, interested in signaling its conservative bona fides, was not, instead holding out for longer-term, more durable political influence. Here, we can speculate that the CEO-driven Roundtable required more immediate gains from politics, as distinct from the professionally

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[6] McGee Young, *Developing Interests: Organizational Change and the Politics of Advocacy* (Lawrence, KS: University Press of Kansas, 2010), 6, 11.

[7] *See* Young, *Developing Interests*, ch. 3. The Chamber's changed political circumstances were brought on by the creation and development of the Business Roundtable, which had revolutionized the politics of business by offering politicians direct access to high-level CEOs.

[8] Young, *Developing Interests*, 12.

managed Chamber. More concretely, we can extract from the Chamber-Roundtable comparison a core insight: that the nature of interest group competition, and the returns to members they seek to provide, have a temporal dimension. Not all groups seek to play the political long game, even if the rewards to doing so may be greater than a shorter-term focus on extracting as much profit as possible from the regulatory arena.

The Decline and Fall of the Corporate Elite

A second lesson relates to the decline of what many analysts have called "the corporate elite." That is, the group of corporate titans, including Shapiro, Murphy, Jones, and deButts, who dominated the politics of American business from the end of the Civil War to the middle of the Reagan Administration. As Mark Mizruchi argues, Shapiro and his allies within the Roundtable represented the last of a now-extinct breed of corporate leaders, whose disappearance by the mid-1980s left in its wake a confusing plethora of individual firms and trade associations pursuing their own selfish ends in a reconfigured Washington, DC. The "enlightened self-interest" of these business leaders, Mizruchi suggests, led them and their organizational predecessors to an accommodation with government that sought to provide some respite from the rages of unconstrained market capitalism. The demise of this elite, on this account, was due to a combination of factors, including a new business culture of shareholder value, changes in corporate organization caused by the merger and takeover wave of the 1980s, the changing role of banks, and the very successes of the organized business community during the previous decade.[9]

If we take seriously Mizruchi's claims about the broad public benefits the corporate elite provided and the negative consequences of its demise, a close examination of the Business Roundtable during the Carter Administration offers an important look at its last years.[10] Such an examination enables us to consider both the important possibilities of an elite-based model of political activity for both business groups and political leaders and its critical weaknesses. And, as I argue in the pages that follow, it allows us to consider a new possibility that helps to account for the apex of elite business power in the late 1970s and its relative fall during the years of the Reagan Administration: that business's changing orientation to partisan politics, embodied by the different choices made by the Chamber and the Roundtable, created both a new set of opportunities for some business elites and a set of unexpected weaknesses for others. The Chamber's decision to align itself with ideological conservatives represented a new development in the relationship between business groups and American political parties. That decision, in turn, hinged on a proposition: business groups needed to respond to a changing Republican Party in order to remain relevant in a new political environment. The alternative was to remain ignored by Republican elites and despised by increasingly powerful insurgent conservatives. The Chamber's choice proved to be a successful one: Reagan's 1980 electoral victory meant that

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[9] Mizruchi, *The Fracturing of the American Corporate Elite* (Cambridge, MA: Harvard University Press, 2013), ch. 1; *see also* John B. Judis, The Paradox of American Democracy: Elites, Special Interests, and the Betrayal of the Public Trust (New York: Routledge, 2001).

[10] Earlier more critical takes include C. Wright Mills and others.

the Chamber, and not the Roundtable, represented the most powerful group representing business interests in Washington. For the Roundtable—and the tradition of corporate elite-level political involvement which it carried forth—however, that success represented a profound challenge. The elite model of business's political involvement was ill equipped to function in a rougher, more polarized political environment. I return to the implications of the changing fortunes of the Chamber and the Roundtable in the final chapter of the project. For now, we can conclude as follows: the (relatively) accommodationist corporate elite represented one casualty of the successful alliance between business interests and ideological conservatives within the Republican Party.

A New Deal Deferred?

The third lesson begins with the idea that the differences between the Chamber and Business Roundtable offer one point of departure to understand the possibilities facing Democratic political leaders as they sought to engage the business community toward the last years of the transformative decade of the 1970s. As Jacob Hacker and Paul Pierson have argued, the Carter presidency seemed to augur a "sharply leftward" movement in American politics. Despite this apparent possibility, the Carter period resulted in a set of political changes that moved the American political spectrum demonstrably in the opposite direction: "1977 and 1978 marked the rapid demise of the liberal era and the emergence of something radically different."[11]

Hacker and Pierson are representative of a view among historians and political scientists that the Carter period represents a paradigmatic case of "too little, too late." For Stephen Skowronek, Carter's presidency was "disjunctive": Carter, according to Skowronek, "was a nominal affiliate of a vulnerable regime projecting a place in history in which liberalism would prove its vitality through hard-nosed readjustments of its operating assumptions."[12] Despite his best efforts, however, Carter's efforts to readjust the fading liberal coalition failed. On the one hand, Carter was trapped by a fear of alienating core elements of the traditional liberal coalition with an overly strong emphasis on streamlining government. On the other hand, Carter was insufficiently committed to structural reform to satisfy "insurgent conservatives." In short, Carter ended up satisfying no one: the end of liberalism was baked into the structural cake he inherited. Yet, as this chapter seeks to show, that standard narrative of the Carter White House, although in many ways correct, relies too heavily on knowledge of subsequent politics.

Although a wholesale reevaluation of the Carter presidency is beyond the scope of this chapter, I hope to persuade the reader that Carter's successful efforts to forge an alliance with the Business Roundtable—perhaps the most powerful business group of its era—had the potential to disrupt existing coalitional arrangements in ways that prefigured the successful remaking of the Democratic Party under the leadership of Bill Clinton and other leading figures within the

[11] Hacker and Pierson, *Winner-Take-All-Politics*, 99.

[12] Skowronek, *The Politics Presidents Make*, 362.

Democratic Leadership Council (DLC).[13] Indeed, Carter's collaboration with the business community altered the Democrats' traditional focus on regulatory issues, moving from wholesale support of regulatory expansion to more measured administration that took into account the costs, as well as the benefits, of regulation. Rather than view this change as capitulation, Carter's alliance with the Business Roundtable represented an active effort on the part of the president to remake the Democratic Party to suit changing political and economic times. An in-depth analysis of competition between peak-level business association suggests that this effort to incorporate business as a new Democratic partner failed in part because of intra-business politics.

Relatedly, investigating the reasons for which Democratic political leaders at the national level sought to work with the business community, along with their perceptions of the benefits of such business-government cooperation, permits us to examine more deeply the mechanisms by which the preferences of interest groups are translated into public policy through the actions of elected officials. A variety of recent and older studies have documented the basic contours of business's political resurgence during the years between 1974 and 1978. And yet, the fact that business by and large chose to focus more closely on political activity—lobbying elite officials and attempting to increase public awareness of its contributions to society—during the years does not on its own provide any evidence about the reasons for its success. In Benjamin Waterhouse's terms, "What we need is a close study of the exact mechanism by which pro-market conservatives capitalized on economic hardship to successfully promote their vision of free market capitalism and a restricted state."[14]

Consequently, in this chapter, I treat business's political and organizational renaissance as a given, and examine how and why politicians reacted to this changed set of political conditions. An examination of business politics during the Carter Administration enables us to look at how politicians—in this case, primarily Democratic appointees in the Carter White House—chose to respond to changes in the nature of business's political pressure and why they did so. To take up Waterhouse's challenge, the comparison between the Chamber and the Roundtable presented here identifies two mechanisms that each work through partisan politics. The Chamber chose to work in tandem with insurgent conservatives to remake the Republican Party; the Roundtable, in contrast, chose to operate, where it saw advantages, through the concerns and priorities of a Democratic White House.

The remainder of the chapter proceeds as follows. In the first section, I identify and consider the general political approach the Carter White House adopted toward business groups, in the context of the Administration's political priorities and perceived challenges. The second and third sections then consider the Roundtable's relationship with the Administration, focusing on the gains from trade for each party. The fourth section discusses the oppositional strategy of the Chamber of Commerce. The fifth and final section concludes.

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[13] *See*, for instance, Daniel Gross, *Bull Run: Wall Street, the Democrats, and the New Politics of Personal Finance* (New York: PublicAffairs, 2000),

[14] Waterhouse, *A Lobby for Capital*, 5.

Setting the Stage for the Alliance

Arguably pioneering "the plebiscitary politics of our day," Jimmy Carter campaigned for the presidency by distancing himself from Beltway politics and highlighting his personal biography instead.[15] Emphasizing the importance of efficient, streamlined government, Carter's unexpected triumph in the 1976 Democratic primary, unsupported by traditional Democratic political constituencies and particularly by organized labor, meant that Carter felt himself free to pursue an independent centrist agenda. Not only did Carter operate "in the mode of a Progressive Era good government steward," rather than an "incipient New Dealer," as a Southern Democratic legislator and governor, he also "had very little experience with unions and felt hamstrung by his pro forma commitments to New Deal constituents."[16] Despite his wariness, during the first two years of his presidency, Carter did press forward, albeit somewhat reluctantly, with two signature liberal initiatives: a federal-level consumer protection agency that, as we have seen, had been a goal of consumer-oriented reformers since the early days of the Nixon White House, and a series of union-favored reforms to the nation's labor laws. Although Democrats maintained healthy majorities in both houses of Congress, these initiatives both failed—in large part due to business opposition—with labor law falling to an impassioned filibuster in the Senate and the revised consumer agency unable to gain a majority in the House of Representatives.[17] At the same time, several other initiatives more in keeping with Carter's management-oriented campaign promises, including Civil Service Reform, met with congressional approval.

Business opposition to the consumer agency and labor law reform initiatives notwithstanding, the "fundamental economic policy" of the Carter White House was "middle-of-the-road," as the Administration sought to tack between what it perceived to be the priorities of organized labor and its own misgivings about those priorities.[18] White House records consistently reflect the Administration's belief that it might be "forced" to take certain left-of-center positions—on common situs picketing, for instance—because of organized labor.[19] In response, as chief domestic policy advisor Stuart E. Eizenstat suggested in early 1977, the White House believed that it would benefit from a push-and-pull with labor: first "establish[ing] the priority that labor places on each of its initiatives," then "decid[ing] where we will stand on these questions," and finally "extract[ing] the maximum return from labor for our position (or minimize the damage)." In his view, the Administration would be best served by balancing cooperation with organized labor's program with regular resistance: "To the extent that we can couple our support on some of these issues with our resistance to others, or with commitments

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[15] Skowronek, *The Politics Presidents Make*, 374.

[16] Cowie, *Stayin' Alive*, 265.

[17] *See* Hacker and Pierson, *Winner-Take-All-Politics*, chapter 4.

[18] Bill Johnston to Eizenstat, October 18, 1977, folder "Humphrey-Hawkins [Bill] [O/A 6342] [3]," Box 221, Eizenstat Files, JCL.

[19] *See, e.g.,* Eizenstat and Johnson to Carter, February 21, 1977, folder "Labor–General [CF, O/A 40]," Box 231, Eizenstat Files, JCL; also, *see* Cowie, *Stayin' Alive*, 295.

from labor for our top priorities, our position will be improved and our long-term relations improved."[20]

Indeed, as labor historian Jefferson Cowie has documented, the key economic policymakers within the Carter White House—including Carter, Eizenstat, and Chair of the Council of Economic Advisors Charles L. Schultze—viewed themselves as pragmatic centrists. Cowie suggests that Schultze's congressional testimony on the Humphrey-Hawkins full employment bill (a key goal of left-leaning Democrats in Congress and elsewhere) in 1976, which emphasized its undue inflationary impact, was particularly important in killing the bill even before Schultze entered the White House as CEA Chair.[21] What's more, Cowie argues, Carter himself provided only a "tepid endorsement" of the ideals of Humphrey-Hawkins during his campaign and his years as president, reducing it "from substance to symbol."[22] For his part, Eizenstat told the president that the gains to passing Humphrey-Hawkins were likely not worth the antagonism it would generate within the business community: whereas business would "undoubtedly blast [the Administration] for endorsing the bill," Eizenstat felt "it [was] fair to say there is not a great amount of sympathy for the legislation outside the black community and the very liberal element of the Democratic Party."[23] On labor law reform too, separate from he widespread opposition of the business community to any legislation, the White House demonstrated limited commitment to the project.[24]

Carter's Relationship with Traditional Democratic Constituencies

Throughout much of the Administration's four years, the Carter White House's resulting relationship with organized labor leaders was a rocky one. In one indication of the strained nature of the relationship (and of the corresponding importance of the Business Roundtable), by late 1978, George Meany communicated his desire to discuss the Administration's anti-inflation with Carter through GE's Reginald Jones, "whom Meany approached directly to raise this

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[20] Eizenstat to Mondale, Jordan, Moore, Butler, February 16, 1977, folder "Organized Labor (Unions–Strike Threats) [CF, O/A 40]," Box 251, Eizenstat Files, JCL.

[21] Jefferson Cowie, *Stayin' Alive: The 1970s and the Last Days of the Working Class* (New York: The New Press, 2010), 275.

[22] Cowie, *Stayin' Alive*, 279-286.

[23] Eizenstat to Carter, October 6, 1977, folder "Humphrey-Hawkins [Bill] [O/A 6345] [2]," Box 221, Eizenstat Files, JCL.

[24] *See* Cowie, *Stayin' Alive*, 288-296.

possibility."[25] Even after the Administration hashed out a "National Accord" with labor leaders in September 1979—designed to formalize labor input into the White House's economic policy with a specific emphasis on inflation—key Administration officials sought to limit the Accord's requirements in a variety of ways. They suggested including the AFL-CIO in policy-making discussions only after significant deliberations had taken place within the Administration and proposed incorporating business leaders (along with labor) into the consultations established by the Accord.[26] Further emphasizing the continued weakness of the Administration's relationship with organized labor, by the middle of 1980, AFL-CIO head Lane Kirkland (who had succeeded Meany after the latter's death) candidly suggested to labor liaison Butler that he "fully expect[ed] to throw every resource at the AFL-CIO's disposal behind [Carter's] candidacy" only after it became "obvious that [Sen. Edward M.] Kennedy is no longer a viable candidate." Butler also told Carter that, although he did not "expect a break," the Administration's budget cuts had "strain[ed] the Accord to the limit," putting it "on very thin ice."[27]

Likewise, the Carter White House was skeptical of the waning political power of environmental and consumer groups compared to the growing power of the business lobby. Even as the Administration geared up for the fight over the proposed consumer protection agency, Carter's legislative aides despaired over the prospects of success, believing that the White House's grassroots allies posed a fundamental weakness for Carter's program. In their view, not only were "the prospects of generating very much additional grass roots support for the legislation...dim," but, more boradly, the "'consumer movement' [was] largely overrated as a political force." Consumerists were "no match for the competition" and were exceedingly unlikely to "generate more letters, wires, phone calls, etc. than the business coalition which opposes us." The legislative liaison staff were also critical of their environmental and consumer

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[25] Eizenstat, Schultze, and Kahn to Carter, December 6, 1978, folder "Anti-Inflation [O/A 6338] [1]," Box 143, Eizenstat Files, JCL. Carter's response indicates that he believed Meany was simply being opportunistic. He told Eizenstat that Meany "looks like shit" whereas Carter "look[ed] good" and believed "Meany knows it." In Carter's view, Meany was "looking for a way to get off the hook that he got himself on" but that he was "all for" speaking with Meany if "he will help us deal with [our] problem—i.e., inflation." Earlier that year, Carter labor liaison Butler told the president that he believed critical comments made by Meany were a "cheap shot...*He knew exactly what he was doing*: although the AFL-CIO backs your programs, *he finds it politically convenient to take a swipe at you personally*." Butler suggested that "those Administration officials who work with labor" including Vice President Mondale, Eizenstat, and Secretary of Labor Ray Marshall "should let their labor contacts know that we are tired of their political cowardice, and that we expect them to support you *publicly*, not just privately." After Butler concluded by proposing further consultations with Mondale that would help to get across the White House's new line, Carter penned in his approval of Butler's proposed approach, writing "ok—do so." Butler to Carter, February 28, 1978, folder "AFL-CIO, 1/12/78-5/30/78 [CF, O/A 564]," Box 86, Butler Files, JCL, emphasis in the original.

[26] McIntyre to Eizenstat, November 20, 1979, folder "BE Confidential 1/20/77-1/20/81," Box BE-1, B-E, WHCF, JCL, emphasis in the original. Butler to Mondale, May 30, 1980, folder "Business Leader's Luncheon," Box 5, Wexler Files, JCL. Anti-inflation czar Kahn responded to these suggestions from within the Administration by approving a series of bi-weekly meetings with business representatives. Their purpose was explicitly "to get business 'back on board' after our 'falling out' over the Accord by 1) assuring the of our commitment to avoid mandatory controls; 2) listening to their concerns about the second year guidelines; Pay Advisory Committee, etc.; and 3) soliciting their ideas about the anti-inflation program." Mandell to Kahn, October 26, 1979, folder "Business, 3/70-2/80," Box 7, Kahn.

[27] Butler to Carter, April 10, 1980, folder "Labor Consultations/National Accord, 2/28/80-6/30/80," Box 108, Butler Files, JCL.

allies for what they called an adherence to "kamikaze politics," a term which reflected the perceived tendency of these allies to "prefer to go down in flames with all guns blazing rather than adopt a more moderate approach." In sum, "These two factors—weak resources and unbending zealotry—[made] the task of forging an effective coalition very difficult indeed."[28] Furthermore, the weakness of the Administration's coalitional allies was frequently contrasted with the zeal and effectiveness of business on consumer and labor issues.[29] White House staff, for instance, were skeptical of a proposal sponsored by the Department of Justice (and favored by left-leaning groups seeking to broaden access to the court system) to replace Rule 23 of the Federal Rules of Civil Procedure governing class action lawsuits with more streamlined class-certification procedures enshrined in federal statutes.[30] Eizenstat's advisors believed that both the proponents and opponents of revisions to Rule 23 reflected the same "camps that tend to gather over consumer and antitrust legislation," noting, "The consumer groups' track record is not encouraging."[31]

A Fragile Nascent Moderate Coalition

If we take the Administration's fundamental centrism seriously, it should not be surprising that the White House saw the Roundtable as a member of its "fragile nascent moderate coalition."[32] The combination of the Carter Administration's commitment to put its "faith in the machinery of government," its centrist political orientation, and the weakness of its relationship with organized labor meant that the White House had to go hunting for a powerful new partner.[33]

The gains to the Carter Administration from any potential relationship with organized business groups must be understood in the context of the Administration's fixation—particularly in the second half of its time in the White House—on designing policies to combat what was perceived as runaway inflation. On this issue, the president's aides were unequivocal: "Inflation is the major economic threat to everything we want to achieve and is the major domestic political

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[28] Francis to Moore, November 22, 1977, folder "Memoranda - Les Francis, 2/22/77-3/20/78," Box 37, Office of Legislative Liaison Papers, JCL.

[29] As one advisor to Eizenstat suggested on the consumer protection agency issue, "The Roundtable and allied groups...are not now in a negotiating posture for two reasons: [1] They think they have the votes to kill or postpone consideration of the new bill; [and 2] [t]heir constituents are so emotionally aroused over the consumer agency question that they fear terrible retribution if they acquiesce in it in any form, without first getting clear authorization from their memberships–impossible in time for a vote this week." Lazarus to Eizenstat, October 31, 1977, folder "Consumer Agency 6/77-12/77 (includes message) [O/A 6235] [1]," Box 176, Eizenstat Files, JCL.

[30] Annie Gutierrez to Eizenstat, Bert Carp, David Rubinstein, July 15, 1978, folder "Justice, Dept. of–General [O/A 6318] [2]," Box 227, Eizenstat Files, JCL.

[31] Malson to Eizenstat, May 11, 1978, folder "Justice, Dept. of–General [O/A 6318] [2]," Box 227, Eizenstat Files, JCL.

[32] Lazarus to files, November 5, 1979, folder "Eizenstat, Stu [4]," Box 24, Schultze Files, JCL.

[33] Skowronek, *The Politics Presidents Make*, 393.

threat to the success of the Presidency."[34] The White House sought to communicate this priority to all of its potential coalition partners, from labor to business—telling George Meany that "[t]h*e most serious threat to the goals that Labor and the Administration share is the possibility that inflation will accelerate*" and business leaders that "the President considers inflation his number one domestic priority."[35] Given this overriding concern, White House officials believed that it was critical to obtain cooperation from business groups, largely because their preferred approach to combating inflation relied on voluntary measures. Here, the Carter White House believed that it had learned lessons from Nixon's experiment with wage and price controls between 1971 and 1973. Mandatory, government-imposed controls were a non-starter, they felt, particularly given the perception and the reality of opposition among important business groups and firms. Instead, the Administration would be forced to persuade and cajole private economic actors to take action that would rein in inflation.[36] In short, the syllogism was a simple one: inflation was the Carter Administration's most pressing issue. And, the White House, led by Eizenstat, believed that the "cooperation of the business community is essential if the Administration's anti-inflation program is to succeed."[37]

The Carter White House's apparent friendliness to business groups—driven by its concerns about addressing inflation and assisted by the independent preferences for regulatory reform of Carter's senior advisors—was, at least in theory, ecumenical. Early in the Administration, Carter's business liaison staff were optimistic abut the prospects for cooperation with the Chamber and other business groups, mentioning tax legislation in particular as an issue on which they believed the Chamber could serve as "an excellent advocate" for the White Houses.[38] That ecumenical attitude and potential common ground on a variety of issues could have led the Administration to work with the Chamber in a similar manner to its collaboration with the Roundtable, with similar returns for each partner to the transaction. Instead, they

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[34] Eizenstat and Ginsburg to Carter, October 10, 1978, folder "Tax Reform (Current) [O/A 6343] [6]," Box 289, Eizenstat Files, JCL.

[35] Ray Marshall to Meany, April 26, 1978, folder "Labor–General [O/A 6738]," Box 3, Strauss Files, JCL, emphasis in the original; Reiman and Selig to Butler, February 26, 1979, folder "Anti-Inflation: Business Outreach, 10/16/78-10/1/79 [O/A 608]," Box 167, Selig Files, JCL.

[36] *See*, for instance, Donald V. Seibert, Chairman, J.C. Penney Co., Inc. and BRT Inflation Task Force, to Carter, October 19, 1978, "Correspondence, 10/78 [1]," Box 72, Wexler; Revised Talking Points, President, Business Council Dinner, December 13, 1978, folder "Anti-Inflation [O/A 6338] [1]," Box 143, Eizenstat Files, JCL. Waterhouse, in addition, argues that the Nixon-era experience with wage and price controls turned mandatory controls into a third-rail of American economic policy. *See* Waterhouse, *A Lobby for Capital*, 184. The Administration did, however, use tax credits and federal contracts as incentives and penalties for non-compliance.

[37] Eizenstat and Bob Malson to Carter, March 2, 1979, folder "Corporate Mergers [CF, O/A 727]," Box 177, Eizenstat Files, JCL.

[38] Reiman to Selig, March 4, 1977, folder "FI 10 1/20/77-5/31/77," Box FI-28, B-E, WHCF, JCL.

worked almost exclusively with the Roundtable, with whose leaders the White House developed a particular rapport.[39]

The White House believed the Chamber to be an important potential partner largely because of its grassroots network of local and state Chambers of Commerce. The Administration's business liaison, Anne Wexler, for instance, told National Security Advisor Zbigniew Brzezinski: "Of all the business groups in the country, the Chamber has the largest network."[40] Similarly, Stephen Selig, an aide to chief of staff Hamilton Jordan also responsible for ties with the business community, told his boss that he and Eizenstat "concur that it is pointless to try to quarrel with the U.S. Chamber or try to ignore their presence. They are by far the most powerful lobby in this country."[41] A few months later, Selig reported on the magnitude of the chamber's national network: "The U.S. Chamber has a grassroots' network involving 100,000 people. They use this network approximately 70 times a year via an Action Call, a printed mail-a-gram type of instrument which asks the members to get in touch with their Representatives and Senators on a particular issue." Furthermore, Selig wrote, "[Chamber President] Lesher claims that 50,000 people may respond to an Action Call plus an additional 20,000 from Tom Donahue's [sic] list, a subsidiary of the U.S. Chamber, called Citizens Choice."[42]

Relying on the Business Roundtable

Nevertheless, given the Chamber's oppositional strategy, the White House's openness to working with business meant, practically speaking, active engagement with the Business Roundtable, whose leading CEOs did (as the White House hoped) frequently speak out in favor of the Administration's largely voluntary approach to the fight against inflation. As one member of Carter's business liaison staff summarized: "[W]ithout the support of [GM's] Tom Murphy there would probably not be in existance [sic], any voluntary program."[43] J.C. Penney CEO Don Seibert, too, wrote to Roundtable members to "urge [them] to use restraint in pricing and compensation decisions...The President's program to achieve deceleration is a good start and

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[39] The Carter Administration did also develop a cordial and productive relationship with the NAM and its president, R. Heath Larry, but believed that organization was less important within the business community than either the Roundtable or the Chamber. On NAM-White House cooperation, *see* Jordan to Carter, October 19, 1977, folder "BE 3 Executive 9/1/77-12/31/77," Box BE-5, B-E, WHCF, JCL; Wexler to Carter, May 24, 1979, "Correspondence, 5/79 [1]," Box 75, Wexler Files, JCL; Wexler to Phil Wise and Fran Voorde, January 14, 1980, folder "Correspondence, 1/80 [1]," Box 80, Wexler Files, JCL.

[40] Wexler to Brzezinski, March 26, 1979, folder "Correspondence, 3/79 [3]," Box 74, Wexler Files, JCL.

[41] Selig to Jordan, February 23, 1978, folder "Labor Correspondence, 1/78-7/78, 1/9/78-3/14/78 [CF, O/A 621]," Box 108, Butler Files, JCL. Selig also attempted to convince Jordan that the Chamber "has done far more for us" than Selig had originally realized, further suggesting that the group's new president, Richard L. Lesher, had "a great desire to help us whenever he possibly can although he forthrightly admits that he will oppose whenever he thinks we are wrong."

[42] Selig to Butler and Francis, May 2, 1978, folder "Labor Correspondence, 1/78-7/78, 3/16/78-5/9/78 [CF, O/A 621]," Box 108, Butler Files, JCL.

[43] Reiman to Wexler, December 19, 1979, folder "Inflation, 10/79-2/80," Box 26, Wexler Files, JCL.

requires and merits the active support of all sectors of our economy," taking care to let Administration officials know that he had done so.[44]

The Carter Administration believed that the comparative advantage presented by the Roundtable—the opportunity to work directly with CEOs, rather than government relations executives—represented a critical asset. As one early memorandum to Eizenstat presented the case:

> From our point of view, it is easier to get help and deliverable commitments from people like Irving Shapiro and Reg Jones than from their Washington lobbyists. It is important that we know what these men (and not just their Washington representatives) really think and for them to know our real concerns. If we are more open to these people, we will with greater legitimacy than we now have, be able to call on them from time to time for their support on certain issues.[45]

Consequently, the Administration continued to put particular stock in the relationship between Carter and the small cadre of Roundtable leaders the White House identified as especially influential and amenable to presidential outreach. In late March 1979, Wexler worried about "the pressure on people like Tom Murphy and John deButts to distance themselves from the Administration and to decrease their efforts on our behalf." To Carter she suggested, "a telephone call from you to them this evening would be helpful."[46] Aarter's anti-inflation czar Alfred P. Kahn also got in on the game, suggesting that the White House prepare a letter directly to deButts "listing specific ways in which the Administration was delivering on the President's promise of regulatory reform in his anti-inflation program."[47]

In turn, the leaders of the Roundtable played up their capacity to influence their counterparts within the business community more generally. In a White House-sponsored meeting with several business leaders, Shapiro told those present that the Carter Administration faced two challenges: "1) what to do to convince people you are in control, and 2) what steps to actually get at inflation." Speaking for his colleagues, he added, "*[T]he business community is prepared to get behind any credible program you develop—we must all get together*."[48]

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[44] Seibert to members of the Business Roundtable, June 23, 1978, folder "[Environmental Protection Agency] NSPS [New Source Performance Standards [O/A 6739]," Box 4, Strauss Files, JCL; Seibert to Strauss, June 23, 1978, folder "[Environmental Protection Agency] NSPS [New Source Performance Standards [O/A 6739]," Box 4, Strauss Files, JCL

[45] Bob Ginsburg to Eizenstat, September 27, 1977, folder "Business [General] [CF, O/A 22]," Box 156, Eizenstat Files, JCL

[46] Wexler to Carter, March 29, 1979, folder "Correspondence, 3/79 [3]," Box 74, Wexler Files, JCL

[47] Kahn to Eizenstat, Schultze, Barry Bosworth, May 7, 1979, folder "Regulation Reform [CF, O/A 539] [1]," Box 268, Eizenstat Files, JCL. The draft letter stated: "I owe you an explanation of my long delay in sending you the list I promised of ways in which the Administration is attempting to deliver on its promise of regulatory reform...I have wanted to demonstrated to you that each action on the list does represent at least a genuine effort."

[48] Reiman to Wexler, March 5, 1980, folder "Inflation, 3/80," Box 26, Wexler Files, JCL, emphasis in the original.

On economic policy more broadly, the Administration remained steadfastly committed to receiving the criticisms of a select group of business leaders drawn from the ranks of the Roundtable and to seeking "as much support from them as possible on the key elements of [Carter's] economic policy."[49] In early 1978, for instance, officials within the Administration were concerned with obtaining support for a proposed economic stimulus plan, involving an individual tax rebate of $50 and increases in investment tax credits for businesses.[50] Concerned that two of the White House's coalition partners—organized labor and groups representing African-Americans—would not support the stimulus proposal, Landon Butler, deputy to Chief of Staff Hamilton Jordan and the Administration's liaison to organized labor, suggested that Carter discuss the plan with congressional leaders "*and with the leadership of his key constituency groups.*" According to Butler, in addition to congressional leaders Thomas P. (Tip) O'Neill (D-MA) and Robert C. Byrd (D-WV) and AFL-CIO head George Meany, these key constituency leaders should include the Roundtable's Shapiro and Jones, as well as "three or four black leaders."[51]

Butler, Kahn, and Wexler were not alone in identifying some combination of individuals within the Roundtable as critical to the Administration's successes. In a memorandum to Carter, Secretary of Commerce Juanita M. Kreps advised Carter to "call on" Jones, Murphy, and Shapiro, in addition to Henry Ford and David Rockefeller, in an effort to focus on what the business community could contribute to the fight against inflation, rather than highlighting the government's role. She reflected, "It is not possible to say precisely how much consensus will emerge, but we believe there is a good chance for a number of positive statements by the business leaders following the meeting." Regardless of the meeting's outcome, Kreps assured the president that the publicity emerging from the meeting would be overall beneficial to the Administration. She would first "summarize the nature of the meeting for the press and [then] call on a business leader to make a statement in behalf of the business group." Kreps was confident that "Tom Murphy, Reg Jones, or Irving Shapiro would make such a statement, stressing the support for your general anti-inflation policies and summarizing suggestions about what the business leaders felt they could do to help fight inflation."[52]

The Administration's approach to inflation policy committed the White House, and Carter personally (as well as several other key advisors), to a regular program of encouraging, cajoling, or sometimes outright begging Roundtable leaders for their support. Notified of GM's agreement to continue to commit to the Administration's wage and price guidelines into 1980, the second-year of Carter's anti-inflation program, inflation policy czar Kahn suggested to Carter that "it might be useful for [him] to call Tom Murphy and congratulate him on the agreement we

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[49] Staff draft to Carter, January 11, 1978, folder "[Department of Commerce] [6]," Box 17, Schultze Files, JCL.

[50] *See* W. Carl Biven, *Jimmy Carter's Economy: Policy in an Age of Limits* (Chapel Hill, N.C.: University of North Carolina Press, 2002), 61-62.

[51] Landon Butler to Hamilton Jordan, January 6, 1978, folder "EPG [Economic Policy Group] Steering Committee 1/5/78 [CF, O/A 665]," Box 189, Eizenstat Files, JCL, emphasis in the original.

[52] Kreps to Carter, April 19, 1978, folder "Anti-Inflation [O/A 6338] [4]," Box 143, Eizenstat Files, JCL.

reached." Kahn added, "GM's commitment to remain on the price deceleration standard throughout the second program year is, we think, a genuine concession, despite the fact that GM's labor settlement with the United Auto Workers union had exceeded the 7% permitted annual increase in wages and benefits.[53] Nevertheless, in an indication of the favorable treatment the company received from the White House throughout the period, Kahn declared GM "in overall compliance because of GM's 'commitment' to observe the administration's price guidelines through" October 1980.[54]

Kahn's staff members, too, encouraged him to make a series of phone calls to Roundtable leaders "to elicit from them expressions of support for the President's anti-inflation program." In their view, "such calls will not only bring specific commitments of support but also let the word filter through the business community that you are alive and kicking."[55] Kahn's communications with CEOs occasionally bordered on the obsequious. In response to Murphy's decision to write to GM suppliers and fellow CEOs to advocate for the Administration's economic program, Kahn wrote to Murphy, "I can't tell you how gratified I am by your advertisements on inflation, your supplier letter, and your urging a similar course of action on some of your confreres."[56]

On the issue of health care containment—an inflation-related White House priority—the Administration's strategy likewise required Carter to rely on voluntary, CEO-driven private-sector cooperation. Eizenstat, for example, advised the president, "The business community might play a significant role in reducing health care costs if it reviewed the health benefit programs it now provides for employees and considered sponsoring alternative delivery systems, such as health maintenance organizations." Given his hopes that business groups would cooperate, Eizenstat proposed that the president send a letter "to the CEOs of the major corporations urging them to undertake such a review."[57] Similarly, on energy policy, the White House tried to leverage Carter's personal relationship with Murphy to convince him to endorse a proposed Energy Security Corporation, believing that Murphy's endorsement would lead the Roundtable's energy task force not to issue a negative endorsement of the program. According to key advisors Wexler and Eizenstat, such a negative endorsement would "mean that many corporations inclined to actively help [would] back off."[58] This personal approach paid off when Jones and Murphy also led the Roundtable to endorse the president's call for energy conservation

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[53] Kahn to Carter, January 2, 1980, "folder Autos–General Motors, 11/78-7/80," Box 7, Kahn Files, JCL.

[54] "GM Vow on Prices Enables It to Comply with Anti-Inflation Guides, U.S. Decides," December 30, 1979, *Wall Street Journal*.

[55] Mandell and From to Kahn, February 1, 1980, folder "Anti-Inflation–Second year, Meetings and Briefings, 12/79-2/80," Box 6, Kahn Files, JEC.

[56] Kahn to Smith, April 18, 1979, "Autos–General Motors, 11/78-7/80," Box 7, Kahn.

[57] Eizenstat and Joe Onek to Carter, undated memorandum, folder "Hospital Cost Containment (Health Message) [CF, O/A 36] [1]," Box 217, Eizenstat Files, JCL.

[58] Wexler and Eizenstat to Carter, September 19, 1979, folder "Correspondence, 9/79 [2]," Box 78, Wexler Files, JCL.

in the wake of the Iranian revolution.[59] And, on foreign policy, the White House sought to enlist the Roundtable's support for an agreement to return the Panama Canal to Panamanian authority—an emotional issue for American conservatives—and on nuclear arms reduction treaties with the Soviet Union.[60]

Leveraging the Relationship

The Carter Administration frequently pointed to public statements issued by the Business Roundtable as evidence that their efforts to mobilize business groups in support of the White House's political priorities had been successful. In the spring of 1979, worried about increasing pressure for a constitutional amendment mandating a balanced budget, the White House organized a task force led by vice presidential chief of staff Richard Moe. Informing Carter about the task force's activities, Moe told the president that their mobilization efforts were "already bearing fruit" and directed Carter's attention to an attached resolution from the Business Roundtable.[61] Roughly a year earlier, Administration officials privately touted an endorsement by the Roundtable of the president's economic program—coming "at a time when the economic package is being broadly attacked from both the liberal and conservative elements"—as a "real shot in the arm to our prospects for getting it passed."[62]

What's more, like their predecessors in the Nixon and Ford White Houses, the Carter Administration attempted to use Shapiro, Murphy, and others as the equivalent of Administration spokesmen when courting potentially sympathetic lawmakers and heading off potentially recalcitrant agency chiefs. For instance, Carter's aides suggested to the president that his relationship with Murphy could be used to help persuade Rep. John Dingell (D-MI) not to block the Administration's proposed energy bill solely because of new regulations on fuel efficiency.[63] Shapiro's help, in turn, was also enlisted to provide "visible encouragement from the business community" to the EPA after the agency had adopted the "bubble" or "plant-wide" approach to interpreting what constituted a stationary source under the text of the 1970 Clean Air Act. The White House sought to encourage Shapiro to send a letter to EPA Administrator Douglas P. Costle in praise of the EPA's "constructive" actions believing that such a letter "would be of

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[59] Wexler to Jody Powell, November 12, 1979, folder "Correspondence, 11/79 [2]," Box 79, Wexler Files, JCL.

[60] On conservative views about the Panama Canal Treaty, *see* Adam Clymer, *Drawing the Line at the Big Ditch: The Panama Canal Treaties and the Rise of the Right* (Lawrence, KS: University Press of Kansas, 2008).

[61] Richard Moe to Carter, March 5, 1979, folder "[Constitutional Amendment–Balance the Budget [CF, O/A 724] [1]," Box 176, Eizenstat Files, JCL. The Roundtable's press release indicated only that the group had taken the position that "the problems of Federal spending and budget deficit should be dealt with through the legislative process rather than by calling a constitutional convention."

[62] Selig to Jordan and Tim Kraft, February 2, 1978, folder "BE 1 Executive 1/1/78-12/31/78," Box BE-1, Business and Economics Subject File, White House Central Files, JCL. The endorsement was signed by Jones, Murphy, and Shapiro.

[63] Wexler, Moore, Eizenstat to Carter, October 11, 1978, folder "Correspondence, 10/78 [2]," Box 72, Wexler Files, JCL.

enormous benefit."[64] Similarly, after Carter had requested Shapiro's help in organizing a meeting for business and financial leaders to discuss political strategies in support of the Administration's economic policies, Wexler reflected that the meeting would be "extremely important for getting commitments of support and assistance in the lobbying effort on the Hill for balancing the budget."[65]

Officials within the Administration also consistently counted on the prestige of the leaders of the Roundtable—particularly Shapiro and Murphy—to help influence other business leaders. In the bubble case, for example, the White House believed that Shapiro could lobby the chair of the Roundtable's environmental committee with a phone call "stressing the importance of the bubble."[66] Similarly, in preparation for a lunch organized by Shapiro that would include a variety of senior Roundtable figures, Wexler suggested to the president that the purpose of a proposed call to Shapiro was "to ask his advice on how to present your program...and for his lead in the business community for support when it is announced." She concluded, "He is most highly respected among his peers. Your call would soon be common knowledge in the business community and his support will make our job a lot easier."[67] In the realm of electoral politics, Wexler also hoped that Shapiro's support during the 1980 election campaign, and particularly "word of his strength and resolve" would "immediately *get out throughout the entire business community.*"[68] Murphy, too, was considered a "leading spokesman in the business community" for "the President's program." As one aide noted, "While we may not be asking him to do anything specifically, we do need his advice about increased involvement with/by his cohorts."[69]

Indeed, the White House occasionally deployed its relationship with Shapiro to work against other key leaders within the Roundtable. Noting that Citicorp CEO Walter Wriston chaired the Roundtable's health task force, which had issued a report critical of the president's hospital cost containment program, a White House advisor wrote that he and others had been "quietly" working "with selected members of the business community and [had] some hope for a breakthrough." Singling out Shapiro, who was "expected to announce his support for the program, Jordan was advised to meet with Shapiro and others favorable to the Administration on hospital cost containment. Jordan's presence would help to "convince the participants of the

[64] Ron Lewis to Wexler and Mike Chanin, November 30, 1979, folder "Environmental Protection Agency (EPA), 12/78-4/79," Box 18, Kahn Files, JCL. *See* Thomas W. Merrill, "The Story of *Chevron*: The Making of an Accidental Landmark," in Peter L. Strauss, ed., *Administrative Law Stories* (New York: Foundation Press, 2006) for a clear and thorough discussion of the bubble concept.

[65] Wexler to Wise, March 25, 1980, folder "BE 3 Executive 1/1/80-5/31/80," Box BE-5, B-E, WHCF, JCL.

[66] Ron Lewis to Wexler and Mike Chanin, November 30, 1979, folder "Environmental Protection Agency (EPA), 12/78-4/79," Box 18, Kahn Files, JCL.

[67] Wexler to Wise, March 25, 1980, folder "Correspondence, 3/80 [2]," Box 81, Wexler Files, JCL; also, same letter (includes rest of letter, "Correspondence, 3/80 [4]," Box 81, Wexler.

[68] Wexler to Wise, June 30, 1980, folder "Correspondence, 6/80 [1]," Box 83, Wexler Files, JCL, emphasis in the original.

[69] Julie [need to find last name] to Mandell, undated, but probably May 18, 1979, folder "Autos–Fuel Economy, 8/78-2/79," Box 6, Kahn Files, JCL.

issue's importance to the President" and would "give Shapiro the needed support should he have to break with his peers in the business community."[70]

Regulatory Reform

In connection with its anti-inflation policies, the Administration—beginning with Carter himself—believed it was imperative for government itself to take action to control federal spending. Here, they prioritized the evaluation of government policies, particularly in the regulatory arena, that were thought to have a negative impact on nation-wide inflation. Early in February 1977, CEA head Schultze informed the President that he had requested that the staff of the Council on Wage and Price Stability (COWPS) "prepare a list of pending federal actions which could have a direct effect on prices." Carter promptly forwarded Schultze's memo to his cabinet officers, telling them, "This is an excellent memo...Please study it carefully & let me know...what you can do to help."[71]

In light of their shared goals, collaboration between the Administration and the Roundtable on regulatory reform provides further evidence that the Carter White House was frequently willing to work with, and give the benefit of the doubt to, the Business Roundtable. In the aftermath of the defeat of the consumer protection agency in February 1978, the Administration began a push to make good on campaign commitments to streamline and improve the operations of the federal government.[72] The White House was also concerned that, were it not to lead the regulatory reform charge, it might be preempted by congressional activity, given what OMB Director Bert Lance called "growing public hostility to regulation, not only to the symptoms of the problem–to paperwork, overlap, and duplication, but also the fact that many regulatory programs and approaches are fundamentally obsolete, inefficient or ineffective.[73]

The regulatory reform effort began with the establishment of a Regulatory Analysis Review Group (RARG), chaired by Schultze, and "designed to help Executive branch agencies select those regulatory approaches which will yield the intended results at least cost to society."[74] The RARG effort was, in short, an effort to institutionalize cost-benefit analysis, a key goal of

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[70] Selig to Jordan, May 21, 1979, folder "Hospital Cost Containment, 3/21/79-9/28/79 [O/A 608]," Box 175, Selig Files, JCL. Same folder has a memo from Eizenstat to Wriston explaining why the BRT is wrong on cost containment.

[71] Schultze to Carter, February 10, 1977, folder "Regulatory Reform [CF, O/A 7432] [2]," Box 269, Eizenstat Files, JCL; Carter to Cabinet Officers and Other Agency Heads, February 15, 1977, folder "Regulatory Reform [CF, O/A 7432] [2]," Box 269, Eizenstat Files, JCL. Six months later, Schultze reported to Carter on his suggestions for stimulating the economy, which included four goals that business leaders shared: balancing the budget, gradually reducing the share of federal spending as a fraction of GNP, tax reform, and "an awareness of the impact which excessive regulation has on business investment." Schultze also told Carter that EPA would adopt water pollution control standards, "which will substantially increase the emphasis on 'reasonable costs' as a criterion for regulation." Schultze to Carter, September 22, 1977, folder "Business [General] [CF, O/A 22]," Box 156, Eizenstat Files, JCL.

[72] *See* Skowronek, *The Politics Presidents Make*, 371-380.

[73] Lance to Carter, August 3, 1977, "Regulation Reform [CF, O/A 539] [1]," Box 268, Eizenstat.

[74] Council on Wage and Price Stability, memorandum re "The Regulatory Analysis Program," January 4, 1978, "EPG [Economic Policy Group] Steering Committee 1/5/78 [CF, O/A 665," Box 189, Eizenstat Files, JCL.

business groups in the years since the passage of the landmark regulatory statutes of the early seventies.[75] Consistent with these goals, in late March 1978, President Carter issued Executive Order 12044, which required all executive-branch regulatory agencies to prepare "detailed analyses" of the inflationary impact of major regulatory rules, defined as those that were estimated to cost over $100 million a year.[76] Over the course of the next two years, the Administration spearheaded an effort to generate regulatory reform legislation, with the aim of enshrining the goals of the RARG and E.O. 12044 in law.

The Administration viewed the Roundtable as a key potential partner in the passage of regulatory reform legislation, characterizing as "remarkably favorable" the positions taken by the Roundtable's task force on regulatory reform.[77] Aides to Eizenstat took seriously declarations by the Roundtable and a coalition of other business groups that they had placed "enactment of the bill (with some modifications fairly high on their priority list" adding further, "These groups say that they recognize that the bill won't pass (or won't be signed by the President) if crazy amendments are added to it, and they seem to be committed to blocking such developments."[78] In addition, the White House hoped that the Roundtable would serve as a crucial ally in opposing any opposing legislative veto provisions inserted into the final regulatory reform legislation.

Nevertheless, the Administration and the Roundtable disagreed on one key aspect of the bill—an amendment, sponsored in various forms by Sen. Dale L. Bumpers (D-AR). The "Bumpers Amendment" was designed to "reemphasize" that agency interpretations of law were to be reviewed *de novo* by federal judges with no deference to the agency's reading of relevant statutory text. As Bumpers himself indicated, the idea was to make sure "that agencies should not be permitted to go beyond the bounds of the authority granted them by Congress."[79] Consistent with business's traditional skepticism of administrative activity and corresponding desire to lodge the power to interpret statutory provisions—including questions of agency

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[75] One member of Eizenstat's domestic policy staff described the purposes of the Administration's regulatory reform effort by emphasizing that the White House hoped to formalize the possibility that agency-level decision-makers could weigh the costs and benefits of regulatory activity without requiring "rigid quantification." The Administration, on this view, sought to walk the fine line between encouraging regulatory officials to implement cost-benefit analysis when designing and refining administrative rules, without committing them to an exclusive reliance on such analyses. Bernick to Eizenstat, January 31, 1980, folder "FG 21-5 1/20/77-1/20/81," Box FG-131, B-E, WHCF, JCL. Memo discusses Benzene case.

[76] *See* Vogel, *Fluctuating Fortunes*, 172.

[77] Lazarus to files, November 5, 1979, folder "Eizenstat, Stu [4]," Box 24, Schultze Files, JCL.

[78] Lazarus to Eizenstat, December 27, 1979, folder "Regulatory Reform [2] (Clipping), Box 49, Wexler Files, JCL.

[79] Bumpers to Eizenstat, August 27, 1980, folder "Regulation Q–Banking [CF, O/A 730] [1]," Box 268, Eizenstat Files, JCL. As one memorandum put the issue, ""A major goal of the Bumpers' amendment is to eliminate any presumption on judicial review that an agency's regulations are valid...the Amendment's primary effect would be to eliminate any presumption that the agency has correctly interpreted its statutory jurisdiction or the meaning of a particular statute. These are legal questions." Hunton & Williams to Business Roundtable, May 14, 1980, "The Bumpers Amendment and Its Probable Impact on Judicial Review of Administrative Agency Action," folder "Regulatory Reform [2] (Clipping)," Box 49, Wexler Files, JCL.

jurisdiction—firmly in the federal courts, the Roundtable strongly supported the Bumpers Amendment in various incarnations and worked closely with Bumpers to draft and revise it.[80]

The White House believed that both the Bumpers Amendment and legislative veto provisions represented "unacceptable" intrusions into executive branch management of the regulatory state.[81] Nevertheless, over the course of late 1979 and the first half of 1980, they attempted to work with the Roundtable to achieve a set of off-setting compromises. Prioritizing the legislative veto issue, Carter's aides sought to work with the Roundtable to ensure that any and all legislative veto provisions would be excluded from any regulatory reform bill.[82]

The White House believed that IBM CEO Frank Cary represented a key ally in its effort to use the Roundtable to "deliver on their earlier projections about generating business opposition to legislative veto." IBM, in the Administration's view, could be effective in helping the Roundtable "(a) to see that the concepts in [its] program and bill represent important and sensible gains for the business community, deserving active, priority support from the BRT, and (b) to oppose excessive demands for judicial review of agency action and legislative veto."[83] Carter aides felt that they could best support IBM's "impressive job of mobilizing the BRT" by allowing Cary and other executives to make the case for the Administration's policy priorities directly to other business representatives.[84] Desperate for any success, the Administration even considered what they feared would be seen as "dealing away the 'pro-regulator' portions" of the regulatory reform bill in exchange for the Roundtable's "unequivocal, vigorous opposition to legislative veto and other lesser horrors."[85] In the end, however, the White House and the

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[80] On the long-standing business interest in constraining administrative activity, *see* James E. Brazier, "An Anti-New Dealer Legacy: The Administrative Procedures Act," *Journal of Policy History*, Vol. 8, No. 2 (1996): 206-226. On Roundtable collaboration with Bumpers, *see* Hunton & Williams to Business Roundtable, May 14, 1980, "The Bumpers Amendment and Its Probable Impact on Judicial Review of Administrative Agency Action," folder "Regulatory Reform [2] (Clipping)," Box 49, Wexler Files, JCL. As articulated by counsel to the Roundtable, the Bumpers Amendment was designed to correct "inadequacies and ambiguities" in the Administrative Procedures Act of 1946, making clear "for *all* courts their existing obligation on judicial review to independently interpret questions of law" and helping to "check unjustified agency assumption of jurisdiction by requiring that agencies demonstrate that they have been granted authority to act either expressly or by clear implication." Hunton & Williams to Bumpers, May 20, 1980, folder "Regulatory Reform [2] (Clipping)," Box 49, Wexler Files, JCL, emphasis in the original.

[81] Lazarus to Eizenstat, December 27, 1979, folder "Regulatory Reform [2] (Clipping), Box 49, Wexler Files, JCL.

[82] Lazarus to Eizenstat, April 2, 1980, folder "Inflation, 4/1/80-4/9/80," Box 26, Wexler Files, JCL.

[83] Lazarus to Eizenstat, November 28, 1979, folder "Regulatory Reform [CF, O/A 730] [1]," Box 269, Eizenstat Files, JCL.

[84] Reiman to Lazarus, April 10, 1980, folder "Regulation Q–Banking [CF, O/A 730] [2]," Box 268, Eizenstat Files. In one indication of the weakened relationship, one IBM executive told a Carter staff member that Anne Wexler should not call Roundtable CEO's to urge them to fight the inclusion of legislative veto provisions in the regulatory reform bill, believing that Wexler's encouragement would CEOs unfamiliar with the issue to oppose the Administration's position. Instead, the executive suggested the best way "to promote business opposition to government-wide legislative veto was to let IBM continue to work within" the Roundtable. Ibid. *See also* Eizenstat to Carter, April 2, 1980, folder "Inflation, 4/1/80-4/9/80," Box 26, Wexler Files, JCL.

[85] Lazarus to Eizenstat, April 11, 1980, folder "Regulation Q–Banking [CF, O/A 730] [2]," Box 268, Eizenstat Files, JCL.

Roundtable were unable to generate a workable compromise: concerned about shoring up support with core Democratic constituencies in the upcoming election, the Carter Administration "backed away from the process, preferring to drag its feet until after the presidential election."[86]

Muting Opposition

Where positive gains from cooperation were unavailable, the Administration hoped that working with the Roundtable would produce more limited opposition to policies it otherwise wished to pursue. On labor law reform, for instance, White House staff believed that their involvement of the business community—in this case, a joint Roundtable-Chamber small group on labor law reform—had led to a "vastly muted" reaction from business. Indicating that John Post, the Roundtable's executive director suggested that he had "[a]voided all press comment on the matter," Eizenstat concluded, "While the business community will certainly oppose the bill, they view it as much more acceptable than earlier versions and will therefore be less vociferous in condemning the Administration for its position."[87] A related memorandum to Eizenstat elaborated, "A number of Congressional proposals most onerous to business–postcard voting for union elections, mandatory injunctions on collective bargaining contracts and job return provisions for economic strikers–were dropped from President's [sic] package as a result" of the Commerce Department's "consultations with [the] business community." The memorandum's author reflected, "While these changes do not guarantee business support of the legislation, they will diffuse pressures for an all out negative campaign by business."[88]

In the White House's view, less vociferous opposition from business would also make it easier to work with business-friendly legislators in Congress. One member of Wexler's businesses liaison staff, for instance, proposed that a meeting between Carter or OMB Director Bert Lance "and the most prominent members of the business community could be the occasion of our calling in some of our chits." This aide reflected, "The president, after all, has done alot [sic] to improve the business climate in the country." He suggested that a "frank face-to-face discussion in which the Administration asks the Chamber, the NAM, and the Business Roundtable to put some reasonable restrains on their lobbying effort could reduce somewhat the bloodshed on Capitol Hill."[89]

Tradeoffs

The tradeoffs to the Administration of its rapprochement with the Roundtable were substantial. Eizenstat, among others, warned the president about resentments from groups within the Democratic political orbit that stemmed from perceptions that the White House was too cozy with business. He wrote, "If there are regularly scheduled meetings with business leaders, there

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[86] Waterhouse, *A Lobby for Capital*, 285.

[87] Eizenstat to Carter, August 1, 1977, folder "Labor Law Reform [O/A 6342] [4]," Box 228, Eizenstat Files, JCL.

[88] Jasinowski to Eizenstat, September 1, 1977, folder "Tax Reform (9/77) [O/A 6344] [1]," Box 288, Eizenstat Files, JCL.

[89] Laurie Lucey to Butler, July 25, 1977, folder "Labor Law, 1979 [2]," Box 112, Butler Files, JEC.

will be demands for similar meetings with labor leaders, black leaders, Chicano leaders, etc. We will either have to develop forums for those groups or be willing to take the criticism that we are overly concerned with 'business confidence.'" Similarly, Eizenstat worried about the consequences of a meeting between Carter and "big business leaders" concerning tax reform, suggesting that such a meeting would put the president "under pressure to meet with small business leaders, labor and consumer leaders and others." He advised that if Carter wished to have direct business input on the tax issue either to hold two meetings—"one meeting with leaders of small and large businesses and a second public meeting with labor, minority and public interest groups"—or to "have only one meeting with representatives for all groups, including big and small business."[90]

For their part, environmental groups were concerned about the implications of the White House's position on regulatory reform. EPA Administrator Costle, in particular, felt "squeezed between pressures generated from [the White House] and counter-pressures from the environmentalist constituencies outside and especially inside the government." Costle intended to use a planned meeting with the president as an opportunity to share his concern that the EPA was caught between the environmental movement and the Administration. Specifically, he hoped to relate to the president his concern that the regulatory reform task force and "White House scrutiny" more generally "has been biased toward attacking health safety, and environmental regulations–when other governmental activities contribute as much or more to inflation with less justification."[91] Overall, discord within the White House raged concerning what Eizenstat called "the wisdom of oversight of regulatory decisions" by senior Carter aides—stemming primarily from offices and agencies (like the Council for Environmental Quality, OSHA, and the Federal Trade Commission) that had "close links to traditional Democratic constituencies."[92] Ultimately, however, Carter's inner circle of advisors, led by Eizenstat and Schultze, favored an approach that privileged regulatory limitations. They told Carter that, despite the potentially damaging effects of regulatory reform on the White House's relationship with traditional Democratic constituencies, they nevertheless felt that the "political damage would be even greater if it were perceived that the Administration had retreated from your earlier commitments to assure that regulations are cost-effective."[93]

The very closeness of the Carter Administration's relationship with GM, DuPont, and other corporations within the Roundtable concerned senior members of Carter's White House

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90 Eizenstat to Carter, August 1, 1977, folder "Tax Reform (8/77) [O/A 6344] [1]," Box 287, Eizenstat Files, JCL.

91 Lazarus to Eizenstat, February 21, 1979, folder "Regulatory Reform [CF, O/A 730] [3]," Box 269, Eizenstat Files, JCL.

92 Wexler and Eizenstat to Carter, June 13, 1980, folder "Correspondence, 6/80 [1]," Box 83, Wexler Files, JCL. Eizenstat and Wexler recommended to Carter that in private discussions with these regulators, he "stress to them your commitment to health, safety, and environmental goals; your opposition to schemes to cripple regulation; and the need to publicize what we have done and to do more to show that regulation can be improved without being dismantled."

93 Eizenstat and Lazarus to Carter, October 18, 1978, folder "Government Regulations–Reform [O/A 6243] [1]," Box 211, Eizenstat Files, JCL.

staff. With respect to a proposed meeting between GM's president and Carter, an aide to Eizenstat wrote, "It would be inappropriate and even dangerous for the President to meet with General Motors President Estes at this time...the proposed meeting could be viewed as a crude attempt by GM to influence the President and EPA." Because a proposed EPA rule on diesel fuel of interest to the automaker was in the post-comment period, this advisor worried about "the question of later legal and/or political ramifications if the President even discusses the issue," particularly if environmentalists brought the issue to the attention of Sen. Edward M. Kennedy's (D-MA) Judiciary Committee.[94]

Other members of the Carter team remained anxious about whether Carter's effort to court business through a variety of policies designed to combat inflation would have any favorable political consequences for the Administration. Business groups would support to the anti-inflation policies pursued by the White House, but would be unlikely to change their behavior substantively. As one member of the Eizenstat's domestic policy staff put it, "Business will pat us on the head for adopting these (Republican) policies (which they support anyway, regardless of inflation) but I don't think they will change their pricing policies because we take these actions." In addition, this advisor suggested that undue attention to inflationary issues could weaken Carter's already limited relationship with organized labor: "Labor is against most of these kinds of actions and combining a lot of rhetoric about them with the new standards approach will only further convince labor that the entire thrust of the Administration's anti-inflation program is tilted against the interests of working people."[95] Similarly, Carter's legislative liaisons highlighted the fact that the White Houses's "anti-inflation efforts to date have appeared to be aimed primarily at wages." As a result, they felt that many Democrats on the Hill might "be squirming a bit, feeling uncomfortable with our approach. Somehow it seems that 'Corporate America' is not feeling much heat from us; we can't expect labor or its allies to go along with us if we're not occasionally beating up some entity in the business world."[96]

Still others within the Administration simply felt that Carter's gains from his alliance with the Roundtable were insufficient, given its steep costs. Esther Peterson, Carter's consumer representative, reminded Eizenstat that the Roundtable had been "among the most brazen lobbying forces against Administration-backed consumer initiatives" and that it had also "worked hard against other Administration initiatives including labor law reform, lobbying reform, minimum wage and common situs picketing, just to name a few." She indicated that she understood why Carter had to "visit" with the Roundtable, but suggested that he might want to use the Roundtable's consistent opposition to the Administration's consumer initiatives to leverage "a more conciliatory attitude," proposing that one "possibility" would be to seek "Roundtable support for legislation to fund public participation before federal agency

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[94] Kitty Bernick to Eizenstat, December 7, 1979, folder "Autos–General Motors, 11/78-7/80," Box 7, Kahn Files, JCL; *see also* Bernick to Eizenstat, December 11, 1979, same folder.

[95] Ginsburg to Eizenstat, September 8, 1978, folder "EPG Steering Committee 11/14/78 [CF, O/A 665]," Box 190, Eizenstat Files, JCL, emphasis in the original.

[96] Francis to Moore, March 12, 1979, folder "Anti-Inflation Legislation, 10/24/78-6/19/79," Box 155, Office of Legislative Liaison, JCL.

proceedings."[97] Arguably, Peterson had it right in the end: by the summer of 1980, believing that Carter's days in the White House were numbered, the Roundtable rejected Carter's voluntary restraints and adopted a more traditionally anti-statist line, "saying that [the restraints] meant continuing to blame business for the problem of inflation–a problem that was the fault not of the corporate world but of government regulations and spending."[98]

Political Rewards

These concerns notwithstanding, the Administration's focus on the Roundtable was politically rewarded by individuals within group. Even as the 1980 Carter-Reagan presidential contest was heating up, Shapiro continued to support Carter publicly and privately. In response to a speech by candidate Reagan announcing a large proposed tax cut, Wexler informed the president at the beginning of July that Shapiro had called her "to say that he and other business leaders feel Reagan made a major blunder with his announcement of a massive tax cut which is perceived to be inflationary, without announcing corresponding budget cuts." She added that Shapiro had "urged" the president not to "rush to get on the train, but instead [to] follow [his] original plans."[99]

Moreover, like its predecessors in the White House, the Carter Administration considered the possibility that its links to business groups like the Roundtable could form the basis for a reconfigured Democratic political coalition, or at least a weakened Republican Party. As Commerce Secretary Kreps suggested to Carter, the Administration could work to pull business out of the Republican orbit by regular communication and collaboration—"not necessarily by doing what they advocate but by inviting their views on a wide range of issues and taking the time to explain the Administration's positions." "Moreover," she suggested, "we should take a bit more credit when we find ourselves on the same side of an issue. Business was delighted when you pulled the rebate, for example. Yet we made little mileage of that action."[100] Another possible target was the growing technology sector. As Carter aide presented the issue, "Many of these middle tiered companies (those below the first Fortune 200) have difficulties because of the restrictive activities of the larger companies." He suggested further that the problems these companies faced "resonate[d] well" with the Administration's philosophy, suggesting that contact with Vice President Mondale and some follow-up efforts "might well convince these chief executives to make the switch."[101]

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97 Peterson to Eizenstat, June 9, 1978, folder "Business Roundtable/Business International Roundtable [O/A 6246]," Box 157, Eizenstat Files, JCL.

98 Phillips-Fein, *Invisible Hands*, 241.

99 Wexler to Carter [?], July 1, 1980, folder "Business Leader's Luncheon," Box 5, Wexler Files, JCL.

100 Kreps to Carter, July 28, 1977, folder "Tax Reform (8/77) [O/A 6344] [1]," Box 287, Eizenstat Files, JCL.

101 Jordan J. Baruch to Rafshoon, December 26, 1978, folder "Chamber of Commerce, 2/14/77-3/5/79 [O/A 611]," Box 169, Selig Files, JEC.

The Gains from Trade

The gains to the Business Roundtable from its decision to work with the Carter White House where possible were straightforward: its cooperation with the Administration generated favorable consideration on regulatory issues of concern to the leading companies within the Roundtable whose CEOs worked most closely with the White House—DuPont, GM, GE, and AT&T. The transactional nature of the relationship is perhaps best summarized by a memorandum authored by Jerry Jasinowski, then an undersecretary in the Department of Commerce and later the second-in-command at NAM. In a proposal for a "Business Council to Fight Inflation," Jasinowski reflected that the Carter Administration need to "give the business community something in exchange" for its efforts to combat inflation. He continued,

> [T]hese fellows don't so [sic] something for nothing. [A]nd I suggest that what we can give them is an agreement to work with the group on certain key policy issues that they regard as importantly related to the inflation problem, including: regulatory reform, export policy, capital formation, and productivity...We want to avoid their hitting us over the head on the deficit and other bits of free market ideology, but I think they will agree to do such an activity only if they are given some substantive role. In short, I am saying that we will be successful in organizing such a group only if we allow them to organize it themselves, with some substantive quid pro quo, both of these subject to some perimeters that the White House would spell out.[102]

GM's Murphy echoed Jasinowki's worldview in an anti-inflation meeting involving several high-level Administration officials as well as important business leaders (known as the Group of Nine), including Murphy, Jones, deButts, Lesher, and representatives of the National Federation of Independent Businesses, the American Bankers Association, and the New York Stock Exchange. To the assembled representatives of business and government, Murphy stated simply "that the business community needed to see tangible evidence that regulations were being alleviated."[103] On Roundtable support for an Administration proposal to create a real wage insurance program, the group's executive director, John Post, was similarly blunt. In a subsequent meeting of the White House's informal anti-inflation task force, again involving representatives from the major business groups, Post stated, "[B]usiness has already supported [the anti-inflation program], we need some regulatory successes."[104]

The Roundtable's goals were not lost on the organization's opponents within the Administration. In response to a letter from DuPont's Shapiro concerning "the inordinate delays

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[102] Jasinowski to Butler and Lee Kling, June 15, 1978, folder "Inflation Policy [1] [O/A 6739]," Box 5, Strauss files, JCL, emphasis in the original.

[103] "Notes of meeting held December 15, 1978 in the Offices of the Business Roundtable concerning Anti-Inflation, folder "Business Roundtable Meeting, 12/14/78 [O/A 610]," Box 169, Selig Files, JCL.

[104] Reiman to Selig, January 8, 1979, folder "Anti-Inflation Task Force Meeting, 1/8/79 [O/A 610]," Box 168, Selig Files, JCL.

and uncertainties we increasingly encounter in the environmental administrative process," Interior Secretary Cecil D. Andrus told Carter's staff secretary that the Roundtable was simply seeking fast-track approval of any project they believed to be important. Andrus, who had "never known the Roundtable to be supporters of this Administration," wrote, "[T]he theme of [DuPont's] memorandum appears to be that they are requesting 'prompt, predictable and final environmental determinations' which translates to me that they want approval of any project that is proposed in an expedited fashion."[105]

Automobile Emissions

Automobile emissions regulation offers one case in point, demonstrating how General Motors, in particular, was able to leverage its relationship with the Administration and the Carter White House's emphasis on regulatory reform to achieve tangible gains in the regulatory arena. The Clean Air Act Amendments of 1977 represent a significant regulatory benefit the business community obtained: as Vogel notes, the Amendments "postponed the deadline for achievement of goals for 'healthy' air from 1972 to 1982, and in some instances to 1987, and extended the deadline for a 90 percent reduction in automobile emissions by three to six years (depending on the particular pollutant)."[106]

A letter from Murphy to Carter stated GM's goals succinctly: "We are convinced...that the hundreds of complex regulations and directives which have been issued in the last 15 years are not perfect in every respect and that a thorough examination of selected regulations would identify areas where revisions can be made to improve cost effectiveness, often by a substantial amount." Although Murphy enclosed a list of regulations that he believed "could and should be changed," his letter was carefully couched in the cooperative language of the Roundtable, noting, for instance, that GM had "long supported regulation where there is a demonstrable health or safety need not met in the marketplace" and asserting "emphatically" that GM did not "propose to turn the clock back on the dramatic progress we have made in these areas."[107]

Unsurprisingly, Murphy's appeals fell on relatively sympathetic ears. When Transportation Secretary Brock Adams concluded, based on Transportation Department staff recommendations, that the Department should not revise fuel economy standards in response to claims made by GM and Ford that lower standards "would be more beneficial to consumers, Eizenstat, Kahn, Schultze, and Wexler wrote to Carter directly.[108] Echoing GM's language about "the enormous consumer cost of requiring the industry to meet current standards," Carter's senior advisors indicated that, although they were "not yet prepared to recommend a change in the standards," they nevertheless believed "the industry should at least have the opportunity to

[105] Andrus to Rick Hutcheson, Staff Secretary, April 28, 1978, folder "Business Roundtable/Business International Roundtable [O/A 6246]," Box 157, Eizenstat Files, JCL.

[106] Vogel, *Fluctuating Fortunes*, 182.

[107] Murphy to Carter, June 10, 1980, folder "[Auto Industry [5]," Box 4, Schultze Files, JCL.

[108] Brock Adams to Kahn, June 15, 1979, folder "Autos–Fuel Economy, 3/79-8/79," Box 6, Kahn Files, JCL.

present its case before the Administration makes a final decision." The memorandum emphasized Carter's personal connection to senior executives within the auto iindustry. Claiming that Adams had represented his announced as "the *definitive* Administration position," the four told Carter that "the auto executives were very upset about the calls, for they felt that [the president] had made a *personal commitment* to them...to review the matter before the Administration had adopted a final position." Here, they focused, in particular, on Murphy who felt that he had been "misled," and might try to call Carter directly.[109]

Another Carter economic advisor advocated a more direct approach to the emissions-related suggestions of GM and other auto manufacturers: in his view, "the best way to handle" the suggestions was "to call in the various agencies and ask them for alternative ways of addressing the subjects" raised by the automakers. "If the suggestions [made by GM and others] are not considered acceptable, they should explain why they believe this is so and provide alternatives."[110] Administration records reveal that GM representatives met with every senior White House policy maker on economic issues, including Vice President Mondale, Transportation Secretary Adams, Commerce Secretary Kreps, OMB Director McIntyre, EPA Administrator Costle, Treasury Secretary Michael Blumenthal, Council on Wage and Price Stability head Barry Bosworth, as well as Eizenstat, Kahn, Schultze, and Wexler.[111]

Carter's anti-inflation policy advisor Alfred Kahn represented a key ally in these efforts. In a letter to Murphy thanking him for supporting the Administration's anti-inflation efforts Kahn indicated that he was aware of GM's concerns about fuel economy standards and that he would "intervene when and as it appears that would be helpful."[112] Kahn also forwarded a GM analysis of a report prepared by the National Highway Transportation Safety Administration (NHTSA) concerning front-loaded fuel economy standards to the Administration's regulatory analysis group, informing GM representatives that he had asked the NHTSA to "give us the benefit of a

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[109] Eizenstat, Wexler, Kahn, Schultze to Carter, June 22, 1979, folder "Autos–Fuel Economy, 3/79-8/79," Box 6, Kahn Files, JCL, emphasis in the original. Similarly, the Commerce Department's Jasinowski advised Eizenstat, Kahn, and Schultz that, "because of the implications of these proposed standards on the overall regulatory burden of the auto industry and on the overall inflation rate, the Transportation Department "be asked to reopen the comment period on the implementation of the [fuel economy] standards." His rationale: "*The overall regulatory burden faced by the auto industry through the mid-1980's is considerable*. Jasinowski to Eizenstat, Kahn, Schultze, March 2, 1979, "Fuel Efficiency Standards Meeting, 5/18/79 [CF, O/A 624]," Box 174, Selig, emphasis in the original.

[110] Robert D. Hormats to Eizenstat, April 1, 1980, folder "[Auto Industry] [1]," Box 4, Schultze Files, JCL. The suggestion was not internally uncontroversial. CEA member George C. Eads wrote to Eizenstat with his view that "[s]uch a policy would only set back legitimate efforts of reform and generate substantial adverse publicity." Eads to Eizenstat, April 7, 1980, folder "[Auto Industry] [1]," Box 4, Schultze Files, JCL.

[111] Memorandum, author unclear, March 27, 1979, folder "Fuel Efficiency Standards Meeting, 5/18/79 [CF, O/A 624]," Box 174, Selig Files, JCL

[112] Kahn to Smith, April 18, 1979, folder "Autos–General Motors, 11/78-7/80," Box 7, Kahn Files, JCL. In an earlier letter, a GM executive had written to Kahn, "[T]here are two specific areas in which we need help in meeting our anti-inflation and related goals. The first, straightening out the front-loaded fuel economy standards, is vitally important in helping us hold down costs to the consumer...Second, we need the fuel efficiency provided by diesel technology." Smith to Kahn, April 4, 1979, folder "Autos–General Motors, 11/78-7/80," Box 7, Kahn Files, JCL.

thorough decision."[113] More broadly, Kahn believed it was "the most important of [his] functions to help the Administration fulfill the President's pledge, in his anti-inflation message, to examine the entire range of regulations, to eliminate restraints on competition, wherever possible, and regulations that impose unnecessary and excessive cost burdens on the economy." In this context, he believed it was desirable to push the EPA "to give full weight to economic considerations in their regulations," and, like other colleagues within the White House, cited the "bubble concept" as "an obvious example" of success in this regard.[114]

U.S. Trade Representative Robert S. Strauss also helped to facilitate GM's efforts to reduce its regulatory burden. Strauss, for instance, forwarded recommendations by the Business Roundtable concerning revised new source performance standards for fossil-fueled power plants to EPA Administrator Costle, asking him to evaluate the Roundtable's analysis. In response, Costle noted that the EPA's internal analysis "revealed less severe economic and energy impacts of a uniform requirement than those suggested by the Business Roundtable." After cautiously contesting the Roundtable's findings, Costle, however, closed on a conciliatory note: "I want to assure you that I will carefully weight the potential economic, energy, and environmental impacts when making my decision regarding the proposal of revised standards."[115]

Subtler Gains

A more subtle example of the benefits of the Roundtable's cooperation with the Carter Administration came as the Administration considered the details of a proposed "Superfund" for large-scale environmental cleanup. A memorandum authored by Wexler and a second Administration staff member considered the specific position of Dupont on the Superfund issue. Reflecting that Dupont was a "a large company which has been willing to work with the Administration," it noted, "Dupont along with Dow and other majors have somewhat different interests than the medium and small companies," suggesting that the specific interests of these two chemical companies would have to be considered in any potential legislation.[116] A second, related memorandum drafted for Eizenstat indicated that Shapiro and Dupont would be particularly concerned about the Superfund issue in general and the issue of third-party liability in particular. Here, the memorandum took an equivocal position. On the one hand, Eizenstat was cautioned that pressure from Dupont should not lead him to " indicate that we would oppose any forms of third party liability." On the other hand, his aide reminded him, "We would agree that the coverage in the Senate bill is much too broad." Overall, the memorandum concluded,

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[113] Kahn to James D. Johnston, Director of Government Relations, GM, October 30, 1979, folder "Autos–General Motors, 11/78-7/80," Box 7, Kahn Files, JCL.

[114] Kahn to J. Fike Godrey, Director of Public Affairs, The Western Company of North America, May 9, 1979, folder "Environmental Protection Agency (EPA), 12/78-4/79," Box 18, Kahn Files, JCL.

[115] Costle to Strauss, August 22, 1978, folder "[Environmental Protection Agency] NSPS [New Source Performance Standards [O/A 6739]," Box 4, Strauss Files, JCL.

[116] Charles Atkins to Wexler and Mike Chanin, August 18, 1980, folder "Superfund," Box 58, Wexler Files, JCL. Folder also has a letter from Shapiro re DuPont's position on SuperFund.

> "While we have taken no position on third party liability and, thus have considerable flexibility, this is politically one of the most sensitive parts of the legislation. The general public would expect that superfund legislation should cover medical and economic costs that individuals incur as a result of the impacts of hazardous materials. But the potential costs of such a provision is [sic] impossible to calculate."[117]

In short, although its political instincts seemed to be on the side of stricter third-party liability standards the Administration felt compelled to take a compromise position because of its relationship with DuPont's Shapiro.

Where positive gains from trade were likely unavailable—for example, in situations where the Administration was concerned about the political fallout from appearing overly close to business interests—influential members of the Roundtable were at least assured of a hearing within the Administration. After GE's Reginald Jones complained to Administration officials after an indictment for bribery was handed down against GE by the Justice Department, for instance, Carter's advisors told the president, "Reg is a little bent out of shape because GE was indicted on a bribery charge in Puerto Rico after GE itself discovered the problem and reported it to Justice." They added, "Justice says it had no choice but to act and did not inform us of their action." Ultimately, they recommended to the president that he call Jones "to say…[t]hat you have always had total confidence in him and his integrity, you value his judgement and always will."[118]

Alternatively, the Roundtable could count on its relationship with the White House to help blunt criticism of the organization. After consumer relations advisor Esther Peterson accepted an invitation to participate in "Big Business Day" (April 17, 1980), a one-day event, modeled on Earth Day, designed by a coalition of labor and public interest groups to draw attention to "the social evils perpetrated by large corporations," the White House scrambled to limit its involvement in the event.[119] White House counsel Lloyd N. Cutler reviewed Peterson's speech and updated Carter on its contents. He focused, in particular, on criticism of key Roundtable CEOs, telling Carter that the speech would "specifically disassociate [Peterson and Carter] from the lurid captions on the flysheet announcing the program, and from any attacks by other panels on Shapiro, Wriston, et al."[120]

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[117] R.D. Folsom to Eizenstat [re Superfund meeting with Shapiro], June 30, 1980, folder "Superfund" Box 58, Wexler Files, JCL

[118] Presidential phone call request, Wexler and Strauss, September 12, 1980, folder "Correspondence, 9/80 [3]," Box 84, Wexler Files, JCL.

[119] On "Big Business Day," *see* Waterhouse, *A Lobby for Capital*, 237-238.

[120] Cutler to Carter, April 17, 1980, folder "Correspondence, 4/80 [2]," Box 82, Wexler Files, JCL.

Fighting Inflation

The White House also worked to address other issues of concern to the Roundtable in an effort to maintain the group's cooperation on the anti-inflation fight. One key area in this regard was broad-based regulatory reform. In the White House's view, government action to combat inflation was particularly necessary to ensure that it would be a credible partner for business (and labor) in their, more important, anti-inflation efforts. As one of Eizenstat's staff members put it: "A basic reason given for devoting a lot of attention to the things Government is doing to control inflation is that we *need* to do this in order to get cooperation from business and labor."[121] In March 1980, almost two years later, White House counsel presented a similar justification for announcing "a requirement that all new executive branch regulations imposing additional compliance costs exceeding 100 million dollars, or some other figure, are subject to the President's approval before they are issued": such an announcement, in his view, "would go a long way to persuade the business and financial communities that we are serious about curbing this cause as well as the other causes of rising inflation."[122]

As we have seen, the White House's concerns about inflation translated into senior staff putting regulatory agencies on notice to take into account the costs and the benefits of regulatory initiatives.[123] And, in turn, the Roundtable's member companies—all of which, because of their size, were subject to extensive regulatory requirements—benefited directly. Talking points prepared for a meeting between Trade Representative Strauss and a group of environmentalists reflect this priority: "We're trying to get every part of the government and the economy to face the problem of inflation together. The overall impact of government regulation is part of that problem. I am not singling out EPA...We need to make sure that we're regulating in the most cost-effective manner possible."[124] Indeed, Carter's prioritization of inflation meant that other concerns often came second. In response to an OSHA standard regulating exposure to cotton dust (and designed to protect textile workers from byssinosis, a condition known as brown lung disease), Eizenstat wrote, "In light of the President's statements about inflation, it is important to ensure that any new regulations do not impose unnecessary or uneconomic costs on American industry, and that the gains are commensurate with the costs."[125] After an internal struggle with the agency—ultimately resolved in the agency's favor by Carter himself—the lessons to Carter's senior staff were clear:

> The result of this episode must be acceptance of the principle that OSHA and other regulatory agencies take seriously the requirement of Executive Order

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[121] Ginsburg to Eizenstat, September 8, 1978, folder "EPG Steering Committee 11/14/78 [CF, O/A 665]," Box 190, Eizenstat Files, JCL, emphasis in the original.

[122] Cutler to Anti-Inflation Program Group, March 13, 1980, folder "Cutler, Lloyd," Box 15, Schultze Files, JCL.

[123] *See*, for instance, Philip Shabecoff, "Regulation by the U.S.: Its Costs vs. Its Benefits," *New York Times*, June 14, 1978,

[124] Costle to Strauss, May 8, 1978, folder "Anti-Inflation [O/A 6338] [4]," Box 143, Eizenstat Files, JCL.

[125] Eizenstat to Schultze, April 28, 1978, draft memo, folder "OSHA [O/A 6465] [2]," Box 248, Eizenstat Files, JCL.

> 12044 that regulatory agencies select the least burdensome alternative, consistent with effective achievement of the pertinent regulatory goals...If the White House (the President) won't stand behind this principle, the whole regulatory review procedure will be a paper tiger.[126]

Similar concerns cropped up in an internal battle over ozone-related environmental standards. Whereas business groups and sympathetic voices within the Administration, including the CEA, urged a standard of more than 0.15 parts per million, environmental activists supported a standard of 0.10 ppm.[127] A compromise position of 0.12 ppm, to which EPA Administrator Costle agreed, was, as internal Administration memoranda reveal, considered: "an important symbolic victory for the anti-inflation program…[Costle's] decision to move to 0.12 is directly responsive to the anti-inflation program and the RARG report."[128]

Anti-merger legislation represented a second area in which the Administration intervened on the Roundtable's behalf to maintain and reward the group's cooperation in the fight against inflation was. In late 1979, as the president's senior staff considered various forms of anti-merger legislation sponsored by the Department of Justice, they focused on the danger to the anti-inflation fight of antagonizing business: in the words of OMB Director James T. McIntyre, "The business community, whose cooperation is vital if the anti-inflation is to succeed will perceive the proposal as indicative of a 'big is bad' philosophy regardless of how it is presented."[129] Anti-merger legislation, in particular, affected the Roundtable's constituency more than that of other business groups. Eizenstat informed the President that the "Roundtable perceives an anti-merger bill as the most threatening item on the Administration's agenda." According to Eizenstat, the Roundtable's opposition would come with serious consequences—the group suggested that the Administration's support for anti-merger legislation would "affect [its] willingness to be helpful in other areas."[130] In response, Carter ordered that no action be taken restricting merger activity, ordering only further study of the issue.

Opposition: The U.S. Chamber of Commerce

As this final section of the chapter documents, at the same time as the White House and the Roundtable worked to establish a *modus vivendi*, the Chamber largely opted out of any possible cooperation with the Carter Administration. Even on issues where the Roundtable found common ground with the broader Carter program—regulatory reform, for example—the

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126 Lazarus to Eizenstat, June 1, 1978, folder "OSHA [O/A 6465] [2]," Box 248, Eizenstat Files, JCL. For a short, comprehensive overview of the episode *see* Biven, *Jimmy Carter's Economy*, 226-227.

127 Barbara Blum to Eizenstat, January 12, 1979, folder "Ozone–12/78-1/79 [O/A 8059] [1]," Box 251, Eizenstat Files, JEC; Frank Press to Eizenstat, December 29, 1978, folder "Ozone–12/78-1/79 [O/A 8059] [2]," Box 251, Eizenstat Files JEC.

128 Rick Neustadt to Eizenstat, undated, folder "Ozone–12/78-1/79 [O/A 8059] [2]," Box 251, Eizenstat Files, JEC.

129 McIntyre to Carter, January 15, 1979, folder "Corporate Mergers [CF, O/A 727]," Box 177, Eizenstat Files, JCL.

130 Eizenstat and Malson to Carter, January 21, 1979, folder "BE 1 Executive 1/1/79-2/28/79," Box BE-2, B-E, WHCF, JCL.

Chamber sought to oppose the Administration. To Eizenstat's chagrin, the Chamber even attempted to publicly cast the White House as false converts to the dogma of regulatory responsibility. As one Administration memorandum summarized, "[Chamber President Richard] Lesher may be a serious problem. The Chamber is evidently launching itself on a nasty anti-administration campaign on the regulatory issue. I have been informed that they are attempting to market an article to the [Washington] Post Outlook section alleging that the administration has been a fake on regulatory reform."[131] Indeed, the personal influence of Lesher—and, in particular, his "ideological embrace of supply-side [economic] theory" which stood in stark contrast to business's traditional focus on maintaining a balanced federal budget—on the Chamber's political evolution has been a point of emphasis for scholars studying the group.[132]

Instead of working, where possible, with the Administration, the Chamber invested in strengthening its political links with ideological conservatives. As a result, it could not reap the short-term regulatory benefits of cooperation with the Carter White House identified and pursued by the Business Roundtable. Nevertheless, the Chamber's deepening ties with groups increasingly important to the Republican Party bore significant fruit with the election of Ronald Reagan in 1980, which gave the organization an important voice in a new Administration committed to limiting the size of government and its regulatory role—a subject that forms the basis for the final chapter of this dissertation.

The Chamber's political strategy hinged on tapping into the combination of conservative populism and ideological opposition to government involvement in the economy that would later be championed by Reagan. Under Lesher's leadership, the Chamber embraced other actors within the Republican orbit, including economic conservatives increasingly captivated by the ideas of "supply-side" economists Arthur Laffer, Robert Mundell, and *Wall Street Journal* columnist Jude Wanniski, as well as social and religious conservatives.[133] These types of self-identified conservatives, as we have seen in previous chapters, had sought to keep their distance from business groups because of their perceived lack of commitment to right-wing political principles. As William Baroody, Jr. reminded Ford, "traditionalist conservatives [that is,] business, GOP-oriented types who are concerned with balanced budgets, fiscal conservatism, strong national defense and patriotism" were different from the constituencies that Nixon had assembled into the New Majority and with whom Ronald Reagan and George Wallace had both found political success. Baroody warned Ford not to overlook those differences: "It is true that there is an area of great overlap on these and many other issues, but there are important social, economic and class differences between the two constituencies."[134]

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[131] Eizenstat to Lazarus, June 17, 1980, folder "Regulation Q–Banking [CF, O/A 730] [1]," Box 268, Eizenstat Files, JCL.

[132] Waterhouse, *A Lobby for Capital*, 312; Phillips-Fein, *Invisible Hands*, 200.

[133] Phillis-Fein, *Invisible Hands*, 201-203.

[134] Baroody to Ford, September 17, 1975, folder "Office of Public Liaison - Memos and Plans," Box 63, Baroody Papers, GRF.

Baroody's insights were not lost on the Chamber. Unlike the Roundtable, the Chamber took publicly conservative positions on social issues, helping to "build a bridge between the social backlash against the civil rights, gay rights, feminist, and antiwar movements and the business backlash against regulation and the welfare state," running columns in its monthly newsmagazine by prominent conservative writers on school prayer, the Equal Rights Amendment, crime, and the California tax revolt.[135] In contrast, one measure of the Roundtable's distance from the conservative movement was the relatively limited contribution of Roundtable members to AEI (although influential members, including Jones and Citicorp's Wriston served on the Institute's development committee). Even as late as 1978, 99 of the Roundtable's 186 members (roughly half) provided no financial support to AEI. In addition, of the 87 corporations providing support to AEI, 53 contributed less than $10,000 per year and 27 provided less than $5,000 per year. Indeed, even of the 46 companies on the Roundtable's influential policy task force, 11 did not contribute at all to AEI.[136] Similarly, whereas by 1976, Baroody's AEI had originally obtained contributions and pledges from several foundations—including the conservative Pew Memorial Trust and Smith Richardson Foundations—for the Institute's proposed Center for the Study of Government Regulation totaling approximately $4.3 million, corporations had pledged or contributed only $275,000, with the bulk ($200,000) coming from Pew's Sun Oil Corporation.[137]

Tax Policy

At the same time, under Lesher's leadership, the Chamber came to espouse policy positions much more in line with those of supply-side economists and politicians, like Rep. Jack Kemp (R-NY) and Sen. William V. Roth (R-DE). Translated into specific policy proposals, the Chamber supported an across-the-board tax cut, sponsored by Kemp in the House and Roth in the Senate, which sought to cut both individual and corporate tax rates in all tax brackets by 30 percent within three years.[138] In contrast, the Roundtable's tax policy was oriented around the broad goal of "capital formation," with accompanying arguments designed to show how American corporate tax policy (and particularly high corporate tax rates) had deprived U.S. businesses of the capital necessary to invest in developing upgrades to their physical facilities. Consequently, the Roundtable's major priority in the area of tax policy was a "plan to accelerate the schedule by which companies could depreciate capital equipment." The Roundtable's plan, which came to be known as "10-5-3" because of the proposed depreciation schedules for buildings (10), vehicles (5), and equipment (3), remained consistent with business's traditional

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[135] Phillips-Fein, *Invisible Hands*, 205.

[136] Baroody to Jones, August 21, 1978, Folder 8, Box 15, William J. Baroody, Sr. Papers, Manuscript Division, Library of Congress (LOC).

[137] Center for the Study of Government Regulation, undated, Folder 3, Box 46, Baroody Papers, LOC

[138] Vogel, *Fluctuating Fortunes*, 240.

focus on tax policy as a vehicle for stimulating economic productivity, rather than for the promotion of the natural rights of individuals.[139]

The Chamber communicated its emphasis on universal tax reduction to the Carter White House in no uncertain terms. In late 1978, in a meeting between Carter Administration officials and the Group of Nine—a set of senior business leaders including the Roundtable's executive director John Post, NAM President R. Heath Larry, and the Chamber's Lesher—Larry emphasized restraint of government spending and an increase in attention to capital formation, while Post suggested more focus on economic productivity. Lesher, in contrast, stated, "We favor a tax cut next year and the sentiment in Congress does as well, we may be unrealistic but we favor a cut that would include two-thirds of the cut in the business sector."[140] By mid-1980, whereas "an unusual consensus," including "economists from [Roundtable] companies, small business representatives, [and] Wall Street leaders) agreed that balancing the budget was the most important thing" the Administration could do, the Chamber dissented. Unlike other business groups, who believed that deficit reduction or removal ought to come before any tax cuts, the Chamber felt that the balancing the budget and cutting taxes were both feasible, threatening, "[I]f the Administration doesn't, Congress will."[141] As discussed in the next chapter, these tensions within the business community and within the Chamber itself over prioritizing deficit reduction or tax cuts would come to a head during the early years of the Reagan Administration.

Where the Roundtable was careful to cast its policy positions in neutral, technocratic language even in private communications with its CEO members, the Chamber exhibited no such political restraint in its missives to members.[142] In a letter to Chamber members from August 1978, Lesher praised growing state-level tax revolts, while attacking the "White House and its Congressional leaders" for "*try[ing] to thwart the public demand*." Lesher's letter argued that substantial tax cuts would not only reduce government spending but would reduce the "hidden tax" of inflation: a Republican-supported amendment providing for a $25-30 billion tax cut held out "the long-awaited promise of restoring our economy to one in which private action finally begins to replace government action." But, Lesher warned, echoing conservative anti-government rhetoric, "*That will be hard medicine for the liberals to take*. Many of them have built their political careers on big government, on one new spending 'program' after another, always catering to constituencies who would repay them on election day, and keep them in power."[143] Clearly, the prospects of working with a Democratic administration were relatively dim.

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139 On 10-5-3, *see* Waterhouse *A Lobby for Capital*, 295-298.

140 Reiman to Wexler, undated, folder "Business Government Relations Council," Box 5, Wexler Files, JCL.

141 Al McDonald and Wexler to EPG Group, March 4, 1980, folder "Inflation Consultations [1]," Box 27, Wexler Files, JCL; Reiman to Wexler, February 29, 1980, folder "Inflation Consultations [1]," Box 27, Wexler Files, JCL.

142 Phillips-Fein, *Invisible Hands*, 194; *see also* Vogel, *Fluctuating Fortunes*, 226.

143 Lesher to members, August 2, 1978, "Civil Service Reform, 7/19/78-8/4/78," Box 170, Selig Files, JCL, emphasis in the original.

Anti-Inflation

The Chamber sought to signal its newfound conservative zeal by opposing the Carter White House even on issues where the Roundtable was able to work cooperatively with the Administration. Given the suspicion of business-oriented groups by free-market conservatives, the Chamber needed to distinguish itself from the herd—to prove its conservative bona fides. One effective way to further its linkages with other conservative groups, and to distinguish itself from its competitors among other business groups, was to attack the Administration. In so doing, the Chamber reflected its commitment to act differently from the tired, accommodationist tactics (now being practiced by the Roundtable) that so vexed right-wingers. As the Chamber's allies in *Fortune* put the issue: the Roundtable was pursuing a political strategy that could "only be described only as one of accommodation and concession...They acquiesce to unwarranted demands by regulators and the White House, and they frequently take positions that are inimical to their long-term interests."[144]

On combating inflation, for instance, the Chamber provided limited to no support to the White House, "publicly and strongly" opposing the Administration's wage and price guidelines that the Roundtable's leading members, including Shapiro and Murphy, supported.[145] Describing a published inflation policy brochure issued by the Chamber, one of the business liaisons on Wexler's staff observed, "You will note no mention of the voluntary standards, nor any mention of the steps that the administration is taking to combat inflation. I believe that we must find a way to counter this type of negativism within the Chamber in order to proceed with small business throughout the country."[146] Similarly, responding to Carter's "direct appeal" for Chamber support of the Administration's voluntary standards at a meeting of the "Group of Nine," Chamber chairman Sheraton Harris provided "a litany of suggestions–28 in total–for steps that government, and government alone could take to decrease the regulatory burden, encourage exports, lower taxes on firms, decrease labor bargaining power, and otherwise retard inflation."[147] Likewise, although the NAM and the Roundtable were generally supportive (with some conditions) of the civil service reform initiative undertaken early on in the Carter period, the Chamber opposed largely because of their fears of a "greatly expanded Federal labor relations program."[148]

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144 Quoted in Vogel, *Fluctuating Fortunes*, 202.

145 Selig and Reiman to Wexler, March 12, 1979, folder "Inflation, 2/79-9/79," Box 26, Wexler Files, JCL.

146 Reiman to Wexler, December 13, 1978, folder "Correspondence, 12/78 [2]," Box 73, Wexler Files, JCL.

147 Waterhouse, *A Lobby for Capital*, 266.

148 Selig to Wexler, August 4, 1978, folder "Correspondence, 8/78 [3], enclosing position statements, Box 72, Wexler Files, JCL.

Carter Administration officials even came to believe the Chamber occasionally acted duplicitously: Eizenstat's staff, for instance, felt that the Chamber had reneged on representations the group had made to the Administration and Sen. Charles Percy (R-IL) concerning their opposition to legislative veto provisions in any regulatory reform legislation.[149] Ultimately frustrated with the Chamber's non-cooperation, the White House—led by Wexler—ultimately moved to "cut off" the Chamber in late January 1979.[150] Wexler told Carter that she believed the "strained" relationship between the Chamber and the White House was due "primarily to the lack of leadership" provided by Lesher and the Chamber's elected chairman, Jay Van Andel, co-founder of Amway and an important figure in the conservative movement who would become a key fundraiser in Reagan's 1980 campaign.[151] According to Wexler, Lesher, in particular, had "generally been non-supportive of [Carter], the Administration, and [its] goals."[152]

Conclusion

In the spring of 1977, Shapiro reflected on the relationship between business and government in the modern age. He wrote, "[G]overnment (like business) is a legitimate and necessary instrument of modern life...the importance of economic activity to society is so great that government inevitably and correctly displays a lively interest in such economic activity." For Shapiro, having accepted some amount of government regulation, "the ever-present" challenge was to find an appropriate set of limits to government oversight power. His hope was to make sure that a "reasonable government interest" would not become "government control, to a degree that undercuts essential principles of a free society." Nevertheless, even as he sought to limit the regulatory power of government, he remained committed to the principle that "business can fill its role in society better, and help keep the government's role in the best balance, by working in a spirit of cooperation with government."[153]

Shapiro's stated position—held privately and acted upon publicly—is, historically, a minority one within the annals of business-government relations in the United States.[154] Shapiro himself represented a new breed of corporate titan: as David Vogel has suggested, Shapiro, an

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[149] Lazarus to Eizenstat and Bert Carp, July 9, 1980, folder "Regulation Q–Banking [CF, O/A 730] [2]," Box 268, Eizenstat Files, JCL.

[150] Wexler to Reiman, January 24 or 25, 1979, folder "Correspondence, 1/79 [1]," Box 73, Wexler Files, JCL. Similarly, anti-inflation advisor Kahn declined to appear at the Chamber's annual meeting because of the "treatment" the group had given the Administration's anti-inflation program. Al From to Kahn, Josh [need last name] and Gale [need last name], April 6, 1979, folder "Chamber of Commerce, U.S., 12/78-8/80," Box 8, Kahn Files, JCL.

[151] Phillips-Fein, *Invisible Hands*, 201-204.

[152] Wexler to Carter, April 25, 1980, folder "Correspondence, 4/80 [1]," Box 82, Wexler Files, JCL. Wexler, however, told the President that the hoped that incoming Chairman and Chairman of the Board of ARAMCO, Bill Verity would "not allow the staff to usurp his authority and his role as spokesman for the Chamber."

[153] Shapiro to Robert Chitester, President, Public Broadcasting of Northwest Pennsylvania, Inc., April 21, 1977, Folder 2, Box 60, Baroody Papers, LOC

[154] *See* Kim Phillips-Fein; David Vogel, "Why Businessmen Distrust Their State," *British Journal of Political Science*.

attorney, was chosen to head DuPont because of his experience in "government relations," rather than his facility with manufacturing or engineering or processes.[155] More traditional is the critical view expressed by his correspondent: "What troubles me is a perception that you are philosophically persuading yourself that big government can be good. It seems to me that's like feeling some comfort because the cannibals are smiling while you stew in the pot."[156]

The previous pages have illustrated the institutional clash of these two world views, embodied in the different approaches of the Business Roundtable and the Chamber of Commerce to collaboration with the Carter White House. In this concluding section, I lay out three broad theoretical lessons that we might derive from that clash, whose consequences for politics during the Reagan Administration are discussed in the next and final chapter of this dissertation.

First, as we have seen, the Roundtable and the Chamber pursued radically different approaches in their competition for membership during the Carter era. Each represented a plausible bet on the direction and nature of subsequent political contestation. For the Roundtable, the desperation of the Carter White House to generate a workable partnership with business interests meant that short-term collaboration could pay meaningful dividends in areas of regulatory policy of crucial importance to the group. And, for the Chamber, the power of the conservative insurgency, demonstrated in the 1976 primary fight between Reagan and Ford offered a powerful new set of coalitional allies within the Republican Party, the very institution that business interests had sought to influence, with somewhat limited success, since 1968. Both groups achieved their goals: the Roundtable was able to reap the rewards of its collaboration with the Carter White House, whereas the Chamber was able to position itself successfully to earn the credibility of ideological conservatives by frustrating the Administration. The crucial strategic difference lay in the time horizons over which both groups sought to achieve their goals. Given Carter's loss in the 1980 presidential election, however, that difference also meant that the Roundtable was a late arrival to the Reagan coalition. Lacking the goodwill the Chamber had earned, the Roundtable lost the high-level access it was able to count on during the Carter Administration and ceded significant ground to the Chamber.

Second, did the Business Roundtable simply bet on the wrong horse? A simple, affirmative answer to this question seems unsatisfactory: the shareholders and executives of the Roundtable's member companies, particularly the largest among them, benefited tangibly from the regulatory breaks and deals offered to them in exchange for their cooperation with the White House's political agenda. In this sense, as Vogel has argued, it seems clear that Washington, DC did come to represent just another profit center for certain kinds of American business. Nevertheless, the Roundtable's refusal to play the political long game does suggest that the group was illl-equipped in an evolutionary sense for a changing political environment, in which ideological polarization would increasingly rule the day. At minimum, the Roundtable was certainly a poor fit within the Reagan coalition, as we will see in the next chapter. More broadly, the Roundtable—unlike the Chamber—simply chose not respond to the changing nature of intra-

[155] Vogel, *Fluctuating Fortunes*, 196.

[156] Shapiro to Chitester, April 21, 1977, Folder 2, Box 60, Baroody Papers, LOC.

Republican politics. As a result, it was left out of the ideologically driven core of the Republican coalition, with important consequences for its subsequent organizational development.

Third, the place of business within the Democratic coalition represents a more complicated analytical question. As we have seen, the alliance between the Carter White House and the Business Roundtable was largely driven by perceived necessity on the part of both groups, along with the possibility of real gains from trade. On the Carter end, that alliance was championed by an administration that had learned one basic lesson from business opposition to the consumer protection agency and labor law reform: "if you can't beat 'em, join 'em." In Skowronek's terms, the line between preemption and disjunction is a relatively thin one: Carter's approach to working pragmatically with powerful business groups seems little different from that of the Clinton White House and the Democratic Leadership Council a little over a decade later. The pressures each faced to incorporate elements of the business community into a coherent centrist political coalition were similar as well, given the decline of the power of organized labor and, at least for Carter, a healthy political distrust of the upper echelon of labor's leadership and a recognition of the limited capacity of allies in the consumer and environmental movements to pick up the slack.

The support of powerful members of the business community was not enough to ensure electoral victory for President Carter. Even leading members of the Roundtable (with the exception of Shapiro himself) became critical of Carter by the summer of 1980. Either sensing a sinking ship or responding to the pressure they faced from the Chamber to realign their politics, they largely abandoned their support for the Administration's anti-inflation and regulatory reform priorities. Nevertheless, the experience of the last three decades might lead us to conclude with the following thought: that the attempts by the Carter White House to forge a moderate coalition including certain elements of the business community represented a productive, and perhaps even preemptive, approach to Democratic coalition-building. Far from relying on the altruism of the business elite, the Carter Administration engaged in a kind of *realpolitik*—seeking to engage the business community by offering a clear-headed political exchange based on fundamental interests. For Democrats, that may be the Carter White House's real legacy.

Chapter 5 | Snatching Defeat from the Jaws of Victory: Business in the Age of Reagan

In the spring of 1982, with his organization gearing up for a bruising confrontation with the Reagan White House over tax policy, Chamber Chairman and Pepsi CEO Don Kendall challenged the group's membership. Speaking at the Chamber's annual meeting, Kendall asked: "Dare I say it? Can supply side economics work? You bet it can and it will." Deploying Reagan's own rhetoric, Kendall reiterated his belief that supply-side economics was no "reckless gamble," for it represented the "formula upon which this nation was founded." Cutting taxes threatened only "the bureaucrats and special interests who have parked their derrieres along the banks of the Potomac for the past 40 years living off the taxpayers' dollars." For Kendall, the economic logic was foolproof; only the political contest remained to be won. He concluded with a final directive to the assembled executives: communicate the supply-side gospel to Congress and "help us put a steel rod up their spines."[1]

As we will see, Kendall's comments came at a time of intense disagreement between the Chamber and the Reagan administration over the shape of federal tax policy. Concerned that the president would support significant tax increases only a year after the historic tax cuts of Reagan's first year in office, the Chamber feared the new tax increases would fall largely on the business community. Determined to avoid new taxes on business, the Chamber sought to out-Reagan Reagan, reminding the administration of its political commitments. Far from a display of solidarity with the administration, Kendall's full-throated articulation of Reagan's economic philosophy masked deep tensions within the Republican coalition. Although Reagan had, in his presidential campaign, successfully grafted together a variety of organized and ideological interests, the policy battles of the first two years of his presidency exposed real divisions in his coalition—between business groups and the administration, between business groups and the ideological conservatives whom Reagan had helped elevate to positions of political prominence, and among business groups themselves.

Tax policy was not the first occasion that the business community had doubted Reagan's commitment. Several years earlier, as he embarked on his second campaign for the presidency, Ronald Reagan was, by and large, not the business community's preferred candidate for the Republican nomination. Many politically inclined executives instead preferred Texas governor and former Nixon Treasury Secretary John Connally or future President, and Reagan's ultimate choice for the vice presidency, George H.W. Bush. Many within the business community only rallied to Reagan's side after it became clear he would win the nomination.[2]

Business's lackluster support for Reagan should not surprise us. Both Connally and Bush were more traditional, business-friendly conservatives, unaffiliated with the grassroots

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[1] Donald M. Kendall, Prepared Remarks, First General Session, 70th Annual Meeting of the U.S. Chamber of Commerce, April 26, 1982, folder "Budget - FY '83 - March-Apr. 1982 (1 of 5)," Box 10, Elizabeth Dole Papers, Ronald Reagan Presidential Library, Simi Valley, California (RRPL).

[2] Sidney Blumenthal, "Whose Side is Business on, Anyway?" *New York Times*, October 25, 1981.

conservative movement that had been so critical of Gerald Ford's association with the "big business" wing of the party. Moreover, many in the business community believed that Reagan was a policy lightweight, unfit for the demands of the presidency. Indeed, one advisor warned the Reagan campaign that, even as late as the summer of 1980, business leaders were expressing "[s]erious skepticism about whether Governor Reagan is serious about wanting substantive input on issues. They still feel he is not interested in substance."[3]

Despite their initial reticence, business had ultimately united behind Reagan—with even Carter's former allies in the Business Roundtable abandoning the Democrats. Business PACs spent $19.2 million on the 1980 campaign, twice what they had spent on the 1978 midterms.[4] After over a decade on the defensive, business groups anticipated that they had finally turned the corner. With Ronald Reagan in charge of the federal bureaucracy, they would no longer be forced to fend off new regulatory initiatives. Nor did they need to worry about the prospect of organized labor's revival. Instead, they could now start to roll back some of the most burdensome regulatory changes of the Nixon, Ford, and Carter years, undoing much of the damage the environmental and consumer movements had wrought. As Kim Phillips-Fein writes, "They had been a long time in the wilderness. No matter whether they could unreality achieve the full rollback of the state they had long imagined; they were posed to govern at last."[5]

Organized business was eager to reap the rewards of its new alliance with the White House. The president's 1981 tax reform proposal—passed as the Economic Recovery Tax Act (ERTA)—combined double-digit reductions in individual marginal tax rates over a period of several years with the so-called "10-5-3" proposals (later known as Accelerated Cost Recovery Systems, or ACRS) that business leaders had championed for years. Under ACRS, depreciation would be accelerated for certain kinds of fixed assets—buildings over ten years, vehicles over five, and equipment over three.[6] For business groups like the Business Roundtable, which had been clamoring since at least the mid-1970s for federal economic policy designed to stimulate "capital formation," ACRS was a real victory. These groups hoped that a lower business tax burden, facilitated by accelerated depreciation would facilitate investments in modernization. Consistent with these hopes, ERTA also included an investment tax credit for business.[7]

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[3] James Fuller to William Casey, June 12, 1980, folder "Ed Meese Files - Camp. Ops - Business Advisory Panel Meeting, 6/1980," Box 105 (Series III), 1980 Campaign Papers, RRPL.

[4] Vogel, *Fluctuating Fortunes*, 240.

[5] Phillips-Fein, *Invisible Hands*, 262.

[6] In 1978, Sen. William Roth (R-DE) and Rep. Jack Kemp (R-NY) proposed reducing "all fourteen federal income tax brackets by 10 percent per year over a period of three years." The proposed Kemp-Roth tax cuts would be incorporated into ERTA (albeit with only 5% rate reductions in the first year), along with legislation sponsored by Reps. Barber Conable (R-NY) and James Jones (D-OK), originally introduced as the Capital Cost Recovery Act, which formally put forward the 10-5-3 proposals. Waterhouse, *Lobbying America*, 207-08; 210-11; 214-15. ERTA also reduced the highest marginal tax rate, the capital gains tax rate, and the estate tax.

[7] Waterhouse, *Lobbying America*, 204-07.

As this chapter demonstrates, however, business's alliance with Reagan was not the unqualified success that business leaders and the administration hoped for. Fresh off their 1981 victories, many within the business community grew increasingly concerned about the sizable budget deficits ERTA had generated. The attendant struggle over the appropriate response to those deficits, culminating in the battle over 1982's Tax Equity and Fiscal Responsibility Act (TEFRA), convulsed organized business. The Chamber and the National Federation of Independent Business (NFIB) urged Congress and the administration to stay the supply-side course. In contrast, the Roundtable, the NAM, and a new group calling itself the American Business Conference (ABC) were far more quick to accept that policymakers would have to counter growing deficits with tax increases.

The struggle revealed the limitations of business's internal commitment to unity. Groups like ABC, which drew its membership from smaller but fast-growing companies in newly emergent sectors of the economy, saw little reason to defend programs like the investment tax credit, designed to bolster older, more capital-intensive industries buffeted by increased global economic competition, the energy crises of the 1970s, and new regulatory burdens. Groups like NAM and the Roundtable, however, sought to use the political arena to help secure the fortunes of America's largest companies, still disproportionately large-scale industrial conglomerates like General Electric and General Motors. Eager to shore up federal support for old-line industry, even at the expense of newer economic sectors, NAM and the Roundtable advocated the construction of a more stable capital base, relief from the environmental obligations imposed by the Clean Air and Clean Water Acts, protection from global competitors, and even outright subsidies.

Unfortunately for the business community, internal wrangling could not have come at a worse time. Under Reagan, business was now forced to contend with a newly empowered cadre of ideological conservatives, whose political priorities often differed markedly from their economic counterparts. As Waterhouse observes, "The political ascent of conservative Republicans ultimately proved a mixed blessing for organized business leaders."[8] While conservative and business interests could agree on the need for lower taxes, they disagreed over the constituencies to prioritize. Moreover, conservatives and their allies within the administration tended to disagree with business groups on whether government interventions to help prop up ailing industry constituted appropriate public policy. Likewise, although conservatives and business groups found common ground on the idea that the American economy was over-regulated, they disagreed on the relative importance of regulatory reform. Conservatives also brought with them a set of concerns—over school busing, abortion, and the role of religion in the public sphere—that the business community, with the exception generally did not share.

As a result, business groups were forced to compete with conservatives for space on the White House's political agenda. Areas of overlap, like ERTA, quickly shot to the forefront; areas of divergence, including the business community's strong push to revise the 1977 Clean Air Act

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[8] Waterhouse, *Lobbying America*, 202.

Amendments were met with less success. Areas of outright disagreement, including over tax policy or product liability law, stoked real political fights, many of which business did not win.

This chapter seeks to trace these internal disagreements within the business community, and accompanying external disagreements within the Reagan coalition, and to explore their theoretical significance. Specifically, I make three claims. First, I argue that business's experience during the Reagan era reveals both the costs and benefits of sustained coalitional engagement. The benefit side of the ledger is clearly measured: business gained much from a friendly administration, particularly when faced with a Congress dominated by Democrats. Indeed, as Vogel argues, "When the priorities of the administration and business were similar, business did well."[9] President Reagan's commitment to using the tools of executive power to limit the reach of the regulatory state was, at least in the short-term, beneficial for business. In particular, business groups were eager to work with the Regulatory Relief Task Force, headed by Vice President Bush, to identify areas in which environmental, workplace-safety, and consumer-oriented regulation could be made less onerous. Business groups also worked effectively as an adjunct of the White House to ensure the passage of 1981's ERTA. So too they hoped to join the president in championing amendments to the Clean Air and Water Acts designed to soften their requirements, or at least delay their date of implementation. Perhaps more so than any other business group, the Chamber was a particular beneficiary of the close relationship with the Reagan administration—a reward for its Carter-era adoption of supply-side economic theory and a recognition of its membership size and lobbying effectiveness.

However, these successes were not without significant cost. As was the case during the Nixon years, a Republican in the White House was not an unqualified boon to business. Deeper engagement with the Republican coalition, including increasing investment in funding Republican candidates for office, meant a new kind of vulnerability. To neutralize Chamber opposition to proposed tax increases, Reagan individually called each member of the Chamber's board of directors. Leveraging his political and personal ties to these executives, Reagan was able to persuade them to overrule the policy course established by Chamber President Lesher and key underlings. Proximity and familiarity meant that Republican politicians, led by the president, could fragment business internally, exploiting both conflict among groups and within them in ways that their Democratic counterparts could not achieve. Greater engagement also meant compromise within the coalition: achieving the goals of business groups often meant ensuring that their objectives were aligned with those of ideological conservatives. Where they were not, as in the case of regulatory reform, business had limited success gaining the full attention of the White House.

Second, a close look at business politics during the Reagan administration demonstrates that, with friend and foe alike, business did not shape the agenda. In particular, business's political opposition continued to shape the contours of business's own political capacity. The 1970s had been a high point of business organization precisely because of the scale of the threats business faced. Under Nixon and Carter, the regulatory ambitions of the federal government

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[9] Vogel, *Fluctuating Fortunes*, 284.

were not limited to certain industries, nor to ventures of a certain size and scope. The environmental movement sought to impose standards of conduct on sources of pollution, mobile or stationary, whether the source's owner was engaged in producing pharmaceuticals or steel. The political forces promoting worker safety succeeded in ensuring that OSHA regulations applied equally to factories and office parks. And the consumer movement aimed to regulate all the products of the consumer economy, attempting to capture much of corporate America's output in the process.

Unity resulted from menace. Just as *policy* can often create *politics*, "business" as a political entity—holding together the nation's peak-level trade associations, sector-level associations, large corporations, and small firms—was constituted, in part, by the sheer scope of the reforms their opposition hoped to implement.[10] Defeating an opposition with universalist ambitions required sustained and significant mobilization. Accordingly, business grew its Washington presence, increased campaign contributions, and deployed its grassroots network, all in an effort to stymie these initiatives. But business's success in pushing back against these efforts, in turn, reshaped the political terrain it faced. No longer did business groups have to worry about policy initiatives that would affect all of their members, even if some segments of the business community bore a disproportionate burden.

For all the benefits that this security brought them, the early 1980s brought issues to the fore that pressed on business's traditional fault lines, cleavages that had been previously overcome by the need for solidarity. As groups directed more energy to "advancing the economic interests of particular segments of the business community…the Washington office became another profit center; government relations became an integral component of economic competition."[11] Tax policy, in particular, revealed deep faultiness in the business community, pitting established sectors seeking specific tax breaks against emergent sectors, content to let market forces drive less competitive companies out of business. As the budget deficit continued to increase after ERTA's passage, it became apparent that some of the tax benefits business had received would have to be given back. The alternative required business groups to identify some other source of revenue, with the attendant political risks of alienating voters or coalition partners. Would they choose to target Social Security? The Kemp-Roth individual tax cuts? The defense budget?

As we will see, politicians on both the left and the right recognized and effectively exploited these divisions, working to fragment the business community by identifying policy wedges that would split business along traditional lines—big and small, manufacturing and services, capital-intensive and labor-intensive. As one White House memorandum articulated the administration's strategy, "Channel the energies of all the private sector players against one another on the special provisions rather than against the bill, [sic] itself, or the President." The administration's "strategy was to divide, defuse and conquer…[to] effectively neutralize the

[10] *See, e.g.*, Andrea Louise Campbell, *How Policies Make Citizens: Senior Political Activism and the American Welfare State* (Princeton: Princeton University Press, 2005).

[11] Vogel, *Fluctuating Fortunes*, 287.

impact of the business community."[12] The result? "[B]y the end of the Reagan administration, practically nothing remained of the coherent and organized 'business movement' that so dominated policy debates in the 1970s."[13]

Third, the same strategies that had made business groups successful over the previous decade, including openness to adopting strategies and tactics from their competitors, also made them open to competition from within. Where business groups had previously sought to emulate their opponents, they now looked to one another for inspiration. While this tactic had previously helped business to regain their political footing, by the 1980s, the inward looking competition worked to undercut the continued strategic advantages that any individual group could reap from previous successes. As McGee Young notes, "When an interest group is successful, potential members, potential rivals, and potential targets of influence take note."[14]

ABC, for instance, deliberately modeled itself after the Business Roundtable. Like the Roundtable, the group's power was predicated on direct access to member CEOs. Unlike the Roundtable, however, ABC's members would not be drawn from the ranks of the Fortune 500. Instead, the organization identified "100 of America's most successful and energetic firms," companies with annual revenues between $20 million and $1 billion which had grown at least 15% per year for each of the previous five years.[15] ABC would deploy its CEOs strategically, ensuring that executives from member companies within key congressional districts would make phone calls or in-person visits to help press the organization's case, and that the organization could claim credit with Reagan's business liaison staff for those efforts.[16] Its emphasis on "growth and innovation" was "particularly appealing" to conservatives in the White House. One prominent Reagan aide stated the group was "at the heart of the whole Reagan philosophy, the entrepreneurial code."[17] Other configurations of business organizations learned that the Roundtable's model could be copied. The Tax Action Working Group, an amalgam of over seventy-five business and trade associations (including the ABC, NFIB, GE, Monsanto, Proctor and Gamble) formed in mid-1982 to support the White House's tax policy, identified "[p]hone calls by CEOS] and "[d]irect visits by CEOs" as a core part of its political strategy, along with "grassroots mobilization" and "major communications efforts."[18]

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[12] Elizabeth Dole to Edwin Meese, James Baker, Michael Deaver, July 22, 1982, folder "Tax - 1982 (1)," Box 51, Dole Files, RRPL.

[13] Waterhouse, *Lobbying America*, 232.

[14] McGee Young, *Developing Interests*, 165.

[15] Undated materials, American Business Conference, folder "Business-General (1981) (3)," Box 13, Dole Files, RRPL.

[16] John Albertine to Red Cavaney, May 26, 1982, folder "Budget - (0) - May (1982) [1 of 4]," Box 10, Dole Files, RRPL.

[17] Waterhouse, *Lobbying America*, 234.

[18] Wayne Valis to Dole, July 2, 1982, folder "Tax Action Group," Box 52, Dole Files, RRPL.

More broadly, existing business groups—even the ascendant Chamber—did not have a monopoly on influence within political circles. Firms could and did grow their investments in multiple different associational representatives, from the Chamber and the Roundtable to more sector-specific groups. Indeed, although business had successfully retooled in the face of the defeats and threats of an earlier decade, existing business groups were nonetheless vulnerable to new entrants—most prominently, ABC—that laid claim to representing the interests of firms ostensibly left out of existing organizational arrangements. In turn, these new entrants made collective action on behalf of the wider business community more difficult. Indeed, in its promotional materials, the ABC made no secret of its strategy to obtain the best possible results for its own constituency—announcing, "The American business community is not monolithic, and the American Business Conference does not pretend to represent the views of all business. Rapidly growing, mid-size enterprises do have their own set of priorities and their particular perspective on national and international economic policy issues."[19] ABC's efforts did not go unnoticed. In early October 1982, Elizabeth Dole, head of the White House's public liaison office, told CEA Chairman Martin Feldstein: "no single organization has done more to help advance the budget and tax initiatives of this Administration than ABC."[20]

This chapter is organized as follows: in the next section, I discuss business's successful 1981 mobilization in support of legislation to reduce individual and corporate tax rates. The following section examines reaction among various Republican constituencies to growing budget deficits in the wake of ERTA's passage. Here, I focus on divisions within the business community over whether President Reagan should support tax increases and over how those tax increases should be spread, as well as divisions between business groups and ideological conservatives over tax policy. I then consider debates within President Reagan's coalition over other policies central to business groups—including reforms to the Clean Air Act, as well as a proposed uniform national product liability law. The last empirical section explores the subsequent trajectory of the Reagan administration's relationship with the business community. A final section concludes.

ERTA: Early Success, Business Unity

With Ronald Reagan's victory over Jimmy Carter in the 1980 presidential election, organized business gained a powerful and vocal ally in its quest to limit the federal government's regulatory reach and overall spending. Even though Reagan had not been many executives' first choice, business groups and the former governor of California shared many policy goals in common. By and large, business executives and members identified themselves firmly with the Republican Party. With the Gipper in the White House, business groups looked forward to a fruitful collaboration with a president who had made cutting taxes for both individuals and

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[19] Undated materials, American Business Conference, folder "Business-General (1981) (3)," Box 13, Dole Files, RRPL.

[20] Dole to Martin Feldstein, October 8, 1982, folder "Business-General (1982) September-December (10)," Box 15, Dole Files, RRPL.

corporations a centerpiece of his political program.[21] "Washington business lobbyists moved in lockstep with the new President during his first year in office," wrote *Dun's Business Month*. "After years of clamoring for tax and budget cuts, they suddenly had a President who not only agreed with them, but had the popular mandate to transform their viewpoint into law."[22]

There were other favorable conditions for a continued business renaissance. The once-powerful consumer movement had been beaten back. In a sign of its weakness, consumer advocate Ralph Nader called for the abolition of the White House's Office of Consumer Affairs, led, as it had been under Presidents Nixon and Ford, by Virginia Knauer. In a letter to Reagan, Nader stated that Knauer held a "vacuous public relations role."[23] Where the Nixon administration had sought to appease what he perceived to be a growing political force, the Reagan administration made limited effort to accommodate consumerism as a political movement. When Knauer announced her support of a proposed FTC rule requiring used-car dealers to provide information to consumers about vehicle defects and warranties, officials within OMB were quick to state that Knauer's statement was "her own personal opinion on the rule and was not an administration position."[24] Knauer was even forced to defend her agency's $2 million budget to Chief of Staff James Baker III, calling her office "effective, very lean, and low cost."[25] The agency's operating budget was so strained that the White House threatened a twenty-two-day furlough of all thirty-eight of Knauer's staff.[26]

Likewise, although some in the administration urged the president to cultivate relationships with certain segments of the organized labor movement, the Reagan administration's efforts were weak at best. Even before Reagan's standoff against striking air-traffic controllers in 1981, union leaders in Washington had limited political clout.[27] Like staffers in the Nixon White House, Reagan's aides focused on isolating the leadership of the AFL-CIO from rank-and-file union members. Nevertheless, where Nixon offered real cooperation on policy, Reagan presented only symbolism. Dole, for instance, wrote to Reagan's three most senior advisors—Baker, Presidential Counselor Edwin Meese, and Deputy Chief of Staff Michael Deaver—with a suggestion that the White House develop a "labor sensitivity

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[21] Monica Prasad, "The Popular Origins of Neoliberalism in the Reagan Tax Cut of 1981, *Journal of Policy History* 24(3 (2012), 351-383. Prasad argues that Reagan pursued tax reform because it was popular, not because of preexisting ideological commitments.

[22] "Business and Reagan: More Blowups Ahead?" *Dun's Business Month*, December 1981, p. 38.

[23] Charles R. Babcock, "Nader Calls for Killing Consumer Affairs Unit," *Washington Post*, August 7, 1982.

[24] Caroline E. Mayer, "OMB, in Slap at Knauer, Opposes Used-Car Rule," *Washington Post*, December 10, 1981.

[25] Virginia Knauer to James Baker, November 9, 1982, folder "Consumer Affairs, Office of - 1981 (6 of 7)," Box 20, Dole Files, RRPL.

[26] Michael deCourcy Hinds, "Laissez-Faire Consumerism," *New York Times*, August 21, 1982.

[27] *See* Joseph A. McCartin, *Collision Course: Ronald Reagan, the Air Traffic Controllers, and the Strike that Changed America* (New York: Oxford University Press, 2013).

within each Department."[28] Dole's hope was that the federal bureaucracy might be made to listen to the concerns of organized labor, even it would not ultimately take those views into account.

Several weeks labor, Reagan instructed his heads of departments and agencies to "adopt…an open-door policy toward organized labor and where appropriate give full consideration to organized labor's interest and concerns."[29] As with Dole's suggestion of "sensitivity," it was not even clear that labor would get a full opportunity to present its views to the White House. Later, the president's aides noted that their hope was only to "attempt to lessen the degree of hostility and to develop a 'pragmatic working arrangement' with some the leaders of organized labor." They sought to avoid "further antagonism" by consulting on minor executive appointments and the distribution of White House perquisites.[30] To the extent that the White House had an equivalent of Nixon's "hard hat policy," it sought to emphasize that "blue collar workers" had been successfully "assimilated into the mainstream of the population." Union members were now indistinguishable from the "rest of the population." As a result, the administration needed only to "redouble [its] efforts to publicly display a sensitivity to workers" and to "do a better job making presidential statements more relevant to working people."[31]

In this era of good feelings, business groups communicated their eagerness to work with the Reagan administration. Roughly six months after Reagan's inauguration, Red Cavaney, an aide to Dole in the Office of Public Liaison (OPL), which had been responsible since the Nixon administration for managing relations with the organized business community, thanked Chamber President Lesher for providing him with a list of the group's priorities. Cavaney told Lesher that OPL had "begun the process of reconciling your issues with our positions," and would "stay in close contact regarding specific developments."[32] Lesher responded that his hope was to "minimize" potential conflicts. "Identifying…issues in advance can give both the Administration and the Chamber time to discuss possible disagreements and, hopefully, resolve as many of them as possible."[33] The Chamber was eager to share a list of "[a]ctivities in support of President Reagan following his February 18 [1981] speech on the economy," which included discussion of the Chamber's "capabilities."[34]

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[28] Dole to Meese, Baker, and Deaver, October 31, 1981, folder "Labor - September 1981-December 1981 (5)," Box 35, Dole Files, RRPL.

[29] Ronald Reagan, Memorandum for the Heads of Departments and Agencies, November 16, 1981, folder "Labor - September 1981-December 1981 (4)," Box 35, Dole Files, RRPL.

[30] Robert Bonitati to Dole, January 14, 1983, folder "Labor - January 1982 (2 of 3)," Box 38, Dole Files, RRPL.

[31] Dole to Baker, Meese, and Deaver, June 9, 1982, folder "Labor - July 1982-September 1982 (1 of 14)," Box 36, Dole Files, RRPL.

[32] Cavaney to Richard Lesher, September 16, 1981, folder "Business-General (1981) (1)," Box 13, Dole Files, RRPL.

[33] Lesher to Cavaney, September 8, 1981, folder "Business-General (1981) (1)," Box 13, Dole Files, RRPL.

[34] U.S. Chamber of Commerce, Activities in Support of President Reagan Following His February 18 Speech on the Economy, March 6, 1981, folder "Business-General (1981) (5)," Box 13, Dole Files, RRPL.

Such was the business community's enthusiasm that they proved happy to share political intelligence. For example, in April 1981, the group also fielded a poll, the results of which it shared with key members of Reagan's staff. The poll—despite subsequent criticism by advisors to Counselor (and later Attorney General) Edwin Meese—demonstrated substantial support for the president's economic program.[35] The Chamber was not shy about throwing its weight behind the administration's vision for the economy. In a letter to Rep. James Sensenbrenner (R-WI), the Chamber's head of legislative affairs affirmed his organization's "complete support for President Reagan's Economic Recovery Program."[36]

Although undoubtedly favored by the administration, the Chamber was not unique in its early enthusiasm for the Reagan era. ABC head John Albertine told Dole on several occasions that his group had been "a staunch advocate and supporter of the President's entire economic program," even forwarding clips of newspaper articles to prove the extent of the ABC's resolve.[37] Likewise, OPL staffer Wayne Valis informed Dole in the summer of 1981 that the NAM was "very active" in support of the president's tax legislation—the group "worked quite hard and were most supportive."[38]

Likewise, the Chamber—along with ABC and NFIB—was quick to adopt Reagan's rhetoric of supply-side economic theories. Within a month of the president's inauguration, the Chamber's *Congressional Action* newsletter championed the benefits of the "supply-side tax cuts" Reagan had championed as a candidate. Informing members that because of "large revenue feedbacks and a lower level of government spending," the Chamber's leaders argued that it was "both "impossible and misleading to assume that tax-rate reductions will mean higher deficits and inflation."[39] Indeed, Lesher and the group's chief economist, Richard Rahn, supported Kemp-Roth's individual cuts more aggressively than the 10-5-3 proposals that were designed to aid business specifically. To help spread the administration's gospel, the Chamber even offered to educate White House staff about supply-side economics.[40]

Seeking to cement its Republican bona fides with the budding new Reagan coalition, the Chamber vocally advocated for the pet political causes of their new insurgent conservative allies. Echoing the calls of conservatives, the Chamber wrote a letter to Sensenbrenner voicing its

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35 Lesher to Meese, April 9, 1981, folder "U.S. Chamber of Commerce 04/13/1981 10:30AM (1 of 2)," Box OA 4134, Edwin Meese Files, RRPL.

36 Hilton "Dixie" Davis to James Sensenbrenner, June 9, 1981, folder "Chamber of Commerce - U.S. (4 of 7)," Box 17, Dole Files, RRPL.

37 Albertine to Dole, June 19, 1981, folder "American Business Conference," Box 4, Dole Files, RRPL; Albertine to Dole, November 20, 1981, folder "American Business Conference," Box 4, Dole Files, RRPL.

38 Valis to Dole, August 19, 1981, folder "National Association of Manufacturers (2 of 2), Box 39, Dole Files, RRPL.

39 U.S. Chamber of Commerce, *Congressional Action*, February 20, 1981, folder "[Economic/Budget Policy Economy 1981," Box OA 4691, Craig Fuller Files, RRPL.

40 Valis to Cavaney, December 1, 1981, folder "Dole - Clean Air Act - Background Papers (2 of 4)," Box 18, Dole Files, RRPL.

opposition to the Legal Services Corporation (LSC). Although frequently a target of ire of ideological conservatives, the LSC had generally not been (to that point) a political target of business. Reinforcing the stated priorities of "grassroots [conservative activists," the Chamber's letter emphasized that "states and localities" could better provide legal services "as part of a comprehensive social services strategy under the block grant approach proposed by the President."[41]

Lesher also adopted the rhetoric of the conservative movement in communications with members. His defense of individual tax cuts was couched in the political theory of John Locke and Friedrich Hayek, not the traditional pragmatism of twentieth-century American business leaders. "[P]ossession of title to the fruits of one's labor is an essential part of American freedom," Lesher wrote in *Nation's Business*, the Chamber's monthly magazine. Writing in support of an opinion piece published by two members of Reagan's staff, Lesher reminded readers that it was important to "distinguish between those Americans who are truly in need… and the 'relatively poor,' who earn incomes that are perhaps lower than average, but who, nonetheless, are able to subsist." The first group deserved assistance, but the second group had no "legitimate entitlement" to income redistributed from the "relatively better off."[42]

Like the White House and the Chamber, ABC too embraced the language of supply-side economics. In a press release from early 1982, the group called its head, John Albertine, a "leading advocate of supply-side economics." ABC urged both Congress and the White House to "examine all corporate tax benefits in the search for additional sources of revenue," but refused to support "any deferral or reduction of the third year of the individual rate-cut." Albertine summarized, "We supply-siders believe it is individuals who pay taxes while corporations collect them."[43]

Both groups were rewarded with a "privileged position" within the Reagan administration.[44] However, that position "bred jealousy and envy within the [business] coalition," making it difficult for OPL staff to "maintain the unity necessary within the coalition" to achieve the White House's goals. Indeed, Dole later complained to Chief of Staff James Baker that the Chamber's influence "distorted the views of the business community" provided to the president. The Chamber, she noted, had been effective in reaching over her head

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[41] Davis to Sensenbrenner, June 9, 1981, folder "Chamber of Commerce - U.S. (4 of 7)," Box 17, Dole Files, RRPL. Emphasizing the importance of LSC reforms to conservatives, Dole told Deputy Chief of Staff Michael Deaver that Reagan's insistence on "abolition" of the Legal Services Corporation was the "one action the President could take which would have an enormously positive effect" on this constituency. Dole to Deaver, December 16, 1981, folder "Conservatives - General - 1982 [1 of 6]," Box 20, Dole Files, RRPL.

[42] Lesher, "Voice of Business," November 30, 1981, folder "Business-General (1981) (1)," Box 13, Dole Files, RRPL.

[43]American Business Conference, News Release, March 29, 1982, folder "Budget - FY '83 - March-Apr. 1982 (5 of 5)," Box 10, Dole Files, RRPL, emphases omitted.

[44] Waterhouse, *Lobbying America*, 214.

to communicate directly with more senior White House staff members, including presidential Counselor Meese to "play one part of the White House off against the other."[45]

Underscoring Dole's fears, other important members of the business coalition, including the Roundtable and the NAM, remained unconvinced. "Corporate leaders," as journalist Sidney Blumenthal noted, "have no particular interest in the withering away of the state; they simply seek a relationship with the Federal Government that will enhance corporate profits."[46] Indeed, as Dole explained to Baker, "While no business association would fly in the face of spending cuts, almost everyone has a strong and vested profit interest in seeking tax relief skewed to their specific needs."[47] Rather than march to the beat of new approaches to economic policy, these groups continued to emphasize business's traditional political priorities, including attention to the rate of increase in federal spending and use of the tax code to aid struggling industries.[48] For his part, DuPont's Shapiro expressed concern that the president's focus on individual tax cuts would "invit[e] more inflation," suggesting that the president was relying on "uncertain economic theory."[49] Another executive echoed Shapiro, reflecting, "Many in the business community aren't enamored with the personal tax cuts," because of their inflationary potential. "The carrot to many of them is the capital-cost recovery proposal."[50]

Where the Chamber sought to prioritize policies favoring individual taxpayers, in its communications with the White House, the Roundtable highlighted the importance of preserving tax provisions specifically designed to benefit business. The group was particularly concerned that a proposed investment tax credit be treated separately from the cost-recovery provisions in the president's tax proposal. Separate treatment would ensure that member corporations could benefit from both the tax credit and the 10-5-3 accelerated depreciation.[51] And, when the administration, in an effort to entice conservative House Democrats to their side, threatened to increase the depreciation period under ACRS for fixed structures to fifteen from ten, business groups felt "betrayed." They informed Treasury Secretary Donald Regan that they would be

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[45] Dole to Baker, February 1, 1982, folder "Business-General - 1982 January-April 1982 (6)," Box 14, Dole Files, RRPL.

[46] Blumenthal, "Whose Side is Business on, Anyway?" *New York Times*, October 25, 1981.

[47] Dole to Distribution list, July 17, 1981, folder "Business-General (1981) (7)," Box 13, Dole Files, RRPL.

[48] Robert Kilpatrick to Members of the Business Roundtable, April 21, 1981, folder "Business-General (1981) (4)," Box 13, Dole Files, RRPL.

[49] Isadore Barmash, "Business Leaders are Enthusiastic About Program: Questions on Tax Cuts," February 19, 1981, *New York Times*, p. B6.

[50] Kenneth Bacon and Robert Merry, "Reagan, Business Set Compromise on Depreciation," *Wall Street Journal*, June 10, 1981.

[51] John Post to Dole, June 1, 1981, folder "Business-General (1981) (7)," Box 13, Dole Files, RRPL.

willing to jettison their support for the Kemp-Roth individual tax cuts, if necessary, in negotiations with Democratic leaders in Congress.[52]

Critically for the administration, the ultimate structure of the ERTA legislation permitted the White House to deliver for all of its key constituencies. Business groups received the capital-formation incentives they had coveted—*Fortune* called ACRS the "golden ribbon binding… business together."[53] Conservatives pushed successfully for the individual Kemp-Roth three-year ten-percent rate cuts, along with cuts in the marginal tax rate for the nation's highest earners.[54] Leading Washington lobbyist Clifford Massa summarized the logroll: "you can argue outside Washington over how to cut the pie, but in Washington you bake the pie and you make it as big as possible."[55] With this basic structure in place, the White House was able to secure business's loyalty to its favored legislation, despite the efforts of congressional Democrats to outbid the administration for business's favor. Tired of having their "access kicked," House Democrats proposed their own depreciation plan along with a five-year phased reduction of the corporate income-tax rate (from 34% to 46%).[56] Reagan's aides characterized the proposal as a cynical attempt to use a variety of "tax credit 'sweeteners'" to "drive a wedge between the small and big business communities."[57] Ultimately worried that a "'bidding war' over tax legislation could lessen the chances of winning what it wanted," business remained united in support of the White House.[58]

In exchange, over the spring and summer of 1981, the White House "successfully tapped the fully lobbying power of organized business groups"— relying first on the Senate's reconciliation procedures to pass a budget (known as Gramm-Latta for its House sponsors, then-Rep. Phil Gramm (D-TX) and Rep. Delbert Latta (R-OH)) with over $140 billion in cuts, followed by a separate piece of legislation containing tax cuts for individuals and businesses.[59]

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52 Vogel, *Fluctuating Fortunes*, 244. In the end, the success of so-called "Lear Jet Weekend" led to a hasty retreat by the Reagan administration.

53 A.F. Erbhar, "The Battle Over Taxes," *Fortune*, April 19, 1982.

54 Kenneth Bacon and Timothy Schellhardt, "Reagan Promises His Tax, Spending Cuts Will Reduce Inflation and Increase Growth," *Wall Street Journal*, February 19, 1981.

55 Kenneth Bacon, "In Tax-Cut Fight, 'No-Name Group' Lobbies Hard for Business Viewpoint," *Wall Street Journal*, June 23, 1981.

56 Vogel, *Fluctuating Fortunes*, 245; Kenneth Bacon, "In Tax-Cut Fight, 'No-Name Group' Lobbies Hard for Business Viewpoint," *Wall Street Journal*, June 23, 1981.

57 Dole to distribution list, July 6, 1981, folder "Tax Action Group," Box 52, Dole Files, RRPL. Indeed, the White House recognized the importance of ensuring business unity. One aide reminded Dole, "Small business is very very important to our business coalition. Big business *never* won a coalition fight when it was separated from the small business community." Cavaney to Dole, June 30, 1981, folder "Business-General (1981) (7)," Box 13, Dole Files, RRPL, emphasis added.

58 Vogel, *Fluctuating Fortunes*, 245; Kenneth Bacon, "In Tax-Cut Fight, 'No-Name Group' Lobbies Hard for Business Viewpoint," *Wall Street Journal*, June 23, 1981.

59 Waterhouse, *Lobbying America*, 214-15.

Business groups were critical to responding to the core political challenge facing the administration: "to meld a Republican administration, a Republican-controlled Senate, and an ad hoc majority block of Republicans and conservative Democrats in the House into a workable consensus."[60]

Business's lobbying efforts were supported by largely ad-hoc umbrella organizations, often formed with the support of OPL staffers, including the "Budget Control Working Group," comprising over 400 companies and trade associations and designed to promote the White House's budget proposals.[61] After the passage of Gramm-Latta, the Budget Control Working Group would be used as a model for a similar organization, designed to focus on tax policy, known as the Tax Action Group.[62] Executives of the Chamber, Roundtable, NAM, and NFIB played leading roles in coordinating the efforts of both groups. A second critical venue for business cooperation was the so-called "Carlton Group," composed of approximately ten representatives of the largest business associations and corporations who had been meeting weekly, at DC's Sheraton-Carlton Hotel, since 1978 to promote 10-5-3.[63] The Carlton Group's members included Charls Walker, "considered the godfather of Washington business lobbyists and a principal architect of ACRS," as well as members of the Chamber, the Roundtable, the NAM, the NFIB, along with specialists from individual corporations on tax-related issues.[64] Although Walker too had supported Connally, not Reagan, he would become candidate Reagan's chief tax advisor and primary advocate for 10-5-3 reforms.[65]

For its part, the Chamber sought to motivate members by framing the fight as a traditional partisan one. The fight for ERTA in the House was, in its view, "stacking up as a classic confrontation between a popular President trying to get the economy on a dramatic new course for recovery—and Democratic leaders, many of whom are still wedded to the old liberal concepts of taxing and spending that created our current economic dilemma."[66] Nevertheless, the group's congressional lobbying efforts largely focused on persuading centrist members of Congress to support the president's economic recovery program. Heading an offshoot organization of the Chamber known as Citizen's Choice (chaired by J. Willard Marriott), then-Chamber Vice President (and current Chamber President) Tomas Donohue learned from a staff

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[60] James Miller and James Range, "Reconciling an Irreconcilable Budget: The New Politics of the Budget Process," *Harvard Journal on Legislation*, Vol. 20(4), 1983, 9.

[61] Blumenthal, "Whose Side is Business on, Anyway?" *New York Times*, October 25, 1981.

[62] Valis to Dole, July 7, 1981, folder "Tax Action Group," Box 52, Dole Files, RRPL.

[63] Jeffrey H. Birnbaum and Alan S. Murray, *Showdown at Gucci Gulch: Lawmakers, Lobbyists, and the Unlikely Triumph of Tax Reform* (New York: Vintage Book, 1988), 16.

[64] Ehrbar, "The Battle Over Taxes," *Fortune*, April 19, 1982.

[65] Walker would later speculate that Reagan "didn't know what he was doing" when he agreed to support 10-5-3. Birnbaum and Murray, *Showdown at Gucci Gulch*, 17.

[66] U.S. Chamber of Commerce, "Chamber Action Call," July 17, 1981, folder "[Tax Legislation 1981: Correspondence Business] (2)," Box 69, Dole Files, RRPL.

member that his group was working with local Amway organizations to target the local offices of nineteen individual members—twelve were southern Democrats; the remainder were northeastern Republicans.[67] Other groups too worked to convince approximately a dozen fence-sitting conservative Democrats and liberal Republicans.[68] The Chairman of the Roundtable's task force on the federal budget, for instance, urged his constituents to "contact House members —especially Democrats" to build support for Gramm-Latta, ideally by phone rather than in writing.

Individual corporations also pitched in: GE deployed its "constituent relationship managers" (often managers of individual manufacturing plants) to persuade members of the House Ways and Means Committee to advance the president's budget and tax legislation.[69] Likewise, an Owens-Corning executive reported to lobbyist Clifford Massa about what his company was doing to support the White House. Its efforts included a similar letter to plant managers, communications with shareholders, and an article in the company newsletters urging employees to contact members of Congress in support of ERTA.[70]

These efforts proved successful: President Reagan signed the largest tax cut in American history on August 13, 1981. Chamber president Lesher extolled the accomplishment by invoking the rhetoric of revolution, calling it a "Second Declaration of Independence." In *Nation's Business*, he announced: "The nation has finally embarked on a reaffirmation of the concept on which it was founded 206 years ago: a tax revolt against an overbearing central bureaucracy in favor of more freedom, incentive, opportunity and prosperity in the private sector."[71] But despite the good feelings created by ERTA's passage, multiple segments of the business community grew increasingly concerned about the legislation's fiscal consequences over the fall and winter of 1981.

Things Get More Difficult

Rising deficits would sharpen the cleavages among business groups, and between business and their ideological conservative allies, that ERTA had successfully muted. By the fall of 1981, it had become clear that the country was entering a period of economic contraction, driven in part by sky-high interest rates imposed to tame inflation. By winter of that year, the NAM's leadership made public their "concern about the large deficits and the continued high

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[67] Paul Klaassen to Thomas Donohue, April 24, 1981. folder "Chamber of Commerce - U.S. (2 of 7)," Box 17, Dole Files, RRPL.

[68] Kenneth Bacon, "In Tax-Cut Fight, 'No-Name Group' Lobbies Hard for Business Viewpoint," *Wall Street Journal*, June 23, 1981.

[69] P.S. Peter to Constituent Relationship Managers, July 10, 1981, folder "[Tax Legislation 1981: Correspondence Business] (4)," Box 69, Dole Files, RRPL.

[70] Brad Delman to Clifford Massa, July 16, 1981, folder "[Tax Legislation 1981: Correspondence Business] (5)," Box 69, Dole Files, RRPL.

[71] Lesher, "Voice of Business," July 5, 1982, folder "Balanced Budget - July-Dec 1982 (4 of 4), Box 9, Dole Files, RRPL.

level of interest rates."[72] And testifying after what some participants described as one of the "stormiest" meetings of its policy committee ever, the Roundtable's chairman, GTE's Theodore Brophy, told the Senate Finance Committee that "[a]ction [was] urgently needed on a bipartisan basis to change the direction of projected deficits and put them squarely and decisively on a downward path."[73] Brophy, like the NAM, steered clear of direct criticism of the White House's preferred path, suggesting that such a change of direction was possible "without altering the basic thrust of our current economic strategy."[74]

Nevertheless, buried at the end of Brophy's testimony were the seeds of discord within the business community. Brophy floated the notion that "additional revenues may still be needed to close the projected deficit gaps to reasonable levels." In addition, although he indicated that the Roundtable would prefer that this additional revenue come from increased excise taxes and fees (typically paid by individual consumers), Brophy cautiously expressed the possibility that a "stretchout of the July, 1983" 10% individual tax cut might be required to reduce the deficit, but only as a "final option and only if it is required to meet the critical economic need for a steady and significant reduction in projected deficits."[75]

Brophy underscored that the Roundtable was tiptoeing carefully. His group did not intend to alter the rollout schedule of the July 1982 cuts, nor was it recommending elimination of the July 1983 cuts. Instead, it was only suggesting consideration delaying the implementation of the July 1983 cuts, and even then, "only as a last resort."[76] In private communications, the Roundtable delivered a similar message. The Roundtable's executive director, John Post, informed Dole that the group "would favor emphasis on the consumption area" to reduce the deficit." "Nevertheless," he wrote, "as a final option to meet vital economic needs…we recommend a stretch-out of the 10% July 1983 individual tax-rate cut as a method of raising additional revenue." Post's priorities were clear. Delays in individual tax cuts were designed to ensure that any changes to the corporate tax rate would be avoided, including a proposed minimum corporate tax. "We strongly oppose the minimum corporate tax," he told Dole. The minimum tax "would take back a substantial portion" of ERTA's tax benefits designed "to encourage capital investment."[77]

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[72] Jerry Jasinowski to Dole, February 19, 1982, folder "Business-General - 1982 January-April 1982 (5)," Box 14, Dole Files, RRPL. The group, however, took pains to emphasize their continued loyalty to the administration, blaming the media for attempting to elicit "critical comments about the President's budget."

[73] Vogel, *Fluctuating Fortunes*, 253.

[74] Statement of Theodore Brophy, submitted to the Senate Finance Committee, March 19, 1982, folder "Budget - FY '83 - March-Apr. 1982 (4 of 5)," Box 10, Dole Files, RRPL.

[75] Statement of Theodore Brophy, submitted to the Senate Finance Committee, March 19, 1982, folder "Budget - FY '83 - March-Apr. 1982 (4 of 5)," Box 10, Dole Files, RRPL.

[76] Statement of Theodore Brophy, submitted to the Senate Finance Committee, March 19, 1982, folder "Budget - FY '83 - March-Apr. 1982 (4 of 5)," Box 10, Dole Files, RRPL.

[77] Post to Dole, March 11, 1982, folder "Business Roundtable 1982 (2)," Box 15, Dole Files, RRPL.

Like the Roundtable, Charls Walker indicated in testimony before the House Ways and Means Committee that rate cuts for individuals might need to be sacrificed to preserve business's gains. Walker sought to deflect attention from provisions in ERTA relating to business leasing. So-called "safe-harbor leasing" permitted companies to trade tax credits and depreciation deductions. Companies that generated enough profits to benefit from these deductions could make nominal equipment purchases they did not need, with the intent of leasing these assets to less profitable firms that could make use of them. In turn, the receiving companies received a payment for their participation in the transaction.[78] With deficits rising, the elimination of safe-harbor leasing, along with other tax increases on business, became an obvious target for congressional Democrats—and some prominent conservatives—seeking to expose business manipulation of the tax code. Using these paper transactions, GE, for instance, was able to eliminate its 1981 tax liability and to obtain over $150 million in additional tax refunds, leading critics to call it "Greed Electric."[79] GE was not alone in seeking to exploit these provisions: one prominent study found that 128 out of 250 large and profitable paid no federal income taxes in at least one year between 1981 and 1983."[80] In response, Walker proposed three primary alternatives. The first two proposals sought to impose additional duties on energy; the third proposal was to postpone the 1983 individual income tax cut.

Other groups did not share the Roundtable's priorities. The Chamber made clear that it wanted the Reagan administration to press forward with individual rate cuts, eschewing support for tax provisions more directly affecting the business community. True to form, the group was somewhat pugnacious in its advocacy. The Chamber's chief economist, Richard Rahn, wrote a letter to the editor of the *Wall Street Journal* taking on the Roundtable's anxieties about rising deficits. Rahn emphasized the effectiveness of tax cuts in reducing federal spending. "Concern for deficits," he wrote, "while clearly justified, can be misguided when not related to the primary objective of the Reagan program—reducing the share of our national income that accrues to government…Raising taxes still crowds out" private-sector investment.[81] Rahn later reflected, "We supply-siders thought we had done a better job of educating [business leaders] than we really had."[82] Instead, the Chamber called for a "new round of budget reductions."[83]

ABC's Albertine too came out swinging. A press release issued by the organization after Albertine's comments to the Ways and Means Committee stated the group urged lawmakers and executive officials alike "to examine all corporate tax benefits in the search for additional sources of revenue." The group made clear that it did not support any delay in the third year of

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[78] Ehrbar, "The Battle Over Taxes," *Fortune*, April 19, 1982.

[79] Ehrbar, "The Battle Over Taxes," *Fortune*, April 19, 1982; Vogel, *Fluctuating Fortunes*, 252.

[80] Birnbaum and Murray, *Showdown at Gucci Gulch*, 12.

[81] Rahn to Robert Barley, January 8, 1982, folder "Chamber of Commerce 1982 (1 of 4)," Box 17, Dole Files, RRPL.

[82] Ehrbar, "The Battle Over Taxes," *Fortune*, April 19, 1982.

[83] U.S. Chamber of Commerce, News Release, February 19, 1982, folder "Tax - 1982 (4)," Box 52, RRPL.

proposed individual rate cuts. ABC took special pains to signal that it represented a new kind of business organization. "When was the last time a business organization suggested that corporate tax relief is expendable while individual tax reduction is not?"[84]

Tax provisions favorable to business were under assault from the White House as well. Indeed, TEFRA itself was ultimately "an effort to address the abuses of ERTA," with new limitations on corporations' capacity to take advantage of ERTA's favorable treatment of depreciation and investment. TEFRA also eliminated safe harbor lease payments and accelerated corporate tax payments.[85] Treasury officials even floated the possibility of a minimum corporate tax, designed to ensure that all profitable corporations would have at least some tax liability. Large, capital-intensive firms, best able to take advantage of the tax code's prolixity, objected loudest.[86] In response, these firms—led by the airline, auto, steel industries—proposed the possibility of a business-wide surtax to be shared more equitably by businesses of all sizes and shapes.[87] In turn, labor-intensive firms, including retailers and small businesses led the charge against the surtax. The Reagan administration worked to convince business leaders that its minimum-tax proposal was "least damaging" to business. Here, the White House worked to play the good cop to the Democratic House's bad cop. OPL's Valis proposed telling the Chamber that "sentiment on the Hill is not running in favor of business on tax revisions." The minimum tax proposal, Valis noted, provided a "political peg to hang our hats on, but without it it will be very difficult to limit the attacks on the tax bill."[88]

These intra-business divisions reflected, at least in part, the underlying membership of these competing organizations. The Chamber's universalism meant that it could not take sides in the tax debate: seeking to represent businesses large and small, they found it difficult to advocate in favor of any specific tax proposals. Instead, led by true believers Lesher and Rahn, the nation's largest business federation threw its weight behind a scorched-earth campaign of opposition, framed in the language of supply-side economics. The Roundtable aggressively defended the interests of its Fortune 500-based membership, seeking to forestall any changes to ACRS and safe-harbor leasing even at the cost of making politically unpopular proposals, such as delaying Social Security and other entitlements benefits "in order to 'save the system' and

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[84] American Business Conference, News Release, March 29, 1982, folder "Budget - FY '83 - March-Apr. 1982 (5 of 5)," Box 10, Dole Files, RRPL, emphases omitted.

[85] Cathie Jo Martin, *Shifting the Burden: The Struggle Over Growth and Corporate Taxation* (Chicago: University of Chicago Press, 1991), 135.

[86] Bill Keller, "With Tax Hikes in Prospect, Lobbyists Revert to Form: 'Don't Tax Me, Tax Thee,' *National Journal* June 5, 1982. The Reagan administration also proposed an array of other measures designed to reduce industry-specific tax breaks, including provisions favoring the energy industry, defense contractors, and life insurance companies. *See* Ehrbar, "The Battle Over Taxes," *Fortune*, April 19, 1982.

[87] Cavaney to Dole, May 4, 1982, folder "Business-General - 1982 May Thru August (4)," Box 14, Dole Files, RRPL; Valis to Burgess, January 11, 1982, "Budget - FY '83 - Jan-Feb 1982 (7 of 7)," Box 10, Dole Files, RRPL.

[88] Valis to Dole, February 4, 1982, folder "[Business-General 1982 January-April 1982] Tax," Box 14, Dole Files, RRPL.

have everybody make some sacrifice."[89] In contrast, Albertine emphasized his group's business-Darwinist view of the world: "High-growth companies have a vested interest in moving resources from dwindling industries to efficient ones, and leasing inhibits the flow of capital."[90] Industries that could not survive without government-sponsored tax gimmickry ought to be left to die. Indeed, even ERTA had had its business critics—particularly among small business representatives, groups lobbying for the high-technology sector, and the independent oil producers. The first two groups derived little benefit from ERTA's 10-5-3 core, while the independent "wildcatters" were concerned about a tax on windfall energy profits.[91]

By the summer of 1982, open warfare had developed between the segments of the business community opposed to any tax increases, led by the Chamber, and the Reagan administration, grudgingly supported by the Roundtable and other groups resigned to the fact that taxes would be increased to reduce the deficit. Chief of Staff Baker would eventually lash out at Rahn by calling him a "supply-side kook"; Rahn responded by accusing the White House of "breach of faith."[92] Indeed, relations between the White House and the Chamber became so poisoned that certain Chamber executives, including Rahn, were banned from White House functions.[93]

Reagan himself had announced in his 1982 State of the Union address that tax increases would be necessary to address the growing deficit issue.[94] In the ensuing battles over how to distribute these contemplated burdens, the president's aides were particularly anxious about the political implications of appearing to side with big business over individual taxpayers. Dole suggested to Baker that Charls Walker's advocacy for safe-harbor leasing risked "painting the business community as *for* tax gimmicks and *against* the personal tax cuts ('the little guy')." The consequence, she warned, "will be increased ineffectiveness of the business voice in speaking out on our behalf, as well as additional fuel for the President's critics who claim he cares for big over little."[95] Increasing individual tax rates to preserve cuts for businesses was politically unacceptable. Treasury Secretary Donald Regan attacked the Business Roundtable, suggesting that it was "somewhat ironic to hear $200,000 executives saying, 'Don't give a tax cut to $20,000 workers.'"[96] Conservatives militated for cuts in social programs.[97] More broadly, as

[89] Valis to Dole, May 4, 1982, folder "Business-General - 1982 May Thru August (6)," Box 14, Dole Files, RRPL.

[90] Ehrbar, "The Battle Over Taxes," *Fortune*, April 19, 1982.

[91] Martin, *Shifting the* Burden, 125-131.

[92] "Business and Reagan: More Blowups Ahead?" *Dun's Business Month*, December 1982.

[93] "Reagan's Lobbyist to Business," *Fortune*, January 24, 1983.

[94] Vogel, *Fluctuating Fortunes*, 252.

[95] Dole to Baker, February 20, 1982, folder "Business-General - 1982 January-April 1982 (5)," Box 14, RRPL.

[96] Vogel, *Fluctuating Fortunes*, 253.

[97] *See, e.g.,* Dole to Richard Darman, March 12, 1982, folder "Budget - FY '83 - March-Apr. 1982 (3 of 5)," Box 10, Dole Files, RRPL.

Monica Prasad argues, Reagan's pursuit of Kemp-Roth in the first place was motivated in large part by "political response to public opinion," even if aided by the presence of committed supply-siders in influential positions within the White House, including OMB Director David Stockman.[98] With midterm elections on the horizon, the Reagan administration could not afford to walk back its vision of letting individualism free by reducing the burden of government.

The White House was also reluctant to support what Walker in a postmortem on TEFRA's passage called "'big chunk'" alternatives to broad-based tax increases on businesses, such as a gasoline tax, an oil import fee, or a tax on deregulated natural gas. The result, Walker suggested, was a "cats and dogs" approach, in which the administration left the identification of specific tax increases and loophole closures to congressional drafters, led by the Senate Finance Committee Chairman Robert Dole (R-KS). Far from a committed supply-sider, Dole had publicly suggested that Republicans were viewed by the public at large as a "sort of heartless group."[99] In Walker's view, this decision was the legislation's mortal sin: the White House's "abdication of the tax-writing process to the Congress," without any vision for the subsequent shape and scope of the legislation, meant that individual industries and companies would work "hardest to prevent the goring of their own particular oxen rather than toward common goals."[100] The resulting structure of the legislative process created a collective action problem. As Elizabeth Dole reflected, spending cuts were a kind of public good, while tax breaks for particular industries were inherently private ones. As she described the problem, "The mind set is that 'everyone will fight for spending cuts, but only I will be able to fight for my organization's tax needs.'"[101]

The Chamber's opposition to tax increases of any sort meant that the White House would come to count the nation's largest business federation as a determined "adversar[y"].[102] Where the Business Roundtable had urged contemplation of delay in individual tax-rate reductions, the Chamber encouraged policymakers to support even deeper spending cuts than the president had proposed.[103] Writing to members in the Chamber's legislative politics newsletter, *Congressional Action*, Pepsi CEO Kendall contended that tax increases would only lead to spending increases. In his view, higher taxes would also "undercut investment incentives and delay economic recovery." Instead, urging members to contact legislators and "tell them to leave our tax cuts alone," Kendall stated, "The only workable strategy for reducing the deficit is a one-two punch

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[98] Prasad, "Popular Origins," 373.

[99] Thomas B. Edsall, "Business Divided over Tax Leasing," *Los Angeles Times*, April 13, 1982.

[100] Charls Walker to Cavaney, September 21, 1982, Dole.12.BPFY1983(1982)(4).2-18.

[101] Dole to Meese, Baker, Deaver, Darman, and Fuller, May 14, 1982, folder "Budget - (0) - May (1982) [1 of 4]," Box 11, Dole Files, RRPL.

[102] Valis to Dole, February 4, 1982, folder "[Business-General 1982 January-April 1982] Tax," Box 14, Dole Files, RRPL.

[103] Dole to Darman, March 12, 1981, folder "Budget - FY '83 - March-Apr. 1982 (3 of 5)," Box 10, Dole Files, RRPL.

of spending control and economic growth."[104] The Chamber even suggested that the president's "proposed defense budget [be] carefully scrutinized."[105]

The very real prospect of tax increases meant that "the long-shimmering tensions between supply-side and capital-accumulation oriented business leaders finally boiled over."[106] Over the spring and summer of 1982, the Chamber's apparent defiance hardened. In a telegram to members, Pepsi's Kendall identified proposed legislation raising business taxes not only as a "major tax increase," but also a "major political liability to…conservatives in November."[107] At a rally held on July 30, the Chamber held an anti-TEFRA rally in its hall of flags: Rahn "likened the President to a drunk at a party whose keys should now be taken away."[108] By August of that year, Valis would tell Dole that the organization was "going all out to defeat the tax bill."[109] Chamber president Lesher would even refuse a request made by Vice President Bush and Counselor Meese to use the group's television studio for "pro-TEFRA publicity."[110] LTV's spokesman called the move "childish"; the Chamber's media director said it was "standard policy"—the group's facilities could not be used to "oppose chamber policy."[111]

Beneath the organization's resistance, however, lay deep disagreements between its professional staff—Lesher and Rahn, in particular—and its directors. The extent of the group's internal chaos was revealed in a communication to the Chamber's entire board of directors from its new chairman, LTV's Paul Thayer. Thayer indicated that he had worked out an arrangement with Lesher and Kendall whereby the Chamber would publicly oppose tax increases, but would nevertheless "support 'substantial portions'" of the Senate Finance Committee's bill. The Chamber's staff then violated the agreement when its "Washington Report" newsletter printed a "call to action" urging members to work against the tax bill. Thayer wrote that he found his own organization's action "embarrassing…in light of my personal pledge to the President on behalf of the Chamber."[112] Some directors, however, supported the professional staff's actions. Pepsi's

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104 Kendall, "President's Budget Deserves Your Support," *Congressional Action,* April 6, 1982, folder "Chamber of Commerce 1982 (3 of 4)," Box 17, Dole Files, RRPL.

105 Dole to Darman, March 12, 1981, folder "Budget - FY '83 - March-Apr. 1982 (3 of 5)," Box 10, Dole Files, RRPL.

106 Waterhouse, *Lobbying America*, 217.

107 Kendall, Telegram to members, August 4, 1982, folder "Tax Bill - House (H) July-August 1982 (4)," Box 52, Dole Files, RRPL.

108 Cavaney to Dole, July 30, 1982, folder "Chamber of Commerce 1982 (4 of 4)," Box 17, Dole Files, RRPL.

109 Valis to Dole, August 4, 1982, folder "Tax Bill - House (H) July-August 1982 (4)," Box 52, Dole Files, RRPL.

110 Waterhouse, *Lobbying America*, 219.

111 David S. Broder, "Reagan Economics: From Ecstasy to Agony for Business Leaders," *Washington Post*, August 14, 1982.

112 L. Paul Thayer, Telegram to members, August 4, 1982, folder "Tax Bill - House (H) July-August 1982 (4)," Box 52, Dole Files, RRPL.

Kendall, for instance, announced in a meeting of the Chamber's Executive Committee, "I don't care of Ronald Reagan or Jesus Christ himself wanted to increase taxes, it's wrong."[113]

The White House was able to exploit these differences to "neutralize the Chamber," ensuring TEFRA's passage in the House, 226 to 207, and in the Senate, 52 to 47.[114] In the view of Reagan's aides, were the Chamber's full board to vote to support the president, the "backbone of opposition in the business community" would break.[115] With even supportive business groups lukewarm about the White House's preferred policy, the administration would have to frame the issue as a referendum on presidential leadership.

The president himself would be critical to these efforts. As Dole put it, "Business allies need to know they are standing with the President, which enables them to use the issue of his leadership as they key rallying point."[116] Accordingly, when the Chamber's executive committee affirmed the organization's opposition to TEFRA, Thayer urged members to unite behind Reagan personally. Thayer wrote to Reagan: "Normally, I have respect for the Chamber's decision-making process; but in this case, do not personally agree with the result. I want you to know that I personally stand by you in your efforts to do what you feel is necessary to return our courtly to economic prosperity."[117] Thayer was not alone in this regard: Reagan's aides, for instance, noted that it would take a presidential phone call to GM's Roger Smith to get him to take a "very visible position" in support of the White House.[118] The head of the Motor Vehicle Manufacturers Association affirmed his support for Thayer's posture: "I, too, believe that the Chamber should publically [sic] reaffirm its support for the President while reserving the right to oppose specifics of the tax bill."[119] Over several days in mid-August 1982, the president would personally call each of the members of the Chamber's board—including the head of Amway, Anheuser-Busch, Ford, GM, Goodyear, and GE—to urge them to vote in support of the Senate Finance Committee's bill.[120] The White House also sent out letters over the president's signature to over

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[113] Martin, *Shifting the Burden*, 155-56.

[114] Valis to Dole, February 4, 1982, folder "[Business-General 1982 January-April 1982] Tax," Box 14, Dole Files, RRPL; Waterhouse, *Lobbying America*, 220-21.

[115] Dole to Meese, Baker, Deaver, August 6, 1982, folder "Tax Bill - House (H) July-August 1982 (3)," Box 52, Dole Files, RRPL.

[116] Dole to Meese, Baker, Deaver, July 13, 1982, folder "Tax - 1982 (2)," Box 51, Dole Files, RRPL.

[117] Thayer to Reagan, August 4, 1982, folder "Tax Bill - House (H) July-August 1982 (5)," Box 52, Dole Files, RRPL.

[118] Dole to Reagan, August 20, 1982, folder "Tax Bill - House (H) July-August 1982 [Phone Calls re Tax Budget]," Box 52, Dole Files, RRPL.

[119] V.J. Aducci to Thayer, August 19, 1982, folder "Tax Bill - House (H) July-August 1982 (3)," Box 52, Dole Files, RRPL.

[120] Dole to Reagan, Recommended Telephone Calls, August 10, 1982, folder "Tax Bill - House (H) July-August 1982 [Phone Calls re Tax Budget]," Box 52, Dole Files, RRPL.

4,000 local Chamber of Commerce chapters.[121] In the end, the president's efforts were successful—Thayer obtained a majority of the Chamber's 61 board members to support the tax measure.[122] The comments of one executive illustrated the general mood: "Although I don't agree with some of the provisions of the current tax bill, I support your efforts in its passage. It is the lesser of two evils, unmanageable federal deficits or higher taxes."[123]

Presidential involvement aside, the administration's strategy involved the standard tools of coalitional lobbying. The White House was able to exploit the fact that multiple groups competed to represent business interests at the highest levels of national policymaking to isolate even the powerful Chamber. The ABC "backed the White House to the hilt."[124] Eager to distinguish itself from both the Chamber and the Roundtable—signaled both its willingness to abandon tax breaks for ostensibly uncompetitive industries and its willingness to support the White House rather than adhere to a rigid anti-tax ideology.[125] On the heels of the success of 1981's Budget Control Working Group, the White House worked to assemble first a Tax Action Group (TAG) and later a Deficit Reduction Action Group (DRAG). ABC's Albertine, along with other groups representing fast-growing sectors of the economy, was prominently involved in both.[126]

These agglomerations of business associations and individual firms enabled Reagan to demonstrate that at least some segments of the business community supported the administration's approach.[127] Here, the White House was also able to obtain business support by presenting the Senate Finance Committee bill as a political fait accompli. Republican moderates in Congress, led by Dole, recognized that the deficit would not likely shrink enough on its own "to preclude the need for some tax bill." Democrats were pleased with tax increases. The prospect of a more Democratic-leaning Congress after the 1982 midterm elections meant that the administration could credibly claim that the existing legislative framework was most propitious

[121] Dole to Meese, Baker, Deaver, August 9, 1982, folder "Tax Bill - House (H) July-August 1982 (3)," Box 52, Dole Files, RRPL.

[122] Timothy D. Schellhardt, "Chamber of Commerce Showdown Looms After Split on Taxes," *Wall Street Journal*, August 30, 1982.

[123] James Campbell to Reagan, August 12, 1982, folder "Tax Bill - July-August 15, 1982 (2)," Box 52, Dole Files, RRPL.

[124] Business and Reagan: More Blowups Ahead?" *Dun's Business Month*, December 1982.

[125] American Business Conference, News Release, March 29, 1982, folder "Budget - FY '83 - March-Apr. 1982 (5 of 5)," Box 10, Dole Files, RRPL.

[126] Valis to Dole, July 2, 1982, folder "Tax Action Group," Box 52, Dole Files, RRPL; Dole to Meese, Baker, Deaver, August 6, 1982, folder "Tax Bill - House (H) July-August 1982 (3)," Box 52, Dole Files, RRPL; Waterhouse, *Lobbying America*, 220.

[127] Rich Jaroslovsky, "Reagan Aides Sense Win on Tax Rise Bill As President Sharpens Attack on Critics," *Wall Street Journal*, August 11, 1982.

for business.[128] Chrysler's Lee Iacocca announced that the president's program was the "only game in town"—"[e]choing the tag line of his Chrysler TV commercials, he declared, "If somebody can find a better tax bill, grab it."[129] Reagan's ties to economic conservatives helped mute opposition. Sen. William Roth, co-sponsor of the Kemp-Roth tax cut, wrote to the president to let him know "the cries of outrage by my fellow supply-siders simply don't hold water."[130]

The Reagan administration could also count on the very parochialism that had paralyzed the business community's quest for unity. Specifically, the White House was also able to identify particular policy concessions that would lead particular groups to support its aims. To obtain the NAM's support, the administration was able to promise that Treasury would consider "modifications" to ACRS.[131] An amendment making adjustments to safe-harbor leasing sponsored by Rep. Barber Conable (R-NY), a legislator with close ties to business, brought additional support from the airline, auto, and railroad industries.[132] Charls Walker's American Council for Capital Formation focused its attention exclusively on the fate of safe-harbor leasing, ACRS, and the investment tax credit.[133] The White House could also take advantage of the porous structure of some of its business-association antagonists. As the NFIB's chief lobbyist, Michael McKevitt, noted, "If a group was opposing them, they'd first go to its Washington head. If that failed, on to the President of the organization. And if that failed as well, to the board of directors. The Carter White House would never have played so dirty."[134]

The consequences to the Chamber of its loss were dramatic. OPL's Valis announced that the White House intended to continue to work with the Chamber going forward, but only through Paul Thayer; Lesher was not welcome at the White House.[135] The Chamber's "intransigence,"

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[128] Dole to Meese, Baker, Deaver, August 6, 1982, folder "Tax Bill - House (H) July-August 1982 (3)," Box 52, Dole Files, RRPL.

[129] Rich Jaroslovsky, "Reagan Aides Sense Win on Tax Rise Bill As President Sharpens Attack on Critics," *Wall Street Journal*, August 11, 1982.

[130] Rich Jaroslovsky, "Reagan Aides Sense Win on Tax Rise Bill As President Sharpens Attack on Critics," *Wall Street Journal*, August 11, 1982.

[131] Dole to Meese, Baker, Deaver, August 11, 1982. Dole.12.BPFY1983(1982)(6).1-2; *see also* Trowbridge to Dole, July 30, 1982. NAM President Trowbridge indicated his group's displeasure with "provisions [that] would substantially dilute the investment tax credit (ITC) and repeal the scheduled 1985 and 1986 improvements in the Accelerated Cost Recovery System (ACRS)." Dole.52.TBHJA1982(5).1-2

[132] Julian Scheer to Craig Fuller, August 11, 1982. Dole.53.TBJA151982(8).1-2. Dole to Meese, Baker, Deaver, August 11, 1982. Dole.12.BPFY1983(1982)(6).1-2.

[133] Dole to Meese, Baker, Deaver, August 9, 1982, folder "Tax Bill - House (H) July-August 1982 (3)," Box 52, Dole Files, RRPL.

[134] Business and Reagan: More Blowups Ahead?" *Dun's Business Month*, December 1982.

[135] Timothy D. Schellhardt, "Chamber of Commerce Showdown Looms After Split on Tax Increase," *Wall Street Journal*, August 30, 1982.

said one Senate staffer, “very seriously wounded its ability to do anything” on Capitol Hill.[136] In the months following the battle over TEFRA, the *Washington Post* reported that the circulation numbers for the Chamber’s magazine, *Nation’s Business*, fell more than thirty percent.[137] The group faced serious fiscal difficulties as well, losing $1 million in the fiscal year between July 1981 and 1982 and decreasing its budget surplus by $15 million, from $25 million to $10 million.[138] Internal critiques were equally unforgiving. Thayer wrote to a fellow CEO that the “image of the Chamber has suffered a great deal in the past year. Whereas, at its peak in 1981, it was regarded as a rather dynamic, out-front organization…many people [now] look at the Chamber as being cumbersome, lethargic, far right politically and lagging behind the leadership.” In an effort to limit the sway of the Chamber’s professional managers, Thayer suggested the group, like the Business Roundtable, empower a “policy committee” with the “authority to change strategy on major issues as events dictate.”[139]

The Roundtable, however, had earned itself few political favors with its open opportunism. Elizabeth Dole reflected that the group “is always cautious and carefully weighs its options before proceeding forward.”[140] She later lumped the Roundtable in with several groups under the category “Wavering Nervous Nellies.”[141] Without a clear commitment that the president was throwing his full political weight behind tax increases, Dole worried that the Roundtable would simply sit on the sidelines. Months later, another OPL staffer wrote to Reagan’s senior leadership team that the Roundtable could not be counted on, lacking both “steadfast loyalty” and a “willingness to take the heat as a price for being right.”[142] In the summer of 1982, Bob Dole was more critical. In a memorandum to Brophy, he wrote, “[S]ilence on the part of the Business Roundtable means opposition…Your present neutral position is to say the least disappointing and frustrating.” Dole closed on a note of sarcasm: “[T]he Business Roundtable while concerned about the national interest is primarily concerned about retention of special tax benefits.”[143] Two days later, the Roundtable announced its support for the tax bill.[144]

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136 Timothy D. Schellhardt, “Chamber of Commerce Showdown Looms After Split on Tax Increase,” *Wall Street Journal*, August 30, 1982.

137 John F. Berry, “U.S. Chamber Ad Rate Base Is Questioned,” *Washington Post*, November 18, 1982.

138 Timothy D. Schellhardt, “Chamber of Commerce Showdown Looms After Split on Tax Increase,” *Wall Street Journal*, August 30, 1982.

139 Thayer to Bob Malott, December 23, 1982, folder “Business-General [January] 1983,” Box 15, Dole Files, RRPL.

140 Dole to Meese, July 13, 1982, folder “Business Roundtable 1982 (1),” Box 15, Dole Files, RRPL.

141 Dole to Baker, August 4, 1982, folder “Tax Bill - July-August 15, 1982 (8),” Box 53, Dole Files, RRPL.

142 Cavaney to Meese, Baker, Deaver, Darman, and Fuller, March 5, 1982, folder “Budget 1983 (1 of 3),” Box 33, Faith Ryan Whittlesey Files, RRPL.

143 Dole to Brophy, July 16, 1982, folder “Business Roundtable 1982 (1),” Box 15, Dole Files, RRPL.

144 Waterhouse, *Lobbying America*, 218.

Indeed, the Roundtable became increasingly sensitive to the politics of its opposition to increases in business taxes. In private meetings in June of 1982, the group agreed that it would no longer raise the issue of delaying the third year of the individual tax-rate cuts. Likewise, the Roundtable agreed that the president would not address cuts to Social Security or Medicaid: "the dollar savings are far outweighed by the negative political and public relations perceptions."[145] And, the group made clear to the White House that it was signing onto the legislation only because it believed "there was no alternative to supporting the President and the Finance Committee Package."[146]

The Reagan administration, however, did not emerge unscathed from the crisis either. Even the usually brash Wayne Valis told *Fortune*, "We're so beat up right now, it's not funny."[147] In other public comments, Valis recognized the changed political environment: "We can no longer count on total business allegiance…As a result, our strategy has and will continue to be one of forming floating coalitions of different corporate and business groups around different issues."[148] Democrats gained 26 seats in the House in the 1982 midterm elections. Michael McKevitt, chief lobbyist for the NFIB, declared that "business proved to the White House that it had backbone. They won't be able to take us for granted anymore."[149] Whether or not business groups had succeeded in demonstrating their independence, "the administration recognized the need for damage control and actively solicited input from corporate leaders and associations, even making peace with Richard Lesher."[150] Commentators at the time suggested that the "patched-up relationship" would be a "far more pragmatic, independent and outspoken one in the months to come than the wide-eyed love affair of the first year."[151] At minimum, business organizations had more than taxes on their minds, as their political agenda turned back to reducing government spending, reform of the Clean Air Act, and broader regulatory reform.

Managing the Coalition and the Limits of Deregulation

Although Reagan's election had brought real benefits to the business community, business groups were forced to plead with the administration to prioritize comprehensive regulatory reform legislation and, in particular, reform of the Clean Air Act.[152] During Reagan's first several years in office, business groups gained traction on regulatory reform through the White House's efforts to rein in the perceived excesses of the federal bureaucracy. Nevertheless,

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145 Valis to Dole, June 2, 1982, folder "Budget - (0) - May (1982) [1 of 4]," Box 11, Dole Files, RRPL.

146 Valis to Dole, July 6, 1982, folder "Tax - 1982 (3)" Box 52, Dole Files, RRPL.

147 "Reagan's Lobbyist to Business," *Fortune*, January 24, 1983.

148 Business and Reagan: More Blowups Ahead?" *Dun's Business Month*, December 1982.

149 Business and Reagan: More Blowups Ahead?" *Dun's Business Month*, December 1982.

150 Waterhouse, *Lobbying America*, 221.

151 Business and Reagan: More Blowups Ahead?" *Dun's Business Month*, December 1982.

152 Dole to Meese, November 25, 1981, folder "Clean Air Act 1981 (7 of 9)," Box 19, Dole Files, RRPL.

as we will see, business failed to persuade the Reagan administration to throw its political weight behind legislation to alter the Clean Air Act in a business-friendly direction. Likewise, business did not succeed in achieving a key priority—a national product liability law. These failures emphasize the limitations of business's ability to set the political agenda. In addition, they help to underscore the costs of coalitional engagement for interest groups more generally. I argue that business's inability to push regulatory reform legislation reflects the general apathy of ideological conservatives to this piece of business's political agenda. Whereas ERTA demonstrated the power of agenda alignment between conservatives and business, attempts to alter the Clean Air Act or produce uniform product liability standards make clear the consequences of a lack of political alignment between these two key pillars of the Reagan coalition.

As a candidate, Reagan "devoted more attention to the subject of government regulation" than any previous presidential aspirant.[153] Soon after Reagan's electoral victory, incoming OMB Director David Stockman circulated a memorandum to the president's senior aides warning of a "ticking regulatory time bomb." The costs of existing regulations, in Stockman's view, were set to grow exponentially.[154] Reagan subsequently placed Vice President Bush in charge of his Task Force on Regulatory Relief, with a mandate to review the federal government's existing regulatory framework; the Task Force's counsel, C. Boyden Gray, had represented the Business Roundtable over the course of its first decade of existence.

Pleasing business groups further, Reagan issued Executive Order 12,291, ensuring that "major" federal rulemaking proposals were subjected to a pre-publication cost-benefit analysis prepared by a new office, the Office of Information and Regulatory Affairs (OIRA), within OMB. Contemporary observers deemed the Executive Order 12,291 "unprecedented," in terms of the nature of its "oversight mechanism, the extent of its required procedures, and the substantive import of its cost-benefit requirement."[155] Subsequent commentators have argued that, even though Executive Order 12,291 did not depart qualitatively from previous efforts to impose presidential control over the regulatory process, it did give the president a stronger and "more consequential" vehicle for "substantive control over rulemaking." As now-Justice Elena Kagan contends: "under the order, OMB had authority to determine the adequacy of an impact analysis and to prevent publication of a proposed for final rule, even indefinitely, until the completion of the review process."[156] Deploying executive means to shape regulatory policy, Reagan left his successors a set of powerful tools to tighten (or loosen) regulatory policy.

Reagan's commitment to deregulation extended to his cabinet appointments. Murray Weidenbaum, who had been critical of the increasing costs of federal economic regulations from

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[153] Vogel, *Fluctuating Fortunes*, 246.

[154] Vogel, *Fluctuating Fortunes*, 247.

[155] Morton Rosenberg, "Beyond the Limits of Executive Power: Presidential Control of Agency Rulemaking Under Executive Order 12,291," *Michigan Law Review* 80(2), December 1981, 194.

[156] Elena Kagan, "Presidential Administration," *Harvard Law Review* 114((8), June 2001), 2279.

an academic post at Washington University in St. Louis, became head of the Council of Economic Advisors. EPA Administrator Ann Gorsuch (later Burford), Secretary of the Interior James Watt, and OSHA head Thorne Auchter all took significant steps to reduce the regulatory burden on American business during Reagan's first year in office.[157] All three were subject to a barrage of criticism from environmental, labor, and consumer groups. Gorsuch, censured by the House in December 1982, resigned in 1983; Watt resigned less than a year later.

Despite these initiatives, Reagan did not remake the regulatory state. Indeed, by 1983, in the wake of the controversies over his three most senior regulatory appointees, "it was clear that the administration had all but abandoned its attempt to bring about major changes in federal regulatory policies."[158] Business groups clamored throughout Reagan's first term in office for reforms to the Clean Air Act, but none were forthcoming. Nor was Reagan able to shepherd a regulatory reform bill through Congress. Frustrated by a multiplicity of state product-liability standards, many segments of the business community pushed for a federal product-liability law. Here too, they did not succeed. In short, although business was far removed from the crisis atmosphere of the early 1970s, business's Reagan-era regulatory scorecard makes clear that, at least at the peak level, business was unable to push the Reagan White House to implement core aspects of its positive agenda.

How to explain business's lack of success? It was, business groups learned quickly, more difficult to play political offense than to defend against further encroachment. In combatting the proposed consumer agency and Carter-era labor law reform, business groups had taken full advantage of the status-quo bias in American politics. Business was able to rely on both the presidential veto and the Senate filibuster, ensuring that it needed only a maximum of forty votes in the Senate to prevent fundamental changes to the national regulatory structure. In contrast, changes to the Clean Air Act, or even broader legislative regulatory reform, required overcoming these same institutional and procedural obstacles. Clean Air Act reform came with its own specific politics. Legislators representing much of the Eastern Seaboard were particularly concerned about maintaining regulatory protections designed to guard against acid rain. At the same time, legislators from coal-producing areas in the East and Midwest were eager to maintain so-called "percentage reduction" regulations, which required utilities to remove at least seventy percent of the sulfur oxide from their smokestacks, making high-sulfur eastern coal competitive with lower-sulfur western coal.[159]

Moreover, congressional Democrats, who controlled the House for all eight years of his presidency, made significant seat gains in the 1982 midterms. Further strengthening House Speaker Tip O'Neill's (D-MA) charges in negotiations with their Republican antagonists, the

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[157] *See* Vogel, *Fluctuating Fortunes*, 248-51; Mizruchi, *The Fracturing of the Corporate Elite*, 185-88. On James Watt's role with the Mountain States Legal Foundation in particular, see Jefferson Decker, *The Conservative Legal Movement and American Government* and Teles, *The Rise of the Conservative Legal Movement*.

[158] Vogel, *Fluctuating Fortunes*, 260.

[159] *See* Joseph A. Davis, "Key Clean-Air Compromise Emerging in Senate Panel," *Congressional Quarterly*, July 3, 1982.

environmental movement remained nationally popular and institutionally united even as the consumer and labor movements seemed drained of much of their power and influence. In 1983, three out of every four Americans believed that environmental compliance was costly, but nevertheless agreed that environmental compliance laws were "worth the cost."[160] The nation's leading environmental groups had also learned the importance of organization from their business counterparts, and began to meet regularly to coordinate strategy.[161] What's more, the post-TEFRA economic and political environment posed its own challenges for Reagan and his aides. Deficits continued to rise; economic growth was limited, due to the continued imposition of high interest rates in the Federal Reserve's continuing quest to tame inflation. By early 1983, business's own concern about increasing deficits was such that several prominent business leaders, including the Chamber's Rahn, GE's Reginald Jones, and the NAM's vice president and chief economist, Jerry Jasinowski, told the administration that cuts to defense spending, along with popular entitlement programs, would be necessary.[162] And despite a rapprochement, the Chamber continued to hold the president's feet to the fire on the budget, noting in its *Congressional Action* newsletter that federal spending for fiscal year 1983 would total "$9,280 for every worker in the private sector—the highest ever."[163]

It is, nevertheless, easy to overestimate the importance of these factors in assessing the limits of business's overall efforts to rein in the regulatory state. Both ERTA and TEFRA demonstrated the White House's ability to work with conservative Democrats—and especially with the remnants of the once-dominant southern Democratic contingent—to fashion successful cross-party coalitions in the House. In the summer of 1982, a compromise effort designed to address the concerns of legislators about the effect of any change in the Act on acid rain and on the competitiveness of eastern coal, led by Sen. George Mitchell (R-ME) was in the works.[164]

Business, too, had traditionally been able to sway conservative (and particularly southern) Democrats toward pro-industry positions. The popularity of environmental regulations notwithstanding, growing anxiety about the state of the economy—coupled with growing concern about the international competitiveness of American industry—could well have pushed the nation's top policymakers to opt to loosen regulatory constraints on business.[165] And, while the Madisonian constitutional framework undeniably makes it more difficult to pursue affirmative policy change than to oppose reform, business's "affirmative" agenda had no real positive component. Business groups were not seeking to create institutions, but instead to

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[160] Vogel, *Fluctuating Fortunes*, 262.

[161] Vogel, *Fluctuating Fortunes*, 262.

[162] Richard Corrigan, "Business Leaders to Reagan: Trim the Military Before Boosting Taxes," *National Journal*, November 6, 1982.

[163] U.S. Chamber of Commerce, *Congressional Action*, February 4, 1983, folder "Budget Process - FY 1984 (1982) (1)," Box 12, Dole Files, RRPL.

[164] *See* Joseph A. Davis, "Key Clean-Air Compromise Emerging in Senate Panel," *Congressional Quarterly*, July 3, 1982.

[165] This, of course, is the core argument of Vogel's *Fluctuating Fortunes*.

weaken their pull. To that extent, as recent efforts to roll back Dodd-Frank's regulatory burdens underscore, business's degree of difficulty was lower than that of its historical adversaries.

Instead, as charter members of the president's political coalition, business groups faced an initial hurdle: persuading the administration to prioritize their objectives, particularly when their conservative allies within the coalition were at best indifferent to their aims. Agenda-setting takes on particular significance in retrospect. Given the disastrous consequences of the criticism Reagan's most prominent environmental aides encountered, the window of opportunity for Clean Air Act reform was open for a relatively shorter duration than proponents might have initially suspected. The historical record makes clear that business groups were unsuccessful in implementing their regulatory wish list in no small part because they failed to ensure that their goals were aligned with those of the other members of Reagan's coalition. Although business groups and ideological conservatives could find common ground on tax policy, there is little to suggest that conservatives cared overmuch about reform of the Clean Air Act or product-liability law, nor did business groups (with the exception of the Chamber) articulate an interest in the kinds of issues that animated conservatives, including abortion, the place of religion in the public sphere, and school busing.

Indeed, far from uniting "traditional" conservatives with their insurgent successors, Reagan's first year in office—and specifically the White House's decision to combine Kemp-Roth's individual tax cuts with the 10-5-3 proposals put forward by business groups—had merely papered over the differences between ideological conservatives and the business community. That apparent unity was quickly shredded. Leading conservative and direct-mail pioneer Richard Viguerie editorialized in early 1982 that Reagan should "move right." The piece reflected clear distrust of business's primacy of place in Reagan's coalition. Suggesting that Reagan had "never been a part of the Ivy-League-Wall Street-Big Business-Big Law Firm kind of Republicanism," Viguerie advised Reagan to turn his back on "many of the 'traditional conservative Republicans'" who had "become part of the problem rather than part of the solution." They were "more concerned with managing the chaos of big government than with fundamentally changing it." And they distracted Reagan from the issues that really mattered: "forced busing and quotas and tuition tax credits and the shocking crisis in our school systems and affirmative action and stopping the epidemic of crime and drugs and appointing strong judges."[166] *Conservative Digest* articulated similar concerns in the fall of 1983. In an article entitled "Whither, Conservatives?" the publication presented survey-response data demonstrating that over two-thirds of respondents "would consider supporting a third-party movement if the liberal, 'Big Business' wing of the GOP continues to control the party."[167]

Conservatives were also growing restless over perceived inattention from the White House. They felt particularly betrayed by the nomination of Sandra Day O'Connor to the

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[166] Richard Viguerie, "Republicans Should: Move Right." *Washington* Post, February 16, 1982.

[167] "Wither Conservatives?" *Conservative Digest*, October 1983. Baker forwarded the article to Bush on November 17, 1983, writing "Light Reading" and adding a cartoon sad face. Bush to Baker, November 17, 1982, folder "WH Staff Memoranda - Vice President," Box 6, James Baker Files, RRPL.

Supreme Court seat vacated by the retirement of Potter Stewart—some even suggesting that "only a defeat of [Reagan's 1981] tax package will force the Administration to take social issues seriously."[168] Emphasizing the gap between the issues animating organized business and those prominent in the minds of ideological conservatives, Reagan's liaison to the conservative movement, Morton Blackwell, encouraged the president to make "references to voluntary prayer in schools, stopping forced busing, and protection of the unborn."[169] Elizabeth Dole, too, sounded the alarm in the spring of 1982. "As elements of public support waver, the President's core group needs assurance that its agenda is important to him in order to keep the group unified."[170]

While conservatives complained over the administration's lack of attention to their preferred policies, business too thought the White House was not doing enough in the areas dear to business groups. Even before Reagan's election, business had made its own agenda clear to the Reagan White House: "clean air revision was of highest priority."[171] However, three months after Reagan's inauguration, Boyden Gray, counsel to Bush's Task Force on Regulatory Relief, provided business groups a briefing on the Clean Air Act, explaining that the White House was explicitly choosing to prioritize tax policy over regulatory legislation. He told the individuals assembled that the White House's "only focus" was "Economic and Tax Policy." If the business community wished to push for changes to the Act, "[g]reater business pressure" would need to be "applied to the Administration at the highest levels possible to speed up" consideration of the issue.[172]

Two months later, Bush and Gray met with seven CEOs representing the Business Roundtable to discuss a tentative administration-sponsored Clean Air Act bill. The assembled executives complained that EPA Administrator Gorsuch "had failed to consult with corporate representatives and that there was a lack of dialogue between the Administration and BRT representatives." Gray further warned the executives that "some elements of the bill would be moderate in tone," but that "EPA, through administrative action, would make many changes that they desired." Bush further "assured" the Roundtable representatives "that they would have access to the draft legislation before it became final."[173] Gray did not suggest that administration had changed its single-minded emphasis on changing tax policy. Nevertheless, in late June 1981, the White House permitted a select group of business representatives—including individuals from GM, Ford, the Coal Association, the Edison Electric Institute, Procter & Gamble,

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168 Morton Blackwell to Dole, July 8, 1981, folder "Conservatives - General," Box 20, Dole Files, RRPL.

169 Blackwell to Darman, January 18, 1982, folder "Conservatives - General 1982 [1 of 6]," Box 20, Dole Files, RRPL.

170 Dole to Meese, Baker, Ed Harper, March 9, 1982, folder "Conservatives - General 1982 [2 of 6]," Box 20, Dole Files, RRPL.

171 Dole to Meese, November 25, 1981, folder "Clean Air Act 1981 (7 of 9)," Box 19, Dole Files, RRPL.

172 Mike Ware to Ralph Bailey, April 21, 1981, folder "Clean Air Act 1981 (3 of 9)," Box 18, Dole Files, RRPL.

173 Valis to Dole, June 17, 1981, folder "Clean Air Act 1981 (2 of 9)," Box 18, Dole Files, RRPL.

Weyerhauser, Conoco, and U.S. Steel to conduct a "highly confidential" review of draft materials concerning Clean Act amendments, including changes to the provisions regulating both mobile and stationary sources. These individuals would not be permitted to take materials out of the room, but had agreed either to give their views orally or to prepare a written analysis several days later.[174]

The White House ultimately decided not to produce its own legislation, instead issuing a set of principles around which it hoped a bill would come together.[175] Representatives of organized business angrily protested the decision, but to no avail. One of GM's Washington representatives wrote to senior Reagan aide Edwin Meese, noting that the "industry," along with the "Senate Republican leadership and Chairman [of the House Energy and Commerce Committee] John Dingell (D-MI) all believe that there is no White House/Administration effort of any magnitude being exerted on behalf of the [Clean Air Act] amendments…What is apparently needed: an AWACS level of Presidential involvement."[176]

The message had not changed more than a year later, when business's efforts in support of reform failed to spur movement in either the House Energy and Commerce Committee or the Senate Committee on Environment and Public Works. Dole told a group of Reagan's senior advisors in October 1982 that the "Republican controlled Senate Committee on Environment and Public Works produced a bill which can only be described as a disaster for the business community…The business community has been disappointed with what has been perceived as lack of sufficient effort [from the White House] thus far."[177] And one month into 1983, U.S. Steel's chief executive, David Roderick, then serving as chairman of the Business Roundtable's task force on the environment, suggested to Dole that the White House was not working hard enough. Reflecting that the "Clean Air Working Group was formed to support the Administration in its efforts to amend the Clean Air Act, Roderick indicated that it was "of great importance to the business community that we know exactly what will be supported actively by the White House." Business groups would only continue to push hard for changes to the Clean Air Act if they could be assured of the administration's willingness "to make the passage of such amendments a matter of top priority. Without such a commitment we doubt that any efforts we might exert would be useful."[178] In response, the Reagan administration opted to keep Roderick

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[174] Valis to Boyden Gray, Nancy Maloley, Kitty Adams, June 29, 1981, folder "Clean Air Act 1981 (2 of 9)," Box 18, Dole Files, RRPL.

[175] *See* Dole to Meese, Baker, Deaver, September 15, 1981, folder "Clean Air Act [8/81-9/81]," Box OA 90448, Meese Files, RRPL.

[176] Jim Jenkins to Meese, November 24, 1981, folder "Clean Air Act 1981 (7 of 9)," Box 19, Dole Files, RRPL.

[177] Dole to Darman, Ken Duberstein, Feldstein, Fuller, and Harper, October 19, 1982, folder "Business Roundtable 1982 (1)," Box 15, Dole Files, RRPL.

[178] David Roderick to Dole, January 5, 1983, folder "Business-General [January] 1983," Box 15, Dole Files, RRPL.

"a bit at arms length," until the president's staff had determine "*for* sure what our posture, position, and willingness to expend political capital is on this issue."[179]

Business attempted to marshal a variety of traditional strategies in response. Representatives of the auto industry, for instance, threatened that they would be "much less inclined to support" the White House on tax policy unless they received "legislative relief" on Clean Air. They suggested, in addition, that failure to amend the nation's environmental laws would cost them significantly, and might lead to the insolvency of both Ford and Chrysler.[180] Automakers also warned the administration that, in the event they did not get comprehensive legislation on reforms to the Act, they might go "off the reservation and try to strike a deal on their own."[181] As they had over the course of the previous decade, business groups proposed a "major grassroots educational campaign" in support of Clean Air Act revisions, complete with a sophisticated media approach. Du Pont produced an "Action Bulletin," instructing managers that the core message to distribute was that the then-current version of the Act was "unnecessarily complex, costly, and counter-productive." The Bulletin provided managers with suggestions about possible communication efforts to mount, including letters to "key Congressmen… speeches to civic, fraternal, and other appropriate groups…media interview and briefings…[and] placement of op ed articles."[182]

As they had on tax policy, business groups (at the request of the White House) also formed an umbrella organization—the Clean Air Act Working Group—to help coordinate their efforts.[183] Despite the presence of heavy hitters within the ranks of the group, including the Chamber, the Roundtable, the NAM, the Motor Vehicle Manufacturers' Association, the American Petroleum Institute, GM, Ford, U.S. Steel, Monsanto, and Procter & Gamble, the group was unable to achieve its ends.

By the winter of 1982, Dole acknowledged the role of agenda-setting in understanding business's setbacks. Business had been unable to pursue its own interests to the fullest because it was hamstrung by its full membership in Reagan's coalition. Dole reflected, "The business community has 'kept the faith' on our Clean Air Act commitments, however, a series of 'unfulfilled promises' have periodically called into question our commitment." In Dole's view,

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179 Cavaney to Harper, January 1983 [undated], folder "Clean Air Act - June 1982-December 1982 (2 of 3)," Box 19, Dole Files, RRPL.

180 Meeting of Auto Industry Representatives, July 2, 1981, folder "Clean Air Act 1981 (2 of 9)," Box 18, Dole Files, RRPL.

181 Valis to Ed Thomas, September 14, 1981, folder "Clean Air Act [8/81-9/81]," Box OA 9448, Meese Files, RRPL; Motor Vehicles Manufacturers Association to Meese, August 24, 1981, folder "Clean Air Act [8/81-9/81]," Box OA 9448, Meese Files, RRPL.

182 Valis to Darman and Gray, April 30, 1982, folder "Clean Air Act - January 1982-June 1982 (5 of 7)," Box 19, Dole Files, RRPL.

183 *See* Dole to Baker, October 15, 1981, folder "Clean Air Act 1981 (6 of 9), Box 19, Dole Files, RRPL; Valis to Darman and Gray, April 30, 1982, folder "Clean Air Act - January 1982-June 1982 (5 of 7)," Box 19, Dole Files, RRPL.

Reagan's decision to prioritize tax reform directly harmed business's ability to succeed in the regulatory arena. She continued, "Taking their cue from us and on promises from [Senate Majority Leader] Howard Baker [(R-TN)], the business community kept its powder dry in this area during the budget/tax battles of '81 and '82."[184] In series of memoranda written a year earlier to Meese, she attributed business's failures in part to the costs of coalitional engagement: "At our request, [organized business] put Clean Air on a back burner, while they supposed us on the President's economic recovery plan. Although they questioned our Clean Air strategy, they agreed to it."[185] Dole suggested that the White House had "advised the business community not to support legislative attempts on the Hill to restructure the Clean Air Act until Ann Gorsuch was sworn in and until the President submitted his own bill." Business, noted Dole, "respected our wishes." The White House, however, did not uphold its end of the bargain. Advising "the business community that where would be no Administration bill," the president's staff instead "advised our allies to organize." When the Reagan administration ultimately transmitted a list of "priority legislative items" to Republican congressional leaders, it made no "mention of clean air reform."[186]

Business had put its faith in the White House, only to see the Reagan administration's commitment to regulatory relief evaporate. Lacking the political leverage to convince liberal Republicans on the Senate Committee on Environment and Public Works, including Senators Robert Stafford (R-VT), John Chafee (R-RI), and Slade Gorton (R-WA), the White House could do little when these legislators balked at the White House's approach. Their dissent "seriously called our strategy into question…causing alarm within the business community."[187] Reagan's aides suggested pinning the blame on Senate Republicans, proposing that presidential Counselor Meese tell GM's Chairman Roger Smith: "While it was the hope of the Administration that the Senate Committee on Environment and Public Works would agree to many of the changes sought by the automobile industry, in fact, the Committee has either made very little change in the statute or has voted to make the law more stringent."[188]

The timing for business groups interested in changes to the Clean Air Act could not have been worse. As the political pressure on Reagan's most senior environmental aides—Gorsuch, in particular—heated up in late 1982 and early 1983, the administration's credibility on environmental issues was significantly limited. Gorsuch was held in contempt of Congress in mid-December 1982 over her refusal to provide documents to the House subcommittee charged with investigating the EPA's management of the nation's superfund for especially toxic industrial waste sites. The controversy over Gorsuch's conduct not only led to her resignation, but also

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184 Dole to Meese, Baker, Deaver, December 23, 1982, folder "Clean Air Act - June 1982-December 1982 (2 of 3)," Box 19, Dole Files, RRPL.

185 Dole to Meese, November 25, 1981, folder "Clean Air Act 1981 (7 of 9)," Box 19, Dole Files, RRPL.

186 Dole to Meese, Baker, Deaver, September 15, 1981, folder "Clean Air Act [8/81-9/81]," Box OA 90448, Meese Files, RRPL.

187 Dole to Meese, November 25, 1981, folder "Clean Air Act 1981 (7 of 9)," Box 19, Dole Files, RRPL.

188 Maloley to Meese, November 24, 1981, folder "Clean Air Act 1981 (7 of 9)", Box 19, Dole Files, RRPL.

"effectively put to rest…the Reagan administration's most ambitious efforts at regulation."[189] In 1984, Congress not only passed a new regulatory state for the first time in four years, but also expanded the EPA's appropriations to a level higher than at any previous point in the Reagan era. Boyden Gray announced the dissolution of the Task Force on Regulatory Relief in August 1983.[190]

The consequences of coalitional engagement were not limited to the Clean Air Act. Business groups faced important opposition from conservatives in their push for reform to the nation's patchwork of state-level product liability laws. By the middle of 1982, business groups made clear their dissatisfaction with the existing product liability framework. The existing tort system was "intolerable," in their view, not only because it relied on juries to determine payouts to tort victims, but also because interstate businesses found themselves operating within fifty different product liability regimes.[191] As they had on tax and budgetary policy, business groups, including the Chamber, the NAM, and Roundtable, and the National Association of Wholesaler-Distributors, organized an umbrella organization, the Product Liability Alliance, to coordinate policy. A second group, the Coalition for Uniform Product Liability Law, also joined the fray. A spokesperson for the Product Liability Alliance told *Congressional Quarterly*, "Product liability problems are being exacerbated by inconsistent state legislation and totally unpredictable case law decisions."[192] In the view of Commerce Secretary Malcolm Baldrige, "These groups are well-organized and, at least for the moment, highly unified."[193] Small business too supported product liability reform.[194]

The business community communicated its views directly to senior members of the Reagan White House. Nancy Clark Reynolds, a former special assistant and assistant press secretary to then-Governor Reagan, who was then working as a governmental affairs executive with a large manufacturing company, informed Chief of Staff Baker, "Many members of the business community believe that, unless some stabilization and balance are placed in the tort system, it will break down and we will have to turn to complicated bureaucratic compensation systems." The preferred alternative, she reflected, was a "balanced and effective Federal product liability law."[195] Business groups could also count on a somewhat favorable alignment in Congress, where conservative Sen. Robert Kasten (R-WI) had found potentially propitious common ground with liberal lion Rep. Henry Waxman (D-CA). The two lawmakers largely

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189 Vogel, *Fluctuating Fortunes*, 268.

190 Vogel, *Fluctuating Fortunes*, 269.

191 Malcolm Baldrige to Meese, July 6, 1982, folder "Product Liability 1982 [3]," Box 46, Dole Files, RRPL.

192 Judy Sarasohn, "Business, Consumers Split Over Liability Bill," *Congressional Quarterly*, July 3, 1982.

193 Malcolm Baldrige to Meese, July 6, 1982, folder "Product Liability 1982 [3]," Box 46, Dole Files, RRPL.

194 Whittlesey to Baker, May 3, 1984, folder "Faith Ryan Whittlesey Memos May 1, 1984 - June 3, 1982," Box 22, Whittlesey Files, RRPL.

195 Nancy Clark Reynolds to Baker, May 24, 1982, folder "Product Liability (3)," Box 12, Cicconi Files, RRPL.

agreed on a proposal that would stop short of expanding the jurisdiction of the federal courts, instead establishing a set of uniform rules for state courts to follow.[196]

The White House, however, was divided between those sympathetic to the business community's stated preferences for a national product liability law and those who saw such a national standard as a violation of the administration's commitment to federalism. In March 1982, Commerce Secretary Malcolm Baldrige—himself a former corporate executive and an ally of the business community—was slated to testify before Congress in support of federal uniform standards for product liability suits. "[O]n last minute orders" coming from Meese, perhaps the most senior White House advocate for ideological conservatives, Baldrige was "forced to rewrite his testimony." Baldrige instead articulated a belief that "except for 'pressing national needs,' the states should be 'free to adopt their own standards, enforced by state official in state courts."[197] Baldrige himself told Meese that his "limited response came as a surprise" to those that had been following the issue closely.[198] A memorandum for Elizabeth Dole made clear that opposition within the administration to the "imposition of Federal standards" in the area of product liability stemmed from a belief that doing so "would be inconsistent with the administration philosophy concerning Federalism."[199]

The White House's discomfort with uniform federal product liability standards resulted in a lukewarm response to business's push. An advisor told Baker that talking points from the Product Liability Alliance "allu[ded] to the business community's dissatisfaction with the Administration's lukewarm support." According to this aide, the business community complained that "OMB and the White House…do not understand the issue." The "real source of their dissatisfaction," however, "is that the Administration did not immediately salute and move into action." Delay was the best possible course of action: "consideration of a major step like federal pre-emption requires that the problems be well defined and well documented."[200]

Business representatives, in turn, believed that the administration was sending "many conflicting signals," and that the White House's approach required the production of detailed data that are virtually impossible to produce." In response, business groups sought to reframe

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[196] Waxman supported the bill in part because he viewed it as an opportunity to give Congress's imprimatur to the legal standard the California Supreme Court had developed for cases in which the plaintiff could not identify which of several possible manufacturers had produced the product that injured her. "A Liability Patchwork Congress May Replace," *Business Week*, May 31, 1982. In *Sindell v. Abbott Laboratories*, 26 Cal. 3d 558 (1980), the California Supreme Court determined that liability could be apportioned among competing manufacturers of a fungible product by calculating their market share at the time the injury occurred. The Court reasoned that the probability that any given manufacturer had produced the offending product was equivalent to their share of the market, assuming no distinctive patterns of geographic variation. For Waxman, product liability reform could have established a national standard for *Sindell*-like cases favorable to plaintiffs.

[197] Caroline E. Mayer, "Liability Standards Split Administration," *Washington Post*, March 13, 1982.

[198] Malcolm Baldrige to Meese, July 6, 1982, folder "Product Liability 1982 [3]," Box 46, Dole Files, RRPL.

[199] Bill Triplett to Dole, Cavaney, Jack Burgess, Diana Loano, July 12, 1982, folder "Product Liability 1982 [6]," Box 47, Dole Files, RRPL.

[200] Wendell W. Gunn to Baker, May 27, 1982, folder "Product Liability (3)," Box 12, James Cicconi Files, RRPL.

the issue. In their view, the issue was a "matter of interstate commerce and *not* antithetical to new federalism."[201] Although the Reagan administration ultimately "approve[d] in principle the enactment of Federal legislation providing uniform standards for product liability" in mid-July 1982, its endorsement came too late.[202] As one influential business lobbyist noted, "There was not…enough time to enact a law" given the upcoming midterm elections—Kasten's bill was reported out of the Senate Commerce Committee but did not come to a vote before the end of the 97th Congress.[203] As in the case of the Clean Air Act, a lack of political momentum could be fatal: opponents to changes in product liability laws were led by the American of Trial Lawyers of America, who had hired the powerful and prestigious lobbying firm of Batton, Boggs, and Blow to lead their efforts.[204]

Over the course of the next eighteen months, the business community continued to complain that the White House was not pursuing the cause of product liability reform with sufficient energy. An aide to new OPL head Faith Whittlesey indicated in the spring of 1984 that the Product Liability Alliance was concerned that Senate Majority Leader Baker would not permit floor discussion of Kasten's proposed legislation "without an expression of priority status from the Administration."[205] Although the bill was approved by the Senate Commerce Committee 11 votes to 5—with all Republicans save one voting for it, along with three Democrats—business groups made clear to the White House that they wanted the administration's "assurance" that the bill would be on its "priority list." Pleading for support, they noted that the bill was in "total accord with the Administration's guidelines for support of the bill—it involves no new Federal expenditures, it does not expand the jurisdiction of the federal courts and deals purely with the interstate commerce problems involved in product liability."[206] Nevertheless, the bill was never taken up by the full Senate. A version Kasten reintroduced in 1985 failed to get out of committee, while another version reintroduced in 1986 again failed to reach the Senate floor. Reflecting the White House's relative indifference to the issue, on October 1985, a working group formed in October 1985 by Meese (who by that point had moved to head the Justice Department) endorsed only a series of principles for tort law reform. None of these principles included a national product liability law.[207]

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[201] Nancy Clark Reynolds to Baker, May 24, 1982, folder "Product Liability (3)," Box 12, Cicconi Files, RRPL.

[202] Fuller, memorandum for the record, July 15, 1982, folder "Product Liability (1)," Box 12, Cicconi Files, RRPL.

[203] Dirk Van Dongen to Whittlesey, April 9, 1983, folder "Whittlesey Chrono. Memorandum 04/06/1984-04/10/1984," Box 22, Whittlesey Files, RRPL.

[204] Michael Wines, "Product Liability 'Reform'—Is It Only a Defense for Shoddy Producers?" *National Journal*, April 9, 1983.

[205] Mary Jo Jacobi to Whittlesey, April 6, 1984, folder "Whittlesey Chrono. Memorandum 04/06/1984-04/10/1984," Box 22, Whittlesey Files, RRPL.

[206] Dirk Van Dongen to Whittlesey, April 9, 1983, folder "Whittlesey Chrono. Memorandum 04/06/1984-04/10/1984," Box 22, Whittlesey Files, RRPL.

[207] Liran A. Gordon, "Comment: Federal Product Liability Reform: A Comparison of S. 2760 and the System in the United Kingdom," University of Pennsylvania Journal of International Business Law, 1987, Vol. 9, No. 2, 276-77.

In the regulatory arena, business groups paid a significant price for their deeper engagement with the Republican coalition. When business groups lacked the backing of their conservative counterparts, they faced real difficulties in setting the political agenda, encountering either apathy or outright, if temporary, hostility. In this sense, tax policy proved an outlier. Because conservatives and business groups agreed on the issue's importance, it was easy to move it to the forefront of the White House's agenda. When it came to the Clean Air Act and product liability reform, however, business groups, despite their importance within the Reagan coalition, were forced to struggle for air time.

Enduring Patterns

The fundamental patterns established by these three episodes—the passage of ERTA and TEFRA, and the struggle over Clean Air Act and product liability reform—shaped business politics for the remainder of Reagan's term in office, and into the next political decade. Despite the business community's challenging relationship with the Reagan White House, its political support for the Republican Party did not waiver. Although business groups continued to support heavily favored Democratic incumbents in the 1984 elections, where races were close or seats open, PAC contributions from business went "overwhelmingly" to Republicans.[208] Tax policy, moreover, continued to dominate the White House's political agenda, often to the detriment of business groups. As had been the case during the battle over 1982's TEFRA tax-reform legislation, peak-level business associations faced difficulties in defending tax provisions favorable to large (and often industrial) corporations in a political environment that privileged reductions in individual tax rates. Their ostensible allies within the Republican coalition, ideological conservatives, proved to be of no assistance. Conservatives within the White House and in the legislative branch worked to preserve and extend reductions in the personal income tax code, often willing to sideline business's concerns in the process.[209]

Making matters worse, business remained divided between old-line industries that sought to use the tax code to prop up unprofitable corporations and newer areas of the economy that did not require such assistance. These divisions were exacerbated by an increasingly predominant sense (ultimately shared by the Reagan White House) that a focus on "capital-intensive investment" had proved unsuccessful. Critics instead urged an attention shift "to the human resources necessary to make firms productive," including "management strategies, worker-management relations, and the general skill level of the work force."[210]

In this context, the porous structure of the organizations competing to represent business's interests on the national stage continued to mean that existing groups remained vulnerable to new entrants—not only to other groups, but to internal "takeovers" as well. Business organizations were not immune to changes in the national economy. As the financial, insurance, pharmaceutical, and technology sectors came to dominate more industrial producers,

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[208] Vogel, *Fluctuating Fortunes*, 272.

[209] Birnbaum and Murray, *Showdown at Gucci Gulch*, 37.

[210] Martin, *Shifting the Burden*, 162-63.

so too did they exercise more significant clout within existing business organizations, including the Chamber and the Roundtable. By 1988, the "Roundtable's executive board…for the first time drew its membership exclusively from 'new' industries," including IBM, Pfizer, Aetna, and American Express.[211] Fragmentation also affected business's success in the regulatory arena. With little support from conservatives and strong opposition from Democrats, liberal Republicans, and their allies in the interest-group community, business groups, stymied on Clean Air Act and product liability reform, were unable to make meaningful gains in rolling back the regulatory state.

Nevertheless, business fragmentation, as other scholars have observed, did not entail a decline in corporate lobbying. During the 18 months preceding June 30, 1986, corporate PACs contributed $66.8 million to House and Senate candidates, a 32-percent increase over the previous election cycle (1982-1984), which itself was double the amount contributed between 1980 and 1982.[212] A substantial percentage went to members of the House Ways and Means Committee and the Senate Finance Committee. Precisely the opposite was true: the apparent inability of the business community to hold together itself "created new opportunities for firm- and industry-specific lobbyists to negotiate for special tax benefits and government appropriations for their clients."[213] Where business organizations had, in the past, taken pages from their opponents' playbook, they could now look within their own ranks for successful strategies. Albertine's ABC demonstrated in earlier battles over tax policy that, like the Roundtable, it too could place CEOs in front of legislators and executive-branch officials. The "CEO Tax Group," which brought together the CEOs of twenty Fortune 500 companies to promote 1986's Tax Reform Act, similarly learned this lesson from the Roundtable.[214]

But this kind of learning was not the exclusive province of peak-level organizations. As Washington became a more important "profit center" (in David Vogel's words) for American business as a whole, each component piece of the business community was motivated to send representatives to advocate for its specific interests. The nation's largest representatives of business interests, including the Chamber, the NAM, and the Roundtable, could not restrict firms' representation, nor could they dictate strategy or tactics to this ever-increasing set of Washington-based lobbying groups. The result was both an increase in business influence, and a decline in business cohesion. As Waterhouse summarizes, "Ironically, the relative clout of organized business associations like the Roundtable and the Chamber of Commerce declined even as the absolute level of corporate lobbying continued its skyward trajectory."[215] Changes in congressional structure mattered too. Reforms to the Ways and Means Committee's structure

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[211] Waterhouse, *Lobbying America*, 235.

[212] Birnbaum and Murray, *Showdown at Gucci Gulch*, 179.

[213] Waterhouse, *Lobbying America*, 231.

[214] Martin, *Shifting The Burden*, 172.

[215] Waterhouse, *Lobbying America*, 248.

meant that it had become more "permeable."[216] With individual committee members able to wield more power than they had previously, lobbying became "democratized," further increasing the incentives to a variety of firms and sector-specific representatives to try and make their case in Washington.[217]

After his 1984 electoral victory over Democratic nominee Walter Mondale, Reagan turned his political attention once again to tax reform. The resulting Tax Reform Act of 1986 was not only the "most far-reaching change in the history of the Internal Revenue Code," but also a "substantial political setback for a number of segments of the business community, including financial institutions, real estate and construction companies, insurance firms, and capital-intensive manufacturing companies."[218] Observers have commented on the "rapidity" with which many of ERTA's gains were "rescinded or scaled back," first, as we have seen by 1982's TEFRA, and then by the Tax Reform Act five years later.[219] Although the legislation reduced the highest corporate tax rate from 48 to 42 percent, it eliminated the investment tax credit, limited the accelerated depreciation schedules that the Business Roundtable had fought so aggressively to implement, and removed a host of industry-specific tax breaks. The value of these provisions was estimated at approximately $500 billion over the five years between 1986 and 1991.[220]

In 1986, as in 1982, it was the White House that put tax reform on the agenda—despite the clear opposition of the business community. Even in late 1985, the Chamber of Commerce called the version of the tax bill passed by the House of Representatives "disastrous for the American economy, American business, and the American worker."[221] The White House was well aware of the consequences to its business allies. One advisor told OMB Director Stockman in the summer of 1985, "As might be expected, the sectors and industries that make heavy use of the investment tax credit (IC) and ACRS accelerated depreciation are generally the biggest losers because of the proposed ITC repeal, recapture of ACRS and depreciation reform, despite substantial tax decreases from the proposed corporate rate reduction."[222] What's more, new Chief of Staff Don Regan (who had switched cabinet positions with new Treasury Secretary James Baker) directly criticized the selfishness of business lobbyists in an address to the Chamber of Commerce approximately a week later. Regan, who had played a key role in drafting the original legislative proposals while at Treasury, told the assembled business

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[216] Charles H. Stewart III, "The Politics of Tax Reform in the 1980s," in Alberto Alesina and Geoffrey Carliner, eds., *Politics and Economics in the* Eighties (Chicago: University of Chicago Press, 1991), 156.

[217] Vogel, *Fluctuating Fortunes*.

[218] Vogel, *Fluctuating Fortunes*, 280.

[219] Stewart, "The Politics of Tax Reform in the 1980s, 149.

[220] Waterhouse, *Lobbying America*, 230.

[221] Birnbaum and Murray, *Showdown at Gucci Gulch*, 236.

[222] M. Kathryn Eickhoff to Stockman, July 8, 1985, folder "[Budget (1985-1986)] (12)," Box 2, Donald Regan Files, RRPL.

executives, "Seven thousand two hundred registered lobbyists are swarming the Hill… buttonholing members of finance committees, buying T.V. ads urging exemptions for themselves, but don't let the President tax cash values of life insurance; but don't let the President tax employer-paid benefits; but don't let the President abolish deductions for state and local taxes; but don't diminish depreciation for timber and minerals."[223]

As in the battle over TEFRA, business confronted a series of significant obstacles. In fact, because the bill "redistributed the tax burden among corporate sectors," battles within the business community took on particular importance.[224] Some segments of the business community—including some members of the so-called "15/27/33 Coalition, named after the two individual tax rates set out in the proposed Tax Reform Act and the top corporate tax rate—had supported the White House since it first laid out its tax reform proposals. These included large and well-known Fortune 500 companies, including IBM, GM, 3M, Procter & Gamble, and Kellogg.[225] Two other coalitions—the Tax Reform Action Coalition (TRAC) and the CEO Tax Group—likewise supported lowering corporate tax rates, even at the cost of limiting specific tax breaks. Their members, including "apparel manufacturers, electronics firms, supermarkets, wholesalers and distributors, retail merchants, and trucking companies" were unable to take advantage of ERTA's 10-5-3 depreciation provisions or the investment tax credit, but stood to benefit from generally lower individual rates.[226]

Still, on the whole, "corporate opposition [to tax reform] was immense," at least until it became clear that reform legislation would pass.[227] Opposition was particularly strong among representatives of basic industry and real estate.[228] As an organization, the Roundtable outright opposed the proposed tax changes, seeking to reverse the perception that "tax burden on the U.S. business community is unfairly low." Yet in a stunning display of disunity, Roger Smith, the Roundtable's Chairman and GM CEO, publicly disagreed with his own organization.

Disagreement abounded even within specific sectors of the economy. Representatives of the banking and mutual-fund industries could not agree on their legislative priorities. Mutual-fund executives, on the one hand, wished to fight to reverse the Senate's decision to limit individual retirement account (IRA) investments to those who had no other pension plan. Bankers, on the other, wanted to ensure that a provision "protecting its tax-free bad-debt

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223 Regan, Remarks to the "Breakfast Bunch" of the U.S. Chamber of Commerce, July 17, 1985, folder "[Budget (1985-1986)] (19)," Box 2, Donald Regan Files, RRPL.

224 Martin, *Shifting The Burden*, 159.

225 David E. Rosenbaum, "Wide Coalition Formed Behind Senate Tax Bill," *New York Times*, May 17, 1986; Birnbaum and Murray, *Showdown at Gucci Gulch*, 81. General Motor's Roger Smiths supported the bill because he believed it would encourage sales.

226 Vogel, *Fluctuating Fortunes*, 281; Martin, *Shifting The Burden*, 165.

227 Birnbaum and Murray, *Showdown at Gucci Gulch*, 161.

228 Martin, *Shifting The Burden*, 172.

reserves" would remain in the bill.[229] Likewise, the American Electronics Association departed from other groups interested in preserving the capital gains tax rate (rather than treating capital gains as ordinary income) because of concerns that it would be entering a "no-win floor fight."[230] In short, "[r]ather than uniting business conservatives in a principled defense of free markets, tax and deficit politics exposed businesspeople's parochial interests."[231]

Ideological conservatives' disinterest in preserving favorable tax provisions for corporations represented a second obstacle. For supply-siders "Tax reform became a code word…for tax reduction."[232] In new Chief of Staff Regan, who admitted his eagerness to "stick it to the wealthy special-interest lobbyists that he and his aides referred to as the 'Gucci Boys,'" they found a committed ally.[233] For conservatives, reducing perceived tax-based market distortions meant a better functioning market for investment dollars. Conservative critics argued that the "existing tax system provided disincentives for work, discouraged entrepreneurship and innovation, discouraged capital formation, and channeled scarce resource into unproductive sectors of the economy."[234] Allied with the high-technology sector (which would ultimately lobby successfully to preserve the capital gains tax rate, an important incentive for venture capital investors), advocates for efficient markets argued that ACRS, in particular, "discriminated in favor of heavy manufacturing." Because the costs of products and equipment in electronics and computing diminished much more rapidly than in in old-line industries, such firms' capacity to take advantage of ACRS was more limited.[235]

Where business preferred the existing byzantine nature of the tax code, conservatives appreciated the simplicity of reform proposals.[236] Even the powerful Charls Walker could not save the heavily criticized investment tax credit, choosing instead to focus on preserving the 10-5-3 depreciation scheme because it had been helpful to industrial clients like Ford and Caterpillar.[237] Ultimately, business was also limited by the president's own desire—supported by key staff members, including Baker—to achieve some kind of tax reform legislation. The combined efforts of the president and the business groups supporting legislation helped to ensure

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229 Eileen Shanahan, "New Diverse Coalition Works to Pass Tax Bill," *Congressional Quarterly*, May 24, 1986.

230 Eileen Shanahan, "New Diverse Coalition Works to Pass Tax Bill," *Congressional Quarterly*, May 24, 1986.

231 Waterhouse, *Lobbying America*, 224, 230.

232 Martin, *Shifting the Burden*, 165.

233 Birnbaum and Murray, *Showdown at Gucci Gulch*, 45.

234 Stewart, "The Politics of Tax Reform," 151-52.

235 Martin, *Shifting The Burden*, 170.

236 Malcolm Wallop (R-WY), a member of the Senate Finance committee told key Senate sponsor Bob Packwood (R-OR), "Complexity favors the most powerful among us." Birnbaum and Murray, *Showdown at Gucci gulch*, 211.

237 Anna Cifelli, "Look Who's Warming to Baker's Tax Reform," *Fortune*, April 1, 1985.

House passage of a reform bill, led by Ways and Means Committee Chairman Dan Rostenkowski (D-IL) in the face of substantial opposition by House Republicans.[238]

Finally, business as a whole struggled because individual segments within it had so effectively emulated the advocacy strategies that had helped the collective business community in previous decades. Aggregations of business groups like the Tax Reform Action Coalition helped to coordinate activities in favor of the legislation, identifying likely supporters, bringing grassroots pressure on members, and helping to cut down on possible side deals with members. The CEO Tax Group, for its part, brought forward Fortune 500 executives to make clear that big business supported tax legislation too.[239]

Business did not generally fare better in the regulatory arena. During the course of 1986, debate within the business community centered around how to fund increases to the federal Superfund program designed to pay to clean up exceedingly hazardous waste sites. Predictably, business groups divided over whether to impose a broad-based tax, or to implement a polluters-pay principle, in which the cost of clean-up would be borne largely by the petrochemical industry.[240] Opposition to the broad-based tax was led by the Grocery Manufacturers Association, whose spokesman appealed to fundamental fairness in opposing the bill: the broad-based tax, in the organization's view, "taxes all companies equally whether they pollute or not, whether they create large volumes of waste or no waste at all." When the White House threatened to veto the $8.5 billion five-year reauthorization bill, a conference committee negotiated a compromise between the two approaches: $2.5 billion in revenue would come from a broad-based tax, while another $4.1 billion in tax burden would be shouldered by the energy and chemical industry.[241] The energy industry, too, was divided between oil importers and domestic producers, particularly so-called "wildcat drillers." These divisions were resolved in favor of domestic producers—imported oil would be taxed at a higher rate than oil produced at home.[242] On other regulatory matters, including safe drinking water legislation, as well as enforcement of existing criminal and civil enforcement statutes by OSHA and EPA, business faced both more aggressive enforcement and additional requirements.[243]

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[238] Martin, *Shifting The Burden*, 179-80.

[239] *See* Martin, *Shifting The Burden*, 170-72.

[240] Jeffrey Nedelman to Tax Writers and Editors, Grocery Manufacturers Association, June 12, 1986, "folder Superfund [2 of 3]," Box OA 14574, Mari Maseng Files, RRPL.

[241] "Reagan Signs 'Superfund' Waste-Cleanup Bill." In *CQ Almanac 1986*, 42nd ed., 111-20. Washington, DC: Congressional Quarterly, 1987. http://library.cqpress.com/cqalmanac/cqal86-1149802. The remainder of the $8.5 billion authorization was slated to come from general revenue funds and compliance penalties.

[242] Ibid.; *see also* Vogel, *Fluctuating Fortunes*, 277.

[243] Vogel, *Fluctuating Fortunes*, 276-78.

Lessons and Consequences

Business began the Reagan era with a triumph. For the Chamber, Reagan's election meant that the group could capitalize on its investment in the Republican coalition, and its decision to forge stronger links with ideological conservatives. For the Business Roundtable, Reagan's election at least meant that the association's executives could count on the presence of a fellow traveler in the White House, even if many of the group's members had not necessarily embraced candidate Reagan.

ERTA's 1981 passage represented the high water mark of this approach. Supply-siders and executives alike could revel in the reductions in individual tax cuts and the favorable corporate tax provisions ushered in by that legislation. On the regulatory side of the ledger, Reagan's cabinet appointments, along with the appointment of the task force on regulatory relief headed by Vice President Bush, promised a similarly fruitful partnership.

And yet, despite ERTA's promise, Reagan's two terms in office were not an unqualified political triumph for business groups. In 1982 and again in 1986, business groups were forced to cede significant ground to their opponents on the issue of tax reform. Organized business found ideological conservatives largely indifferent, and occasionally actively hostile, to their fiscal and regulatory goals. They learned that when they were internally divided, those divisions could be exploited by politicians on both the right and the left. And they discovered that their own success could lead to the cannibalization of the very same strategies that had made them effective during the Ford and Carter years.

The Reagan years offer three important lessons for observers of the history of business politics. First, although business had successfully reconstituted itself as a political force after the debacles of the early 1970s, Reagan's two terms in office demonstrate that groups representing the interests of business are, after all, just another set of political interests, even if especially well-resourced and effective ones. Business struggled continuously to convince the Reagan White House to adopt business's political priorities. They succeeded only when other actors important to the White House supported those priorities. And they were often unable to force the White House to pursue business's aims and objectives when the White House did not share those them.

At the same time, Reagan and his aides were especially receptive to business's pleas. Business leaders were willing to pledge loyalty to the Republican coalition to ensure a consistently sympathetic ear, even if that loyalty meant they would have to accommodate the president's political purposes when asked. As we have seen, however, that calculation was not the only one available to business: as the Roundtable had done with the Carter White House, business groups could have opted for a more arms-length, transactional relationship. Less assured of a regular and informal voice in policymaking, they might nevertheless ensured that they could throw their weight around when it really mattered.

Business also learned that its political representation was not immune to broader changes in the economy. Politicians were more willing to scrap policies devoted to capital formation once it was clear that their advocates were no longer America's dominant economic force. Waterhouse writes, "The same uncertainties that inspired political mobilization by the industrial community ultimately led to its fracture, as the firms and industries most galvanized by inflation, social regulation, and fears of a cultural 'attack on free enterprise' in the early 1970s found themselves most unsettled by globalization and financialization."[244] American business learned that its limits were not simply political.

Finally, the Reagan years marked a transition point between a time of relative business cohesion and our own era of fragmented business power. Conditioned by a set of unifying threats, business marshaled its resources against a series of common enemies—labor, consumers, and environmentalists. When the nature of the threat changed, business organization changed accordingly. Firms found that there was not necessarily a cap on the organizations that could represent them—investing in the Chamber did not preclude investing in a sectoral group or a firm-specific set of lobbyists. And, in turn, as business in the aggregate grew more vocal, its successes were necessarily smaller, even if no less important. No longer would business be able to achieve economy-wide political victories; instead, they would have to content themselves with a narrower and more parochial politics.

[244] Waterhouse, *Lobbying America*, 238.

Chapter 6 | Assessing Contemporary Business Power

Taking the Chamber's helm a decade after Reagan left the White House, Thomas J. Donohue has worked hard to preserve the organization's preeminent position within the business community and the Republican Party. Since 1997, the Chamber has spent over a billion dollars on lobbying efforts and employed nearly two hundred registered lobbyists in 2014, alone.[245] Donohue's group is budgeting for a $100 million outlay during the 2016 presidential election, exceeding its $70 million in spending during the 2014 midterms.[246] While the net effect of the Supreme Court's 2010 *Citizens United* decision may have been to empower individual conservative donors without formal ties to the business community, there is little evidence that the Chamber's influence has waned in the five years since that decision.[247] Indeed, over the past year, the Chamber recorded significant victories on a range of policies — helping, for example, to secure a budget agreement between the White House and House Republicans and a successful conclusion to negotiations over the Trans-Pacific Partnership.

To be sure, the 2015 internal GOP fight over the reauthorization of the Export-Import Bank, like previous battles over immigration reform, make clear that there are limits to the organization's power in the present anti-establishment Republican coalition.[248] And for its part, the Chamber has made no bones about its goal to elect business-friendly Republicans and target right-wing candidates — party hardliners who have undermined the corporate agenda in Congress by supporting government shutdowns and opposing immigration reform. "We made it quite clear last cycle: the gang that wants to shut down the government, that's a clear contrast to what the business community agrees is best for economic growth."[249] Nevertheless, there is little doubt that the Chamber remains a powerful political force.

In this concluding chapter, I derive two broad lessons from the study's empirical account that may help us to better understand and contextualize the power business wields in our present politics. Let us consider each in turn.

Understanding the Place of Business in American Politics

The evidence I have uncovered contributes to a critical and ongoing conversation about the place of business in American politics. When is organized business powerful, and why? What kind of power can organized business exert? Here, the project offers two primary insights.

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245 Danny Hakim, "Big Tobacco's Staunch Friend in Washington: U.S. Chamber of Commerce," *New York Times*, October 9, 2015.

246 Kate Ackley, "The Fight for the GOP's Soul Rages On," *Roll Call*, October 1, 2015.

247 *See, e.g.*, Paul Blumenthal and Ryan Grim, "The Inside Story of How *Citizens United* Has Changed Washington Lawmaking," *The Huffington Post,* February 26, 2015, http://www.huffingtonpost.com/2015/02/26/citizens-united-congress_n_6723540.html.

248 *See, e.g.,* Jackie Calmes, "G.O.P. Discord Over Ex-Im Bank Intensifies, as G.E. Shifts Jobs Abroad," *New York Times*, September 15, 2015.

249 Kate Ackley, "The Fight for the GOP's Soul Rages On," *Roll Call*, October 1, 2015.

First, business has rarely set the agenda over the past four decades of American political history. Rather, organized business interests have generally reacted to moves made by their opponents in the labor, environmental, and consumer movements. Whereas the resources available to organized business groups make them powerful players in American politics,there is little evidence they regularly played offense in the modern era; instead, although business interests have, on important occasions, pushed a positive agenda, they have more typically worked to defend against important changes in the political environment advocated by their adversaries. Business is reactive at the level of tactics as well. Almost every significant political innovation adopted by business — from the aggressive deployment of campaign funds to the use of litigation as a political tool — was first developed by other political actors and only then mimicked by business groups. In this way, business strategy has been inherently risk-averse.

Second, we have seen that individuals matter when it comes to shaping the political direction of an interest group. Although it is possible to explain the policy divergence between the Business Roundtable and Chamber of Commerce by pointing to structural differences between the two groups, these differences had been in place since the early 1970s when the Roundtable was formed. Indeed, before 1977, when Richard Lesher took over the leadership of the Chamber, it is hard to identify significant points of disagreement between the two groups. As a result, the hard right turn in the Chamber's politics cannot be explained without looking to Lesher's influence, even if the Chamber's loose-shareholder-like structure arguably contributed to Lesher's ability to exert meaningful control over the organization's political outlook. Thus supplementing Young's argument about the durability of a group's original structure in shaping a group's subsequent political success, this study suggests that a change in leadership can meaningfully alter a group's political trajectory, with important consequences for other groups.

Reconsidering Business Interests and Party Politics

The preceding archival accounts make clear that the relationship between peak-level business interests and the Republican Party resists easy characterization. Business no more acts as the self-conscious agent of political officials than those same officials act as the self-conscious agents of business. Business groups could not take for granted their capacity to achieve meaningful influence within the Republican coalition, nor could party members treat business as a fully "captured" interest.

Indeed, as we have seen, business' increased capacity to exert influence over the GOP resulted from important efforts to reinvent the approaches business groups used to operate politically. At the same time, business's weakness within the Republican coalition of the late 1960s and early 1970s provided a short-lived opportunity for the Nixon administration to forsake traditional Republican principles in an effort to co-opt liberal voters by outflanking the Democrats on a wide variety of issues — perhaps most prominently, the environment. Some business groups even left the Republican coalition, at least temporarily. As we have seen, although Carter's failure to win a second term is often seen as evidence of his lack of political acumen, or his administration's structural "disjuncture" with prevailing political trends, this study suggests that the president succeeded in forging a workable alliance with the Business

Roundtable. Even if that alliance did not secure Carter a second term, it did create a blueprint for successful working relationships between business groups and Democratic leaders.

Given that the relationship between groups and parties is more complex than our foundational scholarship allows, we can begin to develop theory — albeit at a more granular level — to account for that complexity. Here, I suggest three primary ways in which this dissertation provides meaningful traction on the relationship between groups and parties.

As an initial matter, for the past four decades, the conventional wisdom has been that Republicans are more ideologically homogeneous and internally unified than their Democratic counterparts. The historical evidence I present in the dissertation's empirical chapters suggests otherwise. In particular, significant conflict between "movement" conservatives and business interests has frustrated Republican leaders in Congress and the White House since the mid-1970s. For observers of contemporary politics, this means that current tensions between establishment and anti-establishment politicians within the GOP have important historical antecedents — from the primary fight between Reagan and Ford in 1976 to the tensions within the GOP coalition over Reagan's approach to tax policy — worthy of study. For American political scientists more generally, fragmentation within the Republican Party may imply deeper structural similarities between the two parties than recent scholarship has suggested.

Second, if both parties are made up of groups that sometimes cooperate and sometimes compete for power within the coalition — and, in particular, for control over the party's policy agenda — then it is crucial to push forward our understanding of when and why party leaders choose to adopt the policy prescriptions of a particular group within their party coalition. Here, rather than conceptualize a party as a hub-and-spoke model of interaction between party leaders (the hub) and key groups (the spokes), I argue that parties represent the aggregation of a much more dynamic set of interactions, including those between groups representing the same constituency (e.g., business), groups representing different constituencies, and party leaders.

Convincing party leaders to adopt a portion of a group's policy agenda requires allies. In turn, acquiring those allies requires both compromise and framing. Some goals must be put aside, while others must be reoriented to suit the aims and objectives of other groups. This project highlights the costs and benefits — for business as for other important groups in American politics — of working generally within the umbrella of only one of the country's two major political parties. On the benefit side, I argue that business has been most successful when it found common ground with other allies on the right. But on the cost side, I argue that business, like labor, has also had to sacrifice key components of its political agenda to accommodate its allies within the GOP.[250]

Third, a point about methodology. Scholars looking to examine business's influence have traditionally looked to the legislative branch, where the possibility of comparing campaign contributions and observing activities on the floor or in committee has offered scholars valuable

[250] *See* Travis M. Johnston, "A Crowded Agenda: Labor Reform and Coalition Politics During the Great Soceity," *Studies in American Political Development* 29 (2015): 89-105.

analytic traction. Acknowledging a debt to those works, this project shifts venue. Drawing on work by Daniel Galvin (among others) on the president's role within the party, and on a broader sense of the president as overseer of the national economy (in contrast to Congress, which can better serve more particularized interests), this project suggests that business's relationship with the executive branch can be an important and fruitful site to consider how business influences politics and how politicians respond to those efforts.