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GANGS OF AMERICA

THE RISE OF CORPORATE POWER AND THE DISABLING OF DEMOCRACY

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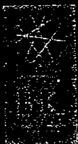

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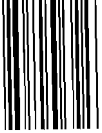

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forces exists in American society, with the power of corporations limited by labor unions, governmental regulatory bodies, and a range of civic institutions.

Not everyone subscribed to Galbraith's sanguine theory, however. On the surface, it did appear that business was content to share power with labor unions and federal regulators. But what would happen if business were sufficiently provoked—either by the encroachment of working-class incomes on profits or by the encroachment of government regulations on corporate prerogatives? If big business made a concerted effort to flex its political muscle, would "countervailing power" really keep that effort in check? As we will see in the next chapter, the events that have unfolded from 1971 to the present show clearly that the answer is *no.*

❖ CHAPTER TWELVE ❖

The Revolt of the Bosses

The new mobilization of corporate political power
(1971–2002)

IN AUGUST 1971, TWO NEIGHBORS in Richmond, Virginia, happened to have a little chat. One was Eugene B. Sydnor, Jr., a department store owner who had recently been appointed chairman of the U.S. Chamber of Commerce's Education Committee. The other was Lewis Powell, Jr., one of the most well-connected corporate attorneys in the country and a director on eleven corporate boards. The two talked about politics, and Sydnor was so intrigued by Powell's ideas that he asked Powell to put them in a memo to the Chamber of Commerce committee.

The late 1960s and early 1970s weren't the best of times for men like Sydnor and Powell. Public attitudes toward businessmen were in a free fall. From 1968 to 1977, the percentage of Americans who agreed that "business tries to strike a fair balance between profits and the interests of the public" dropped from 70 percent to 15 percent. The country was experiencing the biggest social upheaval since the Great Depression, and much of what was going on seemed aggravating if not downright frightening to big business. Writes one political scientist, "Order seemed to be unraveling: massive antiwar protests on the mall; a half-million-troop war effort bogged down and hemorrhaging in the mud of Southeast Asia; economic stagnation and declining profit rates; and in the cities, skyrocketing crime coupled with some of the most violent riots since the Civil War."

At the center of the turbulence was President Richard Nixon, who had built his career as a Red-baiting politician but whose actual style of governing, once in office, involved an eclectic mixture of conservative and liberal positions, flavored with a strong dose of old-fashioned corruption. Nixon supported a number of measures opposed by business: a repeal of the Kennedy-era investment tax credit, an increase in the capital gains tax,

limits on the use of tax shelters, a strengthened occupational safety and health bill, and tough new regulations on air pollution.

By 1971, it was clear that both the consumer and the environmental movements, which had barely existed five years earlier, were forces to be reckoned with. Seven major environmental and consumer groups were established in 1969 and 1970 alone: Friends of the Earth, the Natural Resources Defense Council, Public Citizen, Common Cause, Environmental Action, the Center for Law and Social Policy, and the Consumer Federation of America. Caught flat-footed by this grassroots mobilization, corporations were unable to mount enough opposition to stop such legislation as the National Environmental Protection Act (1969), the Clean Air Act Amendments (1970), a ban on all cigarette commercials from radio and television (1970), and the cancellation of funding for the Supersonic Transport Plane (1970). Thus it was Richard Nixon who presided over one of the greatest expansions in the regulatory scope of the federal government, including creation of the Environmental Protection Agency, the Occupational Safety and Health Administration, and the Consumer Product Safety Commission.

Perhaps it could have been foreseen that the successes of the environmental and consumer movements would trigger some sort of backlash by big business, but the scale of the corporate political mobilization proved to be unprecedented. Even more improbable was the man whom many credit with inspiring that mobilization, sixty-four-year-old Lewis J. Powell, Jr.

A few days after his conversation with Sydnor, Powell called in his secretary to take dictation and composed a memorandum describing his view on the malaise afflicting corporate America and the steps he felt the U.S. Chamber of Commerce should take to reverse the slide in the political fortunes of big business. The memorandum was marked "Confidential" and was distributed as a special issue of the Chamber of Commerce's periodical *Washington Report* to top business leaders. Titled "Attack on American Free Enterprise System," it is a remarkable document, forming the seminal plan for one of the most successful political counterattacks in American history. But the memorandum is also remarkable for another reason. Two months after writing it, Lewis Powell was nominated to the Supreme Court by President Nixon, placing him in an incomparable strategic position to advance the goals expressed in the memo. Thus, the memorandum written by Powell is worth reading, not just as a rallying cry directed toward business in general but as a way of understanding the pro-corporate constitutional shift that occurred in the Supreme Court under his leadership.

Like Justice Stephen Field a century earlier, Lewis Powell was a conservative Democrat appointed to the Supreme Court by a Republican president. Like Field, Powell identified closely with the goals of big business, both ideologically and personally. As already noted, he had spent his career as a corporate lawyer, and he eventually rose to the presidency of the American Bar Association.

From today's perspective, the Powell memorandum paints a rather surprising portrait of attitudes among corporate leaders just thirty years ago, a time when such men actually saw themselves as a despised, downtrodden, "impotent" element in American society. Free enterprise, wrote Powell, was under "massive assault," not just by "extremists of the left" but from "perfectly respectable elements of society: from the college campus, the pulpit, the media, the intellectual and literary journals, the arts and sciences, and from politicians." He warned that the problem could not be dismissed as a temporary phenomenon: "It has gradually evolved over the past two decades, barely perceptible in its origins and benefiting from a gradualism that provoked little awareness." Unfortunately, business was proving sluggish in waking to the situation. Spurred by "the hostility of respectable liberals and social reformers," the growing force of antibusiness sentiments "could indeed fatally weaken or destroy the system." Most dangerous, according to Powell, was one man, Ralph Nader, "a legend in his own time and an idol of millions of Americans." Quoting *Fortune* magazine, the memo described Nader as ruthless, implacable, and frighteningly powerful:

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

The memo made it clear that Nader was not alone. A "wide public following" had steadily emerged in support of the idea that "the 'capitalist' countries are controlled by big business." Such a notion, wrote Powell, could not be further from the truth:

> As every business executive knows, few elements of American society today have as little influence in government as American business, the corporation, or even the millions of corporate stockholders. . . . One does not exaggerate to say that, in terms of political influence with respect to the course of legislation and government action, the business executive is truly the "forgotten man."

Though Powell's memo pointed to many causes of the problems facing corporate America, he identified college campuses as "the single most dynamic source," noting that the "social science faculties usually include members who are unsympathetic to the enterprise system," including outright socialists as well as "the ambivalent liberal critic who finds more to condemn than to commend":

> They are often personally attractive and magnetic; they are stimulating teachers and their controversy attracts student following; they are prolific writers and lecturers; they author many textbooks, and they exert enormous influence—far out of proportion to their numbers—on their colleagues and in the academic world.

The notion of charismatic social science professors threatening the power of the Fortune 500 may sound overblown, but there is no doubt that Powell was correct in his general assertion that corporate America—at least for the moment—was experiencing a rare feeling of political helplessness. During a series of private meetings for CEOs sponsored in 1974 and 1975 by the Conference Board, a New York–based research group, executives expressed fear that the very survival of the free enterprise system was at risk. At the meetings, 35 percent of the participants stated that "government" was the most serious problem facing business in general. One participant said that "the American capitalist system is confronting its darkest hour." Another noted, "At this rate business can soon expect support from the environmentalists. We can get them to put the corporation on the endangered species list."

Of course, federal regulation of business was hardly something new—in fact, the creation of much of it had been sponsored or supported by corporations themselves. The first regulatory body was the Interstate Commerce Commission, created in 1886. Internal correspondence among railroad executives indicates that they saw it as a boon rather than an impediment. The Pure Food and Drug Act and the Meat Inspection Act of 1906 created product standards supported by manufacturers. In 1911, the National Association of Manufacturers wrote a model workers' compensation law that was adopted by twenty-five states over the next three years. The Federal Reserve System, created in 1913, was strongly supported by bankers. Businesses initiated and supported the establishment of the Federal Trade Commission in 1914. In the 1930s, more regulatory agencies were added, including the Securities and Exchange Commission, the National Labor Relations Board, the Federal Communications Commission, and the Civil Aeronautics Authority. And during the industrial drive to support military action in World War II, big government and big business became even more interconnected.

Those previous regulatory waves had largely been welcomed by corporations because they found the supervision of federal agencies useful for such purposes as maintaining price floors, excluding potential competitors from entering their markets, performing research and marketing, and organizing subsidies.

In contrast to this old-style regulation, the new wave of consumer and environmental regulation was by nature more intrusive and adversarial, and consequently far less palatable to corporate America. How, then, to fight back? Obviously, business would have to organize. New strategies and tactics were needed.

In the past, most business political activity had centered around industry-specific trade groups, though occasionally larger coalitions would form to deal with a specific issue. For example, prior to World War I a number of corporations, led by liquor and including textiles, mining, and railroads, had joined forces to block women's suffrage. The liquor industry feared women's support for Prohibition; other industries worried that giving women the vote would add momentum to such "home-and-hearth" issues as higher wages and stronger social benefits. But on the whole, sustained political cooperation among large corporations was more the exception than the rule. Even in the 1930s, when CEOs like Alfred Sloan of General Motors and advertising executives like Bruce Barton

cajoled their colleagues to become more active in counteracting the public's negative perceptions of big business, most companies or trade groups mounted independent publicity efforts.

Lewis Powell realized that sporadic or half-hearted organizing would not work. It was time, he wrote in his memorandum, for corporate America to get as serious about politics as it was about business:

> Strength lies in organization, in careful long-range planning and implementation, in consistency of action over an indefinite period of years, in the scale of financing available only through joint effort, and in the political power available through united action and national organizations.

The key phrases here—"long-range planning," "consistency of action," "indefinite period of years"—set the Powell memorandum apart from the usual call to the barricades. Enthusiasm, mobilization, and commitment were all fine, but something more was needed. Executives would have to apply to politics the same methodical execution that they applied to business in general. To truly succeed in resetting the terms of American politics, corporations needed to systematize their approach, creating new institutions and giving those institutions their sustained support.

According to Powell, the resources needed for such an effort could only come by securing a new level of committed involvement among those at the top of the corporate hierarchy: "The day is long past when the chief executive officer of a major corporation discharges his responsibility by maintaining a satisfactory growth of profits. . . . If our system is to survive, top management must be equally concerned with protecting and preserving the system itself."

As THOUGH IN DIRECT ANSWER to Powell's rallying cry, an unprecedented wave of political organizing began among business executives soon after the publication of the memo. The most important development came in 1972, when Frederick Borch of General Electric and John Harper of Alcoa spearheaded the formation of the Business Roundtable, an organization made up exclusively of CEOs from the top two hundred financial, industrial, and service corporations.

Because of the composition of its membership, the Business Roundtable occupied a position of unique prestige and leverage. It functioned as a sort of senate for the corporate elite, allowing big business as a whole to set priorities and deploy its resources in a more effective way than ever before. For example, in 1977, major corporations found themselves divided over a union-backed legislative proposal to reform and strengthen federal labor law and repeal the right-to-work provisions of the Taft-Hartley Act. Some members of the Roundtable, such as Sears Roebuck, strongly opposed the legislation because they believed it would provide leverage to their low-paid workforces to unionize. On the other hand, members whose workforces had already unionized, such as General Motors and General Electric, saw no need to oppose the legislation. However, after the Roundtable's policy committee voted to oppose the legislation, all the members of the organization joined in the lobbying efforts. Political scientists mark the defeat of that proposed legislation as a watershed.

Alongside and in the wake of the Roundtable, the 1970s saw the creation of a constellation of institutions to support the corporate agenda, including foundations, think tanks, litigation centers, publications, and increasingly sophisticated public relations and lobbying agencies. According to Lee Edwards, official historian of the Heritage Foundation, wealthy brewer Joseph Coors was moved by Powell's memo to donate $250,000 to the Analysis and Research Association, the original name of the Heritage Foundation. Other contributors followed his example. Powell also inspired an initiative by the California Chamber of Commerce that led to the formation of the Pacific Legal Foundation, the first of eight conservative litigation centers. Former secretary of the treasury William Simon, head of the Olin Foundation and one of the engineers and funders of this effort, described its goal as the creation of a "counterintelligentsia" that would help business regain its ideological footing.

While the Business Roundtable pursued a highly public approach to corporate advocacy at the federal level, another group pursued an "under the radar" approach at the state level. Founded by conservative leader Paul Weyrich in 1973, the American Legislative Exchange Council originally focused on right-wing causes such as abortion and school prayer. But as numerous corporations began contributing to the council in the 1980s the emphasis shifted to business-oriented issues. Eventually, the number of corporations involved in funding the council grew to over three hundred. ALEC now presented itself as a nonpartisan provider of technical services

to chronically understaffed state legislators. Its forte was the drafting of model bills with beguiling titles such as "The Environmental Good Samaritan Act" or the "Private Property Protection Act." The approach proved to be highly successful, especially in complex areas such as electricity deregulation, where state legislators leaned on the group's technical expertise. On such issues, the combination of ALEC's seemingly neutral model bills and the active lobbying of its members, such as Enron CEO Kenneth Lay, proved highly effective. During the 1999–2000 legislative cycle, legislators belonging to ALEC introduced more than 3,100 bills based on the organization's model bills. Of these, 450 were enacted.

At the national level, the permanent organizations that made up the corporate political infrastructure would assemble short-term coalitions as needed to wage particular battles. These coalitions often combined the prestige, financial resources, and Washington clout of the Business Roundtable with the ability of industry-specific groups to mobilize large numbers of people. Some coalitions such as USA*NAFTA lasted only as long as needed to pass or defeat a particular piece of legislation. Others became long-standing fixtures in the Washington landscape.

Typical of such coalitions were the Center for Tobacco Research, described by the *Wall Street Journal* in 1993 as "the longest-running misinformation campaign in U.S. business history"; the Cooler Heads Coalition, which sought "to dispel the myths of global warming"; the Competitive Enterprise Institute, a research and advocacy group that advocated against safety and environmental regulation; and the Environmental Education Working Group, which sought to undermine environmental education programs in schools. Today, some corporations belong to dozens of such coalitions. Enron, for example, belonged to quite a lengthy list of them: the African Growth and Opportunity Act Coalition, Alliance for Capital Access, Alliance for Lower Electric Rates Today (ALERT), American Council for Capital Formation, American Institute for International Steel, American Legislative Exchange Council, Americans for Affordable Electricity, Americans for Fair Taxation, Business Council for Sustainable Energy, Citizens for a Sound Economy, Coalition for Competitive Energy Markets, Coalition for Gas-Based Environmental Solutions, Competitive Power Coalition, Direct Access Alliance, DOD Competition Coalition, Electric Power Supply Association, Emissions Marketing Association, Energy Group, International Climate Change Partnership, Mid-Atlantic Power Supply Association, National Wetlands

Coalition, New York Energy Providers Association, Pew Center on Global Climate Change, Power Trading Council, and Texas Renewable Power Coalition.

Over time, the new political infrastructure honed a variety of techniques. Alongside traditional tactics such as lobbying and junkets, innovative new methods emerged such as "astroturfing." As defined by *Campaigns & Elections* magazine, an astroturf campaign is a "grassroots program that involves the instant manufacturing of public support for a point of view in which either uninformed activists are recruited or means of deception are used to recruit them." Like short-order democracy cooks, the Washington-based consulting firms that specialized in astroturfing could serve up a fully orchestrated "grassroots" citizen campaign—just name the issue.

On the fringe of the new corporate politics was a grab bag of techniques used to smear or silence corporate opponents. To place environmentalists in a bad light, public relations firm Hill & Knowlton distributed a memorandum on the letterhead of the group Earth First that called for activists to commit violence "to fuck up the mega-machine." More common was the use of lawsuits to intimidate corporate critics. According to law professors George Pring and Penelope Canan, thousands of such suits were filed from the mid-1970s to the mid-1990s. Pring and Canan coined the term "strategic lawsuit against public participation," or SLAPP. Their research showed that the targets of such suits rarely lost in court but nevertheless were "frequently devastated and depoliticized" and that the suits discouraged others from speaking out.

With funding from a number of corporate sponsors, the Animal Industry Foundation (AIF) led efforts to enact "agricultural product disparagement laws" in numerous states. Such legislation provided new opportunities for SLAPP suits, the most famous of which was the suit brought by the Cactus Cattle Corporation against Oprah Winfrey and her guest Howard Lyman, following the April 16, 1996 episode of the *Oprah* show, which dealt with the potential dangers resulting from the practice of using processed dead livestock in cattle feed.

A transcript of the show indicates no possible slander of any individual, or even of any company—merely of the practice of feeding dead cows to other cows. Lyman, a former rancher and a staff member of the U.S. Humane Society, warned that the United States was risking an outbreak of mad cow disease by "following exactly the same path that they

followed in England." Citing USDA statistics, Lyman noted that one hundred thousand cows die of disease each year, and that "the majority of those cows are rounded up, ground up, turned into feed, and fed back to other cows." He warned that since mad cow disease is transmitted by eating animals infected with the disease, "If only one of them has mad cow disease, it has the potential to affect thousands."

Oprah reacted viscerally, "It has just stopped me cold from eating another burger."

As is typical in SLAPP cases, Winfrey and Lyman won the suit, but it was six years before the final appeal by the litigants had run its course. The fact that Winfrey was forced to spend millions in legal fees and expenses sent a chilling message to consumer advocates. Authors of books on the topic found it more difficult to find a publisher, producers of documentaries found it more difficult to secure funding and airtime. Free speech on food safety issues had been effectively squelched.

Another thrust of the corporate political agenda was to foster a sympathetic climate for corporate antiregulatory ideology among the federal judiciary. To this end, several procorporate foundations developed "judicial education" seminars, which involved free trips for federal judges to attend training sessions at resorts such as Marco Island, Florida. Here corporate perspectives on environmental regulations, antitrust law, and other topics were presented along with golf, fishing, and other recreations. The organization that pioneered the judge junkets, the Law and Economics Center, was founded in 1974 and funded by a number of corporations including Ford Motor Company, Abbott Laboratories, and Proctor and Gamble, as well as right-wing foundations such as the Carthage Foundation and the Olin Foundation. LEC's program included such seminars as "Misconceptions About Environmental Pollution and Cancer." Later, additional conservative groups joined the judicial education movement, including the Foundation for Research on Economics and the Environment (FREE) and the Liberty Fund. Topics at a typical seminar sponsored by FREE at the Elkhorn Ranch in Big Sky, Montana, included "The Environment—a CEO's Perspective," taught by retired Texaco CEO Alfred DeCrane, "Progressive Myths and the Lords of Yesteryear," and "Why We Should Run Public Lands Like Businesses."

According to LEC's newsletter, many judges reported that the seminars had "totally altered their frame of reference for cases involving

economic issues." One such judge was Spencer Williams, who attended a Law and Economics seminar at the Key Biscayne Hotel in Miami while presiding over a predatory pricing case being heard in U.S. district court. Returning from the seminar, the judge wrote to the LEC, "As a result of my better understanding of the concept of marginal costs, I have recently set aside a $15 million antitrust verdict."

FOUNDATIONS, THINK TANKS, coalitions, litigation centers, PR agencies, publications, judicial education—all these contributed to the corporate political comeback. But there was one final old-fashioned ingredient to add to the mix: *money*. Obviously, in politics, money isn't everything. Although some politicians will sell their votes in exchange for some crisp bills passed in a cloakroom, that's not how the pros play the game. Smart lobbyists direct contributions strategically rather than tactically, contributing year in and year out to the members of crucial committees, to *both* political parties, and sometimes even to a politician's pet causes rather than to the actual individual candidate. But although money has to be used in the right way, it is the element that makes all the other elements work properly.

Only one problem stood in the way of corporations putting together a system for deploying political money at the federal level: a Progressive Era law known as the Tillman Act. The Tillman Act originated in an 1898 scandal in the Republican Party involving Ohio mining magnate Marcus Hanna, a major player in the party and a fund-raiser for William McKinley. It was Hanna who made the memorable observation, "There are two things that are important in politics. The first is money, and I don't remember what the second one is."

Under Hanna's direction, the Republican Party systematically extracted contributions from banks and corporations, each according to its "stake in the general prosperity." The scandal led to calls for campaign finance reform, which went unheeded until 1904, when Alton B. Parker, the Democratic presidential nominee, charged that corporations were providing gifts to President Theodore Roosevelt in return for access and influence. Roosevelt denied the charges, and in his annual messages in 1905 and 1906 he called for campaign finance reform. Under the sponsorship of Senator Benjamin "Pitchfork" Tillman, Congress began considering such legislation, which finally passed and became law in 1907.

The Tillman Act banned contributions by corporations to federal campaigns. In 1947, the Taft-Hartley Act included labor unions in the ban as well.

On the surface, the 1970s did not look like an auspicious time to undo the ban on the use of corporate political donations. In fact, corporate donations had a particularly bad image at the time after revelations during the Watergate scandal that numerous businesses had doled out money to President Nixon from secret political slush funds. In one well-known incident, the chairman of Archer Daniels Midland had walked into the White House and handed the president's personal secretary an envelope stuffed with a thousand $100 bills. Eventually, twelve corporations were shown to have donated $750,000 in cash to Nixon. Given public outrage over such activities, it was unlikely that the Tillman Act ban on corporate contributions to candidates would be revoked. A more sophisticated avenue needed to be developed.

The solution came from an improbable source: the labor movement. After the Taft-Hartley Act of 1947, which banned labor unions from contributing to federal candidates, labor unions had invented the *political action committee.* PACs had provided a way for union members to pool their individual donations together, creating greater leverage. But even after corporate PACs were legalized by the Federal Election Campaign Act in 1971 and 1974, corporations found them of little use because the law allowed them to solicit stockholders for PAC contributions, but not employees.

The legal status of corporate PACs was dramatically changed by the Federal Election Commission in a little-known 1975 decision known as the SUN-PAC ruling. SUN-PAC not only gave the green light to corporate PACs but also gave corporations permission to solicit contributions from their employees and to use their own treasury funds to manage their PACs.

Prior to the SUN-PAC ruling, the use of PACs had depended on the rare stockholder who happened to have a high degree of interest in the company's political agenda. After the ruling, corporations were freed to "work" their own employees for contributions.

In the mid-1980s, researchers at the University of Massachusetts and the University of Maryland began a series of anonymous interviews inside corporations about how PAC money is raised. The results were revealing. At some companies, the researchers found no attempt to

pressure employees to contribute to the company PAC. At other companies, the official stance was "no pressure," but such pressure did indeed exist. A typical pattern was for the head of government relations, one of the firm's lobbyists, and the supervisor of a work unit to jointly lead a meeting of that unit's employees: "We talk about the PAC and what it means to the company and what it means to them as individuals, and we solicit their membership; if they are members we solicit an increase in their gift." Then the employees' boss was asked "to get up and say why they are members and why they think it's important for an employee to be a member."

The Massachusetts and Maryland university researchers concluded that, given the nature of employer-employee relations, the pressure to contribute to PACs is real, if somewhat veiled: "If your boss comes to you and asks for a contribution saying he or she hopes that all team players will be generous, it's not easy for you, an ambitious young manager, to say no."

Not surprisingly, the researchers found that positions taken by corporate PACs on legislative issues were not derived by a democratic process among the employees making the contributions. In every company surveyed, all such decisions were made by senior management. In effect, the PAC served as a means for a corporation to make direct political contributions—the exact opposite of the intent of the Tillman Act.

After the SUN-PAC ruling, the use of PACs by corporations exploded. In 1974, labor PACs outnumbered corporate PACs by 201 to 89. Ten years later, the numbers were reversed, with corporate PACs far outnumbering labor PACs, 1,682 to 394.

For lobbyists, PACs became a resource to be systematically managed, with overhead expenses paid for out of company coffers. Making this resource even more effective was the arrival of organizations devoted specifically to coordinating PAC activity among corporations. These included the Business-Industry Political Action Committee (BIPAC), the National Association of Business Political Action Committees, and the National Chamber Alliance for Politics. Such coordination allowed PAC money to be deployed with maximum effectiveness.

PAC MONEY WAS ONLY PART of the picture. Another important source of corporate money in federal politics was "soft money," a category of

contribution approved by the Federal Election Commission in 1978 that allowed corporations, unions, and wealthy individuals to contribute money to the parties for "party-building" purposes unrelated to influencing federal elections. This money had to be kept in separate party accounts known as "nonfederal accounts." In practice, this money flowed from national parties to state parties, where it was spent in ways that supported candidates. Although some of the largest donors of soft money were labor unions, corporations overall outpaced labor unions in soft money contributions by a margin of ten to one. In 1999, labor unions contributed $33 million in soft money; business interests contributed $368 million.

In 2002, spurred by public rage over the Enron scandal, the U.S. Senate passed the McCain-Feingold bill banning soft money contributions, and the House passed the similar Shays-Meehan bill. The two bills were then reconciled as the Bipartisan Campaign Reform Act (BCRA). The new law offered the hope that the flow of soft money would be cut off, thereby reducing corporate influence over federal legislation. But opponents immediately sued in federal court to have it blocked on the grounds that the BCRA violated the "free speech" rights of corporations. It is expected that eventually those suits will end up in the Supreme Court, where the bill faces an uncertain fate due to the strong possibility that the Court will find it a violation of corporate First Amendment rights.

But even if the BCRA withstands such a challenge, a more practical problem is the likelihood that corporate political money will merely be rerouted through political action committees. PACs are certainly a less convenient way of raising money, since they require a large amount of logistical attention in order to assemble contributions in $1,000 blocks. Nevertheless, as has been shown by the nature of the corporate political mobilization since 1971, that sort of logistical expertise is where corporations, with their in-house organizational resources, have their biggest advantage in the political process.

So what about a simple, direct approach? Why not simply ban corporations from the political arena—period? Far from being a pie-in-the-sky proposition, such laws once existed in some states. Consider Wisconsin, for example. Until 1970, that state had the following statute on the books:

> No corporation doing business in this state shall pay or contribute, or offer consent or agree to pay or contribute, directly or indirectly, any money, property, free service of its officers or employees or thing of value to any political party, organization, committee or individual for any political purpose whatsoever, or for the purpose of influencing legislation of any kind, or to promote or defeat the candidacy of any person for nomination, appointment or election to any political office. [Wis. Laws, Section 4479a (Sec. I, ch 492, 1905)]

Clearly, the enactment of such a statute at the federal level would accomplish far more than merely removing corporate campaign contributions from the political process. If written broadly, it could also stop corporate political lobbying, corporate media blitzes on referendums, and corporate influence machines like the American Legislative Exchange Council. With such legislation in place, corporations could still send their representatives to testify before legislative committees—on invitation only. The sixty thousand corporate lobbyists who work the hallways of the Capitol—a hundred for every congressman and senator—would have to go home, and the democratic institutions of American society, including courts, legislatures, and regulatory bodies, would all hang out a prominent sign: for human beings only.

Of course, the enactment of a "corporations out of politics" statute at the federal level seems quite improbable. For that reason, activists have viewed states—especially states that allow citizen ballot initiatives—as the most promising place from which a redemocratization process can emerge. Indeed, when citizens organize rebellions against corporate rule, states and local jurisdictions have offered some of the most creative and promising approaches. Unfortunately, the possibility of new reforms taking root at the state level has been seriously limited by decisions of the United States Supreme Court since 1976 that narrow the options of states to reform campaign financing. Those decisions are the subject of the next chapter.