

Speech 11/91 Moscow

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EFFECT OF INEFFECTIVE BUSINESS REGULATION

I have a prepared speech that I am going to deliver, but if at any time during the speech you have a question, please feel free to interrupt -- raise your hand or just shout out, that way I can be responsive to your concerns; otherwise I will just be addressing points which I think you will find useful. Don't be shy to exercise the civil rights you now possess. They are your rights. You may not own any property yet, but you do own your civil rights. Among those rights are freedom of speech, freedom to assemble in a place such as this, freedom to choose the type of government you want, freedom to make it do what you want it to, freedom to learn and the freedom to question petite bourgeois lawyers from New York City

like myself. So interrupt me whenever you have a question.

Let me tell you a little about my background so, as we say in America -- you know where I am coming from. That is you will have a perspective from which to judge the motivations behind my statements, which will assist you in either rejecting or accepting those statements.

I am a lawyer who practices law in New York City and Washington, D.C. I am not a professor, I am not a teacher, I deal in the real world, not the ideal world. I try to find a feasible solution to the legal and business problems presented me. At present, I have a private practice representing small business people in NYC. Previously, I worked for a Wall Street law firm that represented companies such as Time, Polaroid, Holiday Inns, Pepsi, CBS and other Fortune 500 companies and wealthy individuals. Before working on Wall Street, I was an attorney in the United States Department of the Treasury and the EPA. Before

law school, I was a writer and political producer for television news in NYC. In the late sixties, I was a member of Students for a Democratic Society, which did its best to stop the war in Vietnam.

My purpose is very specific. It is to provide what I can in information, methods and reasons on how to regulate domestic and foreign enterprises, so their operations will benefit you and the rest of the people in this country and not benefit just a few. For corporations to benefit you, it is also necessary that they benefit themselves. That means business regulation must allow a fair return on investment. And by fair, I mean exactly what you think fair is. In America, the average return is 5% to 7%.

I am also here out of envy for you. Your country is in turmoil and therefore, your future is bright. I repeat, **your future is bright**. Great changes come out of great upheavals, and with every disaster, there is a unique

opportunity. I believe the opportunity the gods and the conspiracies of many men -- including the United States Government -- have presented you with is the opportunity to build a democratic and capitalistic - yes, capitalistic - society, one that will be the envy, not of the few rich people, of the world - but of the rest of the people of the world. A society that simply goes one step further than America or the European community in providing its citizens with an equal opportunity to live long and prosper, to fulfill the desires we all have to achieve something valuable with our lives. As opposed to a life struggling just to survive at some mind-numbing, worthless task, foisted upon us by a class of political officials or a class of wealthy individuals.

So from my prospective, you now stand on the threshold of great opportunity and great uncertainty, but I have no doubt you will succeed. I realize there is no greater weight to bear than a great potential. And in Moscow, the

anxiety of your uncertain future came through in some of the speeches and conversations I have heard. Some of your fellow countrymen expressed the concern that perhaps you were not up to the task at hand. That there was a mind set that hindered initiative and fostered feelings of inferiority. Your fellow countrymen told me that I, as an American, could not understand the mind set. And they were right, I do not understand it. For people who approximately 50 years ago were responsible for defeating the most malevolent and powerful force in the history of the world -- defeating Hitler despite Stalin's stupid policies -- for these people to characterize themselves as lacking initiative and feeling inferior makes no sense at all. After all, America did not win WWII, England did not win WWII and France surely did not win it. Building a new economic order will not be anywhere as hard or costly. There are people on the sidewalks selling hats, scarves, cigarettes, whatever, taxi drivers and others offering their services and

people working long, long hours. Here I have met people from various groups selling information and education on how to be an entrepreneur, that in itself is entrepreneurial. To me, all of that comes from a capitalistic spirit -- it may be born of desperation -- but it clearly shows initiative and ambition. So I do not buy these feelings of self pity and fatalism as expressed by some of your fellow countrymen. You are not a defeated people, you have more natural resources in this country than America ever had, your professionals are just as smart, your citizens are more literate (one in four adult Americans cannot even read or write) and from what I have seen, you are willing to work longer and harder hours than American workers (-believe me, I know about lazy American workers. I used to be a union representative.) Sure, there are those who just want to continue their government stipend and do nothing all day long. But history was never made by a majority of the people in a country. It is always a few who do most of the work

and the rest follow.

Suggestions for channeling your growing ambition into productive activities

I'll leave for the economists. I am a lawyer, all I can do is give suggestions on business regulatory laws, how to draft them and why they should be enacted.

Business regulations are necessary for a prosperous and equitable economy. By business regulation, I mean rules imposed by you through your government on the activities of businesses, both foreign and domestic. By a prosperous and equitable economy, I mean one that provides material well-being for most of its members, that is where most people share in the pie -- not where a small handful of the arrogant, greedy ^{keep} most of the fruits of a social order for themselves.

As an illustration, let me describe an economic system that failed to provide prosperity for most of its members because its business regulations are not strong enough or effectively enforced. In this economy, I measure wealth or material

well being in dollars. There are two ways of measuring material well being: net worth, which is assets minus liabilities and consists of financial wealth (stocks, etc.), real estate and personal items. The second measure is yearly income. Let's start with net worth.

In this economic system, there are 86 million households. A household consists of all the people living under one roof. Now in this system, the following percentages of households own the following amounts:

Net Worth	All Wealth	Financial Worth	Average Net Worth
Top .5% (430,000)	27%	37%	\$9 Million
Next .5%	7%	8%	\$5 million
Top 1% (860,000)	34%	45%	
Top 2% (1.7 million)	44%	54%	
Top 10% (8.6 million)	64%	86%	\$600,000

Bottom 40% have virtually zero wealth.

(INCOME CHART)

Households with income over \$1,000,000 number ^{60,500} ~~only 7,500~~. (The wealthiest income receivers on this scale would be three stories up.)

If you have not guessed by now, the economic system I just described is America - TODAY.

In America, the main source of wealth comes from corporations. Corporations sell most of the goods and services in America. These corporations are owned by people in the form of stock shares (**describe share of stock**). As I just said, 1% of the households in America own 45% of the financial assets, which means that 1% owns approximately 45% of all the shares of stock in American corporations.

In America, there are over 3 million corporations. But only point 2% or 6,700 corporations make 48% of all business sales in America. That is about \$2.5

trillion.

What you have in America then is a relatively small group of households controlling through their shares of stock a relatively small group of corporations that account for nearly one half of America's gross national product, that is one half of the total economic activity in America. These wealthy Americans are my country's Communist Party.

This economic dominance by giant corporate entities results in the power to monopolize markets, to collude with one another to keep prices high, to break unions and to control much of the lives of all Americans. Corporations possessing such economic power do not voluntarily agree to meet even minimal standards of pollution control, workplace safety or product safety.

The vast concentration of wealth in America in the hands of a relatively few corporations and households have given a small group of people economic,

political and social dominance in America. This dominance, this power, has caused many poorer Americans a lot of problems. And by poorer Americans, I mean 90% of my country's population.

Just to give you some examples of the problems caused by this group of wealthy people:

The Vietnam War - one of the major reasons for that war was large American corporations wanting to increase their overseas profit margins by exploiting the natural resources of Vietnam and selling American manufactured goods to the Vietnamese. Firestone had a rubber tree plantation in the Mekong Delta, Citibank was opening branches to help finance and service American businesses, including oil companies that were planning to drill for oil off the coast of South Vietnam. The impact on poorer Americans was 58,000 dead, all except 8 were men, over 300,000 injured and since that war, over 58,000 men who

served in Vietnam have committed suicide.

America's Federal Deficit - the federal deficit for fiscal 1991 was over \$300 billion which is about 40% of the government's receipts. The deficit for fiscal 1992 was nearly \$400 billion. The federal deficit is simply a way of transferring wealth from poorer Americans to wealthy Americans. In order to finance the deficit, the federal government borrows money by selling bonds which it pays interest on. Generally, only the rich have the excess money to buy the bonds and therefore receive the interest payments. The interest payments come from taxes on all Americans. Because of tax law loopholes, however, poorer Americans pay a higher percentage of their income in taxes than wealthier Americans. The net result is that poorer Americans through their taxes are paying a disproportionate amount of the interest on government bonds to the wealthy. In addition, the government uses the money from its bonds to buy the goods and services produced

by the corporations that the wealthy Americans own.

Regressive Tax Structure - when you take into account U.S. government taxes, state taxes, sales taxes and property taxes, poorer Americans (which again means the vast majority of Americans) pay a greater percentage of their income in taxes than do the few wealthy Americans.

Pension Fund Ripoffs - (takeovers and GIC backed by failed insurance companies.)

Environmental Pollution - since the source of wealth for rich Americans are corporation profits, any expense that decreases profits are avoided. One obvious expense is the cost of preventing a corporation's activities from polluting the environment. If a spill occurs, stick the taxpayers for most of the damage such as the Exxon Valdez.

Workplace Safety - another expense that reduces corporate profits is

ensuring a working environment that is not hazardous. The U.S. government did not enact a worker safety law until 1970 and then only because there was a disaster that killed 78 men and Richard Nixon wanted to win blue collar workers over to the Republican Party, so he introduced legislation for worker safety. Even so, the U.S.'s work safety law is ineffective. Few corporations are inspected for violations, and the fines for any violations are trivial.

Generally when regulations controlling corporate activities that injure the public are enacted, it is usually after decades of delay and only when it becomes politically expedient to enact them. And once the law is enacted, it is often either too weak to solve the problem or it is not vigorously enforced. The reason for this, as I previously stated, is that regulations to protect the vast majority of the American public from the abuses and trickery of powerful American corporations costs those corporations and therefore the wealthy money.

Let me give you a few more examples of delayed regulations and ineffective regulations.

Banking Regulations from 1929 to 1932 - the banking system of America collapsed. One key reason was that banks had been loaning money to their customers to allow them to buy stocks in corporations the banks were selling. When the stock market crashed in 1929, the bank customers could not repay their loans so many banks failed. Under Franklin Roosevelt, laws were enacted to prevent banks from entering the securities business. Today, the Bush administration is trying to rescind that law.

Consumer Protection - the Industrial Revolution in America in the late 1800's resulted in a rapid growth in consumer products. False advertising of products was common, the addition of harmful substances to foods was prevalent and mislabelling of medicines ██████ rampant. It took from the early 1880's until

1906 to enact a Food and Drug law. The reason the law was enacted was because Upton Sinclair published The Jungle, a book detailing unsafe, unsanitary and unhealthy food produced by the meat packing industry. The book caused such an uproar among the public that Teddy Roosevelt was forced to get some legislation passed. The problem with the law was that it only listed certain substances that could not be added to foods. The food industry quickly switched to adding other unsafe substances that were not on the list. And it was not until 1938 that the U.S. government started regulating advertising.

Despite the passage of the Food and Drug Act in 1906, drugs could still be marketed without testing or government approval. In 1938, the Massengil Corporation marketed without testing a sulfa drug elixir that killed 100 people. The federal government quickly enacted a law requiring government approval of new drugs. Despite the 1938 legislation, drug advertisements were still misleading

and numerous drugs were on the market that were of questionable safety and efficacy. In the early 1960's, a bill was passed requiring that drugs be proved safe and effective before being marketed. The reason the bill was enacted into law was because of a story linking the drug, thalidomide, to birth defects. Just recently in the U.S., it was learned that some drug companies had bribed employees of the government to quickly approve some of their drugs as safe and effective.

In the 1960's, regulation over meat processing plants was strengthened after the media exposed inadequacies in the inspection of such plants.

In the 1970's, the government created the Consumer Product Safety Commission to protect consumers from unreasonable risk of injury from hazardous products. Millions of people were injured each year using consumer products, 110,000 permanently disabled and 30,000 killed.

During the 1980's, the Commission was ineffective because of staff and

budget cuts.

Antitrust - in the late 1800's, some industries were controlled by a single large corporation that could dictate prices and, therefore, charge high prices for its goods. Rockefeller's Standard Oil achieved monopoly power in the market by selling oil in a region below cost, driving a smaller company out of business and then hiking the price of oil to make up for his earlier lost profit. Standard Oil, also because of its size, was able to force the railroads to charge it less for transportation than other firms. The American tobacco company bought smaller plants and then closed them and forced smaller tobacco companies to agree not to compete.

In 1890, the government enacted the Sherman Act which made it unlawful to intend to create a monopoly in an industry. It did not outlaw monopolies unless a corporation intended to set up a monopoly. The loophole in the law is that it is

very difficult, time consuming and costly for the government to prove intent. A suit against IBM started in 1969 and ended in 1982 when the government just gave up. The Sherman Act also outlawed price fixing, which is when corporations in one industry get together and agree on how much to charge the consumer. The consumer is left with no alternative but to pay the artificially high price because no one else sells the good. The law is ineffective because the fines imposed under it are trivial. In the 1960's, the estimated average fine was point 2% of the price of the fixed sales.

Securities Fraud - the 1934 Securities Act prevents buying or selling stock if you have inside information; that is, information not available to the public. Many of the investing public lost large sums in the 1929 stock market crash because they were not privileged to inside information used by investment bankers. One loophole in the act is that the fines and prison terms are relatively trivial. For

example, Ivan Boestsky spent about 2 years in a minimum security prison and paid fines of \$100 million but he made nearly \$1 billion on his illegal activities. Michael Milken will also spend only about 2 years in jail and still walk away a multimillionaire, if not a billionaire.

Environmental Protection - it was not until the early 70's that the federal government began to coordinate its efforts against pollution of the environment and passed laws that had a modicum of impact on polluters.

Once again the reasons for passage were a series of events that outraged the public and political expediency. In the late 1960's, an oil well off the shore of Santa Barbara, California, blew out and 20,000 gallons of crude oil washed up on California's beach (**describe beaches**), and the Cuyahoga River in Ohio was so polluted that it caught fire -- spontaneously. In 1970, President Richard Nixon's chief rival among the Democrats was Senator Edmund Muskie who was

championing environmental issues. In order to undercut Muskie, Nixon devoted much of his State of the Union speech to the protection of the environment. Despite the propaganda and hoopla, the problem with environmental regulation is lenient enforcement. Violations of pollution standards are rarely detected. An American firm might be visited once a year by a pollution inspector, and the technology measuring pollution is often unreliable. In addition, polluters are rarely taken to court and fined.

By these examples of delayed regulation and largely ineffective regulation, I do not mean to imply that regulation in the United States is useless. Many regulations enacted over the past 100 years have benefitted the public and the consumer. But because the effort to control the harms that result in a capitalist system started after wealth had become concentrated in the hands of a relatively few households and corporations, the effort to impose effective regulations was,

and is, hindered by the powerful opposition of that 2% of the households who own nearly 50% of America's wealth.

In summary:

- Russia can avoid America's mistakes.
- No wealth class in existence yet.
- True, the 6 million former influential Communist party members are still in influential positions. Until a capitalist system is established and they acquire wealth, their influence is limited as compared to before.
- Adopt current U.S. business regulations without the loopholes -- regulations drawn up in months.
- Benefits:
 - U.S. corporations familiar, do business if reasonable profits.

- U.S. government has to view favorably, at least publicly.
- Avoid situation described by Dick Gregory in 1960's.

In closing, I would like to say:

- You are a great people.
- You have survived longer and harder times than Americans can imagine.
- But your time has not, until now!

As Cicero once said: **"One may do some time serving, but when one's time has come, one must not miss it."**