

Confidential Memorandum: Attack on American Free Enterprise System

On August 23, 1971, Lewis Powell wrote his famous "Confidential Memorandum: Attack on American Free Enterprise System" to his friend Eugene B. Sydnor, Jr., Chairman, Education Committee, U.S. Chamber of Commerce

You can read a history and analysis of the memo [here](#).

The reason for this memo was the creation of Earth Day in 1970 and the increase in local, state and new Federal legislation to "regulate" the impact of corporate activity on air, land and water and wildlife, resulting in passage of the 1970 Clean Air Act, Clean Water Act 1972, and the Endangered Species Act 1973 by the so-called "Environmental Congress."

Powell saw the handwriting on the wall. In his memo he makes clear that the national environmental movement and the efforts of Congress were an assault on the American free enterprise system and this assault needed to be counteracted.

One important result, was that Pres. Nixon created Trade Promotion Authority - known as Fast Track - through the Trade Act of 1974 to enable Congress to suspend the ordinary legislative process to give trade agreements expedited treatment by limiting committee hearings, limiting floor debate and allowing no amendments.

Finally, with passage of NAFTA in 1994 and the WTO Agreement 1995 under Clinton, the corporate investor rights section was inserted in trade agreements and special system of international tribunal established, it became evident just how far corporations and the Chamber was willing to go to limit the Constitutional authority of the Legislative Branch's "to regulate Commerce with foreign nations." (Art 1, section 8) and to fight back against the environmental movement.

In 2011, Jim Allison, member of the Women's International League for Peace and Freedom wrote a play titled [**"Justice Powell Writes a Memo."**](#)

As Allison has written: In 1971, corporate America saw Richard Nixon as a puzzle: a Republican who wanted more regulation of business, including higher taxes on capital gains, an end to tax shelters and stronger environmental and job safety regulation. A corporate lawyer, Lewis F. Powell, Jr., laid out a counterattack in a confidential memo, sharing it with a friend at the US Chamber of Commerce. Powell went on to sit on the US Supreme Court, but his memorandum served as a blueprint for a half-century of corporate dominance of politics, elections, public opinion, the media and the courts.

"Mr. Powell Writes a Memo" features Powell, his friend Edward R. Murrow, and the offstage voices of Ralph Nader and William Rehnquist.