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## Revolt Against Regulation: The Rise and Pause of the Consumer Movement

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REVOLT AGAINST REGULATION: THE RISE AND PAUSE OF THE CONSUMER MOVEMENT. By *Michael Pertschuk*. Berkeley and Los Angeles: University of California Press. 1982. Pp. ix, 165. \$12.95.

Ronald Reagan's assumption of the presidency in January, 1981 represented the completion of a full cycle for the consumer movement. The era began in the mid-1960's and produced a myriad of federal laws aimed at industrial safety and consumer protection. "Public-interest entrepreneurs,"<sup>1</sup> themselves confident in business' ability to adapt, focused the proverbial public eye, and that of the politicians, on the perceived excesses of business. As the economy ground to a halt in the mid-to-late-1970's, however, business took the offensive and blamed government for over-regulating. Reagan, of course, made no secret of his disdain for regulation, and his election was partial testimony that the public had turned sour on government interference with private markets.

There could be few more appropriate narrators for the story of consumerism's rise and fall than Michael Pertschuk, Commissioner and former Chairman of the Federal Trade Commission (FTC). *Revolt Against Regulation* traces the consumer movement in the context of the author's experiences, first as staff member of the Senate Commerce Committee, and later as FTC chairman. The triumphs for consumer protection were Pertschuk's triumphs: as an idealistic young staffer under the tutelage of Senator Warren Magnuson, he

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1. Pertschuk adopts this term from James Q. Wilson's *THE POLITICS OF REGULATION* (1980).

helped push through Congress more than twenty-five consumer, environmental and other regulatory laws between 1967 and 1973. Similarly, later setbacks were quite personal to Pertschuk. He had assumed the FTC chairmanship in 1977 with an air of confident naïveté, the euphoria of past accomplishments fresh in his mind. By early 1980, however, he required President Carter's intercession to defeat a bill that would have significantly curbed the FTC's power. Pertschuk, the vigorous, aggressive proponent of consumer protection, had been placed on the defensive.

Pertschuk's experiences at the forefront of the consumer movement provide unique insight into the workings of government, thus setting this work apart from the rest of the vast body of literature dealing with consumerism. Pertschuk builds upon James Q. Wilson's *The Politics of Regulation*<sup>2</sup> and Charles E. Lindblom's *Politics and Markets*,<sup>3</sup> describing how events in his career have both paralleled and diverged from the theories developed in those books. *Revolt Against Regulation* covers much of the same ground as Susan and Martin Tolchin's *Dismantling America*,<sup>4</sup> which was written at approximately the same time. *Dismantling America*, however, attempts to explain the economic implications of consumerism's pause. While the Tolchins' analysis ultimately proclaims the evils of the free market, Pertschuk simply assumes that the reader accepts his view on regulation and does not offer such substantive discussion. However, he does have the advantage of having been there, not an insignificant factor for an author attempting to explain the procedural ins-and-outs that lead to a particular result.

*Revolt Against Regulation* begins with an analysis of the consumer movement's successes, paying homage to Senator Magnuson, Ralph Nader, columnist Jack Anderson, and even the management of Sears, Roebuck and Co. Five distinct groups composed the "entrepreneurial coalition" necessary to much of the regulatory legislation: (1) consumer advocates within Congress; (2) a newly-flourishing strain of entrepreneurial congressional staff; (3) an aggressive core of investigative and advocacy journalists who sympa-

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2. This book consists of a series of essays, each one covering an individual government agency. Each author attempts to describe the politics of regulation in the agency he dealt with, particularly focusing on the degree to which that agency had been "captured" by business interests with a stake in policy. While the authors, for the most part, neglect regulatory economics, they debate the merits of regulation more extensively than does Pertschuk. *THE POLITICS OF REGULATION*, *supra* note 1.

3. Lindblom deals with fundamental questions regarding government, markets, and the relationship between the two. His book discusses in detail the theme of the "privileged position" of business in market-oriented systems, as well as the tendencies in Western democracies toward circularity in popular control in both government and markets. C. LINDBLOM, *POLITICS AND MARKETS* (1977).

4. S. TOLCHIN & M. TOLCHIN, *DISMANTLING AMERICA: THE RUSH TO DEREGULATE* (1983).

thized with the movement; (4) labor; and (5) private, not-for-profit entrepreneurs, primarily Nader (p. 23). The descriptions of Nader and the role of congressional staff prove to be most interesting.

Pertschuk saw the congressional staff as "a professional resource, counterbalancing the extraordinary breath [sic] of legal and technical talent available to business," and as "a source of psychic energy, buttressing and absorbing the stress of conflicting technical arguments for harrassed and burdened congressmen and senators" (p. 27). The staff's function extended beyond merely "buttressing and absorbing the stress of conflicting technical arguments," however: one student of committee staffs wrote that Magnuson's staff aides were "as concerned about feeding [the chairman] ideas and encouraging initiatives as they [were] about following specific directives . . . ." <sup>5</sup> Thus, because time constraints forced Magnuson to rely on his staff, it assumed an active role in policy formulation. And since that staff was predominantly liberal, the consequences of Magnuson's reliance were significant. The suggestion that the staff simply counterbalanced the power of business interests understates the former's influence. Pertschuk in fact acknowledges that the staff enjoyed easier access to Magnuson than did business lobbyists. The important behind-the-scenes role of these political appointees is nonetheless something with which Pertschuk is completely comfortable. He applauds the observation of a senior congressman's old friend that "[staff members] have power over him, because he sees, in their idealism, himself as a young man — or what he would like to think he might have been" (p. 28).

Pertschuk spends some time fawning over Nader, comparing him to "a contemporary Old Testament prophet": "His work was his leisure; his social life satisfying only to the extent that it furthered his causes" (p. 31). For Pertschuk and other consumer advocates, Nader was "the drill sergeant" (p. 31). Nader's well-documented advocacy skills, his ability to motivate and manipulate both media and mass public, his political instincts, and his heart-felt outrage over social injustice all constitute sources of Pertschuk's admiration. Nader's successful battle against the automobile industry receives particular attention. But his two-dimensional nature provides the most intriguing material (pp. 130-33). As the "great regulator," Nader symbolizes the traditional liberal reliance on government as the omnipotent problem solver. He is also a populist, however, perpetually seeking more direct citizen participation and attempting to force the government bureaucracy to respond to the public's wishes. This latter side of Nader does not receive as much attention as the former, and is presented merely as an interesting sidelight. Pertschuk's discussion of Nader generally suffers from the author's partiality. For example,

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5. D. PRICE, *THE COMMERCE COMMITTEES* 40 (1975).

only mild, back-handed criticism is accorded Nader's callous remark to Senator Jake Garn, whose wife had died in an automobile accident three years earlier, that "some senator's personal tragedy might not have occurred if the auto industry had listened to us . . . in the early years" (p. 125).

Pertschuk discusses several of the consumer movement's more notable achievements as he moves from one anecdote to the next. Senator Magnuson's Flammable Fabrics Act amendments were one such success. Pertschuk and his cohorts evoked sufficient public outrage over the pain suffered by children burned while wearing flammable fabric clothing to pressure Congress into enacting the amendments. Other major regulatory legislation included the elimination of cigarette advertising from television, freer sales of low-cost generic drugs, and heightened competition in doctors' and lawyers' fees. Interestingly, Pertschuk views the ban on cigarette advertising as a victory for the corporate sector. The tobacco industry, "[p]ursuing a strategy of calculated withdrawal" (p. 122), convinced Congress to pass the legislation, thereby minimizing visibility and placating a public growing more disenchanted with cigarette advertising. The author cites the continued prosperity of the tobacco industry as testimony to the wisdom of this strategy.

While Pertschuk seems to enjoy reliving these breakthroughs, the overriding impression emanating from the book is his frustration with the deregulatory policies that have predominated since the mid-1970's. He believes the shift away from consumer protection is a function of business' sudden interest in more direct participation in the political process. Lobbying, a task that had previously been left to corporate dregs, suddenly became vital enough to consume the time and energies of top executives. Influential political action committees (PAC's) formed across the corporate map. Further political action was spurred as more and more businessmen reaped the fruits of political investment. Success bred success, and the consumer movement was soon overmatched. Wilson's "public-interest entrepreneurs" had been able to succeed, to a great extent, because the time had been right, the public had been ripe. Once business entered the fray, however, the disproportionate influence it could exert on government policy became readily apparent. Consumer advocates could effect change only by attempting to place their opposition on the defensive by associating their own legislation with widely-shared values. As the economy stagnated and unemployment rose during the mid-1970's, "free-enterprise economists" enjoyed renewed influence and the public began to reevaluate the merits of the consumer movement. Once the entrepreneurs' values were no longer shared throughout society, their position relative to business was radically weakened.

Lindblom's *Politics and Markets* emphasized the deference with which politicians treat the desires of business even when it declines to take part in direct political action. When business mobilizes, of course, its impact is magnified, and that is what has occurred since the mid-1970's. Pertschuk concedes that his early optimism has been transformed to "faint hope" (p.153) by defeat and by the knowledge that "Lindblom is essentially right: *over time*, significant government decision-making affecting the interests of producers and consumers will normally respond to the needs and demands of business" (p. 12, emphasis in original). Pertschuk resists this conclusion, however, protesting that polls reveal that the public remains favorably disposed to most regulatory programs in substance, despite an aversion to the term "regulation." He contends that reports of a great deregulatory, conservative swing at the grass roots level are exaggerated, and that business has played on these misperceptions in pressuring government to ease the restraints of the 1960's consumer movement.

*Revolt Against Regulation* is an informative, somewhat entertaining work on a subject that otherwise lends itself to dryness. It is concise, with an anecdotal style that makes it readable at one sitting. Its analysis suffers, however, from Pertschuk's perpetual partisanship. He continues to espouse the virtues of government regulation until the bitter end, and he predicts an eventual revival of consumerism, not on the merits of regulatory policy, but because he foresees the demise of Reaganism. Pertschuk refuses to acknowledge a popular shift against regulation, preferring to attribute poll results supporting this notion to misperceptions regarding the *concept* of government regulation, largely promulgated by a business community out to mislead the public. In doing so, he fails to perceive the shift in the public's priorities. While, all things being equal, people continue to prefer that business be regulated in order to prevent harmful excesses, they are much more concerned with the economy's vitality than they were in Pertschuk's glory days. Because many Americans believe, accurately or not, that government regulation stagnates the economy, there has been a significant shift against regulation. The author fails to deal with this important point and sees no need to offer any new ideas.

Despite these shortcomings, *Revolt Against Regulation* is a useful study of the political process. Pertschuk is, after all, one who has been there. His book reflects the wealth of his first-hand experience.