pened to her when she was six and the Crimean Tatars were moved to Uzbekistan. The Uzbeks had been told that they were cannibals and had appropriate greetings for the few who survived the journey in the sealed cattle cars. Her story was enough to reduce the audience to tears, but there was nothing about it in the press the next day.

Not every witness reached the listeners' emotions the way this woman did, but all the testimony was as substantial and, in its own way, as horrifying. Besides the revelations about how the system uses internal passports, residence permits, and a combination of firings, expulsions from unions, and arrests for the crime of being unemployed (parasitism) to control dissidents, there were reports on what happens to Soviet workers and peasants. The system is equally hard on people entirely innocent of concern with Czechoslovakia or literature. They too are manipulated by these controls and by the secret courts that keep the record clean.

The three days of hearings brought out any number of such details without much apparent impact on the bustle of Capitol Hill outside. There was that strange echo-chamber inwardness. Everybody may know Lara's theme from the movie of Dr. Zhivago, but there is a certain imperviousness to what the dissidents have to say. Too many residual loyalties? Too few inspiriting alternatives?

Whatever the reasons, it is a little like what happened to that Soviet favorite among American writers, Jack London, when he found himself suddenly taken up by the radical chic millionaires of his day. He expected them to tear off their jewels and divide up their properties once they heard what he had to tell them about the sufferings of the poor. He really thought they would. □

Fred D. Baldwin

NADERISM: COMMERCE ON THE BABYLONIAN MODEL

For Ralph Nader, the business of business is politics, but with his "Case for a Corporate Democracy Act" he goes too far.

If you cherish a cause but sense that the public does not share your vision, it may occur to you to proclaim a national "day" for spreading your message, something like Earth Day, Sun Day, or Food Day. April 17 has been declared "Big Business Day," but do not look for a national celebration of capitalism's bounty. The festivities are being planned neither by the U.S. Chamber of Commerce nor by the Business Roundtable, but by Ralph Nader's Public Citizen Congress Watch and a coalition of labor unions and other groups.

If their efforts are successful, "Big Business Day" will be marked by "teach-ins and debates, alternatives-to-big-business fairs, . . . 'trials' of corrupt companies, nominations for a 'Corporate Hall of Shame,' " and other pieces of political theater described in a flurry of press releases from the coalition's Washington headquarters. Its purpose will be to build political support for a "Corporate Democracy Act," an attempt to write into law fundamental changes in how large corporations are governed.

Calling themselves Americans Concerned about Corporate Power, the organizers of "Big Business Day" include the United Auto Workers, the United Farm Workers Union, the Coalition of American Public Employees, several large AFL-CIO affiliates, and some 50 liberal academics, politicians, environmentalists, consumer advocates, and clergy. The expected names are present: John Kenneth Galbraith, Michael Harrington, Barry Commoner, and Arthur Schlesinger, Jr. They are flanked by representatives of a score of liberal organizations that have successfully seized for themselves the question-begging label, "public interest groups."

Their legislative proposals are described in a 127-page booklet entitled, "The Case for a Corporate Democracy Act of 1980." It puts into one package most of the ideas Nader and his associates have been advocating for some time, notably in *Taming the Giant Corporation,* which appeared in 1976. Nader says that the proposed law would "reform the corporation by increasing the accountability of its decision-making process . . . [and] grant greater rights of access and voice to the various constituencies of the giant corporation—workers, consumers, communities, and shareholders."

The rationale for such legislation is that the largest American corporations are, in effect, private governments, unaccountable to anyone, and that they are run by an elite "handful of homogeneous executives" who are insensitive to democratic values. Americans Concerned about Corporate Power further contends that we are "in the midst of a corporate crime wave" and that state chartering has failed to control corporate excesses. The remedy for these ills is seen to be "federal minimum standards" for corporate governance and conduct. "The Case for a Corporate Democracy Act" contains the draft for a proposed law with seven major sections, which are not related to each other except as they all seek to impose new limits on the exercise of big-business discretion. Their inclusion in one package presumably gives each group within the supporting coalition something it wants. (It also has the

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probably not accidental effect of making it harder to analyze the proposals on their separate merits.)

The proposed law is described as applying only to firms having $250 million in assets or annual sales, or having more than 5,000 employees. Its sponsors say it would apply to somewhat more than 800 firms. About 80 percent of these would be industrial corporations, the remainder being retailers, utilities, and transportation companies. The working draft reads as if broader coverage is intended for some sections, and a staff spokesman for "Big Business Day" acknowledged by telephone that the law's coverage might "need to be expanded later." He said that adding more firms now would make passage nearly impossible. "We'd be attacking many of our own friends," he said, adding that small-business support was important to the coalition, although the press releases give no evidence that there is any. (Despite the range of sponsoring organizations, the press releases suggest that much of the political muscle behind the proposal depends on organized labor.) Three Democratic members of Congress have promised to introduce the requested legislation: Senator Howard M. Metzenbaum of Ohio, Rep. Benjamin Rosenthal of New York, and Rep. Frank Thompson, Jr., of New Jersey. The latter's anti-business credentials may now be marred by the FBI's allegations that he accepted $50,000 in cash from someone he supposed to have been an Arab businessman.

The legislative package may be easier to grasp if one looks first at Titles II through VI of the draft, which are primarily extensions of present regulatory law. Although they would go well beyond existing external controls over the corporations affected, they would not of themselves change the way corporations are governed. Taken together, however, they give a good sense of their sponsors' substantive agenda.

Title II would require firms to disclose in one report information relating to employment patterns, the environmental effects of their activities, job health and safety, the ownership and voting of stock, and overseas operations. The federal government would receive and publish what is often called a "social audit" of the reporting companies.

Title III would require a company to give two years' notice before closing down a plant employing either 500 workers or 20 percent of a local labor force and to provide the Secretary of Labor with a "community impact analysis" of the effects of the closing. The company would be required to pay some part of local government tax revenues lost as a result of the closing. (It is not clear whether the language refers to only the firm's own prior taxes, or all taxes lost because of lowered economic activity.)

Title IV would prohibit large corporations from firing an employee for "whistleblowing," for exercising his political rights, or for any other "unjust cause." The merits of disputes would be decided by the National Labor Relations Board, which now investigates charges of unfair labor practices under union agreements and may enforce its decisions through litigation. (This title sounds as if it is intended to apply to all firms now covered by the National Labor Relations Act, regardless of size; certainly there would be no logical reason for limiting its application to the corporate giants, if it were accepted in principle.)

Title V would prohibit anyone from serving as a director of more than two of the corporations to be covered by the law.

Title VI would deter, through a number of provisions, corporate and white-collar crime, generally by making it easier for prosecutors to proceed against corporate officers as individuals. Indictments could be brought both against suspected offenders and those of their superiors who presumably *should have known* of their alleged misconduct, without the necessity of showing that they actually did know about it.

That summarizes the regulatory agenda. The merits of these proposals are debatable to say the least, but they cannot be determined properly on the basis of the evidence presented in "The Case for a Corporate Democracy Act." It contains a mixture of horror stories and statistics. The existence of the former (like the dumping of toxic wastes by the Hooker Chemical Company) do not make the case, and the latter are often deceptive.

For example, although increasing the personal liability of corporate executives for illegal behavior by their firms is probably desirable, the existence of a "corporate crime wave" is the most weakly supported of all the Nader charges. Moreover, it provides so much of what little connective tissue there is for the separate proposals that much of the whole "case" falls apart when this charge is analyzed. It is based primarily on recent admissions of overseas bribery by large firms and on a count of the number of legal actions filed by government agencies in the last few years. Bribery in foreign countries is a rather special case of "crime in the suites" and poses moral as well as legal ambiguities. The other numbers cited are statistical artifacts of the growth of government regulation. By the same rules of evidence, the proposed "Corporate Democracy Act" would itself increase the apparent incidence of business crime by making many more actions criminal.

The proposal for more comprehensive corporate disclosure is also deceptively argued. As the text acknowledges, most of what would be required must already be filed with some federal agency. The authors of "The Case for a Corporate Democracy Act" are capable of saying that "the information is neither confidential nor prohibitively costly to gather and report," following this assertion two sentences later with the complaint that "obtaining standardized data on the social performance of corporations is a time-consuming and expensive job." Requiring some kind of uniform compilation of data on corporate social performance may well be a worthwhile idea, and it seems likely to be an idea whose time is coming. To pretend that it will be either easy or cheap is either naive or dishonest.

Of the three other substantive sections, I think there is something to be said for two and nothing but trouble likely to come from the third. The debate on interlocking directorates is an old one and doubtless com-

plex, but it is hard to see how such interlocks can be other than anti-competitive in their overall effect. Similarly, despite some reservations about the proposal at hand, I think that cushioning the economic effect of plant closings is desirable. Conversely, although I have no doubt that many firings are unjust, the notion of bringing large numbers of new workers under what amount to union or civil service rules strikes me as appalling.

Again, the point is not whether a particular provision is desirable or not, but merely whether each proposal on the substantive agenda bears some relationship to a real problem. It is hard to make this connection for the most prominent "reform" advocated by Nader and his associates, which is contained in the proposed Title I.

This section sets forth a long-standing plan offered by Nader to "tame" corporations through federal chartering and a reconstitution of their boards of directors. The reconstituted boards would include a majority of "independent" directors, that is, individuals who are not employed by the company, do not own stock in it, and who do no substantial business with it. Elected by shareholders under procedures designed to maximize the influence of minority shareholders, certain directors would have specific responsibility for looking after the interest of several "constituencies": labor, consumers, environmental interests, and communities within which the company operated.

Nader and his associates argue that state chartering has "failed" to control corporate abuses, so federal intervention is required. This is a bit of deceptive packaging. The "Big Business Day" documents read as if the only laws standing between the public and the corporate giants are a few watered-down Delaware statutes. This is no more true than an implication that an individual is subject only to the laws of that state in which he happened to have received his birth certificate. Because it has a major bearing on management discretion and shareholder rights, the source of a corporation's charter is more important than that, but it is ridiculous to write as if corporations were not already regulated by the Securities and Exchange Commission, the Environmental Protection Agency, the Occupational Safety and Health Administration, the Consumer Products Safety Board, and the Federal Trade Commission, just to mention a few agencies with almost universal jurisdiction.

As a practical matter, federal chartering proposals are no more than an elaborately justified exercise in judge-shopping. Having discovered some years ago the advantages of buying a few shares of stock and then bringing a shareholder suit, "public interest" lawyers would like to remove as many suits as possible from state courts, especially those of Delaware, whose judges are familiar with business issues and sympathetic to management, to the federal courts, especially those of the District of Columbia, whose judges are more attuned to the pleas of public interest lawyers.

Title I should be read in conjunction with Title VII (the final one), which outlines both a plan for expanded federal regulation, principally through the SEC and the NLRB, and an expanded basis for private lawsuits. Under this section the prevailing party in a suit could collect legal fees if a court determines that the lawsuit had "served an important public purpose" and "the party can demonstrate that its economic interest is small in comparison to its costs of effective participation." The "Big Business Day" sponsors say this would make the proposed law "largely self-executing." They mean that, with the incentives quoted above, "public interest" lawyers would take on otherwise unprofitable actions—if the judicial forum looked sufficiently favorable.

All this jockeying for legal position does affect the public interest, of course, and there is one area of significant public concern that "The Case for a Corporate Democracy Act" avoids. From an economic perspective, the proposed vehicle is all brakes and no motor. Despite a few perfunctory denials that it would be costly to administer and some suggestions that it would result in better-managed corporations, the sponsors of "Big Business Day" do not take the problem of productivity seriously. It is one thing to argue that the cost of increased regulation is warranted because of expected public benefits; it is another to pretend that those costs must not be paid, ultimately, by the public.

If more power were given to a "constituency-oriented" set of corporate boards, and if the other rules urged by Americans Concerned about Corporate Power were adopted, the one thing that is clear is that major business decisions would take longer and become more politicized. For example, the proposed law would require shareholder approval of major acquisitions and sales of assets. The stock market now does this far more efficiently than any balloting rule that could be administratively devised.

Without pretending to know how many of the schemes of the labor-and-lawyer coalition would work in practice, I think I can form some idea of how the corporation envisioned by Nader might work, based on experience acquired far from corporate halls. I once helped to administer the Community Action Program, the central grant-dispersing mechanism of the Johnson War on Poverty. Title I of the "Corporate Democracy Act" reminds me of nothing so much as the rules devised to govern the formation and direction of local Community Action boards, which were intended to be representative of various administratively defined constituencies. These boards were, I still think, a reasonably creative way to handle the division of federal funds among competing interests, but they essentially gave a bureaucratic blessing to log-rolling, and I would not like to see the nation dependent on even the best of them to get things built, made, or marketed.*

Considering the labor-and-lawyer proposals as a whole, one realizes that an important legal theory is at stake. Nader and his associates argue that the corporation is a creation of the state and that its charter should delineate its public purpose. In this view, the modern open-ended charter that maximizes managerial discretion is an improper delegation of political authority. Hence it is appropriate to insist that charters impose positive social obligations. A better theory for a democracy is that a corporation is not a creature of the state at all. It is a form of contract among free individuals, and the role of the state is merely to record this contract and to establish the legal framework within which they can enforce the contract's terms. The legal entity so created is, of course, subject to laws and regulations, just as people are.

It is in the public interest that individuals be given freedom to join forces for their own economic benefit, for that brings general benefits with it. As John Chamberlain, in *The Enterprising Americans,* puts it:

> The contribution of American business and the market economy goes far beyond the mere feats of production. To a significant degree the business system, which gives free play to the decisions of individuals and voluntary groups, has allowed for a kind of uncoerced social collaboration that is wholly impossible under centralized government planning.

Perhaps the most disturbing aspect of the long tract produced by Americans Concerned about Corporate Power is that it shows no appreciation of the value of strong private institutions that do not necessarily share their own sense of public purpose. Some of the proposed reforms may well be worthwhile, but the scheme as a whole is clearly intended to erode another barrier to the concentration of both economic and political power within the federal government. The concentration of wealth, and the undeniable power that comes with it, in the hands of some 800 private bureaucracies poses dangers for society, but the fact remains that 800 is a larger number than one. Perhaps the sponsors of "Big Business Day" should reflect on some of the lessons of Earth Day. The free market system looks healthy, but it is not hard to imagine it stagnating, like a lake filling in by eutrophication. The process, as Barry Commoner explained with clarity when he was still a mere scientist, reaches a certain point and then proceeds very fast. General Electric and IBM are so big that perhaps they will not be seriously hurt by a few more rules. But that's what people used to think about Lake Erie. □

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* In point of fact, American corporations have been moving in the direction of many of the Title I proposals over the last decade, goaded by the SEC and, to give him his due, Ralph Nader. For example, according to a Conference Board study, the percentage of the largest manufacturing corporations with a majority of outside directors rose from 63 percent in 1967 to 83 percent in 1976. The proper role of the SEC in stimulating these changes has been a matter of disagreement among its Commissioners. Harold Williams, the SEC's chairman, has prodded business hard to grant more authority to outside directors. With respect to actual regulations, Roberta Karmel has consistently pressed for a more conservative government role. One of her more impressive arguments is that a federally mandated board reorganization would cause a rapidly evolving set of private sector innovations to harden into whatever form gets through Congress at the time of its passage.

John Nollson

THE NEW BRINKSMANSHIP

Because the Aggressors have failed to take our warnings to heart, and have not yet withdrawn, it is time to contemplate some strong medicine. The level of pain will surely be raised if we take one or more of the following steps.

The first is a total embargo on the export of blue jeans. This will cause serious unrest among the youth in the Aggressor's society, and has the added advantage of being easy to administer and politically manageable. The embargo will fall most heavily on Levi Strauss and Company, but the federal government can surely purchase the blue jean surplus to maintain the market price. Unlike the grain embargo, a blue jean embargo will have broad bipartisan support. So far as is known, there are no blue jean manufacturing facilities in the early primary states.

Though the State Department hesitates to take the step, Bette Midler's concert tour should be canceled, even if it takes presidential intervention to do it. Why should we offer outstanding entertainment to the Aggressors when they refuse to adhere to even the most rudimentary standards?

According to reliable intelligence reports, both Secretary Brezhnev and the Ayatollah Khomeini have expressed a desire to be Peppers. Too bad for them. Construction of the Dr. Pepper bottling plants in Kiev and Qom should be halted forthwith. Neither of these men should ever be allowed to say, "I drink Dr. Pepper and I'm proud." Rather, they should be made to feel shame.

On the other hand, we should move smartly along with our plans for the export of Ford Pintos, with Firestone 500 tires mounted thereon. Not only will this introduce a new note of risk into the Aggressor's calculations, it will remind them of a more fundamental point about world affairs: Even if they behave themselves, there's only so much the capitalist system can do for them. Indeed, we can drive home this point by allowing Aeroflot to proceed with its plans to purchase three dozen McDonald-Douglas DC-10s. No one else wants to buy them anyway.

Some thought should be given to appointing the Front Four of the Pittsburgh Steelers as the new SALT negotiating team. Though riddled with injuries, the Steelers' defensive line has shown itself remarkably adept at containing the run to the outside and mounting a credible pass rush against the opposition quarterback. If, for some reason, the opposition tries to run up the middle, we can also send in the linebacking corps to plug the holes. It's time to find out whether the Aggressor's offensive line can pick up a blitz, or whether it will merely foul up the blocking assignments.

Experts are divided as to whether the Southern Cal marching band should be allowed to proceed with its planned show in Red Square. Analysts differ as to whether the loud brass will rouse the Politburo from its slumbers (bad) or bore it to death (good). In order that this be a well-informed decision, the government has begun to poll all those who attended the Rose Bowl game this past New Year's Day.

Many Kremlinologists hold that the recent Soviet gambits have been a miscalculation. They stress the importance of insuring that the Politburo does not miscalculate in the future. Accordingly, the current embargo on the export of calculators should be lifted, but not totally. In particular, the Mattel Company should be allowed to market its new computerized game, Electronic Geopolitics. Of course, this game is a bit more taxing than Othello, but the Aggressors should be encouraged to play it as much as possible. There is no use warning them about future miscalculations if you don't teach them how to avoid them.

It should also be made plain to the Aggressors that they are going to have to indemnify the Worldwide Trading Card Company of Perth Amboy, New Jersey. Worldwide had printed, under contract with the former government of Afghanistan, almost 400,000 Hafizullah Amin trading cards, only to be told that Kabul would not take delivery. Quite properly, the company refuses to print the new Babrak Karmal trading cards—nor will it wrap them with bubble gum—until someone makes good on the first contract. If we are ever to normalize relations with the new authorities, they will first have to understand that a deal is a deal.

With all the hoopla surrounding the 1980 Olympics, we have lost sight of some other equally important decisions that must soon be made. While the Olympic Committee was closeted in Colorado Springs, the National Football League owners were gathering in an undisclosed location, debating whether Moscow should be given one of the new franchises in the next expansion. This is real leverage. As is our current monopoly on the manufacture of microwave ovens. It is within our power to cut in half the amount of time the average Russian housewife spends in the kitchen preparing a roast. In fact, we have had this option for several years, and only the determined action of the Women's Caucus has prevented us from instituting a policy which, admittedly, would work greater hardship on Russian women than on Russian men. But surely, as the status-quo power, it is not *our* responsibility to export revolution.

We need to be reminded that the carrot is worthless without the stick. Either the Aggressors will cut it out, or they will be in for it when they feel the sting of a covert operation. One is already in the works. Six men will be infiltrated, one each, into the six largest cities in the Soviet Union. At precisely the same moment, each will bite into a Doritos corn chip, allowing the vibrations therefrom to wreak awesome devastation.

Withal, we have to keep up with the times. When I was a boy, patriotic Americans wanted to "unleash" Chiang Kai-shek. Old Chiang is gone now, but thank heaven we still have the Schlitz Malt Liquor Bull. □