

Free Conrad; seize the securities regulators

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Conrad Black seems not to have done any harm to anyone. His only crime was doing something that regulators don't like

For us proletarians who marshal our not-so-frequent-flyer points to fly our women close to the luggage compartment on business trips, it is frustrating to learn that Conrad Black had his company purchase US\$3,530 worth of silverware for the corporate jet on which he regularly brought his wife. The recent report—prepared by a special committee of the board of Hollinger International, assisted by Richard C. Breeden, a former chairman of the Securities and Exchange Commission—accuses Lord Black of many other improper uses of the corporate purse, including an expense account charge of US\$24,950 for “Summer Drinks.”

Personally, I find the \$25,000 summer drinks rather esthetic, and intend to have some myself—at the first occasion. Esthetics are a better guide to life and public policy than frustration and envy.

From an economic viewpoint, it is not clear either that Conrad Black has done any harm. Remember that he is the founder and controlling shareholder of Hollinger International. The other shareholders must have known that there was some risk that a large chunk of the cash flow would end up in Black's pockets. Obviously, they thought that the risk was worth their expected return. Moreover, all Hollinger board members were sophisticated adults.

We will have to wait for the courts' judgments to know who is right in what appear to be contractual disagreements. But we have no reason to believe that fraud is involved, except if “fraud” is defined in its political-

ly correct, anti-business, catchall sense of today. In fact, “fraud” has come to mean “what the state does not like,” while real, coercive fraud by the political rulers, who deliver tyranny when they promise benevolence, is smilingly accepted.

The low-life statocrats at the Securities and Exchange Commission (as well as their imitators at the Ontario Securities Commission), as well as those in the U.S. criminal witch-hunt system, have put their noses in the case. The Breeden report itself was filed with the Securities and Exchange Commission, as ordered by a decree from the agency. Since the eighties, many entrepreneurs have fallen victim to these Inquisitors. Michael Milken was the most famous witch to be burned at the stake; Martha Stewart, the most recent one. (Granted that there were some real crooks, like Ivan Boesky in the eighties, but they have been the minority in high-profile persecutions.)

The involvement of “the authorities” in the Hollinger case has been actively requested by rent-seekers—private parties trying to capture the state to serve their own interests—like investment firm Tweedy Browne, a minority shareholder.

Like many entrepreneurs and businesspeople, and as noted by Peter Foster in the *Financial Post*, Conrad Black does not always understand what capitalism is about. He has been mixing with the statists of the Trilateral Commission, and often confuses the establishment with capitalism. He is naive about state power, and does not seem to have noticed, at least up to now, the dangerous progression of our

“administrative tyranny” (to use a Tocquevillian expression). Although he argues against fascism, he does not seem to realize that FDR was a founding father of our soft fascism. The subtitle of Black's recent book, *Franklin Delano Roosevelt: Champion of Freedom*, provides a clue, although perhaps not as significant as it is thought to be: the book is a history book, of which more than half is about the Second World War, and the author is not always uncritical of Roosevelt's statism.

Ironically, Black seems to approve of the creation of the SEC, one of many agencies that were established by FDR and became the backbone of the contemporary Leviathan. In an October 2003 *Wall Street Journal* piece, Black goes farther in his approval of the New Deal, including taxes against “profiteering.”

The real, practical purpose of securities legislation is not to prevent fraud, but to control financial information and speech (through the prohibition of insider trading and minute regulations of disclosure), and to limit financial competition and entrepreneurship. Far from improving market integrity, all this regulation strangles the flow of information, and generates an artificial and misleading sense of confidence. It also helps the state hunt the Milken and the Blacks of this world.

Back to esthetics and morals. Even if we assume the worst—that Conrad Black is guilty of breach of trust in a meaningful sense—I would still argue that we owe him much for having created, in this country, newspapers hospitable to the defence of liberty. And I would propose that, whatever mistakes he might have made, we should stand by him against Leviathan. **WS**

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