

**NATIONAL FARMER'S UNION UNIVERSITY PRESENTATION**

**REGULATORY CAPTURE-GOVERNMENT  
COMPLICITY**

**MARCH 24, 2022**

**Bruce Campbell**

**Former E.D. Canadian Centre for Policy Alternatives;**

**Adjunct Professor, York University, faculty of environmental and urban  
change; Senior Fellow, Ryerson University, Centre for free expression**

# THIS PRESENTATION DRAWS ON RESEARCH FROM MY LATEST BOOKS

- The Lac-Mégantic Rail Disaster: Public Betrayal Justice Denied, James Lorimer, 2018; in French, Enquête sur la catastrophe de Lac-Mégantic: Quand les pouvoirs publiques déraillent, Éditions Fides 2019.
- My forthcoming book, “Corporate Rules: The real world of business regulation in Canada: How government regulators are failing the public interest,” [edited volume], James Lorimer, April 2022



# **DISASTERS THE RESULT OF CORPORATE NEGLIGENCE AND REGULATORY FAILURE:**

- Lac-Mégantic, Westray Mine, Ocean Ranger, tainted blood, Cougar helicopter, listeriosis, Vioxx, Boeing 737 Max 8...
- Marine Electric, Piper Alpha, Deepwater Horizon, El Faro, Grenfell Tower...

# REGULATORY CAPTURE: EXERCISE OF POWER

- Amitai Etzioni defines capture as follows: “Regulations are routinely and predictably ‘captured’ and manipulated to serve the interests of those who are supposed to be subject to them, or the bureaucrats and legislators who write or control them . . . Regulations thus captured serve the interests of these groups instead of the public interest.”
- In the words of former NFU President Terry Boehm: “If we don’t regulate ourselves in the public interest, we are going to be regulated by something or someone else – and we must be conscious of power.”



# REGULATORY CAPTURE CHARACTERISTICS

- Gov't ceases to be effective countervailing force. Deference replaces tension.
- Regulatory resources shredded.
- Regulatory leadership identifies with industry priorities
- Regulatory policy weakened [one-for-one rule, risk management over precautionary principle, etc.]
- Industry able to block, delay, dilute, reverse regulations, laws, etc. that adversely affect costs—effectively regulate itself,

# REGULATORY CAPTURE CHARACTERISTICS [CONT'D]

- Public servants who speak truth to power are pushed out
- Public servants become increasingly gun shy in the face of criticism from their bosses.
- Revolving-door of personnel including politicians between industry and government.
- Government-corporate interactions behind closed doors
- Capture enhanced through trade/investment treaties



# WEALTH INEQUALITY

- The top individual income tax bracket cut from 80% to 40 %
- Corporate taxes cut from 35% to 15 %
- Taxes on capital gains slashed in half
- Loopholes created to facilitate tax avoidance/evasion via spiders web of tax havens. \$3 billion annually of tax revenue lost to tax shelters.
- Lost federal tax revenue from 2000 to 2019 \$50 billion annually, resulting in major cuts to regulatory agency budgets.

# WEALTH INEQUALITY (CONT'D)

- In 2019, 100 highest paid CEOs made 202 times more than the average worker.
- The poorest 50% of Canadians now hold 6% of total wealth, the top 10% of Canadians hold 58% total wealth, and the richest 1% of Canadians hold 25% of total wealth\
- Canada's billionaires now have as much wealth as the 12 million poorest Canadians.



# LESSONS LEARNED FROM DISASTERS BY GOVERNMENT?

- Governments commit to finding causes, holding those responsible to account; taking measures to prevent recurrence.
- With passage of time, public consciousness of what happened, why, and who was held to account fades.
- Government commitment wanes.

# LESSONS LEARNED BY CORPORATIONS

- The probability of another such event is low; the cost of implementing effective safety measures is high; and the cost of potential lawsuits is manageable. In other words, business as usual.
- **Then it happens again**



# MAKING REGULATIONS MORE CAPTURE RESISTANT

- Restore resources available to regulatory agencies
- Shift from cozy relationship to one of appropriate tension
- Build in-house professional analytical and research expertise
- Curb the revolving door; develop robust conflict of interest provisions whistleblower protections, and access to information provisions
- Mandate greater transparency. Lift the veil of activity protected under commercial confidentiality.
- Greater parliamentary scrutiny of regulations to ensure Department of Justice criteria for evaluating proposed regulations are consistent with the legislative intent of laws passed by Parliament.
- Ensure the costs associated with regulatory oversight are paid out of general tax revenue not out of a corporate levy

# MAKING REGULATIONS MORE CAPTURE RESISTANT [CONT'D]

- Reform the Cabinet Directive on Regulatory Policy, eliminate the Red Tape Reduction Act and the one-for-one rule,
- In regulatory consultation process, encourage participation of farm groups, labour, public interest groups, municipalities etc.; fund interventions.
- Limit the ability of corporations to play one jurisdiction off against another
- Restore the original Privy Council guidelines for ministerial responsibility
- Reform civil and criminal liability regimes to hold senior government officials, corporate executives, directors and owners accountable
- Educate the public/media about corporate capture risks to safety
- **The ability of citizens, workers, farmers, environmental groups, etc. to challenge and resist regulatory capture is key.**



# GROUP OF 78 CLIMATE ADAPTATION CONFERENCE

The entire conference including the panel on food adaptation, and the final report are available on the G 78 website.

- <https://group78.org/2021-conference/>
- <https://group78.org/annual-conference-report-adaptation-building-resilience-in-the-climate-emergency/>

G78 Webinar, March 29 – *Corporate concentration and power in the global food system*, by **Jennifer Clapp**

- <https://group78.org/event/corporate-concentration-and-power-in-the-global-food-system/>

**THANK YOU**

Bruce Campbell

[brucejkg@gmail.com](mailto:brucejkg@gmail.com)



"How feeble government regulators are and unwilling to force corporations to behave in the public interest."

— Linda McQuaig, journalist, author of *The Sport & Prey of Capitalists: How the Rich Are Stealing Canada's Public Wealth*

"A comprehensive look behind the veil at how, and in whose interest, Canada's governments regulate."

— Alex Himelfarb, former Clerk of the Privy Council and Secretary to the Cabinet

"Bravely confronts the problem and implications of regulatory capture, challenging Canadians to realign our regulators with the public interest."

— Vass Bednar, Executive Director, Digital Society Program, McMaster University

"This collection doesn't just expose these truths; it also offers solutions to make our public institutions more 'capture resistant,' to rebalance the relationship between the public and corporations, and hopefully, in so doing, to chart a path to democratic restoration."

— Seth Klein, Team Lead, Climate Emergency Unit, David Suzuki Institute; author of *A Good War: Mobilizing Canada for the Climate Emergency*

**BRUCE CAMPBELL** is an Adjunct Professor, Faculty of Environmental and Urban Change at York University; Senior Fellow, Centre for Free Expression at Ryerson University; and former Executive Director of the Canadian Centre for Policy Alternatives. He is the author of *The Lac-Mégantic Disaster: Public Betrayal, Justice Denied* examining how deregulation and bad management led to deadly catastrophe in 2013. He lives in Ottawa.

The contributors to this volume are all distinguished experts in their respective fields.

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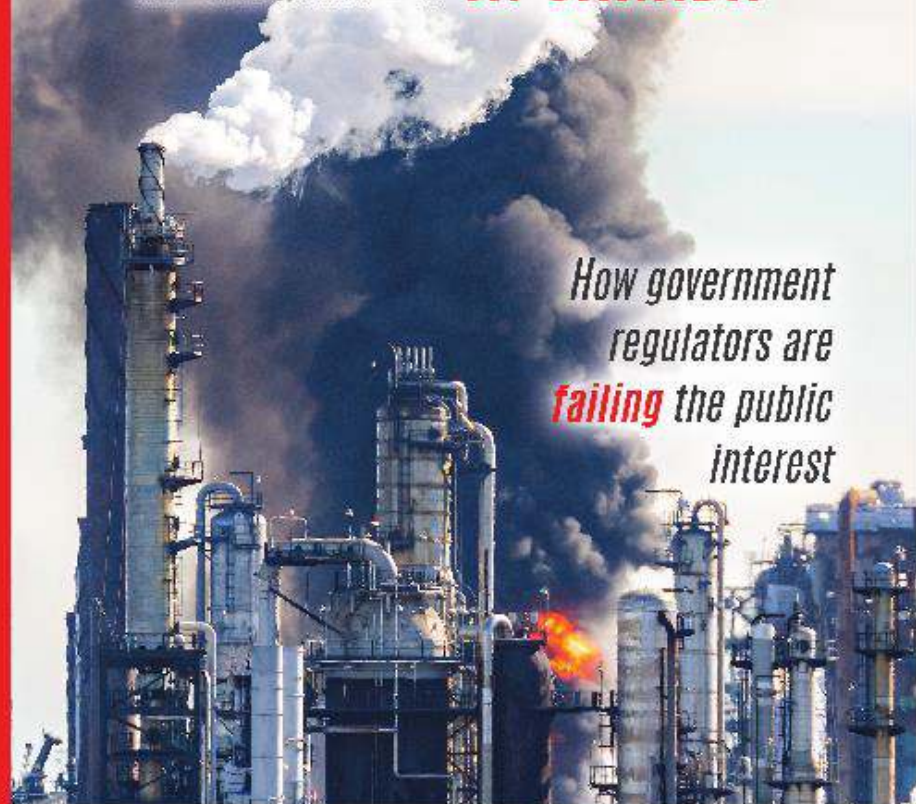
CORPORATE RULES THE REAL WORLD OF BUSINESS REGULATION IN CANADA

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# CORPORATE RULES

## THE REAL WORLD OF BUSINESS REGULATION IN CANADA



*How government regulators are failing the public interest*

EDITED BY BRUCE CAMPBELL