Britain's auditors buy the legislation they want

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The Labour government has just announced a major concession to the owners of one of the most powerful service industries in the world: the auditing and financial consultant groups such as Price Waterhouse Coopers, KPMG, and Arthur Andersen.

It will create an entirely new legal entity to allow professional groups like the giant auditors to trade as 'limited liability partnerships'. At present they trade in partnerships giving them tax concessions and secrecy, with no requirement to publish their accounts. But if they are sued for negligence, due to their shoddy work in signing off on accounts like BCCI, Polly Peck, Barings, Robert Maxwell and other well-known corporate frauds, the firm *and* its partners stand to lose their personal assets. The new legislation means that liability for damages will be restricted to the negligent partner and the firm itself. The personal assets of the other partners will be protected.

These corporations are already provided with a state guaranteed market and monopoly, since all companies and public utilities must have their accounts audited annually by someone belonging to one of the trade professions. Their income and profits have risen at spectacular rates. The UK accountancy and auditing market is thought to be worth £7.3 billion a year, with just six firms taking half of the total. World-wide fee income is estimated at $51 billion a year.

To get liability concessions from the previous Conservative government the auditing industry mounted a well-funded political campaign. Lobbyists paid MPs to ask questions in Parliament. A junior minister, accountant Tim Smith, was forced to resign after admitting taking cash for questions to further the interests of the auditing industry. This became widely known as the 'cash for questions scandal' which helped discredit the Conservative government in its last year in office.

As a result of this campaign the Tories asked the Law Commission to investigate the industry's demands to limit liability. The Law Commission rejected this as against the public interest.

Undeterred, Ernst & Young and Price Waterhouse spent £1 million and drafted a Limited Liability Partnership Bill in which they gave themselves all conceivable liability concessions, secrecy and no 'duty of care' to anyone. They then asked the government of Jersey, one of the Channel Islands which operates as an offshore tax haven for the rich, to pass it. The Jersey government duly obliged.

The firms could not move to Jersey because this would have meant abandoning their lucrative UK monopolies. Their intention was to use the Jersey law as a lever to bring the newly elected Labour government into line. The Blair government duly obliged. They drafted a 'consultation paper' for the approval of the 'Big Six' auditing firms. But they objected to the requirement to publish annual accounts and facilities enabling receivers or administrators of insolvent firms to 'claw back' money for creditors if partners were found to have paid themselves 'excessive' profits. The government dutifully withdrew the offending sections.

The debate about the new legislation is discussed in arcane and obscure legal terms and restricted to the inside pages of the financial press. But it is about political power and the distribution of income and wealth. This is the first time in Britain that a business has used its economic and political muscle to buy legislation overseas in order to get its own way. As a result the auditing industry has it all: secrecy, statutory monopolies, self-regulation, tax concessions and no public accountability.

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