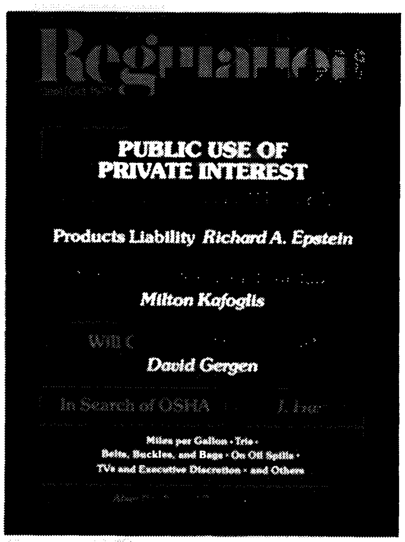
Letters

We welcome letters from readers, particularly commentaries that reflect upon or take issue with material we have published. The writer's name, affiliation, address, and telephone number should be included. Because of space limitations, letters are subject to abridgment.



The Trucking Paradox

TO THE EDITOR:

Milton Kafoglis's excellent article on the value of motor carrier operating rights (September/October issue) presents key evidence on the adverse effects of some central features of ICC regulation. As Kafoglis notes, some groups within the ICC have come to see the escalating value of operating rights as a problem—even (perhaps) an embarrassment. But thus far the commission has balked at the most obvious solution—easing entry restraints so as to remove certificates' scarcity value; instead, as Kafoglis observes, it looks toward controlling certificate transfers—which would further decrease efficiency in trucking.

For the ICC to renounce detailed entry controls and compel competitive pricing would amount to a revolution—one for which the commissioners would have to be given public acclaim for exceptional courage and altruism. But such a revolution is extremely unlikely as long as most of the ICC's support comes from the transportation providers. What is needed is a great leap forward in the commissioners' thinking—so that they reach to the general public and the commercial transport users for support, offering in exchange an economically rational set of policies designed to improve the efficiency of all transport services (even if this means less for the ICC to do). To make this feasible, education is of paramount importance, and the enlightenment afforded by Kafoglis's article is a significant contribution.

Jack Pearce,
Committee Urging Regulatory Reform for Efficient National Trucking

TO THE EDITOR:

I must take exception to the conclusion by Milton Kafoglis that "the evidence we have examined suggests that the cost of shipping goods by regulated motor carriers is excessive."

He presents one substantial piece of new information—that forty-three trades of ICC motor carrier operating rights in the period 1967–1971 represented an average compounded annual rate of increase in value of 17 percent. However, his jump from this information to the conclusion that trucking prices are excessive is based upon a series of unsupported hypotheses and opinions and a peculiar application of economic analysis.

The basic theme of Professor Kafoglis's paper is that values of operating rights represent capitalized expectations of future profits and that the cost of those rights is reflected in the prices consumers pay for trucking services. I do not argue with the basic premise that operating certificates have value only because the government controls entry to the industry. It seems perfectly reasonable that a scarce "product" (one for which demand exceeds supply) will carry a relatively high price. And it is true that the ICC blocks aspiring entrants from many trucking markets. Thus the "demand" for operating certificates in such markets exceeds the "supply" and said certificates therefore carry a relatively high price. As an employee of a firm which would like to expand into more trucking markets, I selfishly wish the prices of purchased operating certificates in certain markets were not so high.

However, as a student of transportation, I note that Professor Kafoglis has simply found an obtuse way of asking the same old question: Is there economic justification for regulating the trucking industry? The question has been asked thousands of times since 1935, and the arguments have been consistently the same. As John C. Spychalski points out ("Do Economists' Perceptions of Trucking Deregulation Conform with Reality?" 1975), short-run marginal costs are substantially below long-run average costs in many sectors of the trucking business. Therefore, open competition tends to result in extremely unstable conditions relative to price and availability of service, at least in the short run while excess capacity exists in the industry. Modern experience with independent truckers in the unregulated agricultural trucking markets is a classic example of the unstable price and capacity availability problems which plague trucking markets with unrestricted entry. Modern experience with independent truckers is also a classic example of a chronic tendency to excess capacity in many segments of the trucking industry. The Supreme Court has repeatedly ruled that such "excessive" competition can be just as compelling a reason for regulation in the public interest as natural monopoly.

The argument can be made that lower average prices to transport users in an unregulated environment more than justify the associated unstable conditions described above. Indeed, surveys of shipper attitudes on deregulation show a significant minority of shippers favoring deregulation of trucking. However, there is substantial disagreement concerning whether prices would in fact be lower, on average, in an unregulated environment. A strong case can be made that although prices might be lower for large shippers making truckload-sized shipments, prices would in the long run be substantially higher for those shippers (predominantly small) forced to rely on the small-shipment-oriented general freight motor common carrier system. (See my testimony, ICC Hearings on Motor Carrier Regulatory Reform, September 29, 1977.) However, for the sake of this discussion, I will accept Professor Kafoglis's contention that trucking freight rates would drop under deregulation to the extent that current prices reflect a cost of ICC operating certificates.

The question, then, is whether stability lent to the transport markets through ICC control of entry into the motor carrier industry is worth the cost.

It has been shown repeatedly that shippers, on balance, value consistency of service as highly as speed of service, and that they generally are willing to pay a substantial premium for quality of service and reduced uncertainty. For example, Alexander Morton's study ("Truck-Rail Competition for Traffic in Manufactures," 1971) estimated that shippers, on average, will pay 15 to 20 percent more for truck service than they will pay for rail service on the same shipment.

When Professor Kafoglis says that trucking prices are "excessive," one would presume he means "relative to the premium shippers are willing to pay for quality and stability." Unfortunately, he does not offer an estimate of the percentage of trucking prices that represents the excess profits which purportedly are reflected in market values of operating rights.

I have used two different methods to provide such an estimate. The first is based on the economic theory that any future "excess" profits that investors in general expect a firm to earn will be reflected in the excess of market value of the firm over tangible book value. This method generates an estimate, based on 1977 median average market value/tangible book value ratios, of before-tax excess profits equal to .6 of 1 percent of 1977 estimated trucking revenues. Some theorists would argue that the current prices of trucking stocks have been discounted to reflect the risk of deregulation and that historical market value/tangible book value ratios would thus be more appropriate. I disagree. In any event, use of a five-year average for 1973–77, a period which includes the glamour years for trucking stocks, puts "excess" profits at 2 percent of trucking revenues.

A second method of estimating "excess" profits was suggested by Professor Kafoglis in the original version of his paper released by the Council on Wage and Price Stability. His method was based on a misinterpretation of data released by the American Trucking Associations (ATA) and produces estimates which the ATA says are outlandishly high. This method puts "excess" profits at 4 percent of trucking revenues. (The math of the two methods is available on request.)

My estimates are not intended to imply a high degree of scientific precision, but rather to put Professor Kafoglis's charge—that trucking rates are excessive—in perspective. Even if trucking rates would be reduced through elimination of entry controls in an amount equal to the implied cost of operating certificates (which is disputed by trucking experts), the reduction would lie in a range from .6 of 1 percent on the low side to 4 percent on the high side. Considering that shippers have been shown to be generally willing to pay premiums of 15 to 20 percent for high-quality service and reduced uncertainty, the Kafoglis conclusion seems very much not supported by the evidence.

Professor Kafoglis would have made a more useful contribution to resolving the regulatory reform controversy if he had developed a method for eliminating entry controls without destroying the stability inherent in the existing system.

Michael L. Lawrence,
Philadelphia, Pennsylvania

MILTON KAFOGLIS responds:

I share Jack Pearce's concern about the need for changed incentives so that regulators are encouraged to behave in the public interest. Though the outlook for such change seems bleak, we can take some comfort in the knowledge that there have been (and are) regulators who single-mindedly pursue the public interest, irrespective of the consequences to the bureaucracy, the industry, or their personal fortunes.

Notwithstanding the availability of such persons, comprehensive reform of trucking regulation is urgently needed. The reason is that, as things stand, the motivation to regulate in the public interest is severely blunted by statutory law and court precedents. Some members of Congress recognize the need for legislation, and we can hope that this number will grow as the facts become known and the public becomes more deeply involved. I appreciate Mr. Pearce's judgment that my analysis has contributed to this effort.

Michael Lawrence, on the other hand, finds my effort a peculiar and obtuse application of economic analysis. He does not question "the basic premise that operating certificates have value only because the government controls entry" and he affirms the empirical consequence of my analysis by asserting that "there are more truckers wanting to get into many trucking markets than the law . . . will allow." He also agrees, albeit grudgingly, that truck rates are higher with entry restrictions than they would be without them. We are agreed, then, that there is a waiting line of truckers ready to provide service at lower rates than now exist, if only the law would permit.

Though this state of affairs displeases me, it is a source of comfort to Mr. Lawrence. He claims that control of entry prevents "instability" and encourages "improved service," benefits which he alleges are well worth the higher price. The basis for his argument is that, in trucking, "short-run marginal costs are substantially below long-run average costs." Under such conditions, competing firms could reduce price in the short run to a point where none could survive in the long run. Thus, relaxed regulation would lead to "instability" and "chaos."

Economists would agree that, in certain unusual circumstances, the cost conditions described by Mr. Lawrence could lead to the results he fears. However, it is unnecessary to detail these circumstances because the requisite cost conditions do not in fact exist in the trucking industry where 80 to 90 percent of the costs are variable over a very short period of time. The high ratio of variable to total costs in trucking means that price cannot fall far enough below total cost for long enough to create persistent excess capacity and so-called "destructive competition."

I do not question that relaxed entry might "be destructive" to *firms* unable to withstand the competition of more efficient or innovative firms. But I do argue that *service to consumers* would not be destroyed or seriously threatened since such firms would be quickly replaced from the waiting line of truckers eager to serve. (The existence of the waiting line is not in dispute.) Truckers, like restaurants, can come and go, but consumers will continue to be serviced. Whatever instability open competition would create would be of the sort we see every day: the inefficient are driven out of business while the customer finds a superior supplier, possibly at a lower price.

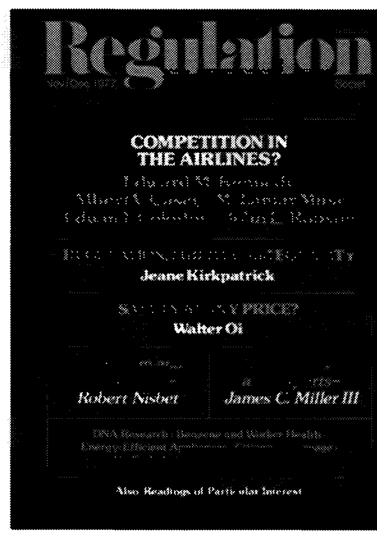
Mr. Lawrence seems to believe that competition will deny shippers the "premium" services which he alleges are provided by the regulated carriers. However, current ICC regulation (along with the motor-carrier rate bureaus) effectively prevents carriers from offering a less (or even more) deluxe service at a lower (or higher) price. In a competitive trucking market, shippers who want premium service at a higher price or less deluxe service at a lower price would find suppliers ready to meet their specific needs. ICC regulation prevents the rich variety of price-service options that the competitive market can provide. So much for theory; what are the facts?

Mr. Lawrence calculates that the premium now paid to truckers, *to the extent it contributes to excess profits*, is between .6 and 4 percent of total trucking revenues. He further guesses that shippers are "willing to pay premiums of 15 to 20 percent for high quality service and reduced uncertainty." These calculations and guesses leave the inference that regulation is a bargain for the shipper. However, they do not consider the actual cost of the alleged premium service that is also reflected in trucking rates. The trucker's excess profits (which Mr. Lawrence believes are the only matter in question) are simply payments over and above what is necessary to pay for the actual services received by shippers. Beyond the excess profits and payment for so-called premium services (which they may not want), shippers must also pay the costs of route inflexibility, route circuity, and other inefficiencies generated by regulation, while taxpayers must support a regulatory bureaucracy at all levels of government. The "bargain" inferred by Mr. Lawrence's calculations is a fiction.

Mr. Lawrence cites (but does not describe) the "conditions which plague" the unregulated agricultural trucking markets. To my knowledge, the shippers of agricultural commodities do not have greater complaints than other shippers, and they pay much lower rates. When the list of exempt agricultural commodities was expanded in the 1950s, competitive pressures led to rate reductions of about 20 percent, and most shippers perceived an improvement in service.

This historical experience is now being repeated in the recently expanded commercial zones (areas around cities that are exempt from regulation). According to the *Journal of Commerce* (January 6), preliminary studies reveal that this limited deregulation has led to rate reductions ranging from 2 to 50 percent, with the average being about 20 percent. It is also reported that some truckers are in "distress." This gives credence to some of Mr. Lawrence's fears, as well as to my own view, that inefficiences on the part of the regulated will be exposed and eliminated by open competition. The same newspaper account states that a survey of 2,000 shippers revealed that "half felt the recent commercial zone expansion improved their LTL service, while a third said it lowered shipping costs." Though regulated truckers (like all those who compete) are having a hard time, service to the public has not been disrupted and prices are lower.

Indeed, what factual information we have tends to suggest that the predictions of those who favor relaxed entry and price competition may have been too modest. It is beginning to look as if rates will fall and service will improve with regulatory reform. Put another way, regulation may have encouraged shoddy service at a premium price, a result the opposite of that claimed by Mr. Lawrence.



Kirkpatrick and Critics

TO THE EDITOR:

In her recent essay ("Regulation, Liberty, and Equality," November/December issue), Jeane Kirkpatrick attacks the belief that equality is the enemy of liberty in a democratic welfare state. In fact, she goes even further than that by arguing that actions taken by government to make people more equal often create more liberty as well. Whether that proposition is valid depends on the meaning to be given to liberty and equality.

Professor Kirkpatrick starts off on the right foot when she speaks of liberty in the classical sense as absence of coercion or, more specifically, as freedom from government. But she quickly slides into a "positive" concept of liberty that also encompasses the capacity to realize desired goals. In effect, she takes liberty to mean freedom from want, and freedom from coercion to be merely one aspect of freedom from want.

In doing so, she creates confusion, because freedom from coercion is something quite different from freedom from want, and failure to distinguish the two is bound to beg issues that have been of fundamental concern over the ages. In brief, a slave may be well fed and otherwise free from want, but he is still a slave. In a more relevant context, when a democratic government takes property from Peter and gives it to Paul, the transfer of wealth must be justified on the ground that the resulting improvement in Paul's well-being is worth more than the combined loss of well-being and liberty suffered by Peter. There is no increase in Paul's liberty to enter in the balance. It follows immediately that governmental policies designed to bring about greater equality of circumstance necessarily diminish liberty properly defined.

Having said this, I hasten to grant that there are other categories of social equality that need not clash with liberty. Contrary to what Professor Kirkpatrick states at one point, liberty should not be construed as a boundless concept, extending even to the "freedom to kill." According to the precepts of classical liberalism, no person should be free to coerce others or to infringe on their freedom in other ways. Nor should anyone be free to sell himself into slavery or to lie, cheat, or steal. There must, then, be some political order—some legitimate coercive agency—embodied in any free society. Hence governmental policies designed to promote equality before the law or equality of opportunity or equality of treatment in other relevant respects need not be incompatible with liberty.

G. Warren Nutter,
University of Virginia

(Continues on page 52)

(Continued from page 4)

TO THE EDITOR:

This comment on Jeane Kirkpatrick's recent essay in *Regulation* is partly a fan letter because for the past several years I have admired her clear, cogent, and stylish writing, in both articles and reviews. By now my response to seeing her name on a magazine is to turn first to the page where her work begins. . . . But, in the case of this essay, for the first time in my experience with her writing, I have an impression that a central point is either incompletely made or even flawed enough to devalue the main theme.

I refer to Professor Kirkpatrick's characterization of contemporary welfare state liberalism as *incorporating* "the classical liberal's emphasis on individual liberty and individual rights." She moves toward this with the very sound observation that classical liberalism (which is where, generally, I would locate my own position) weights too lightly, or even ignores, the fact that other than government forces can impose serious constraints on freedom. It does not follow, however, that a reaction to this fact and an emphasis on "freedom from certain types of economic hardships" mean that welfare state liberalism "augments the commitment to individual liberty." It seems to me very possible—indeed an accurate description of the present situation—that most of welfare state liberalism can come to be simply a power-balancing act attempting to appease prominent blocs and lacking even the inclination to think about the ultimate consequences for a free society.

My uneasiness with Professor Kirkpatrick's treatment of a welfare state mode is reinforced by a very interesting piece by Stephen Haseler in the December *Commentary.* Haseler stresses the ominous theme that the welfare state mode in Europe is collapsing into socialism in a discouraging variety of instances. Certainly this runs counter to an unhedged contention that "the tensions between liberty and equality prove salutary in practice."

Admittedly, Professor Kirkpatrick distinguishes between the welfare state and what she calls *progressiste* liberalism, a "very different ideology whose principal goal is the destruction of the capitalist system in favor of a state-owned and controlled economy." But if Haseler is correct in his assessment, we have to face the probability that the distinction she makes is more form than substance. In his analyses, whatever distinction there was between social democracy (welfare state) and socialism (*progressiste* liberalism) became so bady eroded that "it was becoming difficult to point to the exact differences between social democrats and socialists." He says further that "this melding of social democracy and socialism is by now apparent all over Europe. The two terms are used interchangeably; and no great doctrinal . . . differences separate the social-democratic and socialist faction in any of the Left-of-Center parties."

I think that the central theme of Jeane Kirkpatrick's essay should be preserved to emphasize the links between liberty and a reasonable measure of equality, reasonably pursued. These can be complementary and mutually supportive. But not necessarily so, and not without a firm sense that the prime reason for valuing equality is its enhancement of liberty. The pernicious flaw in the now dominant welfare state attitude is that it includes no such orientation. . . .

Bert Elwert,
University of Illinois at Chicago Circle

TO THE EDITOR:

Jeane Kirkpatrick's essay doesn't suffer for want of either scholarship or analytical imagination. And I am satisfied that I could live unafraid for my basic liberties in any political community where her personal judgment on the concrete issues of regulation, equality, and liberty was sovereign.

But, alas, I live, not in a true political community, but in a mammoth nation that has reached the point where Congress, the judiciary, and the executive annually penetrate ever more deeply into the remaining recesses of privacy and liberty. . . . What dominates the minds of most of our congressmen, a very large part of the federal judiciary, and just about every President is not liberty, but *equality*—the kind of equality that comes only from federal regulation of one kind or other. As our record of governmental action in matters of health, safety, desegregation, alleged discrimination in a whole plethora of areas, affirmative action, environmental protection, and, most recently and appallingly, in the revision of social security taxes demonstrates, we are scarcely deluged these days by governmental anxieties about our personal and family liberties.

There was a time, a long time indeed, when the author's reassurances about the "existential relations" that have always existed, and must exist, between liberty and equality would have comforted me. What she calls the "tensions" between the two values and within each of the values tended to resolve themselves, though admittedly never perfectly, within the then vast private sector. So tiny indeed was the public sector that it would never have occurred to anyone even half a century ago to refer to a private sector. There was simply American society, surmounted by an extremely limited and small federal government. Bureaucracy at any level was minuscule, and the idea of huge regulatory agencies empowered to order the details of human life was simply unknown; that is, until the present century.

I don't for a moment question Jeane Kirkpatrick's own dedication to—and, I vow, preference for—liberty, as compared with equality. And I reaffirm the second sentence of this letter. But the upshot of her article is nevertheless one more blow in behalf of an egalitarianism that is already threatening to suffocate individual liberties and to weaken the social order. To imply that there is no need to become concerned about the possible impact of equality upon liberty because there have always been tensions between the two values, and because each can be seen as reinforcing to the other, is Olympian, to say the least. I dare say there have been ages in which such extreme individual liberty existed as to give luster to the ideals of regulation and equality. But our age certainly isn't one of them. . . .

And a strange thing has happened. Measures like the progressive income tax, unemployment insurance, direct aid to the impoverished, infirm and elderly, social security, and other analogous acts of government—which, when they were enacted, were justified in the name of compassion or social justice—are now called "redistributionist" or "egalitarian." The inference to be drawn is obvious. Let us, then, simply "continue" the work of redistribution. . . .

Professor Kirkpatrick seems to me to assign equal weight to *liberty* and *equality*—that is, when neither is pushed to an irrational extreme—and this, I believe, is a great mistake. It is not necessary to invoke, as she does, "the *progressiste liberal*" to illustrate the mentality that, in our age, carries the value of equality to lengths destructive of the system of free private enterprise and economic freedom. The ordinary liberalism and the welfare state liberalism which she seems to accept, if not actually laud, are making enough headway, thank you, in the cause of egalitarianism. She speaks of "the democratic welfare state's continued emphasis on the liberty of the individual." I wish I saw some of that emphasis but, in fact, I see none—only occasional eruptions from political conservatives, which thus far have had some restraining effect upon the egalitarianism that liberalism of any kind has so largely accepted. . . .

There is only one kind of equality that reinforces liberty and that, of course, is citizens' equal access to the law and its courts. But who now cares about *that* relic of the seventeenth century? Today every significant use of the word *equality* culminates in what that great liberal Lyndon Johnson called equality of social condition or result.

Which, in our heavily regulated epoch, suggests another point. Whereas Professor Kirkpatrick sees a mutually reinforcing relation between equality and liberty, I see the same relation between equality and *power*. Power, when it becomes as centralized as it is in our government, invariably levels, destroys, or reduces the natural hierarchy of any social order or economy. Conversely, all efforts to bring about—to mandate—an equality of social and economic condition must end up with the bureaucrat, the police officer, even the soldier. The trouble with equality as a value is that although it aims at being a relation between individual and individual, it actually winds up as a new relation between individual and state.

Just one more observation. *Equality* in even the best of lights strikes me as an intrinsically mean word, lacking the nobility of such words as *liberty, freedom, justice,* and *rights*. . . . Mr. Justice Holmes wrote once that he hated equality because it inspired envy. So, I fear, it does. . . .

Robert Nisbet,
Columbia University

TO THE EDITOR:

Jeane Kirkpatrick quotes a verse which tugged at my heartstrings when I was young:

> The golf course is so near the mill
> That almost every day
> Little children at their work
> Can watch the men at play.

This no longer tugs at my heartstrings because I now know what the policy consequences of such sentimentality are. The Congress passes legislation requiring the mill to give each employee a membership in the golf club, a bag of clubs, and ten free lessons. This so raises the cost of production that the mill goes out of business and the children are thrown out on the street to engage in some unregulated or, possibly, illegal enterprise.

My point is not to deny the value of Kirkpatrick's insistence that curbing the liberty of one person may be the necessary price of expanding the liberty of someone else. My point is that this trade-off is not the issue in most questions of government regulation. Most regulations do not expand the liberty of the persons whose liberty is alleged to deserve expansion or they do so in an inefficient way.

(I use this circumlocution to conform to Kirkpatrick's vocabulary. She demonstrates the compatibility of liberty and equality, in part, by defining as liberty what I would call equality. Thus, she would describe a policy of income equalization as a policy of increasing the liberty of the poor at the expense of the liberty of the rich; I would call it a policy in pursuit of equality. In my terminology, much regulation is imposed in the name of equality, but this justification is rarely valid.)

We have a large family of regulations that restrict the liberty of some people and impair efficiency and at the same time restrict, rather than enlarge, the liberty of the people they are supposed to be liberating. A policy of restraining farm production to raise farm prices is the classic example. Such a policy has been defended as a way to increase the liberty (or income) of poor farmers. But in fact rich farmers and landlords are its main beneficiaries, poor farmers are not much affected, and poor consumers are injured. . . .

There is another category of regulations that may assist the poor—or whomever else they are intended to assist—but do so inefficiently in the sense that the same results could be obtained with less loss of total output and liberty. Minimum wage legislation may be an example.

Of course, government regulations usually benefit someone. So do snowstorms. And deregulation will usually hurt someone. But champions of regulatory reform have years of work ahead of them before they confront an inescapable conflict with interests that could be objectively described as deserving special consideration.

Although Kirkpatrick does not mention any economist more recent than J.S. Mill, she gives the impression that the classical or laissez faire tradition of economics is indifferent to concerns for equality. However, at least in this century this tradition has included strong support for the progressive income tax and, more recently, for the negative income tax, because these policies were thought to be ways to reduce inequality with minimum sacrifice of liberty and efficiency. Economists of this school have been worried about going too far with even such measures, not only because of a potential conflict with liberty but also because they believe that, beyond some point, the pursuit of equality would harm the poor by reducing efficiency and growth.

Kirkpatrick criticizes the classical liberals for failing to recognize that "government is not the only source of constraints on human freedoms." Without wanting to argue the relevance of other constraints, such as the law of gravity, I would point out that neither is government the only source of equalization. It seems to me obvious that the free market has been a powerful force for economic equality. . . .

Herbert Stein,
University of Virginia

TO THE EDITOR:

. . . In her article Dr. Kirkpatrick points out that the most common constraint on one's liberty to do what one wants is lack of money, and that giving full unregulated liberty to the unseen hand to do what it wants would leave millions of people with little money at all and, therefore, without much liberty. On target also are Dr. Kirkpatrick's observations that there are problems with the cumulative effects of individually inoffensive government regulations and with "the progressive transfer of power from the private to the public sector."

However, it would appear from her article that she views the cause of much of this transfer as being the well-meaning desires of do-gooders like me to have government regulate liberty so as to enhance equality. I see a much more practical (and perhaps therefore a more insidious) motive at work—simply the desire to get government funding. We are asking the government to pay for many things that were previously if inadequately funded privately: "private" charities turn out to work off government contracts, and "private" universities cannot subsist without government funds. Once the government funds a program, it must see that those funds are spent in accordance with its policies on discrimination, equality, and so on. Consequently, a myriad of new regulations appears, caused not by any original desire to regulate, but simply by the passing of many functions from private funding to state funding.

If the problem is that the nature of our present economy makes it unfeasible to finance many traditional functions without the taxing power of the state, then we must consider how to unlink the use of that taxing power from the government's responsibility to regulate. The answer may lie in allowing citizens to reduce their taxes by the amounts they give to designated organizations that were previously privately funded but which are no longer viable on that basis. As part of this change, we might need legislation making it clear that government would not be responsible for the social values embodied in the programs of these organizations.

In any event, Dr. Kirkpatrick's perceptive article should be read by every "radical" who calls for "egalitarian" dictatorships for the underdeveloped countries. . . .

Roy Godson,
Georgetown University

JEANE KIRKPATRICK responds:

In responding to my thoughtful critics, I should like to begin with some comments of a definitional sort. I agree with Warren Nutter that in the Anglo-Saxon political and philosophical traditions, freedom means something different from power. To say that a person is free to do x means not that he has the power to do x, but that the law (written or unwritten) of the society identifies x as an activity in which persons may engage without incurring severe sanctions.

With Nutter, I see freedom as meaning absence of coercion. And I wholeheartedly agree that absence of coercion should not be regarded as an instance of freedom from want. In fact, I believe the precise opposite: that freedom from want is one example of freedom from coercion. Of course it is possible to be a well-fed slave, and of course even fat slaves are not free. Where Nutter and I disagree is on the relation of freedom to government. Concerning that, I desire to make two points: first, that government is by no means the only source of coercion and, second, that preserving freedom sometimes requires using force against those who interfere with the freedom of others. Therefore, it does not "follow immediately" that any action of government designed to bring about greater equality "necessarily limits liberty properly defined."

In this country the blessings of order have been so long and so continuously enjoyed that we are always in danger of forgetting that order is a precondition to the enjoyment of *all* our rights and all our liberties. In addition to not being repressed by government, free speech also depends on *not* being driven from the soap box by neighborhood toughs, a free press also depends on the printers' *not* being able to smash the presses if they disagree with an editorial, and a free marketplace also depends on *not* having one's products destroyed or one's customers terrorized by the hired guns of a competitor.

The fact that rights do not exist simply as against government, that they are never absolute and that they are sometimes mutually incompatible remind us that questions about liberty, equality, and government turn on assumptions about how much force should be brought to bear to protect whose right to do what. I regret that the important questions in politics are almost always complex rather than simple, that they so often involve judgments among competing goods rather than between good and evil, and that they almost invariably require the exercise of prudential judgment rather than deductive reasoning.

Concerning Herbert Stein's comment about my defining as liberty what he would call equality, let me emphasize that, because poverty is *one* kind of constraint on liberty, increasing the incomes of the very poor increases *their* freedom. The problem here, I think, is that one cannot talk meaningfully about "liberty" in the abstract, but only about the freedom of particular persons in specific contexts.

I am truly baffled by Bob Nisbet's doubts about whether liberty can survive welfare state politics. The evidence (which Nisbet says he does not see) of the welfare state democrat's continuing concern for liberty is available in the practices of Western European and Anglo-Saxon welfare states. These are, in fact, the *only* nations in the world in which individuals enjoy basic political rights. We *know* that individual rights—to speak, publish, assemble, oppose, and enjoy due process—*can* exist in societies where the government plays a large role in the economy, because in fact they *do*. Certainly I did not desire to strike one more blow "on behalf of an egalitarianism that is already threatening to suffocate individual liberties and to weaken the social order." I do not think that our liberties are so threatened today from within. My impression is that never in history have Americans been more free—to write, speak, publish, assemble, move about, or otherwise to do as they please.

What the experience of Britain teaches, I think, is not that burgeoning bureaucracy under conditions of freedom destroys democratic liberties but that it may destroy economic efficiency, productivity, capacity for growth, and adversely affect the capacity to maintain the population's standards of living.

There is a fundamental question which, though addressed most directly by Elwert, is relevant to the other letters: that is, how much government control over an economy is compatible with the preservation of basic civil and political liberties. In fact we do not know. We know that in those societies in which government owns and controls all or most of the economy individuals lack basic civil and political rights (China, the U.S.S.R., Cuba, Yugoslavia are examples). We also know that none of these regimes came into being through erosion of liberty by a welfare state, but were born out of violence. We know too that civil and political liberties exist in societies in which government owns and manages a substantial "public sector" and regulates the "private sector" (Britain, France, Germany, Scandinavia are examples). We cannot be certain whether the progressive extension of the public sector in these countries would result in the loss of political freedom. Certainly it would if the progressive nationalization were undertaken by political leaders or parties that had no commitment to democratic liberties. This, I think, is the principal danger confronting France and Italy today. Both are threatened with the ascension to power of Communist parties who have, at best, a dubious commitment to freedom.

I may be less worried than either Elwert or Haseler (whose *Commentary* article I also found interesting) about the ambiguous relation between social democracy and socialism. It seems to me these relations have always been ambiguous. The

French and German democratic socialists or social democratic parties, for example, have at various times embraced "socialism" as a goal, only to later change their minds. So has the British Labour party. None of these parties proposes to abolish the private sector. All are committed to the preservation of democratic processes and liberties. Social democratic or democratic socialist parties have always had different goals and methods from Communist parties. The efforts of Communist parties to blur these differences do not make the social democratic parties more "like" the Eastern European "socialists."

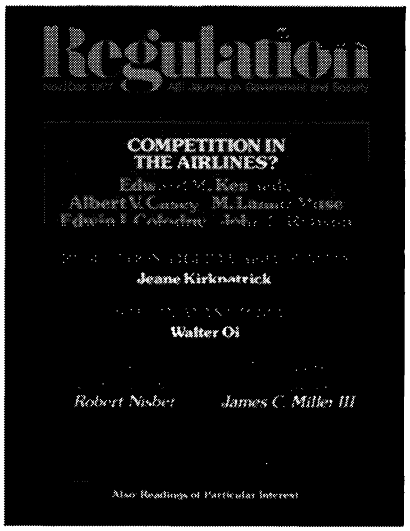
The preservation of democratic societies and organizations has always required vigilance against anti-democratic political groups. And the major problem today seems to be a flagging passion for freedom rather than an expanding public sector.

I favor all efforts to curb administrative and judicial rulemaking. I believe that Congress should be required to stop delegating so much power and should start taking more responsibility for the policies that circumscribe our lives. I agree entirely with Herbert Stein and Roy Godson that much government regulation has little or nothing to do with equality and everything to do with bureaucrats' use of power in behalf of their own goals. Massive busing, for example, is much less relevant to achieving equality of education than to realizing a vision of the racially integrated society. Edicts requiring that girls be permitted to compete in all athletic activities have less to do with equality than with the pursuit of a vision of a sex-blind society. The drive of government officials to expand their power over the lives of the governed is an enduring aspect of human behavior under virtually all known forms of government. Vigilance is also the price of freedom from unnecessary, undesirable, unauthorized, obnoxious regulators.

Like Bob Nisbet, I worry a good deal about efforts to replace custom with government regulation. However, the preservation of customary relations is not my most cherished value, and when custom denies citizens basic freedoms (as southern customs used to deny fundamental rights to blacks and wife-beaters deny the rights of their wives), I think custom must give way to laws designed to restore freedom.

To Herbert Stein I should like to add, first, that my references to classical liberals were limited to eighteenth and nineteenth century figures (this usage is standard among political scientists). Second, I doubt that the children in the Victorian jingle have, on being freed by government from the sweat shops, taken to illegal activities to earn an honest quid. I suspect, rather, that they all stay home watching television, where, thanks to the restrictions of the BBC, their fare will be a bit less harmful than that of our own less regulated airwaves.

Finally, it will be clear why I especially enjoyed Roy Godson's letter.



The Price of Safety

TO THE EDITOR:

Professor Oi's excellent article, "Safety at Any Price?" (November/December issue), covers the main issues in the rationale of safety regulation and sets the right tone for orderly discussion of wise policy in this area. However, I felt uncomfortable about his paragraph on "communal risks," in which he neglected to point out the harm that can come from being stampeded by publicity into accepting wasteful priorities.

He said: "Acceptable risk levels in situations involving 'communal risks' tend to be far lower than for individual risks. . . . Zeckhauser has argued that society will pay more for safety in a situation where there is one chance in 10,000 that ten lives will be lost than in a situation where there is one chance in 1,000 of losing one life. . . . When the lives of 200 passengers are at stake, the aggregate sum that these passengers are prepared to pay to reduce their risk is large—indeed, it may be over 200 times larger than the sum the lone executive will pay." This statement correctly indicates that airline passengers will pay more per vehicle trip to reduce the risk per vehicle trip than a single car driver would pay for the same risk reduction per automobile trip—exactly 200 times as much, I would say, if there are 200 executives in the airplane and one executive, without passengers, in the car. I cannot see why an executive, or I, should pay more for a given reduction in my risk of dying in an airline crash than for the same reduction in my risk of dying in an automobile crash. Therefore, I do not understand why Oi says "it may be *over* 200 times," or why he appears to approve of Zeckhauser's argument.

Zeckhauser is right that society pays more for safety in connection with rare but big fatal events than it pays in connection with common small events. An airline disaster provokes news coverage for several days, letters and articles on the Op Ed page of the *New York Times*, and so on. The loss of about 200 lives every day on the highways in the United States gets nothing like the same prominent coverage. If an FAA official is found at fault in connection with an airline accident—say, because he disapproved a budget expenditure for safety equipment—his career may be ruined. If a highway official disapproves a much smaller budget expenditure on highway safety features that would save hundreds of lives, no one hears of it, and there is no scandal. As a result, the government spends too much of its funds on airline safety and too little on highway safety. As a further result, each of us faces a needlessly high risk of accidental death. Better priorities would transfer funds from one to the other, reducing our risk on the highways by substantially more than the slightly increased risk in air travel.

Although the use of wasteful priorities is commonplace in our political system, saying that we have such priorities does not make it right. Informed discussion, such as we have in Oi's article and in other articles in *Regulation*, can reduce the role of passion and increase the role of reason in setting these priorities.

Martin J. Bailey,
University of Maryland

TO THE EDITOR:

As long as analyses like that offered by Professor Oi continue to obscure important differences between consumer product safety and worker safety, we shall not proceed very far along the way to achieving "acceptable risk." Whether social or private investment in safety is "reasonable" depends not only on a comparison of costs and benefits at the margin, but also on whether we as a society believe that the resulting allocations are fair.

Professor Oi observes that "the individuals who take the riskiest jobs are likely to be the ones who attach the lowest values to life and who incur the lowest accident costs [by definition] if injured." It is also often the case that persons who sell their safety for wages in hazardous occupations come to the marketplace with the smallest bundle of goods (wealth), for example, unorganized textile workers and day laborers. Naturally, these workers do not attach high monetary values to their lives and are willing to *sell* their safety at a lower price than most workers would. In contrast, it can be argued that consumers of automobiles or electric hair dryers represent a mix of the members of society as purchasers and, if a risk premium could be determined by an efficient market, that premium attached to products would bring a higher price for the same risk. The truth of the matter is that wealthy parents might buy their graduating child a sports car, but not allow him/her to hold a summer job in a foundry.

Now one may argue that imposing a higher degree of safety on workers than they themselves would choose is not a very good way to transfer wealth (income). Some may suggest that, instead, we give an amount of money to the worker which represents the difference between society's concept of a fair risk premium and the worker's current risk premium. This would allow the worker to put the added income to its most valued use. Aside from the fact that this transfer payment (like most others suggested to make us feel more comfortable and just) will not occur, it seems clear that few workers would switch to safer but lower-paying jobs. Adding the transfer payment would not equate the wealth of workers in hazardous jobs with that of the average citizen, and the lower risk premiums demanded by the worker would remain essentially unchanged. Whether we care or not depends on our sense of equity. Paying the difference between risk premiums might ease our conscience, but it would not reduce injuries.

Alternatively, we as a society may impose standards to prevent an injury frequency rate above a predetermined level. If this level is higher than the workers themselves would choose, the costs would be borne *partially* by workers, but also by producers and consumers too! If workers are presently equating the costs of industrial injury with monetary benefits at the margin, they would certainly be willing to reduce the costs (injuries) if only a fraction of their benefits (wages) were also reduced. It would be a mistake of analysis to equate workers with consumers (as Robert Smith has done elsewhere). Yes, some jobs *might* be lost or wages slightly reduced if more safety were imposed on the producer, but the costs would be shared by both the consumer and producer of that dangerously manufactured product whose price might go up. Unless products bear the full costs of production in a fair way—which, I submit, means that the magnitude of the risk premium cannot be set by the worker—consumers (and producers) will benefit from the fact that workers in risky occupations value their lives less than do consumers. In addition, the research of Thaler and Rosen regarding wage differentials has not been demonstrated to be generally valid in most hazardous industries, especially where workers are uninformed about hazards and are unorganized.

Whether mandated standards are in the "public interest" depends on how one views the public interest. To be just or fair may be argued to be as much in the public interest as to "minimize the sum of expected accident costs and accident prevention costs." If Professor Oi wants to define the public interest in a narrow or traditional economic way, he should at least be explicit about the fact that he assumes that either justice is served *only* if economic efficiency is achieved or that the public interest has nothing to do with justice.

Nicholas A. Ashford,
Massachusetts Institute of Technology

WALTER OI responds:

Mr. Ashford has written a remarkably empty letter. It conveys his displeasure with my essay but contains no substantive criticisms. Further, it reveals a very impressive ignorance about basic economic principles.

He objects, for example, to my emphasis on the criterion for evaluating "acceptable risk." This is evident in his concluding paragraph when he writes, "Whether mandated standards are in the 'public interest' depends on how one views the *public interest.* To be *just* or *fair* may be argued to be as much in the public interest as to 'minimize the sum of expected accident costs and accident prevention costs' [emphasis added]." How does Mr. Ashford define the *public interest* so that this public interest is served by the kinds of standards and inept enforcement activities which OSHA exercised during its first five years of existence.

There may indeed be instances in which government intervention can result in a lower sum of expected accident costs and accident prevention costs. In order to find cases in which such intervention is warranted, we need reliable studies and estimates of accident costs and prevention costs. Little is to be gained from simply asserting that public policy has got to recognize benefits of justice and fairness.

Ashford rhetorically writes, "Some may suggest that, instead, we give an amount of money to the worker which represents the difference between society's concept of a fair risk premium and the worker's current risk premium." Look at the reasoning following this sentence. It is filled with errors of logic and wrong economics. Workers do respond to pay differentials, and offering such a societal conscience differential will attract workers to hazardous jobs and *raise* the number of occupational injuries and fatalities. Finally, Ashford makes unfounded assertions about the studies by R.S. Smith and by R. Thaler and S. Rosen. The individuals in Thaler's and Rosen's sample data were, for the most part, low-paid and only partly organized workers who were allegedly uninformed about the occupational hazards. Mr. Ashford does not explain why these workers in hazardous occupations were paid risk premiums of the magnitudes found by Thaler and Rosen. Equilibrium risk premiums are *not* set by workers but are determined by the interaction of demand and supply forces.

Health and safety are now and always have been emotional policy issues. I had hoped that my essay would prompt readers to look at these issues in terms of the tradeoffs that consumers, workers, and employers make in deciding to accept varying risk levels. There is such a thing as "too much" safety just as there may be such a thing as "too little." ■