Perspectives
on current developments

Foreign Investors under Fire

It is only a slight exaggeration to say that the United States was built with foreign money. Overseas investors financed the building of railroads and canals in this country, and as recently as 1914, investments by foreigners here were twice as large as investments by Americans abroad. Now, the ratio is four-to-one the other way: $192 billion versus $52.3 billion at the end of 1979, counting only direct investments.

Nearly everyone agrees that investment in both directions is highly beneficial to our economy and to those of our trading partners. But the direct stake held by foreigners in U.S. businesses and properties has recently grown—from $34.6 billion at the end of 1977 to $52.3 billion at the end of 1979. And friction with Japan and the Arab world has drawn attention to their investments here. Murmurs of discontent have begun to be heard, and have led to an inquiry into the subject by the House Commerce Committee's Subcommittee on Commerce, Consumer, and Monetary Affairs, chaired by Representative Benjamin Rosenthal (Democrat, New York).

There was a flurry of agitation a few years ago about foreign purchases of American farms, but that subsided when it was shown that total foreign holdings made up less than 1 percent of all U.S. farmland. Most current concerns of the critics of foreign investment fall into four categories:

• *National security.* Rosenthal's House panel has held hearings on Saudi Arabian investments in the Whittaker Corporation, a large defense contractor, and on the Kuwaiti government's $2.5 billion purchase of the Santa Fe International Corporation, a California firm that, among other things, drills for oil and builds nuclear power plants. (Kuwaiti and Santa Fe spokesmen denied that the new owners would abuse the firm's nuclear technology or lead it into OPEC oil embargoes.) It is hypothetically possible, it might be noted, for Communist countries to establish or buy capitalist businesses here; this has already happened in West Germany, where Bulgaria has bought a machine-tool company and Yugoslavia a consumer radio firm.

• *Compliance with U.S. law.* Several well-known Japanese companies operating here have been accused of violating race and sex discrimination laws by hiring only Japanese men for management posts. The companies defend their actions by citing a 1953 treaty between Japan and this country that lets Japanese firms hire executives, technical experts, and other specialists "of their choice." (The United States has a number of other treaties along these lines with other trading partners.)

The Supreme Court may rule on the issue soon in a class action case brought by women employees of Sumitomo America Inc., a New York trading company whose parent firm had brought in Japanese men as managers. In an amicus brief requested by the Court and filed March 12, the Justice Department argued that the treaty does not protect companies that, like Sumitomo, incorporate their American subsidiaries under U.S. law.

• *Foreign state control.* Nothing, perhaps, is so well calculated to rouse the fears of liberals, conservatives, and nationalists all at once as a multinational corporation that is also an arm of a foreign socialist government. Such state-run enterprises are often distrusted because it is thought that they act for reasons of state instead of profit and that the deep pockets of their owners give them a competitive advantage.

Among the important U.S. businesses now controlled by foreign states are Kennecott, the largest producer of copper (part of Standard Oil of Ohio, a subsidiary of British Petroleum), American Motors (Renault), and several rail-

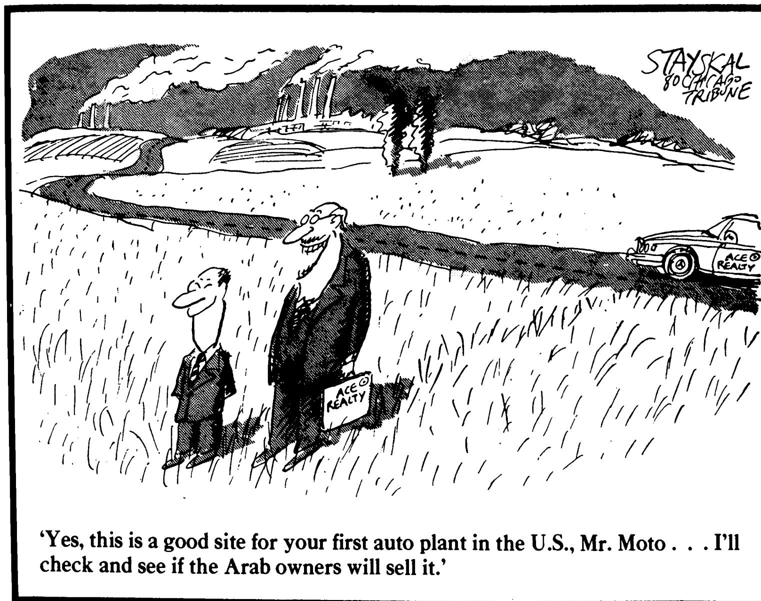
roads (Canadian National Railway). Texasgulf, Inc., a leading producer of sulfur and fertilizer, has the unusual distinction of having been controlled first by one state enterprise (Canada Development Corporation) and then by another (Elf-Aquitaine, a French oil firm). The recent wave of nationalizations under French President François Mitterrand has brought several more American firms into the state-owned category.

Although foreigners who operate here are subject to antitrust law, it would not be easy to break up a government's holdings. Under U.S. banking laws, no domestic firm could simultaneously own banks and major industrial companies here, as several Western European governments do.

• *Reciprocity.* U.S. firms sometimes complain that while they are barred from making investments in another country, that country's citizens or government are perfectly free to make similar investments here. This issue of reciprocity seldom comes up with respect to Third World countries, which make few investments here, or for that matter industrial countries, most of which have investment policies that American firms have learned to live with.

The big exception is Canada, which has both extensive investments in this country and a set of controls on foreign investment that strikes many American companies as unduly restrictive. Canada's Foreign Investment Review Agency (FIRA), established in 1973, has had the power since 1975 to screen new investments by foreign firms to see if they are "likely to be of significant benefit to Canada." Even when it does not turn them down outright, it often extracts pledges of buy-Canadian policies or technology transfers. Ottawa is also using government procurement powers to try to "Canadianize" the office equipment industry, and other industries may follow.

Most controversial of all is Prime Minister Pierre Trudeau's National Energy Program, announced on October 28, 1980, which seeks to increase the Canadian-owned share of the country's oil industry to 50 percent by 1990 from less than 30 percent in 1979. The program includes enough features that favor Canadian-owned oil firms that, after it was announced, several American firms sold their holdings to Canadian firms at bargain prices. At the same time, whether by coincidence or not, Canadian firms tried to take over or buy large stakes in several U.S. oil and mining firms, sometimes against the will of the latter's managements. The furor that these bids aroused in the affected American industries soon spread to other sectors: major truckers complained that Canadian firms could easily enter newly deregulated U.S. routes while Americans faced legal obstacles when expanding in Canada.



'Yes, this is a good site for your first auto plant in the U.S., Mr. Moto . . . I'll check and see if the Arab owners will sell it.'

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Congress came out against the Canadians with guns blazing. A House subcommittee voted to slap a nine-month moratorium on foreign purchases of firms that hold federal mineral leases. Another moratorium bill specifically named Canada as its target. The proposal that is furthest along (it has passed the House and a Senate committee as of this writing) would extend U.S. regulations on the buying of securities on credit (margin borrowing) to foreigners who borrow money abroad to buy stock here. This may be mostly a symbolic blow, since the rules are easily evaded even by most American stock buyers (see "Lifting Burdens at the Margin," *Regulation,* July-August 1981).

In the wings is far more stringent legislation introduced by Congressman Rosenthal to create an agency not unlike Canada's FIRA that would be empowered to delay or prohibit some foreign investment. Rosenthal's bill would also create a central registry to identify all foreign holdings, and would prohibit foreign governments from controlling American firms in selected industries.

While the Reagan administration has tried to hold Congress back from retaliatory moves, it has taken a number of steps on its own. It gave notice in March that it will charge Canada with violations of the General Agreement on Tariffs and Trade. The Interior Department considered, but on February 3 decided against, revoking Canada's "reciprocal" status under the Mineral Lands Leasing Act of 1920, which denies mineral leases on federal lands to citizens of countries that do not allow similar rights to U.S. citizens. The Interstate Commerce Commission began an inquiry into trucking reciprocity. And a spokesman for the office of Special Trade Representative William Brock told Congress on February 23 that the administration has included investment in an overall review it is now conducting of the trade reciprocity issue.

Some of the retaliatory measures, especially reciprocity requirements, are intended to nudge other countries toward relaxing their own rules. Aside from whether such a tactic would work, the State Department warns that it could be a nightmare to administer different rules for each country's investors and that in any event bilateral investment has led to friction with only a few of our trading partners. There may be little point to special sanctions against state-owned firms, since it can be difficult to distinguish their behavior from that of private firms. Some of the former are not subsidized, and some of the latter are both subsidized and heavily state-influenced. (The track record of nationalized firms in international commerce, at any rate, suggests that American firms may have little to fear from their competition.) Sanctions against state firms would surely invite retaliation by some of our major trading partners.

It is also conceivable that Canada, for one, will rethink its nationalist policies, not because of U.S. pressure but because of the damage those policies are doing to the Canadian economy. The number of oil rigs operating in Canada declined 43 percent after the National Energy Program was proposed, and 128 rigs were moved to the United States, according to the Interior Department. The Canadian stock market has suffered its biggest crash since the Depression, with the prices of local oil company stocks, which were expected to benefit from "Canadianization," falling with the rest. Indeed, one reason Canadian companies have given for making big new investments in this country is the shrinking opportunity back home.

Regulatory Calendar, R.I.P.?

The sixth and final edition of the semiannual *Calendar of Federal Regulations*, issued January 13, 1982, marks the end of a brief and inconclusive experiment in regulatory management. The U.S. Regulatory Council, which began publishing the calendar in February 1979, was abolished last March. The last two editions of the calendar were compiled by the Regulatory Information Service Center (RISC).

The calendar was a listing of upcoming "major" regulations. "Major" was originally defined to include those "having an economic impact of $100 million or more," those "causing major cost increases for industry, government or regions," and any others the submitting agency might choose. Later editions added new criteria for inclusion, such as the likelihood that the rule might have significant effects on competition, investment, productivity, or the ability of American firms to compete with foreign-based enterprises (this last category added under the Reagan Administration).

In format, the final edition of the calendar did not differ greatly from the second edition, reviewed in these pages two years ago ("The Regulatory Calendar: A Catalog without Prices," Perspectives, January/February 1980). Two new sections had been added to the summaries of individual rules: a "reason for including this entry," added in May 1980, and a summary of net benefits, which, since agencies were already furnishing summaries of costs and benefits, was unlikely to hold many surprises. There were also new timetables for upcoming comment periods, hearings, and meetings. The list of "sectors affected by regulatory action"

had increased from eight in the second edition to twelve.

Of the 167 regulations in the final edition, 90 were repeats from previous calendars, and some, like the Department of Health and Human Services' "Conditions of Participation for Nursing Homes," had been around since the very first edition. There was a definite change in tone in the final edition, however: many of the holdover proposals had revised their summaries of benefits to sound far less sanguine, and a large number of the newly proposed regulations were regulatory rollbacks.

The calendar never overcame its central defect as a regulatory reform tool. It was, in the words of one reformer, the "agencies' baby," and as such reflected the agencies' own views on issues, often views highly resistant to regulatory reform. Neither RISC nor the Regulatory Council before it had any authority over the agencies it dealt with: Guidelines for agency submissions to the calendar could be issued, but not really enforced. RISC functioned largely as an editorial board, receiving submissions from agencies, looking them over, and sending them back with suggestions for clarification. The agencies could then either alter their submissions or resubmit with further explanations. About the most demanding request RISC could make of the agencies was in the realm of syntax: "Use the active voice rather than the passive voice whenever possible." RISC's executive director, Mark Schoenberg, even included along with the calendar an explicit disclaimer that "the Center is not . . . responsible for the accuracy or completeness of agency materials."

The calendar was evidently of only marginal usefulness to the private sector. By the time each semiannual calendar appeared, many larger companies and interest groups, which have their own staffs to keep up with agency plans, already knew more about a listed regulation than the calendar could tell them. An official of a large automaker said: "If I hadn't asked my staff what they thought about the calendar's demise, they never would have missed it." For some smaller concerns with no government affairs staff in the capital, however, the calendar may have served as an early warning device. And former Regulatory Council director Peter Petkas suggests that the more varied an interest group's concerns, the more likely it was to find the calendar useful.

The calendar was undoubtedly most helpful to the federal agencies themselves, in prompting some of them to think through the effects of their proposals. Since RISC could not contest the agencies' analytical assumptions, it is true, the diligent agency had to be something of an autodidact: if for the public the calendar was a catalog without prices, for the agencies it was an examination without grades. Accordingly, "educational" attainments varied greatly among agencies. By the last issue, agencies like the Occupational Safety and Health Administration and the Consumer Product Safety Commission, lectured as they have been by economists for these many years, were giving detailed estimates of costs for many of their proposals. (How accurate those estimates were is, of course, another question.) Many other agencies, however, either failed to offer cost estimates or, against all likelihood, predicted that costs would be minimal. This tendency was especially apparent on the part of the agencies administering affirmative action and other social programs—so that regulations with compliance costs in the "minimal" category included rules to ban sex discrimination in police training, age discrimination throughout the criminal justice system, and sexual harassment and intimidation in workplaces everywhere. Even among social programs, however, a specific estimate sometimes snuck through, as with the Department of Transportation's estimation that full accessibility for wheelchair transit could cost as much as $57.75 a trip. In any case, this educational value of the calendar is now provided more effectively—because not entirely autodidactically—through the Regulatory Impact Analysis program of OMB.

The *Washington Post* reported January 15 that the calendar was probably canceled as a cost-cutting move. RISC cannot say how much the calendar cost in all, since the agencies did not keep track of what it cost them to prepare their entries. The only hard-and-fast figure available was the allotment for RISC's own salaries and expenses in fiscal year 1982, which was $900,000.

RISC says it intends to replace the calendar with a new computerized digest of developing federal regulations. Officials at the Office of Management and Budget say they cannot give an estimate of how much this new system will cost, but it sounds economical: although it will

cover "non-major" as well as "major" regulations, it will contain little evaluative detail. So far, plans call for no guidelines for agency submissions and no analysis of individual rules. RISC says the new system, which is still nameless, will be ready by the end of this year.

Another substitute for the calendar might be the semiannual agendas of upcoming rules that the agencies now issue under Executive Order 12291. The regulatory reform bill passed by the Senate March 24, S. 1080, would require the agendas by law, and would also bring their contents together every May and November in the form of a calendar. So an obituary for the regulatory calendar is somewhat premature.

Regulation and the 1983 Budget

As recently as last fall, it was still unclear whether the Reagan administration was actually reducing the budgets and staff levels of the federal regulatory agencies, or merely halting their growth. Last year's 1982 budget proposed minor cuts in real terms for most regulators, along with increases for such agencies as the Environmental Protection Agency and the Occupational Safety and Health Administration. Now, with the appearance of the proposed 1983 budget, it has become clear that the Reagan administration not only intends to cut the budgets and staffs of most major regulators substantially, but has already made measurable progress towards that end.

The summary figures shown here are taken from the annual roundup of regulatory agency budgets and staffs prepared by the Center for the Study of American Business at Washington University. The figures do not take into account congressional action on the 1983 budget, which is expected later this year.

One reason for the sharp decline in this year's figures (fiscal 1982) is that the new spending estimates are coming in well below the targets set in President Reagan's original 1982 budget. Whereas that budget proposed a 4 percent real cut in regulatory funding from 1981 levels, the estimate now is 10 percent, according to the Center's figures. And the 3 percent cut scheduled for staffing has been revised upward to 9 percent. The declines are all the more significant because all government agencies, including regulatory agencies, have historically tended to overshoot rather than undershoot their budget and staffing projections.

The 1983 budget, if passed intact, will continue the shrinking process. Real spending by regulatory agencies will be cut another 7 percent, and staffing another 3 percent, from the estimated 1982 levels. In the three years from 1980, which now looks like the high-water year for regulatory endeavor, through 1983, the agencies will have lost one-sixth of their real budgets and one-seventh of their personnel.

One of the biggest proportional cuts for fiscal 1983 is slated for energy regulation. The Department of Commerce's regulatory programs, inherited from the Department of Energy, are scheduled to fall from $46 million to $14 million, or 70 percent, and the Justice Department's petroleum regulatory activities from $46 million to $21 million, or 54 percent. The Civil Aeronautics Board, proceeding on its way to oblivion, is falling by 32 percent, from

EXPENDITURES ON FIFTY-SEVEN REGULATORY AGENCIES
Selected Fiscal Years, 1970–83

Area	1970	1979	1980	1981	1982 (est.)	1983 (est.)
	EXPENDITURES ($ billions)					
SOCIAL REGULATION						
Consumer Safety & Health	$ 0.4	2.2	2.4	2.7	2.4	2.5
Job Safety & Other Working Conditions	$ 0.1	0.6	0.7	0.8	0.8	0.8
Energy & the Environment	$ 0.1	1.5	1.9	2.1	2.2	2.0
	$ 0.5	4.4	5.1	5.6	5.3	5.3
ECONOMIC REGULATION						
Finance & Banking	$ 0.1	0.3	0.3	0.4	0.4	0.4
Other Industry-Specific	$ 0.1	0.3	0.4	0.4	0.3	0.3
General Business	$ 0.1	0.3	0.3	0.3	0.4	0.3
	$ 0.3	0.9	1.0	1.1	1.1	1.0
TOTAL	$ 0.9	5.2	6.1	6.6	6.4	6.3
TOTAL IN 1970 DOLLARS*	$ 0.9	2.9	3.1	3.1	2.8	2.6
PERMANENT FULL-TIME POSITIONS (thousands)						
SOCIAL REGULATION	9.7	64.2	66.4	63.6	57.1	54.8
ECONOMIC REGULATION	18.0	24.0	24.1	23.0	22.2	21.7
TOTAL	27.7	88.2	90.5	86.7	79.3	76.5

*Adjusted by GNP deflator (actual and, for later years, estimated in budget).
Source: Center for the Study of American Business.

$113 million to $77 million, while the Federal Trade Commission, having curtailed its enforcement activities considerably, will take a 10 percent cut, from $68 million to $61 million. The Environmental Protection Agency will be cut 6 percent—from almost $1.4 billion in 1982—but at $1.3 billion will still be the largest regulatory agency.

A few agencies' expenditures are declining on paper because they are being funded by user fees instead of congressional appropriations. The Patent and Trademark Office in the Department of Commerce, for instance, is absorbing an apparent budget cut of about one-half in real terms, but because of higher user fees is actually expanding its staff by 10 percent. Similarly, a boost in user fees largely offsets a nominal 76 percent reduction in the budget of the Federal Grain Inspection Service. (The Center's newest tables, incidentally, exclude Agriculture Department programs to "strengthen markets," which had been included in "consumer safety and health" in past years' tables.)

Staffing figures tell a more dramatic story, if only because they are not affected by inflation. Such agencies as OSHA, the FTC, the Consumer Product Safety Commission, and the Federal Communications Commission will have lost one-fifth or more of their staffs between 1981 and 1983.

Do these reductions translate into a real reduction in the regulatory burden? Will the people who are regulated notice the difference if one out of every five regulators disappears? To some extent, they surely will, even if the remaining regulators work harder to make up for their lost colleagues. Still, it helps keep the latest cuts in perspective to compare them with the earlier days of regulatory growth. During the 1970s most agencies

CHANGE IN EMPLOYMENT FOR TWENTY-EIGHT REGULATORY AGENCIES

Agency	**Permanent Full-Time Positions** 1981	1982	1983	**Percent Increase (Decrease) 1981–83**
Consumer Product Safety Commission	812	631	577	(28.9)
Food and Drug Administration	7,521	7,142	7,169	(4.7)
Antitrust Division	939	829	789	(16.0)
Federal Railroad Administration	431	421	445	3.2
National Highway Traffic Safety Administration	797	686	686	(13.9)
Bureau of Alcohol, Tobacco, and Firearms	3,671	2,454	[2,450][a]	(33.3)
TOTAL, *Consumer Safety & Health*	14,171	12,163	12,116	(14.5)
Mine Safety & Health Administration	3,808	3,471	2,996	(21.3)
Occupational Safety & Health Administration	3,009	2,354	2,354	(21.8)
Equal Employment Opportunity Commission	3,412	3,316	3,278	(3.9)
National Labor Relations Board	3,213	3,213	3,213	—
TOTAL, *Job Safety & Other Working Conditions*	13,442	12,354	11,841	(11.9)
Energy Programs, Department of Commerce	[429][b]	159	135	(68.5)
Office of Surface Mining	1,036	737	638	(38.4)
Environmental Protection Agency	9,799	9,243	8,054	(17.8)
Nuclear Regulatory Commission	3,029	3,325	3,303	9.0
TOTAL, *Energy & the Environment*	14,293	13,464	12,130	(15.1)
Comptroller of the Currency	3,071	3,071	2,925	(4.8)
Federal Deposit Insurance Corporation	3,554	3,521	3,550	(0.1)
Federal Home Loan Bank Board	1,440	1,463	1,465	1.7
National Credit Union Administration	601	600	574	(4.5)
TOTAL, *Finance & Banking*	8,666	8,655	8,514	(1.8)
Civil Aeronautics Board	650	505	427	(34.3)
Commodity Futures Trading Commission	550	550	550	—
Federal Communications Commission	2,004	1,862	1,602	(20.1)
Federal Energy Regulatory Commission	1,607	1,648	1,789	11.3
Federal Maritime Commission	306	306	290	(5.2)
Interstate Commerce Commission	1,836	1,653	1,450	(21.0)
TOTAL, *Industry-Specific Regulation*	6,953	6,524	6,108	(12.2)
Patent & Trademark Office	2,834	2,864	3,151	11.2
Federal Election Commission	235	202	212	(9.8)
Federal Trade Commission	1,587	1,380	1,235	(22.2)
Securities & Exchange Commission	1,928	1,860	1,765	(8.4)
TOTAL, *General Business*	6,584	6,306	6,363	(3.4)
TOTAL, TWENTY-EIGHT AGENCIES	64,109	59,466	57,072	(11.0)

[a] Staffing distributed to Customs Service and Secret Service.
[b] Economic Regulatory Administration, Department of Energy.
Source: Center for the Study of American Business.

nearly doubled the size of their staffs. The increase in some areas was vastly disproportionate to the average—for example, labor and workplace safety regulation nearly quadrupled. The average agency's staff is currently shrinking at about the same rate—16 percent in the three years from fiscal 1981 to 1983—that it was growing back in those years.

New York City Looks at Taxi Regulation

Under New York City law, anyone who wants to offer taxicab service must buy from some other operator the right to do so, in the form of a "medallion" originally issued by the city. Economists have long used this medallion system as their favorite example of the adverse effects of limiting entry into an industry. It is also a prime example of how difficult it is to change a restricted entry system that has long been established. Not only have the beneficiaries of the system (the medallion holders) become well organized and politically potent, but most of them have acquired a plausible equitable claim to their position—in this case by purchasing the originally free medallions from former holders at a price which reflects the monopoly rents, so that the real beneficiaries of the government subsidy have long since departed the scene. Moreover, other segments of society, the financial community in particular, have acted in reasonable reliance on the established system. As a result, destroying the value of monopoly operating rights without "buying out" the existing holders is open to the charge of injustice—a charge that is especially difficult to resist when the holders are small entrepreneurs such as cab drivers. On the other hand, any proposal to "buy out" the rights is open to the even more heinous charge of political naiveté.

The difficulty is well illustrated by the work of a special panel appointed by Mayor Edward Koch to make recommendations for reform of the city's taxi regulation. The Mayor's Committee on Taxi Regulatory Issues, as it is called, came out with a preliminary report on October 22, 1981, and a final report on March 29, 1982. Although its final report makes no less than seventy-three proposals for altering taxi regulation, few, perhaps none, pose any serious threat to the interests of current medallion holders.

The New York City government has regulated taxicabs for a very long time: fares alone have been under control since at least as far back as 1817. The Haas Act of 1937 for the first time inaugurated the practice of limiting the number of cabs that could legally operate in the city. The municipal government issued a medallion to each of the city's 13,595 cabs—a number that had fallen from a peak of about 21,000 in 1931. The number of cabs continued to drop during the Second World War, and the market became so weak that about 1,700 owners chose to turn in or not to renew their medallions. Later, with rising taxi demand, medallions acquired a positive resale value. In 1971 the number of medallions was fixed by law at 11,797, and it can now be changed only by City Council action. Fares are set by the city's Taxi and Limousine Commission, and the industry is expected to provide detailed cost documentation when it proposes a rate increase, although the TLC frequently finds the resulting data "incomplete" and "unreliable."

Medallion holders, the mayoral panel notes, "have substantial investments in the existing system." The going rate for a single medallion has recently been around $50,000–$60,000, far more than the cost of the vehicle itself. At recent prices, the market value of all medallions amounts to something like $600 million. Most new taxi owners put up both their vehicles and their medallions as collateral for bank loans. There are from $250 million to $400 million worth of these loans outstanding, including some made by the Small Business Administration, the report says.

Several positive advantages have been claimed for the medallion system. Among them are easing traffic congestion, preventing "ruinous competition" among drivers, and improving service by giving owners the financial means to pay for needed repairs and upkeep. Since owners typically must make large payments on medallion loans, however, it is not clear that their overall finances are really as healthy as the last two arguments would imply.

Perhaps the most unusual argument for medallions is that they provide a built-in retirement system for taxi drivers. The report notes that if drivers use their medallions as a means

In Brief–

Recipe for Chaos? Over in Great Britain, Prime Minister Margaret Thatcher's budget-cutting policies may be about to claim another victim: the bureau in the agriculture ministry that keeps itself busy compiling, printing, and sending out recipes. Neither memories of World War II (when it did its patriotic bit to help Britons stretch skimpy rations) nor a futile attempt to disguise itself as part of a "food research program" has saved the recipe bureau from likely extinction. Up to now, as the *Economist* of London points out, the civil service chefs have survived any number of attempted cutbacks, arguing that "only they can prevent 'erroneous or dangerous recipes being published.' "

That's Incredible! Some say that the most scientific measure of the pace of federal regulatory activity is the WLI—the Washington Lawyer Index. In recent years it has been soaring, as law firms from New York to California opened Washington offices and staffed them with often sizable numbers of attorneys. With the massive AT&T and IBM antitrust cases, energy regulation, and new EPA and FTC rulemakings, there was plenty for them to do.

But in the past few months, perhaps for the first time since the demobilization after World War II, the WLI seems to be heading downward. Few new branch offices are being opened; some out-of-town firms are recalling partners and associates previously assigned to Washington; and at some of the major D.C. firms, the class of 1982 (the associates asked to stay on as partners instead of leaving the firm) is unusually small. The situation is aggravated, of course, by the meager promotion prospects (and hence the urge to depart) of the government lawyers who used to manage the programs that had kept the private attorneys busy.

S'funny. Jimmy Carter was the one who was supposed to hate lawyers.

Dribblers' Rights. In another first for due process, a federal district judge has ruled that the University of Minnesota violated a student's constitutional rights when it dropped him from its basketball team. School officials had declared the student ineligible after the dean charged him with handing in work prepared by other students and withdrawing from several courses he was failing. Judge Miles W. Lord ruled that the student's place on the team, which might after all lead to a lucrative career with the pros, was a constitutionally protected interest and thus could not be taken away without a hearing.

The Five-Foot Shelf. Whatever the effect of regulation on the economy at large, it has given a big boost to the publishing industry. The latest evidence of this is the comprehensive, two-volume *Handicapped Requirements Handbook*, put out by the private Federal Programs Advisory Service and now in a sixth printing. This tome, to quote the publishers' brochure, covers not only the all-important Section 504, "the basic government-wide compliance requirements" on the handicapped, but also Section 503, "the 'affirmative action' requirements affecting federal contractors with one or more contracts of $2,500 or more," and Section 502, "the 'barrier free' architectural requirements affecting recipients who own, lease or use facilities constructed with federal financial support."

The diligent compliance officer can deal with day-to-day problems by consulting one of the volume's twenty-seven chapters on particular agency rules, or perhaps one of the loose-leaf appendixes. Number seven is on "Technical Information," and number six contains "Self-evaluation and Checklist." Since "the compliance requirements are in a constant state of flux," anyone in charge of one of those $2,500 contracts will also not want to be without the six-page monthly newsletter that comes free along with the book. And for those compliance emergencies, there is a "Handicapped Requirements Hotline" telephone service. It's free too.

Taking Regulation for Granite. *Forbes* magazine recently profiled the little-known Vulcan Materials Co., which dominates the unglamorous business of crushed stone. Vulcan earns a profit of nearly ten cents on every sales dollar, making it one of the most profitable companies in the United States. Its president told *Forbes* one of the reasons why. "Back in the Sixties you used to worry about who was going to open up a quarry right down the road, but now we never concern ourselves about that; problems with zoning and the EPA are so monumental. That gives us an ability to price our product that we didn't have before."

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of financing their retirement, they have chosen a very expensive means: "the entire retirement fund is purchased at the outset of employment, largely with borrowed dollars on which relatively high interest charges [must] be paid. . . . This is the reverse of normal retirement funding," where the money that is gradually salted away earns interest and has the advantage of favorable tax treatment.

None of these defenses of the medallion system was endorsed by the mayoral panel, which, indeed, concluded that the system had "sufficient disadvantages to the City that the Committee does not wish to see it replicated or reinforced." Neither, however, does it wish to see it replaced or substantially weakened. The panel's very first recommendation is to avoid watering down current medallions: "No new transferable medallions should be issued at this time." (It did favor issuing a number of

new non-transferable medallions to cabs driven by off-duty police officers, a step that might, by improving driver safety, actually increase medallion values.) As the panel explained, it "recognizes that a number of medallion owners and financers have acted under a system permitted to operate by the City."

The cost of buying a medallion is not supposed to be included in the rate base on which the TLC computes taxi fares—a provision that clearly is evaded in practice, since otherwise the value of medallions would presumably fall to zero. (The system is in this respect similar to the quota and price-setting system in Canadian agriculture discussed later in this issue: see Paul Gorecki, "Canada's Chicken-and-Egg Problem: The High Cost of Price and Output Controls," p. 28.)

The TLC permits surcharges for certain types of service that are especially costly to provide. In 1981 it began allowing a fifty-cent surcharge for night and weekend service, which had been scarce; the mayoral panel calls for ending this surcharge. "Voucher" services, which dispatch radio cabs in response to calls by regular customers with charge accounts (such as business firms), could until recently collect a surcharge of any agreed-upon size for each ride. This type of service grew so rapidly —the thirteen radio cab groups now serve 12,000 voucher accounts—that, amid complaints that regular taxi service was suffering, the TLC froze the size of the voucher surcharges in September 1979. The mayoral panel gingerly proposes eventual deregulation of radio-cab surcharges, both for voucher and for regular customers (for whom no surcharge is presently allowed), "unless the TLC were to make findings, after public notice and comment, that taxi service in the City is being adversely affected"—which is to say, unless the TLC declines to change its mind.

Private, non-medallion cabs may legally respond to telephone calls, if they have a livery license, but may not pick up a customer who hails them on the street. Most of them, however, do not apply for such licenses, preferring to operate illegally (and pick up street customers). Estimates of the total number of non-medallion cabs, including the illegal ("gypsy") cabs, range from 8,000 all the way up to 40,000, the latter being nearly four times the number of legal medallion cabs. Gypsy cabs are most likely to serve poorer neighborhoods and outlying boroughs of the city, while medallion cabs concentrate on the relatively safe and lucrative Manhattan business. A 1972 study of taxi usage in central Brooklyn found that 85 percent of taxi trips originating there were in non-medallioned vehicles.

The panel recommends legalizing the gypsy cabs, which would let the city bring them under regulation. Non-medallion cabs, which would be painted with a green stripe, would not be limited in number and could pick up passengers throughout the city except at the airports and in Manhattan south of 96th Street. The green-stripe cabs would be slightly less heavily regulated than the medallion cabs, under the panel's proposals, though of course far more heavily regulated than they are in their present *tziganesque* condition.

It is common, though illegal, for a driver to refuse a paying customer because of his intended destination. Sometimes the motive is financial: the driver does not expect to find a paying customer on the way back. Often, however, the driver fears for his personal safety. The mayoral panel describes the common carrier obligation as a quid pro quo for the right to operate a medallion cab, and calls for police to enforce the ban on refusals "vigorously." The city government "cannot . . . acknowledge that neighborhoods which are too dangerous for taxi drivers are acceptable living environments for many of the City's poorer residents."

The panel also proposes several other regulations to combat what it perceives as a shortage of taxi service. For example, it proposes that the city check each cab's meter and odometer every six months to make sure it has driven a certain number of miles. The TLC already requires fleet-owned vehicles to "double-shift," that is, to run two nine-hour shifts each day. Double shifting is unpopular with many owners, not least because the logical time to change shifts, which is 4:00 or 5:00 P.M., puts the cab out of service during much of the peak afternoon rush hour. Although the TLC has tried to nudge the fleets toward obedience by ordering them to buy two shifts' worth of auto insurance, many of them still seem to be holding out.

One reason the rule is hard to enforce is that the old division between fleet and individ-

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tious about creating new supply management boards, should expand the output permitted under quotas so that prices and quota values would fall, should make quotas freely transferable (eventually throughout Canada), should relax restrictions that damage efficiency, should introduce separate policies aimed at the problem of low and unstable incomes, and should widen the membership of the supervisory councils. Farm groups, supply management boards, and the federal minister of agriculture strongly oppose the recommendations, while food processors support them.

The president of the Treasury Board (an important post in the Canadian government) has been charged by the Prime Minister with coordinating the selective deregulation of industries and activities. It will be difficult. Producers naturally fear they would lose more than they would gain, while consumers who pay the tab are not aware of its size. But if those who are interested in consumer welfare and economic efficiency come to understand the implications of the system, reform may be possible. In any event, Canada's experience with supply management in agriculture provides those who are concerned about U.S. marketing orders with evidence of the adverse economic consequences of greater regulation. ■

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New York City Looks at Taxi Regulation

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ual cabs has virtually broken down with the rise of "mini-fleets." By law, 4,969 medallions must be owned by individuals, and the other 6,818 by fleets of more than one vehicle. This division was originally meant to keep fleets from "taking over" the whole industry, but in recent years the trend has been in the other direction, because individual cabs, generally with non-union drivers, have lower costs than the large unionized fleets. An individual medallion can sell for $10,000 more than a fleet medallion—$60,000 versus $50,000. The market has now found a way around the legal barrier, at least in part. During the 1970s, about 4,700 of the so-called fleet medallions were transferred to mini-fleets—corporations that generally own two medallions and have two corporate owners. In some instances the two owners never even meet each other, the whole transaction being arranged by a medallion broker.

Medallion brokers also perform various other tasks for cab owners, such as arranging bank loans and filing necessary papers with the authorities. In doing so, these brokers have attracted the unfavorable attention of the TLC, which has repeatedly supported unsuccessful attempts in the City Council to bring them under TLC licensing and regulation. The mayoral panel endorsed such regulation, explaining that brokers should, for example, be required "to explain to a medallion purchaser the nature and public service obligations of the medallion."

In some other ways, too, the panel would increase municipal involvement in the industry. It recommends that the city set up its own site for taxi vehicle inspections, which are now done at private garages and meter shops, and it proposes that the city start up a New York City Taxi Driving School that all new drivers would be required to attend.

Overall, the panel's work well illustrates the political dilemma posed by long-standing government barriers to entry. The new proposals would appear to ease entry only by slow and uncertain steps, if at all. But so long as the interests of current medallion holders are not to be harmed, it is hard to imagine how any bolder stride could be taken.