Readings
of particular interest

Who Will Pay the Energy Bill?

"The Conflicting Goals of National Energy Policy" by Robert E. Hall and Robert S. Pindyck, in *The Public Interest*, Spring 1977.

The development of a rational national energy policy is difficult because of the conflict between the consumers' desire for cheap energy and the high prices needed to induce production and reduce consumption. Robert E. Hall and Robert S. Pindyck of MIT estimate that, of the 7 million barrels of oil imported daily, about 5 million barrels are the result of depressed domestic prices.

According to the authors, the gap between the world price and the domestic price of energy is the result of two policies: (1) taxing production of domestic crude oil and using the revenues to subsidize imports and (2) regulating the price of natural gas at below-market levels. The first policy increases imports and depresses domestic production. The second policy subsidizes those who are able to obtain natural gas. As domestic supplies of gas become tighter, however, users will have to shift to alternate energy sources, thus aggravating the import problem. As it now stands, there is not a sufficiently powerful economic incentive to conserve energy. But if energy prices were allowed to rise, consumers could choose to limit their consumption.

As Hall and Pindyck note, both current policies are aimed at preventing massive redistribution of income from consumers to producers, and policies that do not recognize the importance of this goal to the American public are not likely to succeed. They propose a five-point plan for national energy policy: (1) Oil and natural gas prices should be deregulated. This should increase domestic supply and decrease our dependence on imports, while reducing consumption. (2) The poor should be protected from the effects of increased fuel expenditures. An expansion of the current food stamp program to cover these expenditures would blunt the impact of higher prices, at a cost about 15 percent above current food-stamp costs. (3) Standby programs should be developed to counteract future embargoes. Here the authors suggest stockpiling reserves, measures to limit consumption, income transfer programs to help the poor cope with fuel costs, and temporary use of expansionary monetary and fiscal policies to offset the effects on unemployment and the GNP. (4) Government should support basic research on energy sources not currently in widespread use. Public sector research results would be freely available for development by private concerns. And, finally, (5) the OPEC cartel ought to be undermined.

According to the authors, if our present policies are continued, oil imports could reach 30 percent of our total energy consumption, and the cost of energy to the consumer would rise rapidly (as a result of tax subsidization of imports and nonconventional energy sources). They recognize that their program would require a major shift in attitude on the part of both consumers and government. Nevertheless, they insist, higher energy prices must be accepted as the first step toward an energy policy that will stabilize American dependence on foreign energy and result in voluntary conservation. "Delay will only make the eventual accommodation to the higher world energy price all the more difficult."

Of Our Own Making

Red Tape: Its Origins, Uses, and Abuses by Herbert Kaufman (Brookings Institution, 1977).

Red tape is everywhere abhorred—yet it is at the "core of our institutions rather than an excrescence on them," writes Herbert Kaufman, senior fellow at Brookings Institution.

The first chapter discusses the constraints imposed by red tape—their frequent pointlessness (they are irrelevant, duplicative, contradictory, or relics from the past and failed programs) and the fact that the bureaucracy becomes, quite literally, the scapegoat for what we ourselves have wrought.

This last point leads into the second chapter, which shows compassion and the desire for representativeness to be responsible for the growth of red tape. Because we wish to protect people from each other, because we wish to alleviate distress, because we wish to forestall discontent that will disrupt our system (and because it is politically expedient to do all these things), we hedge ourselves about with controls. Because we want the process through which these controls work to be as representative as possible, we establish administrative due process, seek participation of all relevant interests in decision-making, require publication of government proceedings, and try to make sure that our own interests are taken into account when taxation comes up. Thus, in essence, we hedge controls with other controls, making sure (because we distrust government) that someone is watching the watchers.

We ourselves do these things, Kaufman says, which is why the third chapter notes that "one person's red tape is another's sacred protection." That being the case, the quest for general remedies—of whatever kind—is likely to be fruitless. One way to reduce red tape is to reduce the size of government. But if this were done, Kaufman argues, the evils that government has been combatting (however imperfectly) would reappear. There are, moreover, immense stakes in ongoing federal programs and politically powerful pressure groups whose presence makes reduction unlikely. Another possibility is to devolve certain responsibilities on local governments which, being smaller, might be less "red-taped" than the federal government. But centripetal tendencies—the concentration of resources in the hands of the federal government, the interdependent nature of industrial society, the problems of defense, and the presence of legitimate *national* concerns—render significant devolution unlikely. A third alternative is to concentrate authority so as to reduce duplicative or contradictory red tape. But, besides promoting tyranny, this might promote congestion and delay. Finally, of course, we can "manipulate pecuniary incentives"—try a slightly less visible hand. While this might reduce some kinds of red tape, it is likely to increase the complexity of the tax system and of individual record-keeping: that is, it might merely substitute one variety of red tape for another.

In short, in Kaufman's opinion, we cannot cure—we can only ameliorate. We can treat the symptoms, focus political pressures where they can be effective, perhaps make use of the ombudsman (though he too, in the end, is only another bureaucrat and prospective creator of red tape). Other ways to help individuals find their way through red tape are being encouraged, including casework by congressional staffs and the establishment of federal information centers in major metropolitan areas. We must learn to live with red tape, Kaufman concludes. "If we did do away with it, we would be appalled by the resurgence of the evils and follies it currently prevents."

A Senate Report on the Regulatory Process

U.S. Senate, *Study on Federal Regulation:* Volume 1, *The Regulatory Appointments Process;* Volume 2, *Congressional Oversight of Regulatory Agencies;* Volume 3, *Public Participation in Regulatory Agency Proceedings;* Volume 4, *Delay in the Regulatory Process* (Committee on Governmental Affairs, July 1977).

Four volumes have so far been published in this committee report, with two still to come. Volume 1 on the appointments process contains almost half of the total material published, reflecting the committee's view that "no amount of improvement . . . can overcome regulatory problems if inadequate appointments are made. . . ." Central to volume 1 is the section on the White House selection process, a section based largely on interviews and describing in particular the selection of members of the Federal Maritime Commission and the Securities and Exchange Commission (the worst and the best examples, according to the study). Except for a very few appointments (under Presidents Johnson and Ford), the record presented is one of the almost unrelieved exercise of political influence.

In Appendix A (on the regulatory appointments process), there occurs the following testimony from the late Kenneth O'Donnell: "I called [Mayor Daley] on the telephone, and I said you . . . sent down some of the worst stiffs I have ever seen in my life . . . we rejected all of them. . . . He said, 'Well, we want to keep the good people in Chicago. They have to run the city.' " The exchange summarizes much of what is presented in the text. The recommendations are principally that nominees to regulatory agencies be selected on ability and experience, that they be more fully investigated by the Senate than they are now (less than half the nominees since 1961 were found by the report's authors to be qualified), and that conflict-of-interest provisions be clarified and in some cases strengthened.

Volume 2 recommends that Congress strengthen its oversight function by improving its sources of and access to information, by coordinating the efforts of those committees that oversee regulatory agencies, and by making better use of such resources as the General Accounting Office and the Office of Technology Assessment. The aim of congressional oversight should be "the broad direction of regulatory policy." This volume proposes periodic review of regulatory programs ("sunset" laws) but recommends only limited use of the "legislative veto" (a device giving Congress the right to veto a proposed agency rule).

Volume 3 proposes that citizen participation in agency proceedings be increased. To this end, it recommends that obstacles such as the cost of participating, the difficulty of acquiring standing in federal courts to challenge administrative rulings, and excessive delays be removed or ameliorated. It also calls for an independent consumer agency and proposes that internal consumer advocates be installed at the CAB, FPC, FCC, and ICC.

Volume 4 recommends changes in agency rulemaking and adjudication procedures in order to eliminate the problem of undue delay. Among these recommendations are: (1) greater use of informal rulemaking, (2) modified (more informal) adjudication procedures on market entry and exit, rate regulation, financial transactions, and technical decisions, as well as reduced emphasis on adjudication generally; (3) elimination of unnecessary stages in adjudication, (4) establishment of direct contempt-of-agency authority, and (5) new procedures in selecting administrative law judges. This last is the most specific of a number of proposals for improving leadership—an important task in the committee's view because it is the "foremost requirement for reducing delay in regulatory administration. . . ." The committee finds that "what is striking" about the selection process for administrative law judges "is its total inconsistency with the procedures that any rational organization would use to hire lawyers in midcareer for sensitive and responsible positions."

Volumes 5 and 6, to be issued shortly, will examine reorganization proposals and the framework for regulation, respectively.

The Privacy Commission Reports

The Privacy Protection Study Commission, *Personal Privacy in an Information Society* (U.S. Government Printing Office, July 1977).

In an April 21, 1976, opinion (*U.S.* v. *Miller*) the U.S. Supreme Court rejected the argument that an individual's expectation of confidentiality in his bank records is legally enforceable or even warranted. With that finding, the Court crystallized a fundamental concern underlying the current drive for increased privacy protection in the United States. But, according to the Privacy Protection Study Commission, *Miller* only hints at the much larger set of public policy issues raised by the record-keeping practices of modern organizations.

The commission's final report addresses three broad concerns: (1) unwarranted intrusion into privacy through the collection of personal information, (2) unfairness caused by the use of inaccurate, incomplete, or obsolete information, and (3) unenforceable expectations of confidentiality. In this lengthy report, the commission documents the ways in which these concerns are manifested in social or economic relationships—consumer-credit, banking, insurance, employment, medical care, and education, as well as relationships between citizen and government on several fronts. Other topics covered include mailing lists, the practices of investigative reporting agencies, the use of social security numbers, the proper role of government in the new field of electronic funds

transfer services, and government access to personal records and "private papers."

Although the report discusses record-keeping problems at length, the commission's task in this area was essentially to recommend ways for improving the individual's control of information about himself, while meeting the legitimate needs of government and society. Generally, the commission concluded that individuals should be informed of the full extent of third-party inquiries about them, have access to information about them held by organizations, and have a right to correct or amend errors (in some circumstances) and to control the disclosure of information. The specific recommendations for securing these protections differ according to such factors as the organization's legitimate interest and accepted custom. In addition to securing these rights for individuals, the commission recommends that organizations be generally obliged to ensure the accuracy, completeness, and timeliness of information and to exercise care in selecting such support organizations as investigative agencies and industry clearinghouses.

The commission's strategy for implementing its recommendations relies largely on existing legal protections and regulatory structures rather than upon the creation of new ones. Thus, the Federal Fair Credit Reporting Act would be the vehicle for implementing many of the private-sector recommendations. To cite another example, the reports says: "Because insurance is regulated primarily by State Insurance Departments, the Commission believes that the responsibility for implementing some of its recommendations should be properly lodged at the State level."

Recognizing that it left some unfinished business and seeing a need for a permanent "privacy advocate," the commission recommends that an "entity" modeled on the proposed consumer protection agency be established within the executive branch. It would be largely advisory except for the authority to issue interpretative rules for federal agencies to implement the provisions of the Privacy Act of 1974 and its suggested revisions. But the commission reached no decision on whether the entity should be an independent agency, be placed in a department, or be part of the Executive Office of the President.

Regulatory Costs at Six Campuses

The Costs of Implementing Federally Mandated Social Programs at Colleges and Universities by Carol Van Alstyne and Sharon Coldren (Washington, D.C.: American Council on Education, 1976).

This study, by two members of the staff of the American Council on Education, covers the 1965–1975 decade and is based on detailed responses from six institutions of higher education—one community college (Miami-Dade), two private universities with teaching hospitals (Duke and Georgetown), one large state university (Illinois at Champaign-Urbana), one private comprehensive college (Hampton Institute), and one private liberal arts college (Wooster). It is not a cost/benefit study since only the costs of regulation are considered.

Twelve federal programs having a variety of social objectives are covered: (1) equal employment opportunity, (2) the Equal Pay Act of 1973, (3) affirmative action (Executive Order 11246), (4) the Age Discrimination in Employment Act of 1967, (5) wage-and-hour standards, (6) unemployment compensation, (7) social security, (8) the Health Maintenance Organization Act of 1973, (9) the Employment Retirement Income Security Act of 1974 (which does not apply to public institutions), (10) the Economic Stabilization Act of 1970 (which does not apply to public institutions and exempts nonprofit institutions after January 1974), (11) the Occupational Safety and Health Act of 1970, and (12) Environmental Protection Agency regulations. The study does not include requirements for collective bargaining, programs applying specifically to educational institutions (Title IX of the 1972 Education Amendments or the "Buckley amendment"), or programs accompanied by federal funds. The "data appear to be more nearly comparable over time than across institutions," warn the authors.

According to the authors, the 1974–1975 cost of implementing the required social programs at the six institutions totaled $9 to $10 million—amounting, on a per-institution basis, from 1 to 4 percent of operating budgets. Though the 1-to-4 percent figure may seem small, the amount of money involved is large in comparison with endowment and gift income, with operating deficits, with student aid funds, and with the "budgets of some academic de-

partments facing extinction because of shifts in institutional budget priorities." Moreover, the costs of implementation doubled over the 1970–1975 period, rising much faster than either the costs of instruction or total revenues. On a per-student basis, these implementation costs ranged from $21 and $39 at Miami-Dade and Illinois, respectively, to $129 and $164 at Wooster and Hampton, and represented from 5 to 18 percent of the 1974–1975 net tuition revenues at the six institutions.

Besides increasing an institution's costs, the programs have made costs more unstable (and therefore less predictable for budgeting purposes). The authors also note that just the task of administering the programs now contributes one eighth to one quarter of campus-wide administrative costs at the individual institutions, and has led to greater administrative centralization (and bureaucracy). Because colleges and universities are so labor-intensive, increases in social security taxes impose the "largest single cost burden" of the programs studied and, in the authors' opinion, "tend to nullify" the value of the academic tax exemption. Federal programs in these areas "may have a far greater financial impact on higher education than does any explicit and coherent federal policy in support of higher education."

Clearly, programs in pursuit of broad social goals have resulted in the diversion of resources from strictly educational activities. Since they have raised costs without raising educational output, they are inflationary—by the standard of recent analyses of the impact of regulation on industry and on the consumer. The authors acknowledge, however, that these statements, though true, do not take into account the possibility that educational institutions may have a legitimate output in addition to education—"income security, a better environment, safer places to work, less discrimination against the disadvantaged, and less economic inequity."

The ACE study recommends that the higher education community redefine its relations with the federal government, relations that have been too narrowly limited to "educational bounds." There is also a need for a coherent federal educational policy under which social and environmental programs can be evaluated for their potential effects on the campus.

Regulating Higher Education

"Higher Education and Government: Government Regulations are Strangling Business and Education" by Father Ernest Bartell (a speech delivered at the Shell-Faculty Forum), in *Vital Speeches of the Day*, April 15, 1977.

Although regulation of business is an old story, regulation of the campus is not. Noting this, Father Bartell, formerly president of Stonehill College and now director of the Fund for the Improvement of Postsecondary Education, summarizes the concerns of educators about the costs that regulation imposes upon their institutions. Not only are there the direct costs of roughly $2 billion annually (offsetting the estimated total of $2 billion in annual giving to higher education), but there are also significant indirect costs as well.

Title IX of the Higher Education Act of 1972, which prohibits sex discrimination in admissions, employment, physical facilities and athletic programs, adds significantly to higher education's burden in applying affirmative action programs. The National Labor Relations Board's extension of collective bargaining requirements to colleges and universities is undermining the traditional faculty role in vital matters of university governance. The "Buckley amendment," which gives students access to their personal data and files, has reduced the effectiveness of college placement services and faculty recommendations. The Department of Labor's administration of Executive Order 11246 would forbid a church-related college from applying religious criteria in hiring its president, thereby threatening the diversity that has been a strength of U.S. higher education. Also, the Education Amendments Act of 1976 apparently extends truth-in-advertising to college and university catalogues. Last on the list, under proposed new regulations, higher education will be required to apply the full range of equal opportunity and affirmative action rulings to the handicapped, including not only paraplegics, the deaf, and the blind, but also drug addicts.

Father Bartell does not claim that colleges and universities are "innocent victims of unwarranted intrusion." Indeed he suggests that higher education should put its own house in order and notes that many college professors

have urged increased federal regulation of organizations other than their own. But he does argue that the collegial nature of the institutions of higher education, the particular roles they play, and especially the need to preserve educational independence (including academic freedom) and diversity, all combine to render current techniques of federal regulation and current regulatory requirements inappropriate and in the long run destructive of the institutions themselves.

Business (which has more experience with federal regulation) and higher education should work together, Father Bartell suggests, against "burdensome governmental regulation." They have a newly shared concern for issues of freedom, ethical behavior, accountability, public trust, and "proper participation in the political process."

Too Much Form, Too Little Content

"The Environmental-Impact Statement: A User's View" by Eugene Bardach and Lucian Pugliaresi, in *The Public Interest*, Fall 1977.

The authors, formerly with the Office of Policy Analysis in the Department of the Interior, conclude that the machinery set up by the National Environmental Policy Act guarantees "*some* sort of look at environmental issues," but unfortunately "precludes the *hard* look that could and should influence agency decisions." Furthermore, court opinions defining the requirements of the environmental impact statement (EIS) have given interested parties a tool that enables them to "delay, cancel or modify" any project they oppose. In the authors' view, these effects were not intended by Congress.

Bardach and Pugliaresi note that the environmental impact statements they dealt with were excessively long—for example, 1,140 pages for the December 1976 oil-and-gas-lease sale in the Gulf of Alaska, and the EIS for the March 1976 Kaiparowits (Utah) coal-fired power plant ran over 2,500 pages. Most of the material they contain is not even worth reading, and certainly not useful for policy analysis.

The authors discuss a number of reasons for these developments. Part of the problem stems from the ruling in *NROC* v. *Morton* (1972), which held that all reasonable alternatives to the one proposed must be considered in the EIS. The Council on Environmental Quality has also contributed to the problem by issuing guidelines on topics to be included in any EIS; these topics have been translated into chapter titles by the Department of the Interior, and the required chapters are filled out to "respectable size" so that observers will be convinced that the EIS is a serious document. In addition, the writers of the EIS are careful to eschew value judgments ("subjectivity") and tend to follow marked-out paths of analysis (for safety's sake)—the latter sometimes leading to a failure to consider relevant, though anomalous, issues. Moreover, because those who prepare EISs are aware of "how little we really know," and anxious to avoid the accusation of "white washing," they lean toward pessimism (which, in any bureaucratic case, is safer than optimism) and therefore are preoccupied with the " 'worst-case' possibility."

On top of this, there is the problem of what constitutes an "impact"? If an impact is "any alteration in the state of the world that might be caused by a given project" (which now seems to be the definition), then the questions to be answered are what the world would look like in the absence of the project and what it would look like if the project goes through. But the first of these leads to all sorts of questions about endemic change: project or no, things will not remain the same as they are now. And the second raises questions about adaptation: if Alaskan oil development alters the migration patterns of the salmon eaten by Eskimos in the interior, will these Eskimos then alter their own living patterns?

There is also the matter of contingent impacts. "Extending a sewer line into an undeveloped area has virtually no impact by itself but creates the potential" for eventual impact. If that time comes, state and local governments are likely to intervene: should the EIS assume they will? will not? If the latter, then the study may overstate the consequences of a given project.

In order to protect the writers of environmental impact statements from charges that they have a vested interest in the approval of a project, the Department of the Interior has insulated them from the decision-making pro-

cess, thus further reducing the policy value of their work.

Bardach and Pugliaresi propose making agencies "relatively immune" from legal proceedings brought on grounds of "alleged defects in the analytic contents or style of their environmental-impact statements"—so that the EIS, rather than being defensive and bureaucratic, might become a useful tool for policy analysis. They acknowledge that environmentalists would be unlikely to give up, willingly, a much-used tool of litigation in order to "engage in a more serious dialogue over real issues." Therefore the proposal is aimed at those who are interested in regulatory reform and in "reasonableness in the way the government goes about its business."

Multinationals and NCEs

"Consumer Protection Regulation in Ethical Drugs" by Henry Grabowski and John Vernon, in *American Economic Review*, February 1977.

A government regulation sometimes has unintended side effects. Henry Grabowski and John Vernon, professors of economics at Duke University, contend that increased regulation of ethical (prescription) drugs has led to higher costs and is shifting development of new drugs to large multinational drug firms. These conclusions challenge the views of the FDA and of a number of independent scholars.

This article extends the growing literature on the effects of the 1962 amendments of the Food, Drug, and Cosmetic Act of 1938. These amendments require firms to demonstrate the efficacy as well as the safety of all new drugs and impose regulatory controls on drug research, advertising, and labeling.

The authors begin by noting that, in the post–1962 period, (1) drug development time and costs have increased severalfold (data from Mund and Sarett), (2) the number of new chemical entities (NCEs) introduced annually has declined sharply from 233 in 1957–61 to 76 in 1967–71 (data compiled by the authors), and (3) increased regulation alone accounts for the doubling in the cost of developing and introducing an NCE in the United States (according to the authors' 1976 comparative study of the United States and the United Kingdom).

In this article, Grabowski and Vernon demonstrate that because of these increased costs and risks, new drug innovation is shifting to fewer and larger firms, particularly multinationals. The multinational firm has the important advantage of being able to respond economically to unfavorable regulatory conditions in the United States. It can, for example, introduce a new product in foreign markets before, or instead of, introducing it in the United States. This allows the firm to gain knowledge and sales revenues abroad while a new drug remains tied up in the regulatory process here. The authors show that NCEs, although discovered in the United States, are increasingly being introduced first in the United Kingdom —in contrast to the situation in the early 1960s.

The fact that U.S. law prohibits the exportation of drugs not yet cleared by U.S. authorities appears to have contributed to the shift toward investment in drug development and production overseas. Clinical testing of new drug compounds also seems to be moving abroad. In 1974 U.S. firms clinically tested half their new drug compounds abroad, whereas before 1966 nearly all of this testing was first performed in the United States.

Grabowski and Vernon argue that the greater risks and costs now associated with new product introduction in the United States have operated as a barrier to competition. As a consequence, a few large multinational firms now dominate the field of drug innovation. The authors conclude that when a new regulatory control is being considered, its possible adverse effects on an industry's competitive structure should be taken into account.

Small Steps and Hybrids

"The Medical Care System under National Health Insurance: Four Models" by Walter McClure, *Journal of Health Politics, Policy and Law*, Spring 1976.

The goals of national health insurance are widely accepted to be (1) financial protection against undue medical expense, (2) more equitable access to health care, (3) better quality care, and (4) cost control. Walter McClure, an economist at InterStudy, argues that any three of these goals can be achieved simultaneously, but not all four. He also asserts that

while the government may waver on its other goals, it cannot afford to waver on cost control. Thus, "government will do everything and anything it must to control health care costs. It will not succeed without significant change in the medical care system."

The U.S. health care system's capacity for absorbing resources is "almost endless," according to McClure. The prevalence of comprehensive health insurance aggravates the problem by reducing patients' needs to economize in the consumption of medical care.

McClure discusses six models intended to characterize the U.S. medical care system after the passage of universal national health insurance. Three are "market-oriented" and three are "regulation-oriented." The Medicare-Medicaid experience leads McClure to conclude that one of the market-oriented models, the present medical care system with universal and comprehensive insurance, would cause runaway health costs and a corresponding increase in piecemeal regulation. Its advantage is that it would be relatively easy to implement, unlike the other market models.

Of the latter, the major-risk insurance plan would increase patient cost-sharing by covering only those costs that exceed 10 percent of personal income. To prevent widespread supplementing of this plan with private coverage (and the consequent weakening of patients' incentives to limit their health care consumption), existing federal tax subsidies for the purchase of health insurance would have to be repealed.

The other conceptually plausible market model, the alternative-delivery-systems model, would be difficult to implement because it would require a wholesale restructuring of health care delivery. A large number of prepaid medical care organizations (organizations in which medical providers provide a package of services for a fixed annual fee) would have to be developed. McClure suggests that there are currently "few signs of the necessary public or private initiative, or understanding, to bring [alternative delivery systems] about on the scale needed to make [them] effective."

Of McClure's three regulatory models, a system of public utility process controls in which each service is reviewed for appropriateness is the least likely to succeed. Process controls would require more provider cooperation than would exist: "providers have little incentive to make [them] work. Indeed, process provider review of procedures is as likely to raise costs as lower them since providers will likely equate high style with quality."

In McClure's view, fixed budgets would have to supplement process controls in order to make regulation effective in controlling costs. He outlines two fixed-budget regulatory systems: the "British model" and the "public utility hospital model." Under the British model, the federal government would decide in advance how much should be spent each year for health care and would allocate that sum among designated health care districts. Each district would have to work within that fixed financial constraint. The public utility hospital model would apply the fixed budget approach only to hospitals, which are the "integrating structures" of the medical care system and the source of the most rapid cost increases. McClure cites the British experience as evidence that fixed-budget schemes can probably contain costs and distribute health care with reasonable equity. He believes, however, there is a danger that such schemes, like other forms of public utility regulation, will increase inefficiency, administrative rigidity, and impersonality, and may tend to inhibit innovation.

McClure finds that the "structure and incentives producing the problems in our present medical care system are strong and deep-rooted, and . . . require substantial change that will be politically difficult to achieve." The most politically acceptable models of the future medical care system (expanded coverage without any controls, or with process controls only) will probably aggravate and even "rigidify" the present difficulties. McClure thus advocates that small steps be taken toward all of the potentially successful models before national health insurance is even attempted. For example, although greater cost-sharing could be adopted for "elective" health care (such as tonsillectomies or cosmetic surgery), strict public utility regulation should be used for expensive acute-care facilities where both financial protection and equitable restraints are needed, but where costsharing is not effective because extreme need dictates use. The result may be a hybrid model that is "more effective and even more politically acceptable in the long run than the more single-minded approaches."

(Continued from page 2)
less arrogance and hostility from the "new class" he so correctly criticizes, the ultimate failing is not the mistake of some individual regulator but the unworkability of the regulatory process. The empirical evidence suggests that even in areas where government regulation is invoked to correct the supposed failings of private enterprise, the market itself is a superior mechanism for attaining the desired objectives.

M. Stanton Evans,
Washington, D.C.

TO THE EDITOR:

I don't want to appear ungrateful. Irving Kristol has done a great deal to undermine the mind-set of the knee-jerk regulators, and the thrust of his article is helpful.

But his opening paragraphs are full of unwarranted assumptions and myths. *No* reasonable person is in principle opposed to all government regulation? Come, now, he should know that many reasonable people do oppose, *in principle*, all government regulation.

Several of Mr. Kristol's examples, which presumably demonstrate the "reasonableness" of some form of government regulation, can just as well support the proposition that no regulation at all would be preferable to the regulation we have.

The dread carcinogen, Tris, for example, is a near classic case of a regulatory response to a possible problem (flammable sleepwear) which creates a real problem (cancer-causing sleepwear?) for which yet another regulation is proposed as a "solution." Government licensure of physicians can (and does) result in protecting incompetent licensees whom the marketplace would either force to become competent or drive out of business. . . .

There are two ways to organize a complex society—by voluntary cooperation or by giving orders from the top. Most societies operate with a blend of the two methods. But, as society becomes more complex, it is that much more difficult just to have enough correct information (even assuming universal benevolence) to give correct orders. Voluntary cooperation is not only morally preferable, but it *works better.*

I oppose regulation in principle because I am opposed in principle to a third party imposing its wishes by force on transactions between consenting adults. . . . It is understandable why some advocate regulatory "reform" rather than repeal of the laws that give regulatory agencies their power. But the fact that a policy is more politically feasible does not necessarily make it more "reasonable."

Alan W. Bock,
Libertarian Advocate

The Search for OSHA

TO THE EDITOR:

An obvious retort comes to mind after reading Philip J. Harter's "In Search of OSHA" (your September/October issue)—"Keep looking."

To write about "why firms have not made investments to comply with the standards" appears to ignore the billions of dollars being spent by American companies each year to meet OSHA standards. And to state that "a logical response for a company is to do nothing until coerced" seems to be oblivious to the long-standing existence of professional health and safety departments in many U.S. companies.

But I have more basic objections. First, Mr. Harter's statement of the justification for OSHA—"to ensure that workers do not unduly subsidize the industry with their personal safety and health"—is hardly a measure of objectivity. It is this type of thinking that presumably led OSHA to draft regulations on deep-sea diving that would have prevented many experienced divers from voluntarily engaging in an extremely well-paid activity whose risk they fully understand. . . .

"In Search of OSHA" would have been more effective if Mr. Harter had devoted attention to the causes of industrial injuries. Studies show that relatively few on-the-job injuries result from violations of standards. Many more are attributable to employee carelessness or to the assignment of employees to tasks for which they are inadequately trained.

OSHA's approach of setting and enforcing standards appears to be an ineffective way of increasing worker safety, judging by recent data: the number of workdays lost to injury and illness per 100 workers in American industry rose from 53.1 in 1974 to 54.4 in 1975. Mr. Harter's plea that OSHA redouble its efforts smacks of the hangover remedy known as a "hair of the dog."

I suggest that public policy start focusing on reducing *serious* industrial accidents and health hazards. It is doubtful that there is one invariant method of achieving a safer work environment. Equipment changes, variations in work practices, employee training, and leadership on the part of management all may be practical approaches. The choice of the optimum mix from among these approaches is the proper responsibility of company managements. That responsibility would be encouraged by making use of the financial incentives that Mr. Harter dismisses so lightly.

Murray L. Weidenbaum,
Washington University at St. Louis

PHILIP HARTER responds:

The purpose of "In Search of OSHA" was to point out some of the problems associated with the administration of the current program to improve workplace safety and health. The article was not intended to be a brief for a particular cure of those difficulties. If Professor Weidenbaum would take the time to read the report of President Ford's Task Force on OSHA, which I co-chaired, he would find little disagreement between the views of his letter and those in the report.

The task force also believed that detailed standards are generally inappropriate and that many accidents are produced by carelessness or lack of suitable training. Thus, our general standard sought to reduce the exposure to hazards that would cause injuries if carelessness should occur. That standard would also require employers to train employees in the safe operation of the machines they use. It was our belief that a standard focusing directly on these problems and specific enough to provide guidance to employers and employees would result in a more productive investment in safety. As Professor Weidenbaum points out, the massive investment made thus far has not been terribly effective. The reasons for this are that the current approach requires unproductive investment and does not stimulate business to establish solid programs.

I do not lightly dismiss the role of financial incentives (which are, of course, "interventions") in achieving safety in the workplace. Indeed, my article says a discussion of them is beyond its scope. I think financial incentives have an important role, but I am concerned that difficulties with them are too often overlooked—such as the difficulty in quantifying costs of injuries, the problem of ascertaining causation, the costs of the transfer mechanism, or the skewing of economic incentives. My impression is that the current academic mood dismisses standards out of hand, and I wanted to point out that we should not reject the entire standards approach simply because those in use for the past six years have been so bad. . . . ■