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# Readings

## of particular interest

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### **Worker Safety and Health: The Swedish Difference**

*Regulating America, Regulating Sweden: A Comparative Study of Occupational Safety and Health Policy* by Steven Kelman (Cambridge: MIT Press, 1981), 270 pp.

In this book, Steven Kelman of Harvard's Kennedy School of Government compares the behavior of two government agencies with similar missions: the Occupational Safety and Health Administration in the United States and the *Arbetskyddsverket* or Worker Protection Board in Sweden. As James Q. Wilson notes in a preface, Kelman emerges with a paradox: in "[t]he United States, that pre-eminent commercial republic," OSHA shows "a disposition to resolve all policy differences to the disadvantage of business and to place the enforcement of those policies in the hands of inspectors with a deep suspicion of business leaders." By contrast, in Sweden, "often described as the apotheosis of social democracy," the Worker Protection Board shows "a willingness to accommodate business views, an inclination to make policy behind closed doors, and a readiness to accept business assurances of compliance with those policies that, if they occurred in this country, would bring forth immediate charges of collusive behavior and irresistible demands for congressional investigations."

Surprisingly, the differences between regulation in the two countries were not, for the most part, differences in the strictness of standards. Kelman found that OSHA and ASV both tended to adopt highly protective health and safety standards. OSHA, however, took a "far more punitive" line on compliance than did ASV, and American businesses in turn resisted far more vigorously than did their Swedish counterparts. Moreover, OSHA was bound by elaborate rules of procedure, and lawyers and courts were heavily involved in its controver-

sies, whereas in Sweden, the regulators and the regulated had informal and mostly cooperative dealings.

Kelman examines rules promulgated in both countries between 1970 and 1976 on noise, construction safety, carcinogens, asbestos, and vinyl chloride. The noise case illustrates his thesis: the two agencies put forth not dissimilar proposals, but OSHA's rulemaking dragged on for years of contention, while ASV's proposal was met with a one-paragraph endorsement from the leading business group. For asbestos and vinyl chloride, OSHA's strict standard-setting actually influenced ASV's, because the Swedish agency was reluctant to seem more lenient than its U.S. counterpart. In most cases, however, the Swedish agency moved earlier and faster to regulate.

In a series of interviews, Kelman surveyed the opinions of U.S. and Swedish administrators, job safety inspectors, and industry spokesmen. Standards are strict in both countries, Kelman argues, because officials share what he calls the professional ideology of the safety and health profession. For example, they tend to favor as much protection as possible for workers with little regard to cost, and they tend to choose engineering controls (muffling the noise of machinery) over personal protection (giving workers earplugs). More unexpectedly, Kelman claims that the safety experts who work for industry hold much the same values as the regulators, whether or not their employers do so. In Sweden the leading business group, influenced by its safety professionals, often supports regulation even when its member firms do not. Most U.S. trade associations think it is their job to represent their member firms' views faithfully, the author says.

While organized business may be more inclined toward compromise in Sweden than it is here, the same is true of regulators. The OSHA inspectors Kelman interviewed were more zealous in their mission and more sus-

picious of business than were the Swedish inspectors. Over a third of the Americans declared that they would never accept a safety job in private industry; none of the Swedes felt that way. Twenty-one of twenty-six U.S. inspectors said "that they took no account when a firm threatened to shut down because it could not afford to pay for changes the regulations required." Only six of fifteen Swedish inspectors ignored threats of a shutdown. The Swedish inspectors were skeptical when told of OSHA's enforcement policy of detecting and punishing each violation of a formal code. One said: "If we did that, an inspector could never feel himself welcome at a firm."

Swedish inspectors had considerable discretion in their dealings with business; Americans "went by the book" and were supervised very closely by OSHA headquarters. OSHA inspectors also spend considerable time compiling statistics and reports on their activities (which supervisors use to judge productivity) while ASV inspectors have relatively little paperwork.

In the rulemakings themselves, OSHA holds hearings which may last for a month or more and include cross-examination of witnesses and other judicial trappings, large audiences, and occasional demonstrations complete with chants and placards. "Rulemaking in Sweden, in contrast, presents a picture of simplicity," Kelman says. "Basically there are no statutory requirements for steps that ASV must take before a regulation is promulgated. There are no requirements for notice, comment, or hearing. . . ." In theory, at least, "three people could write the text of a regulation in the morning and adopt it the same afternoon."

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## Curbing Health Costs Competitively

"Special Symposium: Market-Oriented Approaches to Achieving Health Policy Goals," edited by Virginia Albrecht, in *Vanderbilt Law Review*, vol. 34, no. 4 (May 1981).

During the 1970s, as the share of gross national product spent on medical care rose from 7.6 percent to 9.1 percent, health policy makers began shifting their attention from ensuring adequate medical care for everybody to con-

trolling medical costs. This symposium examines legal and philosophical aspects of proposals to control costs by relying more on the market (and less on government regulation).

In the lead article, James F. Blumstein and Frank A. Sloan provide an overview of the market-oriented approach. The crucial problem with the current system, in their view, is that because cost-saving choices usually rebound to the benefit of insurers, individual decision makers—patients, providers, and institutions—do not receive the money saved when they choose to forgo an expensive procedure. The perverse incentives lift the demand for care, creating a ready market for new technologies even if they are only marginally beneficial. The authors favor revamping the health care market to let all parties reap more of the benefits of their cost-saving decisions.

Blumstein and Sloan discuss several recent legal developments which they believe will encourage a decentralized medical marketplace. The "commercial speech" doctrine, as it has developed in several Supreme Court rulings, holds that professionals have a right to advertise the price of their services and that consumers have a derivative right to gain the information needed to make wise marketplace choices. Because these rulings stress the role of information in consumer decisions, they provide a constitutional rationale for other "market-perfecting" policies.

The authors are similarly optimistic about recent developments in the legal doctrine of "informed consent," which requires a doctor to inform the patient of the risks of and alternatives to proposed treatment. The law had long held that the extent of disclosure required depended on medical custom; in effect, doctors themselves defined their disclosure duties by consensus. In *Canterbury v. Spence*, however, the District of Columbia Circuit held that the standard for disclosure was what a reasonable patient would need to know in order to make an informed choice. This new standard should lead to greater patient involvement in medical decisions, Blumstein and Sloan say, making the health care market more efficient.

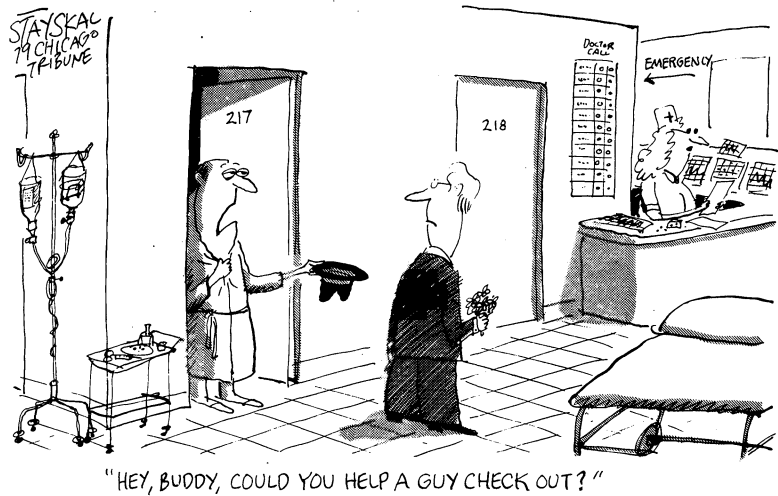
The authors also applaud the demise of the "learned profession" exemption from the anti-trust laws, which once immunized the anticompetitive activities of doctors. They also note that recent Supreme Court cases have expanded

the definition of "interstate commerce" to bring most anticompetitive activities by hospitals and groups of doctors within the reach of the Sherman Act. Finally, they discuss the effect of "state action" on antitrust liability. The Sherman Act has been held not to apply to a state's actions when it is carrying out a "clearly articulated and affirmatively expressed" state policy, even if this policy has anticompetitive consequences. The authors maintain, however, that this may not extend to a private party implementing an anticompetitive state policy. Government involvement may even make some private conduct more, rather than less, susceptible to antitrust challenge. For example, if certificate-of-need programs for hospitals create an artificial condition of scarcity that results in added market power for some private interests, and if they use that power to restrain competition, they could become subject to antitrust liability.

Robert F. Leibenluft and Michael R. Pollard argue that during the transition to a freer market courts should apply an "intermediate" level of antitrust scrutiny to health markets. Under such a standard, a rebuttable presumption of illegality might attach to practices which in other contexts would be per se antitrust violations. Professionals would still have a chance to show the court a competitive justification for the restraints, but undocumented claims that the restraints are necessary to maintain the quality of patient care would not be sufficient.

Rand E. Rosenblatt, in a piece critical of pro-market proposals, argues that increased cost sharing may cause patients to give up cost-effective services like preventive medicine. Rosenblatt also says that cost sharing can reduce total health care expenditures only if patients have a realistic opportunity to make choices; it is questionable whether that condition exists here, since most health care costs are generated by in-patient hospital care, price comparisons among hospitals are difficult to make, and illnesses are often sufficiently serious that the patient will rely entirely on the physician's judgment.

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"HEY, BUDDY, COULD YOU HELP A GUY CHECK OUT?"

T. R. Marmon, Richard Boyer, and Julie Greenberg echo this last argument, noting that physicians are estimated to influence or control 70 percent of all demand decisions in health care. Other contributors to the symposium include Clark Havighurst, on the strengths of the market approach; Randall R. Bovbjerg, arguing that the dichotomy between competition and regulation is "overdrawn"; and Robin Dimieri and Stephen Weiner, on regulation of the governing boards of nonprofit health care institutions.

## Uninhabitable, or Ungovernable?

"Habitability Laws and the Welfare of Indigent Tenants" by Werner Z. Hirsch, in *The Review of Economics and Statistics*, vol. 63, no. 2 (May 1981), pp. 263-274.

Habitability laws set minimum quality standards for rental housing. An apartment or house that falls below the level set by the law is not officially "habitable," and its landlord is legally obliged to make any repairs or alterations needed to bring it up to habitable level.

Werner Hirsch, professor of economics at the University of California, Los Angeles, here examines the effects of these laws on the well-being of poor tenants. Hirsch first constructs an index to measure the effect of various housing quality characteristics on tenant well-being.

He then assembles survey data on low-cost housing in thirty-four metropolitan areas containing a quarter of the U.S. population. Finally, using statistical analysis, he estimates the effects of various state habitability laws on housing demand and supply in the thirty-four areas. He concludes that none of the laws leads to a statistically significant gain in tenant welfare and that at least one type of law may lead to a significant loss.

Tenants whose landlords fail to keep their housing habitable can pursue a number of legal remedies which differ from state to state. A *repair-and-deduct* remedy allows tenants to fix defects on their own and then deduct the cost of the repairs from their rent, if the landlord has failed to carry out the repairs within a set time after being notified. "This remedy is limited to minor defects and therefore tends to be the code enforcement mechanism least costly for landlords," Hirsch notes. A *rent-withholding* remedy is more pointed: it lets tenants withhold rent or put it in escrow until violations are corrected, without fear of eviction.

*Receivership laws*, the third and most drastic of these measures, "permit the court to appoint a receiver who takes control of buildings and corrects hazardous defects after the landlord has failed to act in a reasonable time," Hirsch says. "Rent is deposited with the court-appointed receiver until the violation is corrected, and as long as the tenant continues to pay rent into escrow he cannot be evicted for non-payment." Indeed, in some states rental income to the landlord can be stopped, since all tenants in the building, not only the aggrieved ones, pay rent into escrow. Unlike the other remedies, Hirsch notes, "receivership is usually initiated by government and supported by its considerable legal resources."

The intent of all three types of law was to improve the average quality of housing, benefiting tenants more than the cost imposed on them by a rise in rents. Clearly, if tenants find on average that the net quality improvement is worth the cost, they benefit from the law.

The author examined Census Bureau housing survey figures for households that had incomes of \$9,000 or less in 1974, and that lived in unfurnished, nonsubsidized private rental units. Rent totals were adjusted to include electric, gas, and other power bills. To come up with a standard measure of housing quality,

Hirsch combined twenty-seven variables, some having to do with the dwelling itself (age, plumbing, number of rooms) and some with its neighborhood (inadequate police or fire protection, airplane noise, traffic). As one would expect, "good" scores in each of these categories were associated with higher rents in the Census Bureau findings.

The author found that the milder remedies, repair-and-deduct and rent-withholding laws, had no significant effect on either the supply of or the demand for low-income housing. Receivership laws had effects on both supply and demand, increasing both rents and the value that tenants attached to their apartments. The supply shift, however, was about three-and-a-half times as great as the demand shift. The result was that tenants as well as landlords were hurt on average: receivership laws cut consumer surplus by 3.7 percent and producer surplus by 5.5 percent. "To the extent that habitability laws are mainly designed to improve the welfare of indigent tenants," Hirsch concludes, "the laws have failed, at least in the sample studied."

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## Job Training and Minimum Wages: Earning More, Learning Less

*Minimum Wages, Fringe Benefits, and Working Conditions* by Walter J. Wessels (American Enterprise Institute, 1980), 97 pp., and *Minimum Wages and On-the-Job Training* by Masanori Hashimoto (American Enterprise Institute, 1981), 72 pp.

Many minimum wage models have implicitly assumed that fringe benefits and working conditions remain constant when the minimum wage rate increases. Walter Wessels, assistant professor of economics at North Carolina State, offers a model that allows for the possibility that employers can offset their added wage cost by reducing their non-wage benefits to workers.

In the absence of a legal constraint, an employer will try to allocate its expenditures between wage and non-wage benefits so that at the margin an added dollar spent on the former yields the same utility for workers as an added dollar spent on the latter. If there is a legislated increase in the wage level, and the employer manages to offset the added expense by an

equal reduction in what it spends on fringe benefits, its employees' utility will drop because the value to them of the higher wages is less than the value of the lost fringe benefits.

Some empirical phenomena that have puzzled economic researchers may be explainable as the result of a shift from non-wage to wage benefits, Wessels says. He notes that southern industries affected by hikes in the wage minimum did not in general pass them along in the form of higher prices. Also, quit rates in certain industries actually seem to rise in the short run after the minimum wage is raised, just the opposite of what standard theories would predict.

By far the most important fringe benefit for young workers is on-the-job training. Minimum wages impair on-the-job training in two ways: by eliminating some low-paying jobs that offer valuable training, and by causing employers to compensate for higher wage costs by eliminating training programs on the jobs that remain. In effect, the law forces young workers to trade some of their future earnings for an increase in current wages. (Some youths will pursue their schooling rather than participate in the labor market, though the magnitude of this effect is uncertain.)

Masanori Hashimoto, associate professor of economics at the University of Washington at Seattle, investigated the effect of the minimum wage on a sample of about nine hundred young male workers, not enrolled in school, whose job experience was surveyed between 1966 and 1969. Hashimoto found that in 1969, assuming a 10 percent discount rate and forty-five years of remaining working life, a typical young white male got from 38 to 58 percent of his full compensation in the form of on-the-job training. (The data for young black males were ambiguous and inconclusive, according to Hashimoto.) These figures approximate the results of an earlier study by Edward Lazear, which found a figure of 40 percent for white males.

The 1967 revisions in the minimum wage law, which expanded its coverage considerably, reduced the value of on-the-job training for young white males by 26 to 31 percent, Hashimoto calculates. As a result, their cash wage rates rose less rapidly in the next years. By 1969 their full wages, including both cash and training, were 14 to 17 percent lower than they would otherwise have been.

## Housing Vouchers and Rent Increases

*Price Increases Caused by Housing Assistance Programs* by C. Peter Rydell, John E. Mulford, and Lawrence Helbers (Santa Monica, Calif.: The Rand Corporation, released April 1981), 28 pp.

Federal low-income housing policy shifted in the early 1970s away from new construction and toward greater support of existing privately owned rental housing. At the time, critics of the policy shift feared that the benefits of rental subsidies would accrue to landlords through rent increases rather than to tenants through better housing or reduced rent burdens. Accordingly, the Section 8 housing assistance program includes a detailed system of regulation enforced by local public housing authorities to keep rents down.

To find out whether rent subsidies did indeed trigger increased rents, the Department of Housing and Urban Development contracted with the Rand Corporation to examine the market effects of two rent subsidy programs. One was the actual Section 8 program; the other was an experimental housing allowance program similar to housing vouchers.

The Rand researchers found that, contrary to what had been predicted, the Section 8 program led to a 26 percent increase in rents, while the housing allowance program, which relied on the forces of the marketplace to keep rent levels down, led to an increase of only 1.2 percent. The authors of the study, C. Peter Rydell, John E. Mulford, and Lawrence Helbers, conclude that by restructuring Section 8 subsidies in line with the housing allowance model, the federal government could save roughly one-third of subsidy costs. Combining 1976 subsidy data with 1979 occupancy levels, this would work out to savings of some \$218 million annually.

The housing allowance program was set up as an experiment in 1970. It currently gives monthly cash payments to 9,000 households in and around South Bend, Indiana, and Green Bay, Wisconsin, to help pay their rents. The families can choose to live in any unit in the prescribed area as long as the unit meets minimal standards of decency and safety. Accordingly, families find their own apartments in the open market and negotiate rents and condi-

tions of occupancy directly with their landlords.

The amount each family receives does not vary with the actual cost of a particular apartment. Instead it is calculated as the difference between one-quarter of the family's income and an estimated "standard cost" of adequate housing in the area. Tenants are permitted to keep any subsidy money they save by finding or bargaining for lower rents.

Under Section 8, by contrast, the government pays the marginal rent dollar. Consequently neither tenants nor landlords have any incentive to keep rents low because both realize that, if the rent goes up by a dollar, so does the subsidy payment.

Section 8 rents, the study found, tended to rise toward the "fair market rent" ceiling set by local public housing authorities under HUD rules. In effect, the ceiling served as a target for many landlords. Landlords with high-quality apartments that rented for more than the ceiling price did not join the Section 8 program, since they could do better in the marketplace. Those with inferior units, however, reaped higher rents from Section 8 than they could have commanded in an open market. More than one-third of landlords who had raised their rents told researchers that they did so in order to reach the "fair market rent" standard. Although local public housing officials were charged with checking each unit's "rent reasonableness" to prevent this kind of targeting, most had difficulty defining "rent reasonableness," or even enforcing a ceiling once established.

As the authors point out, housing allowances have so far been limited to small experiments because it was thought that they would cause rent increases. The Section 8 program, on the other hand, has been implemented nationally and continues to expand.

The Section 8 program could be reformed in three ways: "by restructuring the subsidy formula so that tenants pay the marginal rent dollar; by paying the subsidy directly to tenants so they know they are paying the marginal rent dollar; and by removing the rent ceiling so it can no longer act as a rent target," the authors write. "Restructuring the subsidy formula is the key change, because it alone would probably prevent most price increases."

## A New Health and Safety Journal

*Regulatory Toxicology and Pharmacology*, vol. 1, no. 1 (June 1981); edited by Frederick Coulston and Albert C. Kolbye, Jr.

This new journal is meant to provide an outlet for some of the rapidly increasing literature on the scientific basis of environmental, health, and safety regulation. It hopes to advance the dialogue between scientists and the government officials, lawyers, and business people who are involved with the regulation of "environmental contamination in its broadest sense." In an introductory note, editors Frederick Coulston of Rensselaer Polytechnic Institute and Albert C. Kolbye, Jr., of the Food and Drug Administration observe that a workable definition of safety can emerge only from such a dialogue: "Safety is a moving target, as perceptions and concepts evolve."

John P. Frawley of Hercules, Inc., notes in the first article that toxicology itself became a regulated industry during the 1970s because of the proliferation of GLPs ("good laboratory practice" rules) required by the agencies to whom firms must submit test data. The GLPs do not improve the tests' precision or validity, Frawley says, but merely provide an "audit trail" the size of a telephone directory to show that the researcher did not falsify the results. Just as chemicals themselves are assumed harmful until proved otherwise, he notes, "every piece of data we report is assumed to be falsified or fictitious unless a third party verifies that we derived it in an honest way. . . . I know of no other profession, no other occupation, that has allowed itself to become so dominated by government and stripped of its integrity and pride."

Among other articles, C. Jelleff Carr, the journal's managing editor, outlines the history of the controversy over nitrites in food; Joshua Lederberg of the Rockefeller University suggests possible alternatives to massive animal testing in toxicological research; J. Smeets of the European Economic Community's Environment and Consumer Protection Service describes the control of hazardous chemicals in the Common Market; and Dorothy A. Canter of the National Institutes of Health looks at the three-year-old National Toxicology Program.

(Continued from page 4)

tempting to apply benefit-cost principles to national forest planning, as my article suggested, and (2) denationalization, as Dowdle suggests. Although I think it unlikely that greater use of benefit-cost principles would not produce at least some gains, the flexibility inherent in such a policy could be misused in the way Kusters fears and ultimately leave us worse off. If economic efficiency principles can't be successfully applied in this area, and if new rules are not developed, the logic of Kusters's argument seems to lead in the direction of Dowdle's prescription.

### Aid for Independent Petroleum Refiners

TO THE EDITOR:

Edward Mitchell ("Protection for Petroleum Refiners?" *Regulation*, July/August 1981) makes crystal clear that there is no case, on equity or efficiency grounds, for compensating independent (nonintegrated) petroleum refiners for their loss of price-controlled domestic crude. Mitchell also answers national security concerns by noting that the most likely supply interruption that might occur, a loss of Persian Gulf crude oil, would add to the current excess of refining capacity throughout the world.

The national-security argument for protecting the independents is even weaker than it appears. Protection would take the form of a direct subsidy to the independents or a tariff on imports of refined petroleum products. In either case, refined product imports would fall and domestic refining output would rise. But the rise in domestic refining activity would require more crude oil, available, at the margin, from overseas sources. On a first approximation, therefore, the subsidy or tariff would cause imports of petroleum products to be replaced by imports of crude oil, without significantly reducing our total imports of petroleum. The tradeoff is without apparent national security benefit.

The only circumstance in which replacing crude imports with product imports might weaken our national security is if a world disruption were to involve significant destruction of refineries abroad. But the major sources of our product imports are in the Caribbean, Western Europe, and Eastern Canada, and the probability of a refinery dis-

aster in those regions is, as Mitchell implies, far less than the likelihood of a Middle East crude oil interruption.

Protection is defensible, moreover, only if the probability of a refinery disaster is high enough to justify the costs of protection. These costs were estimated by a Department of Energy study in 1980 at \$500 million a year in real resources, and \$12 to 14 billion a year in transfers from consumers to producers and government. It is doubtful that these costs are outweighed by national security benefits; even if they are, still greater benefits must surely result from spending equivalent sums on military support for the regions in question, rather than on shoring up failing domestic refiners.

It is also worth noting that oil supply shortfalls—whether of crude or of products—tend sooner or later to be spread around the globe in proportion to each region's petroleum use. As long as we import any products from anywhere in the world, a cutoff of product exports from one area will ultimately cost us our proportionate share, even if our imports from that area are initially zero. The process unfolds as those experiencing cutoffs (and relatively higher prices) bid other existing sources away from their former recipients.

The national-security case for protecting independent refiners has frequently been based on the claim that the new product imports will come not from secure areas, but from the Middle East. Arab OPEC producers are also said to be planning to force buyers to take both their crude and their refined prod-

ucts, thereby extending the cartel to include refinery operations. This argument originated in a 1979 study by Henry Schuler for Melvin Conant and Associates, and has been widely cited since, from the columns of the *Wall Street Journal* to the halls of Congress.

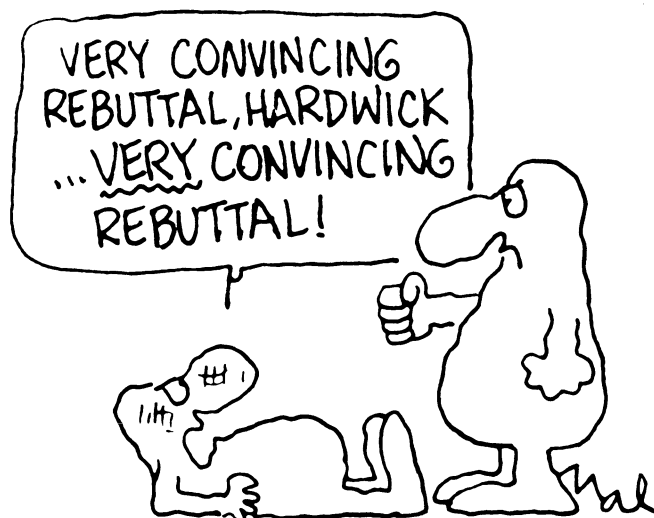
Space does not permit a full rebuttal to Schuler's claim here. Briefly, the Energy Department's annual surveys of the world refinery industry provide no evidence whatever of any significant entry by OPEC producers into the refining export market in this decade.

The underlying argument is that a monopolist can extend his power by tying sales of a product in which he has monopoly power with sales of a product in which he is a competitor. This argument is specious. If OPEC producers were to tie in refined products with their crude, they would sell more product but less crude. OPEC is a low-cost producer of crude, but its comparative advantage for refined products is no greater, and possibly less, than that of numerous other countries. OPEC's total sales of petroleum—crude plus product—would be essentially unchanged, its costs higher, its profits lower, and its total leverage over consuming nations no greater than before.

George Horwich,  
Purdue University

TO THE EDITOR:

The old Emergency Petroleum Allocation Act (EPAA) may have just expired, but a new "Son of EPAA" is now being promoted in Congress by Senator McClure and Represent-



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ative Sharp. Most members of Congress and Department of Energy personnel would probably agree that the original EPAA was a poor law, drafted amid crisis and controversy. Still, the current replacement bills duplicate many of its worst features.

As Mitchell points out, the non-integrated refiner wants the best of both worlds: to buy spot crude when it is cheaper than crude sold under long-term contract, and to get preferential allocation of other firms' contract supplies when the



spot cost goes up. In theory and practice, the EPAA was ideally suited to deliver on both counts. It required one group of refiners to pay massive subsidies to another group—with the recipients commonly receiving tens of millions of dollars, and a few of them receiving hundreds of millions in all.

These subsidies were mainly designed to support inefficient and unprofitable companies. As such they were a drain on both efficient companies and the whole economy. A few examples of EPAA subsidies in action will amplify Mitchell's arguments.

One form of subsidy known as Delta/Beacon relief guaranteed the eligible refiner a certain profit no matter how poorly he operated. Since the guaranteed profit was calculated either as a fixed profit margin or as a return on total investment, there was no incentive to control costs—and capital expansions only brought in more money.

Many companies sought to stretch even these generous limits. Some

managed to extend the guaranteed profit to returns on non-oil portions of the business, such as an insurance company subsidiary. Others transferred funds to non-oil parent companies from their refining subsidiaries. (The subsidiaries would then require additional relief to make up for the lost capital.) The dollar volumes were enormous. While the EPAA was in force, Amoco alone paid out nearly half a billion dollars for special subsidies, over and above a total of 2 billion dollars in crude oil equalization payments.

Subsidized companies came up with now-legendary ways to siphon money from other productive firms. In one notorious case, a firm had disregarded the Energy Department's frequent warnings that a short-term subsidy was to be phased out, had expanded its refining, pipeline, and terminal operations as demand dropped, had increased its number of marketing outlets, and had even depleted its funds by buying a Sun Valley, Idaho, ski resort. The department spent twenty-nine pages of a thirty-one page report analyzing why this firm did not qualify for relief. Then, on the thirtieth page, it graciously ignored its reasoning and noted that the company had become dependent on exceptional subsidy relief and would suffer without it . . . so it awarded the firm the exceptional relief.

Inequities were also common among the subsidized firms. On one occasion, two very similar firms presented almost identical evidence that their crude oil costs exceeded the industry average. One firm had been able to operate profitably in spite of the disparity; the second was losing money. DOE granted relief to the inefficient firm and denied it to the other—presumably on the grounds that it must have been doing something right.

The worst result was the distortion of investment incentives. A survey once showed that during a twenty-four-month period new subsidized, inefficient refineries were coming on stream at the rate of one a month. The funds that went to build and subsidize these refineries could have been used instead to upgrade efficient refineries to process vastly more plentiful low-cost, low-quality crudes—which would have reduced U.S. vulnerability to cut-offs of premium grades. . . .

Decontrol was and remains the only practical answer.

*Jerrold L. Levine,  
Amoco Oil Company*

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