Viewpoint

A Democrat looks at the Republican platform

STUART EIZENSTAT

HE REPUBLICAN platform is schizophrenic on regulation. The goals of the great 1964–1977 wave of social legislation are endorsed. But the vehicles to get us there—the needed implementing regulations—are treated as engines of economic disaster. The Republicans' "solution" is to immobilize the regulatory process in a morass of procedure.

Both parties put high priority on regulatory reform as part of their long-term programs to strengthen the economy and governmental effectiveness. But their approaches are very different. The Democrats would continue and expand the reform efforts of the last four years: more of the economic deregulation accomplished by President Carter and Congress, and better management of social regulations—as initiated by the President's Executive Order 12044—to make them cost-effective and consistent. The Republicans brush past

The Republican platform is schizophrenic The goals of ... social legislation are endorsed. But the vehicles to get us there ... are treated as engines of economic disaster.

the first of these areas and seem to want to paralyze the second.

Economic deregulation has been on the agenda for decades but the real push began only five years

Stuart Eizenstat is assistant to the President for domestic affairs and policy.

ago. First steps by the Ford administration and Senator Edward Kennedy have accelerated since 1977 into a steady march. Five major bills plus hundreds of agency actions are thinning federal regulations and freeing competition in airlines. energy, trucking, railroads, banking, broadcasting, cable TV, telecommunications carriers, and other areas. In addition, state rules and professional codes that restrict competition among doctors, druggists, and eyeglass dealers are being attacked. The airline and trucking reforms alone will save consumers an estimated \$6-10 billion a year. There is more to be done. But the Republican platform notes merely that "the marketplace should regulate management decisions," and endorses—without getting down to any controversial specifics deregulation in energy, transportation, and communications.

The GOP platform's skimpiness in this area and its silence on how to finish the job may reflect understandable reluctance to discuss Carter successes. GOP support certainly was crucial to passage of the deregulation bills, and we wish to continue this bipartisan partnership on economic deregulation. But Governor Reagan's courtship of the foes of trucking deregulation and his silence on other specifics is worrisome. In September, when the President was fighting to pass the railroad deregulation bill, Governor Reagan's definitive economic policy statement called only for a "task force" to decide which industries need deregulating.

The Republicans do focus on reform of the regulatory process, but they ignore the changes (Continues on page 19)

Eizenstat on the Republican Platform

(Continued from page 14)

already under way. They say "small business should be exempt or subject to a less onerous tier of regulation." The President ordered this policy in 1979, dozens of regulations are now being "tiered," and the Congress has just passed (and the President signed) the Regulatory Flexibility Act which makes the policy law. The Republicans want cost-benefit analysis of major new rules and review of existing regulations to eliminate the outmoded and duplicative. For more than two years. Executive Order 12044 has imposed a management framework on the regulatory process, including analysis of the costs and benefits of major new rules, a requirement that agencies select the least burdensome way to achieve the regulatory goal, and hard-eyed reviews of existing regulations; and the administration is seeking passage of the Regulatory Reform Act, which incorporates those reforms into statute and extends them to the independent regulatory commissions. The GOP attacks paperwork and wants agencies to "justify every official form." President Carter has ordered careful scrutiny of all paperwork requirements, has cut the paperwork burden by 15 percent, has established a "paperwork budget" (modeled on the spending budget) to make more cuts, and has proposed legislation to strengthen the authority of the Office of Management and Budget to control paperwork. (One footnote on this subject: over two-thirds of the burden is created by a single agency, the Internal Revenue Service. The Republicans' call for dozens of new tax expenditures and no closing of tax loopholes—would add more complexity to tax forms than might be cut from the rest of government put together.) The Republicans also endorse sunset legislation, a proposal that the President has backed for several years.

The platform ignores another key area of generic reform—executive oversight and coordination. In the past three years, the Regulatory Analysis Review Group has acquired legitimacy as a way to put White House concerns about proposed rules on the public record. OMB's new Office of Regulatory and Information Policy is overseeing E.O. 12044 compliance and running the "paperwork budget." And the Regulatory Council is providing the first government-wide calendar of upcoming rules and coordinating the agencies' actions on issues that cut across their jurisdictions. Congress and the administration are assessing the advisability of next steps, such as creating a "regulatory budget." Some say such a process is needed to control overall costs and set sensible priorities. Others think that calculating the compliance cost of all new and existing rules—in a way that per-

mits the Environmental Protection Agency's costs to be compared with the Interstate Commerce Commission's, for example—would impose huge burdens on the agencies and the regulated industries, generate distorted data, overload Congress, and have little practical effect on most regulations. The Republican platform casts no light on these matters. Indeed, the GOP seems indifferent to the real uses of the administrative power it is trying so hard to capture.

Marching into the Morass

The Republicans take a very different approach. Their platform endorses a string of ideas circulating in Congress to use the legislative and judicial branches to enmesh the executive branch in red tape. Their idea of procedural reform includes:

- "Strict budgetary controls" on the regulatory agencies;
- "A temporary moratorium on all new Federal regulations that diminish the supply of goods and services and add significantly to inflation";
 - The legislative veto:
- Judicial review prior to the exhaustion of administrative remedies:
- Legislation to "eliminate the present presumption of validity in favor of Federal regulations";
- A requirement that an agency's decisions be consistent with prior actions unless otherwise provided by law: and
- Restitution (from the Treasury) for anyone "wrongfully injured" by an agency action—whatever that means.

While the platform recognizes the need for social regulation and endorses its goals, these procedural proposals suggest the GOP is not interested in actually managing regulation. Consider, for example, how a Republican-led Occupational Safety and Health Administration would respond to new evidence showing workers are exposed to a carcinogen. According to the platform, Republicans recognize "the need for governmental oversight of the health and safety of the workplace without interfering in the economic well-being of employers or the job security of employees." If this means the GOP opposes all rules that cost money, then worker protection would stop. But let us assume that the GOP would let OSHA take action on serious hazards.

First, in spite of "strict budget controls," OSHA must find the funds and the staff to develop the rule—and the research needed for proper evaluation of risk and cost can be expensive indeed. The Carter administration of course practices careful budgeting. But we disagree with the GOP's belief that regulatory costs can be cut by cutting an agency's budget and the size of the Federal Register. Such a notion is both misleading and dangerous. Agency budgets rise virtually automatically with costs and salaries and contain more money for enforcement, licensing, overhead, and the like, than for writing rules per se. And the Federal Register grows in large part because of the E.O. 12044 requirement that it contain more explanatory material than it used to. If the Republicans try to cut underlying compliance costs by slashing budgets, the result will be longer backlogs for permits, less research, less effort to improve existing rules, and less use of techniques such as performance standards that really can cut compliance costs but are expensive to enforce. And if the GOP tells the agencies that regulatory reform equals fewer Register pages, they may just give the public less information.

Let us assume, however, that OSHA somehow issues its rule. It then bumps squarely into the moratorium. The Republicans would have to create a central clearinghouse to decide whether a rule adds "significantly" to inflation and whether it is required by an emergency. This unit would find itself hip deep in lawyers arguing over how much cost is "significant" and how much harm constitutes an emergency. All new rules-good and bad—would disappear into the resulting backlog. Business uncertainty would be magnified. Not to worry, however: the moratorium idea has been urged repeatedly, but its sponsors keep forgetting that most regulations are mandated by statute. Most such statutes require agency decisions on the basis of specific factors, not overall economic considerations. A moratorium would have to be established by Congress, and the debate over which rules to include and which to exempt would be (like the backlog) endless. An across-the-board moratorium has as much chance of passage as a limit on the terms of members of Congress.

There is more Hill support for the Republicans' next procedural proposal—the legislative veto. The constitutional problems with this idea

... if Governor Reagan becomes President and sticks by his [platform's proposal for the legislative veto], he would be surrendering a piece of the presidency that his predecessors, Democrats and Republicans alike, have stoutly defended for fifty years.

have been debated almost ad nauseam. It should be noted, however, that if Governor Reagan becomes President and sticks by his platform, he would be surrendering a piece of the presidency that his predecessors, Democrats and Republicans alike, have stoutly defended for fifty years. And then there are the practical effects. The legislative veto provision would delay the rule's effective date for sixty "legislative days" (three to six months), increasing uncertainty. To avoid a veto, OSHA probably would take its draft rule to its congressional oversight committees for backroom negotiations, thus undercutting the public comment process.

In the midst of all this, the Republicans would start court proceedings. Indeed, under their extraordinary proposal to drop the "ripeness" doctrine, lawsuits could start the day OSHA decided to work on the regulation. (To be sure, this arrangement does fit with the GOP plan to preclude judges from deferring to agency expertise. If the courts are to do all the work themselves, they might as well get a head start!) The litigation would be further enlivened by the requirement that all aspects of the rule be consistent with prior agency decisions. Presumably this means that OSHA could neither strengthen nor weaken any of its standards—regardless of new evidence—without getting a law passed. Meanwhile, the combination of a legislative veto and early-bird judicial review would help the Republicans escape blame. The ball would bounce back and forth among agency, Congress, and the courts so often that no one could be held accountable. The workers would be left with nothing but the GOP's restitution provision. If OSHA's failure to protect them were deemed an "improper action," they might be able to sue the government for their medical bills!

These procedures would retard the flow of regulations. They might even cripple regulation as a policy tool. But they would not make regulations more sensible—or more effective in accomplishing the goals the Republicans say they share. These procedures run directly counter to E.O. 12044's central theme, that better decision making in the agencies is the way to produce better rules.

Reforms That Work

A major element of the Carter program is the requirement that agencies use, wherever possible, eight innovative alternatives to traditional, rigid "command-and-control" regulation: reduced requirements for small businesses, performance standards, economic incentives, marketable rights, voluntary standards, enhanced competition, information disclosure, and compliance reform. A recent Regulatory Council report lists 376 instances in which these techniques are being used to make regulations more flexible.

These approaches require creativity and hard work. They often involve departures from precedent and lack specific statutory sanction. Agencies that use them have to expect criticism and litigation. But the savings can be tremendous. For example, EPA's "bubble policy"—setting pollution reduction targets plant-wide or area-wide instead of source-by-source-can cut compliance costs as much as 50 percent without sacrificing air quality goals. The Republican platform's substantive planks endorse this kind of approach for EPA and OSHA, but the procedural scheme would kill it. Or consider EPA's recent decision to exempt small sources from solid-waste disposal standards, a move that cuts loose 91 percent of those who are regulated but only 1 percent of the wastes. Nothing in the law specifically authorizes this policy change, so the GOP's judicial review proposal could kill it. Similarly, the GOP's scheme would have prevented the Civil Aeronautics Board and the ICC from starting the administrative deregulation that made the airline and trucking deregulation bills possible. Under the GOP's approach, agency lawyers would be strengthened and economists weakened. Caution would win out over creativity. Reform from within the agencies would grind to a halt.

Under the GOP's approach....[c]aution would win out over creativity. Reform from within the agencies would grind to a halt.

Some work still has to be done in generic procedural reform, but the biggest payoff in the coming years will come from continuing the slow tough job of substantive reform—program by program and statute by statute. The lesson of the past four years is that success requires picking priority targets and then coordinating appointments, administrative action, and legislation.

The Republicans do call for this kind of reform, but their platformese is naturally ambivalent about exactly what they would do. Typical planks include:

• Environment: This will be a critical area no matter who wins the election because major air and water laws will soon be up for reauthorization. The Republicans support "a healthy environment," but want reforms "to ensure that the benefits achieved justify the costs imposed." They do not say how to do this. They also want responsibilities returned to the states, and they want speedier decisions on permits. They either do not say or do not know that most of the delays are at the state and local level and that the proposed Energy Mobilization Board—which many of their members of Congress helped to defeat—was aimed at this problem.

- Transportation: The platform contains a paean to the "freedom exemplified by the automobile." The Republicans would cut "safety and environmental standards" (unspecified) and eliminate the 55 mph national speed limit. They also call for steps to increase automobile and driver safety but fail to indicate how this can be done without regulation. (The platform is rife with calls for tax incentives; maybe it contemplates a special tax deduction for "safe drivers"!)
- Food and Drugs: The Republicans attack "FDA's excessive reliance on 'zero risk' policies" and call for statutory reform. The Carter administration has sought legislation to speed both certification of new drugs and removal of dangerous old ones, and another try is needed. It may also be desirable to increase consideration of costs and risks.
- Education: The Republicans would abolish the new Department of Education, halt the IRS "vendetta" against independent schools (a somewhat loaded description of the effort to discourage segregation), and—above all—replace categorical aid programs with revenue block grants. They are right that the proliferation of categorical grant programs in education—and in health, welfare, housing, and other areas—imposes excessive rules and paperwork on state and local governments. But they also endorse goals like civil rights enforcement and special training for the handicapped and disadvantaged, while saying nothing about how to achieve these goals without controls on the ways in which the federal money is spent.

THE REPUBLICAN PLATFORM betrays an underlying dilemma. The Democrats' regulatory reform program is already chalking up solid gains in making rules more flexible and less costly without sacrificing goals. The Republicans claim to agree with the goals, but they so dislike and distrust regulation that they will not use it to achieve them. In fact, their "war on overregulation" carries almost as much freight as tax cuts in their promise of an instant cure for the economy. Instead of using the White House to manage the regulatory process, they look to the other branches of government to bury it. That way, they can walk away from their dilemma. Their approach can increase delay and uncertainty, slow reform, and cripple regulation as a basic instrument of government—an instrument that allows our fragmented institutions to get necessary work done.

With luck, we will not have to find out whether the Republicans mean it.

A Republican looks at the Democratic platform

CALVIN J. COLLIER

HE CONVENTIONAL political wisdom is that party platforms should rally the faithful, view the opposition with alarm, attract almost everyone, offend almost no one (except oil companies)—and generally hold out the promise of an endless supply of free lunches and generous slices of Mom's apple pie.

The 1980 Democratic platform is no exception. With regard to regulation, it divides the universe into "good" and "bad" and declares victory over the "bad": regulatory reform, which wipes out intrusive burdensome regulation, is all but an accomplished fact, and the regulatory future will be limited only to what is "reasonable" and "necessary"—"vigorously enforced."

That at least is the way the platform reads. How it "feels" is something else again. Here I must admit to using a measure of interpretative license —some, but not much. Insofar as the platform is vague, which is most of the time, inferences based on experience are all we can rely on. Insofar as the platform makes firm commitments, its message is plain and it is consistent. The platform comes down repeatedly on the side of the regulatory hawks. Its thrust is away from private decision making (anti-business is not too strong a characterization) and toward the superior wisdom of the regulator. It promises no break with the growth of increasingly comprehensive and detailed regulation—just finer tuning and better management. Only in the area of traditional economic

Calvin J. Collier, a partner in the Washington law firm of Hughes Hubbard & Reed, has also served as chairman of the Federal Trade Commission (1976-77) and counsel to the Republican Platform Committee (1980).

regulation—old-fashioned transportation and public utility regulation—is there much of a commitment to less of it, and a weak one at that.

The platform praises the Carter administration for its role in airline and trucking deregulation. It goes on to endorse *some* of the same medicine for the ailing railroads and calls for a "revamping" (no specifics) of banking and telecommunications regulation. Common to them all will be more reliance on competition and less on government fiat to set prices, mandate quality, introduce innovation, and regulate firms' entry into and exit from the marketplace. But in light of the record of recent years, the commitment to relax such regulation for a few industries (but not for ocean shipping or oil-and-gas production, to name just two) is scarcely novel and certainly not bold.

The fact is that both parties have supported the selective dismantling of this kind of economic

The [Democratic] platform comes down... on the side of the regulatory hawks. Its thrust is away from private decision making . . . and toward the superior wisdom of the regulator.

regulation for some time. The evidence is overwhelming, especially for industries with no bent toward natural monopoly, that public utility-type regulation fails to improve product or service quality and that it creates costly distortions and misallocations by interfering with market forces.

In any case, the proposals in question were first put forward by Republican administrations, blocked for years by Democratic-controlled congresses, and eventually enacted with Republican support. Thanks to the Democrats' quite recent conversion (or a closer reading of public opinion survey data), the continuing fight to deregulate these industries does not pit Democrats against Republicans but, rather, majorities of both parties against unlikely alliances of the regulated industries themselves and a congeries of special pleaders.

Increased Economic Regulation

The Republicans have not yet succeeded, however, in dragging the Democrats along into economic deregulation on other fronts. The Democratic platform is exhibit one. It contains an amazing assortment of new and expanded regulatory proposals

The Republicans have not yet succeeded ... in dragging the Democrats along into economic deregulation on other fronts.

The Democratic platform ... contains an amazing assortment of new and expanded regulatory proposals whose reach far exceeds that of the programs targeted for reform.

whose reach far exceeds that of the programs targeted for reform. Consider this depressing laundry list:

- Expanded price and manpower controls for health services, including "aggressive cost containment," new rules for health insurance, and "redistribution of services" to aid "underserved areas";
- Continued price controls for oil and gas, along with stand-by gas rationing and "massive" incentives and grants to improve energy efficiency in residences, industrial processes, and transportation:
- Entry restrictions that would "phase out foreign fishing" within the 200-mile limit and control farmland purchases by "speculators," foreigners, and agribusiness;
- More entry restrictions, this time in the form of limitations on the freedom of large firms and oil companies to expand into new industries through acquisitions;
- Direct regulation of product or service quality by mandating automobile warranty levels, stronger portability features for pension programs, energy-performance standards for *all* new

buildings, and codes of conduct for debt collectors;

- Indirect regulation of quality by mandating that information be disseminated (or, sometimes, by prohibiting the disclosure of information) about food ingredients, sale of credit life insurance, employment recruiting and promotion, granting or denying of credit, and consumer credit agreements;
- Regulation of labor by preserving the Davis-Bacon Act (whose effect, by fixing wages above competitive levels, is to encourage inflation and unemployment) and by opposing the inclusion of a youth differential in the minimum wage (which protects experienced workers by reducing jobs for inexperienced youths).

Quite a list—particularly for a platform that elsewhere applauds "an effective competition policy" that "frees the marketplace from regulation." Apparently, the competition that is good in general (and needs to be increased for airlines, trucking, railroads, banking, and telecommunications) just will not do for a much longer list of other areas (health care, oil and gas, health insurance, fishing, farmland and business acquisitions, automobile service, pensions and life insurance, building construction, debt collection, recruiting and hiring, credit, construction wages. and youth employment). Yet the proposed economic regulations for these areas, most of them transparent appeals to powerful single-issue constituencies, would have much the same adverse effects as public utility regulation. For example, price controls invariably distort production levels, with artificially high prices restricting economic activity (by discouraging demand and reducing jobs) and artificially low ones (which the Democrats propose for health services and oil and gas) reducing supply. Entry restrictions reduce efficiency by excluding potentially the most efficient producers from the market. And direct and indirect regulation of product quality, the very image of price regulation in its effects on economic efficiency, forces some consumers to pay for a level of quality (or information) that exceeds their demand.

These costs are of course imposed on the economy as a whole—indeed on the populace as a whole—but initially at least on some groups more than others. The direct and immediate "losers" generally suffer in ignorance because their losses are measured by products or services that were never produced or that carry a hidden regulatory tax. The direct and immediate beneficiaries, on the other hand, usually know who they are. What they may not realize, however, is that they might be beneficiaries only in the short term, because the overall economic deterioration that ultimately re-

sults from such regulatory techniques produces a net loss for almost all of us. They also may not realize that although they win on one program, they lose on so many others that their net position is likely to be in the red. Thus, while domestic fishermen would benefit from the Democratic platform's proposed 200-mile rule, they would be among the numerous losers of the other schemes for benefiting special groups.

The so-called regulatory winners in the platform include, in addition to the fishermen, heavy users of medical services and petroleum, some high-risk users of health insurance, farmers (except those wishing to sell their farms), sundry businesses in less efficient industries, motorists who shop poorly, employees (probably older ones) who wish to change jobs, homeowners with poor conservation habits, consumers who fail to pay their debts, people who read labels, unionized construction workers, employees whose job skills are little better than those of unemployed youth, plus employees, job applicants, and would-be debtors who are high risks.

The platform also calls for changes in antitrust law. Antitrust, its proponents claim, promotes efficiency by preserving competition, and there is some truth to the claim. But it is not always so. Much of antitrust law either is intended to discourage efficiency by protecting particular competitors or has been enforced with that effect. So proposals to "expand" or "toughen" antitrust must be scrutinized carefully. The Democratic platform calls for new laws (1) to prohibit acquisitions by large companies in general, and oil companies in particular, without regard to whether these acquisitions enhance or lessen competition, (2) to enlarge greatly the class of persons who may prosecute antitrust claims for treble damages, (3) to allow individuals to enforce government consent decrees, and (4) to eliminate present requirements for proving an agreement or conspiracy as a predicate to liability of firms engaged in parallel behavior.

These measures would not necessarily enhance competition, and could even have the very opposite effect. The anti-conglomerate/anti-oil company merger proposal is aimed at acquisitions that, by implication, cannot be shown to be anticompetitive. Expanded standing for antitrust treble damage suits would surely raise the cost of antitrust litigation without much deterring anticompetitive behavior. Eliminating proof of anticompetitive agreements would make it possible to condemn industry conduct that is not anticompetitive. And private enforcement of antitrust consent decrees would be beneficial, if at all, only in those cases where the decrees themselves promoted competition-by no means a universal situation. In large part, the platform's antitrust proposals are simply economic regulation parading under the banner of competition.

Environmental and Health Regulation

As interventionist as the Democratic platform is in the economic area, it is even more so when it turns to environmental, health, and safety regulation. There are insistent and repeated calls for major increases in the quantity and stringency of government controls. For example:

- "Vigorous enforcement" of auto pollution regulations and toxic substances controls;
 - "Elimination" of acid rain pollution;
 - "Fighting" noise pollution;
- Opposition to any efforts to "weaken" occupational safety and health regulation (including opposition to small business exemptions);
- Opposition to authority for federal agencies to override or exempt state or federal protections of the environment or public health and safety; and
- Additional unspecified protection in the areas of auto safety and clothing flammability standards, new drugs and chemicals, food, and children's products.

In this regulatory area, the platform reveals far more than it says. The question here is not the attractiveness of the goals, but the costs to society of the pursuit of absolute purity and zero risk. Regulatory doves argue for improved benefit-cost analysis, repeatedly document the fact that many regulations do not achieve their goals (or do so only at unreasonable cost), and raise fundamental questions about the efficacy of certain types of regulation (for example, design standards tied to particular technologies). Regulatory hawks resist benefit-cost analysis altogether, arguing that the benefits are beyond price or that the state of the analytical art is too primitive to be useful. But the 1980 Democratic platform finesses the entire debate. While calling for improved analysis to lower regulatory costs, it reduces this difficult task to an all but meaningless exercise in wish fulfillment by simply declaring, quite without proof, that environmental regulation has been a success and that health and safety regulation has significantly reduced work-place accidents and fatalities. Probably wrong on both counts-and worse, such evasions miss the target altogether. At a time when Congress, the public, and the experts all are seriously rethinking fundamental questionswhen even the Carter administration is promising stretch-outs in certain regulations to stimulate economic recovery—the platform looks back. Its anachronistic return to the regulatory spirit of the

1960s and 1970s flies in the face of mounting evidence that, whatever the spirit, the approach just did not work.

Regulatory Management

In its principal gesture to regulatory reform. the Democratic platform endorses a long list of procedural proposals to improve-or so it claimsregulatory management. These are the major elements.

- Review of existing regulations;
- Analysis of the predicted impact of regulations before they are issued;
- Consideration of alternative approaches that might cut compliance costs:
- Publication of forthcoming rulemaking proposals in a regulatory calendar; and
- Increased public participation in regulatory proceedings.

The Carter administration has claimed credit for all of these procedural reforms, and Republicans have generally supported them. (Two of them, in fact—improved economic analysis and increased public participation—are direct descendants of President Ford's own regulatory reform program.) But years after their introduction it is still difficult to judge their worth. Because they add to the regulators' workload, they probably prolong the rulemaking process. It is not clear, however, that they have improved the quality of regulations, either by increasing benefits or reducing costs. Yet the platform, without supporting argument, pledges to "continue" to "make regulation less intrusive and more effective" and to "increase the use of cost-effective regulatory techniques." Moreover, its failure to endorse benefit-cost analysis expressly and its refusal to require that the benefits of regulation match-or even reasonably relate to—their costs suggest that little progress has been made in four years. Without these commitments, analysis is mostly an expensive exercise in futility.

Other items on the Democrats' procedural reform agenda are just as worrisome. One is the somewhat surprising resurrection of the independent consumer advocacy agency—a scheme firmly laid to rest two years ago by a Democratic-controlled Congress (with Republican assistance). A second procedural item that would increase regulation is the call for expanded use of class actions in federal courts. Consumer activists see these suits as powerful weapons for regulating enforcement; defendants generally view them as burdensome tools of lawyers in search of huge fees. Still another procedural proposal calls for expanded consumer standing to challenge regulatory action

—which obviously means to petition the courts to increase the amount and severity of regulations.

If there is any remaining doubt that the Democrats' vague commitments to regulatory reform promise more regulation, not less, it is resolved by the platform's praise for President Carter's appointment of consumer advocates to key regulatory positions. In basic Washingtonese, a consumer advocate is a regulatory hawk, and key regulatory positions are those from which the hawks wield broad—and increased—regulatory authority. Because so many statutes are as vague

... any remaining doubt that the Democrats' vague commitments to regulatory reform promise more regulation ... is resolved by the platform's praise for President Carter's appointment of consumer advocates to key regulatory positions....[A] consumer advocate is a regulatory hawk....

as the Democratic platform itself concerning the extent of the regulations they propose, and because the likelihood of their being redrafted to limit regulatory discretion is very slight, it is those who manage the programs who essentially determine the intensity and burdensomeness of regulation. And on this score, the platform's signal is clear.

WHERE ARE WE THEN, when all the claims have been weighed (and found wanting) and all the "winners" and "losers" have been balanced out? We are left, in my judgment, with the threshold issue of the direction in which American society should be moving.

The 1980 Democratic platform is, in this view, a tired repetition of the policies that have contributed so much to our current economic malaise. What ultimately is at issue—and here I borrow with pleasure from a striking analysis by Representative Dave Stockman of Michigan (Washington Post, July 15, 1980)—is "the excessive politicization of our national life . . . the tendency to resolve almost everything in . . . national legislative and administrative forums . . . [rather than in] the daily exchanges and decisions of the marketplace." (His italics and his rich insight.)

Now it may be true that if philosophers were kings and kings philosophers, we would not be amiss in turning always "to Washington" for political wisdom. In the meantime, however, we might do better to preserve and strengthen the engines of a free and private economy.