Readings of particular interest

The Economics of Carter's Energy Proposals

"An Economic Appraisal of President Carter's Energy Program" by Walter J. Mead, in *Science*, July 22, 1977, pp. 340-345.

Walter Mead of the University of California at Santa Barbara begins by pointing out that economists who specialize in energy research had hoped that a "comprehensive national energy policy" would rely on market forces, whereas President Carter's policy relies on governmental controls. This policy is unfortunate inasmuch as previous reliance on governmental controls has led some to describe the energy crisis as "policy induced."

The author reviews the record of regulation to date. The percentage depletion allowance produced artificially low prices, wasteful consumption, and premature depletion of the nation's resources. Tax provisions allowing expensing of intangible drilling costs did the same. The foreign tax credit channeled U.S. capital into foreign oil exploration and production, with the resulting rapid depletion of world oil resources. Production controls in the form of market demand prorationing partially offset the premature depletion of domestic resources, but led to import quotas, which in turn directed subsidized foreign oil away from the United States and into Western Europe and Japan. Price controls on natural gas led to wasteful consumption of that resource. Price controls on oil limited domestic production and led to increased oil imports, as well as producing the "administrative nightmare" of the entitlements program—to use President Carter's words. The naval oil reserves established early in this century supplied no oil during the Arab embargo but are now scheduled to do so, coinciding with the West Coast oil glut. Finally, the Jones Act, which requires that all commercial vessels operating in U.S. navigable waters be U.S.-built and U.S.-manned, increases oil transport costs. This record does not support the view that governmental controls will solve our problems.

Some of President Carter's proposals seem admirable to the author. Letting the price paid by crude-oil users rise to the world price would improve allocative efficiency. The presidential directive requiring federal agencies to use more fuel-efficient cars is commendable. Peak-load public utility pricing, the phasing out of promotional and declining rates, and the end of master-metering on multi-family and business structures will all lead to more economical energy usage. Limiting oil production from the Elk Hills petroleum reserve on the West Coast (where Alaskan oil is in excess supply) would be sensible. The exemption of shale oil from price controls should lead to efficient exploration of shale oil resources, and the expansion of a strategic petroleum reserve "is at least consistent with the fact of life" that most remaining oil is in the Middle East. Further, the President "recommends gasoline price decontrol."

However, some of the President's proposals are questionable, simply because there is no evidence that their social benefits would exceed their social costs. These include cash subsidies for financing weatherization and "approved conservation measures," as well as federal investments in van pooling. Finally, some of the President's proposals would be counterproductive. Allowing tax reductions for intangible drilling costs would lead, as before, to overinvestment and the misallocation of resources. Expensing the intangible drilling costs for geothermal energy would do the same. In general, "the quality of the economic analysis supporting the President's program appears to be poor." For one thing, projection of demand assumes there is no relation between price and quantity demanded. For another, attempts to conserve energy without considering consumption of other resources are shortsighted and would probably have the opposite effect.

Beyond these difficulties, the President's price proposals suffer from the fact that controls, such as he proposes, (1) have created shortages, (2) require "a complex and expensive six-tier system of controls" for natural gas, "an incredibly complex and confusing system of user taxes," "four tiers of oil price controls" and a "four-tier taxation system," and (3) increasingly divorce the controlled price structure from economic reality by defining all changes in the value of oil inventories as "windfall gains."

According to Mead a policy of retaining price controls will increase our oil imports (to overcome price-induced domestic shortages), raise administrative costs, and divert scarce manpower and other resources into the administration of these programs. As in the past, governmental controls will reflect the pressures of dominant organized groups rather than the goals of economic efficiency.

The Environment: A Scarce Resource

Environmental Use and the Market by Hugh H. Macaulay and Bruce Yandle (Lexington, Mass.: Heath-Lexington, 1977), 145 pp.

Professors Hugh Macaulay and Bruce Yandle of Clemson University have provided a succinct primer on the application of basic economic theory to the problems of the environment. Noting that they are following the lead of Ronald Coase in "On the Problem of Social Cost," they argue that articles and books on the "economics of pollution" have almost invariably been one-sided, largely because environmental questions have been considered in physical rather than economic terms. "Though uncleanliness is obviously damaging to those who desire cleanliness, it has not been obvious, or easy to understand, that cleanliness may be damaging to those who benefit from uncleanliness."

The authors demonstrate this perspective, using the example of competing claims on a stream of fresh water. Industry upstream wants to use the stream to carry away by-products of its manufacturing processes. Residents downstream want to use the stream for swimming and possibly for drinking water, and may also want to use it by looking at it in its pristine state. Because present-day discussions of the environment concentrate on the costs of pollution rather than on the stream as a scarce asset, there has been general agreement that industry should pay for its use of the stream but little discussion about whether residents should pay for theirs. Yet when industry pays the costs of pollution—that is, pays to restore the stream to its "natural" condition—it is paying for something from which the residents benefit and for which they do not pay. And to provide benefits at a below-market price (in this case, to provide them free) is to court economic inefficiency: the misallocation of scarce resources.

Macaulay and Yandle argue that resources pass from being common property (or common-access property) to public property to quasi-private property to private property. So long as there is common access to a resource, that resource has no price and there is nothing to require its efficient use. When a resource becomes public property, its use is governed by law rather than price, and although its scarcity is recognized, the efficiency of its use is indeterminate. When a resource becomes quasi-private property (as with water in the Ruhr), price plays some part in allocating that resource, but the system may be one-sided. (Water rights in the Ruhr may be bought but not sold.) Finally, when a resource becomes private property, the market will determine its allocation. "Once prices appear for environmental rights, society will know that these resources are valuable," write the authors. "They will be treated accordingly."

The authors consider mandatory standards, subsidies, and user charges as the alternative means of controlling pollution. All three are one-sided, they note, at least in their current forms—though user charges need not be so (the downstream residents could be charged for using the pristine stream by looking at it), and subsidies may be less one-sided than the other means. Unfortunately, subsidies are also economically inefficient since they discourage innovations in pollution control by distorting incentives. Efficiency might come through a better program of user charges, one that recognizes the bilateral nature of externalities, or—as the authors propose—by the "privatizing" of property rights in natural resources.

In short, Macaulay and Yandle argue (1)

that natural resources are subject to the same laws of economic theory no matter what the use to which they are being put and (2) that "environmental economics" or the "economics of pollution" are sidetracks leading us away from the sound basic principles by which we normally allocate scarce resources—that is, the principles of basic economics.

How OSHA Went Wrong

"Government Comes to the Workplace: An Assessment of OSHA" by Albert L. Nichols and Richard Zeckhauser, in *The Public Interest*, Fall 1977, pp. 39-69.

OSHA is responsible, directly or through supervision of state programs, for improving the safety and health of 60 million workers in 5 million workplaces. It is the second largest federal regulatory agency, with authorization for a staff of 2,700. And, as Professors Nichols and Zeckhauser of Harvard's Kennedy School of Government report, "politically and practically it has been a failure." [See Philip Harter, "In Search of OSHA," in *Regulation*, September/October.]

Its failures, in the authors' view, were predictable, though they were not foreseen because (1) no attempt was made to examine the problems of occupational safety and health in terms of causes and cures, (2) costs were systematically excluded from consideration, and (3) only one method of improving occupational safety and health was seriously considered—that one being direct regulation (the setting and enforcing of detailed standards).

The authors sketch the operation of a purely competitive labor market as it would affect occupational safety and health, with wage premiums being paid for risky jobs. They then point out that imperfect information about risks to safety and health will "prevent the labor market from fully achieving efficient outcomes," and that, moreover, because safety and health problems impinge not only on employer and employee, but on others as well—indeed on society as a whole—we are confronted with a problem in externalities.

OSHA's supporters argue that bodily integrity and bodily health are not commodities appropriate for trade on the market. Its opponents argue that workers, in seeking and accepting higher pay for riskier jobs, do in fact act as though bodily integrity and health are commodities appropriate for trade. Nichols and Zeckhauser note three reasons why the opponents have failed to convince the supporters: health is special, a nonmarket good provided by nature; there is an undercurrent of paternalism in the thinking of the supporters (the poor will not know enough to choose correctly); and the disproportionate number of the poor in high-risk occupations is disquieting.

The problems caused by OSHA's standard-setting approach are dealt with at some length, the authors finding standards of limited use in reducing accidents and noting also that there are no studies demonstrating that standards reduce occupational illness.

In creating OSHA, "Congress clearly expected . . . major gains in worker safety and health." So far, however, the agency has done little in the field of health, and data problems make pre- and post-OSHA comparisons difficult in the field of safety. Despite the latter difficulty, what evidence can be gathered suggests that the trend in work-related injuries after OSHA roughly reproduces the trend before OSHA. Had the gains been major, the authors argue, "even the crude measures available would have been able to detect them."

Nichols and Zeckhauser are not surprised by the slight impact so far, because enforcement is weak. Low fines for noncompliance and the possibility of contesting fines or citations combine to make it unlikely that firms will comply with OSHA's regulations without inspection. The high costs of compliance also contribute to this inclination. For example, an OSHA-commissioned study estimated the five-year capital costs of reducing industrial noise to the 85-decibel level at $18.5 billion plus annual maintenance costs of about $1 billion, while earmuffs and earplugs for workers would do the job for only $43 million per year. For another example, the coke-oven standard could have capital costs as high as $860 million and operating costs of more than $1 billion a year. The annual cost per coke-oven worker might be as high as four times the worker's salary, and the cost per expected life saved will be well in excess of amounts spent for this purpose in other areas such as highway safety. Unfortunately this information does not affect OSHA's decisions, since, as Nichols and Zeckhauser stress, OSHA refuses to estimate the benefits of its interventions. The authors point out the virtues of alternatives to the standards approach now used by OSHA. They argue for increased provision of information to improve market function and for the use of financial incentives, such as an injury tax, to correct externality-caused distortions.

OSHA went wrong, Nichols and Zeckhauser conclude, because it ignored three lessons of economics: It refused to recognize that its effort should complement, not replace, mechanisms already in effect (such as the market and risk premiums); it overlooked the fact that economic incentives influence actions; and it has failed to recognize that occupational safety and health "are bought at a price." They end with a recommendation (Congress should require OSHA to make more use of incentives and to pay attention to both costs and benefits) and a caveat (OSHA's reformers should remember that "the history of regulation is a history of disappointment").

A Malignant Environment

"Environment, Health, and Economics—The Case of Cancer" by Allen V. Kneese and William D. Schulze, in *American Economic Review*, February 1977, pp. 326-332.

Professors Allen Kneese and William Schulze of the University of New Mexico maintain that medical research has paid too much attention to the search for cancer "cures" and too little to the problem of preventing environmentally induced cancer. They also criticize economists for not applying their research skills to the area of health economics in general and cancer in particular. Unfortunately, "the quantitative economic models . . . developed to analyze environmental problems have in general been either static . . . or if time dependent have been deterministic and incapable of handling cumulative phenomena."

This study estimates the social costs of environmentally induced cancer and makes a case for devoting more resources to studying the health consequences of the thousands of new chemicals introduced commercially each year. Using regression analysis, and taking account of the long latency period of the disease and the possible contribution of a variety of environmental factors, the authors estimate that the urban population suffers 205,716 deaths each year from cigarette smoking, diet, air pollution, and other environmental factors. To estimate the social costs of these deaths, they use Thaler and Rosen's measure of the value of a life—$260,000 (arrived at by calculating the wage differentials that compensate for the risk of death in various occupations). Multiplying $260,000 by their own estimate of 205,716 deaths, Kneese and Schulze conclude that damages from environmentally caused cancer total about $53 billion per year.

Current research on environmentally induced cancers centers on nitrogenous compounds and especially nitrosamines, formed in the body from nitrites and secondary amines. Nitrites and other precursor compounds, especially nitrates, occur not only as preservatives in meat and other foods, but also naturally in drinking water, as well as in power plant and automobile exhausts. Little is known about systematic causes of nitrosamine-induced cancer, but research is being carried on, especially at the University of New Mexico. One of the main culprits turns out to be pork: cancer associated with pork consumption is estimated to account for $30 billion of the $53 billion annual cost of environmentally induced cancer in the urban population (next highest is cigarette smoking, $12 billion, followed by beef consumption, $4 billion).

The authors use their $53 billion estimate as an argument for greater emphasis on prevention in cancer research. Already more than 1,500 existing substances are suspected of being carcinogenic, and 6,000 new substances to which humans are exposed are introduced each year. The newly developed Ames test, which identifies substance-induced mutagenesis in a single cell bacterium, could be used on all 6,000 new substances each year for a comparatively modest expenditure—perhaps $3,000,000. Though mutagenesis is not the same thing as cancer, there is a presumption that many cancers are mutations or damage to the DNA of a cell. [Editor's note: of 174 known carcinogens, 156 are mutagenic according to the Ames test.]

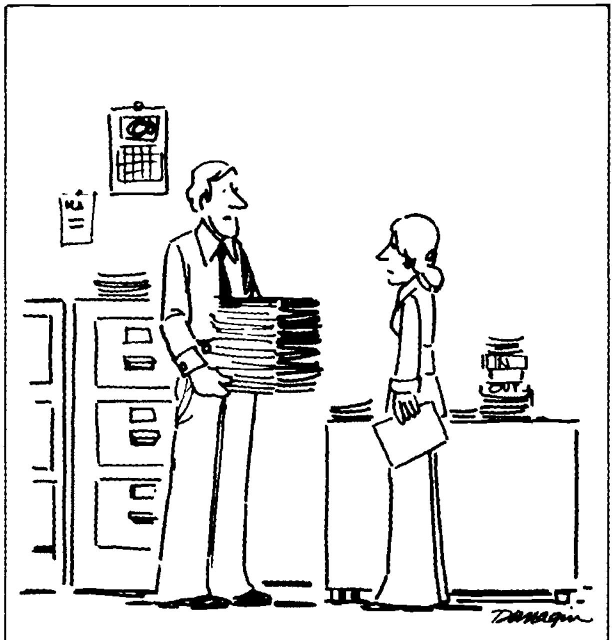
Professors Kneese and Schulze believe that if the Ames test indicates carcinogenicity at any level, the potential marketer of the new substance should submit an economic analysis that considers, among other factors, the benefits of the chemical and the costs of possible substitutes. That is to say, they find it economically irrational to treat all new chemicals (or old) as though they were of equal value. Simply to ban any chemical that shows evidence of carcinogenicity, as is currently required by the Delaney amendment to the Food, Drug, and Cosmetic Act, may not be an optimal policy approach.

The Paperwork Burden

A Report of the Commission on Federal Paperwork: Final Summary Report by Commission on Federal Paperwork, Frank Horton, chairman (Washington, D.C.: U.S. Government Printing Office, October 3, 1977), 74 pp.

The report of the Commission on Federal Paperwork recommends three major initiatives: first, the consolidation of the central administrative functions of government into a Department of Administration with cabinet-level status ("or some other appropriate arrangement"); second, the adoption of a concept called "service management" designed to provide efficient and effective administration; and third, the mounting of a joint attack on paperwork by Congress, the executive, and the public. The report summarizes eighteen program studies, thirteen process studies, and five impact studies.

DUNAGIN'S PEOPLE by Ralph Dunagin



"WHERE ELSE BUT WASHINGTON COULD YOU GET A 2200-PAGE REPORT, IN TRIPLICATE, ON WHAT TO DO ABOUT GOVERNMENT PAPERWORK?"

Washington Post, 10/19/77. Courtesy of Field Newspaper Syndicate.

The eighteen program studies deal with Consumer Credit Protection (major fault: repeated revision and amendment of laws and thereby of forms), Education (major fault: high-pressure collection of unnecessary and unused information), Employment and Training Programs (major fault: fragmented responsibilities), Energy (major fault: overlapping responsibilities and overly formal procedures), Environmental Impact Statements (major fault: overlapping and repetitious requirements for data), Equal Employment Opportunity (major fault: inconsistent requirements among regulatory bodies and organizational disarray), Health Programs (major fault: unnecessary paperwork stemming from congressional inconsistencies and administrative anomalies), Housing (major fault: overlapping and excessive reporting requirements substituting for consumer protection), OSHA (major fault: data accumulation failing to provide necessary information, inconsistent recordkeeping), ERISA or Pension Reform (major fault: increased paperwork costs making some pension programs uneconomic), Procurement (major fault: cumbersome and overlapping requirements and duplicative and disruptive data gathering), Public Works (major fault: inordinate and over-individualized data requirements), Segmented Financial Reporting (major fault: insufficiently thought-out requirements), Small Business Loans (major fault: "thousands of pages of confusing rules, regulations and instructions"), Social Services/Title XX (major fault: over-individualized and duplicative data requirements), Statistics (need for adequately staffed central coordination), Taxation (major fault: incomprehensibility), Welfare Administration Reform (need for simplified process).

Those recommendations of the thirteen process reports that do not deal with internal federal procedures (such as a federal information locator system) include the establishment of ombudsmen, expansion of GSA's federal information centers, and the institution of paperwork impact statements for new legislation. The five impact studies carried out by the commission cover current paperwork requirements imposed upon farmers, individual citizens, organized labor, large and small business, and state and local governments. Estimated paperwork costs to the farmer are $354 million annually for 2,276,403 farms, while American business in general spends $25 to $32 billion annually on federal paperwork, with 5 million small businessmen averaging $3,000 each in annual costs.

Advertising in the Courts

"Advertising and Free Speech" by Ronald H. Coase, in *The Journal of Legal Studies*, January 1977, pp. 1-34.

"The market for goods and the market for ideas should be treated the same way," writes Ronald Coase, an economist at the University of Chicago Law School. Describing current legal opinions on the subject as "the essence of chaos," he explores First Amendment protections for advertising, or commercial speech.

There are contradictions in the thinking of those who show a "profound distrust of government regulation" in the "market for ideas," while simultaneously supporting increased regulation of non-First Amendment activities, described as "the market for goods." Coase criticizes the views of John Milton and John Stuart Mill who assumed the primacy of the marketplace for ideas, agreeing instead with Aaron Director that most people are equally concerned with a free choice in the market for goods and services. He suggests that the market for ideas was granted a special status by academics and intellectuals because they have a vested interest in the free flow of speech and writing but, presumably, no similar interest in the free flow of commercial activity.

Advertising presents a special case: as speech it is linked to the market for ideas, although it is at the same time part of the market for goods. Coase maintains that advertising is "clearly part of the market for ideas," adding that most intellectuals have been reluctant to concede this. Because of its connection with commercial enterprise, economists "have tended to deplore rather than to analyze the effects of advertising." Like the late Frank Knight, the author believes that advertising should be judged by its tendency "to produce good men and a good society, or, at any rate, better men and a better society." A recent study suggests that advertising encourages competition; a case study of advertising's regulation by the FTC by Professor Richard Posner convinces the author that as much harm is done thereby as good.

Looking at Supreme Court decisions, Coase traces the changing legal perspective on First Amendment protection for advertising. In *Valentine* v. *Christensen* (1942), the Court ruled that advertising fell outside the scope of First Amendment protection. But by 1976, in *Virginia State Board of Pharmacy* v. *Virginia Citizens Consumer Council*, the Court held that commercial speech is protected. Coase argues that First Amendment rights should be viewed not as absolute, but be balanced with other personal rights to ensure that the exercise of one right does not inadvertantly and intolerably limit the exercise of another right. The "boundaries" should be set so that rights are "assigned to those to whom they are most valuable."

The widening recognition of the beneficial aspects of advertising—especially its role in informing potential consumers—makes its relation to the market for ideas more clear than in the past. Coase predicts that under existing laws the Federal Trade Commission will continue to regulate false and deceptive advertising, but that there will be greater flexibility in advertising and the role of regulation will be, by common agreement, diminished.

Is the Legislative Veto Constitutional?

The Legislative Veto: Unseparating the Powers by John R. Bolton (American Enterprise Institute for Public Policy Research, 1977), 50 pp.

The legislative veto, as discussed by attorney John Bolton of Washington, D.C., is a device authorized by statute whereby Congress may set aside proposed regulations of particular independent or executive agencies. The veto may be exercised by both houses or by either one, and it may require positive action of disapproval or merely failure to approve.

Supporters of the legislative veto argue that it is necessary because executive agencies frequently ignore the legislative intent of the laws they are charged with implementing. Moreover, Bolton notes, "regulations that possibly violate the legislative intent and regulations that are irritating, burdensome, seemingly capricious, or hard to understand meld together in the congressional mind." For one thing, it is politically inconvenient for congressmen to engage in detailed lawmaking (and the detailed planning it would require). For another, they may lack the expertise to make intelligent decisions on particular regulations, although Bolton mentions the Internal Revenue Code of 1954 as a contrary case in point.

In Bolton's view, traditional means of congressional oversight have in fact failed because they were not really tried, and the legislative veto is a "Rube Goldberg contraption" giving the illusion, but not the reality, of congressional control. On the other hand, it may, with good effect, intimidate the administrative agencies. But to this point, the author argues that the legislative veto accomplishes more or less in secret (with congressional influence manifested in meetings between congressmen and agency members) what ought to be accomplished in open public view. With the legislative veto, "Congress will have acquired a way to effectuate its intent . . . without ever having to divulge what that intent is."

The legislative veto, in the author's view, excludes the President from his proper role in the legislative process by foreclosing his use of the executive veto and allows Congress to intrude on the executive's functions of carrying out previously enacted legislation. The former occurs because Congress, with the legislative veto, can alter the effect of its legislation after the President has signed it. The intrusion on executive functions results because the President and his executive officers are prevented from implementing legislation in ways he and they deem suitable. Bolton devotes considerable space to analyzing Justice White's separate opinion in *Buckley* v. *Valeo*, which suggested that disapproval by only one house may present a constitutionally permissible legislative veto. This suggestion is found to be without merit, inasmuch as "neither branch of Congress, when acting separately, can lawfully exercise more power than is conferred by the Constitution on the whole body" (*Kilbourn* v. *Thompson*), except where the Constitution so provides.

Bolton concludes that the legislative veto "is, almost necessarily, unconstitutional" and that it gives the "false impression that the agencies are under control." In order to bring them under control, Congress will have to do the hard job of producing laws that are more detailed, better thought out, and less responsive to demands for immediate action from interested groups. Good legislation would maintain the constitutional balance among the branches of government and, in the author's opinion, impede "greater concessions of power to the federal government."

Legislative Veto and Popular Control

"Congressional Control of Administrative Regulation: A Study of Legislative Vetoes" by Harold H. Bruff and Ernest Gellhorn, in *Harvard Law Review*, May 1977, pp. 1369-1440.

One major purpose of the legislative veto is to bring popular control to the field of administrative lawmaking. Harold Bruff's and Ernest Gellhorn's study, originally commissioned by the Administrative Conference of the United States, examines the actual effects of the legislative veto upon particular rulemaking programs. The authors, at Arizona State University Law School, consider five widely diverse programs in which rulemaking has been subjected to legislative veto since 1972, and then undertake a "necessarily more speculative" examination of long-range consequences. Generally speaking, the promised benefits of popular control are not apparent.

The principal phenomenon found to be common to all cases reviewed is described as follows:

> Most of the effective review occurred at the committee or subcommittee level, often focusing on the concerns of a single chairman or member. Indeed, much settlement of policy occurred in behind-the-scenes negotiations between the staffs of the committees and the agencies.

This is so despite the fact that the programs selected by the authors involve areas "of considerable public concern, if not controversy." Since the negotiations between agency and committee (and committee staff) have low public visibility, and since the influence of affected interest groups is typically much greater in the pertinent committees than in Congress as a whole, the results produced by the legislative veto appear to differ from the results that the full Congress, addressing the same issues in legislation, would have produced.

Bruff and Gellhorn observe two further difficulties inherent in the legislative veto. First, the time limits for review tend to disrupt agency programs and press the Congress to hasty action. Second, the legislative veto "increases substantially" the possibility that no policy will be constructed, since the Congress finds it easier to veto an agency program than to fashion its own alternative. This possibility is most likely to occur with regulations that affect government agencies rather than private groups, because in these cases there is insufficient interest-group pressure to break a deadlock between a committee and an agency.

The authors suggest that the extension of the legislative veto to all rulemaking would create problems and unintended consequences. Agencies might be induced to issue fewer rules, establishing policy, instead, in the course of case-by-case adjudication; this would delay policy formulation and reduce congressional participation in the process below its present level. Moreover, there is a potential for conflict between the legislature's exercise of a veto power and the courts' authority to review agency rules. Finally, the "behind-the-scenes" negotiations inevitably involve congressional committee and individual influences on agency rulemaking—at a time when such influences are coming under increased judicial scrutiny as improper *ex parte* interference.

Although they acknowledge the possibility of modifying the legislative veto to lessen its potentially troublesome effects, Bruff and Gellhorn come to an unequivocal conclusion: "the disadvantages of the legislative veto inhere in its very nature. . . . Congress should abandon it as a device for the oversight of agency rulemaking." Instead, the authors assert, existing means of congressional participation are "perfectly acceptable"— in particular, the submission of individual, committee, or congressional comments during the "notice-and-comment" period preceding promulgation of a final rule. They suggest the adjustment of agency procedures to facilitate congressional participation of this kind.

Reflections on Sunset Laws

"The False Dawn of Sunset Laws" by Robert D. Behn, in *The Public Interest*, Fall 1977, pp. 103-118.

Sunset legislation "has become Washington's latest fad." The fact that politicians and groups of all points of view have rallied to the concept, says Robert Behn of Duke University's Institute for Policy Sciences, demonstrates its broad appeal. This article, which focuses on Senator Muskie's proposed Program Evaluation Act of 1977, expresses concern that sunset laws would prove ineffective at best and counterproductive at worst.

Sunset legislation would require the periodic review of government programs or regulatory agencies and their automatic termination unless they were able to justify their reason for being. The goal is to ensure "meaningful program evaluation" and an opportunity for the reorganization of programs that are to be retained. The result of this process, say proponents, would be to replace the traditional presumption that all programs continue indefinitely unless terminated with the opposite presumption.

But Behn sees problems. First, he doubts that the enactment of a sunset law would effectively challenge the traditional view. In addition to the difficulty of shifting the burden of proof to the defenders of programs, the extensive review and evaluation called for by the sunset concept would require so many more budgetary decisions of the Congress that the incentive to fall back on incremental budgeting would be strong indeed—perhaps even stronger than it is now.

Second, effective evaluation would not only be expensive but would also severely increase individual committee workloads. The "two-track" approach proposed in the Muskie bill would allow congressional committees to ease the load by exempting some programs from the extensive evaluation. But this would threaten the concept's neutrality—that is, its application to *all* spending programs.

Common Cause explains that "the threat of termination is the centerpiece of sunset." But Behn finds little reason to believe that the periodic evaluation/renewal requirement would make termination likely or the threat of termination credible. As a case study, he examines the Law Enforcement Assistance Administration. Despite widespread condemnation of its ineffectiveness and wastefulness in the war against crime, LEAA has been reauthorized every three years since 1968—the reason being that its disbursement of funds to states and localities ensures it a wide coalition of congressional supporters.

Behn argues that the LEAA experience is not unique. Sunset laws, regardless of their other merits, cannot be expected to change the tendency of a congressman to bargain for support of his pet programs (regardless of their shortcomings) by agreeing to support those of his colleagues (regardless of their shortcomings). And if, as the Muskie bill stipulates, similar programs are evaluated simultaneously to help ensure neutrality and to provide more effective review of programs that overlap or conflict, the author sees traditional "logrolling" to be all the more likely. The problem is that a law creating a government program results from a coalition of interests that tends to expand after enactment, regardless of the program's performance or purposes. While the process leading to passage may be long, the prospect of termination becomes nearly preposterous all too soon. Sunset legislation does not confront that political fact.

"The irony of the sunset laws," adopted in large part to narrow the gap between public expectations and the reality of government services, "is that unless they are fantastically successful they will become just another example of unfulfilled government promises." ■