Regulation,
social policy,
and
class conflict

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Some time ago I received a letter from a friend of mine, a political scientist who is an author of one of the best-selling introductory textbooks on American government. He and his co-authors were preparing a revised edition, and they wondered if I would be willing to review the chapters on government regulation of business in light of the reporting and writing I had done on the subject for Fortune magazine. After a certain amount of haggling over the fee—in practice, the authors' liberality with other people's money (in this case the publisher's) was not what one would have guessed from their political views—I accepted. Shortly thereafter the book arrived, and, curious as to what it would have to say, I immediately opened it and started to read.

The theme of the chapters in question was straightforward enough: Government regulation of business, they insisted, is a disappointment at best, and more often than not an utter failure and scandal. Its purpose is to make private economic activity safe for liberal democracy by remedying imperfections in the marketplace that prevent business activity from being self-regulating in the manner posited by Adam Smith. Yet in the overwhelming majority of cases, according to the textbook, this purpose does not even come
close to being achieved. The regulatory agencies do not control business power, they are controlled by it. They do not serve the public interest, but promote special interests at the expense of the public.

These conditions prevail, the chapters suggested, because the politics of the regulatory agencies are dominated by what some political scientists have described as an "iron triangle"—a coalition made up of the regulated industry, the regulatory agency, and the Congressional subcommittees with jurisdiction over it. Exploiting the generality of the agency's legal mandate and the breadth of its official powers, the members of this unholy trio so arrange things that regulatory policy works to their own narrow advantage rather than benefiting the people as a whole. And they can do this with impunity, year in and year out, because their interest in regulation is intense and direct, whereas that of the public is weak and diffuse and so goes unrepresented. In short, the textbook argued, the politics of regulation is an exercise in subversion and injustice, and the lesson it teaches is that the institutions of liberal democracy are impotent in the face of special interests, especially business interests.

None of the text's account of government regulation was unfamiliar to me, nor will it be to any other student of the subject; it represents a reasonably accurate thumb-nail sketch of the social-science and journalistic literature on the regulatory agencies. Nevertheless, within minutes I found myself dismayed, and by the end of the first chapter I was aghast.

Now I will admit I was put off, perhaps to an unreasonable extent, by the resolute vagueness of the exposition (intended, apparently, to connote objectivity), by the relentless, if covert, editorializing, and by the absence of persuasive detail. I also was irritated by the authors' failure to convey a sense of the diversity of social-science interpretations. The differences between "capture" theories of regulatory failure like that of Samuel P. Huntington, "life-cycle" theories such as the one advanced by Marver Bernstein, and "original intent" theories of the sort proposed by Gabriel Kolko and George Stigler, were scarcely broached.¹ Little was made of the

¹ Each of these three theories proposes a different way to explain why regulatory behavior benefits special interests rather than the public. Invoking a military metaphor, Huntington posits an out-and-out political "capture" of the agency by the regulated industry. Bernstein, preferring a Darwinian image, suggests that agencies begin by advancing the public interest but, through a natural evolutionary process, slowly lose their sense of mission and eventually lapse into serving special interests. Writing on the basis of historical research—
competing argument, developed by such scholars as Louis Jaffe and James Q. Wilson, that the real bias of the regulatory agencies is not that they favor the regulated but that they have an enormous stake in regulating per se, and that the "special interests" the agencies really serve are those involved in the regulatory process itself—lawyers, judges, environmental consultants, business lobbyists, and so forth. Moreover, the text almost completely ignored the fascinating body of empirical research, mostly by economists, on the often perverse practical consequences of regulatory programs. The author most frequently cited in the footnotes was not Merton Peck or Sam Peltzman or Roger Noll or Paul MacAvoy but—Ralph Nader and his various doppelgangers.

Yet my quarrel was not really with the textbook, which is not bad as such things go. What mainly horrified me was that the social-science theories the textbook was describing bore no relationship worth speaking of to what I had observed and pondered during some three years of writing about government regulation of business.

The "iron triangle"

Consider, to begin with, the political processes that surround the older regulatory agencies—those founded between 1887, when the Interstate Commerce Commission was established, and the outbreak of World War II. With exceptions, most of these agencies are cartel-like in structure and effect; they are organized on an industry-by-industry basis and are more or less mandated to protect as well as regulate. Characteristic examples are the ICC itself (which regulates railroads, trucking, and barges), the Civil Aeronautics Board (airlines), and the Federal Communications Commission (television, radio, and telecommunications). These are the agencies to which the regulatory literature has empirical reference, so it is not surprising that there should be some points of correspondence between their actual behavior and the social-science account of it. Yet even in the case of these older agencies there has arisen in recent years a large discrepancy between social science and reality.

Since the fall of 1974, for example, there has been underway in

and from very different political viewpoints—Kolko and Stigler argue that the regulatory agencies have not in general lapsed from their proper mission, but were always intended to serve special interests. The FDA, Kolko maintains, was established at the behest of big meat packers who wanted to eliminate price competition from small meat packers. According to Stigler, the ICC was created at the urging of some railroads anxious for government help to maintain the faltering railroad cartel in the late 19th century.
Washington a concerted, broad-based, and so far fairly successful movement to reform, and in some instances to abolish, the older regulatory programs. This movement is the undertaking of a peculiar coalition of *laissez-faire* economists, conservative Republicans, "consumerists," and liberal politicians. The two former groups are motivated particularly by their beliefs about limited government; the two latter seek to save consumers money and to deprive business of what they regard as illegitimate political advantage.

According to the political science of regulation, this movement for deregulation simply shouldn't exist; the public interest in regulation is supposed to be inherently too diffuse to sustain any significant, ongoing challenge to the hegemony of the "iron triangle," whose members are supposed to be able to turn regulatory programs to their own selfish purposes with comparative ease. Yet in the real world, just the opposite is the case these days. A deregulatory movement does exist and has made considerable headway. It has been pushed enthusiastically by the Council of Economic Advisers, the Antitrust Division of the Justice Department, elements of the Office of Management and Budget, and other agencies in the Executive Branch. It has enlisted the support of two Presidents. It has strong backing from liberal Democrats as well as from conservative Republicans on the Hill, and is being carried forward by a number of Congressional subcommittees, including several whose members ought to be in the front ranks of those defending the "iron triangle." Already the deregulators have had some successes. They have lessened somewhat the ICC's powers to set railroad rates, and they have pushed through legislation prohibiting state fair-trade laws. This past year, with strong support from Senators Cannon and Kennedy and the endorsement of President Carter, a bill to cut back airline regulation substantially has progressed to the point of enactment in the Senate. Passage in the House, though not a certainty, is entirely possible. And significant reforms in other agencies could well be in the offing, too.

The case of airline deregulation illustrates with particular force just how misleading and fallacious the standard political-science account of regulatory politics has become. The theory of the "iron triangle" holds that regulatory agencies are always and everywhere the unyielding defenders of their programs and prerogatives. The reality in this case is that the CAB itself has been one of the most active advocates of airline deregulation. Under two chairmen—first John Robson, now Alfred E. Kahn—the five members of the CAB have unanimously asked Congress to curtail their agency's power
to determine airline rates and routes. Even more astonishingly, the CAB's professional staff has come out in support of the same idea—and it did so before the commissioners did. Two years ago, a committee of senior civil servants at the board issued a long report, the key conclusion of which was that the CAB should be relieved of a large portion of its powers.

The theory of the "iron triangle" also says that the typical regulatory program is defended to the death by the regulated industry. In the case of airline deregulation, the reality is that the Air Transport Association (the trade association of the scheduled airlines) does not have a position on regulatory reform. Several carriers, including the nation's biggest airline, United, favor a measure of deregulation, and barely half the members of the industry are actively opposed to major reform legislation.

The literature further holds that Congressional subcommittees are a mainstay of the "iron triangle" and can be counted on to turn back any Congressional pressures for change. In the case of airline deregulation, the reality is that Senator Howard Cannon of Nevada, who is chairman of the Senate Commerce Committee's subcommittee on aviation, has been publicly committed to airline deregulation for almost two years now; that his subcommittee has reported a deregulatory bill to the full committee; and that the full committee has reported a bill to the whole Senate for a vote. The House subcommittee, though not yet as active as its opposite number, could well become so. Its chairman is also on record as favoring airline deregulation.

In other words, the "iron triangle" that should be effortlessly smashing the deregulators' assault on the CAB is doing nothing of the sort. It has scarcely a single member who reliably defends regulation, and most of the actors who should be supporting CAB policies these days are busily attacking them! The airline case, though extreme, is not an isolated instance. Similar weakness is visible in other "iron triangles" today—in the House subcommittee on communications, which has been conducting a root-and-branch review of FCC regulatory programs; in the Antitrust Division, which has urged repeal of the Robinson-Patman Act; and in many institutions concerned with banking regulation, which had begun an agonizing reappraisal of that policy area long before Bert Lance began—or ended—his ill-fated stay in Washington.

The fact is that in a great many regulatory arenas the "iron triangle" no longer exists, or has been severely weakened. (One regulatory reformer now speaks of a "rubber triangle.") The standard
political science of government regulation is simply in error when it asserts that regulatory policy is always and everywhere controlled by the regulated, that it is essentially immune to outside criticism and reform, and that the existence of the "iron triangle" thus demonstrates a deep contradiction at the heart of American democracy. The truth is that the "iron triangle," where it exists, was and is a political coalition like any other—sometimes successful, at other times not, and always dependent over the long run on the good opinion of the people.

A new coalition

In fairness, it must be said that the theory of the "iron triangle" was an honest mistake. The scholars who propounded it did so, for the most part, on the basis of careful research, and if they overgeneralized their findings, their work remains useful as an account of episodes or eras at the agencies in question. And yet, even as description, the literature on regulation is getting to be very misleading. Over the past decade, the Federal regulatory establishment has been greatly expanded by a long series of new laws in the areas of health, safety, and environment. For a variety of reasons—not the least of which is that legislators or their aides are aware of the social-science literature—the new regulatory agencies are utterly unlike the old ones. And since the new agencies as a group now far overshadow the old ones by any measure one might invoke—social impact, number of people employed, amount of Federal money spent, etc.—the literature, merely by remaining on the library shelves, has come to convey a seriously inaccurate impression of what regulatory agencies in general are like and how they work. (Scholars are only now beginning to do serious research on the behavior of the newer agencies.)

For example, the literature says that government regulation of business typically is based on terse statutes that confer extremely broad powers on the agencies and provide little specific policy guidance save to enjoin the regulators to act in the public interest. As a result, according to the literature, regulatory agencies have legislative as well as administrative functions and therefore are particularly vulnerable to pressure from special interests.

This is indeed a reasonable statement to make concerning the ICC, FCC, CAB, and most of the other older regulatory agencies. But it isn't at all true of most of the newer ones. Typically, the laws establishing these newer agencies are extraordinarily lengthy and
specific. The Employee Retirement Income Security Act, under which the IRS and Labor Department jointly regulate private pension plans, runs to more than 200 pages and spells out in excruciating detail what kinds of information are to be gathered by which bureaucrats, when the information is to be collected, and even how often they are to repeat the process. The Environmental Protection Agency administers statutes that fill hundreds of pages in the Federal Code. The Clean Air Act is so specific that it spells out precise pollution-reduction targets and timetables and leaves the EPA virtually no discretion whatsoever. And these detailed specifications have teeth in them. For the laws establishing the New Regulation typically give nearly everyone an all but unlimited standing to sue the agency in question for any seeming failure to do precisely what the law tells it to do. Citizen groups and other organizations have made liberal use of this opportunity, and the courts have not been notably latitudinarian in their reading of the statutes.

The literature on regulation also says that regulatory agencies are prone to cooptation by the regulated interests because they are organized by industry. That may be true of the Old Regulation, but it isn’t the case with the New. The new regulatory agencies were deliberately organized along functional lines, and their jurisdictions therefore cut across industry boundaries. The EPA, for example, deals with pollution problems created by all industries, and OSHA regulates safety and health conditions for workers in all industries. The Consumer Product Safety Commission controls the safety of virtually every consumer product on the market and so involves itself in the design and marketing of everything from rag dolls to power lawn mowers. The new regulatory agencies are accordingly resistant to cooptation by any single industry. If they are vulnerable to cooptation at all (and they are), it is to cooptation by safety- or environment-oriented groups, not by business organizations.

The social-science literature also paints a picture of a comfortable, cooperative relationship between regulator and regulated. That typically is the case with the old regulatory agencies, whose employees usually do feel responsible for the economic well-being of the industry they have jurisdiction over—often, as with the CAB, because the law explicitly instructs them to. But this is not at all true of most of the newer regulatory programs. They were established to operate as the adversaries of the interests they regulate, and typically it is as adversaries that they administer the law. Not, to be sure, that they have much choice in the matter. The New Regula-
tors for the most part are mandated to pursue their appointed goals more or less singlemindedly, with little or no concern for the cost and consequences of the pursuit. The EPA, for instance, is explicitly forbidden by law to pay attention to cost in setting and enforcing the nation's primary ambient air-quality standards. Similarly, OSHA may not take account of the cost of health regulations except in the extreme case that they might push a company into bankruptcy. By and large, the new regulatory agencies are true to the spirit of these laws, and where they are not, suits by environmentalist, labor, or other such groups put them back on the straight and narrow.

Thus, in the new regulatory agencies there is no traditional "iron triangle" at work behind the scenes. To the contrary, the New Regulation is controlled by what can only be described as a new "iron triangle" made up of public-interest groups, the press, and the Federal government as a whole (especially the courts and Congress). Whereas the members of the old "iron triangle," at least while it lasted, were responsive mainly to the concerns of business, the members of the new "iron triangle" are motivated by a concern for health, safety, and the environment—and by a passionate sense of opposition to the members of the old "iron triangle." The new "iron triangle" is not omnipotent, but today it is in the driver's seat as far as the New Regulation is concerned. It is significant, for example, that the movement for deregulation, which is strongly supported by the members of the new "iron triangle," addresses itself only to the Old Regulation; the New Regulation has so far been exempt from its animus, and is likely to remain so.

Some regulatory successes

The social-science literature's lurid overstatement of the power and permanence of the old "iron triangle," and its failure for some 10 years now to acknowledge the political and institutional realities of the New Regulation, are not random errors. They are part and parcel of a larger undertaking—that of declaring regulatory programs to be failed acts of public policy. According to the literature, the agencies are so encumbered by special interests that their activities serve no identifiable public interest. Regulators may try to give people the impression they are rendering a public service, but these efforts are a fraud—mere "symbolic politics," in the phrase of one widely footnoted political scientist. The reality, the literature maintains, is that regulation is a rip-off without redeeming social value.
The notion that regulation is the antithesis of proper public policy and that it is impotent to do anything but harm to the common weal is, to me, truly bewildering. It bears no relationship to anything I have observed, and—what is at least as important—it bears no relationship to any intelligible conception of the public interest in relation to private interests.

To be sure, government regulation serves all kinds of private interests. It protects the airlines and truckers from most relevant kinds of competition. It enables well-connected Washington lawyers to make $500,000 a year. It gives small businessmen a degree of protection against the effects of price discrimination. It has created an enormous and growing market for air-pollution-control equipment and the services of workplace-safety consultants, who are doing very nicely these days. It has raised prices in the paper industry by driving out of production the old, marginal paper mills that were the first to cut prices when demand was soft but were ferocious polluters of the waterways and thus had to be closed down when EPA’s standards went into effect.

Regulation has done all these things and many more—but this in itself is not evidence that it does not serve public ends. Yet this is what the political science of regulation suggests—that the public interest and private interests are at war with each other, and that in the nature of things a program serving the one cannot serve the other. On this assumption, the fact that private interests intervene in regulatory affairs or benefit from regulatory policy is taken to signify that public ends are being subverted.

Not only is this notion wrong in general, it is also profoundly misleading as a guide to understanding the reality of any particular program or agency. For it is impossible to contemplate regulation with even a half-open mind and conclude that it is powerless to promote public goals or to advance a conception of the public interest. For example, it is obvious to even the most casual observer that the New Regulation actually does pursue the goals of health, safety, and a clean environment, even when they collide with private interests. The EPA has already required private parties, including some of the nation’s biggest and most influential industries, to spend tens of billions of dollars on pollution control. By the mid-1980’s it will have required the direct investment of well over a hundred billion dollars, and God only knows how much more in operating expenses, inflation, and other social costs.

This enormous reallocation of national resources required by the New Regulation has already begun to produce many of the de-
sired results. Water quality has improved substantially in many areas. Ambient air quality has risen in a number of important respects since the EPA went to work five years ago. The number of deaths attributable to accidental ingestion of aspirin by infants has fallen dramatically since child-proof caps on bottles of aspirin were introduced, first at the suggestion of the FDA and later under the order of the Consumer Product Safety Commission. Auto emissions are now some 90-percent lower than they were before auto pollution became a concern of public policy. To be sure, not all regulatory programs have achieved very much in terms of their ultimate goals. Despite the billions that have been spent on occupational safety and health measures, it appears that the sickness and injury rates of the domestic labor force have not been changed significantly. Yet this seems less a reflection on OSHA's political integrity, which is nothing if not formidable vis-à-vis business organizations, than a consequence of the inherent difficulty of lowering injury rates.

**Public ends and private interests**

The older regulatory agencies also serve public ends, although these admittedly are harder to discern. Partly this is because their enabling statutes do not lay down any concrete public purposes for the regulators to pursue. And partly it reflects the fact that the most obvious and immediate effect of their programs is simply to transfer wealth from one part of the population to another—from the risk-accepting to the risk-averse in the case of banking regulation, or from certain kinds of shippers to certain categories of truckers in the case of the ICC's regulation of trucking. Yet there is no necessary contradiction between serving public interests and private interests at the same time, and if one is willing to entertain the notion that the Old Regulation might be serving intelligible public ends (as the social scientists of regulation in general are not), it is possible to discover a number of these.

One public purpose clearly advanced by the Old Regulation is that of saving "free enterprise" from big business—i.e., of preserving competition (or at any rate competitors) to a greater extent than the "natural" dynamics of a free market would allow. The Antitrust Division and Federal Trade Commission do this by restraining monopolies, trusts, and big companies generally. The Robinson-Patman Act does it by trying to curtail the natural advantages of big corporations in purchasing supplies. And the ICC and CAB, among oth-
itors, do this by "rigging" the trucking and airline industries to permit more companies, and more small companies, to exist than would otherwise be the case.

Another public purpose that has been advanced by the Old Regulation is that of helping to integrate a diverse, localistic, continental population into a single, interdependent, national society. The older agencies have done this in many ways:

1. With the blessing of the FCC and state utility commissions, the Bell system has created an elaborate network of cross-subsidies, one effect of which, it appears, is to lower the price of telephone service to residential customers below its true cost. This encourages private users of telephones, for example, to speak with, and so to maintain ties with, friends and family even over long distances.

2. The FCC's informal requirement that a certain minimum of a television broadcaster's air time be devoted to public-affairs programming causes more public-affairs broadcasts, especially documentaries, to be shown than would otherwise be the case. This in turn has encouraged citizens to concern themselves with political affairs and has helped to create a genuinely national politics based on national issues and a national agenda.

3. The CAB's regulation of the airline industry has caused service levels to be higher than they would be in an unregulated market and has given airlines an incentive to operate excess capacity on their routes. This in turn has made air travel more attractive and accessible, especially for business travelers, which has enhanced the mobility of American society and increased nationwide social and economic integration without diminishing localism.

4. More generally, by establishing uniform national standards of safety, security, and the like in such industries as banking, securities exchange, food, and drugs, the Old Regulation has reduced the risks and costs of engaging in anonymous commercial transactions over long distances and has thereby helped to provide the benefits associated with larger, less fragmented, national markets.

The Old Regulation has also helped to domesticate and legitimate large corporate business. Americans have long been suspicious of big business, whose resources they perceive, not unreasonably, to be vastly disproportionate to those of an individual customer. The regulation of airlines, banks, and local utilities has arguably curbed corporate rapacity, and certainly it has eased consumers' mistrust. That is why public-opinion polls show that, in general, the most highly regarded industries in the United States are regulated industries—banks, electric utilities, and airlines, for example. Indeed,
these three are among the most highly esteemed of all American institutions of all sorts, whether economic, religious, political, or social.

The Old Regulation has also helped to make America a nation of homeowners. By establishing the savings and loan association as something distinct from a commercial bank, for example, and by giving it special obligations to provide mortgage loans, banking regulation (together, to be sure, with the Federal tax code) has lowered the cost of homeownership relative to the alternatives, thus encouraging Americans to be homeowners and suburbanites. One may debate whether this is good or bad, but what cannot be questioned is that banking regulation has advanced a conception of the public interest.

**Regulation as social policy**

If government regulation of business isn't an interest-group rip-off, what is it? What role does it play and what meaning does it have in the American scheme of things? Obviously, this question goes beyond the scope of any essay (not to mention the state of our knowledge), yet some parts of the answer seem clear enough.

The first point that must be grasped is that, despite all appearances and representations to the contrary, government regulation of business is not primarily an instrument of economic policy. To be sure, it is conventionally spoken of as if it were. Defenders insist that regulation is intended to remedy "market imperfections" and to "internalize externalities," and their opponents counter with stories and studies illustrating the economic absurdities so often committed by regulatory programs. All such arguments, however, are beside the point. If regulation were really founded on a belief in markets, its scope would be virtually unlimited: *All* markets, after all, are significantly flawed. At the same time, government would not be so quick to replace market processes with administrative ones, since no market is by nature completely inoperative or beyond hope of reviving—not even those that we refer to, usually inaccurately, as "natural monopolies."

The real purpose of government regulation is not to correct the deficiencies of markets but to transcend markets altogether—which is to say, government regulation is not economic policy but social policy. It is an effort to advance a conception of the public interest apart from, and often opposed to, the outcomes of the marketplace and, indeed, the entire idea of a market economy. (That is why all economists, whatever their political views, end up being so critical
of government regulation, at least as it works out in practice. They think regulatory policy should make sense economically—which, of course, it never quite does.)

The second thing that must be understood about government regulation is that, being social policy, it is a manifestation not of interest-group politics but of class politics. To be sure, interest groups are active in every regulatory arena. But government regulation is more than a narrow matter of "who gets what." It also asserts a set of values, a world-view, and policy of this larger sort is never created by mere interest groups, but by classes—groups that possess a distinctive "culture" and relationship to the means of production, and that intend to dominate and define the society, i.e., to rule. The class basis of regulation, incidentally, is one reason why so much regulatory policy is an intellectual scandal, as when it mandates zero pollution of the waterways by 1985 (which is lunacy even as an ideal) or allows the Bell system monopolies (e.g., over the manufacture of telephone receivers) that are not necessary to maintain a network of telephone service. When policy is not just a means to an end but a symbolic assertion of a class sense of destiny as well, government easily becomes an exercise in gratuitous excess.

With these two points understood, it is possible to grasp the central and controlling truth about this entire phenomenon—namely, that the two kinds of government regulation in the United States today represent the social policy of two different classes and embody radically different political philosophies. The Old Regulation, for the most part, is the social policy of that curious class of reformers, professionals, politicians, and businessmen around the turn of the century who blended the "populist" and "Progressive" impulses into a body of political views that eventually transformed a traditional, bourgeois political economy into the mixed corporate order we know today. The New Regulation, by contrast, is the social policy of what is often described these days as the "new class"—also largely professional and managerial, like its turn-of-the-century counterpart, but committed to "humanistic" work in the not-for-profit and public sectors, and generally hostile to the economic accomplishments and political vision of the Progressive era.

The Old Regulation is an expression of a much larger movement in American social history—the effort, which began in earnest around the turn of the century, to create a modern economy that would deliver the enormous economic growth and other social benefits made possible by large-scale, technologically-progressive, corporate
capitalism without sacrificing the benefits of traditional, bourgeois "small business"—its economic efficiency, its natural legitimacy, and above all its capacity to make the ideal of individualism an economic reality. This broader effort was supported by an odd coalition of small businessmen and farmers, liberal economists, reformist politicians, and a new breed of corporate managers, and it gave rise to the corporation, modern transportation and communications, and other institutions as well as the Old Regulation itself.

The policies advocated by this energetic class of social innovators and political reformers pointed in divergent directions. On the one hand, through such statutes as the Sherman and Clayton Acts, they sought to break up excessive concentrations of economic power, and thereby to restore, insofar as possible, market conditions of the sort envisioned in classical economic theory. On the other hand, they also established a long series of cartel-like regulatory commissions explicitly intended to replace market processes with political and administrative ones. In part, the purpose of these commissions was to cushion "small business" against the rigors of the marketplace and the innate strengths of big business. And, as in the cases of the airline and telephone industries, their purpose was also partly to enable big corporate business to provide the social benefits of modern technology faster, or in greater abundance, than the market by itself would allow.

Yet though this class was both for the market and against it, for big corporate business and against it, for small business and also anxious to transcend its limitations, its position did have an underlying coherence: a clear and persistent dedication to basic values of the liberal tradition—science, economic growth, widespread prosperity, the rule of law, the idea of progress, and above all the primacy of the individual. It was the fate of the members of this class, however, to live at a time when traditional liberal forms were no longer compatible with the fullest possible realization of liberal social ends. The marketplace, for example, still performed many useful functions. Yet with the rise of the big corporation it seemed less and less effective in providing the social and political benefits inherent in the institution of small business. At the same time, the logic of the market prevented big corporations from realizing to the maximum practical extent the full benefits of modern technology—for instance, universal enjoyment of inexpensive, reliable, and high-quality telephone service. Thus the Old Regulation represented an effort to transcend traditional liberal forms like the free marketplace for the purpose of promoting liberal values.
The New Regulation

The New Regulation could hardly be more different. It is the social policy of the new class—that rapidly growing and increasingly influential part of the upper-middle class that feels itself to be in a more or less adversary posture vis-à-vis American society and that tends to make its vocation in the public and not-for-profit sectors. Over the past decade it has come to be represented by a broad constellation of institutions—the “public-interest” movement, the national press, various professions (law, epidemiology), government bureaucracies, research institutes on and off campus, the “liberal” wing of the Democratic party, and the like. By means of its regulatory policy, the new class is, among other things, bringing about what Murray Weidenbaum has described as the “second managerial revolution.” The first managerial revolution, of course, involved the displacement of the old bourgeois class by the corporate managerial class, and a corresponding shift from purely private economic institutions to quasi-public institutions like the corporation. The second managerial revolution is transferring power from the managerial class to the new class, and from quasi-public institutions to fully public ones—i.e., to the government.

The announced objective of the New Regulation is to promote health, safety, a cleaner environment, and a more open political process. But that is not all the New Regulation is about. For the members of the new class seem less interested in maximizing the overall health and safety of American society than in reducing the health, safety, environmental, and political costs of the modern capitalist order—which is a very different thing indeed, since liberal capitalism has itself brought about, and continues to sustain, large improvements in the health, safety, environment, and political life of the country. These benefits, to be sure, have price tags on them, but working to lower those social costs is not the same as seeking to increase the overall welfare of the society, as the record of the New Regulation itself shows. The now-infamous Thalidomide Amendments, enacted in 1962 to prevent the introduction of dangerous new drugs, appear to have delayed the introduction of all kinds of new drugs, safe and dangerous, to the point where more deaths have been permitted than prevented. Similarly, the efforts of Common Cause and other “reform” groups have considerably reduced the influence of traditional interest groups, e.g., labor, trade associations, and the like. But they have not thereby appreciably “opened up” the political process. They have merely transferred power from those who produce material goods to those who
produce ideological ones—to the intellectuals, policy professionals, journalists, and "reformers," who are arguably much less representative of the American people as a whole than those whose influence has been curtailed.

Outcomes like these are not accidental. They faithfully reflect the underlying interests and ethos of the new class itself. With each passing year it becomes clearer that the real animus of the new class is not so much against business or technology as against the liberal values served by corporate capitalism and the benefits these institutions provide to the broad mass of the American people: economic growth, widespread prosperity, material satisfactions, a sense of nationhood, a belief in an open and self-determined future, and the many options and freedoms these make possible for ordinary citizens. The real ire of the new class, and the fire-power of its social policy, are directed, not merely at those in business who (in Lewis Lapham's marvelous phrase) "go around making things without permission," but also, and perhaps especially, at the mass of Americans who go around doing and enjoying things without permission.

For instance, a cardinal principle of the New Regulation is that of "internalizing the externalities"—making manufacturers and consumers pay the social costs of modern goods and services. The idea, as an idea, does have a certain attractive neatness about it, and put into practice it does indeed cause the environment to get cleaner and products to get safer. But in practice it also raises the price of the goods and services in question, or decreases their utility. Either way, "internalizing the externalities" is a form of taxation, and taxes always discourage the production and use of the thing taxed. In this sense, the new class, though it marches under the banner of "consumerism," is in fact working against the widespread enjoy-

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*To some readers, perhaps, this use of the word "liberal" will seem unfamiliar, even far-fetched; Americans today are accustomed to attaching that honorable term to other sorts of values and institutions, e.g., redistributing wealth. Yet at least from the time of Locke himself, the idea of economic growth and individual prosperity has been as central to liberal political thought as the more widely-known notions of individual rights, rule of law, and limited government. And the presence of this "materialist" aspect of the liberal tradition was no mere "historical accident." Economic growth, widespread enjoyment of material satisfactions, technological development, and other such phenomena are in fact necessary elements of the entire liberal vision of man and society and are inextricably interwoven with its other, more directly political and juridical features. Who says "human rights" or "constitutional government" or "science" must also say "economic growth"—or, in effect, speak a kind of theoretical and practical nonsense, at least from the liberal viewpoint.*
ment of consumer goods and services that liberal capitalism makes possible.

The hostility of the new class to acts of consumption by consenting adults is paralleled by a vigorous opposition to all institutions that promote consumption—advertising, the corporation, and above all the Old Regulation. It sees the Old Regulation in much the same light as social scientists do, as representing a kind of theft of the symbols and power of the state by interest groups for selfish purposes. Accordingly, the new class is at the forefront of the movement to deregulate such older regulated industries as trucking, the airlines, banking, and so on, at the same time as it seeks to extend regulation for its own purposes.

Understanding the problem

So it is obvious that government regulation of business raises some crucial issues for American politics and American social science. They are not, however, the issues that predominate in current discussion of this much-discussed subject. To critics associated with the Left and (what is by no means the same thing) the new class, the central issue posed by regulation is one of the integrity of democracy itself in the face of "corporate power" and "interest-group politics." But this, as we have seen, is a wildly misleading definition of the problem. While interest groups do happily graze in these pastures, the overriding truth is that the authority of American government is nowhere more dramatically demonstrated than in the regulatory agencies, which are a veritable cornucopia of public philosophies and social-policy enterprise. Indeed, if regulation raises an issue in this respect, it is the question of the fate of the traditional private sector, which has manifested a worrisome political and moral weakness in defending itself against both managerial and new-class notions about the primacy of bureaucratic, quasi-public, and public institutions.

Nor are the important issues of regulation the ones which figure so prominently in the arguments of economists, conservatives, and deregulators—for example, the question of whether a measure of "economic rationality" can be restored to this sector of public policy through the reinstatement of markets or the establishment of market-type mechanisms (effluent charges, for instance) or the infusion of cost-benefit consciousness into regulatory organizations. These, to be sure, are not utterly irrelevant concerns: Prodigality with other people's resources is the rule rather than the exception in
the regulatory process, and with the explosion of new agencies in recent years, this habit of mind has been exacting a heavy toll on the nation's wealth and growth. Yet outside a narrow range these concerns seem to beg the question. Efficiency is desirable—but efficiency at what and for whom? Markets are useful, but to what extent do they suffice for the social control of the modern corporation, one of whose purposes is precisely to transcend markets?

The current debate over regulation is unsatisfactory, it seems to me, for a simple reason. Contrary to what nearly everyone has assumed for decades now, government regulation of business is not a political backwater or public-policy side-show, an affair of mere interest groups and narrowly economic concerns. To the contrary, it is a direct and consequential expression of the central social and political currents of 20th-century American life. As such it raises squarely, and in a peculiarly puzzling way, the ultimate issue of American politics: the meaning and fate of the idea of liberal democracy. Both the Progressive-managerialist class and the new class have an obvious connection with the liberal tradition, but both also are carriers of ideals and structures that, at the very least, do not sit comfortably with the liberal orthodoxy. The ethos of the Progressive class is mostly a familiar one whose lineage traces directly back to Lockean notions of reason, science, growth, and social harmony. On the other hand, its notions of transcending the rough and tumble of both the marketplace and democratic politics, and its unrelieved materialism, seem more than faintly heretical. The relationship of the new class to liberal values, it seems to me, is a good deal more problematic. In comparison to that of its Progressive-managerialist predecessor, the ethos of the new class, as if by a generational mutation, is by now so systematically statist, so indifferent to the liberal promise of individual autonomy and social abundance, so hostile to the achievements and aspirations of so many liberal institutions that it strikes me as being more heresy than not.

But whatever one concludes about these questions, liberalism is the issue. And that, of course, is the thing that our enormous literature on government regulation ignores above all. In part this is because so much of that literature is so tendentiously allied with the new class cause (writers are not without their own class interests), so anxious to discredit the Old Regulation, and so avid to justify the exercise of more and more state power over private persons and organizations that it literally refuses to acknowledge the realities that impress themselves so forcefully on even a casual observer of the regulatory agencies. And beyond that there is the
fact that modern social science scarcely has the words to describe the ultimate dimensions of government regulation for what they are. To economists, regulation is chiefly a matter of mere pecuniary quantities and the narrow "efficiencies" envisioned by the idea of a market. To political scientists and journalists, the agencies are for the most part simply a battleground for an ongoing Armageddon between the "interests" and the people. All of which is to say that social science is as much afflicted as every other liberal institution by the one great weakness of modern liberalism: Being "pragmatic" and distracted by the promise of a progressive future, it has a hard time recognizing its organizing principles for what they are, and an even harder time remaining true to them. That, of course, is the problem of government regulation as well.

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