

The Bureaucratic Incubus

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incubus:

1. an imaginary demon or evil spirit supposed to descend upon sleeping persons; 2. something that weighs upon or oppresses one like a nightmare; 3. figuratively, any oppressive hindrance to favorable action, physical or mental.

The bureaucracy is like the weather: everyone talks about it, but nobody does anything about it. Presidents often complain upon taking office that the bureaucracy is so deeply entrenched that they can gain only a tenuous control over the government. Congressmen find that wrestling with bureaucrats for their constituents occupies a considerable portion of their time. Businessmen have to learn to thread their way through a maze of bureaus in order to do business. "Bureaucrat" is an epithet to the general public: he re-

quires a seemingly endless stream of paperwork — "red tape" — is by turn evasive, interminably slow, haughty, arbitrary, autocratic, and is surely an "oppressive hindrance to favorable action." Yet the Federal tribe of bureaucrats increases geometrically, joined by their state and local counterparts.

There is an amazing array and variety of Federal bureaus. They range from the Bureau of Outdoor Recreation to Bureau of Apprenticeship and Training to Office of Intergovernmental Affairs to Center for Disease Control. Just how many such bureaus there are is well-nigh impossible to determine. One reason for this is the variety of names by which they

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are called: commissions, boards, bureaus, offices, divisions, centers, agencies, administrations, departments, and so on. For example, the Department of Commerce has Domestic and International Business Administration, Bureau of Census, Economic Development Administration, Planning Division, Technical Assistance Division, Public Works Division, Business Development Division, Technical Support Division, Equal Opportunity Division, Economic Development Representative, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Office of Audits, and National Weather Service Forecast Office. How many of these would be called bureaus is a matter of classification.

States have their own panoply of institutes, commissions, boards, services, offices, divisions, and so on. For example, the Secretary of State of Georgia oversees such bureaus and agencies as: Administrative Procedure Division, Archives and History Department, Bank and Credit Union Charters, Corporations Division, Professional Examining Boards (Board of Accountancy, Board of Architects Qualifications and Registration of, Board of Dental Examiners and Hygienists, State Board of Examiners of Plumbing Contractors, Real Estate Commission, and so

forth), State Board of Registration for Used Motor Vehicle Parts Dealers-Motor Vehicle Dismantlers-Motor Vehicle Rebuilders, among many, many others.

Activities and Rules

Of the myriad activities of these numerous bureaus there is no end. In a recent column on Federal grants, James J. Kilpatrick noted that there are now some 975 assistance programs administered by 52 agencies costing more than fifty billion dollars annually. His description of some of their activities deserves to be quoted:

Each of the 975 assistance programs, it perhaps goes without saying, has its own rules, regulations, application forms, and miscellaneous requirements. These periodically are promulgated, revised, amended, adopted, further amended, withdrawn, codified, and readvertised in the Federal Register, a paper printed daily in the city of Washington in type designed to put your eyes out. The Register, which includes a vast deal of other stuff, last year ran to 35,000 pages.

On the matter of bureaucratic rulemaking, Representative Elliott H. Levitas of Georgia had these observations, among others, to make in support of a bill he was introducing to Congress:

Time and time again, the principles embodied in good legislation are lost

by the time the unelected bureaucratic rulemakers publish their regulations. The rules, which really are laws, are now being ground out at the rate of almost 6,000 per year as compared to about 600 acts of Congress, in the same period.

It is absolutely essential that Congress regain control over this administrative lawmaking process, especially when the violation of these rules — many of which are unreasonable and far beyond, or contrary to, the original purpose of Congress — can result in a citizen's being fined or going to jail just as surely as if he had violated an act of Congress itself.

Hardly a day goes by that the newspapers do not report on the doings and misdoings of the bureaucracy, but what we find there is, of course, only the tip of the iceberg of bureaucratic activity. For example, recently church groups attempting to assist in aiding Vietnamese refugees reported that their efforts were frequently tangled in red tape. One head of a refugee committee said:

Three months ago we would call one official and he'd tell us one thing, then we'd call the man sitting at the next desk and he'd give us a different answer.

Another report from the same meeting was from a factory owner who wanted to employ 35-40 refugees "but he couldn't get anybody in the government to respond,

even though he's been trying for three months."

Stories of the slowness and time-consuming activities of bureaucracies abound. Here is a summary included in an account of efforts by the airlines to reduce bureaucratic regulation:

Currently, airlines must go through a process that can last years to get a CAB decision before they can raise or lower their fares or begin to serve or stop serving certain airports.

Another horrendous example was reported recently in Atlanta concerning the Metropolitan Area Rapid Transit Authority (MARTA). For four years now, MARTA has been about to embark on the building of a rapid transit system for Atlanta with massive Federal aid. The newspaper reports that MARTA "is about to embark on an \$87,500 program to review its 'goals and objectives' and develop a system for monitoring its progress." To all appearances, it would not require a study to monitor progress; none is being made.

Sympathetic Controllers

A common complaint against the bureaucracy is that men appointed to regulate industries really favor the activities of the businesses rather than control them. Here is the report of such a relationship:

Federal officials responsible for the integrity of American grain shipments have frequently yielded to industry pressures and ordered unjustified upgrading of quality ratings for export shipments, according to government officials.

A pattern . . . of actions by federal aides favoring the industry has emerged from interviews with a number of officials and former officials of the Grain Division of the Agriculture Department.

There should be no doubt, then, that bureaus have gained and hold an ever-expanding sway over our lives. If anyone doubts this he need only to attempt to go into business, go out of business, make a product, render a service, sell something, or engage in some activity regulated by government. Not only is the bureaucracy omnipresent but it is by way of becoming omnipotent in many areas. Americans do indeed appear to be beset by some sort of incubus, an incubus that weighs upon us, oppresses us, and hinders favorable action.

Earlier Criticisms

Criticisms of the bureaucracy are hardly new. More than forty years ago, Herbert Hoover had delineated the pathology of bureaucracies about as thoroughly as needs to be done. He perceived that, once created, bureaucracies

tend to become self-perpetuating monstrosities, that they are fertile sources of new programs, that their effect on industry is stultifying, and that they are veritable propaganda machines. In 1934, he said:

Already a host of new government bureaus and nearly two thousand commissions have been established with authority over every trade, and in nearly every town and village. We have witnessed this host of government agents out over the land . . . threatening the people and prosecuting for a new host of crimes.

They were, he said, leading us into "the swamps of serfdom."

The question—the vital question—is what is to be done about this incubus which oppresses the people? Indeed, *can* anything be done about it? My suspicion is that nothing *will* be done about it so long as we focus on bureaucracy as the villain of the piece, or attribute our ills to bureaucrats. Such a focus leads us to think that the solution lies in reforming the bureaucracy. There is no good reason to suppose that we could do this. Herbert Hoover spent a great deal of energy first and last on reforming the bureaucracy by reorganizing the government. He even served on a commission under President Truman with that object in view. Yet, after all his words, all his studies, and all his

efforts, the bureaucracy was as deeply entrenched as ever, and there are none to testify to the positive results of his or anybody else's efforts to reform the bureaucracy.

Possibly, a particular bureaucrat could be reformed along the lines sought by industrious effort, much as a dog can be trained to stand on his hind feet. A bureaucrat might be trained to be swift, decisive, responsible, judicious, sparing of paperwork, kindly, and fair. But there is no more reason to suppose that he would be emulated throughout the service than that dogs in general would take to their hind feet once one of them had been taught to do so. Dogs stand on all four feet because it is their nature to do so; bureaucrats behave as they do because of the nature of the function they perform.

Ills Stem from Nature of Job

The ills that we so often attribute to bureaus, bureaucrats, and bureaucracies do not arise from them. After all, a bureau is only an organization patterned after any other by which men would act in concert to realize some common purpose. Any business, church, charity, or school is apt to be organized along similar lines. A bureaucrat is only a man, pretty much the same as the rest of us.

If you cut him, he will bleed. He may be goodnatured or crabbed, hard-working or a dawdler, a faithful husband or a philanderer, a churchgoer or an agnostic, a clock-watcher or absorbed by his work.

The ills that we attribute to bureaucracies really arise from the functions which some bureaus perform. Not all government agencies are castigated as bureaucracies, nor all government workers as bureaucrats. The species bureaucrat does not include nearly all of those who belong to the genus government employee. A soldier is not a bureaucrat, nor a postal carrier, nor a teacher, nor a judge, nor a policeman, nor even a member of Congress. Even some agencies that are called bureaus do not belong to the bureaucracy. For example, the Federal Bureau of Investigation (FBI) is not a part of the bureaucracy. Whether a government agency belongs to the bureaucracy or not can be determined by the function it performs. Those agencies whose function is primarily regulatory make up the bureaucracy; those who perform a service to the consumer or protect life, liberty, and property do not.

For example, the Postal Service is not of the bureaucracy because it picks up and delivers mail, thereby serving consumers. (This

is not an argument for government mail delivery, or provision of any other such service; there are good and sufficient reasons why government should not offer what are basically peaceful services, but they have little or nothing to do with bureaucracy.) By contrast, the Interstate Commerce Commission (ICC) does not serve consumers by running trains or trucks; its function is regulatory, and it is bureaucratic. Armies, courts, and police protect life, liberty, and property; they are not of the bureaucracy. The Federal Communications Commission is regulatory and bureaucratic.

Of course, regulatory agencies claim to protect life and property and would probably justify most of their activities on that ground. Whether they generally protect life and property is a good question (if, under the guise of protecting property, they take away some of the rights of property, they are not protecting but invading it). Whether they are "necessary and proper" to the protection of life and property is an even better question. But however these questions might be answered in a particular case or in general, the fact remains that regulatory agencies are bureaucracies by the manner of the performance of their function.

They do not, themselves, per-

form a service to the consumer or protect his life or property; they regulate others who are charged with performing the tasks involved. For example, the ICC does not erect safety signals at railroad crossings; the railroads usually do this, though they may have done so in a particular instance at the behest of the ICC. It is this regulatory character, this authority over those who do without responsibility for doing it, this remove from the actual work that makes them bureaucracies, that makes them behave in just those ways that are castigated, and that makes them resistant to all efforts at reform. It is the nature of regulatory agencies to be the way they are.

Inevitable Red Tape

Let us review some of the charges against the bureaucracy and show by way of illustration that the conditions complained of follow from the nature of the activity.

The most common complaint about bureaucracies is the red tape — paperwork — entailed in dealing with them. Anyone seeking the approval of a bureau for some project must submit great quantities of paperwork in support of his application. A regulated business must not only submit all this paperwork in support of the original

application but must supplement it periodically with reports, affidavits, depositions, notarized statements, and other assorted proofs of compliance. How could it be otherwise? The only visible product of regulatory agencies is the paperwork they produce and require from others. If the regulatory bureaucracy be conceived of as an industry, then each bureau is a paperwork factory. Everything the bureaucracy actually does is recorded on paper or by some other device.

What bureaucracies do is issue rules, hold hearings, have meetings, send out blank forms which are returned completed, send out inspectors, and so on. Rules must be in writing, hearings recorded, minutes kept of meetings, applications submitted on paper, documents of verbal decisions reduced to writing, accounts kept, and so on, ad infinitum. Of course, any activity today is apt to be accompanied by considerable paperwork; the point about bureaucracies is that paperwork is what they produce and collect. In theory, they provide protection, but they do not do the actual work of providing it. The Occupational Safety and Health Administration (OSHA) does not actually take safety and health measures within a plant; it requires the employer to do so.

But could the amount of paperwork not be reduced? If it could be done, it could only be done by reducing the productivity of the bureaucracy. The only certain measure of the productivity of a bureau is the quantity of paperwork it produces. To cut back is to reduce its function. A dog can be taught to stand on its hind legs, but it cannot catch rabbits in that position. A bureau could be made to cut back on its paperwork, but insofar as it did so it would be reducing the extent of its regulation. There is no end to what needs to be reported in order to assure the effectiveness of regulation. The whole fabric connecting the regulator with the regulated is paperwork. One might as well expect printers to print without using paper as expect bureaucracies to regulate without voluminous paperwork.

No Way to Measure Efficiency

The charge that bureaucracies are self-perpetuating and expansive is true enough but somewhat off the mark. The bureaucrat is no more nor less interested in keeping his job than anyone else. Any department head usually has various incentives for increasing the number of workers under him. The distinctive thing about regulatory agencies is that there is no handy way to measure the productivity

of bureaucrats. The paperwork done and required can be measured, of course. But Congress is unlikely to find an argument for hiring more bureaucrats to produce more paperwork very persuasive.

The only other thing bureaucracies do is to provide protection, and the method is by prevention. Now there is no way to tot up the amount of something that did not happen. The Federal Aviation Agency cannot list the number of airplanes that did not crash. The Food and Drug Administration cannot count the number of people not poisoned by foods and drugs they did not allow to be marketed. The problem of cost accounting the work of regulatory bureaucracies is further aggravated by the fact that the actual work of prevention is not even done by them. How many accidents would have been prevented by the employer's safety measures if there had been no Occupational Safety and Health Administration? Or, to open the whole matter up, how many injuries that did occur would have been prevented if the employer had assumed full responsibility for determining how safe his plant was rather than relying on the favorable report of a government safety inspector? There is no way of knowing, then, how many bureau-

crats there ought to be, so the bureaucracy can continue to expand its numbers by scare tactics.

Indecisive and Slow

Bureaucracies are indecisive and slow, and they are often arbitrary and capricious. These two charges should be considered together, for they are like two sides of a single coin. The troublesome fact is that they can only become swift and decisive by becoming more arbitrary and capricious, or they can only become less arbitrary, if that is possible, by taking more time. The reason for this bind in which they are caught is not far to seek. Bureaucracies are called upon or take on the making of decisions which would have made Solomon in all his wisdom flee his throne.

The CAB may take years to decide about authorizing a new flight because, to avoid the appearance of arbitrariness, just about everything imaginable and all those involved need to be taken into consideration. Studies must be made, hearings held, documents assembled, and painful decisions reached. What will be the impact on competing airlines if a new flight between two cities is authorized? What will be the effect on the air traffic patterns? Is the airline seeking to introduce the flight financially sound? Does the traffic between the cities warrant a new

flight? Do the airports have the ground facilities to accommodate the additional airplanes and passengers? There is no end to the questions that ought to be answered before a decision is reached. But even a bureau must eventually make a decision, and it will have to be to some extent arbitrary.

Regulatory bureaus are irresponsible in their behavior. This is not because they do not attend to their tasks or perform them faithfully. It is rather that as regulatory bodies they are not responsible for making the products they inspect or providing the services they oversee. They are not responsible at law or in fact. Whatever ills may result from their policies, they cannot be held responsible for them. They do not make the moneys that they spend — these come from taxpayers — nor do they pay for the time and effort that men spend in complying with their requirements. In short, bureaucracies are irresponsible by nature.

Regulatory agencies impinge upon and reduce the liberties of those whom they regulate. Could they not be reformed so as to prevent this? It is difficult to see how this could be accomplished. Every regulation proceeding from a bureau to anyone else in society involves a reduction of freedom of

action of those to whom it applies. Since no regulation can be conceived that would not reduce freedom of action, it goes without saying that regulatory bureaucracies are an assault upon liberty.

Hope for Reform

America is afflicted by an incubus, by a deep-seated and oppressive hindrance to favorable action. Is it a bureaucratic incubus? Yes, but only if we stick carefully to the original or first meaning of the word. An incubus, the dictionary says, is "an imaginary demon or evil spirit supposed to descend upon sleeping persons." That is a most apt description of the prevailing attitude toward bureaus, bureaucrats, and bureaucracies. We stand back and hurl imprecations at them, treating them as if they were the source of evils which beset us. Moreover, we are made impotent by our belief that we can somehow reform them.

But bureaucracies are *imaginary* demons; the real ills we face come from a deeper source. They come from our determination to have and commitment to *government regulation of the economy*. Bureaucracies are instruments in this regulation, instruments which are as they are because they are assigned the task of regulation. The bureaucratic incubus can be exorcised only by removing the

regulations. To be free of the incubus we must free ourselves of the regulation. Bureaucracies cannot be substantially reformed, but they can be abolished, which is what will happen when their regulatory function is taken away.

But, do we not need the protective functions provided for us by the regulatory agencies? To put it more directly, do we not need protection from maltreatment by those who provide us with goods and services? Furthermore, is it not a proper function of government to police these and set a framework within which they may operate? These are good questions, but they are questions which can only receive the most general kind of answer here. It has been the burden of this article to show that bureaucracies are as they are because of the regulatory functions assigned them, to show that they are paperwork factories, self-perpetuating and expansive, beyond fiscal accounting, painstakingly slow and indecisive, irresponsible, and destructive of liberty. It would take much more space to show how ineffective they are in performing their protective functions. Only a few observations may be offered.

Three Possible Courses of Action; All Wrong

In general, regulatory bodies take three sorts of action. Either

they permit what should be prohibited, or prohibit what should be permitted, or permit what men should be permitted to do without any special authorization. A single example may illustrate all three of these actions. Suppose that the Interstate Commerce Commission authorizes one trucking company, and only one, to haul freight between two cities. By so doing, it establishes a monopoly which it would have better prohibited. Secondly, it prohibits all other carriers to haul freight to and from these cities when they should be permitted to do so. Thirdly, it permits a company to operate in ways it should be able to do without permission. Most formal actions of regulatory bodies fall into one or more of these three categories. In short, regulatory bodies tend to be either useless or harmful.

Men do indeed need protection from fraud, deceit, failure to perform on contracts, poisons, tainted food, shoddy merchandise, and assorted wrongs which may be done to them in the market. There are three time-tested ways to get this protection which do not require regulatory bureaucracies. They are: positive law, competition, and caveat emptor (let the buyer beware).

If there is some substantive ill from which men need protection by government, it should be pro-

hibited by law, with criminal penalties provided for convicted violators. As for most of the matters with which regulatory bodies deal, the best solution is competition. In the final analysis, however, there is no substitute for the wariness of the buyer. Regulatory bodies have not and cannot relieve us of the necessity for exercising care in all our transactions. We must reward those who serve us well, refuse our custom to those who do not, and use whatever sanctions that are available to us against those who do not live up to their agreements. If we value our safety and health, we must keep a sharp lookout for potential dangers to them.

There is a choice to be made, I have been saying. We can be rid of the bureaucracies by removing the regulatory function. Or, we can persist in having the regulation with the understanding that to do so entails all that we deplore in bureaucratic behavior. There is no indication that the bureaucracy can be reformed. There is much reason to believe, however, that the advantages that are supposed to follow from regulation are illusory but that the disadvantages are very real and follow from the method used. The bureaucracy can be dispensed with. To do so would be to remove the "oppressive hindrance to favorable action."



Regulation of American Business

WHAT WE'RE DOING is applying pointless regulatory brakes to business in many important ways when we should be trying to step on the gas. We are surrounded by seemingly numberless regulations of debatable need, uncertain effect, and arbitrary origin. As for the element of public consent to this process, the public hardly comprehends what is taking place.

Here, perhaps, lies the greatest danger — the danger that individual initiative will become swamped by government edict before enough people awake to the threat.

In the words of John Stuart Mill, "A state which dwarfs its men, in order that they may be more docile instruments in its hands — even for beneficial purposes — will find that with small men no great thing can really be accomplished."

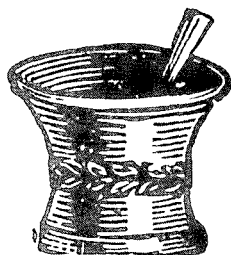
JOHN E. SWEARINGEN, *from an address, February 28, 1962*

IDEAS ON



LIBERTY

The Classical Medicine



JOHN A. DAVENPORT

IT IS A FACT of experience, no less than a law of optics, that in perceiving an object everything depends on the angle of vision. For over a quarter century now under the influence of the late John Maynard Keynes, most economists have been looking at the phenomena of employment and unemployment from the angle or point of view of overall demand for goods and services, and have been emphasizing that where resources are unemployed the cure lies in pumping up demand by easy credit, monetary manipulation, and government spending.

Yet the net result of this kind of analysis and this kind of prescription has now proven to be, to

say the least, disappointing. Emphasis on so-called "aggregate demand" has not resulted in that condition of full or at least high employment promised by the Employment Act of 1946. It has produced virulent world-wide inflation, and in 1974-75 the worst of all worlds: — a high rate of inflation *with* unemployment, or stagflation, which the Ford Administration is now trying to cure by enormous Federal deficits of the kind which got us into trouble in the first place. In view of the record and the current disarray of the neo-Keynesians, it is time for a change — a change in our angle of vision.

In this context the most important economist writing today is assuredly not Walter Heller, the Louis XIV of so-called "fiscal stimulus" (and *après moi le déluge*), nor even the redoubtable Milton

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