

# The Protection Consumers Don't Want

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by Marjorie Boyd

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Congress' reluctance to pass legislation creating a Consumer Protection Agency has been widely denounced. President Carter led the bill's supporters in blaming the delays on the lobbying of powerful special interests, and some editorialists have followed suit. But that is a distorted view; this is not just another case of members of Congress dancing to any tune played by the U. S. Chamber of Commerce. Many congressmen who previously supported the idea of a Consumer Protection Agency were surprised earlier this year to find opposition to the bill growing among their constituents—congressmen are increasingly hearing from the advisers and friends who serve as political barometers in their districts that people are not so keen on consumer legislation as they once were. The bill suffered a severe blow when a recent convention of the Federated American Women's Clubs passed a resolution opposing the consumer agency. What has happened to

make consumers leery of the government's protection? Is it a general unease growing out of an anti-Washington mood? Or is it something more specific?

It was in the mid-1960s that Congress discovered the consumer. Polls showed that Ralph Nader was held in the highest public esteem, and his various organizations, staffed with bright young men and women, were producing a multitude of proposals to help consumers. Congress, in its excitement at finding a sizable constituency that posed no political risks, quickly passed Nader-inspired laws with names like the Fair Labeling and Packaging Act, the Truth in Lending Act, the Flammable Fabrics Act, the Poison Prevention Packaging Act, the Refrigerator Safety Act, the National Traffic and Motor Vehicle Safety Act, the Federal Caustic Poison Act, and the Hazardous Substances Act. The Consumer Product Safety Commission was set up and given broad powers to ban unsafe products from the market. Also, other laws designed by the

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Nader groups to protect workers were passed—for instance, the Occupational Safety and Health Act and the Employee Retirement Income Security Act, which reformed private pension plans. Each of these laws, while meeting real needs, pushed government a step closer to the day-to-day lives of businessmen and consumers.

As a result of the congressional interest in the consumer, there are now 33 federal agencies and approximately 400 bureaus and sub-agencies operating more than 1,000 consumer-oriented programs. If there is indeed a declining public confidence in the government's ability to protect the consumer, it stands to reason that it is in some way connected with the operation of these programs. An examination of how the the consumer laws really work shows why the government's bear-hug of protection, which was at first so warmly received by all consumers, now seems stifling.

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### **Something Has Gone Awry**

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One of the first consumer laws passed was the Truth in Lending Act of 1968. It was heralded as a great breakthrough. Creditors would be required to disclose the true cost of credit, and, congressional sponsors and consumer advocates pointed out, once the true cost of credit was known, consumers would choose to buy from businesses offering the lowest interest rates, thus helping to fight inflation.

Now, eight years later, it is clear that something has gone awry—so far awry that the Senate Banking Committee has called the law in for an overhaul. The original idea for a Truth in Lending Act was simply to require a creditor to disclose the true annual rate of interest he was charging. But as the bill went through Congress other disclosure requirements were added, and when the Act got to the Federal Reserve Board, the bureaucrats there, charged with writing regulations for the new law, quickly added many more requirements, some so complicated as to be unintelligible.

Now banks and businesses seeking to meet the law's requirements send out lengthy and confusing statements to consumers, who are more puzzled than ever about exactly how much interest they are paying.

Some of the Nader-inspired laws have created problems because they were designed with big corporations in mind and had unanticipated effects on medium-sized and small businesses. For instance, the Employee Retirement Income Security Act (ERISA), which reformed private pension plans, is perhaps the most complicated piece of regulatory legislation ever devised—the annual reports required by the law arrive at the Labor Department in packing crates.

The major impetus behind the reform of private pensions was Studebaker's bankruptcy, which left 8,500 workers without pensions. There were no representatives of small or medium-sized businesses present at hearings on the legislation, and when the law went into effect a huge outcry arose from these businessmen, who complained they could neither understand nor comply with ERISA. Senator Gaylord Nelson's Small Business Committee held hearings for which planeloads of angry businessmen descended on Washington, all testifying that complying with the law would cost them enormous legal and clerical fees, in a few cases higher than their companies' annual contributions to their pension plans. Several senators threatened to try to repeal the law, or at least to exempt small businesses from it. As this was going on, it was learned that since the bill's passage, four times as many companies as usual had terminated their pension plans because they could not afford the legal fees and clerical personnel necessary to assure compliance. The Labor Department finally responded with shorter, simplified forms for small businesses, and private consulting firms sprang up to help the smaller companies bring their pension plans into conformance at prices lower than lawyers would charge.

Confrontation was avoided. But by this time, two years after the Act's passage, more than 10,000 companies had dropped their pension plans and 320,000 workers had lost their pensions.

So while the costs of complying with the consumer laws are a nuisance to General Motors and Nabisco, they are a real burden for small businesses—and their employees. Of course, businesses eventually pass legal and clerical costs on to consumers through higher prices. But this takes time, during which legal bills must be paid and payrolls met. For the businessman with a narrow margin of profit, the cumulative expenses of complying with several different government regulatory programs can change ink from black to red.

And we forget that America is still a land of small and medium-sized businesses. According to the Small Business Administration, 55 per cent of all jobs in the private sector are in small businesses. These businesses produce 48 per cent of our output of

goods and services and account for almost 43 per cent of the GNP. There are actually more businessmen working for small businesses than for large corporations.

### Arthritic Fingers

Other consumer laws have had unfortunate side effects that have annoyed or angered various groups of the consumers they were supposed to help.

The Poison Prevention Packaging Act, passed in 1970, required, among other things, that aspirin bottles have caps that could not be opened by a child under five years old. The law provided that aspirin could be sold for use by the old and handicapped in bottles without safety caps, as long as it was labeled "This package for households without young children." But retailers cannot always keep on hand a supply of the aspirin without safety caps, so many senior citizens have been forced to try to manipulate the "child-guard" caps with arthritic

The Wall of Respect on Chicago's South Side, the brilliantly painted mural symbolizing black pride, fronted one of the city's worst areas of heroin dealing and shooting up. Here, in 1968, Dr. Hughes and his team of colleagues launched a unique community-based program of drug control. Treating heroin addiction as if it were a communicable disease and working with ex-addicts and with militant community leaders, the team was able to convert at least one "epidemic" area into a relatively heroin-free neighborhood. This account of the project describes "an adventure linking science, hope, and humanism that is relevant across the span of contemporary organized health activities and 'systems'."—Daniel X. Freedman

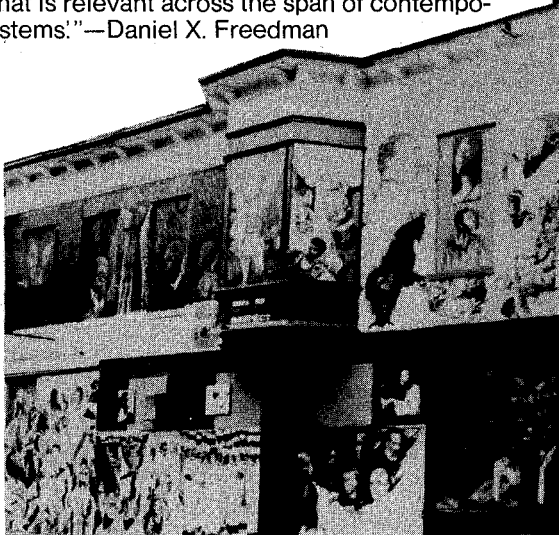
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# BEHIND THE WALL OF RESPECT

*Community Experiments  
in Heroin Addiction Control*

Patrick H. Hughes, M.D.

University of Chicago Press



fingers as they struggle to get their dosage of aspirin every four hours.

The banning of hazardous substances is provoking increasing skepticism among consumers. Of course, no one has questioned the advisability of banning extremely toxic chemicals, but there are a large number of substances that fall somewhere between safe and unsafe because acceptable levels of exposure cannot be precisely determined. Public reaction to the saccharin ban has been fully explored in the press, and there are other less well-known cases that illustrate the various facets of this problem.

In October 1973, the Consumer Product Safety Commission banned certain brands of spray adhesives because of a researcher's work that concluded that the sprays, when used by pregnant women, would cause birth defects in their unborn children. Seven months later, the Commission lifted the ban. Doctors across the country were horrified, because on the basis of the ban they had advised pregnant women who had used the spray adhesives to undergo abortions.

Consumer advocates themselves are sometimes sharply divided over a particular product's safety. Some groups have been working to have smoke detectors made mandatory, and several local ordinances requiring them have been passed. At the same time, other consumer advocates, including Ralph Nader, are working to have smoke detectors banned because they believe they emit cancer-causing radiation.

One consumer-protection law that totally backfired involved children's

sleepwear. In 1972 the Consumer Product Safety Commission, in the course of carrying out the Flammable Fabrics Act, required that all children's sleepwear under size 6-X be treated with a flame-retardant chemical (sizes 7 through 14 were added in 1975). Millions of parents, already hard-pressed to keep their growing children in pajamas and nightgowns, watched prices jump by 20 per cent overnight. Some manufacturers attached labels explaining that the flame-retardant chemicals and the processes necessary to apply them were responsible for the price hike, and stores posted signs to the same effect. Then, this spring, when the Consumer Product Safety Commission banned the chemical Tris, which had been used to treat over 40 per cent of children's sleepwear, parents were understandably shocked to learn that they had been paying a higher price in order to expose their children to a cancer-causing agent.

The Flammable Fabrics Act has left an incredible imbroglio in its wake. Incensed fabric makers and sleepwear manufacturers have gone to court to try to get the government to make up their losses. Spring Mills, one of the country's largest fabric companies, announced it was ceasing production of fabrics for children's sleepwear because of "unpredictable governmental policies," a development expected to drive up further the prices of children's pajamas and nightgowns, at least temporarily. To bring the fiasco full circle, a federal judge enjoined the Consumer Product Safety Commission from enforcing its ban on Tris because it didn't follow its own regulations in issuing the ban. And a group of scientists is warning that the other chemicals used to make fabrics flame retardant are almost as dangerous as Tris.

Sometimes the Consumer Products Safety Commission seems to be *trying* to make consumerism look bad. For instance, it recently announced plans to require all manufacturers of power lawnmowers to equip each of their

### THE REPUBLICAN DILEMMA

From Waterloo to Watergate

by Clifford H. Moore

Is the party of Lincoln doomed to the same fate as its predecessor—the Whig party of Clay and Webster?

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machines with a safety device that will automatically shut off the motor every time the mower stops. This means that when you pause to move a tool or toys out of the way or even to answer a question from a passing neighbor, you have to tug at the inevitably balky cord starter. And manufacturers say the device will add an average of \$60 to the price of a new lawnmower. Granted, Americans suffered 160,000 cut fingers and toes and other injuries while mowing lawns last year, but the Commission admits that the device "might have prevented only about half of those." No figures are available to show how many of these accidents were caused by carelessness. Some sense of perspective should be brought to bear on this problem, since there are over 40 million power mowers in this country, most of which are used about once a week in the summer months.

**The Issue of Interfering**

It's clear that a large part of the problem is that consumers define their problems differently from the consumer advocates. For instance, consumers tend instinctively to resent intrusions even if they're for their own good—seatbelts that had to be buckled in order for cars to start were extremely unpopular. Consumer advocates are blithely unconcerned with

the issue of interfering in people's lives, and don't mind the government acting *in loco parentis*. Also, Ralph Nader and other consumer advocates who played major roles in designing consumer legislation have always focused primarily on safety. But many people simply do not see safety as the most important consumer problem. To them, consumer problems are the new electric frying pan that fails to work after only two uses; or the unbelievably high price of coffee; or the television set that always seems to be in the repair shop; or the house paint that peels after three months. Laws that restrict their personal freedom for what the government has determined to be their own good are not what they had in mind.

Besides the annoyances they cause, it is possible that the consumer laws are producing detrimental effects that are not so readily apparent. *The Wall Street Journal*, *Business Week*, and other business organs have long warned editorially that the laws are actually hurting consumers instead of helping them because the expense of meeting their myriad regulations is added on to the prices consumers pay. But the cost of the government regulatory process is a subject that most consumer advocates, government officials, and liberals would prefer to avoid. When I asked an expert on inflation at the Brookings Institution if he had done any studies on the cost of the consumer laws or their effect on inflation, I was told curtly, "We don't do that sort of thing."

One of the largest costs of government regulation in the consumer field, legal expenses, is rarely mentioned. One does not have to be a statistician or an economist to see how this works. The consumer laws are heavily weighted toward the use of the legal system. Government investigators search out violators of the various regulations and when they find one, the accused business can either pay the assigned penalty or challenge it in court. Businesses must also hire lawyers to represent them at government

Answers to the July-August puzzle:

1	I	N	D	E	P	E	N	D	E	N	C	E	D	A	Y		
2	L	I	R	O	V	A	O	E									
3	L	E	C	T	E	R	N		10	I	N	S	E	C	T	S	
4	I	T	P	O	D	E	T	I									
11	C	H	I	N	A		12	S	P	E	E	D	B	O	A	T	
5	I	O	R					N							R	I	
6	T	E	N	N	I	S	N	E	T		15	C	A	S	T	S	
				N			U	L	R								
16	O	W	I	N	G		14	T	O	Y	M	A	K	E	R	S	20
	L	N					S				M	V				T	
21	D	E	T	R	A	C	T	E	D		24	S	W	I	N	E	
	S	E	S	O	E												
13	H	O	N	E	S	T	Y		18	C	O	M	I	C	A	L	
	O	S	A	O						A	T	E					
22	E	V	E	R	Y	J	U	L	Y	F	O	U	R	T	H		

hearings on ever-changing rules and regulations and to interpret the flood of new rules that pour out of Washington. Wronged consumers are also encouraged to go into court—some of the laws provide for the payment of legal fees by either business or the government. The proposed Consumer Protection Agency would add a new dimension to this legal round robin because it would be permitted to sue all other government agencies.

From the standpoint of the legal enthusiast who is convinced there is no human problem the adversary system can't solve, these laws offer the wondrous opportunity for government, business, and consumer to have the full extent of each and every right and responsibility defined in court.

While a system that assures everyone's day in court makes uplifting reading in a legal textbook, litigation is an expensive and time-consuming process, usually viewed as a last resort. Who is paying for all these lawyers? When you ask consumer advocates this question, you hear such soothing phrases as "negligible expense" and "absorbed by business." But this fails to mollify anyone who has had recent experience with lawyers. "Negligible expense" is not a term associated with that profession's work, and since business is not a charitable activity, it does not "absorb" substantial new costs but passes them along to consumers.

Now it's true that most consumer legislation has a point and that some of it is eminently worthwhile. American businessmen too often confirm the most vulgar Marxist's view of free enterprise, so the public does need protection against fraud, against products that endanger health, or, as Nader put it, are "unsafe at any speed." The magazine *Mother Jones* has, for example, just revealed that Ford was knowingly producing Pintos with gas tanks that, if the car were hit from the rear, had an excellent chance of incinerating the cars' occupants. Action was needed. But every action taken by government, whether it succeeds or fails in achieving its stated purpose,

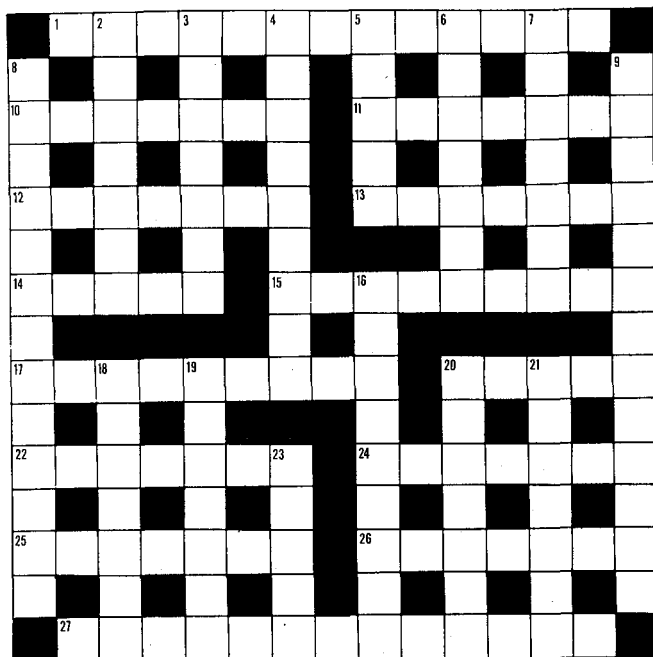
will inevitably produce unintended effects. The more lengthy and complicated the legislation—and consumer legislation is very lengthy and complicated—the more unintended effects there are.

And it is these unintended effects, which range from the laughable to the horrendous, that eat away at the confidence of citizens in their government. The cumulative effect of 320,000 workers telling how a program designed to protect pensions wiped theirs out; of thousands of businessmen complaining about what consumer laws cost them; of women recounting how a faulty government decision led them to have abortions; of the elderly talking about aspirin bottles and parents about Tris; and all the other word-of-mouth about the failings of consumer laws—it all adds up to a disillusionment that's quite widespread. The way to combat the disillusionment is to attack it at its source, by either accepting limited goals or devising laws that are not maddeningly complicated and whose effects have been well thought out in advance. This would be in sharp contrast to our present system of writing laws whose goals are understood fully only by their authors. And the system heaps confusion upon confusion as each law is loaded down with pages of regulations written by bureaucrats who speak a different language from the rest of us.

Senator William Proxmire, chairman of the Senate Banking Committee, which is currently studying the problems of the Truth in Lending Act, has announced his intention to try to strip down the law so that all a creditor is required to send out is a statement with the true credit charge on it—and nothing more. If he could get such a law through Congress and then find some way to protect it from the regulation-writers, it would be a noble experiment in government. Others like it could have a profound effect on the way our government works in the future. ■

# the political puzzle

by John Barclay



## ACROSS

1. Washington visit head-line: Mix-up: "People Hurt-1000 start." (8,5)
10. He shuns short highway in state. (7)
11. Throb again from set-back. (7)
12. Agnew and Ehrlichman, for example, in taut horserace. (7)
13. Raise around 51 for 1 across, for example. (7)
14. Predict back in the middle a drink. (5)
15. Most important aspect can be seen since. (2,7)
17. Historic city is a spot in the desert. (9)
20. He may star in Croat translation. (5)
22. Southern version of

- Yankee party may give Amy beak? (7)
24. Good medicine when famous lab enters in sin. (7)
25. Teeth from Rosie the Fourth. (7)
26. Alta tan displayed in braves' home. (7)
27. Mild heed state arrangement for trouble spot. (3,6,4)

## DOWN

2. The ins delete 100 in upset. (7)
3. Repair cut for a long play part. (3,4)
4. Compose a his or him for 1945 target. (9)
5. Nice thanks may be

- crime. (5)
6. Create realms from mere sip. (7)
7. Sin well in poorly made clothes. (3-4)
8. Major address for Hafiz al Asad. (8-5)
9. An earned merit comes out West of 27 across. (13)
16. Where Dane still commits suicide. (4,2,3)
18. Very large matronly butterfly? (7)
19. Mailers stand for no nonsense. (7)
20. Pardon a college graduate with confused loves. (7)
21. Abilities are even found in last ten. (7)
23. Relaxed but displeased at the end. (5)

The numbers indicate the number of letters and words, e. g. (2,3) means a two-letter word followed by a three-letter word. Groups of letters, e. g. USA, are treated as one word. Answers to last month's puzzle are on page 33.