

THE BACK DOOR

Cooking Our Own Goose

THE QUESTION, When does government regulation of business become *overregulation* is argued on economic, sociological, historical, even philosophical grounds. But the psychological ramifications of regulation are rarely discussed, because who wants to risk the embarrassment of depicting the Big Businessman as a vulnerable soul?

Big Businessmen are perhaps the least sympathetic actors on the American stage. Politicians are (relatively) underpaid, and the uncertainties of their existence are periodically played out in public. Professionals, even if they earn millions or have created a need for their services, are putatively in the business of helping others. Salespersons, *gratis* Arthur Miller, are tinged with martyrdom. The woes of union members are vividly broadcast at contract time. Even multiple-murderers agitate our heartstrings, thanks to our inbred conviction that villainy is attributable to nurture rather than nature.

But the Big Businessman, viewed from afar, seems an impenetrable machine—rich, ruthlessly abstract, and single-mindedly devoted to his own profit, regardless of social cost. Sure, Big Businessmen give to charities, occasionally underwrite socially valuable programs. They have even been known to institute employee policies more generous than strictly necessary. But the popular notion is that Big Businessmen do such things to deflect attention from their misdeeds or defuse potentially costly problems, seldom to benefit society or satisfy their consciences. Big

Businessmen are to today what Shylock and cohorts were to Shakespeare's London: the indisputable ogres.

Thus, it takes some temerity to suggest that, if pricked, Big Businessmen bleed. If tickled, they laugh; if poisoned, they die. And if shackled by overzealous regulators or insulted by laws that presuppose them to be conscienceless fiends, they may—just may—become disheartened and decide to move their operations to a more amicable environment.

The sudden foliation of regulatory agencies in the Sixties—EPA, OSHA, EEOC, etc., etc.—is something of a credit to America's noblest aspirations. The dream that we could legislate a pure environment, ideal working conditions, and an end to discrimination—all without disrupting the marketplace—was uplifting, but naive. For every "improvement" carries its price-tag, which, if too high, may make the improvement, on balance, a misfortune. Is closing a cancer-causing smelter (see "What Price Arsenic?", page 24), thus depriving the community of jobs and revenue, preferable to seeking a compromise between the need for a healthy environment and the need for jobs and profits? Is testing a new drug for seven years, all the while depriving patients who would otherwise benefit from it (see "The Battle Over the New Drug Regulation Act," SR, October 14, 1978), preferable to seeking a compromise that would permit a new drug to be administered to those who need it now and that also would provide protection for future users? Is it preferable

to have a product-approval process so thorough and costly that no businessman will risk its rigors or a system that encourages innovation and caution at the same time?

Such rhetorical questions answer themselves. The proper approach to differences is Isaiah's "Come, let us reason together." But what is obvious in theory is rarely achievable in actuality. No society in the history of civilization has ever been as litigious as America today. Instead of sitting down and working things out together, opposing interest groups sue—and countersue—thereby turning what may be solvable differences into win-or-lose contests. The government sues. Public-interest groups sue. Spouses sue each other. Dates left in the lurch sue. A child who feels he was inadequately raised sues his parents. Any employee who gets fired can find some basis to sue. Headline-seekers announce their suits in the press before they mention their quarrel to the defendant. Instead of looking to the spirit of the law—resolving differences in what is deemed to be the public interest—we look to its letter.

Regulation becomes overregulation when regulatory agents pursue their goals oblivious to the cost to society at large, when, for example, they force a smelter to shut down without considering whether those affected would prefer employment, with a risk of cancer, to unemployment. And overregulation becomes dangerous when it discourages Big Businessmen from contributing either new jobs or new ideas to society, because they sense that their pleas for understanding are falling on deaf ears.

Free enterprise provided this nation with the wherewithal to fund our growth, our government, and all the services it offers. To treat Big Businessmen as enemies of the people—as too many regulators tend to—is to abuse the goose that laid the golden egg. Not that the goose doesn't need watching; The rights of the less powerful need to be defined and defended. But we will do ourselves all a disservice if we make business so unpleasant to businessmen that they lose the desire to excel. Yes, we need regulations. But bury the spirit of enterprise under paperwork and red tape, and in short order our nation's greatness will be buried as well.

—CARLL TUCKER



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