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THE NATION

Full Regulatory

THE PRESIDENCY/HUGH SIDNEY

Tackling the Bumbling Bureaucracy

THE WHITE HOUSE
WASHINGTON

June 5, 1975

file
the Regulatory

MEMORANDUM FOR: JIM CANNON
THROUGH: JIM CAVANAUGH *JP*
FROM: PAUL LEACH *PL*
SUBJECT: Professor Houthakker's
Deregulation Points that
Your Requested

Attached is a copy of Professor Houthakker's paper dealing with the 43 areas of government that he feels out to be deregulated.

If you need any other information please let me know.



otherwise the separate titles might be killed by the Standing Committees, many of which are primarily attuned to special interests.

The following is a preliminary listing of the subjects this bill might cover. The order of presentation is arbitrary:

1. Government Operations

- a. repeal of the interest rate ceiling on long-term government bonds.
- b. authority to issue cost-of-living bonds whose principal and interest would be related to the Consumer Price Index.
- c. repeal of the private express statutes, which give a monopoly to the Postal Service.
- d. repeal of legislation now preventing the sale of surpluses from the stockpile.

2. General Business

- a. abolition of resale price maintenance.
- b. amendment of the antitrusts law to make refusal to sell a per se violation in the case of corporations with sales of more than \$100 million per year.
- c. reformulation of the merger guidelines to emphasize the effect of mergers on competition rather than numerical standards.
- d. requiring all corporations over a certain size to have a minimum number of outside directors.



[e. corporate income tax reform: a large subject which should perhaps be in separate legislation. The main points would be graduation by rate of return on equity, exemption of dividends paid to residents from corporate taxation, and removal of the investment tax credit.]

3. Labor

- a. Prohibition of unreasonable restrictions on union membership, such as prior apprenticeship or excessive entrance fees.
- b. abolition of union-operated hiring halls.
- c. repeal of the Davis-Bacon Act and similar laws concerning wages paid under government contracts.
- d. reform of Unemployment Insurance so as to make it less of a disincentive to work.
- e. exemption of juveniles from minimum wage laws.

4. Energy

- a. deregulation of wellhead prices of new natural gas.
- b. outlawing of state prorationing of oil and gas.
- c. repeal of the Connolly Hot Oil Act.
- d. termination of crude petroleum allocations and oil price controls.
- e. reform of pipeline legislation so as to make oil pipelines effective common carriers.
- f. termination of the embargo on uranium imports.



5. Agriculture

- a. amendment of marketing order legislation so as to prohibit restrictions on interstate movement and production quotas on individual producers.
- b. repeal of the Meat Import Act.
- c. replacement of import quotas on dairy and other farm products by tariffs, if needed at all.
- d. abolition of export subsidies, except when the domestic price is at the support level.
- e. repeal of the antitrust exemption of agricultural cooperatives with sales exceeding \$10 million per year..

6. Transportation

- a. removal of all route and other restrictions in existing trucking licenses.
- b. automatic approval of changes in railroad rates within a zone of reasonableness determined by variable costs.
- c. exemption of bankrupt railroads from rate regulation.
- d. repeal of the antitrust exemption of railroad and trucking rate bureaus.
- e. amendment of civil aviation legislation to permit discount air fares and to bring capacity-limiting agreements under the antitrust laws.
- f. repeal of the Jones Act governing coastal shipping.
- g. abolition of subsidies for ship construction and operation unless military need is proved.



Banking

- a. general reform of Federal Reserve regulation Q, including permission for banks to pay interest on demand deposits.
- b. relaxation of the interest limitations on savings institutions.
- c. allowing interstate banking subject to the antitrust laws.
- d. improvements in accounting procedures to clarify the balance sheets of financial institutions.

8. Foreign Trade

- a. repeal of the Buy American Act.
- b. repeal of the constitutional prohibition against export duties.
- c. termination of voluntary export agreements on textiles and steel.
- d. tightening of provisions concerning export credits.

9. Administration and Adjustment Assistance

- a. establishment of an Anti-inflation Board consisting of the Secretary of the Treasury, the Director of OMB, the Chairman of CEA, FRB and FTC, the Counselor for Economic Affairs and the Assistant Attorney General in charge of the Anti-trust Division, with economic and legal staff.
- b. revival of the Government Regulation and Procurement Board.
- c. establishment of an Adjustment Assistance Fund which could make limited grants to firms or workers seriously damaged by provisions of this bill, or guarantee loans to firms for restructuring made necessary by this bill.



Blue Eagles and Déjà Vu

by Walter B. Wriston



REMARKS BY
WALTER B. WRISTON
CHAIRMAN
CITICORP
BEFORE
THE SOCIETY OF AMERICAN BUSINESS WRITERS
WASHINGTON, D.C.
MAY 5, 1975

2 As we approach the bicentennial of our republic, it is useful to remember that our founding fathers faced hard times—much harder than those which are with us today. They, too, had to make some tough choices. Thomas Jefferson expressed the problem in a nutshell: “We are not to expect to be translated from despotism to liberty in a featherbed.”

The great principles of our government laid down by our founding fathers embody a vast distrust of centralized governmental power and an unswerving dedication to the proposition that government rests on the consent of the governed. No sector of our society has been more vigilant than the press in keeping that proposition always before us. Nevertheless, whenever we create the conditions which cause our system to appear to falter, whether through inflation or corruption, people who would destroy our liberty press forward with plans the founders rejected—old plans dressed in a new vocabulary. A good many years ago, John Randolph foresaw the danger and put it this way: “The people of this country, if ever they lose their liberties, will do it by sacrificing some great principle of government to temporary passion.”

Today, passions abound in the land. As the heat rises, our memory of fundamentals seems to fade. We forget that the traditional optimism of the American people is an absolute essential to a democracy. We hear a rising chorus of attack upon the unique American

3 economic system, though it has produced both the highest standard of living and the largest measure of personal liberty in the history of mankind.

People who should know better begin to waffle about human freedom and in the moment of passion that John Randolph feared even suggest that some form of dictatorship may not be so bad after all. In the 1930s Senator David Reed from Pennsylvania voiced it bluntly: “If this country ever needed a Mussolini, it needs one now.” The admiration in the United States for the way Mussolini made the trains run on time was widespread. *The New York Times* in May of 1933 reported that the atmosphere in Washington was “strangely reminiscent of Rome in the first weeks after the march of the Blackshirts, of Moscow at the beginning of the Five-Year Plan... The new capital... presupposes just such a highly centralized, all-inclusive government as is now in the making.” In the 1930s it began to look more and more as if we would sacrifice some great principle and lose our liberty.

The resident philosopher in Washington in those days was Rexford Guy Tugwell. Like his current counterparts, Tugwell expressed contempt for the consumer’s ability to choose and wanted large state-controlled corporations along fascist lines. It was all very simple and logical. He put it this way: “When industry is government and government is industry, the dual conflict deepest in our modern institutions will be abated.” This old idea has now

4 been revived with a new name. We now call them “benchmark” corporations. By 1984, George Orwell tells us the concept will be set to music in a telescreen jingle that goes: “Under the spreading chestnut tree, I sold you and you sold me...”

The first major step that this nation took toward merging government and industry, and toward the total abandonment of the free market system, was the enactment of the legislation that created the National Recovery Administration. The NRA with its famous Blue Eagle symbol soon began grinding out hundreds of “codes” repealing economic freedom and arbitrarily fixing wages, prices and hours.

In the temporary passion of that moment, many businessmen welcomed the idea of controls and were openly pleased with the idea of an escape from competition. “Codes” in the 1930s were the equivalent of the current euphemism “guidelines.” These “codes” ultimately affected some 22 million workers. Like all schemes which require people to behave in a way they would not act of their own free will, force eventually has to be used against the populace. Since the NRA codes required citizens to make decisions which were contrary to their own economic interests, penalties for noncompliance had to be severe. Tailors were arrested, indicted, convicted and sentenced because their prices for pressing a pair of pants were a nickel below the relevant NRA code. Farmers were fined

5 for planting wheat that they themselves ate on their own farms. Barbers who charged less than the code rate for a shave and a haircut were subject to fines of up to \$500. Even the village handyman was prosecuted, since he did not fit in under the multiple wage-and-hour scale set up by the codes.

The complexity of the codes soon antagonized labor as well as management. The average factory worker who had been earning \$25 a week was cut back to \$18.60 under NRA codes. As a result, strikes became a way of life and auto workers, frustrated by red tape, began calling the NRA the National Run Around. When the textile code authority cut production in the mills in 1934, another great strike began in the South. Before the strike ended, the National Guard had been called out in seven states and scores of textile workers were killed and wounded. A few months later, NRA Administrator General Hughie Johnson resigned under a storm of criticism—or, as he phrased it himself, “a hail of dead cats.”

As was the case with the rights of minorities in the 1950s and 60s, or with Watergate in the 70s, a few had the courage to challenge the power of the state. A fairly small company, The Schechter Poultry Company, refused to observe NRA standards of “fitness” governing the slaughtering of chickens. When the case reached the Supreme Court, the NRA was unanimously declared unconstitutional. The Court wrote: “Such a delegation of powers is

6 unknown to our law and it is utterly inconsistent with the constitutional prerogatives and duties of Congress." After the decision was read, Justice Brandeis told one of FDR's legal aides: "I want you to go back and tell the President that we're not going to let the government centralize everything." That was a call to return to fundamental American principles.

That time around we were rescued from the temporary passion of the moment by the Supreme Court. For such actions, the justices were reviled as the Nine Old Men. Fortunately, they were old enough to remember the tyrannies of the past and struck down the attack on individual freedom, even though it was wrapped in a package labeled "progress." As if in direct reference to John Randolph, the Court said: "Extraordinary conditions do not create or enlarge constitutional power."

Today, just as we are beginning to win the battle against inflation and recession, the classic attacks on individual freedom are being launched with new vigor. In place of the NRA and Mussolini's Blackshirts of another era, we have new groups with new names selling the same worn-out concept of government planning as "progress."

The current effort to peddle the theories of Tugwell is being quarterbacked by an organization called the Initiative Committee for National Economic Planning. Its

members, businessmen, academicians and labor leaders, are all well-intentioned people who should know better. Their program, if adopted, could bring about the step-by-step destruction of the free market system and, as a consequence, all personal liberty. The opening statement of the Initiative Committee expresses the usual doubt about whether our tried and tested system provides "the best hope for combining economic well-being and personal liberty."

Like central planners in the past, the new breed speaks euphemistically of "plenary power" and obtaining a "mandate." They suggest that a "five-year plan" would be "voluntary" but add that it might require a "legislative spur." They imply that they would not set specific goals for General Motors, General Electric, General Foods or any other individual firm but would "try to induce" the relevant industries to do their bidding. *The New York Times*, an ardent advocate of central planning in 1975 as in 1933 (except of course for the media), has fully endorsed the idea of government planning as "a means to help private industry to make its own planning decisions... without government coercion." There is no case of government planning not implemented in the end by coercion.

If the proponents of central planning came right out and said they wanted to create an economic police state, their cause would never get off the ground. So, they resort to "doublespeak," as Mario Pei so aptly called it, the usual camouflage for the ultimate use of

8 force against the individual. Ludwig von Mises summed it up when he wrote: “All this talk: the state should do this or that ultimately means: the police should force consumers to behave otherwise than they would behave spontaneously. In such proposals as: let us raise farm prices, let us raise wage rates, let us lower profits... the *us* ultimately refers to the police. Yet, the authors of these projects protest that they are planning for freedom and industrial democracy.”

Perhaps the oldest lesson of history is that an assault on one aspect of freedom is an attack on the whole, as the framers of the Constitution were well aware. To think that the bell that tolls for economic freedom does not toll for academic freedom or for freedom of the press is a delusion, and a dangerous one. The vigilance of the press which helped smoke out some of the misdeeds of Watergate should be equally focused on the economic *non sequiturs* coming from some of Washington’s prominent citizens.

Attacks on the system that has produced our relative affluence as well as our freedom come in part from people seeking power and in part from a failure to understand the American experience. Pulitzer Prize historian Daniel J. Boorstin put it this way: “There is an increasing tendency... to blame the United States for lacking many of the ills which have characterized European history. Our lack of poverty is called materialism, our lack of political dogma is called aimlessness and confusion.”

9 All current proposals for a managed economy rest on an underestimation of the intelligence of the American people. They assume that you and I are just not smart enough to decide how to spend the money we earn. The decision must be made for us by a wise government. Those wonderful people who brought us wage and price controls, which so severely disrupted our economy, now wish to extend the chaos on a permanent basis. The intellectual arrogance of those who would substitute their judgment for that of the American people is amazing.

As the incredible complexity of American life begins to dawn on the would-be government managers, as it did in fact ultimately dawn on the Administrator of the NRA, ever increasing pressure has to be applied to make a reluctant citizenry conform. The clash between governmental economic planning and personal liberty is inevitable because, in the end, governmental allocation of economic and intellectual resources requires the use of force. No agency, for example, could have regulated our railroads into bankruptcy as did the I.C.C. without such power. This power must be continuously increased to block opposition, to generate public acceptance and suppress doubts about the competence of the planner.

Last year’s Economic Summit should have made it obvious to all the world that experts do not agree. No plan which covers a continent with the infinite variety of America and

10 contains thousands of parts can possibly be agreed upon by experts and certainly not by a majority of the people. Even if by some miracle we could get all the fiscalists and monetarists to concur, the ultimate decisions would be political much more than economic. It would be impossible to get a majority vote in the Congress on every item in the economy which would have to be allocated, priced and assigned priority. Since both political and economic agreement is a virtual impossibility, these decisions have to be delegated to the planner and thus can never represent the will of the majority. Such action by definition destroys the premise on which American democracy rests.

The First Amendment is one of the most sweeping definitions of freedom of the citizen against his government ever enacted anywhere in the world. As in the past, it must now be guarded jealously by all sectors of our society. What I am suggesting to you today is that you must examine with great care and skepticism the proposition that government regulation of goods and services is a legitimate function of government. It is predicated upon the dogma that consumers lack the intelligence to make choices, but that they are capable of sorting out a good idea from a bad one without government help. You should question the logic which leads some people to conclude that a so-called truth-in-advertising law is good, but a truth-in-media law is bad. On a purely logical basis it is hard to sustain the argument that the public is unable intelligently to choose among

11 competing dog foods without government help, but is competent to sort out the true meaning of a senator's speech.

The press, along with the rest of this country, generally has come to the conclusion that the performance of government at all levels leaves a great deal to be desired. Bureaucracy has never been synonymous with efficiency. There is a growing perception across the country that government regulation of goods and services has often tended to promote monopoly, raise the price levels and smother innovation. Professor Houthakker of Harvard made this point dramatically at the Economic Summit by listing 43 areas he thinks the government should deregulate.

Lest you think that you are exempt, more and more educators are beginning to perceive the hand of government within their own campuses, despite the long tradition of academic freedom. Academicians are learning the old lesson that if you take the king's shilling, you will do the king's bidding. We already have government very much in the broadcast field, although some people feel this has not been objected to as strongly by the print media as one might have hoped or wished. If you accept the proposition that government intervention in the dissemination of ideas is bad, which is one I strongly hold, you must then review in your own mind whether it makes any sense to argue for governmental

And -
So we have
fiscal?



12 intervention in the individual's choices among goods and services. Whatever conclusion you come to on this proposition, you should not fool yourself that economics and politics live on separate islands; in the end our freedom is indivisible.

One of our least admired presidents was characterized as one who approached power with "muffled oars." Those of you who depend for your existence on the First Amendment should sensitize your ears to pick up the sound of "muffled oars" seeking to approach power through a planned economy. This suggestion is in accordance with sound liberal doctrine as expressed by Woodrow Wilson: "The history of liberty is a history of limitations of governmental power, not the increase of it."



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File

THE WHITE HOUSE
WASHINGTON

June 11, 1975

MEETING WITH THE
BIPARTISAN CONGRESSIONAL LEADERS

June 13, 1975
8:00 a.m.

The Cabinet Room
(60 minutes)

From: Jim Cannon *Juc*

Regulation

I. PURPOSE

- A. To obtain the leaders' agreement to choose 20 members--10 from each House--to meet with you and various Administration officials on Wednesday, June 25, to discuss regulatory ~~form~~ *form*.
- B. ~~To alleviate Congressional fears that the Executive is interfering with the independence of the Regulatory Commissions.~~
- C. To seek Congressional cooperation in dealing with the regulatory crisis and in setting priorities for legislative action.

II. BACKGROUND, PARTICIPANTS AND PRESS PLAN

A. Background: In your Chamber of Commerce speech you announced that you would convene a meeting of the Commissioners of the ten major independent regulatory agencies, key Members of Congress and Administration officials to discuss reform of regulation.

Later, you decided to divide the proposed meeting into two separate meetings:

- 1) A meeting with 20 selected Congressional leaders.
- 2) A meeting with the Commissioners of the Regulatory Commissions.



You also decided to meet with the Leadership prior to either of the two larger meetings.

- B. Participants: Jack Marsh, Max Friedersdorf, Bill Seidman, Jim Lynn, Rod Hills, Dick Dunham, Paul Leach, Bill Kendall, Vern Loen, and Congressional participants at Tab A.
- C. Press Plan: To be announced: White House photograph.

III. TALKING POINTS

Talking Points at Tab B.





Congressional Participants

Rhodes
Michel
Anderson
O'Neill (no word yet)
McFall
Burton
Scott
Griffin
Mansfield
Byrd
Moss

Regrets: Albert, Curtis



B



TALKING POINTS ON REGULATORY REFORM

1. As you know, I am concerned that Federal Regulatory Agencies are frustrating our National goals.
2. Since the Economic Summit meetings last year, there has been broad and mounting concern that we take steps to insure that our Federal Regulatory Agencies are furthering the National interest.
3. To deal with the regulatory problem, I have sponsored or supported a number of pieces of legislation dealing with regulatory reform. I have:
 - * Asked Congress to establish a National Commission on Regulatory Reform.
 - * Submitted a Railroad Revitalization Act.
 - * Submitted the Financial Institutions Act.
 - * Submitted the Energy Independence Act.
 - * Supported legislation to remove the antitrust exemption for State Fair Trade laws.
 - * Supported and signed the Securities Act Amendments of 1975.
4. In my recent Chamber of Commerce speech I indicated that I would be convening a meeting with the Commissioners of ten Independent Regulatory Agencies to discuss the need to improve regulations and procedures in order to foster greater competition and reduce the inflationary impact of regulation.
5. Because of the unique relationship of these agencies with both Congress and the Executive, I would like to meet with a group of Members of Congress before I meet with the Regulatory Commissioners.
6. I would like you to select a delegation of 20 members -- 10 from each House - to meet with me.
7. Such a meeting will be an important first step toward reform of regulation.



8. The purpose of the meeting would be to explore areas where the Executive and Congress can work together to improve regulatory performance and to minimize the adverse impact of regulation on the economy.
9. I am hopeful that together we can develop a consensus on a set of principles and priorities to guide the regulatory reform effort. We must find ways:
 - * To expedite the regulatory process.
 - * To require that Agencies analyze and consider the inflationary cost of regulation.
 - * To insure that regulation does not impede increased domestic energy production.
 - * To promote a revitalized transportation system.
 - * To reduce the impact of regulation on small business.
 - * To restate and redirect the objectives of the Agencies.
10. I want -- and need -- Congressional guidance on how to achieve a sound regulatory system and how to discuss this regulatory problem with the Commissioners.
11. I have scheduled the meeting with your Congressional group on Wednesday, June 25, and will have my staff coordinate the arrangements.



THE WHITE HOUSE

WASHINGTON

June 25, 1975

MEMORANDUM FOR: JIM CANNON

FROM: JIM CAVANAUGH

SUBJECT: James J. Kilpatrick Article on
"Hospital Wastebaskets" (Tab A)

Summary

I called Dr. M. H. Schaffner, the president of the Kettering Medical Center, who was mentioned in the Kilpatrick column. He reports that a representative of OSHA, a Mr. Tyler, inspected the hospital on July 16, 1974, and definitely told them that they should have plastic liners in their wastebaskets.

Background

Basically his story is as follows:

- In response to a letter OSHA received from a hospital employee on June 21, 1974, an OSHA representative named Tyler arrived at the hospital on July 16 to review the eleven complaints made by the employee. He also inspected the entire hospital, which is normal in the case of a complaint.
- During the course of the inspection, the OSHA representative informed the vice president of the hospital and the chief nurse that they needed to use plastic liners in the wastebaskets to guard against contamination of hospital employees. The inspector indicated that he would not give them a citation, but that they should do it.
- In August the hospital received a letter from HEW, announcing that their inspectors would be there for a four-day survey in September. During the HEW survey in September of 1974, they were told that they should remove the plastic liners from the wastebaskets because of the fire hazard.



Dr. Schaffner has not accused the OSHA representative of saying that there was a law or regulation they were violating with the wastebasket situation. His only comment is that he was told by one agency representative to use plastic liners and by another federal agency representative not to use them. He is not saying who is right or who is wrong, but he just thinks that the federal government ought to get its house in order.



THE WHITE HOUSE

WASHINGTON

June 23, 1975

Binding
File

MEMORANDUM FOR: Secretary Weinberger
Secretary Dunlop

FROM: JIM CANNON *JCC*

SUBJECT: Two News Items

Attached are two news items which recently came to the President's attention. The first indicates that your departments are trying to chop off a research contract to George Washington University's Medical Center from the National Heart and Lung Institute for research on the relationship between cholesterol and heart attacks.

The second item, which is a column by James J. Kilpatrick that appeared in Saturday's Washington Star, points out that HEW prohibits the use of plastic liners in wastebaskets in hospitals because of the fire hazard, while at the same time the Occupational Safety and Health Administration of the Department of Labor says that wastebaskets must have liners in order to avoid infecting hospital workers.

The President would like to have a joint report in writing from you on each of these situations. I would like to have the report here in my office no later than Tuesday evening, June 24.

I think there is every reason to believe that this may come up at Wednesday's Cabinet meeting, and I think you both should be prepared to discuss it.

Attachments



MEMORANDUM

DUN 6/23/75

THE WHITE HOUSE

WASHINGTON

June 23, 1975

MEMORANDUM FOR:

JIM CANNON

FROM:

JIM CONNOR



The President wishes a complete report from Secretaries Weinberger and Dunlop on the attached materials by Wednesday June 25th.

The report should be prepared in writing by noon and both you and the Secretaries should be ready to discuss it in the Cabinet meeting scheduled for 2:00 p.m. on Wednesday.

Encl.



THE WHITE HOUSE

WASHINGTON

June 21, 1975

MEMORANDUM FOR:

JIM CONNOR

FROM:

DICK CHENEY

Jim, attached is a newspaper clip from today's Post, that talks about cutting off research contracts to American University and George Washington University, on grounds that they failed to meet their "numerical goals."

Now, it seems to me that a "numerical goal" is a quota and that their quotas are not legal under the Civil Rights Act of 1964.

This relates to the earlier memo I sent you concerning HEW's trying to use contract compliance executive order to chop off research contracts.

In this instance, they are trying to chop off a research contract to George Washington Medical Center from the National Heart and Lung Institute for research on the relationship between cholesterol and heart attacks. That looks like pretty important research.

Bang on HEW, Casper Weinberger, personally, with an action memo and tell them we want a status memo on what's going on.

The second item concerns a column by James J. Kilpatrick in today's Washington Star. The bottom of the second column and the top of the third column points out that HEW prohibits the use of plastic liners in garbage cans in hospitals because of the fire hazard. At the same time, the Occupational Safety and Health Administration of the Department of Labor says that waste baskets must have liners in order to avoid infecting hospital workers.

Send another action memo to Cap Weinberger at HEW and to Secretary Dunlop at Labor and find out what the hell's going on.

The President wants to know.



James J. Kilpatrick

Harassment of hospitals
could prove expensive

Colleges' Contracts In Peril

**HEW Rejects
Their Minority
Hiring Plans**

**By Noel Epstein
Washington Post Staff Writer**

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

June 21, 1975

MEMORANDUM FOR:

JIM CANNON
JIM LYNN
JIM CONNOR ✓

FROM:

DICK CHENEY

Last Sunday, June 15, the Washington Post did a front page story to the effect that HEW was cutting off grants and contracts to a number of colleges and universities for failure to comply with requirements for equal opportunity in hiring.

I have since received criticism from a number of different sources raising questions about HEW's actions. Supposedly, it's being done under an executive order, issued several years ago, dealing with contract compliance by the Department of Labor. Allegedly, HEW is cutting off research contracts to the physics department if the history department, for example, is not in compliance with so-called "numerical goals." They refrain from using the term "quota", but emphasize the term "numerical goals."

Other criticisms include concern from Black colleges and universities that they will lose their faculty if predominately white institutions are forced, as a matter of Federal government policy, to hire more minority professors.

In addition, there are serious questions about the extent to which faculties do discriminate against women.

Bob Goldwin can give you some specifics on the arguments against HEW's actions.

The President has raised the issue and wants a report as to what precisely HEW is doing, why they are doing it and what they expect the consequences are. We'd like to get a report on this by Wednesday, June 25th.



(513) 298-4331

Home: 293-5178

Flying to Wsh. Wed. a.m. for 12 noon mtg.
at Wash. Adventist Hospital, Tacoma Park,
(301) 891-7600.

James J. Kilpatrick

Harassment of hospitals could prove expensive

DAYTON, Ohio

— The Three years ago, the De- the bags out of the waste-

THE WHITE HOUSE

WASHINGTON

June 17, 1975

Dear Mike:

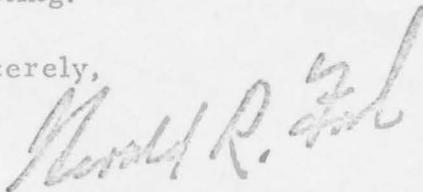
As you know, I am concerned that government regulation is having an unnecessarily adverse impact on the economy. Something must be done to foster greater competition in regulated industries and to insure that the inflationary effects of regulation are considered. Improved and expedited regulation is also critical if the Nation is to increase domestic energy production and promote a revitalized transportation system.

As one major step toward improved regulation, I plan to meet in July with the Commissioners of the ten major independent regulatory agencies. At that time, I look forward to a general discussion of the current problems of regulation and proposed solutions. I also hope to ask the Commissioners to cooperate in making regulation more responsive to our need for economic growth without inflation.

Before this meeting takes place, I would like to meet with a group of selected Members of Congress to explore areas where the Administration and Congress can work together to improve regulatory performance and minimize government-induced inflation. To that end, I would request that the bipartisan leadership select ten Members of the Senate to meet with me at the White House on Wednesday, June 25th at 8:00 AM. Can you let me have the list of Senators who will attend as soon as possible?

Separately, I am also asking the Speaker of the House of Representatives to select a group of ten members of the House to attend this meeting.

Sincerely,



Honorable Michael J. Mansfield
Majority Leader
The United States Senate
Washington, D. C. 20510



THE WHITE HOUSE
WASHINGTON

Regulation

June 17, 1975

Dear Carl:

As you know, I am concerned that government regulation is having an unnecessarily adverse impact on the economy. Something must be done to foster greater competition in regulated industries and to insure that the inflationary effects of regulation are considered. Improved and expedited regulation is also critical if the Nation is to increase domestic energy production and promote a revitalized transportation system.

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Before this meeting takes place, I would like to meet with a group of selected Members of Congress to explore areas where the Administration and Congress can work together to improve regulatory performance and minimize government-induced inflation. To that end, I would request that the bipartisan leadership select ten Members of the House of Representatives to meet with me at the White House on Wednesday, June 25th at 8:00 a.m. Can you let me have the list of Members who will attend as soon as possible?

Separately, I am also asking the Majority Leader of the Senate to select a group of ten Members of the Senate to attend this meeting.

Sincerely,

Gerald R. Ford

The Honorable Carl B. Albert
The Speaker
House of Representatives
Washington, D. C. 20515



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SENATOR FROM THE STATE OF RHODE ISLAND
JOHN E. MOSS
REPRESENTATIVE FROM THE STATE OF CALIFORNIA
AND
JAMES C. WRIGHT, JR.
REPRESENTATIVE FROM THE STATE OF TEXAS

THE BRIEFING ROOM

10:05 A.M. EDT

MR. NESSEN: The President met for slightly over two hours with 12 Members of the Senate, 12 Members of the House, and various members of his staff on his proposals to simplify the regulatory agencies.

Let me just quickly give you one or two highlights from the President's opening statement, and then we are going to have to brief you on this Rod Hills, the Counsel to the President, w. o is heading the Domestic Council review group that is overseeing the President's ideas in this area; Paul MacAvoy, a new member of the Council of Economic Advisers, who also is working in this area, Senator Pastore; Congressman Jim Wright, and Congressman Moss, whose committees will be dealing with this problem.

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The President said that since he has been in the White House and even before that, in Congress, he has sensed a growing apprehension and concern about regulatory agencies, the amount of time they consume and the amount of added costs they put into the economy, and lay on the consumer.

He said that they were established to serve the public interest but that with the passage of 25 or 30 or 50 years, they have got to be looked at again now to make sure they are still serving the public interest.

The discussion was broken down into three areas -- economic regulation, health and safety regulation, and administrative procedures.

The President made clear that he does not want to dismantle the regulatory agencies. He has no intention of dismantling environmental regulations, health protections and consumers' rights, but he did say that the cost-to-benefit ratio needs to be looked at.

He wants to make sure that these agencies still serve the public interest in the 1970s rather than having gotten away from their original intention of serving the public interest.

He told the Members of Congress that he hoped that they could work together, the White House and Congress, because regulatory agencies are a joint responsibility of the Executive Branch and of Congress.

That is a summary of what the President said at the beginning, and for more details on the meeting I am going to give you these gentlemen from Congress and from the White House.

MR. HILLS: Let me say, generally, the purpose of the meeting was to seek a consensus from the group gathered as to the major objectives of regulatory reform. I think the President was extremely gratified to find that there was indeed not only a consensus but unanimity that regulatory reform was a critical item for the future.

The purpose of the consensus, of course, is in preparation for his meeting with all the commissioners of the independent regulatory agencies, which will take place two weeks from today. The consensus, which I think I can state without fear of dissent, was broadly in the area of economic regulation, the need for more flexible pricing, more redefinition of the objectives of agencies that had been in effect for a very long period of time, and in some areas more ease of entry.

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Of course, as regulation falls away from certain economic types of regulation, it is generally agreed today that the antitrust procedures and more effective antitrust protection must take its place.

In the area of general regulation, the need for more cost benefit analysis was generally accepted; in other words, regulation should not be passed in a vacuum, rather they should have the benefit of an intensive cost analysis, not necessarily that you can trade off lives or safety against money, but that people passing regulations must know what it costs in order to choose the best alternatives.

Finally, and certainly the most dramatic assent, was that regulation takes too long and that the substance that is created by that form of regulation is perhaps the most deleterious effect upon the regulatory efforts of Government.

The form of problems with big business and little business was particularly harmful. The trouble of small businessmen to deal with regulation was a prime matter. There was not complete agreement on every matter. Certainly, in the area of consumer representation, there was a difference of approach.

There are a number of people, a number of Senators and Congressmen, that feel there should be a consumer agency to represent the consumers' points of view. The President and others present felt that there was indeed a stronger role for the consumer, but that it could best be met by an effort in each individual agency; in other words, redoing the agency.

So there was broad assent, there was broad consensus the President sought, but of course there were some areas of disagreement, and we are all available for questions.

Senator, would you care to speak?

SENATOR PASTORE: First of all, I think this is one of the better meetings called by the President. He should be applauded for it.

There is no question at all that the habits of 1950 cannot be the procedures of the 1970s. A great deal needs to be done to modernize our regulatory agencies.

On the other hand, it is not an easy solution and it will require time, it will require patience, and will require public confidence.

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I pointed out, of course, that there are several elements that could be taken into account as a remedy, on a short-term basis. For instance, only too often -- and this is not a reflection on the present Administration, it has been with all Administrations -- certain candidates who failed an election are usually dumped over on a regulatory agency.

Many, many times we take people out of industry and put them on a regulatory agency that is to regulate that particular industry. And that is number one.

In other words, we ought to have people who are independent, people who can be impartial, and people who are not using that position as a training ground to get a job with a regulated industry once they leave that position. And that is one of the first things.

Another thing, too, we have to be very, very careful that the bureaucrats, the people who are charged with dealing with the public, will use courtesy, will not act as though they are despots, will not act as though they have plenipotentiary powers, that they will be patient with people.

I have known of cases where under OSHA they would walk into an establishment and summarily fine people for an offense where it was innocently done.

Now you can carry out the meaning of a statute, you can carry out a meaning of a regulation without being arrogant about it, and there has been too much of that, and that has been a harrassment on the part of business.

On the question of a speedy conclusion, we are all interested in that, but in the process we have got to be very, very careful in that we are dealing with the public and we cannot deprive the public from a judiciary remedy.

In other words, if they feel that they have been aggrieved, you can't deny them the right to go to court and our court calendars are crowded and for that reason, of course, there is delay upon delay.

Now, all of this has to be taken into account and it won't be easy, as I said before, but it needs to be done and I repeat again this is the first of a series of meetings with the President. It can't be done by the Congress alone. It can't be done by the Administration alone. It has to be a joint effort and we all have to look at the objective and do it in a very impartial way.

Thank you very much. If anyone wants to ask me a question, I will be glad to answer.

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Q Senator, do you agree with Mr. Hills that there was a broad consensus in this meeting?

SENATOR PASTORE: Yes, there was. There was a broad consensus that something needs to be done, and rather quickly.

Q Senator, you mentioned specifically the quality of the nominees to these agencies. In fact, your own subcommittee has passed on a number of these nominees so would you not say the Senate would have to share the blame?

SENATOR PASTORE: Absolutely, but we have rejected quite a few of them. As a matter of fact, we have the Coors amendment (nomination) before us now. That is highly controversial. You wait and see what happens to that.

Q Senator, how much of this can be done without new legislation?

SENATOR PASTORE: First of all, I think there ought to be an admonishment on the part of all of these people who are entrusted with enforcing regulations to act with decency, with dignity and courtesy.

Q Senator, excuse me. Backing up to the Coors nomination, are you saying that your subcommittee is left with the position to reject that nomination?

SENATOR PASTORE: I did not say that at all. As a matter of fact, I said it is highly controversial. We have separated it from the other seven nominees because we have to deal with that separately. There is a lot of objection to it.

Q Senator, did you get the impression that you were far apart from the Administration on the matter of health and safety regulations?

SENATOR PASTORE: Not too much. Not too much. Of course, you have got to realize that the President talked in general terms and it is a matter of implementation. I thought it was a very healthy meeting and I think it was a very productive one and I think something good will come out of it.

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Q Senator Pastore, do you kind of reject the charge Ralph Nader made this week that the regulatory reform is merely a ploy by the Ford Administration to build political support for 1976?

SENATOR PASTORE: I think it is too soon to say that.

Q Do you think there is any kind of scapegoatism looking for somebody to blame the economic crisis on?

SENATOR PASTORE: I would not say that. I would not accuse the President of the United States of that deception.

Q Mr. Hills, the Administration a few weeks ago proposed some regulatory reform in surface transportation, in rails. Supposedly, there is going to be some more reform in trucks and some easing of regulations of the airlines. Nothing has been heard. When is it coming?

MR. HILLS: This meeting is an effort to find the consensus for most matters, and they are coming. Considerable work has gone on over the last few weeks between various of us on the White House staff and the Hill staff with the agencies.

I think considerable has been done, if you consider how such a short period the President has been in office. I think you will find considerable efforts at specific legislation in the very near future. I think also you will find a greater consensus around such legislation when it comes to the Congress.

Q May we hear from the two experts from the House?

CONGRESSMAN MOSS: I want to first agree that there was a very broad consensus that reform must take place, and particularly in the area of economic regulation. There was not sufficient in depth discussion of health and safety to characterize it as a reform, but it was not marked disagreement.

Another broad consensus of great significance is the recognition of the fact that neither the Congress nor the Executive can effect the changes necessary by themselves. It is going to require the closest cooperation on a continuing basis if a restructuring of the regulatory agencies is to be achieved.

There is a recognition that far too much time is wasted in the regulatory process. It can be expedited without the sacrifice of due process, and due process is certainly an essential protection, both to industries and to the public.

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We have a disagreement on the matter of a consumer advocate. There is a division. It is not a partisan division because support and opposition surfaces from both sides of the political spectrum here in Washington.

I think the significance is that we did meet and, after a meaningful discussion, agreed to seek to work cooperatively and try to expedite the process of re-evaluating these agencies.

We in the House in several committees -- mine having the broadest jurisdiction over regulatory agencies -- are working on a greatly accelerated timetable, reviewing each of the agencies within the jurisdiction of the House Commerce Committee.

We will have that work completed during the life of this Congress, and we will have recommendations for actions which will not in many instances require additional legislation.

There was a consensus that a change of attitude on the part of those engaged in the regulatory process would be refreshing, would be constructive and would restore a great deal of public confidence, a very essential ingredient, in the work of these agencies.

I think that is a fair summary of the achievements of this morning.

Q Did you discuss deregulation of gas prices?

CONGRESSMAN MOSS: We did not discuss deregulation of gas prices.

Q Mr. Moss, somewhere down the road, can we anticipate a reduction in the number of regulatory agencies through consolidation?

CONGRESSMAN MOSS: I would not rule it out, but at this moment, I think it would be premature to state that there would be a reduction.

Q Mr. Moss, how do you evaluate the present Office of Consumer Affairs?

CONGRESSMAN MOSS: The evaluation of the present Office of Consumer Affairs operates really within a very limited scope of jurisdiction. I don't think it would be a adequate substitute for the consumer advocate agency, which is being urged in both Houses of Congress at this time.

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Q Sir, when you talk about regulatory reform, are you talking about this year or next year, or beyond that? What kind of time?

CONGRESSMAN MOSS: I hope I am talking about a continuing review correcting faults as they surface and starting at this time to accelerate the process of identifying problem areas. I don't think we will ever be finished with regulatory reform.

Q Mr. Moss, if Congress approved a consumer advocacy agency and the President vetoed this legislation, do you think the Congress would be able to override the veto?

CONGRESSMAN MOSS: I would want, first, to hear the reasons for the veto and see the final form of the agency presented to the President before being able to make that kind of judgment.

Q Congressman, is there a consensus in the view that disputes on economic matters that are now empaneled as matters of equity by the regulatory agencies should be referred to the courts? And if so, would that not delay things further?

CONGRESSMAN MOSS: Well, it presupposes that we would have them have direct access to the courts from the beginning and that, of course, is not in my judgment anticipated. We have two very recent complete re-enactments of regulatory agency legislation -- the Federal Trade Commission Act of last year and the rewrite of the Securities and Exchange Commission Act this year -- and I would suggest that those two indicate both the consensus of Congress and of the Executive.

They resulted in a clarification of authority, a broadening of authority of the agencies, and that was achieved with the support of the White House, the Department of Justice, the regulatory commissions, and a major part of the regulated industry.

Q You do not have any consensus on abolition of, say, the Interstate Commerce Commission or the Civil Aeronautics Board?

CONGRESSMAN MOSS: I do not. A restructuring, yes; an abolition, no.

Q You were talking, Mr. Moss, of having something ready in your committee by the end of this Congress. That doesn't seem to be very speedy action, to me. Don't you expect something before that?

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CONGRESSMAN MOSS: Oh, I expect a great deal before the end of this Congress. I was talking in that context about an evaluation of the work of each of the agencies within the jurisdiction of the House Interstate and Foreign Commerce Committee, which has the independent regulatory commissions and the Federal Food and Drug Administration, and related agencies.

The total review by the end of this Congress -- we will be prepared to move with reports setting forth very precise recommendations before the end of this session of this Congress in some areas.

Q Which areas, Mr. Moss?

CONGRESSMAN MOSS: I think one of the first will be with the Federal Power Commission, secondly with the Federal Energy Administration, and from there on there are several candidates, but we have not advanced sufficiently to make a final decision.

Q Was any thought given to reforming the wordage used in writing regulations, any thought given to making regulations simple so that plain people can read them and understand them?

CONGRESSMAN MOSS: There was a considerable discussion about a need of the change in attitude. Certainly, basic to a change of attitude would be to remove much of the bureaucratic verbiage and to get down to the essential use of the good English concisely stated in all of these regulations.

Q In that regard, sir, you might start with this Democratic policy statement here because -- (Laughter)

CONGRESSMAN MOSS: That was a committee production.

Q Sir, at this meeting this morning, did you discuss at all the Administration's proposals on transportation, loosening controls over transportation? And if so, do you have any prediction about what Congress is going to do to Administration proposals in that area?

CONGRESSMAN MOSS: I do not have any predictions. We discussed transportation and recognize a need for freer entry in some markets.

On the other hand, we cannot abandon regulation because there are markets where there is no effective competition.

Q Well, do you foresee, for example, free entry into air routes in the near future?

CONGRESSMAN MOSS: I think a freer entry is a distinct possibility.

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Q Mr. Moss, if it is true, as many have charged, that some supposedly independent regulatory agencies have become captives of the very industries they are supposed to be regulating, then do you expect that these industries are going to support these reform efforts? Don't they have a vested interest in maintaining the status quo?

CONGRESSMAN MOSS: I do not expect that they will support reform efforts enthusiastically, but faced with the inevitability of reform they will attempt to give as much as they have to and no more, and then Congress and the Executive will have to apply the pressure to go the additional step required to serve the public interest.

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Q Why didn't some Republican Congressmen come out here? Are they just giving yes to the President?

CONGRESSMAN MOSS: I don't think so. My Members on my committee have split on a number of issues as we have moved along. They have not been a monolithic block in working on the committee, but I don't know why they didn't come in here at this time.

CONGRESSMAN WRIGHT: There is relatively little that I could add. I think all of us agreed that it was an extremely useful initiative that the President has begun. I think all of us agreed that this is a most important and an extremely vital effort that is being undertaken.

To expect unanimity from so diverse and heterogeneous a group would be impossible. To expect consensus would be rosier, but I think there is broad consensus among those present, first, that: (a) regulation has become entirely too burdensome in many instances; secondly, that there seems to be an almost inexorable tendency on the part of regulatory agencies to proliferate guidelines never intended by a Congress in enacting the parent legislation; thirdly, that the regulatory process consumes entirely too much time and that it imposes far too burdensome a paper-work requirement upon applicants of all sorts.

I think there was general agreement that the chief victims were the public themselves, and primarily small business, which is required in many instances to fill out the most elaborate forms that a General Motors itself would have difficulty in completing.

I think there was agreement that there is no excuse for the kind of internecine warfare that sometimes exists within Government, pitting Government agencies into adversary relationships against one another and leaving Government at war with itself where the public becomes the innocent victim.

Illustrations abounded. One, for example, found consensus that there can't be any justification for safety representatives telling the owner of a small industrial plant that he must put in corrugated sidewalks and corrugated floors so as to prevent slippage and a hazard to safety, and when he does so, then representatives of the health agencies telling him that he must take it out because it can't be kept clean.

Any others could enumerate several such instances. All of them make Government look ridiculous.

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I believe there was agreement that we must, at all costs, simplify procedures, that both administrative and legislative branches have some responsibilities in seeing that this is done.

I think finally there was agreement that it is not going to be easy. Fighting red tape is like fighting a pillow, you can hit it and knock it over in the corner, but it just lies there and regroups.

Q This meeting is being billed, as is the July 9 meeting as a regulatory summit, and the last time this Administration convened the summit, it dealt with the problem of inflation at a time when the public was concerned about recession.

Particularly, with the Congressional calendar full of problems, like antirecession legislation, and tax reform, what makes you think that there is a public consensus for this summit conference or this kind of discussion on regulation.

CONGRESSMAN WRIGHT: I am not certain that there is a public consensus for a summit conference or a discussion of this sort. I am reasonably sure, and my opinion was strongly re-inforced by reports from those who are closest to the public in their respective States -- and many of the States represented -- that there is great concern on the part of the public over a great deal of regulation all the way from the IRS on the one hand that touches to the newer agencies such as the Environmental Protection Agency and the Occupational Safety and Health Agency, which were created with high hopes to fulfill high purposes, but which in some cases have become so proliferated with jungles of red tape that they have become counter-productive for the purposes for which they were created.

I think there is a general public concern over that.

MR. HILLS: If I can bear with you a minute, Dr. Paul MacAvoy, a new member of the Council of Economic Advisers, would like to speak for a minute.

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MR. MAC AVOY: Let me just add two points. As an economist usually dealing with mathematical models, I was shocked by the unanimity of concern about the things that I always miss: First, too much paperwork; second, the proceedings take far too long; third, that the proceedings in good part end out protecting the interest of the commissioners rather than the consumers.

That is all in what we call variance in the data and it seems to have grown to enormous proportions, and perhaps the economic analysts ought to pay attention to that, starting now.

The second point is in the area of economic regulation I think there were two strong issues discussed, even if indirectly.

One is that if you look at the basis for regulation, the reason for starting regulation, it was supposed to serve as a substitute for imperfectly operating markets. It was supposed to do better than competitive or non-competitive markets in serving the interest of the consumer, but as you review regulation and transportation, energy, and communications the commissions have attempted to thwart the operation of competition wherever it may appear, so rather than substituting for markets it has tended to subvert what market performance there is.

In the area of energy, there was a point made that the use of historical costs and rate base procedures in the Federal Power Commission and the State commissions have wound down investment in gas and in electricity, and that the present gas shortage wasn't in good part due to the price freeze put in for a decade in the Federal Power Commission over wellhead prices in interstate commerce.

In the electricity area, this may very well be on the way to occurring in the next decade due to the slow and cumbersome and historically based rate-setting procedures of the State commissions.

That is enough for an economist, I think.

THE PRESS: Thank you.

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(AT 10:35 A.M. EDT)





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