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Record Group/Collection: George H.W. Bush Presidential Records
Collection/Office of Origin: Speechwriting, White House Office of
Series: Speech File Backup Files
Subseries: Chron File, 1989-1993

OA/ID Number: 13810
Folder ID Number: 13810-008

Folder Title:
Regulatory Reform, 4/29/92

Stack:	Row:	Section:	Shelf:	Position:
G	26	22	4	7

The 1989 Federal Delineation Manual and burdensome 404 permit process have created a profusion of regulatory nightmares. Cases range from millions of dollars tied up in now useless land to public projects delayed indefinitely. The following is a short list of some of the more outrageous cases.

1) Handicapped Shelter Bogged Down. A non-profit organization, Reach, needed to build a new shelter/workshop to serve the mentally handicapped. The City of Juneau, Alaska wanted to donate some unused low-land by the city airport that was ideally situated for easy access by the handicapped. Because the Corps and EPA would not grant a waiver, the facility could not be built until private donor was finally found who gave a parcel. Ironically, the second parcel was as wet as the first. But because it had been tilled, the corp did not delineate it as a "wetland."

2) Wetlands More Important than National Defense. When the Air Force wanted to make sure the U.S. has the latest technology to detect incoming Soviet planes by building a new Back-scatter Radar installation on 73 acres of Alaskan wetland, they too had to go to the Corp for a permit. The Fish and Wildlife Service (FWS) submitted 25 pages of environmental reason for why the wetlands were more important than the radar system. According to the FWS, the new spirit of glasnost diminishes the threat of Soviet attack and therefore preserving every acre if Alaskan wetland is more important than additional national security. Never mind that the remaining 170 million acres of Alaskan wetlands would remain in pristine condition.

3) Life Savings Down the Drain. Three years ago Irma & Joseph Phillips invested their savings in 44 acres of farmland in Maryland. They wanted to build a retirement home on part of the land. To pay for their dream home, the Phillips wanted to subdivide most of the land and sell it. The Corps declared their 44 acres a jurisdictional "wetland" and forbade the Phillips from building until they had explored "practicable alternatives" to development. Because the Phillips sold their house to buy the property, they became homeless when they could proceed with their plan. Fortunately, their daughter and her family invited them to move in until the situation can be resolved.

4) Turning Civil Engineers into Criminals. William Ellen is appealing a felony conviction (and 6 months prison and one year supervised release including 4 months home detention and 60 hours of community service) for failing to get the necessary wetlands permits. He was the construction manager on a project to convert a 5000 acre track of forests in Maryland known as Tudor Farms into a bird sanctuary by creating new habitats, such as ponds. The corp notified him that one part of the tract was a "wetland." He brought in bull dozers to create roads and ponds in other parts of the

land that appeared dry at the time, but under the broad test set out in the current delineation manual, all of the land could be deemed a "wetland." The process of grading the land with a bulldozer is considered "filling" by the Corps.

5) \$2 Million Misdemeanor. The owner of Tudor Farms, Paul Tudor Jones, II, was sentenced to 18 months of probation and fined \$1 million and an additional \$1 million in restitution on a misdemeanor charge of negligent filling of a "wetland." He was also forced to turn over 2500 acres of the farm as a permanent nature preserve under a conservation easement and prohibited from hunting migratory waterfowl anywhere in the U.S. for 18 months.

6) Don't be a Hero. On July 13, 1989, John Pozsgai was sentence to 3 years in prison and fined \$200,000 for filling in 14 acres of an unofficial dumping ground next to an auto salvage yard. Press articles speculate that Pozsgai received particularly harsh treatment because he fought the Corp and the Justice Department suits.

7) Bird Sanctuary Blocked. Steve Lathrop bought one of the worst areas in Granite City, Ill known as "Dobry slough". The area -- which had a creek on it -- was previously used as an illegal dumping ground and had become a local hang out for vandals and thieves. As part of the development project, Lathrop built a crude dam to created a two acre lake that provided a bird habitat and storm water flood control. In Dec. 1990 the Corps issued cease and desist orders pending the Corps' determination whether there was a loss of wetlands. This order prevents Lathrop from making improvements to the damn that are necessary to prevent it from overflowing and flooding the surrounding neighborhood. Lathrop may have to file for bankruptcy without completing the housing project.

8) Loss of Homeless Habitat. In Juneau Alaska the St. Vincent de Paul society was delayed one year in building an addition to their homeless shelter because the Corps declared a .14 acre lot a wetland. Two car dealerships sit across the street, a plumbing and heating store to the South, and a storage business to the North. The homeless shelter is virtually in downtown Juneau surrounded by concrete. The Fish and Wildlife service claimed that the lot supported "various birds and wildlife."

9) Economic Revitalization Swamped in Red Tape. In 1984 the City of Hampton, Va., broke ground on the Hampton Roads Center. This integrated business, research, educational and recreational community was to be the crown jewel in the city's economic revitalization project. On Aug, 13, 1990, the project was brought to an abrupt halt when the Corps determined that the site constituted a jurisdictional wetland. The Hampton Roads Center site is located on some of the highest ground in the city. The City of Hampton has invested

KEMP

\$12.8 million in the Hampton Roads Center, but was told on Jan. 23, 1991 that the Corp. personnel were "not optimistic a permit application is attainable."

10) Development Stopped. E.S.G. Enterprises, Inc. assembled 922 acres in Chesapeake, Va. in 1984. After six years of investment and approved rezoning by the Chesapeake City Council the Corps of Engineers declared the area a wetland, freezing \$20 million in property.

11) Are they Really Wetlands? Various estimates have been made about scope of the wetlands under the current delineation manual. Some surprising examples have been given:

- Some counties in Illinois could be 2/3 wetland.
- 80% of Houston, Texas is a "wetland."
- Up to 40% of California could be considered a wetland.
- The Dept. of Agriculture reported that up to 70 million acres of farmland would be considered wetland under the '89 manual.

The practical effect of declaring these areas "wetlands" is to stop development and limit farming.

12) \$1 Billion In Law Suits Against Government. The New York Times reports that there are already over \$1 billion in takings claims against the U.S. government. The broad definition of "wetland" under the current delineation manual makes it likely that this number will increase. In addition, the denial of any use of the land by the administering agencies (the Corp, EPA, Fish and Wildlife Service, and USDA) makes it more likely that a court will find a "taking" of private property.

**OFFICE OF POLICY
Food and Drug Administration**

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TO: Bob Simon

FROM: Bill Hubbard

202
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Food and Drug Administration
5600 Fishers Lane - Rm. 14-105
Rockville, MD 20857
Fax. No. (301) 227-6777

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DDI

DDI is an anti-viral drug approved in October 1991 for the treatment of AIDS [more specifically, for people who cannot take the only other approved drug, AZT]. It was approved within 6 months of the application's submission to FDA by Bristol-Myers, using a prototype procedure of the accelerated approval process. The approval was based on the drug's effect on increasing a laboratory measurement that measures infection fighting cells (CD4 cells), also known as a "surrogate endpoint". Since then, thousands of patients have been able to take advantage of the availability of DDI.

DDC

DDC is also an anti-viral drug, developed by Hoffman-LaRoche, for the treatment of AIDS. Because it also helps prevent the AIDS virus from destroying the CD4 cells, DDC is a good candidate for approval using the new accelerated approval process announced earlier this month. In fact, the FDA expert Advisory committee that reviewed DDC's application last week, recommended approval of DDC, when administered in combination with AZT, under the accelerated approval process.

OTHER CANDIDATES FOR ACCELERATED APPROVAL

FDA has already identified a number of other drugs for serious and life-threatening illnesses that are good candidates for earlier approval using the accelerated approval policy. These include drugs for a variety of diseases such as AIDS and cancer. Because the accelerated approval procedures will permit the acquisition of information about a drug's effectiveness sooner, it will not only permit faster approval, but patients will ultimately have access to the drugs months, or even years sooner.

THE WHITE HOUSE
WASHINGTON

April 28, 1992

MEMORANDUM FOR MOLLY OSBORN

FROM: SHANE SCHRIEFER

SUBJECT: CABINET ATTENDING
ROSE GARDEN EVENT
APRIL 29, 2:00 p.m.

Secretary Card
Secretary Franklin
Secretary Martin
Secretary Watkins
Director Darman
Administrator Reilly
Administrator Saiki

Richard Breeden

VP

Byrdon Gray

Boskin

on stage

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
01. List	Attendees to the Regulatory Reform ceremony; Social Security numbers. (1 pp.)	n.d.	P-6, (b)(6)	

Collection:

Record Group: Bush Presidential Records
Office: Speechwriting, White House Office of
Series: Speech File, Backup
Subseries:
WHORM Cat.:
File Location: Regulatory Reform 4/29/92

Date Closed: 11/29/2004	OA/ID Number: 07572
FOIA/SYS Case #:	
Re-review Case #: 2004-2265-S	
P-2/P-5 Review Case #:	

MR Case #:	Appeal Case #:
MR Disposition:	Appeal Disposition:
Disposition Date:	Disposition Date:

RESTRICTION CODES

<p>Presidential Records Act - [44 U.S.C. 2204(a)]</p> <p>P-1 National Security Classified Information [(a)(1) of the PRA] P-2 Relating to the appointment to Federal office [(a)(2) of the PRA] P-3 Release would violate a Federal statute [(a)(3) of the PRA] P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA] P-5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA] P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]</p> <p>C. Closed in accordance with restrictions contained in donor's deed of gift.</p>	<p>Freedom of Information Act - [5 U.S.C. 552(b)]</p> <p>(b)(1) National security classified information [(b)(1) of the FOIA] (b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA] (b)(3) Release would violate a Federal statute [(b)(3) of the FOIA] (b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA] (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA] (b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA] (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA] (b)(9) Release would disclose geological or geophysical information</p>
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THE WHITE HOUSE
WASHINGTON

April 27, 1992

MEMORANDUM FOR THE PRESIDENT

THROUGH: DAVID DEMAREST
FROM: JOSEPH P. DUGGAN *JPD*
SUBJECT: REGULATION REFORM CEREMONY

I. SUMMARY

On Wednesday, April 29, in the Rose Garden at 2:00 p.m., you will describe the progress made under the 90-day regulatory moratorium. In the audience of 200 will be the cabinet, presidential appointees, regulators from independent agencies, businessmen, and trade association and think tank representatives.

II. DISCUSSION

The remarks (12 minutes, on cards) state your philosophy of what type of government regulation is appropriate, describe the successes of the moratorium, and lay out how the Administration will regulate in the future.

(Duggan/Simon)
April 27, 1992
Draft Four
Dereg

PRESIDENTIAL REMARKS: REGULATION REFORM CEREMONY
 ROSE GARDEN
 WEDNESDAY, APRIL 29, 1992
 2:00 P.M.

[Acknowledgments] A warm welcome to the White House for all of you -- especially the many grass-roots fighters for economic freedom who have travelled long distances to be here. You honor us with your presence. I appreciate all your efforts for fundamental reform of government regulation. Regulation imposes a hidden tax on all Americans. This reform is one of the top priorities I stressed in my State of the Union message, and it is a vital element of government reform -- one of five key issues on our national reform agenda.

Remember, the early residents of the White House were men like Jefferson and Madison. They were freedom fighters, they were revolutionaries. Two hundred years ago they unleashed forces of social and economic freedom that gave the world a whole new way of thinking about man's relationship to government. They made the United States a haven for the poor and the oppressed -- a land of opportunity. \\
\\

Our system did not promise material well-being, but it guaranteed personal freedom. In just one century's time, millions of poor people came here from every corner of the Old World. And because America empowered them to use their God-given talents to the fullest, people who came to our shores with nothing but faith and imagination made us the richest nation on

earth -- in a poet's phrase, the New Colossus. \\

When a great economic shock hit the world six decades ago, our governing elites turned too readily to projects of social engineering. They embraced the notion that human actions, human choices, could be organized to good effect through bureaucratic blueprints. They began a cycle of rule by bureaucracy.

Social engineering posed a challenge to our precious heritage of limited government and the rule of law. It veered us away from the tradition of the accountability of citizen legislators. Our Congress shirked its own responsibilities while embracing many premises of the command economy. Congress passed laws mandating Americans to dance to the tune of arbitrary social and economic goals -- and left the details of the choreography to a new class of bureaucrats. \\

Under the rule of bureaucracy, we felt the growing burden of regulation's taxes in disguise. And we learned some hard lessons. We learned that lonely keepers of the flame of economic freedom -- men like the late Friedrich Hayek -- were right. The era of bureaucracy and regulation produced one example after another validating Hayek's observation: Rule by bureaucracy undermines the true rule of law and runs headlong into the iron law of unintended consequences. \\

Inflexible safety rules can undermine safety in unforeseen ways: If government mandates make ladders more and more costly to consumers, for instance, more people will turn to cheaper substitutes. They'll climb on chairs and step-stools -- which

are far less safe. Command-and-control environmental rules actually can harm the environment. Consider the case of used motor oil: Today it has some market value -- just enough to provide collectors an incentive to haul it away for free and sell it for reuse. But if onerous bureaucratic handling methods are imposed, collectors may refuse to haul it away unless they are paid to pick it up. To avoid paying to have it hauled away, some people may simply dump it into the trash or into storm drains that feed our streams and lakes.

I could go on all day with examples of inflexible rules that impose hidden taxes and costs on society. I could cite any number of abstract rules in collision with human reality: How highway fatalities can increase and American auto workers can lose jobs when Congress tries to legislate the fuel efficiency of our cars. How a regulation system, plump with noble intentions, can keep life-saving drugs and medical devices from patients who need them. \\

But we're here today for another purpose. We're here to mark that the era of unaccountable government and unreasoning bureaucracy is coming to an end. A new American revolution is under way -- and you and I and millions of like-minded people are leading it. \\ Reforming regulation is a huge and time-consuming task -- presiding over the Task Force on Regulation during the 1980s was, for instance, one of the most important assignments President Reagan gave me when I was Vice President. But today regulation is facing a heightened public concern, and a growing

public impatience. This is helping us accelerate needed reforms.

In my State of the Union Address, I lit a fire under our regulatory reformers and gave them 90 days to produce dramatic results. Today marks the 91st day -- and let me report our reformers have come through with flying colors. From biotechnology to banking to energy, we've made achievements that will lower costs and increase choices for American consumers. We've carried out reforms that will create and preserve good jobs for Americans and help us stay competitive in the world. [We estimate that the reforms we've set in motion just since January 28 will save consumers about \$20 billion a year -- and that's just a down payment on savings to come.]

Every agency I asked to participate has responded with action. Some agencies already have accomplished important reforms, and all agencies have completed a reform agenda which they will carry out in the coming months.

To help us move forward with our reform agenda, today I am ordering a [four-month] extension of the moratorium. Our objective must be to stop new rules that hurt growth while speeding up new rules to help our economy. During the next [four months] I expect many more gains for freedom and common sense.

And I'm asking ask Congress to do its part. I am asking Congress to pass legislation to give the President line-item veto authority over burdensome regulatory requirements imposed by statute. I am asking Congress to accept a common-sense discipline clearly in the interest of American taxpayers and

consumers. Under my proposal, I would take a separate look at every new regulation or scheme of regulations that Congress attempts to mandate. If I find that the costs to society of a particular provision outweigh the benefits, or that the objectives of the legislation could be accomplished at less cost, I would be able to send that provision back to Congress for a clear up-or-down vote. Congress would be unable to hide bad regulations in the fine print of those gigantic bills it sends me. So if members of Congress want to join this spirit of reform right now, they can pass my proposal.

Further, I'm putting Congress on notice: I will veto any bill that attempts to put excessive new burdens of regulation on the backs of our families, our consumers, our workers, and our businesses. \\

Let me be clear about our aims: We cannot and will not abolish all regulation. I have responsibilities as chief executive to enforce sound regulations for the health and safety of the American people -- and I'll keep that trust. But the best way to keep that trust is through a fundamental reform of our system of regulation. This is not a three-month or even a three-year effort. This is not an exercise in adjusting or fine-tuning the system. \\ There will be no -- I repeat, no -- return to business as usual. \\ We are engaged in a revolution to overthrow the outdated and excessive rule by bureaucracy. \\

Our campaign against bureaucratic excess meshes with our efforts to limit the terms of congressmen and make them more

accountable. It fits also with our crusade against the tyranny of nuisance lawsuits that mock our time-honored traditions of justice. And it goes hand in hand with our efforts to break the bureaucratic stranglehold on American education -- by allowing parents, not government, to choose their children's schools. In short, there's a common purpose linking the all of our efforts to renew the spirit and practice of limited government. \ \

So let's take heart -- and let's get to work. We can see the future. It's a freer future. There is no doubt in my mind: The day is coming when we will put the final wrecking ball to the discredited system of the social engineers. We will restore this country. We will build it back, sturdy in the radical faith in freedom that is the legacy of our Founding Fathers. [Signing ceremony if appropriate.]

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(Duggan/Simon)
April 27, 1992
Draft Three
Dereg

PRESIDENTIAL REMARKS: REGULATION REFORM CEREMONY
 ROSE GARDEN
 WEDNESDAY, APRIL 29, 1992
 2:00 P.M.

[Acknowledgments] A warm welcome to the White House for all of you -- especially the many grass-roots fighters for economic freedom who have travelled long distances to be here. You honor us with your presence. I appreciate all your efforts for fundamental reform of government regulation. This is one of the top priorities I stressed in my State of the Union message, and it is a vital element of government reform -- one of five key issues on our national reform agenda.

Remember, the early residents of the White House were men like Jefferson and Madison. They were freedom fighters, they were revolutionaries. Two hundred years ago they unleashed forces of social and economic freedom that gave the world a whole new way of thinking about man's relationship to government. They made the United States a haven for the poor and the oppressed -- a land of opportunity. \\
\\

Our system did not promise material well-being, but it guaranteed personal freedom. In just one century's time, millions of poor people came here from every corner of the Old World. And because America empowered them to use their God-given talents to the fullest, people who came to our shores with nothing but faith and imagination made us the richest nation on earth -- in a poet's phrase, the New Colossus. \\
\\

When a great economic shock hit the world six decades ago, our governing elites turned too readily to projects of social engineering. They embraced the notion that human actions, human choices, could be organized to good effect through bureaucratic blueprints. They began a cycle of rule by bureaucracy.

The age of social engineering suppressed our precious heritage of limited government and the rule of law. It veered us away from the tradition of the accountability of citizen legislators. Our Congress shirked its own responsibilities while embracing many premises of the command economy. Congress passed laws mandating Americans to dance to the tune of arbitrary social and economic goals -- while Congress handed off to a new class of bureaucrats the details of the choreography. \\

Under the rule of bureaucracy, we felt the growing burden of regulation's hidden taxes. And we learned some hard lessons. We learned that lonely keepers of the flame of economic freedom -- men like the late Friedrich Hayek -- were right. The era of bureaucracy and regulation produced one example after another validating Hayek's observation: rule by bureaucracy undermines the true rule of law and runs headlong into the iron law of unintended consequences. \\

Inflexible safety rules can undermine safety in unforeseen ways: If government mandates make ladders more and more costly to consumers, for instance, more people will turn to cheaper substitutes. They'll climb on chairs and stepstools -- which are far less safe. Anti-market environmental rules can harm the

environment. Consider the case of used motor oil: Today it has a very low market value -- just enough to provide collectors an incentive to haul it away for free and sell it for reuse. But if onerous bureaucratic handling methods are imposed, collectors may refuse to haul it away unless they are paid to pick it up. To avoid paying to have it hauled away, holders of used oil may just dump it into the trash or into storm drains or streams or lakes.

I could go on all day with examples of abstract rules in collision with human reality: How highway fatalities can increase and American auto workers can lose jobs when Congress mandates the fuel efficiency of our cars. How a regulation system, plump with noble intentions, can keep life-saving drugs and medical devices from patients who need them. \\

But we're here today for another purpose. We're here to mark that the era of unaccountable government and unreasoning bureaucracy is coming to an end. A new American revolution is under way -- and you and I and millions of like-minded people are leading it. \\ Reforming regulation is a huge and time-consuming task -- presiding over the Task Force on Regulation during the 1980s was, for instance, one of the most important assignments President Reagan gave me when I was Vice President. But today regulation is facing a heightened public concern, and a growing public impatience. This is helping us accelerate needed reforms.

In my State of the Union Address, I lit a fire under our regulatory reformers and gave them 90 days to produce dramatic results. Today marks the 91st day -- and let me report our

reformers have come through with flying colors. From biotechnology to banking to energy, we've made achievements that will lower costs and increase choices for American consumers. We've carried out reforms that will create and preserve good jobs for Americans and help us stay competitive in the world. [[macro numbers on savings to consumers and illustrations of agency actions directly benefiting consumers' pocketbooks.]]

[I want to note that every agency I asked to participate has responded with action. Some agencies already have carried out important reforms, and all agencies has completed a reform agenda which they will carry out in the coming months.]

Today I am ordering a [¹²⁰??-day] extension on the moratorium on regulations, and during this time I expect more accomplishments for freedom and common sense.

I'm permanently directing federal agencies to follow stricter accounting practices in comparing the real costs versus the real benefits of proposed regulations.

And I'm asking ask Congress to do its part. I am asking Congress to pass legislation to give the President regulatory rescission authority comparable to the line-item rescission. [I am asking Congress to accept a common-sense discipline clearly in the interest of American taxpayers and consumers. Under my proposal, I would take a separate look at every new regulation or scheme of regulations that Congress attempts to mandate. If I find that the costs to society outweigh the benefits, or that the regulation is simply unenforceable, I would be able to send it

back to Congress for a clear up-or-down vote. Congress would be unable to hide bad regulations in the fine print of lengthy legislation. So if members of Congress want to join this spirit of reform right now, they can pass my proposal.]

Further, I'm putting Congress on notice: I will veto any bill that attempts to put excessive new burdens of regulation on the backs of our families, our consumers, our workers, and our businesses. \\

Let me be clear about our aims: We cannot and will not abolish all regulation. I have responsibilities as chief executive to enforce sound regulations for the health and safety of the American people -- and I'll keep that trust. But the best way to keep that trust is through a fundamental reform of our system of regulation. This is not a three-month or six-month effort. This is not an exercise in adjusting or fine-tuning the system. \\ There will be no -- I repeat, no -- return to business as usual. \\ We are engaged in a revolution to overthrow the outdated and excessive rule by bureaucracy. \\

Our campaign against bureaucratic excess meshes with our efforts to limit the terms of congressmen and make them more accountable. It fits also with our crusade against the tyranny of nuisance lawsuits that mock our time-honored traditions of justice. And it goes hand in hand with our efforts to break the bureaucratic stranglehold on American education -- by allowing parents, not government, to choose their children's schools. In short, there's a common purpose linking the all of our efforts to

renew the spirit and practice of limited government. \\

Let me leave you with one final thought. Perhaps you've heard about the time baseball fans in St. Louis gathered in the old Sportsman's Park to celebrate a day in honor of their native son, Yogi Berra. Yogi quavered with emotion as he stepped up to speak. "First," he said, "from the bottom of my heart let me thank all the people who have made this day necessary." \\\

The point of the story is this: The freedom-loving people of this country -- the people of ingenuity -- are not merely making renewal of limited government possible. \\
 They're making it necessary. \\
 They're making it inevitable. \\
 Technological advance is accelerating so rapidly that bureaucracy can hope only in vain to keep up.

So let's take heart -- and let's get to work. We can see the future. It's a freer future. There is no doubt in my mind: The day is coming when we will put the final wrecking ball to the discredited system of the social engineers. We will restore this country. We will build it back, sturdy in the radical faith in freedom that is the legacy of our Founding Fathers.

[Signing ceremony]

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(Duggan/Simon)
April 23, 1992
Draft One
Dereg

PRESIDENTIAL REMARKS: REGULATION REFORM CEREMONY
ROSE GARDEN
WEDNESDAY, APRIL 29, 1992
2:00 P.M.

[Acknowledgments] A warm welcome to the White House for all of you -- especially the many grass-roots fighters for economic freedom who have travelled long distances to be here. You honor us with your presence.

Remember, the first residents of the White House were men like Jefferson and Madison. They were freedom fighters, they were revolutionaries. Two hundred years ago they unleashed forces of social and economic freedom that gave the world an entirely new paradigm for man's relationship to government. They made the United States a land of opportunity -- a haven for the poor and the oppressed. \\
\\

Our laws and our system of government did not promise material well-being, but they guaranteed personal freedom. In just one century's time, millions of poor people came here from every corner of the Old World. And because America empowered them to use their God-given talents to the fullest, people who came to our shores with nothing but faith and imagination made us the richest nation on earth -- the poet's New Colossus. \\
\\

When a great economic shock hit the world six decades ago, our governing elites suffered a lapse of faith in our traditions of freedom and responsibility. Vainly, they embraced the project of social engineering -- the notion that human actions, human

*Emma
Lazarus
poem about*

*Statue of
Liberty*

choices, could be manipulated as easily as civil engineers manipulate stone and steel. They began a cycle of rule by bureaucracy. Like the Lilliputians swarming over Gulliver, bureaucracy cramped and pinned the colossus of American freedom.

The age of social engineering suppressed our precious heritage of limited government, of the rule of law, of the accountability of citizen legislators. Our Congress shirked its own responsibilities while embracing many premises of the command economy. Congress passed laws mandating Americans to dance to the tune of abstract social and economic goals -- while Congress handed off to a new class of bureaucrats the details of the choreography. \\

Under the rule of bureaucracy, we learned some hard lessons. We learned that lonely keepers of the flame of economic freedom -- men like the late Friedrich Hayek -- were right after all. The era of bureaucracy and regulation produced one example after another validating Hayek's observation: that rule by bureaucracy undermines the true rule of law, that government regulation causes unintended consequences. \\

We've seen abstract safety rules undermine safety: When government mandates make ladders more and more costly to consumers, for instance, more people climb on chairs and stepstools -- which are far less safe. We've seen that abstract environmental rules can harm the environment. Consider the case of used lubricating oil: Now it has a very low market value -- just enough to provide collectors an incentive to haul it away

for free and sell it for recycling. But if new bureaucratic handling methods are imposed, collectors will refuse to haul it away unless they are paid to pick it up. To avoid paying to have it hauled away, holders of used oil will be tempted to dump it into the trash or into storm drains ^{that feed and} or streams or lakes.

I could go on all day with examples of government by abstraction and its tragic collisions with human reality: How highway fatalities increased when Congress mandated the fuel efficiency of our cars. How a regulation system, plump with noble intentions, keeps life-saving drugs and medical devices from patients who need them. \\

But we're here today for another purpose. We're here to mark that the era of unaccountable government and unreasoning bureaucracy is coming to an end. A new American revolution is under way -- and you and I and millions of like-minded people are leading it. \\

1-29-92
In my State of the Union Address, I lit a fire under our regulatory reformers and gave them 90 days to produce dramatic results. They have not disappointed us. Today marks the 91st day -- so allow me to give a progress report: [details] *yes*

Today I am ordering a 90-day extension on the moratorium on regulations, and during this time I expect more deregulation -- more accomplishments for freedom and common sense. Through the executive order I will sign in a moment, I also am making permanent an essential reform to bring all federal regulation under the central oversight of the Office of Management and

22
29
31
28
90

Budget. This will eliminate a major cause of governmental confusion, cross-purposes, and unintended consequences.

And we'll ask Congress to do its part. I'm asking today for historic new rescission authority to block harmful regulations. And I'm putting Congress on notice: I will veto any bill that attempts to put burdensome new regulations on the backs of our families, our workers, and our businesses. \\

Let me be clear about our aims: This is not a three-month or six-month effort. This is not an exercise in adjusting or fine-tuning the system. The system is broken beyond repair. \\ There will be no -- I repeat, no -- return to business as usual. \\ We are engaged in a revolution to overthrow the cycle of rule by bureaucracy. We are fighting to regain -- and never again give up -- fundamental freedoms. \\

Our campaign against bureaucracy meshes with our efforts to limit the terms of congressmen and make them more accountable. It fits also with our crusade against the tyranny of nuisance lawsuits that mock our time-honored traditions of justice. In short, there's a common purpose linking the all of our efforts to renew the spirit and practice of limited government. \\

Let me leave you with one final thought. It begins with one of the classic pronouncements of a man I admire, Yogi Berra.

Baseball Anecdotes
p. 207
 After Yogi became a sportsman of national renown, friends from his old neighborhood on the south side of St. Louis organized a ^{tribute} ~~dinner~~ in his honor. Yogi was overcome with emotion when he rose ~~to accept the many testimonials.~~ His voice quavered, and he

~~began to speak. "First," he said, "let me thank from the bottom~~
~~of my heart~~ all the people who have made this evening necessary."

\\

The relevance of Yogi's story is this: The freedom-loving people of this country -- the people of ingenuity -- are not simply making renewal of limited government possible. \\ They're making it necessary. \\ They're making it inevitable. \\ One of our gifted young intellectuals, Chris DeMuth, put it this way: "The pace of technological change has become so rapid that new markets are established quickly, before regulators have time to suppress them."

Let's take heart from that wise insight as we work to renew our basic freedoms. There is no doubt in my mind: The day is coming when we will put the final wrecking ball to the discredited system of the social engineers. We will restore this country. We will build it back, sturdy in the radical faith in freedom that is the legacy of our Founding Fathers.

[Signing ceremony]

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I want to
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CAPTAIN OF ENTERPRISE

Christopher C. DeMuth on the Business of Liberty

AN INTERVIEW BY ADAM MEYERSON

After several years of ideological indirection and financial instability, the American Enterprise Institute has regained its footing as one of America's leading conservative public policy research organizations. The turnabout has come under the direction of its president since 1986, Christopher C. DeMuth, a University of Chicago-trained lawyer with a strong background in the law and economics movement who was head of the White House regulatory office in the first Reagan term. In February 1992, DeMuth talked with *Policy Review* editor Adam Meyerson about the economic achievements and failures of the Reagan and Bush administrations, AEI's research agenda on behalf of the free economic and political order, and relations between the business community (with which AEI has strong ties) and the conservative political movement.

Policy Review: You've argued that, with the fall of the Soviet empire, "the decisive moral contest in our future is between democratic capitalism and socialism." What is the nature of this contest? Who is the enemy?

DeMuth: Socialism is the idea that government can usefully organize the lives of individuals toward some social purpose—whether it be better and cheaper health care, or the elimination of poverty, or the preservation of the family farm. However noble the purpose may be, it is rarely achieved by government because people have purposes of their own and adapt to government policies in ways that compromise or defeat them, and because interest-group pressures skew government programs to the groups' purposes at the expense of others. These difficulties afflict all government programs, including "night-watchman state" functions such as defense and law enforcement, but they become much more serious as the ambitions and size of government increase and as it attempts to regiment private markets and the internal affairs of social and economic groups.

Today Communism has been defeated and avowedly socialist parties are on the defensive. Yet the idea of limited government, which was central to the American Founding and the first century and a half of our history, remains alien to modern politics. It has been decades

since a mainstream politician rose in the Congress to oppose a new spending or regulatory program on the simple ground that it was beyond the constitutional or prudential bounds of government. The reigning spirit is political pragmatism, which regards government as a neutral or beneficial force rather than as a deeply problematic enterprise and which treats all questions of policy as matters of case-by-case political calculation. This pragmatism is endlessly amenable to new extensions of government, yet incapable of understanding why government projects so often go amiss except in terms of corruption, sloth, or stupidity. The result is that government and popular disillusionment with government grow in tandem—a very unhealthy situation.

Now the moral and philosophical arguments for limited government are tremendously important and need to be pressed at every opportunity. But I also think that policy research organizations such as AEI and Heritage need to adopt for purposes of argument the pragmatic spirit of the age. We need to demonstrate empirically—in a way that will be convincing to those who do not share all our philosophical premises but do believe in "the facts"—the actual effects of particular government policies and to show how well-intentioned policies systematically miss the mark due to compensating private behavior and interest-group politics. And we need to show how the economic or social circumstances that are said to call for government action are frequently exaggerated, self-correcting, or no worse than the government-prescribed cure—again as a matter of factual argument rather than overriding principle.

P.R.: Is the growth of government an inherent feature of democratic politics? Or are there important constraints that can at least contain socialism, if not roll it back?

DeMuth: The success of tax-limitation politics during the Reagan years in Washington and at the state level from California to New Jersey suggests there may be a "political maximum" of average tax rates. Tax limitation is, however, a very imperfect tool for limiting government when the government has so many other means

of financing its activities—borrowing, printing money, and “mandated benefits” and other forms of regulation.

Some striking recent research by Sam Peltzman of the University of Chicago concludes that voters tend to punish public officials who increase government spending rather than those who increase taxation. This research suggests that voters understand that whatever the government spends it eventually taxes one way or another, but it also suggests that politicians have behaved irrationally over extended periods of time. Perhaps the recent resurgence of conservative politics shows that pragmatic politicians have anticipated Peltzman’s research. Over the past decade popular, anti-establishment movements in the United States, Britain, New Zealand, Sweden, and elsewhere have constrained the growth of government and even cut back on transfer payments, subsidies, and state ownership of industries.

The growth of international commerce and finance is also working to limit the growth of government. As business firms find it easier to relocate their activities away from relatively high taxes and regulatory impositions, nations lose effective jurisdiction. I was struck, for example, that after the stock market crash of October 1987, the U.S. Congress and regulatory agencies did almost nothing to “fix the problem” despite a good deal of huffing and puffing. The traditional response to an event of this magnitude would have been a welter of new laws and regulatory controls; I think the principal reason for forbearance was that it was evident that new compliance costs and trading restrictions would have promptly driven U.S. trading business to exchanges in London, Tokyo, and elsewhere.

The political effects of the growth of international markets are not, however, one-sided. Where international trade threatens the policy discretion of individual governments, the governments respond by restricting trade or forming “policy cartels.” There is a good deal of this in the movement toward economic and political integration in Europe. Similarly, governments and environmental groups are giving greater prominence to international environmental issues as it becomes more difficult for individual nations to pursue costly environmental policies unilaterally.

P.R.: You’ve suggested that an underlying reason for the growth of government may be the emergence of a “middle-class populism” that favors government subsidy as a way of keeping down costs of education, health care, housing, and other important goods and services.

DeMuth: With the general growth of education, income, and wealth in most of society, one of the most important traditional sources of the growth of government—redistributive politics—has lost much of its emotive force. It has been replaced by efforts to provide new governmental benefits for people who are fairly solidly middle class but who may be persuaded to regard themselves as belonging to a particular group—consumers of some good or service, members of a certain age group, members of a certain racial group, or as single versus married versus married with children. No longer do we see the Democrats standing up for the union



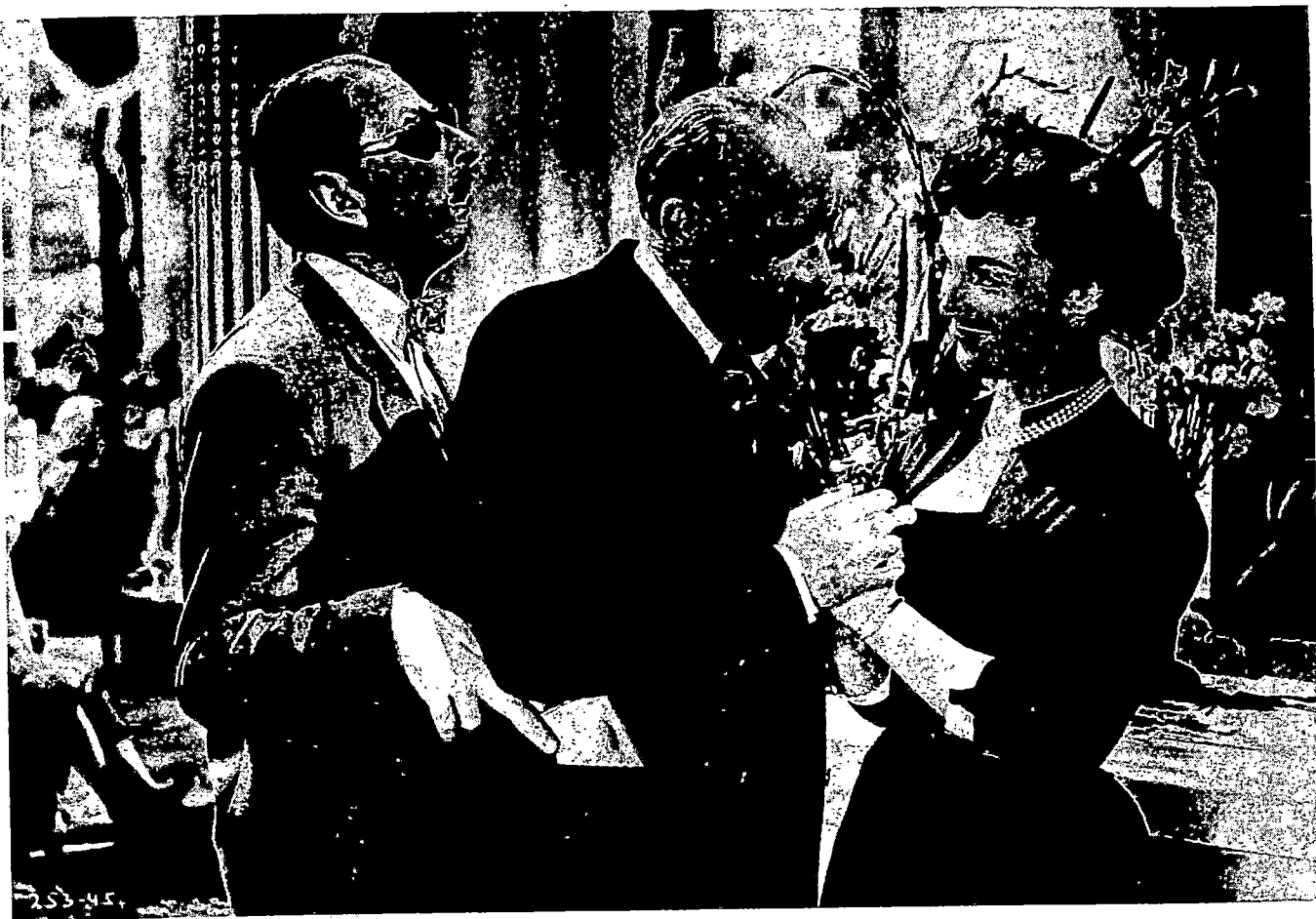
American Enterprise Institute

Christopher C. DeMuth: With the fall of the Soviet empire, “the decisive moral contest in our future is between democratic capitalism and socialism.”

man versus the Republicans standing up for management. Instead, both parties are now competing for the affections of the middle class by promising that health care or auto insurance or housing can be provided better or more cheaply if government provides or guarantees or subsidizes it. The federal budget is now largely devoted to middle-class subsidies of one kind or another, most prominently medical care and retirement income but also a profusion of narrower ones such as student loans and farm subsidies.

It is all an illusion: there are not remotely enough rich people to subsidize the middle class, and the poor pay almost no taxes and no one is suggesting they should. So it is just the middle class subsidizing itself—people who are pretty much alike economically, but who are encouraged by politicians of both parties to think of themselves as elderly or young, as parents or children, as medical patients or students or homeowners, rather than as people who are all or most of these things at one time or another. At some point a political leader is going to come along with the wit to point out that we cannot all grow wealthier by picking each other’s pockets, but for the time being the preservation of this illusion is a bipartisan project and virtually all politicians believe their careers depend on preserving and extending it.

The failure to stop the growth of middle-class self-subsidy was the single greatest missed opportunity of the



Photofest

"Most government expenditures consist of the middle class subsidizing itself. But we cannot all grow wealthier by picking each other's pockets."

Reagan years. This failure was based on a misreading of the political reaction to President Reagan's disastrously ill-conceived Social Security reform proposal at the beginning of his first term. The political blunder was not to propose reforms to Social Security, but to propose reductions in benefits to people who were already retired or about to retire.

It is true but irrelevant that current Social Security benefits are far greater than the value of the payments made by those who are now receiving benefits. The relevant fact is that retirees expected a certain level of retirement benefits and planned their affairs accordingly—upsetting these plans is a violation of social contract. But imagine if someone were to propose adjusting benefits far in the future, so as to maintain Social Security as a reliable safety net but not as a guarantee of a high level of retirement income. The political consequences could be very different. I do not think those who would be affected by such a change—say those who are now 45 years old—would react strongly against it. They have plenty of time to adjust, and many of them realize that the current rate of increase in benefits is demographically unsustainable, given the much smaller cohorts following the baby-boomers. Just ask around the office how many people in their 40s think their Social Security benefits are going to be as generous as those of their parents. Formally acknowledging and accommodating this reality now, rather than waiting until a major funding

crisis is upon us 20 years from now, would be good policy—encouraging private saving and avoiding inequities between those who are more and less politically sophisticated.

P.R.: You've said that the purpose of the American Enterprise Institute is "to do battle, in scholarship and intellectual debate, on behalf of the free economic and political order." What are your current research priorities?

DeMuth: At AEI we try to adopt a longer time horizon than the legislator, executive branch official, or journalist, but to stay much closer to practical policy issues than a purely academic research institution. We attempt to look beyond the immediate political fray and anticipate which issues will be important three or four years out—time enough for us to prepare useful, original research that will make the ensuing debates more informed, less polemical, and more productive. If an issue is being teed up at the Ways and Means Committee next Tuesday afternoon, it is too late for AEI to get into it.

Of course, if we're successful at this we will have a good deal to say about current controversies at any point in time. AEI scholars are routinely consulted on current policy issues and frequently testify before congressional committees, write newspaper "op-ed" pieces, appear on

television public affairs programs, and so forth. But ideally these contributions are the tips of large, longstanding icebergs of research.

In defense and foreign affairs, our chief priority is to help define a new set of principles and purposes for American foreign policy in the post-Cold War era—where the United States will have fewer outright enemies but also fewer staunch allies, where the military and economic threats to American interests are much subtler than they have been, and where traditional notions of national sovereignty are losing ground to transcendent ideals of human rights and democratic self-government. An immediate focus in the military sphere is on the paradox of superpower disarmament combined with weapons proliferation in what used to be called the Third World, and the consequences of the diffusion of nuclear and other weapons technologies.

In domestic policy our work is concerned with economic growth, social welfare, and the vitality of American culture and political institutions. The central task of economic policy is to revive the growth in productivity that was characteristic of the U.S. economy for most of the 20th century but has slowed dramatically since the early 1970s, with harmful effects not only on economic progress but on American optimism. If Americans are less confident than we used to be that our children will be better off than we are as a matter of social progress as well as individual pluck, we are accurately reflecting two decades of slowdown in productivity growth. This slowdown is not inevitable. On the contrary, advances in technology and the growth of world markets could yield even greater progress than in the past.

We are devoting particular attention to two areas of economic policy. The first is health care, retirement income, and labor market policies. For all the current talk about expanding federal health care programs, the largest existing program, Medicare, will be insolvent in a decade or so; the long-term prospects of our Medicare and Social Security programs are much larger fiscal issues than the year-to-year budget deficits that receive so much more attention in Washington. And in the meantime, various tax and “mandated benefits” policies make it more expensive to hire people even as economic change makes labor mobility more important.

The second is a revival of the deregulation movement. Great progress was made in this area in the 1970s and 1980s, drawing on important research produced at AEI and elsewhere. More recently the reformist spirit seems to have left regulatory policy, and state and federal regulation has been growing rapidly again. Our work here will focus heavily on deregulation where obsolete policies are imposing particularly heavy costs in the form of suppressed innovation—broadcasting and communications regulation, financial market regulation, and food and pharmaceutical regulation—and on reform of environmental regulation. Environmental reform means the adoption of reasonable rather than fanatical risk-reduction goals, and the use of markets and economic incentives for achieving these goals. I see great potential for improvement in both areas; current environmental policies have become so extravagantly wasteful that even some of the environmental groups have come to under-

stand the possibilities of environmental as well as other economic gains from reform.

Probably the most distinctive focus of AEI's work is the social and political foundations of the free society and “democratic capitalism.” Much of our best work and many of our best-known people—Michael Novak, Irving Kristol, Robert Bork, Dinesh D'Souza, Ben Wattenberg, Suzanne Garment, and others—are concerned with the health of America's cultural, educational, and social institutions. Doug Besharov, Nick Eberstadt, Charles Murray, and Karl Zinsmeister are working on the difficult issues of child and family welfare and the effects of government welfare policies. Karlyn Keene, Norman Ornstein, and William Schneider are producing important new work on changes in the American electorate and parties and on proposals for political and congressional reform.

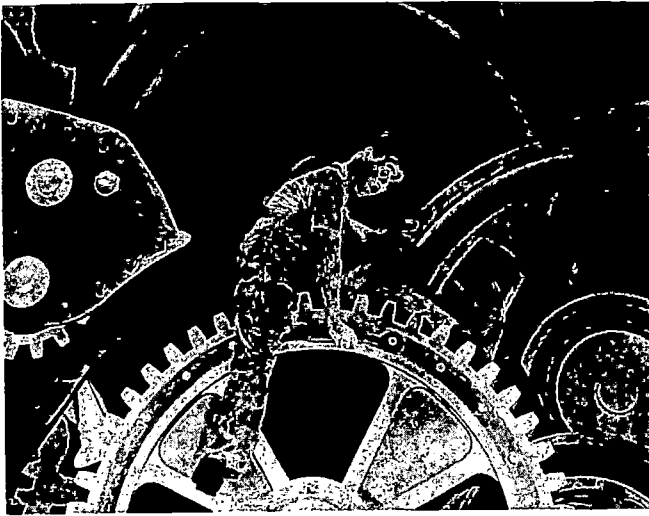
P.R.: Economic growth has been slower under George Bush than in the first three years of any recent presidency. To what extent do the recession and sluggish recovery result from Bush's tax and regulatory policies, to what extent from policy mistakes of the '80s, and to what extent from a natural and inevitable unfolding of the business cycle?

DeMuth: The current recession has been relatively mild by postwar standards; certainly it is mild compared with that of 1981–82. But it has coincided with a substantial

“Conservatives and libertarians play a risky game in making the recession a centerpiece of their attacks on President Bush.”

amount of corporate restructuring and is having a more pronounced effect on middle-class, white-collar jobs. We have heard much more talk of economic hardship this time around because more of the people hurt by this recession are well-educated and articulate and therefore are conspicuous to politicians and journalists. It has been a very long recession and it is not going to be followed by a dramatic resumption of growth the way previous ones were—the recovery, when it comes, will be seriously constrained by large federal budget deficits and heavy government borrowing, by the reduction in foreign financing from Japan and Germany, and by the effects of new regulatory programs that have greatly increased the costs and uncertainties of new investment and new hiring.

Even very healthy economies do not grow without pause or without dislocations caused by shifts in private patterns of production and consumer demand—as Herb



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“The central task of economic policy is to revive the growth in productivity that has slowed down since the early 1970s.”

Stein said in a recent article, “Recessions Happen.” I doubt that the Bush administration could have done anything to prevent a recession following the long expansion of the 1980s, or to avert the recent corporate restructurings, many of which were long overdue and will be beneficial in the longer run. Conservatives and libertarians are playing a risky game in making the recession a centerpiece of their attacks on President Bush’s policies.

People of all political persuasions whose lives are absorbed in politics and public affairs tend to exaggerate the consequences of government policies in order to magnify the stakes of the political battles they are engaged in. In fact, an economy as immense and diversified as ours is capable of absorbing a tremendous amount of government-imposed damage and continuing to perform quite nicely. This is an important but little-appreciated implication of Ronald Coase’s work, which won him the Nobel Prize last year, and of the “rational expectations” school of macroeconomics that builds on Coase’s work.

Although the tendency to exaggerate the influence of government policies is an occupational hazard of both liberal and conservative activists, it’s a much more serious problem for conservative and especially for libertarian activists. The great proficiency and self-governing power of private markets is *our* argument, after all. If we adopt the premise that the economy is a hothouse flower, acutely sensitive to every policy adjustment made in Washington, what has happened to our argument that government programs are often futile because private interests and markets compensate and compromise their purposes? If we wish to encourage greater modesty in the claims of government, we need to be more modest in the claims we make for our own policies.

Having said all this, I do think the domestic policies of the Bush administration have been harmful and have contributed to our present economic difficulties. The serious problems of our banks and thrifts, for example, are largely the result of government policies and were clearly evident at the time George Bush took office.

Although the economy-wide costs of these problems have been cushioned by the growth of other, unregulated financial institutions, the costs and dislocations could have been greatly ameliorated by some fairly straightforward reforms—especially abolition of the Glass-Steagall Act and privatization of deposit insurance—that the administration repeatedly shied away from. The new Clean Air, Civil Rights, and Americans with Disabilities Acts are going to impose many billions of dollars in annual costs on the economy without remotely commensurate social benefits. The president’s embarrassing embrace of managed trade during his recent trip to Japan seriously compromised American leadership on trade liberalization. The cumulative effect of these sins of omission and commission are significant, even in a \$6-trillion economy.

President Bush’s renegeing on his “no new taxes” campaign pledge was the bellwether event of his presidency, comparable to President Reagan’s handling of the PATCO air controllers’ strike in 1981. Both actions had consequences far beyond the issues at hand, because they were convincing signals to political allies and foes, bureaucrats, and private citizens of how the president would respond to political pressures in a multitude of other circumstances. Reagan’s breaking of the PATCO strike signaled, accurately, that “no more business as usual in Washington” was more than campaign rhetoric. Bush’s agreement to a tax increase he had vowed never to accept signaled, with equal accuracy, that it was back to business as usual. Everyone in Washington, with the possible exception of a few of President Bush’s advisers, understood that the 1990 budget agreement was not about solving a particularly knotty fiscal problem, but about whether it was safe to get back to promoting increased federal spending, taxation, and regulation. In both cases millions of private citizens understood what was happening and adjusted their affairs accordingly, adding to productive economic activity in the 1980s and subtracting from it in the 1990s.

P.R.: Would you favor a “growth package” designed to boost the economy this year?

DeMuth: It depends on what you mean by “growth package.” If you mean a pastiche of short-term tax and regulatory adjustments intended to inject immediate adrenaline into the economy this year, my answer is no. At best these sorts of gimmicks will be too small to have much effect on the general economy and will be instantly discounted; at worst—and more likely—they will signal a return to the politics of handing out tax exemptions and regulatory exceptions to politically influential groups, and to this extent will make the immediate economic situation worse.

If you mean policies aimed at reviving the long-term growth of productivity, income, and wealth—not before November but over the next several decades—then I’m in favor of them and claim they would have some positive immediate effects. This would include “credible steps”—meaning concrete actions as well as legislative proposals—toward curing the long-term insolvency of our middle-class entitlement programs, reducing govern-

ment-induced inflation in medical care costs, restoring freedom of contract in labor markets, reforming primary and secondary public education, eliminating regulatory barriers to innovation in high-growth-potential markets, and establishing less wasteful and more effective environmental programs. Every one of these steps would be dismissed out of hand as suicidal by today's practicing politicians and their managers and pollsters, but I am certain they could be politically as well as economically successful, even in the fairly short run.

P.R.: As you've noted, the budget deficit has disappeared from the public discourse of establishment Washington, even as the deficit itself has risen to its highest relative level since World War II. Under what circumstances, if any, are budget deficits a problem?

DeMuth: The size of the annual budget deficit is not as important as the uses to which government spending is directed. Well-run businesses borrow constantly during periods of rapid growth, and they can do so indefinitely as long as they invest the money in activities whose economic returns exceed the costs of borrowing. Borrowing, whether by a business or a government, becomes a problem when it does not finance future growth. So the deficit problem is really a spending problem, because most government spending doesn't meet the growth test. This is not to insist that government spending should always meet a growth test, but only that expenditures on current consumption, such as income transfers, should be covered by current taxation or even (although this raises problems of its own) by surpluses.

To the extent the large budget deficits of the 1980s financed the substantial growth in our military capabilities, and to the extent this growth contributed to the collapse of the Soviet Union's international ambitions (as several well-placed Soviet officials have said it did), then this turned out to be a spectacularly productive investment rather than a squandering of our national wealth. On the other hand, budget deficits really are impoverishing if they simply finance current consumption or if they are wasteful—paying for things citizens don't want or encouraging inefficiency in private markets.

In all events, year-to-year budget deficits are not nearly as important as whether the total amount of national debt is rising or falling as a proportion of GNP. If total debt is rising rapidly in proportion to economic activity, as it is today, then current borrowing is unlikely to be financing future growth but is instead placing a growing burden on future generations.

P.R.: With the possible exception of the University of Chicago, AEI did more than any other research organization to lay the intellectual groundwork for the deregulation movement of the Ford, Carter, and Reagan administrations. What were the most important lessons from this triumph of ideas over entrenched political interests?

DeMuth: The first lesson is that pure triumphs of ideas over entrenched political interests are rare to nonex-

istent. When ideas triumph, it is usually because they become harnessed to the interests of important political constituencies. This is not to denigrate the power of ideas. But those of us in the idea business need to appreciate that our role is not to slay dragons but to educate people to a more accurate and larger conception of where their interests lie.

The closest approximation to a pure triumph of ideas in regulatory policy was the revolution in antitrust incited by the work of Robert Bork, Richard Posner, and others in the middle 1970s. But this is the exception that proves my rule, because here there were no entrenched political interests. A collection of populist antitrust doctrines had

“The long-term prospects of Medicare and Social Security are much larger fiscal issues than the budget deficits that receive so much more attention.”

grown up over the years through Supreme Court decisions, and although these doctrines produced a lot of economic damage they did not benefit any well-defined political constituency. For example, no particular group benefits in advance from a highly restrictive or highly permissive policy toward corporate mergers.

As a result, the reversal of Warren-era antitrust doctrine in the 1970s and 1980s proceeded largely through intellectual debate in the law schools, law reviews, and eventually the courts, unimpeded by organized political opposition. The one exception, where Chicago School antitrust has yet to prevail, is in the area of permitting manufacturers to set the retail prices of their products in order to promote effective distribution and marketing; this is the one area where an influential political group—discount retailers—opposes the change.

In other areas of regulatory policy, for example airline regulation, research at AEI and elsewhere was certainly influential, but I doubt it would have prevailed in the absence of several important political and demographic developments, especially the decline in the political influence of unionized labor and the growth of the size and prosperity of the middle class. Senator Kennedy's airline deregulation hearings in 1978 played to an audience of potential airline travelers that had become larger and more politically important than unionized airline employees. The dramatic wage adjustments that followed airline and trucking deregulation showed that a large part of the excess profits produced by regulated fares and entry had been captured by unionized employees.

It has been harder to deregulate broadcasting and telecommunications and financial markets because the interests that profit from government restrictions—cable television firms and stockbrokers, for example—have more political clout than the airline and teamsters' unions did. There is good reason to hope for progress in these areas, however. The pace of technological innovation has become so rapid that new markets are established quickly, before regulators have time to suppress them. And the economic costs of maintaining the existing regulatory programs are becoming so large and conspicuous that the foreseeable benefits of deregulation are generating political pressure for reform.

The economic benefits of deregulation have been enormous—if anything, even larger than economists predicted. The distribution of benefits has sometimes been surprising, but this is because free markets are driven by consumers rather than by government planners and often go off in unanticipated directions. For instance, the biggest winners from airline deregulation

“The conservative movement’s greatest strength is that it is the *avant garde* of American political thought.”

have been vacationers and those who used to travel by bus or car because they could not afford air travel. Business travelers—those who tend to complain about the effects of deregulation—have generally enjoyed significant gains as well, in price, frequency, and directness of route, but their gains have been smaller than others' and have often been compromised by more crowded coach cabins.

The “excesses” of deregulation one hears about in the popular media are misunderstandings. The savings and loan debacle was a predictable (indeed predicted) result of too little deregulation—investment and interest-rate restrictions were removed while deposit insurance and other policies continued to guarantee depositors against risk, resulting in large government subsidy of imprudent pricing and investing. The judicial restructuring of AT&T was not deregulation at all, but rather a transfer of business decisions from within the old Bell System to the regulatory arena and the erection of a complex program of market allocation—the hallmark of protectionist regulation—administered by the courts.

P.R.: What are your major concerns about the Bush administration’s approach to regulation?

DeMuth: The president has made a few excellent appointments to the regulatory agencies, such as Alfred Sikes at the Federal Communications Commission, Wendy Gramm at the Commodities Futures Trading

Commission, and Anne Brunsdale at the International Trade Commission. But mostly he has appointed men and women dedicated to aggressive expansion of their agencies’ regulatory turf—then given them hefty budget increases. And he has passed up opportunities to reappoint principled deregulators, such as Heather Gradison, who had been the best chairman in the history of the Interstate Commerce Commission.

As a result, the front lines of federal regulation are currently manned by people dedicated to expanding those lines rather than improving the performance of the industries they regulate. The Securities and Exchange Commission, which is supposed to promote the efficiency of securities markets through financial information disclosure, has been thrashing about looking for new fields to conquer—futures markets, the Treasury bond market, corporate governance. The Food and Drug Administration has inexplicably embarked on a crusade to suppress the dissemination of truthful information about foods and pharmaceuticals, based on the pernicious idea that consumers and physicians cannot assess information that is partial or that comes from an interested source. It is very discouraging to see political officials so preoccupied with the narrow bureaucratic interests of their agencies when critical industries such as financial services and pharmaceuticals are badly overregulated to begin with.

I am also concerned about the lack of leadership from the top. Although the vice president’s Council on Competitiveness has done heroic work in trying to counter the growth of regulation, it lacks the staff and institutional authority to deal with the scores of regulatory proposals that come out of the agencies each week. The Office of Management and Budget’s regulatory branch has a large and knowledgeable staff and an able career director, but its lack of political leadership for three years running has seriously weakened the regulatory review program established in earlier administrations.

P.R.: You were head of OMB’s Office of Information and Regulatory Affairs (OIRA) in the first Reagan term. What did you do that is not being done now?

DeMuth: The Reagan administration established a fairly effective program at OMB that reviewed all executive-branch regulations under a cost-benefit standard. I administered the program for several years, but the effort was led by then-Vice President Bush and involved several others—Dave Stockman, Jim Miller, Doug Ginsburg, and Wendy Gramm. And although President Reagan’s strong views on federal regulation gave the program particular bite, it was not a dramatic new departure but rather an extension of similar programs of the Nixon, Ford, and Carter administrations. Central review of agency regulations is a natural and nonpartisan response to the growth of regulation itself, much as central review of agency budgets was a response to the growth of federal spending in the 1910s and '20s.

During the Reagan years the review process was solidified and extended to include a twice-yearly exercise in which the agencies and OMB would agree on rulemaking priorities, including both new regulations and aboli-

tion or reform of existing regulations, for the coming months. More important, the cost-benefit standard—the principle that new regulations should be issued only on good evidence that the social benefits would exceed the social costs—was established as executive branch policy and, through rulemaking and litigation, made some headway in the courts. Eventually an executive order applied the cost-benefit standard in the form of detailed program-by-program guidelines.

Our greatest failure was not getting the cost-benefit standard and OMB review process codified in statute and applied to rulemaking by the so-called independent regulatory agencies such as the Federal Trade Commission and the Securities and Exchange Commission. A bill to do this passed the Senate 94-0 early in President Reagan's first term, but died in the House. President Bush should propose such legislation and fight for it now. This would be a better way of getting the agencies to focus on regulatory reform than the "regulatory moratorium" and other administrative steps the president has taken recently. It would precipitate a huge controversy in the Congress, but the controversy would concern the right questions—which economic standards should guide regulatory decisions, whether regulatory agencies should be accountable to the president or to the congressional committees—rather than sideshows like industry meetings with White House officials.

P.R.: Rumor has it that you were one of the top candidates for Environmental Protection Agency administrator in the first Reagan term. What direction do you think environmental policy should be going in?

DeMuth: The American people strongly support large public expenditures on improving the environment. This is an important and appropriate function of government in the modern world, and one that political conservatives should embrace with enthusiasm.

The policies we are pursuing to protect the environment are, however, enormously wasteful—we could be achieving the same degree of environmental quality for much less cost or far more quality for the same cost. The standards set by the EPA for pollutants force expenditures to reduce public health risks that are far in excess of what anyone spends to reduce private risks, and many of them force large expenditures that produce no health benefits at all. And the means employed to achieve environmental goals are often extraordinarily wasteful in themselves, due to EPA's reliance (often required by statute) on command-and-control techniques and engineering controls that set a uniform standard for all firms regardless of cost-effectiveness.

Environmental problems are ultimately issues of scarce resources, and the most equitable and efficient approach to allocating scarce resources is through markets and private property. The current regulatory programs should be considered way-stations toward establishing enforceable private property rights in environmental resources. The first steps in doing this are setting pollution-control standards that are within the bounds of health and amenity expenditures people make in their private lives, and then achieving those standards through

markets rather than mandates. The EPA has taken some tentative steps in this direction, and the new Clean Air Act gives it additional flexibility in a few areas; but we still have light years to go.

P.R.: How would you characterize the discipline of economics today?

DeMuth: Academic economics has become excessively concerned with questions of theory, especially game theory, and insufficiently concerned with testing theory against practical experience and the actual behavior of

“Bush’s agreement to a tax increase he had vowed never to accept signaled that it was back to business as usual in Washington.”

firms, markets, and other economic institutions. Game theory is very appealing to young academics eager to make their mark in the journals—it offers opportunities for the display of mathematical virtuosity and it enables one to demonstrate or refute just about anything. Depending on the assumptions of a game, one can “prove” that higher or lower taxes, more or less regulation, or greater or fewer trade restrictions are good for the economy. Game theory is fun but it cuts the student loose from the parsimony of economics: rather than making strong and refutable predictions based on a few behavioral assumptions, it makes malleable predictions based on an abundance of assumptions. Because it is self-contained—beginning and ending on a blackboard, so to speak—it elides the painstaking, time-consuming business of explaining the behavior of real institutions and venturing policy proposals that address real rather than assumed behavior.

Academic economics has also become deeply interested in “positive” rather than “normative” questions—in explaining why government policies are as they are, rather than what they should be. This is a healthy and promising departure, but I worry that it makes many good economists appear agnostic or uncaring about the substance of policy. One of AEI's chief tasks is to attract bright economists to the task of explaining how policy could be improved, rather than why it is so bad.

P.R.: Was Michael Milken an American hero?

DeMuth: I would not call him a hero—I would call him an accountant turned financier who turned out to be astoundingly gifted at both. The genius of our economic system is supposed to be that it produces miracles of material welfare out of unheroic individual actions, and



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“The biggest winners from airline deregulation have been vacationers and those who used to travel by bus or car because they couldn’t afford airfares.”

Milken personified this genius. He saw major gaps that no one else saw in the way our financial markets were organized, and he acted with immense talent and energy to fill them. In doing so, he and many other young financial revolutionaries of the 1980s were responsible for an enormous amount of social good.

The financial markets of the 1980s were scenes of a certain amount of fraud and abuse, but I have seen no evidence suggesting that there was more fraud than has existed in financial markets in other times. It was a period of great economic dynamism, when new firms and new financial techniques were rapidly dislodging established ones. Those who were being lashed by the gales of competition turned to the media, to the political process, and to criminal prosecution to get revenge on purely economic adversaries. Milken, who had been the leading revolutionary, ended up being the leading victim. The government never even tried to demonstrate that he was guilty of the scores of serious crimes it charged him with, and I think it could not have done so. The six charges he pleaded guilty to were mostly minor technical violations—indeed charges that he accommodated customers’ violations—that had never drawn a major sentence before Milken. I think the Justice Department was guilty of a shameful abuse of individual rights in the case—it should have disavowed any reliance on the RICO statute, refused to accept a plea bargain, and tried its

case through to conclusion. Among other things, this would have produced a formal record and decision regarding just what it was, if anything, that Milken did wrong—something that to this day no one can say with any specificity.

P.R.: AEI is probably closer to top corporate leaders than is any other public policy research organization. How would you assess the political agenda of American business today compared with 10 or 20 years ago? Have the big corporations learned to love big government?

DeMuth: There is about as much diversity in political views among corporate executives as among others of the same age and education. But even liberal businessmen are “conservatives” when it comes to managing their own companies, and even conservatives can be persuaded of the virtues of government spending, regulation, and tax-preferences when these things give their firms advantages in the marketplace.

I think the latter tendency is no stronger today than it was 20 or even 100 years ago; after all, most of our oldest subsidy and regulatory programs were established and maintained with significant business support. What has changed in recent decades is that the political consensus supporting limits on the scope of government has evaporated—not only has government grown in size and

complexity, but the possibilities of government intervention have become much greater than they used to be. As a result it has become more difficult for business executives to be active free-marketers and anti-interventionists, whatever their personal opinions. The possibilities for government to help their firms—or to hurt their firms at the behest of others—are everywhere, and ignoring these possibilities jeopardizes the economic interests of shareholders just as surely as ignoring market opportunities and threats. The daily reality is that business firms must work with, and to a degree cooperate with, the bureaucracies at the FDA, EPA, and scores of other agencies—agencies with enormous discretionary power over their businesses, long institutional memories, and a demonstrated willingness to get even with troublemakers.

The business dilemma is like the problem of congressional term limits: voters consistently favor term limits while reelecting their own entrenched congressman every election, because they realize incumbency has advantages and that voters in other districts will be returning *their* incumbents. Limited government is a “public good”; when the limits are dropped, self-interested individuals and firms will adjust their behavior accordingly.

Many corporations are far more timid and risk-averse than they should be, strictly from the standpoint of immediate corporate self-interest, in dealing with the bureaucracies, the congressional staffs, and the courts. But they are also the single most important positive force in American politics—and conservative and libertarian activists would do well to meet them more than half way and to try to work with them as effectively as liberal activists worked with labor unions in an earlier era. Most individuals of conservative or libertarian disposition do not go into politics, they go into business and finance, and they take their views with them as they climb the corporate ladder. Those who do well are among the most talented, imaginative, and energetic people in our society. Business life rewards and cultivates the virtues of hard work, self-discipline, and efficient management of resources; it commands attention to detail, measurement, the logic of cause and effect, and the workings of supply and demand. People who come out of this culture, even those of generally liberal political bent, usually bring a conservative slant as well as much useful knowledge to the policy issues they are concerned with.

In some respects, the business community is becoming more market-oriented than ever. It enthusiastically endorsed President Nixon’s wage-and-price controls in 1971, but would not do so today or in the foreseeable future. The younger generation of business executives and entrepreneurs seems to me quite adamantly libertarian on economic policy. Institutions like AEI and dozens of others around the country would not exist without corporate financial support, in large part because business executives realize that independence as well as specialization permits us to be more effective advocates of private enterprise. AEI has occasionally lost a corporate donor because of our positions on import restraints or commercial subsidies, but these incidents have been rare.

P.R.: What are the most important institutional and intellectual strengths and weaknesses of American conservatism?

DeMuth: The conservative movement’s greatest strength is that it is the *avant garde* of American political thought, as it has been now for the past 20 years. We are not a majority, or even a majority within the Republican Party, and, although we have won some notable victories, most of the time we do not get our way when it comes to concrete political decisions. But most of the great issues in American politics today are argued within the conservative movement—in our think tanks, journals, caucuses, and conferences—and these conversations determine how the issues are advanced and debated before wider political audiences.

Conservatism is a large enough tent to hold subgroups representing most of the important tendencies in contemporary politics—social conservatives, neoconservatives, libertarians, Buchananites, the law and economics movement. Its major ideas have been ratified by objective developments clear to most ordinary citizens—the collapse of Communism, the failure of many liberal domestic programs, the growth of crime and welfare dependency, the exhaustion of state and federal budgets. And political liberals, who held the

“Many corporations are too timid in dealing with bureaucracies, congressional staffs, and courts.”

political *avant garde* in the 1950s and 1960s, have so far failed to come up with an alternative set of ideas that are intellectually convincing or that fit contemporary experience. The *New Republic* is now thoroughly neoconservative on everything but economic policy and income redistribution, and these are the weakest parts of the magazine. The *American Prospect* has run some interesting articles but so far it is not close to advancing a liberal “new paradigm.”

The conservative movement’s greatest weakness is that, with the retirement of Ronald Reagan, it has lost its leader—someone who could get the various conservative factions to suppress their differences, and who could mainstream their major ideas into the wider political debates. For the time being, the conservative movement is torn by factional and institutional rivalries, which are healthy up to a point but which threaten to weaken the movement as a whole. With no new Ronald Reagan on the horizon and the Republican Party once again controlled by pragmatists, the conservative challenge is to learn to hold our issue-defining position without the assistance of a single galvanizing leader. ■