REGULATION, REDISTRIBUTION, AND PUBLIC CHOICE

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I. Introduction

Governmental regulation of the private sector today is the public sector activity least well integrated into positive political theory. This essay seeks, in a tentative way, to identify some of the problems associated with interpreting regulation as public choice in general, and as electoral decision making in particular. Our inability to understand the connection between regulation and its putative electoral mandate persists, even though positive theories of the political process have grown more extensive in the phenomena they seek to explain, and have become more sophisticated in modeling each phenomenon and interrelationships among them.

Behind most such positive theories lie the concerns of welfare economics, as well as of modern public finance, for the demand and correct supply of public goods, and, relatedly, the correction of market failures (Bator, 1968; Baumol, 1965; Musgrave, 1959). Welfare economics stood first in the contemporary intellectual constellation of positive theories of the state. Early in its development, welfare economics was advanced as a positive discipline. Today, of course, the inadequacies of welfare economics as positive theory are widely acknowledged, as are its patently normative aspects. But many scholars continue to believe that there is a positive content to welfare economics, especially with respect to models of the electoral processes. For, few can deny that governmental activities such as providing national defense, police protection, and common-law courts represented a happy coincidence of social theory and social practice. Standards such as Pareto optimality continue to provide a touchstone for most judgments in economics and political science. And, various institutions and incentive systems are constantly assessed according to their respective abilities to achieve allocative or technological efficiency.

A more recent line of inquiry into positive theories of the political process, spatial
theory, added the institutional detail of popular elections to the general concerns of welfare economics and public finance. Initiated by the location theory of Hotelling (1929) and Smithies (1941), and popularized by Downs (1957), spatial election theory has undergone intense development for the nearly quarter century since the publication of An Economic Theory of Democracy. Recent research also emphasizes that the elementary spatial model, while elegant, remains inadequate for explaining the activities of legislatures and bureaucracies (Fiorina, 1977; Lowi, 1969; Mayhew, 1978). Logrolling and monopoly bureau models have called attention to the manner in which the demand for an optimal supply of particular public goods can be distorted by institutional design and incentives for manipulation (Riker and Brams, 1973; Tullock, 1974; Mackay and Weaver, 1978a, 1978b; Romer and Rosenthal, 1978). Even more recently, the argument has been advanced that the government-as-public-goods-producer paradigm should be abandoned for its apparent lack of positive content (Aranson and Ordeshook, 1977, 1978).

The phenomenon of regulation has also received some attention as part of the political process. Current literature sees in regulation the operation of a political market place (Posner, 1971, 1974; Stigler, 1971, 1974; Mendeloff, 1974; Peltzman, 1976; Mackay and Reid, 1979; Downing and Brady, 1979). This literature parallels the "capture theory" of regulatory agencies enunciated until the mid 1960s (Bernstein, 1955; Hawley, 1966; Kolko, 1963), although some writers distinguish the capture theory from the notion that regulatory agencies were designed to protect producers (Posner, 1974). Other literature about regulation seeks to derive a demand function for regulation from a set of explicitly formulated postulates growing out of welfare formulations (Hinich and Staelin, forthcoming). But neither approach to regulation fully integrates or exploits the insights and findings of recent research in positive political theory described in the previous paragraph. The phenomenon of regulation therefore stands apart from other political activities for which positive theories have already been constructed. Bridging this intellectual partition seems especially inviting, because regulation is the putative result of electoral, legislative, and bureaucratic (executive) processes. Hence, regulation should be explicable as a derivative of these other processes for which positive theories have been more fully developed. At the very least, these processes should provide definable boundaries on regulatory social choice, and these boundaries should be theoretically identifiable. If positive theories of other processes entirely fail to explain some measure of regulatory decisions, then that, too, would be a finding worth explaining.

Interpretations of the relationship between regulation and other forms of governmental decision making have already drawn tentatively closer in response to intellectual concern about the growth of government (Meltzer, forthcoming). It has not escaped notice