Among contemporary scholars who study the role of bureaucracy in American government, Professor James Q. Wilson stands out for the outstanding contributions he and his students have made to the field. His latest work, *Bureaucracy: What Government Agencies Do and Why They Do It*, has received widespread acclaim among both academics and practitioners. In this symposium, five of Wilson's students offer their critical insights on their mentor's most recent book. John J. Dilulio, Jr., focuses on Wilson's "contrarian" approach and highlights his view of the role of leadership in bureaucracy. Steven Kelman notes the prescriptive message Wilson provides his readers interested in bureaucratic reform, while Christopher H. Foreman, Jr. highlights the central role street-level "operators" play in Wilson's perspective. Robert A. Katzmann outlines Wilson's message to the courts about their interaction with bureaucracies. Finally, Pietro S. Nivola shows how Wilson's work takes into account the role of "external" factors on the operations of government bureaucracies.

The publication of James Q. Wilson's treatise, *Bureaucracy, What Government Agencies Do And Why They Do It* (Basic Books, 1989), marks a milestone in the public administration literature. To underscore the importance of Professor Wilson's contribution to the field, a roundtable discussion of the book was held at last fall's meeting of the American Political Science Association in San Francisco. The comments of the participants—five of Wilson's former Harvard graduate students—are summarized in the following articles.

**Notes on a Contrarian Scholar**

by John J. Dilulio, Jr., Princeton University

For nearly three decades, James Q. Wilson has been an extraordinarily insightful, original, and (public choice theorists among others would hasten to add) contrarian scholar of complex public organizations. *Bureaucracy* displays an enviable mastery of the relevant theoretical and empirical literatures, an uncommon common sense, and genuine literary grace.

Wilson argues something that the classic public administrationists pretty much took for granted; namely, that "organization matters." For him it remains an important and open-ended question whether there exists a nontrivial relationship between how public agencies are structured, led, and managed, on the one hand, and how (and how well) they perform, on the other.

Wilson's career path has also differed from that taken by many authors of the classic works. They had significant experience in government, and while there is no mistaking their intellectual fascination with their subject, their research clearly had prescriptive aims. His three years in the Navy in the 1950s aside, Wilson has never held a full-time govern-
Wilson picks no fights with anyone; public choice theorists itself, though in this book _Bureaucracy_ a fuller example is of course, his 1980 edited volume, _The Politics of Regulation_. The typical criminal, he suggests, is best understood not as a own right and capable of yielding other, often highly counter- taste and your math-readiness) intrinsically interesting in their that lends itself to formal models that are (depending on your tion, one that not only comports with the facts of numerous studies and the anecdotes of innumerable practitioners, but that lends itself to formal models that are (depending on your right and capable of yielding other, often highly counter- intuitive, leads, clues, and empirically-testable hypotheses about the behavior in question.

As I view it, Wilson's argument against this perspective on bureaucratic behavior revolves around several points, chief among them that, while the theory is powerful, and while there is no competing theory that explains "as much with as little," what the theory captures is less interesting and im- portant than what it misses. In essence, public choice theorists know just enough facts about "what government agencies do" to misunderstand "why (and how) they do it."

Wilson's key gripe with public choice notions of bureau- cratic behavior seems to me about the "unassimilated data": He thinks there are more such data than these theorists gen- erally allow, and that the discoverable patterns of real-world bureaucratic behavior that lie outside the theory are more interesting and consequential than those that lie within it. Yet there is no logical or other contradiction between view- ing his gripe as 100 percent legitimate (as I do) and viewing with great favor the work of public choice theorists in this field and in others (as I do).

Two classics of organizational theory seem to have helped shape Wilson's theoretical perspective: Chester I. Barnard's _The Functions of the Executive_ (1938), and Phillip Selznick's _Leadership in Administration: A Sociological Interpretation_ (1957). It is impossible here to say more than a few words about the Barnard-Selznick-Wilson nexus. In brief, Barnard defines organization as a system of consciously coordinated activity of two or more persons. Barnard's highly abstract theory of how organizations arise, persist, and change is comprehensive and compelling, and lends itself well to empirical analyses of large bureaucracies, both public and private. It is reflected in the three-pronged scheme that Wilson used in _The Investigators_ (1978); it helped organize key parts of his Harvard bureaucracy courses; and it has now been elaborated in _Bureaucracy_'s framework: operators (part II), managers (part III), and executives (part IV). Essentially, operators perform the central or critical tasks of the organization (line-level employees, "street-level bureaucrats"), managers coordinate the activities of persons within the organization (foremen, supervisors), and executives are responsible for the mainte- nance of the organization (CEOs, commissioners).

In _Bureaucracy_, Wilson treats operators, managers, and executives in that order, and the order is not incidental. Rather, the order reflects one of his most fundamental and persistent ideas about the determinants of agency perfor- mance; namely, that it is mainly the nature of operators' tasks—as opposed to the styles of the agency's managers, the behavior and preferences of its executives, and the goals carved into statutes by those who legislate and lobby over its existence—that ultimately determines "what government agencies do and why they do it."

As Wilson claims, until quite recently, Selznick's book on leadership made waves among analysts of business organiza- tions but was largely ignored by students of public adminis- tration. Essentially, Wilson takes from Selznick the idea that to attract and retain persons capable of doing the work, bureaucratic organizations, public and private, must develop a "sense of mission" or "distinctive competence," defined as a
widely shared view among organization members (the bulk of whom—the operators—are on the lowest rungs of the administrative hierarchy) as to the nature, rights, and importance of the organization’s principal tasks (arrest criminals, prevent escapes, comfort the sick). Many organizations, especially public ones, have multiple, vague, and contradictory missions (prisons punish, deter, incapacitate, rehabilitate). Strong organizations, however, can be defined as ones that resolve (in operational, if not logical, terms) any such conflicts by how they recruit, train, reward, and manage workers.

By my reading, Wilson argues that public agency leaders can be efficacious, but only by more or less dutifully obeying, not by bravely commanding, the unchanging administrative and ever-changing political imperatives between which they are sandwiched. Efficacious executive leadership may require workaholics with vision, but if Wilson is to be heeded—and I know he is not asking to be—then their administrative and political vision had better be more pragmatic than transformational, more logical than inspirational, more incrementalist than fundamentalist.

But let me offer a partial dissent from what I take to be his general views on the leadership and administration of government agencies. I believe that the annals of American public administration furnish many examples of efficacious leaders who transcend the limits imposed by tasks, on one end, and political context, on the other.

The conventional view is that the problems of government agencies are problems of goals, resources, and leadership, and can be fixed accordingly. I believe that there is less truth in this “top-down” view than is commonly supposed, but more truth in it—especially with regard to leadership—than Wilson allows. Tasks are “to an important degree the most enduring, hard-to-change elements of the situation; administrative procedure must adapt to tasks, not the other way around” (Wilson, 1978, p. 8). But under certain conditions—conditions which can be manipulated into being or fostered by plan, and that do not depend on the accident of leaders with unique and nontransferable talents—public executives can alter tasks, and improve organizational performance in the bargain. My mind runs to the perhaps insignificant stock of exceptional cases in which agency heads have been more the political ventrilologist and less the political dummy; and, I suspect that the ways and means of achieving this state of affairs in the public interest go above and beyond Wilson’s “rules of thumb” for achieving agency autonomy.

Let me sketch one brief example. The Federal Bureau of Prisons (BOP) is a far-flung federal bureaucracy that, over a 60-year period, has maintained a remarkable degree of administrative uniformity and control at the line level in the face of enormous counterpressures of many kinds. For most of its history, the BOP—the nation’s safest, most programmatic, most cost-effective penal agency—has been an extraordinarily close-knit organization with a strong sense of mission and a highly developed organizational culture. But that was not achieved by managing the agency around the tasks that the operators most preferred; nor was it achieved by yielding regularly to the constraints imposed by a generally hostile and unsupportive political environment. Instead, it was achieved largely through transformational acts of executive, political, and administrative leadership, some of which took the form of highly visible public words and deeds, others of which effected silent revolutions on the relevant behavior of everyone from workers in the cell blocks (who substituted one sense of mission for another) to officials in the Congress (who went from indifferent or anti-agency positions to lavish support for the bureau).

Again, in believing that the BOP story and others like it may be more than exceptions to the rule, I may be guilty of letting the wish be father to the thought, a charge to which Wilson would never need to plead guilty. I recognize as well that my belief here may be explicable in the very terms of organizational analysis that Wilson sets forth. After all, public policy and public administration programs are predicated on the assumption (unrebutable, of course) that public leaders, including agency heads, can make a major, positive, and even transformational difference.

The Prescriptive Message by Steven Kelman, Harvard University

With characteristic modesty, and reflecting a viewpoint he traditionally has espoused regarding the usefulness for practitioners of his work, James Q. Wilson states in the preface to Bureaucracy that “though what follows is not very theoretical, neither is it very practical.” The reader, he goes on to write, “will not learn very much—if anything—about how to run a government agency” (p. xii). At the very end of the book, Wilson manages to present only what he calls “A Few Modest Suggestions That May Make a Small Difference” (pp. 369-376).

As an academic engaged in training young people for public service at a public policy professional school, I believe that Wilson’s book, and in particular his few modest suggestions, contains much wisdom about how to improve the performance of public organizations. It is also interesting that Wilson associates himself in the suggestions he makes with the (I think growing) number of scholars and reflective practitioners of public management who argue that the management of public organizations relies excessively on rules and excessively fears the exercise of discretion or judgment by executive-branch public officials—that we need, in the expression of Constance Homer that Wilson uses to start his discussion, to “deregulate the government.”

According to this view, an important part of the problem with the performance of public organizations derives from excessive reliance on rules as a way of organizing the work of government agencies. Despite their virtues and indeed the practical necessity of their use in many situations, rules can
produce anomalous results when they are applied to inappropriate situations or when the environment for which they had originally been developed changes.

There is an important reason why we rely so extensively on rules in the management of public organizations: we fear the exercise of discretion by those working for those organizations. That fear, in turn, has a number of sources. It partly derives from standard democratic ideology that suggests that the coercive power of the state ought only be exercised by democratically responsible officials, leaving civil servants to apply rules that have been developed by those closer to the democratic process. It partly derives from a worry that in the absence of rules, public officials will do their jobs inappropriately. As Fred Schauer has written (1991), we may be willing to sacrifice poor decisions in some individual cases to avoid abuses we fear in other cases.

There are also reasons to challenge each of these arguments. Many political science and public administration scholars have made a career out of challenging, on empirical grounds, the notion that it is possible to avoid frequently locating significant discretion in the hands of the bureaucracy. This is either because, as students of regulatory delegation have noted, Congress and the White House cannot cope with the large number of specific and often technical decisions that government makes or because, as students of "street-level" bureaucracy have noted, it ends up being impossible to develop rules to handle all the contingencies that people at the operating levels face. Wilson himself, in earlier books such as Varieties of Police Behavior (1968), has made important contributions to making clear the empirical problems with the suggestion that it is possible to remove discretion from the actions of public organizations.

The empirical challenge is, of course, consistent with the normative proposal that discretion be eliminated as far as feasible from the behavior of public organizations. Indeed, many of those scholars who have been at the forefront of the empirical demonstration of the unavoidability of discretion have tended to regard their findings as evidence of a problem, or even of a "challenge" to democratic theory. Wilson himself, in a subordinate clause in Varieties of Police Behavior, refers to "controlling discretion" as "the problem of administration" (1968, pp. 96-97). "Irreducible discretion" is presented in this view as if it were the name of some dread disease. The empirical demonstration that it is often difficult to eliminate discretion is perfectly consistent with the system we have now, where discretion is widespread, but illegitimate, and we are always looking for new ways to fight it.

But there are challenges to the doctrine on grounds other than impossibility. From the point of view of democratic theory, it may be argued that citizens might appropriately choose to delegate significant influence (although not total control) over the process of developing specific practices in a policy area to people who are both expert in the area and share the basic values that undergird the organization's enabling statutes. In principle, a democratic meta-decision to so delegate need be no more problematic than any other democratic decision—indeed, it would be undemocratic to forbid such delegation.

From the point of view of effective organizational performance—a concern closer to Wilson's in Bureaucracy—it may be argued in criticism of the anti-discretion arguments that the cost in forgone opportunities for excellence and achievement that come from the fear of discretion simply outweigh any gains in terms of discouraging incompetence or abuse. In an age when In Search of Excellence preaches the importance of initiative and responsibility, government must not continue to be locked into state-of-the-art management practice from the turn of the century.

Wilson himself is probably not overly optimistic that an alternative conception of how one should manage in the public sector can be realized. While I think everyone would agree that wild optimism on this score would hardly be called for, I am inclined toward somewhat more optimism than I think Wilson is. I have several reasons for this.

First, I believe there exists an alternative program that can be presented to those who worry that increasing the freedom of bureaucrats to exercise discretion would deprive citizens and elected officials of the opportunity to hold bureaucracies accountable for their behavior. The program is: "judge organizations by results, not by whether they followed bureaucratic rules." Wilson presents this as one of his proposals for reform, but I think it's necessary to underline that this is not simply another proposal but a crucial feature of the overall strategy. I am of course aware of the problems with developing results-oriented performance measures for many public activities. But I believe that, first, these problems are sometimes made to appear bigger than they are and, second, that we can begin in areas where it is relatively easy to develop measures and save the hard problems for later.

Second, I believe that people in government organizations might be disinclined to embrace the notion that their substantive performance be held up to scrutiny, except that the alternative may be worse—mind-deadening reliance on rules, focus on scandals, and so forth.

Last, I believe that at least a significant part of the reason for the excessive reliance on rules involves an intellectual failure to understand that the fear of discretion extracts a high price in terms of poor substantive government performance, especially as the work force becomes more educated and the substantive problems government faces, more complicated. I discovered in a study of public-sector procurement that most of the major political participants in debates about procurement (erroneously) believe that the rule-bound government procurement system serves not only to safeguard against abuse but also, by lowering the prices government pays, to improve substantive performance as well. A part of the battle against the fear of discretion in government management must be waged in the realm of ideas.
Operators

by Christopher H. Foreman, Jr.,
The American University and The Brookings Institution

In the preface to Bureaucracy, James Q. Wilson disclaims practical relevance. Even so, near the end, he makes a perhaps unavoidable stab at thinking about reform, remarks he carefully announces as "A Few Modest Suggestions That May Make a Small Difference." I want to argue that a good deal of what comes earlier can be of practical interest as well, particularly if one believes, as I do, that educating people about how to regard the structures and processes that affect their lives may be at least as important as concrete reform. My main focus here is part II, the section of the book dealing with what Wilson calls "operators."

One valuable aspect of the book is that it compels any intellectually honest reader to reexamine some common prejudices in the blinding glare of hard evidence. In chapter 4, on "Beliefs," Wilson exhibits a pronounced skepticism toward the linkage between "generalized attitudes," as he calls them, and individual operator behavior. He then shows himself very supportive of the notion that more precise and germane beliefs may be very important indeed as behavioral influences.

The thesis that the attitudes of officials do not necessarily dictate their behavior is, interestingly, both ancient and provocative. It is ancient in being supported, as Wilson himself notes, with reams of data on noncorrelation that have accumulated over decades of social science research. It is a provocative idea not only because it is somewhat counterintuitive but because it invites us to question some widespread popular impressions of a highly controversial set of agency interactions—namely, encounters between officials of one race and clients of another.

Let us take a recent example. It is interesting that, in all of the commentary in the local and national press on the recent trial of Washington, D.C., Mayor Marion Barry on drug-related charges, almost no one has thought to mention the rather obvious point that one possible factor behind the zealous pursuit of the mayor by federal prosecutor Jay Stephens was simply that prosecutors generally face strong incentives to prosecute. Their professional training and peer-group cues may incline them to hunt assiduously for "prosecutable" persons and, having found them, to invest considerable effort in building and presenting the strongest possible cases against them. For a prosecutor with higher political ambitions, or for one who craves merely the respect that comes with having caught a "big fish," it may make sense to go after a high public official who seems vulnerable. And even though Stephens' effort ultimately failed to yield a felony conviction, there can be little doubt, in retrospect, that the mayor's lifestyle had left him vulnerable. One does not have to construct an elaborate paranoid theory of a white power structure driven toward unhinging Black officialdom to explain why the prosecutor did what he did. By the same token, it would probably come as a surprise to some Black organization employees, clients, and customers to learn that the behavior of those whites with whom they must deal may be affected by important forces other than deep-seated racial attitudes.

Now, having said this, one must add something that Wilson perhaps ought to have stressed more. For it is also doubtless true that there exist gaps in official structures of rewards and penalties that may allow generalized racial attitudes to translate, in unsavory ways, into racially-driven behavior. Moreover, it is possible that the structure of rewards and penalties may, in a given set of circumstances, be simply too weak to mute the impact of racial attitudes. And it is also possible that an organization's system of rewards and penalties may operate symbiotically with pre-existing racial attitudes. (One supposes that the behavior of the South African police could be an interesting subject in this regard.) Of course, if any or all of these things are true, there is no reason why they should not, ceteris paribus, apply equally to whites and Blacks alike. So Wilson's discussion, if widely disseminated, could have some practical use, if only by making its readers, of whatever race, more inclined to think rigorously about where racially motivated behavior is, and is not, likely to crop up.

Wilson's book also has practical relevance in the consideration of administrative and public policy reform. Like many others, Wilson clearly believes that it makes a difference how you structure a process, who executes it, and who oversees it. Following Richard Cyert and James March (1963), Wilson sees large organizations as often composed of distinctive and sometimes competing subunits, perhaps with attachments to different tasks, cultures, and incentive systems. Regulatory agencies are clearly not all dangling on the fine edge above the abyss of inevitable "capture" by business interests. As he argued a decade ago in The Politics of Regulation, patterns of access and influence by private interests depend on many things, and outcomes vary accordingly. He reprises some of this argument in the new book. Agencies, in Wilson's view, are not empty vessels into which attentive business interests can simply pour their policy preferences for later reclamation in pristine form. But, alas, nor can anti-business reformers hope to do so either.

One of the most important points in the book (as, I believe, in the Harvard course from which it is heavily derived) is the message that administrative "goals" are often no match for an array of other factors (incentives, institutional cultures, situational imperatives, etc.) in shaping how agencies and the individuals in them perform. As a teacher, I have long thought that this is one of the most important lessons that any student can learn in an introductory public administration course. The important role of incentives often comes as a genuine revelation to students. Though Wilson is clearly suspicious of self-interest as the sole mover of things political, he is fully prepared to grant it importance. Indeed, his application of this latter perspective in one particular field of policy (namely, crime and law enforcement) has earned
him a wide reputation as a conservative. But in noting that "crime pays," that efforts at penal rehabilitation yield uncertain payoffs, and that incarceration offers real benefits, Wilson has offered a point of view that has always seemed to me to derive less from prior ideology than from its opposite—a pragmatic willingness to confront unpleasant realities head-on.

**Wilson and the Study of Law and Policymaking**

*by Robert A. Katzmann, The Governance Institute and The Brookings Institution*

James Q. Wilson has been a major influence on many who study law and policymaking. Chapter 15 of *Bureaucracy* is devoted to an examination of courts. But Wilson's impact on the field of law and policymaking extends beyond his concern with courts to his analyses of the politics of regulation and the workings of the administrative process—what we think of as administrative law.

**Wilson on Courts**

In an era in which the judicial role in public policy has greatly expanded, the link between Wilson's work and the field of law and policymaking should be clear enough. Courts have been actively involved in the administration of penal, welfare, education, mental health, and environmental protection policies. In remedying perceived wrongs, they have had to interact with the public bureaucracies operating in the particular policy arenas affected. Judges, in so doing, have not sought merely to monitor the activities of these institutions but have at times attempted to restructure them, to change their processes and policies. Yet, as Wilson observes, although there have been countless essays on whether the courts should intervene as they do, scarcely any describe what systematic (as opposed to particular) changes in bureaucratic life this intervention has produced. The challenge, in effect, which Wilson has issued to those who study law and policymaking, is to not simply be concerned with legal doctrines and constitutional development—though they are important—but also to understand the effects of those doctrines on administrative behavior. I will return to that point in a while. In that approach, he is allied with Martin Shapiro, who is as much concerned with administrative process as with constitutional development.

Wilson identifies a number of effects of court intervention on agency management, in terms of cost, power, and policy. As to cost, intensive court intervention can increase the time and money it takes to reach a decision. Judicializing agency process takes time and money. The costs of the judicialization of agency discretion are not limited to the internal management of the organization—"when two organized groups know that it will be the court, not the agency, that has the final say on the issue that divides them, the two parties have no incentive to negotiate a settlement with the agency."

With regard to power, Wilson observes that court procedures, like any political arrangements, tend to give more power to some and less to others. Access to the courts is expensive and requires legal skills; thus as courts become more important to bureaucracies, lawyers become more important in bureaucracies. That was certainly true, for example, in the case of transportation policy for people with disabilities. Court intervention, as Wilson writes, may sometimes empower professions other than that of lawyers. "Lawyers may gain to the extent procedural requirements become complex, but other specialists gain to the extent the courts tend to favor one substantive outcome over another." Witness the case of the FTC and the role of economists. The point to be made is not simply that courts can affect bureaucracies, but that they can affect the power structure within a bureaucracy, sometimes aiding one part of an organization as opposed to another. Indeed, the judiciary can influence outcomes by supporting or altering the balance of forces, among bureaucracies. Take, for example, the case of HEW's coordinating role with respect to disability policy, specifically, section 504 of the Rehabilitation Act of 1973.

I would note that as we think about how courts affect the power of bureaucrats, it is not necessarily the case that courts are positioned against bureaucrats. In some situations, bureaucrats who seek increased funding from the chief executive welcome court suits—indeed, sometimes are aligned in a de facto way with interest groups to engineer court suits. If those bureaucrats, as defendants, lose the suit, they really win the suit. For then they can say to their political executives: "we have no choice but to spend more money, or change policy. The courts made us do that."

Wilson's treatment of bureaucracy, not as a black box or monolith, enables us to penetrate organizations, to see the mix of strategies within agencies. In short, his framework allows us to understand the often complicated relationships between bureaucracies and courts.

Judicial intervention can affect not only costs and power, but also policy. A court's ruling can bear directly upon substance—for example, when it either mandates that specific steps be taken or holds that an agency is not required to undertake certain actions advocated by one or more of the parties. Judges can affect process, as they have in "hybrid" rulemaking cases, by imposing a wide range of procedural requirements on agencies engaged in informal rulemaking. When the judiciary interprets a statute or mandates or restrains executive action, it perforce affects the administrative process. Just as the judiciary can bear upon the balance of forces within Congress, so its decisions can influence the relationships among agencies or competing factions within the bureaucracy, or the capacity of the president to influence the executive branch. Policymaking can thus be thought of as dynamic and complex, as a continuum of institutional processes—judicial, legislative and administrative—sometimes acting independently, but often interacting in subtle and per-
happily not always conscious ways to influence the behavior of other processes.

Wilson modestly eschews claims that his work has much practical value. I beg to differ with that assessment. For I very much believe that Wilson's framework can be quite useful as a court seeks to fashion a remedy, or as a court endeavors to understand both the opportunities for change and the limits of organizational capacity. Let me allude to some of these organizational concepts—organizational mission, goals, power structure, tasks, autonomy versus coordination, external forces (for example, legislatures)—and see how they might be instructive to a judge.

A court that understands the concept of mission will recognize that change will be difficult in an organization that has successfully instilled a sense of mission: those who believe in the bureaucracy's mission are likely to resist judicial efforts to alter it. Indeed, professionals whose behavior and policy perspectives may be constrained by norms derived from external reference groups that allocate rewards such as advancement and esteem, are particularly likely to resist attempts to reorient the organization in a way that conflicts with their conception of what the bureaucracy should be doing. Moreover, a court should realize that it will more likely achieve its goals if it defines those ends unambiguously so that the relevant actors will understand what is required of them. A court should make certain that the proposed remedy provides the technology for attaining those goals.

A judge who understands a bureaucracy's power structure will more likely fashion a decree that strengthens those forces within the organization that are more likely to comply with the court's order. Appreciation of organizational tasks is also important. Routine tasks, for example, may be relatively easy to change because it may be necessary only to alter the program. Changing nonroutine tasks, however, could complicate implementation of a plan: the court, for example, must establish new monitoring devices to acquire performance data and then must react to that information.

In addition, a court must be prepared to meet resistance if it seeks to coordinate the behavior of bureaucracies that are fearful of losing autonomy. These difficulties will increase if the bureaucracies disagree about goals or the way in which those goals should be achieved. In such circumstances, the court must invest its resources in an attempt to forge cooperative activity among the relevant actors. Finally, a judge who seeks to design a remedy should consider the extent to which its effectiveness depends upon the support of external actors. Dependence upon external forces over which a court may have little control—for instance, a legislature that is not subject to the suit—may make it difficult to implement the remedy.

Wilson and Administrative Law

I have concentrated on the relationship between courts and bureaucracies. In conclusion, I would like to return to a point I made earlier: Wilson's work has much relevance to those who, following Martin Shapiro, define the field of public law not simply in terms of courts or legal doctrines, but the full range of variables within the administrative process which account for outcomes—whether they be decisions to prosecute or not to prosecute, whether they be particular kinds of adjudicative decisions, rules, or regulations. The Supreme Court's decision in Chevron v. NRDC (1984), called the most important decision in the field of administrative law in the last decade, underscores the importance of Wilson's contribution. Essentially, the Chevron line of cases holds that where an ambiguity exists in a statute administered by a particular agency, courts will defer to that agency's construction so long as it is permissible. This deference is based on the Supreme Court's assumption that because Congress has entrusted the administration of the law to the agency, it expects the agency, rather than the courts, to resolve ambiguities. How an agency thus makes law in interpreting ambiguities can be understood by understanding the organizational dynamics about which Wilson has written. It is a concern, not simply of Bureaucracy, but also the Politics of Regulation (1980).

Interbranch and International Dimensions

by Pietro S. Nivola, The Brookings Institution

On the jacket of the book, Senator Daniel P. Moynihan observes that this is more than another treatise on bureaucracy; it's really a whole course, taught over a generation, spinning off (and spun from) some 50 Harvard Ph.D. dissertations. We could be having symposiums, not just on parts and chapters, but on paragraphs and sentences, even footnotes and asterisks. That said, the pages on which I'll comment are among the most nettlesome conceptually. I think they require special attention for the following basic reason: The book begins with the central thesis that bureaucratic organization matters. But when we get to the discussion on the role of Congress, the president, the courts, and national differences, we come away keenly aware that organization matters but often less than some other things.

I do not wish to imply that this amounts to a flaw or inconsistency in the book's main argument. To the contrary, I would suggest that Professor Wilson's contribution is in being careful not to insist that bureaucracy in the American regime is in any sense a "fourth estate." Put another way, while he wants us to get inside government agencies and understand their foibles from the bottom up, he also stresses that much of what these agencies do is defined or influenced from the outside in—by "the context," that is, the political structure and culture in which they operate. If this may seem like a self-evident proposition, recall how often other scholars seem oblivious to it. Ever since it became fashionable to take quintessential cases of congressional or presidential decision-making (episodes like the Cuban missile crisis, for instance) and interpret them as examples of bureaucratic activity, a lot of confusion has been generated about who actually does what in the American policy process.
The bottom line is that certain cultural eccentricities and institutional peculiarities (like the formidable U.S. Congress and federal courts) sharply delineate bureaucratic behavior and power in this country. To understand why particular federal agencies do what they do, we can scrutinize the nature of their tasks and internal organizational characteristics, but ultimately we are left with the realization that other national bureaucracies, with very similar organizations and sometimes identical task structures, often act altogether differently.

Steven Kelman's comparative study of occupational safety and health regulation in the United States and Sweden graphically illustrates the difference. Our OSHA inspectors tend to operate in a legalistic, adversarial mode, "going by the book." Their Swedish counterparts exercise much more discretion, enforcing the rules in a flexible, more consensual style. This is not because the Swedish regulators have a fundamentally different task on their hands, or because their formal goals are not the same, or because their operational standards are unique. In the final analysis, it is because bureaucrats in places like Sweden don't have to live with the hot breath of congressional rulemakers and overseers on their necks, and because they do not have to take cover from the constant threat of court action (or other contestation by one or another interested party). Other studies in comparative public administration (for example, David Vogel's 1986 work on regulatory administration in Britain and Japan) come to more or less the same conclusion.

Wilson, of course, is at pains not to overstate the influence of Congress. He advances highly nuanced arguments about how Congress exerts more control over "production" agencies (with clear goals, tasks, and outcomes) than over so-called "procedural" and "craft" agencies, and how Congress takes a greater interest in agencies like HUD that distribute local benefits than in "presidential" agencies (like Treasury) that don't. The book critiques Barry Weingast and company for not recognizing that bureaus must answer to multiple political actors, not just a dominant legislature. Readers are reminded that congressional dominance is also delimited by divisions within Congress and by the tendency of legislators to tie their own hands. And arguably, the modern Congress engages in less particularistic pork-barreling with the bureaucracy. Yet, I would submit, the burden of the book's evidence in both this chapter and the one on the presidency is that while the bureaucracy serves multiple masters, of these masters Congress is first among equals.

I say this for several reasons. The first is that the new congressional micromanagement represents, I believe, a definite net loss of executive power (both presidential and bureaucratic) at the hands of Congress. It also represents a net gain in political security on Capitol Hill. By devising detailed rules and procedures (often attached to annual authorizations or appropriations bills), the legislators continue to whittle away at executive discretion while still supplying benefits to particular constituencies. Granted, base closings are no longer blocked on an ad-hoc basis by telephone calls to the Secretary of Defense but rather by generic rules (such as environmental impact statements), and, yes, individual firms or industries now get trade protection through universally sounding administrative remedies rather than particularistic items in a legislated tariff. But the "pork" is still getting out there to specific groups—only now with the added advantage of political cover for Congress, since the favoritism is less transparent.

The same goes for various methods by which Congress puts the bureaucracy on automatic pilot. One way to contemplate indexation, for instance, is by thinking of it as an exercise in congressional self-limitation. But a better way to think of it, I suspect, is as a clever way of dictating to the executive exactly how to spend money while enabling members of the House of Representatives not to look like profiteers every two years.

When it comes to programs not governed by formula, people often forget that Congress gets much of what it wants through the anticipatory reactions of the departments and agencies. Just because Arthur Maass (1983) observes that Congress does not normally name individual projects in authorizing statutes, nor ordinarily earmark funds to them in appropriations measures, doesn't mean that those projects and dollars don't wind up where the members want them. As R. Douglas Arnold (1979) and various others have shown, agencies build legislative coalitions for their budget requests by dispersing benefits in ways that Congress appreciates.

Now, there is no question that Congress has an easier time dominating some bureaus than others. The Social Security Administration is easy prey; the Food and Drug Administration, the Office of Civil Rights, or the Federal Trade Commission are not. But I must confess, I've become somewhat less persuaded by the contention that the relative ease or difficulty of interference has to do primarily with inherent task characteristics of the agencies than I am by the implications of legislative factionalism. Tasks, after all, are not entirely exogenous or independent variables. For better or worse, even complex and ambiguous administrative tasks can and do get defined by somebody (often, when all else fails, by the courts).

The question is: If judges are prepared to make these determinations, why cannot Congress? To which the obvious answer is: Judges are able to make up their minds, whereas Congress, once its differences and tell a body like the FTC: "Look, from now on, we want you to crack down on mergers of such-and-such a type and scale, and we want you to report so-and-so many prosecutions of these cases annually." In other words, I am not yet sure how much the nature of administrative tasks necessitates conditions and constrains congressional involvement. Disagreements in the legislature, it seems to me, may be the main underlying constraint. The extent of disagreement, however, is not immutable; it waxes and wanes depending on a variety of circumstances (not the least of which are the intensity of partisan politics, the stage of the electoral cycle, and the prevailing political zeitgeist in...
Washington). Foreign policy, for instance, used to be the type of hot (or unappetizing) potato that Congress would buck over to the executive. No more. Nowadays, there is a lot more consensus on the Hill that micromanaging the State Department, the Pentagon, the CIA, the U.S. Trade Representative and so on, is fair game.

There is one more point I want to make about the role of Congress: Congress casts a lengthening shadow over more agencies precisely because White House control is shaky. Most of the reasons for this shakiness are clearly laid out in the book. Presidential appointees tend to "marry the natives" (often even after they've been subjected to Reagan-style ideological litmus tests). Administrative reorganizations are less effective and feasible than ever. (Among other things, after the *INS v. Chadha*, they now require positive acts of Congress.) Managerial reform has largely meant centralization of administrative details in the White House, not better supervision of agencies by the department heads of better policy guidance from the president to those department heads. Interagency coordinating mechanisms (like the National Security Council) have often had the same result. There is not much I would add to this baleful list of deficiencies, except maybe for the following fundamental consideration: Unless we have seen the end of an era of one-term presidencies (and of contested renominations), congressional incumbents will continue to loom as the institutionalized players inside the Beltway with more staying power than the chief executive, who, from the vantage point of folks in the bureaucracy, is somebody who could be here today and gone tomorrow.

As I stressed at the outset, one of Wilson's main messages is that the federal bureaucracy is far from being a fourth branch of government; it enjoys a lot less autonomy and flexibility than the administrative entities in some other advanced democracies. It may seem paradoxical, therefore, to learn that American businessmen often seem to spend more time looking over their shoulders at the IRS, the SEC, the DOJ, and various other regulators and potential litigants than they spend, say, figuring out how to compete with the Japanese. (Surely, no other business community spends as much on vigilant corporate attorneys.) The main point to remember, however, is that this is not because the U.S. bureaucracy is more powerful, differently organized, or has entirely distinctive tasks and functions to perform. Rather, it is the other way around: our bureaucracy is frequently on the defensive—continually prodded by litigation, by congressional intervention, and by other outside participants. This condition, more than anything else, is what is truly unique about public administration in the United States. And James Q. Wilson has given a masterfully eloquent and cogent analysis of it.

References


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