

Don't Hamstring Bureaucracy; Kill It

IT WAS CALLED, by many a Congressman who helped to put it through the House last month, "the most important bill to come before Congress in a hundred years." There is reason for this estimate of the Walter-Logan Bill, which may be passed by the Senate in spite of President Roosevelt's indicated dislike of it. The importance of this proposed law is that it is designed to extricate our democracy from the extralegal position into which it was forced by a reform program. It is an attempt to unscramble the omelet of bureaucracy.

The purpose of this law is to establish tribunals to which decisions of almost all Federal agencies could be brought for hearing. Thus, the extra-legal and quasi-judicial character of these agencies would be subjected to legal procedure; the force of their dicta being delayed or rescinded by law-suits of citizens or corporations.

The reason for the law, and this was acknowledged in the debate and in the 282-to-97 vote for it, is the growing tendency in this country of government by bureaucracy instead of by elected representatives.

The proponents of the act fail to recognize, however, that courts of law existed when these agencies were created, and that the power of the courts to restrict them was deliberately avoided in the enabling legislation. When government decides upon a paternalistic course, the usual constitutional limits placed upon it must be waived. Democracy must rest on the ability and willingness of people to take care of themselves and the government; when the process is reversed the government must have the power to carry out its program without legalistic hampering. Of course, it then ceases to be a democratic government—but that is another thing.

Bureaucracies are an effect, not a cause. Forcing them to submit to legal procedure will be ineffective while the cause for their existence remains. Indeed, it is well-known, and the record of our Supreme Court is offered in evidence, that legal

thought itself is subject to the socio-political tenor of the times. There are no absolutes in the law.

Therefore, if the Walter-Logan Bill becomes law, and the conditions which brought the restricted agencies into existence still continue, it is quite conceivable that the new courts established by this act will become in time rubber stamps for these agencies. All we will have left for our trouble will be the expense of maintaining the additional tribunals.

The immediate cause for the growth of bureaucracies is the tendency toward centralization. As more and more power is vested in government the very size and scope of its activities require that duties constitutionally delegated to the legislative branch be transferred to administrative bodies.

But, centralization is itself an effect of other conditions which call for an orientation of governmental activities. Consider the function of almost every American bureaucracy that has been established since the beginning of the century and you will find that it deals either with (a) the regulation of some monopoly based on a privilege granted by the government, or (b) unsocial conditions, such as poverty, which are directly traceable to the government-fostered monopoly of rent.

Bureaucracy, then, is a method devised to treat the symptoms of a sick body politic. The cause of the malady is monopoly. Unless this cause is removed there is no hope for a cure. Rather, the indications are that more and more symptoms will appear, and that more and more regulatory agencies will be called upon to treat them; also that these agencies will demand, and receive, the unrestricted power which they believe will help them to effect a cure. No legalistic inhibitions will stop the process.