

NUCLEAR POWER— A PROBLEM OF INSURANCE

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The near disaster at the Three Mile Island nuclear power plant has initiated protests and demonstrations on campuses and at nuclear power sites across the country. Nuclear power proponents are clearly on the defensive. In the ensuing debate, it is important for libertarians *not* to get caught into the “are you for or against nuclear power” argument but, rather, to stress the corporate state nature of the entire nuclear power industry.

In a libertarian society, the existence of an industry would not be determined at the ballot box but would depend on that industry’s own economic viability within a free market. In the case of nuclear power, would it be competitive with alternative sources of energy, and would the potential risks to life and property of maintaining a nuclear power plant be worth it; i.e., would the risks be insurable?

Let us briefly examine the history of nuclear power development.

History of the Nuclear Power Industry

In 1954, after private development of nuclear energy received government approval from Congress, with the passage of the Atomic Energy Act, private companies eager to build nuclear power plants soon found themselves facing a formidable roadblock to construction.

The problem was one of insurance. In a free marketplace, insurance companies act as natural inhibitors to the development of hazardous industries. Whenever any business engages in an activity that has a great poten-

tial for endangering the lives and property of others, the risk of tort action in the event of such an accident is reflected in the cost of the insurance premium. The greater the risk and the more costly the potential accident, as perceived by the insurance industry, the higher the premium. The higher the premium, the greater the incentive for the businessperson to develop his/her business along less hazardous lines; or to get out of that activity altogether.

In 1954, the insurance industry believed that the risk of a catastrophic accident was too great to insure, at affordable rates, the nuclear power plant owners for third party liability. This fear was further substantiated in 1957 with the release of the AEC’s own report, called the Brookhaven Report, which concluded that released radiation resulting from a major nuclear power plant accident might kill up to 3,400 people, injure another 43,000, create up to \$7 billion in property damage, and contaminate up to 150,000 square miles with radiation.

The Brookhaven Report identified the problem. Advocates of nuclear power expansion soon found a solution. On September 2, 1957, using the infamous interstate commerce clause as legal justification, an amendment to the Atomic Energy Act was passed limiting the liabilities of all parties for any nuclear accident to a maximum of \$560 million.

Under the legislation, called the Price-Anderson Amendment, \$60 million of insurance would be available from two private insurance pools—The Nuclear Energy Liability Association (NELIA) and the Mutual Atomic Energy Liability Underwriters (MAELU). *In the event of a major accident, the remaining \$500 million would be paid by the taxpayers.*

With the taxpayers backing the risk, construction of nuclear power plants could now begin. Price-Anderson was extended for ten more years in 1965 and again in 1975.

Even after the release of the Rasmussen Report in 1975 which concluded that the risks of a nuclear power plant accident were extremely minimal, the insurance industry was still unwilling to fully insure nuclear power plant owners. Price-Anderson was thus extended to August 1, 1987.

Under the new extension, the private insurance pools would pay \$140 million, the taxpayers would pay \$150 million and the nuclear power industry would pay the remainder. The liability, in the event of a nuclear accident, is still limited to \$560 million.

(Here, it is interesting to note that with the devaluation of the dollar through inflation \$140 million in 1977 is equivalent to 63 million 1956 dollars, or only \$3 million more in coverage than the original amount that the private insurance pools were willing to bear. Also, again taking into account inflation, today’s ceiling of \$560 million in liability is equivalent to \$250 million in 1956 dollars, so the liability of nuclear power plant owners has actually *decreased*, in real value, over the past 21 years.)

In 1978, in the case of the *U.S. Nuclear Regulatory Commission vs. Carolina Environmental Study Group*, the NRC defended Price-Anderson “in the light of the substantial evidence of private reluctance to accept the risk of virtually unlimited liability for nuclear accidents” and concluded that “the imposition of a statutory limitation on liability plainly is a . . . means of providing such encouragement.

Price-Anderson & Justice

The nuclear power industry is not a child of a free market, but of the State. Without Price-Anderson, it is likely that little or no nuclear power industry would exist today, at least as it is presently designed. For libertarians, it is government-imposed limited lia-

bility, as exemplified in Price-Anderson, that is wrong and must be fought. Price-Anderson presents an illegitimate conference of special privilege on one group (in this case, the power companies) by the State. It is a violation of the basic principle of equality before the law.

Also, integral to any theory of justice is the right of the victim of an act of violence to seek full restitution for any damages incurred from the perpetrator of that violence, a right which Price-Anderson completely denies. Price-Anderson also presents the potential obscenity of victims, as taxpayers, having to foot the bill for their own "restitution" in the event of a power plant disaster.

With Price-Anderson, it is immaterial if a disaster of a magnitude requiring over \$560 million is "extremely unlikely" or "impossible." What matters here is that government ignored the rights of potential victims in favor of the goals of its corporate allies.

The solution: repeal Price-Anderson legislation and remove all government subsidies to the nuclear power industry. As we have seen, government is not simply a part of the problem, it *is* the problem. By placing the realization of its own objectives and by conferring special privileges on certain corporations, over the rights of individuals, government has caused the premature development of an entire industry with all of the potential hazards that entails. It has enabled certain industries to profit from their nuclear power investments while the American taxpayer subsidizes the risk.

It is time now for a separation of economy and State. It is time to let the tremendous dynamism of a free people in a free marketplace provide our energy needs.

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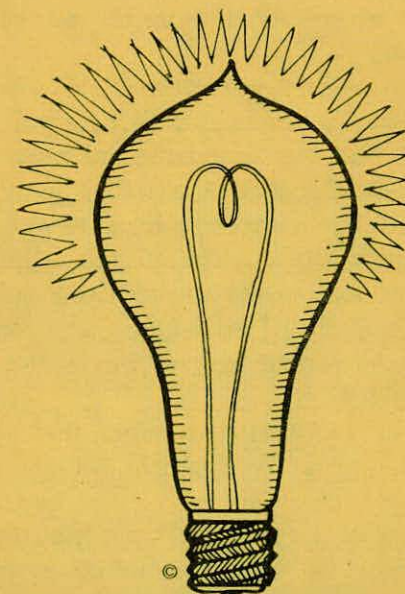
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