Letters

Nuclear Power Regulation

In a News and Comment article of 30 January (p. 360), Philip M. Boffey characterizes our recent study of the validity of state legislative and initiative measures aimed at halting the spread of nuclear power plants as "an advocacy brief" and repeatedly suggests that we reached our conclusion that such measures are invalid in order to serve the needs of the study's sponsor, the Atomic Industrial Forum, Inc.

Boffey did not discuss the article with us and thus fails to convey a full view of our position. He does not, for example, note that we confine our finding of invalidity to the state measures as currently drafted, nor that we concluded that there is a substantial area for state public utility commission regulation of nuclear power plants.

We would not quarrel with Harold P. Green's notion (as reported by Boffey) that state laws applicable to all forms of power, not just nuclear, would have a better chance of survival; indeed we suggest it.

The short answer to Boffey is that our article is not a brief; it is an objective study of a narrow legal problem. And the conclusions are ours—not the Atomic Industrial Forum's. Those conclusions should not be altogether surprising in view of the fact that the Supreme Court has already ruled that state regulation of nuclear power plants is preempted. Boffey is simply wrong when he states that the Supreme Court did not rule on the merits of the Northern States Power Company case.

However, the most depressing aspect of the matter is Boffey's suggestion that sponsorship by an organization like the Forum precludes an independent, academic inquiry into a subject. Such an approach to scholarly inquiry is unworthy of the AAAS. Our report is freely available to be read and judged on its merits, and we expect it to be judged by the severe standards of scholarship. Any statement of "what the law is," as Justice Holmes pointed out long ago, is a prediction of how courts will behave. Our prediction may turn out to be wrong, but that will not detract from its validity as an analysis of the subject.

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I did not mean to imply that Murphy and La Pierre tailored their conclusions to meet the needs of their sponsor. Rather, I consider their study "an advocacy brief" in the sense that it was commissioned by, paid for, and distributed by the Atomic Industrial Forum, the trade association of the nuclear industry. The Forum would almost certainly not have commissioned a study by scholars whose findings were apt to undermine its own position. Nor would it have issued a press release touting their findings.—PHILIP M. BOFFEY

Disclosure of Grant Applications

The suggestion of Moore, Ladda, and Rapp (Letters, 16 Jan., p. 136) that the names of those who request copies of grant applications be published is, unfortunately or not, not supported by law.

The Freedom of Information Act, as amended (PL 93-502), nowhere requires any list of inquirers to be kept, nor does it require the inquirer to identify himself. Although several agencies have instituted registers of inquirers for administrative convenience, a refusal to identify oneself is not, under the Act, grounds for rejection of the inquiry.

Further, publication of a list of those requesting copies of grant applications, in *Science* or elsewhere, would seem to be in violation of the Privacy Act of 1974 (PL 93-579) and would subject the federal official releasing the list to a fine of up to $5000.

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The recent decision of the District of Columbia Court of Appeals that grant applications to the National Institutes of Health for research support are not exempt from disclosure under the Freedom of Information Act raises a serious practical question with respect to patents that is not discussed in the letters of 21 November 1975 (p. 736) or 16 January.

If it is required that copies of grant applications be made available to anyone who asks, it appears that, according to interpretations of the Patent and Trademark Office and the courts, a grant application is a "printed publication," as that term is used in the patent laws. If this is true, then a potential statutory bar against issuance of a valid patent is created by the filing of a grant application, unless an application for a patent directed to the same subject matter is filed within 1 year.

Until there is a decision to the contrary, the prudent course is to ensure that a patent application is filed before the first anniversary of the grant application. This will likely burden the Patent and Trademark Office with numerous speculative patent applications based on little or no data, followed by a series of continuation applications, if and when supporting data are generated.

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Heart Disease Prevention Trials

In the article by Gina Bari Kolata "Prevention of heart disease: Clinical trials at what cost?" (News and Comment, 21 Nov. 1975, p. 764), a number of cost estimates are placed in confusing apposition. The costs for the Lipid Research Clinic Primary Prevention Trial and the Multiple Risk Factor Intervention Trial (MRFIT) are estimates of 8-year totals, whereas the National Heart and Lung Institute (NHLI) budget cited is an annual total. In fact, the cost of MRFIT is not disproportionate to the total budget of the Institute. Its annual costs of $10 million to $13 million have been approximately 3 to 4 percent of the recent annual NHLI budgets ($325 million in fiscal year 1975). Prudent management has kept the actual expenses within this budget despite continuing rapid inflation and increase of personnel and material costs which are beyond the control of the Institute. Although corners have had to be cut, the scientific integrity of MRFIT has not been compromised.

A major charge by Congress to NHLI is to translate newly gained research knowledge into effective measures for prevention of heart disease and into the best treatment of heart patients. The MRFIT study was carefully designed to maximize practical utility and minimize what would necessarily be a major commitment of funds and scientific resources. More than 360,000 potential participants have been screened and final recruitment has been completed of 12,000 men who have volunteered for random assignment to the two treatment groups and expressed willingness to participate through the 6 years of follow-up activity. The cooperating investigators in the clinics, laboratories, and coordinating