

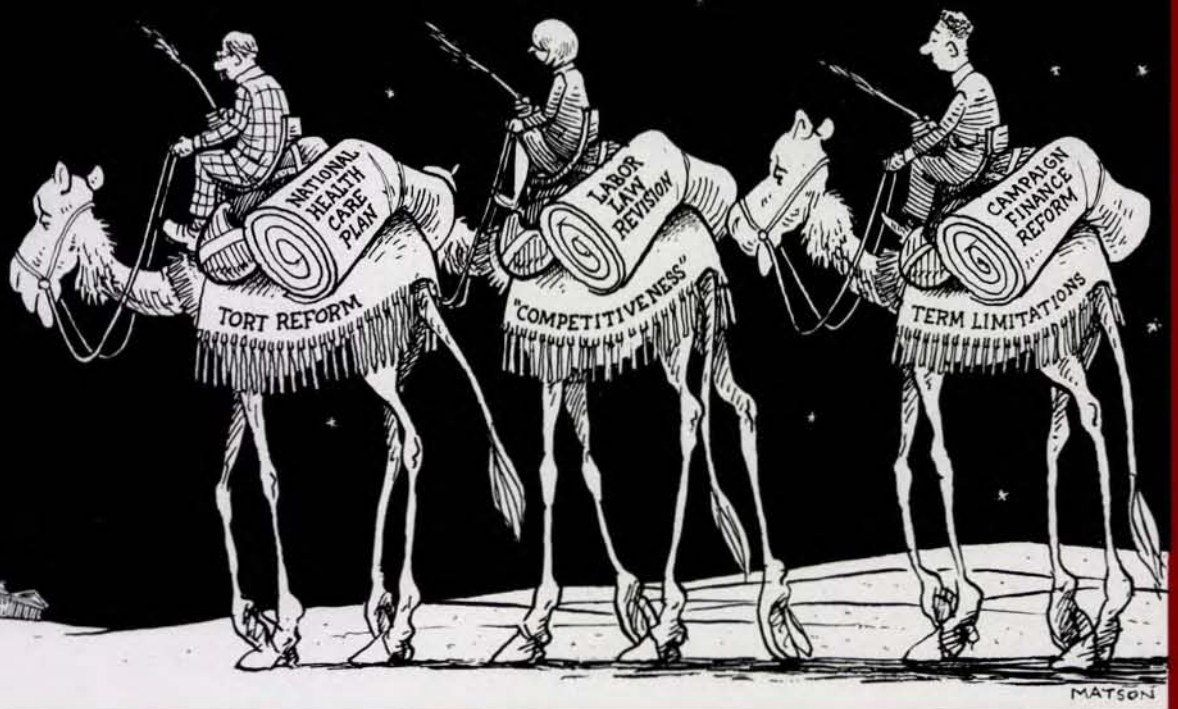
RIPON

forum

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IN SEARCH OF A DOMESTIC AGENDA



Bringing Ideas to Washington

EXECUTIVE DIRECTOR'S COLUMN

Throughout the past several months, the economy has gotten worse, and everyone in the nation seems uneasy about where we are headed. The **Domestic Agenda** or lack of one is on the lips of political pundits and novices alike as though we had just woken from a deep sleep and realized that whole rooms in our governmental house are bare.

The Democrats love to snap and bite at the President and the White House fires a great number of shots at the Capital Building, saying the Democrats who run Congress have become complacent and unable to meet the needs of the nation. This issue of the **Forum** seeks to explore some domestic issues and contribute to the dialogue that we must have to meet those needs.

Representative Steve Gunderson (R-WI) has contributed an article that discusses America's labor laws and the need for them to reform. His detailed analysis of this issue reveals a host of problems and some solid solutions.

Ripon board member **Sally Narey** explores that complicated but vital issue of medical liability and offers a look into how bad the problem has become and what we can do to help solve it.

Over the past several months, health care has become an enormous concern of the American electorate. Certainly the victory of Senator Harris Wofford over former Attorney General Dick Thornburgh in Pennsylvania shows us that people are thinking about this severe problem and how we might fix it. In this issue, Canadian Ambassador Derek Burney talks about the Canadian system of nationalized health care and how it works for his nation. In our search for a workable, cost effective system, the experience of our northern neighbors should be thoroughly studied and debated.

The **Forum** is especially pleased to present Patrick Regan's in-depth analysis of U.S. foreign policy and political repression. His conclusions about the way the White House and Congress deal with foreign assistance are both compelling and important.

—Jean Hayes

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Canadian Health Care System

by Ambassador Derek H. Burney



Ambassador Derek H. Burney

The following article is taken from an address by Ambassador D. H. Burney to the Washington chapter of the Ripon Society on July 30, 1991.

* * * *

This is the kind of subject which Canadian diplomats like to talk about, because there is widespread consensus in Canada in favor of our health care system. The Canadian public supports the medicare system. The medical professionals support it, as do the provincial governments. The private sector is supportive. It is the one thing in which even all of Canada's political parties concur.

Perhaps most important of all, taxpayers overwhelmingly agree that this is one area where they get the most visible and acceptable bang for their tax dollars.

The American media has reported extensively on Canada's health care system. You may also have seen a recent issue of *The Economist* which con-

Ambassador Derek H. Burney is the Canadian ambassador to the United States.

tained a supplement on Health Care. This provided a flattering description of the Canadian system. It is also a useful summary of a variety of approaches taken by different countries.

But, as political positions here in the United States are beginning to shape up on this issue. I have to be careful, as a diplomat, not to intrude in what is your domestic debate. I will try to explain but not sell a system that Canadians have spent some forty years developing. A system which responds to our needs in a large and diverse country, and to the requirements of a federal system which is structured somewhat differently from yours, a system that fits in with our social evolution and outlook.

What we have in Canada is a medical system geared to our requirements. Some of its features may be attractive to Americans; other aspects may not. And it's not up to me to make judgments that are properly in the domain of American domestic policy.

My objective — more simply and very diplomatically — is to summarize briefly what the Canadian system is and explore some of its myths and realities. Then I'll comment on why I think it enjoys widespread public support.

ELEMENTS OF THE CANADIAN HEALTH CARE SYSTEM

Under legislation passed by the Federal Government, which in effect, created the "National" health care system in Canada about 20 years ago, there are six basic elements to Canadian Medicare:

First, coverage is universal. All residents (that is, those with with a minimum of three month of legal residence) of each providence and territory are included.

Second, No one may be denied services. Discrimination on the basis of poverty, age or ill-health is prohibited. Deductibles and point of service charges (that is, deterrent fees) are also prohibited for medical care. User fees are allowed for non-medical services,

Financing Canada's health care system is a joint federal-provincial responsibility and is derived essentially from tax dollars. The federal government, which gets it revenues from various forms of taxation, pays about 40 percent of total health care costs, and it contributes to the provinces.

such as private hospital rooms rather than standard ward care.

Third, patients choose their doctors and doctors determine whether services are required.

Fourth, benefits are portable. Residence of a province are entitled to full benefits when they are temporarily absent from their home province. The many Canadians who live for portions of the year in the United States also take the benefits of the program with them to the U.S.

Fifth, administration is public and non-profit. The administrative authority in each province is responsible to the provincial government. Doctors bill the government and the government pays all the bills. A central administrator, by the way, is one of the reasons why overhead costs in Canada are so much lower than in the United States.

Sixth, coverage is comprehensive. It includes all medically-necessary services preformed by medical practitioners in doctor's offices, hospitals or clinics, as well as necessary drugs, supplies and diagnostic tests.

Let me re-emphasize a most important

point: Canadians are free to choose their doctor. Thus the element of competition is maintained: a competent practitioner will receive a larger share of the practice.

So, in essence the Canadian system is universal, comprehensive, and administered by the provinces. And it retains the principle of choice and competition.

In practical terms, viewed from the respect of the beneficiary, here is how it works: when Canadians need medical care, they go to the doctor or hospital of their choice. They present an enrollment card which is issued to all residents of a province for identification purposes. They don't fill out forms, and they are not presented with bills for services. There are no deductibles or co-payments. Doctors bill the province directly and are paid on a scheduled basis in accordance with fees or rates negotiated between the provincial government and the provincial medical association. Hospitals receive an annual sum of money from the provincial government based on a global budget negotiated with the province.

The Canadian system is also commonly known as one that is essentially "free." Let me anticipate your curiosity on that point. Like the proverbial "free lunch," it's a polite fiction. Nothing in life is "free," and our medical care system is no exception.

Financing Canada's health care system is a joint federal-provincial responsibility and is derived essentially from tax dollars. The federal government, which gets its revenues from various forms of taxation, pays about 40 percent of total health care costs, and it contributes to the provinces according to formulas linked to provincial Gross Domestic Product (GDP).

Provincial governments, in turn, which spend between one-fifth and one-third of their budgets on health care, derive their revenues from income and corporate taxes. Some also levy sales taxes, or have taxes levied on employers. Two provinces — Alberta and British Columbia — collect premiums, although the premiums are not rated by risk and payment of a premium is not a condition of treatment.

In sum, Canada spends about 9 percent of its GDP on health care (compared to about 12 percent in the United States). In 1989, for example, Canada spent

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about US\$1805 per capita on health care, while the United States spent about US\$2354.

Why are Canadian costs lower than in the United States? There is no single cause. First, as I have said, lower administrative costs in Canada are a major factor in keeping costs down. Administrative costs in Canada represent 11 percent of dollars spent on medical care; 24 percent in the United States. Our system is relatively simple, involving doctors and hospitals dealing with a single administrative agency. There is no worry about unpaid bills; no need to market private plans; no problems of double-billing; no lengthy problems with paperwork.

As the paymasters, the provincial governments are also a potent force in encouraging operational efficiencies among hospitals, which results in a higher utilization rate for hospital beds in Canada than in the United States. (The comparative figures are in order of 80 percent for Canada as opposed to 65 percent for the United States.) Efficiency comes from a delicate balance between over-capacity and excess utilization, and, I grant, this balance is often difficult to maintain.

Another factor is that doctors' expenses in Canada are lower because of the relatively low cost of malpractice insurance. This is due partly to Canada's different legal system, which prohibits attorney contingent fees and partly to the fact that doctors themselves decline all out-of-court settlement, thereby increasing the legal costs for any potential claimant.

The "up-side" is a system that is comprehensive, fair and centrally-administered. The "down-side" is that, as

an essentially tax-based system, it is under constant financial pressure. Health care is already the largest single component of every provincial budget, and Canada's level of per capita spending on health care is the second highest in the world (after the United States). At a time when most governments in Canada are under severe budgetary pressures, even the most widely-supported programs share the stress.

Let me turn now to some myths and realities about the system.

First, there is a persistent myth that governments own and operate the Canadian health-care system, and that doctors are employees of the state.

The reality is that doctors in Canada function, for the most part, the way doctors in the United States do. Most are independent, paid for on a fee-for-service basis (and very well paid by Canadian standards), and they have a free hand in determining what is in the best interest of their patients.

Let me repeat, despite what you may read, Canadians pick their own practitioners. They are not "assigned" doctors, and freedom of choice is a basic principle of the system. In effect, there is an implicit "medicare pact" that governments in Canada will not interfere with the professional autonomy of physicians, who largely regulate their own profession through provincial medical colleges and associations.

Hospitals in Canada tend to be community-owned and non-profit. They are accountable to local boards of trustees, and they have wide latitude in running their institutions.

Second, there is also the myth that governments in Canada unilaterally set fees charged by doctors or hospitals. Without describing the system in detail, physicians' services are normally determined in negotiations between the governments concerned and the medical profession. Provincial medical associations then develop a fee schedule for the various services provided by each medical specialty. Hospitals negotiate a global operating budget for each year with provincial authorities, which pay on average about 85 to 90 percent of total hospital operating costs. The rest is generated through local fundraising efforts, but not charges to patients for insured medical services.

There is a **third** myth that everything

Burney, continued on page 9

We Need A National Commission on Labor Law and Competitiveness

by Representative Steve Gunderson

Congress has not conducted a comprehensive review of the nation's major labor laws since passage of the Landrum-Griffith Act in 1959. Subsequent efforts at labor law reform have been piecemeal, often without regard to the cumulative effect of these many changes over the years. Today, an increasingly competitive world marketplace requires reform of major American labor laws.

In the absence of more comprehensive review by congress, a bipartisan commission should be established to assess the effectiveness of the nation's major labor laws. Such a body could objectively determine whether and how these laws might be modified, expanded, deleted or consolidated. Based on it's findings, the Commission could recommend measures to ensure the nation has an integrated policy which promotes the growth and competitiveness of business, address the current and future needs of American workers, and improves the general welfare of the American public.

THE NEED FOR A COMMISSION

The nation's labor laws are rooted in the early 20th century, and were designed to address the unique economic turmoil facing American businesses and American workers. The laws were designed to carry the nation through the great depression and into the unchartered economic expansion which followed. Successive laws have been piled on through the years, mostly in reaction to individual or industry-specific problems. Today, the nation faces economic challenges and competition from abroad not envisioned during the beginning of this century.

Steve Gunderson represents Wisconsin's 3rd district and serves on the Education & Labor Committee.

In the last 50 years this nation has witnessed a period of remarkable social and economic change, both at home and abroad. Demographic shifts have had, and will continue to have, a significant impact on workers and businesses. Much of the overall population has moved south and west, employment growth has moved from manufacturing to the service sector, and more women and minorities are entering the workforce.

The social and economic changes abroad have been even more dramatic. Many nations which were remote and impoverished before World War II have become dynamic economic competitors. These nations and others have overcome the previous competitive advantages held by the United States. Changes in Europe will mean even more competition from abroad, as will multi-lateral and bilateral free trade agreements between nations.

The bottom line is clear; in order to remain competitive into the future, the nation must modernize it's labor laws.

LABOR-MANAGEMENT RELATIONS LAWS

While no comprehensive changes have been made to the National Labor Relations Act (NLRA) since 1959, major labor-management disputes since that time have demonstrated both that the focus of the NLRA itself, and the ability of the National Labor Relations Board (NLRB) to respond could be greatly improved.

The NLRA is intended to help balance the competing self-interests of labor and management. As the middle ground between these interests often shifts in one direction or the other when applied to individual circumstances, the act should provide for this needed flexibility. Rather than diminishing the objective approach needed in labor-management disputes, such improvements would strengthen uniformity and predictability of the act's provisions.

For example, one section of the NLRA limits an employer's ability to influence organized labor. While this provision was designed to prevent employer-sponsored "in-house" unions — which blocked outside unions from entering the work place — the provision also inhibits positive labor-management programs, such as in-house "quality councils" and other innovative, joint management programs. Such provisions may still be warranted to prevent unfair employer advantage over employees, but they should be updated to reflect changes in workplace relations which have occurred since 1934.

In general, employers argue that the collective bargaining process is too inflexible under present law, causing polarization in negotiations. Employees argue that, while the law defines the employer's minimum legal responsibilities to his or her employees, it offers no incentives to fulfill moral and social responsibilities. Changes to the NLRA could emphasize the common elements both parties share in maintaining productivity and improving competitiveness.

A 1991 General Accounting Office (GAO) report found that, in both 1988 and 1989, 95 percent of all cases filed with the NLRB were resolved at the regional level. When cases were litigated before an Administrative Law Judge, the median time to obtain a decision was about one year. Half of non-litigated cases were resolved within 50 days.

Problems with delay typically affect just those cases directed to the NLRB headquarters. Since 1973, this has been an average of fewer than 5 percent of cases filed.

Charges that the national Board is not as responsive as it might be in resolving these disputes tend to center on perceptions that cases before the Board are backlogged. The GAO report found that 30 percent of cases had been pending two or more years in 1988. However,

the backlog, as high as 300 cases in 1987, has dropped to just 10 cases in 1991. Since the average time required to resolve cases has not been reduced, case backlog is clearly not the main factor in NLRB delay. Mandates on the NLRB to assure maximum due process protection for employees and employers alike are more likely to blame for delays.

The GAO report also attributed delays to the lack of standards for the length of time a case can be considered by the NLRB, and for the length of time a case can remain at each stage before corrective action is taken. Another cause of delay is turnover on the Board.

These delays lead to uncertainty on the part of both employees and employers. For example, in the case for a strike for unfair labor practices, a decision by the NLRB General Council not to file a charge of unfair labor practices against an employer (usually within 45 days) often serves to end the dispute by declaring such strikes to be without merit. However, the decision to file such a charge leaves both labor and management uncertain about the actual legal status of the strike until after a ruling by the Board. Under the current process, the average case takes two years between filing and final Board resolution. Even then, further delays may arise due to appeals.

Because the current process prevents timely NLRB intervention to resolve labor-management disputes, procedural and structural improvements should be made in a manner that balances faster resolution of cases with adequate due process protections.

EQUAL EMPLOYMENT OPPORTUNITY LAWS

The nations equal employment opportunity laws hinder American competitiveness, first, by providing uncertainty to employers eager to avoid litigation; and second, by failing to assist workers who are victims of discrimination in a timely and consistent manner.

Employers complain that each of the antidiscrimination laws is applied differently and entails different administrative filing deadlines, statutes of limitations, and administered and court ordered remedial procedures. Section 1981, enacted as part of the Civil Rights Act of 1866, prohibits discrimination in the making and enforcements of con-

tracts. However, even though Section 1981 was never intended as an employment statute, it has been interpreted as applying to contracts executed in the employment setting. This complicates the Federal focus in equal employment opportunity law because, while Section 1981 allows for jury trials and compensatory and punitive damages, other employment opportunity laws do not.

National policy to strengthen equal employment opportunity should include uniformity in enforcement procedures, greater emphasis on conciliation between employers and employees, including mechanisms for alternative dispute resolution, and broader access to justice for victims of discrimination.

Similarly, enforcement procedures and remedies differ between many of the employment statutes. The 1964 Civil Rights Act followed a more specific prohibition against discrimination in work force pay scales. However, the prohibition was enacted by the Equal Pay Act of 1963, an amendment to the Fair Labor Standards Act (FLSA). Title VII, which embodies most other equal employment statutes, is administered by the Equal Employment Opportunity Commission (EEOC).

Also, because the Age Discrimination in Employment Act (ADEA) was modeled after the Fair Labor Standards Act, but is enforced by the EEOC, it incorporates some enforcement procedures and remedies from each. In some areas, the ADEA represents a major departure from Title VII. This problem also arises with differing remedies under the Rehabilitation Act and the Americans with Disabilities Act (ADA). Though both laws prevent discrimination in the work place based on disabilities, they do so differently.

Three separate sections of the Rehabilitation Act govern employment

discrimination cases. Section 501 governs nondiscrimination and affirmative action policies applied to federal employees, and requires complaints to pursue a claim through their respective agencies or through a private cause of action. Section 504, which governs these policies as applied to recipients of federal financial assistance, follows the same complaint processes. However, Section 503, which governs these policies as applied to federal contractors for contracts in excess of \$2,500, is enforced by the Department of Labor, and allows no private cause of action.

The ADA has been laid across this matrix. Where the Rehabilitation Act preempts state laws, the ADA does not. Further, while the ADA is built upon concepts developed under the Rehabilitation Act, substantive differences between the two Acts do exist. For example, there is no provision prohibiting discrimination based on association under the Rehabilitation Act as there is under the ADA. The ADA also imposes requirements governing medical examinations which differ from those in section 503. Finally, for its remedies and enforcement procedures, the ADA references Title VII, not the Rehabilitation Act.

Employees who file discrimination complaints are denied the quick and fair resolution of their cases intended by the original 1964 Act. A 1989 report by the Federal Courts Study indicated that, since 1969, the number of private employment discrimination cases filed in the federal courts has increased by more than 2000 percent (from under 400 cases in 1970 to almost 7,500 in 1989). This increase in litigation, possibly a result of the shifting emphasis under section 1981 on larger punitive and compensatory damage awards, causes further delay for victims. A 1988 (RAND) study of wrongful discharge cases litigated between 1969 and 1988 found the average case lasting more than 3 years, and costing employers and employees an average of over \$160,000 per case.

National policy to strengthen equal employment opportunity should include uniformity in enforcement procedures, greater emphasis on conciliation between employers and employees, including mechanisms for alternative dispute resolution, and broader access to justice for victims of discrimination.

HEALTH AND SAFETY LAWS

Problems with the nation's health and safety laws are due, in part, to the fact that they were enacted as a result of individual accidents or events, in the case of the Mine Safety and Health Act (MSHA), or in response to the politics of the moment, in the case of the Occupational Safety and Health Act (OSHA).

An overlap of other Federal and State laws (primarily those administered by the Environmental Protection Agency) duplicate OSHA regulations. And, because OSHA was given the enormous task of regulating working conditions in a wide range of industries (as opposed to MSHA which is more narrowly focused), it has suffered from an ineffective system of targeting resources.

OSHA suffers from a perceived imbalance in its mixed mission of part enforcement, part education and consultation. The emphasis under OSHA has clearly shifted to enforcement and to issuing numerous detailed regulations, while congressional focus is limited to increasing OSHA penalties and adding inspectors. Far less focus is maintained on promoting compliance through education and consultation.

Recent changes to OSHA and MSHA, such as the increase in maximum penalties put into law in 1990, appear motivated as much by Federal budgetary concerns as by broader interest in reforming worker safety laws. Similarly proving compliance with OSHA standards has become increasingly burdensome on employers, without improving compliance. The trend appears to be to improve compliance with safety standards through increased attention to penalties and filing requirements under OSHA and MSHA, rather than through other means.

Because OSHA enforcement resources are limited to roughly 1,000 inspectors, regular inspections of 3.6 million work sites nationwide will likely never occur. Therefore, greater emphasis must be given to education and consultation, the other half of the OSHA mission. Reduced paperwork and improved cooperation with the Occupational Safety and Health Administration would improve employer cooperation in meeting work place safety standards.

WAGE LAWS

Duplication and overlap among the many wage laws, and burdensome compliance requirements present major obstacles to the ability of American businesses to compete. At the same time, government-imposed wage rates, which have replaced market wage rates under the laws, and barriers to apprenticeship opportunities present additional obstacles.

Employers are required to file weekly reports with the Department of Labor to prove compliance with Davis-Bacon, Walsh-Healy, and the Service Contract Act... cost[ing] businesses up to 5.5 million man hours each year.

In 1983, the General Accounting Office (GAO) issued a report advocating repeal of the Service Contract Act, based in part on the fact that the Fair Labor Standards Act (FLSA) and administrative procedures, implemented through the Federal procurement process, would be more effective. The report also found administrative problems inherent in the act, and found prevailing wage rates and fringe benefits cannot be properly determined under the present system.

Similarly, the Walsh-Healy Act, which establishes minimum wage rates, limits work hours, prohibits child and convict labor, and sets worker safety conditions, is irrelevant in large part due to coverage of these standards under other acts. The Act's coverage of minimum wage rates, and child and convict labor prohibitions are largely superseded by the FLSA. Work place safety rules are superseded by the OSHA. Work hour provisions under Walsh-Healy were duplicated by the Contract Work Hours and Safety Act of 1962, and the overtime restrictions in both acts were repealed in 1985.

Similar overlap occurs between the Davis-Bacon Act and the FLSA. Davis-Bacon, enacted in 1931, was intended to provide a modicum of wage

protection in advance of more comprehensive protection provided later by the FLSA, enacted in 1938. Both the Davis-Bacon Act and the Service Contract were established on the premise that prevailing wage rates in local areas could be driven down by the importation of cheaper foreign labor. However, most cost factors remain constant for contractors (i.e., materials, supplies, interests on loans, rent, and other expenses), in both government and non-government contracting. Presumably, this leaves labor costs as the only major remaining variable in contract bidding.

Given the protections of collective bargaining on the one hand, and FLSA protections on the other, local laborers would be no more vulnerable without Davis-Bacon standards to wage reductions in government contracts. Where the Davis-Bacon Act artificially drives costs up, employment, employment opportunities are decreased. The FLSA may be found to adequately protect employee interests in the absence of Davis-Bacon.

When the FLSA was enacted during the Depression era it was argued that establishing a minimum wage would prevent poverty among the working poor. However, this may not be the case. For example, the Department of Labor found the poverty rate increased by 23% (11.4 to 14%) between 1978 and 1981, after the minimum wage rate was raised in 1978.

Further review of the effect of the minimum wage rate on job creation and on preventing poverty on the working poor is warranted. At very least, the original intent of the minimum wage rate provisions of the FLSA should be updated to reflect both economic changes generally, and changes within various industries since 1938.

Many employers are required to file weekly reports with the Department of Labor (DOL) to prove compliance with Davis-Bacon, Walsh-Healy, and the Service Contract Act. This requirement alone costs American businesses up to 5.5 million man hours each year at a cost estimated between \$50 million (Congressional Budget Office) and \$100 million (DOL). The approximately 11 million payroll reports submitted each year amount to 5.5% of all DOL paperwork received. These requirements discourage smaller firms from entering

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EDITORIALS

Around and Around we go in Washington

Good government is a phrase that politicians and concerned citizens love to point out as the main goal of our political system, as the ideal that we should all work towards. To have a federal government that works efficiently and in the best interest of the people should be the lofty goal that we, as people, pursue in our political process. Of course, we've never really attained that goal, but we keep trying.

Unfortunately, during the past two decades, our federal system has moved further and further away from the exemplar of representative government and moved closer to a system of political gridlock. In 1991, the Congress and the Administration have never been further apart and workable solutions to the serious problems that face us are more elusive than ever.

With only one four year exception, the American people have elected Republicans to the White House every term since 1968. Since 1954, they have also given control of the Congress to the Democrats, with the House consistently in Democrat hands and the Senate usually so.

This situation, the Republicans and Democrats each in control of a branch of government, has created a divided government that doesn't serve either party or the American people well.

For example, the national debt and annual budget deficit have been growing at an ever increasing rate over the past few years. This year's deficit is estimated to be about \$380 billion dollars and the rate of growth shows no signs of slowing down. And this tremendous growth comes after a much heralded "Budget Summit" of late last year that was supposed to solve the problem.

The problem with the budget is the same as with other issues before the nation, neither George Bush nor the Democrats who control Congress have sufficient political power to completely enact their policies. Thus, the President

sends proposed legislation to Congress and it is ignored by the Democrats; the Democrats pass legislation and it is promptly vetoed by the President. It's a vicious circle that goes around and never comes up with workable solutions.

It's time that the American people recognized that divided government does not work well and gives control to one party or the other. Of course, as Republicans, members of the Ripon Society would want control of the Congress to go to our party and ensure George Bush is re-elected to a second term. However, we must do something, the present situation of deadlock in Washington is simply unworkable and unacceptable. ■

Medical Insurance Should be a National Issue

On election day, 1991, political pundits all over the nation were stunned by the news that Senator Harris Wofford (D-PA) had upset former

Republican Attorney Dick Thornburgh in a special election for Senator in Pennsylvania. Not only did he win, but the 55% to 45% vote count moves into the coveted political territory of a "landslide."

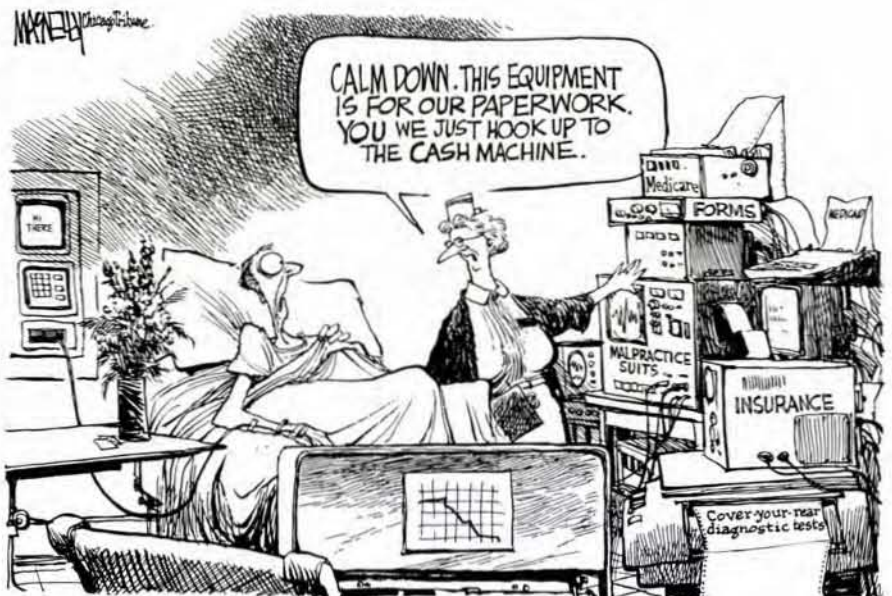
Analysts across the nation have come up with many reasons for the victory from a poorly run Thornburgh campaign to a strong anti-Washington feeling in the Keystone State.

No reason for the victory is more compelling than that of health insurance for all Americans. Wofford's top issue throughout the campaign was a call for national health insurance and a promise to make this his number one priority in Washington.

Certainly, that millions of Americans live each day without any form of health insurance is a national disgrace, something that should not be tolerated. We are the only industrialized nation that does not take care of our citizens by some form of medical protection while at the same time having the highest per capita cost for health care.

The issue of health insurance needs to become one of the foremost issues in

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is covered by government health plans. The reality is that only about 75 percent of medical costs are covered by medicare. Although each provincial plan is unique, there are costs — including optional medical services such as some cosmetic surgery — which fall outside the plan, and there are costs for dental services, eyeglasses, non-medically-prescribed services which are either born personally or taken care of by private medical insurance plans. They are used to supplement provincial health care plans.

A fourth myth, perpetuated by isolated (and selectively inaccurate) media reports, suggests that the Canadian system suffers from lengthy waiting lines, which drive Canadians to the United States for treatment. Objective study of the Canadian situation suggests that there are no waiting periods for primary health care, and that regular surgery is scheduled promptly. There are slightly more physicians per person in Canada than in the United States and Canadian use more physician services per person than do U.S. citizens. There are some lines for certain specialty areas such as cardiovascular treatment, lens implants, and where new technologies are involved, such as CAT scanners. Emergency cases, however, are treated immediately, bypassing any waiting period.

Fifth: Rumors that Canadians are flocking across the U.S. border along with the geese for treatment are not true. If we look at the "trade" in medical services between our two countries, there is traffic both ways. Canadians visit American clinics or doctors when they seek special expertise or care and their bills are covered by their health scheme for the most part. Americans frequently come to Canada because we have expertise to offer. The heart institute of the University of Ottawa and Sick Children's Hospital in Toronto, for example, are world-renowned medical facilities with patients from all over the world.

As a general rule, however, Canadians get their medical care in Canada. If we look at what the province of Ontario paid out for services in the U.S. in 1988, it represents about one percent of the health budget, and this includes the many Canadians — the snow birds —

who live part of the year in the U.S. and make use of American facilities as a matter of routine. Recent surveys by the American Medical Association and the Pepper Commission show that Canadians accounted for less than one percent of total admissions in each of the nine U.S. hospitals surveyed along the U.S.-Canadian border. The level of public support for Canada's health care system is remarkably high. Public opinion polls suggest that some 97 percent of Canadians prefer their system to that found in the U.S. They also suggest — and I take this with a grain of salt, polls withstanding — that this is one area where they are prepared to see taxes increased to maintain current levels of services.

No one may be denied services. Discrimination on the basis of poverty, age or ill-health is prohibited.

Public support is also broadly based. Health care consumers like the system because it offers freedom of choice combined with almost hassle-free administration. Medical professionals by and large like the system because it provides guaranteed funding, ease of administration and freedom for professional endeavor. From time to time there are conflicts between the medical profession and various levels of government in Canada. But there is no mass exodus of doctors, and the medical profession has lost none of its lustre, if we can judge from figures about average per capita income or applications to Canadian medical schools.

The private sector also supports the system. It is efficient, even though it's an exception to the age-old canon which argues that nothing done by governments can be well administered. The burden of paying for health care is also spread equitably in Canada among all tax-payers. It does not fall disproportionately on any one sector of the economy. It also takes much of the health care issue out of labor management relations and negotiations.

I believe the results speak for themselves. Canada today is a much healthier place than it was forty years ago. Our in-

fant mortality rates were once five percent higher than yours. Now they are among the lowest in the world, over 20 percent lower than the rates in the U.S. (7.2 per 1,000 live births in Canada compared to 10.1 in the U.S. in 1988). Life expectancy has gone up. Maternal mortality rates have dropped. Virtually all of the indicators of a healthy population began to change when medical care became universally accessible. The U.N. development program, in a recent report, gave Canada the second highest rating in the world in its "Human Development Index" (Japan was first; the U.S. was seventh). Health care was an important factor in the equation.

It took Canada forty years to develop its health care system. Reaching national consensus was sometimes divisive. There were doctors strikes and some tough bargaining sessions. There were difficult issues — such as extra billing — which had to be surmounted to forge a national consensus. Hammering out the financial details of the system remains one of the most arduous annual tasks in our federal system.

There are, of course, abuses. Some people seek more treatment than they need, sometimes simply as a substitute for companionship. Every society has an unhealthy percentage of hypochondriacs. But the cost of over-treatment is deemed to be far lower, in social terms than the price of neglect.

And the system is not static. It changes as the medical industry changes, and it must adapt to new circumstances. Canada's population is aging, and our evolving demographic profile will inevitably alter the way health care is planned and delivered in the future.

Technology is another intangible. The costs of some of the newer technologies are mind-boggling, and there are hard choices to be made about the availability of facilities whose costs could be put to other, equally valid purposes. Beyond the issue of cost are ethical and moral questions with which we are all grappling.

By and large, however, we have a national consensus about the Canadian health care system, one that responds to Canadian needs. Changes will be made but they will conform to the basic tenets of our existing plan — universal, comprehensive, quality care and choice for all. ■

Wheat, Weapons, and Abuse: U.S. Foreign Assistance and Political Repression

by Patrick M. Regan

The tools available with which the United States can implement foreign policy initiatives are many and varied. In terms of the "carrot and stick" analogy, the "stick" component of this range of options is much more studied and analyzed than the "carrot." Military force or economic sanctions are often employed in an effort to achieve foreign policy objectives, with varying degrees of success. The effect of the "carrot" component of the U.S. options is much less understood in terms of their ability to shape the behavior of foreign leaders. Tools such as Most Favored Nation status and foreign military and economic aid are the most prominent implements in this foreign policy grab bag. But how effective are these positive inducements at influencing the behavior of recipient nations? One area in which the effect might be quite visible is in the United States' ability to manipulate the human rights policies of developing countries. Many problems have confronted the policy-maker or researcher who has attempted to unshroud the mystery behind the U.S. government's ability to shape the human rights behavior of other states.

The larger study from which this article derives involved a statistical examination of the effect of U.S. foreign aid on levels of political abuse in 29 Latin America and Asian countries, covering a time span from 1977 to 1988. This type of methodology can be used

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to identify trends time, but while statistical generalizations can be a critical tool in the development and evaluation of policy initiatives, they are not capable of arriving at specific predictions. The results, therefore, cannot be interpreted to suggest that in, say, Guatemala an increase in foreign aid will result in a change in the level of human rights abuse, but rather that in a particular year the general effect of changes in foreign aid was to increase or decrease levels of repression. From a policy maker's perspective prediction would obviously be the most desirable of the two conclusions. However identifying the trends associated with aid disbursements over a course of time can be an extremely important piece of information when it comes to policy evaluation. The findings that I will present must be interpreted in terms of the trends associated with changing levels of foreign aid disbursements, and from these trends we can attempt to identify those policies which contribute to the observed outcome.

A POLITICAL PERSPECTIVE

The relevance of such an inquiry is evident by the restrictive legislation passed by Congress over the last 15 years. Not only have they required that aid be denied to consistent violators of human rights, but also that the Administration certify progress toward the alleviation of abuses in specified countries, before those countries can receive additional funding. Much has been made of the Carter administration's emphasis on human rights as a beacon for foreign policy decisions, though little is understood about the effectiveness of this policy. Likewise, the Reagan administration followed what it called the "positive" approach to promoting human rights, in

essence, promoting democratic reform. In both cases, with the urging of Congress, foreign aid was used as a carrot to advance the objectives of the particular administration. It is clear that Congress and the two administrations under scrutiny believed that there is a connection between U.S. foreign aid and human rights practices.

From the Congressional perspective, the objectives in using human rights criteria for the distribution of foreign assistance are twofold: to promote practices that are consistent with international standards of human rights, and to distance the United States from those regimes that are consistent violators of the rights of their citizens. The intentions of Congress have been spelled out in three separate pieces of legislation: Sections 116 and 502B of the Foreign Assistance Act of 1961; Section 112a of the Agriculture Trade and Development and Assistance Act of 1954; and Section 701 of the International Financial Institutions Act of 1977. In each case Congress stipulated that no aid shall be granted to those countries deemed consistent violators of human rights. The language used is specific in terms of both the course of action to be taken, and the offenses deemed particularly inappropriate.

Both the Carter and Reagan administrations brought slightly different perspectives to bear on the issue of human rights. President Carter was widely understood to have viewed the human rights record of a government as a central element in the determinant of bilateral relations. Not only did his administration publicly profess to be guided by human rights concerns, but in a number of instances he threatened to deny foreign aid to countries exhibiting particularly brutal human rights practices, offering to restore it only when acceptable standards were met. Chile is

President Carter was widely understood to have viewed the human rights record of a government as a central element in the determinant of bilateral relations ... [t]he Reagan administration ... embarked on a policy of using foreign aid as a tool to foster the development of democratic movements, and through these fledgling democracies, a decrease in the level of political abuse.

probably the most notable example of this policy. That the administration thought that foreign assistance could be used as a carrot to temper the human rights abuses of the potential recipients is evident in statements made by administration officials during congressional testimony.

This practice of manipulating aid disbursements in an effort to directly mediate the political abuses by recipient countries, was viewed by the Reagan administration, as a "negative or reactive" approach. While acknowledging that the reactive track has merit as a foreign policy tool, Elliot Abrams an assistant Secretary of State, argued that a second approach was necessary. This second track involved the use of foreign aid to promote democracies within the recipient countries. It was asserted that "democracies have the best human rights records." The Reagan administration, therefore, embarked on a policy of using foreign aid as a tool to foster the development of democratic movements, and through these fledgling democracies, a decrease in the level of political abuse. The stated criteria of having to meet some minimal standard of human rights before aid would be forthcoming, was replaced by criteria more attuned to issues of democratic reform.

Obviously, within both the Congressional and the Administrative sectors of

the U.S. government, there exists the perception of a connection between the amount of economic and military aid given to a country, and that country's behavior with respect to human rights abuse. Whether or not foreign aid truly does have an impact on the level of political repression remains to be seen. But before moving on to potential answers to that question, there is a body of work in the scholarly literature which attempts to evaluate this relationship between U.S. foreign aid and political repression.

AN ACADEMIC PERSPECTIVE

Attempts at evaluating the relationship between economic and military aid and the political tolerance of the ruling factions in the recipient countries have not proven remarkably successful. Policy-makers, however, must have criteria by which they can judge the success or failure of a particular policy initiative, though at present this evaluative process appears to be carried out on an ad hoc basis.

If, as Congress has mandated, one of the criteria upon which foreign aid decisions are made is the human rights record of a potential recipient, then one would expect to find that the more repressive states receive less foreign assistance. A number of scholars have tried to empirically test this relationship. Although none of the findings are very consistent with each other, tentative patterns do emerge. One group of scholars found that the human rights records of Latin American countries does have some impact on the levels of aid, though a second group found that during the Nixon and Ford presidencies more aid flowed to those countries with higher levels of repression, while under President Carter they found no discernable pattern.

From another perspective, Lars Schoultz demonstrates that economic aid can, and has been used to support repressive governments in Latin America, and to assist in the overthrow of nonrepressive regimes in favor of regimes more disposed to repress their citizens. Arguing that it's the tendency of the U.S. government to support those regimes who view Latin America political crises as a threat to hemispheric stability, and therefore U.S. security, Schoultz suggests that the United States

uses aid to suppress attacks on the status quo. As examples he cites aid to the Uruguyan police, the Nicaraguan National Guard, and the Argentine military, all during particularly unstable periods.

Foreign aid can be used to directly or indirectly support a repressive government. Training and equipment for police and paramilitary units are the most direct form of support. The U.S. had trained and equipped the South Vietnamese National Police, the Brazilian federal police, the Nicaraguan National Guard, and more recently a number of police and military units from Central American countries. In each case, whether the aid program fell under *International Military Education and Training (IMET)* or the disbanded *Office of Public Safety (OPS)*, the

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countries in question suffered at the hands of their repressive leadership. The argument is that aid granted by the United States was used to facilitate these repressive policies.

Foreign economic aid can also be used to indirectly support repression. Using aid as tool to free up the resources available to the leadership in recipient countries is a good example of a so called fungability argument. Food aid, for instance, can relieve the recipient government of the obligation to purchase grains on the market, with the newly released revenues being spent on paramilitary forces or other organs of repression. A second example is the cut-off of economic aid to a government deemed antagonistic to the United States, which can lead to domestic unrest as a result of social deprivations.

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America's Medical Liability Ills

by Sally B. Narey

The recent exchange between Vice-President Dan Quayle and the President of the American Bar Association over the number of lawyers and lawsuits in the United States focused public attention on the effectiveness of the American judicial system. This debate is not, however, a new one. Over the past several decades, because of unprecedented expansion of the civil justice system, the American public has increasingly begun to question whether the tort system is fair. Many experts have concluded that our civil justice system has changed so dramatically that any unintended adverse results is frequently overcompensated, while other incidents of true negligence remain undiscovered. At the same time, associated administrative and legal costs have continued to increase — frequently at the expense of the injured party. This loss of confidence in the predictability and fairness of the civil justice system has caused many Americans to view it as simply another type of state lottery.

While this sentiment is often voiced with respect to the overall American tort system, there are few areas where the topic has been more intensely debated than in the area of medical liability. Radical developments in medical and scientific technology have significantly increased public expectations about the ability of health care providers to perform "miracles," leading to new unexpected legal problems for insurers and health care practitioners. Additionally, personal relationships which previously existed between patients and practitioners have been eroded by increasing specialization.

The growing number of costly medical liability lawsuits, enhanced public

expectations toward modern medicine, heightened use of defensive medical procedures and practices, and incidents of malpractice have ultimately led to dramatically increased medical liability costs, both direct and indirect. Furthermore, as overall health care costs have escalated, the significant percentage attributed to the medical liability system has become clear to public policymakers, health care consumers, insurers, and health care providers. As a result, experts have begun to question whether the tort system is a suitable and adequate guarantor of high quality medical care.

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By the mid-1980s, because of increasing medical liability costs and the uncertain nature of the liability system, a number of malpractice insurers had withdrawn from various classes of coverage, others had stopped writing medical liability coverage entirely, and virtually all insurers had dramatically increased the cost of insurance to health care providers.

Health care practitioners, most notably those engaged in practices viewed as "high risk," responded by curtailing or terminating their practices, frequently having profound impact on inner-city and rural areas. Many practitioners reacted by practicing "defensive" medicine, utilizing costly and unnecessary procedures to help prevent allegations of malpractice.

As a part of the solution to the medical liability "crisis," state legislature, regulators, and the Federal government adopted measures to alter the civil justice system and initiated action to improve the quality and delivery of health care services. Because tort litigation

traditionally has been within the purview of state courts, most legislative changes in the tort system during the 1980s occurred at the state level. Although many studies have been conducted to ascertain potential savings which might be achieved from enactment of a variety of tort measures, none have been dispositive. Nevertheless, many experts believe that changes in the tort system may have been responsible for a relatively recent reduction in the number of claims filed and the cost of medical liability insurance.

The following tort reform measures are most commonly believed to help reduce the frequency (number) and severity (cost) of medical liability claims and, ultimately, the cost of the liability system:

Caps on Damages: Damages awards for medical malpractice usually consist of two components: recovery for compensatory losses, such as medical expenses and lost income, and compensation for non-economic damages, such as pain and suffering and loss of consortium. Some states have placed caps on total recovery, while others have imposed limits on non-economic losses. Efforts to cap damages have, however, met with strong resistance from the plaintiffs' bar and consumer organizations. The constitutionality of caps on damages has been argued in several areas with varying outcomes.

Structural Judgments: Traditionally, judgments and settlements are paid in lump sum that often include compensation for anticipated future medical expenses or lost earnings. In the event of premature death, a windfall is often created for the heirs if a significant portion of the judgment or settlement is based upon future damages. As a result, many states now require or permit courts to award damages in the form of structured payments either for all damages or damages attributable to future payments and costs.

Collateral Source Rule: The collateral source rule provides that benefits

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into federal contracting. This is a major impediment to domestic competitiveness since firms with 9 or fewer contractors make up 80% of all construction industry employers.

Over the past several decades, the use of "helpers" in the private construction industry has become widespread. Nearly 75% of all contractors today make use of helpers for unskilled and semi-skilled positions. However, under the wage determination standards, the DOL rarely issues rates lower than those for skilled journeymen. This results in virtually eliminating opportunities for apprenticeship training on government contracts.

Despite findings in Federal courts that the helper classification is consistent with the long standing Congressional intent that Davis-Bacon reflect, rather than disrupt, locally prevailing wages, Congress last year eliminated DOL authority for establishing regulations for the use of helpers on Federal contracts. The change will have the effect of continuing to prevent opportunities for on-the-job training, principally affecting minority workers and small and minority firms under Federal contract.

Maintaining the prevailing wage standards without review and improvement will continue the trend in Federal contracting of inefficient allocation of labor resources, increased costs, and reduced employment opportunity, especially for semi-skilled and entry-level employees. The evolution of other worker protection laws, and of a more flexible work place over the last 50 years would make review of prevailing wage laws appropriate today.

EMPLOYMENT AND TRAINING LAWS

Unlike most of our major competitors, the United States lacks a comprehensive Federal System for worker training. The primary Federal training programs, under the Job Training Partnership (JTPA) and apprenticeship programs, address the fringes of worker training needs. Because of the restrictive focus and eligibility requirements of Federal training programs, relatively few American workers have access to training assistance. JTPA basic programs are limited almost exclusively to the economically disad-

vantaged. Programs for displaced workers have strict criteria for eligibility based on the circumstances of job loss.

The primary "training" for most entry level U.S. workers is obtained through the formal education system. Because the Secondary education system is geared toward training students toward college, American businesses are forced to fill the gaps in each employee's work-related skills. This approach leaves nearly half of all newentrants into the workforce untrained and unready for work. Fifty-percent of our young people do not go on to higher education. Few resources are available at Secondary school level to facilitate direct entry into the workforce of graduating students. Despite the burden placed on businesses to address this problem, they do not provide sufficient training resources for this "forgotten half." Business resources directed to training amount to \$30 billion to \$44 billion annually, less than 1% of the 1988 GNP. Of this amount, two-thirds is directed toward training college educated workers, not non-professionals.

Today, the nation faces the challenge of remaining competitive in an increasingly competitive world economy. In order to respond ... we must be willing to update the very foundation upon which our labor laws are laid.

Even within the U.S. Employment Service (ES), the largest general employment program, there exists a lack of consensus on what the primary purpose of the ES should be. Its mission is further confused by split funding and policy directives between Federal and State levels. This results in the ES often failing to meet the needs of either businesses or workers.

Eligibility requirements for employment and training programs differ by program, and often by state. Some programs are means-tested (e.g. JTPA, JOBS, Title V of The Older Americans Act), while others are not (e.g., Employment Service). Eligibility for Un-

employment Insurance varies widely among the States. Thresholds for means-tested programs are often set at different levels.

Groups targeted for assistance under the programs differ among the various programs as well. Three different definitions for "displaced homemakers" exist among JTPA, the Vocational Education Act, and the Displaced Homemakers Self-Sufficiency Act. Similarly, "individuals with disabilities" is defined differently under JTPA, the Wagner-Peyser Act. This lack of uniform definitions causes multiple paperwork and duplication of effort across programs intended to serve the same clientele.

The United States has traditionally allocated more resources for "income maintenance" programs (i.e., wage replacement) than for training programs. In FY 1991, outlays for Unemployment Insurance alone totaled \$17.5 billion, Additional outlays for the Employment Service, Social Security Insurance, and other welfare and income subsidy programs add billions more to this amount. By contrast, outlays for all Federal training programs totaled less than \$5.1 billion.

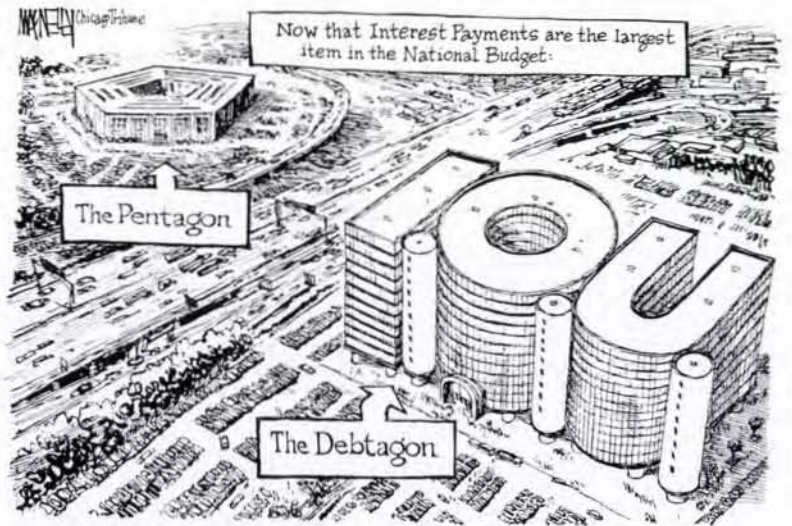
This Federal emphasis on providing income maintenance over skill enhancement is less effective over the long term in preventing income disruption.

The U.S. apprenticeship system is geared toward older, better trained workers. Unlike the apprenticeship programs of many competitors, the U.S. system is focused on traditional crafts rather than entry into the workforce in general. Efforts to expand and modernize the existing program have focused on revisions to the regulations rather than on amending the statute itself. Even these efforts were halted by enactment of a 1991 law which prevented the Department of Labor from pursuing its proposed regulatory changes.

Failing to address the existing concerns within the apprenticeship program, such as providing uniform requirements for registration of apprenticeship programs, improving portability of apprenticeships, establishing clear and realistic ratios of apprentices journeymen, and establishing minimum training standards, will prevent the program from expanding to provide increased training for workers.

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The Lighter Side



The Ambulance Chasers.



received by an injured party from sources other than the defendant may not be used to offset the damage recovery from the defendant. This permits the plaintiff to obtain double recovery of certain damage components. Until recently, the rule was accepted by virtually all jurisdictions because it was widely believed that a wrongdoer should not be relieved of paying tort injury simply because the plaintiff has access to other resources. In order to help reduce the costs of the medical liability system, a number of states have eliminated the collateral source rule to ensure that award damages are reduced by the amount of compensation an injured individual is entitled to receive from other sources.

51 percent of hospitals do not have adequate procedures to review surgery for quality and 50 percent do not properly monitor patient care in intensive and coronary care units.

Statute of Limitations: The primary purpose of a statute of limitations is to ensure the litigation of timely claims. In many states, however, the discovery rule was adopted which provided that the plaintiff's statute of limitations did not begin to run until he or she discovered, or reasonably should have discovered, the medical injury. This open-minded discovery rule, which created an uncertain and potentially long period within which a medical malpractice action could be brought, made it difficult for insurers to develop actuarial estimates upon which to base medical malpractice premiums. Accordingly, many jurisdictions have taken action to limit the statute of limitations.

Attorney's fees: Critics of the current system often argue that the transactional costs of the tort system are excessive and that the percentage of these costs that actually reach the injured party is far too low. In particular, there has been significant criticism of the high costs of

attorney's fees in medical malpractice cases. In response, several states have attempted to limit fees in medical liability suits. Other proposals have required the courts to review attorney's fees, both plaintiff's and defendant's, to ensure that the fees are reasonable.

Certificates of Merit: In order to discourage the filing of frivolous claims, several states have required the plaintiff to include a certificate of merit from an accredited health care provider which certifies that the claim is worthwhile.

Punitive Damages: Although punitive damages are not frequently awarded in medical malpractice cases, when they are awarded the conduct of the defendant is often extreme, bordering on or actually constituting gross negligence. Because punitive damages are intended to fulfill a different purpose than compensatory or general damages, a number of states have suggested that punitive damages be used to improve the state's medical disciplinary system, as well as serve as an indicator of substandard medical care.

While many experts advocated changes in the existing tort system, others argued that the medical liability system was sufficiently unique that the existing system could not adequately serve the needs of all parties. As a result, legislators and other medical liability experts began to advocate solutions to the medical liability crisis which departed from the traditional tort reform measures. Such changes range from fairly moderate alternatives to the existing tort system to outright rejection of the current justice system as a means of handling medical liability cases. Those proposals include:

Arbitration: Arbitration has been used in various contexts, including medical liability, for a number of years. In medical liability arbitration, two parties agree to resolve malpractice disputes through the use of arbitration. Such contracts are premised upon the concept that, if a later claim arises, the parties will consent to the use of arbitration rather than resolve the claim through the courts. These agreements have successfully been used by a number of health care providers in various areas.

Pretrial Screening Panels: Several states have adopted pretrial screening panels as a mechanism to resolve of malpractice claims more effectively.

For example, in Maryland all claims in excess of \$5000 must be submitted to an arbitration office and are heard by a three-person panel. Although the panel's results are non-binding, juries are told that panel determinations of liability and damages are presumed to be correct. A recent study of the Maryland system revealed that the pretrial screening process did not increase claim filing nor did it create an additional hurdle for low-income claimants. The study also found that fewer cases are ultimately heard by juries after consideration by the pretrial screening panel. The average length of time needed to resolve a malpractice claim in Maryland also appears to be moderately reduced.

No-fault: No-fault systems were recently adopted in Virginia and Florida as a means of resolving problems with delivery of obstetrical care in those states. The no-fault systems remove a narrowly defined class of catastrophic birth-related injuries from the tort system. A workers' compensation type system has been established to provide timely compensation over the injured party's lifetime. Claims are filed with

Critics ... often argue that the transactional costs of the tort system are excessive and that the percentage of these costs that actually reach the injured party is far too low.

an expert panel of impartial physicians who must review the claims to ascertain whether the injury is compensable. The panel must make its determination within 120 days. Claims are referred to the state medical board to determine whether substandard or negligent care was the cause of the injury. Compensation is limited to net economic loss. The compensation fund is generally financed through assessment on physicians, hospital, and insurers. Advocates of no-fault argue that this system provides prompt compensation, reduces transactional costs, and leads to lower insurance premiums. Opponents maintain that the no-fault system will

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REVIEWS

CAN DEMOCRACY WORK?

"John Dewey and American Democracy." by Robert Westbrook, Cornell University Press, 1991.

by Frederic R. Kellogg

Worldwide struggles for political and economic control have settled out in the late 20th century with the North American model looking relatively well—albeit somewhat exhausted. But in the streets of North America, doubts are raised. As the threat of a showdown diminishes, the communism/capitalism context, in which democracy could be seen as the alternative to totalitarianism, dissipates. We again confront, as we did the last time we thought world wars were done with, whether democracy can really be made to work in the United States.

John Dewey's intellectual life has just been reported in a way that can't help but bring him back into democratic debate. Robert Westbrook's **John Dewey and American Democracy** is not just balanced and comprehensive, it reaches calmly through the smog of self-serving abuses of Dewey's legacy to remind us, among other things, that his commitment to the founding vision of the nation was firmer and more penetrating than most of his contemporaries.

After the First World War, it was seriously doubted by many eminent Americans, Walter Lippman among them, that America could work as a genuine democracy. Psychology and social science, supported by empirical studies of voting, had uncovered the irrational side of human behavior, giving "scientific confirmation to the old Aristotelian dogma that some men are born to rule and others to serve." A study of the 1924 presidential campaign concluded that "the successful campaign was the one which dealt least with rational motives and most with simple ap-

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peals directed toward the arousal of specific, instinctive, emotional, and habit pattern—responses." 64 years later, the same could be said less delicately.

Lippman observed that democratic theory had always held people can only govern themselves through informed consent. But the public did not know their environment directly; they knew a "pseudo—environment" of fictions, magnified by the news media. People expected newspapers to provide them with the truth but they were unwilling to pay for it. "Roughly speaking," wrote Lippman, "the economic support for general news gathering is the price paid for advertised goods by the fairly prosperous sections of cities with more than one hundred thousand inhabitants."

As we did the last time we thought world wars were done with, we confront whether democracy can really be made to work in the United States.

Meanwhile, the political process was dominated by what Lippman called the "manufacturing of consent," through which politicians controlled public opinion. "He who captures the symbols by which the public feeling is for the moment contained," said Lippman in 1922, "controls by that much the approaches of public policy." The only possible conclusion was that "public opinion" could not be relied upon to indicate the common interest. Government could not operate without "some form of expertness between the private citizen and the vast environment in which he is entangled."

Lippman, not Dewey, became a lead-

ing advocate for the intellectual aristocracy that has served as a model for much of this century. It was Lippman, then and still the hero of self-styled "democratic realists," who favored the making of decisions by informed "insiders" while "(t)he broad principles on which the action of public opinion can be continuous are essentially principles of procedure." Lippman eventually argued that popular participation in public affairs should be held to an absolute minimum. Democracies were faced with this dilemma:

they are frustrated unless in the laying down of rules there is a large measure of assent; yet they seem unable to find solutions of their greatest problems except through centralized governing by means of extensive rules which necessarily ignore the principle of assent. The problems that vex democracy seem to be unmanageable by democratic methods.

If there were no answer to this argument, we would now, after having essentially tried government by experts and insiders since Lippman wrote, be in a real bind. The best and the brightest have shown what they can do; to what model can American's now look? How would the democratic realist apply the competitive success of Japan? By advocating an American version of **Kaisha and Kotohyo**, better group consciousness and acknowledgment of social and economic rank?

The daftness of this suggestion should not hide the seriousness of our current situation. American institutions across the board are in disarray: medical, legal, educational, political, economic, governmental. No spent institution, and no society, rebuilds automatically. Most are replaced, usually traumatically.

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penalize physicians who do not regularly practice obstetrics, will ultimately costs, may increase the number of claims filed, and will not deter malpractice.

The vast array of proposals which have been advanced to alter the civil justice system and improve the quality of care rendered in the United States makes it clear that there is no easy solution to the medical malpractice "crisis."

Designated Compensable Events:

Proposals have been advanced to develop a medical adversity insurance system to compensate people, without regard to fault, whenever their injuries are identified as "designated compensable events." The list of automatically compensated injuries would be drawn up by medical experts with certain public supervision. Compensation would be made according to a worker's compensation type schedule of benefits.

Immunity/State Funded Indemnity:

Certain states have taken action to provide immunity or indemnify certain physicians under limited circumstances. For example, Virginia has granted obstetric providers good samaritan immunity for rendering voluntary, emergency delivery services. In an effort to resolve the obstetric liability crisis in Missouri, the state has utilized its state tort claim act to assume liability for physicians under certain circumstances. In other states, certain health care providers have been assisted by directly assuming a portion of their liability insurance premiums.

While these proposals were designed to address real and perceived problems in the tort system, other initiatives were undertaken and proposed to improve the quality of medical care. Unlike tort reform, which occurred primarily at the state level, the Federal government has taken a number of steps to assist the states with enhancing the quality of

medical care. In 1986, Congress created the Health Care Quality Improvement Act which created a nationwide data bank for information on disciplinary action. The data bank makes it more difficult for a physician, disciplined in one state, to simply move to a second state and resume practice. Additionally, the Act provides an exemption from Federal antitrust statutes for certain professional review actions taken against health care practitioners. Absent such an exemption, many health care practitioners have been reluctant to aggressively undertake peer review actions because of fear of possible charges of collusion and unfair competition.

The Federal government also has a unique program to ensure the quality of care provided to Medicare and Medicaid beneficiaries. Peer Review Organizations (PROs) review medical records from over 2 million hospital admissions each year to identify quality of care problems. Based on these reviews, PROs can initiate a variety of corrective measures ranging from education to suspension of the physician involved from participation in Medicare and Medicaid programs.

Nevertheless, recent studies have indicated that more needs to be done to improve the quality of medical care. A recent study conducted by the Harvard School of Public Health for the state of New York revealed that the frequency of physician errors resulting in injury exceeds the number of malpractice claims filed by a factor of ten.

In addition, a 1986 study by the Inspector General of the Department of Health and Human Services found serious shortcomings in the medical licensing system. Nationwide, only a few disciplinary actions are taken each year and those tend to focus on extreme behavior. The Inspector General also noted that budgets and staffing levels for state licensing boards are generally inadequate.

Finally, a 1989 study of more than 5,000 hospitals by the Joint Commission on Accreditation of Health Care Organizations found that 51 percent of hospitals did not have adequate procedures to review surgery for quality and 50 percent did not properly monitor patient care in intensive and coronary care units.

In an effort to improve the quality of medical care and reduce the number of

adverse incidents, a variety of proposals have been advanced. These include:

Improved State Medical Board Performance:

A number of initiatives have been advanced to improve the quality of state medical boards and enhance their ability to discipline substandard physicians. These frequently involve increased medical board funding; support for collection, analysis and dissemination of state medical board data; development of indicators of state medical board performance; and enhanced coordination between state medical boards and other Federal and state experts.

Practice Standards and Guidelines:

The Department of Health and Human Services has a number of ongoing and planned activities for development of practice guidelines regarding appropriate use of health care services and procedures. In addition, practitioners have begun to advocate the development of practice guidelines in certain specialty areas. For example, California Medical Association and California Association of Hospitals and Health Systems sponsored a project to develop recommendations to help reduce the incidence of neonatal brain injuries. An analysis of birth injury claims was per-

While the states have generally been charged with responsibility for changes in the tort system, mushrooming health care costs have caused many policymakers to conclude that the Federal government must play a larger role .

formed and published in the February 1984, **Western Journal of Medicine** which revealed that, in a significant number of cases, birth injury could have been prevented by following certain guidelines. It is believed that once such guidelines are developed, they could be utilized to measure actual care against the standard and to ensure that appropriate action is taken when care

Narey, continued on page 21

Reconstruction — a term favored by Dewey — comes through creative intelligence. There has to be a game plan. Dewey denounced democratic realism as “democratic elitism” in the interregnum between world wars, but his rebuttal of Lippman never got a good hearing. This may be because things weren’t bad enough, and infatuation with expertise looked good enough, and certainly Dewey was not politically savvy enough. He was blind to many cultural values that are now associated with conservatism. Late in life he became increasingly uneasy with a simplistic notion of “capitalism” and committed to “planning.”

Notwithstanding this, if there is one central Deweyan message sufficiently short for a sound bite, it is that democracy is antithetical to any kind of paternalism. Dewey might get some air time for this today by linking up with the workfare movement, but were he alive he might find much of workfare, as well as much else that is paraded as self-help in the political arena, to be a more subtle form of opportunism and symbol manipulation. True self-help is self-generated. As the War on Poverty demonstrated, it does not necessarily come even from programs specifically crafted to create it. And it is nearly impossible to prescribe in a national political campaign.

Self-help is, in an important sense, impossible to prescribe at all, for the act of prescription itself defeats the goal. Unless, that is, the prescribing activity can really be devolved to those who must be expected to help themselves. But we should know by now that this simply can’t be handled by anything resembling a government “agency.” It implies redefining the notion of what constitutes governing organizations, of the “public sector.” Dewey may have had greater respect than we do for government agencies, but it was such recognition and redefinition that lay at the heart of his political philosophy.

For today’s “realist” this kind of talk is hyperspace, traveling at warp speed among hypothetical intergalactic abstractions. Far better to set up an office off Lafayette Square and arbitrage media time for multicultural exemplars of voluntarism. Dewey’s handling of the issue may have been vague and

awkward (and his flirtations with socialism naive), but he did make an earnest effort to get to the heart of it: “the ethical ideal is not satisfied merely when all men sound the note of harmony with the highest good, so be it that they have not worked it out for themselves.”

*What Dewey does tell us
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Were it granted that the rule of the aristoi would lead to the highest external development of society and the individual, there would still be a fatal objection. Humanity cannot be content with a good which is procured from without, however high and otherwise complete that good. The aristocratic idea implies that the mass of men are to be inserted by wisdom, or, if necessary, thrust by force, into their proper positions in the social organism. It is true, indeed, that when an individual has found that place in society for which he is best fitted and is exercising the function proper to that place, he has obtained completest development, but it is also true (and this is the truth omitted by aristocracy, emphasized by democracy) that he must find this place and assume this work in the main for himself.

It is that kind of syntax that brought forth Justice Holmes’s famous observation — actually for him the highest praise — on Dewey’s **Experience and Nature**: although “incredibly ill written,” noted Holmes in his own lingo, “So methought God would have spoken had He been inarticulate but keenly desirous to tell you how it was.” All the more reason to read Westbrook’s book; given the subject, it is, incredibly, not ill-written, and it does tell you how Dewey said it was.

But (back to democracy) what was Dewey’s response to Lippman, who

knew Dewey’s position and didn’t deal in abstractions? Westbrook finds it wanting in specifics, and captures it in the following phrase; “Clearly, unlike Lippmann, Dewey found that the prevailing modest function of [the citizen as mere voter] to be inadequate. And though equally clearly he believed that modern democratic government would continue to rely heavily on voters, the logic of Dewey’s political theory and ethics pointed to a government that would include, indeed maximize, agencies through which the public would choose to govern itself.”

In fact, the value of Dewey’s response to Lippman does not lie in specifics. It lies in its attempt to shake us loose from the notion that “government” is something we pay for and leave to others, like valet parking. What government body could, in 1991, have told the 87,500 people of Fontana, California how to reinvent the town meeting, with a computerized questionnaire of matched-pair options, in order to identify a consensus on how to address the problems of traffic, housing, youth, crime, and health care in a suburb of Los Angeles?

What Dewey does tell us is that failure of democratic machinery is not a failure of democracy. The rule of experts won’t work because (and these are Dewey’s words) “It is impossible for highbrows to secure a monopoly of such knowledge as must be used for the regulation of common affairs. In the degree to which they become a specialized class, they are shut off from knowledge of the needs which they are supposed to serve.” Policy makers need not be experts. “The notion that intelligence is a personal endowment or personal attainment is the great conceit of the intellectual class, as that of the commercial class is that wealth is something which they personally have wrought and possess.”

Hey, with some brushing up someone could run on that message in ‘92. Get real, Dewey: the problem with the system, like you said way back in 1888, is that “The practical consequence of giving the few wise and good power is that they cease to remain wise and good.”

So why should we rely on the “system” at all? You simply can’t reform it — unless you really think that the system isn’t them, after all, it’s us. ■

The upheaval that can result from the aid-related deprivations, such as food riots, could precipitate the downfall of a non-repressive regime, with its replacement by a regime more compelled to restore order through the violent suppression of dissent. The subsequent resumption of economic assistance to the successor government could serve to reinforce their policies of suppression. U.S. assistance has been used to help bring about the creation of repressive regimes. Citing examples of Brazil, 1964; Chile, 1973; Peru, 1960's; and Bolivia, 1970 & 71, Schoultz argues that well-timed cut offs, or disbursements, of aid have had the effect of helping to usher out "threatening" governments, and easing in their successors. In each case the new government was much more repressive than the old. Once control had changed hands, and power resided in a government more acceptable to the United States, the aid spigot was turned back on.

The argument here, of course, is not that foreign aid is the sole cause of either increases in repression or the overthrow of a nonrepressive regime and its replacement with a brutal leadership. But rather that the use of economic assistance can be a contributing factor in either of these two outcomes. In some instances this may be an non-intended side effect of U.S. foreign policy; in others a calculated gamble. Some of the blame for this apparent support of repression is tied to a desire for economic stability.

The other angle with which to address this question of the role of U.S. foreign aid in promoting the adherence to acceptable standards of human rights is through an analysis of what the Reagan administration termed the "positive approach" to human rights policy. Does the distribution of foreign aid encourage movements toward democratic reform? If it does, not only should this be evident by the type of governments to which U.S. aid flows, but also in the changing records of abuse perpetrated by those governments.

In an interesting 1985 article, Edward Muller argues that U.S. economic and military aid is associated with the destabilization of democratic governments, not their cultivation. There were three basic doctrines that guided U.S. foreign

Reinforcing the political leadership in the interest of economic stability could have the unintended consequence of bolstering an abusive regime.

aid policy: Cold War concerns and the furtherance of U.S. national security interests (preventing the development of Communist governments); promoting economic development, and fostering democratic movements. However, these three objectives often conflict with each other, with national security concerns taking precedence over the other two. The result of this, according to Muller, was a destabilization of democratically constituted governments in exchange for more U.S.-friendly authoritarian varieties. As evidence to bolster his claims, Muller cites, amongst others, the cases of Chile, Brazil, Turkey, the Philippines, Greece, and Uruguay, all of which experienced coups that were at least tacitly supported by the United States. The trend, he argued, in those countries that were the largest recipients of U.S. aid was from democratic to authoritarian control.

Research has shown some interesting patterns in the relationship between aid and repression. First, there appear to be clear and distinctive differences between the tenures of Presidents Carter and Reagan, with aid during Carter years to be associated with decreases in the amount of repression, while during Reagan's years aid tends to be linked to increases in repression. Second, it appears that economic aid has a greater impact on levels of abuse than does military aid, with the same distinction between the Carter and Reagan presidencies holding true. Military aid, on the other hand, shows little relationship to levels of political repression. And finally, there is very little evidence to suggest that president Reagan was able to promote human rights by aiding those countries striving toward democratic reform. Examples of countries that might be strongly influencing the direction of these findings are El Salvador and Pakistan. Aid to El Salvador jumped from \$4.7 million in 1977 to over \$574 million in 1987, this

at a time of steadily escalating political violence within the country, much of it attributable to the government. Similarly, aid to Pakistan fluctuated between a low of \$45 million in 1979 and a high of \$670 million in 1986, also during a period of political instability and rule by military decree.

These findings suggest that during the years that President Reagan attempted to influence the human rights policies of aid recipients, the results ran counter to the wishes of Congress. Increases in U.S. economic aid appear to have some role in rising levels of political repression. While under the direction of President Carter, U.S. economic aid appears to have had some influence in reducing levels of human rights abuse.

The analysis undertaken in this research presents convincing evidence that the use of U.S. foreign aid as a tool to shape the human rights policies of the recipient countries is determined not so much by the aid, but by the policies of

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the administration under which the aid programs are directed. Whether the levels of political repression were measured using data collected by the U.S. government or by an independent organization (Amnesty International), the findings show a consistent pattern. The general conclusion must be that the aid itself is only part of the signal that is sent to the recipient of U.S. assistance. Foreign aid clearly has been, and can be, used as a tool to promote U.S. political objectives. But it is those objectives that determine the effect of this aid on levels of human rights abuse.

The question still remains as to whether the Reagan administration was able to use foreign aid as a tool to move

governments toward democratic rule. Here the evidence is at best rather weak. The results of my analysis between levels of aid and an indicator of democracy do not convey any strong sense of aid as an effective tool to promote democratic reform. During the Reagan years aid seems to have had no effect on promoting democracy, while during the Carter years aid did little to promote democratic reform, but appears to be associated with reductions in levels of political abuse.

It seems evident from this analysis that U.S. foreign aid *can* have both a positive and a negative effect on levels of political repression in the recipient countries. The determinant of this outcome, however, is to be found in another arena, possibly by looking at the amounts of aid given *and* the diplomatic efforts extended by the administration.

For the policy-maker, the conclusions to this study should be straight forward. From the Congressional perspective it appears that it is simply not enough to legislate conditions under which aid can be awarded. Obviously the intentions of the Congress can be circumvented by the administration, if it so desires. The range of the implements of foreign policy available to the administrative side of the U.S. government are much broader than the Congress could possibly attempt to legislate. The tone and tenor of the relationship between donor and recipient is set by the administration, at least under normal circumstances.

If the Congress were seriously intent on manipulating the foreign aid policies of the U.S. government in a manner that would effect the human rights behavior of the recipient country, they could possibly do so. But to do this the Congress would probably have to be much more restrictive in what it would allow the administration to distribute. In effect, Congress would have to set the tone of the relationship between aid and repression. This might entail making it painfully clear to both the administration and the potential recipients that U.S. aid *will not* go to countries that continue to violate the rights of their citizens. History tells us that such extreme action on part of the Congress is limited to very specific instances, and even here there are small loop holes that permit some of the tone to be set by the White House.

Whether Congress can, or ever will

clamp down this tightly on the prerogatives of the administration is a question that cannot be answered here. But what does seem evident is that the intentions expressed by Congress in the various legislative initiatives will be unsuccessful without either more forceful intervention in the foreign policy process, or the compliance of the administration. It would seem clear from this analysis that if it is the desire of Congress to play a role influencing the human rights practices of countries that receive U.S. assistance, then debate cannot dwell on technicalities in legislative language. Instead Congress must adopt a much more

[D]uring the years that President Reagan attempted to influence the human rights policies of aid recipients, the results ran counter to the wishes of Congress. Increases in U.S. economic aid appear to have some role in the rising levels of political repression.

assertive posture vis-a-vis the administration. Two alternative strategies come immediately to mind: a) formulate aid packages that convey explicit messages regarding the wishes of Congress; and b) directly challenge Administrative policies regarding when and to whom aid will be disbursed. In the former example a current Congressional strategy is illustrative. Military aid to El Salvador was cut in half, with clear stipulations set forth as to when and under what conditions the remainder will be denied or supplemented. The more confrontational approach, denying the resources to the President with which to carry out his policies, has much higher costs and may endanger greater resistance. The recent experience in Nicaragua should shed some light on the criteria by which such limitations can be successful. In any event the key to implementing the policies of the Congress regarding foreign aid and human rights abuse, will be in the manipulations of the message. This message seems to involve both the

amount and type of assistance, *and* the diplomatic instructions that accompany the aid.

Turning the focus from the Congress' ability to influence human rights behavior to that of the President, this analysis offers very pointed prescriptions. If it is the intention of the administration to use foreign aid in a manner consistent with the promotion of human rights, then it must make this message clear. The evidence suggests that aid can be used to manipulate human rights policies, but only when accompanied by a very clear message. But if it is the intention of the administration to use foreign aid in a manner more consistent with the promotion of a geopolitical agenda, then we cannot expect aid to be an effective tool in shaping human rights behavior. President Carter was well understood to have tied bilateral relations with the United States to the level of human rights abuse. Granted that not all of the United States' behavior was consistent with these stated goals, but the message apparently got through. President Reagan, on the other hand, made it almost equally clear that human rights abuse *equal not* be a deciding factor in U.S. bilateral relations. The evidence presented here suggests that the message, too, was well understood, for during the Reagan tenure the message implied that repressive practices would be tolerated if it meant the maintenance of pro-U.S. regimes and nominal movement toward open elections.

The inference that can be drawn from the findings presented above is that foreign aid *can* have an impact on levels of repression, but the determinant of that effect appears to reside in the diplomatic messages that emanates from the White House. Aid apparently can have a marginal impact as a "carrot" in the foreign policy grab bag available to U.S. policy-makers, but that "carrot" has the ability to manipulate a diverse range of outcomes. Any complete understanding of the relationship between aid and repression must take into account the political emphasis of the administrators of the aid programs. ■

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SUMMARY

The foundations for the nation's labor policies were laid in the early 1900s to address the unique economic turmoil facing American businesses and American Workers. Those laws, designed to carry the nation through the Great Depression and into the uncharted economic expansion which followed, are today outdated. Successive reform laws have been piled upon the original laws without ever assessing how well they apply to workplace needs of the day. The complication of these laws have created complexity, overlap, and duplication.

The general focus of the nation's labor laws must shift. Where they currently are designed to simply mediate labor management disputes, they should better promote cooperation. Where they currently increase the likelihood of litigation, and are weighted toward ever-increasing penalties and enforcement procedures, they should more effectively emphasize conciliation, education, and compliance assistance. And, where the laws restrict opportunity for apprenticeships, employee mobility, and job security, greater focus must be given to training, benefit portability, and worker protections.

A bipartisan Commission should conduct the first comprehensive review of the nation's labor laws and make recommendations to ensure that the nation has an integrated legislative policy which promotes the growth and competitiveness of business, addresses the current and future needs of our workers, and improves the general welfare of the American public.

Today, the nation faces the challenge of remaining competitive in an increasingly competitive world economy. In order to respond to the challenge, we must be willing to update the very foundation upon which our labor laws are laid. With the completion of the Commission's work, our ability to restore the national consensus for labor law reform, and to evaluate, debate and develop labor proposals in a comprehensive manner will be greatly enhanced. ■

deviates from the standard. Similarly, the state of Maine has recently assumed a leadership role in establishing practice guidelines for certain health care professionals.

Patient Outcome Statistics: Information on the types of events leading to adverse outcomes, the settings in which they occur, and circumstances surrounding their occurrence have begun to be collected, centralized, and analyzed by medical experts. Once the data is assembled, the rates of adverse outcomes of individual health care professionals and institutions can be identified and compared to ascertain whether an unusually high incidence of adverse outcomes correlates to substandard care. In order to more effectively monitor quality of care and target corrective action, it has been proposed that state medical boards require collection of patient outcome statistics.

Risk Management: Risk Management applies to a broad range of activities directed toward reducing problems. While many states require establishment of risk management programs as a condition of institutional licensure and a number of insurers require health care professionals and institutions to adopt certain risk management programs, it has been recommended that Federal government could further encourage the development, improvement, and implementation of risk management programs.

Continuing Medical Education: While many states require continuing medical education, such requirements are not uniform nor is there a clear understanding of how continuing education has been used as part of disciplinary processes. Proposals have been advanced to enhance the use and effectiveness of continuing education for health care practitioners.

The vast array of proposals which have been advanced to alter the civil justice system and improve the quality of care rendered in the United States makes it clear that there is no easy solution to the medical malpractice "crisis." Nor is it clear whether the proper forum for resolution of these problems rests with the Federal or state government.

What is evident, however, is the growing interest in Congress and the Federal government in the question of medical

Only recently have members of Congress been willing to suggest that the Federal government should preempt state tort law ... it remains to be seen whether the Federal government will aggressively address the question of medical liability.

liability. While the states have generally been charged with responsibility for changes in the tort system, mushrooming health care costs have caused many policymakers to conclude that the Federal government must play a larger role in addressing the problems in the medical liability system. This is true not only because of interest in the issue of medical liability from a policy perspective, but also because the Federal government assumes a substantial share of the direct and indirect costs of medical liability. Recent legislative proposals advanced by the White House and members of Congress include measures to limit medical malpractice litigation, improve the delivery and quality of medical care, and, ultimately, reduce the costs of the American health care system.

Because of constitutional limitations on the role of the Federal government, previous Congressional medical liability initiatives were limited to proposals which were applicable only to beneficiaries of Federal programs or provided "carrots or sticks" to states which undertook certain actions. Only recently have members of Congress been willing to suggest that the Federal government should preempt state tort law. Given the past reluctance of Congress to statutorily preempt areas that traditionally have been within state jurisdiction, it remains to be seen whether the Federal government will aggressively address the question of medical liability. Despite this reluctance, it appears inevitable that the Federal government will consider the role of medical liability system as it reviews the overall health care system and attempts to ensure health care for all Americans. ■

THE CHAIRMAN'S CORNER

A Moderate Proposal For Reviving the House

by Sherwood Boehlert

In the July 1991 issue of **Ripon Forum**, our former editor, Bill McKenzie, conducted a conversation with E.J. Dionne Jr. of the **Washington Post**. It strikes me that Mr. Dionne has captured and displayed a number of seminal ideas, essential truths, about politics in America today.

He says, among other things, "I think the new center can be recreated around the strong consensus in our society that believes in tolerance and also believes that certain values must be encouraged, not coerced, by government."

I also read an editorial in **Governing** magazine's August 1991 issue about the findings of a recent Kettering Foundation survey. It says of American citizens, "And they argue that their once long standing, once reliable connection to politics — elected and appointed officials — has been severed ... In the end, citizens do not believe they can make a difference in politics. The result is frustration, anger, and, most of all, a pervading sense of impotence."

What do we say or do in response to all of this?

While it has been as American as apple pie to gripe about politicians, the present situation goes far beyond old stereotypes. No one in public office should be misreading the intensity or sincerity of citizen outrage. It seems to me that we can restore the confidence of citizens by rebuilding a working consent of the governed through recreating the political center in American politics.

How do we do that? There are steps that can be taken to redeem political institutions and the reputation of elected officials. Moderates tend to be problems

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solvers, people who look for pragmatic answers, the kind of responses that Americans can be encouraged and led to accept — and more importantly to support.

First, level with the American people and tell them it is not possible to provide \$100 of services with \$80 of income. One of the darlings of the political new right, my friend, former colleague, and now Secretary of Housing and Urban Development Jack Kemp once said, "I do not worship on the alter of a balanced budget." I agree with him. His statement, and my endorsement, must be taken in a context which would require far more commentary. The reality is that circumstances prompt me to present, in mantra-like fashion, that revenues and expenditures must be more nearly in balance.

The trick is, how do we do it? There are several options. First, maintain revenues while slashing away at expenditures, or boost revenues while holding the line on spending. Either way, after a fashion, a balance would be approached.

There is always a simple answer to a complex question, and it is usually wrong. The fact of the matter is that some spending is going to have to be reduced, and some revenues will have to be raised if we are going to be faithful to our attempt at fiscal responsibility.

There is no other honest way to believe in the possibility of balancing our country's books. In the process, every effort must be made to protect the poor and helpless among us, and to spread the burden fairly. Those of us who have more should be asked to do more.

Second, Congress should approve, and the president should sign, a comprehensive campaign finance reform package that restores confidence in the electoral process, encourages good men and women to challenge incum-

bents, and brings millions more Americans directly into the political process.

This approach should be preferred and offered as an alternative to the one the people want — a limit on the number of terms that can be served in Congress.

Third, Congress itself badly needs a bath — one of those periodic cleansings that will enable it to get back to the people's business. Rules and procedures should be examined, committees should be required to evaluate as well as reform the spending within their jurisdiction, and the outrages that the majority has been inflicting on the minority for so many years should come to an end. The legislative branch should enact prudent reductions in its overall budget, and then hold the line on its spending levels until the federal budget is more in balance.

Hands are wrung over overlapping committee jurisdictions which aggravate the already difficult gauntlet bills must survive to be enacted. But, House members secretly whisper to one another that the institution no longer works, that the public has gotten wind of it, and that steps must be taken to restore public confidence in the legislature, before the dreaded spread of termination measures wipes us all out.

Fourth, the rules and procedures of the House must be reformed to permit the great bipartisan center, composed of the moderates of both parties, to solve public policy problems and resolve conflicting points of view on the Floor of the House.

The committee structures, in most instances, are dominated by the left wing of the majority party. They have become incapable of pursuing the common good or the civic interest, precisely because committee rooms, and the House Floor, have become places where

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709 Second Street

Ripon member Wins New York City Council Seat

New York chapter member Charles Milliard won election to the New York City Council in what the *New York Times* called "the most stunning win" of several Republican Council victories. Milliard beat a 22 year incumbent to become the first Republican on the Council from Manhattan in nearly 20 years. Just last year, Ripon Congressional Advisory Board member Susan Molinari was the sole Republican member of the City Council. Molinari has since been elected to the House of Representatives.

As the *Times* noted, Milliard's district now is represented by a Republican Congressman, State Senator and State Assemblyman in addition to the council seat despite a 2 to 1 Democratic enrollment advantage. All four rely on the Metropolitan Republican Club as their political home base. The Met Club is led by long-time National Governing Board member and former NY Chapter chairman Roy Wesley.



Brian Lees (l.) presenting citation to John Sears

Sears Named Man of the Year

John Winthrop Sears of Boston has been named the 1991-1992 Man of the Year by the Ripon Society of New England. The award was presented at the chapter's annual meeting to Mr. Sears by Arthur C. George in appreciation of his many successful endeavors and continuing service to the Ripon Society of New England.

Sears was also presented with a citation from the Massachusetts Senate by Chapter President Brian W. Lees of East Longmeadow who is a State Senator and Assistant Senate Minority Leader.

Sears served as Ripon Chapter President from 1987-1990. His public and political service includes the Mas-

sachusetts House of Representatives, Boston City Council, M.D.C. Commissioner, Republican State Party Chairman and candidate for Governor.

Iowa Chapter Holds Annual Meeting

The Iowa Ripon Group had its annual meeting in Des Moines on November 2, 1991. Congressman Fred Grandy had been scheduled as the main speaker but the early Midwest blizzard made it impossible for him to be in Des Moines. Nevertheless, about 60 people were in attendance for a very successful meeting. Substituting for Congressman Grandy was a panel discussion consisting of Representative Dorothy Carpenter and Representative Janet Metcalf, both of Polk County and Senator Mary Kramer, also of Polk County. The panel discussion was moderated by Bennett Webster.

The Iowa Ripon Group will meet monthly throughout 1991 with speakers at each meeting. ■

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American political discussion and hopefully the Wofford win will help do that. Republicans and Democrats alike should recognize the message sent by the people of Pennsylvania to the rest of the nation and begin crafting plans to address the issue. ■

Gag Rule is Free Speech Issue

Throughout the fall, the Administration and Congress have debated and fought over the "gag rule." The gag rule forbids a medical professional at any facility which receives federal

funds from discussing abortion with a patient. The Administration favors such a ban while many members of Congress, both Republicans and Democrats, do not.

Even though abortion is the emotionally charged issue of our generation, the issue of abortion counselling should not be included in the fights between the right and the left. By using the criteria of federal funds to either discuss or not a medical option, the government is setting a dangerous precedent for the future. The flow of information, even if it is a political issue, should never be halted or restricted by the government. If medical professionals can be stopped from discussing a legal medical procedure today, tomorrow what other issue

could be next? Will the government soon start trying to limit the topics at colleges and universities that receive federal money? Will issues in a Presidential campaign be limited because both sides receive taxpayer financing?

The issue of whether or not abortion should be allowed in the United States will be fought on many battlefields in ensuing years, but the flow of information should not be a weapon in the hand of either side. The gag rule is not an abortion issue, but one of free speech. It should be overturned. ■

WASHINGTON NOTES & QUOTES

Ripon Honors Barbara Bush as "Republican of the Year"

The National Ripon Society has honored Barbara Bush as the 1991 "Republican of the Year" for her work in fighting illiteracy and promoting improvements in American education. The award is an annual one and honors prominent Republicans for significant work on important public policy issues. Past honorees include President George Bush (when he was Vice-President, Senator Bob Dole (R-KA) and U.S. Ambassador to Czechoslovakia, Shirley Temple Black.

"Barbara Bush has made improving the level of American education a top



Mrs. Bush receives award from Boehlert (rt.) & Bliss (center)

priority and has especially been effective in leading the fight against illiteracy," said Jean Hayes, Executive Director of Ripon. "She understands the value of literacy and has a deep appreciation of the skills necessary for all Americans to lead happy, productive lives."

In addition to her efforts to give education a higher profile, Mrs. Bush serves as the honorary Chairman of the Barbara Bush Foundation for Family Literacy. She has dramatically increased the public's awareness of our nation's literary needs and continues to work towards improving our educational system.

Mrs. Bush was presented with the award at a White House ceremony on October 16th of this year. Ripon President Donald Bliss and National Chairman, Rep. Sherwood Boehlert (R-NY) presented the first lady with the award in the East Room of the White House. Over 140 Ripon members from as far away as Hawaii attended the function which was preceded by a reception.

"Each year, the Ripon Society tries to find the Republican who has done the most to improve the level of policy debate or contributed significantly to issues that affect us all," said Hayes. "Barbara Bush meets both of these



Ripon Society Republican of the Year
Barbara Bush

criteria and because of her tenderness and dedication, she truly deserves her reputation as one of the most loved public figures in the nation."

Following the White House ceremony, Ripon members and supporters gathered for their annual dinner where Mrs. Bush was also honored. Speakers at the dinner who praised Mrs. Bush included Senator Nancy Landon Kassebaum, Senior White House aide C. Gregg Petersmeyer and Congressman Bill Archer (R-TX). ■

Boehlert, continued from page 22

the worst manifestations of unbridled partisanship — not now restrained by the overriding command to find the common good — are found.

House rules actually prevent the emergence of a pragmatic and practical political center, set free from the worst features of rank partisanship, to search for the common good in open debate, unfettered amendments, and majority rule.

In a recent issue of *Ethics: Easier Said than Done*, E.J. Dionne Jr. writes:

Americans hate politics as it is now practiced because we have lost all sense of the public good. Over the last 30 years of political polarization, politics has stopped being a deliberative process through which people resolve disputes, found remedies, and move forward.

They understand instinctively that politics these days is not about finding solutions. It is about discovering postures that offer short-term political benefits. We give the game away when we talk about 'issues' not 'problems.' Problems are solved; issues are merely what politicians use to divide the citizenry and advance themselves.

The practical result of all of this is that government embarrasses itself repeatedly in front of people, and fails the twin test of inspiring confidence and providing leadership.

One last word, Virtually all of the commentary about the failures of government has been directed toward the legislative branch, the branch of government people love to hate. The writers of the Constitution distrusted

government, not just the legislative branch, and all the checks and balances built into the system are there to make it tough to govern. Compromise, adjustment, give and take — these are the constitutional tools of American government. But, it still takes the two principal branches to govern. When dishing out the venom, save some for the executive branch.

It is not possible under our system for one branch to be responsible for all the ills of governing. We should be aware that among the most strident critics of the legislative branch are those partisans who believe that the only path to power in the House is in its total humiliation and desolation, as an institution. I love the people's House, with all its faults and failures, and I am committed to restoration from its present sad state, to one of relevance in governing this country. ■