

# POLICY RELAPSE

VIRGINIA I. POSTREL

The United States seems to have hit a ripple in the space-time continuum. Suddenly, it's 1971 again.

We have snapped back to that period of political adolescence when any problem—no matter how complicated—seemed solvable if only Congress would pass a law. As Sen. Jay Rockefeller told the Wisconsin Democratic convention in June, "We in Congress define what is possible with every roll-call vote."

Rockefeller is all-but-officially running for president, and he's doing so on what the Democrats' polls say is the party's most promising issue—health care. "Our health-care system is an outrage," Rockefeller said in Wisconsin, "and it will not change until we get everyone together and work out a plan."

Health care has obvious appeal for Democratic candidates. It lets them sound populist. It lets them sound compassionate. It even lets them sound pro-business. Everybody has to go to the doctor sometimes, and nobody—management or labor, rich or poor, old or young—wants to worry about the bills.

Best of all, nobody in voterland is likely to question candidates on the details of their health-care reform plans. Health care is what *Wall Street Journal* reporters call DBI—dull but important. Saying "insurance" is the fastest known way to put an audience to sleep.

To keep from boring audiences, candidates don't get specific. This also keeps everyone on their side. Real plans, after all, have to make tradeoffs. Vague speeches do not. They just hint of magic power, of the ability to grant Americans three wishes: as much great health care as we want, at no cost, with no waiting.

Back before the Jerry Brown-Jimmy Carter age of limits, Democrats used to be

big in the wish-granting business. They'd tell us, for instance, that there'd be no more unemployment if Congress would just pass the Humphrey-Hawkins bill and outlaw it. Rockefeller's notion of the possible suggests a return to a Congress-constructed notion of reality.

The déjà vu gets even stronger. Elliot Richardson recently went before a Senate committee to praise Richard Nixon's health-care plan—the plan Richardson unsuccessfully promoted as Health, Education and Welfare secretary in 1971. Richardson, who has lost both his firm jaw and his bearings over the past 20 years, now backs a Democratic proposal to force all employers to provide health insurance or to pay an additional payroll tax of up to 8 percent. "In 1971, this was a Nixon administration proposal—a conservative, middle-of-the-road proposal," he said. "I find it ironic that Republicans are attacking Richard Nixon's proposal now."

Irony has nothing to do with it. Since 1971, experience has taught most Americans to be skeptical of crusades and promises, particularly crusades to reform anything as complicated as the U.S. health-care system.

Consider the mess that is Medicare. On June 5, the same day that Senate Democrats announced their mandatory-insurance scheme, the Bush administration unveiled a 628-page plan to generate a national fee schedule for Medicare. The schedule would set payment amounts for every kind of medical procedure and each type of physician. Among other details, it would favor low-tech medicine and rural physicians and would set limits on how much above government reimbursements doctors could charge Medicare patients.

Medicare pays physicians \$43 billion a year—a figure that is rapidly rising—and the program now accounts for 25 percent of the average doctor's practice. The Bush fee-setting plan, says *National Journal*, "may be the most sweeping regulatory scheme since the government imposed wage and price controls in the early 1970s." (More 1971 déjà vu.) Having started out simply to care for the elderly, the federal government now finds itself engaged in out-and-out central planning.

Nor is that planning likely to get any less tangled. Already, skeptics are predicting that doctors will simply compensate for lower fees with more billable procedures. The incentive for rural doctors may turn into another farm subsidy, or it may transform these physicians into specialists for the elderly, leaving the rural young even more bereft of care.

These sorts of unintended consequences are just what naïfs like Jay Rockefeller ought to be looking out for, but aren't. The Senate Democrats' plan might give more people access to health care. It would also drive some employers out of business, force others to cut back on payroll, and, in the words of *Fortune* writer Lee Smith, "bring more people into hospitals for more overtreatment."

Smith notes that the public bears more responsibility for the "health care crisis" than is politic to factor into government plans: "The fastest-growing item on corporate medical bills is mental health care, caused in part by the alcohol and drug abuse of workers and executives and their families." And patients inflict many physical problems on themselves—by smoking and drinking to excess.

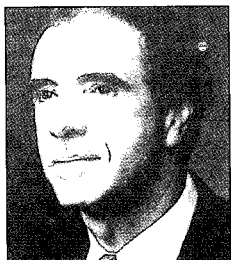
More promising than quick-fix plans in Congress is the slow process of reform going on in the private sector. Employers

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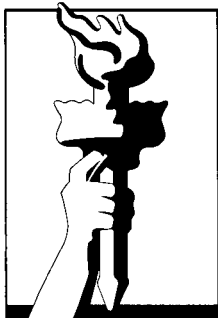
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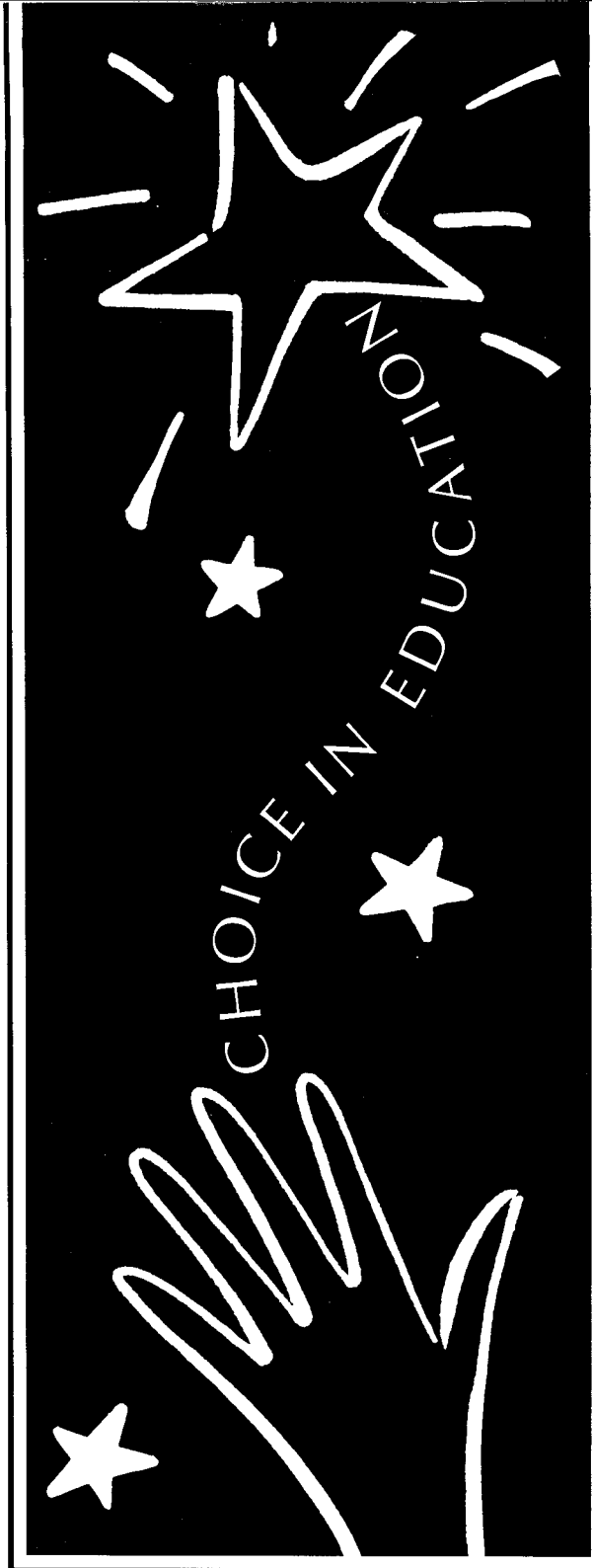
**A. Polly Williams**

Wisconsin State Legislator  
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--- Joseph Alibrandi

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spent \$1,402 on group health insurance per full-time equivalent employee in 1989, up 36 percent from 1980 and 461 percent from 1960—even after accounting for general inflation. To get more for that money, they've experimented with health-maintenance organizations, preferred provider plans, and managed-care networks. They've subjected doctors to supervision and market discipline. And they've looked for ways to encourage employees to take better care of themselves.

Such promising programs could be wrecked by government favoritism. Nixon's '71 plan would have promoted

HMOs, seeking to channel 90 percent of Americans into them by 1980. (Today, about 37 million people, roughly 15 percent of the population, are HMO members.) Had Nixon succeeded, HMOs might have flourished. But more-recent innovations, such as the managed-care networks that let patients opt (for an additional charge) to see non-network doctors, would have never come along.

Jay Rockefeller's planning won't solve our health-care ills, any more than Nixonian wage and price controls cured inflation. But it may forestall the very experiments we need to find a cure. ■

for example. But they cannot let go of the idea that, on the whole, the people punished by drug laws deserve it.

After all, drug offenders represent a large and growing share of the prison population. More than half of the inmates in federal prisons are there because of drug-law violations, up from about a quarter a decade ago. In local jails, 23 percent of prisoners are drug offenders, up from 9 percent six years ago. If most of these people are guilty only of crimes similar to Pryor's, we have to ask whether injustice is the rule, rather than the exception, in the war on drugs.

A recent study of prisoners in Florida suggests that drug warriors have a lot more to explain than the sentence received by one college student. Researchers at Florida State University examined a sample of 4,398 drug offenders processed by the state Department of Corrections. They found that most drug offenders *do not* commit crimes against people or property. "Many persons who commit property and violent crimes are also drug offenders," the researchers note, but "these represent a minority of drug offenders."

It's true that, as a group, drug offenders are more likely to commit crimes against people and property than the average citizen is. But so are blacks, poor people, and young, single men. Moreover, there are several ways to construe the link between drugs and crime. It could be that drug use encourages crime, or that people who are apt to commit crimes are also more likely to use illegal drugs. (Either way, prohibition makes matters worse by creating a black market and raising drug prices.)

But whatever analysis you apply, enforcing the drug laws is a very inefficient way to protect people from theft and assault. Indeed, because of prison overcrowding caused largely by the war on drugs, putting away a drug offender means releasing early someone who represents a direct threat to the public. To make room for kids who sell pot and funny mushrooms, our legal system frees burglars, muggers, rapists, and murderers. That's not just wrong. It's stupid. ■

## PRYOR CONVICTION

JACOB SULLUM

Even the most enthusiastic drug warrior would have a hard time explaining why Ernest Brown Pryor should spend 13 months in prison. The 19-year-old University of Virginia student, who made the mistake of selling an undercover police officer a half-ounce of marijuana and a third-ounce of hallucinogenic mushrooms, pleaded guilty in June to two counts of drug distribution near a school. After imposing the penalty required by federal law, U.S. District Judge James Harry Michael, Jr. said the sentence "tears up the court's conscience."

There will be more such sentences. Pryor was one of 12 students arrested on drug-trafficking charges at three University of Virginia fraternity houses last spring. After a six-month undercover investigation, 40 federal, state, and local officers raided the houses and seized about a dozen sandwich bags of marijuana, a few LSD tabs, and some psilocybin mushrooms. They also seized the three frat houses, valued at \$1 million, under a federal asset-forfeiture law. In theory, some of the students could receive sentences of 100 years or more.

Like Judge Michael, Charlottesville Police Chief John deK. Bowen, who led the operation, had some misgivings. Ac-

cording to *The New York Times*, Bowen felt a "pang of sorrow" just before the raid and reflected that "several young lives were about to be ruined."

On balance, though, Bowen had no regrets: "While it was sad that a dozen young men would have to be arrested for dealing drugs, the price would be worth it if those arrests saved the lives and reputations of thousands of other young people." Perhaps so, but there was no reason to believe that the arrests would have any such effect. Neither common sense nor scientific evidence suggests that what these 12 students were doing—selling relatively benign mind-altering substances to willing buyers—posed a serious threat to anyone.

But the attempt to justify is noteworthy. Bowen knows that busting middle-class, white college kids gets people's attention in a way that busting poor, black inner-city kids does not. Michael called Pryor's case "outside the mainstream of drug cases." In other words, a kid like Pryor gets the shaft once in a while, but most of the time we're putting away the bad guys.

Drug warriors have to believe this. They can concede the obvious—that prohibition breeds violence and corruption,