

By Richard D. Mohr

Clinton's Protection Racket

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The price of health-care "security"

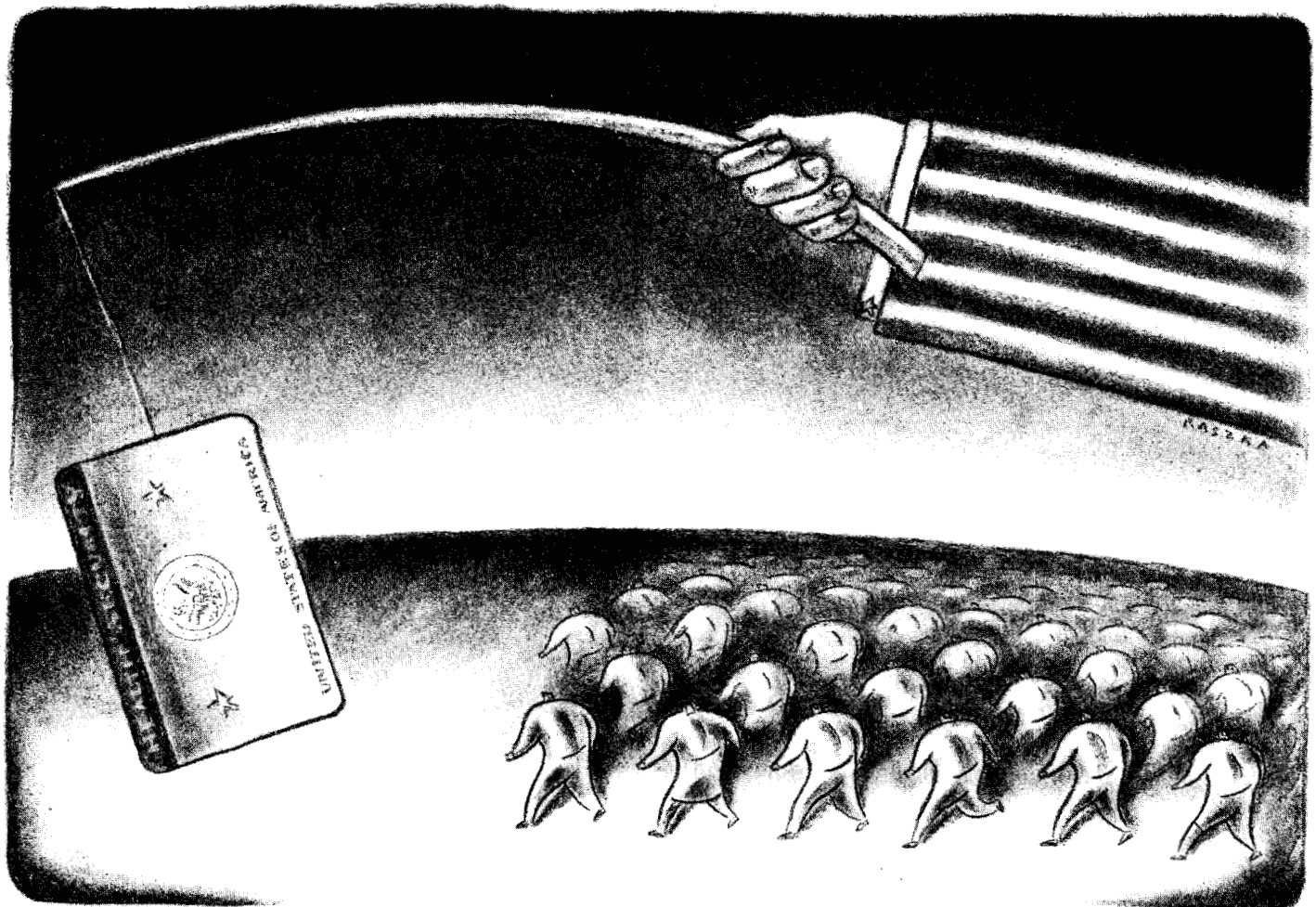
A Sign

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PRESIDENT CLINTON prefaced his September 22 televised speech to Congress on what he called the "principles" of his national health-care plan with a request for a moment of silence for the 47 people who earlier in the day had drowned in an Alabama bayou after a train derailment. It was a nice touch; it seemed a caring touch. But it was hardly an honest one. He failed to mention that the innocent victims had been killed by a federal bureaucracy: Amtrak. If federal bureaucracies can't run trains without killing masses of people, should we entrust our bodies to their care?

The speech proper began with Clinton showing the nation a freshly minted plastic card which all citizens and legal aliens would be required to carry. The card would guarantee health care, but it would also do something else. What "conservatives" even at the height of the McCarthy era could not mandate in the name of national security, with the stick of a national identity card, the Clinton health plan would achieve with the carrot of a health card: federal surveillance, placing every citizen at the call of government.

My chief worry about Clinton's national health-care plan is not its thinning effect on the nation's wallet. If taxes were all that



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it took to realize national health care, I'd be for it. But even if the numbers could magically add up, I'd still be against it. My worry is that the plan will reconfigure the way the country conceives of itself—that its costs will be to the nation's soul. In particular, I think the plan likely to have a devastating effect on civil liberties, those elusive and always fragile rights by which individual liberty is preserved and which the Declaration of Independence announced as the very purpose of good government: "to secure these rights governments were instituted among men." Clinton's health-care plan, I fear, is totalitarianism with a happy face.

Security as a Good

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HEALTH CARD IN HAND, Clinton laid out the goal of the plan: to provide security. Everything else in the plan was to be evaluated based on whether it helped achieve this end. Clinton left vague—taking it as obvious—what sort of good security is. He wisely shied away from speaking of health-care security in the language of rights. For if health care is a right to demand things from government, absurd consequences follow. Suppose that some pill that costs \$2 billion will save my life. If health care is a right, the government will have to provide it to me. But no one thinks I have any such legitimate claim on government. Health-care security is not a right.

But neither is security something that is simply good in itself. To suppose that security and its friends, permanence, unity, and order, are, without more, goods so great that the government may coercively impose them is a view that might properly be called aesthetic fascism. No, security is a good only because it enables people to carry out their life plans, the courses of action that they have chosen for themselves, and to carry out these plans in ways that respect other people's ability to do the same. No one can conceive or carry out a life plan in a state of chaos. Security is good to the extent that it promotes personal independence, the most important dimensions of which have constitutional standing in the fundamental rights of speech, religion, privacy, and due process.

This understanding of security gives us a yardstick for measuring the success of a health-care plan: Its cost cannot be the very things that justify its existence. And the nature of power in the modern era virtually guarantees that the costs to liberty of generating health-care security far exceed the liberty that government-provided health care might promote. Indeed, even in our current messy, non-comprehensive system of government-subsidized health care, we may already be beyond that point of diminishing returns to liberty.

Thinkers as politically and analytically diverse as Alexis de Tocqueville, John Stuart Mill, and Michel Foucault have all noticed that power in the modern era does not operate on a model of a king hamfistedly knocking off those he doesn't like. In that medieval model, if you simply avoid the king's wrath, you are free to do as you please. Power today does not have the discrete, isolated, avoidable forms of king or namable tyrant. Rather, it is diffused and permeating; it is ever more ramified and sinuous but all the more penetrating and controlling for pulsing at the capillary level of society. You cannot avoid its lacy netting, spread everywhere. Power now operates more by lure and surveillance than by pushing and shoving. It controls more often by gaze and attitude than by threat and violence.

Indeed, the more bureaucratic your setting, the more likely that you are to be controlled in millions of small ways rather than in any one big way—say, by a gun held to the head. You are no less controlled, but you are less likely to notice. Explosion-accelerated lead may be the most effective way to kill the body, but committees—requiring, as they do, being nice to evil—are the most effective way to kill the soul.

In a bureaucracy, how well you do has nothing to do with talent, skill, effort, and creativity. Rather, it has nearly everything to do with how you get along with others. This explains how even honest cops support and make possible the corrupt activities of cops on the take. How much worse, then, is the problem of conformity in administrative settings. Bureaucrats are the shock troops of convention; committees, the weak acids where individualism is inexorably dissolved and dispersed into community values. They are the sinkholes of the moral landscape, the mass graves of ideas.

And of the various possible national health-care plans, Clinton has chosen the most bureaucratic, the one dubbed by its adherents "managed competition." The oxymoron is telling. A contradiction is built right into the title: Competition is a dimension of freedom, while management is a dimension of coercion. By contrast, the euphemistically titled "single-payer" system—socialized medicine like the Canadian system, in which health care is both provided and paid for directly by the government—at least has the advantage of a reduced bureaucracy. Single-payer systems, supported by such left-leaning Democrats as Rep. Pete Stark (Calif.) and Sen. Paul Wellstone (Minn.), add new government health-care bureaucracies but eliminate both the huge HMO bureaucracies and the insurance-industry bureaucracies. The

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Clinton plan, on the other hand, adds three new bureaucracies to the current messy system.

First, everyone is forced to join something called a health-care "alliance." These are still largely mysterious, quasi-governmental bureaucracies that both oversee and compel the arrangement of insurance-industry-run HMOs. They operate at the state level. In turn, there is to be a new, seven-member National Health Board, which through an elaborate bureaucracy evaluates, oversees, and regulates all other elements of the system: the alliances; those paying for the plans (employers, the self-employed, the government); those delivering services (basically HMOs and a handful of struggling free-lance doctors and hospitals); and patients. Finally, Clinton proposes a new quasi-judicial bureaucracy to deal with the welter of legal challenges that will arise along every filament of the national health-care web.

There will be some consolidation in the system but not of a helpful, freedom-generating kind. According to a *New York Times* analysis, the vast majority of the country's 500 or so insurance companies will go out of business, leaving the field to the five largest. The variety, odd interstices, and looseness at the joints—collectively, the sites for choice—that a large number of companies doing business of the same type provide will be wholly lost in the new system. Indeed, the Big Five insurance companies will be so similar in their government-mandated "standard package of benefits" and so closely monitored and controlled by various boards that they will hardly be independent of government. In turn, government, by putting all its chips on only five companies, will hardly be independent of them. The resulting tangle will not be a Soviet-style government running of business. Rather, it will be like the interpenetration of big business and government in contemporary Japan or, even more so, in 1930s Italy. We will have arrived at the corporate state.

A Lesson from History

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THAT CIVIL LIBERTIES CANNOT HOLD out against government bureaucracies in America is not a matter of speculation, for we have already had plenty of experience of their conflict and liberty's loss in the nation's welfare programs—programs that are traditionally justified on the same grounds of security and compassion now tendered for health-care reform. The lesson from the history of the welfare state is that bureaucrats and administrators destroy freedom more thoroughly than do the police, for they are so much more pervasive in their meddling, penetrating in their probing, and avid in their pursuits.

Consider the case of Barbara James. She received public aid to feed her child. When she declined to let the welfare brigades rummage through her apartment to look for evidence of abuse and fraud—though there was no probable cause or even reasonable suspicion to believe that she was abusing her child or defrauding the state—the government cut off the child's food money. In 1971, the Supreme Court held that it was all right for the government to punish James that way, because 1) the rummaging was not a search, 2) if it were a search, it was a reasonable one, and 3) even if it were an unreasonable search, by accepting the food money for her child, the mother had voluntarily waived any right against unreasonable searches—and all this at the height of the Court's liberal trajectory. What the police could not have begun to think to do, bureaucracy did with impunity. In dissent, Justice William O. Douglas pointed out that the Court was simply allowing the government "to buy up rights guaranteed by the Constitution. But for the assertion of her constitutional rights Barbara James would have received the welfare benefit."

The history of the government buying up rights did not stop there. Indeed, the Court has held that wherever government funds flow rights ebb. This erasure of rights by money extends even into the First Amendment and into doctor-patient confidentiality. In the 1991 case, *Rust v. Sullivan*, the Court ruled that the presence of government money makes gag orders OK. A doctor may tell his patients only what the government wants him to say if the doctor works anywhere that receives government funds. After the establishment of ClintonCare, no doctor will receive only private funds; all will be pressured into joining government-subsidized HMOs, with attendant loss of freedom for both doctor and patient.

The courts have already ruled that our bedrooms are not our own—that what we do to our bodies is not for us, but for the state, to decide. Clinton is now inviting citizens to take the next step and submit their very bodies to the care and so control of government. If the nation accepts the invitation, the last natural barrier to government control of individuals will have been crossed, and there will be no sector of life where the interests of individuals in their life plans will take precedence over the power of government.

Responsibility vs. Rights

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THE LAST PRINCIPLE of the president's speech was "responsibility"—his communitarian euphemism for coercion. He advanced

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the communitarian saw that there is no right without a corresponding responsibility (by which he emphatically did not mean the “negative” responsibility to respect the rights of others): “We need to restore a sense that we’re all in this together and that we all have a responsibility to be a part of the solution.” But this chestnut that rights entail positive responsibilities is simply false: I have a right to life—a right not to be killed unjustly—even if I’ve contributed not one cent or erg to the government’s or community’s projects.

Worse than false, the chestnut is dangerous, for it completely undercuts our understanding of what rights are. What counts as a “responsibility” justifying state coercion will always simply be a matter of majoritarian practices. So if no right can exist without entailing such responsibilities, there will be, after all, no rights—no claims against government that cannot be defeated by majoritarian, democratically enacted power.

Already, health-care costs are used to justify paternalistic measures, from cigarette taxes to laws requiring people to wear seat belts and motorcycle helmets. In his speech, Clinton told us that “responsibility means changing some behaviors in this country that drive up our costs like crazy.” But whose pleasure is going to be counted as a poison requiring government regulations, “sin taxes,” or bans will again simply be a matter of majority rule. It is not surprising, then, that all the president’s examples of responsibilities calling for coerced compliance called to mind already-disfavored groups in society. These examples included: gang wars (already illegal, so read black youth) and teenage pregnancy (again, read black youth), and AIDS (read gays and drug users). Nothing popular but deadly, like driving automobiles, was on the list of “some behaviors” that had to be stopped.

Worse still, as a general style of thought, the rationales behind national health-care plans invert the proper relation between rights and social efficiency, and in doing so subvert the sanctity of life. Individual rights are trumps over social utility. We let many criminals “walk” because of the importance we place on the value of privacy as enshrined in the Constitution’s Fourth Amendment. By giving up social efficiency, we ritualistically and culturally affirm privacy as sacred, just as through a tithe an individual reveals and certifies his deepest religious beliefs. More generally, the social inefficiency required by constitutional rights is the sacrifice society is willing to make to certify as sacred the value of individual human life and choice. By contrast, national health-care plans, committed as they must be to cost-benefit analyses, necessarily cheapen life.

Under our current messy system, life can be tragic or sacred;

under social medicine, it can be neither, for everything, including life, has a single, bureaucratically determined price. Under our current system, hospitals will do things that seem crazy from their accounting departments’ point of view; they will spend millions of unrecoverable dollars to save the life of a single one-pound baby, which, even with such efforts, will live for only a few months. The money would have saved more lives in general if it had been donated to immunization programs or to research and development on childhood diseases. But this seemingly irrational expenditure makes perfectly good sense as a ritual that confers sacred value on individual human life.

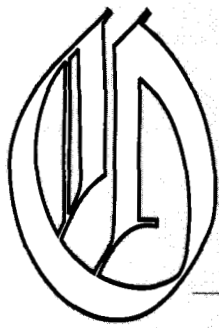
Under social medicine, as in Oregon’s health-care plan, every disease necessarily has a price; whether you are cured or not depends on how much your disease costs the government. The assessment of the value of people here is assimilated to the same models of thinking by which we evaluate crop subsidies, the efficiency of engines, and the price of beans.

The AIDS crisis has provided the clearest example of the cheapening of life though the calculations of socialized medicine. In the mid-1980s, the French health ministry gave to more than 1,000 hemophiliacs clotting serum that the government fully knew was infected with the virus that causes AIDS. The government did so as a cost-saving measure. How much is life worth under socialized medicine? A few sous. When it’s one for all and all for one, no one is worth much.

People who have good intentions but are eager to do something quickly are those most likely to enact policies that destroy rights. Clinton has said he wants to preempt federal law to speed health-care regulations into effect without the legally mandated period for public comment and government response. This rush to goodness is surely a sign of benevolent totalitarianism.

Clinton and the anxious nation should heed Justice Louis Brandeis’s vindicated dissent in the 1928 case *Olmstead v. United States*, which restricted privacy for the sake of police efficiency: “Experience should teach us to be most on our guard to protect liberty when the government’s purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding.”

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nward, Christian Soldiers?

In trying to broaden its appeal, the Christian Coalition risks alienating its base.

By William L. Anderson

For the last year, Ralph Reed, executive director of the Christian Coalition, has been trying to change the organization's image. In a series of articles and interviews, he has emphasized that a "pro-family" agenda is not limited to hot-button social issues. It also includes economic issues that are important to families of all persuasions.

"The pro-family movement has limited its effectiveness by concentrating disproportionately on issues such as abortion and homosexuality," he wrote in the Summer 1993 *Policy Review*. "To win at the ballot box and in the court of public opinion...the pro-family movement must speak to the concerns of average voters in the areas of taxes, crime, government waste, health care, and financial security."