

IOWA TRANSPARENCY NEWSLETTER



“Through the Looking Glass”

by Doug Stout

The most popular movie in the country recently has been the new version of “Alice in Wonderland.” Sometimes it has seemed that the actions of the Administration of President Obama and his minions in the United States Congress have been just as perplexing to decipher. It is important to have as much transparency as possible in the government process, but what has always proven to be nearly undecipherable to the general public is the lack of transparency in the motives of the primary actors in the political drama that continues to unfold in our nation’s capitol.

USA Today recently ran an editorial entitled “Obama promises openness, delivers a mixed bag.” The article portrays that the Administration’s actions have often fallen far short of its rhetoric. It concludes with the sentiment that “...sweeping promises about transparency are not enough. The proof is in whether those promises turn into reality.”¹ Among the highlights of their disappointments:

“A Clinton era-policy exempts from public release information originating from the president and his staff while the president remains in office. It was widened in the Bush years to provide cover for the vice president and his staff. Now it has been expanded further by

Obama to shroud information from committees, commissions or boards appointed by the President... And believe it or not, even an administrative workshop on government openness last December was held behind closed doors.”²

What has the nation transfixed today on the turmoil in Washington, D.C. is often expressed by the refrain, “What are they thinking?” It is often phrased with a great deal of frustration in their tone of voice. The Administration has focused ever-increasing resources over the last year to keep the focus on a massive revamping of our nation’s health care system that all polling continues to show the country is very apprehensive about. They clearly have intended to pass the legislation along strictly party-line votes in both the House and the Senate. They have used every enticement and threat in the playbook of the Speaker of the House, Nancy Pelosi, and of the Senate Majority Leader, Harry Reid, to coerce reluctant members of their own party, many of whom are openly on record as opposing the bill on its substance, to change their mind and vote for the legislation.

While the rest of the nation clearly views a cohesive strategy to get the nation out of its prolonged recession and helping to foster an

environment that will create long-lasting jobs in the private sector and encourage long-term economic growth as the most important current objective; the President was obsessed with twisting enough unwilling arms to pass the legislation. This was the case even though the idea was apparently against the better judgment of many Members of Congress in his own party; he had open opposition from the minority party, and most polling showed it was against the wishes of the majority of the American people. What were they thinking?

Is this merely a case of Presidential stubbornness? Was he bound and determined to pass the legislation, (actually it appeared he was determined to pass almost any legislation that had the term “health care” attached, because he seemed to be pretty fluid on what his priorities for the legislation actually were... as long as it clearly greatly expanded the government role in the health-care process in the country) and if so why? Rather than “hedging their bets,” to use the poker terms often used by the Administration, they have recently expressed the sentiment that they were “all in” for the battle to pass the legislation by any procedural means possible. “All in,” for those who may not be familiar with the term,

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means that you push all of your poker chips into the middle of the table with the risk of losing them all if your hand fails to win the "pot." So if he had lost the battle, all of his political capital, at least in the short term, would have been used-up and out the window. This was a questionable strategy, for what at best seemed to be a risky legislative strategy with the real potential for failure, which in the process would have crippled his Presidency.

However, the risky strategy was successful in strong-arming and intimidating enough reluctant Democrat members of the House of Representatives that they were actually able to push this legislation through Congress. It meant a lot of Democrat Members clearly were forced to vote against the majority of their constituents' opinions on the legislation. What then has he gained? It will be two and a half years before President Obama faces the electorate and a lot can happen in that amount of time, so maybe he is betting that the focus will have moved on to other issues and that his re-election will not rise and fall based on the public's opinion of the extensive government expansion and cost of his new health care revision legislation. Even if that is true, does he honestly believe that the public sentiment will change that dramatically between the passage of the legislation this spring and the looming November elections? Or has he made the cynical calculation that the Members destined to lose for ignoring the wishes of their constituents and bending to White House political pressure are expendable in the scheme of his bigger agenda? Another question is do the Members who appear almost certain to lose their Congressional seats from ignoring the wishes of their voters realize that they have been deemed to be the "cannon fod-

der" in the political calculus of the Obama Administration? And if they don't realize that... What were they thinking?

President Obama attempted to defend the use of the budget reconciliation process in the Senate, which was designed to allow the body to reconcile expenditures with revenue and borrowing to make the books balance at the end of the year, to pass changes to the health care bill, which passed the Senate back when there were 60 Democrat Senators. The process allowed them to make changes to the health-care proposal by avoiding the normal rules of the Senate which require 60 votes to move to a final vote on passage of a bill. Reconciliation, because it was seen as a process which had to be completed to "balance the books" of the government--not to make policy changes, was now used to make massive policy changes to our health-care system. The "regular order" could not be used because the voters of the very liberal Democrat state of Massachusetts were so upset by the President's proposed health-care changes that they voted in Republican Senator Scott Brown, who openly pledged to vote against the changes during his campaign. He replaced a Democrat Senator and thus took away the Democrats sixtieth vote, making it impossible to move the legislation by the normal process and without regard to the interests of the Republican party and the voters in their states.

The irony of this is that the President justified this approach by saying that the legislation deserved an "up or down" vote in the Senate, so that the majority could rule. Even though it is very clear that the purpose of the 60 vote rule is to stop the Senate from making dramatic policy changes when they are not supported by more than the slimmest majority, or in this case,

according to most polling, an actual minority of the American public.

At the same time the President said there must be a clear “up or down” vote in the Senate on the proposal, Speaker Nancy Pelosi was planning just the opposite in the House of Representatives. Many of her Democrat colleagues in the House were repeatedly on the public record saying the health-care legislation they had to vote to pass, which was previously adopted by the Senate, was not good legislation. They were understandably reluctant to contradict themselves and vote for it, even though President Obama and the Speaker had successfully pressured them into voting against their previously stated views of the bill.

To resolve this dilemma and give those Members a little bit of political cover, she came up with another parliamentary scheme. A scheme that would insure that despite the President’s rhetorical assertion that “an up or down vote” must occur in the Senate, the House would have no such vote. Instead they would vote on a “rule.” The “rule” which governs internal actions of the House said that the actual health care legislation will be “deemed” to have passed the House, upon some other contingency happening. It is all very arcane. Basically, it says we don’t want to vote directly on this legislation, but we are willing to give our approval with the passage of this rule...that we agree to “look the other way” when the legislation is adopted by default at a later date...an act we have approved of by passing this rule, but we don’t have to actually pass it by our direct vote. To coin a phrase...is this any way to run a “railroad,” when about 17% of the entire U.S. economy was impacted? After the public expressed outrage the scheme was dropped, but what were they think-

ing?

It would also be nice if the rest of the world would “take a break” while we focus all of our energy on our health-revision debate, but unfortunately they have not cooperated. On the positive front, Iraq held successful democratic elections and appears headed down a productive path, supported by the brave and determined actions of America’s armed service members. In Afghanistan, the path forward is less clear, but the Afghan government has begun to take a larger decision-making role in actions there, and our American troops along with their NATO allies have continued to distinguish themselves with their actions, often involving extensive combat action.

Meanwhile, the Iranian government continues to make progress on building nuclear weapons. Controversy seems to follow Vice President Biden wherever he goes in the world. Just hours after expressing our solidarity with the Israeli government, someone got metaphorically “stabbed in the back.” The interesting question is whether the intended target was Vice President Biden, and by reference the Obama Administration, or whether the real target was Israeli Prime Minister Netanyahu. In either event, Israel’s ambassador to the United States, Michael Oren, reportedly told Israeli diplomats that the dispute had dragged relations between the two nations to a 35 year low.³ Between the time that Vice President Biden had appeared with Prime Minister Benjamin Netanyahu and emphasized that the two countries were working closely in concert and the commencement of a state dinner that evening, turmoil had ensued.

The Israeli Interior Ministry run by Shas, a Sephardic ultra-Orthodox party that is part of the Prime Minister’s governing coalition of

parties, put out a press release announcing plans for 1,600 new apartments in a part of Jerusalem that Palestinians claim as a future part of a Palestinian state.⁴ It was an announcement that was sure to anger Palestinian leaders and the timing clearly embarrassed the Vice President. The *New York Times* reports that by all accounts, Prime Minister Netanyahu was surprised by the announcement.⁵ He apologized for the timing of the announcement, but made no commitment regarding the project itself. David Axelrod, a senior advisor to President Obama, labeled the action “an insult.”⁶ Secretary of State Hillary Clinton had a lengthy conversation with the Prime Minister which has been described as “tense.”⁷ The Israeli action and the United States’ heated response are both topics of intense scrutiny and impacts relations throughout the region.

One can only imagine the Vice President’s reaction while awaiting the evening state dinner and hearing the news in Israel. There were reports that his party intentionally arrived two hours late to the event as a show of their anger. In regard to transparency, one has to wonder whether it was the United States that was the target of the embarrassment, or whether the move was designed to create difficulties for the Israeli Prime Minister, or to disrupt any progress in peace negotiations? Real transparency would require information about the motives of the parties involved that we are unlikely to be privy to, unless it is released years after the fact.

We also saw the news in early March that the President had passed his first physical as President and that the doctors had rated his health as “excellent.”⁸ It is long established that the basics of the President’s health are acceptable information to be released to the

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general public. It is a level of transparency that we take for granted now, but there are some historical examples where if the true health of the President had been well known, election results and even the entire historical landscape might have been changed. So this is an advance in transparency over the last few decades. It does raise the question of how much transparency in this area is appropriate for us to know? How much of a President's private life is "fair game?" For example, the doctor's report, although concluding that the President was in excellent health, did admonish him that he should continue his efforts to quit smoking and that he should moderate his drinking of alcohol.

Certainly from a public example point of view, particularly with his fixation on health-care reform, it would be a good example if the President could stop smoking. However, with the information

not being kept from the public, is it a good thing or a bad thing that the media not show the President smoking? Apparently, it is not that rare of occurrence and with the almost constant surveillance of the President, there have to be photos of him smoking that have gone unpublished. How do we balance the needs of Barack Obama the man with his obligation as a role model in the conduct of his personal life? It is a legitimate question. We crossed some rather ugly bridges along those lines with the personal conduct of President Clinton being at issue, but the underlying question of "man" versus "office" remains, as do some of the boundaries of transparency in regard to the President's family.

These are issues that will continue to evolve, as will our transparency newsletters. We have recently welcomed Jennifer Crull back to the Public Interest Institute staff and we

are rotating some assignments. So you can look forward to a different "voice" and a different perspective on the issues in next month's installment of our *Iowa Transparency Newsletter*, as we try to look past the reflection and into the "images behind the looking glass" that shape public policy.

(Endnotes)

¹"Obama promises openness, delivers a mixed bag," *USA Today* editorial, *USA Today*, March 15, 2010, http://www.usatoday.com/news/opinion/editorials/2010-03-15-editorial15_ST_N.htm (March 17, 2010).

²Ibid.

³Isabel Kershner, "Israel Offers Regrets but No Shift," *The New York Times*, March 15, 2010.

⁴Ibid.

⁵Ibid.

⁶Ibid.

⁷Ibid.

⁸Jessica Heslam, "President Obama's dose of reality," *Boston Herald*, March 2, 2010, http://news.bostonherald.com/news/us_politics/view/20100302president_obamas_dose_of_reality_health_report_reveals_cholesterol_levels_borderline_high/srvc=home&position=also (March 17, 2010).