Counterpunch

A Report from the Capital

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Bill Bradley and the Jersey Cartel

How the Drug Industry Fights Health Care Reform

Given the heated rhetoric of corporations, lobbyists and most of congress, one would think that Bill Clinton's timid proposal for health care reform was the first step on the road to a classless society. Insurance companies have been most outspoken in fighting the few progressive features contained in the administration's proposal, and—far more dangerously from the corporate point of view—the single-payer plan drafted by Reps. John Conyers (D-Mich) and Jim McDermott (D-Wash). However, the pharmaceutical lobby, one of the most pampered and persuasive in Washington, is perhaps an even more formidable foe of reforming the nation's scandalous health care system.

While insurance firms count with Harry and Louise, the drug lobby has Bill Bradley, a far more potent ally. The New Jersey senator provides cover for pharmaceutical firms because he is widely respected, unlike other industry flacks such as Sens. Dan Coats (R-Ind) and Orrin Hatch (R-Utah). Bradley also sits on the Senate Finance Committee, one of four key committees which oversee health care issues.

Bradley is so vital to the drug lords that when Clinton threatened to crack down on the industry last year, company CEOs traveled to Washington for strategy talks with the senator. "Predicting where Bradley will be on an issue that affects pharmaceutical manufacturers is as easy as predicting that the sun will rise in the morning," says John Rector, general counsel for the National Association of Retail Druggists. "I don't know of a single case where he hasn't sided with them."

New Jersey is home to 10 of the 18 largest international drug companies, which have sales of about $10 billion annually. America's most profitable legal industry, drug companies posted a return on equity of 26 percent in 1991—a good but not exceptional year. The secret to the cartel's success is monstrous price-gouging, with prescription drug prices climbing by 216.4 percent between 1980 and 1993, versus a general inflation rate of 48.6 percent during the same period. The elderly, who cover two-thirds of prescription costs out of pocket, are the industry's chief victims.

Part of the Jersey Cartel's profits are laundered in the form of generous contributions to political supporters. A recent Common Cause study showed that pharmaceutical PACs provided $9.8 million to congressional candidates during the past decade. Bradley's take of nearly $90,000 makes him congress's fifth biggest recipient of drug money.

Bradley's senate speeches parrot, sometimes virtually verbatim, background material produced by the Pharmaceutical Manufacturers Association (PMA), the industry's chief lobbying group. Two standard arguments, both designed to obscure the cartel's megaprofits, are that pharmaceuticals "reduce health care expenditures [by] keeping people out of hospitals" and that price restraints would have a chilling impact on innovation by "reducing incentives for investment."

The latter argument is particularly bogus, as the pharmaceutical industry spends about $10 billion per year on advertising and promotion, $1 billion more than it does on

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"Takings" Scam Picks Up Congressional Support

by Basem Aly and *Counterpunch*

Once seen as a crusade of the lunatic fringe, the corporate-backed "takings" movement is making inroads into the mainstream. Takings is essentially a racketeering act by the private sector which calls for government to pay off private property owners and corporations if regulation leads to a "taking" of their property's value. For example, taxpayers could be required to compensate a company if federal law prevented the firm from, say, burying chemical waste on its grounds. "Takings seeks a return to the 1930s, when property owners had unrestricted rights in seeking to maximize their profits," says Jack Sheehan, legislative director of the United Steelworkers. "It would virtually kill any new attempts to protect worker safety, public health or the environment."

The major force behind takings is Wise Use, an anti-environmental lobby established in 1988. Its founders are Alan Gottlieb, a board member of the American Conservative Union, and Ron Arnold, a former Sierra club activist who defected to industry. They were later joined by Chuck Cushman, who in the 1980s was appointed to the National Park System Advisory Board by Reaganite Interior Secretary James Watt. A practitioner of the new "corporate grass roots" lobbying, Cushman once helped kill a California wildlife refuge by convincing local residents that disease-carrying mosquitoes would breed in the reserve, swarm their neighborhoods, and kill their children.

Wise Use boasts support from some 200 organizations, including Citizens for the Sensible Control of Acid Rain, Sahara Club, Timberline Trailriders, Klameth Basin Snowdrifters and People for the West!. These quaintly named groups are fronts for corporate interests. People for the West! is typical in that it receives 96% of its budget from mining companies and most of its directors are industry executives. Wise Use itself receives funding from DuPont, Amoco, British Petroleum and Exxon.

The Wise Use Agenda, the movement's bible, lists 25 goals. The most absurd advocates "convert[ing] in a systematic manner all decaying and oxygen-using forest growth on the National Forest into young stands of oxygen-producing, carbon dioxide-absorbing trees to help ameliorate the rate of global warming." In other words, logging companies should clear cut federal lands in order to prevent the "greenhouse effect." The *Agenda* also calls for opening up national parks and wilderness areas for mineral production, and reduction of the budget deficit "through prudent development of federal lands."

Takings advocates have suffered repeated defeats in state legislatures but in 1992 gained impetus from the Supreme Court's ruling in *Lucas v. South Carolina Coastal Council*. That decision allows property owners to seek government compensation when state regulations deprive them of "all economically beneficial use" of their holdings. However, the Court reaffirmed that "governments may affect property values by regulation without incurring an obligation to compensate," with payment required only in "extraordinary circumstances."

Seeking to expand on this partial victory, takings advocates moved their efforts to Washington. Their principal congressional allies are Sen. Bob Dole of Kansas, Rep. Gary Condit of California—best known for proposing that illegal aliens be imprisoned on closed military bases—and Rep. Billy Tauzin of Louisiana. The latter calls the costs of federal regulations "an insidious, indirect tax that affects not only property owners across this country, but all other Americans as well."

In late February, Tauzin introduced the "Private Property Owners Bill of Rights," which would compensate owners if regulation caused their property's value to drop by 50 percent, thus halving the standard established in the Lucas decision. The chance of the "Bill of Rights" passing is remote, as even conservatives realize that the legislation—like all takings proposals—would have dire fiscal consequences by opening the floodgates to private claims on the public treasury. The real danger is that right-wingers will attach takings-inspired amendments to progressive bills, thereby forcing supporters to withdraw their legislation.

That strategy was recently used to defeat a bill that would have elevated the EPA to cabinet status. Supporters were forced to bail out when Tauzin and his allies added an amendment that required the EPA to conduct an extensive review of all new regulations to ensure compliance with takings precepts. According to Peter Kelley of the League of Conservation Voters, "Takings has become a poison pill that allows conservatives to exercise excessive influence on the legislative process."

Conservatives are also gearing up to weaken the Endangered Species Act, which is up for congressional reauthorization later this year. The ESA is the *bete noire* of the takings crowd, which tries to focus public attention on odd creatures like the snail darter—which may be indicator of the health of an entire ecosystem—to promote the argument that protecting such minor species is strangling the economy and costing jobs. Meanwhile, recent reports show that familiar species like the cod, halibut, haddock and flounder—major components of the commercial fishery at the center of the Northeastern economy—all are in serious danger.

Tauzin, who is leading the effort to derail the Act, says the ESA insidiously encroaches on private property rights by forcing owners to file a report with the government on how they intend to protect endangered species living on their land. He has proposed an amendment to the Act that would prohibit federal workers gathering information from entering private property without written consent from the owner and that would establish lengthy administrative appeals for property holders adversely impacted by ESA rulings.

Kelley aptly labels takings as the revenge of the John Birch Society: "The right wing lost its favorite causes with the end of the Cold War. All they've got left is the defense of private property, and attacks on 'big government' and tree huggers." ▪

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Shorts/Updates

Last year, Alabama Gov. Jim Folsom successfully enticed Mercedes-Benz to build its first U.S. car plant in his home state. The cost was an incentive package worth about $300 million, including a $35 million worker training center, enormous tax concessions and the purchase of 2,500 Mercedes for official use. To further sweeten the deal, state officials placed the Mercedes logo atop the scoreboard for the big Tennessee-Alabama football game.

The frantic bidding to attract industry has now reached even more ludicrous levels. According to *California Report*, an environmental trade publication, Gov. Pete Wilson is offering to "relax" a requirement that two percent of all new vehicles sold in the state by 1998 be zero-emission electric cars, in return for "sizeable investments" by the Big Three automakers. The federally-sanctioned requirement is designed to help California—whose pollution problem is so bad that it sits in its own special category under the Clean Air Act—protect public health by controlling smog.

Sen. Carl Levin and Rep. John Dingell, both of Michigan, protested Wilson's maneuvering in early-February letters to Vice President Al Gore and EPA head Carol Browner. They charged that Wilson's plan amounts to "out-and-out economic blackmail" and a "raid on jobs in other states." As ***Counter*punch** went to press, the congressmen had received no reply from either official.

An unanswered question is whether the Clinton administration, already thinking ahead towards reelection, had knowledge of the governor's plans. "There's a suspicion that Wilson complained [about the requirements] and the administration capitulated," says a congressional staffer. "They'll do anything for California. It's the big tamale in 1996."

As predicted in ***Counter*punch** #4, the Clinton administration has given Indonesia a passing grade on its labor policies, allowing the Suharto regime to maintain its privileged commercial status with Washington. Trade Representative Mickey Kantor discreetly announced on Feb. 16 that the government would "suspend" its annual review of Indonesian labor practices, and commended the dictatorship for "bringing its labor law and practice into closer conformity with international standards." This about a country which allows no independent unions, harasses and arrests organizers, and permits workers—including those at U.S.-owned Nike—to be paid as little as $1.35 a day. Kantor says that in mid-August the administration will "conduct an assessment of Indonesia's continued progress." It's a foregone conclusion that the review will then be formally terminated, with much talk of Jakarta's commitment to democratic reform, labor harmony, etc.

As ***Counter*punch** mentioned in our original story, Sen. Diane Feinstein (D-Calif) has been a leading congressional ally of the Suharto regime. The primary reason is her desire to aid Eidetics, a California defense firm which stands to gain a $30 million contract if Clinton reverses an earlier decision to block the transfer of American made F-5E fighters from Jordan to Indonesia. Publicly, California's liberal senator doesn't mention the plane deal, instead portraying herself as a hard-headed advocate of human rights. She recently told *O'Dwyer's Washington Report*, a newsletter that covers the public relations industry, that she was terribly impressed with the way Indonesia had reduced the sentences of more than 16,000 prisoners and set up a human rights committee in its rubber stamp parliament. "These small steps of progress must be rewarded and encouraged," said Feinstein, who called for a "carrot and stick" approach towards Suharto—this being the strategy perennially invoked by American political figures in bed with human rights abusers. Approval of the F-5 transfer is no doubt just the "carrot" needed to prod Indonesia down the democratic road.

In our first issue back in December, ***Counter*punch** exposed Ron Brown's continued ties to individuals linked to Haiti's former Duvalier dictatorship. We also published part of a 1983 memo in which the commerce secretary, then a lobbyist for Patton, Boggs & Blow, boasted to "Baby Doc" Duvalier about his success in jacking up levels of U.S. aid to the corrupt regime. The memo made a mockery of Brown's oft stated defense that he was trying to do "more good than harm" in Haiti and that he worked for the country, not Duvalier.

Brown's office never returned ***Counter*punch**'s phone calls but a spokeswoman did talk to Juan Gonzalez of the *New York Daily News*, who picked up the story on Feb. 9. Carol Hamilton suggested to Gonzalez that the commerce secretary, while perhaps a bit restrained in the document exposed by ***Counter*punch**, had been far tougher with Baby Doc "in other memos over the course of time." That's somewhat hard to believe, especially as Brown's 1983 memo to "Monsieur le President" had blamed the dictator's bad reputation on an "unfair image" in the American press.

Meanwhile, Brown's son, who ***Counter*punch** previously reported was working for Global USA, a lobbying firm with clients regulated by the Commerce Department, has changed jobs. Michael Brown recently joined the D.C. office of Miami's Greenberg, Traurig, Hoffman, Lipoff, Rosen & Quentel. Michael's new employer claims he will not work on matters involving the Commerce Department. However, as managing partner Howard Vine told *Legal Times*, "Let's face it, a father and son—how do you put parameters around that relationship." •

Bradley, from p. 1

research. Furthermore, a good deal of pharmaceutical research is conducted and paid for by the government, which turns its discoveries over to private sector firms for marketing. For years Johnson & Johnson sold Levamisole, a drug used to deworm sheep, for six cents per tablet. After the National Cancer Institute spent $11 million for experiments which determined that Levamisole is remarkably effective in treating colon cancer, the company began charging cancer patients $6 per tablet for the identical drug.

Bradley was instrumental in gutting all efforts to rein in the drug lords in 1993. A major triumph was forcing Clinton to abandon efforts to make the government the sole buyer of childhood vaccines, which were to be distributed free to all children. As the drug lords have boosted vaccines prices by 1,000 percent in the last 15 years, less than two-thirds of 2-year-olds receive the full spectrum of recommended immunizations.

The pharmaceutical industry, fearing the plan would increase government leverage to restrict prices, opposed the proposal. Spurred by his patrons's anxiety, Bradley quickly forced a "compromise" with Michigan Sen. Don Riegle (who introduced Clinton's proposal in congress) by which only children covered by Medicaid or uncovered by health insurance would be eligible for free vaccines. That means most children will continue to receive immunizations on the private market, where the average cost for recommended shots is $244, twice the price when vaccines are bought in bulk by the government. Hence, the drug industry's profits remain protected.

A far nastier battle was waged over Section 936 of the Internal Revenue Code, a corporate welfare program which gives American firms operating in Puerto Rico tax breaks worth approximately $3 billion per year. Legislation proposed by Sen. David Pryor (D-AK), would have reduced the give-away to about $600,000 annually.

The drug lords, who run 72 plants in Puerto Rico, led the opposition to Pryor's legislation, arguing that 936 had turned the island into a "showcase of free enterprise" and created good jobs for workers. Unmentioned was that the Jersey Cartel earns three times more in tax breaks than it pays out in wages or that the same pharmaceutical firms championing the Puerto Rican working class have fiercely opposed labor organizing, with only one of the island's drug plants being unionized.

With corporate hysteria mounting, Finance Committee Chairman Daniel Patrick Moynihan, another drug cartel ally, assigned Bradley with personal responsibility to gut the bill. The senator did so with vigor, preserving about 70 percent of 936's tax breaks during backroom negotiations with Pryor.

The above cases demonstrate Bradley's enormous clout when it comes to protecting the drug lords' interests. As one senate staffer explains, "In order to pass any legislation [affecting the pharmaceutical industry], it's always necessary to address Bradley's concerns."

A cartel priority this year will be passing the Product Liability Act (SB687), which sharply limits corporate responsibility in cases where the FDA has "generally recognized [a new product] as safe." Drug companies, at the forefront of the bill's lobby, say the Act is needed because they're so worried about being sued that they've grown fearful of innovating.

The cartel's true concerns are revealed in the case of Pfizer's Bjork-Shiley Heart Valve, which killed about 750 people world-wide and which continues to knock off recipients at a rate of one to three per month. Pfizer learned about problems with the valve shortly after putting it on the market in 1979 but sought to keep defects hidden, even writing the FDA to urge the agency "not to notify the public." By the time an FDA investigation forced the company to take the valve off the market in 1986, Pfizer had racked up some $100 million in profits.

Under the Product Liability Act, Bjork-Shiley victims could sue for compensatory but not punitive damages, as the FDA, acting on insufficient data supplied by Pfizer, had approved the device. Linda Lipsen of the Consumers Union says passage of the Act would give firms "legal permission to make dangerous products." Bradley has taken no public position on the bill, but is leaning in favor. As an aide at his office says, the senator "supports efforts to control some of these outrageous [consumer] lawsuits and the frivolous ways they are pursued."

That ordering of priorities is typical of the way Bradley defers to the drug companies, even when his own constituents are at risk. Back in the 1980s, Swiss-owned Ciba-Geigy was found to be pumping 4 million gallons of highly toxic waste per day into the Atlantic Ocean from a private pipeline at its dye and resin plant in Toms River, New Jersey. But local residents seeking political support were spurned by the senator. "During the entire eight years that we were fighting Ciba-Geigy, Bradley never lifted a finger to help us," recalls Frank Livelli, a retired chemical company executive who helped found Save Our Ocean. "He never even responded to our appeals. In fact, one of our people sent [his office] flowers because we thought he'd died."

(A global menace, Ciba-Geigy is even more reckless in the Third World. In 1976, the company tested its pesticide Galecron—which had been banned by China two years earlier as a carcinogen—by spraying it from a low-flying plane onto six Egyptian children standing unprotected in a cotton field. The children, aged 10 to 18 and compensated with the hefty sum of $10, all immediately showed signs of poisoning. Ciba-Geigy's then-public affairs director, Walter Strasser, defended the test, saying that experiments could have been conducted in Europe but "there is no cotton...and it's not the same social system.")

In regard to health care reform, the cartel's bottom line will be preventing the imposition of any type of price controls. Instead, Bradley and the companies will push non-binding measures such as voluntary price restraints, which can easily be ignored or skirted. Last year, New Jersey-based Hoechst made a solemn vow of self-restraint and then hiked its prices by 7.2 percent, nearly three times the rate of inflation. Since Bradley helped kill Pryor's 1992 attempt to penalize firms that raise prices faster than inflation, cartel members can engage in such price-gouging with impunity.

Advocates of real health care reform should keep a close eye on Bradley during upcoming legislative battles. "He will be a point, and probably the point, in introducing the pharmaceutical industry's point of view," says Rector. "He'll be there for them every step of the way." •