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BY
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The Silence of the Liberals

Obamacare is inimical to their values, too

BY CHRISTOPHER DEMUTH

Obamacare may or may not survive its inauspicious beginnings. It has become dangerously unpopular and accident-prone and faces a minefield of difficulties. Still, the Obama administration has a plausible strategy: to titrate the program's numerous taxes, subsidies, mandates, and restrictions so as to forestall immediate legislative or electoral reversal, thereby entrenching its basic structure for tightening as future circumstances permit.

But the drama has made one thing clear: Obamacare will never achieve its promise of affordable health care for all paid for with improved efficiencies in health insurance and medical care. The initial troubles and compromises have revealed that the program improves "access" mainly by herding millions of people and firms into insurance they do not want or need. A great many will simply refuse, having little to fear for the time being, with the result that government expenditures will be far higher than projected. It is equally clear that the variety and quality of medical care will be seriously restricted for all concerned.

Collaterally, Obamacare is introducing a new form of government—improvisational government, characterized by continuous ad hoc revisions of statutory law by executive decree. This is a reversion to a primitive form that long antedates our Constitution and rule-of-law traditions. Transported to the modern world, it leaves the private sector in a state of constant uncertainty and subjection.

These developments have produced a strong partisan reaction. Republicans are commiserating with individuals who have lost their health insurance or seen their rates increase, and are introducing tactical bills to stay unpopular program elements. Obamacare was a partisan enactment and was designed, clumsily, in such a way as to generate identifiable victims—so the partisan response was inevitable and is, up to a point, serving a worthy function of public education.

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Two further responses are deeper and more arresting. First, many prominent Republicans and conservatives—lawmakers (Paul Ryan), academics and think tankers (John Cochrane, Thomas Miller), and intellectuals and journalists (Yuval Levin, Ramesh Ponnuru, Holman Jenkins)—have come forward with specific proposals for expanding affordable health care more than Obamacare does, while eliminating its many harmful and unworkable features. Tax and regulatory reforms, and targeted public subsidies, would provide portable and renewable insurance, including for those who have developed costly health conditions; would legalize (rather than banish) low-cost insurance for essential medical services by replacing special-interest coverage mandates with sensible minimum standards; and would encourage direct purchase of routine medical goods and services where insurance has nothing to offer but paperwork. Conservative reformers would also put Medicare and Medicaid on a budget—something all knowledgeable observers know to be imperative to sustaining the programs and bringing government deficits down to manageable levels. At the same time, the programs would be converted from monopoly to competitive supply through vouchers, "premium support," and greater variety in addressing the special needs of the very poor.

There are important differences among these proposals, and much room for debate. But they have one thing in common that is highly admirable, whatever one thinks of their merits: They transcend, in fact defy, the opportunities of the moment to score partisan political points. To be sure, they would dispense with many unpopular Obamacare provisions; but they go further and aim higher—to correct the harmful preexisting conditions in American health care that Obamacare promised to correct but is making worse. And that is a risky proposition when the public is angry and suspicious over government meddling with health care. Are Americans prepared to part with the illusion that everything related to "health" should be available free or far below cost, and that this can be done without degrading medical practice and risking eventual bankruptcy? Will they distinguish between higher-priced insurance for medical services they

don't need and insurance that leaves them to pay directly for services they do need but are quotidian and noncontingent? Do they understand that competition and innovation are as valuable in health care as in smartphones and coffee shops? Will they recognize that further expanding Medicare and Medicaid, when that is offered as the cure for Obamacare's failures, is a quack remedy? The conservative reformers are betting that the public, now that it is paying attention, will answer in the affirmative. They may be right, but they need help.

The other arresting response to Obamacare's troubles is a nonresponse—the silence of the liberals. Serious liberals are those for whom the primary purpose of politics is to protect personal liberty and advance social equality. Their liberalism has been the motive force of America's political history—which is the saga of extending legal and political rights, social status, and realized liberty to ever-wider groups, and legislating “welfare state” protections against the social and economic vicissitudes of life. They have been eclipsed in recent decades by those who call themselves “progressives”—who borrow the language of liberalism but are in practice devoted to enlarging and valorizing government itself rather than the liberty and equality of citizens. Critically, progressives predominate among Democratic party and interest-group activists whose careers consist of acquiring and deploying state power. But serious liberals are still prominent in intellectual and university life and in the party itself; they may be said to be the party's conscience.

The media, in their fascination with disputes between the Republican establishment and Tea Party radicals, have mostly overlooked this more fundamental fissure in our politics. (Indeed, the GOP disputes are mainly tactical disagreements over how to respond to the triumph of statist progressives among Democrats.) But the Obamacare debacle could bring that fissure to the forefront. It certainly should.

Serious liberals were silent or supportive during the Affordable Care Act's legislative debates, bitter enactment, and initial implementation. That was understandable, for the effort promised to dramatically expand health care availability and to correct several evident injustices, such as the unavailability of insurance to those who have developed serious maladies; and Republicans were working hard to stop it and might well have succeeded. Then, when the troubles first appeared earlier this year, it seemed natural to many

liberals to attribute them to fixable technical glitches and executive incompetence. But now that the program's true nature and future course have come into sharp relief, it is time for serious liberals to find their voice. For Obamacare's two central features are as inimical to liberal values as to conservative values. The first is monopoly and the suppression of diversity and competition. The second is extreme concentration of power, exercised continuously in monitoring and directing the activities of millions of citizens.

Friedrich Hayek explained more than 50 years ago (in *The Constitution of Liberty*) that the welfare state does not require, and should renounce, exclusive monopoly provision by the government itself. Hayek was a classical liberal—he rejected both “libertarian” and “conservative”—but his approach to health care for the poor, retirees, and those in chronic ill health was strikingly like that of today's conservative reformers. Guarantee equal, continuous access through financial support and legal rules (and if necessary even an individual insurance mandate!)—but avoid the stultifying effects of government monopoly, and let recipients reap the same benefits of competitive supply, variety, and freedom of entry and experimentation that prevail in the rest of the economy.

Obamacare is not an outright government monopoly, but it achieves the same dreary results through standardization and regimentation. It establishes a profusion of regulatory controls over prices, entry, and services in insurance and medical care, policies whose systematic anticonsumer perversities have been documented by generations of economists of all political persuasions. (Not long ago, the elimination of entry and price controls in competitive markets was a bipartisan project, championed by Edward Kennedy as well as Ronald Reagan.) That some states operating their own Obamacare insurance “marketplaces” are already moving to ban the private sale of individual and small-business insurance is one example of the program's tendency toward explicit monopoly.

But the most harrowing aspect of Obamacare is that it vests political executives and government administrators with sweeping discretionary power, free of conventional checks and balances. It gives federal officials the authority to set insurance prices without any of the economic and legal standards that govern regulation of public utilities. It gives obscure committees authority to decide on the kinds of medical services doctors and hospitals are permitted to deliver from one patient to the next. It gives political operatives the ability to force private institutions to dispense free birth control pills, and potentially many



other things, as tactics of electoral campaigns. It has federal and state officials running “marketplaces” and advertising campaigns and sales promotions—all with the style and mindset of business executives, but with coercion as well as persuasion at their command. The unsettling appearance of what I earlier called improvisational government—with the president and his subordinates revising Obamacare’s statutory requirements, and even their own implementing regulations, by press conference or web posting—is an authentic expression of the statute’s basic ethic, which is the ethic of executive will.

In this form of government, the dignity and autonomy of the individual—central liberal concerns—are distinctly secondary matters, indeed are obstacles to be overcome and suppressed. Whether your insurance arrangements suit your needs is not important—what counts is whether they suit the needs of those in office. Another central liberal concern, social equality, fares no better. President Obama’s new rhetorical emphasis on Obamacare “redistribution” is a diversion: Aside from the expansion of Medicaid, the program’s redistributions are arbitrary and frequently regressive. Because much of its financing consists of cross-subsidies built into the prices of insurance policies and medical goods and services, its burdens and benefits fall on individuals and firms whose circumstances—of income, occupation, race, gender, family, health status, number of employees, and more—are highly various and interconnected. Whether one selected distributive effect accords with one or another conception of social equality is a complicated question; the net effect of all of them is unknown and probably random.

Obamacare does, however, appear to include one form of systematic redistribution—from young adults to older people. This is regressive on the whole, because older people are wealthier, and it piles onto the already enormous intergenerational transfers of Medicare and Social Security. Taken together, these transfers are demographically unsustainable in the near term and bound to collapse. In the meantime, they are impeding employment and family formation among the young, creating significant social frictions and anxieties, and undermining support for social insurance itself. Little wonder that requiring twentysomethings to purchase insurance for things they don’t need has become symbolic of Obamacare’s inequities.

Serious liberals ought to be able to do better than this. They should dare to join a coalition of reconstruction with the serious conservatives who have already dared to lay their cards on the table. There would be many significant disagreements to be hashed out. The liberals would favor higher taxes and tax-financed subsidies and, probably, larger budgets for Medicare and Medicaid. They would be

more inclined to let government experts second-guess individual decisions and market results. But the prospect of letting Obamacare run its course gives both sides a great deal to gain from compromise.

Moreover, the Obamacare experience holds important practical lessons for both conservatives and liberals. Many on the right, for example, from Hayek to the Heritage Foundation, have been open to an individual health insurance mandate as a means of compelling individual responsibility and policing free-riding (like compulsory liability insurance for drivers). Obamacare twisted the mandate into a tool of redistribution through pricing cross-subsidies (“shared responsibility” rather than individual responsibility), which has probably destroyed the idea as political matter; and the Supreme Court has held that the federal government may not go further than encouraging self-insurance through mild, nonpunitive tax incentives. But the alternatives now remaining may be improvements. The same result, and more, might be achieved by legalizing low-cost insurance limited to truly essential health services and catastrophic events, making guaranteed renewal contingent on purchasing at least the limited insurance at a young age, and financing the transition with explicit subsidies for the uninsured who develop costly health conditions.

It is worth recalling, finally, that Obamacare was built to fail, but not in the way things have turned out. The penultimate version of the Affordable Care Act established a government insurance carrier as an optional alternative to private insurance. Proponents calculated (privately, in the Democratic caucuses) that commercial firms, bound to actuarial and financial standards, would be unable to comply with the statute’s requirements without widespread policy cancellations and dramatic rate increases, and that the public would blame the firms rather than the government. The government carrier would then step in to save the day from the greedy private insurers, thereby bringing “single-payer” medicine to the United States that could not be enacted forthrightly.

But in the legislative end-game, Senator Joe Lieberman—a thoroughgoing liberal in domestic policy although a neoconservative in foreign policy—held the decisive vote, and he insisted that the government insurance feature be dropped. But for that step, Obamacare’s troubles would today be leading smoothly to the expansion of direct federal health insurance to pick up millions of canceled policies and undercut rate increases on terms no private firm could match. Even HealthCare.gov’s disastrous debut would have been turned to advantage, by declaring the government insurance retroactive once the website was fixed and people could finally sign up. So it is one serious liberal who left us with the chance to extricate ourselves from this aggressively illiberal program, if only others will now seize the day. ♦