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More Laws, More Complexity

In front of the Archives building in Washington, D.C., is an inscription, "What is past is prologue." This is an especially appropriate motto for a building in a city dominated by lawyers. To them precedent is compelling. Laws once enacted are rarely repealed. The inexorable tendency is to build a more complex structure on the framework already existing.

An example of long-term trends is the evolution of major federal health laws. Since 1935, more than 100 such laws have been enacted. At the beginning of the period the rate of enactment averaged between one and two a year. The laws tended to be simple and brief. With time, this changed.

During the past decade the rate of enactment has increased markedly and the laws tend to be lengthy and complex. A recent draft of a proposed National Health Insurance Act is 200 pages long. The tendency toward complexity is exacerbated by the federal administrative agencies. For the purpose of implementing legislation, the bureaucrats prepare regulations which often far exceed in complexity the legislation passed by Congress.

Individually, most of the laws have laudable goals. But in practice, the administration of the laws never measures up to the good intentions of Congress. Moreover, it is one thing to cope with a single law. It is another to cope with the cumulative effect of more than 100 laws with their often conflicting administrative regulations.

In Washington, as more bills are passed without cleaning out and reorganizing ones that came before, the complexity necessarily grows. Some examples follow.

Subsidies for hospital construction involve different legislation from that for mental health clinics or neighborhood health centers. Provisions for the organized or subsidized payment of medical bills for individuals are scattered among numerous programs geared to different population groups and different diseases.

Even before the many social programs initiated by the Kennedy and Johnson administrations, there were federal or state health programs for veterans, servicemen, servicemen's dependents, Native Americans, merchant seamen, immigrants, and recipients of public assistance or of workmen's compensation benefits; and there were temporary disability insurance, medical rehabilitation services, maternal and child care health services, and school health services.

A number of factors combine to enhance the likelihood of further federal actions. One is an organizational factor. Washington has increased its machinery for the generation of new legislation. It has become a factory for the mass production of more complicated and more numerous laws.

The relationship of Congress to the Administration has changed significantly. In the past, Congress had few staff people who were technical experts and depended on the Executive agencies to provide information. But friction between President Nixon and the Democratic Congress led to a situation in which Congress found it necessary to have more experts on its own staff. Today there are about 17,000 staff people on Capitol Hill, including 218 associated with committees engaged in medicine-related topics. Staff members acquire influence by being useful to their patrons. Any ideas they may have are placed at the disposal of the congressmen. The staff gets much of its feeling of satisfaction from its ability to manipulate behind the scenes, to make things happen, and to create change.

While every politician professes to be a man for all seasons, he is often best equipped for vote-getting. Many committees and subcommittees with special responsibilities in areas such as advanced technology or medicine have not one member with training in the field. The professional staff aides on such committees consequently are in position to do the thinking, the homework, and to a very large degree the decision-making. Today, there exists in Washington a Fifth Estate, invisible but enjoying power derived from preparation of new legislation. More laws and more complexity are in store.—PHILIP H. ABELSON