Henry Waxman Still Faces An Uphill Battle

The new "Mr. Health" must contend with recalcitrant conservatives and members who resent his fight to the top

Henry A. Waxman, the new holder of the most powerful health policy position in the House of Representatives, is struggling to strike a different path from that of his predecessor, Paul Rogers. Rogers, who retired last year at age 57, worked hard as chairman of the Subcommittee on Health and the Environment to achieve a consensus on most of the issues that arose; he became widely known in the research community as a man who sat mostly in the middle of his colleagues. But Henry Waxman, 39, is no Paul Rogers. Waxman is an activist. "My style is far more aggressive than Rogers'," he says. He is also liberal. "Politicians of every description insist they are moderates," Waxman said a few years ago. "I am a proud, self-confessed, unapologetic liberal."

Waxman may never have the opportunity as chairman to freely exercise his basic political instincts. He is surrounded by a solid majority of conservatives, as the result of a tactical blunder committed in the aftermath of his bruising fight to the top of the subcommittee. He is also beset by members who resent his challenge to a more senior candidate for the post. The question now facing Waxman, and also facing the Carter Administration, is whether as an iconoclast liberal, Waxman can galvanize his subcommittee members to produce a favorable vote on anything of significance during the current session. There are serious doubts both in and out of Congress that he can. "I would be very surprised if he is a successful chairman," says one of the subcommittee's longtime observers on Capitol Hill. "He certainly doesn't have 51 percent of the votes," says another.

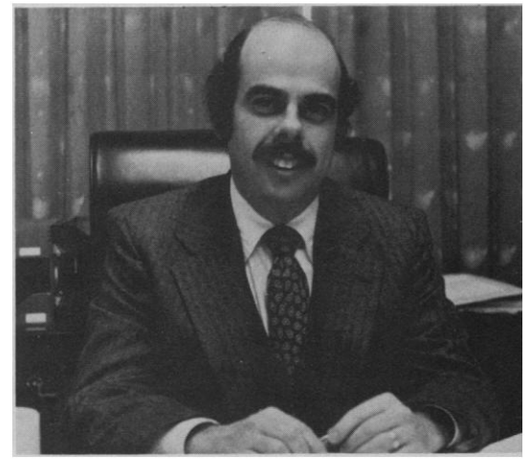
What this means is that a major portion of President Carter's legislative agenda for health may never leave the starting gate. Hospital cost containment, national health insurance, food and drug law reform, health manpower amendments, and clinical laboratory legislation—each may be bottled up in Waxman's committee, even though Waxman himself is expected to favor all of it. The committee's vulnerability is obvious to lobbyists from the American Medical Association (AMA), the hospital associations, and the pharmaceutical industry, which regard it as the requisite weak link. Shortly after Waxman's election, an AMA lobbyist is reported to have told a more liberal counterpart, "You won the chairmanship, but we won the committee." Even Waxman himself says "it will be very difficult" to get the subcommittee to approve cost containment, the President's top health priority this year.

The votes on these and other health matters are inextricably tied to the charm and intelligence of Waxman and his staff. They may also be tied to Waxman's willingness to play a role that is palpably uncomfortable: that of the mediator. Waxman is acutely aware of the distinctions between member and chairman, but he is also determined to maintain his present views, even those that are controversial. "I will try both to lead and to point a direction where we should go," he told *Science* in an interview. "But we might not get there."

Because Waxman is at the center of this maelstrom, it is worth examining his background and the events that led him to his present predicament. But first, it should be noted that the current situation is not entirely of his own making. He won the chairmanship by a narrow margin, defeating Richardson Preyer, 59, of North Carolina by a vote of 15 to 12. Four members of the subcommittee who had voted for Waxman then dropped off to take other assignments. Three of them are from the liberal "Watergate" class of 1974, as is Waxman; each also assumed control of a subcommittee, which is clearly a reasonable excuse to depart. The replacements—five in all including Rogers' replacement—were far more conservative, in part a reflection of the conservative 1978 balloting, and in part a reflection of the desires of the Democratic leadership. The result is a committee so far to the right that even Rogers might have had difficulty getting it to support the Carter initiatives. As it now stands, Waxman can expect about five of the 15 members to vote the way he does, and eight to vote the other way.

Waxman's tactical blunder was to fail to get assurances from other liberal Democrats that they would either join or stay on the subcommittee. "I learned my lesson," he says. "I was too busy trying to get elected."

The bitterly close fight was one of the most colorful in the House this year, and had more than its share of extraneous charges and countercharges. Waxman's opponent, Preyer, is a tall, well-groomed Southerner who commands the respect of his colleagues as a moderate and a man of great integrity. Educated at Princeton and Harvard, Preyer represents the new more than the old South, though his family is firmly rooted in a North Carolina power base. Preyer commanded the backing of Rogers, and as a more senior member than Waxman, also the support of the House leadership. Further assistance came from the academic medical community and the physician and hospital trade associations.



Henry Waxman

Two factors were reputed to be working against Preyer: he owns substantial stocks in two pharmaceutical firms, Richardson-Merrell Inc. and Sterling Drug Inc., which brought him more than $20,000 in dividends last year; and just before the election, he stayed true to his tobacco constituency and denounced the latest report linking smoking and lung cancer. Neither was reported by insiders to have actually hurt him in the balloting, although the drug ties horrified consumer advocates and the smoking statement distressed the *New York Times* and oth-

(Continued on page 1321)

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there continue to be differences among members of the IRG about some important questions regarding how fast the government should move to the establishment of intermediate and full-scale waste repositories. The various agencies will soon submit to the White House their individual recommendations on these questions.

Although other waste disposal concepts will be considered over the long term, the IRG has concluded that only the mined repository in deep geologic formations is achievable in the near term, which is to say through the mid-1990's. It concedes, however, that even in the case of mined repositories the degree of assurance about containing the wastes diminishes after a few thousand years and not even conservative engineering practices and multiple barriers can eliminate the need for a "societal judgment" as to the acceptable risk.

The report acknowledges that some members of the IRG, which was chaired by John M. Deutch of the Department of Energy (DOE), remain concerned that the report gives "insufficient attention to gaps and uncertainties in our current technical understanding."

Such cautionary language in the report reflects not only the voluminous outside comment received on the interim document but also the pulling and hauling that has gone on among the IRG members, especially those from DOE, the Department of the Interior, the White House Office of Science and Technology Policy (OSTP), and the Council on Environmental Quality (CEQ). DOE and CEQ have been at odds over whether further growth of nuclear power should be allowed in the absence of a convincing solution to the waste disposal problem. Moreover, some IRG members feel that the report fails to analyze adequately how "differences in future nuclear growth might heighten or reduce waste management difficulties."

At a press conference, John Deutch indicated that the IRG member agencies, in their individual recommendations to President Carter, will address questions of program timing on which the IRG failed to achieve consensus, including the following:

• Should the government proceed to establish the first repository for commercial high-level waste after only a limited review of alternative sites (chiefly in salt) or should it await the characterization of a much broader range of geologic environments? With the latter course, the opening of the first repository—not likely before the 1990's in any case—might be delayed several years longer.

• Should the government move to the early establishment of a repository for transuranic (TRU) military wastes and, perhaps along with it, an intermediate-scale facility (ISF) for up to 1000 spent fuel assemblies from commercial power reactors? In this connection, the IRG report stops short of addressing the pending issue of whether to proceed with the controversial Waste Isolation Pilot Plant (WIPP) project, considered for a site near Carlsbad, New Mexico. Many proponents of nuclear power seem to regard the WIPP-ISF projects as their best bet for an early demonstration of the feasibility of permanent disposal of radioactive wastes.

Possible Postponement for Troublesome Ethics Law

If Representative George Danielson (D-Calif.), chairman of a House Judiciary Subcommittee, has his way, the effective date of a new ethics law which has caused several high-ranking government scientists and science administrators to talk of resigning will be postponed from 1 July to next January.

Even under the law now in effect, an official who leaves federal service can never represent private parties before the government on issues he was formerly personally and substantially involved with. For 1 year he cannot represent such parties even on issues that fell within his general official purview. Now, under the new law (*Science*, 9 March), this period of abstinence would be extended to 2 years and would apply not only to representing parties before the government but even to counseling them on matters for which the official was formerly responsible.

Some officials have said that this law is so stringent that it might leave them virtually unemployable. Danielson will begin hearings soon on his postponement measure and promises to look into the new law's undesirable side effects.

Luther J. Carter

(Continued from page 1319)

ers. Potentially the most important factor in his defeat was his refusal to organize early and promote himself aggressively among his colleagues. "Preyer doesn't enjoy hard campaigning," says an associate.

Waxman in contrast is younger, more liberal, a shrewd political strategist, and more aggressively ambitious. In person, he is soft-spoken and, like Preyer, an attorney who selects his words carefully. But his thoughtful manner cloaks a firm committment to ideals. His approach to Congress is shared increasingly by the youngest members: "I'm not against seniority per se, but it has produced an awful lot of mediocre chairmen," Waxman says. "My opposition doubted my committment to Congress and thought I would be a destabilizing influence." Then, half admitting it as truth, he adds, "My committment is not to Congress as an institution, but to the issues that this institution deals with."

Until now, those issues have been the ones that interested Waxman's constituents, and no one has ever accused him of neglecting the folks back home. Waxman has one of the oldest, most liberal, most securely Democratic districts in the nation; because it covers west Los Angeles and includes most of Hollywood, it is also one of the wealthiest districts. Optimistically, Waxman pledged that his first priority after election to Congress would be the enactment of comprehensive national health insurance. He has been extremely critical of the auto industry for its failure to meet anti-pollution requirements of the Clean Air Act, and he has been critical of television's "family viewing hour" as a restriction of the literary license of television writers. Many of his constituents are Jewish, as is Waxman, and he has sharply criticized arms sales to the Middle East, as well as the Arab boycott. But if the real question is which came first—the liberal views of Waxman or those of his constituents—the evidence is reasonably clear: Waxman was president of California's Young Democrats and working hard in civil rights years before his first congressional campaign.

When Waxman decided to challenge Preyer for the post of subcommittee chairman, the first thing he did was strike an alliance with the members who thought as he did—young liberals with a decidedly interventionist and consumerist bent, people like James Scheuer and Richard Ottinger of New York, James Florio and Andrew Maguire of New Jersey, Toby Moffett of Connecticut, and Edward Markey of Massachusetts. Prey-

er may have thought the Northeast was mounting a vendetta. Waxman then called on his buddies outside the House, including Ralph Nader, Mayor Edward Koch of New York, Cesar Chavez, and a few labor groups, like the AFL-CIO. The unions, which want to see comprehensive national health insurance enacted, said it was a key fight. Those members of the commerce committee who were ambivalent about the contenders were only too happy to go along and vote for Waxman. Additional lobbying by Senator Edward Kennedy (D-Mass.) was said to be effective, although at least a few members—who probably would have voted for Preyer anyway—were said to be upset at the intrusion. Kennedy has the corresponding post in the Senate, and also wants a comprehensive national health insurance program.

Midway through Waxman's campaign, some details about the November 1978 congressional elections emerged that provided grist for the mill of Preyer's supporters. It became known that Waxman had dispensed $24,000 in campaign funds, from a committee of his called "Friends of Henry Waxman," to ten of the commerce committee members who would decide whether he would become chairman. Much clucking ensued, along with suggestions that his precedent bodes ill for the House because it would open up future committee elections to all kinds of special interests. The critics ignored the fact that lobbyists of every stripe have manipulated committee chairmanships through the fall elections for years, and that the House leadership has also been regularly doling out money to its favorite sons. Even Waxman received small contributions from the "Jim Wright Majority Congress Committee" and the "Thomas P. O'Neill Congress Fund" in the last days of his own November race.

Waxman said recently that "the chairmanships are already open to outside interests. I was pleased to be able to help in some small way those people whose views I shared. Besides, many of the people in my district are wealthy, liberal Democrats who cared about who won elsewhere." Although Waxman was criticized publicly by the new chairman of the powerful House Rules Committee, insiders say that he probably did not lose any votes over the incident. Waxman insists that he did not really gain any either—he just helped ensure that those who would support him remained in office.

When a few fence-sitters entered the Waxman camp at the last moment, he squeaked through in a narrow victory. It cost, however. Six of those who backed Preyer refused to follow tradition and make it unanimous on a second ballot. Waxman clearly has a formidable task ahead: to cool their hostility, and to gain the trust of the incoming conservatives. There are conflicting signals about his potential success.

He has a history of strong personal expression, for example. Writing in 1975 about former Senator William J. Fulbright, Waxman said that Fulbright's views on the Middle East "reminded me of how grateful we should be that this malicious and willfully ignorant man no longer holds high political office." He also persists in the belief that the key to resolving political differences lies in a discussion of the issues and not the personalities. Representative Jamie L. Whitten (D-Miss.), who will be a stumbling block to every liberal in the House this year as the new Appropriations Committee chairman, can be dealt with "on the issues, not the personal disagreements," Waxman insists.

Furthermore, he has hired Elliot Segal as the subcommittee's staff director, a man who worked closely with former Congressman John Moss (D-Calif.), who believed more strongly in showy confrontation than behind-the-scenes politicking. Segal, 40, was an assistant dean at Yale Medical School, and an aide to Senator Warren G. Magnuson (D-Wash.), before becoming director of the Moss committee's Health Task Force. He assisted Moss in hearings on unnecessary surgery and domination of Blue Cross/Blue Shield boards by physicians. Both issues are also dear to Waxman's heart. There are some thoughts that Waxman may be interested in a Senate seat someday, and one way to get the necessary publicity would be to run the subcommittee the way Moss ran his.

Also, several of the conservative members have shown no signs that they intend to be mum about the committee's affairs. Dave Stockman (R-Mich.) and Phil Gramm (D-Tex.), are bright economists who intend to speak up often, for example. "Waxman should hire a staff economist right away if he wants to get anything done," says one observer. Gramm and Representative David Satterfield of Virginia, the top ranking Democrat, have already forced Waxman to cancel joint cost containment hearings with the Ways and Means Committee, which supports the Carter bill.

All of this might suggest that Waxman has little chance for success, but there is also some evidence to suggest that he will be at least partially victorious. He is, for example, savvy enough never to have lost an election. This is also not his first chairmanship. He chaired the California Assembly's committees on health and medical malpractice immediately before coming to Congress. He developed a reputation there of being willing to work with outside, more conservative interests, such as organized medicine. The AMA and the American Dental Association have, in turn, contributed to each of his campaigns. And the pace of the House health subcommittee has been deliberately slow so far, enabling Waxman to regroup his supporters and mend a few fences before the first votes come up.

At this point, Waxman is naturally cautious and refuses to say what issues he might place before the subcommittee outside of those already known. His previous statements suggest, however, that he can be expected to work hard against any proposed amendments to the Clean Air Act; to take a dim view of any national flu vaccination program; to oppose any changes in the Delaney clause of the food and drug act, permitting the use of carcinogenic additives; to take a dim view of the export of hazardous products; to favor risk-benefit balancing in the control of toxic substances; and to work hard toward passage of comprehensive national health insurance. "The difference between Rogers and me is that I don't think he really saw us as moving toward national health insurance," Waxman says. "I do." From time to time, both drug firms and corporate lobbyists have come under Waxman's critical gaze. He has also condemned reverse discrimination programs at medical schools.

When these and other matters come before Waxman's subcommittee, he will clearly be trying to throw off the yoke of Paul Rogers' genial moderacy. Once thrown off, however, the question seems not to be where Waxman will take the subcommittee, but where the subcommitee will take him.

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Hospital cost containment, food and drug law reform, and national health insurance—all may be bottled up in Waxman's committee.