

HEALTH CARE 3.

By talking about Medicare in a winning election campaign the Government did not acquire an ethical, legal or political right to do whatever it now finds necessary to implement Medicare. Citizens retain the right, and I think the duty, to discriminate between good and bad government and to lend their lawful support or opposition accordingly. I suspect Dr. Blewett himself once lawfully discriminated for individual liberty and against military conscription for Vietnam.

We have never had a truly free and effective market in medicine, and much of the shamefully illiberal health law was enacted by the Liberal Government, however it does seem that even greater use is <sup>now</sup> to be made of illiberal law.

The Health Department has been criticised for its failure to prosecute "medifraud". With a budget of \$8.1 million for surveillance and investigation, the department successfully prosecuted only eleven doctors and disqualified only two in the first ten months of last financial year. This "dismal performance" has been put down to the extreme incompetence of the department. A more convincing explanation of the department's failure to bring successful prosecutions is that the offences are not adequately defined and are hard to detect, so that prosecution in a manner that is consistent with established principles of justice is very difficult. Another, not very convincing explanation, is that doctors, unlike most of the rest of the community, are above cheating the government.

Stung by criticism of failure, it now seems that the Minister and his Department are waging war on the infidel with scant regard for the niceties of British justice. Take the case of a Western Australian G.P. He bulk-billed Medicare for 85% of the scheduled fee and accepted the remaining 15% from the patient. That is clearly against the rules. It is an offence about as heinous as falsely claiming some work clothes or small tools in a tax return; and rather less heinous than the offence of an MP who uses his parliamentary travel allowance for a journey which is primarily a holiday. Consider the penalty imposed on this doctor.

He has been fined \$250 by a Magistrates Court, publicly reprimanded by the Medical Board and has had his principal means of livelihood taken from him for three years - effectively a fine of at least \$100,000.

Defending his department against the Auditor General's criticism, Mr. Lawrie Willet, then the Director General of Health, is reported (West Australian of 9/8/84) to have made these points: - The Health Department could not hope to catch all the doctors abusing the system as the \$130 million lost to fraud and over-servicing was comprised of amounts as small as \$2. It would be impractical to prove each offence in court. The aim of the Department was to discourage doctors from abusing the system. Draconian penalties now being used against those caught on fraud charges would prevent others trying it. A doctor who had three charges proved against him was disqualified automatically from Medicare for three years.

In quotation marks attributed to Mr. Willet the report stated: - "He does not have to be found guilty." - "If the charges are found proved he is disqualified." and "These penalties are really very great."

This was a remarkably frank interview which accords well with what is happening.

Medicare is no voluntary arrangement between a competing doctor and a competing health insurance service. (Medicare is a statutory monopoly.) When it withdraws its services from a doctor's patients it effectively denies that doctor the ability to practise in Australia. Any comparison with commercial withdrawal of service from an unsatisfactory customer or employer is utterly spurious. As Mr. Willet said, it is a penalty.

Both Labor and Liberal Governments have abandoned adversarial courts for inquisitorial methods, because, as Mr. Willet points out, it is impractical to prove each offence in court. He might have added that no judge would impose such penalties for such offences. The Government does not intend to try to catch every offender, but with the help of computer profiles produced by the "Fraud and Overservicing Detection System" (FODS), intends to achieve a kill quota of eighty doctors per year. These eighty will discourage the rest. The gibbet at the crossroads technique, which history records, did not prevent crime.

Doctor baiting has so conditioned Australians that the rank injustice of what is happening is hardly raising comment. The AMA has a battery of people working on fees but is doing little about the economic, legal and philosophical questions. The Human Rights Commission, to its shame, is silent.

Perhaps non-medicos will be shaken by the thought that once the Health Department's methods are accepted there is no reason in principle why the Income Tax Act should not be administered the same way - a computer profile check, which the Taxation Department employs already; three offences, each for as little as two dollars, proved without the protection of a court and without the test of guilt; and then a massive confiscatory penalty. A doctor may appeal against the Department's findings to the Administrative Appeals Tribunal but it is the rules themselves which are wrong. When policy is inconsistent with established principles of justice, it and not the principles should be abandoned.

(Doctors, like everybody else, wish to sell as much as possible at least possible cost and effort and of course they would rather be rich than poor.) Long before Medicare, and its direct forebears, doctors improved their chances of becoming rich with rules which reduce competition from paramedics and competition between doctors. They control entry to their profession. Although these practices are time honoured, and although every doctor is trained to regard them as the natural order, they are costly to the public. However, as many other skilled workers similarly control their markets, it does not seem reasonable to single out doctors on this score.

The medical market is further impaired when governments subsidise buyers. Patients who pay less than full cost demand excessive services, and doctors are left to decide, on behalf of taxpayers, which services are warranted. Since doctors have neither the characters nor the wisdom of angels, inevitably too many medical services are consumed. This provides government with the motivation, but not the justification, for draconian regulation.

The White Coated Priesthood believes so many of its own myths that not one doctor in a hundred understands what principles are offended either by himself or the government. By denying doctors the protection of due process and by making examples with excessive penalties of some unlucky individuals the government sacrifices justice to expediency.