

Canada-United States Law Journal

Volume 15 | Issue Article 44

January 1989

Discussion after the Speech of Dr. Choate

Discussion

Follow this and additional works at: https://scholarlycommons.law.case.edu/cuslj



Part of the Transnational Law Commons

Recommended Citation

Discussion, Discussion after the Speech of Dr. Choate, 15 Can.-U.S. L.J. 313 (1989) Available at: https://scholarlycommons.law.case.edu/cuslj/vol15/iss/44

This Speech is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Canada-United States Law Journal by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.

Discussion After the Speech of Dr. Choate

QUESTION, Professor King: You have a set of national goals which are, in most respects, desirable for the United States. Can they be accomplished without some sort of national plan and are they really feasible in light of the short-term orientation of the Congress of the United States?

In other words, you said the United States should take the long view, but how optimistic are you, realistically, that this can be accomplished?

ANSWER, Dr. Choate: I am reasonably optimistic because I see a series of forces and trends underway. A century ago Disraeli observed that in politics a week is a long time. Today I saw a very interesting statistic from Roger Ailes, who said that the average sound bite on television was fourteen seconds in 1985 and now it is nine seconds. So what we have is an environment where everything has to be brought down and simplified or has to reflect our larger trends. I am optimistic that Congress is going to provide a reasonable foundation and institutional base to bring these changes about.

This seems odd when looking at the present situation in Congress. However, I think that Congress is undergoing a fundamental historical transformation. Congress, in the nineteenth century, dominated the executive branch. When you go back and look at some of Woodrow Wilson's writings, he even defined the federal government in the context of the congressional committees. In the twentieth century Congress has relinquished many of its constitutional powers. In the latter part of the twentieth century Congress has been taking back those powers. After all, under the Constitution, it is the Congress that has the power to raise taxes, regulate foreign commerce, make war, impeach the President and remove federal judges from office.

This generation of congressional leaders did not come there to slowly wind their way up the seniority ladder before attaining power. When Carl Vinson was chairman of the Naval Affairs Committee, he had an operating rule: one term in Congress, you get to ask one question; two terms, two questions; three terms, three questions. This generation of men and women in the Congress does not and will not accept that. That is what the Watergate reforms of 1974 were about. Furthermore, in 1975 Congress atomized power among the 288 committees and subcommittees which now exist. You have people with aspirations, who, by and large, are extraordinarily smart.

In addition, you have people who are not only smart, but have a long-term historical perspective on the issues because 98% of the incum-

bents win. Half the Congress today was in Congress in 1978. Half the Congress will still be there when the President is sworn in on January 20, 2001. That means that these people have a long-term perspective on what happens. For example, Dan Rostenkowski has served with six Secretaries of the Treasury. Sam Gibbons, on the Trade Subcommittee, has served with three U.S. trade representatives. John Dingell, in the time that he has been on the Energy Commerce Committee, has served with fourteen Secretaries of Commerce, and all of these people had an assistant secretary. They all have long-term memory and experience.

Likewise, Congress itself is in the midst of a major generational shift. It happened in the Senate with the election of George Mitchell to succeed Robert Byrd as the majority leader. In fact, new-wave generation and new-age political leaders are emerging in government.

The House of Representatives is engaged in a brutal shift of power. It would not surprise me at all to see Tom Foley as majority leader in the House of Representatives several years from now. Foley enjoys the broad-based confidence of a large number of Republicans and Democrats. It is very likely that we will find Congress led by Bob Michel and Tom Foley next year. These are very different personalities.

One of the things that will happen if the Bush Administration does not step forward with an agenda is that Congress will step forward with a vision. When looking at the power center in Congress, you suddenly see a large number of new generation political leaders talking about the same things that are being discussed at this Conference. You have men such as Max Baucus, who is a Chairman of the Senate Subcommittee on Finance and Trade, talking about establishing bilateral and plurilateral relations. In fact, he has put forth legislation on a compact with the Japanese to deal with a new set of relationships. Senator Baucus and Senator Roth have formed a working committee to study how to deal with Europe in 1992. Senator Bentsen has said that the hyperspeculation in financial markets must stop and has begun hearings. He has also had the Joint Committee on Taxation take a look at whether it should be done through a reverse capital gains tax, or whether it should be done through a stock transfer tax.

The Senate has taken the lead on questions of high technologies. Now the House, through Ed Markey, is taking a look at the question of high definition television and other technology. Jeff Bingaman, the Chairman of the Subcommittee on Defense, Industry and Technology of the Senate Armed Services Committee, who has his hands on \$180 billion worth of government purchases each year, has in effect, mandated that the federal government come up each year with a list of the twenty critical technologies, and he is well on the path to talking about consortia to deal with them.

So as ironic as it may seem, as counterintuitive as it appears, and as it may well be, suddenly we wind up with the Congress of the United States having the long-term memory of the federal government. It is the

Congress that is now coming forth and saying that we need the kind of agenda that we are discussing this morning.

We have very smart people in the increasingly important positions of power offering legislation and being champions of such policies. We have a fundamental shift in the relationship between the executive and the legislative branches in which the Congress is saying that it will take back and exercise many of its constitutional roles. Suddenly we see a leadership that is appropriate for the times coming into power. This leadership enjoys the full respect of colleagues, is very comfortable on television, and consists of men of great intellect and persuasion. In effect, Congress is filling what appears to be a vacuum of leadership.

QUESTION, Professor Shanker: I am not sure I share the same optimism that our Congress is going to bring about these better plans in the future. I hope you are right. My intuitive experience indicates it may not be so.

This Conference has not given much attention to the fact that there is a kind of a personal desire for immediate psychological gratification which is manifesting itself among today's students. The problem is that by the time our students get to college many are not ready to get involved in science and technology. In fact, they have ignored it. I wish there were some way to instill at these lower levels the love and willingness to get involved in science and math. I am very troubled by that and that has never been addressed.

Furthermore, throughout these entire three days we have heard how government and large corporations in particular might get together to spark innovation. Yet it seems to me that nothing is really missing, so maybe it is impossible for innovation to come back.

The spirit of individual proprietorship and inventiveness has served us well in the past. Somebody had an idea in Cleveland, a better way of making coffee — that turned into *Mr. Coffee*, which was very successful. It died but it spawned a whole new industry.

What encouragement is there for start-up industries? We have heard nothing as to whether there is some method or need to once again encourage these ideas. Most of these ideas go nowhere, but some become the seed corn for successful enterprises.

This Conference has not once addressed the need to encourage these innovative ideas which can then seriously be developed and commercialized. I think the venture capital session came the closest. Do you have any comment on that?

ANSWER, Dr. Choate: On the question of education, it is very clear that our educational system is not doing what we need and want and expect of it. But it is also clear, at least according to Albert Shanker, the President of the American Federation of Teachers, that the top 20% of our students are still doing well — but the top 20% of our students have always done well. The problem that we find is the bulk, that 80%, are

not doing as well as they could or as we need them to do. It is also clear, in this top 20% and this bulk of the students that want to go on into science and engineering, that a major impediment is money; it is a financial obstacle. I can say this with heartfelt experience. I have two stepsons who are getting Ph.D.'s in chemistry. This is an expensive process.

From a pure economic sense, anybody who has the intelligence to pursue a Ph.D. in science is smart enough to figure the arithmetic of what it costs and the immediate benefits, which brings us to your point about the immediate gratification. We must find a way to both honor students and make it financially possible for them to go on in the sciences.

I think you are very much on the mark regarding innovation in the small firms. Today, depending on whose numbers you use, 70-90% of all new jobs in this country are created by medium and small-size firms. They are a dynamic source of innovation and they are a tremendous source for economic expansion in America.

When one takes a look, not only do we have the largest creation of jobs and the largest formation of firms, but we also have one of the largest failure rates of small firms. In part, that is due to the fact that the idea or the management was bad, but it also reflects the fact that we do not have sources of long-term financing for the small firms and the small entrepreneurs.

When one looks at the Federal Reserve and other records, 85% of the commercial loans of a million dollars or less are due in five months. It is very tough to think long-term with five month money. Short-term loans may be one source of growth and development, but we need to find a way to encourage long-term financing. That may mean greater incentives for venture capitalists. It may also mean looking at how we can do for the small business community what we did for the housing industry in the 1930s when we created a secondary mortgage system. How do we create a secondary industrial mortgage system to channel capital market funds to the needy and small businesses?

When one takes a look at the large firms, one finds that 80% of the scientists and engineers in the private sector are employed by the Fortune 500 corporations. How do we take these corporations and enable them to compete against the global challenges that we face?

This requires a radically different way of thinking about big business in this country. We must find the ways and means to develop our larger companies into national champions. When one takes a look at the enterprises with which they are competing, we find that they are vastly larger. Mitsubishi has annual sales that are five times larger than the gross national product of Ireland. They are eight times larger than IBM, about \$400 billion a year. You are talking about a global scope and very deep pockets. What we really require to take those on are large, well-financed,

well-managed, technologically innovative U.S. corporations with a long-term perspective.

If we do not, we will find that we will not only lose the large corporations, but the small businesses in America that depend upon those corporations will lose their principal customers as well. We will wind up, in the long-term, with virtually every industry of any importance in the United States owned or dominated from abroad, and that is not good.

COMMENT, Mr. O'Grady: I was interested in your point that the societies of the East are so much different from ours. My intuitive feeling is that although we might learn from them, we cannot really copy them because their social and political structures are aristocratic and militaristic, in Korea very much so, in Japan pretty much so.

I would think that for the model to work in the United States, you would need to have an enhanced sense of pulling together as a nation. There is a lot of talk about it at this Conference, but I don't really think we pull together that well. In the last U.S. election campaign, as an example of polarization, the two parties just did not talk to each other. The Liberal party has formed a government in Canada for most of the time since the confederation. In the United States you have an election campaign in which the President was joking about the "L-word." That was supposed to be funny, but to me it was shocking.

That whole element of thought says there is a public policy component. Things need to be carried out in common on some basis. This is missing and needs to be put back in. If you could bring together those polarized political positions in the social area, milk programs, school programs and so forth, you would be building a kind of a basis to do it in an area that is just as important — industrial development and job creation. But I think that the defense budget, which seems to soak up everything, is also a problem. You are just going to have to learn something from Mr. Gorbachev there and pare the defense budget to make room for some of these other programs.

COMMENT, Dr. Choate: I think that we will see a cut in the defense budget next year. We are left with a political choice of raising taxes, cutting social programs, having real growth that will produce another \$35 billion or \$40 billion of revenues, or cutting the defense budget. Taxes are not going to pass and the social programs will not be cut politically, there is just too much support for that. In fact, we may be in a recession next year, so that leaves the defense budget. We are going to see that happen as a final choice. Even now conservative Republicans such as Newt Gingrich are saying that they would rather cut defense than raise taxes.

The second issue reflects the trend that has occurred in the United States, where often in politics substantive thought has been replaced by cant and by slogan. What has happened, is that political parties have become increasingly meaningless mechanisms. Our elections are essen-

tially settled through television and television is ultimately and always a medium of emotion.

There are two other interesting aspects. This is the first generation of Americans that are not picking up the habit of reading newspapers. Second, this is a generation that really does think in seven or eight or nine minute bites of time. I can tell you, there is a qualitative difference in audiences. When you speak to a large audience of people under the age of thirty, you have to break up the talk at about eight or nine minutes with jokes. You have to use standard rhetorical trips to take them down, pull them back up to hold their attention. They are used to an advertisement at that point. Older audiences can follow logic and sustain an argument through its full development, so it is not necessary to break it up. That is what our politics reflects and that is not going to change in the United States.

We need a consensus among our ruling elites that it is essential that we do certain things. They must assume the responsibility of leadership and realize that there are certain things on which we can agree. Once we have agreement on those things, we can fight our political campaigns on the emotional bases that decide the election. But first we must agree on these core values. I think that is what is happening in the United States. We are coming to an agreement on what these core aspirations and values are, and that is the shifting that is happening.

QUESTION, Mr. Bradley: In talking about Congress and its leadership, I have no disagreement with your fundamental proposition that they are becoming the long-term memory and to a certain extent conscious with respect to the various aspects of the economy. But I think there is another phenomenon that, certainly from the Canadian point of view, is not in our best interest. Congress appears in many areas of technology in the economy to be trying to microlegislate. High definition television is an example you used, biotechnology and superconductivity are other examples. Congress certainly did it with respect to microelectronics and the Sematech issue. At the same time, within these "microlegislation," they are prescribing global solutions. Sematech is the best illustration. It does not reflect your philosophy, which I think probably has some straight merits of being selective in who you are trying to exclude. Sematech was trying to exclude the Japanese, instead it excluded everybody.

How do you deal with a Congress that for down home political reasons, especially at the national level, wants to legislate and then simply legislates all the solutions? How do you deal with that kind of thing and still have something that is positive, both for the United States and for their friends?

ANSWER, Dr. Choate: It is a time in which there is not only the fight over power that always exists in the U.S. political system between the executive and legislative branch, but also a fight over ideas. At its

heart the fight is between the economic theorist and the economic pragmatist.

The economic theorist has been centered in the Administration. The heart of their philosophy can be traced back to Milton Friedman and others and to the libertarian movement. In effect, what they are saying, is that open barters, open trade, open investment will ultimately produce the best benefits. The argument has been repeatedly made that if other countries wish to dump goods and services in the United States, then we should let them do it; our consumers get the benefit of that price and if U.S. businesses ultimately go under because of that, that is fine; at some point the prices will be raised and then it will be possible for others to reenter the market. These are essentially flawed arguments, because they assume that a cartel engaged in dumping or predatory pricing would permit reentry.

That is what happened in the television industry. The U.S. television industry went out of business, not because U.S. companies were not interested in television, not because they could not produce first-class goods and services, and not because they could not innovate and keep up. They went out of business because they were attacked by a predatory Japanese cartel that engaged in extensive dumping. Moreover, eighty U.S. importing firms took kickbacks for a period of over a decade, at least according to the Justice Department, at \$35 to \$75 a set. Now, under the free trade theory, perhaps that is okay because the U.S. consumers got the benefit of the subsidized set.

The second set of arguments was made in the mid-1980s. In the 1985 Economic Report of the President, the Administration moved the U.S. government from a position of neutrality toward foreign investment in the United States to a position of actually encouraging it, and in effect said that it makes no difference who owns the companies that operate within the United States. That ignores the vast differences in antitrust and cartel policies that exist between the United States and other countries. It ignores the differences in relationships between U.S. financial institutions and U.S. corporations and those between European or Asian financial institutions and those enterprises. They are prohibited here, because we think that such activities are anticompetitive. That may mean that we need to change many of our laws and attitudes to reflect what is happening in the global economy.

There are in the Congress a large number of increasingly nationalistic members, not in the protectionist sense, but in the positive sense, nationalistic in saying that it may be beneficial to see U.S. enterprises develop, that it is unlikely, particularly if the Japanese seize a major part of the ownership of the enterprises here, that it will be to the benefit of the United States because much of the higher value added work will be kept in Japan.

When one sits down and talks with members of the Congress and their staff, one sees that there is a very different attitude between the investment of European and Canadian companies and that of the Asian companies. In Canada, Europe and the United States, we have bought and sold companies and assets with each other on essentially the basis of the market, what was bought could be sold. You could buy as a strategy of entering into the market and developing and you expected, when the market conditions shifted with the exchange rate, that there would be those purchases here.

With Japanese investment you see a very different set of circumstances. What you have there are the formation and the operation of cartels. The business structure essentially owns the government in Japan. Follow the recruit scandal. It is the key to understanding the very nature of money politics in Japan and how decisions are made.

The third thing is that both due to culture and because in the past it was illegal, it has not been possible to buy access into the Japanese market. There will be no more than thirty Japanese companies sold to foreign companies this year in the United States. There will be around 1500 companies sold in the United States this year.

So what you are seeing politically in this fight between the theorists and the pragmatists is that lines are drawn very tight, and as it does when arguments are exaggerated, you wind up with destructive exclusion. It seems to me that the challenge is to move back to something more practical and then, in these consortia and activities, permit Europeans and Canadians. What we need is a realistic rather than a romantic set of economic relationships. If the past is any guide to the future, then we can strike those bargains to the benefit of all.