

# Christine Todd Whitman

## *Governing in the public interest: then & now*

“Good policy is good politics” was one of Webster Todd’s favorite political aphorisms. Twice chairman of the New Jersey State Republican Party, a behind-the-scenes party leader who was one of those who traveled to Paris to persuade Dwight Eisenhower to come home from Europe and run for president as a Republican, and a delegate to numerous Republican National Conventions, Web Todd was what would have been called back in the 1940s, 1950s, and 1960s a member in good standing of the Eastern Republican establishment. He was also my father.

Underlying his belief that good policy was good politics was his conviction that government, and those who sought to lead it, had a responsibility to act always in the public interest, to serve the needs of the people, from whom government derives its legitimacy.

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During most of my time observing and participating in political life (I am somewhat abashed to admit that it has been more than fifty years since I attended my first Republican National Convention – and I have not missed one since), most of the politicians I have known and worked with had a fairly clear idea of what was meant by ‘the public interest.’ Without getting into a discussion of John Stuart Mill and the philosophy of utilitarianism, I believe they viewed serving the public interest as doing the greatest good for the greatest number of people. It also meant protecting personal liberty, encouraging individual initiative and opportunity, and safeguarding the fundamental rights that every member of a free society possesses.

Contemporary political history (which I define as the political history I can remember) is filled with examples of Washington putting the public interest above partisan ones. Perhaps the most notable example is the passage of the landmark civil-rights bills in the mid-1960s: the Civil Rights Act of 1964 and the Voting Rights Act of 1965. The enactment of these measures required that Republicans and Democrats work together to end the insidiously persistent institutional instruments of racism in America.

Over the past forty years, the Democratic Party has received the lion's share of the credit for these bills. Undeniably, President Lyndon Johnson staked an enormous amount of his political capital on this issue. But he knew, because few have ever been better vote-counters than Johnson, that to succeed, his most important legislative priority had to have the backing of Congressional Republicans – and he was right. The passage of the Civil Rights Act of 1964 would not have been possible without strong support from the Republican Party – from the most-senior Congressional leaders to the backbenchers.

Indeed, the measure would never have even come to the floor of the Senate had Senate Republican leader Everett Dirksen of Illinois not broken the Senate's longest filibuster in history (led by West Virginia's Robert Byrd). And when it did, 80 percent of the Republicans in both houses voted for it, as compared to just 61 percent of the Democrats in the House and 69 percent of those in the Senate.

One need not be a political science Ph.D. to imagine any number of scenarios in which the Republicans could have sought to play this issue for its own political advantage by handing Johnson a major legislative defeat. Instead, the Republicans acted in concert with their leadership counterparts across the aisle and with the White House to advance the greater good. Some will argue that by later tying the enactment of major civil-rights legislation to the Democratic Party, the Republicans were able to split the Democrats and lay the foundations of the 'Southern Strategy,' which broke the Democrats' century-long stranglehold on the South. But that was not the thinking at the time, for many Republicans would also face the displeasure of their constituents for their vote.

The first two decades of the modern environmental era (1970 – 1990) were also a time when Democrats and Republicans were able to come together to serve the public. They constructed an entirely new legal, regulatory, and institutional framework for preserving, protecting, and restoring America's environment. It was bold and thus controversial.

By the time Richard Nixon was inaugurated president in 1969, there was a growing consensus in the United States that the mechanisms then in place to safeguard what was commonly called the ecology were not working. Rivers were spontaneously combusting. People were choking on thick, dirty smog. Land all over America was being used as toxic waste dumps.

During the 1968 campaign, neither of the two major party candidates spent much time addressing the growing environmental crisis. Other, more immediate issues were confronting the voters and the nation: Vietnam was tearing the nation apart; street riots were igniting American cities; the country was still reeling from the assassinations of Martin Luther King, Jr., and Bobby Kennedy. And after the results of that election were decided, there was no love lost in Washington between the Republicans, who had just taken control of the White House for the first time in eight years, and the Democrats, who had been in control of Congress since 1955.

Yet despite the highly charged and politically adversarial atmosphere, a Republican president and a Democratic Congress, beginning in 1970, enacted the environmental laws America so badly needed. Looking back, we tend to think such actions were inevitable. They were not. Many Republicans were wary of too much regulation, and some Democrats thought there could not be enough. But

in spite of this difference and all the other tumult rocking the American political system in the late 1960s and 1970s, the leaders of both parties refused to let the sort of hyperpartisan gridlock we see in Washington today pollute environmental policymaking.

It was in this era that the vast majority of the laws that form the foundation of our current approach to environmental protection came into being. President Nixon established the Environmental Protection Agency in 1970. The enactment, with bipartisan support, of such landmark laws as the National Environmental Policy Act, the Clean Air Act, the Endangered Species Act, and the Clean Water Act quickly followed. The bipartisanship continued with the subsequent passage, under Presidents Gerald Ford, Ronald Reagan, and George H. W. Bush, of the Safe Drinking Water Act, the Toxic Substances Control Act, the Emergency Planning and Community Right to Know Act, the Superfund Amendments and Reauthorization Act, the Oil Pollution Act of 1990, and the Pollution Prevention Act.

Every one of those laws was the product of a Congress at least partially in the control of one party and a White House in control of the other. And the votes on these measures were rarely very close. The bipartisan effort to build the foundations of American environmental policy took place during some of the most politically contentious times in the past fifty years. Yet when it came to serving this greater public interest, the parties were able to get the job done.

Since 1992, on the other hand, we have seen just one piece of major environmental legislation: the Brownfields Revitalization Act in 2002. The need for further environmental action at the federal level exists. But nowadays few serious policy analysts argue that federal action

to cap greenhouse gas emissions, especially carbon, would be in the public interest. Today's political environment simply does not support the sort of bipartisanship that advanced such progress in the past.

We must not forget, however, that over the past fifty years the federal government's desire to serve the public interest has also led it into areas in which it was not best suited to advance the public good. History has demonstrated that when government acts too aggressively, even in pursuit of a common goal, it can overreach and actually exacerbate the ills it seeks to reverse.

The 1960s approach to eliminating poverty in America best exemplifies this phenomenon. While Lyndon Johnson's legislative agenda for eradicating poverty did not require broad bipartisanship for enactment, he was clearly driven, at least in part, by what he saw as the public interest. After all, few, either at the time or since, have argued that reducing poverty is not a worthy goal. The legitimate debate has largely been about the means.

Johnson positioned the War on Poverty as a far-reaching effort to serve the public interest by reducing the direct and ancillary effects that poverty has on our society. The War on Poverty represented the apogee of the New Deal: subsequent efforts to overcome poverty by providing a stable and guaranteed source of income, including Richard Nixon's Family Assistance Plan, championed by Democrat Daniel Patrick Moynihan, were never able to gain much political traction.

It was not until this 'war' was nearly in its fourth decade that policymakers from both sides of the aisle (not just from the right) began to acknowledge publicly that many of the programs enacted un-

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der Johnson were miring families (or what was left of them) in an endless and unbroken cycle of dependency and despondency and had to be changed.

On the Republican side of the political divide, Jack Kemp perhaps best summed up the failure federal welfare policy had become with the memorable declaration, “The War on Poverty is over, and the poor lost.” On the Democratic side, Bill Clinton, during his 1992 presidential campaign, promised to “end welfare as we know it.” He repeated those exact words when, in 1996, he signed the Personal Responsibility and Work Opportunity Act, which required states to develop programs to move welfare recipients off welfare and to work.

At both the beginning and the conclusion of the federal government’s dominant role in delivering direct cash assistance to the nation’s poor, one can argue that policymakers were acting in what they saw as the public interest – lifting people out of poverty so that they could live more productive and healthy lives, lives that contribute to the greater good rather than detract from it.

What changed over the years was the policy designed to achieve that goal. It evolved from the belief that what the poor need is a reliable financial floor on which they can build a better future, to the realization that any effort to help raise the poor out of poverty requires more than financial support. Experience in the decade since the end of welfare ‘as we knew it’ suggests that providing people with the incentives, training, and supports needed to enter and remain in the workforce is more successful at reducing the number of welfare recipients than providing income guarantees.

In New Jersey, the welfare-reform legislation I proposed and signed into law in 1997 set a five-year lifetime cap on the eligibility of recipients to receive public

assistance. The cap provided a much-needed incentive to welfare recipients to find work. We also recognized, however, that we could not expect welfare recipients, many of whom had never held a steady job, to enter the workforce without significant levels of training and support. In New Jersey, the support included transportation grants, child-care assistance, educational and job-training grants, and a state Earned Income Tax Credit.

By the time I left office in January 2001, the welfare caseload in New Jersey had dropped from 96,500 families (when I signed welfare reform) to 45,000 – a decrease of more than 50 percent without the commensurate flood of homeless people predicted by the critics. The progress we made in New Jersey was also reflected across the nation. In August 2006, on the tenth anniversary of federal welfare reform, the U.S. Department of Health and Human Services (HHS) reported that welfare caseloads for families nationwide had decreased by 59 percent, while caseloads for individuals had declined by 65 percent. In addition, HHS reported that child-poverty rates dropped from 20.5 percent to 17.8 percent, lifting 1.4 million children out of poverty.

As Larry DeWitt, a public historian at the U.S. Social Security Administration and self-described skeptic about welfare reform, put it in an essay he wrote in 2005, “The policy-history narrative here turns out that about half the welfare population has been successfully moved from dependency to self-support, their employment has proven stable, childhood poverty has declined, and no social crisis attended this shift . . . I [was] simply wrong about this law. The historical evidence has trumped [my] political and ideological suppositions.”

The history of welfare policy in the United States over the past forty years provides an instructive example of how the political process can work – and even change course – to meet the public interest. Along with the passage of civil-rights and environmental legislation, which clearly put the public interest ahead of partisan political interests, it begs the question: why do the elected branches of the federal government seem unable to address the public interest today?

Over the past decade, the commitment to serving the public interest, which led to action on difficult and vexing problems, has been replaced by a commitment to serving much narrower interests, not just in political campaigns (where that has always been the case), but also once the elections are over and the time for governing begins.

The increasing and well-documented use of divisive wedge issues that appeal to narrow but electorally valuable constituencies has made it increasingly difficult to govern. This is particularly true when both of the elected branches of the government are controlled by the same party. All too often, the result is the loss of any effective checks and balances on the ability of the majority party to drive its wedge issues once it is in power. When paired with the disproportionate ability of that party's base to demand action on its most important partisan (but not necessarily widely popular) issues, it is a recipe for the triumph of partisan political interests over the public interest.

Over the past several years, too much of our political leaders' attention has been consumed with serving the electoral masters who are not shy about claiming credit for putting them in office. Nowhere has this been more obvious than in the Republican Party's fealty

to that segment of the electorate I call the social fundamentalists.

The social fundamentalists are those voters who base their votes entirely on their rigid positions on a narrow list of social issues, such as abortion, embryonic stem cell research, gay marriage, and end-of-life decision making. They are motivated, single-issue litmus test voters whose perceived contributions to the election of a Republican Congress and of George W. Bush to the White House have held the Republican Party hostage for the last ten years.

The Terri Schiavo tragedy is perhaps the most egregious example of the Republicans in Washington caving in to the power of the social-fundamentalist section of its base. Schiavo was the Florida woman who fell into a vegetative state in 1990 and spent nearly fifteen years being kept alive by what anyone would define as extraordinary means. In late 2004, when her husband decided to end those efforts, and the Florida courts affirmed that he had the right to make that decision, her care became a cause célèbre for the social fundamentalists.

As the day when Schiavo's feeding tube would be removed drew closer, emails and phone calls from groups who wanted Congress to overrule the decision flooded Capitol Hill. Peggy Noonan wrote that unless Republicans in Congress acted to prevent the removal of the feeding tube, "they will face a reckoning from a sizeable portion of their own base." And so, Congress acted with unusual speed, and President Bush flew back from his ranch in Texas, to sign the bill into law. The sway of those fundamentalists was such that even some moderate Democrats ended up voting for that intervention.

What seemed like a certain political winner did not turn out that way. The

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leaders of the GOP mistook the passionately and effectively expressed demands of the social fundamentalists for broader support among the American people. Polls taken shortly after Congress and the president acted showed that huge majorities of the public, even among self-identified evangelical and conservative Republican voters, opposed federal intervention in this case. An ABC poll found that 70 percent of those asked thought Congressional intervention in this case was inappropriate, while a USA Today/CNN/Gallup Poll reported that 76 percent of people disapproved of Congress's action.

As can happen when a victim is held hostage for a long period of time, the GOP has developed a case of Stockholm Syndrome; we are now so closely identified with those who have been holding us captive that we do not seem to understand that the best interests of the public – and often of the party – are frequently not aligned with those of the social fundamentalists.

As a result, the Republican Party is in danger of losing its commitment to its historic principles: a strong national defense, a foreign policy that is engaged with the rest of the world, fiscal responsibility, less government interference in people's lives, opportunity for all, and the preservation of our environment. These are the principles that have long defined the Republican Party, and they are principles that also serve the public interest.

The Democrats are facing much the same challenge from the left of their party. If this danger is not readily apparent, it has much to do with the fact that the Democrats have been the minority in Congress until recently, and have been shut out of the White House since the 2000 election. As 2007 unfolds, I would not be surprised if Speaker Nancy Pelosi

and Majority Leader Harry Reid have a difficult time resisting the pent-up demand in their caucuses to make every issue they tackle every bit as partisan as they perceive the Republicans to have acted since 1994 – a perception that is based, at least in part, on reality.

What are we to do about those pressing issues in which the public interest is being neglected? Climate change, immigration reform, the continued solvency of Social Security and Medicare, the growing number of uninsured, and enormous federal deficits all loom, yet they are not being addressed. One answer may be found in divided government, by which I mean control of one of the elected branches by one party (or split between the two) and control of the other branch by the other party.

Through most of the political history I have witnessed, divided government has been the norm. In the fifty-one years since I attended my first Republican National Convention in 1956, control of both houses of Congress and of the White House by one political party has been the reality for just eighteen of those years. But because political parties will always want to gain as much control of the institutions of government as they can, the adage, 'Be careful what you wish for, you just might get it,' serves as an appropriate caution.

During the seven years I served as governor of New Jersey, my party controlled both houses of our state legislature – and by fairly comfortable margins. Holding such control is not without its share of political benefits. The confirmation of nominees to judicial- and executive-branch positions is (usually) easier. The enactment of major policy initiatives is far likelier. And the executive is largely spared dubious, politically driven 'oversight' investigations.

It does, however, also have its downsides. On numerous occasions it would have aided my attempts to govern from the sensible center if the Democrats had controlled one (and one would have been enough) of the two houses of the legislature. This arrangement would have blunted the power of the social fundamentalists within the Republican caucuses to push their agenda, and it would have helped create a more conducive atmosphere for finding a reasonable compromise on contentious issues. Nowhere would this have been more useful than in 1997, when the issue of partial-birth abortion surfaced.

That year, I was up for reelection as governor, a pro-choice governor in a pro-choice state. (No pro-life candidate has won a statewide election in New Jersey since *Roe v. Wade*.) Knowing the Democrats would not nominate a pro-life candidate, I expected the abortion issue to be off the table during my reelection campaign. It would have been, except for the fact that the pro-life faction of the Republican caucus in the lower house (which was also up for reelection) was demanding passage of a partial-birth abortion bill.

To forestall primary challenges, many pro-choice Republicans also decided to back the legislation, even agreeing to leave out any exceptions for the life or physical health of the mother. They knew that having sworn to uphold the state's constitution, I could not sign a bill that did not protect the life and health of the mother. Their lawyers also assured them that, even if I did sign it, New Jersey's Supreme Court would likely rule it unconstitutional.

Hoping to find common ground and avoid a veto override, a court challenge, and a bad law, I let the legislature know that I would sign a bill that banned all late-term abortions, so long as it provid-

ed for the protection of the life and health of the mother. I also made clear that I would veto any bill that did not.

When the legislature passed the bill with its original language, I had no choice but to veto the bill. Subsequently, the legislature overrode my veto (the only override during my tenure as governor), and the bill became law. But not for long: the state Supreme Court, as expected, threw it out as unconstitutional.

Had we Republicans not had complete control of both elected branches of state government, we could have enacted a constitutionally sound law regulating late-term abortions. It would not have met the litmus test of the fundamentalists, but it would have put an end to the vast majority of late-term abortions. The irony is that had a compromise been reached, it would have represented the first set of restrictions of any sort on abortions in New Jersey. As it is, nothing has changed. This is just one situation where divided government would have resulted in better public policy.

The national public-policy achievements I discussed earlier were, in every event, the product of either actually divided or essentially divided government. In the case of the Civil Rights Act of 1964 (the exception among them), the Democrats controlled both Congress and the White House. However, because of the profound regional split within the Democratic caucus on this particular issue, divided government was essentially the reality when this issue was on the table.

Unfortunately, I do not expect the recent takeover of Congress by the Democrats – and the reinstallation of divided government – to lead to an embrace of the public interest over the next eighteen months. The absurdly early presidential-nominating process, the palpable hunger of the Democrats to regain the White House, the toxic political environment

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in Washington, and the political weakness of the Bush administration guarantee that little of substance will come out of Washington before the end of the president's term.

Nevertheless, I am not so pessimistic as to think that our political system will continue to ignore the public interest to the extent it has in recent years. I believe that the wisdom behind my father's maxim that good policy makes for good politics will again become apparent and compelling. The status quo is simply unsustainable. It is, however, up to the American people to demand the change and to participate in the process.