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Cryonic Suspension: A Prospect for Immortality

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advantages of Cryonics and how it will affect our legal structure. For the interest of my colleagues, I am inserting Professor Smith's analysis:

**CRYONIC SUSPENSION: A PROSPECT FOR IMMORTALITY**

(By George P. Smith, II, professor of law, Catholic University Law School)

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In the body temperature of a cancer patient 32 degrees from the usual 98.6 degrees for 41 minutes—stopping his heartbeat and inducing a state of hypothermia-approaching suspended animation while performing surgery to remove a kidney growth which had spread through the vena cava into his heart—a group of physicians unwittingly advanced the possibility of at some time in the future allowing medical science of achieving a total body suspension in order to combat physical degeneration caused by such occurrences as cancer, heart disease, etc.

Popular interest in cryonic suspension, or "deep-freeze" burial, was highlighted recently in a news story which reported a jury award of $928,594.00 for breach of contract and fraud against a cryotorium organization. The cryons were thawed and their bodies still maintained this legal action.

The TREND, in a segment of its program, "Prime Time Saturday," broadcast on March 15, 1980, reported on the state of the art of cryonic suspension and found that approximately one hundred persons had contracted to be frozen upon death, for an initial cost of $12,000.00 and a current charge of $2,000.00 a year for maintenance thereafter. Another figure sets the costs of suspension at $80,000.00. In 1978, some twenty-four bodies, or cryons, were then in suspension.

**CRYOBIOLOGY AND ITS PROGENY**

Working with low temperature experiments in the 1950's, biologists designed the term, "cryobiology." In order to describe those investigations which were conducted well below normal body temperatures. Cryobiology is the study of low temperature experiments, while cryonics pertains to all disciplines and programs centered on human cold storage.

A surmise of cryobiology is replete with successes in the freeze-preservation of viable cell suspensions, blood serum and micro-organisms, semen and non-viable tissues used for transplantation, cryosurgery, advanced research into the freeze-preservation of large mammalian organs and the plenties of other exciting uses. Although the experimentation and successes in transplanting human organs proceeds with definite success, a total cryonic suspension of an entire human body and its revival has yet to be achieved.

**CHALLENGES TO LAW AND MEDICINE**

The major concern of both law and of medicine in meeting the challenges presented by the developing use and eventual perfection of cryonic suspension is to organize itself in a manner to allow for maximum participation in this area where dynamic decision-making is demanded. Law must not be merely anticipatory to the challenges of the New Biology, but must develop its basic postulates for action from, by, through and with medicine.

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Footnotes at end of article.

**EXTENSIONS OF REMARKS**

The pivotal issue or question concerning the use and administration of a cryonic suspension process is the extent to which a suitably qualified physician participates. More particularly, the immediate challenge here is the need to clarify the legal-medi cal definition of death and, where necessary, validate a new concept of cryonic suspension thus avoiding criminal liability for murder, and by such actions thereby modify the laws of invasion of privacy.

**THE PHENOMENON OF DEATH**

Although attempts to draw sharp distinctions between the legal and medical definitions of death have been attempted by serious scholars,1 the law generally treats the determination as one of fact—determined accordingly by the "ordinary standards of medical practice" in each community and guided by the customs and laws of each state.2 While not regarded as infallible, the standardized methods for determining death are: irreversible cessation of spontaneous circulation and/or respiration; absence of all evidence of brain activity and absence of response to nerve stimulations.3 As scientific advances continue, it may be expected that new criteria will be developed. For example, sophisticated application will be in charting the occurrence of death. Owing to the rapid expansion of cryobiology and cryog enics, then, refers broadly to the technol ogy of cryonic suspension. If contrariwise the cryon's "death" would be made and the estate settled.5

Since the cryonic suspension and revival process will probably extend over a number of generations, it would seem obvious that the Rule would be violated. Yet, an argument could be made that a cryon could remain in a state of cryonic suspension and find a cure for the illness of those suspended. At the conclusion of this period, a judicial determination whether a scientific breakthrough existed for a cure or no such medical or scientific breakthrough had been achieved or was ascertainable in the immediate future, a final legal determination of the cryon's "death" would be made and the estate settled.6

**PREVENTING MURDER**

In order to even encourage or allow physicians-scientists or lay persons to participate in the preparation of an individual for cryonic suspension before death, an exclu sory clause in the contract for suspension would have to be inserted which would have the effect of conferring an immunity from civil and criminal liability on the doctors, scientists and others for either failure to suspend were recognized, a suspension from the policy would be used to meet the civil and criminal liability on the doctors, scientists or lay persons to participate in the preparation of an individual for cryonic suspension before death, an exclusionary clause in the contract for suspension would have to be inserted which would have the effect of conferring an immunity from civil and criminal liability on the doctors, scientists and others for either failure to suspend one's own life ending.

It would be wise, also, to have either a judicial determination of the immunity from suit from a criminal prosecution for murder in connection with the acts of cryonic suspension undertaken by a physician or an individual or, for that matter, a state statute which would admit as an absolute bar or total defense the acts undertaken to initiate the suspension.

Presently, to undergo a cryonic suspension, one must first be pronounced dead; and once such a pronouncement is made, in order to pay off a life insurance policy (since the policy is actually a death benefit), the insurance company needs a death certificate. If a legal and medical state of cryonic suspension were recognized, a suspension certificate might issue and the 1942 problem here of life insurance coverage would be resolved.7 It is obvious that the proceeds from the policy would be used to meet the initial expenses associated with the suspension process and the maintenance of it over the years until revival.

In those cases where, after a determination of death, one is removed to a state of suspended animation, or her remains cryonically preserved, the law should be less flexible than in the cases of the suspension having been undertaken.
before death. Indeed, to fail to recognize death as death would play havoc not only with the law of property and succession, but also to destabilize the very social and religious fabric of society.

A NEEDED PARTNERSHIP

Rather than wait until the reality of human cryonic suspension occurs in order to make the legal, moral or ethical mechanisms, law and medicine should begin to anticipate and to plan now for this and the other rapid developments of the New Biotech, and yet necessarily some what frightened new world which will come in its aftermath. Only with a full and committed partnership between law and medicine can enduring progress as opposed to unchartered chaos be recorded as the benchmark of the 21st century.

FOOTNOTES


3 Newsweek, July 7, 1980, at 8.


13 Ibid.


17 Minutes of the Eleventh Meeting of the President's Commission for the Study of Ethical Problems in Medical and Biomedical and Behavioral Research," Vol. 3, (July 9, 1983).


TURKISH FEDERATED STATE OF CYPRUS

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 18, 1983

Mr. EVANS of Illinois, Mr. Speaker, recently, Mr. Robert Crandall, a senior fellow at the Brookings Institute, wrote a review of "The Next American Frontier" and "Industrial Renaissance." As we all know, the Brookings Institute is well known as a liberals haven. However, in this particular review by Mr. Crandall, we find out he does not accept the assertions of Mr. Reich, and in fact finds Mr. Reich's assumptions and conclusions to be mistaken completely. Contrary to Reich's contention, the industrial sector did not decline markedly from the mid-1960's to 1980. And since 1975, the United States has outperformed every major industrial nation on earth. The industrial policies of foreign governments have not been the great success that Reich claims, but a dismal failure.

Crandall agrees rather with the conclusion drawn by William Abernathy, Kim Clar, Alan Kantrow in their study of the automobile industry: that international competition is essential to revive flagging industries. The problems of the American economy result from excessive wages, government subsidies and protection, and lack of competition, the conditions that a national industrial policy would proudly continue.

Along with my fellow colleagues, I do not support proposals to create a national industrial policy. We need an aggressive foreign economic policy that incorporates the strengths of the free market system. At this point, Mr. Speaker, I would like to insert into the Record Mr. Crandall's penetrating review of the two books.

CANY INDUSTRIAL POLICY WORK?

(By Robert W. Crandall)

Any traveler to the industrial belt between New York and Milwaukee can see that our manufacturing sector is in trouble, but how—he may ask—have we fallen so far and so fast? Two new books from different sides of the Charles River at Harvard give us very different answers and, correspondingly, different solutions to the problem.

Robert Reich of the John F. Kennedy School of Government argues in The Next American Frontier that the problem lies in the inability of industry to shift to new products and new markets. His book sounds the drumbeat for industrial policy, a prescription with obvious appeal to center-left politicians as they gear up for the 1984 campaign.

On the more conservative right bank of the Charles, William J. Murphy, Kim Clark, and Alan Kantrow of the Harvard Business School see things differently. The problem with basic industry is that it has failed to adapt to increased competition, changing technology, and new product demands. To