

IN MEMORY OF PAUL O'DWYER

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. MANTON. Mr. Speaker, I rise to commemorate the Honorable Paul O'Dwyer who passed away Tuesday night after a long and distinguished career. Paul O'Dwyer was a great American and a great New Yorker. His many, many friends and colleagues will miss his wit, wisdom, counsel, friendship, and unflinching dedication to the causes in which he believed.

Mr. Speaker, as the son of Irish immigrants, born and raised in New York City, I cannot think of a person, other than my own father, that I admired more than Paul O'Dwyer. Of his many accomplishment over the years, I will remember most his indispensable role in fighting for peace in Northern Ireland. A fight which we all hope is now within reach, thanks to Paul's untiring efforts on the behalf of justice.

Mr. Speaker, it would be impossible for me to adequately describe Paul's legendary career or capture what he meant to those who he cared about, and to me personally, in this extension of remarks. Let me simply say that New York, the United States and, indeed, the world have lost a great statesman and leader, the likes of whom we are unlikely to see again for some time to come.

Mr. Speaker, I ask unanimous consent that today's New York Times' obituary for Paul be placed in the RECORD at this point.

Mr. Speaker, I know my colleagues will join me in offering our condolences to Paul's wife, his children, and the entire O'Dwyer family.

[From the New York Times, June 25, 1998]

PAUL O'DWYER, NEW YORK'S LIBERAL BATTLER FOR UNDERDOGS AND OUTSIDERS, DIES AT 90

(By Francis X. Clines)

Paul O'Dwyer, a spirited liberal voice in New York politics from his immigrant days in the Democratic clubhouse to his glory years as a fiery anti-Vietnam War insurgent, died Tuesday night at his home in Goshen, N.Y. He was 90.

Mr. O'Dwyer had been in failing health from the effects of a stroke and died quietly in his sleep, according to his nephew and law partner, Frank Durkan.

To his deathbed, Paul O'Dwyer, a white-maned, fiercely browed advocate, embraced a raft of minority causes, identifying with indigents and immigrants, progressives and underdogs well beyond America—from the guerrilla fighters for a Jewish home state to the diehard rebels of his beloved Ireland.

Mr. O'Dwyer was an enduring if rarely elected politician who impressed successive generations as an eloquent battler in the name of conscience. Arriving in America at age 18, he labored up from dock work and garment packing to become one of New York's leading defenders of the underclass.

"The ideals should always come first," Mr. O'Dwyer counseled in a long public life steeped in voluntary civil-rights battles and vociferous challenges of the political establishment.

Elected twice to the New York City Council, he seemed more at home in the politics of the outsider. As an Irishman who had lived under British occupation, he heartily joined the ongoing American struggle against prejudice suffered variously by Jews, blacks, women and the very latest immigrant wave.

"Politics is the only machinery around on which you can really straighten things out," he said in his softly unyielding brogue.

A fleet, unapologetic gadfly, Paul was the antithesis of his older brother William, who rose from the police force to become an urbane master of machine politics as Mayor of New York from 1946 until 1950, when scandals shook his administration. The O'Dwyers moved separately on the crest of Irish-American political power before it faded in the city.

Paul O'Dwyer far outlasted his brother "Bill-O" in public life, fighting for the labor movement and embattled immigrants in the 1940's, against McCarthyism and racial segregation in the 50's, and against the Vietnam War in the 60's. In the antiwar movement, he stood as a patriarchal exception in the eyes of young pacifists intent on trusting no one over 30.

"WE WERE CHANGING THIS NATION"

An ally of Senator Eugene J. McCarthy in the successful antiwar challenge to President Lyndon B. Johnson's renomination in 1968, Mr. O'Dwyer scored an upset victory himself in the New York Democratic Senate primary that year, but lost in the November election to Senator Jacob K. Javits.

"We were taking a country engrossed in an immoral war," he declared afterward, pounding the arm of his chair in celebration of that struggle. "We were changing this nation, By God, we did it. We did do it."

He could make a rampart of a legal brief, too, successfully litigating a landmark 1951 fight against the powerful Metropolitan Life Insurance Company. That suit opened the way for blacks to live in Stuyvesant Town, a huge Manhattan housing complex, and presaged an era of desegregation across the nation.

Mr. O'Dwyer honed his courtroom skills suing insurance companies in negligence cases. But his outside interests were his larger life: He successfully defended Kentucky miners accused of blowing up a bridge in a union dispute, just as he won acquittal of a black teen-ager accused of homicide in a New York City riot in the mid-60's. He sued City Hall to force more budget money into public transit for the working class, just as he defended an unpopular union chief during a city garbage collection strike. In 1958, he joined with Eleanor Roosevelt and Herbert H. Lehman, the former Governor, to found the Committee for Democratic Voters, the state party reform movement.

But his outspokenness for minority causes helped deny him a mainstream role in politics. As president of the New York chapter of the National Lawyers Guild, Mr. O'Dwyer was denounced as a radical for angrily challenging Red-baiting assaults on civil liberties by politicians who were intent on searching for Communist leanings among teachers and other government workers.

"When you come from the period of, first, the Depression and then the McCarthy era," he explained, "if you survive that, then you're less likely to be cautious expressing yourself."

Paul O'Dwyer was among the first volunteers litigating in Deep South integration struggles. "It was like a present on Christmas morning," he enthused about his participation. He was also gladly troublesome as a delegate to the 1964 Democratic National Convention, leading the fight to see the black Freedom Democratic party of Mississippi represented. Personally close to a generation of black politicians, Mr. O'Dwyer managed the campaigns of several. He was credited by Mayor David N. Dinkins with salvaging his career by coaxing him back into public life after Mr. Dinkins had earlier been forced to resign a city job because of his

failure to file income tax returns from 1969 to 1972.

"As a young person, Impressionable, I almost forget who I was, as the Irish often do here," Mr. O'Dwyer once commented on the roots of his desegregation fervor. "Because you are white you think you will be treated equally. I was corrected by my brothers, who were here ahead of me."

He ruled the fading of an era when "Irish Catholic" was synonymous with "liberal Democrat," and told the joke about a tenement clubhouse boss scandalized at the news that O'Brien had turned Republican. "That's a damned lie," the boss thundered. "I saw O'Brien at Mass last Sunday."

As a civil libertarian, Mr. O'Dwyer tapped into vivid memories from his Irish childhood of insurrection against British occupation forces. "The Black and Tans used to drive through the town, shooting it up," he said, recalling the rampages of the British auxiliary police. "It wasn't too different from Mississippi."

DEFENDED BERRIGAN AND BRICKLAYERS

A florid-faced, articulate bantam, Mr. O'Dwyer successfully argued before the Supreme Court for the right of mainland Puerto Ricans to take their voter literacy test in Spanish. In 1972, he stood in defense of a pacifist group called the Harrisburg Eight, led by the Rev. Phillip F. Berrigan, and won them a mistrial on charges of an anti-government plot against the Nixon Administration during the Vietnam War.

No less fervidly did he represent uncelebrated sandhogs, hod carriers and warehouse clerks in formative trade union years when, he recalled, "strikebreaking and union-busting remained widespread and brutal." He carried a union card in Local 975 of the International Longshoremen's Association. In 1968, he declined to cross a wildcat picket line outside a television studio when he was a Senate candidate, telephoning the apoplectic interviewer to explain, "These are my people."

Mr. O'Dwyer accepted the role of the city's Commissioner for the United Nations during the Dinkins administration. But soon he was boycotting the U.N. cafeteria for its anti-unionism, and finally resigned so he could speak out against human rights abuses by some of the nations he was supposed to be welcoming.

Born June 29, 1907, in the village of Bohola, County Mayo, in western Ireland, Peter Paul O'Dwyer was the 11th and last surviving child of Patrick and Bridget McNicholas O'Dwyer. They were schoolteachers who raised their family in Ireland's grim potato economy, packed into a rude house without plumbing. He later endowed a home for the handicapped on his family home site.

"I sprang from the 'shabby genteel,'" he once said with a smile, using Eugene O'Neill's qualification for the striving Irish poor. Paul O'Dwyer counted himself fortunate for the high school education he received before having to follow four older brothers to New York in the age-old immigration of young Irish to opportunity.

He soon picked up on the politics of Jefferson and Paine after finding clannish lodgings in Mrs. Maguire's Irish boarding house at West 103d Street and Columbus Avenue in Manhattan. Landing a paying job within two days—a touch of clubhouse patronage via brother "Bill-O"—he moved fast on the classic immigrant's route to betterment through night school, first at Fordham University, then at St. John's Law School in Brooklyn.

So fast did he move that he had to obtain special permission from Chief Judge Benjamin Nathan Cardozo of the New York Court of Appeals to take his bar exam in 1929, four years after arriving from Ireland

and two years before he could receive citizenship. In 1931, Paul O'Dwyer became America's newest citizen-lawyer, ringling with the impulses of Thomas Paine. "He sounded simple and logical to my young mind," Mr. O'Dwyer explained.

Anti-Semitism in college fraternities had bonded him to Jewish friends, he recalled in his 1979 autobiography, "Counsel for the Defense." "And the Kings County Young Democratic Club thenceforward was made up of 35 Jewish classmates and me," he noted proudly.

It followed naturally that he was involved in the cause of a Jewish homeland in 1946 by arranging for the illegal entry of Holocaust survivors to Palestine and by aiding the gun-running operations of the Irgun militants fighting the British in the Holy Land. The next year, as chairman of the Lawyers' Committee for Justice in Palestine, he pleaded at the United Nations for Israeli sovereignty.

Successfully defending an admitted Jewish gun-runner in New York in 1948, Mr. O'Dwyer told the court, "He was only doing what every other freedom-loving person would be doing."

As a lawyer, Mr. O'Dwyer became a principal in one of the city's flagship immigrant law firms, O'Dwyer & Bernstien. He began as a clerk to Oscar Bernstein and worked his way to senior partner. From the firm's offices in the financial district, Mr. O'Dwyer helped build the business but found time for assorted challenges to social injustice, typically without fee. He soon was respected as one of the city's sharper-tongued liberals.

"If I thought at the end of the year that all I did was make a living, I'd regard it as a pretty incomplete year," he said of his rich life as an agitator within the system.

"If I've had any success at all, it's been in large measure from listening to young people," said Mr. O'Dwyer, whose eagle-like visage—a dark-eyed glare and shock of prematurely white hair—stood out in the thick of any battle.

LEADING A WELCOME FOR GERRY ADAMS

Even in decline he stayed keen for political justice. In 1994, he beamed from a wheelchair and led the welcoming cheers when Gerry Adams, the Northern Irish republican political leader, was finally allowed into the United States to plead his grievance against Britain. Mr. O'Dwyer was the national coordinator for the American League for an Undivided Ireland.

He ran 12 times for elective office in campaigns noteworthy for thread-bare war chests and life-liberal agendas, daring to call for decriminalizing drug addiction in one. His two successes were in 1963, as Councilman at Large in Manhattan, and 1973, as City Council President, a post in which he made sure to alter the city's official founding date from 1664, when the British landed, to 1625, when Dutch settlers arrived. In six total years in office, he instigated numerous causes, including an uphill battle in 1965 to raise the city's minimum wage to \$1.50 an hour.

Mr. O'Dwyer's abiding comfort was in the good fight. Losing to Carol Bellamy in a 1977 bid to remain Council President, he said "I fought for a lot of civil rights 25, 35 years ago, including women's rights, and I'm in poor shape to complain if I find myself in the way of the machinery that I myself helped set in motion."

He offered a decidedly Irish smile of bemusement when critics focused on his antiwar activity and tried to dismiss him as a single-issue politician.

"The one issue is fair play over the period of a lifetime," Mr. O'Dwyer amended.

His wife of 45 years, the former Kathleen Rohan, died in 1980. In 1984 he married Patricia Hanrahan, then the upstate chief of Gov.

Mario M. Cuomo's women's division. She survives him, along with four children from his first marriage: William, of Albany; Roy, of Fort Lauderdale, Fla; Brian of Manhattan, and Eileen O'Dwyer Hughes of New York. He had eight grandchildren and three great-grandchildren.

Mr. O'Dwyer long tried to persuade his wife, Patricia, to restake the family flag in elective politics. She finally agreed this year, and he lived to see her running for the 95th State Assembly District in orange county, true to his favorite line of Yeats:

That I may seem, though I die old,
A foolish, passionate man.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

SPEECH OF

HON. ROBERT B. ADERHOLT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4060) making appropriations for Energy and water development for the fiscal year ending September 30, 1999, and for other purposes:

Mr. ADERHOLT. Mr. Chairman, I rise today in support of H.R. 4060, the Energy and Water Development Appropriations Act for Fiscal Year 1999, and for the hard work of Chairman MCDADE and Ranking Member FAZIO. Although the allocation is tight, they managed to craft a bill that reverses the irresponsible cuts in the budget for the Army Corps of Engineers and other infrastructure projects that are so important to this nation. However, I am concerned about the lack of funding for the non-power programs administered by the Tennessee Valley Authority (TVA).

Since its creation in 1933, TVA has had two responsibilities in the Tennessee Valley: produce electric power; and to provide flood control, navigation, and manage aquatic vegetation growth along the Tennessee River and its tributaries. Many people in Washington today confuse the non-power programs with the larger issue of electric utility restructuring.

I realize that last year the House decided to eliminate funding for non-power programs because the Chairman of TVA, Craven Crowell, announced in early 1997 that TVA would forgo non-power programs to concentrate on the production of electric power. The residents in the Tennessee Valley and the state and local governments expressed a strong desire for TVA to continue its traditional non-power programs.

Under the agreement reached last year between the House and the Senate, TVA is scheduled to receive no funding for these important programs in Fiscal Year 1999. However, the Senate has included \$70 million for the programs, and I am hopeful that when the Energy and Water bill goes to Conference, the House will reconsider funding the non-power programs for Fiscal Year 1999. Until there is an alternative with a clear transition, it is imperative that TVA continue these programs through the appropriations process. The ratepayers of my Congressional District, and throughout the Tennessee Valley, deserve no less.

THE SENIOR CITIZENS PROTECTION ACT

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. LAZIO of New York. Mr. Speaker, I rise today to introduce a bill, H.R. 4155, to cut fraud and abuse in our Medicare system, restore balance in our health care system, and give us all a better quality of life. Federal, state, and local governments need more tools at their disposal to crack down on rampant health care fraud. Congress needs to empower law enforcement to preserve and protect Medicare, decrease the crime rate, and let each and every one of us feel safe and secure in our retirement years.

The Health and Human Service's Office of the Inspector General recently released startling information on their audit of the Health Care Financing Administration (HCFA). According to the audit, the Medicare Program lost \$20 billion in fraud and improper payments in Fiscal Year 1997. What is unconscionable is that only \$4 billion was recovered!

A recently published "Focus Group Study of Medicare Insurance Counselors" found that most officials believe a significant amount of fraud exists and continues to undermine the Medicare program. In the study, many experts said HCFA took no action after being notified of fraud. The May 1998 study further cited that HCFA did not have adequate systems and procedures in place to root out fraud.

A major reason health care fraud is at historic levels is because current law bars state officials from even investigating suspected fraud in the Medicaid. This creates an enforcement gap because an entity defrauding Medicaid is often linked to fraud in other federal health programs.

An example from my district on Long Island illustrates this predicament perfectly. A provider was suspected of defrauding Medicaid. The state and its Medicaid Fraud Control Unit began an investigation. That investigation spilled over into allegations of Medicare fraud and the state could not investigate because it lacked the requisite authority. Despite repeated requests from the state, the federal government did not investigate or prosecute the allegations. While the state was trying to wrest control of the investigation for the federal government, the provider billed nearly \$2 million. If the state had the power to investigate, some fraud could have been stopped and stolen money would have been recovered and returned to the government coffers.

My bill, the Senior Citizens Protection Act of 1998, will empower the states and their Medicaid Fraud Control Units by allowing them to investigate Medicare fraud cases when Medicaid fraud has been alleged.

A second reason health care fraud remains unchecked is because current law prohibits states from investigating patient abuse in assisted living and residential-care facilities. Currently, a state only has the authority to investigate patient abuse in facilities that receive Medicaid reimbursement, usually nursing facilities. Yet today, more and more of our friends and family reside in assisted living and other residential-care facilities. Normally, federal and local governments do not investigate suspected patient abuse in these non-traditional