

The legislature eventually has the last word—and it should

The Limits of Delegation: The Rise and Fall of BRAC

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IN THE LAST 10 YEARS THE DEPARTMENT OF DEFENSE (DOD) closed almost 100 major military bases and hundreds of smaller facilities, overcoming decades of congressional resistance to closing bases and saving billions of dollars. The

base closings of the last decade came after 10 years in which DOD gave up trying to close a major base because Congress had prohibited studies of whether bases should be closed, required an environmental impact statement for any proposed closure, and attached riders to appropriations bills to bar the spending of funds to close particular bases.

But all that changed with the process known as Base Realignment and Closure (BRAC), which has now gone through four rounds: 1988, 1991, 1993, and 1995. Although the details varied from round to round, each round followed these essential features:

- An independent Base Closure and Realignment Commission surveyed existing bases, working from a list of closures recommended by DOD, and identified the facilities that could be closed or moved without reducing the combat-readiness of the armed forces.
- The commission then forwarded a list of recommendations to the president, who could approve or disapprove it.
- If the president approved the list, it went to Congress.
- Unless Congress passed a joint resolution of disapproval within 45 days, the secretary of defense had the authority to carry out the closures.

The key to the process is that once the commission had drawn up its list, neither the president nor Congress could change it. Both had to approve or disapprove the list as it stood—an all-or-nothing proposition.

Thus, in an astonishing delegation of legislative power, Congress gave a commission almost complete authority over extraordinarily sensitive political decisions. In effect, Congress conceded that it could not make politically difficult decisions about which bases to close. Legislators voted, instead, to take themselves out of the process and allow an ostensibly nonpolitical agent to make binding decisions. The political checks—after-the-fact review of the commission's recommendations by the president and Congress—were designed to make it almost impossible to stop the process once the commission had drawn up its list. Indeed, in each round, legislators dutifully introduced bills to reject the commission's list, but none of the bills came close to passing, usually failing by margins of at least seven-to-one.

But did BRAC work as well as it seems? And is BRAC a model for other politically difficult decisions?

BRAC AS A MODEL OF DELEGATION?

Perception vs. Reality The conventional wisdom holds

that BRAC worked well (at least until the last round in 1995), reducing what was unanimously recognized as a grossly bloated base infrastructure. DOD has estimated that after 2001 the closings in the four BRAC rounds will save the department \$6 billion annually. Even critics of congressional delegation, such as David Schoenbrod, have expressed only mild opposition to BRAC. (In *Power without Responsibility*, Schoenbrod notes only that BRAC enabled Congress to shift the blame for politically unpopular decisions.)

But it is a mistake to think that the BRAC model is perfect. The carefully explicated procedures, designed to be as politically neutral as possible, did not—and could not—exclude all parochial forces. Critics have challenged the data underlying the commission’s deliberations, as well as the accuracy of the savings estimates.

The General Accounting Office has found that the cost of environmental cleanup at bases has been unexpectedly high and that the savings from closures have not accrued as quickly as predicted.

Political pressure seeped in as well. The military services strove to protect key installations. Each service resisted efforts to close redundant bases where that would have led to a consolidation of functions in a facility controlled by another service. The services have been criticized for providing inadequate data, sometimes belatedly, to BRAC commissions. And critics have charged that the commissions showed, at various times, undue deference to military preferences and congressional sensitivities.

BRAC is also dead, at least for now. Congress has refused repeatedly to authorize additional rounds, despite protests by DOD and the services that more closures are essential.

Congress’s refusal can be explained, in part, by the fact that, as Secretary of Defense Cohen put it, “all of the easy choices had been made”; after four rounds, there are no more Presidios or empty ABM sites left to close. Then, too, the budget pressures that sparked BRAC have eased considerably, not only because the defense budget has grown in recent years but also because the deficit politics of the 1980s have given way to questions about what to do with a surplus expected to last well into the next century. That is, the political cost of closings has gone up while the importance of the collective benefits has gone down.

But BRAC also was derailed by a perception that the 1995 round was tainted by blatant political interference: when the 1995 BRAC list included two large Air Force bases—McClellan Air Force Base in Sacramento, California, and Kelly Air Force Base in San Antonio, Texas—the White House announced its intention to keep most of the jobs there by turning the work over to private contractors. Congressional objections to that finesse were so strong that legislators said “no” when DOD asked Congress to authorize two more closure rounds.

Fundamental Problems More generally, the four BRAC rounds have highlighted some of the problems with independent commissions and with decisionmaking that is disconnected from political processes. Despite the general acclaim for base closures, the extensive delegation that allowed BRAC to work would have been viewed, in other contexts, as an abdication of political responsibility. Enthusiasm for BRAC’s results must therefore be tempered by an assessment of the means by which those results were achieved.

It is good that BRAC produced overwhelmingly positive and long overdue results. But it is bad that those results were produced by a largely unaccountable entity that was able to make and enforce decisions in a political vacuum, without local representation. We should not forget that the delegation

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of authority to relatively autonomous and unaccountable organizations can also produce hyperactive regulatory agencies and out-of-control independent counsels.

In what follows, I revisit the theory and practice of delegation, analyze the elements of BRAC’s success, and explain why the BRAC model should not be viewed as a general solution to difficult policy problems.

DELEGATION IN THEORY AND PRACTICE

DELEGATION IS A STAPLE OF CONGRESSIONAL ORGANIZATION. Policy decisions are delegated to committees, whose recommendations usually enjoy privileged status on the floor. Sen. Bob Packwood salvaged tax reform in 1986 by taking the Senate Finance Committee into closed session, so that committee members could eliminate specialized tax breaks away from the gaze of legislators and lobbyists intent on protecting their pet provisions. Congress enacted the line-item veto to enable the president to invalidate specific spending or tax provisions (until the Supreme Court rejected the practice). Congress delegates to the president the responsibility for negotiating international trade agreements and allows the U.S. Sentencing Commission to set guidelines that federal judges must follow when sentencing convicted offenders. Regulatory agencies make thousands of rules every year, and each rule has the force of law.

The traditional justification for delegation is two-fold. First, Congress lacks the expertise necessary to make detailed and technical decisions; thus, sometimes it must create a specialized bureaucracy to execute a congressional mandate. Second, an independent entity is more likely to derive objective policies without the insidious effect of

parochial influences or raw self-interest.

The validity of the independent commission—where “independent” connotes a lack of ties to vested interests—rests on the second of the two justifications. The independent commission, as an ideal, embodies the notion that public policy should be based on impartial consideration of the merits of an issue. The independent commission is a legacy of the Progressive Era, in which reformers sought to replace political structures suffused by corruption and cronyism with institutions more deferential to the “public interest.”

Delegation has a third practical effect, at least for legislators: it allows them to shift the blame for unpopular decisions to a bureaucracy or other entity, thereby diverting criticism away from themselves. Members of Congress gain

ing does not increase to infinity.

The forces that impel legislators to provide benefits for their constituencies are the same forces that paralyze legislators when it comes to *undoing* those collectively inefficient policies. The marginal collective benefit of a reduction in spending is dwarfed by the marginal cost such a reduction would impose on a particular constituency. Each member of Congress therefore has a disincentive to kill programs that benefit his constituency and an incentive to garner his colleagues’ support for those programs by voting against proposals to cut programs that benefit *their* constituencies. That is why it took Congress a decade to kill federal subsidies for mohair-sheep ranchers and 30 years to allow the navy to shut down the Naval Academy dairy farm (about which, more later).

Despite general recognition that the base structure made little sense on the whole, Congress could not bring itself to close specific bases.

A Way Out for Congress? One way of resolving collective dilemmas is to create an external authority with the ability to make and enforce politically unpopular but necessary decisions. Mathew McCubbins, who addressed the general problems of congressional delegation in the previous issue of *Regulation*, has argued elsewhere that the political

politically from lashing out at the Internal Revenue Service, the Environmental Protection Agency, and the Occupational Safety and Health Administration, even though IRS, EPA, and OSHA are executing tax, environmental, and workplace-safety laws passed by Congress itself.

DELEGATION AND THE “COLLECTIVE DILEMMA”

The Nature of the Dilemma On the surface, the delegation of decisionmaking authority to a nonpolitical body seems especially apt where Congress is caught in a collective dilemma. A collective dilemma arises when individual rationality produces a collective outcome that no one prefers. A classic example is the “tragedy of the commons,” in which individuals destroy a collective resource because everyone has an individually rational incentive to overuse it.

Legislators are quite good at providing benefits to their own constituencies, even when the result is economically inefficient or in conflict with the collective good. Although the overproduction of local benefits is collectively irrational, it is perfectly rational for each legislator, because the marginal cost to the general populace is much less than the marginal benefit to a legislator’s constituency.

Hence, legislatures often find themselves in collective dilemmas. One consequence is that pork-barrel spending (considered collectively inefficient, by definition) has a tendency to proliferate, as do narrowly targeted expenditures and benefits of many kinds, from agricultural subsidies and highway projects to tax breaks. Add logrolling and coalition building to the mix, and the wonder is not that it is so hard to close military bases but that pork-barrel spend-

parties and appropriations committees constitute such a super-authority in Congress (as does the Rules Committee). Members delegate to those institutions many important decisions—committee assignments, parliamentary rules, evaluations of spending requests—because in doing so legislators create collective efficiencies that they could not otherwise produce.

Delegation allows Congress to make distributive policy choices behind what philosopher John Rawls calls the “veil of ignorance,” that is, in the absence of information about the allocation of the costs and benefits of any particular policy. Delegation should, in theory, lead to more objective decisionmaking, especially in those cases where the main controversy is only about the distribution of costs and benefits. Members can agree on the collective good and let the agent decide how to distribute the costs of producing that good—and let the agent take the blame for the results of its decisions.

But if delegation is to work, Congress must cede to an agent after-the-fact power over decisions. If Congress can revisit an agent’s decisions, the ultimate responsibility for those decisions reverts to Congress, which then finds itself back in the situation that motivated it to delegate in the first place. But delegating largely unreviewable decision-making authority poses its own risks: what happens if an agent makes a decision that legislators find completely unacceptable? The challenge for legislators is to craft a process that resolves these tensions.

In delegating regulatory authority to the executive branch, for example, Congress requires agencies to adhere to the Administrative Procedures Act (APA), which mandates

public notice and comment on proposed rules, comprehensive data collection and record keeping, public hearings, special adjudication procedures, and judicial review of agency actions. As McCubbins has argued, those requirements create many opportunities for effective legislative control, and Congress also can redirect agencies' activities through annual appropriations.

But BRAC commissions were not similarly circumscribed: Congress specifically exempted them from the requirements of APA, restricted judicial review of their actions, and (after the first round) appropriated money for base closures in advance.

PAROCHIAL PRESSURE AND MILITARY BASES

The View from Congress The largest bases employ tens of thousands of civilians and military personnel and constitute a major part of a locality's economic activity. The conventional wisdom in Congress was that a base closing foretold electoral disaster because newly jobless constituents would heap their frustration on the inept legislator who had failed to protect their well-being. When it came to protecting depots, ports, and air stations in their own districts and states, even the most fiscally conservative legislators would morph into champions of government spending and even the most ardent doves would sound like General Curtis LeMay.

Ironically, predictions of economic wretchedness in the wake of base closings usually are wrong. Recent studies by RAND, the National Bureau of Economic Research, and the Congressional Research Service have shown that the economic effects of base closings are not nearly as dire as often predicted (confirming DOD's studies). Those studies also have shown that in the long run localities usually are *better off* after a base is closed, despite temporary dislocations. But the prospect of long-term benefits gives little comfort to legislators who face elections in the near term.

Still, by the late 1980s, most members of Congress had come to recognize that some bases had to be closed (as long as they were in someone else's district). Budget deficits were growing, and the cost of maintaining unneeded bases was taking an increasingly large share of the defense budget, which had been shrinking since 1985. And it was becoming harder to defend (with a straight face) every base as crucial to national defense.

Perhaps Fort Douglas in Salt Lake City exemplified the overabundance of bases. The army established Fort Douglas in 1862 to protect telegraph and stagecoach routes and to monitor the recently settled Mormons who were chafing against federal authority. By the 1980s, the base had shrunk to one percent of its original size. Much of what remained of Fort Douglas was in the middle of the University of Utah campus, and it was known chiefly for its comfortable surroundings and proximity to the Snowbird and Alta ski resorts. The Utah congressional delegation had defeated an effort by the Carter administration to close Fort Douglas. It survived until the 1988 round of BRAC.

Or consider the U.S. Naval Academy dairy farm. It was

established in 1911 after an outbreak of typhoid fever among midshipmen was traced to contaminated milk. In an era without refrigeration, a local, government-run facility made sense, but by the 1960s it was clear that commercial dairies could supply milk at a lower cost. In 1965, the navy announced its intention to close the farm, provoking Congress to pass a law that prohibited the navy from doing any such thing. The dairy was still in business in 1997, even though the navy had concluded that the academy could save \$260,000 annually by buying milk from commercial dairies. Finally, in 1998, Congress rescinded its ban on closing the dairy farm, more than thirty years after the navy had first tried to close it.

These examples illustrate the collective dilemma. Despite general recognition that the base structure made little sense on the whole, Congress could not bring itself to close specific bases.

Parochialism in DOD Until the 1970s, Congress had deferred to the Defense Department on base closures, which had carried out closings in several major waves, the last of which had taken place in the early 1970s. But granting broad discretion to DOD had its risks. Legislators often worried that DOD would make base closure decisions to reward political friends and to punish political enemies. Longtime Speaker of the House Sam Rayburn is said to have told new members not to seek bases for their districts because the bases (and members) would then be subject to the whims of DOD.

Although it is easy to dismiss congressional protests as nothing more than self-righteous posturing, there were plenty of examples of DOD's refusing to provide data to support its closure decisions and misleading members about whether it had decided to close a base. In 1986, when Congress asked DOD to propose defense budget cuts, Secretary of Defense Caspar Weinberger offered to close three bases, one each in districts represented by key Democrats—House Speaker Tip O'Neill, Pat Schroeder, and William Gray III. In 1990, after the first BRAC round had been completed, Secretary of Defense Richard Cheney released a list of 55 proposed closures and realignments. Congressional Democrats charged that the list was blatantly biased, with 98 percent of the job losses in Democratic districts. Congress, to be sure, did not have a lot of trust in DOD's handling of base closures.

BRAC as a Solution Under no circumstances, then, was Congress going to grant the Defense Department a free hand in closing bases, especially if legislators had little chance to reverse the department's final decisions. The solution, which Rep. Dick Armey hit on in 1987, was to:

- Give decisionmaking authority to a bipartisan commission.
- Select the commission's members through a process involving the president and the leadership of both houses of Congress.

- Make the commission independent of both Congress and the Defense Department.
- Limit the commission's use of DOD personnel to minimize DOD's influence on the commission's work.

The authorizing statutes stipulated that the commission, in deciding whether to close a base, had to consider military value, projected savings, and economic and environmental consequences. Congress also required public notice, open hearings, and independent evaluation by the General Accounting Office of the commission's data analysis and findings.

Congress resolved the problem of ceding after-the-fact control by requiring an affirmative congressional act to reject the commission's list of closures. Although the all-or-nothing vote made it difficult to reject the list, it gave

THE DEMISE OF BRAC

IN SPITE OF LOBBYING BY STATE AND LOCAL GOVERNMENTS, BRAC commissions generally were perceived to have done their jobs fairly. But the consensus that had propelled BRAC through the first three rounds dissipated in the fourth, largely over concerns that the Clinton administration had politicized the closure recommendations. Ironically, BRAC was derailed not because it was unaccountable and too independent, but because one of the political branches couldn't resist the temptation to interfere.

The Beginning of the End In June 1995, the fourth BRAC commission voted to close two huge Air Logistics Centers (ALCs) at Kelly Air Force Base (AFB) in San Antonio, Texas, and McClellan AFB near Sacramento, California. The aircraft maintenance work performed at those facilities was to be transferred to the three remaining ALCs in Utah, Oklahoma, and Georgia. The civilian job losses would be the largest resulting from any of the base closures in the four BRAC rounds—about 11,000 at McClellan and 12,000 at Kelly—and would occur in two states considered key battlegrounds in the 1996 presidential election. The commission's vote was a surprise; neither Kelly nor McClellan had been on the original list of recommended closures that the Defense Department had submitted to the commission. The White House made clear its unhappiness with the vote.

But all-or-nothing authority hamstrung Clinton, just as it did Congress. Clinton could reverse the decision to close Kelly and McClellan only by rejecting the commission's entire list. The White House dropped hints that the president was prepared to do that, although congressional leaders warned Clinton not to get in the way.

Then in early July 1995, DOD proposed to save the jobs at Kelly and McClellan by contracting with private firms for the maintenance work. Under that plan (known as "privatization in place," or PIP), the bases would close, officially, but the facilities and most of the jobs would remain in place and be transferred to defense contractors. (A similar plan had worked in 1993, when the commission voted to close the Aerospace Guidance and Metrology Center at Newark AFB in Ohio, but the air force hired a contractor to continue performing the Center's maintenance work instead of transferring it to other depots.)

With the PIP proposal in hand, Clinton approved the BRAC list on July 13 and cautioned Congress not to try to stop his plans for Kelly and McClellan.

Clinton's strategy did not go over well on the Hill. Even supporters of BRAC were deeply skeptical about what they perceived as a blatant manipulation of an ostensibly nonpartisan process. Rep. Floyd Spence, chairman of the House Armed Services Committee (then called the National Security Committee), criticized Clinton on the House floor,

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members an opportunity to wage a loud and public (though hopeless) campaign against closures. Rep. Frank Tejeda, who represented San Antonio, conceded as much during the debate on the 1995 BRAC list: "I know what I am engaging in here today is probably under the rubric of a primal scream," he told his House colleagues. "I understand that I am probably engaging in a fruitless protest." But such posturing has long been recognized as a useful activity; legislators know that often what matters is not whether they win but whether they are on the right side of an issue.

There is, of course, no such thing as a perfectly neutral bureaucratic process: scholars of public administration have argued for decades that administrative procedures necessarily have a political component. Moreover, independence is a relative concept, and observers have noted the tendency of regulatory institutions to become embroiled in high-stakes lobbying efforts by affected groups.

BRAC was no exception. In each successive round, cities and states adopted more sophisticated advocacy strategies to protect their bases. In the 1995 round, local governments and community groups in southern California spent close to \$1 million to lobby the commission; for example, the cities of Long Beach and Los Angeles spent at least \$230,000 in an unsuccessful defense of the Long Beach Naval Shipyard, and San Diego budgeted \$200,000 to keep its bases off the list. (State and local governments are now hiring Washington, D.C., consulting firms in anticipation of future BRAC rounds.)

arguing that “there is no question that presidential politics were paramount in the White House’s very public and tortured consideration of the Commission’s recommendations. The veneer of a national security justification for rejection of the list was dropped as politics quickly took center stage.”

Despite Congress’s unhappiness with the administration’s machinations, the base-closing list survived, as the joint resolution of disapproval failed in the House, 75-343. But the resolution garnered more votes than any previous attempt to overturn a BRAC list.

Congress Reasserts Itself The administration’s privatization plan was only the opening salvo in what would become the most controversial defense management issue of the 1990s: how to distribute maintenance work among the job-rich depots. The depot issue, in the end, would destroy prospects for more BRAC rounds.

Congress did not heed Clinton’s warning against interfering with the PIP plan. The dispute over the 1995 BRAC list quickly merged with the depot issue. In 1997, members of the House Depot Caucus succeeded in attaching to the fiscal 1998 defense budget a provision prohibiting private contractors from doing depot work at Kelly or McClellan if the three remaining depots were operating at less than 80 percent of capacity. Because the remaining ALCs were operating below that threshold, the language would have killed the PIP plan.

A conference committee dropped the provision, under the threat of a presidential veto, and replaced it with compromise language permitting contractors to compete with the government depots for maintenance work. (Many conservative legislators, fiercely protective of their depots, found themselves in the odd position of arguing that the government could perform aircraft maintenance more efficiently than the private sector.)

Following adoption of the compromise language, the air force announced a competition for the work at the Sacramento ALC. But in April 1998 a leaked memo from acting Secretary of the Air Force F. Whitten Peters suggested that the White House was still playing games with the 1995 BRAC round. The memo, from Peters to Deputy Secretary of Defense John Hamre, noted an unusually high level of White House interest in getting Lockheed-Martin to bid on the depot contract and in encouraging the company to do the work in California. The exchange raised concerns that the competition might be biased in favor of Lockheed-Martin. It did not help that in February 1998 Peters had challenged Congress publicly, claiming that the military had the authority to close unneeded bases, with or without specific congressional authorization. Ironically, although Lockheed-Martin ultimately did bid on the Sacramento ALC work, it lost to a team consisting of Ogden ALC (at Hill AFB in Utah) and Boeing.

The most enduring result of the depot dispute, however, is that it has dashed hopes for more base closures. Since 1995, when the dispute first arose, Congress has

rejected all DOD proposals for more BRAC rounds, voting down such requests in 1997, 1998, and 1999. Without a doubt, congressional resistance arises in part from residual bitterness about Clinton’s handling of the 1995 round and lack of trust in the putative independence of the closure process. During congressional hearings on the depot competition, Rep. Norm Sisisky told Peters that the leaked memo “absolutely destroyed any chance” of new base-closure rounds.

THE ALLURE—AND LIMITS—OF INDEPENDENT COMMISSIONS

BRAC as a Model Between 1988 and 1995, Congress could abide the political costs of base closings for two reasons. First, there was consensus that *some* bases had to be closed, the only question was which ones. BRAC solved the collective-action problem that had produced a clearly irrational policy. Further, by spreading the closure decisions over four separate rounds and (in three of the four rounds) scheduling the closure announcements for non-election years, BRAC diluted the political consequences of closure decisions.

Second, members were willing to cede their power to revise the base-closure list as long as they could sustain the political costs of local closures—and as long as they were confident that the commission’s decisions were reasonably objective and independent of both congressional parochialism and executive-branch tinkering.

The success of the BRAC model has sparked efforts to apply it to a range of other problems. By the early 1990s, legislators had proposed BRAC-like processes to make recommendations for defense policy, entitlements, campaign finance, and Medicare, and to eliminate agricultural extension offices, Amtrak stations, civilian agency facilities, federal subsidies, and “corporate welfare.” None of those efforts has produced significant results, however, because Congress, quite sensibly, has been reluctant to delegate such broad powers to outside bodies.

The View from Congress As McCubbins and others have noted, the amount of power Congress will delegate to an agent is inversely proportional to the breadth of the agent’s responsibility. Larger grants of discretion occur when the “policy space” of that discretion is narrow.

The BRAC model is more suited, then, for making discrete decisions about a single, well-defined issue where there is a consensus about the objective. In such cases, the benefits of delegation may exceed the political costs. But as policy questions become broader, the risks of adverse agency action rise. It is unrealistic to expect delegation to work for multidimensional political issues, such as budget cuts, which require tradeoffs among competing and incompatible programs. It is one thing to compare, say, two air force bases and decide which is less cost-effective; it is quite another thing to pit mass-transit subsidies against college financial aid or a military pay raise and decide which program is least (or most) deserving. Con-

gress, of course, makes such judgments every year, but they are not decisions of the sort that legislators are likely to delegate to an outside organization or automatic decision rule.

When Congress tried to do just that in the 1980s—with various incarnations of the Gramm-Rudman budget law, which automatically imposed spending cuts if Congress failed to meet specific deficit targets—the result was dismal failure. When Gramm-Rudman was under consideration, George Will criticized it for “minimiz[ing] choice—thought—in budget-making. This evasion of governance might, for example, require the president to cut equally, thereby assigning the same social value to Amtrak subsidies and programs for spina bifida babies.” When the bill passed, Will called it “the most irresponsible congressional action in living memory.” Indeed.

When legislators came face to face with the automatic cuts they had voted for, their response was, first, to defer the deficit targets by a few years, then not to count some programs when calculating the deficit, and then to raise the deficit targets. In sum, when the rules of the game produced unexpectedly high political costs, legislators changed the rules. There is a similar dynamic this year, as legislators struggle against the spending caps instituted by the 1997 balanced budget agreement.

A Less-than-Glorious History In truth, independent commissions have a poor record when it comes to resolving serious policy disputes. Washington, D.C., is littered with the carcasses of “independent commissions” that produced nothing but bureaucratic boilerplate.

Besides BRAC, the Greenspan Commission, established in 1981 to devise Social Security reforms, is commonly viewed as a high point in the history of independent commissions. Although one often hears that the Greenspan Commission came up with a bipartisan reform package that restored Social Security to solvency (temporarily, at least), that hagiographic view overlooks the fact that the commission’s work ended in deadlock. The 1983 reforms of Social Security actually were hammered out in separate negotiations between White House officials, congressional leaders, and a few members of the commission.

More recent efforts to replicate the Greenspan Commission model in Medicare reform (the National Bipartisan Commission on the Future of Medicare, 1999) or entitlements (the Bipartisan Commission on Entitlement and Tax Reform, 1995) have failed to produce substantial results. The reason is simple: on such important and broad questions, Congress will not agree, in advance, to let a commission’s work become law by default. Although the Medicare and Entitlement commissions made legislative proposals, Congress did not cede any of its after-the-fact power. In each case, the commission’s proposals were required to move through the normal legislative process in order to become law. Sen. John Kerry could not even get a majority of the Senate to pass a nonbinding

sense-of-the-Senate resolution that incorporated the main ideas of his Entitlement commission; the resolution was tabled on a 63-36 vote.

CONCLUSION

THE USE OF AN INDEPENDENT COMMISSION MAY MASK, but cannot eliminate, the fundamental tension between the interests of local constituencies and the broader “public benefit.” The resort to an independent commission is an attempt to take the politics out of politics and substitute a superficially rational process for a purely parochial one. Such an effort is not always effective—as we have seen even in the case of BRAC—nor is it always desirable.

Critics argue that an independent commission is simply political cover for legislators who are too timid to make their own choices. By delegating controversial decisions to a nonelected board or agency, legislators hope to evade both responsibility and accountability.

The limited success of independent commissions stems from the basic parameters of congressional delegation. Delegation does not work unless legislators cede their power to make after-the-fact decisions. But the broader or more controversial the policy, the less likely it is that legislators will agree to cede that power. And rightly so.

READINGS

- R. Douglas Arnold. *The Logic of Congressional Action*. New Haven, Conn.: Yale University Press, 1990.
- Gary W. Cox and Mathew D. McCubbins. *Legislative Leviathan: Party Government in the House*. Berkeley, Cal.: University of California Press, 1993.
- Michael Dardia, Kevin F. McCarthy, Jesse Malkin, and Georges Vernez. *The Effects of Military Base Closures on Local Communities: A Short Term Perspective*. MR-667-OSD, RAND, 1996 (www.rand.org/publications/MR/MR667/).
- Mark A. Hooker and Michael M. Knetter. “Measuring the Economic Effects of Military Base Closures.” Working Paper 6941, National Bureau of Economic Research, 1999 (www.nber.org/papers/w6941).
- Kenneth R. Mayer. “Closing Military Bases (finally): Solving Collective Dilemmas through Delegation.” *Legislative Studies Quarterly* 30 (1995): 393.
- Mathew D. McCubbins. “Abdication or Delegation: Congress, the Bureaucracy, and the Delegation Dilemma.” *Regulation* 22, no. 2 (1999): 30.
- Charlotte Twilight. “Institutional Underpinnings of Parochialism: The Case of Military Base Closures.” *Cato Journal* 9 (1989): 73.