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The Fragile Coalition: Scientists, Activists, and AIDS by Robert M. Wachter

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BOOK REVIEWS

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THE FRAGILE COALITION: SCIENTISTS, ACTIVISTS, AND AIDS. By ROBERT M. WACHTER, M.D. New York: St. Martin's Press Incorporated. 1991. Pp. 249.

If history should record that this is the last International AIDS Conference in the United States, it should be because we have solved the epidemic and not because some people played politics with human life.[1]

History may in fact record the Sixth International Conference on AIDS,[2] held in 1990, as the last International AIDS Conference in the United States. Unfortunately, the reasons that it may be the last such conference in the United States are political rather than that scientists have solved the AIDS epidemic. The First International Conference on AIDS was held in Atlanta, Georgia, in 1985.[3] Although the 1985 conference was, as meant to be, a "largely scientific affair," it also had a political side.[4] The conference grew more politically volatile each year,[5] culminating in the transfer of the Eighth International Conference in 1992 from its planned site, Boston, to Amsterdam.[6] The transfer of the 1992 conference was a direct result of international outrage stemming from the United

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[1] ROBERT M. WACHTER, THE FRAGILE COALITION: SCIENTISTS, ACTIVISTS, AND AIDS 198 (1991) (quoting opening address of Sixth International Conference on AIDS, June 20, 1990, given by San Francisco Mayor Art Agnos).

[2] Acquired immunodeficiency syndrome.

[3] WACHTER, *supra* note 1, at 16. The annual conference originated as a scientific conference designed to offer a forum for scientists and physicians to exchange information on AIDS. *See id.* at 4, 16. Gradually, the conference dedicated resources to discussing social issues concerning AIDS. *Id.* at 4. The 1990 Conference program, for example, was divided into four thematic tracks: basic science, clinical science and trials, epidemiology and prevention, and social science and policy, the latter of which had been recently added. *Id.* at 4–5, 247–48.

[4] *Id.* at 16–17. Secretary of Health and Human Services Margaret Heckler promised AIDS would remain the "number-one public health priority until it has been conquered." *Id.* at 17. At that time President Ronald Reagan had yet to publicly utter the word "AIDS." *Id.*

[5] *See id.* at 6, 94; *see also* Geoffrey Cowley et al., *Taking Up Arms Against AIDS*, NEWSWEEK, July 2, 1990, at 44.

[6] Harvard AIDS Institute, *Harvard AIDS Institute Relocates International Conference on AIDS over Travel and Immigration Restrictions on People with HIV*, THE AIDS REPORT, Winter 1992, at 2.

States' restrictions on HIV[7]-infected travelers and immigrants.[8] Under these restrictions, the United States may require foreigners applying for an entrance visa to submit to a serologic test[9] for HIV infection.[10] Those testing positive are denied entry.[11]

Opposition to the United States' immigration policy caused nearly one hundred groups, states, countries, and AIDS organizations to boycott the 1990 conference,[12] thus foreshadowing the transfer of the 1992 conference. In his book entitled *The Fragile Coalition: Scientists, Activists, and AIDS,* Robert M. Wachter, M.D., assistant professor of medicine and epidemiology at the University of California, San Francisco, describes "the forces shaping the global fight against AIDS" as viewed from his position as Program Director of the Sixth International Conference on AIDS (the "Conference") held in 1990.[13] Wachter's book offers a first-hand account of the complexities of planning the Conference, a task that unexpectedly involved becoming intimately familiar with the politics of AIDS. During the eighteen months prior to the Conference, Wachter—a novice unschooled in the politics of the AIDS epidemic—found himself in the difficult position of mediating the varied interests of scientists, activists, politicians, and journalists, as well as domestic

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[7] Human immunodeficiency virus.

[8] Harvard AIDS Institute, *supra* note 6, at 2.

[9] A serologic test is "[a]ny test which is performed on blood serum. . . ." 3 J.E. SCHMIDT, ATTORNEYS' DICTIONARY OF MEDICINE AND WORDFINDER S-88 (1991).

[10] Medical Examination of Aliens, 42 C.F.R. § 34.3(b)(1) (1992). In general, applicants for immigrant visas, refugee status and adjustment of status are subject to serologic testing. *Id.* The consular authority may require applicants for nonimmigrant visas to submit to serologic testing. *Id.*

[11] 8 U.S.C. § 1182(a)(1)(A)(i) (Supp. III 1991) (providing for exclusion of aliens "determined . . . to have a communicable disease of public health significance"); Medical Examination of Aliens, 42 C.F.R. § 34.2(b)(4) (1992) (defining HIV infection as "communicable disease of public health significance"). There are, however, some exceptions. The Immigration Act of 1990 permits waivers to aliens who are excludable on certain health-related grounds, including HIV infection, but only if they have a qualifying family relationship. 8 U.S.C. § 1182(g)(1) (Supp. III 1991). Prior to the Immigration Act of 1990, at the time Wachter was involved with planning the 1990 conference (the "Conference"), the only waivers available to aliens excludable on health-related grounds under 8 U.S.C. § 1182(a)(6) (1988) "were for applicants under the amnesty program and those seeking admission as refugees or adjustment of status from asylee to permanent resident." Robert S. Hilliard, *Getting Residency When You've Got HIV: Waivers of HIV-Related Grounds of Exclusion Under the 1990 Act,* IMMIGR. NEWSL., Aug. 1992, at 3, 3 (citation omitted). In addition, certain waivers have been made available to temporary visitors. *See infra* notes 44–50 and accompanying text; *see also State Dept. Instructs on HIV Waivers,* 69 INTERPRETER RELEASES 1097 (1992) (discussing current waiver policy for immigrants and nonimmigrants); *infra* note 75.

[12] WACHTER, *supra* note 1, at 197.

[13] *Id.* at 27.

and international perspectives.[14] Overall, Wachter's book serves as a valuable resource for understanding the politics of AIDS.

I. The Tension Between Scientists and Activists

Among the groups whose interests Wachter mediated, the primary tension existed between scientists and activists. Activists lobbying for the interests of persons with AIDS and those infected with HIV find their roots in the gay rights movement of the 1970s.[15] Already politically mobilized, lesbian, gay, and bisexual activists found themselves at risk for a deadly disease and joined together to voice their concerns.[16] Successful in their call for speedier testing and distribution of experimental drugs,[17] yet frustrated by the lack of a cure, activists channeled their anger toward scientists as the Conference approached.[18]

Although they pursue it differently, scientists and activists generally share a common goal: finding a cure for AIDS.[19] Conference organizers, aware that collaboration was essential, involved activists in all aspects of their planning.[20] This strategy proved itself a success on the Conference's opening day. Rather than being marked with anticipated disruptions, the opening ceremony was later described by *Newsweek* as a "ritual of solidarity."[21] This solidarity, however, was not born overnight. It developed during the months before the Conference when scientists and activists alike lobbied to end the restrictions U.S. immigration laws imposed on HIV-infected travelers. Scientists and activists "found common cause in the battle against fear and ignorance, as manifest in a U.S. law barring infected people from entering the country."[22]

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[14] *See id.* at xii–xiii.

[15] *Id.* at 65.

[16] *Id.* In the 1980s, the activists formed the AIDS Coalition to Unleash Power (ACT UP). *Id.* at 59. The group later tried to disassociate itself from unpopular radical actions, thus causing splinter groups to form. *Id.* at 64.

[17] *Id.* at 65.

[18] *Id.* at 61.

[19] *Id.* at xii.

[20] *Id.* at 49, 87–88.

[21] *Id.* at 207 (quoting Cowley et al., *supra* note 5).

[22] *Id.* In addition to the HIV exclusion, a "sexual deviation" ground for exclusion of aliens was in effect at the time of the Conference, and Wachter addresses it in his book. He mentions that unlike the HIV exclusion, the Immigration and Naturalization Service had not invoked the exclusion since 1979, and therefore gay groups chose not to challenge the provision. *Id.* at 186.

II. COMMON CAUSE: THE BATTLE AGAINST THE HIV EXCLUSION IN UNITED STATES' IMMIGRATION LAW

The immigration law was first brought to the attention of Conference organizers in April 1989, when Hans Paul Verhoef, an AIDS educator from Holland, was detained in Minneapolis on his way to the Eleventh National Gay and Lesbian Health Conference.[23] Although ultimately Verhoef was allowed in, Wachter and other Conference organizers saw the incident as an embarrassment to the United States.[24] When they realized the severity of the law's threat to the Conference, still fourteen months away, they began to take a more active role in fighting to change the immigration law which they viewed as "unsupported by scientific evidence and just plain wrong."[25] Conference organizers drafted letters, memos, and press releases, and rallied scientists, as well as congressional representatives, for their support.[26]

The Centers for Disease Control, an agency within the Department of Health and Human Services (HHS), traditionally is responsible for updating the list of diseases for which aliens are excludable from the United States.[27] President Reagan and the

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[23] *Id.* at 28.

[24] *Id.* at 34.

[25] *Id.* at 38. Wachter and the opponents of the HIV exclusion whom he quotes describe the policy as "discriminatory." *See, e.g., id.* at 123, 145, 197–98. According to Wachter, the United States has traditionally excluded from the country persons afflicted with certain diseases for two reasons: "to prevent transmission of contagious diseases to American citizens, and to limit the use of American tax dollars on health care for aliens." *Id.* at 29. Epidemiological principles and current medical knowledge, however, do not support the retention of the HIV exclusion. *See* Medical Examination of Aliens, 56 Fed. Reg. 2484, 2485 (1991); *see also* WACHTER, *supra* note 1, at 34, 197. Furthermore, critics argue that although protection of the health care system and protection of the public from rising taxes appear to be legitimate government goals, singling out HIV infection as a ground for exclusion based on these concerns is inappropriate because other expensive diseases, such as diabetes, cancer, heart disease, and end-stage renal disease, do not deem an alien automatically excludable. JOYCE C. VIALET, CONGRESSIONAL RESEARCH SERVICE, IMMIGRATION: ADMISSION OF HIV-POSITIVE ALIENS 5 (1992). Nonetheless, the Conference planners' chances of judicial recourse were nil because the Supreme Court traditionally has held that the political branches' power over immigration law is virtually free from judicial scrutiny. Chae Chan Ping v. United States (The Chinese Exclusion Case), 130 U.S. 581, 606–09 (1889); *see also* Louis Henkin, *The Constitution and United States Sovereignty: A Century of* Chinese Exclusion *and its Progeny,* 100 HARV. L. REV. 853, 853–63 (1987) (criticizing notion that immigration laws are not subject to constitutional limitations).

[26] WACHTER, *supra* note 1, at 42.

[27] *Id.* at 29. The Immigration Act of 1990 on its face gives the Secretary of HHS the authority to determine for which diseases aliens shall be excludable. 8 U.S.C. § 1182(a)(1)(A)(i) (Supp. III 1991). Prior to the 1990 Act, the Secretary of HHS and that position's predecessor derived the authority to promulgate regulations regarding the medical examination of aliens,

Senate, however, became involved with updating the list in 1987, in response to the nation's fear of AIDS.[28] On April 23, 1986, HHS' Public Health Service (PHS) published a proposed rule which would add AIDS to the list of dangerous contagious diseases for which infected aliens, both travelers and prospective immigrants, would be excludable from the United States.[29] Before the rule was finalized on June 8, 1987,[30] Senator Jesse Helms rallied support for an amendment to the Supplemental Appropriations Bill ("Helms Amendment"), which would require the President to add HIV infection to the list of dangerous contagious diseases before the end of August 1987.[31] In so doing, Helms claimed President Reagan had directed the Secretary of HHS not only to finalize the rule proposed on April 23, 1986, but also to propose a new rule broadening the exclusion, so that it would apply to HIV-infected persons in addition to persons with clinical AIDS.[32] The Senate unanimously accepted the Helms Amendment on June 2, 1987, and the law was enacted on July 11, 1987.[33] *The Federal Register* published the final rule, which carried out the charge of the Helms Amendment by replacing the term AIDS with the term HIV infection, on August 28, 1987.[34]

After describing the events leading up to this final rule, Wachter advances three reasons for the Senate's unanimous approval of the Helms Amendment. First, Helms exerted his "porcupine power."[35] The initial version of the Helms Amendment linked the

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in which the list of excludable diseases appears, from 8 U.S.C. § 1224 (1988) and its predecessors. Op. Comptroller Gen. No. B-239598 (May 17, 1990) at 2.

[28] *See* WACHTER, *supra* note 1, at 29.

[29] Medical Examination of Aliens (AIDS), 51 Fed. Reg. 15354, 15355 (1986) (notice of proposed rulemaking); WACHTER, *supra* note 1, at 30.

[30] Medical Examination of Aliens (AIDS), 52 Fed. Reg. 21532, 21533 (1987) (final rule).

[31] 133 CONG. REC. S7410 (daily ed. June 2, 1987); WACHTER, *supra* note 1, at 30. The President is authorized to suspend entry of aliens by proclamation if such entry "would be detrimental to the interests of the United States." 8 U.S.C. § 1182(f) (1988).

[32] 133 CONG. REC. S7410 (statement of Sen. Helms); WACHTER, *supra* note 1, at 30–31.

[33] *See* Supplemental Appropriations Act of 1987, Pub. L. No. 100-71, § 518, 101 Stat. 391, 475 (1987); 133 CONG. REC. S7415 (daily ed. June 2, 1987). *See also* WACHTER, *supra* note 1, at 31–32.

[34] Medical Examination of Aliens, 52 Fed. Reg. 32540, 32543 (1987) (final rule) (codified at 42 C.F.R. § 34.2(b)(4) (1992)). A new regulation was adopted simultaneously which expanded the scope of the medical examination of aliens to include a serologic test for HIV. *Id.* at 32544 (equivalent provision currently codified at 42 C.F.R. § 34.3 (1992)); *see supra* note 10.

[35] WACHTER, *supra* note 1, at 31. Political analyst Hedrick Smith used the term "porcupine power" to describe Helms' "ability and willingness to block important legislation to achieve [his] goals." *Id.* at 30.

President's addition of HIV infection to the list of dangerous contagious diseases with the appropriation of funds for AZT,[36] thus threatening the appropriation of funds for the emergency provision of drugs to persons with AIDS.[37] Second, PHS was already on record as supporting the addition of HIV infection to the list. Wachter, however, suggests PHS may have been politically coerced.[38] Third, congressional representatives were aware that the new law would inhibit immigration of HIV-infected persons, but had not anticipated the impact that it would have on HIV-infected travelers.[39]

Under the new law, HIV-infected temporary visitors, such as Verhoef, could apply for a waiver from the Immigration and Naturalization Service. The waiver, however, was granted only to nonimmigrants who met the requirements of a stringent three-part test.[40] The Verhoef case demonstrated the difficulty one could experience while trying to obtain a waiver. When Conference organizers realized the impact that the HIV exclusion could have on persons entering the country to attend the Conference, they began to lobby for a change.

III. Impacting a Change in the Law

A representative from the World Health Organization's Global Programme on AIDS instructed Conference organizers to speak in terms of the "travel issue" when pushing for a policy change, as opposed to the "immigration issue," which is more controversial.[41]

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[36] AZT stands for "azidothymidine," an "antiviral drug used in treating AIDS." WEBSTER'S ENCYCLOPEDIC UNABRIDGED DICTIONARY OF THE ENGLISH LANGUAGE 105 (1989).

[37] WACHTER, *supra* note 1, at 30–31. *See* 133 CONG. REC. S7410 (statement of Presiding Officer, reading initial version of Helms Amendment).

[38] WACHTER, *supra* note 1, at 31.

[39] *Id.* at 31–32. The fact that the President's authority, as described in the Helms Amendment, derived from the Immigration and Nationality Act is misleading because it implies that the regulation will apply only to "immigrants"—aliens who expect to stay for an extended length of time. The regulation, however, applies to any alien applying for a United States visa or arriving in the United States, including "nonimmigrants" or temporary visitors. 42 C.F.R. § 34.1 (1992).

[40] WACHTER, *supra* note 1, at 32–33; *U.S. Immigration Policy for AIDS-Infected Aliens Criticized,* 67 INTERPRETER RELEASES 7, 7 (1990). *See also* 8 U.S.C. § 1182(d)(3) (1988) (authorizing discretionary waivers for nonimmigrants). The three-part test required HIV-infected individuals applying for a waiver to show that the alien's admission to the United States creates no more than a minimal danger to the public health; the alien's admission creates no more than a minimal danger of the spread of the infection; and the alien's admission will cause no government agency to incur any cost. WACHTER, *supra* note 1, at 33; *IJ Overrides INS, Grants Waiver to Nonimmigrant with AIDS,* 66 INTERPRETER RELEASES 427, 427 (1989).

[41] WACHTER, *supra* note 1, at 117, 242.

Similarly, San Francisco Congresswoman Nancy Pelosi discouraged Conference organizers from lobbying Congress for repeal of the Helms Amendment, for fear that the outcome would be something worse than the standing regulation.[42] Upon her advice, Conference organizers instead decided to push for a reinterpretation of the law by federal agencies, urging them to concede that because HIV infection is not casually contagious, the restriction on HIV-infected persons should not affect travelers.[43]

On May 18, 1989, lobbying began to pay off when the Justice Department announced a new waiver policy for HIV-infected aliens.[44] If granted, the waiver would be indicated by the stamping of a mark in the alien's passport.[45] The existence of a permanent mark in the alien's passport posed obvious confidentiality problems, which, combined with the limitations of the waiver—not available to mere tourists, and valid for only 30 days—rendered the waiver unacceptable to Europeans.[46] Upon learning of the unsatisfactory accommodation, the International AIDS Society (IAS), one of the Conference's primary sponsors, committed itself to planning no future conferences in countries restricting travel of persons with AIDS or HIV infection.[47]

Under the continued threats that the IAS and other important sponsors and scientists would boycott the approaching Conference unless further changes were made in the travel policy, the Justice Department announced, on April 13, 1990, a new waiver policy for persons planning to stay in the United States for ten days or less to

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[42] *Id.* at 42–43.

[43] *Id.* at 43.

[44] *Id.* The Immigration and Naturalization Service would continue to use a balancing test to determine whether the public benefit of admitting an HIV-infected alien outweighed the public health risk. *Id.; Foreigners with AIDS Allowed Limited Entry to U.S.*, 66 INTERPRETER RELEASES 624, 626 (1989) (quoting May 25, 1989 cable to all field offices from Richard E. Norton, INS Associate Commissioner, Examinations). The change in policy involved the relaxation of the criteria for demonstrating "a sufficient public benefit," which, under the new policy, would include attending academic or health-related activities, seeking medical treatment, conducting temporary business, and visiting close family members. WACHTER, *supra* note 1, at 43; *Foreigners with AIDS Allowed Limited Entry to U.S.*, 66 INTERPRETER RELEASES 624, 626 (1989) (quoting May 25, 1989 cable).

[45] WACHTER, *supra* note 1, at 43.

[46] *Id.* at 43–44, 113–14; *U.S. Immigration Policy for AIDS-Infected Aliens Criticized*, 67 INTERPRETER RELEASES 7, 7 (1990). Eventually the State Department modified the waiver procedure, in an attempt to improve the confidentiality of waiver applicants. For example, under the new procedures, a waiver applicant could, upon request, have the waiver stamp placed upon a separate form, as opposed to in the applicant's passport. WACHTER, *supra* note 1, at 139–40. *State Dept. Eases AIDS Waiver Process for Visitors to Two Conferences*, 67 INTERPRETER RELEASES 190, 191 (1990).

[47] WACHTER, *supra* note 1, at 43, 156.

attend a pre-approved "conference in the public interest."[48] The effect of the new policy was to exempt an eligible applicant from the requirement of answering question number thirty-five—the dangerous and contagious disease question—on the visa application, as it pertains to HIV infection.[49] Wachter points out the transparency of the "legal fiction"—that those requesting the ten-day waiver are probably HIV-positive.[50]

Wachter argues that, by creating the ten-day waiver, the Bush Administration undermined its position that it lacked authority to change the HIV travel/immigration policy because of the Helms Amendment.[51] Wachter posits that the new waiver policy demonstrates the Administration's authority to declare a waiver for "*any* conference or *any* length of time."[52] Having chosen to lobby merely for changes favorable to HIV-infected travelers as opposed to HIV-infected immigrants, however, Conference organizers knew that not all restrictions would be lifted. In time it would become apparent that a lift of all restrictions, including those on immigration, would be necessary to save future conferences scheduled for the United States.[53]

Wachter questions why the U.S. travel restrictions are the source of such outrage. He posits that the boycott of the Conference was not so much about the free movement of persons as it was about egos.[54] Wachter suggests that Europe, caught up in the debate about whether a United States citizen or a French citizen is to be credited with the discovery of the AIDS virus, was using the travel issue as a display of its own righteousness.[55] Wachter's theory, however, is simply not strong enough to support the detrimental result:

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[48] *Id.* at 162–63.

[49] *Id.; INS Implements New AIDS Visa Policy,* 67 INTERPRETER RELEASES 562, app. at 570 (1990).

[50] WACHTER, *supra* note 1, at 163.

[51] *Id.* The Bush Administration claimed its hands were tied because, unlike the other diseases for which aliens could be excluded, HIV infection had been added to the list by a Congressional Act rather than by PHS. *Id.* at 125–26. The United States General Accounting Office issued an opinion in May 1990, declaring that the Helms Amendment did "not clearly bar" the Secretary of HHS or the President from removing HIV from the list of dangerous contagious diseases. Op. Comptroller Gen. No. B-239598 (May 17, 1990). The Immigration Act of 1990, enacted after the Conference, renders the debate moot. *See infra* note 57 and accompanying text.

[52] WACHTER, *supra* note 1, at 163 (emphasis in original).

[53] Harvard AIDS Institute, *supra* note 6, at 2 (decision to move 1992 conference hinged on controversial immigration policy, as well as controversial travel policy).

[54] WACHTER, *supra* note 1, at 145. Dr. Robert Gallo, retrovirologist at the United States National Cancer Institute, and Dr. Luc Montagnier, retrovirologist at Paris' Pasteur Institute, are credited as being "co-discoverers" of the AIDS virus. *Id.* at 97, 145, 241–42.

[55] *Id.* at 145.

inhibiting the free flow of information essential for stemming the spread of a deadly disease. Nonetheless, Wachter ends his book hailing the signals from Congress indicating that a change in the law lifting the United States' restrictions on HIV-infected immigrants as well as travelers was imminent, a change that would preserve the coalition that links the U.S. and international AIDS communities.[56]

IV. A Foregone Opportunity to Lift Restrictions

At the time Wachter submitted his book for publication, Congress had approved an addition to the Immigration Act of 1990 that would give the Secretary of HHS the power to review and revise the list of diseases for which aliens are excludable from the United States.[57] Congress intended the Secretary to base the decision on current epidemiological principles and medical standards.[58] Wachter ends his book convinced that with the power to revise the list according to scientific principles, the Secretary would undoubtedly remove the HIV exclusion, thus eliminating the restrictions imposed on HIV-infected travelers and immigrants.[59] Wachter attributes this anticipated triumph to "the unprecedented union between scientists and activists."[60] Scientific evidence had strengthened the powerful voice of the activists, highlighting the unacceptable discrimination wrought by the HIV exclusion.

As Wachter expected, Congress enacted the Immigration Act of 1990, which gave the Secretary of HHS the authority to prescribe regulations for excluding aliens determined to have "a communicable disease of public health significance."[61] The quoted language replaced the former phrase "any dangerous contagious disease."[62] Pursuant to the Act, the Secretary of HHS, Louis Sullivan, published a proposed rule which would have eliminated HIV infection as a disease for which aliens are excludable.[63] The response to the

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[56] *Id.* at 238–39.

[57] *Id.* at 238. The relevant part of the Act is codified at 8 U.S.C. § 1182 (a)(1)(A)(i) (Supp. III 1991). The congressional history of the Act indicates that the Secretary of HHS should exercise his or her authority "notwithstanding previous amendments to the law," thus conclusively unlocking the Helms Amendment. H.R. Conf. Rep. No. 101-955, 101st. Cong., 2d Sess. 128 (1990).

[58] H.R. Conf. Rep. No. 101-955, 101st. Cong., 2d Sess. 128 (1990).

[59] *See* Wachter, *supra* note 1, at 238–39.

[60] *Id.* at 239.

[61] 8 U.S.C. § 1182(a)(1)(A)(i) (Supp. III 1991).

[62] 8 U.S.C. § 1182(a)(6) (1988).

[63] Medical Examination of Aliens, 56 Fed. Reg. 2484, 2486 (1991) (notice of proposed rulemaking). The proposed rule would have reduced from eight to one the number of

proposed rule was overwhelmingly negative.[64] "In view of the extent of the public comment and the concerns expressed by the commenters," HHS decided to take more time to review the issue.[65] On May 31, 1991, the day before the Act was to take effect, HHS published an interim rule to take effect the following day, which defined "communicable disease of public health significance" in the same way that "dangerous contagious disease" was formerly defined.[66] Hence, despite the "unprecedented union between scientists and activists" to which Wachter refers,[67] the HIV exclusion remains. HHS bowed to public pressure and, against the intent of Congress, perpetuated a rule not based on current epidemiological principles and medical standards. The triumph Wachter anticipated never materialized.[68]

V. CONCLUSION

Overall, Wachter's book, enhanced by his sense of humor, is both informative and enjoyable. This book serves as a valuable resource for understanding the politics of AIDS. It does, however, have some weaknesses. First, the absence of footnotes somewhat diminishes the book's usefulness as a source. Wachter, however, has provided a thorough index and three appendices, the first of which offers a short description of key persons mentioned in the book.

Second, although Wachter offers a first-hand perspective, he was not an impartial observer.[69] Rather, his role was to "advance

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diseases for which aliens could be excluded, leaving only infectious tuberculosis, which places "others at risk through casual contact." *Id.* at 2485–86.

[64] Medical Examination of Aliens, 56 Fed. Reg. 25000, 25000 (1991). The Centers for Disease Control received a total of 39,203 letters, representing 48,353 signatures during the designated one month comment period. Centers for Disease Control, Department of Health and Human Services, Summary of Responses to NPRM (3/22/91) 1 (1991) (unpublished data received directly from Centers for Disease Control). Of these letters, 85.9% specifically disapproved of the proposed removal of HIV/AIDS from the list. *Id.* The reasons stated for disapproval of the proposed rule in general included: increased health risk (40.0%), increased burden on the medical system (25.5%), increased taxes or medical costs (44.9%), religious or homosexual comment (4.4%), and "unspecified reason[s]" (34.8%). *Id.* Once HHS announced its decision not to remove HIV from the list and instead to implement an interim rule, *see infra* note 65–66 and accompanying text, the Centers for Disease Control received 119,034 letters representing 127,084 signatures. Centers for Disease Control, Department of Health and Human Services, Summary of Responses to Interim Rule (05/31/91) 1 (1991) (unpublished data received directly from Centers for Disease Control). This time, however, 87.7% of the letters received disapproved of the decision to continue to exclude HIV-infected aliens. *Id.*

[65] Medical Examination of Aliens, 56 Fed. Reg. 25000, 25000 (1991).

[66] *Id.* at 25001. Interim rule is still in effect as this Book Review is submitted for publication.

[67] WACHTER, *supra* note 1, at 239.

[68] *See* 56 Fed. Reg. at 2485. *See also* WACHTER, *supra* note 1, at 34, 197.

[69] WACHTER, *supra* note 1, at xiii.

and protect the vitality and very existence of the [C]onference above all else,"[70] a fact that must be kept in mind in evaluating the strategies he and the other Conference planners chose. The planners' goal of protecting the Conference was responsible, for example, for the short-sightedness of certain lobbying efforts that Conference organizers launched.[71] Nonetheless, in addition to describing the dynamics of AIDS politics in the context of the Conference planning, Wachter provides a fairly accurate and succinct history of the HIV exclusion policy in U.S. immigration law, one of the major policy challenges confronting the AIDS community.[72]

The Fragile Coalition: Scientists, Activists, and AIDS illustrates the political sensitivity of the HIV exclusion issue. The Bush Administration's failure to remove the HIV exclusion when given the opportunity under the Immigration Act of 1990 was discouraging to those who believed, as Wachter seemed to, that the "unprecedented union between scientists and activists" had caused medical facts to triumph over politics.[73] The Clinton Administration, on the other hand, has announced its intention to remove HIV infection from the list of diseases for which aliens are excludable.[74] In response, however, Congress has taken steps to statutorily exclude HIV-infected aliens.[75] Thus, it remains to be seen whether history will record the Sixth International Conference on AIDS as the last International AIDS Conference in the United States.

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[70] *Id.*

[71] *See supra* notes 41–53 and accompanying text.

[72] WACHTER, *supra* note 1, at 29.

[73] *See id.* at 239.

[74] Christine Gorman, *Opening the Border to AIDS*, TIME, Feb. 22, 1993, at 45; Philip J. Hilts, *Clinton to Lift Ban on H.I.V.-Infected Aliens*, N.Y. TIMES, Feb. 9, 1993, at A17.

[75] As this Book Review is submitted for publication, Congress is deliberating an amendment ("Nickles Amendment") to a public health bill which would, in effect, revoke the Secretary of HHS's power to determine whether HIV infection is a "communicable disease of public health significance." *See* 139 CONG. REC. H1203–10 (daily ed. Mar. 11, 1993). Under the Nickles Amendment, the Attorney General may waive the HIV testing requirement for nonimmigrants seeking admission to the United States for 30 days or less for the purposes of attending certain conferences, receiving medical treatment, visiting family members, and conducting business or tourism. 139 CONG. REC. S1830 (daily ed. Feb. 18, 1993) (citing the text of S. 1, 103d Cong., 1st Sess. § 2011 (1993)). Furthermore, the Nickles Amendment requires the President to submit by September 1, 1993, a report assessing the HIV-exclusion issue. *See id.*

The Senate passed the Nickles Amendment by a vote of 76 to 23, and the bill to which it is attached, S. 1, by a vote of 93 to 4. 139 CONG. REC. S1767 (daily ed. Feb. 18, 1993) (reflecting vote on Nickles Amendment); 139 CONG. REC. S1806 (daily ed. Feb. 18, 1993) (reflecting vote on S. 1). The House voted 356 to 58 in favor of instructing its conferees on S. 1 to agree to the Nickles Amendment. 139 CONG. REC. H1210 (daily ed. Mar. 11, 1993).