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insight and outlook

in this issue . . .

Letter on the Draft

Sen. Mark Hatfield

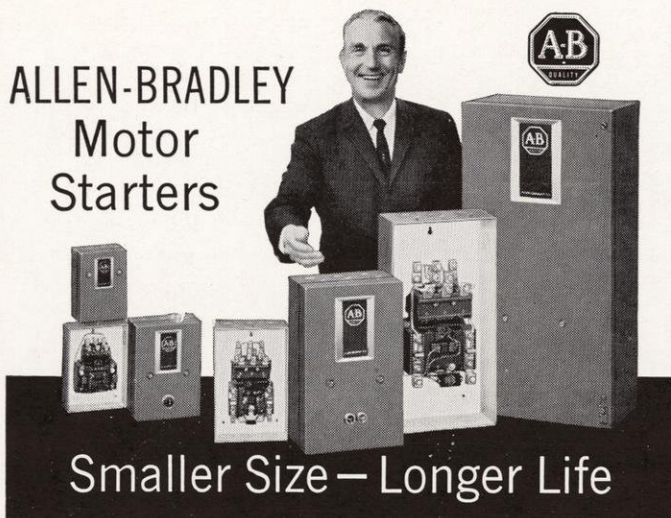
The True Reformer

Carolanne Lulves

Reagan and the California Opportunity

James Casper

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DESIDERATA

by Max Ehrman

Go placidly amid the noise and the haste, and remember what peace there may be in silence.

As far as possible, without surrender, be on good terms with all persons.

Speak your truth quietly and clearly; and listen to others, even to the dull and the ignorant; they too, have their story.

Avoid loud and aggressive persons; they are vexable to the spirit.

If you compare yourself with others, you may become bitter or vain, for always there will be greater and lesser persons than yourself.

Enjoy your achievements as well as your plans. Keep interested in your own career however humble; it is a real possession in the changing fortunes of time.

Exercise caution in your business affairs, for the world is full of trickery. But let this not blind you to what virtue there is; many persons strive for high ideals and everywhere life is full of heroism. Be yourself.

Especially do not fain affection.

Neither be cynical about love; for in the face of all aridity and disenchantment, it is as perennial as the grass.

Take kindly the counsel of the years; gracefully surrendering the things of youth.

Mature strength of spirit to shield you in sudden misfortune. But do not distress yourself with dark imaginings.

Many fears are born of fatigue and loneliness.

Beyond a wholesome discipline, be gentle with yourself.

You are a child of the universe — no less than the trees and the stars; you have a right to be here.

And whether or not it is clear to you, no doubt the universe is unfolding as it should.

Therefore, be at peace with God whatever you conceive Him to be.

And whatever your labors and aspirations in the noisy confusion of life, keep peace in your soul.

With all its sham, drudgery and broken dreams, it is still a beautiful world.

Be cheerful.

Strive to be happy.

*from The Poems of Max
Ehrmann, published by
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THE DOW CHEMICAL AFFAIR

WHO WOULD ARGUE that the students involved in the recent Anti-Dow Chemical protest at Wisconsin have no right to attempt to persuade their fellow students that "Dow Chemical is immoral by reason of its napalm production," and that "the company should not be allowed to recruit on campus"? The argument against the protest centers, rather, on whether SDS should arrogate to itself the power to remove Dow from campus, using disruptive tactics.

The general point to be made is that order is indeed a basis for any society. Without order there can be no liberty, no security, no progress, no civilization of any kind. Order is the object of government through law.

Indeed, democracy and liberty of individuals, are outgrowths of order and the laws that define and sustain order. Neither concept can survive in a state of anarchy. We must keep in mind the relation a democratic government has to individual rights. A democracy is a society in which the majority makes the rules by which everyone lives. Individual rights means simply that each individual has the right, within certain limitations, to do with his own as he pleases, provided no material interference with others' rights results.

Laws, like the men who make them, are imperfect, but they are better than no laws at all. In a democratic society such as ours, all one has to do to change a law is essentially to convince one more than half of his fellows that the law needs changing.

NOW, TO APPLY these principles here, the radical left tells us that the Dow Chemical Company is immoral and should be banned from campus. But the left has been unable to convince a majority of University of Wisconsin students that this is indeed so.

Under the democratic process, the majority prevails over the minority. In the Dow case, the radical left is decidedly in the minority.

But the radical left refused to accept the democratic verdict. It therefore rejected democracy. The radical leftists decided that if they couldn't get their way through democratic process, they'd take it by force. They decided that if they couldn't have their way legally, they'd get it illegally. So they deliberately disrupted the Dow interviews and prevented many interested students from finding out what the company had to offer.

The radical leftists tell us that they are entitled to break the law, to deny Dow Chemical and their fellow students their Constitutional rights, and go unpunished for so doing, because they believe so passionately that they are right and that their cause is of paramount importance.

The radical left, due possibly to its phenomenal conceit, fails to recognize that other people believe passionately in causes they consider to be of paramount importance, but are unable to convince a majority of their countrymen of the fact.

Take some of we conservatives, for instance. Unfortunately, we **KNOW** what it's like to hold unpopular ideas. Yet we do not disobey laws or knowingly deprive another of his constitutional rights. Primarily, we reject civil disobedience because it strikes at the heart of law and order, of liberty, of democracy, of civilization.

No group, no matter how great its wisdom nor how noble its purpose, can be given the legal right to set itself above the law, to force its views on an unwilling community.

Civil disobedience is catching. If one group violates the law and gets away with it, another will do the same, and another, and another. Eventually, there will be no law. There will be chaos, then anarchy, and finally, tyranny. Those who resort to civil disobedience will discover they have destroyed all hope of finding what they purport to be seeking.

To explain this in another manner, the radical left contends that the presence of Dow Chemical on campus is a moral outrage and an affront to the University, and that any means whatever should be utilized to remove the company.

I would like to point out to the left that there is a considerable number of students who consider the presence of the radical left on campus to be a moral outrage, and an affront to the University. What if these students were to follow the radical left's line of reasoning and conclude that any means whatever may be utilized to terminate this moral outrage? They are as capable of violence and disruption as are the new-leftists around here. Should such activity occur, one could imagine that the police, the administration, and any surviving leftists would be highly unimpressed by any arguments about the moral imperative of civil disobedience. Chancellor Fleming might even refuse to post bond.

— Aetius

SALISBURY'S SOURCES

The Pulitzer Prize judges voted 4-1 to give Harrison Salisbury the award for international reporting. The Advisory Committee overturned their decision on the grounds that Salisbury had without revealing it used North Vietnamese government handouts as sources for his reports. The award went instead to R. J. Hughes of the *Christian Science Monitor* for his coverage of the business in Indonesia. Without being absolutely overjoyed about the whole thing, we commend the Advisory Committee, and we are glad that the Pulitzer awards have not yet sunk to the level of the Nobel Peace Prize.

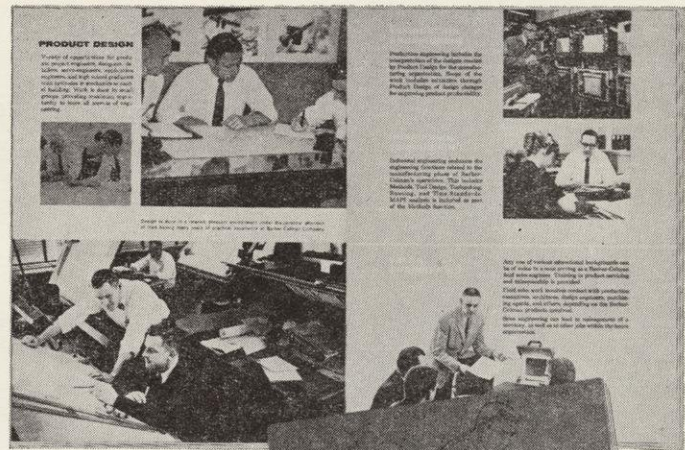
REFUGEES GO HOME?

Some people just won't cooperate. After the State Department had so carefully constructed bridges to the Soviet Union, after years of successful efforts at reconciliation with this particular, "unthreatening" brand of Communists, what happens? A Soviet citizen, Stalin's daughter, *one who should know better* almost messes the whole thing up by attempting to defect to our side.

The State Department's maneuvering to keep her out of the U.S. and to quiet her, marks the event as a disgraceful moment — nay, an unparalleled moment of sheer disregard for the interests of the United States, of free peoples and freedom-seeking peoples the world over. We can't quite believe they did it. They almost apologized for the thing. As if it was our fault that some of even the most well-to-do Soviet citizens could no longer stomach the communist system.

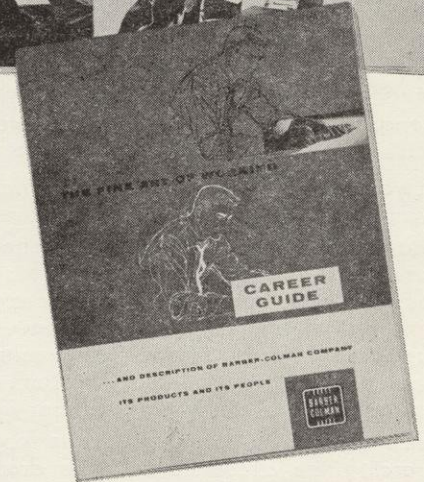
Of course, in the interest of good relations, our government reassured the USSR that no propaganda use would be made of the defection. (What would have happened if, say, Margaret Truman had defected to their side?) Obviously the State Department doesn't want to war against the communist system in Russia. But do they — do we — have to *accept* it? And do they have to force it upon other possible refugees? The disgraceful actions in discouraging Stalin's daughter could be no less a discouragement to future defectors than had they placed "No Refugees Wanted" signs on our embassies. Yet, the more basic question is whether our reconciliation policy itself is proper. Our government wants to be buddies with the Russian government. But do the Russian people want this? Doesn't our government's friendship — especially such selfless friendship as in the case of this one noteworthy defection — brace the system of communism in Russia? Is it an act of friendship to the Russian people and the other Eastern European peoples to force them to accept the Communists?

No, we say it is not! Some of us in this country are still the friends of these subjugated millions. We shall never be happy while they suffer. Maybe it would be foolish to risk a war on their behalf. Peace may be desirable, but that doesn't mean we must indorse the tyranny existing within their nations.



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LETTER ON THE DRAFT

Senator Mark Hatfield

The Freshman Senator from Oregon has a reasonable position on the draft, and we welcome his thoughts.

The time has come to end the military draft.

That bald declaration will startle many. But when all the facts are in, and all the current and projected needs for military manpower have been taken into account, it is difficult to avoid the conclusion that America does not need the draft, America can afford not to have the draft, and America is overdue in bringing to an end this drastic invasion of the lives and liberties of her young men.

Congress is now beginning to debate President Johnson's legislation to extend the draft another four years.

In years past Congressional examination of this issue was perfunctory. This year things are different.

Thanks no doubt to the heightened awareness of America's young people, whose lives the draft so seriously affects, many in Congress are now for the first time rethinking the premises upon which the draft is supposedly based. An increasing number of them are finding it sadly out of step with both our Nation's traditions and with its military manpower needs.

We must never allow ourselves to forget that however pressing the circumstances, the draft is involuntary servitude. It is legitimate and constitutional when Congress, exercising its power to raise and support armies, has no reasonable alternative. But conscription must always be the last desperate resort for meeting military manpower needs, not the cheap and easy expedient.

The only real argument for having an involuntary draft is that the Nation could not reasonably afford to raise and retain the needed military manpower without it. I maintain that the Nation **can** afford to eliminate the draft. In doing so we will restore lost liberties. We can end once and for all the inherent inequities of a compulsory system. We can upgrade our armed forces and increase our national security. And we can do it at a price this rich and powerful Nation can easily afford.

There is no numerical shortage of manpower for filling military ranks. Each year nearly four times as many men as the military needs enter the draft age pool. With more realistic service qualifications and sharply increased wages and fringe benefits, and with an enhanced status for military careers, we can attract the 500,000 men we need each year, even at Viet Nam buildup level.

All we have to do is to make up our minds that we are going to stop exchanging precious liberties for false economy — false because, when the total economic costs of the draft system are taken into account, including civilian wages foregone by draftees, we may well be saving nothing at all. And this calculation fails to take into account the qualitative value of skilled career specialists serving in crucial military positions now filled by reluctant draftees.

From the standpoint of individual liberty, equity to all, the enhancement of national security, and the total economic costs, the draft fares badly in comparison with an all-volunteer armed forces system.

How do we get from the present draft to the volunteer army?

First, we must unequivocally reaffirm our commitment to the goal of voluntary armed forces. The draft should be extended for one or at the most two years. During that time the Defense Department should embark on a program designed to make the draft increasingly unnecessary. A special joint committee of Congress — independent of the Defense Department and the Selective Service System — should be set up to make recommendations for a phasing out of the draft, and to maintain a continual review of the Defense Department's progress toward that goal. And military pay and fringe benefits should be raised substantially, starting now.

It is time we made the firm decision to put an end to inequity, put an end to uncertainty, put an end to inefficiency, and regain for our young people the liberties the draft has taken from them.

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ALL ABOARD!

A socialist is a man who wants all the chimneys swept and the sweeps paid for it. But who won't let you own your own soot.

—G. K. Chesterton

I was talking the other day to a friend of mine about what he called the god-given right of man to kill himself with his own automobile. The discussion, obviously, was not entirely serious; but there is at least a core of truth in the contention that traffic safety laws are an infringement on individual freedom. Anyhow, my friend went on to say that the logical extension of such laws as these was a government-provided incubator-cum-isolation-ward in which all children would be placed at birth (except presumably the children of the ruling technocrats) and in which they would grow up until they were deemed ready to join the Great, or Homogenized, or perhaps Sterilized, Society, be permitted to breed (once) and shortly thereafter returned under the provisions of Medicare to their comfortably padded cells, where their needs would be attended to by computer for the rest of their long and happily homogenized lives.

Admittedly, I am building a little on what he said. But there is no doubt in my mind that this would be the final extension of the premise that the government exists to protect the people from themselves. I am not sure where this idea came from, but we seem to have it with us in full force. It is a relatively new thing as well as a dangerous one.

In Eighteenth Century England there were men called thief-takers—a kind of private enterprise police force. Catching thieves for profit was the made, and if you had to entice kids into thievery in order to have a profitable catch, well, that was all in a day's work. It was

a beautiful example of the failure of the doctrine of "private vices, public benefits." Even so, two things stand out.

One is that there was no belief whatever, not even any conception, that the state existed to protect the people, let alone protect them from themselves. The *gensdarmes* in France may have existed to protect the state from the people, but in England there was little need to protect the state, and protecting the people was probably less important in the general scheme of things than protecting pigs or sheep.

You may think it peculiar that I am defending this situation, but I am not in fact defending it. The second thing that stands out—so far as I am concerned—is that while the Eighteenth Century situation shows how far wrong we can be on one side, without anyone particularly caring, the Twentieth Century situation shows how far wrong we can go toward the other side, in addition to showing how things have changed in two hundred years. To repeat, the Eighteenth Century doctrine was generally accepted and was wrong. The same is true of the Twentieth Century doctrine.

My libertarian friends claim that the overprotectiveness of the government in the case at hand (if indeed it is overprotectiveness) grows out of the iniquity of publicly-owned roads. That may be, though it is difficult to see what can be done about it at this late date. But it was not a libertarian who was attacking highway safety, albeit tongue-in-cheek; it was a radical leftist, an adviser to the S. D. S. on campus. And the tongue was wav-

ering away from the cheek.

Make no mistake. The government cannot protect the people from the government, and while I do not want my neighbor bashing me over the head and stealing my wallet, there are times I am less worried about that than about the government stealing the contents of the wallet without even the formality of head-bashing. It was Bertolt Brecht, I think, who asked the question "What is the robbing of a bank to the founding of a bank?"—but I think the question needs revision. It should be "What is the robbing of a bank to the founding of a central bank?"

To put it mildly, I do not consider myself a radical leftist. I am not worried very much about the immorality of our attempt to prevent the Viet Cong from murdering, with garnishments, those who stand up against them. My desire to give medical supplies to the enemy is rather less than my desire to give them to Americans. I did worry about the morality of our murdering Ngo Dinh Diem. And for years I have worried about the morality of the protective government.

The Lyndon Johnson Special is on the next track, through express for 1984. The train I'm on is a local; I'm not sure where it's going first, when it will leave, or if it ever will; it may have to back up to get there. The service isn't much and the passengers don't even get along very well with one another. But if we ever get up steam, and find an engineer who knows the way, the destination is freedom. All aboard! Even, if they'll come, the S. D. S.

The magazine's Minor In Residence requests our lawmakers to talk sense when they set age requirements.

Recently, the Governor of Wisconsin has called for a nineteen-year-old voting age and a twenty-one-year-old drinking age. It is only fair to add that he had previously called for a nineteen-year-old beer age statewide and got nowhere. Nevertheless, there seems to be a slight inconsistency in saying college freshmen are so well-educated, controlled, and self-possessed, that they must have the right to vote, and saying they are so poorly educated, controlled, and self-possessed, that they cannot be permitted to drink beer without their parents present.

Now it is quite clear that some amount of maturity is required to drink just as some amount is required to vote, and it is also clear that they need not be the same amount. In both cases, doubtless, some degree of spiritual or psychic maturity is necessary — but to measure this by calendar age is at best a peculiar substitute for thinking about it and measuring it on an individual level. In addition, there is at least one other kind of maturity necessary in each case.

Maturity for Voting

In the case of voting, the other kind of maturity required is mental, and in my innocence I should think an intelligence test rather than a minimum age would be the more reasonable method of determining voting qualification. In the case of drinking, the other kind of maturity required is physical — or, if that is too general a term, what is needed is a test for alcoholic capacity. In its absence, one might

make the bartender criminally liable for serving persons who subsequently break the law under the influence of alcohol, and thereby require him to use his judgment as to the capacity of his patrons. It is strange that a nation so ready to test IQs, reading skills, verbal and mathematical comprehension, and rely on the tests, should be reluctant (on ideological grounds) to test for alcoholic capacity or the voter's intelligence.

Self Policing

In fact, if drinking were solely a neighborhood affair, and no automobiles were involved, it is difficult to see why a drinking age would be needed at all, especially if bartenders were liable for the acts of their patrons. I cannot imagine, if I were tending bar, anything I would less rather do than sell beer to a kid who might get drunk on it, and be held liable for what he did then. I might even rather go out of business than be faced with that constant problem. You understand, I am referring solely to drinking in bars, but perhaps liquor stores could be required to put identifying labels on their stock, and purchasers be required to sign for liquor as for certain drugs, so that these transactions could be traced and liability established.

It is my own view that the voting age requirement (except insofar as it is a substitute for a property requirement) is as silly as, or sillier than, the minimum drinking age. Anyone, even a ten-year-old, who can identify the major officers elected from or voted upon in his town,

county, district, state, and country, with their party affiliation, who knows something about their voting records, and who passes a factual test on world affairs and American history, should be able to vote. It is difficult to see why, barring the necessity for a democracy of numbers, anyone of any age who cannot do these things should vote.

Fury of Illogic

I admit a problem as to who, in our ideological age, would administer even factual tests. *Quis docebit ipsum doctorem?* But I would claim, quite seriously, that discrimination by age, in these two matters especially, is only a lazy society's way of avoiding hard questions and hard decisions. We hear again and again and again the experts on the iniquities of alcohol (who do not drink or know anything about the pleasures of beer), and on the necessity of having illiterates vote (on the grounds of equal rights), speaking in a fine fury of illogic.

"Children who drink must do so illegally and without supervision so that they will be protected against the demon beer — prohibition is a great experiment, noble in purpose — eighteen-year-olds are old enough to drink beer, as well as fight, in Vietnam, but are not old enough to drink beer in Wisconsin — illiterates must vote to preserve democracy — men become instantaneously and uniformly responsible on reaching a given age." That's the way to go at it. Don't let facts interfere with your theories. It would be much too tiring trying to talk sense.

It should be recognized that conservatives are reformers too, as the author illustrates.

The ideas of Edmund Burke and of Thomas Paine have been treated with both eulogy and vilification; at one time or another each has been widely confused with the devil. Paine is held in apprehension by those who abhor utter democracy and its concomitant egalitarianism, while Burke is anathema to those who regard tradition as a stranglehold on freedom. Those seeking to understand these remarkable men are apt to start with Paine's *The Rights of Man* and with Burke's *Reflections on the Revolution in France*, both written before the French Revolution became an exercise in terror and oppression. A study of these works prompts one to paraphrase the statement by an unknown sage comparing Voltaire and Rousseau: "Everything that Thomas Paine is not, Edmund Burke is." Yet both were reformers, who in applying their principles to the same event came to strikingly opposite conclusions.

That Paine hoped for a worldwide reformation is a matter of little doubt. In speaking of "the wretched condition of man under the monarchical and hereditary systems of government," Paine said that "it becomes evident that those systems are bad, and that a general revolution in the principle and construction of governments is necessary." (382)¹ In this, and in other instances, the implication is strong that reformation is inevitably the child of revolution; perhaps Paine hoped for bloodless reformations, but reformations there must be, for he tells us that "It is only by each nation reforming its own, that the whole can be improved, and the full benefit of reformation enjoyed. Only partial advantages can flow from partial reforms." (453)

Where Burke viewed history as a natural, unforced unfolding of order, Paine regarded history as nothing more than despotism warring

with despotism; he did not view the present, as did Burke, as an outgrowth of an orderly past but as an opportunity to *make* history through reform. Thus Paine could hopefully state that "As revolutions have begun . . . it is natural to expect that other revolutions will follow." (396) The opportunities of the present must be seized upon to obliterate miseries which are the proffered gifts of history. "When France shall be surrounded with revolutions," he exulted, "she will be in peace and safety . . ." (388)

Paine saw history as a despotic, inherited taskmaster. Innovation, his answer to the world's evils, was central to his concept of reform. "I am," he stated, "contending for the rights of the *living*, and against their being willed away, and controlled and contracted for, by the manuscript authority of the dead; and Mr. Burke is contending for the authority of the dead over the rights and freedom of the living." (478) Since the dead could have no hold over the living, reformation through innovation could be the balm of the living for the wounds given them by history.

Innovation, *per se*, held no terror for Burke; indeed, he believed each state must allow for innovation if it hoped to conserve its liberty. It was only innovation not grounded in history and tradition that Burke feared, for he thought such change would lead to anarchy, and it was anarchy above all that he abhorred.

Burke's norm for judging ancient institutions was not their mere age, as Paine would have us believe, but their efficacy. As he said at the Hasting trial, "Those who pull down important ancient establishments, who wantonly destroy modes of administration, and public institutions, *under which a country has prospered*, are the most mischievous, and therefore, the wickedest of

men!" (Emphasis added.)² And while Burke held that governments were sanctioned by prescription, he brought the force of his rhetoric to bear against those Parliament members who used prescription as a backdrop for governmental abuses of long duration.

Innovation for the sake of innovation, when less drastic measures are possible, Burke thought foolish. Only harm will come "by destroying at their pleasure the whole original fabric of their society, hazarding to leave to those who come after them, a ruin instead of an habitation — and teaching these successors as little to respect their contrivances, as they had themselves respected the institutions of their forefathers. . . . No one generation could link with the other. Men would become little better than the flies of a summer." (108) This is in contrast to Paine's notion that no generation should worry about the future when it draws up a constitution, since no generation can assume its constitution would be desirable to those who follow. The present must be our only concern.

Burke held that a long-established constitution is liable to modification if its structure is retained. When a constitution is due for reformation, great care must be taken lest we lose what we have secured. "To avoid therefore the evils of inconstancy and the blindest prejudice, we have consecrated the state, that no man should approach to look into its defects or corruptions but with due caution; that he should never dream of beginning its reformation by its subversion; that he should approach to the faults of the state as to the wounds of a father, with pious awe and trembling solicitude." (209) To Paine, history and tradition were repositories of wrongs; to Burke, they were deposits of hope.

For Burke, there could be no enduring reformation of ills unless his-

tory and tradition were taken into account; prejudices, opinions, and traditions have slowly accreted, and any reformation must encompass the traditions which produced the present, lest the tear in the fabric of society be too great, too soon. Thus while Paine advocated sudden, purgative reform, Burke favored gradual, careful emendation, with care taken "to charge that fault on the law which belongs to the law, and on men their own abuses. . . . I . . . upon any mere speculations whatsoever, am an enemy to a change in any establishment."³

An underlying assumption prompting reform is that rights are being denied or that they could and should be more firmly secured. Indeed, Paine's preference for (and Burke's mistrust of) general statements concerning rights forms another basis for their differences with respect to reformation. "Fortified with that proud integrity that disdains to triumph or to yield," Paine said, "I will advocate the Rights of Man" (454), and rights claimed became the basis for reforms demanded.

Thus the rights of men formed a crux of dissent between the two. In large part, Paine's rationale justifying the French Revolution rested on what he saw as the denial of such rights. In France, he said, "we see a revolution generated in the rational contemplation of the rights of man, and distinguishing from the beginning between persons and principles." (285) His assumption that rights exist in a vacuum, permitting consideration apart from men and institutions, proved tragically wrong.

Paine's all-encompassing rights made Burke suspicious and uneasy. The subject of rights, he thought, is man, and man is God's most complex creation. As Russell Kirk notes, for Burke natural rights did not exist in a vacuum, independent of circumstances; thus, what may be proper on one occasion for one man, may be wrong or folly for another man at a different time.⁴ For Paine the world abounded in rights; for Burke rights were, properly consid-

ered, rare and precious. Natural rights were the result of natural law, and natural law was God-given. Since man is finite it is difficult for him to apprehend this God-given law, and Burke was loathe to make general statements about rights; rather, he trusted particular circumstances to point out particular rights.

In speaking of Paine's rights of men Burke commented, "The pretended rights of these theorists are all extremes; and in proportion as they are metaphysically true, they are morally and politically false. The rights of men are in a sort of *middle*, incapable of definition, but not impossible to be discerned." (75) In his best description of natural rights Burke wrote:

Far am I from denying in theory; full as far is my heart from withholding in practice . . . the *real* rights of men. . . . If civil society be made for the advantage of men . . . law itself is only beneficence acting by rule. Men have a right to live by that rule; they have a right to justice . . . They have a right to the fruits of their industry; and to the means of making their industry fruitful. They have a right to the acquisitions of their parents; to the nourishment and improvement of their offspring; to instruction in life, and to consolation in death. Whatever each man can separately do, without trespassing upon others, he has a right to do for himself; and he has a right to a fair portion of all which society . . . can do in his favour. In this partnership all men have equal rights; but not to equal things. He that has but five shillings in the partnership, has as good a right to it, as he that has five hundred pounds has to his larger portion. But he has not a right to an equal dividend in the product of the joint stock. . . . (71-72)

Natural law and Christianity supplied Burke with his conception of man's only true equality—the equal value of each man's soul to God. Burke's views on rights recognized what men have in common with all other men and also what distinguishes each man from all others. Reform, he held, must take these things into account, or run the risk of creating chaos.

It is often believed that Burke was so loathe to tamper with the *status quo* that he hesitated to put one foot in front of the other without first consulting the English

common law. Such opinion is a favorite among liberal professors who have not read Burke since their undergraduate days, or who have only read what Paine said about Burke. This opinion, however, is belied by Burke's principles and also by his actions. For example, in 1771 he defended freedom of speech in connection with the law of libel; in 1773 he urged that Protestant dissenters be excused from the Anglican Test Act, holding that it limited intellectual freedom; and in 1775 he urged that the American colonists be conciliated. He also fought for the lawful rights of Irish Catholics against the bigotry of his time. The Popery Laws excluded Catholics from all state offices, forbade them to attend any authorized educational institution, to have their own schools, or to go abroad for education. It is to Burke's everlasting credit, as Francis Canavan has remarked, that he worked all his public life to relieve these conditions.⁵ In addition, Burke gave his talents and his time to define the constitutional limits of the king; Harold Laski has noted that in the long run it was Burke's ideas that defeated George III in his bid for strong personal power.⁶

In a lawful revolution Burke saw two results: maintenance and improvement of traditional liberties. Though he could see these results in the American Revolution he saw only anarchy and terror resulting from the French Revolution. He acknowledged that there had been abuses in France but when he saw the revolutionists ignoring tradition and trying to create a new France he predicted useless bloodshed. Paine scoffed: "Notwithstanding Mr. Burke's horrid paintings, when the French Revolution is compared with that of other countries, the astonishment will be, that it is marked with so few sacrifices; but this astonishment will cease when we reflect that *principles* not *persons*, were the meditated objects of destructions." (287) Burke thought this was ominous nonsense, for he saw principles as embodied ulti-

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PEACE PARTY DESERTER NUMBER ONE

Should Richard Nixon gain the favor of the 1968 Republican Convention his ensuing campaign against President Johnson (or whomever) would doubtless be constructive and an exercise in responsible politics, something for which Mr. Nixon must be accredited—belatedly—as a chief proponent. No position would be taken for purposes of political advantage if in Mr. Nixon's mind it would endanger the American position in the world. He might even choose to lose — perish the thought — rather than take such a step.

It is quite clear at this point, for instance, that he would not allow himself to be placed in the role of a peace candidate as regards the war in Vietnam. Neither does it seem that he would assume an unduly hard line position, the get-in-and-get-it-over-now approach which evinces more a frustration than a policy. Indeed, it is conceivable that a Nixon-Johnson encounter would involve little argument over the war as Johnson moves toward a more realistic approach to the question (and he has) and Nixon, whose knowledge of Southeast Asia is comprehensive, refuses to budge from a responsible stand. If that were the case, Nixon would suffer at the polls. He knows this. But, when the opportunity arises he will not delve in politically expedient innuendos against a President who may have become unpopular by doing the right thing.

The war could be made an issue—quite a profitable one from the GOP's short-run view. Thus the spectre of another Eisenhower-styled "peace campaign" is in fact upon us. Governor George Romney's equivocation on the issue, aside from the fact his knowledge of the situation derives second-handedly from his speech and press release staff, can only be interpreted

as an attempt to wait for the President to commit himself on the war, and then to opportunely scramble headlong into an opposite stance. Since President Johnson is gravitating to a firmer position, Romney will no doubt become a peace candidate. This probably would be more consistent with his mode of thought, anyway—as if that were an important consideration to the man.



We should not talk solely in terms of a Romney-Nixon contest at the convention. If Nixon cannot obtain the nomination, Romney is by no means the logical victor. Yet, except with Nixon, the pressures of political advice would be the same. One "contender," namely Sen. Charles Percy, has already fallen into the gaping hole, *a la* Robert Kennedy, and is grasping for the support of every ugly element of isolationist and euphemistic thinking on the American scene. Other contenders are not so opportunistic; but the path is open, and who besides Richard Nixon (assuming Ronald Reagan refuses to challenge) would resist its temptation?

All this presents a dilemma to those of us who consider the international questions first in importance. What alternatives have we if the Republicans offer a peace candidate? On the one hand, we would

be morally compelled to sympathize with the President's defense of the American conduct of the war. This was not always the case. Had he retained his less than firm stance on Vietnam, had he continued to play his game with the leftist ingrates in his own party, then perhaps we could have written the President off in 1968 as the "worser of two evils." But Lyndon Johnson appears to have abandoned this tact. His recent statements in defense of his Vietnam policy are no longer peace offerings to his domestic critics. As out of character as it may seem, his decision to blast his get-out-now opposition can only derive from his own moral commitment to the war and from his sympathy for the tragic plight of the Vietnamese.

Is not this a different LBJ? This is not the manner of one seeking his own political interests. His expressions denote feeling for the people involved in the war. It is not the LBJ who visibly strained, previously, in order to show concern for common people. It is an LBJ whose genuine sympathy permeates even his brusque manner of speech. It is not the same man who had changed his position in the face of political change. It is a new man — determined, for once, to do the right thing no matter what the consequences to his own future. He has become a President who is a dependable anti-Communist—well, at least more dependable than a GOP peace candidate.

So what can we do? If Nixon is the GOP offering, no dilemma exists. If a peace candidate is presented, well, as of this moment, here is one who would be compelled to back the President. The international situation simply cannot afford further isolationist insensitivity on the part of the American public, no matter which political party may gain by developing it.

A STUDENTS HOUSE IS NO CASTLE

James Blair

A graduate of Wisconsin dislikes new regulations on student housing, anyway.

In September, many students are likely to find themselves faced with a restrictive new University housing policy. Formerly, graduate students and those married or over 21 years old could live where they pleased; it was none of the University's business. But no more. All students who live within a zone of about one mile from Bascom Hall must now live in University "certified" housing — all students including 30-year-old graduate students and even postdoctoral fellows. Students living in uncertified housing within this zone will have the choice of moving or being expelled from school.

This new policy was first proposed by Newell Smith, Director of Student Housing, in April 1966 although the housing bureau has been sounding campus opinion of the idea since at least 1963. It received little discussion and until just a week before being passed by SLIC on October 26, 1966, it was not understood even by the staff of the *Daily Cardinal*. It slipped by the faculty while the students were busy exchanging insults over the "Senator Kennedy" incident. Even after it had been approved by the Regents, the leaders of the Student Tenant Union I talked to, did not realize that the provisions of the new policy will apply to graduate students.

Protection For Your Own Good

The purpose of this restrictive policy is, of course, to "protect" the student from "inferior" housing. Before plunging into an analysis of why this proposal will limit the student's choice and probably raise his rent, let me first summarize the libertarian view of protecting people from themselves for their own good.

As I see it, the logic is the same whether it is the Prohibitionist protecting you from Demon Rum, the censor protecting you from objectional films or books or the student housing bureau protecting you from uncertified apartments. There are two situations where such reasoning can be defended:

Minors. People less than X years old (where X is usually 18 or 21) are stupid and incompetent, and must be protected for their own good. They are not permitted to drink, attend "adult" movies, vote, sign binding contracts, are forced to attend school, and in general are second class citizens with restricted rights and privileges. Here libertarians should ask only for consistency; one age at which first class citizenship is conferred, rather than the more common practice in most states of forcing young adults to assume the burdens at 18 but denying them the privileges until they are 21.

Incomplete Knowledge. Many restrictive laws are designed to protect people in situations where they cannot have knowledge of possible harmful consequences. Sanitation and pure food laws fit this category. It is felt that the consumer cannot be expected to inspect every step in the processing of his food, and would not buy food if it did not meet certain standards of sanitation. This basic rationalization for restriction may be valid, although it certainly has been abused. It is, for example, the justification for the Wisconsin ban on colored margarine. You are considered incapable of telling the difference between colored margarine and butter (suggesting that you cannot read the label). The ban protects you from being deceived.

The new housing policy clearly does not fall under either category of justifiable restriction. It expressly applies to all students regardless of age, and a student has plenty of opportunity to examine any given apartment to determine if it meets *his* standards. A house or apartment can meet the building standards of the City of Madison, and be perfectly acceptable to the student, yet the student could be prohibited from living there under penalty of expulsion from school.

The main argument given in favor of the new restriction is that landlords will be forced to improve their

property until it meets whatever standards the University decides to establish.

Of course the owner of rental property which meets City but not University standards could simply rent to non-students. Not all tenants within this zone are students.

Probable Effects

The most probable effects of the new policy are less choice for the student and higher rent; less choice for the obvious reason that the class of Housing - Within - The - Zone - Which - Is - Approved - By - The - University is but a subset of the class of Housing-Within-The-Zone.

The probability of higher rent comes from several considerations. First, simply by restricting the supply of housing available to students (as per the paragraph above) in the face of growing demand, it does not take an economics major to forecast a higher price (i.e., rent).

A second reason behind the prediction of higher rents is a little less obvious. The prospect of loss of student tenants may pressure some landlords in the zone to remodel their apartments to meet University standards (if they have the capital to do so). The cost of this remodeling would then be passed on to the tenants in higher rent. Many of these rundown apartments near the campus are likely to be torn down in a few years to make room for University expansion, so money invested in improvement must be recovered quickly, and rent must rise immediately.

Reduced to simplest terms, the question here is this: should each student be able to decide for himself whether he would rather live in nice, fresh, "certified," expensive quarters, or in a less nice, less expensive, "uncertified" place and so have more money for books, records and other things? There are two additional observations that come to mind.

First, many schools require students to live in approved housing. Often, after a few years of bureau-
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REAGAN AND THE CALIFORNIA OPPORTUNITY

James Casper

Those wishing to run the Governor of California for president are missing their cue, says Casper, who likes Reagan even more than most of us.

The November Congressional elections shocked the liberals almost as much as they did the conservatives. Not even the most rock-ribbed among the conservative commentators dared to predict the sweeping victories which occurred. Indeed, in the light of the 1964 defeat, many conservatives who outwardly denied their fears were honestly concerned for the future of the movement. Now, however, with the overwhelming successes of conservative candidates from coast to coast, they are jubilantly discussing the new "upsurge of conservatism."

Certainly the election of Ronald Reagan as governor of California is the most heralded conservative triumph; therefore, it is imperative that conservatives take close notice of his campaign, for when we can lose one election so thoroughly and come back just two years later in overwhelming victory, there is a lesson to be learned. Either conservatives must learn this lesson, or the fiasco of 1964 may return to haunt us again and again.

While Reagan's election is an obvious repudiation of those liberal elements within the GOP who, since 1964, have at every opportunity joyously proclaimed that conservatives cannot win, there are many things which it is not.

I do not honestly feel his election could accurately be termed a victory of conservatism over liberalism. No doubt there was some, perhaps even considerable, reaction to the type of bumbling liberalism so characteristic of the Brown administration; however, it is extremely unlikely that this was the central issue of the campaign. First, Reagan wisely "toned-down" his conservatism, and, while compromising no principles or ignoring any issues, made every effort to avoid any position which might alienate significant portions of the population. This he

undoubtedly learned from his experience in 1964 with the Goldwater campaign and its unfounded, yet nevertheless real difficulties with the "social security set." Because of this tactic, any real head-on confrontation between the two philosophies was avoided. Of course Brown could hardly be considered a leading exponent of modern liberalism and thus could not have afforded Reagan a real debate anyhow. Perhaps it must be said that Reagan won despite his conservatism, and that his victory was largely personal—due in large measure to his attractive personality, his outstanding speaking talents. Another element in the victory was the presence of a mindless "uneasiness" and unideological dissatisfaction of the electorate with the present state of affairs. Granted that this dissatisfaction was brought about by the liberal administrations which have guided California for so long, but whether the voters made this association rationally is doubtful. Rather, feeling dissatisfaction, they simply desired "a change." Reagan offered that change, if not of policy, at least of personality. What that change will be, and whether or not the voter will find it pleasing, is up to Reagan, in the short run, and to the conservative movement nationally in the long run. Those who speak now of "Reagan for President in '68," speak, I hope, only in exultation—not in earnest. Nothing could be more totally disastrous to conservatism than for Reagan to make an immediate and cold-shouldered play for national office. Not only would he be breaking his promise to serve a full term, but more importantly he would be abandoning his remarkable opportunity to prove the viability of conservatism in practice. California, by its very physical nature, is a center of attention for the nation. It is the most diverse, fastest-

growing, most powerful state in the Union. It, more than any other state, is the pace-setter, the trend-setter for Americans coast to coast. How appropriate it would be if a new trend of successful modern conservatism began in the sunshine state. For this to happen, for the "showplace of the nation" to become the "showplace of conservatism," Reagan and his supporters within and without California must dedicate themselves to meeting that most basic conservative challenge: the challenge of credibility.

If anything about conservatism is in question today, it is its credibility, its ability to cope with the modern problems of society. One of the major obstacles to Goldwater's campaign was the very deep-rooted and carefully cultivated public doubt as to the possibility of the government being able to function effectively under a conservative administration. Reagan can prove to the nation that conservatism does indeed work, and that it works far better and allows much greater personal freedom than does liberalism. On the other hand, he can move too fast, try to accomplish too much, if he bows to the pressures from overzealous conservatives. The governor's task will not be easy. The tremendous and generally favorable press coverage which Reagan has received will most assuredly turn to vengeful publicizing of his failures, real or not. Any problems—and with the civil rights groups, the bracero agitators, and the Berkeley Free Speech Movement coupled with the normal, yet nonetheless complex problems of governing so great a state as California there are sure to be plenty—will be exaggerated, exploited, and examined by the press, as witness the Reagan-destroys-education bit they just completed. Conservatism, no doubt, will be found guilty of ineffectuality in such cases. Neither

will it be a simple matter for Reagan to devise conservative programs to cope with the problems of pollution, urban renewal, crime and delinquency, unemployment, substandard housing, the multi-university and all the other ills which plague America and her governments. Yet, somehow, he must devise such programs, he must find solutions to these problems consistent with his conservative philosophy or, rightly or wrongly, conservatism will be declared as discredited, and rebuilding after such an experience would engender unimaginable difficulties for the movement.

Fortunately, Reagan appears to be headed in the right direction (no pun intended). His theme of "The Creative Society" would seem to connote a fresh approach to the traditional problems of society. Indeed, many of his statements throughout the campaign seem to indicate that the "Creative Society" will be organized along the lines suggested by Richard Cornuelle in his recent book, *Reclaiming the American Dream*. If, indeed, this is his intention, success is likely and his administration will bring forth exactly the type of limited and efficient government most conservatives, and I am still confident, most Americans in general favor.

What direction would a Reagan application of Cornuelle take? Can it reclaim the American Dream, the creative society? We have long heard liberals describe American society as composed of two sectors: the public sector (or government), and the private sector (or industry). Cornuelle offers us a third sector, potentially greater than either, which he calls the independent sector. In this group he includes millions of individual citizens who, acting through a vast and intricate network of organizations neither governmental nor commercial—organizations like churches, service clubs, labor unions, trade groups, and private welfare associations. As Cornuelle describes it,

The independent sector is a kaleidoscope of human action. It takes a thousand forms and works in a million ways. And a tremendous raw strength under-

girds its rich variety. Welded into our national life at every level, it functions at any moment when a person or group acts directly to serve others. The independent sector is, to begin with, 190 million individuals in 50 million families—who do not limit their lives to pay-earning work (the commercial sector) or occasional trips to the voting booth (the personal government sector). We are the richest, best-educated, most ingenious people in the history of the world. Seventy-one million of us in the labor force produce goods and services worth \$630 billion annually. We channel much of this wealth—plus talent and energy not counted by the GNP figures—through the independent sector.

The family's ability to help itself and others outside the family group is great and growing. In 1959, American families provided food and shelter worth \$4.5 billion to relatives living with them. In 1959, the Survey Research Center at the University of Michigan figured 53 million families contributed more than \$6 billion to churches, \$2 billion to charity, and \$7 billion to other individuals. In the past five years, especially in the past two, the giving habit has grown so abundantly that the figures are difficult to estimate.

Conservatives for as long as I can remember have had some vague sort of faith that such a force exists in American society, an independent sector free of government control, regimentation and corruption. This is the same independent "creative society" envisioned and admired by de Tocqueville. This is the American Dream which somehow we have lost sight of, and must now reclaim. This is modern conservatism's golden opportunity.

If fully mobilized, the independent sector could, Cornuelle believes as I do:

1. Put to work everyone who is willing and able to work.
2. Wipe out poverty.
3. Find and solve the farm problem.
4. Give everyone good medical care.
5. Stop juvenile crime.
6. Renew our towns and cities, and turn anonymous slums into viable human communities.
7. Pay reasonable retirement benefits to all.
8. Replace hundreds of government regulation with more

effective codes of conduct, vigorously enforced by each profession.

9. Handle the nation's total scientific research effort.
10. Turn our foreign policy into a world crusade for human welfare and personal dignity.
11. Leave a wider distribution of stock ownership.
12. Stop air and water pollution.
13. Give every person the education he wants, needs, and can profit by.
14. Provide cultural and recreational outlets for everyone who wants them.
15. Wipe out racial segregation.

The independent sector has the power to do all these formidable tasks. If there are disagreements between conservatives as to the correctness of some of the tasks even being undertaken, let it be argued. But remember that political realism requires that conservatives today prove: 1) that they care about these problems, and 2) that they can eliminate them as well or better than the liberal, and that use of the independent sector, for instance, to pay retirement benefits will eliminate what is by far the most distasteful aspect of it today—the crude power of government coercion and replace it with a voluntary system. This is what the "Creative Society" is all about, this is, in truth, true to the ideals of the conservative.

Ronald Reagan, then, holds the power to transform one state into a conservative "laboratory." If he follows the policies outlined by Cornuelle, California will truly set a conservative trend for the nation, and we may indeed see the rebirth of creativity and individual freedom and enterprise so desired by us all. In order to do so, however, we must restrain present enthusiasms for "Reagan in '68," and instead build a genuine enthusiasm for what must be considered the most exciting political development of our era. We must channel our every energy into building the "Creative Society" in one state, that in future years it can effectively rival the "Great Society" not only in California, but throughout America. This is our big chance.

**We mention no names, but don't
you know someone like this?**

He was born in Scarsdale, so he always had enough to eat. As far back as he could remember he'd recall his mother telling him at dinner-time to eat all the food on his plate, because there were people starving in China.

So whenever he sat down to the table, he did his best to clean his plate. Once, twice, three times, because he wanted to help all those people who were starving in China. He didn't know what good he was doing, but he wanted to help. And besides, he liked to eat.

One day in school while paging through *Life* magazine (he really ought to have been studying his arithmetic) he came across a picture of some Chinese peasants working in a field. He looked at their emaciated skeletons, and then he looked down at his rotund belly, and he felt guilty. He'd let the Chinese down.

And it wasn't just because whenever his mother served him lima beans, he'd dump them into his napkin and hide them and throw them away after dinner. He was old enough by then to realize that there was something fishy about that "clean your plate because there are people starving in China routine." But he felt guilty anyhow. He had plenty and they didn't have enough.

He was never able to get over this feeling of guilt. As he grew heavier (his guilt never did affect his appetite), his conscience grew heavier too.

In high school, he blamed his parents. They were the ones who saw to it that he had plenty. What was worse, they were making more money, and spending more of it on him every day. And on top of all this, his mother caught him hiding lima beans in his napkin and made him eat two portions as punishment.

But before he was graduated, he had exonerated his parents. He

knew it really wasn't their fault. He had learned that people, all people, are good and that there is no evil in them. It was the system, society, or, as he liked to refer to it, the "power structure" wherein the real fault lay.

He didn't get his benign view of human nature from Christianity, not by any means. He didn't believe such medieval superstition any longer. He realized that if there really were a God, there wouldn't be any hunger or starvation in the world . . . or any lima beans, either.

By the time he'd entered college, he knew pretty much what he was going to do with his life. He wasn't going to be a milking machine salesman like his father. No sir, he wasn't going to become a prisoner of the middle class power structure, not him. He was going to save the world.

So he became an activist. He let his hair grow long and refused to bathe (because he wanted to run those warmongering capitalists, barbers and soap manufacturers out of business?). And after all, he had forgotten his floating rubber duck in Scarsdale.



He paraded around Judge Hansen's home and sat in on the state-house steps because he knew that by doing this he would make Negroes and Whites in Alabama love each other like brothers should.

He would go to meetings and tell the scheduled speaker what to say, because he knew better than the speaker what the audience really wanted to hear. And if the speaker proved to be so obstinate as to say whatever was scheduled to be said, rather than what really ought to be said, why then, he would interrupt the speaker and himself tell the audience what they ought to hear.

He burned his draft card, and whenever Army recruiters would set up a table in the student union, he would go up to that table and call the recruiters filthy names and he wouldn't let anyone who wanted to talk to the recruiters have a chance to hear what the recruiters had to say, because he knew that by doing this, he was going to end all wars forever.

When the State Department would send diplomats to the campus to explain U.S. foreign policy, he would shout and scream and swear so that the diplomats could not be heard, in order, of course, to assure that students learned the truth about U.S. policy.

As time passed, he began to wonder when people would realize how fortunate they were to have him in their midst. For when he passed out End - The - War literature, people would take it and put it in their pockets without looking at it and one obvious defender of the power structure gave him a bar of soap in return. This made him very unhappy. His floating rubber duck was still in Scarsdale.

And despite all his efforts, entreaties and advice, there is still starvation and misery in the world, and lima beans as well.

reviews: Judges as Rebels

The title of this book, the first of two volumes, suggests that the activities of the United States Supreme Court since the appointment of Chief Justice Warren are so uniquely radical in the history of the Court that they should be called a revolution. This contention is substantially proven by the first major section of the book. The rest of the volume discusses the theory of judicial review and its history in England and Colonial America. The history of judicial review under our Constitution before the appointment of Earl Warren, and a discussion of the advisability of and means to a "Counter-Revolution" are left to a later volume.

THE WARREN REVOLUTION,
by L. Brent Bozell, Arlington House,
New Rochelle, New York, 1966,
\$7.00.

The first third of the volume is an answer to those who contend that "both the Warren Court's methods and its results . . . fall within the traditional pattern of constitutional interpretation and enforcement." Mr. Bozell believes that "their number, and in any case their reputation for serious commentary, diminishes with each new judicial *démarche*." This is an optimistic view of the situation, for Constitutional Law is generally taught today as if it followed exactly the same rules of predictability as any other field of law. The usual tactic of defenders of the Warren Court is to presuppose that its conduct is not unique and to say, "Activist courts have always been criticized."

This part looks at the four most controversial decisions of the Warren Court, *Brown v. Board of Educ.* and race relations, *Pennsylvania v. Nelson* and the control of subversion, *School District of Abington Township, Pennsylvania v. Schempp-Murray v. Curlett* and school prayer and Bible reading, and *Wesberry v. Sanders* and legislative apportionment.

The *Brown* case is very important to Mr. Bozell, because it is in the field of school desegregation that the revolutionary character of the

Charles Mills

Warren Court can be shown most clearly. Chief Justice Warren's opinion in *Brown* says quite plainly that the meaning of the Fourteenth Amendment can be determined "only" by looking at public education as it existed at the time of the decision and not by looking at its meaning when it was written. This in itself is a revolution in the Supreme Court's description of its function. Most people are aware of the *Brown* decision but not as many have heard of *Cooper v. Aaron*. This is the case in which the Supreme Court said in 1958 that the interpretation of the Constitution in the *Brown* decision is "the supreme law of the land, and Article VI of the Constitution makes it of binding effect on the States anything in the constitution or laws of any State to the contrary notwithstanding." In other words the proposition "The Constitution is what the Supreme Court says it is" was changed from a bit of political science to a doctrine of constitutional law, and the "is" in the proposition was seriously held to indicate complete identity. When Mr. Bozell says that the revolution began with *Brown*, he is not denying that there were indications of the revolution as early as the mid nineteen thirties. His treatment both of *Brown* and of *Schempp-Murray* indicates that there were cases in the thirties and forties which made unfounded assumptions leading to these decisions under Warren, perhaps making them inevitable. The treatment of *Brown* is particularly interesting because it discusses cases dismissed by Warren in a footnote, which indicate that if separate but equal schools are not permitted the case should be decided on the basis of excellent precedents for uncontrolled state discretion in the matter.

The four chapters of this section taken together show a pattern of Constitutional interpretations based on criteria not avowedly used by the Court before *Brown*. The *Wesberry* case is accompanied by an appendix showing in detail the historical errors in the opinion.

These decisions are dealt with as they are, not to show that the Su-

preme Court can make mistakes, but to show that it has altered the balance of power in our government in such a way that questions, which were once decided by political compromise or by general agreement, or which were perhaps held to be beyond a uniform decision, are now decided in a relatively ideological manner by the Supreme Court.

The greater part of the volume is concerned with the background of judicial review of legislation before the adoption of our Constitution and with the intention of the framers of the Constitution in this area. Two particularly valuable contributions to scholarship in this area are made by this book. There is a very interesting explanation of the role which State courts were intended to have in expounding the Constitution. There is also a carefully systematized explanation of the different types of judicial review. Judicial review of State and Federal law are different. The power of the judiciary to protect its prerogatives, its right to refuse to enforce clearly unconstitutional laws, and its rights to determine in all instances the meaning of the Constitution are three different things. The power on the part of the Supreme Court to refuse to enforce a law is not co-extensive with the power to remove the law from the statute books, and therefore is certainly not the power to forbid the passage of similar laws. Once one has understood these distinctions, he can see how much of the difficulty in constitutional law comes from ignoring them.

Some Liberal scholars argue that it has been proven that the Constitutional Convention intended to establish judicial review and that the question is now closed. Mr. Bozell's very convincing argument that at most an extremely limited review was intended and his careful analysis of the leading studies of this question make it at worst an open question with Mr. Bozell's position almost conclusively proven.

The treatment which this book gives to the history of judicial review in the Colonies is complete in every detail. Much of this deals with cases and stories of unreported cases which have long been accepted by

many as examples of judicial review, without any basis in fact. The general belief that judicial review existed in the Colonies is quite different from the clearly proven conclusion of this book, that there were three extremely dubious cases of

very limited judicial review, one of which may be pure myth, in the Colonies.

No review can do justice to this book. As a study of legal history, certainly not its main purpose, it is essential to all scholars. As an ex-

planation of the behavior of the Warren Court, and of the proper behavior of a Supreme Court, it is so original that it cannot be adequately described in a review, and so convincing that it should be read by everyone concerned about our Constitutional structure.

MACBIRD!

"... irresponsible, seditious and shocking..."

Richard Christiansen,
Chicago Daily News

"... tasteless and irresponsible... defamation of character... outrageous content... blunt irrelevance..."

Walter Kerr,
New York Times

"malicious... off-campus transplant of college humor... slanderous."

Time Magazine

The reviews were enough to make my heart race in anticipation as I pushed my crumpled dollar bill and two copper centered quarters across the table in exchange for a ticket to MacBird.

The Quixote-SDS production of Barbara Garson's play lived up to its reviews. The actors looked and played their roles so well it hardly seemed possible they were recruited from the University community.

Don Lerner as MacBird looks like LBJ and when dashing around stage, bow legged, with kilts and a Texan accent, he is a cartoon caricature of the President. Michael Strong as Robert Ken O'Dunc resembles Bobby Kennedy and speaks with a crisp Boston accent. John Juhl as John Ken O'Dunc and Amy Boyarsky as Lady MacBird also look their parts — JFK and you know who.

Stage facilities in the Agriculture auditorium were far from ideal but imaginative use was made of what was available. A film by Jerry (Green Berets) Berndt and Frank Kashner was integrated into the play. It added to the over-all impact of the performance but was rather heavy handed where subtlety would have been more effective.

The central feature of the plot is the assassination of John Ken O'Dunc and the rise and fall of Mac-

James Blair

Bird. Since the authoress chose Macbeth to pattern her satire on, MacBird and his wife are implicated in the assassination. While this feature has drawn much notice and is the most "controversial" aspect, I view it more as a necessity of plot than a serious suggestion that Lady Bird's ambitions resulted in President Kennedy's death.

Although the play was co-sponsored by the SDS and authoress Garson is a Berkeley "New Leftist" there is much in the biting satire to appeal to Libertarian tastes. Indeed, except for the anti-Viet Nam sentiments, one could imagine the play being well received on the Right. Consider for example this from the "coronation speech" of John Ken O'Dunc:

"Yea, we must be a giant generation,
Geared for glory, seared in sacrifice.

Ask not how you can profit off your country,

But ask what you can give to serve the State.

Ask not how you can make your family prosper,

But ask how you can make your nation great."

If that's not enough to bring a smile to the lips of a conservative, try MacBird's description of his Smooth Society:

"My Smooth Society has room for all;
For each, a house, a car, a family,

A private psychoanalyst, a dog,
And rows of gardens, neatly trimmed and hedged.

This land will be a garden carefully pruned.

We'll lop off any branch that looks too tall,

That seems to grow too lofty or too fast.

And any weed that springs up on our soil,

To choke the plants I've neatly set in rows

Gets plucked up root and all, by me, MacBird —

And this I do for you, my wholesome flowers.

I see a garden blooming undisturbed

Where all the buds are even in their rows.

An ordered garden, sweet with unity,

That is my dream; my Smooth Society."

Foes of Bobby Kennedy everywhere should take delight in Robert Ken O'Dunc's explanation of how the success of his clan in politics is due to the foresight of his father:

"... to Free his sons from paralyzing scruples and temper us for roles of world authority

Our pulpy human hearts were cut away.

And in their place precision apparatus of steel and plastic tubing was inserted.

The sticky, humid good was drained and then a tepid antiseptic brine injected."

Other Shakespearean puns include these:

—Of MacBird:

"He has a fat, yet hungry look. Such men are dangerous"

—The Prophecy:

till burning wood doth come to Washington."

—The Egg of Head's Soliloquy that begins

"to see or not to see? that is the question"

Critics of the Warren Report should find their exchange on the purpose of the investigation amusing:

Earl: Oh, cursed spite that ever I was born to set things right.

MacBird: I don't believe you understand the job. I wouldn't say you're asked to set things Right

I think you get the point.

Earl Oh, whine and pout, that ever I was born to bury doubt.

MacBird: You get the picture now.

Rather than advocating any person or cause, the play is instead a nihilist's delight. But it is the Liberal establishment which provides the target for most of the slings and arrows, which may explain the outrageous condemnation heaped on it by most of the establishment press.

(Blair, continued . . .)

cratic administration, the "approved" or "certified" stamps don't necessarily go to objectively "better" housing (whatever that is). Landlords are usually charged a "certification fee" to cover the cost of administering the program. Soon, paying the fee means being certified, and landlords who don't pay are not certified.

Secondly, consider the student housing market in Madison. Dormitories around the U.W. have vacancies this year, as described in the *Wisconsin State Journal* March 26, 1967, p. 12. The director of student housing is quoted as saying that there are vacancies in the state-owned dormitories, but that the situation is not critical. Many private builders were persuaded by the University to construct large dormitory units like the Regent, Lowell Hall, the Towers, Wisconsin Hall, etc. But these have vacancies while students prefer to live in the relatively cheaper rundown old housing near the campus.

Next, imagine that *you* were director of student housing. How would you be able to solve your problem of empty dorms while students choose to live in off-campus apartments? Why, it's easy. You pass a law that prohibits students from living in "uncertified" housing. They you certify the dorms but not the apartments

You don't have to worry about the students catching on to your plan. Most of the politically active students are rather stupid and don't think things through very well. They won't know what happened until it is too late.

(Lulves, continued . . .)

mately in men; an attack on one is an attack on the other.

With riot and bloodletting yet to come, Burke foresaw that loose talk about rights would deteriorate into anarchic action. Taken in a series Burke's predictions and observations on the upheaval that was to come are striking in their prophetic accuracy.

The usurpation which, in order to subvert ancient institutions has destroyed ancient principles, will hold power by arts similar to those by which it has acquired it. (91) . . . They would soon see, that criminal means once tolerated are soon preferred. . . . Justifying perfidy and murder for public benefit, public benefit would soon become the pretext, and perfidy and murder the end; until rapacity, malice, revenge, and fear more dreadful than revenge, could satiate their insatiable appetites. Such must be the consequences of losing in the splendour of these triumphs of the rights of men, all natural sense of wrong and right. (95) . . . oppression of the minority will extend to far greater numbers, and will be carried on with much greater fury, than can almost ever be apprehended from the dominion of a single scepter. (139) . . . Instead of improving by the change, I apprehend that a long series of years must be told before it can recover in any degree the effects of this philosophic revolution, and before the nation can be replaced on its former footing. (147) . . . see the confiscators begin with bishops, and chapters, and monasteries, but I do not see them end there. (167) . . . I have told you candidly my sentiments. I think they are not likely to alter yours. . . . But hereafter they may be of some use to you, in some future form which your commonwealth may take. In the present it can hardly remain; but before its final settlement it may be obliged to pass, as one of our poets says, 'through great varieties of untried being,' and in all its transmigrations to be purified by fire and blood. (265)

And thus it happened. The mild revolution Paine envisioned was not to be. The dark side of man prevailed and thousands were denied what is indeed a right of man—the right to life. Paine as a reformer was enamoured with a concept of rights set apart from men and from the world as it really is. Burke, on the other hand, was a reformer who believed that rights must be considered in light of man as a creature of both good and evil, and that inherited institutions which have preserved legitimate rights, as finite man can know them, must be reformed carefully, lest the rights disappear along with the institutions.

Perhaps the root difference between the two should be ascribed to temperament. Paine, flawed by impatience, was eager for immediate results and hence welcomed the hot rush of revolution, not foreseeing effects beyond the horizon of the proximate future. A true reformer, Burke professed a caution born of the knowledge that meritorious reform must be the fruit of deliberation, of concern with improving useful existing institutions, of respect for tradition.

And I submit that it is the difference that marks today's conservative and liberal programs.

¹All page references within parentheses are keyed to: *Reflections on the Revolution in France and The Rights of Man*, New York: Dolphin Books, 1961.

²Francis P. Canavan, *The Political Reason of Edmund Burke* (Durham, N.C., 1960), p. 122.

³Canavan, "Burke as a Reformer," *Burke Newsletter*, V (1964), p. 302.

⁴Russell Kirk, *The Conservative Mind* (Chicago, 1953), p. 60.

⁵"Burke as a Reformer," p. 302.
⁶*Political Thought in England* (London, 1955), p. 146.



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hindsights

Wasn't it the free speech crowd causing the furor over General Westmorland's appearance? They maintain this was an attempt by the president to stifle dissent and free speech. How? The General made a speech.

The Wisconsin Y-Dems, minus, apparently, their way-left faction, held their annual convention in Hudson, Wisconsin. Do they have a hotel in that town?

At the sound of the bell, would all of you Evans and Novaks, you party advisors and well wishers — if not party voters — come out of your hiding places and tell us who the G.O.P. should nominate for president in '68.

Arnold Toynbee says that history shall record the U. S. as the aggressor in Vietnam. No doubt it will; no doubt at all.

We are informed that the latest issue of *Connections* has hit the streets — and what better place for it!

The recent referendum, in which students decided to take control of the University of Wisconsin, had as its cry: STUDENT CONTROL OF STUDENT AFFAIRS. Does this mean that the responsible student is free to run his own affairs or that power shifts from the administration czar to the student soviet. It makes a difference.



"... The laws, and the politicians who favor them, are the product of the mass-mind of America, and that mass-mind is the product of the ideas implanted in it long ago and carefully cultured through the years. Unless and until this mass-mind of America is re-educated to freedom, the end product of Socialism is unavoidable. No program based on a policy of immediacy can prevent it.

The Task of those who would stop our descent should not be the changing of laws but the inculcation of values which will make such laws impossible. That is a difficult chore, to be sure, but it is the only one capable of producing the desired result."

From the essay, "For Our Children's Children"

Written in 1949 by Frank Chodorov, Founder and President of the Inter-collegiate Society of Individualists

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