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insight and outlook

in this issue . . .

The Inequity of Equality

James O'Connell
James Blair

He Who Laughs Last

Kenneth Wright

A Few Minor Points

Karl Ziebarth



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CONTENTS:

Aetius	4
The Old Custom	7
John Caravan	8
The Inequity of Equality: I	9
James O'Connell	
The Inequity of Equality: II	11
James Blair	
He Who Laughs Last	14
Kenneth Wright	
Two Years, Four Years	16
Lenore Herriges	
A Few Minor Points	17
Karl Ziebarth	
Smith is a Fool Like Me	18
Richard Wright	
Reviews	21

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In this issue two of our former editors present their views on the reapportionment problem under the title "The Inequity of Equality." Without wanting to devote the entire magazine to any one subject, we still believe this one merits more attention than it has been given, and we have decided to abridge our long-standing editorial rule demanding variety of subject matter among contributions to a single number of I&O. The last time we did this we produced an issue devoted entirely to the power of labor unions, and in our opinion, there is a connection between the two. Both the increased power of the unions, and the court-ordered reapportionment, have this in common, that they represent changes in the underlying political structure of the country without any change in the surface configuration. And this, we think, is a major — is perhaps the major — area for political concern today.

Once again, John Caravan devotes his column to the same kind of things, asking if it is not in fact the case that the realignment of American political parties on liberal-conservative grounds (which was claimed to be an important and beneficial aspect of the campaign of 1964) would not presage the end of the two-party system, either by a multiplication of parties or by the outright victory of one. Our other pseudonymous columnist, Aetius, continues his discussion of education, with remarks on something which is erroneously called academic freedom, and someone called Staughton Lynd.

While rejoicing in the continuity of I&O, which makes it possible for us to have the consistent and informed contributions of this same group of authors year after year, we also believe it necessary to bring new authors in. Last issue Mr. Reynolds and Miss Seilin made their first appearance — this issue it is Miss Herriges and Mr. Ziebarth.

Lyn Herriges presents what may be called the democratic argument against four-year congressional terms. It will be noted that she, like John Caravan, like Messrs. O'Connell and Blair, is talking about the profound change that will take place in the structure of politics under circumstances that would only minimally alter the surface.

Karl Ziebarth, being from the Madisonian's point of view an outlander, deserves some introduction to the readers of I&O. He is a graduate of Yale, where he was Chairman of the Party of the Right, is now the equivalent of a junior partner in the New York brokerage house of Hayden Stone, and has served as campaign manager in two recent New York City campaigns as a Republican and Conservative. It is fair to say he is widely known for his rhetoric, of which this article is a good sample.

The brothers Wright argue two of their favorite subjects — Ken on education, using the example of Durand, Wisconsin, in what we hope will be the beginning of a series on elementary and secondary education, with, of course, special reference to Wisconsin — Dick on Rhodesia, where it must be confessed the editor disagrees with him, and time will show who is right in his interpretation of what is going on there.

Finally, to what is said in "The Old Custom" little can be added here, except perhaps to say that I am told Bob Schuchman's last words were "Something's very wrong," and something indeed is very wrong in a world which has lost him.

—J. C. L.

PIE OUT OF TWIGS

It has been called to my attention (perhaps I should say it has been suggested) that there is a third kind of academic freedom, in addition to the freedom to teach what one wants within the academy, and the freedom of the academy to its own way without outside interference. This third kind of academic freedom, I am told, is the freedom of the individual teacher to express his opinions on matters outside the realm of his special or professional competence. It is the freedom of Staughton Lynd to speak his mind on Viet Nam while visiting Hanoi, or the freedom of Eugene Genovese to desire a victory for the Viet Cong — the freedom, you might unkindly say, for a professor to make an idiot of himself in the market place of ideas, just as a lawyer or a banker or a garage mechanic can make an idiot of himself in the same market place.

Letting pass for the moment the question of whether academic freedom is the right name for this sort of thing (I don't think it is), we ought still to look at the thing itself. Does Staughton Lynd, for example, have the right to stand up in Hanoi and attack the United States — assuming for the moment that this is what he did? There are two questions here: first, whether any citizen of the United States has the right to oppose the policies of the United States, publicly, in the capital city of a country with which the United States is unofficially at war; and, second, whether the employee of a university, who attracts public attention to his opinions because he is so employed, has the untrammelled right to express those opinions, so far as the university is concerned.

Now Mr. Lynd, so far as I am aware, is not a Communist, nor do I particularly care what his political affiliation may be. His published work on the political history of New York in the eighteenth century is in brilliant contrast to the general run of state and local history, and to a considerable amount of general political history as well. So far as I know, his political eccentricities do not noticeably affect his competence as an historian, and this competence is the reason for his being at Yale.

If these eccentricities did affect his work as an historian to such a degree that his value to Yale was largely destroyed, then, barring questions of tenure, it is difficult to see why Yale should continue to employ him. This is not so much a question of academic freedom as of failing to get the goods you bargained for. Let us assume this is not the case here.

Assuming Mr. Lynd is valuable to Yale as a teacher and scholar, or assuming Mr. Genovese is valuable to Rutgers in the same way, is it not the case that what they say carries added weight and acquires added publicity from the fact of what they are? When the village atheist says there is no God, he is in the position of the dog biting the man — it is only when a Bishop makes the same statement that reporters crowd around to see the man and the dog he bit. If the **Daily Worker** attacks the war-mongering United States, that is quite a different thing from Mr. Lynd or Mr. Genovese launching that attack. But if Mr. Lynd were merely a private citizen, and not a Yale professor, how much would the difference be? By whatever amount the difference is decreased, that same amount measures the degree to which Yale is involved, in the public mind, with Mr. Lynd's views.

Doubtless Yale can stand it and balance this public involvement against Mr. Lynd's undoubted brilliance as an historian. But this says something about Yale, and nothing about academic freedom — for the reason, I would claim, that academic freedom (whatever those words mean) is not the point in question. It is a much simpler matter. If a university hires someone as an historian, and finds him to be an historian, even if he is also an agitator, then the position is that of a man contracting to buy apples, and finding when they are delivered that they are still on the branches — but they are apples nonetheless. But if the supposed historian turns out to be an agitator only, and not an historian, then the branches have come without the apples, and to keep the agitator on the faculty is like making pie out of twigs.

—Aetius

Recently, some of Madison's Vietniks appeared on a local radio program called "Party Line" — isn't this carrying coincidence a bit too far?

This was on the same radio station that purveys the top 40 popular songs to the Madison air market. We have heard some of these from time to time, and note they are, for the most part, increasingly a-political. This, we suppose, is all to the good. What we find much more surprising is how old-fashioned a number of them appear to be. We recommend this as a topic for a sociologist needing to write a thesis — and, meanwhile, we like it.

We like also the appearance of a new conservative magazine in Milwaukee — name of RALLY, published by Tim Wheeler, former Managing Editor of I&O (1961-1962), Associate Editor on *National Review* (1962-1965). Recommended.

Not recommended: Johnson's juggling of commerce and agriculture figures to play down inflation. Also not recommended: the inflation itself. Inflation can be caused by at least three things — so we are told — (1) by cheapening money, (2) by increasing costs of production (especially labor costs), (3) by increasing margin of government expenditures over government revenues — and we suppose Johnson deserves credit for making sure that all three are operating today. At least he's thorough.

However, valiant steps are being taken to right our balance of payments, at least. We are shipping millions of dollars to India (among others), but at least Johnson has reduced the number of duty-free bottles of liquor tourists can bring into the country. Now there's a measure worthy of comparison with turning off the lights in the White House.

A kid I know, seeing an old "Draft Goldwater" poster, suggested he be drafted and sent to Viet Nam. But of course, if he were, we might be fighting a war there now.

We are glad to see that some of the more or less responsible leaders of the University of Wisconsin's Student-Faculty Committee to end the War in Viet Nam have attacked the harassment of those whose friends or members of whose family have been killed in Viet Nam. A recent Madison example gives some idea of the tactics used. A girl whose fiancé had been killed in Viet Nam has been subjected to a long series of anonymous phone calls, including one in which a disguised and whispering voice claimed to be her fiancé and asked her to meet him, telling her the place where he would be. She went there and was set upon by a group of screaming Vietniks, one of whom was made up to resemble a badly wounded Marine, and who yelled things like "Your boy-friend got what was coming to him". This practice of persecution has become sufficiently widespread in this town for the Madison police to publish a phone number to be called by those who experience it. And we are told the same is true in other towns.

However, while we are glad the SFCEWVN deplores this, we might find it easier to believe them if they policed their own movement. We were talking to one of the (we suspect) less responsible student members the other day — or maybe he wasn't a member, but he seemed to be demonstrating against the presence of a Nike missile on campus — and he was talking about getting a million demonstrators into the streets to force President Johnson's hand. We note what happened to the four Draft-card burners on the steps of the Boston court-house, and we wonder about the survival rate of those million demonstrators. Maybe the demonstration would have a net beneficial effect after all.

The Army, we understand, won't take criminals in general and juvenile delinquents in particular. But it looks like we'll be able to put them to work fighting in the streets of Madison against the Viet Cong, if not in the streets of Saigon. Still, we would rather like to think this won't happen. We'd rather like to think the SFCEWVN will purge itself. We're not betting on it.

A TIME TO MOURN

Jared Lobdell

To every thing there is a season, and a time to every purpose under the heaven: a time to be born, and a time to die; a time to plant, and a time to pluck up that which is planted; a time to kill, and a time to heal; a time to break down, and a time to build up; a time to weep, and a time to laugh; a time to mourn, and a time to dance.

He was proud of the fact that he was born on Patriot's Day; he liked the outdoors, liked to go hiking (even in the Army, where his good record in boot camp was a source of pleasure to him); and he loved the open spaces of the west. The diversity of American cities — New York, Chicago, San Francisco — he both enjoyed and marvelled at, as he enjoyed and marvelled at the gothic spirit of Yale, the paper mills of Appleton, the Madison lakes, or the Anglo-Spanish heritage of Taos, New Mexico. His name was Robert Martin Schuchman, and, to summarize all this, he was an American. He was also, once, my room-mate, and for a longer time my friend. He died in Chicago, where he was Fellow in Law and Economics at the University, on March 11, 1966, at the age of 27, and though I cannot really believe I will not again listen to those stories he used to tell with such a radiant and innocent joy in the workings of American politics, I suppose it is true.

In other places it will be written that he was the first National Chairman of the Young Americans for Freedom, active in politics in New York and Connecticut as a Conservative and a Republican, once a leader in the Conservative movement at Yale, an editor of the *New Individualist Review*, a writer for that and other periodicals — all the outside part of his life. That was all of it important, and for it he will be missed. But I shall miss him more for other things. I shall miss the adventurer who would argue with the Communists in Union Square, who en-

livened Conservative meetings at Yale by teaching those present the words to "O My Darling Party Line," who never let the fact that he was engaged in what he took to be a sacred struggle for American liberty interfere with his perception that there was fun in every minute of it.

It is hard to think of that flow of anecdote and conversation being stilled. In those endless debates that Conservatives have, he came down for the most part on the libertarian side, because he was an individualist and even originally an anarchist — but all this suggests a quality of philosophical detachment that was not really his. He cared about it all, cared greatly, but he cared also for the names he naively dropped (the talk with Otto von Habsburg, the tea with Mrs. Young-Hunter at Taos), for the traditions of European conservatism which he admired without emulating — he took delight, indeed, in the very existence of tradition — and for his Bronx background, the streets of Parkchester, Bronx High School of Science, and especially his parents, his sister, his brother-in-law (whose name, he observed, was the same as Blackbeard's), and their children.

He was an accomplished mimic (especially of Democrats, but also of the late Senator McCarthy), a raconteur, and he could, I suppose, have been a demagogue if he had taken himself sufficiently seriously. He told wonderful stories of the places he had been — the Maritime Provinces were a particular favorite — in short, he was a great talker, about himself and about

others. I recall his story about the right-wing nut-group that labelled him one of the four most dangerous men in America, because he pretended to be a Conservative, while all the time he was actually a Jew. He was proud of being both.

Unathletic, and in some ways out of the current of modern life (I am not aware that he ever learned how to drive), he loved with a certain passion, and in good humor, the great solid block of the past. He loved the present also — television especially: I recall he had (not seriously) a theory that "The Saint" was designed as campaign propaganda for John Lindsay, whom he believed the lead actor resembled.

With his death, something goes out of the Conservative movement — something you might call a wide-eyed appreciation of life itself. There are more accomplished writers, and more profound philosophers I suppose, but few, if any, others with his capacity for innocent merriment (the phrase, from Gilbert and Sullivan, would because of that have pleased him — he never missed a performance if he could help it). It was not that he thought politics or life a joke: it was rather that he knew some things are so serious they must be treated lightly.

If we would do him honor, it should be done by remembering how he enjoyed life, practicing that enjoyment ourselves, not by mourning. And may the earth he lightly trod lie light upon his grave.

Our pseudonymous columnist wonders whether the Liberal-Conservative demarcation will produce the Third Reich or the Fourth Republic.

A political party without principle, someone once said, is a mere conspiracy to hold power. With this in mind, many conservatives wish openly that liberals would quit the G.O.P.. We have as much dispute with them as we do with any Democrat, so, it is asked, why aren't they in their own party? Since liberals in the Democrat Party often wish the same of that party's conservative faction, why don't we so demarcate, and conduct our ideological dispute from the political party vantage point?

The trend is definitely toward this conservative — liberal polarization of the parties. It is a natural process, which probably would have occurred earlier had there been ideological differences on major issues. It has, after all, been only in the last few decades that the social-democracy premises have been in serious contention for the favor of the American electorate. F.D.R. and the depression brought many liberals of this persuasion to national prominence. Yet, not until the concerted activity of the A.D.A. took place in the early '50's did liberals assume a truly predominant position in the Democrat Party. In the G.O.P., the Draft Goldwater movement previous to 1964 revealed the new found numbers of conservatives in that party. Its rank and file remains overwhelmingly conservative.

The more the divergence becomes visible, the more young conservatives will choose membership in the G.O.P., and their liberal adversaries, the Democrats. Notice that the junior groups of each party are today remarkably solid in their respective conservative or liberal views. Add to this the building of a Republican organization in the South almost completely upon conservative ideology (as opposed to many liberal-segregationists in the

other party), and the idealist's dream of conservative and liberal parties is close to realization. Only the horrible possibility of a one party America seems in its path.

But, come to think of it, even that may be better than ideologically based party structures! Who among us has thought of what the liberal-conservative party demarcation would do to America? No, it is easier to wish for a simple, soul satisfying battle to the death. A responsible attitude calls for further thought on the matter.

Of immediate concern, I must say that it would sound the death knell of conservatism. It would be like the American Indians challenging the U.S. Army to resettle that dispute of old. And I doubt as to whether the liberals would be as lenient with those of us who remained after battle. An establishment does exist as our major adversary. It reaches beyond the government into all imaginable social institutions. The day this powerful "in group" identifies the conservative challenge as the Republican Party itself, is the day its entire force will be marshalled to pound deeper into the heart of the G.O.P. the stake they planted in 1964. To be realistic, therefore, conservatives must maintain the protective umbrella of the G.O.P.'s middle of the mush image. As much as I hate John Lindsay calling himself Republican, he is actually doing conservatives a favor.

Surely one remarkable facet of American politics has been the inability of radicals to ferment revolution in our midst. One reason for this must be that only recognized leaders are able to incite laymen to violence on the behalf of an idea. Such rabble-rousing has seldom occurred here, as I would say, one result of the non-philosophical basis of our parties. How? American

leaders are, generally, party men; their tradition of compromise is greatly facilitated by the fact that each does not recognize the other party organization to be an instrument of a diametrically opposed ideology. Were the Democrat Party a socialist organ in its entirety, and the Republican Party one of traditional free government, the two would not find compromise easy. They would diverge. Arguments would become clashes. And eventually, Heaven help us, one side or the other may see violence as the only path to victory.

However, if this diverging trend continues, the United States probably will not survive long enough to reach the point of civil war. This is because of another consequence, of a liberal-conservative split, the rise of factionalism. Neither the liberal nor conservative parties could convince any large percentage of Americans of the entire worth of its program. But, at the same time, it would seem the usual tendency of an ideological party to solidify rather than broaden its ideas — as witness that very process paralleling the splitting of the two parties today.

Thus, polarization would seem to result in solidification, which in turn would repulse the non-conforming. One would expect the ultimate rise of third party movements to accommodate this detached group. Factionalism, as in France, can be the only result of such movements.

These are probable consequences. When such a basic instrument as the two party system has worked so well in the past, we ought to be concerned when a basic alteration in that system threatens. Conservatives are not, after all, immune from that virus of rashness which has so deeply infected the liberal mind.

Our former Executive Editor considers the "one man, one vote" doctrine and comes away wondering what the one vote is worth.

"One man, one vote." The idea, like all slogans, is appealing; it strikes responsive chords in the hearts of those who cherish the ideals of democracy, and exhorts the reformer hidden in all of us. Only free the legislatures from the domination of interests — whatever those interests may be — and the New Jerusalem will arrive. But, before we march off, pencil in hand, to redraw the district maps, some analysis is required.

We begin by noting that our slogan has two interpretations. The narrowest one suggests that, if a house of a legislature is apportioned by population, then the districts should be approximately equal in size. The broader interpretation, which found expression in *Scholle v. Hare, Secretary of State of Michigan, et. al.*¹, holds that no other factor except population may be used in apportioning seats in either house of a state legislature.² It is this latter interpretation which many find disturbing.

But, we ask, why shouldn't both houses of a legislature be forced to apportion their seats by population? Those favoring population apportionment often cite the California senate, which is apportioned on a population-county basis — no more than one seat to any county, and no more than three counties to any district.³ The late Charles Brown, of Shoshone, California, represented the three least populous counties — Inyo, Mono and Alpine — and, according to one estimate,⁴ one vote in these counties was worth three hundred city votes. The question which was not put, however, was this: did the senator use his power in some way to deprive the urban voter of his rights?

A recent article in the *Saturday Evening Post* dealt with conditions in Inyo county. Despite the supposed disparity of power, medical

service is at a premium, roads — including the Charles Brown Highway — are poor, and resentment against the unconcern of urban California is high. According to the article, this resentment stretches back to the beginnings of this century. The article notes:⁵

At the turn of the century, western Inyo, in the shadow of the Sierra, was lush farmland, nourished by the waters of the Owens River. Then, in a giant water swindle engineered by Los Angeles land speculators, the river waters were siphoned off and diverted south to the then parched San Fernando Valley, where land prices soared and the speculators made a hundred-million-dollar killing by selling off tracts they had previously bought at rock-bottom prices. Their acres withering, Inyo farmers banded together in vigilante groups and nine times blew up the aqueduct south into Los Angeles county. Beaten but still proud, they fired their last salvo in the spring of 1927 with a full-page advertisement in the Los Angeles papers which began, "We, the farming communities of Owens Valley, being about to die, salute you."

Is this what we have been led to believe is rural dominance? Or is the picture painted by Noel Perin⁶ more to the point? Is urban America, "Like a very large David standing over a very small Goliath" celebrating its dominance over rural America? Are the fears of those who cry out about "area-crats" justifiable? Even more pertinent, is the urban resident, in some way, being deprived of equal protection under the laws, guaranteed by the Fourteenth Amendment?

The views of those who favor apportionment on population only are oversimplified in this matter. Despite the cries of "rural domination," the rural legislators are no more united on one issue than the representatives from the more popular areas. Party loyalties, personal grudges, temporary alliances all work to dilute the charges of rural monoliths overawing our legisla-

tures. There is far more likely to be temporary alliances between city representatives — usually on issues affecting the cities as a whole — which override the rural dominance.

In fact, it could be argued that the "one man, one vote" theory would misrepresent the people, rather than improve their representation. In the dissent to *Reynolds et. al. v. Sims et. al.*⁷, Justice Harlan takes notice of other bases for representation: historical, economic interest, effectiveness of representation and availability of access to representatives, balance between urban and rural power and even area and geographical considerations. He goes on to note:⁸

That legislators represent people rather than areas or economic interest may be conceded. But it is surely equally obvious, and, in the context of elections, more meaningful to note that people are not ciphers and that legislators can represent their electors only by speaking for their interests—economic, political and social—many of which do reflect the place where the electors live. The Court does not establish, or indeed even attempt to make a case for the proposition that conflicting interests within the State can only be adjusted by disregarding them when voters are grouped together for purposes of representation.

H. L. Mencken commented, with a certain acidity, on the "justice" of it all. "The vote of a malarious peasant on the lower Eastern Shore (of Maryland) counts as much as the votes of twelve Baltimoreans. But that can't last. It is not only unjust and undemocratic; it is absurd."⁹ One could well smile, remembering Mencken's apathy toward democracy. His bile stemmed more from his well-documented dislike of rural legislators who, he was convinced, were behind such laws as Prohibition and the Tennessee anti-evolution act.

Would the Eastern Shore of Maryland be able to survive if the

state were redistricted on a strict population basis? The interests of individuals in thinly-populated areas might not be served as well if the man representing them was forced to spread himself over a larger area in order to have equal population — or nearly equal population — in each district. If we are seeking justice in this case, it would seem that the unequal apportionment, which gives some voice to factors other than straight population, carries more justice than any scheme for equality.

Those who favor population-based reapportionment may agree. There may be some merit in considering factors other than population in forming districts; nevertheless, the Constitution forbids such drawing. It runs counter to the "equal protection" clause of the Fourteenth Amendment. Only population apportionment is constitutional.

The position of the majority in the Court decisions was that, under the equal protection clause, the plaintiffs had shown that there was discrimination. The Court held that "Overweighting and overvaluing of the votes of those living here has the certain effect of dilution and underevaluation of the votes of those living there. The resulting discrimination against those voters living in disfavored areas is easily demonstrable mathematically."¹⁰ The Court dismissed the contention that factors other than population were also valid.¹¹

Logically, in a society grounded on representative government, it would seem reasonable that a majority of the people of a state could elect a majority of the state's legislators. To conclude differently, and to sanction minority control of state legislative bodies, would appear to deny majority rights in a way that far surpasses any possible denial of minority rights that might otherwise be thought to result. Since legislatures are responsible for enacting laws by which all citizens are to be governed, they should be bodies which are collectively responsible to the popular will. And the concept of equal protection has been traditionally viewed as requiring the uniform treatment of persons standing in the same relation to the governmental action questioned or challenged. With respect

to the allocation of legislative representation, all voters, as citizens of a state, stand in the same relation regardless of where they live. Any suggested criteria for the differentiation of citizens are insufficient to justify any discrimination, as to the weight of their votes, unless relevant to the permissible purposes of legislative apportionment. Since the achieving of fair and effective representation of all citizens is concededly the basic aim of legislative apportionment, we conclude that the equal protection clause guarantees the opportunity for equal participation by all voters in the election of state legislators. Diluting the weight of votes because of place of residence impairs basic constitutional rights under the Fourteenth Amendment just as much as invidious discriminations based on such factors as race or economic status (Citations omitted). Our constitutional system amply provides for the protection of minorities by means other than giving them majority control of state legislatures.

On the other hand, Justice Harlan argues in his dissent:¹²

The Court's constitutional discussion . . . is remarkable . . . for its failure to address itself at all to the Fourteenth Amendment as a whole or to the legislative history of the Amendment pertinent to the matter at hand. Stripped of aphorisms, the Court's argument boils down to the assertion that petitioners' right to vote had been invidiously "debased" or "diluted" by systems of apportionment which entitle them to vote for fewer legislators than other voters, an assertion which is tied to the equal protection clause by the constitutionally frail tautology that "equal" means "equal."

Had the Court paused to probe more deeply into the matter, it would have found that the equal protection clause was never intended to inhibit the states in choosing any democratic method they pleased in the apportionment of their legislatures. This is shown by the language of the Fourteenth Amendment taken as a whole, by the understanding of those who proposed and ratified it, and by the political practices of the states at the time the Amendment was adopted. It is confirmed by numerous state and congressional actions since the adoption of the Fourteenth Amendment, and by the common understanding of the Amendment as evidenced by subsequent constitutional amendments and decisions of this Court before *Baker vs. Carr*, *supra*, made an abrupt break with the past in 1962.

The failure of the Court to consider any of these matters cannot be excused or explained by any concept of "developing" constitutionalism. It is mean-

ingless to speak of constitutional "development" when both the language and the history of the controlling provisions of the Constitution are wholly ignored. Since it can, I think, be shown beyond doubt that state legislative apportionments, as such, are wholly free of constitutional limitations, save such as may be imposed by the Republican Form of Government clause (Constitution, Art. IV, Sec. 4), the Court's action in now bringing them under the purview of the Fourteenth Amendment amounts to nothing less than an exercise of the amending power by this Court.

These are the arguments. It can be argued that Justice Harlan's contentions are correct, and the Court reasoned wrongly in these cases. If the historical meaning of the Fourteenth Amendment, as developed by precedent, is as the Justice notes, then the Court has violated precedent and, in effect, amended the Constitution.

From the very beginnings of the United States, the opposite position on "weighted" voting was allowed to exist. Thus, a Senator from Nevada has a vote equal to that of a Senator from New York or California. On the other hand, both the House of Representatives and the Electoral College are weighted in favor of population. The principles followed at the Constitutional Convention were not either for or against representation by population, but for intelligent compromise. The smaller states had their rights protected by the "non-democratic" makeup of the Senate; the larger states had their interests represented by the popular based house.

In the discussions of representation found in the *Federalist Papers*, Madison indicates nowhere that each representative should represent an equal number of people. Indeed, while he takes note of the *proportional* representation of every district (i.e., popular representation) of a purely national form of government, he notes also the *equal* representation of a compact of states (as in the United Nations), and suggests that, in as much as the United States are a blend of both forms, a bicameral

form of government, using both forms in different houses, was ideal.¹³

By analogy, similar arguments can be applied to the states. Very few states are uniform in character throughout; there are differing interests in each part. In a sense, the state is made up of these smaller districts — usually counties — and it can be argued that one house ought to be apportioned by factors which take such differences into account. It could be argued, in the California situation which was discussed above, that a population-based representation would go far to deprive the people of Inyo County of their rights under the law, by “diluting” their representation in the California Senate.

Finally, what of the thorny question of States Rights? The only power, according to the Constitution, that the Federal Government has over the states is the one of guaranteeing the republican form of government within that state,

and, if requested, of intervening to protect civil order. Otherwise, the Tenth Amendment leaves other powers in the hands of the State. Over the years, the courts have held, and rightly, that the federal government might also intervene under the Fourteenth Amendment to prevent racial discrimination. However, even now the Federal government has gone beyond its bounds; it not only forbids discrimination on the basis of color, but on any standard, such as literacy, which might tend to have such an effect.

There has been some concern for the continued centralization of power; *National Review*, which is, of course, “frankly conservative,” sees the onset of the total state,¹⁴ and Raymond Moley, formerly a member of Roosevelt’s New Deal, and now considered a “conservative,” offers some sober dissents as well.¹⁵ Despite the smug assertions of Martin Landau,¹⁶ the principle of Federalism is not dead or

useless; it is and will continue to be a necessary system for a country as varied as our own. The principle of “one man, one vote” which is offered in its stead will not correct imaginary inequalities, or, for that matter, real ones; it will create newer and more vicious imbalances, in fact, the very ones feared by the Founders of the Constitution.

FOOTNOTES

1. 369 U. S. 429
2. *Congressional Quarterly Weekly Report*, XX No. 31, pp. 1302-09
3. Richard Lee Strout, “The Next Election is Already Rigged”, *Harper’s*, CCIX, 35-40
4. *Ibid.* p. 36
5. John G. Dunne, “The Embattled Nurse of Jackrabbit Flats”, *Saturday Evening Post*, v. 238, No. 23, pp. 42-57
6. Noel Perrin, “In Defense of Country Votes”, *Yale Review*, LII, 16-24
7. 377 U. S. 533, pp. 622-623
8. *Ibid.* pp. 623-624
9. Mencken, *A Carnival of Buncombe*, p. 160, 1956 ed.
10. *Reynolds et. al. v. Sims et. al.*, 377 U. S. 533, p. 563
11. *Ibid.* p. 565-566
12. *Ibid.* p. 590-591
13. *Federalist*, No. 62
14. *National Review*, XVII, 234-235
15. Raymond Moley, “A Great Dissent”, *Newsweek*, LIX, 116
16. Martin Landau, “Baker v. Carr and the Ghost of Federalism” in Glendon Schubert, ed. *Reapportionment*, New York 1965, p. 241

THE INEQUITY OF EQUALITY: II

James Blair

Another former editor wonders why we cannot say, “Earl Warren has made his decision; now let him enforce it” — or can we?

In *Baker v. Carr* (March, 1962) U. S. Supreme Court broke from its policy of avoiding the “political thicket” of the apportionment of voting districts. The Court implied that the “equal protection” clause of the 14th Assembly demands equality of population in State districts, at least in the State of Tennessee which was involved. Assembly districts in Tennessee were

supposed to be apportioned by population but were badly in need of reapportionment owing to changes in the population distribution since 1901, the date of the last reapportionment. Even though there are serious problems associated with judicial involvement in the redistricting process, a case can be made for the court decision in *Baker v. Carr*. Not that the court

was necessarily right, in my judgment, but there are good reasons for the decision.

Continuing deeper into the “political thicket” the court, in *Wesberry v. Sanders* (February, 1964) invalidated Georgia’s congressional districts on the grounds of population inequality. Again the districts should have been equal in population, but they were not. A case can

be made for this decision. But since many states are now finding themselves being reapportioned by three-judge federal panels, or have had to run all members of their State Assemblies at large, as happened to Illinois in 1964, the objections to judicial reapportionment should be explained.

In a given State, there will be many possible ways to divide legislative districts. Several possible systems of districting will exist which will produce districts of almost equal population but which will more or less give Party A a definite advantage in the election of representatives, while several other districting schemes, also producing equal population districts, will give Party B the advantage. This fact has been well known to politicians from antiquity. The ancient and honorable art of drawing legislative districts which are perfectly fair, but which will insure your party's victory at the polls, is called Gerrymandering — after an early practitioner, Massachusetts Governor Elbridge Gerry. Most State governors and legislators range from fair to expert in their skill at this craft.

In the normal process of redistricting, a plan is drawn by the legislature but subject to a veto by the governor. When legislative districts are badly out of proportion (i.e., districts grossly unequal in population) it is likely that the governor, who is elected at large, will be of the opposite party from the legislative majority. Thus any plan agreeable to both governor and legislature will probably not be too unfair to either political party.

When federal judges draw up legislative districts, however, there is no such mechanism to check their Gerrymandering. Since most judges are not experienced at this particular skill, the results will probably be crude.

Readers who object that judges should be above party politics of this kind need only compute the percentage of Democrats appointed as federal judges by Democratic presidents and Republicans ap-

pointed by Republican presidents (a lower percentage). The sad truth is that federal judges are political appointments. This situation is recognized by many as a serious fault, and John Kennedy before he took office intended to correct it. He promised to pick each federal judge not by "his political party, but his qualifications for the office." But political pressures are heavy on a President — JFK appointed 95 federal judges before he came across a Republican that was "qualified for the office." Who still has illusions about a "non-partisan" federal judiciary?

Thus in the cases cited so far, where it is clear from state or federal law that the districts involved should be equal in population, the question boils down to who should do the Gerrymandering. A legislative, subject to the veto of a governor likely to be of the opposite party? Or a three-judge federal panel all of the same party, or at least two-to-one for Party A?

But in June 1964 the court came out with a radically different kind of decision when in *Reynolds v. Sims* it ruled that both houses of state legislature must be apportioned according to population equality. Again the basis was the "equal protection" clause, and the ruling said in effect that the United States Constitution prohibits any state from patterning its government on the United States government! This means in practical terms that almost every state in the Union has a government which is illegal according to the U.S. Constitution, and has been illegal since the 14th Amendment was proclaimed in force in 1868. No one knew this, not even those who wrote the 14th Amendment — it was not discovered until June of 1964.

A further implication of *Reynolds v. Sims* is that the United States Senate is unconstitutional. How can one claim that citizen is denied the "equal protection" of the law when he is under-represented in his state senate, but not when he is under-represented in the United States Senate?

The decision represents such a radical departure from the traditional American concept of government that limitations of space require my sketching only a few of the arguments against it. "Equal protection" is not identical to "equal representation" except to Supreme Court Justices and those who have trouble reading a dictionary. No discussion connected with the writing or passage of the 14th Amendment even hinted that its authors intended to invalidate the concept of geographic representation, and with it every state government at the time.

There are in fact very good reasons for the existence of a two house legislative system with only one house based on population, one on geography, and each having a check on the other. The people who founded our Republic were neither stupid nor naive. They realized the dangers in unchecked majority rule, and the government they founded has been far more successful than other Republics with less check on majoritarianism.

Many states are now faced with some of the problems of unchecked majoritarianism for the first time and the consequences may be serious. California is but one example. Northern California has the water, Southern California the people. The state has been able to exist only because the geographically based State Senate has held a veto over the population based Assembly. Given strict majority rule, the people of California would probably vote to strip Northern California of its water, leaving San Francisco and the vineyard regions to dry up into a desert. Since the one-man one-vote rule of *Reynolds v. Sims* California faces this prospect, and is now seriously considering dividing into two States — North and South along the Tehachapi Mountains.

Thus, rather than increasing the effectiveness of state government, as population based reapportionment is intended to do, it may well uncover latent conflicts which will destroy or fragment the states.

If both houses must be appor-

tioned on exactly the same basis, as the court now demands, what is the purpose of two houses? What is being demanded by the court is a scrapping of the American concept of government in favor of the European form of a one house Chamber of Deputies. But who would claim that European Democracy has been more successful than the American version? Who would trade our form of government for that of Revolutionary France, or Germany of the Weimar Republic? Yet that is in effect what the Supreme Court is telling us to do.

But the real question involved is not the relative merits of representation according to population and geography as against representation based on population alone. Whatever the relative advantages of German or French Democracy over our own, the real issue here is this: can such a fundamental change in our form of government be decreed by a nine-man appointed court? One would expect that a constitutional amendment, at the very least, would be required. While the earlier apportionment decisions attempted to enforce the laws as they exist, *Reynolds v. Sims* is an effort to initiate a different form of government.

Under the system of checks and balances established in the United States Constitution there are in effect four different interest groups, each of which has a part of veto power over any new legislation:

- an executive branch with a popularly elected president
- the people through a population based House of Representatives
- the several states through a Senate with equal representation for each state
- an independent judiciary through the Supreme Court.

The idea was that each should be able to veto legislation, but none could put new laws into effect alone. The danger of a collapse of this system comes about when the Supreme Court strays from its function. It can and should veto any new law that its judges feel to be

in violation of the constitution. But if the court initiates new laws it becomes a sort of nine man appointed junta.

I think the primary reason for *Reynolds v. Sims* and other recent attempts by the court to usurp the legislative function is this: while the Supreme Court was intended as a judicial body to be composed of experienced judges, trained to think in terms of interpreting and enforcing existing laws, since the 1930s men have been appointed who have little or no judicial experience. Political appointments have resulted in Supreme Court "judges" who are in effect frustrated legislators, state governors, or political theorists. Consider these recent appointments:

- Justice Black: appointed by President Roosevelt in 1937, had only eighteen months experience as a police court magistrate. He was a former U. S. Senator from Alabama.

- Justice Douglas: appointed in 1939 by F.D.R., had no previous experience as a judge, was an attorney.

- Justice Frankfurter: appointed in 1939 by F.D.R., had no judicial experience of any kind.

- Chief Justice Warren: appointed by President Eisenhower in 1953, had no experience as a judge. He was a former governor of California.

- Justice White: appointed in 1962 by President Kennedy, had no judicial experience.

- Justice Fortas: appointed by President Johnson, had no judicial experience.

In March, 1963 Senator Stennis pointed out that the total prior judicial experience of the nine Justices then on the Supreme Court was only 14 years. Six of the judges had no previous experience. During the 110 years from 1790 to 1900 there were 58 Supreme Court Judges appointed—all but 19 had previous judicial experience. But from 1932 until March of 1963, Justices appointed without prior experience outnumbered those with experience by 12 to 8.

No system of government is so good that it can operate successfully when staffed by unskilled, untrained, inexperienced people. It should not be surprising that the judicial function is being lost under such circumstances. And when the judge is trained to think in terms not of interpreting the law to enforce the intent of the legislature, but rather in terms of twisting words to enforce his own ideas, he is no longer a judge.

Senator Dirksen (R-Ill.) has started a rather pathetic attempt to amend the constitution to make it say what it already says—namely that state governments can be patterned on the federal government. But the amending process is such that it is not possible to offset Supreme Court alterations of the Constitution through amendments as fast as the court can think new alterations up. A five man court majority can change the Constitution in one day and many years are required to restore the original meaning—and even then the court can simply refuse to comply.

But there is, I suggest, a solution to the situation. A sort of Constitutional Civil Disobedience. Remember Andrew Jackson's famous statement concerning a decision of the court that Jackson felt to be unconstitutional. "John Marshall has made his decision: now let him enforce it."

What would happen if a state, faced with a court demand to abolish its geographically based State Senate, refused to comply and insisted that it had no constitutional obligation to do so? How can the Supreme Court enforce its decree? It cannot without enlisting the aid of the president or of congress. This would at least give the other branches of government an opportunity to express their view of the constitutionality of geographic representation in one house of a state legislature. The Supreme Court would be unable to change the meaning of the constitution unilaterally—which is the way things were meant to be.

Which state has the courage to force the test?

The President of the Conservative Club has a few well-founded remarks on what's wrong with elementary education, and an answer that involves building little red Schoolhouses-in-the-round. All on a local level.

Laughter can be a serious problem. In fact, it could be the indirect cause of a great number of problems facing us today.

The laughter I wish to designate is not the kind you would hear at a Peter Sellers movie; nor would you find it among good friends. I speak of a laughter directed at an entire occupational field. The truly tragic part of this taunting laughter is that many of those being laughed at laugh along instead of realizing the importance of their occupation and living — no laughing — up to it.

Laughter has indeed nearly choked elementary education to death, especially in the lower grades.

Many people doubt the importance of the first through third grades when in fact they are probably the most important. I was talking to a ninth-grade teacher at Lincoln Junior High in Madison, Wisconsin. She put aside my doubts I had as to the importance of the lower grades by telling me about her three ninth grade sections; the best had an average reading level of seventh grade, the other two had as many as half reading at the third grade level. This situation makes it impossible to read the English novels prescribed by the Madison School Board let alone the normal ninth grade courses in science and citizenship.

The Lincoln school ninth grade teacher pointed to the inabilities of her students as stemming from lack of proper instruction and inadequate facilities in grades one through three. Had they gained the fundamentals then, they would have been able to progress instead of struggling with fourth, fifth, and sixth grade work.

The first three grades affect a person's entire life; if the basics are not learned in those grades then he either lags behind the rest of his life or catches up by spending time which might otherwise have been used in going ahead. Either way he is behind.

The vexing problem of this ninth grade class might have been avoided. But laughter was making that improbable. This laughter is that encountered by prospective elementary teachers; it can be of numerous forms from subtle chuckles to roaring snorts.

These two extremes have often been demonstrated to a close friend of mine. He has been dating a girl who plans to teach in one of the first three grades. When he tells this to his acquaintances, they either ask whether or not she plans to teach if they get married — subtle chuckles — or if she flunked out of a two year college and decided to try something easier like elementary education — roaring snorts. The requirements for becoming a first grade teacher seem to be that you must be a girl who is either looking for a husband and in the meantime will learn to teach because she doesn't expect to graduate before marriage anyway, or that she be too dumb to go into any other field — or both.

The laughter has its effect. People begin to think that elementary education is not an important or respectable occupation for anyone who doesn't wish to find a husband before graduation or has high intellect. Thus, men and intelligent women are often discouraged from entering the field. The laughter has made many pass over the possibility that elementary education is not only respectable, but perhaps one of the most important, most

respectable occupations a person could have.

Yet the laughter persists and our educational system suffers, as do its students from the first to the 'n'th grade.

Many educators, private individuals, government personnel, and students have been recognizing the problems facing our higher educational systems. Educators often complain that the college freshman's main lacking quality is that of being able to think for himself. (Perhaps it is mere coincidence, but employers in most fields have the same complaint about many newly hired college graduates.)

Although, many people have recognized the problems that face education, at least on the surface, few have found solutions. The astonishing aspect of the solutions presented thus far is that nearly all go to the junior or senior high schools and colleges for the cure.

Experimental colleges where grade points are non-existent and entire courses never require a paper or examination have had their minor successes. A few high schools now have the latest equipment for the classroom and the most expensive gymnasium; they have found team teaching helpful to students.

But most of these programs are still scarce and those that have been started are often aimed at the special students only. The great majority of students never use the special educational methods.

The reason for this seems rather obvious; yet many educators have missed it: most communities can not afford the required facilities for the new method and those that can have few students capable of using them. Perhaps educators have recognized this but have not

taken the next logical step — making more than a few ready for the new methods and finding a way to finance the necessary facilities. As far as preparing more students, I suppose you could start in the junior high. But then you would have the problem of preparing the grade schoolers for the advanced junior high. Eventually you will come right back to the first through third grades — as the place to start curing the educational system.

Some of the more far-sighted educators of today advocate such a curing process of starting at the base and working up. One of these persons, Mr. Gordon Heuer, Superintendent of Schools at Durand, Wisconsin, expressed his feelings this way:

educational system has long been neglected. I firmly believe that in order to build a good structure, whether it be physical or mental, a firm and well established *foundation* should precede all other things. Hence, my dander rises, when I head educators talking of something that should be done starting with the eleventh grade and working *down* to the first. I firmly feel that the best teaching should be done at the kindergarten through grade three levels, in order to provide the future high school and college student with more than an adequate grasp on the skills he must use when he reaches the high school or college level."

It is a great asset to a community to have a superintendent of schools such as Mr. Heuer. It is a great asset to Mr. Heuer to have a community that will back up his ideas with active support. Although Durand has been somewhat grudging in granting this support, on December 7, 1965, the community passed a referendum which will allow a great many of the Durand School Board's ideas, under the direction of Mr. Heuer, to be put into action. The referendum could well make December 7, 1965, as historic for Durand as was the same day twenty-four years earlier; the referendum to build a new grade school could have more effect on the community than did all the bombs dropped on Pearl Harbor. Neither were considered laughing matters.

Durand's new school will solve both the financial and the new educational methods problems.

The financial situation was solved by an architect. When sent the listing of required facilities at a reasonable price, he sent back the blueprints of a round school. It is a very feasible design, both economically and in terms of proper atmosphere.

The cost of the round school is much less than the cost of the conventional rectangular one for the same amount of usable floor space. The reduction in cost comes greatly from the elimination of hallways — wasted space in most schools. With a library and visual aids area in the center surrounded by classrooms, each having a door to the library, the need of hallways to get from classroom to classroom is removed. The design also creates a desired atmosphere of the library being the center of activity; it will make it a little more inducing for the young minds to use the many books available.

The fact that the books are available is a major accomplishment in itself. A normal grade school library will be a four foot long, three shelved affair at the back of the room. Not in Durand. This town of about 2,100 people will be giving their youngsters the advantages of facilities of which few high schools could boast — and all this will be done at no extra cost because of the economical round plan.

The library and the visual aids are part of a workable philosophy of education. For Durand that philosophy has come from Mr. Heuer. He states it this way:

"... I believe that the role of the teacher has changed since the days of Oliver Goldsmith [who] wrote, "The Deserted Village." There ... the little school master was a marvel because of the information he contained in his small head, that was apparently to be dished out in small portions day by day to be remembered by his charges. My concept of a teacher is that of a leader who will motivate and stimulate the student to progress as far as the student's mental ability will allow him on his own volition. It would appear

then, Johnny might progress more rapidly than Suzy, and it would also appear that Johnny's progress in one academic field might be more rapid or perhaps slower than in another academic field. This in turn would call for an ungraded situation in the lower grades, or at least a "Morrison technique" type of progress therein."

The books in Durand, as well as the modern methods of team teaching and visual aids, stem from a deep belief that elementary education needs strengthening. The improvement of teachers' qualifications and proper facilities allowing each teacher to use his talents to the utmost are a part of that belief. You can rest assured that few in Durand are laughing at elementary education. You can expect a warning to be printed in the Durand weekly newspaper soon. It will read: Warning to all children. This city is going to give you the best educational opportunities it can afford. If you wish to not learn, you'll have to work hard at it.

School boards, Mayors, Senators, Citizens . . . Take note.

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A new contributor wonders why we are trying to remove Congress from the control of the people.

In his contribution to *The Federalist Papers* James Madison wrote that "it is essential to liberty that the government in general should have a common interest with the people" and the House of Representatives specifically "should have an immediate dependence on, and an intimate sympathy with, the people." The House was meant to represent the people; the Senate was meant to represent the states.

Logically, therefore, he concluded that "frequent elections are unquestionably the only policy by which this dependence and sympathy can be effectually secured."

At first blush, the proposition to amend representatives' terms to four years and elect half the House every two years seems to allow the benefit of frequent consultation with the public while providing the convenience and security of four year terms. However, this will elect half the House on the President's coat-tails, thereby thwarting the checking power of the legislative branch on the executive.

But the great danger of lengthened four year terms is inherent in any mechanical arrangement of their sequence. If it is true that men's passions are timeless, then Madison's maxim "the greater the power is, the shorter ought to be its duration; and conversely, the smaller the power, the more safely may its duration be protracted" is as valid today as when he observed it.

The great power of the House, of course, is the exclusive control of the Federal Government's purse strings and the sole power of impeachment. Though a single Congress could subvert the trust of the people on particular money matters, two year terms prevent the possibility of a second occurrence.

And as the population of voters grows annually at a fantastically

increasing rate, the prevailing will of the people changes more rapidly than before. Estimates are that by 1970, fifty per cent of the population will be twenty-five years old or younger.

If the term of representatives were amended to four years beginning in 1972, as has been suggested, the representatives elected in that year would not be representative of the thousands of voters who come of age in 1973 and 1974 until 1976. Over 7.5 million babies born in 1952 and 1953 would not be able to pass on these representatives until 1976 when they are 23 and 24 years old.

Furthermore, the new voters will be better educated than their fathers; their children will be better educated than they. And if a chief goal of improved American education is increased interest and participation in government, it is self-defeating to imagine these future voters will not desire the expression afforded by frequent elections of all their representatives.

Arguments in favor of four year terms for representatives hardly seem to warrant the danger of making changes that take power from the electorate.

It has been said that the two year term is disruptive of normal family life. Representatives' families are shuttled between their home state and Washington in the middle of school terms. "The Congressman's mind is not free to work on legislation if he has the family problems attendant upon that." For this reason, it is said, the House is losing many well qualified men who might otherwise consider seeking office. Presumably, one is to suppose that if the term were four years, a representative would move his family to Washington for the duration.

In addition, it is argued, many more qualified potential Congress-

men also fear the insecurity of biennial dependence on reelection or are discouraged by the lesser prestige attendant upon the representative's two year term. Yet, the positions still attract qualified Congressmen—perhaps these are the more dedicated.

The argument most frequently offered, however, is that Congressmen must spend most of their time campaigning for reelection. The ideal situation, though, would assume that a Congressman truly representative of his constituents should be desirous and confident of receiving their approval and reelection.

The contention that a Congressman facing an impending election cannot consider legislation without thinking of reelection, is valid. The conclusion, that we would not want him to think in terms of answering to his constituents, is not. This is the purpose of representative government.

Increased and more specialized personal staff assistance would undoubtedly cure some of the administrative problems of the representative who is increasingly confronted with a work load of vital and complex bills all of which he cannot possibly devote his full attention to. Yet, the first session of the eighty-ninth Congress set records in the amount and scope of legislation passed and money spent, in spite of this handicap. One fears to think what future records might be set with increased efficiency.

The arguments favoring the four year terms unquestionably are based on real problems. Their solution must not, however, in the interests of democracy, be allowed to lead in the direction of reducing the direct power of the people. That cure is worse than the disease.

The author, who is active in New York City politics, delivers, in his inimitable style, a pep-talk which the editor distinctly recalls having heard him deliver before, but which is not, on that account, less valuable.

The function of this piece is to touch on a few of the moral dilemmas which we as individuals and as members of a society must face. It is easy enough to damn the collectivists to hell and gone but not quite so simple to find answers to the problems which are thrust upon us by this century and this ever-diminishing world. One can long for a world in which God is in His heaven and the King on his Throne, or in which each man is an Island, needing not to consider his fellows in the exercise of his untrammelled freedom, but while it is desirable and necessary to work for our particular vision of Paradise, it is unlikely that we will make more than a tiny step toward it in our lifetime. Inevitably, it seems, we are condemned to spend most of our waking hours suffering fools more or less gladly and dealing with their petty problems. Perhaps it is right and proper that we do so; each person who is in some way exceptionally blessed, be it with brains, brawn, position, fortune, education, or sheer luck, has a moral duty to help those less fortunate than himself.

If we must, then, endure a world largely filled with people and problems, it behooves us to do our damndest to solve their problems and help them. For only if we do will they accept our ideas of the manner in which the world should be ordered. Or the reverse: the collectivists — liberals, socialists, communists, et al — preach a particular and wrong doctrine which close analysis shows to be false, illusory, and inefficient; yet they give the impression of doing *something*. They delude the people into believing in their larger and more dangerous designs be-

cause that part of their designs which touches the ordinary man appears to be of personal benefit to him. By this the collectivists have gained enough power that within a generation or two only violent revolt will check or reverse this peculiar madness which is contrary to the painful development of our Western culture. We must not only show that collectivism is nonsense, dangerous nonsense, but we must provide workable alternatives which are equally appealing. For our failure to grapple with the legitimate needs of older people for medical assistance beyond their means, we are now saddled with a bureaucratic monstrosity which, if the English experience is a guide, will result in a rapid and general deterioration in the quality of medical care for everyone. Why did we fail? Because we dug in our heels and said, negatively, "It's just a way to buy votes (a damned effective way, sir!)" or "They're all just hypochondriacs" rather than trying to find out what the legitimate needs were, and how they could best be met.

If you accept this argument, then turn your attention to a few minor problems — which get votes:

- How shall cities meet the costs of essential services without taxing the productive enterprises and people within their borders out of existence?
- How shall our educational process be revised to produce citizens of an independent critical and logical habit of mind rather than mindless other-directed dolts into which average children are now transformed?
- How shall individual property rights be reconciled with the

aesthetic and physiological needs of the community as a whole?

- How shall we meet the problems of more automobiles, houses, and people and less space in which to put them?

- How shall we solve the central problem which Marx called "the alienation of the worker from his tools" and which is now called the "identity problem"; in short what can be found to give roots to the rootless modern man?

- How shall we gain accurate knowledge of our society without infringement on personal privacy?

- How shall we defend ourselves against our domestic enemies without betraying the personal freedom which is the goal for which we live?

- How much freedom shall be given to those who use it to destroy the system which makes freedom possible?

- How shall the rights of each citizen be guaranteed to him without infringing upon the property rights of individuals and customs of the several states?

- How shall organized crime be controlled and eliminated without dangerous infringement of the rights of individuals who inadvertently may be innocently associated with criminals?

Find the answers to these little, grubby, ever-day problems — not the cosmic ones of war and the destiny of the Western world and the nature of man — and you will do your cause and your own person far more good than with a thousand bitter denunciations and accurate critiques of the collectivists. For until we provide clear and positive alternatives, in language understood of the people, we shall merely witness one rear-guard defeat after another.

The Managing Editor considers the strong steps we have taken against the menace of a white Christian government in Africa.

In his public statements, Ian Smith has committed a grave error. Instead of screaming anti-American slogans, or of promising pro-Communist neutrality, he has paraphrased Thomas Jefferson and our own Declaration of Independence; he has pleaded for our friendship, and has sworn that the Communists will never gain a foothold in his corner of Africa. Obviously, Mr. Smith is unschooled in the art of winning American friends. To make matters worse, he has promised to follow our previous example of free enterprise.

Our State Department acted with alarming speed (3 days *before* independence) in refusing recognition. One would assume that they were entitled to at least the same calm appraisal given the rest of the new nations. Even though we obviously dislike their system intensely, one wonders why we do not conduct ourselves in that same adult manner which the State Department declares we ought to conduct ourselves in dealing with Communists. Something is just slightly askew here. To most of the world, President Johnson has offered his conciliatory hand — “come let us reason together,” he asks. But to Ian Smith, he seems to say, “You are white, capitalist, and anti-Communist. I don’t want to talk to you.”

Then, whatever happened to self-determination? In most cases, the State Department is determined to allow nations to struggle towards their own destiny — but we notice a certain lack of such consideration for Rhodesia. One is vaguely reminded of Katanga.

Such reaction, such abruptness, such unusual resolution on this particular problem could only be indicative of how deeply Prime Minister Smith carved into the liberals’ “Great Plan” for Africa. The U.N. with its usual good sense drummed Smith out of the human race. Afri-

ca’s more neighborly leaders threatened military action, without the slightest reprimand from us. Finally, the American press published the propagandists’ libelous misrepresentations and utter falsehoods without bothering to check facts. Then, of course, the American Office of the Rhodesian Information Agency was sent packing. Again, one is reminded of Katanga. And what did happen to Moise Tshombe?

I seriously doubt whether the air will clear after such a stink. Still, one would think that if the African planners’ designs were exemplified by Algeria, Ghana or, the Congo (Leopoldville or Brazzaville), they would accept Rhodesia as a shining rose rather than a thorn. The fact is, petty strong men have found their way to power in almost all of Africa, in the wake of this “wind of change.” Worse, most of them are inclined toward the ideological solidification of their position via a socialist-communist government — but of course, that *is* the “wind of change,” isn’t it?

Africa is on the verge of becoming the third Communist dominated continent (after Asia and Europe). Even if Ian Smith were the 20th century pervert he is pictured to be, his alternative most assuredly would be another Black Nationalist of the Communist camp. (Joshua Nkomo, and the Black Nationalists appear all too willing to jump upon the Communist horse for their ride to power.) As a matter of immediate necessity, Ian Smith’s government has more potential for a prosperous and free Africa than any viable alternative. But then, there seem to be more important things than freedom.

The contention that we must kick Smith to win friends in Africa edges more towards a *non sequitur* argument with each additional test of similar policies in other areas of

the world. On the ideological front, I cannot imagine anything more damaging to our prestige than to rebuke the one African who had declared our own system to be his model. On the diplomatic front, the U. S. State Department seems to have a certain difficulty in understanding the basic realities of world power politics. Africans have recognized a winner, and it isn’t America they’re clamoring to. The aggressive world power invariably garners the allies, especially among the petty tyrants and part time ideologues abounding in the vacua such as that of Africa after colonialism’s decay. If these men thought we had some fight in us, their anti-American speeches would moderate. If they thought we represented some forward movement, perhaps they would desire our friendship along with our money. Indeed, an African would be a very brave man who would direct such derogatory remarks at the Communist bloc as they have at us. The enemies of Communism have short political careers and short lives in Africa. And their lives and careers will continue to be short because of our appeasement of the radicals who are pressuring moderate African leaders into the communist camp.

Even if we could forget the world contest, and again assuming Ian Smith controls Rhodesia without giving the black majority its fair say, we cannot justify handing the nation over to the black nationalists. All Africa evidences the short lived nature of attempts at that same project.

The pattern is by now clear. Chaos almost immediately follows the end of colonialism; and chaos here, as everywhere, precedes a generally despotic strong man government. Only the most unalterable ideologue would allow Africa to carry itself to its destruction solely

to enforce such a nebulous principle as majority rule, and Africa literally bleeds with evidence of the African's incapacity to govern in that manner.

Let us not forget. Majority rule is a means to an end. It is not an end in itself. If it works it can facilitate freedom. If it does not, some other manner of rule is necessary for that object. But I keep forgetting — freedom doesn't appear to be the American object any longer, does it?

I will concede, should Rhodesia remain with its disparity between black and white — and if such be the result of its government's design — it could not remain a legitimate government. I, for one, refuse to impugn Ian Smith with the normal presumption of bad faith which the liberal casts upon white rulers. I see no reason why we should, without examining the evidence, close our ears to Smith's expressed intention to bring black and white Africans into a harmonious, prosperous and free state of affairs.

By the constitutional form of

Rhodesian government, for instance, race discrimination is non-existent in the political structure. Indeed, Negro rights are protected by the constitution. Negro property rights are recognized, their freedom of movement is not restricted, and their political rights are restricted no more than our own are. They enjoy economic freedom and, what may be more important, economic opportunity.

This means that there is *no race requirement* for voting. The closest thing to such a requirement is in favor of the Negro; the arrangement of a low qualification on franchise, which elects 15 (out of 65) representatives, assures that at least these 15 representatives will be black. The voter requirement is essentially educational. Should the blacks of Rhodesia conquer their apathy (and overcome the terrorist tactics employed in the nationalist boycott of the elections) qualified black voters would in addition hold actual balance of power in the legislature. The sums of money spent on black education (nearly \$20 million last year) and the number of blacks in school

(85% of school age natives — the highest percentage in Africa), plus the broadening of the economic opportunity can only prove the whites' willingness to allow capable Africans (black *and* white) to control the government. If they carry on, as Smith swears they shall try to carry on, Rhodesia will be ruled by black Rhodesians in the next decade. In fact, I would venture to say, Rhodesia's majority has more power now than does that of Algeria, the Congo (either one), or the other examples of the windvane African nations.

But Rhodesia is in trouble. The British presence in its attendant stability is greatly weakened both by the independence act and by Prime Minister Wilson's unreasonableness. The foreign-trained agitators will widen the chasm between whites and blacks. Obviously, the Rhodesians (white *and* black) need help.

But where our influence could be used to assist the solutions of their problems, the U. S. has promised only to assist the chaos. God help us, we shall regret it.

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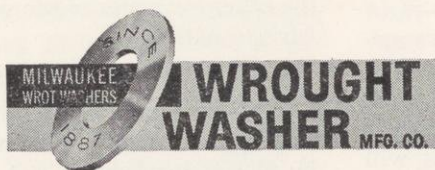
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P. Deriabin F. Gibney, et al., ed., *THE PENKOVSKIY PAPERS* (Doubleday, \$5.95).

Espionage, we are told, is a dirty business; a point that is hardly arguable. Spies are generally speaking a rather sorry lot. Rarely motivated by idealism, they are usually the unfortunate tools of unscrupulous national or international intelligence networks. Spying is a degrading business that definitionally involves treason and hypocrisy.

But occasionally a man does betray his country and his people for idealistic reasons. Many Americans, deluded by the Communist dream of utopia, have betrayed their nation in the sincere, if perverted, belief that they were serving a higher good. In the light of reality, we can see these people as pitiful, deluded tools of an international totalitarian conspiracy. Those who were discovered could hardly be looked on by a sane man as heroes. They were martyrs, yes, and some were incredibly brave, but they were martyrs to evil and their bravery was wasted; hardly men to be honored, though perhaps men to be pitied.

Colonel Oleg Penkovskiy, however, was different. A member of the Soviet military and political elite, he became disenchanted with his communist masters. One day, in fact, he saw the Soviet state for what it really is. The realities of Communism were brought home to him as they have been brought home to thousands of others who have subsequently vowed to destroy their former masters. We can only wonder if he — like Whittaker Chambers before him — heard screams.

Penkovskiy could have defected. His duties took him into the West quite often and escape would have been relatively simple, but to escape was not enough. His people, the people of Russia needed help, and he, Oleg Penkovskiy, was in a position to do something. Whittaker Chambers became a Witness because his people were being threatened; Penkovskiy because his were enslaved.

The Soviet Colonel, once having made up his mind, worked for the west with all the zeal one expects of a convert. "My place in these troubled times," he wrote in October, 1961, "is on the front lines." His first attempt to establish contact with Western intelligence failed, but in 1961 he walked up to an Englishman in Russia on a trade mission and indicated his desire to

help the West (since most Soviet trade missions are composed principally of intelligence operatives, Penkovskiy naively assumed the same to be true for the West).

Needless to say, Western intelligence took full advantage of the windfall and quickly turned the Colonel loose with a minox camera and vast quantities of microfilm; his weapon and its ammunition. Before he was discovered, he had managed to photograph and transmit some 5,000 separate secret items. During the tense days of the Cuban missile crisis, in fact, he calmly channeled information to Western sources, information that we are told was invaluable to President Kennedy and his advisors.

But Penkovskiy couldn't be expected to get away with this sort of thing forever. Everyone knew — and he perhaps most of all — that it would only be a matter of time until he was apprehended. More than once he was encouraged to defect; and he indicates that he seriously considered doing so; once, in fact, he literally hesitated before crossing back into Communist territory. But he didn't — perhaps he couldn't — to a soldier that would be desertion.

He was, of course, discovered and tried. On May 16, 1963, according to the Soviet Press, Colonel Oleg Penkovskiy was executed as a traitor. Neither the trial nor the circumstances surrounding it were immediately considered important in the Western press. The Soviets played down Penkovskiy's position and made him out to be just another minor spy, concealing the fact that his discovery jolted the entire Soviet bureaucracy in a manner similar though on a larger scale to the way the American government was jolted by the Hiss Case.

Penkovskiy knew that he would be tried as a traitor and had wanted his people to understand why he had turned to the West. His personal papers, jotted down throughout his period of disenchantment with Communism, were already in the hands of another ex-communist, Peter Deriabin, who was at work translating them. The results of Deriabin's translation have been combined with a running commentary by Frank Gibney, foreword by Edward Crankshaw and some personal comments by Penkovskiy's British contact and personal friend, Greville Wynne, to make up Doubleday's *The Penkovskiy Papers*. He wanted both Westerners and Russians to read these papers and understand why he had to do what he did. Those who read them in the west, if they do so with an open mind, can surely understand. There are undoubtedly many in Russia who understand without reading Penkovskiy's writings, but if they ever get a chance to read them, they will make the Colonel a hero.

The papers contain a wealth of information on Soviet life, politics, espionage activity and a little of just

about everything. They are written in an honest and straight forward manner. Penkovskiy is always confident that he is right, and sometimes he is even humorous. His opinions and descriptions of Khrushchev have an interesting parallel, I think, in the writings of Germany's great World War II strategist, Field Marshal Erich von Manstein. The Russian military staff of the early sixties bears a striking resemblance to the German General staff just prior to the war. Both regarded their political bosses as reckless adventurers, but were amazed at the successes made possible because of the weaknesses of their opponents. Neither could criticize because the crazy adventures of Hitler and Khrushchev always seemed to pay off.

His descriptions of Soviet reaction to U. S. policy form an excellent argument for keeping that policy strong. Khrushchev, he notes, grew more dangerous as we appeared to grow less determined.

Perhaps as interesting as the book itself, however, have been the reactions to it on this side of the iron curtain. Crankshaw, in his forward, informs us that Penkovskiy was a bit "unbalanced" and that we should read his work with this in mind. He was unbalanced, we are told, because "a man who will take it upon himself to betray his government because he is uniquely convinced that he is right and they are wrong is by definition unbalanced." Presumably, then, Mr. Crankshaw would have called those lonely Germans who opposed Hitler unbalanced. I don't think they were, and I don't think Oleg Penkovskiy was either. Rather, I think that it is the man who deludes himself into thinking it is noble to work for the Nazi or Communist state that is a bit unbalanced.

Penkovskiy wrote "I would like people in the West to read what I am saying here because they can learn much through my experience." That, I think, is excellent advice.

—D. K.

It seems to have been quite a while since we published any list of recommended reading for conservatives — and we are not in fact doing it now. The books following are the editor's own recommendations to those who, like him, are interested in studying those changes in society (which means, in the long run, those changes in the body politic) which are likely to lead to changes in the underlying structure of life in America and in the Western World. In other words, in the editor's view, this is what's happening.

1. Michael Young, *The Rise of the Meritocracy 1870-2033* (Penguin, 1963, 190 pp., \$0.95) — subtitled An Essay in Education and Equality.

This is a sociological essay into the future, describing the gradual construction of a class society based on intellect, and hinting at its eventual overthrow by

the sub-intellectual proletariat. It is, of course, satire, and part of the satire lies in the sociological style which the author quite beautifully parodies. There is uncomfortable truth in the proposition that the worst (because least meliorable) of all tyrannies is that based on differences in intelligence. Even more, there is uncomfortable likelihood in the course of events the author describes, and which was also perceived by the late C. S. Lewis in his 1955 essay "Lilies That Fester" (available in this country in *The World's Last Night*). Highly recommended.

2. Tom Wolfe, *The Kandy-Kolored Tangerine-Flake Streamline Baby* (Noonday, 1965, 339 pp., \$1.95).

This uneven collection of essays on the current American scene has three outstandingly good ones mixed in with the others. Some of the others describe the New York scene with fidelity, but the good ones point out the general unimportance of the New York scene (except for popular records). Recommended are the title essay (pp 76-110) on custom cars, "The First Tycoon of Teen" (pp 58-75) on Phil Spector, and "The Last Hero" (pp 126-172) on stock-car racing. The implicit theme is that there is emerging from the "teen-age netherworld" (Mr. Wolfe's phrase) a new American society unlike that of the first half of the twentieth century — and, we think, very much like that of the first half of the nineteenth. But Mr. Wolfe doesn't say that. In any case, what he does say is worth reading.

— J. L.



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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"

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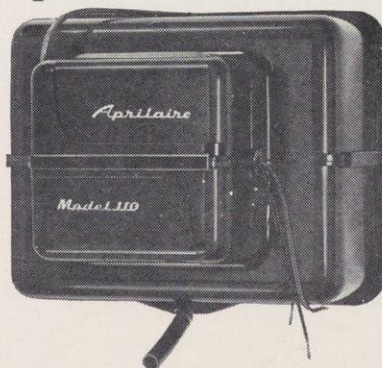
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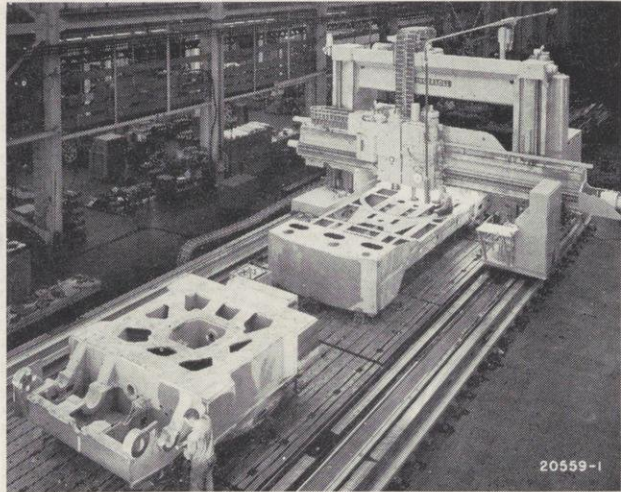
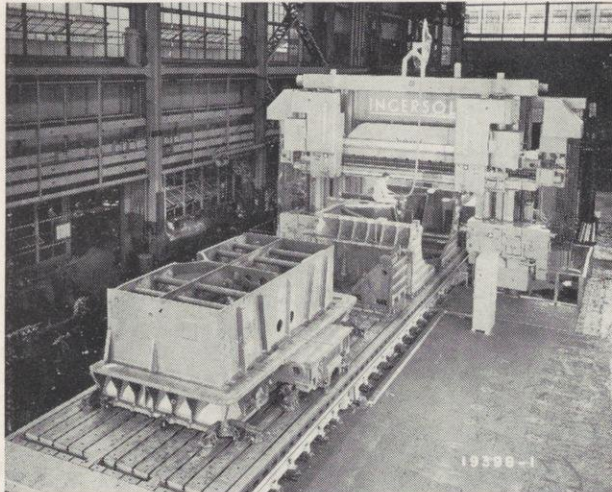


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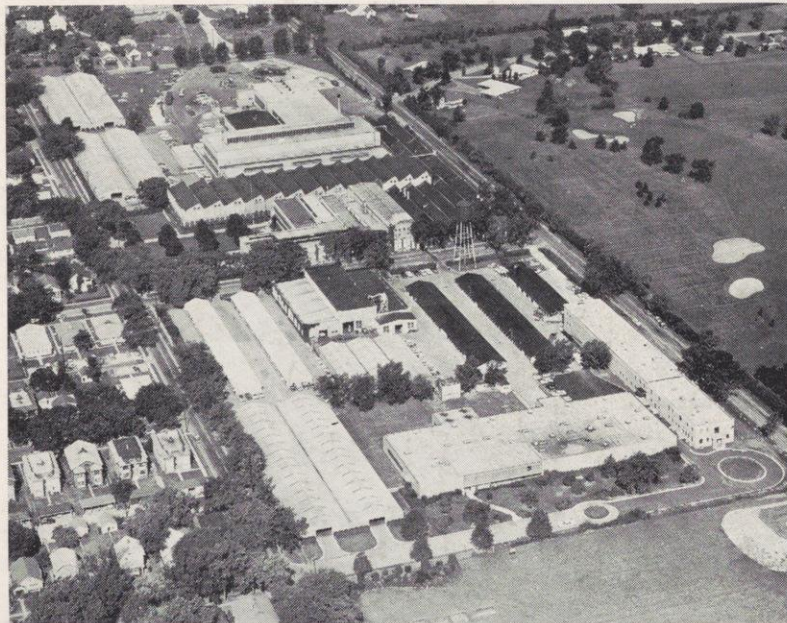


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