

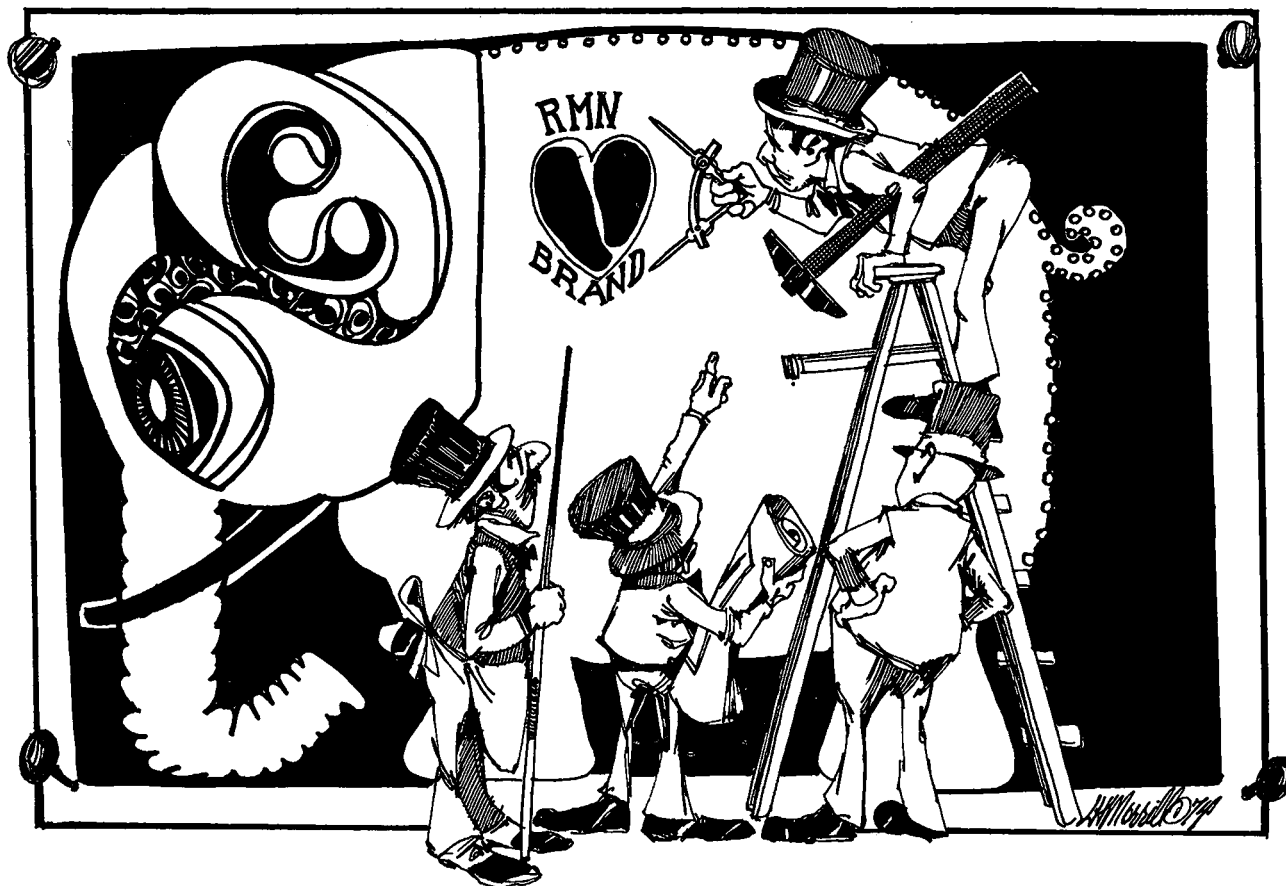
RIPON FORUM

CONTENTS	
Politics	1-4
Commentary	5-7
Duly Noted	8

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50 CENTS



"That is the first thing that has to go"

POLITICS: PEOPLE

OREGON

For almost two decades, progressive Republicans like Mark Hatfield, Tom McCall, and Robert Packwood have dominated Oregon politics. Abruptly, that domination was overturned May 28 when GOP primary voters chose a conservative state senator over the progressive secretary of state who had

been favored for the GOP's gubernatorial nomination.

The victory of State Sen. Victor Atiyeh (R) over Secretary of State Clay Myers (R) sharply stung McCall, the retiring incumbent. The governor said, "It's the end of an era of progressive Republicanism. There've been 16 years of it and it's gone." Although Myers said he would support Atiyeh in the general election, McCall has

declined to say who he will endorse. "I think (Atiyeh's win) probably means a Democratic victory in November," said McCall. (McCall's outspoken mother, who threatened this year to run for governor herself, has endorsed the Democratic candidate.)

Myers had been the frontrunner until he got into political hot water over the firing of an elections supervisor for allegedly falsifying the receipt date of candidate information for a voters' booklet. The supervisor charged that Myers had himself approved a similar

late submission in 1972. As one Myers supporter said, "It's not the year to have difficulties of that kind."

Atiyeh's support for conservative shibboleths swayed "soft" supporters of Myers and contributed to the surprising size of Atiyeh's 61-percent victory. Another contributing factor in Myers' defeat may have been the low GOP turnout, which for the first time in memory was less than that of the Democrats.

The next stage of Atiyeh's campaign will be more difficult. The 51-year-old legislator is an anathema to organized labor because of his opposition to collective bargaining; he antagonizes environmentalists with his opposition to land use planning; and he alienates teachers by opposing teacher bargaining legislation. As a result, former State Treasurer Robert Straub, (D), 53, is heavily favored to win in November. Straub, who defeated nine other Democrats for the gubernatorial nomination and only narrowly defeated the runner-up (State Sen. Betty Roberts), twice lost gubernatorial elections to McCall in 1970 and 1966.

In the race to succeed U.S. Reps. Edith Green (D-3rd) and Wendell Wyatt (R-1st), primaries of both parties were crowded.

Former U.S. Rep. Robert Duncan is heavily favored to return to Congress in the 3rd C.D. Duncan forewent his usual Senate primary with former Sen. Wayne Morse (D) in order to defeat seven other Democrats for the congressional nomination. He will face supermarket operator John Piacentini, a 53-year-old Republican who upset the GOP organization choice for the seat. (Tom McCall was the last Republican who ran a serious race in the district; he lost to Mrs. Green

when she was first elected in 1954.)

The race in the 1st C.D. should be much closer. Portland attorney Darrmuid O'Scannlain, 37, won the Republican nomination to oppose 31-year-old State Rep. Les AuCoin, the Democratic House majority leader. The moderate O'Scannlain has been a public utilities commissioner and director of the Oregon Department of Environmental Quality.

In the 4th C.D., progressive U.S. Rep. John Dellenback (R), who replaced Duncan in 1966 in this seat, will face a rematch with James Weaver, a 46-year-old builder who received 42 percent of the vote in the 1970 campaign.

Wayne Morse won the Democratic Senate nomination again, but his new political career is unlikely to end in a return to the Senate. The Republican incumbent, Sen. Robert Packwood, is expected to have much less trouble defeating the 73-year-old maverick than he did six years ago.

Sidelight: Although Gov. McCall received considerable attention at the Seattle National Governors' Conference with his comments on a "third force" in national politics in 1976, he was not referring to himself as a possible standard-bearer. Said McCall, who was hospitalized last year, "The only thing I'm running for is the mortuary after two cancer operations." ■

KENTUCKY

Kentucky Republicans stand a good chance of losing one seat in the Senate and one in the House of Representatives this November.

Sen. Marlow Cook is the apparent winner of a court battle assuring his name a place on the November bal-

lot, but a victory over Gov. Wendell Ford (D) is much less certain.

The major issue of the campaign will probably be President Nixon's record and the general public displeasure over Watergate. Ford is capitalizing on Cook's record of support for the President and is attempting to lump Cook and Nixon together. Cook has a strong streak of independence which he has exercised several times, much to the displeasure of the White House. So Ford may not be able to make this charge stick.

While Cook has problems with Nixon, Ford is faced with opposition to his stand on the construction of a dam in the scenic Red River Gorge in mountainous eastern Kentucky. Environmentalists are unhappy with Ford's support of the plans by the Corps of Engineers to inundate part of this dramatic wilderness and may shift Democratic votes to Cook, who opposes the project. Ford has also taken his lumps lately from environmentalists over plans, since abandoned, for a chairlift in the Cumberland Lake State Park.

In congressional races the Kentucky Republican Party has fielded only two strong candidates: incumbents Gene Snyder and Tim Lee Carter. In the other five districts the Republican candidates are either unknown or perennial losers.

The 71-year-old opponent to U.S. Rep. Carl Perkins (D), for example, does not even live in the 7th C.D. In the 6th C.D., Republicans rejected the frontrunning candidate (who lives in the 4th C.D.) and instead voted for a little-known former schoolteacher who did live in the district.

Democrats are going after Snyder's 4th C.D. seat with a serious challenge

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from 32-year-old attorney Kyle Hubbard. The conservative Snyder has represented the district since 1966, but his recent divorce and much-publicized involvement as a realtor for utility company land purchases in his district have placed him in political jeopardy. As a self-described "moderate-conservative," Hubbard will be tough competition for Snyder.

Meanwhile, "moderate-conservative," Hubbard will be tough competition for Snyder. State Sen. Carroll Hubbard, Jr., 36, defeated eight-term veteran Frank Stubblefield (D) in the May 28 primary in the 1st C.D. Carroll Hubbard is virtually assured of victory in November, so Kentucky may possibly send its own congressional "brother act" to Washington to join the California Burton brothers. (In the June 1 special election in California, John Burton (D) narrowly avoided a runoff against Republican Tom Caylor in the race to succeed former U.S. Rep. William Mailliard. John joins brother Phillip in Congress.)

About the only sure bet for Kentucky Republicans is U.S. Rep. Carter, who represents the rock-ribbed Republican 5th C.D. in southeastern Kentucky. He should have no trouble defeating his 70-year-old Democratic challenger. ■

WOMEN

It has not been a particularly good year for would-be Republican congresswomen. The razor-thin primary victories of Mrs. Virginia Smith, a Nebraska conservative, and Mrs. Millicent Fenwick, a New Jersey moderate, stand out because these two women may well be the only two non-incumbent Republican females to stand a chance of winning in November.

The GOP now holds only two of the 16 seats held by women in Congress: U.S. Reps. Margaret M. Heckler of Massachusetts and Marjorie S. Holt of Maryland. Although Heckler should be safe, there will be a strong challenge to her from a young male Democrat. Holt, a first-term congresswoman, won her district with 59 percent of the vote in 1972, but 67 percent of the voters are Democrats. If she faces Maryland Secretary of State

Fred L. Wineland (D) in November, it may be a close contest.

In the seats sought by Smith and Fenwick, Democrats feel they have a chance to replace retiring Republicans with one of their own. Both women face male Democrats who are widely known in their districts.

In several states, Republican women have lost serious primary challenges this year. Ione Larsen, a 53-year-old drug company owner who was president of the South Dakota Federation of Republican Women, lost a congressional primary to 32-year-old Larry Pressler. (Pressler, a former Rhodes scholar, is given a chance of upsetting U.S. Rep. Frank E. Denholm.)

Other possible GOP primary winners had included former State Rep. Charlene Conklin in Iowa and Janet Johnson in Indiana, but both lost spring elections.

In upstate New York, Assemblywoman Constance E. Cook, the progressive chairman of the Assembly Education Committee, would have made a formidable candidate to succeed retiring U.S. Rep. Howard Robison (R-23rd). She decided to seek neither the congressional nomination nor reelection to the Assembly this fall after GOP leaders backed Broome County Executive Edwin L. Crawford for the congressional nomination. Cook charged that GOP county leaders had been "ganging up" on her candidacy. Crawford, who is also a progressive, will face at least two other candidates in a September primary.

Another expected GOP nominee, Providence public relations executive Jean Whipple decided not to oppose U.S. Rep. Robert O. Tiernan (D-2nd) and will instead run for the Rhode Island State Senate.

In Missouri, two women are seeking congressional nominations. Jo Ann Raisch, state chairperson of the Republican Heritage group and wife of a state representative, is favored to win the August primary to oppose U.S. Rep. Leonor K. Sullivan (D-3rd). Sullivan had been considered a possible retiree this year, but the only women to vote against ERA in Congress prevailed upon by Democratic leaders to save her seat for the party. In the 10th C.D., State GOP Committeewoman Virginia Hendricks is also favored to win her primary, but U.S.

Rep. Bill D. Burlison (D) will be difficult to dislodge.

Vermont National Committeewoman Madeline Harwood is conceded a chance at winning her party's House nomination over two moderates, but she is given little or no chance of winning the general election. Other possible Republican winners in upcoming primaries include Dorothy C. Clark, Utah state GOP vice chairman seeking the 1st C.D. nomination against U.S. Rep. Gunn McKay (D), and Dorothy Stanislaus, former Oklahoma GOP national committeewoman, who is seeking the 2nd C.D. seat being vacated for a gubernatorial race by U.S. Rep. Clem McSpadden. Stanislaus, however, is not appreciated by top Oklahoma Republican leaders who consider her to have been a disruptive opportunist in GOP politics. Oklahoma GOP State Chairman Clarence Warner would prefer to see either Ralph Keen, a Cherokee attorney, or State Sen. Jerry Pierce win the nomination. Warner points out that Mrs. Stanislaus lived in Tulsa until she recently moved into the district.

GOP women not given much of a chance in November are Claire J. Sheridan, a Jersey City housewife opposing U.S. Rep. Dominick V. Daniels (D-14th); Carol Harner, a California dental hygienist who is making her second run against U.S. Rep. B.F. Sisk (D-15th); Judy Petty, Arkansas GOP state treasurer who opposes U.S. Rep. Wilbur Mills (D-2nd); and Virginia Black, an Indiana religion teacher challenging U.S. Rep. John Brademas (D-3rd.) ■

Contributor Notes

Hope Eastham ("Who's Been Looking At Your Checkbook," p. 7) is associate director of the Washington office of the American Civil Liberties Union. James Manahan ("The War Keeps Going On And . . ." p. 6) is a member of the FORUM Editorial Board. William K. Woods ("The Selling of Bunker Hill," p. 5) is a contributing editor to the Ripon FORUM. Kentucky correspondent Eric Karnes prepared the article on that state. The information on female congressional candidates was gathered by Ripon Political Coordinator Josie Cuevas.

POLITICS: PEOPLE

● **James H. Meredith** was the surprise frontrunner in the June 4 Democratic congressional primary in Mississippi's 4th C.D. Instead of preparing a runoff against the number two man in the five-person race, Meredith withdrew and announced he would run as an independent against U.S. Rep. **Thad Cochran** (R). Since the Democratic candidate will now be one of two white runners-up, Meredith hopes to win the election with black votes. Said Meredith, "Our job is to get the black people registered to vote. It doesn't take a genius to figure out, if we are 44 percent and the whites are divided, who will win." Meredith, who had opposed **Gil Carmichael** in the 1972 Republican Senate primary, spent only \$31.50 on this race. Meredith's brother-in-law was easily trounced by Cochran in the GOP primary. (An earlier story on Mississippi in the May 15 FORUM contained a typographical error which referred to Carmichael as a congressional candidate. Carmichael is hard at work on the 1975 gubernatorial race, although there are indications that State Sen. **Charles R. Pickering** (R) may also be interested in that nomination.)

● The primary victory of U.S. Rep. **Pete McCloskey** may be an enlightening lesson to Republican progressives on how to win primaries against overwhelming odds. In both 1972 and 1974, redistricting placed McCloskey in serious jeopardy; he appeared headed for the political scrapheap in this year's primary against Republican conservative **Gordon Knapp**. Several weeks before the election, McCloskey predicted that the election would be close and "could be decided by a thousand votes." His margin of victory turned out to be 867 votes. One reason for McCloskey's upset was the reregistration of 2,000 Democrats as Republicans. The 12th C.D. was the only district in California in which there were more new Republican than Democratic registrations. Although low turnout hurt McCloskey, the new Democrats and McCloskey's precinct organization turned the tide. As one admiring Republican observer put it, "Those (McCloskey) people really know how to walk precincts" to turn out the vote for their man. A second, well-publicized reason for McCloskey's victory was the virtual endorsement he received from Vice President **Gerald Ford**. Both sides agreed late in the campaign that Ford's appearance in April on McCloskey's behalf turned the tide dramatically; it provided McCloskey with Republican legitimacy in the minds of doubting party regulars. A final key to McCloskey's win was the endorsement by the **San Jose Mercury**. McCloskey has now been endorsed by Knapp and is expected to win easily against Democrat **Gary Gillmor** in the general election.

● U.S. Rep. **Hugh Carey** (D) of Brooklyn and former Offtrack Betting Corporation President **Howard Samuels** are headed for a September gubernatorial primary; Samuels received the endorsement of the Democratic State Convention in Buffalo June 13. U.S. Rep. **Ogden Reid** dropped out the race before the convention, saying he would drop out of politics altogether. Unlike the Republicans who nominated a unified slate at their convention in Nassau County earlier

in the week, the Democrats are headed for several major primaries. Queens lawyer **Mario Cuomo** was designated for lieutenant governor, but he will face two other Democrats in a primary. Rockland County District Attorney **Robert Meehan** (D) upset Bronx Borough President **Robert Abrams** for the Democratic nomination for attorney general, but Abrams will want a primary. Syracuse Mayor **Lee Alexander** won the Senate nomination, but he will have primary opposition from former U.S. Rep. **Allard K. Lowenstein** and probably former Attorney General **Ramsey Clark** (who was nominated by former New York policeman **Frank Serpico**). Only Controller **Arthur Levitt** (D) has a free ride. By comparison, the GOP convention was dull. The Republicans nominated a slate of incumbents — Gov. **Malcolm Wilson**, Sen. **Jacob Javits**, and Attorney General **Louis Lefkowitz** — as well as Nassau County executive **Ralph G. Caso** for lieutenant governor and former Rochester Mayor **Stephen May** for controller. Even the continuing split between Gov. Wilson and House Speaker **Perry Duryea** was subdued. In other New York political developments, U.S. Rep. **John Rooney** (D) is retiring from his Brooklyn seat after 30 crusty years in Congress. Former U.S. Rep. **James H. Scheuer**, who was redistricted out of his seat in 1972, is going to try to oust Bronx U.S. Rep. **Frank Brasco** (D) from his Brooklyn-Queens seat. Like several New York congressmen, Brasco has been under federal indictment this year. U.S. Rep. **Angelo Roncallo** (R) of Long Island was acquitted recently on his federal rap and is seeking reelection.

● The-Divide-and-Conquer-of-a-Movie-Idol Department: After eight years as governor, **Ronald Reagan** is beginning to show all 63 years of his age. But it is not just the Hollywood phiz whose glamor is fading. Reagan's press conferences have been a Sacramento institution. So skilled has Reagan's public relations been that a Democratic legislator once suggested in disgust: "He makes us look like (expletive deleted). We ought to just hire our own PR firm and go home." The press has already begun to adjust to the post-Reagan error. Though Reagan was still a media star at the National Governor's Conference, there was tarnish on the media accounts of the conference. And back in California, the enthusiasm for the Reagan message is waning. Recently Reagan showed up at a press conference, said he had no statement to make, and asked for questions. There was silence; apparently none of the reporters had any. Reagan nearly walked out without any dialogue with the press. On a later date when a hot news story developed over the House speakership, an even more embarrassing situation developed. Reagan gave a press conference and only a half-dozen newsmen came. Commenting on Reagan and the press, the **San Francisco Examiner's** **Dennis J. Opatrny** wrote, "After the Watergate disclosures, Reagan issued a statement saying he would only talk about state issues. When one compares the few topics he'll talk about with the list of things he won't, it's not difficult to understand why reporters leave Reagan press conferences shaking their heads and muttering about the lack of news from one of the most popular governors California has had."

● In Wisconsin, GOP Senate aspirant **Thomas E. Petri** (R) is spending July walking the length of the state to "wake up Washington." State Sen. Petri has pledged to "pass no one by without trying to talk with them."

COMMENTARY: BICENTENNIAL

The Selling Of Bunker Hill

by William K. Woods

The prospects of surviving the next three years without detesting the American Revolution, the founding fathers, and George Washington are bleak. As the Bicentennial approaches, there are rumblings of a promotional blitz by institutions, states, and corporations that will link the Spirit of '76 to every charity, interstate rest area, and diet chocolate bar. By the time that July 4, 1976 actually arrives, I expect to see impersonators of Thomas Jefferson selling everything from used cars to deodorants.

The current Bicentennial forecast sounds particularly grim to American history teachers. As a person who must regularly convey the meaning of the American Revolution to "underwhelmed" undergraduates, I quake at the thought of all the pomp and artificiality that will flourish during this national celebration. Sometimes I think that the most humane policy would be to grant all American history professors sabbatical leaves to go abroad during the most intense period of Revolutionary nostalgia.

What can be done to prevent everyone from associating the founding fathers with hucksters of hair tonic and mouth wash? For one thing, scholars and responsible representatives of the media should commit themselves to the goal of helping people to distinguish between the essential and

the trivial aspects of the Revolutionary era. This group must insure that the Declaration of Independence and the writings of John Dickinson and Thomas Paine gain ascendancy over Parson Weems's cherry tree story and Longfellow's "Paul Revere's Ride." Somehow, colonial wig styles and sugar cookie recipes should not be allowed to overshadow the views of the founding fathers on government and civil liberties.

One way to separate Bicentennial junk from the lasting values of the colonial era is to compare our current institutions and systems with American society in the 1770's. Many subjects can be dismissed as irrelevant to our present age. Few of us would forego modern medical practices in favor of an old-fashioned bleeding by leeches, and most Americans now accept the fact that slavery was an evil. By rejecting these customs, we can more easily discover areas where something may be learned from the founding fathers.

The colonial approaches to government and urban planning deserve special attention. The colonists were creative builders of urban and governmental forms.

Our urban, environmental, and energy crises can all be linked to the way we segregate and scatter domestic, occupational, social, cultural, and recreational functions over huge chunks of territory. As we search for alternatives to our sprawling metropolises, we could do a lot worse than to select models like Williamsburg, Virginia; Savannah, Georgia; and the colonial New England town. In these "walking" communities, planners utilized aesthetic physical settings to establish integrated social and economic functions in balance with the natural surroundings.

The minutemen who confronted the English troops at Lexington and Concord lived in towns that were founded with definite spatial arrangements to augment religious, social, and political traditions. The green — like the one at Lexington where the first shots of the Revolution were fired — served as the town center, and the church, the meeting house, and other public buildings and homes were strategically clustered around it. Purposely surrounded by agricultural land,

these towns maintained a stable geographic and population size. When a population grew too large, younger sons and other members of large families often led formal expeditions to found other settlements in Massachusetts, Connecticut, and Ohio.

Named the new capital of Virginia in 1699, Williamsburg arose in the early 1700's according to a plan based on the best architectural and planning principles of that era. Royal Gov. Francis Nicholson was familiar with Christopher Wren's design for the rebuilding of London after the 1666 fire, and the H-shaped capital featured public buildings at the end of each main street. Although it reflected the symmetry, formality, and spaciousness characteristic of seventeenth-century urban concepts, Williamsburg also possessed a human scale in its dimensions. Its public buildings did not dwarf everyday activities, and commons, garden plots, and formal gardens provided citizens with beauty and recreational space.

English philanthropist James Oglethorpe was responsible for planning Savannah. Not only did Oglethorpe wish to establish a New World sanctuary for people in debtors' prison, but he held definite views about town design. In 1733, he planned Savannah on a site ten miles upstream from the mouth of the Savannah River. Within the two-square-mile rectangle that constituted the original settlement, the founder established six neighborhoods called wards. In each ward, houses were grouped around open squares. Not only did this plan provide early residents with pleasant neighborhood settings, but it left the city with six public squares evenly scattered over its topography. Oglethorpe also circled the original city with a commons or green belt, and he stipulated that land beyond the green belt should be used for farming.

Oil shortages, land pollution, and social and economic segregation have induced us to examine those compact communities of the 1700's. Similarly, Watergate and related matters spur the study of the political beliefs held by the men who revolted from England in order to establish new governments. If alive, how would the founding fathers react to Watergate? Since many of them regarded George

III as a despot who symbolized a government that failed to protect "certain inalienable rights" of man, how would they view the manipulations of 1972?

In regard to those "certain inalienable rights," how do we view those civil liberties that were finally written into the Constitution as part of the Revolutionary legacy? In this complex technological era of military super-powers, is it possible for our government to operate within the limitations of the Bill of Rights? Also, as the current battle rages between Congress and the executive branch, it would be useful to know what the drafters of the Constitution meant by "checks and balances." Would they accept President Nixon's interpretations of executive privilege and the separation of powers? Finally, after surveying our society, would the founding fathers uphold the document that they originally drafted, or would they suggest constitutional changes? Although none of these questions can be answered absolutely, a study of the politics of the American Revolution would provide numerous insights concerning these subjects.

Interestingly, the Bicentennial coincides with a presidential election. This means that every aspirant to the White House will pretend to be a reincarnation of George Washington. Since each contender will pay homage to the principles of the founding fathers, it behooves us to know enough about the Revolutionary political heritage to detect substance among mere rhetoric.

If a vigilant group of scholars and representatives of the media keeps the essentials of '76 in the limelight, then all the Revolutionary trivia and commercialism might just fall into their proper Bicentennial niches. Once people actually start reading *The Federalist Papers* and Jefferson's *Notes On Virginia*, they will be able to keep in perspective phenomena like a Disney World fife-and-drum corps and a can of Liberty Bell dog food. If Ben Franklin were around today to comment on the Bicentennial preparations, he might sum up his views on the subject with a pithy new Poor Richard saying: "It's better for the system to absorb one Declaration of Independence than to digest a thousand Valley Forge TV Dinners." ■

COMMENTARY: VIETNAM

The War Keeps Going On And...

by James H. Manaban

Even though the war supposedly ended 16 months ago, the United States is still pouring billions of dollars in military and economic aid into South Vietnam. The military aid beefs up General Thieu's million-man army, while much of the economic aid is used for his massive police apparatus. The U.S. now pays for 80 percent of the South Vietnamese budget.

In the next fiscal year beginning July 1, the Nixon Administration wants to spend about \$3.5 billion in Southeast Asia. This figure is more than the Administration plans to spend for foreign aid on all the other countries of the world combined. It represents a boost of about 65 percent in aid to South Vietnam.

Fortunately, Congress is showing increasing determination to deny Nixon's requests for more and more money. The first test came in April, when the Pentagon announced it had already spent the \$1.126 billion authorized for military aid to South Vietnam this fiscal year and needed \$474 million more to make it to June 30. In a surprise decision, the House rejected, 177-154, any increase in aid. Liberal congressmen were joined by fiscal con-

servatives like Delbert Latta (R-Ohio) and John Zwach (R-Minn.) in rebuffing the Nixon Administration.

The Defense Department then went to the Senate to see if it could get a mere \$266 million in additional funds. The Administration lobbied actively for the money, and even sent Vice President Gerald Ford to sit in and cast the deciding vote in the event of a tie. But the Senate voted 43-38 to deny the increase.

In what sounded just like White House statements during the '60's, Deputy Press Secretary Gerald Warren reacted angrily to the Senate vote: "We believe that whether or not we adequately support South Vietnam . . . will be an index of our reliability to our allies. And should that reliability be called into question, the global effects could be most dangerous to our national security."

On May 22 the House of Representatives struck again. President Nixon had asked for \$1.6 billion in military aid to South Vietnam in the fiscal year that begins July 1. The House Armed Services Committee recommended \$1.4 billion, but the House set the ceiling at \$1.126 billion — the same level set for the current fiscal year.

The Senate Armed Services Committee has recommended that the ceiling be set at \$900 million. If this recommendation is accepted by the Senate, the Administration would probably end up with a Senate-House compromise in the area of \$1 billion.

On January 27, 1973, President Nixon proclaimed "peace with honor" in South Vietnam. Since then, Gen. Thieu's forces have been using 700 tons of ammunition a day, all "Made in America" and paid for with American tax dollars. We are fighting a war-by-proxy in Indochina, and have achieved neither peace nor honor.

The efforts by Congress to limit Nixon's insatiable requests for additional military funds are steps in the right direction. This country, however, has already poured far too much military "aid" into South Vietnam; now is the time to terminate it completely.

Sen. Barry Goldwater (R-Ariz.) has come to the conclusion that Vietnam is a bottomless pit for U.S. assistance. "Let's scratch it" is his advice. Enough, after all, is enough. Enough, in fact, in this case, is too much. ■

COMMENTARY: PRIVACY

Who's Been Looking At Your Checkbook?

by Hope Eastman

A person writing a check or making a bank deposit assumes those transactions are no one else's business. Access to these records reveals what books he reads, what organizations he supports, what relatives he borrows from or lends to, the places he goes, and the things he does.

Yet on April 1, 1974, the Supreme Court of the United States rejected an appeal for recognition that the growing "right to privacy" protects bank records.

The Court's decision leaves the bank customer virtually helpless in the face of almost unlimited government power to snoop. The hapless consumer must now turn to the Congress for help. The big question here is whether he will get it any time soon.

The buck-passing which led to the

current crisis began in October, 1970, when Congress enacted the Bank Secrecy Act which authorized the Treasury Department to require banks and other financial institutions to microfilm checks and keep records of certain currency transactions which would be useful in criminal or regulatory investigations. Government spokesmen assured Congress before enactment that access to these newly mandatory records would be through "existing legal processes." The Senate and House reports on the act refer to such processes. But the Congress made no attempt to look behind these assurances to see if they had any substance.

They did not. Law enforcement and many bank officials had developed a cozy, informal relationship which involved no legal process. Banks, after all, depend on the FBI to investigate robberies and other crimes against banks. In most cases, bank officers simply gave access to bank records without consulting the customer. In the rare cases when the bank asked for a subpoena, the government agent merely filled out a blank subpoena, handed it to the bank, and usually obtained the records on the spot.

The issuance of implementation regulations in early 1972 unleashed a storm of protest over the Bank Secrecy Act, which had gone virtually unnoticed until then. In April 1972, the ACLU asked the nation's 100 largest banks to describe their practices. The responses revealed no uniformity. Some banks felt obligated to notify customers prior to disclosing their bank records; others did not. Some required subpoenas; other did not. Exceptions were frequent. In June 1972, the California Bankers Association, the ACLU, some bank customers, and one bank president who is now a congressman (Fortney "Pete" Stark), sued to enjoin the act's implementation.

In Congress, Sens. John Tunney, Charles McC. Mathias, and Sam Ervin introduced legislation to regulate government access to bank records by providing customers with notice and an opportunity to challenge such access. Hearings were held in August, 1972. Spokesmen for the Justice and Treasury Departments confirmed the informality of their practices. Still the bills died in committee. Because of the

outray, however, the Treasury amended its regulations to exempt checks of \$100 or less from the record-keeping requirement.

In 1973, Sens. Cranston, Tunney, Mathias, and Ervin, joined by Fortney Stark in the House, reintroduced the bills in amended form (S 220 and HR 9563). The bills now have 20 cosponsors in the Senate and 102 in the House. However, the bills have not moved. For many months, the most frequently heard reason was: we are waiting for the Supreme Court.

The Court has now acted. Despite the government's admission, as set out right in its brief, that "banks have in the past voluntarily allowed law enforcement officials to inspect bank records without requiring the issuance of a summons," and despite Justice Department testimony in 1972 that such access occurs "with some degree of frequency," the Court closed its eyes to what dissenting Mr. Justice Marshall called a "system of widespread informal access," and fell back on chanting "existing legal process." "After all," said Justice Rehnquist, writing for the majority, "both the legislative history (of the act) and the regulations make specific reference to the fact that access to the records is to be controlled by existing legal process."

The bank customers' claims, therefore, were premature, said the Court, and must await a subpoena — which of course may never be issued by the government.

To make matters worse, the Rehnquist opinion even seems to close the door to such future challenges. According to suggestions tucked away in the opinion, when challenging the illusive subpoena, the customer may have (1) no standing to sue because the records are the bank's; (2) no Fifth Amendment privilege because the bank, not the customer, is being compelled to disclose the records; and 3) no Fourth Amendment protection because the records will be taken out of the bank's, not the customer's possession. The Court thus has instructed the customer to wait for a subpoena but has suggested that he will in reality have no grounds to challenge it.

The Supreme Court has now acted. It is up to Congress to do what the Court has refused to do. ■

DULY NOTED: POLITICS

● **"Governors Feeling Feisty: Watergate Gives Them New Muscle in '76,"** by David S. Broder. *Washington Post*, June 9, 1974. Neither Massachusetts Sen. Edward M. Kennedy nor California Gov. Ronald Reagan boosted their pre-presidential stature at the recent National Governors' Conference in Seattle. "Both tried hard to impress the men who will head many of the state delegations to the 1976 national party conventions." Although Kennedy made a fair performance on a health care panel, Reagan did not. "As he nears the end of his eight years of service in Sacramento, Reagan appears to be moving back from the pragmatism of his recent policies to the more ideological conservatism that marked his debut in Republican ranks, a decade ago, as a speaker for Barry Goldwater's cause. This conference indicated, even more clearly than last year's, that Reagan's position is shared by few of his fellow-Republican state executives." (Mills Godwin of Virginia, Meldrim Thomson of New Hampshire, Jack Williams of Arizona, and Stanley Hathaway of Wyoming were the exceptions.) Noted Broder, "Reagan made a big pitch in opposition to federal land-use legislation, and was slapped down — to the applause of other governors — by his Oregon neighbor (Gov. Tom) McCall, who said that California's 'inaction' on environmental issues was one reason 18,000 Californians a year are moving to Oregon."

● **"Double Trouble for Republicans — Redistricting and Watergate,"** by Ed Salzman. *California Journal*, June 1974. "Gov. Ronald Reagan, backed by county Republican leaders, adopted a reapportionment strategy following the 1970 census that called for rejection of virtually any redistricting plan developed by the legislature. Reagan theorized that the GOP would be better off with a non-partisan proposal drafted by special masters appointed by the state Supreme Court. Under any bill that could clear the legislature — and a couple did — incumbents of both parties would be given safe constituencies. Relatively few seats would be up for grabs, and the Democrats presumably would retain legislative control." So the GOP gambled on the courts — and appear to have lost badly. Analyzing both congressional and legislative seats under the court-ordered plan, Democrats appear to be likely to add to their margins of control. Even districts which might normally have gone Republican under the redistricting plan now appear to be threatened by the Democrats because of Watergate.

● **"Republicans See Williams' Seat as Most Shaky,"** by John Kolbe. *Phoenix Gazette*, June 6, 1974. "National Republican Party leaders regard retiring Gov. Jack Williams' seat as their 'most vulnerable' GOP governorship in this fall's elections. And the man they clearly see as their most likely obstacle to retaining the office is Tucson attorney Raul Castro . . . A recent private poll conducted for Castro, the unsuccessful 1970 Democratic nominee for governor, by Joseph Napolitan, a veteran political consultant, indicates the GOP's concern about keeping the governor's chair they've held since 1958 — except for a two-year hiatus — is well-founded. The ex-ambassador ran well ahead of everyone in a field of potential Republican nominees in a series of two-way matchups." The strongest announced GOP candidates in the poll were former Phoenix mayors Milton Graham and John Driggs, but other candidates trailed Castro by lopsided 2-1 ratios.

● **"Baker Takes Route of Nixon and Goldwater,"** by Tim Wyngaard. *Knoxville News-Sentinel*, May 26, 1974. Wyngaard contends that Tennessee Sen. Howard Baker, Jr., is taking cues from the game plans of Sen. Barry Goldwater and President Richard Nixon in pursuing the 1976 presidential nomination. "Spending weekends hunch-

ed over inedible dinners and lecterns across the country, Baker is spreading the seldom-heard — this year — gospel of reform Republicanism for local GOP candidates in major cities and at country crossroads, in hopes of political side effects beneficial to Baker." Writes Wyngaard, "But to the thinking behind Baker's approach, Rockefeller's too old, Reagan's too conservative, Percy's too waffly, and Connally's too besmirched with political dirt to win an election once nominated . . . That leaves, of course, Vice President Gerald Ford — and Howard Baker." But if the 1976 nomination proves elusive, there is another alternative. "A key element in Baker's presidential strategy, it is apparent, is the possibility of retiring from the Senate in 1979 to devote full time to a 1980 candidacy, if fate rules out the nomination two years from now."

● **"Southern Republicans: Not That They Hate Watergate Less But Love the Southern Strategy More,"** by Ferrel Guillory. *Southern Voices*, June, 1974. Assessing the growth of southern Republicanism, Guillory, capitol reporter for the *Raleigh News and Observer*, attributes its expansion to the ideological realignment that the GOP sought between the two parties. Guillory quotes Mississippi GOP State Chairman Clarke Reed: "Look, it's getting Democrats with more in common with the Republican Party. The conservative Democrats are ineffective in their party and the liberal Republicans are relatively ineffective in this party. You have to accept that role. The central theme of the two is in that direction. So what is wrong? The people that you would attract in the South are the people who think like Republicans in the rest of the country. That is the most honorable thing I can think of in politics." Some southern politicians like Reed were particularly upset by Sen. Charles McC. Mathias's denunciation of the Nixon Administration's "southern strategy" (which was delivered at the Ripon Society's December conference in Washington, D.C.). Said Reed: "So what is to be done particular for this area than for any other? There isn't anything. That's what so absurd to me. They still beat that dead horse. The guy must be out of his mind or a kook to come up with something so foolish." Guillory points out, however, that the southern strategy has been particularly successful in one way: providing a backbone of southern support against impeachment efforts. Guillory questions the viability of attracting blacks to Reed's version of southern Republicanism; he points out that efforts to include blacks in the party have been most successful in states like North Carolina, Tennessee, and Virginia which have old mountain traditions of moderate Republicanism. The Arkansas GOP has been more moderate than the Republican Party in many other states, according to Arkansas State GOP Chairman Jim Caldwell, who observes, "I think party leadership in the South has restricted its outreach to just those people that were philosophically favorable to the incumbent leadership . . ."

● **"Safe Bet: Moakley in the 9th,"** by Cornelius Dalton. *Boston Herald-American*, June 14, 1974. In 1970, Louise Day Hicks won the Democratic nomination to succeed John McCormack in Congress. She edged out Boston City Councilman Joseph Moakley and a prominent black civic leader. In 1972, Moakley skipped the Democratic primary, which Mrs. Hicks won, and ran against her as an independent in the general election. This time, Moakley won a narrow victory with the Republican candidate running a poor third. If Hicks, who is now herself a Boston city councilwoman, decides to run against Moakley in this year's congressional primary, he will lose, according to Dalton. A survey taken by former McGovern pollster Pat Caddell shows her running far behind Moakley. Mrs. Hicks, who is once again actively involved in the campaign against school busing in Boston, has decided not to run for Congress this year and instead to wait until 1975 for her quadrennial race against Boston Mayor Kevin White.

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