

**WANTED: PRISON and POLICE REFORM**

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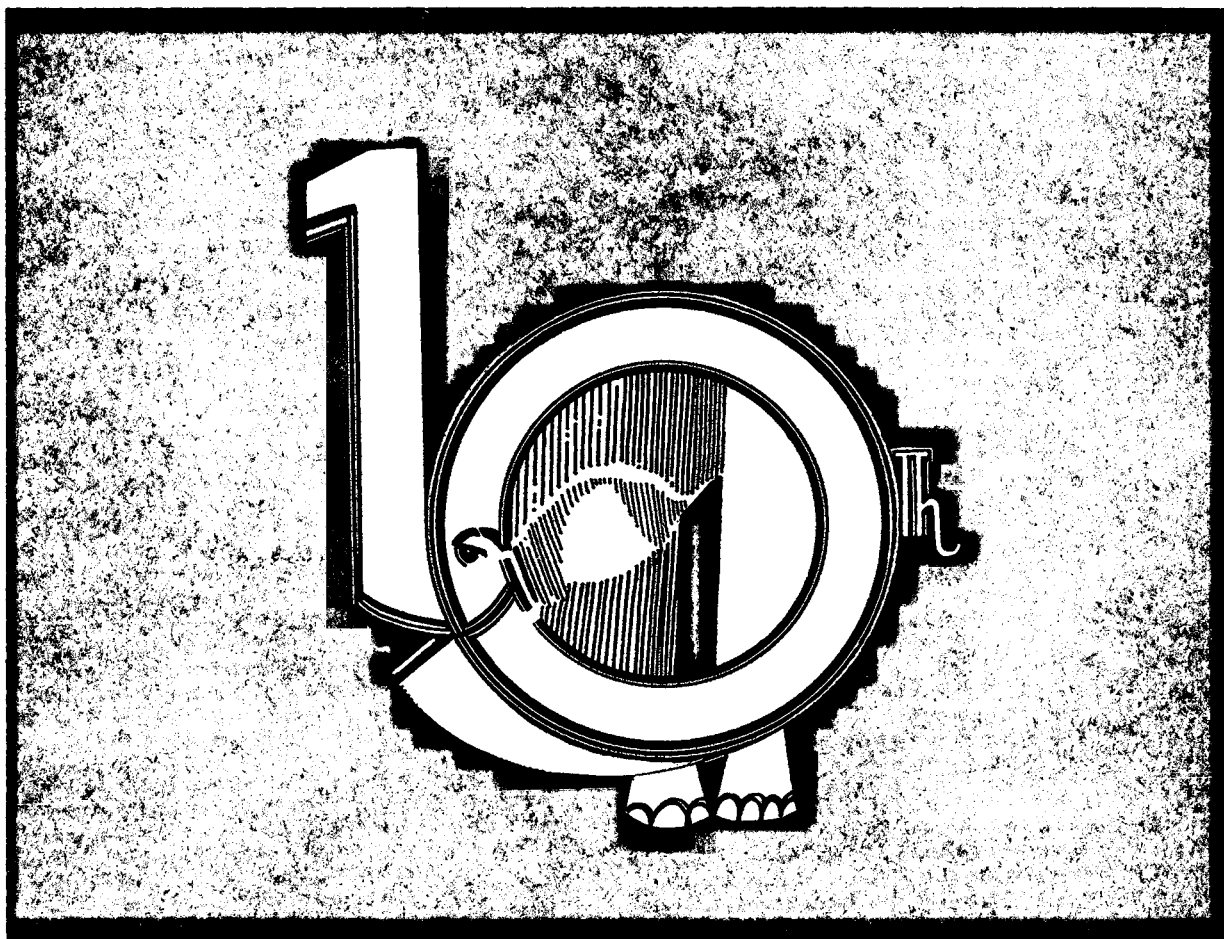
**RIPON  
FORUM**

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**The Ripon Society: The First Decade**

**1962-1972**

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*One of the most frequent complaints in our October Reader Survey was the delay in delivery of the FORUM. Part of the problem this fall has been the time and effort put into our special issues in July and September. We recognize that delivery has been extremely tardy and we are endeavoring to make any possible adjustments which will speed production. However, we have no control over the biggest factor in delivery: the U.S. Postal Service. According to a recent article in the Washington Post "Magazines and third-class mail are done after the first-class mail and are usually left for sorting during the day, delaying delivery another day. This is the kind of mail most susceptible to backlogs." Regrettably, the Postal Service has not yet entered the age of instant communication. So, although we can never be sure that this issue will reach you before the holiday season, we nevertheless extend our best wishes for a Happy Chanukah and Christmas.*

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In publishing this magazine the Ripon Society seeks to provide a forum for a spirit of criticism, innovation, and independent thinking within the Republican Party. Articles do not necessarily represent the opinion of the Ripon Society, unless they are explicitly so labeled.

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# EDITORIAL

## Reflections on Ripon's Future

The fate of the Ripon Society took a sudden turn four years ago with the election of Richard Nixon as President. Suddenly a group which had based its appeal largely on replacing the old politics of Lyndon Johnson with modern-day progressive Republicanism, was faced with a new Administration which was neither Democratic nor progressive. We walked an uneasy tight-rope between encouraging advancement of those policy ideas in the Administration which had marked our history while opposing the divisive politics of the Southern Strategy. Now that the President has been re-elected, we necessarily wonder whether Ripon's talents will be absorbed in more political infighting or whether the constructive partnership we have offered in the past can be achieved through 1976 and beyond.

While offering serious difficulties, the President's re-election does not, I believe, spell disaster for progressive Republicanism. The President has already moved well along towards accomplishing the foreign policy goals Ripon set forth in its first public paper, "A Call to Excellence," to "set new directions in foreign policy, shape new relationships with Europe, pioneer new means of weapons control, understand the diffusion of power within the Communist bloc." Despite general indifference toward domestic policy in his first term, President Nixon has established a pattern of decentralization and reform of the Federal bureaucracy which both progressive and conservative Republicans can accept. If the President can turn his policy not only to the negative ends of states righters but toward the progressive goal of revitalizing local government, he will offer a powerful legacy to build on.

Clearly, the challenge ahead lies in implementation. We have already learned too well that the best proposals for welfare reform can go astray. Hopefully we will not discover, too late, that revenue sharing will replace one set of bureaucratic requirements with another. Ripon has a continuing responsibility to promote, modify and refine the basic goals of the President's proposed "peaceful American revolution."

But Ripon needs to do more in the years ahead. We need not only to revitalize our research capacity, but also to pursue the brand of politics that is congruent with the needs of the Republican Party with which we are seeking partnership. The direction of Republicanism is toward decentralization and community action, and rightly so. We can no longer expect research turned out in New Haven or Cambridge to fit the decentralizing strategy. Not one of our chapters is located

in a city with a Republican mayor. It is in our self-interest to generate research locally which can re-establish Ripon's unique contribution to politics, while at the same time giving the party the kind of positive issues identity on which a mayoralty candidate can run.

A decentralizing strategy for Ripon makes sense given the lack of a single leader around whom progressive Republicans can rally. As the battle for the 1976 nomination seriously commences, it is critical for progressives to demonstrate strength in every section of the country. In a national convention, malapportioned as it is now under the new Rule 30, a conservative strategy (à la Kevin Phillips) can be consummated through an alliance of the South with the Mountain states and California (if the latter remains under conservative control). We know there are progressives in these states who are potential allies, but they need encouragement, and Ripon should provide it.

The 1972 election should demonstrate forcefully how far we are from the goal of establishing the GOP as the party of progress and reform. The President's most vocal supporters have themselves called his victory a triumph for the *status quo*, while many other Republican candidates across the country suffered from the political fallout of Administration policies. It is probably fair, for instance, to blame Sen. Jack Miller's loss, in part, on negative reaction to the Russian wheat deal in corn-belt Iowa.

Now, more than ever, American politics demands sophisticated answers to complex problems, not just simplified solutions of the ideological left or right. Ripon's first policy paper asked where one finds "firey moderates." It went on to say that if we cannot find them, we should become them. In 1972 we accelerated that process when a number of Ripon members ran for office for the first time. Our mixed success again illustrates how far we have yet to go.

Before we despair over our past difficulties, we ought to recognize the great opportunity that lies in the years ahead. The Democratic coalition is crumbling. No coherent philosophy has yet caught public attention as a substitute for the tired-out liberalism of the New Deal. No group of political leaders has yet established itself as the logical contender for national leadership over the last quarter of the Twentieth Century. Over a year ago, A. James Reichley wrote in *Fortune* that the progressive wing of the GOP provided the greatest promise for leadership. Now we need to proceed with the hard work of making that hope a reality. ■

—HOWARD GILLETTE, JR.

# A Word On Ripon Past and Future

*by Lee W. Huebner*

For old time's sake, I suppose, I have been asked to contribute a word about the history of the Ripon Society to this tenth anniversary issue of the FORUM. One is tempted to use this space to reminisce, perhaps about those early dinner and discussion sessions of 1963, perhaps about our trips around Boston in 1967 as we hunted up a printer for the newly established FORUM, perhaps about the frantic fund raising efforts of 1967 when we rather suddenly decided to triple the annual budget and hire the group's first fulltime executive director.

But after four years of watching the Society from a distance, I am inclined to relay instead some brief personal impressions about where the organization has been and where it is heading.

It is useful to remember that the Ripon Society began not in 1964 but in 1962, not in reaction to the rise of Goldwater — as so many think — but in reaction to the era of Kennedy. Its aim was to bridge the gulf which seemed to separate the Republican Party from young people and from the nation's intellectual centers. But its motive was not only to enrich the Party by helping it to draw on new people and new ideas; it was also Ripon's early desire to enrich the intellectual dialogue of the nation — then so

universally mesmerized by the New Frontier — by articulating a different point of view and by demonstrating that it was intellectually respectable to be Republican.

We were tired of apologizing to our fellow Republicans, we used to say, for being interested in new ideas. But we also emphasized that we were sick and tired of apologizing to scholars and thinkers for being Republicans.

In my view, Ripon has done a remarkable job over the past ten years of bringing fresh blood and fresh proposals into the Republican arena. It may, however, have been somewhat less effective in refreshing the prevailing intellectual climate — which has seemed to grow even more monolithic and even less tolerant.

The Society has carefully kept a foot in the Party and a foot on the campus — as it should. But more often the Party has been the target of its critiques and the campus has been the source of its premises.

It is easy to understand why this may have happened. Much of Ripon's commentary has originated on the campuses and it is only natural for criticism to be directed outward. Another important factor, of course, is the tendency of the press to report Ripon's words of criticism for the Party and to ignore its words of commendation. (This was true again last month when the Society published its most recent election analysis.) The overall result is that the Society is clearly visible to Republicans mainly when it plays the scold — a fact which distorts its image and compromises its influence.

I believe the Ripon Society could ease that problem and make a very useful contribution if it would supplement its activities as a gad-fly to the Party by acting more often as a gad-fly to the intellectual establishment. As a bridge between the world of politics and the world of ideas, the Society has an opportunity to be a Republican voice in circles where Republican voices are rarely heard, striking sparks of controversy by challenging the outworn assumptions of reflexive liberalism. And goodness knows there is plenty to challenge.

Enough on that point. In those areas where the Ripon Society has chosen to

concentrate its energies, it has generally set very high standards. As a result, its first decade has been one of considerable contribution to the Republican Party. The Society's experiences have demonstrated for me that ideas can make a difference — that interesting proposals can “get through” — even if they are not supported by a mass membership or a large budget.

To mention one personal example, I recall one night in 1965 in Ripon's first one-room office above the Harvard Square Theater. It provided me with my first exposure to the idea of revenue sharing. The Ripon paper which grew out of that session was published jointly with the Republican Governors Association and was widely credited with helping to revive the idea after President Johnson had dropped it. I have frequently drawn on that paper — and that experience — in preparing revenue sharing documents for President Nixon during the past four years — including the statement he issued when he signed the revenue sharing bill into law this past October at Independence Hall in Philadelphia.

I brought with me to my present White House position in 1969 a list of major policy proposals which the Ripon Society helped to develop or promote during its first six years of existence. Virtually all have now become a part of the Nixon program — including revenue sharing, welfare reform, an all-volunteer army, greater contact with Communist China, government reorganization, new foreign economic policies, and so on. I believe the Society can continue to provide a valuable service to the Party in the next four years — and beyond — if it will continue to explore and articulate those ideas whose time is coming.

The Ripon Society has also had a significant political influence over the past ten years — through its analyses of elections and candidates, through its efforts to supply people and programs for GOP campaigns, and, most recently, through its campaign to reform the rules of the Republican National Convention. There is a natural tension between its activities behind the scenes and its role as a public spokesman, but this is generally the case in politics and neither role ought to be abandoned.

# Whither the Whale?

by Josiah Lee Auspitz

The Ripon Society after ten years faces a problem like that which confronted the prophet Jonah, whose reputation ought not to rest merely on his sojourn in the whale. The whale was just a device to get the prophet to preach to the wicked people of Nineveh. Jonah's real problem was that the sinners heeded his warnings and were saved from destruction.

According to the biblical narrative, Jonah disobeyed the call to go to Nineveh because he suspected that the people might repent and be spared. Why, he reasoned, should he make himself ridiculous by prophesying doom? Hence, he set sail towards another city. The whale was then sent to swallow him up and vomit him forth on the beach near Nineveh. He entered the city and dutifully prophesied: "Yet forty days and Nineveh shall be overthrown!"

As Jonah had feared, the people were moved by his words and repented. The king himself "arose from his throne, removed his robe and covered himself with sackcloth and sat in ashes." The city was spared. "But it displeased Jonah exceedingly, and he was angry." His fulminations had in a sense been vindicated, but at great inconvenience to himself. Besides, the people of Nineveh were still sinners under the sackcloth. They had repented, but not atoned. Jonah went into the desert to sulk.

Now the problem confronting the Ripon Society is that most of its

preachings during the past decade *have* been followed by Richard Nixon — belatedly and imperfectly, to be sure, but followed nevertheless. Of the various programs Ripon has proposed, most that have been worth serious consideration (and some which have not) have entered the main stream of Republican discussion and even received presidential approval: a program of revenue sharing and a decentralizing approach to government, a de-escalatory strategy in Vietnam, welfare reform, a volunteer army, closer relations with China, even little things like no-fault auto insurance, a merging of the Peace Corps with Vista, minority business enterprise, multilateral foreign aid, and tougher economic bargaining with Japan.

The latest sin to be repented was the polarizing political strategy, which Mr. Nixon abandoned in this election campaign. Gone were the divisive code words, the attacks on the press and the radicals, and the attempt to deduce electoral strategy from ideology and pop sociology. This year, after some uncertainty at the outset of the campaign and a few lapses during it, the followers of DeVries and Tarrance won the battle for strategy over the devotees of Phillips and Dent.

As a result, the victory was broad-based. Even against McGovern, the President lost a bit more of the Wallace vote than a polarizing strategy would have given him. (Neal Peirce's report of CBS polls in the *National Journal* suggests that Nixon attracted 70 percent of the Wallace vote in the South, compared to 23 percent for McGovern. Outside the South, Nixon received 50 percent of the Wallace vote, compared to 43 percent for McGovern.) But this was a small price to pay for the across-the-board gains with every group including middle-class blacks and others whom the polarizing strategy had antagonized in 1970. For the first time since 1956, it may be possible to build an image of an open GOP as a party of assimilation to the moderate middle-class. It is now the Democrats who are more in need of a Ripon Society.

Thus, the GOP has in a sense repented. The President has donned a Chinese tunic and a Russian fur cap, covered himself with the sackcloth of

The group has sometimes had an unfortunate tendency to see itself caught in a tug-of-war between "research" and "politics." These two functions need not be seen as contradictory, however; they should be complementary. Without political skills and influence, Ripon is just another research organization — but not nearly rich enough to rival the big-time think-tanks. Without its research capacities, on the other hand, Ripon is just another political organization, but too small and too controversial to be a powerful lobby. I believe the group has been at its best when it has combined the two roles, letting its research inform its politics and vice versa. That, it seems to me, is Ripon's unique function.

The Ripon Society's greatest challenge now is *not* to move "back to research" as some urge or "on to politics" as others suggest. Research breakthroughs and political influence will come in due course as the group continues to attract members who have talents in one area or the other. A far more important concern for the Society as it reaches its tenth anniversary and as its leadership grows older will be its ability to replenish its membership ranks with able recruits from a new generation. If it can do this it will have nothing to worry about.

One great characteristic of Ripon over the years, it seems to me, has been its general refusal to set abstract goals and then rally its members to achieve them. It has chosen to proceed instead by recruiting good people who had something important they wanted to do and then turning them loose and helping them do it. Perhaps this also helps explain why the group has wasted so little energy over the years on internal disputes or personal rivalries; virtually all of its energies have been used for constructive projects and I hope this tradition will be continued.

I believe Ripon's future is bright. But I also believe the Society's intellectual and political influence would both be bolstered if the group could now share with the nation's intellectual institutions the sometimes painful, but usually constructive, leavening influence it has so relentlessly provided for the Republican Party. ■

moderation and sat in the ashes of Keynesian economics. He has not only been spared from destruction, but has won a landslide.

But are we of the Ripon Society happy? No, we are displeased exceedingly. The Republican Party is still far from a progressive party and far from a majority party. Its rank and file is older and more determinedly right-wing than ten years ago. The moderate base in the party is pitifully small and the 1976 nominating convention — despite minor improvements resulting from Ripon's law suit and the Nixon landslide — will still be stacked against the big states. Meanwhile, Spiro T. Agnew is the President-in-waiting. It is still the same GOP under the sackcloth.

If the Ripon Society were in fact Jonah, it might go off in the desert and sulk. But though its problem is the problem of Jonah, the Society's role is the role of the whale. The Ripon Society is, after all, just a device. It is designed to intercept young people on their way to some other destination, swallow them up for a while, and belch them forth near some Republican Nineveh. If it has had any successes during its first ten years, it is only because of its recruitment of gifted and dedicated individuals who have pushed its various projects along, and received encouragement from others in the group and sympathetic officials in the party.

For its next ten years it should therefore be asking itself: where are the new Ninevehs? Here are four possibilities:

1. *State and local parties.* Ripon's role on a local level can be the same as that nationally — to help redefine the spectrum of the GOP. Judging from past experience, the first reactions of party officials will be hostile. On its first appearance, Ripon has been greeted as an underground conspiracy in Washington, D.C., as Democrats in disguise in Chicago, as a Communist front in Seattle, as a sinister analogue to the John Birch Society in California, and in Memphis the words of welcome during the past year are unprintable. But if the local groups persevere they can win respect and influence. As their members show that they can help as well as criticize the regular party, they

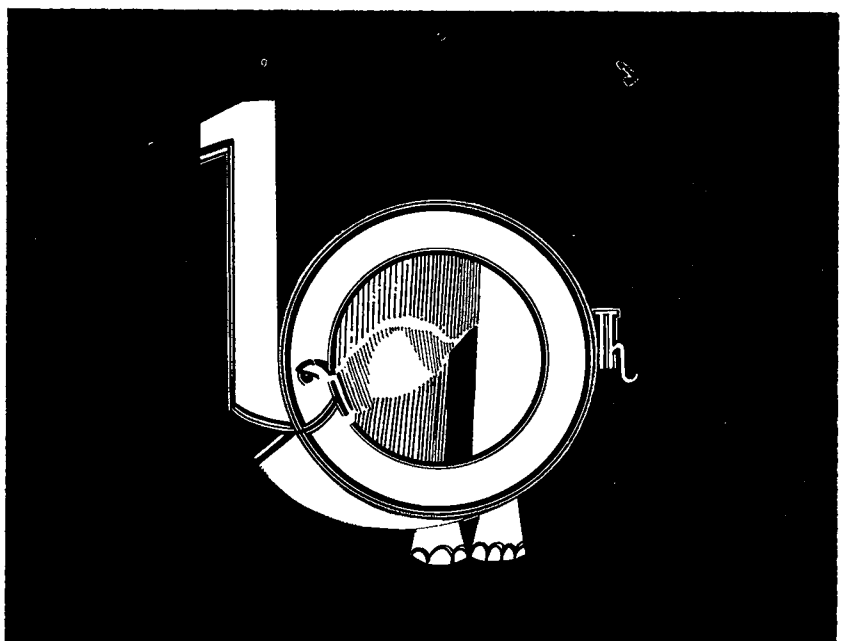
will become an important part of the regular party. To the "centrist," Ripon is especially important, since he needs desperately to find a left-wing to play off against the right.

2. *The liberal-progressive-moderate-pragmatic-problem-solving Republicans.* This wing of the party has so many prima donnas that they cannot even agree on a single label to give them a common sense of purpose. They seem at this point much more in need of prodding than Richard Nixon. At least the President learns from his past mistakes. Our heroes, on the other hand, prefer to play to the media year round and then go down in telegenic defeat on the floors of Republican conventions. Many Republican contributors continue to behave in politics like compulsive stock speculators rather than serious investors. They are willing to expend huge sums on media and political consultants once a 'winner' emerges, but are less attuned to see the need for organizational work in anticipation of this. The moderate Republicans are thus the only major factional group in the entire country without experienced political organizers, without a national mailing list, without a widely circulating publication, without the ability to coordinate national or even regional political initiatives, without, in sum, the sense to plan ahead. Oh, Nineveh! Yet four more years of this, and they shall all

deserve to be irrevocably overthrown.

3. *The intelligentsia.* In an educated America, ideas have become as important a force in politics as patronage was in an earlier age. It is crucial, then, that the parlance of the press and intellectual community be attuned to the realities of the exercise of power. This is not now the case. The American intelligentsia is ideologically diverse, with "liberals," "conservatives" and "radicals" (Ripon's "moderates" do not exist in its pantheon) engaging in well-publicized and self-aggrandizing warfare. But it deals with political problems in outdated terms inherited from the New Deal. Its debates overrepresent every shade of opinion except that which is necessary to keep our institutions on an even keel. Ripon can combat the danger of intellectual arthritis in its second decade by finding a Jonah or two to preach to the false prophets.

4. *Nixon and the Washington Scene.* No longer the primary focus, perhaps, but still worth some effort. The Lord's words to Jonah, in which some commentators have found traces of quiet humor, may apply to our own seat of government: "And should not I pity Nineveh, that great city, in which there are more than six score thousand persons who do not know their right hand from their left, and also much cattle?" ■



# Family Assistance and the Negative Income Tax

by Robert D. Bebn

Of all the research papers on domestic issues that the Ripon Society produced during its first ten years, the most significant proposed a Negative Income Tax to replace the current welfare system. This is the only welfare mechanism that can solve the problem raised by presidential candidates Richard Nixon and John Schmitz that: "It is wrong for anyone to receive more on welfare than someone who works." Indeed, the two essential elements of a negative income tax — it is universal, applying to *all* citizens; it has a sliding scale of benefits which decrease *gradually* as earned income increases — were the key features of President Nixon's Family Assistance Plan announced in August 1969.

In contrast, the current welfare system is called a "categorical" one, since low-income people are eligible for benefits only if they fit into carefully defined categories. They must, for example, be elderly, or disabled, or "families with dependent children." The largest federal program, AFDC, is for the latter group and is what the candidates and the voters usually mean by the term "welfare." The categorical system warps the family structure of the poor by forcing them to modify their lives to meet the categorical definition for eligibility.

President Nixon eliminated the most important categorical boundaries in his Family Assistance Plan by expanding eligibility to all families with children.

The second essential element of a negative income tax is that it has no major discontinuities in its payments schedule. Those who despair at the high *marginal* tax rates of a progressive income tax — up to 70 percent under the Internal Revenue Act — argue that this disincentive for better work affects both take-home salary of the nation's key executives and the U.S. economy as a whole. This same argument applies to the bottom of the income ladder, where a flat level of welfare support, one that is reduced by \$1.00 for every dollar earned, has an *effective* marginal tax rate of 100 percent. The difference between a flat, Guaranteed Annual Income and a negative income tax is significant, for the differences in the incentive structures affect both the income of the poor and their contribution to the GNP.

Though in recent years Congress has reduced the effective marginal tax rate of AFDC to 67 percent, it has added other service benefits to supplement direct payments — particularly Medicare and Medicaid — which are open only to those with incomes below a fixed level. Thus, when income rises above the eligibility level, a welfare family finds a significant portion of its benefits completely cut-off. The result is the anomaly of an effective marginal tax rate for the poor that can be greater than 100 percent.

Though some argue that those on welfare are merely lazy, when a welfare system — through its direct payments schedule and subsidiary services — has a marginal tax rate greater than 100 percent, refusing to work is the only intelligent response. President Nixon clearly recognized this problem and incorporated a 50 percent effective marginal tax rate into his original Family Assistance Plan.

Unfortunately, Daniel P. Moynihan, who inspired and developed the President's Family Assistance Plan, is no longer in the Administration and despite Moynihan's assurances in *Life* magazine that the President is still committed to the original concept, campaign rhetoric and post-election statements from the White House im-

ply otherwise. Self-reliance and the work-ethic, the fiscal constraint of an exploding federal budget and the desire for "thinning down" the bureaucracy are more in the forefront of the President's thinking than the goal of eliminating the inconsistencies of the welfare program.

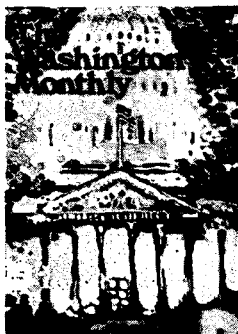
But these concerns of the White House are not really in conflict with the original goals of the Family Assistance Plan. Giving welfare recipients money rather than services or advice can reduce the social welfare bureaucracy; it will "return more power to the people" from the government as the President desires. Proposals for abolishing some of the ineffective and expensive War on Poverty programs will never win support from Capitol Hill — despite the President's "mandate" from the electorate to deal with the Democratic-dominated Congress — unless the President provides a rational and more effective alternative for providing assistance to the nation's poor. Nor will the cherished work-ethic be accepted by those on welfare until it "pays" to work.

In its purest form, the negative income tax is essentially conservative — in the traditional meaning of the word. It does not patronize the poor by telling them they need a particular service or the advice of a welfare worker, but provides the poor directly with money with an implicit faith in the individual that he or she will spend it wisely. Nor does it force them to take "artificial, government make-work jobs," as President Nixon described required, public-service employment during the campaign, but provides market-like incentives that encourage the poor to increase their income by working. The Ripon Society, after all, borrowed the name Negative Income Tax from Milton Friedman who first advocated the concept in his book, *Capitalism and Freedom*.

If Richard Nixon is to be true to his philosophy of conservative individualism and to his Republican principles — and at the same time promote the work-ethic, and gain control of the federal budget and bureaucracy — he had best make congressional enactment of the original Family Assistance Plan a major goal of his second term. ■

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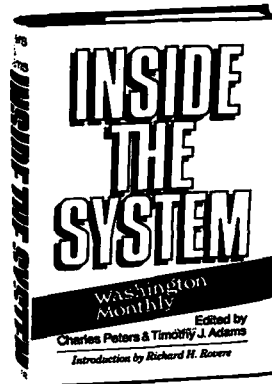
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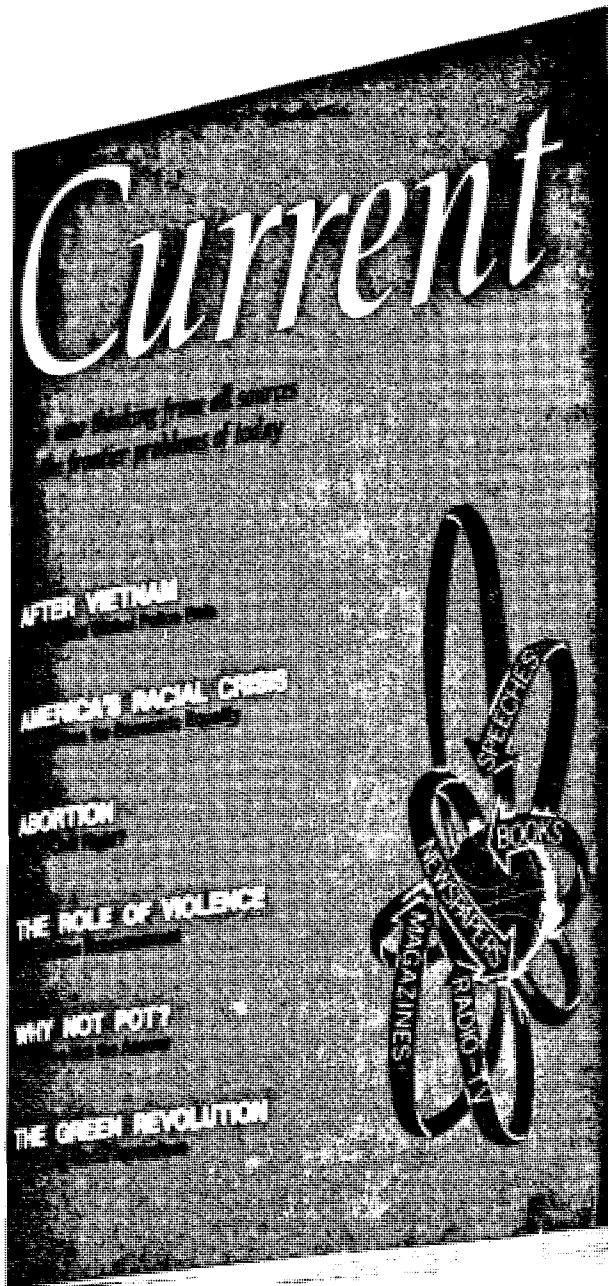
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# Politics: Profiles

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## JOEL PRITCHARD

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SEATTLE — Joel Pritchard was the last Congressman to be elected this year. The outcome in Washington's 1st C.D. was decided by a count of the absentee ballots. When the result was announced nearly 10 days after the election, the 47-year-old Republican defeated Democrat John Hempelmann, 30, by about 2,000 votes.

Pritchard, a former state senator and president of the Griffin Envelope Company, had trailed by nearly 2,000 votes before the absentees were counted. But true to Washington political tradition which dictates that Republicans receive about 60 percent of the absentee vote, Pritchard won 58 percent among these late ballots, ensuring him of election.

The race to succeed Congressman Thomas M. Pelly had been a hard-fought battle between Pritchard, who had narrowly lost the congressional nomination to Pelly in 1970, and Hempelmann, who had the strong support of Sen. Henry "Scoop" Jackson in his election bid. Jackson's role was considered the key to the district because he pushed his former aide into the race earlier in the year, raised about \$40,000 in contributions for Hempelmann, and appeared along with Senators Warren Magnuson and Edward M. Kennedy in a blitz of TV advertisements late in the campaign. The Jackson effort, combined with the wholehearted support of the AFL-CIO's COPE and local labor groups, was nearly enough to put Hempelmann over the top. Commenting before the recount in a post-election edition of the *Argus*, the Seattle magazine's assistant editor, David Brewster, said, "In the First (Congressional District), the Jackson effort was seen in its purest form; not only did Jackson possibly elect John Hempelmann, he very nearly invented him."

But Pritchard had his own support. He was endorsed by both the liberal National Committee for an Effective Congress and the League of Conserva-

tion Voters, who apparently recognized the value of Pritchard's environmental efforts as a state senator.

The country's ecology will be a principal concern of Pritchard in Congress. As a Washington legislator for 12 years, the Seattle native was a key leader in legislation for billboard control, protection from oil spillage and better regulation of nuclear power plant siting.

Pritchard's legislative record became an issue late in the congressional campaign when the Hempelmann organization aired ads which pictured an empty chair and criticized Pritchard's absentee record. Although Pritchard had been a legislative leader and liaison between the Governor's office and the legislature, the time-consuming nature of these activities may have been lost on the voters.

Redistricting also hurt Pritchard; several Republican areas were removed from the district this year, leaving about equal proportions of Republicans, Democrats and independents. There is some evidence that Democratic voters may have exercised what David Broder has called the "penance vote." After voting for Republican

candidates for President and Governor because they were dissatisfied with the quality of Democratic candidates in these races, many Democrats apparently sought party penance by returning to the Democratic ticket for lower offices. Finding no positive reason to boycott Hempelmann, they may have voted Democratic.

Issues were subordinated in the campaign to the organizations of the two candidates. While Hempelmann had labor and Jackson support, Pritchard recruited a young campaign organization of about 5,000 volunteers. The personable Republican hit the streets particularly hard in the late days of the campaign, while both men waged media battles on the television screen. Pritchard also gained the support of the retiring Pelly. One issue which may have hurt the former legislator was his leadership in abortion reform efforts in contrast to the strong opposition of Hempelmann.

In Congress, Pritchard is expected to be a strong proponent of congressional reform. Continuing his Washington record, Pritchard promises to be an opponent of the systems of seniority and committee secrecy.

Not an ideologue, Pritchard's strength is his pragmatism and skill in resolving conflicting views. It will come in handy in Washington, D.C. where his party affiliation conflicts with both of Washington State's Senators and its six other Congressmen. ■

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## WILLIAM S. COHEN

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BANGOR — Maine's new 2nd C.D. Representative, William Cohen, tried to break the notion that one is "young, ergo a Democrat."

"Now more than ever, there's a great opportunity for young people in the Maine Republican Party," says Cohen.

The 33-year-old Bangor Mayor succeeds Congressman William D. Hathaway, 48, who in turn succeeds Sen. Margaret Chase Smith. Cohen's opponent was State Sen. Elmer H. Violette, 51, a popular and well-known Democrat.

Cohen literally trod his campaign handicaps into the ground. Like a variety of Democratic winners across

the country, the young attorney walked across the district — a 550-mile trek which he says, "enabled me to meet a lot of people I wouldn't have met if I had campaigned in the traditional ways."

And like some other successful Republicans, Cohen "ignored the conventional wisdom" and campaigned in his weakest areas rather than in his strongest. His persistence in Democratic Lewiston and the St. John's Valley was vindicated when he won the general election by 54 percent of the vote. His activities rather shocked some local Republicans, who felt they were inconsistent with "Republican notions" of campaigning. Cohen flew,

walked, motored, helicoptered, cycled, and even swam in a YWCA benefit in Lewiston.

"The problem of Maine Republicans is that they took too much for granted," says Maine's highest elected Republican official. "At least we saw the need to get out and really get organized at the grass roots level."

His activities were matched by a strong, young campaign organization run by former Bowdoin College classmate (now a Bowdoin professor) Christian P. Pottholm. And Cohen admits that his campaign was not hurt by his reputation as a Maine all-state basketball player a decade earlier.

Cohen placed great stress on the Maine economy during the campaign — stress he says he will maintain as a Congressman. And his huge district has its economic troubles — recent years have witnessed the stagnation of potato farming, textile and shoe industries, forestry production and fishing catches.

The new Congressman sees an imperative need to bring government closer to the people, while encouraging the citizenry to recognize the rewards that "hard work" can bring to the community. He cites his own city of Bangor as an example of citizen-government renewal efforts in the wake of the closing of Dow Air Force Base. Bangor "turned adversity into advantage," says Cohen, by taking

over the base and turning it into a center for transportation, light industry and education.

Cohen wants to see satellite industries developed in Maine to take advantage of the production of raw materials. He points out that no office furniture factories exist in Maine despite the state's large forestry industry.

The young Congressman would also like to see government incentives for fishermen to catch predatory (but currently unmarketable) species like the dogfish and the goosefish, which in turn could be processed into fishmeal for disaster relief. Cohen wants the country's fishing limits extended to a 200-mile limit for foreign fishermen in order to protect American operators, who are at an increasing disadvantage with foreign competitors who fish off the U.S. coast.

Cohen seeks to "revive and preserve rural life" in the nation as well as in his largely rural district. He decries the detrimental effects of urban concentration and calls for a national land use policy.

In Congress, Cohen will be looking for a seat on the Judiciary, Appropriations, Merchant Marine, Agriculture, or Interstate and Foreign Commerce committees. And although he admits that there is "a lot I don't know," Cohen is in opposition to the seniority system and the over-use of executive sessions. ■

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## ALAN STEELMAN

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DALLAS — "My problem is not to be liberal or conservative, but to be right," says Congressman-elect Alan Steelman of Texas's 5th C.D.

The new Republican Congressman's message must have gotten across because his support ranged from the Congressional Action Fund (liberal) to the Americans for Constitutional Action (conservative).

Steelman succeeds four-term Congressman Earle Cabell (D), a former Dallas mayor who had helped to redraw his district's lines to include more conservative Republicans. The tactic was designed to exclude many of the district's blacks who had supported liberal Democratic primary challengers to Cabell in the past. This year Cabell had few problems in the

primary, whereas Steelman was forced into a runoff to win the Republican nomination.

In the general election, however, Cabell's strategy backfired. Not only did Steelman sweep strong Republican areas, but he also ran 2-1 ahead of Cabell in several blue-collar suburbs. Only in South Dallas, the black neighborhood where Steelman had campaigned less energetically, did the Republican fall victim to Democratic straight-ticket voting.

The lackluster campaign of the 66-year-old Cabell contrasted strongly with the strenuous effort of the 30-year-old Steelman. The former director of the President's Advisory Council on Minority Business Enterprise, Steelman began in January to put in 10-hour

days of campaigning. He estimates that he knocked on 26,000 doors, predominantly in Democratic areas, during the campaign. As Steelman walked, he was followed by his mobile campaign office-bus — which he has promised to turn into a mobile congressional office for regular visits throughout the district.

Steelman attacked Cabell's absenteeism (calling him a "missing Congressman") and his record on busing, welfare reform, consumer protection, and pollution.

As an alternative, Steelman says he will place his congressional priorities on:

— Consumer protection, where he favors state or federal licensing of auto mechanics and enforcement of federal minimum standards for auto repairs.

— Cost and size of the federal bureaucracy, in which area he feels Congress ought to reassert itself. Steelman favors a congressional counterpart to the Office of Management and Budget to assess the effectiveness of federal programs. Revenue sharing is the "most important development in federal-state relationships in the last 40 years," according to Steelman, and he would like to see the idea expanded. In an area of special interest, the former federal official would like to see the merger of several federal agencies concerned with the small entrepreneur into one agency "for expanded ownership." He favors the dismemberment of the Office of Economic Opportunity and the distribution of its parts among other departments.

— Environmental concerns, which he feels have been subordinated by proponents of unregulated growth. "We need a basic redirection of the national value system as far as growth is concerned," says Steelman. He favors a national land use policy which would disperse population and industrial centers.

In Congress, Steelman will seek a seat on the Appropriations, Government Operations or Public Works committees.

Steelman is credited with pulling several Republican legislators into office in Dallas. He feels the future of the Texas GOP is bright if it "becomes the coffee shop party as opposed to the country club party." ■

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# Politics: People

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● Former California Assembly Speaker **Jess Unruh** has hired the Los Angeles campaign consultant firm of Spencer-Roberts to manage his mayoralty campaign in that city next year. Spencer-Roberts, which always previously has run Republican campaigns, managed Gov. **Ronald Reagan's** election effort in 1970 — against Jess Unruh. Other announced or likely candidates include former police chief **Thomas Reddin**, City Councilman **Thomas Bradley** (Mayor **Sam Yorty's** opponent in the last go-round), and **Joseph Blatchford**, the recently-resigned director of ACTION.

● Sen. **Marlow Cook's** Democratic opponent in 1974 may be fingerlickin' good (or bad) Kentucky Fried Chicken dynamo **John Y. Brown, Jr.**, who helped engineer the Democratic telethon earlier this year. Brown is supposedly considering a bid to completely reverse the state's long-standing policy of sending two Republican Senators to Washington. Other potential challengers to Cook, who will face re-election on the heels of former Gov. **Louie B. Nunn's** (R) Senate defeat this year, include former Gov. **Edward T. Breathitt, Jr.** and Congressman **Romano Mazzoli**.

● Among the young Republicans elected to state legislatures are two Vermont residents, **Michael Obuchowski**, 18, and **Gregory Reed**, 19. Obuchowski, a Harvard student, is from Bellows Falls and Reed is one of two Representatives from St. Johnsbury. The other St. Johnsbury Representative, Mrs. **Louise Swainbank**, is Reed's former seventh grade teacher. In Massachusetts, Republican **Robert A. Hall**, 26, won a seat in the State Senate. Hall, a Vietnam veteran and part-time college student, won election from his Fitchburg district by seven votes. In New Hampshire, 19-year-old **Steve Duprey** won election despite the views of one constituent who told him, "I admire what you are doing, but don't be upset if you lose. After all, young people belong in college." Duprey, a former McCloskey supporter who calls himself a conservative, will take a semester off from college to work in the legislature. He attends New College in Sarasota, Florida. And in Idaho, another self-described conservative, **James A. Yost**, 24, a dairy wholesaler and retailer, won a seat in the legislature.

● One of the more interesting set of legislative races in the country involved two, widely separated districts in Alaska. In Alaska's 1st House district, former Republican Speaker of the House **William Boardman** sought a comeback and lost. Meanwhile, in Anchorage, State Rep. **Genie Chance**, a liberal Democrat, easily won re-election. The husband-wife duo of Boardman and Chance share an apartment in Juneau while making their legal residences elsewhere.

● President **Nixon** was not the only one to reshuffle his staff in the wake of his re-election. On Capitol Hill, Sen. **Edward Brooke** (R-Mass.) supervised a massive turnover in his own staff. Sen. Brooke terminated the services of several key staff members, while others left under their own steam. The turnover reportedly will include more than half of Brooke's staff

and may be a prelude to a more intensive drive for national office.

● Commenting on the friendship of former Treasury Secretary **John Connally** and would-be Democratic National Chairman **Robert Strauss**, the Texas Observer quoted one political commentator as saying, "I wouldn't say that Connally and Strauss are close, but when Connally eats watermelon, Strauss spits seeds."

● A recent poll by **Louis Harris** shows a shift to the left in American politics over the last five years. Since 1967, the percentage of persons describing themselves as "conservative" has decreased from 38 to 35 percent and as "middle-of-the-road" from 37 to 34 percent. The "liberal" share meanwhile has increased from 14 to 19 percent and the "radical" share from 1 to 3 percent. The percentage of Republicans identifying themselves as "liberals" declined, however, from 11 to 8 percent.

● State Supreme Court Justice **Richard Rosenbaum** of Rochester has been elected chairman of the New York Republican State Committee. The 41-year-old judge will replace the current chairman, **Charles T. Lanigan**, who resigns January 1 to become a vice president of Metropolitan Life Insurance Company. In relinquishing his party post, Lanigan attacked the role of the Liberal and Conservative Parties in the state, charging that they have "undue influence" on the Republican and Democratic Parties.

● In Virginia, where moderate Democratic Sen. **William B. Spong, Jr.** was defeated in November, Democrats are engaging in an orgy of recriminations. While Lieut. Gov. **Henry E. Howell, Jr.**, erstwhile Democrat and now an independent liberal, has blamed conservative former Gov. **Mills E. Godwin, Jr.** for the victory of Republican **William L. Scott**, Godwin has blamed Howell. And moderate Attorney General **Andrew P. Miller** has blamed them both. Miller has said he will decide in January what office to seek next year.

● Dr. **Carl L. Marburger**, New Jersey State Education Commissioner, was denied confirmation to a second five-year term by the New Jersey Senate. The defeat of Marburger's nomination was another in a long string of political setbacks for New Jersey Gov. **William Cahill** (R).

● New York's four-term Governor, **Nelson Rockefeller**, has suggested that he approves of preliminary maneuvers to nominate a fusion mayoralty candidate who would limit himself to one term. "For someone to get the city back on the track would require action that would be less than fully popular," said Rockefeller who, some reports indicate, will seek a fifth term in 1974.

● Vice President **Spiro Agnew's** "greatest speeches" are now available on a series of five cassette tapes for home enjoyment. "Close your eyes and listen to the crowd cheer. It's as if you are there as the Vice President denounces ultra-liberals, campus radicals, draft dodgers, deserters, social planners, Muskie, Kennedy, Humphrey, Lindsay, Herbert Marcuse and the Black Panthers. You too will feel the excitement as Vice President Agnew exposes — and proves — the liberal-left bias of CBS, Time-Life, the Washington Post and the New York Times." Or so say the promoters at Human Events.

## **At Issue:**

# **Productive Assistance For Offenders**

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*America's prison correctional programs have two deficiencies. They do not work and they cost too much money. Regardless of advances in the nation's crime-detection and crime-solution techniques, America's crime-prevention efforts will continue to be crippled until we recognize that recidivism rates make a mockery of our criminal justice system. In his Ripon Prize-winning essay, "Productive Assistance: An Alternative," Robert A. Roos proposed an alternative to welfare which would guarantee "meaningful employment, compensated at the national minimum wage, to every person who is in need and is physically and mentally capable of some form of productive behavior." (See November 1971 FORUM.) Now a parole agent for the California Department of Corrections, Roos suggests that "Productive Assistance" could also be applied to offenders in prison and parole systems. Roos argues that a program of meaningful employment and wage opportunities combined with tax and expenditure responsibilities would aid in the socialization of offenders who lack appropriate experience in these areas. Although not a total answer to our prison problems, Productive Assistance might be one "alternative" to the destructive nature of contemporary prisons.*

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*by Robert A. Roos*

When considering the costs of the entire correctional process, one must include the cost of maintaining a police force, courts, district attorneys, public defenders, probation and parole officers, and the prison system. These institutions collectively represent a tremendous expense to society. Today, our judicial and correctional systems are overloaded because of high rates of crime and recidivism. In addition to these direct costs, there are other costs to

society from the incarceration of persons whose unproductive lives lead to a loss of the benefits of their labor.

The basic purpose of a penal system should be rehabilitation, although punishment in one form or another will probably always remain a significant factor in our prison systems. Placing an individual in any setting in which he is involuntarily isolated from the whole of society is in itself punishment.

When applied to an individual, the word "rehabilitation" suggests that the individual has at some time in the past been habilitated or socialized and is now in need of a process of re-orientation. This may not be exactly correct. It is probable that many individuals who come in contact with the correctional system may have never been completely or appropriately habilitated or socialized. Therefore, one of the goals of a comprehensive system should be to continue or complete the process of habilitation or socialization.

The rehabilitation process must be carried on to the point where a particular individual upon his release is able to function in a positive and independent manner in the "free society." Infants begin the process of socialization as soon as they are born. Through a process of relating to adults around them they begin to learn what is expected of them and how to act in concert with other members of the family and eventually with larger social groups. The growing individual learns to internalize; incorporate as his own rules of conduct the rules of the group and eventually of society. The continuation of orderly group life is possible only when each individual is able to control himself through the mechanism of internalization. Where this process has been thwarted for one reason or another, the correctional process must seek to complete it.

Society has a right to be protected from those individuals who conduct themselves in a destructive manner with respect to its best interest. However, it is in the best interest of society to rehabilitate these individuals so that it will not be burdened by the necessity of supporting them indefinitely. Because temporary protective separation and rehabilitation must be the principle objectives of any correctional program, a system of rehabilitation which provides for the greatest likelihood of successful and constructive re-integration into society will be the least expensive in the long run.

Therefore, one of the major goals for a correctional system is that of re-entry and integration into the community. The prison or correctional system must first prepare the individual through a process of socialization. Second, the inmate must leave the prison setting with those economic skills which will permit him to be an independent and productive member of society.

A comprehensive correctional system must provide income maintenance, motivation, training, and help with problems of behavior and other social conditions that interfere with the realization of productive potential. The individuals served by these systems must feel that there is some constructive influence in their lives and that there is a possibility of a productive future. Many individuals have grown up in an environment where they have learned defeat. They expect to fail and often act in ways that reinforce these feelings. Their lives lack direction, purpose and self-respect. Any comprehensive correctional system must in some way deal with this motivational problem.

In most prisons today, many inmates are required to work. Some of these tasks include maintaining the prison itself and taking care of the basic needs of the

prison community. Such functions as food preparation, laundry, and general maintenance are required in every institution. Some institutions specialize in the manufacture of certain limited product lines to be used by various branches of the state government entity as, for example, the manufacture of automobile license plates in one California institution. Though all inmates are not required to work, those that do work make only a few cents an hour. With these small wages prisoners are able to buy cigarettes and other products of a limited nature. Their basic needs of housing, clothing, and food are supplied by the prison which is, in turn, supported by tax dollars.

Depending upon the nature of the institution and its security requirements, the per capita annual cost of supporting an inmate in a California institution varied during the 1971/72 fiscal year between approximately \$3,300 and \$5,600. The 1972/73 fiscal budget for the Department of Corrections of the State of California projects an annual per capita cost of between approximately \$3,500 and \$6,400 per inmate depending upon the institution.

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**"A comprehensive correctional system must provide income maintenance, motivation, training, and help with problems of behavior and other social conditions that interfere with the realization of productive potential."**

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Productive Assistance (P.A.) is an alternative to our prison and correctional systems. Under this program, penal institutions should assume a new view of their responsibility toward the inmate by providing the means and motivation whereby he can learn to be responsible for himself. The prison community should as nearly as possible resemble the free society to which the inmate will eventually be released.

The basic plan would be to guarantee inmates meaningful employment at the national minimum hourly wage for up to 40 hours per week. Inmates would receive weekly paychecks and would be subject to all payroll taxes as are individuals in like employment in the private sector. Such employment would be very flexible and take into consideration the skills, needs, strengths, and weaknesses of the individuals involved.

Correctional workers would be responsible for placing inmates in jobs after an evaluation of their education, experience, skills and past history. These advisors would also be responsible for following the progress of recipients involved in this program. Any necessary assistance would be given for problems such as absenteeism, tardiness, medical or other difficulties. Inmates would receive counsel concerning programs of training or education and eventual placement in the private or public sector of employment upon parole release.

The objectives here would be to make employment flexible so as to best meet the abilities and needs of the

individuals involved. An important benefit of this employment program would be that of enabling individuals who have been unable to establish an employment history record to do so.

The projected average annual per capita cost per inmate in a California institution for the fiscal year 1972/73 will be approximately \$4,400. Based on a 40 hour work week, there are 173 working hours in the average month. Multiplying this number by the national minimum wage (\$1.60) and again by 12 (months) would yield a yearly income of approximately \$3,221. If the national hourly minimum wage were \$2.00 per hour, a yearly income of approximately \$4,152 would be realized. Even at a minimum of \$2.00 per hour, the total yearly wage paid would be \$250 less than the projected per capita cost in California prisons of \$4,400 for the fiscal 72/73 year.

Under this method of employee-inmate financing, the wages earned would be used to pay for all the services that the inmate receives at the institution including the fixed cost of lodging and police protection as supplied by prison correctional officers. However, there would be many variable costs, as there are in the free society, that the inmate would have to pay. These variable costs would relate to such expenses as food, clothing, entertainment, and a variety of miscellaneous expenses.

In using his wages to pay for the costs of products and services that the inmate requires, he would be exercising the same choices that individuals in the free society exercise every day. This process of economic choice would enforce the process of socialization. The inmate's buying decisions would simulate those exercised by the public and those that he would have to make upon his release. The attempt here is to make the prison community as nearly similar to free society as possible.

Additionally, the skills that the inmate gained through training and employment would enable him to function productively and independently in the free society. By possessing these skills, and the appropriate attitudes, he would be able to enter the main stream of economic activity in the free society. Thus, such employment would be expected to provide meaningful rehabilitation both in terms of employment skills and attitudes.

Each inmate under P.A. would receive the national minimum wage for up to 40 hours per week. The federal minimum wage should be used for a number of reasons. First, employees under P.A., regardless of their state of residence or confinement, should receive the same wage to promote uniformity. Second, the application of the national minimum wage would assure that employees in the public sector (P.A.) and those in the private employment sector, would both be subject to the same minimum wage.

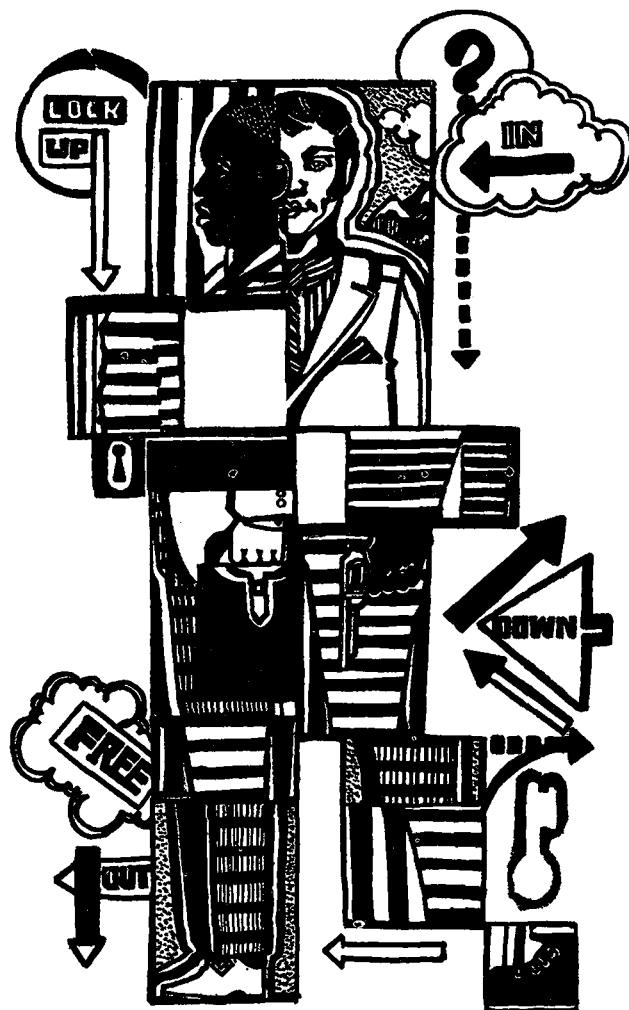
Inmate-employees under P.A. would pay all the same payroll taxes as do individuals similarly employed at the same wage rates in the free society. They would be treated in almost all respects like any other employee. But unlike the free society, all the employment in the prison community would be concentrated at the same wage rate. The jobs would be differentiated in status by the value that the prisoners placed upon them. The jobs themselves

would fall into two categories: institutional and non-institutional.

There are several types of employment that relate to maintaining the institution itself involving such activities as lodging, food preparation, laundry and cleaning, disposal and sanitation, and warehousing and stores. In addition to those mentioned, the new prison community would provide a wider variety of services as is commonly found in a small community in the free society.

New prison industries also could be set up which would perform necessary work and make products for consumption by state agencies. As an example, a prison printing industry could produce many of the forms used by various state agencies. State automobiles could be repaired by automotive garages operated by inmate employees. A variety of other products and services could be generated for state agency consumption thereby providing employment for inmates which is similar to private sector employment in the free society. Such practical experience in this employment would best prepare an inmate for his eventual release to the larger community.

Most of California's penal institutions have training programs of one type or another. However, these programs are not always open to all inmates and training tends to be limited in its intensity and scope. The programs do not guarantee that an inmate will have a posi-





tion in the free society when he is paroled. Present prison facilities do not always provide an industry in which a trainee who has completed his program can find employment while he is confined. Most prisons do not have facilities to conduct extensive "on-the-job training" operations. A prisoner may receive training while in prison, but may not be able to function at an adequate speed or with enough proficiency to really be competitive in like industries in the free society. Thorough training should involve both the opportunity to acquire the fundamentals of and develop proficiency in a skill.

All individuals in P.A. would be eligible for meaningful training, both educationally and vocationally. Training would take several forms. Formal classroom experiences would be needed for some individuals, particularly those without high school diplomas. Others would be trained in trade-type schools and shops. Still others would receive on-the-job training in prison industries.

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**"If all unemployed parolees and probationers, capable physically and emotionally of some form of productive behavior, were guaranteed meaningful employment, the rate of recidivism would drop dramatically . . . for both juveniles and adults."**

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P.A. would tend to have built-in self-regulating and motivating features. Individuals applying and accepted for training in educational programs would participate approximately 40 hours per week and would receive the same minimum wage and benefits as those otherwise employed under P.A. The prison inmates would first be enrolled in the P.A. employment sector after an evaluation of their overall background. Individuals exhibiting an interest and a need for training would then be allowed to participate in the training sector. Only those individuals showing real and sustained interest and benefit would be allowed to continue in this training sector; others would be returned to the prison employment sector.

Requiring inmates to be employed 40 hours a week would direct action and thinking towards productive and useful activities. It would encourage these individuals to think of themselves as employees rather than "wards" of a state institution. Upon release, these individuals would be motivated to seek similar employment in the private sector where higher wages are commonly paid.

P.A. could be applied to almost any prison setting. Today, prisons are commonly categorized as maximum, medium, or minimum security types. Many authorities in the field of corrections have been advocating smaller prison units with from 200 to 400 inmates. This would be an ideal setting in which to apply the concept of P.A. It is felt that this size institution would lend itself to more individuality and better control.

The ideal prison community would have cottages or bungalows in which the inmates would live, rather than the present warehouse or cell block arrangement. A prison community with individual living quarters would be more

likely to encourage individual responsibility on the part of the inmates. Each inmate would be responsible for his particular quarters and could find some degree of privacy therein. Again, as mentioned, he would be paying a weekly or monthly rental for his living space. The cost of Correctional Officers' services would be added to this living space cost. The combination of having to pay for his living space and of being responsible for its interior maintenance would act as a socializing factor. The inmate would be living in a situation similar to that experienced by individuals in the free society. As part of this program, the inmate could have his wife and children visit him at the facility with the permission of the staff. Since the inmate would be earning wages, he would be responsible for the financial support of his family. To promote unity and the inmate's recognition of his responsibility towards his family, conjugal visits could be regularly scheduled. Such visits would also be expected to reduce deviant sexual patterns within the institution while aiding his transition to the free community.

The trend towards smaller institutions is paralleled by a trend toward community institutions. Some states, including California, are in the process of experimenting with small institutions located in metropolitan communities. The inmates of these institutions are considered to be under the same legal disabilities as those in the more typical prison setting. However, these inmates usually have jobs in the community and are released from the institutions to work during the day in the community. In the evening they return to the institution and their freedom to leave during non-working hours is limited.

Another trend is to establish "half-way" houses in the community. These facilities are usually inhabited by individuals recently paroled from an institution but who have no other suitable residence in the community. The half-way house provides room and board on a temporary basis until the parolee secures income from employment and can move into his own residence.

Both the community institutions and the half-way houses could be an integral part of the P.A. program. Since this program would guarantee meaningful employment in the free society compensated at the national minimum hourly wage, any probationer or parolee without other employment would be eligible. P.A. employment in the community would parallel that employment offered in the penal institution. For that reason, the parolee's adjustment to life in the free society would be much easier by virtue of guaranteed similar employment. Such guaranteed employment would be expected to substantially reduce the rates of recidivism and crime.

Assistance would be provided to those individuals unable to take part in the P.A. program due to either permanent or extended temporary disability. Such disabilities as blindness and old age would be covered as well as other disabling physical and emotional conditions.

Although a program of assistance to the disabled would have a very limited application with respect to penal institutions, there is no reason why such a program could not be used in such institutions. Under this program, eligibility would be medically determined by a board of



physicians. Each person would receive 75 percent of the national hourly minimum wage based on 173 hours per month, or (.75)(173) (NHMW). The grants would be paid through the federal government and would be used by inmates to pay for all of their expenses. Thus, although disabled inmates would not be required to work, they would be required to assume the same responsibility in paying for the entire spectrum of services as would other inmates. Inmates with drug-related or psychological problems might also fall temporarily into this category.

Since social security benefits overlap with the above suggested category, the federal government, through the Social Security Administration, would increase disability and old age coverage benefits so that they would eventually cover the grant suggested by the formula above. Under this plan, the social security system would eventually take over the major responsibility in the area of disability.

Under P.A., the court could order payment by the inmate of restitution to compensate an injured party. In the great majority of cases, victims suffer losses for which they are not compensated — although some states have taken steps to have the state government compensate the injured party. Restitution, if properly administered under

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**“The larger community must be aware of the problems created by crime and recidivism and the tremendous costs involved.”**

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P.A., could be of positive value to the victim, society and the offender. Although restitution could obviously not be ordered in every criminal case, it would not be practical at all if the offender did not have assets or employment. In a few cases today, the payment of restitution is made a condition of probation. Under P.A., a similar requirement could be made a condition of parole.

The P.A. system would also permit the inmate-employee to support his dependents while he is serving his sentence. An order could be made that he allocate a certain percentage of his weekly income for their financial support. This requirement is commonly made a condition of probation or parole. The offender is required to report regularly to his worker regarding progress in connection with his employment. Under the program suggested, it could be anticipated that the requirement of supporting dependents could reasonably be met, as immediate employment would be guaranteed all probationers and parolees.

P.A. employment or training would be immediately available to the parolee upon release if he could not find employment in the private sector. Inmates, upon their release to the free society, could move directly from their prison employment to a similar position in the P.A. program as operated by local welfare agencies. Such continuity would be expected to sustain the parolee during the period of transition from institutional life to that in the free society. While it is recognized that employment and training programs under P.A. will not answer the problems of every parolee, such programs will do a great deal for the majority of such individuals.

Both in probation and parole, the offender is released subject to certain conditions imposed by the court or the releasing authority. Some degree of supervision is maintained by probation or parole workers. One of the many conditions often imposed on offenders is that employment be secured before their release (usually in parole) or that they actively seek employment if a job is not immediately available. However, this condition presents a serious problem for many prisoners, probationers and parolees, as many of them lack the skills and work history with which to secure a job.

When employment is found, it tends to be temporary in nature, with pay and other features that are unsatisfactory. Offenders, as employees, are usually only marginally employed, and tend to be the first to be laid off if conditions change. Many of the job offers received by parolees are counterfeit — obtained through friends or relatives simply to secure the release of the offender.

Under P.A., parolees in many cases would accept P.A. employment in the free society as a condition of release. They might be required to work up to 40 hours per week until such time as they found other employment and would be expected to perform in good faith and their behavior would be observed by social and correctional workers.

Parolees and probationers unable to cooperate with the P.A. program as required under conditions of release, might be returned to confinement. However, this would depend upon the reason for their failure and such cases would be evaluated by social and correctional workers along with the court or other proper authorities.

Through the offer of immediate employment upon release, parolees and probationers would be much more likely to successfully complete their periods under supervision. In addition, if they could gain skills and a work history, they would be more likely to have a productive and self-reliant existence, substantially reducing the rate of recidivism. P.A. might therefore be considered as “vocational rehabilitation for offenders.”

P.A. is basically a full employment and training program. There is a significant and substantial relationship between the employment of parolees and probationers and the rate of recidivism. The application of P.A. to prisons would result in genuine rehabilitation. If all unemployed parolees and probationers, capable physically and emotionally of some form of productive behavior, were guaranteed meaningful employment, the rate of recidivism would drop dramatically — for both juveniles and adults.

For any program of rehabilitation to be truly successful and crime to be reduced, the free society must become truly supportive of offenders in correctional programs. It must recognize the basic needs of all citizens. P.A. would further this goal by providing a mechanism whereby individuals in need, including probationers and parolees, would gain the tools with which to move into the main stream of economic life. P.A. would demonstrate that society is concerned about helping the individual and providing him with a productive frame of reference. The larger community must be aware of the problems created by crime and recidivism and the tremendous costs involved. It must be supportive of real attempts at rehabilitation and not merely render lip service. ■

# At Issue:

## Police Misconduct

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*One of the central controversies of the "law and order" debate revolves on Supreme Court decisions in such cases as Mapp v. Ohio and Miranda v. Arizona which allow police errors to result in the dismissal of criminal cases. Robert E. Goodin, the University of Indiana student who won the undergraduate prize in the 1972 Ripon Prize competition, argues that the "exclusionary rule," which excludes illegally-obtained evidence from court proceedings, is an ineffective means of inhibiting police misconduct. A better method, according to Goodin, would be legislation which would allow municipalities to be sued for the misconduct of their police. Such legislation would force municipal authorities to deal more effectively with police actions, without rewarding criminals whose actions may otherwise go unpenalized. Since the practicality of Goodin's suggestions needs to be tested, several pilot projects might provide worthwhile data on which to base further conclusions.*

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*by Robert E. Goodin*

Observers of the Supreme Court anxiously wait to see what Nixon hath wrought. Criminal lawyers point to *Harris v. New York* as a landmark-in-reverse wherein the Burger Court steps back from the bold path of the Warren years.<sup>1</sup> Police officers still are bound by the *Mirando* rule to advise suspects of their rights if their statements are to be admissible in the State's direct case in court; but the prosecution may now use evidence illegally obtained without such warnings to impeach the credibility of an accused testifying in his own defense. Justice Brennan complains in agitated dissent, "This goes far toward undoing much of the progress made in conforming police methods to the Constitution."<sup>2</sup>

To be sure, it is unlikely that the Warren Court's achievements will fall in a day. But a conservative Court determined to oppose 'freeing criminals on technicalities,' but faced with a rule dictating exclusions of evidence obtained in violation of a defendant's rights, might be tempted to narrowly define those rights. Such a spectre gives libertarians cause for concern, but they are not powerless to prevent this unhappy result. Though there is little hope of influencing the rightist bent of the present Court, a second strategy is possible. Perhaps at long last libertarians will question the rule suppressing illegally obtained evidence. The argument of this essay is that the exclusionary rule has been dysfunctional at best and may become counter-productive. Given its failures, it should be replaced with a more effective bar to police illegality making cities liable for misconduct of their policemen.

The exclusionary rule has a long and complex history. The High Court first suggested in 1886 that evidence gathered illegally might be suppressed in court, but the practice became law only with *Weeks v. U.S.* in 1914.<sup>3</sup> In subsequent terms, the Court widened the scope of the rule on the federal level several times.<sup>4</sup> With *Mapp v. Ohio* in 1961, the Supreme Court ordered the rule to apply in state as well as federal courts.<sup>5</sup> Presently, evidence is suppressed in federal and state courts if it results from improper procedures in search and seizure, confessions, line-ups and identifications, or other methods so shocking that its use would violate the due process clause.<sup>6</sup>

Justifying the rule, the Supreme Court speaks with two voices. On one level, exclusion is a matter of high principle. "Nothing can destroy a government more quickly than its failure to observe its own laws, or worse, its disregard of the charter of its own existence," writes Justice Tom Clark for the Court in *Mapp*.<sup>7</sup> But as Professor Dallin Oaks suggests, this "imperative of judicial integrity" probably does not decide cases.<sup>8</sup> Instead, the more compelling case for exclusion is made in terms of preventing illegality in enforcing the laws. The purpose of the exclusionary rule "is to deter—to compel respect for the constitutional guaranty in the only effectively available way—by removing the incentive to disregard it."<sup>9</sup>

Likewise, the more compelling critique of exclusion concerns its failure to deter police misconduct. If the rule is to be judged by its success in deterring illegal law enforcement, it must be judged harshly indeed. The rule has

now applied to the states for a decade—surely time enough for police to comprehend the requirements of law and the consequences of ignoring them. Yet police lawlessness continues at a shocking rate. Professor Oaks's examination of 1969 Chicago court records reveals "about 45 percent of all persons charged with gambling offenses in Chicago were being dismissed after granting of a motion to suppress evidence obtained by an illegal search and seizure. The comparable figure was 33 percent for narcotics offenses and 24 percent for carrying a concealed weapon."<sup>10</sup> Clearly illegal search and seizure is commonplace in Chicago—the exclusionary rule has not deterred Chicago police. The conclusion is the same across the country, whether one looks to the scholarly pronouncements of Wayne LaFave and Jerome Skolnick or to the public statements of the former superintendent of the Rhode Island State Police who proclaimed in 1967, "We're going to forget *Miranda* and *Escobedo* and we're going to become policemen again."<sup>11</sup>

Even on paper, excluding evidence is not a very good way to deter police misconduct. The logic of suppression assumes that the policeman conscientiously tries to jail as many criminals as possible, and consequently he will do nothing to jeopardize a prosecution. But that logic is laden with dubious assumptions. The first such assumption is that the policeman will see the judge's action of freeing a defendant as penalizing him. The temptation, of course, would be for the policeman to say that his duty ends in the station house, and what the Court does is the prosecutor's problem, not his. A second questionable assumption is that the officer will understand what were the Court's reasons for excluding evidence and freeing the defendant. Literature growing out of the nuclear *d'étante* emphasizes that a threat is a successful deterrent only when the opponent clearly understands the conditions under which the threat will be carried out.<sup>12</sup> The arresting officer may never learn the final disposition of a dismissed case, or if he does, it often is from a newspaper account too garbled to serve as a guide in reforming his own behavior.<sup>13</sup> Correct understandings of significant provisions of the widely-publicized *Miranda* rule varied widely between 21 and 63 percent of policemen in a survey of four Wisconsin departments, showing police misunderstanding of court decisions is more than a hypothetical possibility.<sup>14</sup> Thus, exclusion may leave the policeman either unscathed or befuddled. In neither case would he be deterred from similarly illegal law enforcement techniques in the future.

The larger problem, of course, is the attitude of police toward court rules. Like many other street level bureaucrats, policemen are increasingly viewing themselves as "professionals." As such, they evaluate their conduct only by reference to professional standards—which in police science boils down to capturing criminals. Supreme Court orders interfere with the efficient practicing of this profession, so it is little wonder that police react with hostility and fail to internalize court norms of propriety in law enforcement.<sup>15</sup>

For a constabulary dedicated to circumventing court dictates, the exclusionary rule affords limitless opportunities for evasion. By its nature, suppressing evidence is a

remedy available only to an accused denying his guilt in court; thus, it does not touch the vast majority of police activities which do not result in arrest, in which the arrested is not prosecuted, or in which the defendant pleads guilty.<sup>16</sup> Furthermore, as former Chief Justice Earl Warren acknowledges, suppression of evidence "is powerless to deter invasions of constitutionally guaranteed rights where the police either have no interest in prosecuting or are willing to forego successful prosecution in the interest of serving some other goal."<sup>17</sup> Sometimes arrest is an end in itself unencumbered by any real intention of prosecution, as was clearly the case with the mass arrests of 1971 May-day demonstrators in Washington, D.C. Arrest without prosecution, "harassment," is a favorite police tactic, especially in connection with gambling control.<sup>18</sup> For an arrest to be legal in the absence of a warrant, the officer must have probable cause to believe the arrested person is guilty of a crime; probable cause is clearly lacking in arrests on suspicion, defined as "arrests for no specific offense and released without formal charges being placed." Yet, FBI *Uniform Crime Reports* for 1971 estimate 83,500 such arrests were made the prior year, and 16 of 55 police departments surveyed for the President's Crime Commission in 1967 admitted to the practice of arresting on suspicion.<sup>19</sup> Since these suspects were released without charges being filed, the exclusionary rule offers them no recompense. But worse, the exclusionary rule cannot even keep all illegally obtained evidence from being admitted in court. Such is the case where evidence is seized illegally from third parties. The person whose rights were violated by the seizure must be the one moving to suppress, but only a person who has standing (that is, a defendant) can make such a motion.<sup>20</sup> A murder weapon bearing Joe's fingerprints illegally taken from Alfred's home can be used in court against Joe, the exclusionary rule notwithstanding. Only Albert's rights were violated by the illegal search, so only Albert can move to have illegally seized evidence excluded—but unless Albert happens to be a co-defendant in Joe's murder trial, he lacks legal standing to

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"Nothing can destroy a government more quickly than its failure to observe its own laws, or worse, its disregard of the charter of its own existence."

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move for suppression. From this short summary, it is clear that there is an abundance of ways for the police to evade the Court's exclusionary penalty.

The Suppression Doctrine is equally questionable on normative grounds. Abstract justice demands the guilty be punished and the innocent be freed. The goal of justice is ill-served by allowing an undeniably guilty man "to go free because the constable has blundered."<sup>21</sup> Exclusion "deprives society of its remedy against one lawbreaker because he has been pursued by another."<sup>22</sup> In this curious wonderland of criminal justice, two wrongs somehow do make a right. The practice of excluding *unreliable* evidence (coerced confessions, for example) is above questioning, but the Court orders confessions suppressed "whether

true or false . . . because the method used to extract them offends constitutional principles" according to court dictates.<sup>23</sup> As Professor Oaks concludes, "Only a system with limitless patience with irrationality could tolerate [such results] . . . . This would not be an excessive cost for an effective remedy against police misconduct, but it is a prohibitive price to pay for an illusory one."<sup>24</sup> And, as argued above, what may be worse is that the exclusionary rule might force the Burger Court to equivocate on matters of fundamental liberties simply to avoid 'freeing criminals.' Exclusion of illegally gathered evidence in court is simply unsatisfactory as a way to restrain the cop on his beat. Henceforth, evidence must be suppressed if and only if it fails court standards of reliability, and in suppressing evidence the Court ought to forsake any goal other than truth-seeking.

In spite of its inadequacies and irrationalities, the exclusionary rule does serve an important function. It restrains police misconduct, however incompletely, and there would be even more police lawlessness without the exclusionary rule.<sup>25</sup> Consequently, any plea for its abandonment must include recommendations for its replacement. Such a proposal, in turn, must be prefaced by a survey of alternative mechanisms for controlling police illegality.

Preventing police misconduct must ultimately become a matter of departmental discipline. Internal departmental procedures for handling citizen complaints are of primary importance. Ninety percent of departments require investigations of all complaints, but only about half have some special unit assigned to handle civilian complaints.<sup>26</sup> The latter figure is deceptively large, for only 50 percent of those departments with 'special units' provide for internal investigation of complaints. In other departments, to say there is a 'special unit' is simply to say complaints are routinely routed to personnel, the bureau of staff services, community relations, or some other unit.<sup>27</sup> Most procedures allow complaining citizens to examine witnesses and permit both policeman and citizen benefit of legal counsel.<sup>28</sup> In 75 percent of cases, the police chief or some other individual policeman determines the final disposition of cases, and in another 15 percent trial boards composed of policemen determine the outcome.<sup>29</sup> Penalties of reprimand or suspension are available to 72 percent of disciplinary boards, but only 57 percent can dismiss an officer.<sup>30</sup> Unfortunately, there is no good evidence as to the frequency or severity of the penalties actually inflicted by trial boards. There is reason to suspect that convictions are rare—as a Philadelphia City Councilman observed, "When five policemen hear a complaint against another policeman, the policeman is always right."<sup>31</sup> Civilian review boards are not subject to this complaint, but their opinions are only advisory.<sup>32</sup> Even where policemen lose decisions, sentences are often so light as to be inconsequential. Loss of a few days' pay is little more than an inconvenience, and the President's Crime Commission offers isolated examples to indicate that a history of disciplinary proceedings might not detrimentally affect an officer's career prospects.<sup>33</sup> Review boards, police and civilian, are inadequate to protect against police misconduct.

Far and away the severest penalties for unconstitu-

tional law enforcement are found in the criminal law. Title 18 of the U.S. Code, Section 242, prohibits deprivation of rights "on account of such inhabitant being an alien or by reason of his color or race." Unfortunately, this federal law is doubly limited as a general safeguard against police lawlessness: first, it applies narrowly to aliens or racial abuses; and second, the Supreme Court requires prosecutions under this title to prove both deprivation of rights and also intent to deprive a prisoner of constitutional rights.<sup>34</sup> Of course, many instances of physical abuse fall within the provisions of state criminal law, but prosecutors are understandably reluctant to bring charges against police whose cooperation is so essential to successful prosecution.<sup>35</sup>

Civil law provides parallel remedies. Title 42, U.S. Code, Section 1983, provides for civil redress for deprivation of rights, whether by use of excessive force, arrest without probable cause, illegal search, etc., and no proof is required that the police intentionally deprived the injured of rights.<sup>36</sup> But the United States Civil Rights Commission dismissed this statute as simply ineffective, noting in 1961 a scant forty-two suits under this section (mostly unsuccessful) in the preceding two years.<sup>37</sup>

State laws provide civil remedies for police abuses, but they too are of limited effectiveness. The infrequency of civil suits against errant policemen should come as

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no surprise. Those most often subject to police illegalities are poor and helpless, and they cannot afford the expense of court proceedings simply to win a moral victory. But awards in successful tort actions against policemen are customarily small. And because policemen are not wealthy nor are civil servants' salaries subject to garnishment, even those small awards are sometimes difficult to collect. Chances are small even for recovering the expenses associated with the suit, much less damages, so this is a foolhardy course for most aggrieved citizens.<sup>38</sup> Looking to the larger problem, civil action against isolated individual officers has minimal impact on widespread behavior within a department. Since only the individual and not the department suffers from a civil suit, only the individual cop (if anybody) learns a lesson from tort proceedings. Successful civil action against a policeman will not in any way *assure* the necessary soul-searching among his commanders. That might, of course, happen, but the possibility is far from a certainty. As for the policeman's colleagues, the 'it can't happen to me' psychology might be anticipated. Just as the speeding motorist slows only long enough to pass the policeman giving another speeder a ticket, perhaps misbehaving policemen curtail illegalities only for the brief moment while a fellow officer is being sued. Again, there is precious little evidence on the psychology of police actions. But if civil suits deter only the policeman sued, even if they deter him completely after the first suit, it will take thousands of suits to deter policemen one-by-one. If civil suits are the bulwark of civilian defenses

against lawless police, there are not enough civil suits, and civil suits may not be enough.

Dean E.M. Borchard has suggested a more appropriate remedy would make municipalities liable for the illegal behavior of their police employees.<sup>39</sup> Municipal liability emphasizes that policemen must answer to the larger society as well as professional societies. In so doing, it utilizes and strengthens existing chains of command. It gives an aggrieved citizen hope of recovering damages, and it gives taxpayers reason to insist on constitution-abiding lawmen. Courts would have ample opportunities to consider questions of individual rights against police power; but deciding for the individual would mean financial losses for the municipality—as opposed to losses in judicial credibility.

Municipal liability for police torts affords many advantages to many groups. The loser, of course, is the city. Under the common law doctrine of sovereign immunity, municipal employers are not liable for the misconduct of policemen.<sup>40</sup> States can, of course, waive their immunity, making cities liable for police torts, and a handful of states have done so; in a few other states, courts have partially or wholly repudiated the doctrine of sovereign immunity.<sup>41</sup> But in most states municipal corporations are not liable for their policemen's behavior.

Looking to the numerous court tests of municipal liability, objections to the present proposal are easily anticipated. In pleading for the immunity of sovereigns, courts have relied predominantly on three lines of argumentation. First, lawyers talk of the distinction between a city's governmental and proprietary function. Cities cannot be sued for actions in the public interest and for public purposes (policing being a paradigm), but where the government is interested in its corporate capacity in the result it attempts to effect (e.g., blocking unionization of employees) it is liable.<sup>42</sup> The distinction is cute but hardly persuasive. In the landmark decision dispensing with sovereign immunity in Florida, the Court ruled that a municipal corporation is no different from any other corporation consisting of a group of persons bound together for mutual benefits and mutually responsible for any costs attached to those benefits.<sup>43</sup> The governmental-proprietary functional distinction can be applied to any corporation: some things it does for its public and some things it does in its corporate interest. Unless we are willing to allow any corporation to do whatever it judges in the interest of its stockholding public, we must not allow a municipal corporation to do whatever it deems in the interest of its public.

Justice Holmes describes a second objection to municipal liability, writing, "A sovereign is exempt from suit . . . on the logical and practical ground that there can be no legal right as against the authority that makes the law on which the right depends."<sup>44</sup> In olden days, the word 'sovereign' had mystical powers to decide cases, it being the most revered of all false idols. Modern jurists describing the fundamental basis of law, however, abandon Austin's 'command of the sovereign' formula in favor of Kelsen's 'master norm,' Hart's 'primary and secondary rules,' or (more distressingly) the Scandinavian realists'

'order of a judge.'<sup>45</sup> In a sense, Holmes is right to follow Bentham suggesting that there can be no law suits against cities unless the law provides mechanisms for them. To say there is no law the lawmakers have not enacted is an uninteresting tautology except to Thomistic natural lawyers. If that is all Holmes meant to say, he was correct but in a trivial way. But Holmes seems to imply limits on the power of the sovereign lawmakers over the substance of their enactments, specifically, that the law cannot logically allow suits against lawgivers. On the contrary, there is no logical reason cities or states cannot waive their immunity in legally-recognized ways; nor is there any reason to suppose a federal statute could not make municipalities liable; nor is there reason to suppose judges themselves (Holmes included) lack power to dismiss the common law tradition of sovereign immunity. If what Holmes implied is what Holmes meant to say, he clearly flies in the face of the very notion of what it is to be a 'sovereign.' There is no logical or practical necessity that the sovereign be immune, provided the sovereign is willing to permit suit. And further, there is no reason to suppose the city is the sovereign to be consulted when discussing municipal liability.

The third thread of the argument for sovereign immunity comes in the form of a dilemma. Policemen can either behave legally or illegally—this is an exhaustive dichotomy. If a policeman is behaving legally, nobody is subject to being sued. But an employing town cannot be liable for the "unauthorized, illegal and oppressive acts of the officer;"<sup>46</sup> the policeman is, in effect, behaving as a private citizen and not as an agent of government when he goes beyond his legal powers. Logically, the city can be liable only for the conduct of its agents; and the policeman cannot be acting as agent of the city when he does things the city lacks powers to make him an agent to do.

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**"Municipal liability emphasizes that policemen must answer to the larger society as well as professional societies."**

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This logic is alluring, but it is not compelling. A misbehaving policeman is behaving *qua* policeman—he ordinarily wears his uniform and badge, he does his business 'on city time,' and few policemen would have any interest in abusing a suspect in their private capacity. The suspect also is persuaded at the time that the officer is acting as a policeman—Mrs. Mapp (*Mapp vs. Ohio*) might not have opened her door and subjected herself to illegal search had not officers identified themselves as policemen. The crucial fact is that everybody involved at the moment of the illegal search believed the men in blue were acting as agents of the city, and subsequent pontifications of a judge cannot change this tremendously important fact. Perhaps this juristic notion that it is a logical impossibility for the city to do wrong is what Bentham would call a 'legal fiction.'

Municipal liability as a method of controlling police lawlessness is subject to all these objections, but none are persuasive. More important, however, is whether making

the city liable will reduce police misbehavior. Although some states have waived their immunity and allowed cities to be sued for police torts, there has been no systematic study of the effects of municipal liability on police practices. Using impressionistic data instead, one might point to the impressive community relations program of the police in New York City, liable for police torts under state law. A possible explanation for the halving of successful suits against New York City for police torts between 1964 and 1965 might be increased police adherence to legality.<sup>47</sup>

What would happen if cities became liable for police torts, either by congressional amendment of 42 USC 1983 or by the Court overruling the sovereign immunity doctrine, is purely speculative. But the best guess of an impressive array of legal scholars is that policemen will be more effectively controlled than by the exclusionary rule.<sup>48</sup> Nearly two decades ago, the Committee on Criminal Law and

Procedure of the California State Bar recommended municipal employers be made jointly liable with police officers for police misconduct. The Committee concluded, "After not many outlays of public funds the taxpayers and administrative heads would insist upon curbing unlawful police action."<sup>49</sup> One might reasonably suppose municipal liability will indeed encourage city fathers to pressure police chiefs to take unusual care with constitutional liberties. And Stuart Nagel's 1965 study of the effects of the exclusionary rule found that the two variables linked most strongly were increased police education programs and increased police adherence to legality in searches.<sup>50</sup> Thus, a municipal liability is likely to be a most effective preventative to police lawlessness. Professor Edward Barrett's words are as appropriate today as when he penned them in 1955: "Legislation along these general lines gives the promise of providing a more adequate solution than the exclusionary rule at a smaller social cost."<sup>51</sup>

#### NOTES

- 1 *Harris v. New York*, 401 US 225 (1971). For commentary, see "The Supreme Court and Crime: A Change in Emphasis," 29 *Congressional Quarterly Report* 1390-3 (25 June 1971). The latest instance of this trend is to allow stop and frisk based on an informant of dubious reliability; see *Adams v. Williams*, No. 70-283, 11 CrL 3113 (14 June 1972, US Law Week).
- 2 401 US 225, 232 (1971).
- 3 *Boyd v. U.S.*, 116 US 616 (1886); *Weeks v. U.S.*, 232 US 383 (1914).
- 4 For example, *Brown v. Mississippi*, 297 US 278 (1936); *Nardone v. U.S.*, 302 US 379 (1937); *McNabb v. U.S.*, 318 US 332 (1943); *Malloy v. U.S.*, 354 US 449 (1957); *Elkins v. U.S.*, 364 US 206 (1960).
- 5 *Mapp v. Ohio*, 367 US 643 (1961).
- 6 *ibid.* (search & seizure); *Miranda v. Arizona*, 384 US 436 (1966) (confessions); *U.S. v. Wade*, 388 US 218 (1967) (lineups); *Gilbert v. California*, 388 US 263 (1967) (identifications); *Rochin v. California*, 342 US 165 (1952) (methods so shocking). See generally Dallin H. Oaks, "Studying the Exclusionary Rule in Search and Seizure," 37 *University of Chicago Law Review* 665-757 (1970).
- 7 *Mapp v. Ohio*, 367 US 643, 659 (1961).
- 8 *Oaks*, 668; *Elkins v. U.S.*, 364 US 206, 222 (1960).
- 9 *Elkins v. U.S.*, 364 US 206, 217 (1960).
- 10 *Oaks*, 706.
- 11 Wayne R. LaFave, *Arrest: The Decision to Take a Suspect into Custody*, Report of the American Bar Association's Survey of the Administration of Criminal Justice, 1965; Jerome Skolnick, *Justice without Trial*, 1967; Colonel Walter E. Stone as quoted in AP release, dateline North Scituate, R.I., 23 June 1967, *Indianapolis Star*, p. 46.
- 12 Thomas C. Schelling's notions of 'credibility' of a deterrent threat are of particular interest here; see *The Strategy of Conflict* (London: Oxford University Press, 1960).
- 13 Warren Burger made such criticisms in "Who Will Watch the Watchman?" 14 *American University Law Review* 1 at 11-2 (1964).
- 14 Neal A. Milner, "Comparative Analysis of Patterns of Compliance with Supreme Court Decisions: 'Miranda' and the Police in Four Communities," 5 *Law and Society Review* 119, 126 (1970).
- 15 Commenting editorially on *Miranda* for *The Police Chief*, Quinn Tamm asks, "Why are we indicted for performing our duty to enforce the law?" (July 1966). For recent evidence of police resistance to Supreme Court rules, see Milner, *ibid.* For a theoretical perspective on professionalization of police as street-level bureaucrats, see Neal A. Milner, "The biases of Police Reform," *Black Politics* ed. Greenberg, Milner and Olson (New York: Holt, Rinehart & Wilson, 1971), pp. 159-74; and Michael Lipsky, "Toward a Theory of Street-Level Bureaucracy," a Paper Presented to the Annual Meeting of the American Political Science Association, New York, 1969.
- 16 *Oaks*, 720-3; President's Commission on Law Enforcement and the Administration of Justice (hereafter cited President's Crime Commission), *The Challenge of Crime in a Free Society* (GPO, 1967), p. 91; President's Crime Commission, *Task Force Report: The Police* (GPO, 1967), pp. 186-7.
- 17 *Terry v. Ohio*, 392 US 1, 14 (1968).
- 18 Joseph Goldstein describes police harassment to control gambling in "Police discretion not to invoke the criminal process: Low-visibility decisions in the administration of justice," 69 *Yale Law Journal* 543, 580-4 (1960).
- 19 FBI, *Uniform Crime Reports, 1971*. National Center on Police and Community Relations, School of Public Administration and Public Safety, Michigan State University. *A National Survey of Police and Community Relations*, Field Survey V for the President's Crime Commission (GPO, 1967), pp. 336-40.
- 20 *Alderman v. U.S.*, 394 US 165 (1969).
- 21 Judge Cardozo, *People v. Defore*, 242 NY at 21, 150 NE at 587.
- 22 Justice Jackson, *Irvine v. California*, 347 US 128, 136 (1954). For other effective principled objections to exclusion to deter police illegality, see Frank J. McGarr, "The Exclusionary Rule: An Ill-Conceived and Inefficient Remedy," *Police Power and Individual Freedom* ed. Claude Sowle (Chicago: Aldine, 1962), 99-103; Alexander Holtzoff, "Shortcomings in the Administration of Criminal Law," 16 *Hastings Law Journal* (1965); and Herbert L. Packer, "Policing the Police: Nine Men are Not Enough," *New Republic* (4 September 1965) 17-21.
- 23 *Lego v. Twomey*, 92 SCt 619, (1972).
- 24 *Oaks*, 706.
- 25 In 1965, Stuart S. Nagel surveyed police chiefs, prosecuting attorneys, judges, defense attorneys, and officials of the ACLU asking their perceptions of police behavior since the forced imposition of the exclusionary rule on state courts in 1961. He found a small correlation of .16 between states newly initiating the exclusionary rule and perceptions of increased police adherence to legality in searches. See "Testing the Effects of Excluding Illegally Seized Evidence," 1965 *Wisconsin Law Review* 283, 304 (1965).
- 26 Note, "The Administration of Complaints by Civilians Against the Police," 77 *Harvard Law Review* 499, 502 (1963); Field Survey V for President's Crime Commission, p. 194.
- 27 Field Survey V, Table XI.
- 28 Note, 77 *Harvard Law Review* 499, 507.
- 29 Field Survey V, Table XV.
- 30 Note, 77 *Harvard Law Review* 499, 509.
- 31 Henry Sawyer III, quoted by Arnold Trebach in *The Rationing of Justice*, 218.
- 32 President's Crime Commission, *Task Force Report: The Police*, 200.
- 33 Field Survey V, 186.
- 34 *Screws v. U.S.*, 325 U.S. 91, 107 (1945).
- 35 See Monrad Paulson, 52 *Journal of Criminal Law* 255 (1961); in Wayne LaFave's three state survey "no instance of a criminal prosecution against a police officer was noted, and police did not voice any concern over the threat of criminal prosecution. Indeed, there sometimes appeared to be complete ignorance of the fact that certain practices are prohibited by statutes carrying penal sanctions. This situation casts doubt upon the effectiveness of the criminal sanction as a deterrent." *Arrest*, p. 425.
- 36 *Monroe v. Pape*, 365 U.S. 167 (1961).
- 37 *The 50 State Report*, submitted to the Commission on Civil Rights by the State Advisory Committees, 1961 (GPO, 1961), p. 113.
- 38 Richard C. Donnelly, "Police Authority and Practices," *Annals of the American Academy* (January 1962), 98; LaFave, 421; Paulson, 255.
- 39 Edwin M. Borchard, "Declaratory Judgement — A Needed Procedural Reform," 28 *Yale Law Journal* 1, 105 (1918).
- 40 See, for example, *Dargan v. Mayor of Mobile*, 31 Ala 469 (1856); *Stewart v. City of New Orleans*, 9 La Ann 461, 61 Am. Dec. 218 (1854); *Fox v. The Northern Liberties*, 3 W&S 103 (Pa. 1841); and *The Siren*, 74 US 152, 154 (1868). For a history of the doctrine of sovereign immunity, see Marshall V. Shapiro, "Municipal Liability for Police Torts: An Analysis of a Strand of American Legal History," 17 *University of Miami Law Review* 475-518 (1963); and William C. Mathes and Robert T. Jones, "Toward a 'Scope of Official Duty' Immunity for Police Officers in Damage Actions," 53 *Georgetown Law Journal* 889 (1965).
- 41 Mathes and Jones report statutory waiver in Florida, New York, Wisconsin, and California (1933-4); Shapiro notes court decisions repudiating sovereign immunity in Illinois, New Jersey, California, Florida and Minnesota.
- 42 Mathes and Jones, 691; *Melton v. City of Atlanta, Georgia*, 324 F Supp 315 (DC Ga, 1971) regards proprietary functions; *Folk v. Wilson*, 313 F Supp 727 (DC Del, 1970) concerns governmental functions for examples.
- 43 *Hargrove v. Town of Cocoa Beach*, 96 So. 2d 130 (Fla, 1957)
- 44 *Kawanakoa v. Polyblank*, 205 US 349, 353 (1907).
- 45 John Austin, *The Province of Jurisprudence Determined*; Hans Kelsen, *General Theory of Law and State*; H.L.A. Hart, *The Concept of Law*; Alf Ross, *On Law and Justice*; and Alex Hagerstrom, *Inquiries into the Nature of Law and Morals*.
- 46 *Town of Odell v. Schroeder*, 58 Ill. 353 (1974).
- 47 In the *Task Force Report: The Police*, the President's Crime Commission notes 326 actions during FY 1964, the city paying out \$232,425 in 72 cases; during 1965, 237 suits resulted in awards of \$169,482 in 35 cases (p. 199).
- 48 A. Smith, "Municipal Tort Liability," 48 *Michigan Law Review* 41, 48-9 (1949); K.C. Davis, 3 *Administrative Law Treatise* 25.17, 26.03 (1958); James, "Tort Liability of Local Governmental Units and Their Officers," 22 *University of California Law Review* 610, 653-5 (1955).
- 49 29 *California State Bar Journal* 263-4 (1954).
- 50 Nagel, 304.
- 51 Edward Barrett, Jr., "Exclusion . . ." 43 *California Law Review* 565, 595 (1955).



# Duly Noted

● **The Pacific States of America**, by Neal R. Peirce. (W. W. Norton, 1972, \$9.95.) One has to doubt the sanity of Neal Peirce. First he produced **The Megastates** which is 694 pages long. Now he has produced **The Pacific States and The Mountain States** — with more to come. Taken separately, one can comprehend the motivation that might impel an author to such a task of political analysis. Five to seven states seem a reasonable task for an author, even one whose bibliographies and interviewees are as impressive as Peirce's. But one doubts whether even Theodore White would attempt the gargantuan task of individually analysing all 50 states. Peirce has not merely gnawed off a large piece of topic; he is devouring the American continent. And with impressive relish and insight, if not sanity. In **The Pacific States**, Peirce subjects California, Washington, Oregon, Alaska and Hawaii to literary scrutiny. He has revised the "California" Chapter somewhat from **The Megastates**, but the commentaries on the four other Western states are new. Beyond their dependence on transoceanic trade and their progressive state governments, there are probably more differences than similarities in the region. Peirce offers no startling revelations, but does contribute the insight of a truly national perspective to his topics. To read Peirce is to know that Gov. Daniel J. Evans (R-Washington) "would be in the running, if there were such a thing, for the prize of being the best governor in all the U.S.A. today;" that Alaska is a state that "sweeps across four time zones, encompassing 586,412 square miles of territory, two and a fifth times the area of once-leading Texas;" and that California "has become an unstratified society made up of communities of strangers." Peirce weaves geography, personalities, and statistics with sufficient skill to produce a product that merges the attractive qualities of a travelogue, a biography and a reference work. Reviewed by Dick Behn.

● **"American Conservatives Should Revise Their Position on Marijuana"**, by Richard C. Cowan. **National Review**, December 8, 1972. Author Cowan argues that it is "incredible that conservatives should continue to support the bureaucratic mess that comprises the marijuana laws." "Conservatives should take the leadership in legalization of marijuana," says Cowan, in rebutting the arguments for continued prohibition of marijuana usage. His position is at least partly supported by **National Review** editors James Burnham and William F. Buckley, Jr. "The occasional moderate use of marijuana seems to do no harm and can be enjoyable," says Burnham who favors eventual decriminalization. Buckley calls Cowan's arguments "overwhelming." The most cautious response is from editor Jeffrey Hart, who without explicitly favoring or opposing legalization says, "most things that are fun to do are harmful or dangerous: smoking, eating rich food, drinking, mountain climbing, playing football and so forth. The things you like to do will probably kill you. That doesn't mean they should be illegal or even that you should stop doing them."

● **The Star Spangled Hustle: White Power and Black Capitalism**, by Arthur I. Blaustein and Geoffrey Faux. (Doubleday, 1972, \$7.95) **The Star Spangled Hustle** contains the most thorough and accurate account of the inception, growth and demise of "black capitalism" yet put on paper. Unfortunately, this useful piece of political history is sandwiched in between a variety of outraged liberal attacks on the Nixon Administration for moving relentlessly to the "consolidation of corporate power" in America. In the opening pages of the book we are advised that Richard Nixon does everything bad except eat babies for breakfast. He is the "ultimate practitioner of political expedience;" "even the appearance of his concern is misleading;" every major issue is geared solely to its public relations content; "his sensitivity to human needs is quite vacuous;" and we are even reminded of the Hughes loan and the Checkers speech, lest the authors be accused of oversight. The real merit in the book, however, is not its collection of shafts aimed at Richard Nixon from the left, some of which strike home and others of which merely descend into the kind of innuendo that once so enraged the left about Nixon. The book's

real value is the inside story of Nixon's espousal of "black capitalism," as told by Faux, who at the time was chief of OEO's Economic Development Division. So far as this reviewer can determine and he was an active participant in most of the events related, the narrative is correct, inclusive and free from wild charges and undue bias. In short, Nixon sincerely believed in the general outlines of his "black capitalism" address, but never really came to grips with the varying strategy implications. The Office of Minority Business has not been without its successes but by and large, "minority enterprise" has not been a signal success, and what real success it has produced has been eclipsed by the transparent press agency used to give the impression of real substance where there was none. As an alternative the authors offer a strategy of community-based economic development, built around locally-owned community development corporations, which would own and operate businesses both within and without the ghetto and would use the profits to support needed community endeavors. The CDC is the economic manifestation of local control and citizen participation which should make a strong appeal for the support of genuine conservatives who, like John Adams, distrusted any centralization and concentration of political or economical power. Reviewed by John McClaughry.

● **The New York State Commission on the Quality, Cost and Financing of Elementary and Secondary Education Report** (The Fleischmann Commission). Appointed late in 1969 by joint action of Governor Rockefeller and the Board of Regents of the State of New York, this report may be, in the words of the Commission, the most comprehensive report on primary and secondary education ever authorized by a single state. Unlike many studies, this one includes specific documented identification of problems and recommendations for action by the State Education Department, the Legislature, and independent schools. The Commission believes that change at all levels of New York State's education system is badly needed at this time. Of particular concern are the low competencies of pupils in reading and basic skills; wide disparity in the quality of education throughout the State; the inequitable distribution of resources; racial and ethnic segregation; rigid and archaic administrative and personnel selection practices; and the inability of New York State's educational institutions to respond to specialized individual needs of students, such as the gifted, the talented, the handicapped, the non-English speaking, or the independently-minded high school student. Major proposals of the report include State assumption of all education costs, both capital and operating; annual reports on performance to be required of every school in the State; a "family choice system" which would enable parents and children to choose from a variety of educational alternatives offering "various choices of courses and instructional styles" to be established within clusters of presently operating schools; more differentiated staffing and use of para-professionals and volunteers (including students); small schools, schools without walls, and alternatives within the public school system; abolition of the New York examination and "tracking" in secondary schools; subsidies (or vouchers) for occupational training in industry and private vocational schools; a year-round school; and a program of national youth service. A strong emphasis is placed on the need for change. The report recommends that additional power be given to decentralized community school boards and to school principals; discourages legislatively-mandated curricula and textbooks; and puts in a strong plea for the encouragement of humanism in the schools, with emphasis on the arts, anthropology, foreign languages, and the study of law and society. The Commission urges schools to use "city" and "country" as part of the educational program, to expand independent study and individualized programming, and to adopt administrative processes which would give students and parents a strong voice in the design of the curriculum and the selection of school personnel. Legislative proposals for the elimination of district property taxes for financing school construction will undoubtedly come before the N.Y. State Legislature this year. So will aid to non-public and independent schools. A study of such extraordinary excellence and depth should not be ignored and the Commission's recommendations deserve to be implemented rapidly and positively. Reviewed by Felicia R. Clark.

# The Liberal Turned Pessimist: Christopher Jencks's Loss of Nerve

by Thomas W. Maban

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INEQUALITY: A REASSESSMENT OF THE  
EFFECT OF FAMILY AND SCHOOLING  
IN AMERICA

By Christopher Jencks and others  
Basic Books, 1972, \$12.50

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"How equal do we want to be?" is the question which haunts the reader of Christopher Jencks's new book, *Inequality: A Reassessment of the Effect of Family and Schooling in America*. In many ways the book is an anomaly: it strikes joy and terror into the hearts and hopes of very disparate groups. Conservatives can linger over pages which indicate the limits of the varying efforts to change society by way of its institutions, only to find a sudden increase in their blood pressure as the author (assisted by a number of colleagues) calls for "political control over the economic institutions that shape our society." Yet the liberal too is likely to find some cherished hopes attacked and some basic beliefs threatened as Jencks insists on such conclusions as "we can find no convincing evidence that racial desegregation affects students' eventual educational attainment one way or the other" and "no measurable school resource or policy shows a consistent relationship to schools' effectiveness in boosting student achievement." The same liberal may take some pleasure in the argument that the contribution of heredity to IQ is only half of what Stanford professor Arthur Jensen had reported in his studies.

To anyone who is concerned about America's direction, this is a book that demands some thought — not because it provides answers or even opens new avenues, but because it confronts the reader with basic philosophical questions. These issues are hidden under the mask of impressive statistics, gleaned from prior research, which have been re-analysed from a consistent perspective: what is the extent of inequality in America along the dimensions of schooling, cognitive skills, educational attainment, occupational status, income and job satisfaction? These data, though probably the best available, are extremely limited from a number of angles. The most important limitation is that, at best, Jencks is reporting survey information which can only describe where we have been; yet many of his conclusions seem to assume that what has been must be in the future. There is a kind of pessimism which pervades the volume and pushes it with increasing intensity toward a conclusion which Karl Marx stated much earlier: "salvation" for the "average man" can be attained only through planned intervention in the economy. The pessimism, of course, is derived from the belief, supported by the statistical material, that intervention in such agencies as the schools will have minimal effect on a pervasive inequality that permeates American society. In his concluding remarks Jencks states: "First, those with low incomes must cease to accept their condition as inevitable and just . . . Second, some of those with high incomes, and especially the children of those with high incomes, must begin to feel ashamed of economic inequality." But these conclusions come in a volume which has never really faced what might be achieved through schooling and which passes quickly over the evidence of considerable movement toward equality in this century. Behind all the statistics lurks an image of man, impotent before the forces of the world.

As he leads the reader (this one unconverted) to his conclusion, Jencks presents some interesting and, at times, intriguing information. Among these are:

- "students in middle-class schools were *less* likely to finish high school and enter college than similar students in the working-class schools;"
- "equalizing the quality of elementary schools would reduce cognitive inequality by 3 percent or less; equalizing the quality of high schools would reduce cognitive inequality by 1 percent or less;"
- "there is almost as much income inequality among men from the same socio-economic background as among men in general;"
- "our best estimate is that, all other things being equal, men who rank in the top fifth of the genetic distribution end up with occupational statuses 5 to 8 points above the mean, while those whose IQ genotypes are in the bottom fifth end up 5 to 8 points below the mean. Differences of this magnitude are relatively small." (p. 188)

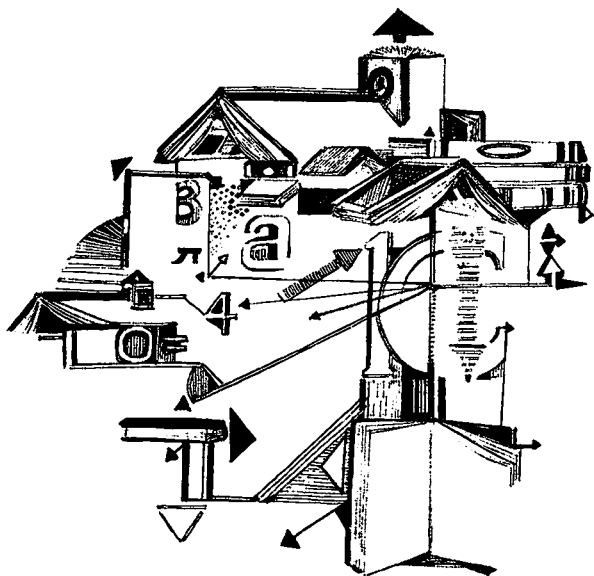
These are but examples of the kind of material which is reported in the book. Much of it conflicts with existing stereotypes and most of it deserves careful consideration. Yet, at the same time, a rather general caveat must



be issued in regard to the conclusions, many of which flow not so much from the data as from Jencks's philosophical perspective.

Though finding many of his conclusions unacceptable and his central thesis untenable (because of my philosophical perspective), I still applaud the clarity and consistency of the presentation. It evokes basic questions such as: what is the role of the school; how homogeneous do we want man to be — and how much diversity do we wish to encourage (e.g., Jencks argues for great diversity in schools, yet throughout the book he asserts the value of equalizing cognitive skills, the appeal of varying occupations and income); and what should equality mean in 20th century America? These are issues which need to be debated within the crucible of each man's conscience as well as at the forum. Jencks, with his associates, probably makes it more likely that we will move toward such a debate.

It is easy to argue with some of Jencks's data and to wonder about its validity. For example, in his dismissal of the schools as an effective agent for change, he consistently deals with the school as a separate entity. In this



era of ecological emphasis, such an approach seems doomed to miss the possible complex interactions between schools, communities, values and other characteristics. (Some of Jencks's recommendations which are unrelated to his data seem oriented in this direction, but his analyses are not.) But to focus on these issues is to miss the import of *Inequality*. Clearly there are massive inequalities in American society and equally clearly some of the grand designs to correct them have had only limited effect, though few, if any, of these programs have had adequate chance. Perhaps now is the time to re-think our situation and to establish some priorities. The service which this book can render is to assist in this process; the disservice which its readers can do is to take from it only what supports their beliefs and thus refuse to re-think (or think at all). The danger of the book lies in the ease with which it can be perverted into an excuse for non-action on the claim that none of these "schemes" works anyway.

This reviewer finds himself hearing in Jencks's words a modern version of the "melting pot" theory which he thought had died a quiet, unnoticed death. The aspirations which early American educators, such as those in colonial Philadelphia or in Horace Mann's Massachusetts, had for inculcating a common value system has arisen in a new form; now it is a common income that is the goal. The society which has survived ideological pluralism, perhaps even drawing greater strength from it, must now decide how great an economic pluralism it will incorporate. It is here that we come face to face with the cornerstone of Jencks's position — the basis on which his prescriptions rise or fall: it is his thesis that man is basically an economic animal and that the reduction of economic inequality by itself will change the quality of life for the society as a whole. Yet not even his own data support this assumption: he reports that satisfaction has little relationship to income and his proposals do not seem to move toward greater freedom nor toward greater harmony.

This in no way implies that our level of economic inequality should be ignored. Rather, the implication here is that the test of our institutions such as family and school must finally be in their impact on the individual's having a sense of equality in terms that go beyond income — of making decisions, controlling his own destiny and seeking his own meaning. Jencks's attribution of much of the differences in men's lots to "luck" may or may not be accurate (he fails to convince an unbeliever), but in any event his basic recommendations for action seem to reduce the probability that ours will be a society which values the courage to dream, the courage to be wrong, or the courage to be and struggles to have its institutions equalize those opportunities.

But *Inequality* clearly can plunge the mind and heart into serious pondering and for that liberal and conservative alike should be grateful — and perhaps all can look for the day when it may be possible to assess honestly what *can be* the impact of family and schooling on the quality of American life. Jencks and his associates have turned their backs on that task and, after analysing a mass of data which should be of concern to all Americans, have substituted a magical solution for our social ills — a solution for which they provide no information about its probable effects. But the challenge is implicit: will there be those who will pursue the task of which Jencks has despaired and give a meaningful answer to this book's question — what does it mean to be equal and how does a people move toward that goal? ■

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*Dr. Thomas W. Mahan is currently a professor of education at The Citadel, Charleston, South Carolina. He was formerly associate dean of the School of Education of the University of Hartford in Connecticut and the first director of Project Concern, a voluntary busing program for disadvantaged elementary students which is operated cooperatively by the Hartford Board of Education and surrounding suburban school systems.*

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# LETTERS

## Checkers' Triumph

In the Editorial Notes of the FORUM Newsletter for November 1 appeared:

As in 1952 when Mr. Nixon laid to permanent rest doubts about another alleged secret fund, he can only dispel the public's lack of confidence by frank disclosures on both matters.

Had the author of the above line spent several months of research in the Harvard University Library, I doubt he could have found a less appropriate model for a 'frank disclosure' than the famous 'Checkers' speech of 1952. If your editor ever has the luxury of a little free time, it might be diverting for him to make the attempt to write a brief summary of the fund controversy after having read Mr. Nixon's speech (or, better yet, after having seen a film clip of its delivery). I believe he would find this assignment impossible to perform.

Far from being a 'frank disclosure,' the 'Checkers' speech was a maudlin exercise in public self pity — a suitable forerunner of that 1962 encounter with the California press ("You won't have Richard Nixon to kick around any more," — a prophecy, alas, which turned out not to be true). Mr. Nixon's 1952 speech is remembered as the 'Checkers' speech because of its utterly irrelevant allusion to his cocker spaniel of that name and how he obtained the dog. The public did not give two hoots how he obtained his dog, they wanted to know about the slush fund out in California — but on that subject, they learned nothing at all.

Two things helped turn public attention aside from this topic. One was the fact the Republicans turned to the principle that a good offense is sometimes the best defense. It was discovered that Gov. Adlai Stevenson of Illinois, the Democratic candidate for President, also had a non-public fund at his disposal, and even though there were substantial differences between the two situations, adroit publicity managed to blur the distinctions so as to increase the cynicism of the public toward all such funds — "they all do it." Secondly, of course, is the fact that few people saw the 1952 race as one between Senators Sparkman and Nixon — General Eisenhower was running for President. The vast majority wished to vote for him, and the Vice Presidential candidate was not considered of all that much consequence.

Your basic point is, of course, entirely valid — frank disclosure is indeed required in the present situation. But spare us another "triumph" of the Checkers variety!

RUSSELL S. WARNER  
Chapel Hill, N.C.

## The Endorsement Controversy

Not surprisingly, one often witnesses endorsement skirmishes around each election time as organizations rally to urge their membership to support this or that candidate or issue. Apparently, the Ripon Society's oligarchs have chosen to play that same, outmoded game. I suggest it will inevitably be a fatal posture if the Society hopes to continue its good record influencing public policy. Instead of being intent on articulating public policy and its various options, the Society will eventually become a sorely divided camp of power factions striving for the esteemed endorsement. Instead of cultivating healthy dialogue and a continuing evolution of personalities well-versed in politics, the Ripon Society will tend towards becoming another market place for power brokers. The net result is a lowered priority for issues discussion, thus reduced substance in Ripon's *raison d'être*.

What is of utmost importance is that Ripon serve the Republican Party (and possibly the other party via stiff competition) as an in-house vehicle for renewal and creativity, as an instrument for progress that keeps sight of Republican principles.

BILL McCORD  
Seattle, Washington

1971 - 1972

## RIPON SOCIETY PUBLIC POLICY PRIZE

The following students were awarded prizes for outstanding entries in the competition:

First Prize: \$1,000

### THE TAXMAN AND THE TEXTBOOK

DAVID HOINES

Law Student, University of Santa Clara,  
Santa Clara, California

Second Prize: \$500

### THE SHARED VALUE MORTGAGE

F. G. LaMOTTE

Graduate Student in City Planning, University of  
Pennsylvania, Philadelphia, Pennsylvania

Best Undergraduate: \$500

### BEYOND THE WARREN COURT

ROBERT E. GOODIN

Undergraduate, University of Indiana  
Bloomington, Indiana

## JUDGES

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Controller, State of California

JAMES FARMER  
Founder and former National Director,  
Congress for Racial Equality

LEE W. HUEBNER  
Deputy Special Assistant to President Nixon  
and former President of the Ripon Society

DANIEL J. ELAZAR  
Director, Center for the Study of Federalism,  
Temple University

## Ripon Suit Dismissed; New Complaint to be Filed

*The U.S. Court of Appeals for the District of Columbia has granted the motion of the Republican National Committee to dismiss the appeals pending in that Court from the order handed down by the District Court in March. The Court remanded the case to the District Court, enabling the Ripon Society to directly challenge the formula adopted at the 1972 convention for use in allocating delegates to the 1976 convention. The Society's complaint will attack the new Rule 30 as unlawfully discriminatory against Republicans in many states, particularly the larger ones. When the proceedings in the District Court have been completed, the Court will be in a position to decide on the constitutionality of the formula adopted at this year's convention.*

# 14a ELIOT STREET

● Ripon president **Howard Gillette** has appointed six Ripon members to the new FORUM Editorial Board, which will assist in directing the FORUM's long-range planning and recruitment of new writers, as well as make contributions to the Commentary section. The board's chairman will be Dr. **Robert D. Behn**, lecturer in business administration at the Harvard Business School. Other members will be **Robert H. Donaldson**, assistant professor of political science at Vanderbilt University; **James H. Manahan**, a Mankato, Minnesota attorney and member of the Section on Individual Rights and Responsibility of the American Association; **Tanya Melich**, a New York City freelance writer; **Howard Reiter**, lecturer in political science at Notre Dame University; and Dr. **Ralph Thayer**, associate professor of urban studies and director of the Urban Studies Institute, Louisiana State University.

● U.S. Attorney **James R. Thompson** spoke to a meeting of the Chicago Chapter on December 4. Thompson has been involved in prosecuting corruption on the Chicago police force, organized crime and voter fraud. The chapter has also inaugurated a practice of weekly Monday luncheons for chapter members.

● The Memphis Chapter handled the tally board for the Shelby County Republican organization on election night this year. Amid the tally boards was depicted the traditional Republican elephant . . . reading the FORUM. Right on. In cooperation with other Republican groups, Chapter President **William Whitten**, who is research chairman for the Shelby County Republican Committee, is organizing volunteer research staffs for the local Republican legislators. And chapter member **Julia Alissandratos** is now in Leningrad on a Fulbright Scholarship, working on her Ph.D. dissertation for the University of Chicago.

● Belated mention about Boston University Law School Students Department: Cambridge NGB member **Gus Southworth** organized this year's Ripon Prize competition for the second year. Cambridge Chapter Vice President **Joel Greene** was in firm charge of the envelopes and other details for Ripon's Tenth Anniversary Dinner. The dinner's secretary-treasurer was **Victoria Golden**.

● **Winners and Losers:** While former Ripon executive director **Tim Petri** rang 14,000 doorbells and won a 9,000 vote plurality in his Wisconsin Senate race, other Ripon members were less fortunate. Minnesota NGB members **John Cairns** and **Kati Sasseville** lost their legislative bids. In Massachusetts, Boston Chapter NGB member **Martin Linsky** lost his bid to unseat Congressman **Robert Drinan**.

● The District of Columbia Chapter hosted **John G. Veneman**, under-secretary of the Department of Health, Education and Welfare at a meeting November 21. Veneman has been a key Administration official in the drive for welfare reform.

● **Dan W. Lufkin**, Connecticut's commissioner of environmental protection, will address a joint meeting of the Yale Law Forum and Ripon's New Haven Chapter on December 4.

● **Frederick Currier**, president of Market Opinion Research, was the speaker at a meeting of the Detroit-Ann Arbor Chapter on November 30. Currier spoke on the implications of the 1972 elections.

● **Peter J. Wallison** has left the law firm of Royall, Koegel, and Wells to be a special assistant to Gov. Nelson Rockefeller (R-N.Y.).

● The Boston and Cambridge Chapters held their second post-election analysis meeting November 21 in Boston. State Rep. **Francis W. Hatch, Jr.** led a discussion on the meaning of the election results for the Massachusetts Republican Party.

**THE RIPON SOCIETY, INC.** is a Republican research policy organization whose members are young business, academic and professional men and women. It has national headquarters in Cambridge, Massachusetts, chapters in thirteen cities, National Associate members throughout the fifty states, and several affiliated groups of subchapter status. The Society is supported by chapter dues, individual contributions and revenues from its publications and contract work. The Society offers the following options for annual contribution: Contributor \$25 or more; Sustainer \$100 or more; Founder \$1000 or more. Inquiries about membership and chapter organization should be addressed to the National Executive Director.

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**Corrections:** Oklahoma continues to have one Republican Congressman, John N. "Happy" Camp; not a completely Democratic delegation as reported in the November FORUM. The campaign contribution to Congressman Alan Steelman from the Congressional Action Fund, which was reported in the September 1 FORUM newsletter, was refused by the Republican candidate and returned to CAF.

IT'S NOT TOO LATE  
 For a FORUM  
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