

Sen. Mark O. Hatfield on National Priorities

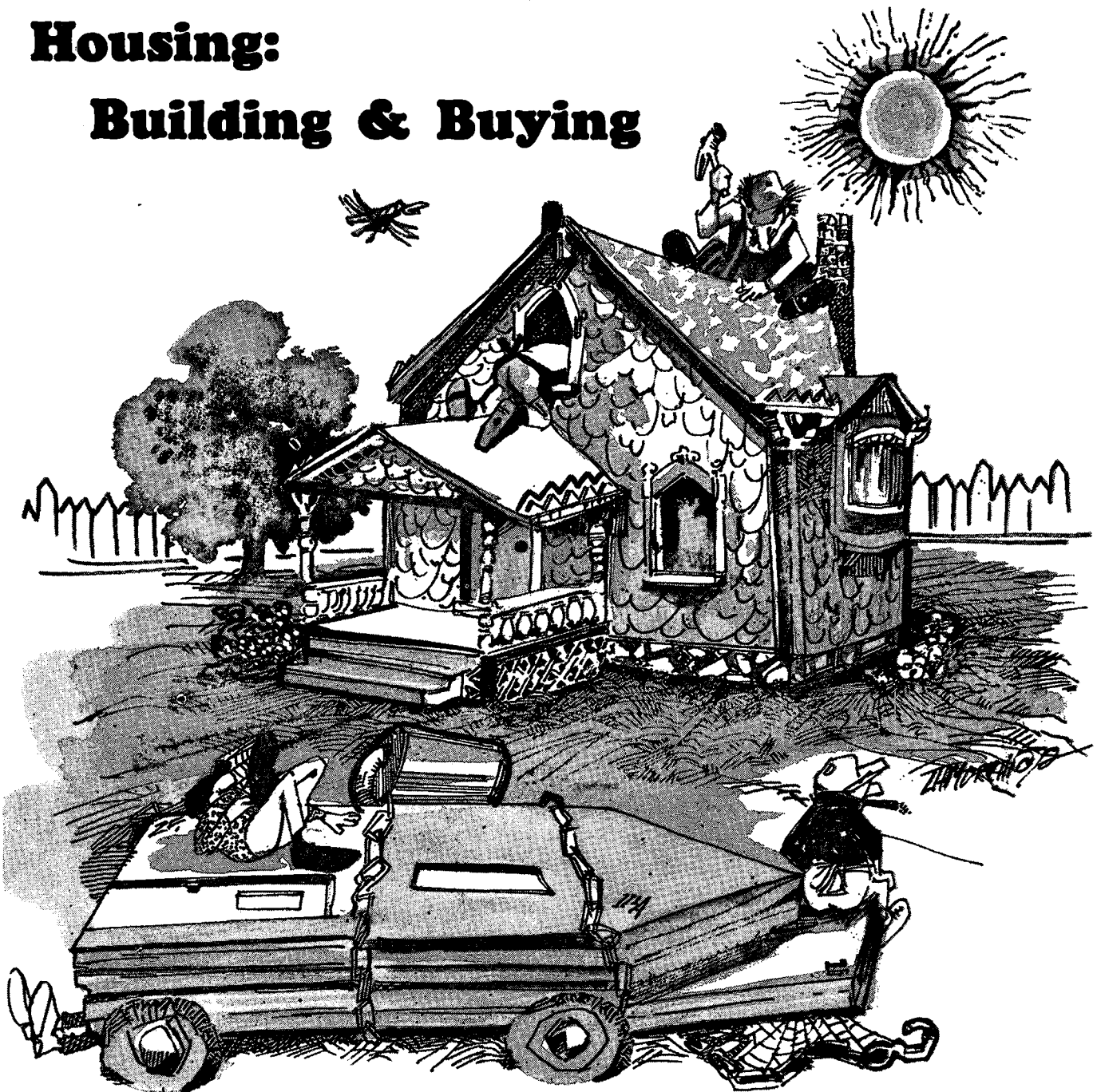
RIPON FORUM

JANUARY, 1973

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ONE DOLLAR

Housing: Building & Buying



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● Margin Release

On December 29, 1972, the Ripon Society filed a Supplemental Complaint in the District Court of the District of Columbia which challenges the delegate allocation formula for the 1976 Republican National Convention. The Supplemental Complaint is the result of the November 29 decision by the Court of Appeals to remand the case to the District Court. In its Supplemental Complaint Ripon says that 39.1 percent of the delegates to the 1976 convention (those from the eight largest states) will represent 48.7 percent of the total U.S. population and 48.6 percent of the popular vote for the Republican presidential nominee in 1972. The Society also contends that the formula gives the same representation to one Republican voter from Alaska as to nine Republican voters from Florida, Illinois and California. Meanwhile, *Human Events* interpreted the situation in the following manner: "It has escaped much press attention, but the U.S. Court of Appeals for the District of Columbia, largely because of the expert legal work done by former Rep. William Cramer (R.-Fla.), has ordered a lower court to vacate a suit whose aim has been to transform the Republican Party into a replica of the Ripon Society." *Human Events* alleges that Ripon is attempting to shift the balance of delegate strength to the "liberal Northeast." But the real losers, the 1972 election results show, are Florida, Illinois and California — none of which could be called Northeastern. May the new year bring peace in Indochina and better reporting from *Human Events*. D.B.

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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 labelled.

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Restoring the Balance of Government

by Senator Mark O. Hatfield

Thomas Jefferson was convinced that governments tended to automatically become estranged from the desires and needs of the people. The remedy he foresaw was simple: a revolution was needed every twenty years or so.

We are now approaching our two-hundredth year without a revolution — at least without a successful one. Or to be more accurate, we are ending the second century that our democracy has responded to the persistent revolutionary impulses in our land, and accommodated them by continual, often radical political change.

We never had any guarantee that this system would be perpetually responsive, resilient and vibrant, adjusting to inevitable change, while preserving its original ideals. The process of American democracy has continued only because enough citizens have believed they had the right, the privilege, and the potential access to political power. They believed that could make a difference in their society. In a real way, that has described those of you who formed and who have given life to the Ripon Society over the past decade.

Today, however, we have to return to the fundamentals.

In what shape is our democracy?

It tends to balk, rather than respond to the escalating pressures of change; and in the process, many sense the corrosion, rather than the preservation of its original ideals.

The loss of trust most Americans feel toward their federal government is well-founded.

It is rooted in the same frustration that causes most Americans to be alienated from our big cities. People feel disenfranchised. They sense there are few ways they can be relevant to government, be involved in its decisions, and affect conditions that disturb them.

A primary distinction between a Democratic and a Republican philosophical view is that the Democrat feels the popular will can be expressed generally, in mass, and made sovereign. But the Republican view has stressed the need for the popular will to be crystallized in small, self-governing communities, and that they, rather than big government, are the best custodians for the sovereignty of the people.

Let us apply this principle.

To do so, we must return to neighborhoods and local communities, meaningful responsibilities and adequate resources now pre-empted by the central government. This means a fundamental decentralization of political power.

"Community control;" "Home Rule;" "participatory democracy;" whatever the nomenclature used, it refers to restoring the sovereignty of the people through powerful, community based self-government. It is what I prefer to call "neighborhood government."

There is nothing more American. The town meeting, the voluntary organizations, the P.T.A., the neighborhood associations — such have been the historic, tangible expressions of self-determination for the American. Such groups must become options for genuine political power once again.

Neighborhoods should have some right and power to decide whether and where a city's freeways are built. Local communities in the midst of urban sprawl must assume the powers to determine how their land should be utilized, and how their ecology should be protected.

Towns should give their citizens the option of choosing whether industries that would cause pollution, or manufacture unwanted products, should be allowed to reside there.

Also, localized, decentralized government must assume responsibilities of caring for the dispossessed, and meeting the social needs in their midst.

All this requires that far more of the money which is paid to the government remain at the local level.

This must not be confused with revenue sharing, which I regard, quite candidly, as a hoax which will probably increase, rather than diminish the power of the federal government.

The United States is becoming a badly planned centralized society.

We must act to take the only other realistic option — a decentralized society with planning and self-government empowered at the local level.

Next, our party, and our nation, must concern itself with the consequences of an economy that has nearly fulfilled its goals of affluence.

Economic theorists have written about the "five steps of economic growth," the fifth being "mass consumption." America must now consider what comes sixth.

The strength of our economy has been built on assumptions which have held true in the past:

(1) Jobs will be found for all, and affluence will be achieved, by relying on man's acquisitive instincts;

(2) Allow man the opportunity to dream up and sell needed goods and services, and they will be consumed;

(3) Man's appetite is inexhaustible, so as the

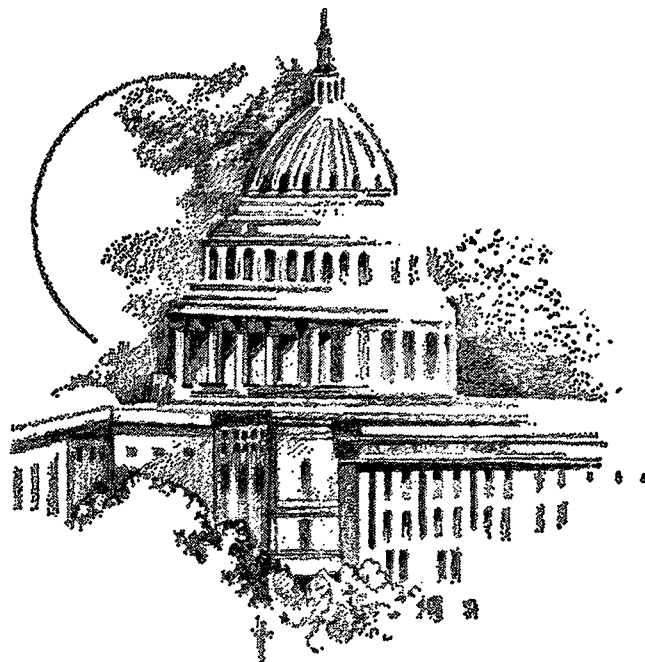
● *These remarks are excerpted from Sen. Mark O. Hatfield's speech at the Ripon Society's Tenth Anniversary Dinner at the Sheraton-Boston Hotel, December 9.*

economy grows, new needs will create new products, insuring infinite expansion while bestowing affluence, eventually, to all.

We must not diminish the achievements that our economic system has bestowed on our society. For the first time in history, we are on the verge of freeing man from daily toil to insure his existence and comfort. The dream of immigrants, who came with the vision that their work would eventually yield permanent abundance, is being realized.

Because of this success, we must now question whether the past assumptions and goals of our economic system are adequate to guide us in the future. Let me add that the Keynesian, and neo-Keynesian economic theorists fail to speak to these questions. They only propose novel sorts of political manipulation in their attempts to vindicate the same basic economic assumptions.

These are some of the contemporary economic realities that we must face:



First, we have assumed that economic growth would tend to distribute the benefits of affluence to all assisted by our tax structure. But that has not occurred. We have evidence, in fact, in a study prepared by economists at the Massachusetts Institute of Technology for the Joint Economic Committee, that since 1947, the poorest fifth of America's families consistently have received only 5 percent of the country's total family income, while the wealthiest fifth have received 42 percent. That fact has not changed in the past two decades. The overall income of both the rich and the poor has risen, of course. But the gaps between them have not changed; in fact, in absolute dollars, the gap has increased.

Second, uncharted economic and technological growth, governed only by our consumptive compulsions, is beginning to put serious strains on our resources, on the quality of our life, and even, according to many, on our entire planet's ability to sustain our present levels of growth and consumption into the future. For instance, many products developed or widely used since World War II — such as aluminum, detergents, and plastics, have severe ecological costs, while adding few, if any, advantages over the products they are replacing.

That, in my judgment, is at the core of our ecological crisis.

Third, we have no assurance that continued economic growth in and of itself will provide for all our employment needs. We still have to come to grips with the potential effects of the scientific revolution, and how it may decrease traditional job opportunities.

Fourth, our economy has reached the point where it must induce consumer appetites to continue its growth. This has resulted in the growth perfection of techniques designed to manipulate the consumer's tastes, rather than enhance the quality of goods and services.

Fifth, our economic patterns have fostered massive economic centralization. Today, 1.1 percent of all the nation's corporations control 81.5 percent of all corporate assets. Such centralization is eroding the values and contributions of small business, and also tends, in my judgment, to increase the problems of worker alienation and consumer distrust.

In short, we are regarding "consumerism" as the

end and goal of our economic system, instead of regarding that system as the means to provide citizens with productive, creative, and fulfilling opportunities for work. Thus, we end up with enormous waste, planned obsolescence, make-believe work, feather-bedding mindless gadgetry, and meaningless labor, all in order to fuel our increasing rates of consumption.

All this requires, in my judgment, that we now should re-define the meaning of work, and the goals of our economic system. Enhancing opportunities for the individual to be creative, productive, and self-expressive through his work should become the aim of our economy. We must come to see work, not as a dehumanizing monotonous activity, but as the right to express one's gifts and abilities as he participates in society's economic abundance.

More concretely, the political decentralization advocated by so many must be accompanied, in my judgment, by economic decentralization. Small business must be enhanced; the patterns of continued centralization and conglomeration must be reversed.

We must then encourage a revival of the crafts, of the artisan, of "cottage industries," of the shopkeep-

er, and the small entrepreneur. With this, initiatives in worker-management relations that move beyond the typical adversary role, and toward more participatory management, should be fostered.

All these possibilities are clearly within our grasp. Of course, in the short term, they may not appear as the best means of enhancing corporate efficiency. But in the long run, there will be no other way to overcome the growing problem of poor productivity, which is caused largely by the lack of meaning and the loss of personal relevance in work. Organized labor's failure to speak to this issue, concentrating instead solely on wages and benefits, is just as regrettable as management's general reluctance to courageously face such ideas.

Republicans have every reason to pursue initiatives for economic as well as political decentralization. Ultimately, the task of preserving human liberty and enhancing human fulfillment in the 20th century involves both dimensions.

The third and last concern we face in the future is, in many respects, the most fundamental.

We must save our Republic from Executive rule; we must revitalize the Constitutional ideals that give our democracy its meaning and its life.

That is the cry that was heralded by Republicans through the years of Franklin Roosevelt and beyond. In my political growth, I was nurtured on those views.

Today, all Republicans must not hesitate to herald those views again — especially when we are in a unique position to demonstrate those principles in actual practice.

The genius of the American experiment was that the power of the Executive was to be checked by the people, through the Congress.

In the words of James Madison: "The truth is that all men having power ought to be mistrusted." Jefferson echoed this sentiment regarding the power of those who rule, saying — "Let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution."

A wise distrust of centralized, uncontrolled power dominated the thinking of those who framed our Constitution. Further, they knew that in government, power was money and money was power. If despotic power, such as that under George III, was to be prevented, then the branch of government directly elected by the people — the Congress — had to be given the power for raising the revenues and authorizing the funds for the programs of government.

The Executive Branch was to implement — or execute — these Congressional mandates.

But the reality today is nearly the complete reverse of those ideals.

For years, and through successive Administrations, the Executive Branch has come to regard Congress as a potentially meddlesome obstacle to the implementation of an Administration's programs. By sheer virtue of its size and momentum, the Executive Branch is the dominant influence in determining the budget, policy, priority, and goals of all the government's activity.

In recent years, the greatest usurpation of Congressional power by the Executive came under the Kennedy and Johnson Administrations. The problem became more severe because large portions of the academic community, as well as members of Congress, extolled the virtues and wisdom of a "strong Executive." During that time, the presidency was often enshrined as a near-

ly all powerful, all-knowing position, whose actions deserved uncritical trust rather than responsible judgment.

In our nation's military and foreign affairs, the greatest toll of unchecked Executive power has been exacted. It dragged us into Indochina and has kept us there until now. Moreover, Executive orders, Executive agreements, Executive secrecy and Executive privilege have been used to further institutionalize the impotence of Congress.

Thus, in foreign and military matters, the Executive can establish commitments, expend funds, and shroud itself in secrecy, divorcing the Congress from its Constitutional responsibilities of oversight and decision-making, and divorcing the people from the knowledge of what their government is doing.

The truth is that for years, these crucial matters have been handled by a national security bureaucracy that has demonstrated its distrust of the American people, and its disregard for basic Constitutional principles.

We can remedy this deterioration of Constitutional checks and balances. The President, and the Administration, acting in concert with a Congress conscious of its abdication of power, can restore the Constitutional relationship between the branches of government that our forefathers saw as so crucial to preserving democracy. And for us as Republicans, Constitutional government should be our first priority.

The issue of Congressional versus Executive power, however, also extends into domestic affairs, and has become focused on the controversy over who has the real power in the appropriation of funds. The Executive Branch, through the Office of Management and Budget, has assumed the prerogative of refusing to spend funds that are duly authorized and appropriated by the Congress. The Constitutionality of such action, which I believe is a devastating infringement on the rights and powers of the Congress, will ultimately have to be decided by the Supreme Court.

Unfortunately, the actions taken by the Administration to date make any Republican criticism of FDR's Executive powers sound uncomfortably hypocritical. The request for the \$250 billion spending ceiling with broad ranging veto authority, and the Administration's recent declaration that it will spend less than half of the funds authorized by the Congress for water pollution, even after Congress over-rode the President's veto, only solidify fears of continued "Presidential government" in domestic affairs. The local official with sewer projects to fund cannot help but wonder if our ideals about three separate but equal branches of government have any contemporary relevance.

A Constitutional imbalance allowed a Democratic Administration to lead us blindly into the jungles and swamps of Southeast Asia. It would be tragic, and inexcusable, if that same Constitutional imbalance, still uncorrected, allows a Republican President to neglect the severity of water pollution here at home.

The pollution crisis troubles me. But the Constitutional crisis troubles me even more. And it should trouble every Republican.

If we are serious about the decentralization of power, then we must begin by showing all Americans that the Republican Party, and a Republican Administration, has fundamental respect for the framework of our Constitution. We can, and should begin these next few years with all Republicans uniting behind that banner. ■

The "Year of Europe;" Still at the "End of the Tunnel"

by Robert H. Donaldson

1973, the pundits have been saying, will surely be the "year of Europe" in Henry Kissinger's White House shop. Issues of European security and cooperation have been simmering on the Nixon Administration's back burner since the President's second visit to the continent in the fall of 1970. At this point, there is reason to fear that, by the time Washington's chefs retrieve the European pot, its contents will prove to be unpalatable.

During the first Nixon Administration, the energy and intellectual resources of the government's foreign policy apparatus have been concentrated on two areas: bringing the war in Indochina to an acceptable conclusion, and constructing "a more creative connection" with the Soviet Union and China. The bifurcation of the President's attention between the triangular relationship in the global arena and the quagmire in Indochina has shoved to the periphery the problems of the Atlantic alliance.

This is not to say that European issues have suffered total neglect. The

agreement on access to Berlin, concluded in 1971 by the United States, Britain, France and the Soviet Union, has great significance because it defused the most volatile and persistent Cold War tension point in Europe. On issues of lesser but still vital importance, dozens of highly capable specialists in the Department of State have devoted their talents to the maintenance of America's relationships with her NATO allies.

Still, this has amounted merely to an occasional stirring of the pot by assistant cooks. The Berlin accords were, in fact, made possible by initiatives taken not in Washington, but in Bonn and Moscow. And the labors of the denizens of Foggy Bottom have as yet failed to receive the top-level attention and backing which is essential to a vigorous American policy in Europe. Indeed, those who predicted that 1973 would bring such a White House commitment must now be having second thoughts, as the collapse of the Vietnam peace negotiations and the resumption of full-scale bombing are threatening to make "four more years" a grim joke.

Europeans are understandably more concerned with matters of continental security than with the survival of the Saigon regime, and they have not been willing to put these issues on ice while awaiting Washington's return from its Asian preoccupations. The important treaties resulting from the Brandt government's *Ostpolitik* have fanned *détentist* aspirations in Central Europe and have hastened the opening of East-West talks on the future of Europe — negotiations for which the Soviets have been pressing (and preparing) for years.

Little heralded in the American press, major multilateral conferences will be convening in 1973 in two parallel forums. In Helsinki, representatives of 34 nations have been meeting since November to prepare the Conference on European Security and Cooperation, which will likely open in mid-year. And in Geneva at the end of this month, delegates from most of the NATO and Warsaw Treaty Organization states will open preparatory talks leading to a conference on troop and arms reductions in Central Europe.

The former, broader conference is the result of a seven-year diplomatic

campaign by the Warsaw Pact nations. Originally proposed as an all-European forum from which the North American "intruders" would be excluded, the European Security Conference has long been resisted by the United States and some of its NATO allies, who have viewed it alternatively as a propaganda ploy (a "great waffle," in the words of one government official) or as a lethal Soviet trap (the "European Suicide Conference," in the opinion of another official). The Soviets, on the other hand, have described the conference as the termination of the era of postwar consolidation, and the harbinger of a new era of "détente, elimination of the threat of war, peaceful coexistence, and extension of cooperation."

On a less rhapsodic level, Soviet commentators perceive the conference not as the vehicle for ending the East-West struggle in Europe, but as a means of ratifying certain results and proceeding toward a new form of competition. When the Soviets call for the simultaneous dissolution of NATO and the Warsaw Pact and an end to the military "division of Europe," they hasten to add that the existing political and ideological divisions are historically irreversible. Western proposals to include on the conference agenda both discussions of the Brezhnev Doctrine and implementation of "freer movement of people, ideas and information" within Europe have been rejected by Moscow as "an attempt to interfere in the internal affairs of the socialist countries."

The Soviet conception of a future "collective security system" to replace the existing blocs clearly allows for neither American participation nor a political or military role for the expanded European community. For the Soviet Union, the security conference represents an opportunity to gain multilateral recognition of the fixity of the political and territorial *status quo* in Eastern Europe, while capitalizing on divisions within NATO and encouraging neutralist, pacifist and anti-American sentiments in the non-Communist half of the continent. With the European allies chafing under the burdens of NATO defense budgets and resentful of America's seeming neglect of her European interests, it must be conceded that there will be ample

opportunity for the exploitation of "contradictions" among the Western allies.

For those politicians in allied and neutral European states for whom the security conference is an attractive prospect, the American role has been one of unalloyed foot-dragging. The most constructive alternative suggestion on Washington's part — that parallel talks be held between NATO and the Warsaw Pact on the issue of mutual and balanced force reductions (MBFR) in Europe — has been denounced in both Paris and Moscow as a reversion to "bloc to bloc" diplomacy. In fact, officials of the Nixon Administration candidly admit that the MBFR proposal was hastily conceived as a response to pressure by Sen. Mike Mansfield (D-Montana) and a near-majority of his colleagues for a drastic unilateral reduction in the American troop contingent in Europe. As with the ABM and other components of the defense package, the Administration has used the "bargaining chip"

ploy to stave off congressional pressure for unilateral American actions. However, the flat Soviet refusal to agree to the American insistence on "balanced" reductions (in Washington's view, a 6-1 Soviet-American pull-back is necessary because of the geographical asymmetry), as well as the immense complexity of the MBFR issue, presages a lengthy and difficult series of negotiations in Geneva. The Senate's patience back on Capitol Hill may wear thin long before an agreement on mutual reductions can be hammered out.

All of this is certainly not to say that the Administration's skepticism and caution concerning the security conference is unwarranted or that its reluctance to engage in unilateral American troop reductions is unwise. The soundness of the American position is not so much in doubt as is its *commitment* to grapple seriously and tactfully with the complex and challenging issues posed by the two conferences. For the Europeans, issues of security and co-

operation on the continent are of central importance; they continue to be treated as "back-burner" items by the United States.

In 1967, Henry Kissinger, acknowledging the centrality of Europe for America's security, wrote that the needed ingredient in Washington's relations with Europe was "to go from alliance to community." Such a task cannot be achieved either through heavy-handed, Connally-style assertion of national interests or through "benign neglect." A far greater investment of the Administration's attention and resources — and a far greater sensitivity to the fears of our allies — is demanded if the multiple risks and opportunities inherent in East-West negotiations are to be wisely dealt with. Should the President and Dr. Kissinger fail to live up to the presumed commitment to make 1973 "the year of Europe," the consequences are likely to be far graver than any imagined results of a "failure of commitment" in Southeast Asia. ■

COMMENTARY

California Election Analysis

by Michael Hallinell

Richard Nixon swept California as he did the rest of the nation. The major reason why Nixon ran 5 percent behind his nationwide average is the relative scarcity of "white ethnics" in the California electorate. The place in the Democratic coalition that is filled by Eastern Europeans in most states is filled by Mexican-Americans in California, where Spanish surname persons account for 15 percent of the population. Mexican-Americans stayed loyal to the Democratic Party to a much

greater extent than Polish, Italian, Greek and Slavic Americans, who voted heavily for Nixon. A second factor is the greater number of college students in California, who comprise almost 4 percent of the population. College students were one of the few groups that gave a majority of their votes to George McGovern. Moreover, there was relatively little regional variation in the Nixon sweep. In most places Nixon added all of the Wallace vote plus 2 percent from Humphrey to his 1968 percentage.

Nixon's smallest gains came among black voters. In Willowbrook, a low-income, black California community, McGovern received 92.6 percent of the vote, only 2.7 percent less than Humphrey polled in 1968.

Nixon made a much stronger showing among Mexican-Americans than among blacks. In the very poor and almost solidly Mexican-American area of East Los Angeles, McGovern received 67.2 percent, down 9.5 percent from Humphrey's 76.7 percent in this community.

In blue-collar areas the substantial Wallace vote went solidly into the Republican column, and it was augmented by a substantial defection among those who had voted for Hum-

phrey. In 1968 Bellflower, for example, voted 50.2 percent for Nixon, 10.1 percent for Wallace and 39.7 percent for Humphrey; in 1972 Nixon polled 65.6 percent versus 34.4 percent for McGovern.

Of all the traditionally Democratic groups, McGovern suffered his greatest erosion among Jewish voters. In West Hollywood, a middle-income Jewish area, McGovern's 63.6 percent was 8.7 percent less than Humphrey's 1968 percentage. In Beverly Hills, a wealthy community with a heavy Jewish concentration, McGovern received only 50.0 percent of the vote, an 11.8 percent drop-off from the Democratic Presidential vote in 1968.

Although McGovern's stands on racial quotas and welfare played an important part in his losses among key groups, the breadth of the anti-McGovern tide is probably the result of a feeling common to nearly all groups of voters that McGovern was simply not qualified to be President.

GOP candidates for Congress and the State Legislature in California did almost as poorly during the 1972 Nixon landslide as they did during the 1964 Johnson landslide. In 1972 GOP candidates for Congress won 47.2 percent of the two-party vote and

GOP Assembly candidates polled 46.9 percent; in 1964 Republican candidates for Congress polled 47.1 percent and Republican Assembly candidates polled 46.4 percent. GOP candidates for the State Senate won 48.9 percent of the two-party vote, but the more Republican half of the California Senate districts were up in 1972.

Such a reverse coattail phenomenon is virtually unprecedented. In 1966 Gov. Ronald Reagan was elected Governor, GOP congressional candidates won 53.2 percent of the two-party vote and GOP Assembly candidates won 53.7 percent; in 1968 when Nixon was first elected, Republican congressional candidates won 55.2 percent and Assembly candidates won 54.1 percent of the aggregate two-party vote. Several factors seem to have contributed to this unusual result. First, cross-pressured voters who did not like either Presidential candidate split their tickets. Since most of such voters went for Nixon, other Republican candidates came out on the short end of the ballot. Second, many Democratic candidates disassociated themselves from McGovern and minimized the damage to themselves, whereas few Republicans tried to avoid identification with Nixon and became embroiled in trying to explain the Watergate caper and other scandals. Third, President Nixon campaigned for very few Republican candidates; this denied them a chance to try and capitalize on pro-Nixon sentiment to compensate for anti-Nixon attrition or to at least gain valuable public exposure. Fourth, Nixon's massive campaign spending siphoned off badly needed funds from other Republican candidates.

Because congressional districts were gerrymandered to eliminate all marginal seats, the erosion of support for GOP candidates had little impact on the political balance of California's House delegation. Democrats picked up the three new House seats that had been carved out for them and Republicans picked up the two new seats they were slated for; all other seats were held by the incumbent's party. In only two districts did the losing candidate get as much as 44 percent of the vote. In the 6th C.D. Roger Boas polled 48.0 percent of the vote

against GOP incumbent William Mailliard. The main issue in this campaign was Mailliard's support of Nixon's Vietnam policies; in 1968, before Nixon had become President, Mailliard won in this same district by a 3-1 margin. In the 8th C.D. (Alameda County) Fortney Stark defeated long-time incumbent George Miller in the Democratic primary, but won a close 53-47 percent victory over Republican Lew Warden in the general election. In this contest Stark's outspoken advocacy of McGovern's Presidential candidacy was the major issue.

Republicans fared somewhat better in contests for the State Senate. In a San Francisco district, liberal Republican incumbent Milton Marks beat off a strong challenge from Ron Pelosi, the chairman of the San Francisco board of supervisors, by a 3-2 margin. Republicans picked up a seat in a very close race in an open district in Northern California. Former Assemblyman Clair Berryhill polled 50.3 percent of the vote against 49.7 percent for Assemblyman Ernest La Coste in the contest to succeed retiring State Senator Stephen Teale. Both candidates took similar positions on nearly all issues. Democrats almost cancelled out Berryhill's victory by unseating Republican incumbent Robert Stevens who won re-election with 49.7 percent of the vote against Democratic candidate Cathy O'Neill's 48.4 percent, with the remaining 1.9 percent going to the Peace and Freedom Party candidate. The major factor that hurt Stevens in this race was the heavily Democratic, student vote from the UCLA campus which is located in the district.

All 80 seats for the State Assembly were up for election in 1972, and the results were a disaster for the Republican Party. Eight Republican seats were lost and three more were held by candidates who polled less than 51 percent of the vote. Assembly races have the lowest visibility of any partisan contests in California, and GOP candidates found it very difficult to offset the "reverse coattail" effect. As a result the Republican Party is now worse off in the State Assembly than in either the State Senate or the congressional delegation. Democrats now control the Assembly 51-29 and the

congressional delegation 23-20, and the State Senate is tied 19-19.

Three Republican Assemblymen lost their bids for re-election in 1972. In agricultural Kern County, moderate conservative Kent Stacey (R) was unseated by a Mexican-American college professor, Raymond Gonzales. In a suburban Los Angeles County district conservative Charles Conrad lost to liberal Democrat Howard Berman. In a San Diego district with a large concentration of Navy installations a retired Navy commander and staunch conservative, Richard Barnes, was upset by a moderate Democrat, Lawrence Kapiloff.

In the districts where the Republicans lost the other five seats, incumbents did not run for re-election. The 48th Assembly district is solidly Democratic and had been held by the GOP only since a special election in 1971, but the 2nd, 10th, 50th and 74th Assembly districts were considered Republican territory, all having given Richard Nixon pluralities when he narrowly carried California in 1968. Two of these districts had been considered safe Republican since GOP Assembly candidates had won in 1970 by margins between 3-2 and 2-1.

Of the three districts where GOP candidates barely won half the vote, the race in one (the 29th A.D.) was not really close since there was a Peace and Freedom candidate who took 5.5 percent of the vote away from the Democratic nominee. In the other two contests, however, Republicans were re-elected by margins of less than 1,000 votes. In the 4th A.D. Assemblyman Ray Johnson polled 59,789 votes to his opponent's 59,053 and in the 36th A.D. Assemblyman Don MacGillivray received 66,553 votes while his opponent got 65,860.

In California, as in the nation, the 1972 elections were more of a lost opportunity for the GOP than a clear-cut setback. Looking forward to 1974, however, the situation for the Republican Party in California appears rather ominous. If the Democrats can do as well as they did in 1972 with an unpopular candidate like George McGovern at the top of the ticket, one can only imagine what they will be able to do in an off-year election when the "out" party is traditionally favored. ■

Politics: Reports

OHIO

COLUMBUS — The 1972 presidential campaign had not even ended before the 1974 gubernatorial campaign began in Ohio. State Sen. Donald E. "Buz" Lukens announced in late October that he was a candidate for the Republican gubernatorial nomination.

The former conservative Congressman and national chairman of the Young Republicans said he would play the role of party healer between the warring Rhodes and Taft factions of the party. Lukens's assertion that he had been urged by Sen. Robert Taft, Jr., to run for the Senate seat now held by Sen. William Saxbe was speedily denied by Taft — torpedoing Lukens's proposed role as a party unifier.

Lukens, once a key leader in the YR "Syndicate," ran for governor in 1970, but lost in the primary. He would be an unlikely winner in 1974 as well, if the three-way race now shaping up materializes.

The other probable contestants for Gov. John Gilligan's position are Congressman William J. Keating who represents the 1st C.D., and former Gov. James A. Rhodes, who lost a bitter Senate primary battle to Sen. Taft in 1970. Keating succeeded Taft in Congress and is considered the beneficiary of the Taft organization based in Cincinnati. The former Cincinnati councilman has a severe recognition problem in comparison to the well-known Rhodes. Rhodes served two terms as governor before trying for the Senate in 1970. After his defeat, he dropped out of the public eye until this summer when he re-emerged at the Republican National Convention, looking trimmer and fitter and pushing his ideas on vocational education. He hit the campaign trail this fall for legislative candidates and has promised an announcement on his political plans early in 1973.

Keating faces additional problems

if Sen. Taft softens his support. Some political analysts feel trial balloons for Keating's candidacy may have caused Taft to do just that. Ohio's junior Senator told a meeting of the League of Young Republicans in Fairfield, Ohio recently, "I'm not ready to jump in the direction of backing any particular candidate. I admire Bill Keating. I think he is a very fine person."

Gilligan, who once represented Keating's district — until he was defeated by Taft — may be a tough candidate to beat in 1974. A proposal to abolish the state income tax which he instituted was soundly defeated at the state polls in November and the lower house of the state legislature went Democratic. However, Gilligan's proposals to have students at state-supported colleges repay the state-funded portion of their college expenses may have cost him support among education groups.

The man who defeated Gilligan for the Senate in 1968 has apparently not made up his mind about a second term. Sen. William B. Saxbe, the maverick former attorney general, may not run for re-election in 1974. The Mechanicsburg moderate was at one time considered a possible candidate for governor in light of his unhappiness with the District of Columbia, but that eventuality is now considered unlikely. If Saxbe does decide to retire to his Mechanicsburg farm, Lukens might switch his sights to the Potomac. Possible moderate successors to Sen. Saxbe are less apparent. The result of a Saxbe retirement would be a net loss for Republican moderates and a still greater loss for candid commentary on government.

The Democrats are already saddling their Senate warhorses and both have seen previous pre-Senate track action. Cleveland millionaire Howard Metzenbaum was defeated by Taft for the Senate in 1970 by a 50-47 percent margin. Metzenbaum was active in the McGovern crusade this year, making the necessary preparations for 1974.

But John Glenn, the Ohio astronaut-turned-businessman who was narrowly defeated by Metzenbaum for the Democratic nomination in 1970, was also active on the campaign circuit in 1972. Glenn will probably appeal more to the middle-American instincts of the average Columbus housewife than the liberal Metzenbaum. What is more American than Royal Crown Soda and Holiday Inns, Glenn's two business interests?

No matter what happens, the names in Ohio politics will probably be the same in 1974. Only the offices will be different. ■

WASHINGTON

OLYMPIA — Washington State's Republican organization is looking for a new leader. State GOP Chairman Earl Davenport is resigning his position and a meeting of the GOP State Central Committee will be held January 15 to choose a replacement.

Davenport's resignation came on the heels of the November elections in which Republicans lost control of the state legislature and failed to make any gains on the congressional level, although the GOP's statewide ticket did win re-election. Davenport has held the post since 1971.

One of the defeated congressional candidates, outgoing House Majority Leader Stewart Bledsoe, is considered one of the key contenders for the post along with State Sen. Elmer Huntley, State Rep. Hal Wolf, State Rep. Thomas Copeland and former State Rep. Walt Reese. Party leaders are also considering two women for the post: Parmalee Moos of Olympia and Helen Rasmussen of Tacoma.

Gov. Daniel J. Evans's choice for the top party position reportedly turned him down. David Kirk Hart, a faculty member at the University of Washington and former Republican official in California, was asked to take the post. As he had once before, Hart declined to leave his university position. He may have his eyes on the 3rd C.D. seat if Democratic Congressman Brock Adams decides not to seek re-election in 1974. ■

Politics: People

● The abolition of the Office of Intergovernmental Relations, which is (or was) headed by Vice President **Spiro Agnew**, may not be as innocuous as the White House claims. The consolidation of the Agnew operation with the Domestic Council cuts Agnew off from a large personal staff, although the White House insists that the responsibilities of the Vice President are in no way reduced by the action since he continues as vice chairman of the Domestic Council.

● Massachusetts Gov. **Francis W. Sargent** has announced he will seek re-election. Sargent, who was once rumored to be seeking a cabinet post, told a news conference, "I have never sought, and I have never been offered a federal position. I have never wanted to go to Washington. I intend to run for re-election as governor of Massachusetts."

● Virginia Gov. **A. Linwood Holton, Jr.** was elected chairman of the Republican Governors' Association at the RGA meeting in Phoenix in early December. The outgoing chairman is Michigan Gov. **William G. Milliken**.

● Mississippi GOP Chairman **Clarke Reed** has been elected chairman of the Association of Southern State Republican Chairmen for his third term. Said Reed, "We know conservatives control the party without question. The idea is not to get locked in on anybody — stay loose and uncommitted, but stay in close communication." Reed urged his fellow chairmen to remain "loose and uncommitted" for the 1976 convention.

● The chairmanship of the New Hampshire GOP will change in January. State GOP Chairman **Robert Whalen** is resigning, possibly opening the position to his executive secretary, **Dave Gosselin**. Republican moderates have retained the leadership of the lower house of the legislature under **James O'Neil** and **Kimon Zachos**, despite the election of conservative Republican **Meldrim Thomson** as governor.

● The list of possible Republican successors to Gov. **Winfield Dunn** (R-Tenn.) is growing. State Sen. **Tom Garland**, who was recently re-elected Senate minority leader after losing the race for public service commissioner this fall, is one contender as is **Dortch Oldham**, a wealthy Nashville businessman who ran the finance side of Dunn's campaign in 1970 and Sen. **Howard Baker's** campaign in 1972. Other names include Knoxville Mayor **Kyle Testerman**, who is making an effort to improve his statewide recognition, and **Lamar Alexander**, who has worked for Sen. Baker, Gov. Dunn and with **Bill Timmons**, a former Brock aide. Congressman **Dan Kuykendall**, unhappy with the district lines given to him by a Democratic legislature anxious to defeat him this year, is said to be the likely recipient of Dunn's blessings for the gubernatorial race. Dr. **Nat Winston**, a former state director of mental health and Brock campaign associate, is working to receive the official benediction from Sen. **Bill Brock**, who keeps looking like a man who would like to live at 1600 Pennsylvania Avenue. Gov. Dunn has meanwhile alienated a number of East Tennessee Republicans (a GOP stronghold and the home of Baker and Brock) by opposing the construction of a new state medical school there.

● Nebraska Republican National Committeeman **Richard L. Herman** has proposed that party state central committees have veto power over who can enter the Nebraska primaries. The Herman plan would ostensibly serve to screen out party switchers like State Sen. **Terry Carpenter** who ran as a Democrat against Sen. **Carl Curtis** this year, but who has been known to frequent both parties. One possible beneficiary of the Herman plan: **Richard L. Herman**, who was a key organizer in the Republican National Convention this year and is expected to seek the governorship in 1974. Other possible Republican opponents to the Nebraska trucker: Lieutenant Gov. **Frank Marsh**, former Gov. **Norbert Tiemann** and **Dwight Dam**, a rancher-trucker from Valentine, Nebraska (where you can have your valentines postmarked if you so desire). Nebraska Republicans may not be too worried about defeating incumbent Gov. **J.J. Exon**, however, since Exon is more conservative than any of his possible conservative challengers. Meanwhile, Congressman **John Y. McCollister** is reportedly looking toward 1976 and the seat of Sen. **Roman Hruska**, now 68, while Congressman **Charles Thone** is looking for the retirement in 1978 of newly re-elected Sen. **Carl Curtis**. The state has achieved a balance in its unicameral, 49-member legislature: one black, one woman, and one 22-year-old.

● Describing the reactions of White House officials to the dismissal of Secretary of Commerce **Peter G. Peterson**, *Washington Post* reporter **Sally Quinn** quoted one official as saying, "The trouble with Peterson is that when (presidential advisor) **Peter Flanigan** criticized **Percy** for opposing the **Harrold Carswell** appointment to the Supreme Court the first time they met at the White House, Peterson replied, 'Did it ever occur to you that he's right and you're wrong?'" Said another official, "The trouble with Peter Peterson is his wife, **Sally**. She's too liberal. She may even have voted for **McGovern**. And she was overheard saying, 'Right on!' to a reporter who had written something critical of the White House."

● Vice President **Spiro Agnew** has given the worm to a group of early birds. The Vice President's office has announced that a Cleveland-based group named "Early Birds for Agnew" does not have Agnew's approval.

● Gov. **Nelson Rockefeller** (R-N.Y.), who in the past had expressed interest in the idea of a fusion candidate for mayor of New York City, has now rejected the idea. Rockefeller cited legal problems as well as the absence of an acceptable fusion candidate as reasons for his change in attitude.

● The California presidential primary will look like Oregon's in 1976. The approval of an "everybody-in-the-pool" primary in November means that all presidential aspirants will be on the California ballot unless they reject such aspirations in writing. The new primary will bar favorite son candidacies and was long opposed by California Gov. **Ronald Reagan**. Legislation is also in the works to eliminate the winner-take-all feature of the Democratic primary.

Don't Forget "Help"
in the
December FORUM

At Issue:

The Shared Value Mortgage

A significant adjustment in mortgage financing is necessary to foster home-ownership among a larger segment of the population, according to Gibbs LaMotte, winner of the second prize in the 1972 Ripon Prize competition. The average home-buyer today is most concerned with the level of down payments and monthly carrying charges, says LaMotte. Under the Shared Value scheme he favors, borrowers forego a portion of future capital gains in return for more attractive mortgage terms and debt service requirements. At the same time, lenders realize increased yields, better protection against inflation, greater demand for their money and an increased supply of loanable funds. Therefore, according to LaMotte, both borrowers and lenders stand to gain and society gains because more families are able to satisfy their shelter needs. LaMotte is a graduate student in city planning at the University of Pennsylvania.

by Gibbs LaMotte

The United States, the wealthiest and most technologically advanced country in the world, has not been able to solve the problem of providing adequate shelter to all its citizens. The ownership of private property is one of the most deeply cherished ideals in our culture, and yet a large segment of the population simply cannot afford to acquire real property as an asset. The federal government has long provided tax loopholes for those who have borrowed funds to purchase housing, but the costs of housing are still too high to allow many Americans to take advantage of this indirect subsidy.

Moreover, the trend seems to be worsening since home prices are rising faster than incomes. Potential home-buyers entering the market for the first time are astonished to learn how much they will have to pay for a given level of housing services. Present homeowners are pleased with the degree to which their home has appreciated in price; pleased, that is, until they realize that all of the value appreciation will be gobbled up when they sell their present dwelling and try to purchase another offering an equivalent level of housing. The house that was bought for \$20,000 ten years ago can now be sold for \$30,000, but a newer house of the same size and with the same amenities is now priced at \$35,000.

In desperation, most buyers in the market practically ignore items such as purchase prices and prevailing interest rates. They are more concerned with the direct dollar outlay initially required (i.e., the down payment) and the out-of-pocket costs of financing the purchase (the month-

ly payment). It is not surprising that studies confirm that these two items are the primary determinants in the financial decision. To the buyer, the real cost of purchasing a given house lies in the answers to two questions: 1) How much do I have to put down?; 2) How much do I have to pay every month?

These questions are especially pertinent to what might be termed the moderate-income buyer. Upper-income buyers (incomes in excess of \$15,000 per year) make up less than one-fourth of the country's population; they can well afford the cost of most housing on the market today. At the other end of the scale, low-income buyers, those with annual incomes of \$8,000 or less, are the beneficiaries of most government subsidy and assistance programs. This leaves moderate-income home-buyers, who make up almost 40 percent of the population, faced with an overwhelming problem: they cannot afford the cost of conventional financing and yet they are ineligible for most aid programs. They are basically priced out of the market.

Attacks on this problem are underway in several areas. States have enacted sophisticated land planning and control ordinances in an attempt to avoid excessive land speculation. Advances in community design such as Planned Unit Developments and New Towns try to assure that a suitable price-mix of housing is available by granting developers the right to higher densities. Industrialized housing systems have as their goal cost savings in the construction and erection process, but there is no guarantee that these savings will be passed on to the ultimate purchaser.

These solutions should be pursued, but they affect the costs of home-ownership only to the extent that the trend toward continuous increases in final purchase prices is slowed. The basic questions facing the moderate-income buyer — how can I put less down and how can I pay less per month? — remain unanswered.

A possible answer to these questions is the Shared Value Mortgage. This plan allows the lender to share in the increased value of the mortgaged property. In return for foregoing future capital gains, the borrower obtains more favorable terms and a lower monthly payment. In return for foregoing current income due to the lower monthly repayments, the lender realizes both a greater gross return and a greater internal rate of return, and achieves protection against inflation in excess of that built into the mortgage contract rate. In other words, the lender allows the borrower to spread out the borrower's share of the anticipated value appreciation over the life of the contract, thereby achieving a sort of reverse leverage that lowers the monthly cost of funds to the borrower.

The benefits of the Shared Value Mortgage are obvious. Compared to the present method of mortgage financing, Shared Value borrowers would be able to purchase more house for the same amount of monthly payment, or reduce their monthly payment for the same house. The demand for housing would increase since buyers who are now priced out of the market because of high financing costs would be in a better position to bid for funds if financing costs were lower. An increase in the lender's rate of return would probably serve to increase the attractiveness of mortgages relative to other investments, thereby increasing the flow of funds to the mortgage market. Life insurance companies and others have reduced their investments in mortgages over the past decade; this condition might be slowed or even reversed if rates of return were higher. The increased money flowing into the market would tend to keep contract rates down or at the very least nullify any upward pressure on rates resulting from increased demand. The great pressure on loanable funds that now exists partially because the entire value appreciation is realized only at the time of resale would be ameliorated to some extent if the value appreciation were spread over the life of the contract.

It should be noted that this type of lender participation in the market risk in real estate investments has become quite common. Heretofore confined mainly to commercial structures and other kinds of related properties, lenders have been demanding "equity kickers" in multi-family residential structures since the late 1960's. Moreover, the entry of large corporations into the real estate field has made the shared-equity joint venture a normal financing technique. The developers of the new town of Columbia, Maryland gave up nearly half of the ownership of the venture to obtain financing from a large insurance company. Long-term financing of Reston, Virginia eventually resulted in a take-over of ownership by the oil company providing the funds. The new town of Park Forest South, Illinois is partially owned by two large industrial organizations that demanded an equity share as the price of financing. Some builder/developers, hard-pressed for ex-

pensive interim construction money, are exploring the possibilities of joint ventures with financial partners. It is not at all clear why this trend should be confined strictly to land developers and builders. Prospective home-buyers should be allowed to finance via this method if they wish. The Shared Value Mortgage is an instrument that allows them to do so.

Basically, the Shared Value Mortgage is one that contractually stipulates that the lender would be entitled to a certain specified portion of the net selling price realized at the time of resale of the property under consideration. If the lender wished to assure himself a particular rate of return on his loaned funds, he would fix his portion of value at a certain amount. Or, if the lender would prefer to share in all realized appreciation, he would fix his portion of value at a certain percentage. For example, in the former case, the contract would require specified monthly payments and an additional specified dollar payment at



time of resale. Thus, the lender's rate of return would be known and fixed throughout the life of the contract. In the latter case, the contract would require specified monthly payments and an additional payment of, say, 50 percent of net proceeds at time of resale. This way, the lender's return would be unknown, but never lower than the contract rate. Given judicious property evaluation by lenders, rates of return on mortgage investments could be substantially higher than those now achieved, and the process would be relatively painless to the borrower.

For example, assume that a moderate-income family wishes to purchase a \$25,000 house, and that current conventional mortgage interest rates are 7 percent and down payment requirements are 20 percent. The buyer is thus required to come up with \$5,000 to meet the down payment.

His debt service is \$152 per month assuming a maturity of 20 years. If, however, the lender and borrower agree to a Shared Value contract that reduces monthly payments to a 5½ percent contract rate in return for the lender receiving 50 percent of the net proceeds from the resale of the property when it occurs, then the buyer's monthly carrying charges are reduced from \$152 to \$129, a \$23 per month saving. Without this reduction the buyer could not have purchased this level of housing services.

If the \$25,000 property appreciates at a nominal average of 3 percent per year in value, its gross value at the end of 20 years will be \$45,100. If resale occurs at this time, the net proceeds from the sale will be about \$42,000 (allowing for transaction costs of 7 percent). The Shared Value Mortgage stipulated a 50-50 split of net resale proceeds, so \$21,000 is paid to the lender and \$21,000 is kept by the borrower. While the contract rate on the mortgage was only 5½ percent, the \$21,000 payment increases the lender's yield (internal rate of return) to over 8 percent, which is more than 100 basis points over the conventional mortgage yield. The additional yield to the lender compensates him for the reduction in contract rate and resultant deferral of return that occurs under the Shared Value Mortgage scheme. As a matter of fact, a 100 + basis points increase in yield seems a rather high price to pay the lender for a reduction of contract rate only; the borrower is probably in a strong enough bargaining position to demand a reduction in the down payment requirement as well.

This example is not really typical since few mortgages go to full term. A resale after, say, 10 years of ownership is much more likely. If this occurred, the gross sale proceeds would be \$33,600 if a 3 percent yearly value appreciation has occurred. Net proceeds (after 7 percent transaction costs and the replacement of \$12,700 to the lender to cover the outstanding loan balance) would be \$18,500. Borrower and lender would each receive half of this net amount. Therefore, in this example the lender receives 120 monthly payments of \$129 plus a final payment of \$21,950. The discounted rate of return to the lender is 8.40035 percent or 140 basis points above the prevailing conventional yield level. The borrower's \$9,250 share of the sale price can, of course, be used as a down payment on future housing purchases, or it can be invested

in any manner he wishes. Thus, the value appreciation in conjunction with the Shared Value Mortgage plan has enabled the home-buyer to reduce his monthly payments by a meaningful amount, probably substantially reduce his down payment, and yet walk away with over \$9,000. Meanwhile, the reduction in down payment and debt service levels has either enabled him to increase his standard of living by an equivalent amount or at least enabled him to purchase housing services that he could not afford under conventional mortgage financing.

"This leaves moderate-income home-buyers, who make up almost 40 percent of the population, faced with an overwhelming problem: they cannot afford the cost of conventional financing and yet they are ineligible for most aid programs. They are basically priced out of the market."

There seems to be little doubt that Shared Value financing would be attractive to the marginal or moderate-income home-buyer. The question of risk, however, requires scrutiny since the initial reaction of lenders might be that the increased yields do not compensate for the risks involved in a scheme that in truth makes lenders into equity participants in single-family properties. Past history would tend to dispel this notion. The United States Census Bureau 1970 series reports that new home prices rose as follows: 1969, +9 percent; 1968, +3 percent; 1967, +4 percent; 1966, +7 percent. The National Association of Real Estate Boards has stated that median prices of existing homes involved in transactions rose 16 percent between 1966 and 1970; and prices in the first half of 1970 were 5 percent greater than a year earlier. Clearly, on an aggregate basis, price appreciation of single-family homes is occurring. Whether this situation will continue is, of course, conjecture, but the long-term trend has been up and it is difficult to make a cogent case for this trend reversing itself. As long as inflation, upward mobilization of the people, and increased expectations continue, then housing will increase in price.

Still in all, while it may comfort the lender to know that prices are rising *in toto*, he is more directly concerned with the performance of his particular institution's portfolio. The results claimed by life insurance companies are of interest here, because they began taking equity positions in income property investments in the late 1960's. Insurance companies have found a net yield increase of one-half to one percent sufficiently attractive to justify their participation in this kind of financing. Single-family lenders could diversify their risk over a much greater number of properties and thereby take advantage of any negative covariance factors that exist. The more conservative lender might require additional risk compensation in the form of a larger share of net sale proceeds or a smaller reduction in down payment or monthly charges. (The danger here is that owners may be less likely to adequately maintain the property if they perceive that the lender will be the primary beneficiary at time of resale.) Or, in the ini-

tial stages of implementation of the Shared Value plan, lenders might wish to confine these loans to condominium arrangements where maintenance is performed on a group basis by professionals. To the extent that adequate maintenance assures value appreciation, risk would be reduced. In any case, lenders have already established elaborate rules of prudent lending which they could follow rather closely in the earlier stages to minimize risk and to gain experience in the process. Once this occurs, Shared Value mortgages could be offered to a broader segment of the market in order to build a more diversified risk pool. Competition should reinforce this broadening process since the increased yields obtained from Shared Value mortgages will make the mortgage market more attractive to institutional asset managers, hopefully making mortgages less of a "residual market" and more of a primary investment vehicle.

Two recommendations have recently been put forth as possible solutions to the problem of providing suitable housing to the American people. Both have similar goals and each involves the creation of a new organization to offer guidance and financial aid to the home-buyer. Each recommendation advocates the establishment of housing service entities that would attempt to match a buyer's needs with the available supply. Each has a provision for financing single-family homes through a mechanism that resembles the Shared Value Mortgage, but with important differences that will be explored later.

Sherman J. Maisel urges the formation of what he calls Home Ownership Promotion Enterprises (HOPEs) on a non-profit, or limited dividend, basis; one HOPE would exist in each of the country's metropolitan areas. Each HOPE would be approved as a contractor by the U. S. Department of Housing & Urban Development and would act as a counselor (to prospective buyers and renters throughout the search process), as a sponsor (of rehabilitation and development projects), as a lender (by acting as a financial intermediary for government-backed mortgages), as an administrator (of certain existing and proposed housing subsidy programs), and as a fiduciary (HOPE would hold title to houses purchased with funds obtained by the borrower from HOPE lending programs). The similarity of the HOPE financial mechanism to the Shared Value Mortgage scheme is indicated by the following excerpt from Maisel's statement:

"... the cost of any subsidy program administered by the HOPEs, as well as existing housing sub-

sidies, could be substantially reduced if payments were treated as loans to be repaid, if possible, out of any increase in property values realized at the time of resale. . . . When the property against which a subsidized mortgage is held is converted or sold, any capital gain which accrues upon resale would be applied to reducing or eliminating the outstanding loan from the government. Any gain in excess of the loan would go to the owner of the property; if there were an insufficient gain (or a loss) on the property to retire the balance of the loan, the shortfall would be written off by the government as a subsidy."

The second of the two recommendations recently advanced is contained in a study done by the planning firm of Rahenkamp Sachs Wells & Associates (RSW) for the State of Pennsylvania. RSW's housing entity, Housing Opportunity and Management Enterprises, called HOME, would provide shelter to the low and moderate-income market by maintaining a government-subsidized investment position. A concept akin to the Shared Value Mortgage appears in this recommendation as follows:

"The federal government would subsidize mortgage payments to the extent that the owner's income was insufficient. When property is sold or transferred, proceeds would go first to the mortgagor, then to the government, and finally to the owner. Losses would be the final net subsidy."

Both HOPE and HOME recommendations, in general, are an attempt to meet the housing needs of this country via direct or circuitous government intervention in the marketplace, since Maisel and RSW believe that private enterprise is not capable of supplying the full spectrum of demand without some kind of subsidy. The price paid for the intervention is that yet another layer of bureaucracy is interposed between the two principals, the buyer and the seller. The success of government housing policies is currently a topic of hot debate, and both HOPE and HOME would restructure the form of intervention to hopefully make it more efficient. Nevertheless, even though Maisel states that HOPE would be "basically a non-governmental organization," it is difficult to see how either organization could avoid dominance and eventual control by HUD. Whether this is good or bad depends on one's point of view, since the record of governmental housing programs since the 1930's is marked by success in



terms of quantity, but failure in terms of many other objective criteria.

The important point is that the Shared Value Mortgage as explained earlier does not require government support. True, FNMA purchase of Shared Value contracts or GNMA guarantees of debt instruments backed by Shared Value mortgages would do much to assure the broad acceptance of the concept; nevertheless, government support of this nature is merely a desired, not essential, aspect of implementation. One of the basic tenants of the Shared Value scheme is that increased yields on mortgage investment portfolios, together with the enlargement of

turity of every loan in the portfolio is not present under the Shared Value scheme. Finally, it is possible under the Variable Rate plan that contractual monthly payments would not be sufficient to even meet interest payments in a time of rapidly escalating market rates such as transpired in the 1969-1971 period; monthly payments would have to rise accordingly and no amortization of principal would be occurring. Borrowers and lenders alike would find this distasteful. Such a situation could not occur under the Shared Value scheme since ultimate results are tied not to money market actions, but rather to resale market developments which to the borrower and lender are much more



the market resulting from more attractive down payment and monthly carrying charges, will induce the private lender to accept the Shared Value scheme on its own merits without government fiat or intervention. Home-buyers, too, should prefer the private Shared Value loan over the HOPE or HOME loan, since it is quite conceivable that little or nothing would remain for the owner when the proceeds of resale are distributed to these organizations to repay the subsidy. Moreover, HOPE and HOME as fiduciaries would hold title to the property; owners might perceive of themselves as merely renters, with concern for maintenance and the self-esteem arising from pride of ownership dropping accordingly.

A third improvement in the financial process that has received wide publicity of late is the Variable Rate Mortgage. It calls for constant monthly payments with a variable maturity period that lengthens or shortens as the current market rate falls above or below the contract rate written into the mortgage. Consequently, the degree to which the loan principal is amortized each month varies as the maturity changes. Adjustments in maturities occur based on changes in benchmark money prices such as yields on Treasury bills or interest rates paid by institutions to depositors. From the borrower's standpoint, the Shared Value Mortgage would seem more attractive than the Variable Rate plan since the terms of the contract are fixed in advance and are not subject to the vagaries of markets with which the average borrower has little familiarity. Also, as explained in detail earlier, contracts would probably be more favorable to the borrower in terms of down payment requirements and monthly carrying charges. From the lender's point of view, the Shared Value plan provides for a programmed reduction of principal throughout its life, and the lender's yield cannot fall below the contract rate (barring total default, of course). The administrative burden of periodically recalculating the ma-

observable and familiar.

The implications of the Shared Value Mortgage on an individual level are easily listed. Home-buyers would require less down payment and pay lower carrying charges. Their disposable income would increase accordingly. Lenders would assume a greater risk in order to share in the value appreciation, thereby increasing lender yields and inflation hedges.

On an aggregate level the implications are less identifiable. It seems certain that demand for housing would substantially increase, especially at the lower end of the scale, since many potential buyers now priced out of the market would be in a position to borrow if Shared Value mortgages were available. The demand for higher-priced houses could conceivably drop since potential buyers would not have 100 percent of the sale proceeds to apply against

“Compared to the present method of mortgage financing, Shared Value borrowers would be able to purchase more house for the same amount of monthly payment, or reduce their monthly payment for the same house.”

purchase of the more expensive house. In other words, “trading-up” would be more difficult. The combined effect of increased demand for lower-priced houses and reduced demand for higher-priced houses would change the aggregate distribution of the prices of homes. The mean of the price distribution would probably not increase over time to the extent that it has in the past. In more practical terms, demand for large estates would diminish while the demand for town houses, condominiums, and other lower-

cost structures would increase. The net impact of this change on the distribution of demand for housing would radically alter the character of the housing stock in the long run.

Also on the aggregate level, it is suggested that the availability of funds for home-buying would be increased if the Shared Value Mortgage gained acceptance as an investment vehicle. As stated earlier, the increased yields and increased inflation hedges would be attractive to the investment community; this attractiveness could result in a larger share of institutional assets being funneled into the mortgage lending market. Increased lender yields would also persuade depository institutions to raise the interest rate paid to savers (regulations permitting), thereby attracting more funds. Finally, bonds or other debt instruments backed by Shared Value mortgages would possibly be more saleable given the yield increase; more funds for mortgages would ensue.

"There seems to be little doubt that Shared Value financing would be attractive to the marginal or moderate-income home-buyer."

The macroeconomic consequences of a reduction in monthly payments (and reduced down payments) is beyond the scope of this paper. Clearly, disposable income levels of borrowers would increase, at least to the extent that the borrower chose to pay less for the same house rather than buy more house for the same money output. A portion of the extra disposable income would be saved, while the remainder would be used to increase consumption. All other things being equal, therefore, it would seem that the Shared Value plan would result in an added injection of dollars into the consumption streams and a commensurate reduction of aggregate investments.

From the lender's point of view, perhaps the most serious implication of the Shared Value Mortgage plan is the squeeze on funds that individual lenders would face in the early stages of implementation. Since loan repayments are lower, cash available for reloaning would be commensurately affected. Until a suitable period of time passes, probably five to ten years, at which point Shared Value mortgages would be fully implemented and lenders would be receiving the proceeds of resales on a large scale, a reduction in "reflow" could occur that would damage the earning power of lending institutions. There seems to be no easy solution to this problem other than to encourage the entry of new money into the market to the fullest



possible extent. The unattractive reflow characteristics of the Shared Value plan would require lenders to build portfolios of these contracts at a slower rate than might be desired by the borrowing public or even the lenders themselves. Owners and managers of lending institutions must, therefore, take the long view and recognize that short-term setbacks would be more than offset by the gains that would eventually accrue to the institution holding a diversified package of Shared Value contracts.

Another barrier to the acceptance of the concept is the extent of legislative changes required. The federal government is not prone to permit variable-yield contracts on FHA or VA mortgages. Usury laws in many states do not permit yields to rise above arbitrarily low levels. Regulatory agencies do not permit some lenders to participate in "equity kicker" mortgages. Would regulatory agencies consider the Shared Value Mortgage as falling in this category? The economist would say that the Shared Value payment is simply a deferred down payment or a balloon interest payment, the size of which is determined by the appreciation of the property's value. The regulatory agency, on the other hand, might say that the Shared Value payment is simply an equity feature and is therefore illegal. In general, these obstacles, while undoubtedly troublesome, would probably be eliminated over a period of time as legislative bodies perceived the social gains to be achieved through the Shared Value Mortgage and as buyer and lender preferences for the scheme became more obvious. ■

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So if someone who counted
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or Groundhog Day,
but be sure to remember him/her

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At Issue:

Building Codes and the Building Crisis

Building codes amount to a local tariff on modern construction techniques, according to Charles G. Field, research manager for the Department of Housing and Urban Development's division of housing assistance and economics research. Field, who helped develop the legislation for the Massachusetts statewide building code, argues that an improved building code system requires three elements: performance standards as an integral part of the building codes; mandatory state building codes to homogenize the current local hodgepodge which keep housing costs high, and better trained and supervised building inspectors to administer the codes. Although modular home construction has yet to seriously compete economically with "stick building on site," an improved system of building codes would allow a true test of the competitiveness of modular construction. Revisions of local building codes, however, need to be accompanied by other measures to protect local governments from the blight of shoddy, ill-conceived developments. Since most urban areas have already adopted model building codes as a precondition for some HUD grants, Field's suggestions would have their greatest impact on less developed areas. Finally, Field's article does not represent the official policy of the Department of Housing and Urban Development.

by Charles G. Field

A New England-based modular housing producer opened his plant to friends, business associates and key officials. All were wined and dined and given special tours of the plant in which modular units at different stages of construction were on display. To top the afternoon festivities, the governor addressed the assembled crowd, lauding the producer and praising the contribution modular construction would bring to the citizens of his state.

In one of the plant tour groups was an upstate building inspector who carefully examined the units, climbing into them, looking at piping and pulling on electrical cords. "Top quality! Better than what is conventionally built in my area," was his evaluation. The opening was designed to expose just such building inspectors (who practiced within the shipping radius of the plant) to the product — how it was put together, what quality control procedures were used, and how it was shipped to the site. The producer knew that many inspectors were unfamiliar with factory produced housing and that the word "prefabrication" had the most unfavorable connotation for them. By increasing building familiarity, the producer hoped to minimize code approval problems.

Well, our building inspector was impressed. He did remark, though, that full code powers did not rest solely in his hands; the local town council often got involved in code decisions. To shorten the story, when the producer shipped his units upstate that same building inspector denied him a permit on the basis of not meeting code.

The path of American industry has been to reduce costs by producing for an increasingly broadening market. The increased costs of modernizing production whether in manufacture, agriculture, or transportation, have been carried by broadening the product's market area from local and regional to national and international. The construction industry has lagged far behind in this process, but even here forces of industrialization have made increasing inroads. The need for increased market area is a natural concomitant of this process. However, this industry has been hindered by a localized system of building codes which is vestige of the pre-industrialized state.

Codes, as written, reflect private self-interests, principally those in the construction industry. By specifying sufficiently stringent standards of performance or by the outright requirement to use certain types of materials, sales by certain types of producers are favored without corresponding benefit to the consumer. For example, the requirement to use cast iron pipe for certain plumbing systems has little to do with better piping for consumer use. Rather it is a means of preventing the use of plastic pipe, a newly competitive product to cast iron created by modern technology. The cast iron pipe producers are the winners, not the consumer.

To influence code decisions, one must have effective contact with building inspectors. Innovators and industrialized producers are without local contact; therefore their voices are hardly heard. Local construction interests as well

as major material producers (through local distributors and retailers) have frequent contact with local building inspectors and their advice is often acted upon by them. As a consequence, innovators and industrialized housing producers are automatically at a disadvantage vis-a-vis local interests just as any national tariff places at disadvantage foreign importers of competitive goods.

The tariff analogy conjures up visions of legislators acting consciously in the interests of a selective number of private interests. While this may not be factually true for most local legislators, building code regulators are influenced by a selective number of private interests. The pattern is not uniform. Unions are strong in big cities; material producers and local builders more influential in smaller sized places. Thus isolating one group as having greater influence over code decisions is impossible. The gruelling consequence of this pattern is that innovators who seek exceptions to the prevailing codes must continuously rejustify their products to meet differing objections from one town to the next.

Implicit to every tariff are the bad guys. The off-site factory panel or modular system producers threaten removal of work from the locale to distant plants employing non-local labor and buying non-locally-sold materials. Thus new technologies, which remove local jobs and dollars, are often seen as bad guys in the eyes of the local construction trades.

The importance of any tariff to the domestic industry is that it imposes selective costs upon foreign competitor products. This likewise holds true in residential construction. Factory producers, the foreign competitor to the local industry, almost to a firm, report in the 1970 survey that existing code patterns in their marketing area imposed additional costs beyond those necessary to produce a home meeting FHA minimum property standards. Almost half the firms surveyed reported that the additional costs due to existing code patterns and standards were significantly high. While dollar estimates are hard to ascertain, a few firms have placed the figure as high as \$1,838 to \$3,500 on a house that would have cost \$12,000 (excluding land and site development costs) in 1970 and which met FHA minimum property standards. These code-engendered costs can quickly price modular producers out of the market — to the delight of local construction interests.

There are numerous sources of added cost. Explicit code prohibitions on the use of more efficient materials and techniques increase costs. Moreover, the producer cannot be efficient if prevented by codes from substituting between building materials in response to major price changes on articles such as lumber. Less noticeable, but equally destructive, are the implicit prohibitions generated by the code pattern itself. To cope with the vagaries of the code pattern, producers have developed flexible production systems, but there is a limit to how adaptable a manufacturer can be. Confronted by a specific combination of code prohibitions, producers throw their hands in the air and say it is not worth the hassle. When this happens exclusion has occurred. The producer, if in dire need for sales, may modify the design to such an extent that the product resembles a custom-built home. The consequence is a loss

of cost benefits inherent to factory production.

Merging the 1970 survey data on building codes and home manufacturers, exclusion scores were estimated for over 200 home manufacturers matching them against codes for approximately 1,000 cities. Exclusion scores ranged between 20 - 50 percent of these cities! Vast market areas were off-limits to almost all manufacturers reducing potential sales volume and thereby severely inhibiting possible economies associated with volume production.

The economic tariff tells only part of the story. There are social ramifications as well. While codes do not specifically prohibit the construction of low and moderate income housing, they are obstacles to passing on of technological benefits to the construction of housing for lower income families. The fact is that lower priced, factory produced units are more likely to run into code problems than higher priced units. In 1970 producers of units priced at \$5,000 - \$10,000 (excluding cost of land and site improvements) experienced exclusion scores around 50 percent while those who produced in the \$15,000 - \$20,000 range experienced scores of about 30 percent. Moreover, producers in the lower price range reported significant code induced cost increases more frequently than producers in the higher price range. The social import of the prevailing code pattern is clearly detrimental to housing low and moderate income families.

“Codes, as written, reflect private self-interests, principally those in the construction industry.”

Codes are not self-administering documents. Building inspectors are their interpreters and enforcers. A poor inspector can butcher an excellent code while a highly competent inspector can salvage the worst code. Unfortunately the prevailing situation is discouraging, for the competence level of the inspector is typically poor. Building inspectors are products of the conventional system. Many have worked in the trades and have been retired into the building inspector's job. While their experience in the trades makes them well suited to inspect conventional housing, most lack the technical training needed to judge new technologies. Inspectors also lack job security which makes them highly susceptible to outside influence. Most are not protected by either civil service or unions thereby encouraging their hesitation in approving new technologies which run counter to local interests.

Until recently our approach to building code reform has been lacking in a comprehensive strategy. We have been quick to deal with the technical, but slow with the social, economic and political aspects of codes. Slow progress has been aided by both the entrenched power of local groups and the absence of political glamour for code reform. In recent years though, because of escalating costs of housing, code reform has taken on a new urgency.

A three-fold strategy is needed. *First*, performance standards should be an integral part of the code system (though not necessarily a replacement for existing specification codes). If a product meets the performance re-

quirements, it would be deemed acceptable under the specification codes. *Second*, mandatory state building codes should be enacted though enforcement might be local. Only where natural conditions dictate should local variations be tolerated. *Third*, adequately qualified and trained inspectors capable of professional interpretation and application of the code should be attracted into the profession.

Performance standards are based upon how a product will perform its appointed functions rather than upon the type of materials used or construction procedures utilized. For instance, such standards might require that a wall be capable of supporting a specific load, not that lumber studs of a certain size be spaced "X" inches apart. The consequence of performance standards is that desirable safety standards continue to be maintained while innovation is permitted in materials, shapes and structures of building products.

For the innovator, properly defined performance standards are clear rules for product development and eventual testing. Innovators can invest in research and development confident that technical product development can be continuously tested against known standards of acceptance. This is not true in the world of specification codes where rules are few, tests vaguely defined and inspector discretion great. In today's code world, the risks of product development are great for the specific rules of product acceptance are seldom known in advance.

Performance standards do not substitute for a well thought out specification code, the latter used by local building inspectors in the conduct of their day-to-day business. Very few inspectors would be capable of understanding, interpreting and applying performance standards. Performance standards, rather, are a back-up system to specification codes for use where the codes do not cover new products or building procedures.

"The consequence of performance standards is that desirable safety standards continue to be maintained while innovation is permitted in materials, shapes and structures of building products."

Failure by the industry to develop a comprehensive set of performance standards does not stem from a lack of technical know-how or a procedure for agreeing on such standards. Rather, failure to act springs from a desire by producers of established products to preserve their market position. Performance standards open the door to new products which may prove superior or cheaper than those presently in use. By definition specification standards now used in codes can specify that only one product be used in construction. For example, such a code could require that steel, as opposed to concrete or wood, must be used in a specific part of a structure. Performance standards create a threat to established producers by opening up the range of usable materials.

HUD filled the performance void by developing the "Guide Criteria for the Evaluation of Operation Breakthrough Housing Systems" — prototypical performance

standards developed with the assistance of the National Bureau of Standards and the National Academies of Science and Engineering. Coolly received by the industry at first, the "Guide Criteria" have been useful to HUD for the development and testing of innovative factory produced housing systems for Operation Breakthrough. They are now being revised to conform substantially to HUD's revised Minimum Property Standards. HUD will soon review new technologies and propose industrialized housing systems in terms of the revised "Guide Criteria." In this way a tandem system is implemented utilizing performance standards as a back-up to the Minimum Property Standards.

What is needed is an institutional entity with the desire to develop and the authority to enforce performance codes. One such entity, the proposed National Institute of Building Sciences (NIBS), initially proposed in 1969 and again set forth in the unsuccessful Housing and Urban Development Act of 1972, was one possibility. NIBS, under the legislation, would have had the authority to test new products, a function requiring both performance standards and new testing procedures. The weakness in the 1972 bill was that NIBS would have had no power to enforce its findings, a power it must have been granted if its judgments were to have had a widespread impact.

Another approach is through the National Conference of States on Building Codes and Standards (NCSBCS), a voluntary association of state building officials. NCSBCS is encouraging the major code organizations to promulgate uniform codes and is requesting code agencies to recognize national performance and specification standards. Necessary to this effort is the development of national testing laboratories and the certification of these labs, a process now being investigated by the National Bureau of Standards.

A third approach is through the newly formed Council of American Building Officials, a federation of the three major model code associations (the International Conference of Building Officials, Building Officials and Code Administrators International, Inc., and the Southern Building Code Congress). The evolving agenda appears to contain the development of a set of uniform performance standards which, like the revised "Guide Criteria," could serve as a back-up to the model codes.

Statewide codes could break the juggernaut of localism. Fragmentation of code regulations fostered by localism gives way to uniformity at the state level under one state code. No longer is the innovator or modular housing producer faced with a confusing and conflicting mosaic of code standards which slashes potentially large markets into incompatible pieces. He may deal on a significantly larger scale.

A growing number of states, spurred by HUD, have moved aggressively in the direction of statewide codes during the past three years. For example, a commission authorized to establish a mandatory building code covering all types of residential construction was set up. Twenty-seven other states have passed more specialized legislation covering industrialized housing only. A manufacturer submits his plans for code approval which when received qualifies his product under all local codes. The code, though, applies

only to factory produced living units.

Enactment of statewide building codes is not without scars. Legislative battles have been fierce, often pitting major unions against one another. Many construction trades have erected strong protective fences around themselves in the form of statewide specialized codes dealing with plumbing, elevators, electricity, etc. By the way the codes are worded and the way their governing boards are constituted, the trade is able to freeze other unions out from encroachment on their job domain. The most typical battle pits laborers against plumbers, the former seeing new statewide building codes as an opening wedge into the jobs held by the latter.

Model codes have their place if used as guides for effective state action, not as a substitute for state inaction. The Model Manufacture Building Act (developed by NCSBCS, HUD, Commerce, National Association of Building Manufacturers and others) is an excellent guide for use by states seeking to promulgate new or up-date existing industrialized housing laws. The act establishes a state code approval process leading to product certification. A unit once certified automatically qualifies under all local codes. The act also provides for reciprocity with other states, a key concept in creating multi-state uniform markets.

In most cases, the state building codes are not comprehensive in coverage. Many states have statewide plumbing and electrical codes, controlled by their respective unions and specialty contractors. Their power is illustrated in the Massachusetts case where the law exempts these specialized codes from the control of the Commission, a compromise necessary for passage of the law. Thus movement of the code function from the local to state level neither eliminates construction groups from successfully wielding influence nor guarantees interstate uniformity.

Federal preemption of state and local codes should be an action of the last resort, but should be pursued if the evolving state code structure results in constraint of interstate trade or if innovative products cannot receive equitable and fair testing. The authority for the regulation of construction is the police authority of the state, thus the state should assume primary responsibilities, not the federal government.

To have qualified inspectors, three actions are needed. First, professional standards must be set for the licensing of building inspectors. Higher qualifications along with improved salary levels (currently at very low levels) would attract better qualified individuals into the profession. Second, periodic educational courses and workshops should be mandatory for all inspectors as a means of maintaining currency with new technologies. Third, the function of code approval should be moved to the state level where innovative products are involved. States are in a better financial position than most communities to hire experts qualified to make technical judgments. Finally, building inspectors must feel secure in their jobs so that they may be willing to approve locally unpopular technologies. To this end, civil service protection either at the state or local level is crucial. The need for this security, for example, was clearly evident in the Massachusetts code struggle

where local building inspectors backed the bill primarily because of a civil service provision in the bill.

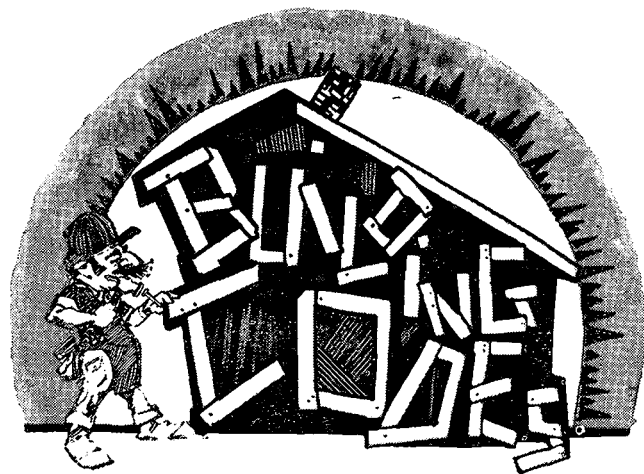
Of the three major areas of comprehensive reform, code enforcement is the least developed and carefully thought through. Yet the reality is that the best designed codes when improperly enforced are bad codes. Codes are merely written words which take their force from the people who interpret and administer them.

Codes have served a vital function in protecting the interests of the home-buyer. But where our public focus on housing problems shifted from one of structural safety to one of economic efficiency, the code has acted as a vestige of the past imposing a retarding influence upon the process of change.

As I have argued, people with vested interests build obstacles to homebuilding innovation by shaping the regulatory process in their favor. The localism of building regulation has breathed life into the tariff-like code structure by maximizing access by existing local construction interests to the regulators, while minimizing that by newcomers seeking new product approval. Because the action takes place through the regulatory process, reform must focus upon regulatory reform that is a legitimate function and concern of government. Where the consequences of public action differentially bestow benefits and costs upon public and private interests, the public interest must prevail. Under current building code practice the private interest prevails and the public carries the cost. Thus, it is in the public's interest that reform take place.

The road to reform is clear. What remains is a willingness by government to act, to cut past special interests so that benefits may freely flow to consumers. A comprehensive strategy is needed covering performance standards, statewide codes and the quality of enforcement. While the federal government can and has played a critical role in developing performance standards and in encouraging and providing resources in support of this strategy, the course of action lies with state government. Should states, though, abdicate their responsibilities, then the federal government must take up the challenge to rectify the misuse of public regulatory powers which has manifested itself as the local tariff. ■

Note: The 1970 surveys of home manufacturers and of local building departments were conducted by the author. There were 250 responses to the home manufacturers survey and about 1,000 responses to the local building departments survey.



BOOK REVIEW

Bombing the Hell Out of the Media

THE EFFETE CONSPIRACY AND OTHER CRIMES BY THE PRESS

By Ben H. Bagdikian
Harper and Row, 1972, \$6.95.

POLITICAL POWER AND THE PRESS

By William J. Small
W. W. Norton & Co., Inc., 1972, \$8.95.

MEDIA POWER; WHO IS SHAPING YOUR PICTURE OF THE WORLD?

By Robert Stein
Houghton Mifflin, 1972, \$6.95.

by Dick Bebn

Washington Post reporter Dorothy McCardle was recently barred from covering White House social functions. When White House Press Secretary Ron Ziegler was asked if the *Washington Post* was being "punished" for its press coverage of the Nixon Administration, Ziegler said, "We have more things to do than carry out a vendetta against newspapers."

Certainly. And one would also hope that the White House has more (and much, much better) things to do than bomb Hanoi. But the fact is that the United States did resume bombing Hanoi at the same time the White House chose to resume bombing the *Washington Post*, long a favorite target for verbal bombs from the Administration. Excluding Mrs. McCardle from dinner parties, however, would seem to be one of the Administration's more remarkable feats of overkill. The fact that Mrs. McCardle (and on one occasion *New York Times* reporter Seymour Hersch of My Lai fame) was the only reporter barred from attending these functions seems lost on the White House's resident media watchers. One might have thought that such propensities for senseless attacks had been repressed when Vice President Spiro Agnew put away his bomb sights last summer. But the Christmas season seems to have brought out little charity at the White House — either for the Vietnamese abroad or the press at home.

President Nixon once boasted that he never cancelled a newspaper subscription — unlike the late President John

F. Kennedy who banned the *New York Herald Tribune* from the White House in a fit of pique. But the *Herald Tribune* nevertheless made its way back into the White House, partly because Jackie (Onassis) liked its fashion coverage. But what of poor Mrs. McCardle. Mrs. Nixon says she likes her, but will that get her back into the White House social functions? Certainly cancelled subscriptions are a better outlet for pique than cancelled coverage (although *Washington Post* cartoonist Herblock maintains the President has cancelled the *Washington Post* . . . several times).

Meanwhile, Clay Whitehead, the director of the White House Office of Telecommunications Policy (has a nice 1984 ring to it, doesn't it?), told a convention of the Sigma Delta Chi journalism fraternity that the White House would propose legislation to hold TV stations accountable for "ideological plugola" on news broadcasts. Translated from governmentese, that apparently means TV stations better be "fair" in their news coverage or else. Translated by Tom Chauncey, president of KOOL-TV in Phoenix, "If Whitehead really means this, we might as well be living in the Soviet Union. This would mean censorship of news and entertainment, the government telling us what to broadcast and telling the people what they should see or hear." The Administration is obviously getting bolder in choosing audiences for its media attacks. Sigma Delta Chi hardly classifies with Vice President Agnew's old standby, the \$100-a-plate fundraising dinner, as a receptive audience. Whitehead and the Vice President may be in the same league, however, as media authorities. The telecommunications specialist later told the *New York Times*, "I think it's obvious from my background that I'm not an expert in communications."

But even more menacing, as far as journalists are concerned, are the implications of the U.S. Supreme Court decision last June which ruled that *New York Times* reporter Earl Caldwell had no immunity from the questions of a grand jury investigating the Black Panthers. The grand jury demanded that Caldwell produce tapes and other records of his Panther investigations. Journalists wince every time such court cases expose them to the growing threat of government harassment and control. The fears and the threat are real. In a recent *New York Times Magazine* article, former Jack Anderson investigator Brit Hume outlined a few cases of Caldwell fallout in which reporters were thwarted in their investigations by either their sources' fear of exposure or the reporters' inability to guarantee the sources' anonymity in court.

It is unfortunate that some of the most recent court cases in which journalists have been jailed for refusing to cooperate with grand jury investigations have not provided the firmest ground for a defense of press immunity to such questioning. Both the *Wall Street Journal* and the *New Republic* have pointed out that the cases of former *Los Angeles Herald-Examiner* reporter William T. Farr and former *Newark News* reporter Peter Bridge hardly represent landmark cases on which to base efforts to enact "shield laws" to protect newsmen's sources. In the Farr case, the behavior of the reporter and his paper was not in the best interests of a fair trial for Charles Manson newsmen from the fishing expeditions of grand juries. The

need for such legislation may be lost on the Nixon Administration (which does see the need to invoke "executive privilege" to protect itself from the imprecations of Congress), but it fortunately has not been lost on such Republicans as Gov. Nelson Rockefeller (R-N.Y.), Sen. Lowell Weicker (R-Conn.), Congressman Charles Whalen (R-Ohio) and New Jersey Assemblyman William K. Dickey.

All have backed shield laws and Assemblyman Dickey was the sponsor of legislation recently passed by the New Jersey legislature which will protect journalists from any court investigation which seeks information about new stories. Neither has the significance of the shield law controversy been lost on the American public. A recent Gallup Poll showed 57 percent of those polled believed newsmen should not be required to reveal news sources in court.

The nickname "fourth estate" is an especially appropriate one for the press. Journalists have special responsibilities in a democracy — responsibilities which require their autonomy from the White House Office of Telecommunications, Communications, the Press Secretary, or the Special Counsel in charge of "liaison." As former *Washington Post* press critic Ben H. Bagdikian says in *The Effete Conspiracy*, "Governments never like to be meddled with. But it happens to be the whole idea of the American political system." The ability of the press to meddle must be protected. To what extent the press should remain immune from subpoenas is a pertinent question, however. Certainly, grand jury fishing expeditions into newsmen's sources are repugnant to the nation's tradition of a free press. (Oddly enough, the federal government with its practices of choreographed leaks and off-the-record briefings is probably the most jealous of its cloak of anonymity.) But when a reporter has knowledge which directly pertains to the guilt or innocence of a defendant, do other constitutional rights and obligations neutralize and even overshadow the rights and obligations of the First Amendment? To paraphrase the old homily about one man's rights ending where another man's nose begins, it seems logical that a reporter's rights may end where the fairness of justice is at stake. Journalists weaken their case for needed shield laws if they attempt to portray the First Amendment as an absolute which takes unquestioned precedence over the rest of the country's legal and constitutional system.

It is such journalistic arrogance which gave Vice President Agnew's attacks their measure of public credibility. As one unidentified White House source told the *New York Times* in the midst of the Watergate campaign disclosures, "Do you know why we're not uptight about the press and the espionage business? Because we believe that the public believes that the Eastern press is really what Agnew said it was — elitist, anti-Nixon and ultimately, and his co-defendants. The media has more responsibility in such cases than it frequently exercises. Similarly, the Bridge story about an alleged bribe offer was not in the best traditions of journalism; Bridge neglected to attempt any corroboration of the truth of the bribery allegation.

But despite the shaky foundation of these cases, efforts have proceeded to legislate better protections for pro-McGovern."

Judging from the results of the election, the White House may have correctly assessed the public mood. Not only did over 60 percent of the voters support the President, but a pre-election survey by *Editor and Publisher* magazine showed that Nixon was supported by 753 dailies with 71.4 percent of the circulation. (The balance may have shifted when several large dailies endorsed McGovern late in the campaign.) The ration of endorsements was nearly 15-1 among these dailies in favor of the President. Meanwhile, Herbert G. Klein revealed a White House survey of weeklies and dailies which showed the President getting the better part of a 1468-199 endorsement split.

As Bagdikian points out in *The Effete Conspiracy*, Vice President Agnew was right in saying the press has an ideological bias. "The newspapers are overwhelmingly Republican and conservative," writes Bagdikian. But lamentably, the criticisms of media critics like Bagdikian get far less play than the splashier comments of Agnew. For a business whose trade is the direction of the proper questions at the proper people, the media has too long and too often failed to ask the proper questions about itself. As Bagdikian makes abundantly clear in his book, there are valid grounds for criticism of the American media: The increasing concentration of ownership in chains and growing mortality rate among large-city dailies threatens independence and competition within the print media. The overreliance on public relations releases, canned editorials and "puff pieces" favorable to advertisers contrasts sadly with continuing deficiencies in investigative reporting. The use of the newspaper as an "establishment" organ (e.g., the *Houston Chronicle*) threatens the integrity of journalism. And the inability of media owners to tolerate criticism within their own ranks — as, for example, the dismissal of numerous reporters who contribute articles critical of their employers to local press reviews — is hardly a laudable characteristic for a profession which is supposed to uphold the right to dissent.

It would seem to be incumbent on the press to make greater efforts to improve its collective self-image at the same time it presses for protection from the grand juries.

The problem with reviewing books which deal with the media is that the process is somewhat akin to sitting in a hall of mirrors and perhaps as instructive. For one of the great lessons of the media debate is heightened consciousness of media fallibility. The communications media has always made mistakes and sometimes even made intentional ones — dating all the way back to Eve's rather biased reporting on the apple situation in the Garden of Eden. And probably the news media is now more accurate and responsible than in any previous period. (Eve's action's in today's world would have merited either a Jack Anderson exposé, a CBS documentary, a speech by the Vice President to a fundraising dinner, a congressional investigation or some combination of the above.) But the news media is undergoing an identity crisis whose seriousness has been exacerbated by the Administration, but whose roots lie within the media itself.

The components of the crisis are legion and thoroughly discussed by the authors of *Political Power and the Press*, *Media Power*, and *The Effete Conspiracy*.

Continued on page 24

LETTERS

Peace and Justice

Note: The following telegram was sent to outgoing Ripon president Howard Gillette, Jr. on the eve of Ripon's Tenth Anniversary Dinner in Boston on December 9.

The members and friends of the Ripon Society have my congratulations and warmest good wishes as you gather to celebrate your tenth anniversary. I recall meeting with your newly established group nearly a decade ago, and I am pleased to know that the organization you were launching then has grown and flourished so abundantly. As you indicated in your recent statement endorsing my re-election, Republicans can disagree about specific decisions and still feel a strong sense of common purpose. I was particularly grateful for the Ripon Society's endorsement this past fall—even as I have been grateful over the years for its contributions to our party and to my Administration. It is my earnest hope that these years will be remembered as a time in which our country changed sharply from the outworn approaches of the past and thus moved much closer to the goals of peace and justice at home and around the world. I look forward to the continuing assistance of the Ripon Society as we work together for those great goals.

RICHARD NIXON
Washington, D.C.

Correction: The Oregon legislature is now aligned 17-14 with the edge to the Democrats, not the Republicans as reported in the November FORUM. Although the Democrats had numerical control of the outgoing State Senate, Democratic defections gave the Republicans operational control in the last session.

14a ELIOT STREET

● In sweeping personnel changes not ordered by the White House, Ripon's president, **Howard Gillette, Jr.**, resigned his post and returned to his academic ivory tower. Gillette was replaced by **Ron Speed**, legislative coordinator for Honeywell. Ripon reached outside the academic boondocks for the Speed election, noting that fresh new blood was needed for its second decade. Speed resisted calling his election a mandate for change and noted that it had been accompanied by a sweeping reorganization of Ripon's executive branch. In that massive shakeup, Ripon Treasurer **Edward Miller** of Memphis moved to the post of secretary which had been vacated by Speed. And Ripon Policy Chairman **Richard Beeman** moved to Miller's spot at the Treasury. A Ripon spokesman cautioned against speculation, however, that the Beeman appointment was accompanied by broad new responsibilities over the coordination of Ripon's finances. Ripon watchers were admittedly confused by the executive shakeup, noting that it perhaps indicated less reliance in the future on the effete East and a greater concentration on the American Heartland. Replying to a suggestion that Massachusetts was being punished for its sordidly Democratic reputation, a Ripon spokesman denied the allegation and noted that Ripon maintains token Bay State representation with the Beeman election. The spokesman said President Nixon has obviously not punished **Elliot Richardson's** Bay State connections by his appointment to the Defense Department. "Should Ripon be any less forgiving," said the spokesperson. As one identified NGB member said, "Say goodnight, Howard."

● **Bob Morris** of the Memphis Chapter was recently appointed to the Memphis Community Relations Commission. Morris is director of research and grants for the State Technical Institute in Memphis.

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 sixteen 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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● Ripon Vice President **Howard Reiter** spoke to a group of about 30 students at DePauw University in Greencastle, Indiana on December 5. Reiter, whose visit was arranged by **Joe Pellington**, a DePauw freshman and member of the **New Jersey Chapter**, discussed the possibility of a Ripon chapter at DePauw.

● Over 250 persons attended the Ripon Society's Tenth Anniversary Dinner at the Sheraton-Boston Hotel on December 9. Among the highlights of the evening were Sen. **Mark O. Hatfield's** address (found elsewhere in this issue), a slide-show presentation of Ripon's history compiled by Ripon Executive Director **Ralph Loomis**, and the presentation of treasured "Ripon Ties" to the founding fathers of Ripon who were in attendance. At the Sunday meeting of the National Governing Board, the task force report and Ripon's future were discussed. The task force was chaired by **Paul Anderson**, NGB chairman, and its most active members included **Michael Brewer**, **Larry Finkelstein**, **Bobbi Kilberg**, and **Richard Rahn**.

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Item: CBS airs an award-winning documentary on "The Selling of the Pentagon" about the Defense Department's enormous public relations efforts. The legitimate thrust of the documentary is lost in congressional efforts to subpoena "outtakes" (the unshown portions of the film) which would have corroborated criticism of editing techniques which transposed dialogue.

Item: Jack Anderson's publication of classified government information highlights the problems of government secrecy. The ludicrous nature of the situation is further illustrated by the efforts of an Associated Press reporter to find out the date of the founding of Fort Benning, Georgia. When told by the Pentagon that the information was classified, the reporter called Fort Benning. After the public information officer disclosed the date, he asked the reporter why he had not simply called the Pentagon. Growing nervous when he heard the Pentagon's initial response, the officer told the reporter, "Well, for God's sake, don't tell them you got it from me."

Item: The attempted suppression of publication of the Pentagon Papers opened up the whole, broader area of the government's relationship with the news media and the obligations of the media to the government in the interests of "security."

Item: The President's infrequent use of presidential press conferences has been described by many press critics as an impediment to the public access to presidential opinions, but it further signifies the whole range of difficulties which concern the President's accessibility to the press and his attempts to manage the news they report.

As CBS Washington Bureau Manager William Small says in the introduction to his book, *Media Power*, "There is need for a word of apology to my friends in government. Some very good men run the nation's affairs. Many easily fit the usual cliché descriptions of hardworking, dedicated, patriotic, sacrificing, etc. I'm glad they are there. I think they are good. I am proud that many are my friends. But I don't trust any one of them for a minute when it comes to news." These comments could probably have been shared by magazine publisher Robert Stein, author of *Political Power and the Press*, and press critic Bagdikian. In their zeal to examine the implications of government efforts to control, influence and confuse the press, the authors detail many of the same cases and incidents. However, their backgrounds — in broadcasting, magazines, and newspapers — lend their books the benefit of their special expertise and experiences. And though the books are valuable for the theoretical assumptions with which they deal, they are fascinating primarily for the case histories of government-media relations which they recount.

If you must read only one, choose Bagdikian's *The Effete Conspiracy*. It is concise and sharp. If you have a bit more time, then try Stein's *Media Power*. And if your television is broken for two whole days and you want the gory details of the country's government-media squabbles, then retire with Small's *Political Power and the Press*.

But remember. It will be a sad day when the government will not have the press to kick around any more. ■

Duly Noted

● **A Republic, If You Can Keep It**, by Earl Warren (Quadrangle Books, 1972, \$5.95) After reading *A Republic, If You Can Keep It*, one is left with two major impressions: that wisdom, like age, is unfortunately reserved for senior citizens; and that our society could better cope with many of its problems by utilizing the accumulated knowledge of outstanding elders like former Chief Justice Earl Warren. In this volume, Justice Warren shows that we could better tackle the demands of the present if we would only listen to the voices of those who have participated in both the successes and failures of the past. The book's express purpose is to illustrate how the success of our republican form of government is dependent upon maximum participation by "responsible citizens." In turn, it attempts to show in what areas the responsible citizen should be active to ensure such success. It does so through a combination historical review of the United States tied to the personal experiences of the Chief Justice. The portions of the book dealing with the history of America are repetitious for anyone with a basic college education. These, however, are worth wading through to understand Warren's suggestions on how our country can be kept a vital and creative force for freedom. In fact, the book should be required reading for every practicing or prospective public servant. If the admonitions of Justice Warren were applied, much of the devious rhetoric of the past decade would be replaced by constructive debate. There are shortcomings in the book, to be sure. In discussing "Problems of a Multiracial Society," Warren focuses on the degradations imposed upon blacks in America while ignoring Indians, Chicanos, and most notably, Japanese-Americans. Still, the message here is clear: full participation by every citizen is necessary to maintain our republic. Reviewed by Jon D. Pevna.

● **Man and His Urban Environment: A Manual of Specific Considerations for the Seventies and Beyond**, by Fred Smith. (Man and His Urban Environment Project, Room 5600, 30 Rockefeller Plaza, New York 10020, 1972, \$2.00) "Can we create a city that will accommodate the nature of man? This is the problem we address. We can't answer it, but perhaps we can start by investigating the problem with more insight and determination than is customary." The result of the study (rather than the answer) is an erudite and readable analysis of the imperative construction of "New Towns." The practical and philosophical are well-integrated in the report.

● **White Papers of an Outraged Conservative**, by John Philip Cohane. (Bobbs Merrill, 1972, \$10.00) John Philip Cohane is a jet set Kennedy liberal. In his terribly disjointed book, Cohane asserts that the leadership of the U.S. has abandoned the principles of the founding fathers. Cohane's remedy lies somewhere between America's youth and maybe another Kennedy to straighten us out. Cohane goes so far as to refuse to place any major responsibility for our entanglement in the Vietnam War on JFK, saying, "It is hard to believe he would not have shown flexibility in the face of changing conditions, that — like his brothers Robert and Edward Kennedy after him — he would not have drawn back from some of the dire compromise and penalties ensuing from the policy." On the plus side, the book is only 203 pages. Reviewed by John Brotschol.

● **"The New Federalism"**, by Timothy B. Clark, John K. Iglehart and William Lilley III. (*National Journal*, December 16, 1972.) The *National Journal* has devoted an entire issue to President Nixon's proposals for the "New Federalism," the philosophy behind revenue sharing, the support for and opposition to its implementation, and the problems it faces and creates. Says White House aide Edwin L. Harper of the new program, "It's something for us to be positive about. Our party has been in a negative posture — we've been against things — for 40 years. Now we have something to be for." But even the limited efforts of the Nixon Administration to implement its New Federalism schemes have run into snags. One irony, the authors point out, is that the "Administration, in its dash to New Federalism, has nurtured Democratic city governments and largely ignored the more Republican-oriented counties and states."