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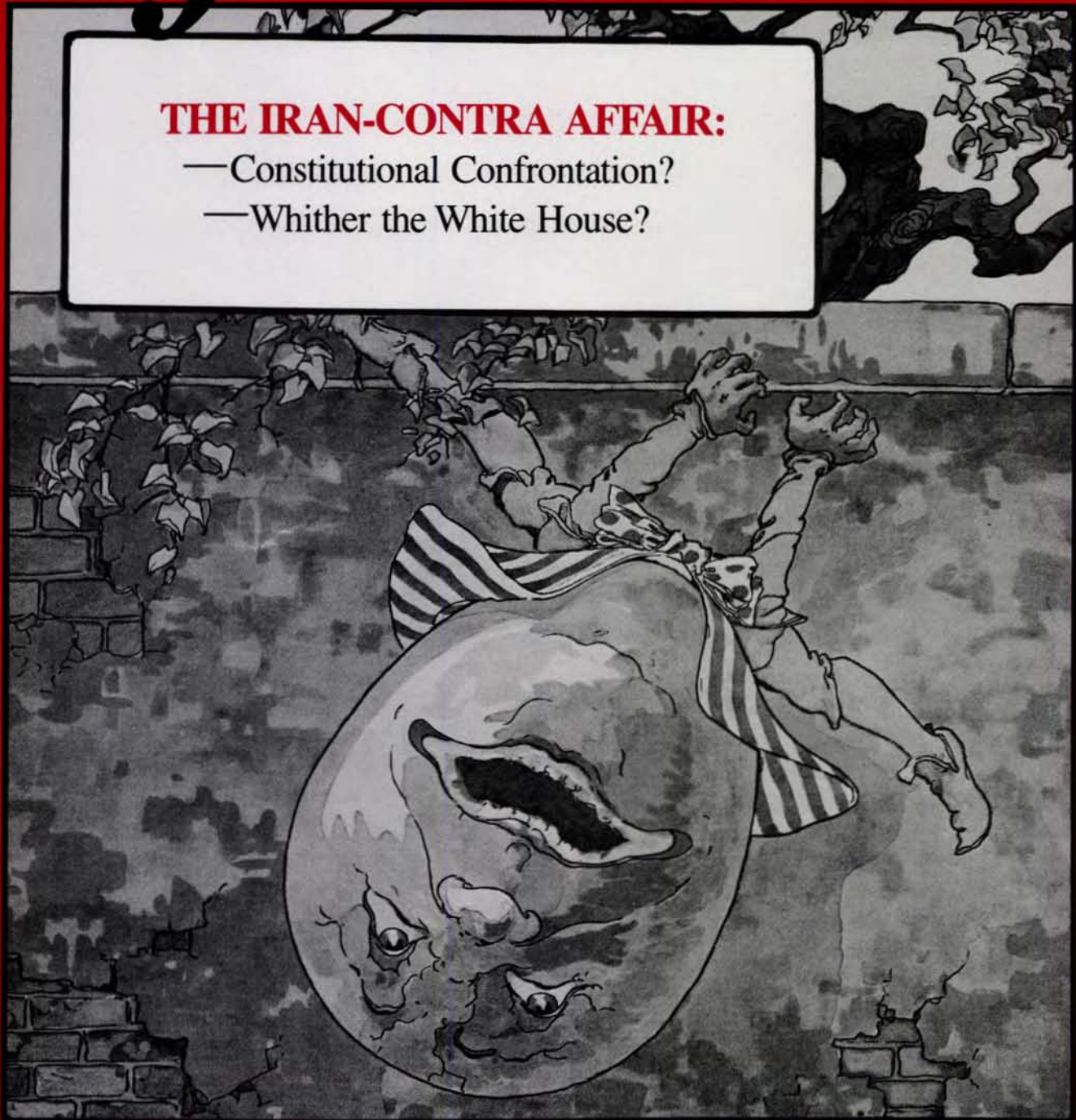
## *forum*

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### **THE IRAN-CONTRA AFFAIR:**

- Constitutional Confrontation?
- Whither the White House?



INSIDE: Sidney Blumenthal on the Rise of the Right . . . Alfred W. Tate reviews *The Ayatollah in the Cathedral*

## EDITOR'S COLUMN

The Iran arms-contra aid affair has left many Americans shaken and in wonder about the direction of the Reagan administration. In particular, it has left many in doubt about who is in charge of the White House and what the administration's agenda will be during its last two years.

In his interview, *Washington Post* staff writer Sidney Blumenthal, author of *The Rise of the Counter-Establishment: From Conservative Ideology to Political Power*, claims that the Iran affair is at heart the product of conservative ideology being carried into action by movement conservatives like Lieutenant Colonel Oliver North. Blumenthal, who has been hailed as "the next Theodore White," also provides a thorough examination of the development of the conservative movement and a sharp analysis of the Reagan presidency. About the former he says that conservatives have been more interested in their movement than in the welfare of the Republican Party and in reference to the latter he claims that the administration is leaving a past that conservatives must now defend.

Representative Jim Leach also provides commentary on the Iran-contra scandal and states that the issue provides a constitutional confrontation. A *Forum* editorial questions the confrontational strategy the White House has adopted on a number of issues since 1984 and suggests that a more consensus-oriented approach might be more practical over the rest of the president's term. *Ripon Forum* editorial board member Alfred W. Tate reviews former Iranian hostage Moorhead Kennedy's book *The Ayatollah in the Cathedral* and concludes that Americans must first examine the cultures of the Middle East before waging a sensible foreign policy there. Such reasoning is not "blaming America first," but rather a step toward developing a common-sense foreign policy. Only by understanding others, Tate argues, can we accurately determine our own interests.

In this issue, *Ripon Forum* editorial board member Steven Klinsky also provides an insider's view on Wall Street mergers, and two Mark O. Hatfield Scholars, Jamie McLaughlin and Terrence O'Sullivan, present their work which was sponsored by the Ripon Educational Fund's Mark O. Hatfield Scholarship.

—Bill McKenzie

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# A Conversation with SIDNEY BLUMENTHAL



Photo by Lucian Perkins

*Sidney Blumenthal's The Rise of the Counter-Establishment: From Conservative Ideology to Political Power describes the development of the modern conservative movement, and the Washington Post staff writer states that conservatives should be credited with promoting the thesis that ideas matter. But the former New Republic reporter says that the much-heralded realignment in American politics is primarily a shift among elites. Blumenthal, author of The Permanent Campaign, also provides an analysis of the Reagan presidency, and claims that Ronald Reagan has preached four myths during his career as conservative spokesman. In this interview with Ripon Forum editor Bill McKenzie, the author presents that argument, and also provides his predictions about the future of the American conservative movement.*

**RIPON FORUM:** Perhaps the central tenet of your book can be found in this statement: "Reaganism is the popular expression of a sectarian worldview, that of a rising policy-and opinion-making elite—the Counter-Establishment." Could you elaborate upon that idea?

**BLUMENTHAL:** We saw in the recent State of the Union message a reiteration of President Reagan's mythology. He always expresses himself in simple language. One myth is about a pure free market in which government can be completely banished and a perpetual equilibrium reached. The second is a myth of community where perfect harmony exists because we're all Americans. Class or race conflicts don't occur, and all problems can be resolved if we simply believe the same things. Conflict is due to outside agitators, or so-called special interest groups.

The third myth is about demonic power, which explains why we don't live in Utopia. The demonic power is government, which destroys incentive. The fourth myth is about restoration, or the idea that by smiting the dragon of government somehow the lost worlds of the past can be recreated. In one way or another, Ronald Reagan always talks about these themes.

These myths also happen to fit the doctrines of the modern conservative movement. The free-market myth fits various schools of thought, whether monetarist or supply-side, and the myth of community fits the New Right's quest for the return of traditional values. It fits the idea that once we really were a whole place, not a diverse pluralistic nation. The myth of demonic power fits the efforts to slash government spending, to make balancing the budget an absolute principle, and to deregulate industries regardless of results. The restoration myth is left to the

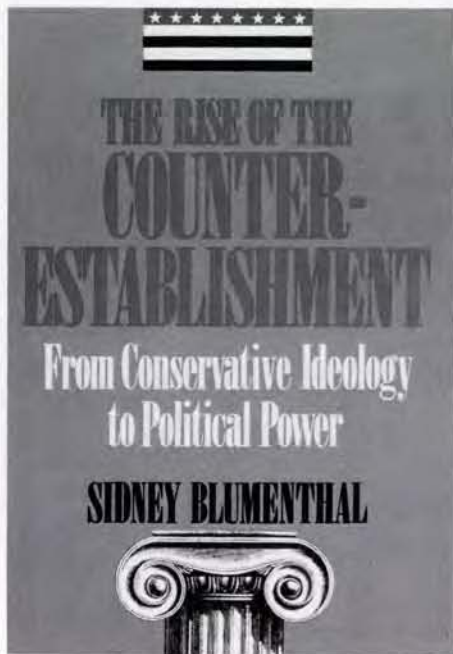
politics of the conservative movement.

**RIPON FORUM:** Can this mythology be challenged? For example, you write in your book: "Reaganism cannot be disproved by history or events. To believers, the flaws are in the world, not in the doctrine."

**BLUMENTHAL:** It's challenged most of all by events, which don't stop and will not accommodate themselves to fixed, platonic categories. Movements that are based on ideology can also become prisoners of ideology. Instead of becoming a driving force, ideology can become a justification of unintended consequences. The greatest example in the 20th century is communism.

Ideology can limit you if you don't change with circumstances. For example, President Reagan is now saying pretty much what he's always said. He is not moving political society, although events are. He is no longer in control. He is being controlled.

One of the great weaknesses of modern conservatism is that it is a radical rightism and not conservatism in the continental or English sense. This is a conservatism that was born yesterday, which makes it American. The movement began in the 1940s, and has been living off the intellectual capital of "The Remnant." The Remnant comprises seminal thinkers of the right such as Friederich von Hayek, Russell Kirk, Whittaker Chambers, and James Burnham. They propounded the movement's original doctrines, and the right has only elaborated upon them. They have not altered the doctrines, the biggest threat to which has been the reality of the Reagan presidency. The past is no longer myth. The right now has a record to explain, and even if conservatives refuse to accept responsibility for Reagan's actions, others will charge this responsibility to them.



**RIPON FORUM:** Is the nature of ideology such that it prohibits growth and change?

**BLUMENTHAL:** It might be the nature of ideology, if one considers ideology something different from ideas. Ideology can be an expression of both one's cultural and political understanding. It can also be a closed system of belief, particularly when it's connected to a political movement. Ideas, on the other hand, can be open-ended.

The difficulty conservatives face is that they have a number of ideas that do not work together logically, but which they present as a coherent ideology. This is more than a theoretical problem because the ideas are connected to real political forces and groups. This is particularly true within the Counter-Establishment, where ideas are at odds with each other. For example, neoconservatives clash with the Old Right over social policy, and supply-side economists are in conflict with the monetarists over deficits. Without leadership to hold the different segments together, the movement fragments.

**RIPON FORUM:** What holds movements together: shared belief or a cult of personality?

**BLUMENTHAL:** It can be common belief or it can be a magnetic figure. It can also be the enthusiasm or passion of its activists. Conservatism has had all three elements, but now it does not. It has a confused leader, and the movement is dis-

oriented.

**RIPON FORUM:** Let's return to the idea of the Counter-Establishment. Could you explain more about that?

**BLUMENTHAL:** Historically, the conservative movement has been intertwined with a powerful resentment against a liberal establishment that conservatives believe runs the universe. This is a vulgar Marxist concept of power, that somehow there is a central committee of the ruling class that directs events and people.

To a large degree, the conservative movement is based on resentment of the liberal establishment and fear of chaos from the lower orders. Conservatives perceive the latter to be in league with the liberal establishment against the rising lower-middle class. They have thus constructed a counter-establishment to supplant the liberal establishment, and in effect created a "shadow liberalism." That term, in fact, was first suggested by one of Ripon's founders, John Saloma, in his book *Ominous Politics*.

But the conservative movement is now returning to its roots, which is not necessarily good for the movement. Ronald Reagan had rechanneled its passions by putting resentment in service of a greater optimism, even though he used resentment in his primary campaigns, particularly against the Republican Party for "selling out" on such issues as the Panama Canal Treaty. But with his ebullient personality, Ronald Reagan can at once be Goldwater on the inside and Roosevelt on the outside.

Now the winds of optimism are being blown away. The onset of the Iran-contra scandal, the loss of the Senate to the Democrats, and the aging of Reagan have caused the "politics of resentment" to return. This was seen most starkly in the brief presidential boomlet for former White House Communications Director Pat Buchanan and the way in which the Republican field has been driven to the right.

**RIPON FORUM:** What happens when the "politics of resentment" resurfaces? What will be the relationship of conservatives to the Republican Party?

**BLUMENTHAL:** Even though Ronald Reagan has been in office for the entire decade, conservatives act as if he's never been president. They act as if they've always been a despised opposition with no access to influence.

**RIPON FORUM:** Not even through Pat Buchanan and other members of the con-

servative movement who have served in the Reagan administration?

**BLUMENTHAL:** That's their mentality. They bring a bitterness to Republican politics. The reason things haven't worked out is that the liberal establishment and the press have betrayed them. The Senate was lost because of moderate Republicans, or because the Republican Party didn't stand up for passion or principle, as they understand it.

**RIPON FORUM:** In *The Rise of the Counter-Establishment*, you write: "The continuing influence of the conservatives must mean the continuing demise of Republicanism, the ideological end of the historical party." Could you elaborate upon this?

**BLUMENTHAL:** On the level of principle, conservatism is not Republicanism. As I understand it, in the classically conservative sense, Republicanism stands for the accumulated traditions, customs and beliefs of an institution. The Republican Party always believed in women's rights, equality before the law for all races, and an essential role for the national government. All of those beliefs fly in the face of modern conservatism. In fact, the conservative movement has systematically sought to displace those Republican principles, which certainly go back to Lincoln, and sought to replace them with ideas that may be traced back to Calhoun.

**RIPON FORUM:** Is the conservative movement strong enough to warrant the tilt to the right by so many 1988 GOP presidential hopefuls?

"The onset of the Iran-contra scandal, the loss of the Senate, and the aging of Reagan have caused the 'politics of resentment' to return."

**BLUMENTHAL:** I'm not sure a majority of Republican primary voters are conservative activists or responsive to those appeals. Perhaps a quarter to a third are, and since this is not a decisive amount, the right must always promise damage.

**RIPON FORUM:** If a candidate doesn't

do so and so, then they will do such and such?

**BLUMENTHAL:** It's more than a litmus test, which means that if you don't support my position, I won't support you. What the right says is: if you don't support this position, I will demonize you. And furthermore, I will demonize you as someone who is unpatriotic and un-American.

That is a profound difference and a phenomenon people find very hard to ac-

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*“Ronald Reagan has a view of what Utopia would look like, and he promises it. Of course, that Utopia never existed—ever. . . . There never was an America like that.”*

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cept without responding. As a result, people tend to accommodate the right, even though they don't believe in their cause. This is more than the politics of resentment; it is the politics of intimidation.

**RIPON FORUM:** What effect will this have on the institution of the Republican Party?

**BLUMENTHAL:** The question is who stands for Republicanism, and who's willing to uphold the traditions in the Republican Party that are at the same time progressive and conservative.

**RIPON FORUM:** The conservative movement has been successful in electing a president and in setting the national agenda for the last six years. What do moderate and progressive Republicans have to learn from that movement?

**BLUMENTHAL:** The conservative movement offers idealism and conviction. It also offers a belief that ideas can make a difference. Moderate Republicans rub against this in the closest proximity, and this may raise the question of their own principles and convictions. It also should make traditional Republicans examine their own recent political history. I would suggest going back to Dewey, for example.

**RIPON FORUM:** Thomas Dewey?

**BLUMENTHAL:** Yes, the former New York governor was a passionless person,

which is why he lost the presidency. But a Dewey presidency would have spared the nation certain things.

**RIPON FORUM:** Such as?

**BLUMENTHAL:** Much of the Red Scare and McCarthyism. Dewey took a strong stand against that in 1948, which is why he won the Oregon primary. He was a strong civil libertarian, although he made it difficult for people to like him. He was admired, not liked.

Dwight Eisenhower, of course, acted as a true conservative: he conserved the New Deal. But since he proposed nothing new, the moderate Republican enterprise was virtually subsumed by Nelson Rockefeller and his philanthropic view of politics. Everything was reduced to mere problem solving. This was not simply “me to-ism,” it was technocratic. Then Barry Goldwater came along and offered passion and principles. Moderate Republicans might learn from that, and allow the right to serve as an inspiration. But moderation by its nature, is not something that is easy to arouse passion.

**RIPON FORUM:** Let's return to Ronald Reagan, a man who has captured the imagination of many, if not most, Americans. In *The Rise of the Counter-Establishment*, you write: “Reagan's crusade is mythic battle for a Restoration.” What do you mean by that?

**BLUMENTHAL:** Ronald Reagan has a view of what Utopia would look like, and he promises it. There was a past in which Utopia existed, but it was upset by big government, Democrats, special interests, Republican regulars, and the liberal establishment. Of course, that has never been the case—ever. But Ronald Reagan thinks that if we all believe and support everything he says we can actually achieve a restoration. That is the idea of “back to the future” as politics. It is significant that he mentioned “back to the future” in his 1986 State of the Union and talked about it in precisely this sense.

**RIPON FORUM:** Since we're only two years away from the end of the Reagan presidency, one might assume that if the restoration is going to arrive, it has already done so. Is this true? Has the restoration arrived?

**BLUMENTHAL:** The restoration can never arrive because the past that he talks about never existed. There never was an America like that. This is a country that has slavery written into its Constitution. It has been a community of conflict. There

has been some consensus, but not absolute consensus. The only way we will ever have some consensus is when people accept conflict.

**RIPON FORUM:** You also write of Ronald Reagan's mythology: “The point, he demonstrated, was to get people to participate in the myth-making.” Has he been successful in doing such? Have we participated in myth-making?

**BLUMENTHAL:** A lot of people believed in what he said before he said it. Ronald Reagan gave voice to it, and he is a very believable person. Even though virtually every public opinion poll shows that people don't agree with his policies, they still give him a positive rating as president. They believe in him as a person, at least they did until the Iran-contra arms scandal.

In attempting to perform an act that would have made him look strong, namely cutting a deal with the Ayatollah, releasing the hostages, and supporting the contras, the president was exposed. It made him look weak. He was brought down to earth, and detail once again became crucial. Reagan was placed on the killing fields of fact, where he has not prevailed. The press prevails there.

**RIPON FORUM:** What should we look for in our next president?

**BLUMENTHAL:** The next president can't promise magic. The person must master the details of the job. The realities are going to be harsher. Ronald Reagan has used up all the magic and created realities that can't be dealt with merely by saying certain things.

**RIPON FORUM:** Jack Kemp is quoted in your book as saying: “There are many, many wonderful people on the New Right, but unfortunately, in certain instances, it's coming to an element of fear. Fear. Resentment. I would rather have a campaign that is not based on a negative.” What does this mean? The New York congressman has often been touted as an heir to Ronald Reagan's standing in the conservative movement.

**BLUMENTHAL:** Jack Kemp is an apostle of optimism, but the political circumstances of the Republican nomination demand resentment. He has thus been obliged to say “bravo” to Pat Buchanan for attacking Republicans who've criticized the president's handling of the Iran-contra scandal. He's also been obliged to issue salvo after salvo against the striped-pant betrayers in the State Department, as if

*Continued on page 6*

that had any resonance in the electorate. In fact, it only has resonance in the Counter-Establishment and the conservative elite. Kemp is bending against his nature, and conservatives know that. He lends credence to many things they say, but he is not with them in sentiment.

**RIPON FORUM:** Does the right have a candidate?

**BLUMENTHAL:** Not an ideal candidate, which only heightens their resentment and bitterness. Of course, that makes them feel very comfortable.

**RIPON FORUM:** *The Rise of the Counter-Establishment* also explores at length the development of neoconservatives, who are best known for their hard-line foreign policy thinking. You claim that there will be no second generation of neoconservatives. Why?

**BLUMENTHAL:** Neoconservatism is not a coherent intellectual movement. It is a sociological movement, made up largely of second-generation New York intellectuals. Most are Jewish, some are Catholic, and very few are Protestants. Also, very few are former Democrats or liberals. In fact, most were once Trotskyites or cultural radicals. They lived in a very rarified left-wing sectarian world and have brought all those habits to bear on the right. They are bound together by their common expe-

rience and background, which was unique, has dissipated and can't be replicated.

As an intellectual movement, there is no such thing as neoconservatism. There are neoconservatives who have ideas, but they don't even agree among themselves. And when they come into conflict with the Old Right, the result is a profound cultural clash with an ethnic and religious subtext. The neoconservatives, moreover, understand very little about either Republican or Democratic politics. Their influence as a new class of intellectuals is due to the decline of the traditional parties.

**RIPON FORUM:** Do you anticipate some conservatives recanting the positions they now hold?

**BLUMENTHAL:** There is currently very little self-criticism on the right. Instead, there is enormous defensiveness. I do think the right will change, however. The religious right will become increasingly important and divisive.

The first doctrine to be thrown overboard may be free market economics. In fact, the conservative movement has the potential of becoming an authoritarian populism whose program is really national corporatism. It is significant that in 1980 Pat Buchanan originally supported John Connally, the voice of the corporate state.

Of course, it is very hard to gather

votes around such a program. It may depend on some future chaos, where there is social disintegration. Then, the politics of polarization can prevail. Every wound in American society can be picked, and divisiveness among groups can be encouraged. This is what Pat Buchanan was expert in. It also was the thesis of Kevin Phillips's book *The New Republican Majority* that was influential among the Nixon crowd. In it, Phillips assumes a politics of polarization based on ethnic and racial hatred.

**RIPON FORUM:** If the conservative movement doesn't become more rounded at the edges, and does not engage in self-critical thinking, what will happen to it? Will it implode?

**BLUMENTHAL:** It is already imploding. That is not a matter of future speculation. The scandal Ronald Reagan is now enduring is basically a product of conservative ideology carried into action by such figures as former National Security Council aide Oliver North. Reagan is reaping the harvest of conservative ideology, including its contempt for regular procedures of government and the rule of law. That has been especially damaging to a president who has ignored detail and the precise duties of his office. ■

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# “MERGER MANIA”: *An Insider's Perspective*

BY STEVEN B. KLINSKY

The denizens of Wall Street—of which, I suppose, I am one—have long watched their brethren in Washington with a mixture of fascination and horror. Now the citizens of Washington, and the rest of the nation, are watching Wall Street with the same emotions.

“Merger mania” has swept the country and its real or potential targets—CBS, U.S. Steel, Gulf Oil, Goodyear, RCA—have reached unheard of size and social import. As a result, the question of stiffer regulation or prohibition of corporate acquisitions is high on the agenda of the next Congress. Accordingly, some inside perspective on the social benefits and ills of such acquisitions and some recommendations on appropriate public policy seem warranted.

To begin with the positives, some well thought out corporate acquisitions are highly beneficial for all concerned: for the buyer, the seller, the company acquired, the company's personnel and the nation's economy. This is possible because some buyers are “good;” that is, some buyers add value to the companies bought, either through management skills, strategic position or material resources. To illustrate this concept, I would immodestly turn to the well publicized acquisition of Dr Pepper Company by my partners at Forstmann Little & Co. in 1984. Dallas-based Dr Pepper Company had for one hundred years sold Dr Pepper brand soda. This soda brand had a loyal group of customers, particularly in the Southwest, and had consistently generated a stable, although slow growing, cash flow. Prior to the Forstmann

*Steven B. Klinsky, a graduate of Harvard Law School and Harvard Business School, is a general partner of Forstmann Little and Co. and a member of the Ripon Forum editorial board.*

*“The question of stiffer regulation or prohibition of corporate acquisition is high on the agenda of the next Congress.”*

Little purchase, the company had pursued a strategy of using the soda division's profits to buy businesses thought to have faster growth. As a result, over the years the company had acquired the Canada Dry soda business and fourteen soft drink bottlers around the country. Unfortunately, instead of providing new opportunities, these ventures provided only new problems. The bottling operations, in particular, were unprofitable and the whole, enlarged company was less successful than the soda business alone. In 1983, faced with these problems and with increasing competition from the industry giants—Coca Cola, Pepsi Cola and Philip Morris's 7-Up brand—the Dr Pepper company decided to sell. After a wide number of corporations expressed no interest, the company was shown to Forstmann Little who acquired it in a friendly transaction for a total consideration of around \$650 million in January 1984.

At the time this acquisition was made, it was the largest “leveraged” (i.e. debt-laden) buyout in corporate history. According to many learned commentators, it was also the most foolish. Dr Pepper Company's 1983 net income of \$21.5 million appeared too weak to pay even the interest on the acquisition's debt, much less the debt principal. Forbes Magazine

and others predicted that this purchase would put the nail in the coffin of corporate buyouts generally.

In the safe harbor of hindsight, it is clear that the commentators were completely wrong. Under Forstmann Little's guidance, the Dr Pepper Company adopted a new corporate strategy and achieved great success. The company's past acquisitions, which had wasted money and management time, were unwound. Canada Dry was sold to the R.J. Reynolds Company. The bottling companies were sold off one by one, mainly to other bottlers who could greatly increase efficiencies and profits through economies of scale. The proceeds of these divestitures were used to repay most of Forstmann Little's acquisition debt.

At the same time, the remaining Dr Pepper soda brand was substantially improved. Corporate overhead expense was trimmed but, despite the high debt levels, productive marketing and advertising expenditures were sharply increased. Full management attention was directed toward strengthening the brand franchise. By 1985, the company's unit sales and market share were at record levels, earnings and revenues were up 50% from 1983, and Dr Pepper soda had passed the much wealthier 7-Up brand to become the nation's third most popular soft drink. In 1986, with the success of its efforts proven, Forstmann Little resold the Dr Pepper Company. Its profit was over \$200 million, or over eight times its initial equity investment in two and a half years. The bulk of these profits went to Forstmann Little's investing partners—primarily the pension funds of some of the nation's largest companies. As the *Washington Post* reported, Forstmann Little had spun pepper into gold.

*Continued on page 10*

# AFTER A DISASTROUS FALL, WHITHER THE WHITE HOUSE?

In case you hadn't heard already, after six years of sitting on top of the political pyramid, the Reagan administration has fallen down to toil among the sullied, ordinary mortals for its final two years. The events which bring it to this state—the Daniloff affair, the confusion-creating superpower summit, the loss of the Republican Senate, and of course, the whole Iran fiasco—are a string of setbacks that defy the legendary Reagan good luck. The Teflon has finally scratched off.

One columnist tried to relieve the early winter gloom by reminding us how we used to laugh at such fumbles by Presidents Ford or Carter. But Chevy Chase and Johnny Carson aside, serious implications remain for the White House, and worse, for the entire Republican Party.

For the sake of argument, let's set aside the Iran mess for a moment. Back before that sorry episode came to light, the chief question facing the president and his advisers was how to make the best of a difficult situation. It was conceivable then (and still is) that skillful management and communication would allow the president to ride out these setbacks and continue to frame the debate, even against a hostile Congress. The question was merely how.

A few days after the election, the president and his chief of staff, Donald Regan, came out charging with a two-year agenda centered on the theme of making America "more productive": by eliminating more unnecessary spending and granting the executive more budget authority; by escalating the war on crime and drugs; by pursuing a space-based defense doctrine and support of anti-communist insurgencies; and by protecting low tax rates and removing obstacles to business growth.

And apparently, the president's ambitious agenda would rely not on persua-

sion or consensus, as some respected Republican senators were predicting would be necessary. Rather, the rhetorical guns were aimed at Congress and loaded with more of the same "make my day" ammunition.

Remember, this was before the Iran controversy flared up, but after events had combined already to weaken Reagan con-

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*"A 'make my day' attitude  
could be fatal—in  
reverse."*

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siderably. There was cause to weigh consensus versus confrontation as a strategy: the Reagan White House had mastered both approaches to government in its six years, with the former under chief of staff James Baker and public relations guru Michael Deaver, and the latter under Reagan and right-wing communications director Patrick Buchanan.

There is even an inside-the-Beltway consensus that Baker-style wheeling-and-dealing, combined with Reagan's consistently tough rhetoric, served him better. But under what already appeared to be the worst of circumstances, the White House settled on a go-for-broke agenda and strategy for its final two years in office.

There are, of course, some strong arguments in favor of a confrontational strategy. On broad constitutional terms, con-

frontation suggests a principled competition between the president and Congress, with Congress appropriately on the spot for making the final decisions. On the budget, for example, Reagan has consistently sent spending plans to the Hill that reflect the priorities he campaigned on: more defense and deep cuts in domestic spending. It doesn't matter to administration officials that his budget is "dead on arrival," or that the resulting deficits are enormous—if Americans want more than they are willing to pay for, then let Congress face up to the tough decisions, as it should.

Confrontation has also won the president a few victories, most notably on keeping tax rates low, and aiding anti-communist rebels in Nicaragua. Call Congress a bunch of spineless wimps if you dislike the policies, but again, they are free to shape the debate and make the final decisions. Skillful confrontation won these victories for Mr. Reagan.

Aggressive confrontation is also the surest way to shatter fixed perceptions and battle pervasive Democratic Party arrogance. Most congressional Democrats will gladly paint Republicans as the cold-hearted economists and tell you that continued subsidies and import protection are the answers to our farm and trade problems.

Now, there are no easy answers to our agricultural headaches, but is it unreasonable to search for an alternative to excessive government subsidies? Our open markets do lead to lost jobs, but the problem is our competitors's protectionism, the deficit-induced strong dollar, and policies that block greater innovation and productivity. On these two issues at least, an unyielding position creates the needed debate that compromise would lose by default.

There is a flip side to this last idea, and that is that confrontation stimulates



debate or creates a perception of action without actually helping to resolve a problem. Confrontation rests almost exclusively on public relations skills and good luck, while consensus requires a mastery of substance and details.

The hypocrisy of railing against deficits while doing nothing of value to help reduce them is a good example. Talking tough to the Soviets about arms control may be appropriate, and appears to give Reagan the moral high ground. But tough talk alone isn't sufficient to slow or reverse the arms race.

Finally, an unyielding style of governance has a very dangerous corollary: it raises the stakes of the debate, and in cases where the public strongly disagrees with the president, it even removes him from the debate altogether. A perfect illustration is what happened over the Clean Water Act. In the last days of October, Congress unanimously approved and sent to the president an eight-year, \$20-billion extension of the law to clean up polluted rivers and lakes. The president had requested only \$6 billion for four years, and pocket-vetoed the bill, knowing full well that Congress can easily override his veto next year.

As this goes to press, it appears likely

he will lose a showdown over this sound environmental bill in the first months of 1987, with practically no influence over the provisions of the new bill. An inflexible position on South Africa in 1986 dealt him out of the game in a similar way. Too great a faith in the president's ability to prevail led to the disastrous Iran arms deal

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*"The administration's key challenge is to restore a saner balance between confrontation and consensus in its remaining two years."*

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and its frightening connection to the contras.

If the president takes the "imperial" approach to defense spending, aid to the contras, or any other of his cherished priorities, he risks raising the stakes and losing big, reinforcing the growing lame-duck image. Restoring the Iran fiasco to our survey of events, a "make my day" attitude could be fatal—in reverse.

The administration's key challenge therefore, is to restore a saner balance between confrontation and consensus in its remaining two years in office. Despite very difficult circumstances, the administration should concentrate on forging a consensus on the difficult issues Reagan has raised. Doing so will require full use of Reagan's strong communications skills and advisers who better understand when to fight and when to yield.

The sensible public would welcome such overtures from Reagan, and reward him with some deserved popularity. Moreover, forging a consensus on spending, defense, and foreign policy would forestall Democratic desires to bypass the president and blunt the tendency toward a confrontational demagogic agenda of their own. ■

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**BUDGET SNAFU:** It's the same old song: after 12 years under the budget reforms of 1974, Congress remains unable to make fiscal decisions rationally, and has not even bothered to meet its own planning deadlines. The administration has doubled the trouble by repeatedly offering massive spending cuts that Congress cannot bring itself to commit. In the meantime, the debt burden on our children grows geometrically and fingers a-plenty point.

Faced with a situation in which budget balancing was supposedly impossible by mere humans, lawmakers in 1985 adopted the infamous Gramm-Rudman-Hollings Act, which still requires across-the-board spending cuts when the budget deficit exceeds specific targets. Originally, the cutting authority was invested in the top official at the General Accounting Office (GAO). But the Supreme Court struck that provision as an unconstitutional delegation of authority, and congressional leaders refuse to give the authority to the

president's Office of Management and Budget (OMB).

Unless lightning strikes somewhere, congressional Democrats will likely abandon G-R-H goals and let the law die a death mourned only by the most ardent anti-government members of Congress.

We have a better idea, however. To begin with, we like the deficit-reduction initiatives proposed by the moderate House "92 Group" and former Senate Budget Committee Chairman Pete Domenici. In the last two years, these Republicans have defined the ultimate consensus by combining spending freezes with a wide array of moderate spending cuts and revenue increases to spread the burden as widely and fairly as possible.

Beyond that, we support fundamental revision of the budget process itself. Congress should streamline the number of committees involved (and thus cut back the profusion of deadlines), adopt biannual budgets, and consider granting increased

authority to its own budget office to review budget proposals and cut wasteful spending *before* the final congressional vote. A floor amendment to restore spending would be necessary to save any pet projects.

Such a move would offset the somewhat omnipotent power of the president's OMB, give a de facto line-item veto to an arm of Congress (where it belongs), and take the heat for proposing unpopular tax hikes, which many members of Congress would support if only someone else would offer them.

The Ripon Society has always argued that the Constitution requires Congress to get the deficit under control by itself—with no tricks, buck-passing, or demagoguery. G-R-H is based on the ugly notion that the constitutional process doesn't work. This is a fundamental crisis which can be solved by unclogging the budget process and strengthening Congress's handle on the nation's pocketbook. ■

The point of this example is not to praise the Dr Pepper transaction specifically. Forstmann Little is not the only company to make a good acquisition and, in fact, the Dr Pepper profit returns range about in the middle of Forstmann Little's own investment experience. The transaction does, however, illustrate a number of principles which public officials should keep squarely in mind when considering further regulation of corporate acquisitions.

*First, corporate acquisitions can be good.* The Dr Pepper transaction, from all perspectives, was socially positive. The

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*“The Dr Pepper transaction illustrates a number of principles which public officials should keep squarely in mind.”*

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original sellers of Dr Pepper received a large market premium and a price more than 20 times the earnings of their troubled company. The buyer made a substantial profit, most put to excellent use funding corporate pension benefits for tens of thousands of working people. The banks who financed the purchase received high interest rates and complete repayment. The national economy received operating efficiencies and stronger businesses: stronger by distributing Dr Pepper's Canada Dry and bottling operations to strategic buyers and stronger by the improved performance of the flagship Dr Pepper brand. Needless to say, millions of tax dollars were collected by the government at every step of the way.

*Second, corporate acquisitions can be bad.* Again in hindsight, Dr Pepper Company's own acquisitions of Canada Dry and the bottling operations were unsuccessful. Corporate assets and management time were spent which could have been better used elsewhere. A related example is Philip Morris Company's acquisition of 7-Up, which was completed a few years before Forstmann Little's purchase of Dr Pepper. Philip Morris, with products such as Marlboro cigarettes, Miller beer

and Maxwell House coffee, is one of the country's most able consumer products companies. Its purchase of 7-Up seemed a certain success. Yet, Philip Morris's attempt to have 7-Up compete directly with Coke and Pepsi failed and brand 7-Up lost market position and profitability under Philip Morris's ownership. Recently, Philip Morris resold 7-Up at a loss and at a price less than the Dr Pepper resale commanded.

*Third, no regulator can tell, at the start, a good acquisition from a bad acquisition.* Certainly, if a concerned congressional committee could have blocked an acquisition in 1984, it would have blocked Forstmann Little's debt-burdened, seemingly doomed purchase of Dr Pepper Company. Just as certainly, if a committee wanted to promote sound acquisitions, it would have promoted old Dr Pepper Company's "synergistic" purchases of bottlers and Philip Morris's unleveraged buyout of 7-Up. The committee, of course, would have been badly mistaken and this great likelihood of mistake is exactly why Congress must not make itself the arbiter of good and bad takeovers.

*The key to a good or bad acquisition is the skill and resources of the buyer.* A good buyer, with the right plan and abilities, will benefit everyone. A bad buyer will hurt everyone. Unfortunately, no regulator can effectively enter the mind of each buyer and correctly judge him and his strategies.

Given this blindness, proposed regulations tend to focus on the easily verified, but ultimately irrelevant, issue of the buyer's acquisition technique. Was debt used? Were junk bonds used? Was the acquisition friendly or unfriendly? Is there a dependence on "asset stripping"? All of these questions miss the point of the economic value the particular buyer will add to, or subtract from, the company acquired.

Some regulators, for example, have called for the elimination of high debt levels in acquisitions. The effect of this ill-advised approach would be to eliminate many of the best buyers: the entrepreneurs, managers and employees generally seeking to buy their own companies. Although forced to borrow, these buyers often add a level of management drive and attention that the richest corporation cannot match. Many corporate cats and dogs, suffering from neglect in a giant holding company, have become extraordinarily

well run when bought by a manager with a desire to make the business grow, his life savings on the line and an interest payment coming due. The point is not that debt is good, but that a buyer may be good even though he relies on debt.

A similar analysis holds true with "asset stripping." The original and true sense of this phrase is the destruction of a business to get to its hard assets; the equivalent, for example, of tearing down a house to sell its materials as scrap. This is indeed socially undesirable because it destroys the business's intangible "going concern" value; that is, the value from skill and labor that turned the pile of bricks into a fine house in the first place. Such "asset stripping" is justifiable only where the business is ruined beyond repair and, in fact, is only common in bankruptcy situations. Regulators and commentators, however, frequently confuse this negative "asset stripping" with something potentially quite positive: the restructuring and streamlining of a patchwork conglomerate. There are indeed many acquisitions which, like the Dr Pepper transaction, are followed by divestitures. But, like the old Dr Pepper Company, most conglomerate holding company structures provide no economic benefit worth preserving. Instead, many require additional layers of expensive corporate overhead and dilute management focus. Therefore, no "going

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*“Some regulators have called for the elimination of high debt-level in acquisitions. The effect of this ill-advised approach would be to eliminate many of the best buyers.”*

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concern" value is destroyed or productive jobs are lost when divestitures are made and each of the conglomerate's operating divisions continues its business independently. Value is added because each property is placed with the individual buyer who can best utilize it and the extra man-

agement cost of overseeing a large and diverse group of properties is eliminated. Again, the technique when applied by a good buyer will be good. In fact, it is frequently the only answer to bad acquisitions made by conglomerates in the past, and, if anything, should be encouraged.

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*“Even if the emphasis on a free market is accepted, there still are at least four public policies which could be rightfully instituted.”*

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The strongest regulatory criticism falls on hostile takeovers financed with junk bonds (that is, publicly traded debt for companies with extremely weak credit ratings). My own firm, Forstmann Little, has never made a hostile takeover and has never used junk bonds. In fact we are strongly on record that, as another critic has stated, junk bonds will live up to their name. However, even in this area, a regulatory ban would be ill-advised. Despite shareholder's rights and annual board elections, most public companies are about as democratic as the Soviet Politburo and most corporate presidents simply serve until retirement and then transfer power to their handpicked successor. Although proxy fights are possible, they are costly and rare. Disgruntled shareholders are far more likely to sell their shares and invest elsewhere. Therefore, it is easy to imagine a potential buyer, justified in his belief that he could substantially improve a company, using junk bonds and a hostile takeover to gain control. Again, with the regulators unable to tell the good buyers from the bad, prohibitive legislation would be counterproductive.

The best check on takeover abuses is a freely functioning marketplace, particularly a marketplace which intelligently allocates credit. How did Forstmann Little get in position to “foolishly” pay \$650 million for Dr Pepper? Primarily because its long record of successful acquisitions of smaller companies gave the firm credibility with its sophisticated investing part-

ners and with its lending banks. The credit markets—through the analysis and review of numerous independent and profit-minded investment officers—made the determination that Forstmann Little and its plans for Dr Pepper warranted the necessary financing. Similarly, the success in past acquisitions and product development put the old Dr Pepper Company and Philip Morris in the position to make their purchases. Buyers who succeed (such as Forstmann Little and, overall, the Philip Morris Company) are in a position to make further and larger acquisitions. Buyers who fail are eventually cut off from new credit or dissipate their own assets until they are out of the market. Decisions thus made are much more analytically astute than the actions of a central regulator could ever be.

Even if this emphasis on a free market is accepted, however, there still are at least four public policies which could be rightfully instituted; changes which would strengthen the operations of the capital markets rather than distort them.

*The first policy change should be stricter disclosure requirements for corporate raiders.* Under current law, a raider does not have to publicly disclose his intentions to acquire a company until ten days after he has accumulated 5% or more of the target company's shares. The raider, given this benefit of surprise attack, can often acquire 20% or more of the entire company during the period of secrecy. The purchases are made from unsuspecting sellers who typically receive a price 30-50% lower than the stock's post-disclosure price, hurting them and further benefitting the attacker. It is also during this period that the risk of insider trading is greatest, with arbitrageurs who are knowledgeable of the raider's intent also accumulating shares at the pre-disclosure discount. The result is that the target company first learns it is under attack the same way the United States learned that it was in World War II: suffering badly from a preemptive blow. The target's chairman wakes up one morning and finds that the raider has accumulated a large ownership position at a discount price, the short term profit-oriented arbitrageurs have accumulated another large ownership position, many of the loyal and traditional shareholders have been bought out cheaply and the company is, as Wall Street says, “in

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*“These regulations will not stop corporate acquisitions, even unfriendly ones. They merely insure that an acquirer is not a vandal.”*

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play.”

An enlightened policy would eliminate this secret stock accumulation period. Preferably, raiders should not be able to buy more than a token amount of shares without disclosing their intentions to everyone. In reality, this policy could be easily enforceable. Raiders generally know their intentions when they start their accumulation programs. The current disclosure document—called a 13-D form—is brief and easy to prepare but in fact, even a one sentence press release would suffice. If a raider had somehow “stumbled” into a large stock position before his hostile intentions were formed, a one-year moratorium between the time of accumulation and the time of the raid would be adequate to establish his desire to comply with the law. It is important to note that this rule would not stop a buyer (even a hostile raider financed with the most junk-like of bonds) from making a tender offer in a free marketplace. It would, however, give both buyer and seller full information; a principal requirement for an effective market. It would also put friendly buyers competing with the raider on an even footing by eliminating the raider's discount-priced head start. This, in turn, would result in more market competition, even higher prices for the sellers and a greater likelihood that the buyer who could add the most value (and therefore pay the most) will end up owning the company.

*Second, the practice of “greenmail” should be prohibited.* Today, a raider having accumulated his position at a bargain price in secrecy, can sell it back at a profit to the target company in return for ending his attack. In essence, by threatening a raid (and the subsequent loss of management's

*Continued on page 15*

# REVENUE SHARING: *Looking Beyond a Forsaken Option*

BY JAMIE MCLAUGHLIN

On October 1, 1986 local governments received their last federal payment under the General Revenue Sharing program, a legislative plan which was passed under Richard Nixon and was hailed widely at the time by nearly all Republicans. But the program has now become a victim of Reagan administration budget cutbacks, and the result has been that new burdens have been placed on already severely restricted local revenue sources.

Without state legislative action toward local revenue diversification, essential services delivered by America's towns and cities will be eliminated disproportionately, which in turn will affect the most needy. And while the concept of revenue sharing, however valid, is unlikely to return, the public challenge to which it responded remains. It is thus up to states to react on behalf of their "dependents," namely local governments, to meet this abandoned federal initiative with state-derived responses.

But, first, to understand why revenue sharing was dismantled, one must examine the underpinnings of the program and the criticism that later surrounded it. The original federal general assistance programs began in the 19th century, when, as early

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*"The loss of the revenue sharing program means that new burdens have been placed on already severely restricted local revenue sources."*

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as 1803, the United States Congress earmarked five percent of the revenue from the sale of public lands for distribution to the states in which such land was located. Later, in 1837, the Surplus Distribution Act was enacted, which claimed that any federal surplus of \$5 million or more must be returned to the states. (Some \$28 million, not an inconsiderable sum back then, was distributed before the program was terminated due to a financial crisis.)

The revenue sharing idea lay dormant for nearly a century, and while it reappeared on occasion, the most recent legislative history of revenue sharing began in 1958. Wisconsin Republican Melvin Laird introduced a revenue sharing bill then in the U.S. House of Representatives, and even though the bill received little attention, the concept was soon advanced by Walter W. Heller of the University of Minnesota.

As chairman of the Council of Economic Advisors during the Kennedy and Johnson administrations, the Minnesota economist presented a plan for revenue sharing. In part, his reasoning was political. Federal surpluses existed at the time, and liberals in both the Kennedy and Johnson administrations feared that surpluses would lead to a tax cut and not to spending

for public sector needs. Revenue sharing provided a middle ground because it would return federal surpluses to the public sector rather than directly to the individual taxpayer.

This idea was discussed extensively throughout the mid-1960s, and Michael Reagan of the University of California-Riverside claims that the Ripon Society was perhaps the most prominent national organization to back the concept in its early stages. In 1967 the bi-partisan Advisory Commission on Intergovernmental Relations also recommended its use, and by the time Richard Nixon became president in 1968 national associations representing governors, legislators, counties and mayors had endorsed the idea. In 1971 and 1972 President Nixon made it a priority, and in 1972 the State and Local Fiscal Assistance Act was passed.

The intent of the Act, which was renewed by Congress in 1976, was multi-faceted. For example, it sought to make state and local revenues more responsive to economic growth. It also sought to build up the efficiency and fiscal independence of state and local governments, increase progressivity in the aggregate federal-state-local tax system, and reduce economic inequalities and fiscal disparities among states. Moreover, it was designed to stimulate state and local tax efforts and to ensure that the plight of local, especially urban, governments would be given full weight and consideration.

There were also several other purposes to revenue sharing. First, the plan was an attempt to eliminate competition among neighboring jurisdictions for federal categorical grants. It also was de-

signed to minimize federal "red tape," and to provide local governments with more flexible and responsive methods to raise revenues. Implicit was the program's intent to return decision-making powers to state and local government units.

But even in the 1970s criticism rose over revenue sharing. Much of the rancor stemmed from the fact that the plan lacked clearly-articulated policy objectives and did not have adequate performance measures. For example, Otto G. Stolz, a key Treasury Department counsel during the enactment of revenue sharing and a noted scholar on the subject, once claimed that citizen involvement in reviewing the performance of revenue sharing and compliance by local decision-makers were the program's most important elements. But revenue sharing, Stolz predicted, would require "a new American Revolution of democratic participation in the local decision-making process." One of the reasons such never occurred was that the program lacked a formal approach to involving local citizens.

Revenue sharing also proved to be an uncontrollable budget item, and during times of deficit spending there were no "revenues" to share. Moreover, critics argued that revenue sharing violated a fundamental constitutional principle: the authority to collect taxes should not be separated from the authority to spend revenues. (Opponents said that the program also tended to prop up obsolete or defunct units of government and that the absence of "strings" or controls invited wasteful and superfluous spending choices.)

In part, these criticisms are valid and have proven to be somewhat compelling in light of current budget deficits. But it is unfortunate that a program that provoked so much debate and possessed so much promise has been forsaken without more mention of its original intent. One wonders whether the administration's reasoning is pure fiscal exigency, or a retreat from the challenge of equalizing fiscal disparities in the federal system.

Of course, there are some current proposals that attempt to meet the challenge of equalizing fiscal disparities. Consider the Targeted Fiscal Assistance program, the chief sponsors of which are Senator David Durenberger, R-Minn., and Representative Bob McEwen, R-Ohio. Their plan is designed to provide general purpose funds to local governments based on measures of need and fiscal capacity. It

would be funded at 50 percent of the Fiscal Year 1986 General Revenue Sharing program, with interstate and intrastate formulas designed to channel funds to fiscally burdened urban centers or poor rural jurisdictions with low fiscal capacities.

Of course, this plan alone cannot resolve the fiscal woes of local governments, nor could any general revenue sharing postscript. In fact, in June 1986 the National League of Cities (NLC) pointed out the serious consequences confronting municipal finance. In a NLC survey of 660 cities and towns, 56 percent of the respondents expected spending to exceed

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*"The challenges are not insurmountable, but states must immediately assume the primary federal role in maintaining essential public sector objectives."*

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revenue from taxes, federal aid and all other sources combined. Only 15 percent expected surpluses, and 29 percent expected to have balanced budgets. Perhaps Alan Beals, executive director of the NLC, put it best: "Those who expect cities to continue absorbing the impacts of cuts and cancellation of key federal aid programs had better look again, because in many cities, the bucks aren't there. . . The belt has been tightened to its limit."

To some degree, state legislators are becoming aware of the dilemmas local governments face. For instance, the State-Local Task Force of the National Conference of State Legislatures addressed this problem recently when it reported that state legislators must place a higher priority on state and local issues. "The time has come for states to change their attitude toward local governments," the task force said. "[States] should stop considering them as just another special interest group and start treating them as partners in our federal system of providing services for citizens."

As these trends continue, local governments will be seeking more aid from their state legislatures. They will be seeking additional revenue sources, more direct state aid, and a loosening of restrictions imposed by state constitutions on local taxing authority.

The latter is particularly important, as local governments often have relied on the property tax as their major source of revenue. Of course, the property tax has never been popular since it has been broadly perceived as regressive. In fact, it has contributed to local public support for non-property tax alternatives—chiefly sales and income taxes. Local governments in 26 states use the sales tax and in 11 states local governments are allowed to use an income tax.

Other local tax sources include taxes on cigarettes, alcohol, motor fuel, utilities, and motor vehicle licenses. In addition, the use of "user fees" and special assessments is increasingly being applied to a wide range of goods and services, but alone they do not provide a substantial enough source of revenue for local governments.

If local revenue diversification is to be seriously considered by state legislatures the system's design must be uniformly applied to avoid economic distortions and inefficiencies. And revenue sources must be advocated not just to provide funds. The revenue should meet the broad standards of efficiency, equity, expandability, and acceptability. Furthermore, they should meet the following tests:

1. be easily administered with high compliance expectations;
2. provide growth potential and possess the ability to respond to economic trends;
3. have a tax universe diverse enough to provide a consistent base of revenue during periods of economic downturn;
4. be applied uniformly without creating competitive changes in the marketplace.

With those aims in mind, I would recommend the following measures:

1. states should give local governments broader discretion in raising revenue by removing certain constitutional and statutory tax limitations;
2. states should seek to foster a more cooperative role with their local offspring

*Continued on page 18*

# LETTERS

**TO:** The Editors

**RE:** August 1986 *Ripon Forum*

Congratulations on the August 1986 *Ripon Forum*. It was far more realistic than usual. I found both the interview on the Sandinistas and the article on climate change excellent. Of course, the piece on judicial review was characteristically naive. A president is naturally going to support men of his general philosophy more often than he would his opponents. Learned Hand was perhaps the outstanding jurist of his time, but he was never appointed to the Supreme Court because of his views.

By the way, I think you devote entirely too much attention to the Religious Right. They are imprisoned by their own ideology. Keep up the good work, though. Discussion of environmental issues and foreign policy, even if you're wrong, is necessary. We have to contemplate the hard realities of those subjects.

*R.C. Wilmot*  
Denver, Colorado

**TO:** The Editors

**RE:** November 1986 *Ripon Forum*

I just chanced upon the November 1986 *Ripon Forum* and met Diane Ravitch's educational concern for the vast middle, Bill Milliken's Cities in School tie between the community and the learner, William Clohan's eight themes, and Hugh Elliot's statement that education needs to be useful and relevant and that "the secretary of education might do well to research educational systems outside the mainstream."

A complete solution to the educational crisis must indeed incorporate a variety of responses. To that end, I enclose a 58 page treatise on education, which includes the idea that schools must become less isolated. Perhaps one way they could do such is through adopting multi-age classrooms. After all, families and society itself are not divided into age/grade peer groups. Happy reading.

*Will Johnstone*  
Belen, New Mexico

The Ripon Educational Fund is now accepting Summer applications for the Mark O. Hatfield Scholarship Fund. Scholarships will begin in June 1987, and recipients will be expected to:

*Produce a paper of publishable quality and pursue interests which reflect the spirit and interests of Senator Mark O. Hatfield. This includes work on issues of war and peace, civil liberties, the environment and the nature of government.*

If interested, please send research proposals, writing samples, and curriculum vitae to:

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H. I certify that the statements made by me above are correct and complete: William P. McKenzie.

employment), the hostile buyer can extract a ransom—his “greenmail.” In the case of the “greenmail” technique, there is no possibility that the raider can be a good, value adding buyer since there is never an acquisition. Rather, the profit the raider makes is a direct subtraction from the value of the target company and to the direct detriment of the other shareholders. Even worse, many of the greenmailers may only be bluffing in their threats to acquire the target, hoping that they will be bought off or that a friendly buyer will outbid them and pay a profit on their shares. For example, in November and December of 1986, one debt-laden raider began simultaneous attacks on the Gillette Company, CPC Corporation and Transworld Corp.; acquisitions potentially totaling almost \$7 billion in purchase costs and many, many times his own net worth. CPC and Gillette bought out his stock positions at over a \$50 million profit and Transworld Corp. gave him a special option to buy their Hilton Hotel chain. Yet it is unclear whether he had the financial wherewithal and desire to buy any one of these target companies, much less all three. Ironically, the target companies which pay “greenmail” are often shown to be vulnerable by their acts of appeasement and, with much of their stock still held by unhappy arbitrageurs, are frequently attacked again by other raiders.

There are several possible policy responses to “greenmail.” The restriction on stock accumulation discussed above is one answer because the raider would have no shares to sell back. More to the point, companies should be required to deal with all shareholders on an equal basis, distributing any benefits or market premiums pro rata. No one should specially profit by buying up all the hoses in town and then setting City Hall on fire. Finally, bluffing (and raids in general) could be sharply reduced by requiring hostile bidders to actually have in hand their needed acquisition financing before their attacks are launched. (A mere letter from a raider’s investment bank claiming high confidence that such financing can be arranged should be held insufficient because such assurances can be painlessly withdrawn.) As with the proposed ban on stock accumulations, these regulations will not stop corporate acquisitions, even unfriendly ones. They merely insure that an acquirer is indeed an acquirer, rising or falling with the value he adds to his acquisition, rather than

a vandal profiting from the creation of fear and turmoil in the marketplace.

*Third, procedures to protect smaller, less sophisticated shareholders should be strengthened.* Insider trading abuses should continue to be vigorously prosecuted by the Securities and Exchange Commission. The SEC’s recent success in the Boesky case illustrates that current enforcement arrangements are adequate. Also, in contrast to current law, if an acquirer gains corporate control by a “street sweep”—that is, by rapidly buying up large blocks of stock previously accumulated by the leading arbitrageurs and money managers—then the same purchase price should be paid to the other shareholders who, unlike the arbitrageurs, are not large enough to negotiate directly with an acquirer. Arguably, also, acquisitions by street sweeps (which have been accomplished in less than half a day) should be banned entirely in favor of the slower, but more procedurally fair, tender offer process. By law, such tender offers last at least 20 business days, providing an opportunity for competing buyers with higher bids to surface. Also, tender offer regulations require that all shareholders be treated equally.

*Fourth, certain adjustments can be made to promote market efficiencies.* One change, which would actually promote acquisitions, is reinstatement of the “General Utilities” tax doctrine and the preservation of the related concept of “mirror subsidiaries.” These decades-old doctrines were challenged in the 1986 tax reform bill as a revenue generating measure. They hold that a buyer’s tax on the resale of a conglomerate should be the same whether the conglomerate is resold in one piece or whether each division is resold separately. Under the new tax act, there will be almost twice the tax due if the conglomerate is resold division by division. However, as in the Dr Pepper example, economic value is often added exactly by such divisional sales; by unwinding past acquisition mistakes and by placing each business unit with its most efficient owner. The new tax rules act essentially as the conglomerate preservation act of 1986, and such distortion of the economic markets through tax policies should be avoided.

A free market may also be enhanced in two other ways. First, savings banks which rely on federal insurance to obtain

deposits at a below market rate of interest should be prohibited from investing such deposits in the junk bond market. Otherwise, the savings bank’s shareholders receive the rewards of speculation while unfairly shifting the risks of such speculation to the taxpayers. Finally, the principle of independent buyers and sellers (a second criteria for a free market) should be preserved. Too often, junk bonds seem to be sold back and forth among the junk bond customers of the same investment bank, and too often old junk bond financing for one acquisition seems to be repaid by resale to a new company financed with fresh junk bonds, issued by the same investment bank. The risk is that, as in the classic Ponzi scheme, the self-dealing hides problems even as an expanding pool of new investors are attracted by their forerunner’s apparent economic success. The correcting forces of a free and knowledgeable market are avoided until the harm done is extremely large. This problem of related party dealing is a difficult one to police, but one which deserves further study.

In sum, the key to a good acquisition is the value added by the buyer once the acquisition is complete. The best regulation of corporate acquisitions is an efficient, free marketplace. The risk that well meaning regulators will unintentionally and harmfully destroy that marketplace is so great that it seems best not to adopt new takeover legislation at all. If new policy is adopted, however, the four regulatory approaches outlined could lead to a purer, more efficient capital market and more equitable results. ■

### Ripon-Bow Conference

The Fifth Transatlantic Conference of the Ripon Educational Fund and the British Conservative Party’s Bow Group will be held in Washington, D.C. from July 8-12, 1987. Subjects to be discussed include international trade, constitutional governance, the arms race, and Third World development. Conference registration is \$200, and preregistrations can be sent to: The Ripon Educational Fund, 6 Library Court S.E., Washington, D.C. 20003.

# THE LONG HAUL IN SOUTH AFRICA

BY TERRENCE M. O'SULLIVAN

When Americans discuss South Africa, the imminent downfall of the apartheid regime is commonly assumed, both by those who welcome that prospect and by those who dread it. But one of my strongest realizations during four weeks of travel in that troubled country was that the situation there is unlikely to change overnight, and that no matter what the U.S. and other western nations do, it could drag on for many, many years—possibly decades.

Now that stronger U.S. sanctions against South Africa have been enacted, it may be valuable to look at some of the potential paths that country could take, as well as how the perceptions of South Africans could affect changes there.

Columnist Charles Krauthammer recently called the U.S. debate on policy toward South Africa “appallingly self-centered,” and nowhere is this clearer than in our underestimation of the Afrikaners’ permanence and uniqueness as an African “tribe.” The Afrikaners (like the Americans) have lived on their continent for over 300 years, and have evolved with fewer and fewer direct ties to their Dutch, German and French Huguenot past. Most of the major South African tribal languages have a separate word for “Afrikaner” and “white” (all other Caucasians). From their fierce struggle against the British in the Anglo-Boer wars at the end of the last century, Afrikaners even consider themselves the first African people to gain independence by driving out a colonial power.

*Terrence M. O'Sullivan, a former Peace Corp volunteer in Africa, is the recipient of a Mark O. Hatfield Scholarship. Mr. O'Sullivan spent four weeks in South Africa last year at work on a study of that country.*

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*“Four scenarios have been suggested for South Africa's future.”*

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And Afrikaners have more than just political or cultural dominance at stake; nearly 40 percent of Afrikaner adults are directly or indirectly employed by the government. Government employment has represented a kind of social welfare subsidy for the substantial percentage of the white population that was rural and poor in the past. Thus, unlike the English-speaking whites, who have traditionally owned most of the businesses, Afrikaners have a very deep economic stake in maintaining absolute political control.

Not even the African National Congress (ANC), the leading black anti-apartheid group) apparently believes the Afrikaners to be an illegitimate colonial occupier. Afrikaners feel they won their current dominance fair and square, and resent the idea they should just hand over what they fought for so long on the battlefield and later at the ballot box.

So the Afrikaner cannot be written off in planning for a post-apartheid South Africa. Though there are estimates that as much as ten percent of the white population may emigrate in the next fifteen years, most whites have no place to which they can “escape,” unlike former colonials in Kenya, Zambia, and Zimbabwe/Rhodesia.

The ANC reportedly gives the current regime a “lifetime” of at least ten more years, and a private, unreleased re-

port commissioned by the Anglo-American Corporation, perhaps the most influential business conglomerate in South Africa, projects another 50 years of white domination. Observers have been predicting the fall of the Afrikaner government almost since it gained control 38 years ago. So while the examples of the Philippines and Haiti may provide hopeful examples of peaceful transitions, a major transfer of power in the near future is probably the *least* likely scenario of all.

With that background, what *are* the possibilities for the future in South Africa? One noted South African authority, Dr. Klaus Nurnberger, ethics professor at the University of South Africa, has described four possible scenarios for his country's future:

1) *Unchallenged Domination*: the white regime is able to contain the pressure for change through a mixture of repressive laws, political subterfuge, and brute force;

2) *Successful Black Revolution*: the white power center rapidly deteriorates and is overthrown by an organized revolutionary force;

3) *Long-term Struggle*: the white regime is no longer able to maintain decisive control but the opposition lacks the strength to oust it. The conflict degenerates into a drawn-out civil war analogous to those in Lebanon, Chad, and Northern Ireland;

4) *Comparatively Peaceful Evolution*: a gradual buildup of pressure from blacks, aided by the international community, forces progressive concessions from the white power structure. As black pressure increases, white power yields, bringing about a transition to black rule with white participation. Suggests Professor Nurnberger: “Once Blacks have acquired parity and proficiency in governing the



country, the question of color may lose some of its political significance."

The first scenario, unchallenged domination, seems the most likely for at least the near future. The South African government has already shown a disturbing ability and confidence in draconian tactics, including mass arrests, banning, torture, and press censorship.

During the current state of emergency, invoked last June in anticipation of the tenth anniversary of the Soweto uprisings, South African security forces have effectively sealed off the black townships and headed off mass unrest. It is conservatively estimated that over 25,000 people have been arrested since June. And in December, President P.W. Botha cracked down even harder with harsh new restrictions on organized resistance and news coverage.

These tactics, perfected over years of repeated use and enhanced by a widespread system of government informers, have hobbled the major anti-apartheid groups—the ANC, United Democratic Front (UDF), the Pan-Africanist Congress (PAC), the Azanian People's Organization (AZAPO), and various emerging labor unions. The white regime has been so successful that the average black, even in more sophisticated urban areas like Soweto, has surprisingly little idea of what each of the major anti-apartheid groups stands for or has done.

At this point, not even the 75-year-old ANC appears to enjoy the loyalty of a majority of blacks, few of whom have ever seen its classic "Freedom Charter." One

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*"Traveling for four weeks in South Africa, I realized that no matter what the U.S. and other western nations do, the South African conflict could drag on for many, many years—possibly decades."*

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young activist even flatly told me, "the ANC has failed us," a significant sign of how little power the oldest and most widely known opposition group may yield.

Thus the second scenario, successful black revolution, is highly unlikely in the near future. Most of the present unrest has erupted from the undirected frustration of "the children" or "comrades" as they are called, young people who are unemployed or out of school because of boycotts. The children genuinely seem to believe it is only a matter of a few years before they succeed in making the country "ungovernable." Despite their virtual lack of leadership (most of the viable leaders have been imprisoned or gone into hiding) or any sophisticated political strategy, the children represent the most significant mass resistance to the government at this time. And unfortunately, in the current environment, their kind of political activity is certain to grow.

The third scenario, a drawn-out civil war, is perhaps the most frightening. A prolonged military struggle would bring misery to millions of people, and devastate the economy of the entire region for generations.

In a provocative and morbidly fascinating article in the March 1986 *Atlantic Monthly* Conor Cruise O'Brien postulates that the prospect of genocide in such a situation would ultimately force the two superpowers into rare, cooperative military intervention under the auspices of the United Nations to halt the killing. O'Brien feels that this might someday be the lesser of several evils, as the Americans and Soviets confront what could otherwise become a highly volatile face-off between themselves. And he suggests that this may be the only kind of pressure to finally bring the Afrikaners to the bargaining table.

The last scenario, a relatively peaceful evolution, is certainly the most desirable for all concerned, but the most difficult to achieve. As explained above, there are immense forces working against that result both inside and outside the country.

Obviously, the scenario which does evolve for the South Africans will depend on how each of the country's power centers deals with the transition. The major anti-apartheid organizations and the children have already been noted. The extent of white adaptation will largely be determined by the interplay among the white political parties.

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*"The most likely outcome is some combination of prolonged conflict with an eventual transition to majority rule."*

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President P. W. Botha's Nationalist Party has held power since 1948, based in the Afrikaner majority of whites. To the left of the Nationalist Party is the Progressive Federal Party (PFP), composed mostly of English-speaking white liberals and publicly committed to ending apartheid. The PFP is the "official" opposition in Parliament, and has grown since 1948 when the PFP's most famous member, Mrs. Helen Suzman, was a lone voice against apartheid.

There is also a seed of resistance from Afrikaners to the left of Botha within his own party. The "New Nats," as they are called, have slowly begun to press for a more pragmatic approach to government reform, and while hardly liberal in the true sense of the word, reflect a softening of attitudes among many younger Afrikaners.

In many respects, though, Botha's government faces its most potent challenge from the far right. The Conservative and Herstigte National Parties (HNP) have emerged as staunch defenders of the status quo, have grown from defections in Botha's coalition, and will brook no compromise. In fact, the Conservatives and HNP openly advocate apartheid and have opposed—at times violently—most of Botha's "moderate" reforms in recent years. Many South African political analysts feel that in the long-awaited general election, recently scheduled for April of this year, a far right coalition could win enough seats to replace the PFP as the official opposition in Parliament.

A "wild card" among competing power groups is the increasingly independent South African Defense Forces, which could stage a military coup to preserve

## REVENUE SHARING

(Continued from page 13)

some or all of apartheid. In recent years, the military has made unilateral moves seemingly in direct opposition to government policy, such as its covert violation of the 1985 Nkomati Accord with Mozambique.

In some regards, apartheid is most entrenched in the military. At any one time, up to one-quarter of South Africa's young white males are on active duty, patrolling the townships or battling the left in Namibia and Angola. And the military indoctrination of these young minds actively promotes racism, in an effort to motivate them to fight the enemy, the "kaffir"—whether he be a foreign soldier, or a fellow citizen protesting in one of the black townships.

In conclusion, very few informed principals in South Africa would predict the imminent collapse of the current regime. The American perspective, which tends to ignore the history and resulting mentality of the Afrikaners, makes it particularly difficult to predict the future of that country—whether or not we impose sanctions.

And as Professor Nurnberger points out, the likely evolution of South African society will not fall into neat, recognizable patterns. The most likely outcome is some combination of prolonged conflict with an eventual transition to majority rule, given that black pressure for change is partly violent, partly non-violent, and white reaction is partly repressive, partly adaptive.

Whatever international policies are pursued, the South African government is unlikely to go quickly or quietly. The Reagan administration policy of "constructive engagement" clearly failed to foster significant change. Nonetheless, we must not judge the success of current policies too quickly, given both complexity of the problems in South Africa and the undeniable resilience of South African whites. An expectation of quick results could lead us to ignore or undervalue important steps toward democracy (such as the recent, independent efforts by multi-racial groups in Natal Province at creating a democratic model of provincial government). The success of any U.S. involvement in South Africa hinges on our ability to understand the complex dynamics at work there, and to respond sensitively and non-dogmatically. ■

- and stop regarding them as just another special interest group;
3. states should create targeted revenue sharing programs, so that all distributions are bundled uniformly;
  4. states should take the initiative in reforming local property taxes, and impose upon and assist local governments with uniform assessment practices;
  5. states should assist local governments by providing technical assistance in implementing user charges toward a more efficient benefit-based system;
  6. states must formalize their intergovernmental relationship with their local governments by creating an entity with legislative standing and the capacity to assess, assist and evaluate local fiscal administration and direction;
  7. states should reevaluate the tax-exempt status of property and redefine eligibility for this status. Organizations should be eliminated that do not meet a minimum criterion for multi-municipal, county or regional service significance;
  8. states should consider removing constitutional and statutory inflexibilities that prevent local government reorganization. Moreover, states should encourage extralocal jurisdictions, perhaps through annexation. State aid could perhaps be linked to reorganization goals.

The challenges are not insurmountable, but states must immediately assume the primary federal role in maintaining the viability of essential public sector objectives. A static view of the federal system and the inability to come up with a new role for states will only restrict local government's abilities to react and provide key public services. And with dependents on their hands, it is not an issue local governments can ignore. ■

### Whats ahead in the *Ripon Forum:*

- The Political Appointment Process: Origins of Irangate
- Alfred W. Tate on Garry Wills's *America*
- Reagan and the Judiciary

## IN MEMORIAM, CHARLES E. GOODELL, 1927-1987.

Charles Goodell started the decade of the 1960s as a member of the GOP "truth squad" that followed John F. Kennedy around the country in protest of the presidential candidate's liberal politics. The Jamestown, New York native ended that decade, however, as an arch-critic of the Vietnam War and as the senator who first introduced legislation to halt the war's funding and to withdraw U.S. forces from Vietnam. For his actions, Goodell earned the enmity of the White House, the occupant of which was Richard Nixon, who had been a friend of Goodell in the latter's early congressional days.

Goodell, who died in January of a heart attack, remained undaunted, even though it led to the loss of his Senate seat. He had been appointed to that post by Governor Nelson Rockefeller after Robert F. Kennedy's death. In 1970, however, James Buckley ran on the Conservative Party ticket and defeated the GOP incumbent. Buckley even had the support of the White House, as Spiro Agnew campaigned against his fellow Republican Goodell and called his beliefs "radiclib ideology."

The former five-term congressman was not a radical, of course; he merely sought to exercise his right to dissent, a very Republican principle. In fact, Goodell believed deeply in the Republican Party and its potential to be a diverse grouping. He worked with a number of young Republicans in the 1960s to ensure the success of their peers. In 1965, for instance, he was instrumental in the election of a Michigan congressman named Gerald Ford to the post of House minority leader. The Navy veteran also had been key to Ford's election to the chairmanship of the House Republican Conference in 1963.

The bond with the future president remained solid: Mr. Ford appointed his congressional colleague to head the panel responsible for reviewing the clemency appeals of Vietnam War draft resisters. The former senator carried out that duty with the ethos that guided his life. Perhaps the words of Oliver Wendell Holmes, Jr., expressed some 100 years before, best summarize that force: "I think that, as life is action and passion, it is required of a man that he should share the passion and action of his time at peril of being judged not to have lived." ■

# AN AMERICAN HERO

BY ALFRED W. TATE

Moorhead Kennedy, *The Ayatollah in the Cathedral*. New York: Hill and Wang, 1986.

An elderly Vietnamese was once asked what he thought of Americans. The time was 1967, the place was the city of Danang in what was the Republic of Vietnam, and the response was an incisive commentary on U.S. foreign policy then and now. "You mean well, of course," he replied, "but you have no culture."

He went on to explain that he knew that as a people we have created a distinctive body of literature, music and art. He knew as well that we possess unique political and legal institutions, and even a language whose idiom is in many ways peculiarly our own. He was aware, in other words, that Americans have produced all of the trappings which taken together constitute a "culture."

What he meant, he insisted, was that Americans do not "have" their culture in the sense of its being something they are conscious of possessing. Thus they are unaware that their culture would be different if the context which produced it had been different. Because of this collective lack of awareness, Americans tend to absolutize the amalgam of values the historical expression of which their culture represents. Such a tendency, the Vietnamese concluded, allows Americans to react to other cultures in only two ways. They must inevitably be seen as inferior. To the extent they exhibit a desire to become like ours, they may be perceived as good and worthy of assistance. If they show any desire to retain their own integrity, however, they can only be viewed as evil and to be suppressed.

This particular Vietnamese attributed the folly the United States was in the process of committing in his country to such a

lack of cultural self-awareness. He claimed it precluded us from recognizing that other cultures, other ways of being human, have intrinsic value. Thus we could not comprehend that other cultures at the very least have the right to make their own mistakes, if need be to fail on their own, and are not necessarily threats to us.

The sorry litany that is the history of U.S. foreign affairs over the past twenty years proves these observations to be even

## MOORHEAD KENNEDY The Ayatollah in the Cathedral



more true now than then. And unhappily they are not true simply of the great majority of Americans who have little time for critical reflection on our national experience and no immediate responsibility for its direction. Although in this regard he exceeds his predecessors only in degree, it is precisely this deeply ingrained attitude of know-nothingism that has led our current president to perpetrate the concatenation of catastrophes that has characterized his administration's foreign policy.

One who has paid a considerable personal price for our ineptitude overseas is Moorhead Kennedy. Assigned to the economics section of the U.S. Embassy in Tehran when it was taken over by Muslim fundamentalists on Sunday, November 4, 1979, Kennedy and his fellow hostages were held by the Iranians for 444 days. *The Ayatollah in the Cathedral* represents his reflections on that ordeal, its aftermath, and the lessons he believes are to be learned from this experience. He has some important things to say.

What Kennedy asks is that some basic questions to which pat answers are assumed be reopened. He believes the necessity for doing so follows from his conviction, which the news of the past few months should only reinforce, "that we all need to grow up internationally, to mature in important ways if our nation is to address Middle East terrorism effectively, and to grow in other ways, too, in order to offer a foreign policy worthy of the best we represent." That this will require more self-recognition than Americans seem capable of and how this might be gained is the basic theme of his book.

Kennedy begins by distinguishing between "westernization" and the imparting of a particular set of ideas and values it entails on the one hand, and "modernization" with the tools and technology it brings on the other. Because the latter developed in the context of the former, westerners tend to ignore this distinction, and he admits it can be argued that you cannot have one without the other. What Kennedy insists is that "traditional elements in the Middle East, however, believe that a separation is possible, that they can incorporate the tools of the West while rejecting its values." Only if this is recognized can the source of our difficulties in the Middle East be recognized.

Alfred W. Tate is a member of the Ripon Forum editorial board.

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*"What Kennedy asks is that some basic questions to which pat answers are assumed be reopened. That asking such questions will require more self-recognition than Americans seem capable of and how this might be gained is the basic theme of this book."*

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Pressured by the forces of both westernization and modernization under the Shah, Kennedy maintains, Iranians found themselves disoriented and required to think and act in new and strange ways. They were expected to perform unfamiliar tasks according to unfamiliar norms and made to feel ashamed of their inability to transform themselves into perfect westerners. Many Iranians were frightened by the rapid and radical changes being forced on them seemingly overnight, and Kennedy believes the revolution in that country can best be understood as their reassertion of their cultural identity. Not surprisingly, given the role religion plays in any society, the revolution's vehicle was a revival of Islamic fundamentalism, and the violence against Americans that accompanied it is indicative of both the magnitude and source of the threat westernization was perceived to pose.

This explanation of what is going on in Iran and throughout the Middle East raises an interesting question. The Iranians reacted to an influx of contemporary western values by retreating into a simpler past. If the course of western civilization in the last half of the twentieth century—a course in large measure determined by the United States—represents genuine progress, why is it being rejected so vehemently by a significant number of the people of that region? This is a complex question, but the appeal that Protestant fundamentalism—which also represents a retreat into a simpler past—has for increasing numbers of Americans indicates that the values we are

exporting are deeply threatening to many here as well. It is also another one of those questions we have been unwilling to ask ourselves, but Kennedy warns "we had better look into the mirror that terrorism holds up to us for what it tells us not about the terrorists' shortcomings but about our own."

Another of the issues Kennedy believes must be reopened is the United States' adamant refusal to negotiate with terrorists. This doctrine, attributed to Henry Kissinger, precludes not simply the paying of ransom in any hostage situation, but of entering into any negotiations with hostage takers or their agents whatsoever. The rationale is that if denied even the opportunity to present their demands, terrorists will have no motive to take hostages in the first place.

According to Kennedy, Kissinger's theory is flawed because it fails to distinguish between terrorists' immediate demands, what they are really after, and what they might be willing to settle for. The refusal to negotiate is principally an effort to deny terrorists a forum in which to make public their up-front demands and has proven historically to be inevitably doomed to failure. Moreover, such a refusal heightens the impact of what Kennedy calls "the Deed," "a semi-mystical, almost ritualistic, often self-sacrificial concept" which underlies and reconciles all the objectives of terrorist activity. As a result, the "no negotiation" doctrine may in fact contribute to the incidence of such activity and, by precluding the consideration of alternative demands which could possibly be accepted, may also contribute to its violence when it does occur.

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*"If the cause of western civilization in the last half of the twentieth century represents genuine progress, why is that progress being rejected by a significant number of people in the Middle East?"*

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*"The metaphor in the book's title juxtaposing the title of a fundamentalist Muslim cleric with a symbol for the seat of liberal religion in America captures the most important point Kennedy makes."*

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The Daniloff affair and the Iranian arms scandal reveal this doctrine may well have been promulgated primarily for public consumption. Unfortunately, outrage over the way in which these negotiations were pursued may obscure the need to examine the possible fallacy of the doctrine itself. Even more unfortunately, the resulting furor may also delay the inevitable realization that terrorism will continue to be a fact of life until the complex root causes of the crisis in the Middle East are addressed.

After his ordeal in Iran ended, Kennedy resigned from the Foreign Service to become executive director of the Cathedral Peace Institute. He rapidly became disaffected with the anti-nuclear movement, and his reflections on his experiences with the peace movement and its leaders make up the second half of the book.

Of particular interest are the reasons he offers for the collapse of the nuclear freeze movement. One he says was the simplistic and emotional nature of its approach to the very real problem it was attempting to address. While this accounts for its initial support and appeal, this also led over time to the movement's loss of credibility. He contends that another cause of its demise was the freeze's inability to define its agenda and its resultant selection of the wrong question for its primary focus. "The ultimate issue," Kennedy is convinced, "is not the weapons, the hardware, but the underlying strategic assumptions that, under various sets of circumstances, might compel either side to use them."

This may well be true, but Kennedy's real problem is with the way in which personalities affect policy debates and—there is no other way to put it—the sinfulness of individuals. What makes the second half of the book most interesting is his claim to have found in the U.S. peace movement counterparts to Iran's Ayatollah. The metaphor in the book's title juxtaposing the title of a fundamentalist Muslim cleric with a symbol for the seat of liberal religion in America captures the most important point Kennedy makes.

Although the same sort of personality is to be found on the other side of the issue, Kennedy focuses on the leadership of the nuclear freeze movement and his description of the negativism of Dr. Helen Caldicott and others in the anti-nuclear crusade is telling. So is his accounting for the fervor with which many clergy pursue disarmament and other causes. Denied the religious certainty enjoyed by those who had the luxury of living in simpler times or who have retreated to the simpler answers of fundamentalism, they seek its equivalent in the issues they advocate. They have become true believers, Kennedy argues, regarding any questioning of their cause as heresy and betrayal.

It is the fanaticism represented by the figure of the Ayatollah that Kennedy identifies as the real source of our troubles.

The Ayatollah, as I think of him, is far more than one Iranian cleric. He is that bundle of negative feelings within all of us that prevent us from

listening to one another. Through him, we ascribe our political views to the Almighty and assert them as if they were His revelation. The Ayatollah encourages us to believe that we can trample roughshod on the common garden decencies that make life tolerable for others. And he prevents us in a variety of ways from growing up internationally as well as personally.

To grow up will require the resolution of the moral confusion which results, according to Kennedy, "from an absence of mature judgment, sometimes defined as the inability to cope with ambiguity."

For the peace movement, he believes one source of this confusion is the failure to distinguish between the morality of perfect love expressed in the apocalyptic challenge to perfection found in the Sermon on the Mount on the one hand, and the morality of justice expressed in the hard choices and distasteful actions immersion in human history demands on the other. It should be noted, although Kennedy does not, that for so-called "hawks" the same sort of confusion arises as a result of their perception that human history consists of a Manichaeian struggle between the forces of good and evil. Both sides are equally unable to cope with ambiguity, and adding to the moral confusion of each is a reluctance to admit the reality of human fallibility and thus the fact that no individual or faction will have a monopoly on the truth on any issue.

Kennedy contends this moral confusion can be dispelled only by rethinking the way in which difficult decisions are made. The first question he insists must be

asked is what interests are at stake. Most issues involve a multitude of often conflicting interests, and these must be sorted out, as must the possible courses of action for pursuing them and all the probable consequences of such actions. Good intentions are never enough and only after this work is completed, according to Kennedy, should the question be asked: Is what we want and the way we plan to achieve it morally acceptable?

Reading *The Ayatollah in the Cathedral* is finally very saddening. In light of the events that have intervened since its publication, it is like a fun house mirror, accentuating through the very reasonableness of its argument the distortions in the grotesquerie that our foreign policy has become.

Not that there is much here that is new. The Iranian Revolution has been analyzed at much greater depth, and so, too, has the psychology of the zealot. While perhaps not always as accessibly as it is here, it has all been said before. What is unique is the compelling way in which Kennedy has used his personal experience as a vehicle for reflecting on these issues.

Moorhead Kennedy does not claim to be a hero, and by the standards by which such things are currently being measured he is not one. Perhaps that is another question that needs to be reopened. But whatever else he may be, he is a wise man who has thought long and hard about what he and his country have done and endured.

Unfortunately, no one seems to be listening. America's foreign policy is still in the hands of individuals about whom the most that can be said is that they mean well. And that is really sad. ■



Newly-elected Republican Representatives Fred Upton, left, and Fred Grandy, center, visit with Ripon Society member Deba Leach during recent Ripon reception in honor of incoming Republicans.



Ripon Society Chairman Jim Leach congratulates Maryland Republican Connie Morella on her election to Congress.



Ripon Forum editor Bill McKenzie, freshman Republican Representative Amory Houghton of New York, and Friends of the Earth lobbyist David Baker talk during Ripon reception.

# CONSTITUTIONAL CONFRONTATION: *The National Security Council, the Constitution, and the Rule of Law*

BY JIM LEACH

In a few short weeks a political crisis of judgment—the whole Iran-Contra affair—has been transformed into a constitutional confrontation.

The issues of judgment are obvious:

- Ransom should not be paid for hostages when doing so puts a price on the heads of innocent Americans around the world. In starkest terms it represents appeasement to terrorism, which is especially inexplicable given the fact that the arms we were offering were to the government that took hostage our embassy in Tehran seven years ago and that, according to newly released information provided the National Security Council (NSC), organized and paid for the terrorist attack that led three years ago to the death of 240 Marines at our barracks in Beirut.

- The case for tilting toward Iran in its war with Iraq lacks geo-strategic and ethical credibility as does the case for offering arms instead of grain as alms for rapprochement.

- White House insiders apparently stretched arms export laws at the same time other Americans were being prosecuted by the Justice Department for trading with Iran.

- The NSC has taken on powers not envisioned by Congress or American heritage. In Iran, it has preempted the traditional role of the State Department and in Central America that of the Department of Defense. It has taken on unprecedented

*Jim Leach is a member of Congress from Iowa and chairman of the Ripon Society.*

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*“In a few short weeks a political crisis of judgment—the whole Iran-contra affair—has been transformed into a constitutional confrontation.”*

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operational as opposed to negotiating autonomy and become a mini-CIA, apparently under the assumption that the closer decisions are made to a popular president, the less accountable policymakers become.

- And, finally, the specter of an administration implicitly urging American citizens to violate the Neutrality Act and explicitly begging foreign governments to contribute through a secret Swiss bank account to the prosecution of an illegal war in Nicaragua stretches the dignity of the presidency, if not the law itself.

There is, of course, a case to be made that there is less here than meets the eye, that a compassionate effort to see the release of a CIA station chief, using Israeli intermediaries rather than American offi-

cial, led to an escalation of misjudgments. The trouble, as experts in terrorism unanimously hold, is that the practice of offering official ransom may solve today's problem at tomorrow's cost. Indeed, in this instance, at the same time three American hostages were ransomed with arms, three more were taken, while the CIA station chief was murdered, leading to speculation about the possibility that the efforts to ransom may have sparked rather than derailed the terrorists's decision to end his life. Now the question remains whether the double billing of Iran won't lead to a call for a refund or, worse yet, escalating terrorist retribution. The only thing dumber than trying to buy friends with arms is double dealing with double dealers. This sorry saga may not be over yet.

The hullabaloo about Iran would have passed if it weren't for the specter of Swiss bank accounts, of public officials taking the Fifth Amendment, of what appears to be an escalation in the prosecution of an illegal war in Central America.

On a scale of one to 10, we had in Watergate a 10 on the problem of illegality tied to personal ambition. In the Iranian-Nicaraguan connection we have a one. On the other hand, with the exception of one of the impeachment charges rejected by the House Judiciary Committee—that related to Cambodia—Watergate had little to do with the issue of war and peace. Here at issue is not only the rule of law, but the separation of powers function of the Constitution. The Boland Amendment, after all, represents the antithesis of the Gulf of

Tonkin Resolution. It was designed to circumscribe rather than give license to executive action.

The reason we have a crisis in foreign policy accountability in America today stems in part from the nature of the issues and the times, in part from the aberrational roles being played out with a stunning lack of historical perspective by the principal actors in the executive and legislative branches of our government.

We also have a frustrated Congress, particularly the House of Representatives, which has attempted to carve out a new, more assertive role in foreign policy—one that the public finds uncomfortable and uncomfortable—and in doing so has largely failed to carry out the responsibilities for which it should rightly be held accountable.

The executive, for its part, in thorough disdain for Congress, has attempted to take on new powers that defy constitutional and legal imprimaturs.

As we all have come to understand, the checks and balances system established by our founding fathers implies a continual institutional tension in the foreign policy arena. As circumstances change, power relationships change as dictated by events and the happenstance of personalities.

In the executive today, we have a belief that strong leaders are unbound by congressional restraints.

In Congress, we have an instinct to criticize matched only by a lack of desire to be held accountable.

And in the Fourth Estate—the media—there is too often evidenced a eunuch-syndrome. It knows what to do, but has a bias inducing bitterness caused by its

inability to participate directly in events themselves.

The “bully pulpit,” of course, remains with the executive. The American people, while frequently preferring the policy attitudes of Congress, overwhelmingly want the president, not Congress, to run foreign policy.

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*“The only thing dumber than trying to buy friends with arms is double dealing with double dealers.”*

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They want “Humpty Dumpty” put back together by changing the king’s horses and changing the king’s men, not the king himself. Little men have been playing Metternich, obsessed with attempting to out-Kissinger Kissinger. It’s time for their replacement, for a return to traditional institutional decision-making, for open covenants to be openly arrived at. But few want the teflon so generously coating this president to turn to velcro. The presidency must remain fully garbed, even though his policies and advisors appear to have lost their clothes and their way.

The reason we are confronted with this dilemma is a failure of leadership, Democratic as well as Republican. It is amazing to me, as sincere as some of Mr. Mondale’s observations were in the last presidential debates, how little stomach serious Democratic leaders have had for taking on the real issues of our time.

Where on a timely basis has Democratic leadership been on: the intervention in Lebanon; the savaging of the U.N. system; the torpedoing of the Law of the Sea negotiations; the emasculation of UNESCO; the U.S. withdrawal from the World Court; the Reagan administration’s rejection of a comprehensive test ban, despite for the first time a Soviet willingness to accept on-site inspection; the Madison Avenue effort to sell a fictitious nuclear umbrella; and finally, the privatization of the war in Central America.

Neither a courageous Congress nor a

vigilant American press is responsible for the cascade of policy reassessments in recent days.

In fact, one of this year’s Pulitzer Prizes must go to an obscure Lebanese publication which no American I know reads. Without its revelation of the arms for hostage trade, American foreign policymakers would still be standing tall—albeit in quicksand. Frankly, the surprising news to me is not that illegality has occurred—anyone who has followed the tortuous history of the Boland Amendment could have no doubt—but that the world has chosen this moment to suddenly register concern.

When all is said and done, and perspective is applied, this administration has been hypocritical on one of its most vigorous rallying cries—strict construction of the Constitution.

The term law and order has been preempted by a new breed of conservatives in domestic politics when it should be the rallying cry for progressives in foreign affairs.

Centuries hence, historians may write that there have been three great debates in our history. The first related to the question of whether a society could be founded on the premise of the rights of man. The second, symbolized by the Civil War and suffragette movement, involved definitions: whether the rights of man applied to people who were neither male nor pale. The third debate is the one we are entering now, whether civilization itself has rights, whether there is a right to peace.

The outcome of this third debate is unlikely to be happy unless we recognize that law to be effective must constrain the behavior of governments as well as individuals. That is what the present issue is all about. ■

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*“The American people want ‘Humpty Dumpty’ put back together by changing the king’s horses and the king’s men, not the king himself.”*

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# WASHINGTON NOTES AND QUOTES

## Election Notes

Despite the loss of Republican control of the Senate, there are new moderate and progressive Republicans faces on Capitol Hill worth noting. Among the Republicans elected to Congress, we welcome Senator Christopher "Kit" Bond in Missouri; and Representatives Patricia Saiki of Hawaii; Fred Grandy of Iowa; Fred Upton of Michigan; Constance Morella of Maryland; John Rhodes III of Arizona; Amory Houghton, Jr. of New York; and Curt Weldon of Pennsylvania. Our regrets to friends and allies we have not yet met.

Also, the crop of new pragmatic Republican governors is overwhelming, raising hopes of new party-building efforts at the state level from California to Maine. We're especially pleased by the election of a former Ripon Congressional Advisory Board member, John "Jock" McKernan of Maine, and George Mickelson of South Dakota.

In the little-noticed but crucially important elections for state legislative seats, results nationwide mirror the near-draw seen at other levels of government. With about 7,500 seats at stake around the country, the Democrats netted only 180 new seats, and gained only five of the nation's 98 partisan legislative chambers (Nebraska has a unicameral, nonpartisan legislature).

The Democrats now control 68 of those 98 chambers, a clear majority, but officials at the Republican National Committee point to the "1991 Plan" to whittle down that number by 1991, when legislatures begin redrawing the lines of congressional districts.

Senate Republicans, now in the minority, continue to be led by people who represent the broad range of Republican thought and styles: Minority Leader Robert Dole of Kansas; Assistant Minority Leader Alan Simpson of Wyoming; Conference Chairman John Chafee of Rhode Island; Conference Secretary Thad Cochran of Mississippi; Policy Committee Chairman William Armstrong of Colorado; and Senatorial Committee Chairman Rudy Boschwitz of Minnesota.

Insiders report that New York's 1982 GOP nominee for governor, Lewis Lehrman, may be planning to run for the Senate in 1988 against incumbent Democrat Daniel Patrick Moynihan. Lehrman, who spent millions from his own pocket in '82 and came within a hair of defeating Mario Cuomo, recently stepped down from the

chairmanship of Citizens for America, a nationwide grass-roots lobby that promotes the president's agenda. Where are the heirs of Jacob Javits and Thomas Dewey?

Next door, a quiet storm is building that could split Vermont's progressive GOP. Former Gov. Richard Snelling, a popular moderate who lost his bid this year to unseat incumbent Democrat Sen. Patrick Leahy, hints that he may try again in 1988, assuming that progressive Republican Sen. Robert Stafford retires. That sets up a potential GOP primary battle with Rep. Jim Jeffords, also a popular progressive and a Ripon Society CAB member. Jeffords has long had his sights set on Stafford's '88 retirement.

In Pennsylvania, House Budget Committee Chairman William Gray, a black Philadelphia Democrat, is weighing a run against incumbent Sen. John Heinz, another Ripon CAB member.

And in the Midwest, two 1986 losers may try again in 1988, with ramifications for two friends of the Ripon Society: Missouri Democrat Harriett Woods may take a third crack at the Senate versus her first opponent, incumbent Sen. John Danforth; while defeated Sen. Mark Andrews of North Dakota may try again versus the victor of an expected Democratic primary.

Labor leader Lane Kirkland has announced that the door is open to GOP presidential hopefuls who seek the massive union's endorsement in 1988. No names dropped, but George Bush, Robert Dole, and Jack Kemp have all emphasized blue-collar outreach. We should also point out that dark horse or Veep contender Thomas Kean received overwhelming union support in his 1985 reelection.

Add Donald Rumsfeld of Illinois, of Nixon-Ford vintage and Bush-like resume (former congressman, cabinet officer, White House chief of staff, ambassador to NATO, and corporate executive) to the list of contenders for the '88 GOP presidential nomination.

## General Comments

Maureen Reagan, the president's daughter, has been named co-chair of the Republican Party amid plenty of internal bickering. Beyond gripes about her unpredictable temper and predictable charges of nepotism, Ms. Reagan has also been accused of ideological heresies: being a strong advocate for women's rights, and keeping her views on abortion to herself.

We commend the choice. She is an articulate and tireless speaker for the party, and has made closing the gender gap one of her personal priorities.

Once again, the *Ripon Forum* salutes just-retired Gov. Lamar Alexander of Tennessee. Last issue we noted his leading role in the National Governors's Association get-tough report on education reform, "Time for Results." Now we're pleased to see he has received the National Wildlife Federation's National Conservation Achievement Award, in the government category. Alexander was praised for his simultaneous achievement of economic development and environmental protection during his seven years as governor of Tennessee.

## On The Right

More than a few Republicans barely contained a squeal as right-winger Jesse Helms won the vote of his colleagues to become top ranking Republican on the Senate Foreign Relations Committee, defeating former chairman and moderate-conservative Richard Lugar. Committee Republicans had already expressed unanimous support for Lugar, citing his partisan loyalty and legislative ability. But Helms campaigned almost exclusively on his seniority rights, and was eloquently supported by none other than the liberal Lowell Weicker who argued, quite understandably, against elevating popularity over seniority.

And somehow we forgot to report the following exchange, as reported in the far-right *Liberty Report* in early 1986. It's so rib-tickling, it's still worth repeating.

In a conversation with Vice President George Bush, the interviewer asked "[In 1985] You were named Republican of the Year by the Ripon Society. Many conservatives feel the Ripon Society is a left-wing element in American politics. How can you identify yourself as a Reagan Republican while supporting such a radical group?"

Replied Bush: "The Republican Party should include people with a wide variety of beliefs. As Vice President to Ronald Reagan . . . I have tried to be a unifying force among all segments of the Republican Party, and I am pleased to have the support of these groups. The Ripon Society is not a left-wing, radical group. Some of its members are among the President's strongest supporters." ■