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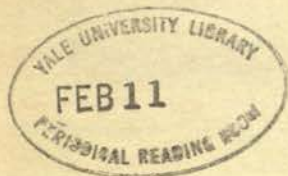
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YALE POLITICAL MONTHLY

February 1983

Vol. 4 No. 3



The Return to Elitism

Austen Furse

dey

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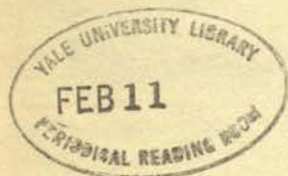
Alan D. Viard

CONTEST FINALISTS

YALE POLITICAL MONTHLY

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Unshackling Liberalism

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The President and Martial Law

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Slaying the Media Monster

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CONTEST FINALISTS

EDITOR'S NOTE:

This issue of the **Yale Political Monthly** features the five Essay Contest finalists. It is now up to the panel of judges to determine the first prize winner. The results of the panel's decision will be announced next month.

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February 1983

Vol. 4 No. 3

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The Return to Elitism

Austen Furse

A political scientist at Yale remarked recently that the journal of political philosophy he edited had begun to set a quota aimed at stemming a deluge of submitted articles about the theories of John Rawls. Rawls, whose most famous work concerns itself with the proper egalitarian distribution of social goods, stands as a kind of emblem for the present widespread academic discussion over issues of equality. If equality has currently stepped to the fore as the prominent focus of scholarly political discourse, then how ironic that there should now emerge a number of theories promoting or foreseeing the rise of egalitarianism's antithesis: elitism.

There was a time when a classical notion of elitism, represented by the works of Mosca, Pareto, and Michels, for example, was taken seriously as an ideal as well as a description of political reality. It was discredited in part because, for neither wholly wrong nor right reasons, it became associated with fascism. After World War II, elitism was understood to be a term of opprobrium. Scarcely any major countries exist today which do not describe themselves as "democratic." But recent attempts to revive elitism as a creditable ideology coincide with a rise in discussion about the implications of an elite "New Class" which has been cited by political thinkers on both the Left and the Right.

The fact that some fear and others favor an emergence of elitist ideology suggests certain fundamental dissatisfactions with conventional politics in this country. Perhaps these lie in the frustration with the plethora of roadblocks to political action in our system: the checks and balances, the seemingly endless routes of appeal, and the myriad possibilities for institutional vetoes which deter the execution of abstract principle and policy; and perhaps also in frustration with our government's inability to cope with the problems of increasing international interdependence. At the least,

Austen Furse, '82, completed his studies in Political Philosophy in January. He is now a ranch hand in Texas.

political observers by now take for granted that the complexity of problems which government must face are more severe and complex than ever before and getting even harder to solve. Elitism embodies the fear that the extension of political participation through democracy increases the possibility of destroying the political consensus necessary for freedom.

The primacy of elites

Just how is seen in the thought of the current advocates of elitism, among which are the political scientist G. Lowell Field and the sociologist John Higley. Together they wrote *Elitism* in 1980, intending to show that elitism, as opposed to democracy and other forms of egalitarianism, is necessary to preserve traditional liberal values. To do this, they modified classical elitism somewhat by recognizing the role non-elites play in constraining the action of elites. They define these elites as made up of "persons who occupy strategic positions in public and private bureaucratic organizations . . . powerful enough to influence national policies." While they claim that the elites are subject to non-elites for some of the support and legitimacy of their regimes, the influence of these non-elites is said to be, nevertheless limited to "very general opinion tendencies" — the most non-elites can do is determine what the elite cannot do. So this modified brand of elitism preserves the primacy of elites assumed in the classical theories.

The only reason that democracies like the U.S. have been able to maintain liberal values until now is because of fortuitous historical accident: the seemingly inexhaustible growth of prosperity in the developed countries and their post-war military and political superiority. But structural changes, they claim, are increasingly negating these circumstances, especially certain technical limits to economic growth.

These limits have, as might be expected, a neo-Malthusian tone: declining quantities of resources, increasing pollution, ominous demographic trends. Coupled with the rise of third-world countries which seize income sources of the industrialized West, these limitations spell either inflation or cutbacks — hard choices which only elites are said to be able to make but cannot in egalitarian democracy. Public political participation, they claim, cannot shape circumstances “by planning ahead and by warding off the escalation of issues to a point where they are too divisive to permit democratic solutions.”

Finally, these structural changes manifest themselves in the ability of the ‘post-industrial’ West to absorb unemployment from declining traditional industry faster than the rising service sector can create jobs. Unemployment has for Field and Higley a kind of synergistic effect in egalitarian societies. The resentment it creates to “the system” leads to demands for even greater equality: alienation yields egalitarianism. These attitudes, moreover,

are initially most clearly articulated by . . . the best-off and best educated non-elites . . . This is in fact a means by which these persons increase their power and influence.

Left and Right agree

There are striking similarities in this elitist argument to the thinkers throughout the political spectrum who foresee the rise of a new elite of bureaucrats and intellectuals: the so-called New Class. On the Left, John Kenneth Galbraith and David Bazelon predicted that structural economic changes would lead to the rise of education as a replacement for the traditional uses of capital for power and status; that society would and should be run increasingly by, in Galbraith’s famous term, an elite new class of “technocrats.” The elitist paradigm also parallels many of the theses of Joseph Schumpeter’s *Capitalism, Socialism and Democracy*, from which stem many of the latter-day conservative theories of the New Class. Schumpeter’s thesis that capitalism sows the seeds of its own destruction because its structure forces it to become over-rational and spiritually bankrupt, led him to predict that the resulting alienation of individuals would cause an elite of intellectual critics to attack the system. Schumpeter feared that capitalist democracies would be particularly vulnerable to such criticism since they possess only “instrumental” values and can claim no higher transcendent ends, like honor or virtue, with which to defend themselves.

So the prophecies of a new elitism have, like many critiques and anxieties about capitalist democracies, a kind of spiritual as well as structural side. Michael Harrington, for example, who welcomes the emergence of an

intellectual elite, sees a source of political transformation in the increasing political concern over moral issues: the rise, as he puts it in *Toward a Democratic Left*, of a “conscience constituency.” The neo-conservative Michael Novak calls the attitude of America’s looming intellectual elite the “new moralism,” which partly derives from a personal sense of guilt at our system’s shortcomings and misdeeds (much like the conservative notion of “liberal guilt”). And Lionel Trilling in *Beyond Culture* saw, from a literary perspective, the increasing assumption of artists that the proper aesthetic standpoint must be outside of, and against the mainstream culture of bourgeois society. The intellectual elite forms what he called the “adversary culture.”

An ideological mask

Now the conservative theories of the New Class in particular share a further argument with elitists like Field and Higley. The conservatives who believe in and, almost uniformly, abhor, the New Class, skeptically take the position that the attitudes and ideology of this elite are really cloaks for the elite’s self-interested grab for political power. Novak, for instance, sees this duplicity in the moralism of the elite:

Claims on the part of groups to represent ‘conscience,’ ‘morality,’ and ‘principle’ must be exposed for what they are: disguises for naked power and raw interest.

For Irving Kristol, the ideology of the aspiring elite is, paradoxically, egalitarianism—an irony already seen in the argument of Field and Higley. But Kristol, like Trilling, believes that the New Class’ superficial ideology covers its aristocratic complexion: it abhors the commonness of mass society and seeks to make itself the arbiter of taste, the upholder of transcendent values, the stratum of power.

The trouble with these conservative inferences of New Class duplicity is that such moral dubiousness does not in itself invalidate the criticisms that this elite is said to level at conventional society and politics. If the New Class exists and is hypocritical then those whom it seeks to govern deserve to know this, but an argument *ad hominem* is insufficient to debate ideology. Yet it is this duplicity which the elite theorists cited here commend as a way of off-setting the misperception that equality is a necessary condition for liberalism. Traditional liberal goals like personal liberty are made possible instead by political stability. So, these elitists claim, there is a need for elite duplicity in the sense that maintenance of elite power “involves cooperating tacitly” to keep the public’s consciousness of very divisive issues to minimal proportions.

This new elitism is of course theoretical. The theorists of the New Class elite, for example, cannot prove con-

clusively that it is in fact a class or even that it exists at all, and they probably recognize this. But these questions aside, the composite of this new elitism seems in a certain way, optimistic. It is skeptical, to be sure, about our present ability to handle individual alienation, social conflict, and problems whose complexities are snowballing. But whether or not the politics of the New Class is, as maintained here, a species of elitism, both share an essential optimism about man's rational ability to solve social problems: the latter, because it is made up of intellectuals who are rational by nature; the former because it believes that only elites can effectively analyze issues and stave off instability through long-range planning.

Arbitrary and unprincipled

By contrast, democratic capitalism, while encouraging in many ways a rationalist outlook, relies often on sheer participation and interaction to resolve conflict. Elitism and the New Class are pessimistic about the interaction that characterizes democratic institutions: collective bargaining, universal suffrage, majority rule and the like. The problem with these interactive devices, for elitists, is that they seem arbitrary in a certain sense

(why not plurality rule, or 75% rule?) and what is worse to the elitist mind, unprincipled.

But the danger of elitism is precisely that it can be *too* principled by denying the usefulness of compromise, which is to say that it portends intolerance—the antithesis of the liberalism it seeks to protect. A politics of rule by principled experts, a view that has grown from the roots of Plato's Republic, may in practice deny a politics based in experience.

The inegalitarianism of the New Class and elitism (in the latter by definition, in the former putatively) implies that neither accept the notion that political participation improves those non-elites, by the very act of participation and by having to live with its results, to become more responsible and perhaps just as effective decision-makers as elites; or that, collectively, the diverse non-elites are more perceptive than the less diverse (therefore more biased) elite members.

Finally, no one, of course, would say that our politics is without duplicity in its practice, but if elitism requires duplicity to maintain its legitimacy then it suggests that the elite must keep itself clear about when it is being duplicitous and when it is true to itself. If, in other words, the times require proclamations of egalitarian rhetoric but elitism in practice then the irony may arise that the elite must make itself legitimate not only to its constituency, but legitimate to itself.



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Unshackling Liberalism

Alison Gold

A Yale economics professor was urging me to consider Wall Street as a career. I told him I was more interested in the relation between politics and economics. "Oh," he said, "I used to be interested in those things, but I'm fairly convinced that we're hurtling toward a nuclear holocaust, and I prefer not think about it." My professor has insulated himself from a disturbing situation with his econometrics. In doing so he has merely taken advantage of the American liberal creed of individualism. Yet his act recalls the warning of Heidegger: "The threat to man does not come in the first instance from the potentially lethal machines and apparatus of technology. The actual threat has already affected man in his essence." My professor is not alone. Concerned with his private life—working and spending what he has earned—the modern citizen in liberal capitalist society largely detaches himself from the actions of his state. Heidegger is right: modern man is retreating from his essence. He has even begun to shed his responsibility to care about what becomes of him. To understand how this has happened we must examine the development of a society which can drive a man to prefer not even to think about the world he lives in.

Capitalism, development, and desires

The roots of isolationist individualism can be seen in both the development and in the current criticism of liberal capitalist society. Modern social scientists like Daniel Bell have recognized that the liberal ideals of individual choice and freedom have become subordinated to pragmatic capitalism. Bell writes of a twentieth century which began with "a virulent 'Americanism,' a manifest destiny that took us overseas, and a materialist hedonism which provided the incentives to work. Today

that manifest destiny is shattered, the Americanism has worn thin, and only the hedonism remains. It is a poor recipe for national unity and purpose." A capitalist economic structure has become an excuse for individual possessiveness. But while Bell and others trace the decline of the liberal ideology, their critiques do not examine the motives which have brought man to embrace a materialist hedonism. A call for national unity and purpose is naive as long as we do not perceive the deep appeal of capitalism, in even its crudest forms, to modern man.

The United States originally espoused liberalism and capitalism because both doctrines appealed to an American concern with freedom to follow one's desires. This connection gave capitalism a powerful force which has not been fully acknowledged. C.B. MacPherson claims instead that there is a fundamental difficulty in reconciling capitalism and liberal democracy due to "an incompatibility between two concepts of the human essence both of which are present within liberal-democratic theory—a concept of man as consumer, desirer, maximizer of utilities, and a concept of man as doer, as exerter and developer of his uniquely human attributes." What MacPherson does not recognize is that man as doer and self-developer is still man motivated by desires. His uniquely human attributes develop as an expression of his explorations and uses of the world which he finds outside himself. Capitalism achieved its great hold over the American ideology because it offered a form of liberalism, linking desires to self-development and encouraging men to pursue their desires in the economic arena.

Capitalism's role as an autonomous structure fostering individual creativity, however, has been largely nominal in the last fifty years. During the Great Depression, capitalism, which had flourished under a laissez-faire attitude on the part of the government, found itself unable to stimulate the demand needed to maintain production and keep workers employed. As Adam Przeworski and Michael Wallerstein observe, "the problem of the 1930s was that resources lay fallow: machines

Alison Gold, '84, is an Economics/Political Science major in Bradford College.

stood idle while men were out of work. At no time in history was the irrationality of the capitalist system more blatant." Marx had predicted the breakdown of capitalism in such crises, but the United States chose to commit itself to maintaining capitalism. In doing so, it became involved in the business of economic policy. Keynesian economics, with its emphasis on government control of the economic system, provided "the foundation for class compromise by supplying those political parties representing workers with a justification for holding office within capitalist societies. And such a justification was desperately needed." The development of Keynesianism as capitalism's new theoretical framework illuminated capitalism's shift in focus from being a vehicle of economic freedom to its new role as a necessary part of the economic functioning of the country.

"Standing reserve" system

The interdependence of capitalism and the state has strengthened both institutions. Capitalism has become what Marxist theory labeled impossible: a basis for social stability. The Keynesian orientation toward capitalism as a mechanism of economic growth meant that the state, by supporting industrial development, could keep citizens both prosperous and contented with their government. As Bell states, "economic growth has become the secular religion of advancing industrial societies: the source of individual motivation, the basis of political solidarity, the ground for the mobilization of society for a common purpose." The goal of economic expansion has produced a strong, mutually advantageous partnership between capitalism and the state.

Bell's choice of the term "religion" to describe the force of the ideal of economic growth provides an insight into the danger of the combined power of government and business. "Religion" is Marx's term for a system which pacifies workers, keeping them blind to deeper problems. Religion is this world's "general basis of consolation and justification," Marx states. It is "the opium of the people . . . Religion is only the illusory sun about which man revolves so long as he does not revolve about himself." Economic growth shares with Marx's religion the authority to keep its believers satisfied. It prevents them from challenging the system in which they find themselves. But as long as we accept the primacy of economics, we are no better off than Marx's workers. Like them, we degrade ourselves to objects, or what Heidegger calls "standing-reserve," goods on hand for purposeful action.

If man is challenged, ordered, to exploit the energies of nature, then does not man himself belong even more originally than nature within the standing-reserve? The current talk about human resources, about the supply of patients for a clinic, gives evidence of this. The forester who, in the wood, measures the felled timber and to all appearances walks the same forest path in the same way as did his grandfather is today commanded by profit-making in the lumber industry, whether he knows it or not.

The standing-reserve strikingly resembles Marx's analysis of a system which sanctions "material relations between persons and social relations between things." Man has subjected himself to a system whose goal is not the development of the individual but rather the maintenance of production.

Heidegger makes clear that human freedom is slipping from us in this age of man's greatest discoveries about the world around him. In adopting a system of continual growth, we never stop to consider ourselves outside that system. Modern industry expedites the production of goods from nature, Heidegger points out, "yet that expediting is always itself directed from the beginning toward furthering something else, i.e., toward driving on to the maximum yield at the minimum expense." We are so engrossed in the best methods of production that we have lost sight of any goals other than economic ones. The power we have given industrial development, Heidegger argues, "threatens to sweep man away into ordering as the supposed single way of revealing, and so thrusts man into the danger of the surrender of his free essence." Particularly in American society, the liberal commitment to the individual and his unique discoveries has been subordinated to the maintenance of a capitalist emphasis on production.

Society and the unique being

The structure of liberal goals in the United States is particularly vulnerable to the influence of societal mores. American liberalism has focused upon an ideological emphasis on certain individual rights which may not be infringed. Freedom is considered to be the ability to choose an occupation, and a religion, and to speak and bear arms without governmental interference. Liberalism viewed in this manner, as an absence of restraint on the individual, carries with it the assumption that the individual will use his freedom to make choices and develop himself as a unique being. For him actually to do so depends upon his being free from non-governmental determining forces which would tend to control his decisions. Society bears the large and loosely defined burden of sheltering individualism.

A society ruled by economics dominates individual choice too much to preserve liberalism. Under capitalism, man does indeed "surrender his free

essence;" he allows his concept of self to be determined by his role as a producer in a productive society. His education is not an end in itself but training for a job. His job, particularly if he works within the framework of a business corporation, is primarily a means to earn money, and he is encouraged to spend and consume as freely as possible, to further economic growth. Freedom is freedom to earn and spend, and this is the chief goal for which Americans are striving. A Kansas City psychologist and career counselor's comment illustrates the narrowness of the American dream today: "I think the people who have good jobs, a regular paycheck and good benefits are on top of the world right now." Man's right to be an individual loses potency when he has no responsibility to develop himself as a unique, thoughtful being, but needs only to support himself as a productive member of society. In our economically-determined society, man has surrendered his individuality for a regular paycheck and good benefits.

Modern social scientists like Daniel Bell seek to reinstate liberalism as a value in American culture. Bell sees the danger of an excessive commitment to the capitalist system. He argues that in modern market society, "the engine which began to drive the socio-economic system . . . has been the prodigal idea of private wants and unlimited ends." The result of our possessive individualism, he suggests, has been a "revolution of rising entitlements," in which individuals and groups demand more and more rights and protections from the government: a basic minimum family income, a right to education, assurance of lifetime employment. The state, he points out, has become "the arena for the fulfillment of *private and group wants*; and here, inevitably, the demands cannot easily be matched by the revenues, or by the sociological knowledge adequate to these demands." Bell accurately portrays the need for political liberalism to develop a sense of accountability; instead of having each person out to get what he can from society, we need "conscious decisions, publicly debated and philosophically justified, in the shaping of directions for the society." If liberalism is not expanded to demand responsible decisions and choices on the part of its citizens, as Bell perceives, society will continue to disintegrate.

Rule by citizen demand

What Bell fails to realize is that the power of the American economic system is so great as to make it extremely difficult to develop a new sense of liberalism. Citizens expect government to provide what they want because the market has made them consumers. They view government as an extension of the market, an area

to be ruled by citizen demand, in this case for the availability of services not provided by capitalism. The state has contributed to this image of itself; as Colin Crouch points out, "the population at large encounters [government] services either as occasional passive recipients or as continuous but equally passive contributors through taxation. Citizens have little sense of personal identification with the government. More serious a problem is that a capitalist system makes the development of such ties difficult. Citizens who approach work passively because their jobs demand of them merely eight-hour-a-day exchanges of time for money carry over little sense either of power or of responsibility to the political realm. The much-lamented apathy of today's citizens is the result of an economic system which demands of them no involvement other than monetary.

Despite his genuine desire to reinstate thoughtful, public-spirited political liberalism, Bell's goals are limited by his entrenchment in the capitalist mystique. His major innovation is the implementation of a "public household," which "establishes the public budget as the mechanism whereby the society seeks to implement 'the good condition of human beings'"

Bell believes that a revised system of resource allocation can change individual attitudes toward society, but his approval does not answer Heidegger's claim that men are being treated like goods to be manipulated. Trying to satisfy people through budgeting keeps them trapped in a system in which values are determined by money. Nor does such a system provide the means to alter the citizen's passive, expectant attitude toward government. Though he claims to seek a liberalism which "emphasizes not the common aspects of men but their diversity as individuals and as groups." Bell's system will not encourage diversity as long as he continues to consider individuals only on the basis of their economic needs. Bell reveals himself unable to break out of the economic framework. This liberal social scientist accepts the idea that "as Goldschied said quite rightly: 'Every social problem and indeed every economic problem is in the last resort a financial problem. Whatever question is under discussion . . . always we need capital.'" When every social problem is essentially a financial problem, the individual has become subordinated to his money, and cannot be considered a free being.

Blinding economics

The fact that a concerned liberal thinker cannot find any more fundamental expression of man than as a consumer of goods indicates how completely the economic definition of man has overshadowed the idea of man, in

MacPherson's words, "as doer, as exiter and developer of his uniquely human attributes." We know that man has shown himself to have a powerful desire for knowledge and for control of his world, that he can be destructive as well as creative, and that his power is limited by human weakness and incomplete understanding. A serious commitment to liberalism would involve each individual in an examination of these facets in himself. Concentration on our economic demands relieves us of the responsibility of such an examination.

The secular religion of economic growth

Heidegger, in probing modern society's obsession with technology and economics, offers at least a few clues to man's refusal to look beyond the system he has created. Heidegger argues that man's approach to technology takes the form of challenging, of forcing nature to reveal what man desires. He uses the example of producing energy:

... challenging happens in that the energy concealed in nature is unlocked, what is stored up is, in turn, distributed, and what is distributed is switched about ever anew. Unlocking, transforming, storing, distributing, and switching about are ways of revealing ... The revealing reveals to itself its own manifoldly interlocking paths, through regulating their course. This regulating itself is, for its part, everywhere secured. Regulating and securing even become the chief characteristics of the challenging revealing."

Heidegger portrays the extent to which modern man seeks to order his society. Technology, and all of production, are highly regulated, to the extent that each worker performs a single function and the machinery is precisely timed to produce as quickly and efficiently as possible. Man is obsessed with ordering his society, and economics is the ultimate orderer, with its single criterion of "the maximum yield at the minimum

expense." Though Heidegger does not examine the question of why modern man has chosen to keep the process of revealing under such tight control, the very fact that he demonstrates man's complete dependence on his economic system makes it clear how lost man would be were it stripped away. The "secular religion" of economic growth provides, like other forms of religion, a purpose for life. Modern man clings passionately to economics, despite its stifling effects on his individuality, because it offers order and meaning in a society which has changed so fast as to have little else stable within it.

Governing life on an economic basis has served as a way to protect us from ourselves as creatures which have turned out to be both powerful and frightening. Heidegger reproaches man because he "exalts himself to the posture of lord of the earth. In this way the impression comes to prevail that everything man encounters exists only insofar as it is his construct. This illusion gives rise in turn to one final delusion: It seems as though man everywhere and always encounters only himself." An economic ordering of life preserves the illusions that man is in control of his world. The illusion is one which we preserve, not as Heidegger argues, out of a desire to exalt, but rather out of fear of a world without order. As man's knowledge has made huge strides, sweeping his old religions away, he has come to fear the loss of all external order—he has come to be afraid precisely of encountering only himself. He is afraid, like my econometrics professor, that he will find that nothing can stop man from carrying out any design, even if it be the destruction of meaningful life. By building a world based on an artificial necessity, and by defining himself exclusively in economic terms, man avoids the tremendous responsibility of choosing and ordering his own actions. We can fulfill the liberal ideal of individual freedom to develop as a unique being only when we dare to question what it means to be human in an unstable world.

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The President and Martial Law

Orde Kittrie

All respectable writers and publicists agree in the definition of martial law—that it is neither more nor less than the will of the general who commands the army. It overrides and suppresses all existing civil laws, civil officers and civil authorities, by the arbitrary exercise of military power; and every citizen or subject, in other words, the entire population of the country, within the confines of its power, is subjected to the mere will or caprice of the commander. He holds the lives, liberty and property of all in the palm of his hand. Martial law is regulated by no known or established system or code of laws, as it is over and above all of them. The commander is the legislator, judge and executioner. ✱

According to the Constitution of the United States, "The President shall be Commander in Chief of the Army and Navy of the United States." As in any constitutional issue, there are long lines of legal arguments on both sides of the dispute over the extent of the domestic power of the president under the commander in chief clause in Article II. There are Supreme Court decisions that seem to insist the president may never declare martial law on his own. In other cases, and occasionally in the very ones that seem to restrict the president so much, there are indications that the chief executive may impose martial law virtually whenever he wants to, restrained in effect only by his own conscience and sense of history.

The Constitution itself does not make any mention of presidential military-dictatorial powers. But a number of papers that the Constitution is either based on or is closely related to go into some detail about extra-legal executive prerogative.

Lock and The Federalist

Like so many other aspects of American political theory, the United States' political theory of emergency government seems to have been derived from the work

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of the English political philosopher John Locke. In his *Second Treatise on Civil Government*, Locke explained that emergency powers

should be left to the discretion of him that has the executive power . . . since in some governments the lawmaking power is not always in being and is usually too numerous, and so too slow for the dispatch requisite to executions . . . there is latitude left to the executive power to do many things of choice which the laws do not prescribe.

Alexander Hamilton's letter number 23 in *The Federalist*, the published volume of a series of 85 letters urging ratification of the Constitution and still important in interpreting the august document, also urged such broad presidential powers. According to the letter, the war powers "ought to exist without limitation, because it is impossible to foresee or define the extent and variety of national exigencies, or the correspondent extent and variety of the means which may be necessary to satisfy them."

Hamilton's letter number 69, which posits that the powers of the president under the commander in chief clause "amount to nothing more than the supreme command and direction of the military and naval forces," would at first seem to be a limitation of executive power. But the lack of definition of what exactly the supreme command entails makes the statement meaningless.

The first significant Supreme Court case to deal with the issue of presidential domestic military power did not come up until 1827. But when it did the response was unflinching. Associate Justice Joseph Story, writing for the majority in *Martin v. Mott*, indicated that:

The authority to decide whether the exigency (need for martial law) has arisen belongs exclusively to the President . . . It is no answer that such a power may be abused, for there is no power that is not susceptible of abuse. The remedy for . . . misconduct, if it should occur, is to be found in the Constitution itself. In a free government the danger must be remote, since in addition to the high quality which the Executive must be presumed to possess, of public virtue and honest devotion to the public interests, the frequency of elections, and the watchfulness of the representatives of the nation, carry with them all the checks which can be useful to guard against usurpation and wanton tyranny.

This extremely pro-presidential opinion was repeated almost word for word in 1849, by Chief Justice Roger B. Taney in *Luther v. Borden*. The next major debates over the emergency military powers of the President did not come until the Civil War, and then they were major indeed.

Lincoln's tyranny

President Lincoln made a number of arbitrary executive moves in the early months of the Civil War. Among Lincoln's more controversial decisions were his blockade of the South, his raising in the absence of Congress of the limit of the number of soldiers in the regular army, his issuance of the Emancipation Proclamation while denying that Congress has the power to make such a declaration, his suspension of habeas corpus along the 1861, to authorize the Commanding General of the authorization of the military trial of civilians in areas where civil courts were open and functioning.

The judicial reaction to the president's suspension of habeas corpus does not directly apply to the subject of martial law, but is very instructive nevertheless in the relative impotence of the Supreme Court or any other part of the judicial branch when faced with direct, determined opposition from the President. The issue of Lincoln's authorization of the military trial of civilians in areas where civil courts were open and functioning will be dealt with shortly.

The Constitution states that "the privilege of the writ of habeas corpus shall not be suspended unless when in cases of rebellion and invasion the public safety may require it." The Constitution does not say who is to suspend the writ but, since the above statement is located in the article enumerating the powers of Congress, it had been assumed that it was meant for Congress to do so. This theory was expressed especially clearly in the Supreme Court's ruling in 1807 in *Ex Parte Bollman*.

Nevertheless, President Lincoln acted on April 27, 1861 to authorize the Commanding General of the United States Army or the proper officer to suspend the writ of habeas corpus at any point between Philadelphia and Washington. One of the first people to be dealt with under the ruling was Marylander John Merryman, who had taken part in a number of pro-secessionist activities in the Baltimore area.

Merryman was arrested by the military and confined without charge in Fort McHenry. He appealed to Chief Justice Taney in Washington for a writ of habeas corpus. Operating under Section 14 of the Judiciary Act of 1789, which said that "either of the justices of the Supreme Court, as well as judges of the district courts, shall have power to grant writs of habeas corpus for the

purpose of an inquiry into the cause of commitment," Taney ordered the general in charge of Fort McHenry to bring Merryman before him. The general refused, citing the President's order. Taney accused the general of contempt of court, declared that the President was not allowed under the Constitution to suspend habeas corpus, that the military had no rightful power, either of its own or by order of the President, to detain a civilian "except in aid of the judicial authority," which was clearly not the case in this affair; and that Merryman was entitled to immediate discharge.

Taney sent a copy of his opinion to the President, who simply ignored it, continuing to exercise the power that Taney had declared unconstitutional. Merryman was eventually indicted for treason and released. In response to a congressional inquiry, Lincoln's attorney general merely stated that he believed that the President had the right to suspend habeas corpus as well as the Congress, and that was that. Thus did the executive branch point up the inherent weakness of nine doddering old men in black robes, with a few marshals, against a president and the United States army under his command.

Ex Parte Milligan

It was not until after the war, and Lincoln's death, that the Court's disagreements with the President came to anything substantial. By far the most important of the post-war cases was *Ex Parte Milligan*, which contested the President's right to authorize the military trial of civilians in areas where civil courts were open and functioning.

On September 24, 1862 Lincoln had proclaimed that:

Whereas . . . disloyal persons . . . are not adequately restrained by . . . ordinary processes of law from . . . giving aid and comfort in various ways to the insurrection: all rebels, their aiders and abettors within the United States, all persons discouraging volunteer enlistments, resisting militia drafts, or guilty of any disloyal practice affording aid and comfort to rebels, shall be subject to martial law and liable to trial and punishment by courts-martial or military commissions.

In addition, habeas corpus was suspended in regard to them or anyone else imprisoned anywhere by military authority. Lincoln claimed the commander in chief clause as his justification for this action, which directly contradicted the Constitutional rights of jury trial and due process contained in Constitutional amendments 4, 5, and 6. The action was especially odious because civilian courts were open at the time.

The test of this arbitrary action involved a Lambdin P. Milligan, who was arrested near the end of the war, charged with treason by a military commission in Indiana, and sentenced to be hanged. The Supreme Court Justices who reviewed the case were unanimous in opin-

ing that the President acted unconstitutionally in instituting the military commission while civil courts were still functioning. Five of the judges added that because this power was denied to Congress as well, the president was deprived of the chance to do what chief executives have often done, that is, to talk a willing Congress into granting the executive a prerogative there was doubt about his enjoying previously.

A setback for the president

Judge David Davis' well known opinion in *Ex Parte Milligan* stated that:

The Constitution of the United States is a law for . . . war and . . . peace . . . No doctrine involving more pernicious consequences was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government . . . the government, within the Constitution, has all the powers granted to it which are necessary to preserve its existence.

Such a statement would at first glance seem a powerful condemnation of presidential martial law power under the commander in chief clause. But modern constitutional law experts like Clinton Rossiter hold *Ex parte Milligan* to be substantially less effective than that. Rossiter's main complaint with the case was that it came after the fact. During the war, when the justices would have been accused of being unpatriotic for standing up to the president, the Court had completely avoided the issue in a very similar case, *Ex parte Vallandigham*. They did not even consider going back and reconsidering that verdict at the time of *Milligan*. Another Rossiter complaint was that *Milligan* complained about the arbitrariness of the President's actions but did not suggest any way of preventing them in the future, instead only petitioned the President for redress of *Milligan's* specific grievance. Rossiter's judgement in short was that "the law of the Constitution is what Lincoln did in the crisis, not what the court said later."

Indeed, the precedent of *Milligan* was not generally followed in the years after the Civil War. The applicable cases between the War between the States and World War II were singularly in favor of strong Presidential powers.

In his decision in *Miller v. United States* (1870), Associate Justice William Strong announced that "of course the power to declare war involves the power to prosecute it by all means and in any manner in which war may be legitimately prosecuted. Of course presiden-

tial discretion was left to decide what was legitimate and what was not." Another majority opinion, in *In re Neagle* (1890), went so far as to posit the idea that the President, in order to execute the law, may use means which have no specific statutory origin. Five years later *In re Debs* gave the President the power to use troops domestically to remove obstructions to federal activities, even in defiance of the wishes of a state governor. The majority opinion indicated that "The entire strength of the nation may be used to enforce in any part of the land the full and free exercise of all national powers and the security of all rights entrusted by the Constitution to its care." No mention is made of the Constitutional rights that are sure to be trampled by such an exercise of military power.

World War I

Interestingly enough, World War I led to no significant broadening of the powers of the president under the commander in chief clause. President Wilson made it clear from the outset he was opposed to military trials of sedition and espionage cases as both unconstitutional and bad policy. There were indeed a few Americans of suspect loyalty that underwent rough handling during the course of the war, but always at the hands of a civil court and jury of fellow citizens acting under the broad terms of the Espionage Act of 1917 and the "Sedition Law" amendment of 1918, both passed by Congress. In fact, the most interesting statement to come out of the whole period between *In re Debs* and World War II came out of a case called *Home Building and Loan Association vs. Blaisdell* (1934) in which the Supreme Court made a statement that seems to characterize the judicial attitude toward presidential military power: "the war power of the Federal Government . . . is a power to wage war successfully."

The justices surely could not have guessed how short a time it would be before the United States was at war again. Roosevelt, like Lincoln, made a number of very controversial moves in the early months of the war. Roosevelt's actions included the declaration and maintenance of martial law in Hawaii less interesting than it would seem because such action was mandated by the territory's constitution; 60 or so seizures of plants and industries where labor disputes were injuring the war effort, and, perhaps the most blatantly wrongful action in the history of the United States, the evacuation, under Executive Order 9066, of Japanese-Americans from the West Coast.

In all, 112,000 Nisei were moved, 70,000 of them United States citizens. The prevention of espionage and sabotage was the reason given for the evacuation itself. Actually, even after such dreadful treatment, there were almost no instances of espionage and sabotage on the Pacific Coast, by Japanese or anybody else. The reason given for the extreme arbitrariness of the action was a lack of time, yet in 1940, with German planes dropping bombs overhead nearly every night, the English had managed to examine 74,000 aliens individually.

The Japanese evacuation

Incredibly, the Court supported the blatantly racist Nisei evacuation. In *Hirabayashi v. United States* (1943) the Court simply ruled that since Congress had later concurred with the President's action, it had to be legal. The Court sidestepped the issue again in *Ex parte Endo* (1944) and then came straight out in support of the evacuation in *Korematsu v. United States* (1944).

Korematsu, a United States citizen, had remained in his San Leandro, California home contrary to a military order to go to an evacuation station. Forcibly ejected from his own house he appealed the evacuation order to the Supreme Court.

The Court upheld the order 6-3, claiming that it was a proper use of presidential-military-congressional power, ignoring Korematsu's lawyer's charge that it violated Amendments 4, 5, 6, 7, and 8 to the Constitution. Associate Justice Black's opinion for the majority ran as follows:

Compulsory exclusion . . . is inconsistent with our basic governmental institutions. But . . . the power to protect must be commensurate with the threatened danger. The military authorities considered that the need for action was great, and time was short. We cannot—by availing ourselves of the calm perspective of hindsight—now say that at that time these actions were unjustified.

It is important to note that since the Court had decided that it had to accept the military's judgement of the extent of the danger, it was likewise constrained to accept the soldierly estimate of the power necessary to protect. Only Justice Roberts, in a dissenting opinion, stated that he believed that "no pronouncement of the commanding officer can . . . preclude judicial inquiry and determine" whether a sufficient emergency in fact exists. On this occasion, Roberts was sure, it had not. The feeling of the majority seemed to be that whether or not there had been such a "sufficient emergency" did

not really matter, since whatever the Court may say in response to martial law is meaningless anyway. The Nisei evacuation is proof of it; United States courts can do absolutely nothing to restrain an arbitrary presidential program to suspend the liberties of some part of the civilian population.

It can happen here

Nothing has changed since World War II. There has not even been an after the fact, theoretical *Ex parte Milligan* type case to reverse *Korematsu v. United States*. Luckily, there has not been an occasion since World War II when the presidential right to arbitrary power under the commander in chief clause has been an issue. But the possibility exists. The Cold War, Korean War, Cuban missile crisis, and Vietnam War have blurred the traditional time of peace, time of war distinction implicit in the Constitution.

According to the Senate Special Committee on the Termination of the National Emergency, from 1933 to 1973 the United States had been under

four presidentially proclaimed states of national emergency . . . the national emergencies declared by President Roosevelt in 1933 . . . President Truman . . . during the Korean conflict, and . . . President Nixon on March 23, 1970, and August 15, 1971 . . .

Under the powers delegated by these statutes, the president may: seize property; organize and control the means of production; seize commodities; assign military forces abroad; institute martial law; seize and control all transportation and communication; regulate the operation of private enterprise; restrict travel; and, in a plethora of particular ways control the lives of all American citizens

The states of emergency were terminated soon after the report came out in late 1973. But that does not really matter. The President of the United States, through his power as "Commander in Chief of the Army and Navy of the United States," as interpreted by Supreme Court cases such as *Martin v. Mott*, *Ex parte Merryman*, *In re Neagle*, *In re Debs*, and especially *Korematsu v. United States*, can, arbitrarily, exercise all of the above powers anyway. As Clinton Rossiter succinctly put it:

The government of the United States, in a case of military necessity proclaimed by the President . . . can be just as much a dictatorship, after its own fashion, as any other government on earth.

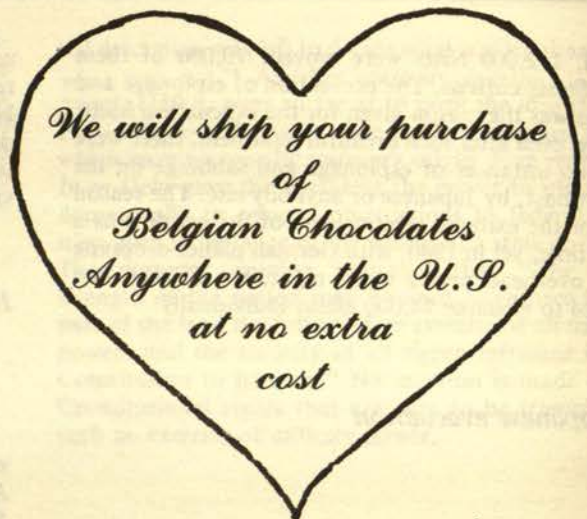
*Circuit Justice Nelson, in re Egan, *Circuit Court, N.D., New York, 1866. 8 Fed. Cas. 367.*

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Slaying the Media Monster

Howard Shapiro

In a thoughtful 1978 essay, Max Kampelman warns that the press, and not a too-powerful presidency or Congress, poses a growing danger to American democracy. Kampelman and other critics of the media, including some journalists themselves, believe that the press has not achieved an accountability and responsibility to the public commensurate with its increased power of the past several decades. They claim that the press is running amuck, accelerating a decline in America's self-image and preventing the President from exercising his constitutional obligation to govern. Kampelman asks: "Other powerful institutions in our society, are required to exercise their power responsibly. Is the press, surely one of the more powerful institutions of our society, not also accountable for what it does?"

Many, and not just members of the press, would deny this apocalyptic picture of press power and argue that, on the contrary, the press has kept the bed of democracy from collapsing, that a more powerful and influential press has been needed in the past several decades. They would especially argue so after the triumphs of the press in covering Vietnam and Watergate. These two events, especially Watergate, established the mythic image of the journalist as the man on the white horse saving the country from corrupt rulers and defending essential freedoms.

Neither critics nor defenders of the newly-influential media would deny, however, that the press has filled a vacuum: Even as other traditional centers of power, such as political parties or unions, have declined in importance, the press, imbued with a growing sense of its own power, has demanded the privileges and, most importantly, the legal immunities of a 4th branch of government. Young journalists have begun to see themselves not just as reporters of events, as public witnesses, but as participants and shapers of those events.

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To what extent, then, does the press have the power to influence events, shape the decisions of the actors in those events (especially the decisions of political leaders) and shape the public agenda of issues? Is this command so great that:

the extraordinary powers of the media, most convincingly displayed by network TV and the national press, have been mobilized to influence major public issues and national elections, to help diffuse the authority of Congress and to disassemble the political parties—even to make Presidents or to break them

as former New York *Daily News* editor Michael J. O'Neill has claimed? The press is undoubtedly powerful but not to such an overwhelming degree as either its critics or defenders would like to think. Degree of power is clearly important here because it is not a question of the press lacking any power or needing some power in order to work; rather, it is a question of having too much power and thereby upsetting the "checks and balances invented by our forefathers," as O'Neill says the press has done. A brief examination of several of the biggest stories of the past two decades reveals this somewhat equivocal power of the press.

Asleep at the wheel

Perhaps the most unheralded story in many years to arise and be later reported on by the press has been the tax revolt, begun in California, and, following close on its heels, the "Reagan Revolution." Just as, until the riots and upheavals of the '60s, the press ignored the massive migration of blacks to the North right after World War II and the resulting social changes, the press also ignored the public's growing impatience with an ever-increasing tax load. However, if these journalists had read such popular publications as *The Readers Digest* which reaches more Americans than any other magazine (including many who subscribe to no other),

and has for years reported on the problems of taxation, this impatience would have been visible several years before it was reported on in the mainstream press. In this case, as 20 years before, movement for significant social change came from below and not from the elites of the press or government.

In fact, O'Neill lists the migration of blacks to the industrial North, as well as the movement of women into the work-place and the first small steps toward involvement in Vietnam, as three of the greatest stories in the past 50 years—all initially unreported on by the mainstream press. "If we had not been so busy chasing corrupt officials," he says, "we might not be guilty of having missed some of the biggest stories of the last half century." O'Neill subverts his own arguments here. Can the press really be as influential as he claims, if it has failed to notice until after the fact great social and political movements such as these?

More recently, many supporters of Israel have feared that a biased press has used its power to influence the public and public officials against Israel, especially since its invasion of Lebanon. This has not been the case: public opinion polls over the summer showed a small or unimportant decline in Americans' support for Israel, no decline in Jewish support for the invasion, and there have been no major attempts in Congress to cut aid to Israel. The public has shown an amazing ability to sift through all the misrepresentations presented it. The competing voices and reports of the press during this story (as examined in a recent *Columbia Journalism Review* story) have cancelled each other out to a large extent and destroyed a vision of monolithic media power—if such a monster ever existed.

Slants and angles

Fred Barnes, national political correspondent for the *Baltimore Sun*, has analyzed television news coverage of the recession and discovered that their "styles contrasted considerably more than I expected." If a viewer had switched on CBS news, the economic picture would have been reported in a very negative manner, he says, while ABC's view was much rosier. Certainly, there is a problem of interpretation here but these differing slants would deny accusations of a biased, Democratic-leaning media using its power to harm the President's economic policies.

Even more objective studies of media influence have failed to prove conclusively that the press exerts an undue ability to set and dominate the agenda of public af-

fairs. Called agenda setting studies, these reports, appearing in such periodicals as *Journalism Quarterly*, often differ in their conclusions analyzing this ability. In one recent memorable instance, many critics and scholars of the media claimed that television news generated the "vortex" of political pressure which brought on the failed rescue mission in Iran. Carter Administration officials have denied this charge, however, and the precise impact of the press on the Carter Administration and on the national psyche during this time remains to be measured.

In short, there is no conclusive evidence to credit the press with a too-great power to determine the national agenda. Nevertheless, the press, as with any other power center, helps to shape that agenda. As Walter Lippman feared, the press, as with any other power center, helps to shape that agenda. As Walter Lippman feared, the press have begun undertaking the "burden of accomplishing whatever representative government, industrial organizations and diplomacy have failed to accomplish whatever representative government, industrial organizations and diplomacy have failed to accomplish." If the press has indeed moved into this new power broker role, it probably has much to do with the decline of these other traditional centers of power in national life—and even the harshest critics of the press would be hard put to lay the blame for this decline solely on the press. What has occurred is not so much a distortion of the system of checks and balances as a reallocation of power among groups in that system.

To some purists, this reallocation of some additional power to the press will be troubling and undesirable because it means a change in the traditional way in which we view the press: not so much as a body in need of protection, constitutional or otherwise, but one which needs to be balanced and protected against. Probably, however, it is too late to reverse this reallocation. Instead, a way must be found, primarily by journalists themselves, to adapt the media to this change.

Examine and define

Ben Bradlee recognized this imperative soon after his paper's Watergate triumphs established the press and the *Post* particularly as political powers in their own right. "I believe, though, that power corrupts," he said. "We are in a powerful position and I hope we don't misuse it." Ironically, the Janet Cook scandal, where a proud *Post* had refused to accede to mayoral and police demands to produce an eight-year old heroin addict on-

ly to later discover the addict was a fiction, brought this concern full circle and propelled newspapers all over the country into an outpouring of self-criticism and self-examination which continues today. In the long-run, this questioning will aid the press in establishing some parameters and definitions to its power.

In addition to this long-term hope, Kampelman in his essay offers some other suggestions for allowing the press to develop practices, if not a theory, to suit its new role as a national political power. He advocates the development of more ombudsmen as self-regulators and recommends a stronger National Press Council—both reforms supported by many but not all in the field itself.

Kampelman also believes that recent Supreme Court decisions (primarily those stressing the journalist's responsibility to the community to testify or to deliver over evidence) have deflated any press hopes that it be granted special legal immunities or status.

Finally, as another actor on the national scene, the press will inevitably be as influenced by events, people and other interest groups as it influences and shapes them. The press may indeed have stepped into a new role as a shaper of the national political agenda but it will soon discover, if it hasn't already, that its wishes and goals will be tempered and modified by the differing agendas of other concerned centers of power.

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Social Security—Tradeoffs and the National Interest

Alan D. Viard

During the last two years, the Social Security system has been the subject of an ill-fated Administration initiative, heated Congressional debate, and study by a bipartisan commission. Concern about the system's viability has grown, due to the realization that current benefit levels cannot be maintained unless additional funds are diverted to the system to supplement current payroll tax receipts. Within a few years, the nation must decide whether maintaining current benefit levels will be worth the cost.

The Social Security system makes old age, survivor, disability, and Medicare payments to thirty-six million people. During this year, Medicare benefits will be \$46 billion and cash payments will total \$155 billion. The system is more than one quarter of the federal budget now, and its share will grow to 30 percent by 1985. Since 1957, it has grown three times faster than the Gross National Product. Benefits are indexed to the Consumer Price Index. The system is funded by a payroll tax of 13.4 percent on the first \$32,400 of each worker's wages. By 1990, the tax is scheduled to increase to 15.3 percent of a wage base indexed to economic growth. Half of each worker's taxes are collected directly and half are collected from the employer. Self-employed people pay somewhat lower rates.

The problem

In recent years, benefits have exceeded taxes and the small accumulated surplus from the past has shrunk. According to the bipartisan commission now studying the system, \$150 to \$200 billion additional funds will be needed during this decade. Even if this short-term dif-

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ficuity is overcome, the system faces long-term problems. Under some assumptions, the gap between outlays and receipts could exceed 10% of taxable payroll next century and even under "optimistic" estimates of low life expectancy the accumulated surplus will be exhausted by 2030 with large annual deficits looming into the future. Social Security Commissioner John Svahn estimates the long-term deficit at \$1.5 trillion in 1982 dollars. Thus, indefinite continuation of existing benefit levels will require a huge increase in the system's receipts.

The needed funds would have to be provided by even steeper increases in the payroll tax or by general revenue financing. The latter option essentially implies increases in other federal taxes or reductions in other federal spending. A strong case can be made for additional cutbacks in many areas of the federal budget, but it is becoming clear that any reductions, in defense or elsewhere, approved by Congress will not be sufficient to balance the Treasury's general receipts and general expenditures, let alone to provide extra funds for the Social Security system. For all practical purposes, preservation of current benefits can only be achieved through large tax increases in one form or another.

Tax increases aren't the answer

The desirability of tax increases must be evaluated in the context of Americans' traditional belief in private property and limited government as important components of individual liberty. A substantial number of voters have been disturbed by modern trends in taxation which have dramatically escalated the nation's historically low tax rates. Total federal receipts have more than quintupled in the last two decades. Receipts at all levels of government have risen to 35% of GNP. Any tax increase will reduce the relative importance of the private sector and restrict the scope of individual choice.

Furthermore, each of the specific tax increase proposals currently under consideration has serious disadvantages. An increase in the payroll tax would injure low-income workers. Families in the poorest fifth of the income distribution already pay more payroll taxes than federal income taxes, while those in the next fifth pay roughly equal amounts of the two levies. Even without further increases, the federal government will be collecting 40% of its revenues from this inequitable source by 1990.

An increase in personal or corporate income taxes may be more equitable, but would discourage both work and saving, thus harming the economy. Capital income is already heavily taxed, due to the high tax brackets of many savers, the double taxation of corporate income, and the failure to index capital gains against the effects of inflation. One study found a 67% effective tax rate on corporate income in 1977. The changes made in this area by the 1981 tax cut were partially reversed by the 1982 tax hike, and will probably be eroded still further in the name of deficit reduction. With current levels of investment, it is clear that any proposal to discourage capital formation would have serious and long-lasting adverse effects on productivity and hence on the real wages of American workers.

A tax on consumption, such as the Value Added Tax, would not discourage saving and would be less harsh than the payroll tax on low-income groups. It would still discourage work effort, however, and thus lower national income. It would also harm hard-pressed state and local governments, which have traditionally relied on consumption levies to fund their public services. A large and unprecedented incursion by the federal government into this area would interfere with their tax base, and threaten those services.

Social Security's opportunity cost

A commitment to preserve current benefits would clearly involve the acceptance of substantial costs because of the system's immense financial needs. In addition, the system itself imposes serious costs on the economy because it distorts individual decision-making by effectively subsidizing certain activities.

For example, the existence of spouse and dependent benefits biases decisions on marriage and childbearing, thus aggravating unfortunate side-effects of public education and income tax exemptions in this area. Since some recipients' retirement benefits are reduced by 50c for every dollar of wages earned, work by the elderly is

discouraged. Medicare may encourage the use of excessive levels of medical services. In theory, the existence of Medicare and disability benefits could encourage the consumption of hazardous products and the taking of hazardous jobs, although there seems to be no evidence from which to determine whether this effect actually occurs. If it does, cutbacks in the system may save lives.

Although the costs of maintaining current benefits would be high, many claim that they must be accepted because of a moral obligation by society to the recipients. This claim is based on the fact that today's recipients paid the taxes which financed their parents' benefits, and asserts that they are entitled to a return on their past payments from today's taxpayers. In reality, however, all current recipients are receiving far more than a reasonable return on their past tax payments. The Heritage Foundation calculated that an average person retiring in 1977 would have paid \$7057 directly and an equal amount through his or her employer, but would receive \$49,400 from the system, with all amounts expressed in constant 1977 dollars. Other calculations show that a worker who paid the maximum taxes throughout the system's entire history and retired at the beginning of 1981 would recover his or her full contribution (including employer's share but not allowing for inflation) in a little over two years, even though the benefit formula is slanted against workers paying the maximum tax amounts. Since no feasible benefit reduction would lower them beneath the level of taxes paid, where ethical problems might arise, the moral claim is completely inapplicable at the margin.

The poverty fallacy

Another common argument for leaving the system untouched is its asserted function of providing necessary assistance to the elderly and disabled poor. Actually, however, the bulk of the system's payments go to people who meet no reasonable criterion of need and who are sometimes relatively affluent. A study by the *National Journal* based on 1981 information revealed that families in the top 40 percent of the income distribution received 35 percent of all Medicare benefits and 24 percent of all Social Security cash payments. A comparison with other federal programs is instructive. This same relatively wealthy group received only 21 percent of Medicaid, 10 percent of Supplemental Security Income (SSI), 6 percent of food stamps and subsidized housing, and 5 percent of Aid to Families with Dependent Children (AFDC). The upper-income families who

do qualify for these latter programs, all of which have need tests, generally have some special characteristic, such as high medical expenses, justifying their eligibility.

The same picture emerges when the other end of the income distribution is considered. The poorest 20% of American families receive only 23% of Social Security cash payments and 26% of Medicare benefits, but receive 47% of Medicaid, 55% of AFDC, 56% of SSI, 58% of subsidized housing, and 61% of food stamp outlays. Obviously, protection of the poor can best be accomplished by sparing these relatively inexpensive programs from further budget cuts rather than by preserving the costly benefit levels of the Social Security system. With the exception of subsidized housing, these programs generally serve the poor efficiently and at a reasonable cost. It should also be noted that the SSI program will offset, dollar for dollar, any losses inflicted on the elderly and disabled poor by across-the-board reductions in Social Security, thus ensuring that only the non-needy will feel the effect of such cuts. Concern for the poor does not demand the continuation of current Social Security benefits.

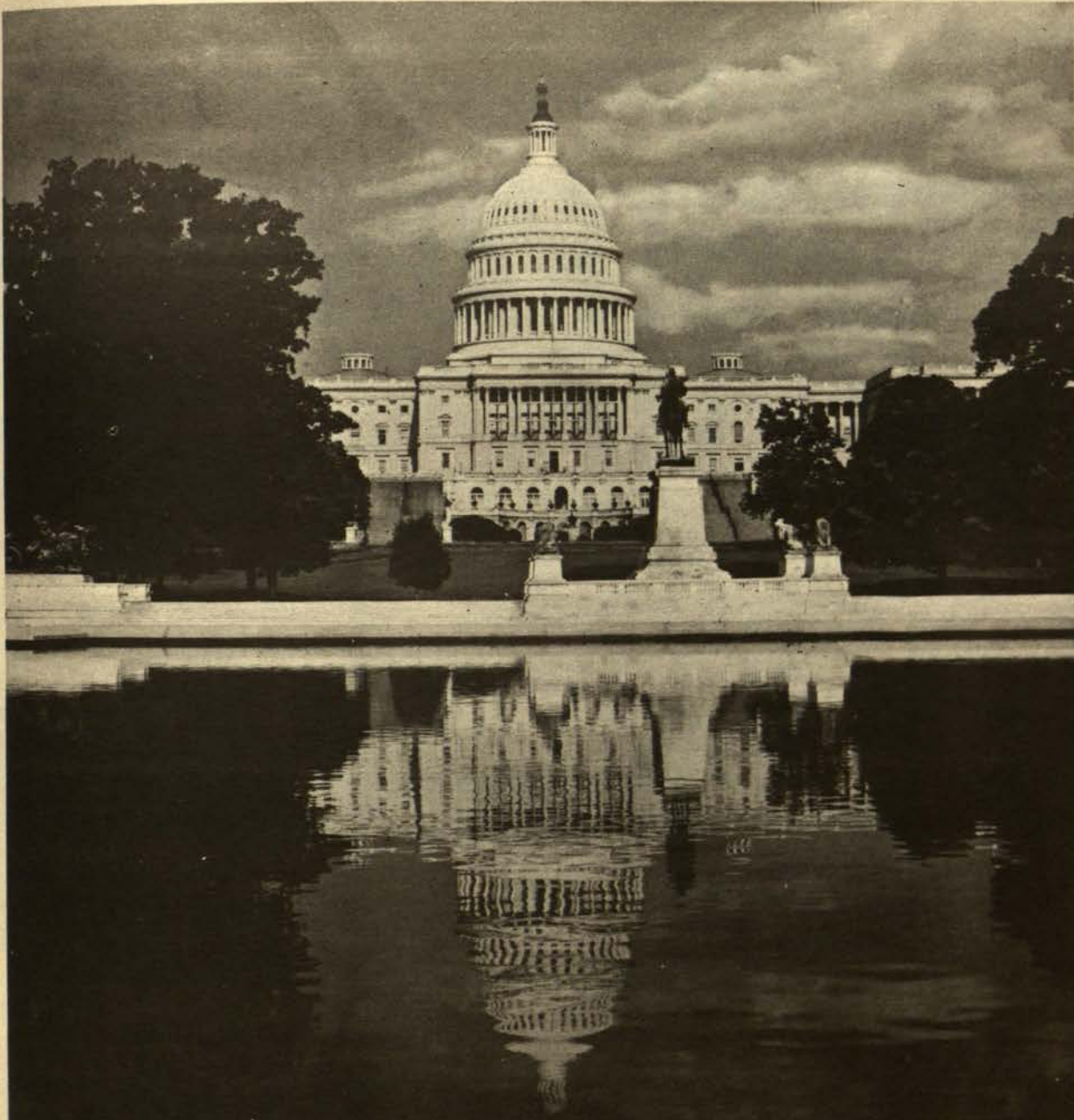
Even with respect to age, the system is very loosely targeted. The retirement age was fixed at 65 when the average life expectancy of a white male worker was 62, and has remained there despite continual increases in longevity. If the age is not changed, official projections show that there will be one recipient for every two taxpayers by 2015.

Finally, it must be observed that the system's average benefit levels far exceed those of other federal programs. In September 1982, the average retired worker received \$692 per month with an aged spouse, or \$405

per month without one. A widowed mother with two children averaged \$925 per month. As seen earlier, most recipients have outside income, often in substantial amounts. In contrast, a family of four with no income qualified for only \$253 of food stamps per month and a family of three without income qualified for no more than \$514 and as little as \$96 per month in AFDC benefits in different states in 1981. Obviously, the level of benefits is sufficiently high to permit some reductions, in light of the costs which any other policy would impose on the American taxpayer and economy.

A wide variety of benefit reduction options are available. Sensible long-term approaches include raising the retirement age from 65 to 70 and altering the benefit formula to lower the fraction of previous wages which the system replaces. A simple evenhanded short-term proposal would cap, reduce, or postpone the annual cost-of-living adjustments (COLA's). Subjecting the cash benefits to federal income tax would produce substantial savings in an equitable manner. Cancelling the 1983 COLA and taxing benefits would save over \$20 billion in 1985. Medicare costs can be controlled by increasing the premiums for supplemental coverage or the deductibles, or through the imposition of a need test.

Politics often seems to consist of an endless series of tradeoffs, always difficult and sometimes tragic. The democratic faith asserts that the people, through their representatives, can fairly and beneficially resolve these tradeoffs. Issues like Social Security can strain that faith. It sometimes seems that the interests of a large, politically active, and extremely well-organized voting bloc, particularly one, like the elderly, that makes legitimate demands along with excessive ones, will always prevail over general interests such as low taxes, a sound economy, and private property rights. In dealing with Social Security, Americans run the risk of validating such skepticism. But they also enjoy a unique opportunity to validate their faith in the democratic process.

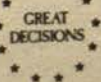


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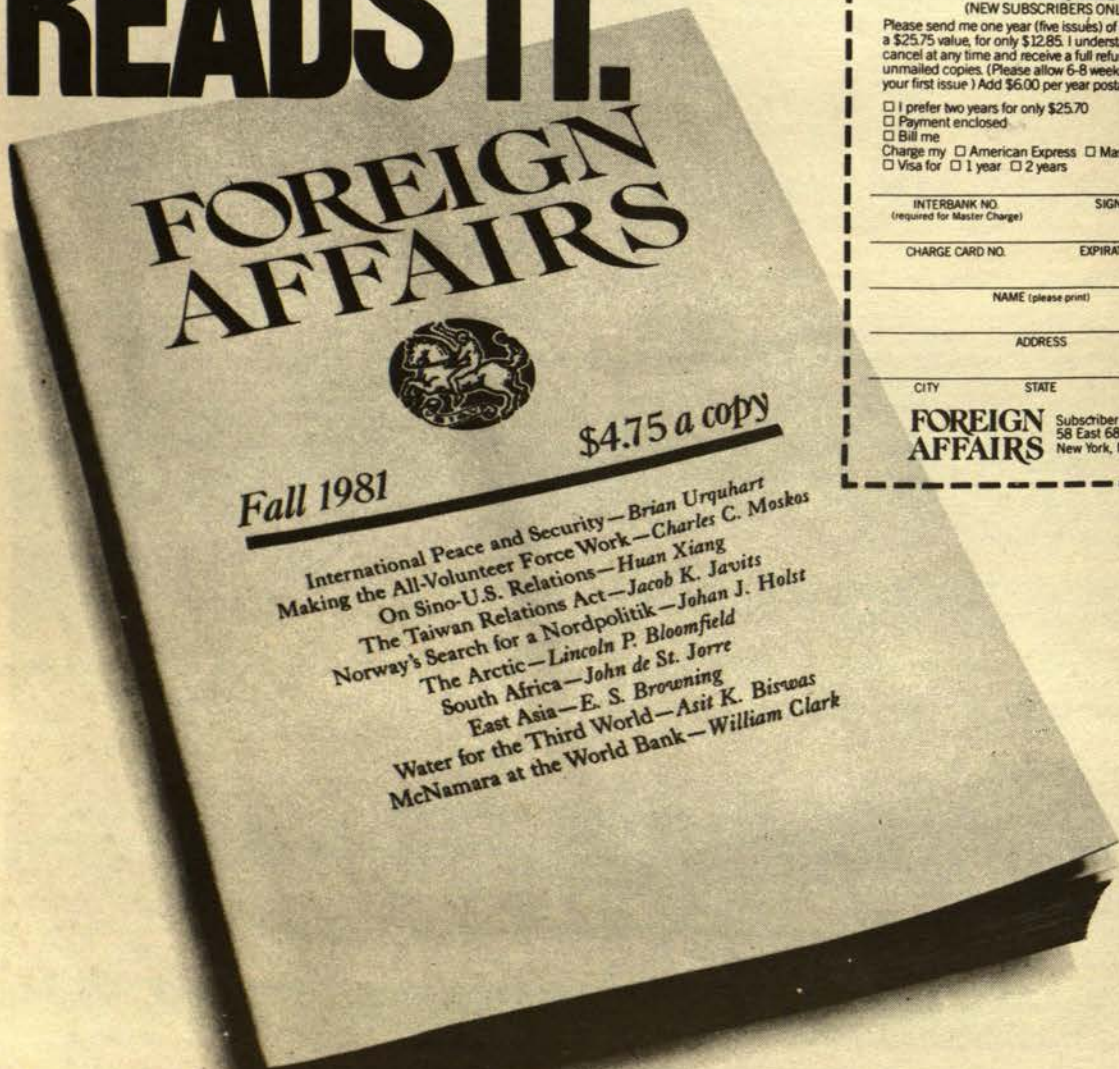
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