

On 'Liberal' and 'Conservative' Republicans A Further Dialogue Between a Republican and an Economist

REPUBLICAN: I see that Barry Goldwater has a letter in the January Ripon FORUM saying that "there has never been any great division in our Party over basic fundamentals."

ECONOMIST: What do you suppose he means by that?

REPUBLICAN: Most Republicans have a distrust of concentrations of personal power. They are skeptical that any one man can make a good decision on a complex social issue. I suppose I always have a suspicion that personal decisions to interfere with some social process will create as many problems as they solve.

ECONOMIST: That certainly explains Republican reluctance to intervene in economic markets, since they are a perfect example of many small decisions converging to a big social choice without any single person exercising much power. But there are ultimately some social decisions that the government has to make. The most important is the distribution of tax burdens, but there are others. No free market process, for instance, is going to clean up air pollution.

REPUBLICAN: There you have the dilemma of our Party. The "liberal wing" of the party believes that those problems must be attacked in some way by the government. The "conservatives" prefer to live with the problems. As Ronald Reagan said in his inaugural: "There is a simple answer — there just are not easy ones."

ECONOMIST: The simple answer being to do nothing at all, grit your teeth and take the consequences?

REPUBLICAN: I suppose so. The conservatives want to kick the problems down to the smallest, least powerful levels of government and hope they just go away.

ECONOMIST: What about yourself?

REPUBLICAN: I'm in the least comfortable position of all. I don't want to live with problems like poverty, air pollution, inadequate medical care, or poor education. But the only programs I see, Democratic or liberal Republican, just set up another agency, hire more administrators, to tell more people what to do, and pass more laws interfering with the natural course of the economy. It somehow seems barbaric to me just to tell people in trouble to sit tight, or to learn to live with smog or the sonic boom. But there you are. If we didn't have interference in the economy in the first place we wouldn't be building a sonic boom. We also wouldn't be able, as you say, to do anything about air pollution.

ECONOMIST: I only said there was no *free* market process that would get rid of air pollution. There are ways that the government can control the society without administering it. Last month we talked about a negative income tax scheme that would accelerate the natural

processes which eliminate poverty without agencies or administrators. The philosophy behind that proposal can be extended to most of our economic difficulties.

REPUBLICAN: Just sketch it out quickly for me.

ECONOMIST: Self interest is the strongest force for social change. What Republicans like about the market is that self interest goes unchecked except by competition from other people, and the sum of everybody's selfish actions is often good for everybody. The trouble with agency-administrator approaches is that they ignore self interest. People must conform to the plan whether they want to or not, whether it helps them or hurts them. The result is unhappiness because people are getting pushed around, and new problems when people find the loopholes in the law. Curbing self interest is like squeezing a balloon — if you push it back on one side it bulges out on another.

REPUBLICAN: Which is what I meant when I said the programs create as many problems as they solve. But what's the alternative?

ECONOMIST: The government should control the incentives in the economy, not administer behavior. Instead of setting up agencies and passing laws requiring something like air pollution control, why not just tax every air polluter, factory, dump, or car, according to the volume of pollutants he puts into the atmosphere. Everyone would have the choice of reducing pollution or paying the tax. The people who have to live in the polluted atmosphere would be compensated by paying lower taxes. If we want less pollution, we raise the tax rate.

REPUBLICAN: So no one is compelled to do anything. You just increase the incentives to desirable behavior.

ECONOMIST: Just as the negative income tax changed the incentives to find a job. The point is that by using market behavior instead of overruling it, the government can attack social problems efficiently, without a bureaucratic agency, and without giving any one man power to decide what other men should do. Would this kind of program be acceptable to both wings of your party?

REPUBLICAN: Thinking that way certainly ought to bring the two wings closer together. But now I must confess to some darker doubts about the conservatives. There are three issues which seem fundamental to me on which conservatives have not clearly joined the rest of the party.

ECONOMIST: Three issues?

REPUBLICAN: First, of course, is civil rights for Negroes. The liberal wing is quite clear about this. There

is no question of repealing the law against lynching and replacing it by a tax.

ECONOMIST: Though it just might work better, come to think of it.

REPUBLICAN: No, there is some behavior that laws can and should control. This is not a question of legislating human emotions, as conservatives sometimes say, but of guaranteeing rights. But some conservatives dodge this issue, and sometimes act like a segregationist front.

ECONOMIST: Segregationists haven't won too many national elections lately. What's your second point of doubt?

REPUBLICAN: I have a feeling that some conservative criticisms of Democratic programs hide, not a dissatisfaction with the way the government acts on society, but a desire to obstruct all attempts to change the status quo.

ECONOMIST: If that's true I might as well mail all my stuff to Bobby Kennedy right now and get it over with. What's your third point?

REPUBLICAN: This is somewhat vague, but I think very important. Suppose we did manage to increase the personal and economic freedom of American society, to open it up as the liberals and conservatives both claim they want to do. People are going to start using that freedom to create whole new patterns of life. Dissent from the old-line puritan, hardworking, churchgoing, family and success-oriented attitudes is going to grow.

I suspect that some "conservatives" can't tolerate that. Many of their positive programs seem designed to punish nonconformity and dissent. Is their real emotional goal to return to McKinley, just because they want everybody to think and behave the way people did in 1900? If so, I don't see any hope for including them in any politically effective group.

ECONOMIST: Some of them do seem to insist that only praying in schools, persecuting pornographers, and saluting the flag will build a stronger America.

REPUBLICAN: There you are. Perhaps Mr. Buckley, or Mr. Kirk, or Mr. Goldwater can satisfy these doubts of mine about civil rights, governmental activism, and the right of dissent. If they cannot, there is a deep division in the Party, which will make it desperately difficult for us to win in 1968. Yet I do hope Mr. Goldwater is right, and that we can go out together to right the imbalances of power in our government and the injustices of our society. Perhaps liberal impulse and conservative skepticism and individualism can make a program for our Nation.

ECONOMIST: As long as the impulse, the individualism and the skepticism, wherever they come from, don't contradict economic reality. And in this case, I don't think they do.

—DUNCAN FOLEY

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FOCUS ON FOREIGN POLICY

● In his nationally televised "State of the Union" remarks, Senator Dirksen sounded a foreign policy note as shrill and uninformed as has been heard in a decade. He stated, for instance, that "red-tinged" governments have been coming to the fore in Africa — a real blooper after the fall of Nkrumah.

● Where does Governor Romney stand on foreign policy? David Broder of *The Washington Post* identifies Romney's views with those of late Secretary of State John Foster Dulles, who insisted that all specific policy should be shaped by the overriding struggle between "monolithic communism" and the forces of freedom. The notion of such a "unifying policy concept" reportedly appeals to Romney because of his experience as President of American Motors. The single overarching idea of the compact car apparently brought cohesion and purpose to that corporation.

But other reports stress his fear that the U.S. has overemphasized military solutions in Vietnam. Another source suggests that he will come out with far-reaching proposals, probably in book form, for involving American business in our foreign aid efforts. What does all this add up to? An undecided Romney, whose views on foreign policy are in the all too visible process of maturation.

● One of the most experienced Republicans in foreign affairs, Richard Nixon, made headlines in the last two months primarily because he was trading in his "experience" image for a "southern" one. Nixon's rhetoric can be as hard-line as Dirksen's, though many still hope that his grasp of detailed information means that he often knows better. Yet Nixon, as he works to strengthen his southern base through favorite-son candidacies of men like Texas Senator John Tower,

sometimes looks less and less like a senior statesman and more and more like a junior Goldwater. The other Republican leader with considerable foreign policy experience is Nelson Rockefeller. And he is sadly silent these days.

● A new foreign policy rallying cry is emerging among conservative Republicans in Congress. Speaking on the January 29th broadcast of "Comment," the weekly radio news program sponsored by the Republican National Committee, Congressman Odin Langen of Minnesota called United State trade with Communist Poland "absolutely unthinkable" in view of that nation's support of the North Vietnam regime. Congressman Sam Steiger of Arizona chimed in with a prediction that President Johnson will have a hard time getting Congress to relax East-West trade restrictions this year. Meanwhile, Senator Dirksen has been making ambiguous, obstructionist noises about ratification of the consular treaty with Russia. All of which is beginning to add up to a conservative "platform" on foreign policy: an assertion that international Communism, which is already splitting itself to pieces, should still be treated as a monolith.

● Yet there are signs of restiveness. Senators Brooke, Percy, Hatfield and Baker have personally taken their concern for "freshness" in policy to the Secretary of State. Percy continually condemns a wider war before a variety of audiences. Senator Thruston Morton, a state department veteran, lent a considerable boost to the Soviet Consular Treaty as did former President Eisenhower, in whose administration the efforts toward such a treaty began. And Senator Clifford Case stirred attention with his remark that many Republican legislators would rebel against the rigid foreign policy line of their leadership.

THE RIGHTS OF THE MENTALLY ILL

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On the Fringe of Freedom

A special report prepared by Thomas E. Petri and Norman B. Smith

The history of liberty has largely been the history of observance of procedural safeguards.

—Justice Felix Frankfurter for the U.S. Supreme Court¹

No one is for mental illness. Everyone opposes it. The difficulty is that too many of us have been too indifferent about the problems associated with mental health for too long.

While our indifference has failed to diminish, the impact of mental illness upon American society has mushroomed until today over 300,000 patients are committed to mental institutions each year.² This is three times the number of people sentenced to prisons. More than half the hospital beds in America are occupied by mental patients.³ One out of ten citizens will, at one time or another, suffer from some form of psychological disturbance or mental ill health.⁴

The large number of people committed, the current confinement procedures, and the long terms of detention in public mental institutions make the procedure for commitment and the supervision and treatment of those committed subjects of public concern. This subject is a critical one today. First, substantive legal safeguards to protect the truly sane from being mistakenly committed as insane are not adequate. Second, the facilities and staff of many mental institutions are presently so inadequate that the regime is custodial rather than curative.

Commitment to a mental institutions is for an indeterminate period of time; 40% of those in state mental hospitals have been hospitalized for ten years or more.⁵ W. Bloomberg, writing in the American Journal of Psychiatry, maintains: "There is repetitive evidence that once a patient has remained in a large mental hospital for two years or more, he is quite unlikely to leave except by death. He becomes one of the large mass of so-called 'chronic patients.'"⁶

Many patients do not understand why they are confined. They are led to feel that they have committed a horrendous crime, but just what it was is vague and elusive to them. The inmate knows he has lost his freedom. He believes that he has been judged guilty and he learns soon after entering an institution that assertion of innocence is viewed as a symptom of disease.

Furthermore, in many parts of our country, the inmate is subjected involuntarily to various forms of dangerous and mutative treatment such as shock therapy, sterilization, or psychosurgery.⁷ He may also be confined by humiliating and painful forms of mechanical restraint, or he may be placed in a "chemical strait jacket" so that his days pass in a stuporous haze.⁸ A patient is often deprived not only of his personal liberty, but also of his property, voting rights, contractual capacity, and means of communication by mail and by visitation. In addition, he may be required to labor without compensation.⁹

These abuses must be dealt with now. The time has come for us to look to a new phase in the struggle for human rights and dignity. We must now extend civil rights to those who presently live on the fringes of freedom — to the mentally ill men and women who do not in fact partake of the legal rights most of us assume without question. Legal discrimination against those alleged to be mentally ill is widespread in the United States. Sometimes rooted in ignorance, always based on public indifference, the denial of legal safeguards and adequate treatment to those labelled "mentally ill" can no longer be tolerated.

I. The Need for Legal Safeguards

How is it decided that a citizen is insane?

Ideally, when an individual is suspected of suffering from mental illness, he is informed of the suspicions concerning his condition. After an appropriate interval during which he and his counsel may prepare his case, the individual is summoned before a judge and, if he wishes, a jury. Only after evidence from both sides has been heard may the subject be confined to an institution.

In practice, this ideal is seldom realized. Many persons are committed to mental institutions for reasons other than insanity. For example, some families are anxious to put elderly relatives into inexpensive State hospitals so that these unpleasant reminders of mortality can be hidden from their view.

Moreover, there are some individuals so mentally disturbed that they cannot evaluate their own condition and seek aid voluntarily. The normal solution in this situation has been to forcibly confine the ill person without giving him an opportunity to participate in the decision to commit. After all, it is said, he is insane so why should he be consulted? This approach assumes insanity before it is proven. And on the basis of this assumption a citizen is deprived of his freedom. We believe no citizen should be forcibly confined due to insanity, any more than he should be imprisoned for committing a crime, until he has had his day in court.

DANGEROUS TRENDS

Some mental health experts oppose formal commitment proceedings because, they assert, notice and hearing produce only anxiety and confusion in a sick mind.¹⁰ It is difficult to believe that the traumatic effect of a hearing is worse than finding oneself in a mental institution without any warning. However, the real vice of denying notice and hearing is that the allegedly ill person is prejudged; the very question that would be settled formally by a hearing is arbitrarily decided in advance by "professionals."¹¹ Thus, the presumption of innocence is reversed: once a person is suspected of having mental illness, he is considered sick until proven healthy.¹²

The trend is to further informalize commitment proceedings. It appears that most states now allow officials to serve sole notice of a commitment proceeding on some person other than the individual whose sanity is to be determined. Such substitute notice does not protect the individual's rights; there is no guarantee that he will receive any warning of what may happen to him. Often the members of his family, on whom notice is served, are the very persons trying to get him committed. Before he knows it he is "locked up" — without ever having had a chance to protest.

In about a third of the states even the right to a hearing may be waived. Here the superintendent of a mental institution, or some other person designated by statute, makes the decision to commit. And even when there is a hearing, only about half of the states provide for a jury trial. It has been argued that juries are incompetent to deal with complex medical issues.¹³ But this overlooks the fact that the decision to commit a person against his will is, in reality, a social decision of the sort that juries are intended to make.¹⁴ The com-

plaint is also heard that juries tend to err much more than psychiatrists in the direction of committing people who are actually sane.³⁵ A procedure by which an officer of the court, a lawyer or psychiatrist, makes a preliminary determination of sanity which can then be appealed from the person alleged to be insane overcomes this charge.

The trend today is toward authorizing commitments without notice and hearing or other formal proceedings. Thus, for example, over 90% of the patients committed under some Maryland statutes never appear in court. In similar Rhode Island cases, the courts have been used only once every four or five years.³⁶ Even where statutes require notice and hearing in advance of commitment, proceedings often satisfy neither the letter nor the spirit of the law.

For example, the Illinois statutes require that a physician certify a patient is mentally ill and that there be an examination by court appointed psychiatrists and a hearing before the court. But even this elaborate process does not provide justice. A recent study by L. Kütner entitled "The Illusion of Due Process in Commitment Proceedings" revealed the following procedure in Cook County, Illinois: (1) a certificate is signed as a matter of course by one of the staff physicians at the Chicago Mental Health Clinic after the patient is already confined there; (2) the same doctor is the one later appointed by the court (thus circumventing the requirement that one doctor check on another); (3) patients are under such heavy sedation at the court hearing that they cannot intelligently defend themselves. The examinations of patients takes two or three minutes, never more than ten, and over 75% of those examined are committed. Employees of the Chicago Mental Health Clinic who inform patients of their legal rights are reprimanded or dismissed.³⁷

RAILROADING Because of such shabby practices, we are skeptical of assertions by institutional psychiatrists that "railroading" never occurs.³⁸ It does. A dramatic example is the case of a non-English speaking Polish couple in Chicago who returned to their apartment to find their life savings of several hundred dollars missing. They suspected the building janitor. When they informed him of their suspicion, he got in touch with the public health authorities. Soon the Polish couple found themselves committed to a mental institution. They could speak no English, and no effort was made to communicate with them during the examination or hearing. The husband, who spent World War II in a Nazi concentration camp, committed suicide in the institution. The wife eventually obtained her release.³⁹

The case of a man called "Louis Perroni" provides another example. Perroni ran a gas station. His lease was canceled so the station could be demolished to make way for a shopping center. But Perroni refused to vacate. When agents of the real estate development attempted to take over the property, Mr. Perroni is alleged to have appeared with a rifle and fired a warning shot into the air. He was arrested for discharging his gun but never indicted or tried. Instead, the judge sent him to New York's Matteawan State Hospital for the Criminally Insane. For six years Perroni languished at Matteawan, trying to obtain a trial. Finally, he secured a court order releasing him from the institution. But he still had to go to court to defend against the original charge of firing his gun. The court sent him to another state hospital. This time Perroni was able to bring his own psychiatrist into the case. This psychiatrist found him competent to stand trial. The state's doctors disagreed. Back Perroni went, without trial, to Matteawan. Mr. Perroni remains at the asylum, even now. He has not yet had a trial.⁴⁰

PROFESSIONAL DEBATE In the process normally used to determine mental competency, decision making is turned over to experts — to the psychiatrists and psychologists. This has a dangerous consequence: these experts have become an unchecked power group within the legal system. Theories are propounded, procedures which rely on these theories are enacted, practices in accordance with the procedures are individually regulated by the same people who developed the theories in the first place.⁴¹

What are the theories employed by those charged with passing upon an individual's mental health?

The important fact is that the experts — whose word we take as law and whose conclusions we rarely examine — are terribly uncertain as to what mental illness really is. The reader of mental health literature quickly encounters the most alarming discrepancies. For example, one authority estimates that 2.3% of all criminal offenders are psychopathic while another says that 98% are psychopathic.⁴² Such disagreement and confusion occur again and again, illustrating the dangers inherent in committing an individual on any basis other than that of objective, socially endorsed legal standards.

Unfortunately, the approach of many in the mental health field is characterized by a lack of objective standards. Many psychological experts actually oppose them. They reject limited periods of commitment for the mentally ill, firm procedural rules, and clear standards of misconduct by which to determine eligibility for commitment. To be sure, this opposition is often couched in terms of fear of the cruelty or arbitrariness that might occasionally result from firm procedural safeguards.⁴³ But always the result of this opposition is to broaden the discretionary power of the experts over the men and women who become objects of their care.

The broad discretion of these experts has often been abused. Consider, for example, the question of whether or not a defendant in a criminal case is mentally competent to stand trial. Psychiatrists are asked for a subjective opinion — and they sometimes make this critical judgment in a heavy handed manner. As a result, defendants may be committed who are in fact competent. A sample medical report by a psychiatrist reads: "We actually feel the patient could cooperate with counsel but that it would be better if he were to be hospitalized in Ionia."⁴⁴ And another goes: "I concluded that we were dealing here with a man who was suffering from an early schizophrenia illness. I realized that it would be difficult to convince a court and jury on this, particularly since all his social and work companions insisted that he was sane. I asked the presiding judge to postpone the trial and the patient was sent for six months observation to a state hospital. This worked out admirably. At the end of three months, I went out to see the patient and he presented the picture of a very seriously disordered, full-blown case of schizophrenia. He was completely out of contact with reality and was actively hallucinating. As a consequence he was never brought to trial and in all probability never will come to trial."⁴⁵

POLITICS V. PROFESSIONAL-ISM There are already indications in mental health literature that some experts examine a person's political views when deciding whether to recommend commitment. To illustrate:

(1) One authority in the field of mental health writes: "A man, for example, may be angrily against racial equality, public housing, the TVA, financial and technical aid to backward countries, organized labor, and the preaching of social rather than salvational religion. . . . Such people may appear 'normal' in the sense that they are able to hold a job and otherwise maintain their status as a member of society; but they are, we recognize, well along the road toward mental illness."⁴⁶

(2) Ezra Pound aided fascism during World War II by participating in propaganda broadcasts directed from Mussolini's Rome to American fighting men in Europe. After the war, Pound was returned to the United States. But the poet was not tried for treason. Instead he was committed to a mental institution. After being confined for over a decade, Pound was granted his freedom.

(3) In September 1962, Major General Edwin A. Walker, U.S. Army retired, was arrested at the University of Mississippi for inciting insurrection. Late on the day of his arrest, federal officials hustled him under cover of dark to a U.S. government maintained psychiatric ward in Springfield, Missouri. General Walker was confined for mental observation on the basis of an affidavit signed by Dr. Charles E. Smith, medical director and chief psychiatrist of the Federal Bureau of Prisons. The general's behavior "may be indicative of an underlying mental disturbance," the affidavit said. Dr. Smith reached this conclusion in Washington on the basis of news re-

ports and other secondary sources. Because Walker was in the public eye, he was able to protect himself. He secured release on bail, the first time this has ever been permitted by our government in such a case. He then picked his own psychiatrist (normally a person has to accept the state's doctors), and after another legal battle, Walker was allowed to have a jury hear his plea. The jury cleared him; he is a free man. We report by way of postscript that Dr. Smith was brought before the American Medical Association's Judicial Council. He escaped censure, but the Council expressed concern over "future situations wherein a physician might be subject to political control or be used as a tool for political purposes."¹¹

(4) After an exhausting legislative session, Louisiana Governor Earl Long Boarded a plane in the state capital. He thought he was flying to New Orleans for minor surgery, but soon discovered he was bound for Texas and confinement in a mental institution. After a long struggle, during the course of which he outmaneuvered his wife, the director of State of Louisiana mental institutions, and other mental health experts, Long regained his freedom and returned to the Governor's Mansion.

Arbitrary commitment procedures constitute no less a threat to personal liberty than does imprisonment of a criminal without a fair trial. The laws granting the state authority to restrain personal liberty are critically important. When it is proposed that this authority be given to a small group of experts, to be exercised in their relatively uncontrolled discretion, the dangers are grave. Yet that is what many mental health practitioners seek and it is what they have already, to an alarming degree, achieved. By asking for broad, non-specific criteria on which to base commitment, they require that specifically proscribed acts not be defined in advance. By asking for informal procedures, they require that the most subjective judgment be allowed to stand without challenge or review. By asking for indeterminate commitment, they require that these unreviewed judgments be allowed to detain any person for an unlimited term.¹²

PUBLIC SAFETY AND PRIVATE RIGHTS

In a constitutional democracy the preservation of personal liberty requires delicate balancing. John Stuart Mill pointed out that the liberty of the individual must be restricted somewhat to increase the liberty of all, but he also cautioned that too much restriction of the individual's liberty will diminish the liberty of all.¹³ Somewhere between anarchy and totalitarianism, between absolute permissiveness and absolute conformity, the balance must be struck. We can do this by firmly adhering to the fundamental concept of American democracy — government by law, not by men. Justice Felix Frankfurter wisely wrote: "The history of liberty has largely been the history of observance of procedural safeguards."¹⁴ Our tradition of due process protections is the greatest protector of individual freedom. It must be applied as fully and scrupulously in the area of mental illness as it is now in the realm of criminal justice.

Too many mental health practitioners invoke health or social goals as ultimate values, thereby implicitly denying consideration of the personal liberty of the individual. We must avoid the dangerous complacency which allows us to delegate society's most sensitive questions of public policy to an unrepresentative body of experts. If our desire for social welfare is not balanced by a passion for individual freedom, the cure will be more dangerous than the disease.

II. The Need for Adequate Facilities

Once a citizen has been found to be insane, what becomes of him?

The insane are frequently quartered under conditions far worse than those of prisons.¹⁵ The average man can understand the imposition of punishment on criminals; as a result, competent political decisions can be made about it. Punishment is a matter susceptible of community judgment. The concept of treatment is very different. The usual attitude is that treatment is something for the expert to decide, and that the ordinary person cannot make an intelligent decision about methods of treatment.

Because treatment is thus freed from community control, experts have acquired very extensive discretionary powers.¹⁶

In the past, treatment was often so painful, dangerous, and degrading that when knowledge of it became public, an indignant community insisted upon its abolition. Some of the noblest chapters in the history of American reform have been written by those who fought such cruelties. And yet, more than a century after Dorothea Dix prodded the conscience of America to rescue the insane from intolerable abuse, a new evil haunts our mental hospitals, uncriticized — often undiscovered. This evil is neglect of inmates.

Albert Deutsch made a two-year investigation of American mental hospitals in 1945-47. He reported that in some wards there were scenes rivaling the horrors of the Nazi concentration camps — hundreds of naked patients herded into huge, barnlike, filth-infested wards, in all degrees of deterioration, untended and untreated, stripped of every vestige of human decency, many in stages of semi-starvation. Here is an excerpt from his report: "The writer heard state hospital doctors frankly admit that the animals of near-by piggeries were better fed, housed, and treated than many of the patients in their wards. He saw hundreds of sick people shackled, stripped, strait-jacketed and bound to their beds; he saw mental patients forced to eat meals with their hands because there were not enough spoons and other tableware to go around. . . ."

"He saw black eyes and bruises which were reported to the writer to have been received at the hands of fellow patients or attendants. . . . Occasional accounts of fatal beatings of mental patients attested to the end result of some of this treatment."¹⁷

We submit that, despite the advances of medicine and the devoted work of many public servants, practitioners, and laymen over the past twenty years, the improvement in conditions in many mental institutions has been agonizingly slow. A 1965 study of every mental institution in New York State, commissioned by the New York Joint Legislative Committee on Mental Retardation, contained the following language: "What we saw in Building H was shocking. In Ward 23 some youngsters were sitting on benches, others sleeping on the bare floor, clothed in underpants only. This filthy room with defecation on the floor served as the day room and dining room for 130 active children. Their little bodies and faces were dirty and scratched." Of another institution the report states: "There were many emaciated looking, unclothed males lying in bed in their own excrement. The stench was revolting. The patients are spoon fed in their beds, bathed and shaved twice weekly.

"We were ushered to a sub-basement area where about 15 ambulatory patients were eating in a dungeon-like, dirty atmosphere with a commercial dishwasher belching steam at one end of the room." And it was reported that in an institution for children under 12 there is such inadequate staffing that a number of children go unfed at the evening meal because of lack of time.¹⁸

III. Recommendations for Action

As a result of these practices, what is ostensibly a regime of treatment for mental illness is frequently a purely custodial system. Because the punitive aspect of some treatment procedures is not publicly acknowledged, political and legal safeguards have not been employed to protect the rights of those allegedly suffering from mental illness or to protect those who have been duly committed and are undergoing treatment.

To end a great tragedy, we make the following recommendations:

1. THERE MUST BE NO DEPRIVATION OF LIBERTY UNLESS PROPER LEGAL PROCEDURES ARE USED.

As we have already seen, it is common for those charged with the care of the mentally ill to inveigh against the formalism of legal procedure. Formalities, it is said, are not only tedious and inefficient, they are harmful to the alleged defective. The requirement for a hearing prior to an adjudication of insanity is said to delay necessary treatment. Furthermore, it is claimed,

such procedures produce anxiety and confusion so that initial treatment is not as effective as it could be.³⁵ Were the law changed to conform to these views, the usual method for confining mentally abnormal people would be to seize them without warning and transport them as quickly as possible to the appropriate institution. Such procedure cannot always be justified on medical grounds; surprise and coercion may also have serious traumatic consequences. An orderly legal procedure, permitting anticipation of a dislocative experience, allows for preparation.³⁶ Most persons alleged to have a mental illness are quite capable of appreciating and availing themselves of the procedural rights of a formal hearing. They are often hypersensitive to their environment. Participation in a hearing has a satisfying, relieving effect.³⁷ If commitment is ordered only after the presentation of clear and convincing evidence of mental illness, and only after the defendant through adequate counsel has had every opportunity to present his side of the case, the purpose may be understood by the patient and treatment is less likely to be resisted.³⁸

Furthermore, we should abandon the theory that commitment for mental illness is analagous to a civil action, and thus not subject to the rigid due process requirements that accompany a criminal proceeding. Whenever the state forcibly deprives a citizen of his freedom every procedural safeguard must be employed... If it is felt by the court's medical advisors that a full scale trial will adversely affect therapy, this should be explained to the defendant or his court appointed representative by the counsel or the judge, and he should be permitted to waive admission of the public, trial by jury, or other rights.³⁹ An exception must also be made to allow for a very short detention period without formality in the case of emergency (this, of course, is nothing more than a restatement of the law of arrest).⁴⁰ A recent Supreme Court decision has encouraging and far-reaching implications. In *Kennedy v. Mendoza-Martinez* the court held that because it is punitive in character, forfeiture of citizenship cannot be administratively ordered, but can only be imposed following a proceeding attended by all of the safeguards of a criminal prosecution.⁴¹ We are hopeful that this doctrine will also be extended to commitment proceedings involving those alleged to be suffering from mental illness. A recent Wyoming Supreme Court decision took this important step.⁴²

2. NO PERSON SHOULD BE INVOLUNTARILY CONFINED TO A MENTAL INSTITUTION UNLESS HE ENGAGES IN WRONGFUL CONDUCT AS OBJECTIVELY DEFINED BY STATUTE.

Today's trend is toward commitment of the mentally ill at the first sign of "undesirable behavior." Definite acts of objective misconduct no longer are required. The "propensity" to engage in undesirable behavior is enough.⁴³ The pattern is: commit today; investigate later, if at all.

This development is unwarranted, because there is no substantial agreement among and within the various behavioral schools as to the criteria for predicting the danger a person poses to society. The decision to confine someone who has not yet engaged in any proscribed anti-social conduct, made on the basis of a psychiatric diagnosis, is based on little more than hunch and intuition.⁴⁴

Today the implementation of the "objective misconduct" standard in the mental health field is more feasible than it once might have been because of the availability of voluntary commitment and the increasing use of out-patient psychiatric centers where help can be obtained without confinement.⁴⁵

We must remember that only the aggressive and violently insane, who comprise a small percentage of those committed as mentally ill, are dangerous to the community. This is the only type who must be committed in order to protect the public. Cannot society afford to withhold action against these people, as it does against a potential criminal until an offense is committed or attempt to commit an offense is detected?

3. COMMITMENT SHOULD BE FOR A FIXED MAXIMUM TERM; INDETERMINATE COMMITMENT SHOULD BE FORBIDDEN.

Once there has been a finding of insanity, indeterminate confinement is the usual disposition. Those who defend indeterminate commitment argue that a short

confinement period may frustrate treatment and that a long fixed term will hang like a dark cloud over a patient. They believe release should be ordered by the institutional authorities when, and if, the inmate is rehabilitated.⁴⁶

Unfortunately, in practice the institutional decision to release is not entirely based on professional opinion as to rehabilitation. The superintendent and his staff are officers of the state; their professional discretion is considerably influenced by public demands for protection against prematurely released inmates.

Ordinarily, the patient is released when he is pronounced cured and no longer dangerous. But psychiatrists are not agreed as to what constitutes recovery, just as they are not agreed on what constitutes mental illness. Nor are they in agreement as to the degree of recovery that must be achieved before the decision to release can be made.⁴⁷ The concept of dangerousness is also inadequately defined.

There is a right in every state for an inmate to apply for release, always by habeas corpus and sometimes by special procedures.⁴⁸ But in some states habeas corpus is inadequate because only the initial validity of the confinement, and not its subsequent justification, may be tested. In these states habeas corpus is of little assistance to the patient who wants to secure his release on the ground that he is cured or no longer dangerous.⁴⁹ Even where habeas corpus can be used, the person seeking release must discharge a nearly insuperable burden of proof. The inmate may not be able to obtain expert witnesses or counsel, while the state can rely on its power, prestige and own employees as expert witnesses who have observed the defendant continually.⁵⁰ The Louis Perroni case, discussed earlier, provides a good example of the patient's predicament.

In addition, there are disparities in the confinement time for different inmates which cause patients to believe they are being treated unjustly. This sense of injustice, along with the feeling of frustration that comes from the uncertainty as to when, if ever, release will occur, causes many patients to lapse into a sense of hopelessness.⁵¹ Further, institutional staffs may manipulate the duration of confinement as a means of discipline and control. There is also a tendency for institutional staffs to postpone treatment procedures, since they are not working under any time pressure.⁵²

There is positive evidence that limited terms of confinement are therapeutically valid. Several state permit temporary observational commitment (for a period varying from ten to ninety days) of persons suspected of mental disturbance: "Because the temporary nature of this type of commitment averts the stigma of a final insanity decree and postpones the prospects of a long indefinite confinement, cooperation both by the patient and his family tends to be augmented, thus facilitating early diagnosis and treatment. Consequently, under temporary observational commitment a large percentage of mental patients can be sufficiently improved to justify their release within one to three months."⁵³

4. INVOLUNTARILY CONFINED MENTAL PATIENTS SHOULD BE RE-EXAMINED IN FORMAL LEGAL PROCEEDINGS CONDUCTED AT PRE-ORDAINED INTERVALS DURING A FIXED TERM OF COMMITMENT; THEIR TREATMENT SHOULD BE REVIEWED AND THEIR RELEASE ORDERED IF THEY ARE SANE.

The absence of legislative and judicial control over the period of confinement of the mentally ill has an unwholesome effect. It does much to undermine what protections now surround pre-commitment procedure. Legislation should spell out in detail exactly what institutional administrators may do. No drastic therapeutic measures (such as personality-changing brain surgery) should be imposed without a prior formal proceeding at which the defendant is given every opportunity to be heard.

These proceedings will not merely provide an inmate with an opportunity to present grievances; they will also review the adequacy of treatment.

The state's attorney or other court appointed inspector should have power to authorize the release of inmates who are cured. The individual should not be required to meet the burden of proving himself sane. At every stage, the state should be forced to demonstrate

this he is insane if it seeks to continue confinement against his will.

In the light of recent progress in other areas of civil rights, we believe that all of these recommendations would have been accomplished some time ago had the issues we have raised been acknowledged as within the public domain rather than within the exclusive jurisdiction of institutional examiners and administrators.

5. FINALLY, THERE MUST BE APPROPRIATE LEGISLATION FIXING MINIMUM STANDARDS FOR ALL MENTAL INSTITUTIONS, PUBLIC AND PRIVATE, AND PROVIDING FOR FREQUENT, THOROUGH INSPECTION AND FOR STIFF PENALTIES WHEN THE STANDARDS ARE NOT MET.

The history of recurrent reform and relapse of conditions in our mental institutions is convincing testimony of the need for continuous inspection and prodding. The cost to society in terms of wasted human lives is too great for us not to seek a permanent cure for the chronic inadequacy of so many of our mental health facilities.

In making this recommendation we are heartened by the passage of the Community Mental Health Centers Act of 1964. It represents an acceptance in part by the federal government of its responsibility in the mental health area. The bill recognizes the undesirability of confining many types of mentally ill persons; it is a constructive first step toward eliminating the dilemma of choice between committing an individual or permitting him to remain with his family without adequate care.

But the act is only a first step. It concentrates on providing needed funds for one important mental health program. Funds are important and the program is a useful one. But it does not go to the heart of the problems of present treatment of the mentally ill. We must establish safeguards to protect the citizen from arbitrary or erroneous confinement against his will.

Lack of funds has too often served as an excuse for many shortcomings in the care provided for the mentally

ill. Inadequate financing is a factor but it is not the major problem in care. Poor personnel constitute a much more important problem. It is customary to pay the poorly-trained attendant little cash, but to give him room, board and what he can "chisel." The "good" attendant, in his superior's eyes, is the one whose charges give the staff the least trouble. Therefore, the attendant is tacitly encouraged to keep his patients in line by his own methods of discipline.

Poorly-trained personnel are the product of low wages. Where there are competitive salaries, more qualified employees are attracted and fewer personnel are required. Therefore, the net amount spent on wages and salaries may be nearly the same. Also, better personnel means faster cure, a shorter period of confinement and an earlier return to productive employment of the committed. In short, it is clear that higher personnel wages really cost much less than do poor wages.

STRIKING OFF CHAINS

The history of the treatment of the insane is marked by the gradual abandonment of barbaric practices. Pinel, a figure of the French Revolution, is remembered for striking off the chains of the inmates of the asylums of Paris. The name of Dorothea Dix is associated with the removal of the insane from their wretched quarters in poor houses, jails, cribs, and coops. A drive to reduce mechanical restraint to the minimum in American mental hospitals began a century ago and resulted in widespread acceptance of the system of non-restraint. Many progressive modern mental hospitals are designed so the patients can live comfortably and can move about with considerable freedom. Their patients' time is occupied constructively with psychiatric counseling and occupational therapy.⁴⁴

But this can by no means be said of every mental treatment facility. Legislation is required to foster the necessary improvement.

We call for action now.

FOOTNOTES

¹ *McNabb v. United States*, 318 U.S. 332, 347 (1943).

² *Time*, Sept. 24, 1965, p. 50.

³ N. N. Kittrie, *Compulsory Mental Treatment and the Requirements of "Due Process"*, 21 Ohio St. L.J. 28, at 30-31 (1960).

⁴ Joint Commission on Mental Illness and Health, *Action for Mental Health* 4 (1961).

⁵ W. Bloomberg, *A Proposal for a Community-based Hospital as a Branch of a State Hospital*, 116 Am. J. Psychiatry 814 (1960).

⁶ *Ibid.*

⁷ *Stainbrock, Shock Therapy*, 43 Psychological Bull. (1946); R. R. Scott, *The Psychology of Insulin Coma Treatment*, 23 Brit. J. Medical Psychology 15 (1950); A. S. Paterson, *Electrical and Drug Treatments in Psychiatry* 6, 33-41 (1963); E. deGrazia, *The Distinction of Being Mad*, 22 U. Chi. L.R. 339, 351 (1955); Good, *Some Observations on the Psychological Aspects of Cardiazol Therapy*, 86 Jour. of Mental Sci. (1950); M. Levine, "Principles of Psychiatric Treatment," in *Dynamic Psychiatry* 339 (F. Alexander and H. Ross ed. 1952); J.A.P. Millet and E.P. Mosse, *On Certain Psychological Aspects of Electroshock Therapy*, 6 Psychomatic Medicine 226 (1944); Comment, *Reappraisal of Eugenic Sterilization Laws*, 10 Clev.-Mar. L. Rev. 149, 151 (1961); H. Kalven, *A Special Corner of Civil Liberties: A Legal View* I, 31 N.Y.U. L. Rev. 1223 (1956); Cook, *Eugenics or Euthenics*, 37 Ill. L. Rev. 287 (1943); Note, *Compulsory Sterilization of Criminals - Perversion in the Law; Perversion of the Law*, 15 Syracuse L. Rev. 738 (1964); Comment, *What has Happened to Kansas' Sterilization Laws?*, 2 Kan. L. Rev. 174 (1953); Halstead, Carmichael and Bucy, *Frontal Lobotomy: A Preliminary Appraisal of the Behavioral Results*, 103 Am. J. Psychiat. 217 (1946).

⁸ A.S. Paterson, *op. cit. supra* n. 170, at 109-13; H. Brill and R.E. Patton, *Analysis of 1955-56 Population Fall in New York State Mental Hospitals in First Year of Large-Scale Use of Tranquillizing Drugs*, 114 Am. J. Psychiatry 509 (1957); T.S. Szasz, *Law, Liberty and Psychiatry* 55 (1963).

⁹ T. S. Szasz, *ibid.*, p. 189.

¹⁰ Group for Advancement of Psychiatry, *Commitment Procedure* 2 (Rep. No.4 1949); M. S. Guttmacher and H. Weithofen, *Psychiatry and the Law* 295-98 (1952).

¹¹ N.N. Kittrie, *op. cit. supra* n. 3, at 47-48.

¹² T.S. Szasz, *op. cit. supra* n. 8, at 224-25.

¹³ H. Weithofen, *Hospitalizing the Mentally Ill*, 50 Mich. L. Rev. 837, 848-51 (1952). The author regards trial by jury as a "sentimental predilection of the American people; he thinks that skillful insane persons can fool juries.

¹⁴ Certainly this sort of decision is no more technical than is the decision a jury must make in, for example, a malpractice case.

¹⁵ The only evidence ever cited for this assertion is that during the 25 years that Illinois had a mandatory jury trial (1867-93) the institutional reports indicated that more some person were declared insane by juries than were wrongfully committed by the earlier non-jury method; see L. Kutner, *The Illusion of Due Process in Commitment Proceedings*, 57 Nw. L. Rev. 383 (1962).

¹⁶ Comment, *Analysis of Legal and Medical Considerations in Commitment of the Mentally Ill*, 56 Yale L. J. 1178, at n. 105, p. 1199.

¹⁷ L. Kutner, *op. cit. supra* n. 15, at 383-84. See *Shoeman v. Holman*, 6 N.J. Misc. 346, 141 A.2. 170 (1928), where a commitment order was signed by two physicians who had never seen the patient; and *Lindsay v. Woods*, 27 S.W.2d 262 (Tex. Civ. App. 1930), where an allegedly insane woman was held incommunicado in an asylum prior to the hearing.

¹⁸ See authority cited by W.J. Curran, *Hospitalization of the Mentally Ill*, 31 N. C. L. Rev. 274, 292-293 (1958) T. S. Szasz, *op. cit. supra* n. 8, at 60 quote one hospital superintendent as saying that after 45 years in his field he is convinced that there is no reason to believe that people are improperly committed.

¹⁹ N.N. Kittrie, *op. cit. supra* n. 3.

²⁰ T.S. Szasz, *Psychiatric Justice* (1965).

²¹ S.H. Kadish, *Legal Norm and Discretion in the Police and Sentencing Processes*, 75 Harv. L. Rev. 904, 926-30 (1962); T.S. Szasz, *op. cit. supra* n. 8.

²² F. P. Mihm, *A Re-Examination of the Validity of Our Sex Psychopath Statutes in the Light of Recent Appeal Cases and Experience*, 44 J. Crim. L., C. & P.S. 716 (1954); M. Hakeem, *A Critique of the Psychiatric Approach to Crime and Correction*, 23 Law & Contemp. Prob. 650 (1958).

²³ See T.S. Szasz, *op. cit. supra* n. 8; Professor George H. Desalon's *Final Draft of the Code of Correction for Puerto Rico*, 71 Yale L.J. 1050 (1962).

²⁴ Comment, *Competency to Stand Trial*, 59 Mich. L. Rev. 1078, 1081-83 (1951).

²⁵ M.S. Guttmacher, "The Mentally Abnormal Offender," in *Crimes of Violence: The Report of a Conference on Crime Sponsored by the University of Colorado* 21, 30 (1949).

²⁶ H.A. Overstreet, *The Great Enterprise* 115 (1952).

²⁷ T.S. Szasz, *op. cit. supra* n. 20.

²⁸ Compare the concept of the "therapeutic state" in T.S. Szasz, *op. cit. supra* n. 8.

²⁹ J.S. Mill, *On Liberty* (1893).

³⁰ *McNabb v. United States*, 318 U.S. 332, 347 (1943).

³¹ Albert Deutsch, *The Mentally Ill in America* 114-17 (2d ed. 1949); T.S. Szasz, *op. cit. supra* n. 8, at 47: "There is evidence that incarceration in a mental hospital may be more harmful for the personality than incarceration in a prison."

³² T.S. Szasz, *op. cit. supra* n. 8.

³³ A. Deutsch, *op. cit. supra* n. 31, at 448-49.

³⁴ *New York Times*, Sept. 11, 1965.

³⁵ S. Rubin, *Protecting the Child in the Juvenile Court*, 43 J. Crim. L., Crim. & P. S. 425, at 435: absence of formal procedure is said to be desirable as being less dramatic, less threatening, gentler in its impact; E.H. Crawford, *Civil Rights and Mental Hospital Administration*, 9 Clev.-Mar. L. Rev. 417, 419 (1960); H. Weithofen, *op. cit. supra* n. 13.

³⁶ L.J. Saul and J.W. Lyons, "Acute Neurotic Reactions," in *Dynamic Psychiatry*, *op. cit. supra* n. 7, at 140, 142.

³⁷ T.S. Szasz, *Civil Liberties and the Mentally Ill*, 9 Clev.-Mar. L. Rev. 399, 410-11 (1960). Cf., N.N. Kittrie, *op. cit. supra* n. 3 at 47-48.

- ²³ *Fleming v. Tate*, 156 F.2d 848 (D.C.Dis. 1946); M.S. Guttmacher, *The Psychiatric Approach to Crime and Correction*, 23 *Law and Contemp. Prob.* 633, at 646 (1958): Some psychotics, particularly paranoics, respond more favorably to treatment if they have had their day in court.
- ²⁹ In commitments of the mentally ill, where the jury trial is available, it is usually optional; W. J. Curran, *op. cit. supra* n. 18, at 283.
- ⁴⁰ *Ibid.*, at 285.
- ⁴¹ 372 U.S. 144 (1963).
- ⁴² *Helm v. State*, — Wyo. —, 404 P.2d 740 (1965), This case holds there is a constitutional right to a hearing, including confrontation and cross examination, and excluding hearsay evidence, before involuntary commitment to a mental institution.
- ⁴³ See text pp. 3-9.
- ⁴⁴ J.G. Wilson and M.J. Pescor, *Problems in Prison Psychiatry* 134 (1939); *Steps Forward in Mental Hospitals* 176 (D. Blain ed. 1953); Kennard, 4 *Electroenceph. & Clin. Neurophys.* 419, 440 (1952); W. Overholser and W.W. Richmond, *Handbook of Psychiatry* 184 (1947); M. Hakeem, *op. cit. supra* n. 22, at 678-81; H. Wehlofen, *The Definition of Mental Illness*, 21 *Ohio St. L. J.* 1 (1960), at 7-8; a legal definition of mental illness is not feasible.
- ⁴⁵ *Community Mental Health Centers Act of 1964*, 42 U.S.C.A. s 2672 et seq. (1965 cumulative annual pocket part).
- ⁴⁶ J. J. Graham, *What to do with the Psychopath*, 53 *J. Crim. L. Crim. & P.S.* 446 (1962); H.F. Barnes and N.K. Teeters, *New Horizons in Criminology: The American Crime Problem* 953 (1945); "Those who cannot be reformed . . . must be segregated for life — but not necessarily punished — irrespective of the crimes they have committed."
- ⁴⁷ L.H. Gold, *Criteria for "Cure" in Psychosis*, 6 *J. For. Sci.* 158 (1961); J. Reid, *Disposition of the Criminally Insane*, 16 *Rutgers L. Rev.* 75 (1961).
- ⁴⁸ *Comment, Releasing Criminal Defendants Acquitted and Committed Because of Insanity: The Need for Balanced Administration*, 68 *Yale L. J.* 293 (1958); H. Wehlofen, *Institutional Treatment of Persons Acquitted by Reason of Insanity*, 38 *Tex. L. Rev.* 849, 865-67 (1960); *Comment, Use of Indeterminate Sentences in Crime Prevention and Rehabilitation*, 7 *Duke L. J.* 85, 77, 82 (1958).
- ⁴⁹ *Note*, 41 *N.C. L. Rev.* 141 (1962).
- ⁵⁰ T.S. Szasz, *Hospital Refusal to Release Mental Patient*, 9 *Cleve.-Mar. L. Rev.* 220, 222 (1960); *Note, The Sexual Psychopath Laws: Validity and Construction*, 14 *Baylor L. Rev.* 93 (1962). Perhaps

- only in the District of Columbia is the petitioner entitled to an independent psychiatric examination furnished by the government if he is indigent; Wehlofen, *op. cit. supra* n. 48, at 866-67.
- ⁵¹ *Comment, Competency to Stand Trial*, 59 *Mich. L. Rev.* 1078, 1081-92 (1961).
- ⁵² W.M. Crain, *Indeterminate and Determinate Time in the Treatment of the Adolescent Delinquent*, 28 *Fed. Prob.* (3) 28 (1962).
- ⁵³ *Comment, Analysis of Legal and Medical Considerations in Commitment of the Mentally Ill*, 56 *Yale L.J.* 1178, 1198-99 (1947).
- ⁵⁴ Albert Deutsch, *op. cit. supra* n. 31, at 91, 183-84, 214-27.

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THE RIPON SOCIETY
 P.O. Box 138, Cambridge, Mass. 02138

OUR READERS WRITE

Gentlemen:

You have missed the message of the 1964 election. We never expected to come close to victory but that did not mean that we were willing to blind the people with baubles nor indulge their fancy with bread and circus. The more the me-tooers deserted, the more determined we became to champion a bruising campaign that will be long remembered. We exerted ourselves to the full, knowing full well that the weak of heart would leave the party.

We would remind you that facade Republicans like Lindsay rarely voted with the hard core of his party who saw it through the rough Rooseveltian period. Governors like Rockefeller and Smylie openly embraced some of the anathemas of the detested Democrats. Senators like Javits, Scott, Cooper, Case and Keating gave aid and comfort to the enemy. Our remnant may be small but it is braced for a bruising party fight.

Now we hear talk that defectors like George Romney seek party support. On what grounds? While we bore the brunt of the Johnsonian onslaught, Romney took cover in his state and sacrificed the national ticket. We are honestly indignant when he says that his credentials

are in order. He deserted and therefore has forfeited our loyalty. We have no alternative but to protect our wing of the party against eastern assaults.

Would you deny that the East has grown accustomed to the machination of our monolithic Federal government? We have all the grim determination of die-hard Confederates and will fight to retain our identity in the party. We are tolerant. We will accept a liberal if he supported Goldwater's candidacy with fervor and convincing persuasion. No amount of dialectical discussion can convince us that disloyalty should be rewarded. We welcome all to the ranks so long as they remain faithful and devoted to a free Republic.

A GOLDWATER REPUBLICAN
 St. Louis, Missouri

Gentlemen:

While the Ripon Society is properly preoccupied with position papers of longer content, the art of politics is often applied best in reducing those papers to brief slogans.

The first majority Republican President was elected on the slogan — the last four words of his acceptance speech — "Let Us Have Peace."

There could not be a more appropriate slogan for the Republican Party today, as its number one priority.

It is far from irrelevant to add that, with all his faults, Ulysses S. Grant was one of the most unfairly maligned and misjudged presidents in our history, that his initial (as of circa 1866) commitment to civil rights was greater than Lincoln's, and that his historical downgrading has been due not so much to his admitted faults, as to the calculated ferocity with which revisionist, Confederate-minded historians have attacked everything having to do with Radical (Republican) Reconstruction. The principal heritage of the Reconstruction is, as few civil rightsniks realize, the Constitutional Amendments without which there could be no civil rights movement today.

Hence my proposal:— that the 1868 slogan be the 1968 theme, that the words in front of Grant's Tomb be brought to life — "Let Us Have Peace."

HOWARD N. MEYER
 Rockville Center, New York

MR. MEYER is author of *Let Us Have Peace: The Story of Ulysses S. Grant* published last year by Collier Books.

ADVERTISEMENT

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needed who can respond to challenging opportunities in wealthy community with long tradition of educational excellence. Must be willing to work holidays and be multi-versed in all aspects of administration, especially budgetary and disciplinary problems. Students are bright but prone to unruliness; faculty of exceptional quality. Applicant should have advanced degree; political or theatrical experience helpful. We are an equal opportunity employer. No troublemakers need apply. Address all inquiries to: Board of Regents, University of California.

REAGAN'S FIRST CRISIS

From a California Correspondent

A fundamental policy change for the University of California is in the offing if the California Legislature approves Governor Ronald Reagan's education budget proposals.

Reagan now appears to consider what he once called the "high and noble purpose of the University" to be sullied sufficiently in the eyes of the electorate to propose 1967-68 budget appropriations for the University of California and the California State Colleges of 29% and 28% less than the current fiscal year. Yet both systems would be asked to take in more students on the reduced budget.

It has been the policy of the State of California to assure admission to the State University to the top 12½% of graduating high school students. Reagan, in his budget message to the California Legislature stated, "I want to make it clear that I fully support the preservation of quality education and enrollment of the largest number of qualified students possible." With more students on a smaller budget, quality is certain to suffer.

CAMPAIGN TARGET

The presence of radical dissent at the UC Berkeley campus was a favorite campaign target for Reagan, and most informed observers were not too surprised when the Board of Regents of the University summarily dismissed President Clark Kerr early in January. Many voters felt Kerr was indecisive in his handling of the so-called free speech crisis at Berkeley and mistrusted him for defending students' rights. He was also charged by Mrs. Randolph Hearst of the Regents with being a poor administrator, although it was under his leadership that the University added three new campuses and transformed three others, attracted

outstanding faculty members, and achieved pre-eminence in graduate education at the Berkeley campus.

Reagan did not win in California as a conservative. It is no secret that his campaign was carefully moderated by Spencer-Roberts and Associates, a well-known public relations firm. Now, however, he seems to be interpreting his near million-vote margin as a mandate for turning back the clock in California.

Certainly removing or reducing radical dissent may have found favor with many voters alienated by the self-serving tactics of leftists Mario Savio and Bettina Aptheker. Political society in California has tired of the barrage of criticism from the New Left, and it appears many voters in the State now feel a budget cut is the way to excise the University's problems.

ROCK OF EDUCATION

Both the New Left and the New Right would do well to heed U.S. Secretary of Health, Education and Welfare, John W. Gardner. Speaking to a group of Los Angeles reporters before an L.A. Chamber of Commerce banquet, Gardner said, "The prosperity of California and its greatness as a state is built solidly on the rock of education. You're not a great and prosperous state because of the climate or any particular virtue, but because you believed in education and poured money into it."

Clark Kerr has pointed out that California has "the highest concentration of able scientists of any region of the world" and "more scientifically related industry than any state in the nation."

Mediocrity will attract more mediocrity, and a drastic decline in educational quality will cost the state, and the Republican Party, dearly.

—M.N.

POLITICAL NOTES

● Governor George Romney's favorite song is "Stout-hearted Men."

● Reports from the convocation of freshmen Republican Congressmen held last December indicated a surprising degree of impatience from the new faces at the hard conservative line expounded by the House GOP leadership in speeches and in seminars. Now observers see reinforcement for their view that the new class may be more moderate than expected. They cite the election of William Cowger, former Mayor of Louisville, as president of the entering Republican "class," despite the campaign of Ohio arch-conservative Donald Lukens. Moderates Margaret Heckler of Massachusetts and William Steiger of Wisconsin were also elected to leadership posts by their fellow freshmen.

● *The New Guard* reports that when Ronald Reagan was a candidate in the fall, his political aides asked him to resign from the advisory board of the right-wing Young Americans for Freedom. Reagan still remains an advisor, however, according to the YAF magazine.

● Fulton Lewis III, an advisor to Teen-Age Republicans, reported in an exclusive Washington newsletter that the present Young Republican "leadership" (otherwise known as the "Syndicate") selected its next candidate for Y.R. Chairman during a November caucus in Denver. Their choice, Lewis stated, was Jack Mc-

Donald of Nashville, Tennessee, current Y.R. treasurer and "a staunch conservative". He further stated that McDonald "would not be willing to compromise with Bliss to any great degree" concerning Y.R. obedience to the senior national committee, and instead would probably attempt to separate entirely from the national committee, raise its own funds, but still call itself Republican.

● California Congressman Alphonzo Bell recently reminded fellow California Republicans that those who wish to make Ronald Reagan a favorite-son candidate in the 1968 Presidential primary to avoid a party split must logically also seek unanimous support for the renomination of Republican Senator Thomas Kuchel. "If the senatorial primary should be considered free and open, there is relatively little reason to argue that the Presidential primary should be closed."

● Winthrop Rockefeller may extend his moderating force to southern Republican parties outside his own state. The Arkansas governor was reportedly visited in late December by two Mississippi Republican leaders, Rubel Phillips, 1963 gubernatorial candidate, and Clarke Reed, state chairman. Mississippi newspapers report that the two got tips on party organization and asked Rockefeller to make fund-raising speeches for state candidates in Mississippi this fall.

P. O. BOX 138: The Bells Are Ringing

Nothing is quite so encouraging as a long-distance telephone call from a Georgia state senator disillusioned with Southern Republicanism who wants to start a Ripon chapter with all deliberate speed. Or a Republican precinct captain in Chicago with similar ambitions. Or a schoolboy from Quincy, Massachusetts, who wants information for a term paper on the 'Future of Republicanism.' The bells keep ringing at the Ripon offices and callers talk to whoever happens to be on the spot.

That can be awkward. Witness the time after closing hours, when a mail-stuffing volunteer new to the Ripon enterprise picked up the telephone and suddenly found himself answering questions from a sharp Washington correspondent. "How many members do you have?" asked the reporter. "Well," replied the volunteer with authority, "our latest mailing is going out to some 1667 people in 49 states and nine foreign countries."

Because its leaders live in Los Angeles, San Francisco, Seattle and Denver as well as New York, New Haven and Boston, much Ripon Society policy is made over the wires. Position papers are finally cleared this way, and there is a movement afoot to institute a regular weekly conference call. If anyone is interested in funding such an institution, Ripon would be delighted to name it the (John Doe) Memorial Conference Call. The Society has already been endowed with several "chairs" in this manner.

NATIONAL SERVICE CONFERENCE

The Ripon Society's call for the creation of an all volunteer military gained almost unanimous support earlier in February from leaders of eighteen young adult organizations with a combined membership of nine million.

The leaders, representing both the far left (Students for a Democratic Society) and the far right (Young Americans for Freedom), unanimously opposed the current Selective Service system, and except for two pacifists, all declared their preference for a voluntary army.

Ripon-member Terry Barnett presented the Society's paper, *Politics and Conscription: A Proposal to Replace the Draft*, (FORUM, December, 1966), to the participants and later led off discussion at an hour-long press conference for the national news media and approximately eighty college editors. The conference received national front-page coverage.

Announced at the conference was the formation of a Students Serving Society (SSS) registry which would allow college students to pledge voluntary national service, either military or non-military, by mailing a form to *Moderator* magazine, the sponsors of the two-day Washington meeting. The SSS registry has a two-fold purpose: first, to demonstrate to Congress that students can be against the draft but still be anxious to serve their country; second, to match volunteers with service projects in their particular field of interest.

Organizations represented at the conference, in addition to those mentioned above, included: U.S. Youth Council, U.S. National Student Association, Col-

JAVITS

Senator Jacob Javits, after meeting with New York chapter members in December, last month flew to Boston and stopped to meet with Ripon members over New York State sherry (which he declined). The Senator urged Ripon to focus on the issues, not the candidates. Specifically, he cited Vietnam (land reform, Northern bombing), urban redevelopment (housing, welfare) and civil rights (enforcement lag). With respect to the candidates, Senator Javits urged the Society to give George Romney time to demonstrate his "considerable talents."

RESEARCH

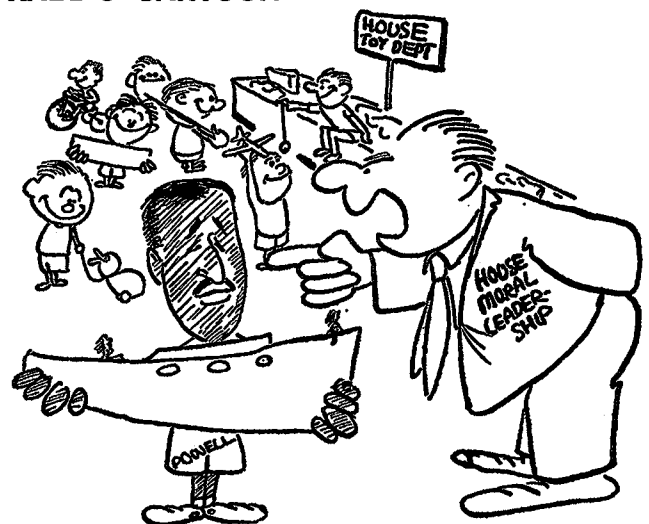
The New York Chapter met in January to review material for its study of government service centers. Cambridge and New Haven chapters carried out consultations with members of the Harvard, Yale and M.I.T. faculties on proposals for a guaranteed annual income and negative income tax. Southern California is in the midst of a study of the effects of reapportionment on state politics.

PRESS

A Ripon statement issued on January 23rd expressed concern that the abrupt dismissal of Clark Kerr as Chancellor of the University of California might undermine the Republican party's growing support in universities throughout the country. The statement was given extensive coverage both in California and in major national newspapers and wire services. The Ripon analysis of Republican politics that appeared in last month's FORUM was also widely quoted in the press.

lege Young Democrats, National Young Republicans, United Campus Christian Fellowship, YWCA, YMCA, University Christian Movement, Peace Corps, National Federation of Catholic College Students, American Friends Service Committee, National Newman Club Federation, NAACP College and Youth Division, and Pax Romana.

RABB'S CARTOON



"LISTEN, KID, HOW MANY TIMES DO I HAVE TO TELL YOU NOT TO PLAY WITH THE TOYS IN HERE?"