

# RIPON FORUM

**Dole  
Revisited**

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## **PROFILE: JESSE HELMS**

1978's JAMES BUCKLEY?

by Dick Behn

Jesse Helms has decided to make a phoenix out of a dodo bird. Two years ago, the North Carolina senator suggested that the GOP was dead as a dodo bird. He even chaired a committee to determine how conservatives could best forge a political majority and toyed with the idea of being a third party candidate. More recently, however, Helms has argued that "the Republican Party can, if it will, be the vehicle for change and the restoration of political principle."

Ironically, just as Helms has made this dramatic switch to championship of a new purist Republican Party, Democrats in North Carolina are aiming to make Helms into a 1978 dodo bird. Helms is likely to be the James Buckley of 1978---a prime target for Democratic bounty hunters looking for a conservative scalp. The vehemence which opposition to Helms engenders is indicated by an article by North Carolinian Mark Pinsky published last fall in the Nation. In one of his less virulent passages, Pinsky wrote: "If there is an 'Old South' hack left anywhere in this region, or if there is an ugly side to the much heralded 'New South,' it is embodied in Jesse Helms."

Having critically injured Gov. James Holshouser in this year's North Carolina presidential primary, Helms is now readying himself for the 1978 Democratic onslaught. Helms himself has said: "I have been told, for example, that I am a marked man, that I have been selected as the number one national target in 1978 by organized union bosses because of my stand for conservative principles, and the political bosses in my state have already held press conferences to announce that their major goal is to eliminate me in two years."

According to Thomas Ellis, a key Helms aide, "We're beginning to gear up now. We're thinking in those terms and will be having organizational meetings and so on right after the first of the year. With all these Democrats wanting a shot at Jesse, we're not sitting back." According to Ellis and Frank A. Rouse, another Helms backer, it will be an expensive campaign, costing at least \$1 million. "It will take more than a million, but it won't be any problem. Jesse can raise a hunk of it from conservative businessmen and patriot types---you know, the little old ladies in tennis shoes." Helms is meanwhile gearing up his primary fundraising vehicle, the North Carolina Congressional Club to fuel the pre-primary politicking. According to the Raleigh News and Observer's Daniel C. Hoover, Holshouser is still not discounted as a primary opponent to Helms and a good part of the upcoming effort will be to discourage such a challenge. Party organizer Charles R. Jonas, Jr., noted recently that Helms could win GOP unity "if he just won't uninvite people by saying that this party has to have just one point of view."

After a resounding gubernatorial victory this year, North Carolina Democrats are primed to defeat Helms. Raleigh attorney Hugh Cannon and State Sen. McNeill Smith of Greensboro have already announced; Superior Court Judge Sam J. Ervin III, son of "Senator Sam," has indicated an interest in doing so. Another Ervin associate, state Atty. Gen. Rufus Edmisten, says he too is interested in following his former boss' footsteps. Other famous names being mentioned included former Gov. Robert W. Scott, and North Carolina National Bank president Luther

Hodges, Jr., son of a former governor.

From a Democratic viewpoint, the situation is outlined by Ken Friedman in the Atlanta Journal-Constitution:

Helms, a former television editorialist, was elected in 1972 with substantial help from conservative Democrats who broke ranks with their party to vote for the Republican.

But the results of 1974, which eliminated two of the state's four GOP congressmen and nearly eliminated the minority party's membership in the state legislature, were confirmed by a similar Democratic sweep in the election [in 1976.]

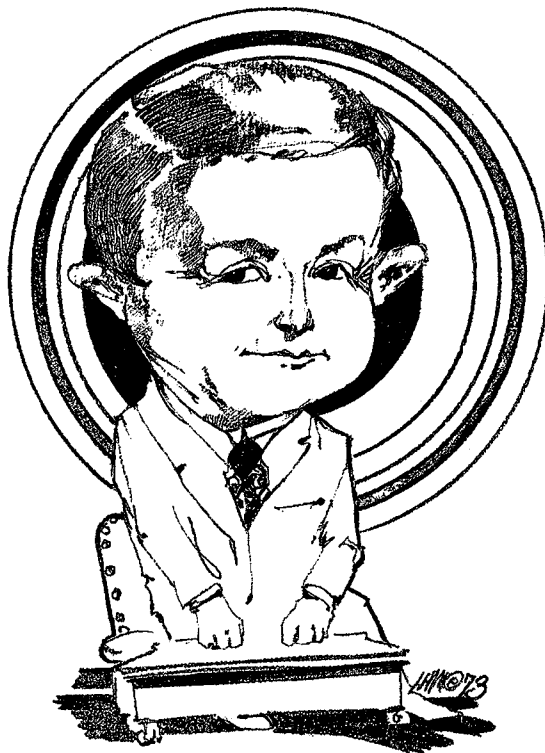
...As a result, key Democrats believe they have reassembled the broad coalition of conservative and moderate, rural and urban voters which fell apart in 1972.

As the Raleigh News and Observer's Ferrell Guillory wrote in November: "...in a weak party, [Helms] stands apart, in a sense isolated, holding an important office that makes him an inviting target for the Democratic Party." While he fights a defensive battle at home, Helms is taking the offensive on the national scene.

Clearly, Helms has positioned himself to be the conservative successor to Barry Goldwater and Ronald Reagan. And though Helms seems destined to succeed them as the conservative spokesman, he appears unlikely to emulate them in their disdain for early organization and their ambivalence about seeking higher office. Prior to 1964, Goldwater seemed ready to reject pressure to seek the presidency. And in 1968, Ronald Reagan's famous hesitation gave Richard Nixon the leading Republican part.

In contrast, Helms seems to lose no opportunity to assume an important conservative leadership role. In May 1974, he addressed the Dean Clarence Manion Testimonial Dinner on the need for realignment of the major parties:

Ladies and gentlemen, the time has come when the people of America must be given a true choice. Both of our major political parties today are in a state of confusion. Our party leaders are thrashing around without vision. The people have lost confidence in the Presidency, and in the Congress as well. Clearly, our major parties have failed to articulate the philosophy of our people and to give them a choice of



leadership.

I venture to suggest that all of this may indicate a desire, on the part of the majority of the American people, for a realignment of our political parties.

Later, Helms became active in the leadership of the Committee on Conservative Alternatives which examined the desirability of remaining within the Republican Party to maximize conservative impact. In his words, "We must be prepared to have an acceptable candidate ready and able to run for office, not excluding the presidency, if the major parties continue in the direction they are now going."

Helms had a more dramatic impact on conservatives when he rallied his wing of the Tarheel GOP to overcome Gerald Ford in the North Carolina primary and give Ronald Reagan a much needed boost. He reemerged at the Republican National Convention as the leader of conservative ideologues who wanted to ensure the Reaganite purity of the GOP platform.

Speaking to the Republican Platform Committee August 11, Helms said:

There are some who view politics as the art of compromise. I view it as a challenge to provide principled leadership. A political

party unable to set forth a forthright course of action to inspire the nation to rise to greatness is a political party that will wither and blow away.

There are some who may be content with a political party as a coalition of competing interests, interests that may even be contradictory, divergent and clashing. But, there are millions of Americans yearning for a political party composed of citizens willing to subordinate their personal and selfish interests for the common good and for the political health of the nation.

Lastly, there are those who fear a political platform that contains hard decisions and moral questions because it may offend those of a faint-hearted or selfish disposition. My response is that character is built upon the taking of difficult but honest decisions, and that we are influenced to make correct decisions by the good example and leadership of those around us. Moreover, a political party, like the individuals who make it up, builds its character upon the decisions it takes. We cannot restore a sense of decency to our nation unless we are fully committed to a moral course ourselves.

Largely successful in his attempt to put conservative starch in the Republican platform, Helms gained additional publicity when he was prominently mentioned as a possible candidate of the American Independent Party by William Rusher and Richard Viguerie. Having done "better than expected" in the platform fights, Helms declined to switch parties: "I respect what [Rusher and Viguerie] are doing, but I just see nothing to be gained from it at all." Viguerie indicated he supported Helms because "he is a true conservative and he is not a politician."

Helms moved out of the national headlines while Jimmy Carter was beating the Republican ticket badly in North Carolina, but he has reemerged in the post-election period. Once again, he is a spokesman for ideological purity in the GOP. Like Ronald Reagan, Helms insisted that the strength of the Republican Party lay in the platform adopted in Kansas City: "...I think it is demonstrable, as we study the election returns, that the enthusiasm of a great many Ameri-

cans for President Ford extended only as far as his own enthusiasm for the Republican Platform. When I look at the final pattern of the electoral vote decisions which were made on November 2, I cannot help feeling that the final outcome would have been markedly different if Governor Reagan had been the Republican nominee." Helms undercut some of his own arguments somewhat, however, when he told the same audience: "Quite frankly, I am afraid that most citizens never bothered to read the platforms of the two major parties."

Helms' comments came in an address to the Public Affairs Club of Dallas on November 15. He blamed Henry Kissinger and the Ford Administration's foreign policy record for the GOP's problems: "Secretary of State Kissinger's vaunted program of detente has consisted primarily of withdrawing the United States from an independent role, and compromising our interests and freedom. Although no one seeks to involve the United States in war, Kissinger's program has consisted of selling out the West whenever it meant challenging the Communists to any degree." Kissinger's primary sin, according to Helms, is his defiance of the American people on "moral issues." Civil rights are not among the moral issues about which Helms worries---as he evidenced in his 1960s editorials on North Carolina radio and television.

Helms' speech is notable not only for his ideology, but especially for his call to conservative action:

This is by no means the millennium, however, for conservatives must organize now---not in 1977, but now, in the last two months of 1976---for even greater victory in 1978. Let me assure you that the union bosses have already begun to organize.

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#### CORRECTIONS

In the final paragraph of Richard W. Rahn's article, "The Ripon Emissary's Report," in the December 15, 1976 FORUM, a key word was omitted from the final paragraph, which should read: "In summary, since the Cubans are still strongly hostile to the American form of government and economic system and since they have far more to gain from improved relations with us than we do with them, we ought not to surrender what little leverage we have."

They have the organization, the system, and are already raising the funds...

It is time that the people of all the states, the wage-earners and the producers who are the source of our abundant life, should join together in a great movement against giveaways and bloc voting. Poll after poll has shown that the majority of American people are conservative. ...I believe that now, more than ever, the Republican Party must be transformed to a broad-based conservative party which will bring all of the workers and producers into one camp, and leave the special interests and the self-seekers to the liberals.

Helms takes his own advice and he was present in Chicago when the Conservative Caucus organized by Howard Phillips held a meeting December 12. Helms is one of the few big name Republicans who can be regularly counted on to show up at events like this. He repeated the same call that he made in Dallas: "...conservatives must organize to take back the machinery of the party, from the chairman of the Republican National Committee on down. The RNC staff should be thoroughly reorganized to change a paper-shuffling bureaucracy into a tightly coordinated group developing issues and programs based on principle."

Helms' connection with the Phillips-Rusher-Viguerie branch of

the conservative movement includes their absorption with the notion of changing the GOP's name---perhaps to the Conservative Party. He also joins the Conservative Caucus in its espousal of a "shadow government, a cabinet of coordinated spokesmen prepared to use the research and materials generated by the revitalized national committee and by conservative, knowledgeable experts and institutions properly oriented to sound principles." Among the members of such a cabinet suggested by Helms were outgoing Treasury Secretary William E. Simon, outgoing Sen. James L. Buckley, and Ambassador to Argentina Robert C. Hill.

Clearly, Helms intends to play hardball. That he will not defer to conservative elders was indicated when he declined to switch from backing Sen. Robert Griffin to Sen. Barry Goldwater in the Senate minority leader's race. The Republican Party is presently his chosen vehicle, but as recently as last year, Helms told the Associated Press, "I don't consider myself as a Republican or Democratic Senator." As one Reagan aide said last year, "He intends to emerge as the leader of the right wing. He doesn't care particularly if it's in the Republican Party or out of it, but right now he is wedded to the party for the short run." Republicans prepared to follow Helms' advice might wonder how quickly Helms will tire of the short run and pursue his ideology elsewhere. ■

## COMMENTARY: THE GOP

A BALANCED REPUBLICAN TICKET

by George L. Hinman

On November 2, the solid Democratic South reemerged as a reality. The Carter-Mondale ticket carried all the 17 southern and border states except two (Virginia and Oklahoma) for a net total of 138 electoral votes.

On the other hand, President Ford and Sen. Robert Dole carried all the 19 states west of the Mississippi outside the South and Border State area with two exceptions (Minnesota and Hawaii) for a net total of 111 electoral votes. This sweep did not completely wipe out the GOP's southern deficit but carrying this vast western area was absolutely essential if the

President was to have a shot at going on to win in the Northeast.

Carrying "the West" for the Republican ticket was not a foregone conclusion when the Republican convention met in August in Kansas City. It was a very doubtful thing. At the convention the Republican parties of the western states were almost solidly against the President. This was Reagan country and for the most part it was ultra-conservative. The farm states were especially deeply disaffected. There was a grave question as to whether they could be brought back to their normal Republican allegiance.



Bob Dole was put on the ticket to do just that. The record is that he did it. A map of the election results shows a virtually solid Republican West. This in large measure offset the South and enabled the President to come within a whisker of winning in the Northeast. Seasoned observers in the western states confirm that had Dole not been on the ticket and had he not made the campaign that he did, the line would not have been held in the western states.

In the Monday morning speculations now rampant, the President is being faulted for not having picked as his running mate a person with broader appeal than Dole had in the Northeast. It is quite possible that

Vice President Nelson Rockefeller--- with his ties to labor, blacks, Jews, and the big cities would have made enough difference in New York, Pennsylvania and Ohio to have put the ticket across regardless of the outcome in the West. But it is difficult to think of anyone else with anything like that kind of clout and Rockefeller was not available.

Thus, Ford balanced his ticket with Dole and, as the election testified, it was about as perfect a balance against the the political realities with which the Republicans were to be confronted when the chips were down as it is possible to conceive.

Against an overwhelming Democratic preponderance in party affiliation; against an "insurmountable" lead for Carter at the time of the Kansas City Convention; against the solid South; against the solid black vote there and everywhere; against the solid and aggressive opposition of labor; against the big city vote, especially New York's where the rhetoric and not the record was all that was remembered ---against all these things in the first presidential election to follow the Watergate revelations, the Ford-Dole ticket came within an eyelash of winning.

It was a dead heat which any one of a score of small breaks might have turned the other way. One cannot take satisfaction in a defeat, but there is surely no basis for recrimination either. Under the circumstances, it was a phenomenal showing and it was a balanced ticket that made it possible. ■

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Contributor Note: George L. Hinman is the Republican national committeeman from New York.

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## FOLLOWUP: DOLE

MINORITIES AND THE GOP: TWO VIEWS

"Somebody had to take the heat and when you take the heat, you get a few bruises," says Sen. Bob Dole. In a interview with the FORUM, Dole argued that he had a "particular assignment" to pick up disaffected Republicans and voters in the West and Midwest for the Republican ticket and had done so successfully.

Although Dole was proud of his contribution to the Republican campaign, he was philosophic about whether he was strategically the best choice for the ticket. In hindsight, he may have been "too Republican" a running mate for President in terms of attracting independent voters in the North. Dole seemed graciously to tolerate the post-election criticism of his selection, but earlier he had told the Washington Post's Lou Cannon, "When you come so close and have done what you're supposed to do, it's distressing to read that the President would have won if you weren't on the ticket. Maybe he should have taken someone else for the last two percentage points. Maybe we ought to let the President change vice presidential candidates late in the campaign, sort of like substituting a passer for a kicker."

Ripon's criticism of Sen. Dole's selection could be compared to a slightly different football analogy--- say, sending in a kicker to successfully complete a field goal attempt in the final minute of play when only a touchdown would win the game. Dole himself seems to be avoiding the tempting trap of Monday morning quarterbacking but he does wish the Republican national convention had been held a month earlier.

Sen. Dole has, however, become one of the party's most determined spokesman for broadening the party's base among black voters. Dole has advocated an experimental program in a urban black precinct to test ideas for recruiting black candidates and black voters. Dole is appalled at the failure of the GOP in 1976 to attract a larger black vote---or to attempt to attract a larger black vote. "We can't afford that kind of strategy," says Dole, adding that the GOP "only needed 15 percent" of the black vote. Dole

notes that neither advertising nor time were spent on black voters and that he himself was not programmed to speak before black audiences. "Somehow, we have to make black Americans and other Americans see that [the GOP] has an all-American philosophy," says Dole.

Another senator who agrees with the GOP's need to expand its base among minority voters is California's Sen.-Elect S.I.Hayakawa. Hayakawa attributes his own recent election in part to his election day strength among Japanese, Chinese, Mexican-American, and black minorities in California. In an interview with the FORUM, Hayakawa "didn't buy" California's reputation for bizarre politics. "For one thing, it's non-racist or I never would have been elected."

Hayakawa has himself told the California GOP that it has to broaden its image. "The Republican Party has gotten itself the reputation of being the big business party," says Hayakawa when it should be seen as the party of small business as well. "The Democratic Party, having spent most of its energies crippling Big Business, has now crippled small business too." The interest in small business must extend to and therefore attract minority voters, Hayakawa indicated.

The man who once said the United States should keep the Panama Canal because it "stole it fair and square" is more reticent about taking public positions these days. "It's one thing to campaign. It's another thing to do the job," says Hayakawa. He seems reluctant to make many proposals or statements until after he's "learned the job."

Regarding the Republican Party, Hayakawa says "I can do my share by doing something in California. Hayakawa agrees with Dole's that the Republican Party has to come up with its own positive proposals and avoid becoming a nay-saying party to the Democrats. As Dole says, "There's going to be a tendency to simply oppose" the Carter Administration but "we can't just cast ourselves in a negative mold." ■

RENEW TODAY

## Commentary: Criminal Justice

INCONSISTENCY AND THE COURTS

by Frederic R. Kellogg

Behind the controversy over Gary Mark Gilmore and the administration of capital punishment is a more fundamental issue which has wider implications and which the drama over renewed use of the death penalty has tended to hide. That is the remarkable lack of organized rationality attendant to our system of criminal justice decision-making. This is the problem underlying a considerable amount of the public's dissatisfaction with American justice and punishment.

It is significant that the Supreme Court's overriding reason for blocking state executions in the 1972 decision in Furman v. Georgia was not that the death penalty was by nature cruel and unusual. Rather, the Supreme Court found that the national administration of the death penalty was so clearly inconsistent and discriminatory in effect that a majority of justices were moved to halt capital punishment until state statutes were rewritten to ensure greater consistency and eliminate the capriciousness of the existing laws. By last July's decision in Gregg v. Georgia, this process had been carried out with sufficient rigor in enough states for a majority of the Court to remove the death penalty ban.

It is because death is so awful and conclusive that the courts are confronted with the need to interfere with the exercise of discretion which in other stages of the criminal justice process have been beyond their reach. In truth, however, discretion and inconsistency are widespread at almost every level of the system and for almost every type of offense, offender and punishment. This works to the disadvantage of some offenders as much as it does to the advantage of others.

Commit a criminal offense and the sanction applied will depend more on the personalities---the attorneys, the judge, the parole board---than on the circumstances of the case. Chances are that a better break will be received if the offense is committed in an urban rather than a rural jurisdiction, particularly if the courts and jails are more than usually overcrowded. But regardless of location, luck will play an important part in the outcome because the criminal justice

system simply does not focus on relevant criteria and attempt to apply any set of consistent evaluative standards. And it is not surprising that an expensive defense can make a considerable difference in the legal luck of a defendant.

Recently, New York Times reporter Tom Goldstein wrote:

In study after study, the message is the same: Punishment should no long-



er be tailored to the individual, but should be equal for those convicted of the same crime.

The legislatures in Maine, California and Indiana have already adopted 'flat time' sentences, which have a specific number of years. These sentences are usually shorter than 'indeterminate' terms, where the maximum is high and a judge has broad discretion to sentence a defendant to, say five to 15 years...

...In a study commissioned a few years ago by the judges in the United States Court of Appeals for the second circuit, 50 federal judges were given 20 identical files, drawn from actual cases, and asked what sentence they would impose on each defendant.

The disparities were striking. In a case involving a middle-aged union official convicted of extortion, one judge imposed a sentence of 20 years' imprisonment and a \$65,000 fine. Another judge imposed a three-year sentence with no fine.

At Attica, where prisoners staged a peaceful protest over sentencing policy last August, an inmate who committed burglary is likely to find himself in a cell next to someone who committed a violent crime, but who is serving a shorter sentence because of a plea bargain. He is not likely to have a white-collar criminal for a neighbor.

Washington, D.C. has recently dropped from first to seventeenth in crime rates for the nation's 20 largest cities. Part of the credit is being attributed to "Operation Doorstop," designed to keep repeat offenders from going through the criminal justice system's revolving door and ending up back on the street arrest after arrest. It is ironic that Operation Doorstop is being heralded as an innovation because no basic laws or legal procedures have been changed. Operation Doorstop's only innovation was to assign four prosecutors and six investigators to make a close examination of the records of recent arrestees. When a repeat offender is identified, a special effort is made to deny bail and push the stiffest allowable jail term ---all through existing laws and procedures. In other words, the D.C. prosecutors are doing what the public probably expected that they were doing all along---assessing offenders and making

a special effort to incarcerate the more serious recidivists.

Why is Operation Doorstop related to the issue of capital punishment? Because both problems, the "revolving door" which puts the repeat offender back on the streets and the open noose faced by the Supreme Court in deciding whether to permit executions based on varied state legal criteria, arise from the same difficulty---the lack of systematic consistency in processing offenders and imposing criminal sanctions. Criminal justice in America is administered through a fragmented, *ad hoc* system which is the product of tradition and not of any uniform approach to consistent evaluation of offenders and effective administration of the most appropriate sanctions.

A majority of the American public favors imposition of the death penalty. Disagreement arises over question of which offenders to execute. Weighing the seriousness of an offense is inherently difficult and exceedingly so given the crude machinery of our criminal justice system. For the past five years, the official reason for suspending executions has been that the criminal justice machinery was demonstrably failing to meet the most minimum standards of consistency. It is certain that continued challenges based on inconsistency will be entertained by the federal courts. It is possible that, given our commitment to the traditional criminal process and unfettered state control over its administration, there will never be sufficient assurance of consistency to warrant executions.

Depending on the degree of that assurance and because of the terminal quality of executions, the controversy over the death penalty will continue. But it is a mistake to assume that "humanity" is the sole root of the problem. Rationality is a large component of the humanity issue and that problem will not easily be laid to rest in a criminal justice system so inclined toward irrationality. ■

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