

and seventies I sided with our youth against the new Establishment that held the reins of power."

Douglas' convictions—firmly rooted in a view of the world where heroes and villains were as clear and uncomplicated as those of any John Wayne epic—found ready expression in his votes as a Justice. In the famous Warren Court revisions of constitutional criminal procedure—*Chimel v. California*, *Mapp v. Ohio*, *Douglas v. California*, *Escobedo v. Illinois*, *Miranda v. Arizona*—Douglas cast not a single dissenting vote. Now I do not propose an extended discussion of the merits of these cases, some of which raise issues considerably more difficult than their many lay critics would admit. The point is simply that Douglas, more than any other Justice with the possible exception of Chief Justice Warren, was perfectly at home with decisions that at least arguably elevated particular social views of proper criminal process to constitutional dimensions. In the again admiring words of Professor Abraham, "The Douglas human rights posture thus would not be checked by the verbiage of the Constitution; if that document did not provide the kind of protection for the in-

dividual Douglas deemed necessary to bring about justice under law, well, he would find it..." Illustrations from Douglas opinions abound, but Abraham's citation of *Griswold*, where Douglas found the necessary constitutional support for his position in "penumbras, formed by emanations" from the guarantees of the Bill of Rights, is sufficient for our purposes. Whatever the merits of the *Griswold* decision, its author was clearly an individual who believed that if the result were "right," law and Constitution could and must be made to conform.

In the end, I believe that this overriding concern with reaching substantive results that accorded with his political and social predilections undermined Douglas' stature as a Supreme Court Justice. The problem did not lie in those predilections *per se* (though I personally would quarrel with many aspects of them). Rather, the root difficulty was that in many instances, Douglas seemed guided by the philosophy that the ends in which he deeply believed justified employing any judicial means at his disposal to achieve them. His major shortcoming was thus far from unique among men who hold high office; as the late Professor Alexander M. Bickel

pointed out in *The Morality of Consent*, the ends-means morality lurking in many of the landmark decisions of the liberal Warren Court found executive expression in the conservative White House of Richard M. Nixon. In a Supreme Court Justice, however, whose position symbolizes and personifies the rule of law in this country, Douglas' is a particularly tragic failing.

William Douglas was an independent, intelligent, committed Justice. He will be honored as he retires, and rightly so. His work, spanning one-fourth of the bound volumes of all Supreme Court cases, stands at its best as an eloquent reminder of his devotion to the individual rights so cherished in this nation. His retirement will not, I hope, mark a turning from that devotion on the part of the Court. But I hope as well that his flaws as a Justice will prove equally instructive to those who sit on the nation's highest Court—yielding a heightened awareness that law must transcend even the deepest views of those entrusted with its final interpretation, and a renewed commitment to reasoned decision within the limits of a defined constitutional framework. □

Marc Plattner

What Future for Partisan Politics?

As America enters its bicentennial year, there is good reason to believe that its political parties are approaching a critical juncture. In the most recent Presidential election in 1972, Republican Richard Nixon triumphed by a landslide, winning the allegiance of huge numbers of traditionally Democratic voters. It looked as if after 40 years of Democratic preponderance, a new Republican majority might indeed have emerged. A scant two years later, however, the post-Watergate Congressional election of 1974 dealt the Republicans a devastating defeat, and many observers suggested that the GOP had become an endangered species.

These wild fluctuations might be regarded, of course, as mere aberrations, the results of particular events unlikely to be repeated—Watergate in 1974, and the Democrats' "mistake" in nominating George McGovern in 1972. This is the view of those "old-line" Democrats who feel that the old New Deal coalition would still be viable if only their party would discard its New Politics foolishness and nominate the right sort of Presidential candidate. But at almost every other point along the political spectrum there is a widespread feeling that the old patterns of party alignment established by the New Deal are crumbling, and that some new structure is in the process of emerging.

Apart from the results of recent elections, the most striking evidence that significant change is brewing is the decline in party identification among voters. Recent survey data show not only that people's party identification is becoming a less accurate gauge of how they actually vote in Presidential elections, but also that the proportion of the electorate identifying itself as "Independent" has grown dramatically. According to the University of Michigan's Center for Political Studies, the percentage of voters calling themselves "Independent" has grown from 22% in 1952 to an unprecedented high of 37% in 1974. Thus in 1974 the Independents far outnumbered the Republicans (22%) and almost equaled the Democrats (39%). Moreover, the Michigan data reveal that this trend toward Independent status is especially marked among the young: among voters under 30 the number identifying themselves as Independent in 1974 reached an astonishing 51%.

These figures clearly indicate a growing dissatisfaction with the present shape of the two-party system. What is less clear is the kind of change that is likely to be produced by this dissatisfaction. Basically, there are two dominant theories: one which discerns a major party realignment *within* the traditional structure of our two-party system; and a second which

holds that that structure *itself* will change.

According to the first of these theories, we are now going through a typical period of party realignment of the sort that has characterized American politics at remarkably regular intervals, demarcated by the "critical elections" of 1800, 1828, 1860, 1896, and 1932. In such elections, a fundamental issue has come to the fore (e.g., slavery in 1860, economic depression in 1932), and has cut across existing party patterns, giving rise to a new majority which dominates the politics of the succeeding generation—until a new issue emerges to produce still another alignment and another majority.

Those who believe that we are currently in such a period of realignment argue, with considerable cogency, that the party configurations generated by the New Deal have, on the Presidential level at least, been all but completely eroded. This assumption underlies the various attempts of left-wing proponents of the New Politics to put together a coalition based upon such groups as ethnic minorities, women, the young, consumerists and environmentalists, and other issue-oriented middle- and upper-class voters. But the most explicit and forceful pronouncements of the expiration of the New Deal party structure have come, not surprisingly, from those who see a new

majority emerging on the Right. Two notable expressions of this view are contained in recent books by prominent conservatives—Kevin Phillips' *Mediocracy* and William Rusher's *The Making of the New Majority Party*.

Rusher's book, as its title indicates, goes beyond analyzing the supposed development of a new majority to assert the need for a new party to serve as its vehicle for coming to power. He thus analogizes the current situation not to the realignment of the 1930s but to that of the 1850s, when the old Whig Party died, and a new party, the Republican, gained rapid dominance. According to Rusher's analysis, the old Roosevelt-era economic division of society between haves and have-nots has given way to a new division pitting "producers... against a new and powerful class of nonproducers comprised of a liberal verbalist elite... and a semi-permanent welfare constituency..." The capture of the Democratic Party by this new class and its allies has led to the defection of those Southerners and working-class ethnics who had formed the bulwark of the New Deal coalition. But the taint of Watergate and the persisting influence of Northeastern liberals within Republican ranks makes the GOP incapable of permanently gaining the loyalties of the defecting Democrats. Rusher characterizes these newly homeless voters as "social conservatives," and he envisions their uniting with traditionally Republican "economic conservatives" to form a new conservative majority party.

Now it is obvious why economic conservatives, who form a decided minority of the electorate, might wish to form such an alliance. But what Rusher never succeeds in making clear is why "social conservatives," whose ranks, at least potentially, are much larger, should want to embrace the economic conservatives. The populist spirit that pervades the social conservatism of the 1970s is often as hostile to corporate elites as it is to media elites, and it is hardly unwilling to have government intervene in the economy for the benefit of the "average American."

This is clearly recognized by Kevin Phillips, who argues that the emerging New Right has little in common with traditional economic conservatism, and is likely to offer "increased support for middle-class economic security programs, control of the economy, assistance for troubled industries, and regulation of media power." Phillips sees the fundamental axis of American electoral politics as the split between the populist South and West and the elitist Northeast. This split was reflected in the 1930s in the overwhelming Southern and Western support for FDR and the relatively strong Republican vote in the Northeast. In 1972, by contrast, Democratic nominee George McGovern performed best in the Northeast and Republican Richard Nixon drew his strongest support from the South and West. Phillips convincingly argues that this shows that a significant realignment has already taken place: the

Democratic Party is now the home of a new liberal elite, and a new right-wing populist spirit has migrated to the camp of Republican Presidential candidates.

Phillips is highly critical of Richard Nixon's failure to provide a positive platform for this new "conservative" populist movement, though he is less willing than Rusher to assert that the Republican Party is inherently incapable of performing this task. But despite his uncertainty as to what organizational form it will assume, Phillips has no doubt that right-wing populism is the wave of the future, and he seems to welcome this development heartily. What is curious, however, about both Phillips' critique of the "negativism" of Richard Nixon's political strategy and his enthusiasm for the New Right is his own rather "negativist" characterization of the bases of right-wing populism.

Phillips has next to nothing to say about the positive aims of the new populists, and he makes no effort to extol the good sense and moral virtue of the



common man. His vision of populism is little more than anti-elitism pure and simple—a politics of backlash, anger, and resentment. He points with apparent pride to the fact that those states which most strongly preferred Nixon to McGovern in 1972 share the following traits: "low incomes, many poor, relatively low literacy, low per-pupil expenditures, relatively few symphony orchestras, few library books per capita, low health and welfare, high infant-mortality rates, high motor-vehicle fatality rates, high rates of violent crime."

In an early section of his book entitled "The Traditionalist Reformation," Phillips does make a brief attempt to show that the new right-wing populism involves a reassertion of traditional values. But here he winds up citing such dubiously traditional phenomena as the new ethnicity, the popularity of country music, "booming middlebrow Americana amusements" like Disney World, and widespread nostalgia for the 1950s. In fact, Phillips sees the real seeds of right-wing populism elsewhere. Later in his book he draws the following conclusions from the 1974 findings of pollster Albert Sindlinger: "Socioeconomic selfishness—a concern for status security—rather than commitment to tradition, underlay the new 'conservatism.'" Moreover, Phillips does not shrink from acknowledg-

ing that "racial factors" play a significant role in the new populism.

In short, it is highly questionable whether the vague mixture of racial antagonism, "concern for status security," and resentment of liberal elites provides a sufficient basis for a clear-cut and lasting realignment of the American party system. Phillips himself is conscious of this problem, and sometimes admits that "it is... difficult to see a unifying coalition in any of the political groupings of the seventies." Thus, although Phillips never definitively abandons the realignment theory, he also puts forward a second theory which envisages a very different political future—namely, a breakdown, or at least a fundamental transformation, of the traditional American two-party system.

Phillips' argument in support of this second theory is based, in part, upon a confusing, imprecise, and vulgarized version of Daniel Bell's speculations on the shape of post-industrial society. But he is on much stronger ground when he adduces evidence drawn directly from the sphere of electoral politics. Perhaps the most telling piece of evidence that a breakdown of the old party system is in the cards is the rise of ticket splitting. In the critical elections cited by proponents of the realignment theory, the party that gained the Presidency also won a majority in the Congress. Yet in 1972 the magnitude of split-ticket voting was such that the Nixon landslide did little to improve the minority position of Congressional Republicans.

Now it is possible for realignment theorists to argue that the rise in ticket splitting and the decline in party identification are principally temporary phenomena, belonging to an unusually prolonged period of shifting party allegiances. The greatest impact of ticket splitting has been in the South, where deep-rooted local Democratic loyalties have caused shifts in Congressional voting to lag well behind shifts in Presidential voting. But the GOP has been making progress in the South, and it is possible that it will make a breakthrough and gain Southern Congressional majorities. As for the matter of declining party identification, some recent studies have indicated that there was also a huge number of new and uncommitted voters in the years leading up to 1932, and it was FDR's success in capturing and holding these voters which laid the foundations of the New Deal majority. Similarly, the Independents and ticket splitters of the 1970s might conceivably be captured and held by the leader of a new majority.

More convincing, however, is the argument that independent voting and ticket splitting are here to stay because of fundamental changes in the structure of American politics and American society that are reawakening our political parties. The growing welfare functions of government have largely rendered superfluous the role of parties as providers of services to their constituents. Incumbent Congressmen, with their enlarged staffs and

their ability to direct federal money into their districts, are able to build up personal support independent of party allegiances. The proliferation of primaries has weakened the role of party leaders, and contributed to a breakdown of party discipline. The increasing dominance of the mass media as a definer and communicator of issues has to a great extent deprived the parties of another of their most essential functions, and has enabled candidates to appeal directly to voters. Similarly, the mass media have helped to develop an electorate which responds more to the personalities and issue positions of candidates than to their party labels. The result of all these seemingly irreversible developments in parties with little coherence, is candidates who are increasingly independent of their parties and voters without much party loyalty.

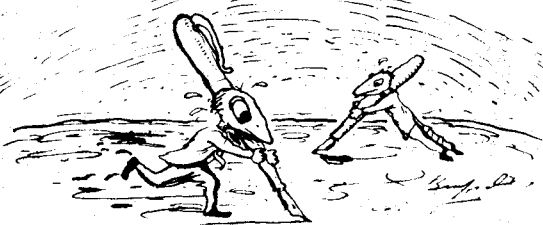
If this analysis is correct, the prospect

of the emergence in the 1970s of a stable new majority comparable to the New Deal coalition is almost nil. Instead, American electoral politics will be moving into an uncertain future, with old structures and loyalties losing their hold, and no clear indication of what will replace them. Moreover, in this uncertain future it is likely that the ideological divisions among the American people will be much less clear-cut than, and perhaps very different from, what Rusher and Phillips expect them to be.

To a considerable extent, Rusher and Phillips still view the Left-Right split in American politics from the perspective of the late sixties. Yet in some respects the New Left has already been decisively defeated, while in other respects the attitudes it promoted have been incorporated into the American mainstream. The McGovern debacle of 1972, the end of the

Vietnam war and its attendant domestic unrest, the return of tranquility on the nation's campuses, and the eclipse of militant black and student leaders all signal the failure of New Left hopes for a revolutionary transformation of American society. And yet many themes articulated by the New Left—hostility to business, suspicion of our political leaders and institutions, reservations about economic growth, etc.—are now echoed by a considerable portion of American public opinion. The consequences of this complex development are difficult to foresee, but they are unlikely to lead to a clear triumph for what is conventionally considered the political Right or the political Left. My own hunch is that we will probably be seeing more political figures like California's Governor Jerry Brown who combine liberal and conservative impulses in strange new ways. □

Among
the
Intellectualoids



by
Stephen R.
Maloney

Of (Ms.)anthropes and Men

If one has the ms.-fortune to spend several days reading *Ms.* magazine, as I have done, he finishes the task with a new respect for St. Paul's admonition against women speaking in church. Which may be one of the subtler aims of *Ms.* and its Dragon-lady founder and editor-president, Gloria Steinem. The only proper function for a lovely female knee is, in the eyes of this magazine, to be jammed into the groin of one of the male chauvinist pigs who oink their way through the American landscape. The gospel of Women's Liberation according to *Ms.* is nothing if not dialectical: its central thesis is the oppression of all females by (almost) all males. In fact, when writing about women, *Ms.* contributors and editors easily glide into the first person plural; Queen Victoria's imperial "we" becomes the collective "we," women uniting to cast off their chains—to say nothing of their girdles and bras. Thus, Gloria Steinem ("mem. Citizens for Stevenson, 1956" in her *Who's Who* sketch) can write in 1975 of "our [i.e., women's] strong support for Eisenhower." All women, in this view, are not only created equal but also indistinguishable. Ditto for men, The Enemy. If we accept *Ms.*'s definition of the social situation, with males and females glaring at each other across a rhetorical no man's (no person's?) land, then we deserve to

perish in the verbal mustard gas dispensed by that magazine.

Responding to some hate-America clatter in *Ms.* by Angela Davis, a reader asks in the October issue whether "conservative" and other nonradical women can be feminists, so that The Movement might become something other than a splinter in the foot of the body public. This well-meaning person is ms.-ing the point. For men are only strawpersons in the ostensible battle of the sexes orchestrated by Steinem and her Amazonian cohort. What *Ms.* wishes for our land is not the matriarchy of Lysistrata nor the autocracy of Comrade Davis but the Manhattanization of America, the imposition of the values of the erstwhile Lindsay supporter, the "with it" New Yorker. *Ms.* wants to "raise the consciousness" (that is, fanaticize the behavior) of all those matrons and maidens who are dissatisfied in Des Moines and frustrated in French Lick.

The initial instinct of the reasonably conscious person who wants to write about *Ms.* is to satirize its pretensions, its jargon, its galloping misanthropy. But there is a peculiarly contemporary problem here, as novelist-poet Marion Montgomery has pointed out in another context: "Satire is scarcely possible in literary mode in an age where absurdity is so vast as to prevent enlargement." How, for instance, would one go about parody-

ing the style of a typical *Ms.* essay (by Robin Morgan): "Today, my sexuality unfolds in ever more complex, beautiful, and self satisfying layers. Today, I can affirm my mother and identify with her beyond all my intricate ambivalence." This witches' brew of egotism (we-gotism?) and pleonasm makes us feel that if God had been a feminist—as *Ms.* assures us (S)He was—He would not have rested on the seventh day but on the seven hundredth, right after creating the Affirmative Action Committee. The cure for prose such as Morgan's is not literary criticism but rather the ducking stool.

We can, and assuredly should, laugh at *Ms.*, but the triumph of, for instance, Bella Abzug, should warn us that mere ludicrousness cannot always provoke contempt from the multitudes. We may, in short, end up by dying laughing. Obviously, a half-million *Ms.* readers can be wrong, but that would be news to Walter Cronkite and his brethren. This periodical (who would dare call it a monthly?) fills, as an advertising man said of another product, "a much-needed void." It is an almost-perfect vehicle for modern intellectualoidism.

Much of the anguish, real and imagined, that surfaces in *Ms.* grows out of the illusion of national omnipotence created by the successes of modern technology, from the space flights to the birth