

A WORLD APART

During the Senate Judiciary Committee's hearings on Robert Bork, Alan Simpson of Wyoming got to musing about the Saturday Night Massacre. (Come on, come on. You remember. That was the outrage that occurred in 1973 when special Watergate prosecutor Archibald Cox was fired and Attorney General Elliot Richardson and his deputy, William French Smith, quit.) In Washington, said Simpson, "we have only been talking about it for fourteen years. . . . Fourteen years. This is a curious place. If you go out in the land and say, 'What were you doing on the night of the Saturday Night Massacre,' a guy will say, 'What are you talking about?'" Not so in Washington, Simpson said. He moved his mouth close to the microphone and talked softly. "In this town when you say, 'What were you doing on the night of the Saturday Night Massacre,' they say, 'I was just finishing shaving. I was going out to dinner. I will never forget it my whole life. I went limp. My wife and I talked and huddled together and had a drink and just shuddered in shock.'"

Simpson caught the trend exactly. Folks in Washington are different. They have cut themselves off from the rest of the country, and they're glad they did. Their minds are absorbed by completely different matters: who said what on "Brinkley" last Sunday, who's up and who's down at the White House, what Rosty's got in mind for the kitchen utensil industry in the trade bill, etc. If you have to ask who Rosty is, you're either not from Washington or you live here but will never make it big. People in Washington know who Rosty, Henry, Novak, Meg, Elliott, Gorby, Tip, Tipper, Lou, Liddy, Jody, Mary, Cap, Lee, Brad, Ralph, Marlin, Lesley, and Jeane are. Sting, Alvin, Pee-wee, Pound Puppies, Bono, and the Littles—you might know these names, but most Washingtonians would have to ask.

Washington is increasingly insular,

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arrogant, elitist, power mad, addicted to luxury and mindless political combat, and, worst of all, downright hostile to the non-Washington masses. That's today. Now imagine Washington if the trend continues, and there's no reason to think it won't. From the window of my Washington office, I used to monitor the entrance to the Palm Restaurant, a mecca for power lunchers. Month by month as the mid-1980s wore on, I began to recognize more of the people eating there. They were Washington expense account junkies—Administration officials, lobbyists, journalists, consultants, think-tank heavies, Capitol Hill aides. Few normal people. In 2007, there won't be any real folks at all dining there, the Washington types having driven them far, far away.

I admit to ambivalence and hypocrisy on the subject of Washington. I grew up here and have no intention of leaving. I remember when Washington was referred to derisively as a "sleepy Southern town." This wasn't so long ago, the 1950s and early 1960s. Well, it was a better place then. It was more livable, and people who came to Washington with a new administration or as Capitol Hill aides often returned home a few years later. Now nobody goes home. Something happens to them when they get here, something right out of *The Invasion of the Body Snatchers*. It's as if large pods are put by newcomers' beds at night. By morning they've been taken over, heart, soul, and mind. By 2007, the pods will be triumphant.



At ground level in Washington, Ronald Reagan changed nothing. The irony of his presidency is that the more he railed against Washington, the more he made the city a magnet. Reagan didn't reduce the size of government. Even the odious Small Business Administration has survived. What Reagan did was glamorize Washington for a new breed of people, conservatives. Thousands have flocked to Washington, and they don't want to leave, ever. A good way to get the fisheye—it's happened to me many times—is to tell a young conservative who's interested in journalism that he or she ought to head for the hinterlands for a few years or maybe for life. They tune out that message. And now even *TAS* has come to Washington. And Irving Kristol.

Twenty years ago, Tom Wolfe wrote a great piece about working stiff in New York City called "The Big League Complex." Cab drivers, doormen, waiters, delivery men, and cops there think they're tough and smart and better than rubes from the boondocks, and act accordingly. They think this because they live and work in a fast-paced city, the Big Apple. A similar complex is spreading like impetigo among the drones of Washington, especially journalists and congressional aides. A reporter may be doing a story on how Gramm-Rudman affects funding of Urban Development Action Grants and along the way run into a senator who calls him by his first name. The reporter's self-assessment soars. He thinks he's in the big leagues. Likewise, Senate and House aides figure they've arrived because they know the intricacies of some awful piece of legislation. Senators and representatives know their first names, too. In truth, busy work is engulfing Washington. There are now several hundred separate subcommittees in Congress, each holding hearings and churning out reports. In 2007, there will be more committees, more hearings, more reports. The illusion is that all of this is accomplishing something. The press completes the circle of self-

importance by reporting on the hearings and citing the reports. Okay, there's some valuable work done, but only a little. Twenty years from now, the new mindset will have settled in: I do things that get in the press, therefore I am important.

Washington wasn't always the national center for electoral politics. Reagan ran his campaigns for the Republican presidential nominations out of Los Angeles. Jimmy Carter ran his out of Atlanta. In the 1988 presidential race, nearly all the campaigns have headquarters in Washington. Bruce Babbitt of Arizona has a big contingent here. Al Haig's campaign office is next door to the *Washington Post*. Jesse Jackson doesn't live in Washington, but his campaign staff does. And who is drawn into presidential campaigns these days? Mostly people in Washington. In the off-season, they work in Congress or as lobbyists or in a think tank. When the campaign starts, they join. Presidential campaigns have become a Washington industry. In a few years, Washington will have a monopoly on the business.

For congressional candidates, particularly incumbents, Washington offers one-stop shopping. Media consultants were once spread around the country, but the best ones have migrated to Washington. A recent example is Ray Strother, a very skilled operator who produced Gary Hart's TV spots in 1984. Pollsters have proliferated in Washington. Richard Wirthlin came with Reagan. Paul Maslin and Harrison Hickman are the hot new Democratic pollsters. Naturally, they're in Washington. Most significant of all, Washington is where most of the money is raised these days. Every night, senators and representatives have receptions that draw high-dollar lawyers, lobbyists, and envoys from political action committees. Checks are written. There's nothing illegal or immoral about this. It's just that it would be nice if members of Congress raised their campaign dough back home. Anyway, my fear is that an ineluctable force is at work, causing all pollsters, media

consultants, and strategists to slouch toward Washington.

What's wrong with running campaigns out of Washington? It tends to make the candidates, like everyone else in Washington, snug and smug inside the Beltway. Another ominous sign: the new television facilities on Capitol Hill that allow members to send shows back to their states and districts in lieu of going themselves. Sure, a lot of them go back regularly in spite of the TV studios. It makes for a hectic life, but at least these ones are in touch. Many in Congress aren't. In fact, most people in Washington are utterly out of sync with America, which is why they are repeatedly mystified by the political ebbs and flows outside the Beltway. The tax revolt of the late 1970s was a surprise to Washington. So was Reagan's victory in the 1980 election. So was his prolonged success and popularity in the White House. So was the reaction Ollie North touched off around the country when he testified before the Iran-contra committee last summer. The committee didn't know what hit it. Who would have guessed? Not Daniel Inouye or Warren Rudman. The picture the Washington crowd has of America is horribly distorted: tens of millions crazed with fear of AIDS and ready to lock up homosexuals, or anxious over the prospect that foreigners will stop buying Treasury bonds, or stomping mad because the Japanese insist on sending cheap, efficient products to the United States that they'll wind up buying.

By 2007, the Washington community should be practically homogenous. The distinction between the public and private sectors is already blurred, but twenty years from now it may have all but vanished. People shuttle back and forth between congressional and campaign jobs. They move easily between administrations and think tanks and law offices. And I'm not talking about liberals alone. Conservatives do the same in Washington. One day they are lobbyists, the next they are in the White House. Soon they'll be lobbyists again, only to return to government. The one thing they don't do is leave Washington. The most dexterous of Washingtonians manage to work in and out of government or in and out of presidential campaigns at the same time, a neat trick. Tom Korologos, a private lobbyist who also ran the White House's disastrous effort to get Bork confirmed, recently did it. Many Washington lawyers and consultants are active in campaigns without giving up their regular jobs. And so on.

Believe me, all this is not healthy. The folks in Washington have common interests, ones that aren't shared by the

masses. Just the other day, a journalist I know was jogging. He ran into two acquaintances, also jogging, and they started arguing about Bork. Soon a car pulled alongside and another acquaintance chimed in on Bork. For heaven's sake, couldn't they at least have chatted about the Redskins a bit or mentioned Madonna or said cutting things on the subject of *The Untouchables*?

Washington is at its worst on Sunday mornings. All over the country people are going to church or playing tennis or lollygagging. But in Washington, they are glued to the tube. I have a vested interest in their watching the Sunday a.m. chat shows, since I'm occasionally on one. Trouble is, watching has become a religion. Once, late in the Carter years, a reporter approached me Monday morning and asked, "You

hear what Hufstedler said on Face yesterday?" No, I hadn't heard what Shirley Hufstedler, then Secretary of Education, had said on "Face the Nation." The fellow was miffed. We had nothing to discuss. I figure there's one thing worse than all of Washington watching TV on Sunday morning. It's when the whole country tunes in. It's bad enough the way Washington is. If it spreads, all is lost. □

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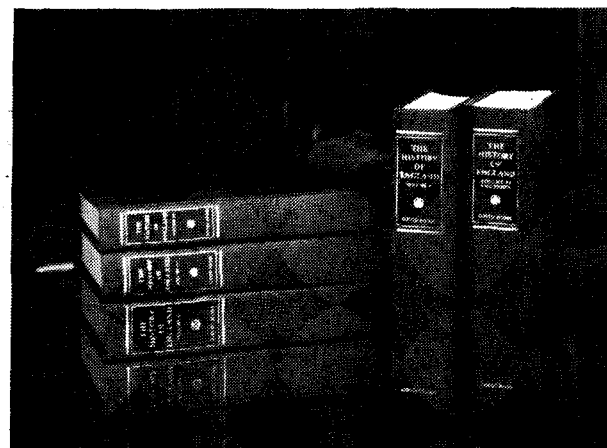
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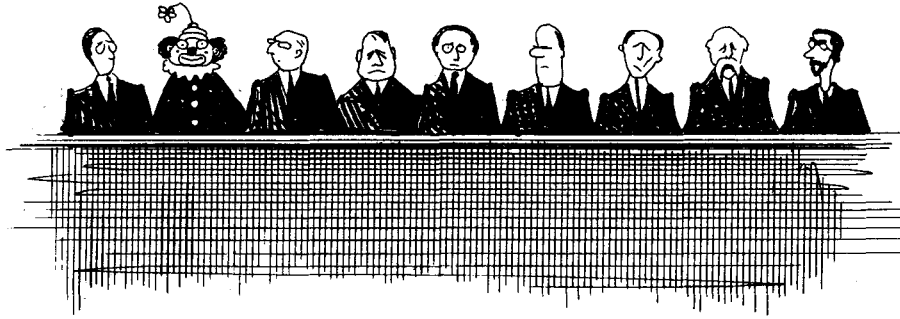
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THE WORST IS OVER

Twenty years is a long time. Twenty years ago, busing was simply a means of transportation. "Affirmative action" was merely a lawyer's term, signifying about as much to the average American as "collateral estoppel." "Gay Rights" was not a term known to anyone. There was already a vigorous debate about abortion twenty years ago, but that debate centered on state

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legislatures and was largely focused on whether legislatures should expand the few existing *exceptions* to the general and generally accepted criminal prohibitions on abortion. Twenty years ago, those who urged courts to attend to "the environment" simply wanted criminal courts to recognize that crime was "caused" by poverty and drugs and other surrounding influences—and no one, in fact, disputed that this "environment" ought to be eliminated.

If you think about law and courts, you may find it hard to recall why, twenty years ago, America really needed an "Alternative" to mainstream opinion journals. But in 1967 conservative journalists actually didn't have much practical cause to complain about law and courts, beyond protesting the Warren Court's "coddling of criminals." My guess is that twenty years hence, journals like *The American Spectator* will have returned to viewing the Supreme Court as a rather unpromising target. And that may be all for the best.

At the least, the terms of debate in twenty years are likely to be rather different from—and rather less shrill and polarized than—what they are now, notwithstanding what has happened to Judge Robert Bork. By 2007, we are unlikely to be hearing much about "original intent." On the other hand, we are likely to be hearing a good deal more about "property rights" than we do now. And partly in consequence of these trends, what we hear about "civil rights" or "human dignity" twenty years from now is likely to be a good deal more tempered than it is today.

Current debates about "the jurisprudence of original intent" often suggest that it is only in recent decades that courts have begun to depart from the demonstrable, historical intentions of the Constitution's framers. Actually this was charged against the Supreme Court as early as the 1790s—and charged with such vehemence (and plausibility) in one case that an eleventh amendment was quickly added to the Constitution to overrule the Court's misreading of the framers' intent.

Similar and similarly vehement charges were made against Chief Justice John Marshall's Court in the early decades of the nineteenth century (and the charges were, again, often quite plausible).

Most of this has been forgotten today because the constitutional issues of that era are no longer in serious dispute. Many legal commentators today still do condemn the questionable "substantive due process" rulings of the early twentieth century, which attempted to limit the reach of minimum wage laws, maximum hours laws, and other sorts of early labor legislation. But it is usually forgotten that these Court decisions were not widely denounced at the time for departing from the true or original "intent" of the Constitution, because the results—though widely condemned by subsequent generations—were not, in themselves, all that controversial before the First World War. Even with respect to recent decisions, today's conservative champions of "original intent" tend to be quite selective (or at least quite evasive) in their condemnations.

Condemnations of Court decisions in the name of historical or original "intent" are not new, then, but they have not often proved conclusive—because, among other things, both the facts and the implications of history have usually been subject to quite varying readings, allowing very broad maneuvering room for sophisticated advocates. And rather than departures from "original intent" provoking controversy, it is more accurate to say that controversial rulings provoke indignant appeals to "original intent." When most people have come to accept a particular judicial construction of the Constitution, appeals to "the true" or "original" meaning do not carry much force. I predict we will see much less agitation over "original intent" in twenty years, because I think there will be fewer Court rulings provoking such indignation.

The reason is not that the justices

will be more timid as a matter of personal temperament or more devoted to judicial restraint as a matter of principle. The reason is that the justices will probably have learned some hard lessons in caution from the Court's experiences over the past twenty years. Chief among these lessons is that conventional liberal opinion no longer has a good grip on the direction of "progress" and therefore no longer provides reliable protection for the Court.

Though already obvious, this really is a relatively new discovery. In the mid-1960s, the Warren Court was already assailed by much more bitter criticism than we now remember. We have forgotten this—as we have forgotten the bitterness of the criticism hurled at John Marshall—because the critics of that era turned out to be just what liberal opinion in that era assumed them to be: grotesque hold-overs from a discredited and unusable past. The one ruling of the Court in the 1950s that provoked the most sustained, united, and bitter criticism in Congress was, in fact, *Brown v. Board*, which even today's most insistent champions of "original intent" do not dare to challenge. The one ruling of the 1960s that provoked the most sustained, united, and bitter criticism in Congress was the Court's demand for reapportionment of state legislative districts on a one-man-one-vote basis—and here the opponents actually came within a few votes of enacting jurisdiction-stripping legislation that would have effectively reversed the Court's policy. Opponents of the Court's ban on school prayer during the 1960s were even less effective, because they seemed even more readily dismissed as strange relics from the era of William Jennings Bryan. In retrospect, it seems like an act of sycophancy to celebrate the "boldness" of the Warren Court. The justices had every reason to assume that their constitutional innovations would eventually command broad support, because they were supported from the outset by the most confident and influential voices of "elite opinion."