

blacks to whom I owe favors: for the hospitality of a home-cooked meal, counsel, a job, my life. Insisting that the charges don't apply to them will not impress my benefactors and will not change their feelings of having been betrayed. Many of them truly *were* victims of white racism. Their displeasure is a bitter price I'm forced to pay in a world in which I find myself increasingly alienated from black people.

All my adult life I have stood for integration. As a 17-year-old token white in a black youth program, I wrote a paper on the need for integration. I remember it well. In the intervening 17 years, philosophically nothing has changed. In practice, everything has changed. I won't tell you that "some of my best friends are black." I have no black friends, and do not see any in my immediate future.

A social world in which black people do not exist, or exist only as trouble, may be normal for most white people. It's not normal for me. Nevertheless, I am not bucking for martyrdom, and I am not in this world to be abused. Hence, I am ceding the playing field to the racists. You've won, guys. To the degree possible in New York, I'll try to avoid work places and social situations where no white males or dogs are welcome.

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Letter From Arkansas by Joseph Pappin III

Pardon the Pardons



It is reported that "faithful adherence to legal principle sometimes [takes] a back seat to the more compelling demands of politics." This appears to be a pointed assessment of a little-publicized controversy surrounding the pardon of four convicts by last year's Acting Governor of Arkansas, dentist Jerry Jewell. As president pro tempore of the state senate, Jewell became the acting governor—and

officially the state's first black governor—when Governor Jim Guy Tucker left Arkansas for four days to attend Bill Clinton's inauguration. But back to the assessment.

Though the "compelling demands of politics" refers to a pardoning of four Arkansas prisoners, in that instance the pardon came from King Louis XV in 1756. The prisoners were deserters from the Arkansas garrison, one of whom had murdered a soldier on the way out of the fort. Captured by the Quapaws, they found an advocate in Quapaw Chief Guedetonguay. The chief, in fact, traveled to New Orleans and reminded the French Governor Kerlerec of the many ways in which the Quapaws had befriended the French and fought on their behalf. Failure to grant the pardons risked a Quapaw revolt. Governor Kerlerec eventually relented and forwarded his decision to the appropriate French minister at Versailles, who gained King Louis' reluctant sanction. Kerlerec was then admonished to be careful of letting the "savages . . . set a tone that accords neither with the King's authority nor with the good of the colony." The King's ministers proved to be both principled and, above all, politic in dealing with the complexities of crime and politics on the Arkansas frontier. More than two centuries later, Arkansas politics—and crime—are still complicated.

Arkansas life is nothing if not interpersonal and interconnected. Mountain folk run a different course: independent, rugged, survivalistic. Still, the oldest of Arkie jokes asks, "If my wife and I get divorced will we still be cousins?" Everyone will ultimately, by the very nature of living in Arkansas, encounter or intersect with the life of everyone else. After all, who in Little Rock hasn't found himself either jogging with Clinton or in line for coffee with him at the downtown McDonald's? I've even waited behind him in the McDonald's drive-through lane while he tried to get his Lincoln Continental unstuck from the circle drive. Only last year, in fact.

On the day of the presidential inauguration Jewell granted executive clemency to four convicts—actually two were already out on parole. The *Arkansas Democrat Gazette*, the daily newspaper in Little Rock, reported in its lead article that Acting Governor Jewell, when questioned on the day of the pardons, couldn't recall either the first

names of the convicts or the nature of their crimes.

Actually, Jewell's choice of men to pardon reflected a cross-section of Arkansas criminality: Joe Wesley, age 54, manslaughter; Gary Bryant, 39, burglary and forgery; Billy Ray Davis, 40, murder; and, oh yes, Tommy McIntosh, 29, cocaine possession. I say "oh yes" because Mr. McIntosh's father, Robert "Say" McIntosh, is the most outspoken and most colorful black activist in the state.

Say McIntosh has mastered the Hegelian art of Arkansas politics. (Don't sell us short down here; after all we—you?—put a Rhodes scholar in the White House.) For Hegel, negation was the driving force of reality, right? I mean, being was static until injected with a healthy dose of nothingness, which resulted in becoming—hence the dynamism of existence, history, and politics. Well, *Arkansas politics is injected* with big doses of Hegelian negations and nothingness. The biggest thing around here in the past three years was probably what Say McIntosh *didn't do* one day. He declared, shortly after the green light was given by the Supreme Court, that he was going to burn the American flag on the steps of the state capitol. He gave us about two weeks' warning. Why, every pickup from the hills of Arkansas rolled into town that day just to see if Say would do it.

Hundreds gathered; scores of police and state highway troopers. Hey, we might even have a riot. Say pulled out the flag, started to light the fire, then gave a speech, announcing that for the common good, to which he was devoutly dedicated, he was not going to burn the flag. Pictures all over the front pages of newspapers; lead story on the six o'clock TV news. Not doing something at just the right time is big news and big politics in Arkansas.

When I served as manager of human resources for my brother-in-law's oil company four years back, Say came to us wanting to lease one of our Shell stations. We had dealt with Say before, and we were woefully aware of his own unique schedule of rental payments: staggered intervals. To press Say on anything is to risk having a civil rights suit filed against you. Say even had a suit against Clinton until recently for back payment of services he claimed he rendered during Clinton's campaign for governor in 1990, the same year that

Clinton said he would not run for President in 1992. Say claimed that Clinton owed him about \$20,000 for campaign services, which probably boiled down to McIntosh *not* spoiling the campaign party.

Could be: it took Clinton till January of this year to pay back \$100,000 owed to Perry County Bank, and Perry County is nowhere. At least Say is in Little Rock. Don't get me wrong about the Perry County Bank. After all, a friend of mine, Herby Branscum, owns it. Now Herby was appointed highway commissioner by Clinton before the big run. No complaints here, mind you. You see, Herby was instrumental in getting my sister-in-law elected County Judge of Perry County. Remember: all Arkansas life is interconnected.

Back to the Perry County Bank. People in Perry County don't really mind extending credit for a while longer than most folks. But Say don't extend much credit to nobody. Yet don't forget that the law of the land here is neighborliness. Whatever you feel compelled to do, do it with some friendly contagion. Why last summer while I was going to pick my kids up at Sunday school at Immanuel Baptist—Clinton's church—there was Say discharging his moral fervor by plastering every car windshield around the church with flyers recounting Clinton's moral failings in graphic depiction. The flyer included photos of Clinton's supposed mulatto, illegitimate son and xeroxed copies of Gennifer Flowers' *Penthouse* photos. Long ago I found it was best to preempt Say. Greet him heartily, with a smile, and you get back the warmest response possible: "How y'all doin'?" Crossing the big ethnic divide suddenly with another person can be elating, feeling like a member of a Sartrean *groupe en fusion*. Some of the brethren confront Say over his literature and Say responds in kind. Not me; I ask for the literature, thank him, and tuck it away before my kids see Ms. Flowers xeroxed. Besides, since we've had Chelsea over to our house and helped child-sit for her while her daddy and momma ran for the presidency, the kids might be upset to see moral charges lodged against her daddy.

What are the alleged "facts" about the pardons? According to Jewell in an interview on February 14, he had no plans whatsoever to pardon anybody when he became acting governor on Sunday, January 17. No one spoke to

him about the pardoning. Not Clinton; not Tucker; not Say McIntosh, nor any of his kin.

So what did happen? Sometime, Jewell's not sure when, between Sunday and Wednesday of his four-day term as governor, he got to thinking about the inequities of the prison system in Arkansas: especially how it turned young, first-time offenders into hardened criminals; how it reflected the racism in Arkansas. Jewell observed the following on television: "One of the basic ingredients of society is racism, whether you admit it or not. Look around Arkansas: What do blacks own? run? Do they really own a first-class service station or fast-food store? No! The ugly face of racism can defeat you." Jewell then got to thinking about racial injustice as manifested in the prison system. "Our legal system is an unfair system. Fines and sentences depend on who you are." Actually, Jewell claims he acted under the guidance of divine providence: "I believe in the man upstairs. Whatever I did was guided by the man upstairs."

So what did divine providence provide Jewell that got him thinking about doing some pardoning? Well, it so happens that before Governor Tucker left for the inauguration he was reviewing some files from the parole board and, goodness, he may have left one of those files on his desk as he left town, meaning of course to return it unapproved to the board. This is by Tucker's own account, mind you, in a televised news conference. So, Jewell arrives in the governor's office, casts about for something to do and, mercy, discovers two files on convicts being recommended for clemency, one in jail, another on parole. Claims Jewell: "I did not decide before these files were on my desk to pardon anybody." Again, Jewell claims there were two files; Tucker admitted one.

Those two files got Jewell curious, so he sent for two more files. Now he had four. Guess it's better to mull over the inequities of the Arkansas prison system with four files in front of you than a measly two. He tried to recall whose files these were in the televised interview and could only recall three of the four names. Now, if providence played a hand in all this, it was certainly reasonable of Him to make sure the good acting governor didn't pardon Tommy McIntosh alone, because Say's hand in this would loom mighty large in the public mind and all hell would likely break

out. What does Say's son Tommy have to say about it all? First off, Tommy was sentenced to jail for 50 years in 1987 for being caught in a van with two others and some cocaine. Tommy was 23 years old at the time. Was Tommy a young drug kingpin? Tommy denies this. If he was a drug kingpin then Tommy wants to know why "I'm the only kingpin that don't have a car, that don't have a house, or fancy rings on my fingers? No way I could have gotten 50 years on the first offense." Jewell maintains that Tommy's "sentence was too great for the crime. Who knows if he was set up? The sentence was too great because of whose son he was." Claims Say: "The sentence was about me!"

Say also claims that Clinton and Tucker prearranged the pardon, and that in return Jewell agreed to keep silent about the deal. In fact, despite some dispatched flyers, Say himself kept rather silent during the presidential election. He publicly denies there was any deal but told Max Brantley, a local newspaper editorialist, that Tommy's situation "has been taken care of."

Arkansas politics is indeed driven by negations. More is accomplished by what you don't know or do than by what you claim to know or do. It's good ole boy Southern politics and style, stretching across ethnic lines, to play down any air of pretense or knowledge. It's death in Arkansas politics to act like a Flannery O'Connor "innerlecshual." Jewell initially denied that he knew either the first names or crimes of those he pardoned. Smart guy. That ignorance was to downplay Tommy McIntosh's pardon. Tucker claims he knew nothing of this until his staff contacted him in Washington and warned him on the day before the actual pardons. Why didn't he contact Jewell at once to dissuade him? Well, Tucker went to bed thinking it was a "done deal," only to find out it wasn't done till the next day. And no one knows what Clinton knew. Why it's a downright historical coup, *n'est-ce pas*, that we know that King Louis XV knew what he knew of the four Arkansas pardons of 1756.

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COMMONWEAL



Anna Mveck-Wodecki

The Revolution in Waco

by Egon Richard Tausch

Torching the Constitution

A hundred years from now historians, if they are still permitted to research and write, will argue about when the United States started down the slippery slope to totalitarianism. Many Southern historians believe it began with the erosion of the U.S. Constitution occasioned by President Lincoln's disregard of that document and by the Reconstruction Era. Some historians point to the massive powers assumed by the federal government during the Progressive Era. Others might date the slide to FDR's "New Deal" or LBJ's "Great Society" programs. A few might even highlight Chief Justice John Marshall and his doctrine of judicial review. In truth, the path returning the United States to constitutional government was visible and could have been taken at any time after these periods, either by a conscientious government or by an American public sufficiently outraged.

But when a government uses massive physical force against its people, illegally and unconstitutionally, the power of the public and the extent of its outrage is

tested. It is either found ultimately victorious over tyranny—as after the Boston Massacre and the Alamo—or intimidated, confused, and indifferent, as is rapidly becoming the case in the aftermath of the Waco Massacre. When the latter occurs, the future of a republic becomes predictably tragic.

What are the national and local purveyors of public knowledge doing in what they call their "quest for answers" about the events near Waco, Texas? They are demanding investigations as to whether David Koresh knew of the raid in advance, whether the ATF knew of his knowledge, and what tactical flaws ultimately resulted in the deaths of dozens of men, women, and children. The federal government, knowing that these are not the right questions, is dutifully complying, by limiting its investigations to these areas and by repeating, day after day, that the ATF attack was "an attempt to serve a warrant."

What are the known facts, what questions should be investigated and by whom, and what are the implications of the Waco Massacre for the policies, present and future, of our Republic? On February 28, 1993, approximately 150 people, armed with automatic weapons, grenades, and ladders, invaded and attacked a complex of buildings near Waco, Texas, which was inhabited by a religious group. The attackers killed at least five of the inhabitants, and the defenders killed four of the attackers.

Let's start with the uncontested facts. What was the justification for the initial assault, if any? We have been told that the attackers were part of the Federal Bureau of Alcohol, Tobacco, and Firearms (ATF) and were attempting to serve a warrant on a member or members of the religious group. This is a very important allegation, on which *any* justification of *any* of the subsequent events depends.

Was there an attempt, however botched, to serve a warrant at all? Initially we were told by the government spokesman that the warrant was "sealed," but that the allegations in the affidavit involved possession of illegal weapons. When it was discovered that several persons in the complex, including David Koresh, had dealers' permits for

those same weapons, issued by the self-same ATF, the story changed.

Now, we were informed, the affidavit concerned alleged child abuse. When the release of dozens of children from the complex, their meticulous medical examinations, and their extensive interrogation by the feds revealed no signs of abuse, and when it was pointed out that the ATF never had any jurisdiction over abuse cases anyway, the government spokesman announced that the *real* intention of the raid was to prevent mass suicide. The government spokesman next changed the focus to the four dead agents and the supposed nuttiness of Branch-Davidians in general. Finally, after the slaughter, the warrant and affidavit were opened. Geraldo Rivera's grand opening of "Al Capone's Secret Vault" could not have been a greater anticlimax.

The 15-page, single-spaced affidavit, signed by ATF agent Davy Aguilera, is a mess, though it covers two years of investigation. At least half of it deals with how the affiant disagrees with Koresh's theology. It dwells for paragraphs on a nervous UPS deliveryman who feared that he had actually delivered weapons. The ATF affiant says he called the licensing department of the ATF and discovered that Koresh was not licensed to deal in firearms. (This was proven false, two days after the raid.)

The rest of the affidavit concerns third- or fourth-hand hearsay (once through two translators) about how Koresh *might* be able to convert his legal AR 15's and legal AK 47's into illegal automatic weapons, *if* he had the skills and equipment. The only expert witness is quoted as saying that everything Koresh had is used for legal, as well as illegal, purposes by gun owners (the affiant called this a "loophole in the law"). No one quoted in the affidavit had ever seen an automatic weapon in the complex—not even the ATF agent, Rodriguez, who lived there undercover as a Koreshian.

The affidavit cites some fourth-hand hearsay about the possibility of child molestation (but no mention of anyone who had witnessed any abuse). All that one child-protective agent could report after her thorough investigation inside the complex was that one eight-year-old boy