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LESTER JACKSON

The Neutrality of the American Political System;
An Analysis of Opportunities Afforded Left of Center Activists,
with Emphasis on How They Could Have Ended the Vietnam War by 1970

by

Lester Jackson

February, 197_

A dissertation in the Department of Politics submitted to the
faculty of the Graduate School of Arts and Science in partial
fulfillment of the requirements for the degree of Doctor of
Philosophy at New York University.

Approved _____ 2/7/75
              Adviser   Date

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I completely agree that it is needless,
but since it has already been written, let it stand.
--Fyodor, Dostoyevsky*

*Foreward to <u>The Brothers Karamazov</u>

I am sorry. It is necessary for me to finish
this segment of my speech now, because I would not
want to break it off in the middle. Some Ph.D.
candidate 20 years from now would be puzzled if
I did.

---Senator Wayne Morse*

*Congressional Record, Daily Edition, August 17, 1964, p. 19189.

...the more we see what might be done, the more likely that somebody will invent a way to actually do it. Political science should be what it very rarely is---an effort to suggest ways of inventing procedures not yet developed, as well as description and generalization about existing processes. The more we deal with the best hypothetical cases <u>that actually could be put into effect</u>, the more likely such invention is.
<div align="right">---Lewis Anthony Dexter*</div>

*<u>The Sociology and Politics of Congress</u> (Chicago: Rand McNally, 1969), pp. 89-90. Italics in original.

CHAPTER I

THE AMERICAN POLITICAL SYSTEM, POLITICAL SCIENCE, AND THE DISSERTATION

The great desideratum in Government is so to modify the sovereignty as that it may be sufficiently **neutral** between different parts of the society to controul [sic] one part from invading the rights of another, and at the same time sufficiently controuled [sic] itself from setting up an interest adverse to that of the entire society.

---James Madison[1]

Formal governmental structure both reflects and sustains differences in group power. It is **never** neutral.

---David Truman[2]

For Forms of Government let fools contest; Whate'er is best administer'd is best.

---Alexander Pope[3]

The Problem

Which of the above three statements comes closest to the truth about American Government? That is the central

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[1]Letter from James Madison to Thomas Jefferson, October 24, 1787, in Letters and Other Writings of James Madison (New York: Worthington, 1884), Vol. I, p. 353.

[2]David B. Truman, The Governmental Process: Political Interests and Public Opinion (New York: Knopf, 1951), p. 332. See also pp. 322-332.

[3]Maynard Mack, ed., The Poems of Alexander Pope, Vol. III i: An Essay on Man (London: Methuen & Co., Ltd., 1950), pp. 123-124.

question of this dissertation.

Was the early American philosopher-statesman correct in his apparent assumption that government <u>could</u> be structured so as to be neutral between contending factions? Did Madison and his fellow Founding Fathers achieve the objective of neutrality? Or did they fail, and was the prominent political scientist of nearly two centuries later right in the flat assertion that structure is <u>never</u> neutral? Or, finally, was the poet most accurate in the implicit claim that structure is rather beside the point?

The major purpose of this dissertation is to attempt, within the confines imposed by one person doing one study, to examine the extent to which the structure and processes of the American national political system are neutral between contending elements of American society. It should be clear that this problem has a direct bearing upon the question of how democratic and responsive the political system is. To the extent that the political system is not neutral, it must be biased in favor of some interests and against others. The latter will claim, with considerable justification, that "the system" is "stacked" against them, undemocratic and "unresponsive."

The Indictment: Perverted Priorities

There is no shortage of commentators who have made just such a claim. They attack both the American political system and the American people for failure to deal in an adequate and timely manner with what they deem to be very pressing issues. The attack is not new, although in recent

years (especially the late 1960's and early 1970's) it has been far more strident than in the past. Nor does it emanate solely from the "lunatic fringe." On the contrary, respected citizens and political scientists have led the charge.

For example, in the early 1960's, James MacGregor Burns lamented The Deadlock of Democracy. He referred to "government by fits and starts." He further asserted that, "We have often been too late, and we have been too late with too little." We were too late in ending slavery, instituting collective security, controlling economic power, and creating a system of social security. Moreover, "The cost of delay has also been high in countless other areas of hardly less importance: urban decline, conservation, tax reform, medical care, governmental organization."[4]

This is, of course, an early presentation of what came to be called, as Duane Lockard put it, The Perverted Priorities of American Politics.[5] Calls for "reordering" priorities have become very commonplace. However, as far back as 1958 Senator J. William Fulbright said that "our priorities are somewhat askew," as he calmly spoke to the

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[4]James MacGregor Burns, The Deadlock of Democracy: Four-Party Politics in America (Englewood Cliffs, N.J.: Prentice-Hall, 1963), pp. 2-3. In the light of the Vietnam experience, it is interesting to recall Burns' indictment of the system for failure to grapple with the "cardinal problem... of the need for fresh and creative ventures in foreign policy." Ibid., p. 5. (Italics added.) See also work by Burns in n.20 below.

[5]Duane Lockard, The Perverted Priorities of American Politics (New York: Macmillan, 1971).

Senate on "The Character of Present-Day American Life, Its Order of Values and Its Sense of Purpose and Direction."[6] By 1967 this leading prioritician was not so calm anymore, and he used much stronger language, claiming that "Our country is being weakened by a grotesque inversion of priorities...."[7] (Italics added.) By late 1970, N. Gordon Levin, Jr. referred to a "new insistence on national-priority choices...."[7a] (Italics added.) And by June, 1972, one could have little quarrel with Elizabeth Drew's plaintive observation that "it was hard to get across the street in Washington without someone coming up and saying, 'We have to reorder

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[6]United States Congress, Congressional Record, 85th Congress, 2nd Session, Vol. 104, Part 15 (August 21, 1958), pp. 18903-18908. The priorities reference is at page 18904. Another precursor of new priorities politics was John Kenneth Galbraith, The Affluent Society (Boston: Houghton Mifflin, 1958). See also Goals for Americans, Programs for Action in the Sixties, comprising The Report of the President's Commission on National Goals and Chapters Submitted for the Consideration of the Commission (Englewood Cliffs, N.J.: Spectrum Books, 1960). In this writer's judgment, the difference between this work and that of the new prioriticians is that the former did not really seek priorities. Everything and therefore nothing was a priority. In other words, a "guns and butter" approach was followed; now it is clearly back to the old "guns or butter" as a result of the Vietnam War. Cf. John C. Donovan, The Policy Makers (New York: Western Publishing Co., 1970), p. 39.

[7]J. W. Fulbright, "The Great Society Is a Sick Society," The New York Times Magazine, August 20, 1967, p. 92. See also Fulbright's "For a New Order of Priorities at Home and Abroad," Playboy, July 1968 reprinted in: [United States Congress, Congressional Record, 90th Congress, 2nd Session, Bol. 114 (July 1, 1968; Daily Edition), pp. S8003-S8007].

[7a]N. Gordon Levin, Jr., "Nixon, The Senate & The War," Commentary, Vol. 50 (November, 1970), p. 82.

priorities.'"[8]

As an example of what Drew meant, in September, 1970, John W. Gardner created an organization called Common Cause.[9] Its purpose was to deal with the nation's problems. According to Gardner,

> Wherever you touch the public process in this country today, almost without exception, you will find a failure of performance.
> The air we breathe is foul. That water we drink is impure. Our public schools are in crisis. Our courts cry out for reform. Race conflict is deepening. Unemployment is rising. The housing shortage has driven rents through the roof.
> The things that government is supposed to do, it is not doing. The things it is not supposed to do...it is doing....
>
> We believe there is a great urgency in ending the Vietnam war now. We believe there must be a major reordering of national priorities, and that the Government cannot go on spending $200,000,000 a day for "national defense". [sic] We believe the problems of poverty and race must be among our first concerns. We will call for new solutions

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[8]Elizabeth Drew, "Contemplating the National Navel," The New York Times Book Review, June 4, 1972, p. 56. Drew seems to imply that the call for changing priorities is on the decline. Any reference to the 1972 election campaigns would challenge that proposition. So too would the following: Edwin L. Dale, Jr., "Reserve Rejects Linking of Credit to 'Priorities,'" The New York Times, August 2, 1974, pp. 33, 38; Michael Parenti, Democracy for the Few (New York: St. Martin's Press, 1974); Alan Shank, American Politics, Policies & Priorities (Boston: Holbrook Press, 1974).

[9]On the programs, activities, methods and degree of success of Common Cause see: William Chapman, "Has Common Cause Developed Any Clout?" The Progressive, Vol. 35 (August, 1971), pp. 25-27; "Common Cause," The New Republic, Vol. 164 (March 20, 1971), pp. 5-7; Norman C. Miller, "'Citizens Lobby' Common Cause Speaks Loudly but How Big Is Stick It Carries?" The Wall Street Journal, June 14, 1971, pp. 1, 22; Miller, "Common Cause's Growing Muscle," ibid., April 10, 1974, p. 16; Ben A. Franklin, "Common Cause Shifting Thrust to More Grass Roots Activism," The New York Times, December 24, 1971, pp. 1, 16.

in housing, employment, education, health, consumer protection, environment, family planning, law enforcement and the administration of justice.[10]
[Gardner's italics.]

Taken alone, this statement might strike the disinterested observer as a call for the creation of utopia.[11] However, the new-prioritician might cite some specific examples and ask if, even short of utopia, they need occur. Especially biting and poignant are instances of expenditure. As Senator Fulbright said: "Priorities are reflected in the things we spend money on. Far from being a dry accounting of bookkeepers, a nation's budget is full of moral implications; it tells what a society cares...and...does not care about; it tells what its values are."[12]

On May 25, 1961, President John F. Kennedy delivered a message to Congress on "Urgent National Needs,"[13] a kind of priorities statement of the day. The President said that the United States "should commit itself to achieving the goal, before this decade is out, of landing a man on the moon and

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[10]John W. Gardner, "'Everybody's organized by the people,' [sic]" Full Page Advertisement, The New York Times, September 27, 1970, p. 16E.

[11]Law Professor J. Reid Hambrick commented on Gardner: "we cannot condone the false hopes and illusions he encourages." Letter to the Editor, "Private vs. Public Interest," The New York Times, October 11, 1970, p. 12E.

[12]Fulbright, "The Great Society...," loc. cit., (n.7), p. 95.

[13]John F. Kennedy, "Special Message to the Congress on Urgent National Needs," Public Papers of the Presidents of the United States, John F. Kennedy, Containing the Public Messages, Speeches, and Statements of the President, 1961 (Washington: U.S. Government Printing Office, 1962), Item 205 (May 25, 1961), pp. 396-406.

returning him safely to earth."[14] He noted that the project would "carry very heavy costs," requiring a "firm commitment" on the part of Congress and the country. The commitment was firm and men landed on the moon on July 20, 1969.[15] And the project _was_ costly, requiring, according to one estimate, a cumulated expenditure of over 36 **b**illion dollars.[16]

On December 15, 1969, Dr. Ira Greifer of the National Kidney Foundation estimated that 10-12,000 people died yearly of controllable and curable kidney disease. They died because there are far fewer kidney care units in existence than sick kidneys. Dr. Greifer said that it would take about 25 **m**illion dollars to provide adequate facilities.[17] This is 0.07 percent of the cost of the space effort.

Two years later, doctors were still facing "awesome questions...and agonizing dilemmas." These included: "With many more Americans dying every day from kidney disease than there are positions available...in kidney [treatment] programs," on what basis does who decide who is to live and who is to die? How can the unlucky candidates nominated for death gracefully

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[14]_Ibid._, p. 404.

[15]See _The New York Times_, July 21, 1969 for a detailed account of the event.

[16]"Apollo Program," _Congressional Quarterly Weekly Report_, Vol. 27 (May 30, 1969), p. 861.

[17]Telephone interview with the writer. Regarding the accuracy of Greifer's figures, see n. 154a below.

accept their fate?[18]

The kidney care disgrace is (now "was": see p. 71)
but one among many in the field of health.[19] In turn, health
is but one among many problems on which the new-prioritician
would argue there is too little attention and expenditure.
There is no end to the specific examples that can be cited.[20]
But the biggest contrast between expenditure and non-
expenditure has been in the area of defense versus domestic
spending. In August, 1967, Senator Fulbright presented

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[18]Lawrence K. Altman, "Artificial Kidney Use Poses
Awesome Questions," The New York Times, October 24, 1971,
pp. 1, 57. Altman estimates that the needless death rate as
of October, 1971 was 7000/year. See also, The New York Times,
February 19, 1971, p. 18.

[19]The strong term "disgrace" is used because the writer
can't think of anyone who would disagree. This should not be
construed to mean that he is in total agreement with the new-
prioriticians. Far from it! Also, on health research fund
cuts, some would argue with the presentation here. Dr. William
Roe has argued that medical research is "a gravy train of the
fattest order, long in need of drastic trimming...." Letter
to the Editor, The New York Times, January 3, 1970, p. 24. But
see the rejoinder of Dr. Paul Bachner, Letter to the Editor,
The New York Times, January 13, 1970, p. 44.
   As for other health problems, most of us have seen the
television commercials asking for money to keep hemophiliacs
alive. See also: Richard D. Lyons, "Modern Medical Price:
Bankruptcy for a Family," The New York Times, May 21, 1972,
pp. 1, 25; Edward M. Kennedy, In Critical Condition, The
Crisis in America's Health Care, (New York: Simon and
Schuster, 1972).

[20]A good and fairly comprehensive collection can be
assembled from the sources cited in footnotes 5, 7, 8, 23,
28, 29, 33, 37, 42. See also: Charles L. Schultze, et al.,
Setting National Priorities: 3 Vols.: The 1971 Budget; The
1972 Budget; The 1973 Budget (Washington: The Brookings
Institution, 1970-1972); James MacGregor Burns, Uncommon
Sense (New York: Harper & Row, 1972); Jack Newfield and
Jeff Greenfield, A Populist Manifesto: The Making of a New
Majority (New York: Praeger, 1972); Donovan, op. cit.
(n.6), ch. 6.

> a few statistics on America's values: Since 1946
> we have spent over $1..578-billion [sic: $1,578-
> billion? through our regular national budget.] Of
> this amount over $904-billion, or 57.29 per cent of
> the total, has gone for military power. By contrast,
> less than $96-billion, or 6.08 per cent, was spent
> on "social functions" including education, health,
> labor and welfare programs, housing and community
> development. The Administration's budget for
> fiscal year 1968 calls for almost $76-billion to be
> spent on the military and only $15-billion for
> "Social functions."[21]

Implicit, but unacknowledged by Fulbright, in these statistics is the fact that "social functions" spending as a percentage of defense spending went from 10.5 per cent in the 1946-1967 period to 20 per cent in the fiscal 1968 budget---a war budget at that.

Now, for argument's sake, let us assume the essential validity of the point of view of the new-prioriticians. In sum , this is that there seems to be an inexhaustible supply of examples that illustrate an incredible contrast: on the one hand, enormous expenditure on the extremes of luxury (often frivolous) and the production of the instruments of death and torture; and, on the other hand, a comparatively meager expenditure on life and the prevention and alleviation of suffering. What can we say to answer this charge?

Three Answers: Perverted Political System? Perverted Society? or......Perverted Prioriticians?

The answer of this dissertation can be broached by considering some events of June 27, 1970.[22] On that gloomy,

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[21]Fulbright, "The Great Society...," loc. cit. (n.7), p. 95. Note that there has been not much specific mention of Vietnam because it will be discussed in the bulk of the dissertation.

[22]The writer was a witness to these events.

rainy, chilly day a group of "hippies" sensibly sought shelter. They ensconced themselves on the portico at the front of the courtyard of the New York University Law School. When it is realized that the authorities of this School probably have even more hostility to outsiders than is to be found in rural Mississippi, it is not hard to understand that their legal dignity was deeply offended. Corrective steps were immediately taken. The hippies were summarily ejected without due process of law. The entrance to the front portico was boarded up and a side entrance used. The boards were soon replaced by a tall iron gate in the center of the portico. This would surely keep out unwanted characters, especially at times when the School was closed. At these times the gate was chain-locked tightly.

But there was a problem. The gate covered only the center of the portico. There were and there are still only short fences on the sides, meaning that almost any physically fit person can gain entrance to the courtyard. Perhaps this indicates that the Law School authorities suffer from tunnel vision and myopia. But, if they do, the maladies are mitigated by the fact that many other people suffer from the same afflictions.

The point is well-illustrated by **critics of the American political system** who, seeing the high, locked center gate, fail to perceive that they need only hop over the short side fences. Instead, they call for modification of the center gate so as to permit entry, or for tearing it down altogether.

To change the metaphor, **this dissertation is** dedicated to the proposition that, before one decides to storm the walls

of the Bastille, one should first investigate if he can
enter through an unlocked front or side door.

The main problem, then, is this: are the doors of
the American political system unlocked but unused, or are
they locked tightly for certain groups, such as liberals?

According to Philip E. Slater, "Liberals never know
whether the door is unlocked because they are afraid to try
it."[23] Whether this ignorance is due to fear or to faulty
perception, the primary criticism of the political system
seems to come from liberals and radicals on the left of the
political spectrum.

However, we should note in passing that, if one looks,
one can find adverse comments from conservatives. For
example, Arthur Krock asserts that the American "democratic
system...has proved inadequate to deal with the problems
confronting the United States."[24] According to Robert
Bendiner, the late Nebraska Majority and Minority Leader
"Senator Kenneth Wherry, a Republican of the deepest conserva-
tive dye and a man given to no philosophical reflection

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[23]Philip E. Slater, The Pursuit of Loneliness, American
Culture at the Breaking Point (Boston: Beacon Press, 1970),
p. 124. Slater's words are apropos. But we emphasize that
they come from a context quite different from the present one.
See pp. 20-21 below for definitions of "liberal" and "conservative."

[24]Arthur Krock, The Consent of the Governed, and Other
Deceits (Boston: Little, Brown and Company, 1971), p. 3. Lest
there be any doubt about the classification of Krock as
conservative, he referred to some supporters of Senator George
McGovern as "'gimme' groups who feed on the taxpayers like
leeches...." "The Democrats: Deja Vu," The New York Times,
July 10, 1972, p. 21. If those aren't words a conservative
might use, I do not know what are. See also The Consent...,
pp. 285-290.

whatever,...said 'The machinery of Congress is so appallingly inadequate for modern times that free, representative government is endangered.'"[25] And, a former editor of The New Guard, magazine of the conservative Young Americans for Freedom, complained in 1971 that those who had voted for Richard Nixon were disappointed by his deviation from true conservatism: "If Americans come to the conclusion that...they have no control over their government - that they get the opposite of what they vote for - then the whole democratic system becomes questionable....[T]he results may be disastrous...."[25a]

But it seems to this writer, as well as to others, that it is from the left that a virtual tidal wave of dissatisfaction with the political system emanates. This is readily understandable if one accepts the commonly held notions that a) those on the left favor change and those on the right favor the status quo, and b) the system is structured with many obstacles to change. Whether these notions should be accepted will be discussed in detail later. But the reader should note here that the complaints of the following writers revolve about the ideas that there has been too much delay and too little change.

In the statement by John Gardner cited above (pp. 5-6), he goes on to blame the system: "One of our aims will be to revitalize politics and government. The need is great....Most

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[25]Robert Vendiner, Obstacle Course on Capitol Hill (New York: McGraw-Hill, 1964), p. 6.

[25a]Allan C. Brownfield, "Conservative Disenchantment," The New York Times, August 11, 1971, p. 37.

parts of the system have grown so rigid that they cannot respond to impending disaster. They are so ill-designed for contemporary purposes that they waste taxpayers' money, mangle good programs and frustrate every good man who enters the system."[26] James MacGregor Burns' reference to "government by fits and starts" has also been noted (p. 3). He proceeds to propose numerous reforms of the system which would, in his view, go far to remove the fits and starts.[27]

Moving further left, radical political scientist Howard Zinn's fifth "fallacy on law and order" is "that the political structure and procedures in the United States are adequate as they stand to remedy the ills of our society."[28] He says "there is something about [the American political] structure itself which does not permit the necessary changes to take place," and goes on to cite with approval the Kerner Commission: "The political system...has not worked for the Negro as it has for other groups."[29] According to Robert Brustein, a frequent contributor to The New Republic,

[26]Gardner, loc. cit. (n.10).

[27]Burns, The Deadlock...(n.4), pp.325-332. On. pp. 332-340, he contradicts what he says on pp. 325-332. This will be explained below. (p. 20.)

[28]Howard Zinn, Disobedience and Democracy, Nine Fallacies on Law and Order (New York: Vintage Books, 1968), p. 53. The quotation appears in italics in the book; it is one of Zinn's justifications of violent disobedience. As to Zinn's radical credentials, at P.S., Vol. 1 (Fall, 1968) p. 17, he is listed as a member of the Caucus for a New Political Science, which is discussed below at p. 34 and nn. 72-73.

[29]Op. cit., p. 57. The full Commission quotation and the reasons for it are at: Report of the National Advisory Commission on Civil Disorders (New York: Bantam Books, 1968), pp. 287ff.

"America seems to be without adequate machinery for the redress
of grievances and for social change: it is a measure of this
failure that little more is available to those dissatisfied
with inequities of the system than ineffective demonstrations
against the government, threatening rhetoric, disruptive
gestures and self-conscious life-styles."[30]

The writings of the left, old and new, are filled with
statements such as these. However, more "establishment" types
have made the same fashionable pronouncements. The sometimes
liberal New York Times provides numerous examples: a) an
editorial: "it is evident that the country is moving too
slowly toward proving the efficacy of orderly political
process."[31] b) James Reston: "particularly the institutions
of government...are under attack....governments must be
responsive to the legitimate grievances of the people if they
are to be respected and obeyed."[32] c) Tom Wicker, probably

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[30]Robert Brustein, "Revolution As Theatre," The New
Republic, Vol. 162 (March 14, 1970), p. 13.

[31]Editorial, "Two Roads to Rights," The New York Times,
December 9, 1969, p. 54. The editorial also referred to
"doubts building up throughout American society as to the
nation's willingness to institute major reforms without the
prod of demonstrations, legal or illegal. One Presidential
commission after another has emphasized the magnitude of the
social injustices in need of correction...." (Italics added.)
Two and one half years later, the editors were having
doubts, as they declared "that institutional changes in them-
selves are not necessarily either good or bad, progressive or
reactionary." "To Regain the Past," The New York Times,
August 5, 1972, p. 24.

[32]James Reston, "The Forgotten Principle," Ibid.,
March 25, 1970, p. 46. Reston implicitly but not explicitly
suggests that "legitimate grievances" have not been responded
to. He conveniently omits consideration of the thorny
subjective problem of disagreement over what constitutes
"legitimate grievances."

the most liberal writer on the staff: "those...who tried
and failed to get a response...can hardly be blamed for
developing a bitter mistrust of 'the system.'...the American
system has become...massive and impersonal and therefore...
unresponsive."[33]

In his presidential address to The American Political
Science Association, David Easton apparently accepts as true
that "the distribution of power within the system prevents
measures from being taken in sufficient degree and time to
escape the resort to violence in the expression of demands,
a condition that threatens to bring about the deepest crisis
of political authority that the United States has ever
suffered[.] " The demands are with respect to "domestic needs
and wants." Easton also seems to adhere to the notion of
"the failure of the current pluralist interpretations of
democracy."[34]

Finally, from within the government itself have come
complaints that "the system" is to blame. Joseph Clark,
when he was a liberal anti-establishment Senator,[35] depicted
the problem of Congress: The Sapless Branch: "The strain of
negativism runs deep....The central defect of the modern
Congress is that it permits a minority determined on inaction

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[33]Tom Wicker, "In the Nation: The Mailmen "Give It a
Jolt,'" Ibid., March 24, 1970, p. 46. See also Wicker's
column, Ibid., December 9, 1969, p. 54.

[34]David Easton, "The New Revolution in Political
Science," The American Political Science Review, Vol. 63
(December, 1969), p. 1057.

[35]See Joseph S. Clark, The Senate Establishment
(New York: Hill and Wang, 1963).

to frustrate the will of the majority which desires to act."[36] And, justifying violence with ambiguity and ambivalence, Supreme Court Associate Justice William O. Douglas compares the government and "the Establishment" to George III and quotes a letter from an anguished young man complaining he has nowhere to turn.[37]

Some of the foregoing writers (Zinn, Kerner Commission, Douglas, Easton) see violence as rooted, both causally and normatively, in the failures of political institutions. This point is very important and will be analyzed below.

All the above statements assume a need to reform the political system, blaming its alleged rigidity, unresponsiveness and bias for not reordering priorities and not meeting the needs of American society. This society, in turn, is itself often blamed for the country's priority problems.

The theory that perverted priorities result from a perverted society is especially popular among radical extremists but also finds support among liberals. According to the argument, the American people are a Sick Society.[38]

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[36]Joseph S. Clark, Congress: The Sapless Branch (New York: Harper & Row, 1964), pp. 147-148.

[37]William O. Douglas, Points of Rebellion (New York: Vintage Books, 1970) pp. 88-89, 95-97, 53-54. Cf.: "the younger generation in the United States is growing up without political alternatives to violence? " Gunter Grass, "U.S. Violence---But no Brownshirts," The New York Times, December 4, 1970, p. 47.

[38]Fulbright, "The Great Society...," loc. cit., pp. 30, 88, 90, 92-93, 95-96. (n.7) It is noteworthy that, in July, 1968---eleven months after Fulbright's article--- Dr. George Gallup found that 58 per cent of the American people disagreed that this country is a "sick society." 36 per cent agreed. The Gallup Opinion Index, Report Number 38 (August, 1968), p. 18.

Senator Fulbright avers that they became morally and psychologically sick as a result of the Vietnam War.[39] Moreover, "the country sickens for lack of moral leadership."[40] Those in power who are not mentally ill are corrupt. The people at large---literally at large---who are not mentally sick are indifferent, callous, hard-hearted and inhumane.

While some say that Vietnam made the society sick, others argue that Vietnam occurred because the society was already sick. "The young critics of the New Left...charge that the Vietnam war was created by a society that lives on the manipulation and exploitation of poor people at home and abroad."[41] And, "protesters ask....Is it possible that our Vietnam involvement is 'not a product of eminent personalities or historical accidents, [but] of our development as a people'?"[42] So, in sum, our society and the government produced by it fall into three categories: the oppressed suffering, the lunatics and the evil.

Implicit in the previous paragraphs are two conflicting points of view. Fulbright refers to leadership. But Tom Wicker claims that "leadership is an interaction with those to

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[39] Fulbright, "The Great Society...," loc. cit., p. 30.

[40] Ibid., p. 95.

[41] Robert L. Beisner, "1898 and 1968: The Anti-Imperialists and the Doves," Political Science Quarterly, Vol. 85 (June, 1970), p. 209.

[42] Jerome H. Skolnick, The Politics of Protest (New York: Ballantine Books, 1969), p. 77, quoting Douglas F. Dowd, "America Fouls Its Dream," The Nation, February 13, 1967, p. 200.

be led....when [the] people give any clear indication that
they are ready to move at home---away from materialism
and apathy and complacency and the vulgar know-nothingism
that so often passes for common sense along Main Street---
leaders will be there to lead."[43] Many political and other
social scientists would agree. Murray Edelman writes that
"The emphasis in modern leadership theory is...upon the willing-
ness of followers to follow.... [T]he leader's choices are
quite narrowly prescribed by followers' demands...."[44]
Actually, this emphasis is not so "modern." It goes back at
least to the French Revolutionary who led the mob by following
it. All this, in fact, is a sophisticated version of the saw,
common in many old introductory civics and political science
text books, that people get the kind of government they
deserve: "...people get honesty, efficiency, economy, and
service in proportion to the civic interest and intelligence
that they display---the first requisite of a successful
democracy being an alert and informed body politic."[45]

But who is to "alert" the body politic? Are they to
alert themselves? An affirmative answer is the premise
underlying the perverted society hypothesis. But there is
another point of view, one that gives a greater role to

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[43]Tom Wicker, "In The Nation: The Mission Ingredients,"
The New York Times, December 28, 1969, p. 9E.

[44]Murray Edelman, The Symbolic Uses of Politics
(Urbana, Ill.: University of Illinois Press, 1964), p. 73.

[45]Frederick A. Ogg and P. Orman Ray, Introduction to
American Government (9th Edition; New York: Appleton-
Century-Crofts, 1948), p. 10.

leaders than merely waiting for the poeple to give a
"clear indication that they are ready to move...." (One
must wonder how Wicker expects the "indication" to be
given, if not through leaders.) This other point of view
was expressed by the late V. O. Key: "the masses do not
corrupt themselves; if they are corrupt, they have been
corrupted....[T]he critical element for the health of a
democratic order consists in the beliefs, standards and
competence of those who constitute the influentials, the
opinion-leaders, the political activists in the order."[46]

Well, who are to be the activists, influentials,
and opinion leaders? Obviously not those who oppose the
new-prioriticians. And not those who do not care or have
never even heard about "new priorities." Clearly, if the
new-prioriticians have certain goals that they feel must be
achieved, by default it is up to them to provide the
necessary push. Thus the final explanation for perverted
priorities: perverted prioriticians. It is the argument of
this dissertation that they are primarily responsible for
the failure to achieve their own objectives. We may call it
the Shakespeare hypothesis: "The fault, Dear Brutus, is not in

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[46]V. O. Key, Public Opinion and American Democracy
(New York: Knopf, 1961), p. 558. In this vein, former Vice
President Hubert H. Humphrey accused the Nixon Administration
of appealing to the baser instincts of the American people.
The New York Times, November 18, 1969, p. 1; temporary Vice
Presidential nominee Thomas F. Eagleton declared that the
vice presidency is "an office whose occupant must understand
and appeal to the highest---to the highest, not the basest---
motives of our fellow Americans." Ibid., July 15, 1972, p. 12.
See also, editorial, "The Threat to Liberty---III," Ibid.,
April 28, 1970, p. 40.

our stars, but in ourselves."[47]

John Gardner ultimately agrees: "Many of you share my
anger at institutions and individuals that have behaved
irresponsibly. But, if we're going to focus our anger, a
good place to begin is with ourselves."[48] Burns sees a need
to reform the system, but also states that, "Above all, it
[the system] is rooted in our minds....We cannot unfreeze
our politics until we unfreeze our minds....The cure for
democracy is leadership----responsible, committed, effective,
and exuberant leadership."[49]

But what kind of leadership? There are at least three
situations: 1) Waiting for the followers to lead the

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[47]George Lyman Kittredge, ed., The Complete Works of
Shakespeare: The Tragedy of Julius Ceasar (Boston: Ginn &
Co., 1936), Act I, Scene II, p. 1084.

[48]Gardner, loc. cit. (n.10). It is not altogether
clear from the context just what Gardner means by "ourselves."
He could mean all of society. But his statement is addressed
to the "many of you [who] share my concern over what is
happening in our country." This implies that "ourselves"
refers to the new prioriticians. Elsewhere, however, Gardner
expresses the belief "that virtually all of us have failed
in our duty as Americans....
"...there is in us as Americans something better than
fear and anger and prejudice, something better than selfishness,
something better than the lazy, comfortable inclination to
blame other. [sic]
"There is in us, if our leaders will ask for it, the
courage and stamina to face our problems honestly, to admit
that we ourselves are partly to blame for them, and to
identify paths of constructive action." The New York Times,
May 14, 1970, p. 22. (Italics added.)
The only thing clear in this statement is its hopeless
lack of clarity. Is it all the people? Is it the leaders?
Is it "ourselves"? Why are "we ourselves partly to blame" if
the problem is the failure of our leaders? Why is the failure
that of the leaders if the fault is in "us"?
See also, p. 101 below.

[49]Burns, The Deadlock...(n.4), pp. 7, 340. See also
n.27.

leaders. This presents a semantic problem to put it mildly. Will the real leaders please stand up? 2) Acting on the premise that governmental action can be produced only (or most easily or most legitimately) by a demanding society, the leader tries to convince that society---or a majority thereof---of the rightness of the cause. An example of this would be the monumental Civil Rights Act of 1964. Only after widespread public support was produced by demonstrations, for example, was "the system" seriously prodded into action.[50] 3) The system's doors to certain public policies being unlocked, they are entered either by government officials or by constituent leaders who pressure the officials. Then the society at large, or a majority thereof,

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[50]_Revolution in Civil Rights_ (Washington: Congressional Quarterly Service, 1965), p. 39; C. M. Lytle, "History of the Civil Rights Bill of 1964," _Journal of Negro History_, Vol. 51 (October, 1966), pp. 275-296, esp. p. 280. The demonstrations were necessary to start action. They were also necessary to bring it to a successful conclusion. Leadership decisions played no small role. For example, the decision to organize legislative forces and the decision to let a filibuster start relatively early in a session of Congress and drone on in the midst of mounting pressure and weariness with the filibuster. Television played an important role both in the demonstrations and in the filibuster. See Lytle, _Ibid._, _passim_ and p. 282; Kenneth B. Clark, "The Civil Rights Movement: Momentum and Organization," _Daedalus_, Vol. 95 (Winter, 1966), pp. 239-267, esp. p. 240 on television. On television, see also Roger H. Davidson, David M. Kovenock, Michael K. O'Leary, _Congress in Crisis: Politics and Congressional Reform_ (Belmont, Calif.: Wadsworth Publishing Company, 1966), p. 46. On what organization can do to nullify the supposed bias of the political system, a remark by Senator Clifford Case is noteworthy: "The thing that burns [the Southerners opposed to the Civil Rights Bill] is...that for the first time in a long history of efforts to place... effective legislation on the Federal statute books..., _we are finally organized in a way in which the opposition has always operated._ This evidence of great and effective organization is what really hurts." United States Congress, _Congressional Record_, 88th Congress, 2nd Session, Vol. 110 (March 12, 1964; Daily Edition), p. 4866. (Italics added.)

is persuaded to go along with or acquiesce in the actions
already taken. "When it comes to making specific govern-
mental decisions, the public's role is largely a _reactive_
one."[51] This seems to apply to the Vietnam War. To the
best of this writer's knowledge, there never was any public
clamor for extensive United States involvement. Neverthe-
less, after action was taken, the public was persuaded to go
along without much trouble. Public support lasted for a
long time, in certain senses until the end.

The focus of this dissertation will be on the third
kind of leadership.

Summary

To sum up the argument thus far: Certain elements of
American society have been unhappy because of "perverted
priorities" established by governmental policies. Three
explanations have been offered: the system is perverted;
the society is perverted; the prioriticians are perverted.

Radicals and liberals have complained often. They
have complained about war; they have complained about
poverty in an affluent society; and they have complained
about the system. But the argument here is that the failures
of liberal programs---to the extent that they have failed---
are due neither to the decadence of society nor inadequacies
of the political system. To a very large degree, liberals
themselves are to blame for the continuance of the problems

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[51]James D. Barber, ed., _Political Leadership in
American Government_ (Boston: Little, Brown and Company,
1964), p. 7. Barber's italics.

they lament. <u>The very attributes of the political system decried by liberals as obstacles to their programs can actually be used to further liberal causes</u>. Liberals inside the government have not used their opportunities to the fullest extent. Nor have they been compelled to do so by a full exercise of opportunities by liberals outside of government.

The following chapters will be devoted to making a case for the above propositions. They will 1) attempt to show how the Vietnam War could have been ended long before it was, using established, legitimate political strategies; 2) analyze some general questions of political responsiveness and structural neutrality; and 3) analyze, in particular, the structural neutrality of the United States Congress.

In the remainder of this chapter, we shall 1) note some basic themes, 2) define extensively used terms, 3) discuss the relationship of the dissertation to political science, and 4) note the limitations of the thesis.

Basic Themes

Certain themes permeate this work: 1) the use of many obvious points; 2) the distinction between a tool and the use made of it; 3) minoritarianism; and 4) acceptance of certain values of political actors as a basis for evaluation.

Lucian W. Pye believes "that among wise men a great deal can be left unsaid while it may be the work of the fool

to give words to the obvious."[52] But the late Justice Oliver W. Holmes, Jr., never known as a fool, did not seem to agree. On the contrary, one of his oft-quoted remarks is this: "at this time we need education in the obvious more than investigation of the obscure."[53] The obscure and the unusual attract attention; the obvious gets taken for granted and then forgotten or ignored. Many people are immersed in the xyz's of a problem and totally blind to the abc's. The blindness has caused much hardship.

There are three answers to a possible objection that the above indicates that the thesis will present nothing new. Non-obvious points will be made. Also, the reader may disagree with the judgment that certain points are obvious. Most important, certain statements may be obvious taken alone, but their application to specific situations may not be. The contribution here will be such applications. In particular, a major implication of the following chapters is that the Vietnam War could have been stopped and many lives saved had more attention been given to the obvious.

We are all familiar with the television repairman who "fixes" a television set by putting the plug in the outlet. In a similar vein, this dissertation is based upon a critical

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[52]Lucian W. Pye, "Description, Analysis, and Sensitivity to Change," in Austin Ranney, ed., Political Science and Public Policy (Chicago: Markham, 1968), pp. 246-247.

[53]"Law and the Court; Speech at a Dinner of the Harvard Law School Association of New York on February 15, 1913," in Oliver Wendell Holmes, Collected Legal Papers (New York: Harcourt, Brace and Company, 1921), pp. 292-293.

distinction, which is at least as much ignored as it is trite. This is the distinction between an **opportunity** provided by any system, process, thing or situation and the USE made of it.[53a] Analytically, it can be very difficult to know where one begins and the other leaves off. It is not so simple as putting a plug in an outlet. Psychologically, it is understandably more comforting to point a finger at the political system than at one's own inept comprehension and use of it.

One of the major facets of the inept comprehension is a reliance on majoritarianism. This thesis rejects the notion that "The most democratic, stable, and effective type of majority...is a popular majority---namely, one half of all the pooled votes throughout the nation, plus one (or more)."[54] We shall attempt to show that such majoritarian notions, which pervade the thinking of the system's critics, are simplistic and that Robert Dahl is probably much closer to the truth: "on matters of specific policy the majority rarely rules....[S]pecific policies [are] selected by a

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[53a]"One of the most elementary principles of political life is that a political resource is only a potential source of influence. Individuals with the same amounts of resources may exert different degrees of influence because they use their resources in different ways....[I]f individuals do vary in the extent to which they use their resources to gain influence, this variation might be fully as important in accounting for differences in influence as variations in the resources themselves...." Robert A. Dahl, Who Governs? Democracy and Power in An American City (New Haven: Yale University Press, 1961, pp. 271, 273. Dahl's italics.

[54]James MacGregor Burns, Congress on Trial (New York: Harper & Brothers, 1949), p. 42. See also, The Deadlock..., pp. 334-336 (n.4).

process of 'minorities rule.'"[55] Failure to grasp this proposition is at the root of much of the alleged "failure of the system." Considerable space will be devoted to analysis of majoritarian thought and to presenting a case for the use of the very minoritarian devices complained about by people such as Senator Clark. (page 15.) In fact, the entire plan for ending the Vietnam War will be based on minoritarian devices. So too will be much of the argument that the system is neutral to a greater degree than generally acknowledged.

The fourth theme noted above, the use of values of political critics and actors rather than mine, will be discussed later. (p. 51ff.)

Definitions of Extensively Used Terms

Certain terms have been and/or will be used extensively. These include: a) political system, b) structure, c) liberal and d) left. Elementary scholarship demands clarification of their usage. In making such clarification, it is hoped that the reader will conclude that the writer has deviated as little as possible from the English language as commonly understood. It is not his intention to undergo "the professorial delight of inventing a private language of

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[55]Robert A. Dahl, A Preface to Democratic Theory (Chicago: University of Chicago Press, 1956), pp. 124, 132. Dahl does indicate that these specific policies "probably lie most of the time within the bounds of [majority] consensus...." Ibid., p. 132.

[his] own."[56] T. D. Weldon writes: "Words do not have
[fixed immutable] meanings at all; they simply have uses....
To know their meaning is to know how to use them...in such
a way as to be generally intelligible, in ordinary and
technical discourse....[V]erbal usage at any given time
and for any given society is fairly stable and is not
subject to the arbitrary whims of individuals."[57] Even
in new situations, Weldon says, "stretching the use of a

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[56]Paul Linebarger, Psychological Warfare (Washington:
Infantry Journal Press, 1948), pp. 38-39, n.4. "Private
languages" are not figment of the imagination; they exist.
See, for example, Urban G. Whitaker, Jr., "Actors, Ends,
and Means: A Coarse-Screen Macro-Theory of International
Relations," in James N. Rosenau, ed., International Politics
and Foreign Policy, A Reader in Research and Theory (New
York: The Free Press of Glencoe, 1961), pp. 438-448. On
examination, "Coarse-Screen Macro-Theory" turns out to be
"incomplete general theory." Why didn't Whitaker say so in
the first place? In Power and Society, A Framework for
Political Inquiry (New Haven: Yale University Press, 1950),
p. 72, Harold D. Lasswell and Abraham Kaplan define
"Amicology" as the science of affection. The only trouble
with that is that this writer has never heard of a practicing
amicologist or a treatise on amicology. The reader may wish
to translate the following: "The problems of an eidos in
history, hence, arises only when Christian transcendental
fulfillment becomes immanentized. Such an immantist hypostasis
of the eschaton, however, is a theoretical fallacy." Eric
Voegelin, The New Science of Politics: An Introductory Essay
(Chicago: University of Chicago Press, 1952), p. 120, quoted
in Robert Dahl, Modern Political Analysis (Englewood Cliffs,
N.J.: Prentice-Hall, 1963), p. 105. Finally, imagine an
Eastonite radical shouting "Down with the authoritative allo-
cation of values for the society." David Easton, The Political
System, An Inquiry into the State of Political Science (New
York: Knopf, 1953), pp. 129ff.

[57]T. D. Weldon, The Vocabulary of Politics (London,
England: Penguin Books, 1953), pp. 19, 28. "We must
distinguish between two uses of "define". [sic] It can mean
either "provide a verbal equivalent for..." or "give the
ordinary use of..."" Ibid., p. 23. Weldon rejects a third
use of "define": the search for fixed, ideal, single meanings.
Ibid., pp. 17-30. Cf. C. Wright Mills: "At any given moment,
of course, 'social science' consists of what duly recognized
social scientists are doing.... and also what social
scientists of the past have done---but....When I speak of

word already familiar....[S]eldom confuses anybody but political philosophers...."[58]

The terms "system," "political system," and "American political system" will be used interchangeably. They will be used to refer to what critics mean when they inveigh against the unresponsive or evil "system." This involves United States <u>Governmental</u> institutions of two kinds: 1) those formally established by and pursuant to the Constitution (executive, legislative and judicial branches), and 2) political parties and interest groups, which are not provided by the Constitution but nevertheless operate upon, from inside and outside, the formal structure.

"The government" is generally understood to refer to the formal structure and that is how we shall use the term.[59]

The above usage, the writer thinks, avoids the excessive narrowness and breadth often found in the pedantic literature. Dahl, for example, "boldly define[s] a political system as...any persistent pattern of human relationships

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'the promise of social science,'...I mean the promise as I see it." <u>The Sociological Imagination</u> (New York: Oxford Press, 1959), p. 19. Also, cf.: "Stress is laid most sharply on the professional writings of...members of the American Political Science Association; but an attempt has been made to view political science as it is---indistinct at all its margins...." Dwight Waldo, <u>Political Science in the United States, A Trend Report</u> (Paris, France: United Nations Educations, Scientific and Cultural Organization, 1956), p. 10.

[58]Weldon, <u>op. cit.</u>, p. 27.

[59]"Government" is frequently and narrowly used to refer to the executive branch only, especially the particular Administration in power, e.g., the Nixon Administration. To avoid confusion, we shall endeavor to avoid this usage.

that involves, to a significant extent, power, rule, or authority."[60] This definition can include "private clubs, business firms, labor unions, religious organizations, civic groups, primitive tribes, clans, perhaps even families."[61]

Now really?! Admittedly there are, in common parlance, expressions such as "office politics" and " private governments." But is this what critics of the political system have in mind? Is it what most political scientists have in mind? Or is it not true, as Dahl finally concedes, that "In the United States, as in most other countries, when you speak of _the_ Government everyone seems to know what you mean. Of all the governments in all the various associations of a particular territory, generally one is in some way recognized as _the_ Government."[62] (Dahl's italics and capitalization.)

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[60]Dahl, _Modern Political Analysis_, p. 6 (n.56).

[61]_Ibid_.

[62]_Ibid_., p. 12. For what Dahl means by "government" see Ibid., pp. 11-12. Cf.: "The _sphere of politics_..._may be restricted_ primarily _to_...those power or control relationships having to do with _the machinery of government_." (Italics added.) V. O. Key, _Politics, Parties, & Pressure Groups_ (1st Edition; New York: T. Y. Crowell, 1942), p. 3, quoted in Easton, _Political System_, p. 117 (n.56).
How did the broad definition of "political system" ever gain vogue among political scientists? At the risk of being accused of private language invention, in this writer's judgment it resulted from what he would call _spiral reasoning_. Circular reasoning is essentially that the validity of A depends on the validity of B which in turn depends on the validity of A. If circular reasoning gets one back to the same point on a circle, spiral reasoning gets one back to the same radius, but at a point further from the center than the original point.
From time immemorial, there have been people interested in the study of the state. This study involved power relationships. It was a short step from there to saying that political science is really the study of power. Apparently forgetting the origin and nature of the interest in power, some political

At the extreme of narrowness, "the people" would be excluded from "the system." This is the writer's interpretation of systems theorists, such as David Easton, who refer to inputs (demands and supports) to the political system from an external environment.[63] It is also the implication of the recurrent charge that the system is unresponsive: there is a system which must either respond or not respond to the people who are outside it.

The writer's judgment is that it is secondary whether we see the people as a component of the political system or as part of a broader social system external to the political system. It is also secondary whether the political system is viewed as "independent"[64] or as a subsystem of a broader social system.[65] The same "real world" relationships between the

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scientists claimed that, clearly, there are power relationships in entities other than the state. Therefore, the state is too confining a notion. Hence, the original focus of the study of power is expanded to embrace almost everything including primitive tribes, which, we would assume (without "hard data"), most political scientists would just as soon leave to the anthropologists. See Easton, Ibid., pp. 106-148, esp. pp. 139-140.

[63]David Easton, A Systems Analysis of Political Life (New York: Wiley, 1965), ch. 2, passim., and esp. pp. 18, 21-23, 26-27, 30, 32, 38-39.

[64]"Political systems analysis...seeks to isolate the arena of politics as an independent system from the remainder of society." William C. Mitchell, "Political Systems," International Encyclopedia of the Social Sciences, Vol. 15, p. 473.

[65]As this writer sees it, the argument over what to call something is one of the most sterile in scholarly literature. Once a baby is born, how he functions, whether he is sick or healthy, etc. have nothing to do with the name the parents choose. "We get into trouble only if we suppose that this verbal usage has brought into existence new and peculiar people and things.... Linguistic conveniences do not beget metaphysical entities...." Weldon, op. cit. (n.57), p. 28.

people and their government are going to exist, whatever they are called. Clearly, to the extent that the people are governed by the political system, a relationship exists. As to the extent to which the people, as a whole or in parts, can and do get the system to respond, that is really an empirical matter to be determined by investigation and interpretation of evidence rather than by definition of terms. Our definition of political system does not specifically include or exclude the people as such; this is an empirical question, the one this thesis is all about.

The term "structure" will be used as a shorthand substitute for "structure, procedures and customs" or "structure and rules" or "structure and functions." It should be quite obvious that no organization and its component parts can be discussed apart from their purposes and the rules and procedures through which they serve these purposes. The purposes, rules and procedures of American Government, of course, have been established by the Constitution, statutes, written rules, and customs. These determine the relationship of the component parts of the system to each other and to the people. Here, "structural neutrality" will refer to all of the foregoing.[66]

"Liberals." "Conservatives." "Leftists." "Rightists." Unlike Heinz Foods, they are not restricted to fifty-seven

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[66]Cf.: Key, _Politics, Parties_.... (5th Edition; 1964), p. 4 (n.62); Mitchell, _op. cit._, p. 474; Gabriel A. Almond and James S. Coleman, eds., _The Politics of Developing Areas_ (Princeton: Princeton University Press, 1960), p. 11.

varieties. For this and another reason, discussion in some detail of these terms must be deferred. The other reason is they the way they are defined has a substantial bearing on the thesis, especially on the question of whether the system is biased against those on the left. (See p. 12) In particular, we shall question the common notion that liberals are activists while conservatives favor the status quo.

For the present, as a basis of discussion, we somewhat arbitrarily define the above terms in accordance with impressions of how they are commonly used. "Left" is used to include both "liberals" and "radicals," ranging from near the center to the very extreme. "Left" has often been used to refer just to radicals, such as the "New Left," but we will not employ that usage.[66a] Note that we are not referring to "isms." Our concern is with people, primarily activists, who are <u>actually known</u> as "liberals" and "radicals,"[67] and not with full blown ideologies of political philosophers.[68]

Regarding methods, liberals tend to favor use of the system as it is with some reforms, most notably those directed

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[66a]Lumping together radicals and liberals can and has led to vehement objections from both, each of which wishes to be dissociated from the other. For example: "As a life-long liberal, I disapprove of the abuse of the word liberal. I do not consider radicals and New Left-ists liberal; they are more inclined toward a totalitarian, absolutist attitude. That is, in their eyes they alone possess truth; everybody else is a conservative and right-winger, i.e., ideologically incorrect." Roy N. Lokken, "Communications," <u>P.S.</u>, Vol. 2, (Spring, 1969), p. 192.

[67]See Mills, <u>loc. cit.</u> and Waldo, <u>loc. cit.</u> (n.57).

[68]For detailed treatment of ideological intricacies, see Kenneth M. Dolbeare and Patricia Dolbeare, <u>American Ideologies, The Competing Political Beliefs of the 1970s</u> (Chicago: Markham, 1971).

toward majority rule. (See Clark, p. 10.) Radicals tend to favor destruction of the present system and the substitution of a totally new one. Regarding programs or policies, people on the left favor, in varying degrees, the values of the new-prioriticians as outlined above. (pp. 2-6.) These values include increased expenditure on and reform of domestic programs such as welfare and poverty, health insurance, etc. Today's liberals are generally anti-cold war and anti-Vietnam War, although there is still reference to "cold war liberals." We shall not make that reference. "Conservatives" would favor more defense and relatively less domestic expenditure. There are issues, such as ecology and draft reform, which see people known as conservatives teaming up with others known as liberals to oppose equally liberal-conservative coalitions.[69]

The Dissertation and Political Science

The place of the dissertation in political science can be analyzed from the perspective of the appearance and possibly the reality of recent change in the discipline. This change is illustrated by policy of the American Political

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[69] On the actual employment of these terms, see, for example, the following: Leonard Freedman, Power and Politics in America (Belmont, Calif.: Duxbury Press, 1971), pp. 11-15, 210-212; Miller, loc. cit. (n.9), which labels new-priorities oriented Common Cause as "liberal"; B. Drummond Ayres, Jr., "McGovern Record During 13 Years in Congress One of Conventional Liberalism," The New York Times, July 13, 1972, p. 25; Senator Paul J. Fannin (R. Ariz.) "is one of the most conservative men in the Senate. Americans for Democratic Action and organized labor both give him ratings of zero. He has opposed Medicare and Social Security increases, while supporting the supersonic transport and bigger defense spending." The New York Times, October 31, 1970, p. 12. We doubt that there would be any questioning of Senator Clark and Justice Douglas as liberal or left (pp. 15-16).

Science Association. In its Constitution as adopted in 1953, the Association stipulated in Article II, Section 2:[70]

> The Association as such is non-partisan. It will not support political parties or candidates. It will not commit its members on questions of public policy nor take positions not immediately concerned with its direct purpose [to encourage the study of political science].

In 1967, a self-styled "radical" Caucus for a New Political Science "was formed...to challenge the complacency of American political science, its conservatism, its government links and, above all, what the dissidents called the 'irrelevance' of the discipline."[71] At the behest of this group, the 1968 meeting of the American Political Science Association added the following amendment immediately after the above provision:

> But the Association nonetheless <u>actively encourages</u> in its membership and its journals, research in and <u>concern for significant contemporary political and social problems and policies, however controversial</u> and subject to partisan

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[70]The date is given by Austin Ranney, "The Study of Policy Content: A Framework for Choice," in Ranney, <u>op. cit.</u> (n.52), p. 12.

[71]Marvin Surkin and Alan Wolfe, eds., <u>An End to Political Science, The Caucus Papers</u> (New York: Basic Books, 1970), p. 3. On the views and development of the Caucus for a New Political Science see: <u>Ibid.</u>, <u>passim</u>; Philip Green and Sanford Levinson, eds., <u>Power and Community, Dissenting Essays in Political Science</u> (New York: Random House, 1969, 1970); Robert Samuelson, "Political Science: CIA, Ethics Stir Otherwise Placid Convention," <u>Science</u>, Vol. 157 (September 22, 1967), pp. 1414-1417; sundry articles and letters in <u>P.S.</u> from its inception in Winter, 1968: See esp. "Communications" in Vols. 1 and 2 (1968-1969), <u>passim</u>, and "Special Symposium: The Governance of the Association," <u>Ibid.</u>, Vol. 2 (Summer, 1969), pp. 269-302.

discourse in the community at large these
may be.[72] [Italics added.]

Finally, in his 1969 presidential address to the
Association, David Easton gave an official stamp of approval
to the trend by declaring as "under way" a "new" revolution.
This he called "the post-behavioral revolution" in political
science.[73] Noting "the increasing social and political crises
of our time,"[74] accepting the point of view that the failure
to deal with these crises is the fault of the political
system (above, pp. 14-16), and indicting the political science
discipline for failing, in turn, to recognize and deal with
the failure of the system,[75] Easton concluded:

> One fact is clear. The crisis of our
> times spares no group, not even the social
> sciences. The pressures to utilize all of
> our resources in critically evaluating goals
> as well as in providing effective means are
> too great to be denied. For increasing numbers
> of us it is no longer practical or morally
> tolerable to stand on the political sidelines
> when our expertise alerts us to disaster.[76]

In his very own inimitable style, Easton alludes to
this statement as a "new (but ancient) obligation of the

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[72]Ronald Bayer, et al., "Communications," Ibid.,
Vol. 1 (Winter, 1968), pp. 38-40; "Association News,
Annual Business Meeting [sic]" Ibid., Vol. 1 (Fall, 1968),
p. 20. The full Constitution of the Association is
reprinted at Ibid., Vol. 5 (Summer, 1972), pp. 337-340.

[73]Easton, "The New Revolution...," loc. cit. (n.34),
p. 1051. Easton's summary of the Revolution's "Credo of
Relevance" is at Ibid., p. 1052.

[74]Ibid., p. 1051.

[75]Ibid., p. 1057.

[76]Ibid., p. 1060.

intellectual."[77] Whether the trend is genuinely new, the
phoenix-like rise of a long-dead one, or a renewed emphasis
of a theme that never really disappeared is moot. Some
documentation of the following points clearly antedates the
"revolution."

In any case, the writer hopes the reader will agree with
the judgment that this dissertation is partly within and
partly contrary to the context of the "new" political science.
As indicated above, the thesis is concerned with the problems
and crises of our times, and with policies to deal with them.
In a sense then, the dissertation is what has been called
variously "policy science,"[78] "policy analysis,"[79] or "applied
social science."[80] But in what sense?

According to Charles S. Hyneman, writing in 1959,
"Writing by political scientists about public policy may
place emphasis on the desirability of achieving certain
goals, or it may place emphasis on ways and means of achieving
certain goals."[81] It is in Hyneman's second sense, what he

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[77]Ibid.

[78]Daniel Lerner and Harold D. Lasswell, eds., The Policy
Sciences, Recent Developments in Scope and Method (Stanford:
Stanford University Press, 1951).

[79]Robert H. Salisbury, "The Analysis of Public Policy:
A Search for Roles and Theories," in Ranney, op. cit. (n.52),
pp. 151-175; Ira Sharkansky, ed., Policy Analysis in Political
Science (Chicago: Markham, 1970).

[80]Duncan MacRae, Jr., "Social Science and the Sources of
Policy: 1951-1970," P.S., Vol. 3 (Summer, 1970), pp. 294-309,
esp. pp. 294, 309. See also the references in footnote 111 below.

[81]Charles S. Hyneman, The Study of Politics, the Present
State of American Political Science (Urbana: University of
Illinois Press, 1959), p. 101.

calls "means to ends analysis,"[82] that this dissertation is policy oriented. It is, however, in this sense that the writer parts company with many of the current trend's proponents who might, in turn, question whether the thesis is policy oriented at all.

And this depends upon what a policy orientation includes. Easton and Hyneman, as quoted above, seem to include both the substance of policy and the process by which that substance is adopted. Ranney distinguishes, accurately the writer thinks, between "policy content" and "policy process."[83] In this view, a policy focus includes both content and process. Other political scientists seem to distinguish rather sharply between policy and the process by which it is adopted.[84] If this view is adopted, then the dissertation must be seen as process oriented _rather than_ policy oriented.

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[82]_Ibid._, p. 100.

[83]Ranney, "The Study...," _op. cit._ (n.70), pp. 6-9. He uses two other "key concepts": "public policy" and "policy outcomes." We will leave to the reader to distinguish between public policy and policy content. This writer cannot. By "policy outcome," which he borrows from David Easton, Ranney refers to the policy content's consequences, whether intended or not.

[84]See, e.g., Vernon Van Dyke, "Process and Policy as Focal Concepts in Political Research," in Ranney, _op. cit._ (n.52), pp. 23-39; Lewis A. Froman, Jr., "The Categorization of Policy Contents," in _Ibid._, pp. 41-52, esp. 42-43; Kenneth M. Dolbeare, "Public Policy Analysis and the Coming Struggle for the Soul of the Postbehavioral Revolution," in Green and Levinson, _op. cit._ (n.71), pp. 85-111, esp. pp. 88ff. Sharkansky, _op. cit._ (n.79), pp. 2-5, on the other hand, in his discussion of "policy analysis," seems to stress process and to a lesser degree actual outcomes of policies rather than content. On p. 5 he refers to "how policy is made or what the impact of a policy will be."

(The writer should add at this point that his impression is this: trying to distinguish between policy content and policy process or between policy and process is like trying to find a cement pillar in a feather pillow. Van Dyke says that "According to the definition most commonly advanced, _policy_ consists of...: (1) goals; (2) a plan or strategy for achieving the goals, or rules or guides to action, or methods; and (3) action."[85] A close examination of this commonly used conception can only lead to the conclusion that _policy is itself a process_. The distinction between policy and process is tantamount to a distinction between the means of achieving ultimate goals and the means of achieving the first means, which themselves are instrumental goals.[86])

In the midst of all this semantic confusion, certain points are clear. 1) This dissertation focuses on the question of whether and how the political process and structure of American government can be used to achieve certain policy goals. 2) It is the impression of many political scientists that "since 1945 most American political scientists have focused their professional attention mainly

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[85]Van Dyke, _op. cit._, p. 27. (Van Dyke's italics.) Cf. Ranney, _Ibid._, pp. 7-8; Sharkansky, _op. cit._, p. 1: "_Policies_ are actions taken by governments." (Sharkansky's italics.)

[86]"process....4. a particular method of doing something, generally involving a number of steps or operations...." _Webster's New World Dictionary of the American Language_ (College Edition; New York: World, 1955). Note that Van Dyke's definition also involves methods. Cf. Ranney, "The Study...," _op. cit_. (n.70), pp. 16-17.

on the <u>processes</u> by which public policies are made and have shown relatively little concern with their <u>contents</u>."[87] (Italics in original.) 3) Finally, these same political scientists are not too happy about the emphasis, which they seek to reverse. Ranney seeks to answer the question "Why Study Policy Contents?"[88] .Van Dyke believes that "more attention" should be given to policy (as opposed to process).[89] A particularly intense example is Kenneth Dolbeare. He writes of a "Struggle for the Soul of the Postbehavioral Revolution."[90] He also complains that the dominant process approach has given too "little attention...to the <u>content</u> of the policies produced through these processes or to the <u>effects</u> which they may have on the people and problems which are their objects."[91]

This writer will not quarrel with these impressionistic observations. But he will point out that his bookshelves are far from devoid of works on such policy areas as civil rights and liberties, economic policy, foreign policy, etc. Sub-stantial portions of most American Government textbooks are devoted to discussions of policies. Where American Govern-ment is a year course, most of the second semester is devoted

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[87]<u>Ibid</u>., p. 3. See also <u>Ibid</u>., pp. 10-13; Van Dyke, <u>op. cit</u>., pp. 35-39; Froman, <u>op. cit</u>., pp. 42-43; Dolbeare, <u>op. cit</u>., esp. pp. 88, 90, 92.

[88]Ranney, "The Study...," <u>op. cit</u>., pp. 13-18.

[89]Van Dyke, <u>op. cit</u>., pp. 36-39.

[90]Dolbeare, <u>op. cit</u>.

[91]<u>Ibid</u>., p. 88.

to public policy content.[92]

As for Dolbeare's complaint that "it is sometimes embarrassing to find other social scientists such as economists or sociologists apparently confidently filling the role of policy adviser while political scientists have nothing to offer,"[93] let us recall the words of the Brownlow Committee:

> The government of the United States is the largest and most difficult task undertaken by the American people....Our government does more for more men, women and children than any other institution; it employs more persons in its work than any other employer. It covers a wider range of aims and activities than any other enterprise....[94]

O. Glenn Stahl concurs: "The range and variety of public employments are almost as comprehensive as a dictionary of human occupations."[95] The federal government employs everyone

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[92]The writer has taught these courses at Rutgers University and Long Island University. As an example, policy discussion (albeit intermingled with process discussion) occupies about one quarter of Emmette S. Redford, et al., Politics and Government in the United States (2nd Nat. Edition; New York: Harcourt, Brace & World, 1968). Only a few other policy works can be cited here, but they contain numerous sources which one might wish to investigate before concluding that policy content has been sold short: Emmette S. Redford, American Government and the Economy (New York: Macmillan, 1965); J. W. Peltason and James M. Burns, eds., Functions and Policies of American Government (2nd Edition; Englewood Cliffs, N.J.: Prentice-Hall, 1962); Reo M. Christenson, Challenge and Decision, Political Issues of Our Time (New York: Harper & Row, 1964); John H. Bunzel, ed., Issues of American Public Policy (Englewood Cliffs, N.J.: Prentice-Hall, 1964). (See also n.38, ch.II.)

[93]Dolbeare, op. cit., pp. 88-89.

[94]The President's Committee on Administrative Management, Report of the Committee With Studies of Administrative Management in the Federal Government (Washington: United States Government Printing Office, 1937), p. 1.

[95]O. Glenn Stahl, Public Personnel Administration (5th Edition; New York: Harper & Row, 1962), p. 9.

from morgue attendants and taxidermists to cadastral
engineers and geomorphologists.[96]   So, given the scope of
government, this writer does not feel the least bit
"embarrassed" that other fields may contribute to public
policy. He would rather listen to a social worker's views
on welfare than a political scientist's.

Does this mean that as policy advisers "political
scientists have nothing to offer"? The writer cannot speak
for others, but for himself he believes the political
scientist can "offer" something very vital to a policy
advocate or maker: how to get a policy made. Dolbeare
laments that process

> approaches neither have taken nor will take us
> very far into the substance of public policy:
> they ask why policies have their present form,
> and they look for answers exclusively within
> certain narrow subareas of the visible political
> process. At no time do they ask what difference
> it made to people or problems that such policies
> were enacted.[98] [Dolbeare's italics.]

As indicated above, the writer thinks there has been a
good deal of analysis of the "difference it made." But
here he wishes to stress one thing that seems fairly certain:
a policy is not going to make a difference if it is not
adopted. And whether it is adopted depends on the system
and/or how it is used. What Dolbeare---and other critics of
the process approach---deemphasize is this: Process has
received much attention precisely because "certain political

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[96]Ibid.

[98]Dolbeare, op. cit., p. 90.

processes or aspects of political organizations have policy consequences,"[100] and therefore do make a difference to people.

If we examine the underlying dissatisfactions of the "new" political scientists, we find that they share basic agreement on policy goals. There is agreement on the difference made by present policies and on the difference that would be made by the desired policies.[100a] What has caused so much discontent is the failure to get these policies accepted. This failure can be a) of the system or b) to apply what is already known about the political process to current problems.

The new-prioriticians and "new" political scientists are cut from the same cloth. They advocate the same policies and come to the same conclusions about the reasons for their non-adoption.

The reader may compare the indictments by the new-prioriticians (pp. 4-9) with those by the "postbehavioralists." For example, Marvin Surkin of the Caucus for a New Political

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[100]Froman, op. cit. (n.84), p. 43. Froman, here, does not distinguish between the process opportunities and the use made of them.

It should be noted that Dolbeare himself asserts "the very strong probability that the procedures themselves are value-laden and favor one set of people or values over others. Nothing in politics---Constitution, law, rules, and hallowed traditions particularly included---is either neutral or value-free; structures and procedures alike militate toward some ends and to the exclusion of others." op. cit., p. 97.

[100a]It would have been most extraordinary indeed to find disagreement among these new political scientists over the difference made by the Vietnam War and the difference they thought would have been made by ending it.

Science declares:

> American society is in <u>need of a radical
> reorganization of social priorities</u>. To
> achieve that end may call for a reconstruction
> of its dominant institutions, but at the least
> requires a redistribution of power and wealth
> as well as a redistribution of knowledge. The
> need for radical change grows as <u>America's
> institutions tend to find it increasingly
> difficult to meet the rising social demands of
> its most needy, most powerless, most alienated
> members</u>. The vision of a white, liberal power
> structure bent on exploiting and <u>repressing the
> poor and black</u> at home and <u>fighting</u> counter-
> revolutionary, <u>imperialist wars</u> [i.e., Vietnam?]
> abroad is becoming more "realistic" to the
> underclasses, left intellectuals, and students....
> [Italics added.] [101]

It should be emphasized that not all political

scientists representing the new trends of concern for

current crises and the role of the profession in meeting

them would subscribe to the extreme nature of the above

statement. Many of these are not associated in any way

with the Caucus for a New Political Science. For example,

perhaps Easton's presidential address (pp. 15, 35) was not

so much an expression of his own views as an attempt to

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[101]Marvin Surkin, "Sense and Nonsense in Politics,"
<u>P.S.</u>, Vol. 2 (Fall, 1969), p. 579; reprinted in Surkin
and Wolfe, <u>op. cit.</u> (n.71). The reader will find
essentially the same views expressed throughout the sources
cited in footnote 71 above, and also: the agenda in H. Mark
Roelofs, "Supplement to Professional Notes, " <u>P.S.</u>, Vol. 1
(Fall, 1968), pp. 17-18; Kenneth M. Dolbeare and Murray J.
Edelman, <u>American Politics; Policies, Power, and Change</u>
(Lexington, Mass.: D. C. Heath and Company, 1971), chs. 16-
17, esp. pp. 432-435, 437-439, 472-476. Dare we ask how,
given the "powerlessness" of the poor, welfare expenditure
ever got to alternate with education as the biggest item
in the New York City expense budget---often to the detriment
of services to the middle class?

placate those on the left in the profession.[102]   Whether or

not that is the case, it _is_ possible for political

scientists to take an interest in and try to show how their

knowledge can be used to deal with current problems, without

being radical or perceiving problems and solutions as does

Surkin.

The writer considers himself and this dissertation to be

representative of this group. For example, he views the

Vietnam War as wrong but he does not view it as an "imperialist"

venture.[102a]

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[102]"The Association and its leadership have been bullied
by the New Political Science....The leadership is...placating...
the New Political Scientists...." George W. Carey, _et al._,
"Communications," _P.S._, Vol. 1 (Fall, 1968), p. 40. Easton
was President during 1968-1969.

[102a]For what it is worth, here is a statement of my
views on the Vietnam War. I believe that the original and
continued involvement of the United States was wrong. However,
I do not say this with 100 percent certitude, which, anyway,
as Holmes once remarked, "is not the test of certainty."
"Natural Law," in _op. cit._ (n.53), p. 311. I do not condemn
as evil those who prosecuted the war.
     To grasp my view, one should immerse oneself in the
newspaper and magazine accounts of foreign policy in the 1935-
36 period. Then one should ask what the reaction would have
been if President Roosevelt had invaded Germany and deposed
Hitler at the cost of life and blood. The cries of
"immorality"and "imperialist" would surely have arisen. One
who takes polio shots will never know if they were really
necessary to prevent the disease in his case. One cannot
know if something that failed to occur failed because of or
despite preventative measures taken. Had Roosevelt deposed
Hitler, he would have been severely criticized and the world
would and could have never known what had been prevented.
Similarly, we can never be sure of what would have happened
in Vietnam had a different course been followed. Senator
McGovern once conceded this point from an opposite perspective:
"Their [Senate doves'] principal satisfaction to date...has
been the nervous, unprovable assumption that we would be
involved in an even larger war had it not been for the critics
both in and out of the Senate." "'Why Don't You Speak Out,
Senator?'" _The New Republic_, Vol. 156 (March 18, 1967), p. 11.
The point that "things would be even worse today" but for the

In any case, there is growing dissatisfaction among
political scientists with public policies and, just as many

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efforts of war opponents has also been made by Senator
Fulbright, "What Students Can Do For Peace," The Progressive,
Vol. 34 (June, 1970), p. 16. This may be contrasted with the
view that until more evidence is accumulated, "honest
differences of opinion will continue. 'History will show,'
one official very high in both the Kennedy and Johnson
administrations [said] in 1970, 'that Senate liberals were the
primary reason the North Vietnamese wouldn't negotiate.'"
Francis O. Wilcox, Congress, The Executive, and Foreign Policy
(New York: Harper & Row, 1971), pp. 145-146.
Whichever view is taken, the fact is that "those...
officially responsible for the conduct of our public affairs
must make decisions---and must make [them] among existing
alternatives. None of us...has fulfilled our responsibilities
merely by formulating an opinion---we are required to decide
what this Nation shall do and shall not do...." Dean Rusk,
"Statement, " United States Senate, Committee on Foreign
Relations, Hearings, Supplemental Foreign Assistance, Fiscal
Year 1966---Vietnam, 89th Congress, 2nd Session, Part I
(February 18, 1966), p. 564. Decisions, moreover, are made
in the face of uncertainties entailed in predicting the
future. "Politics," declares James Reston, "is now the
greatest gamble of modern life---less predictable than race
horses or the stock market, or even marriage. Maybe it was
always so...." "The Great Political Gamble," The New York
Times, June 4, 1972, p. 15E. In foreign policy, the
uncertainties are compounded.
Learned Hand once remarked "that man's highest courage
was to bet his all on what was no more than the best guess
he could make." Irving Dilliard, ed., The Spirit of Liberty,
Papers and Addresses of Learned Hand (New York: Vintage
Books, 1959), p. 197. My guess would have been different
than President Johnson's; but I do not delude myself into
believing that it would have been more than a guess. (Of course,
strictly speaking, Johnson did not bet his all; he bet the all
of others.)
A very powerful and well-reasoned case against my
tolerant attitude is Neil Sheehan, "Should We Have War Crime
Trials?" The New York Times Book Review, March 28, 1971,
pp. 1-3, 30-34.

The reader may wonder just why I would have guessed
against the war. I can add little to the extensively
debated pros and cons. Sources on both may be found at
"Vietnam Bibliography," United States Congress,
Congressional Record, 91st Congress, 2nd Session, Vol. 116
(July 20, 1970; Daily Edition), p. E 6842. (For a "Cambodia
and Laos Bibliography," see Ibid., August 14, 1970, p. E 7651.)
It is the wisdom rather than the morality of the war
that I question. I disagree with much of the moral
criticism. For example, the idea that women and children get
killed. They get killed in all wars. Also, is the death of

new-prioriticians do, new political scientists find the

explanation in the political system's alleged conservative

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a soldier, often unwilling, any less tragic than the death of any other human being? Criticism of the types of weapons used, such as napalm, borders on the absurd. A bullet in the wrong place can cause more suffering. I agree with Senator Fulbright "that all wars have similar characteristics. We use whatever means are available at the time to kill people. They are dead any way you do it and I can't see much moral distinction about the method used." Committee on Foreign Relations, Hearings, February 17, 1966, p. 546.

Unless one is a pacifist, believing all war wrong, the ultimate justification depends on whether the objectives sought are worth the sacrifices. This involves empirical assessments as much as moral. In any case, the burden of proof is on those who would prosecute the war.

When it was said that, from a moral point of view, we must keep our commitments, this might be a worthy objective. At a cost of other people's lives and limbs I am not so sure. But it is the empirical argument, that there were never any commitments in Vietnam to keep, that I find most convincing. See Don R. and Arthur Larson, "What Is Our 'Commitment' in Viet-Nam?" in Marcus G. Raskin and Bernard B. Fall, eds., The Viet-Nam Reader (New York: Random House, 1965), pp. 99-108.

I think the argument that Vietnam involvement was intended to promote democracy is absurd. We have no business imposing political systems on others, expecially when we have so many alliances with totalitarian governments.

Sacrifice for any objectives is particularly tragic in the absence of any hope that they can be achieved. A major argument against the war was that "it-can't-be-won." I cannot accept or reject this argument because it presents an empirical problem with one monumental missing ingredient: evidence. One of the agonies of decision-making is that actions are taken on the basis of past evidence which may not be duplicated. The only sure test of any proposal is to try it. Cf. Arnold Wolfers, "The Balance of Power in Theory and Practice," Naval War College Review, Vol. XI (January, 1959), reprinted in Ivo Duchacek, Conflict and Cooperation Among Nations (New York: Holt, Rinehart and Winston, 1960), pp. 176-186. Wolfers observes that "only war can reveal...the actual relative strengths of the two sides...." p. 184. (His italics.) See also pp. 176-177. It might be added that only full-scale war can reveal the full-scale strengths of will and military force. Certainly, the effort to "win" in Vietnam was never made in the way military advocates wished. There was never a full test of strength and will to use it. In the light of President Nixon's success in taking extensive military action in May, 1972 without materialization of any of the repercussions long-predicted by doves, it is questionable that greater military action in the past would have failed. Finally, predicting that wars can't be won is not new. See,

bias. It is controlled by elites and excludes large numbers

of citizens, especially the poor and minority groups. This

is the clear thrust of the above statement by Surkin. And

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for example, Charles A. Lindbergh's prediction that the
United States could never win World War II: "Charles A.
Lindbergh, Speech on America and the War, April 23, 1941,"
in Richard Hofstadter, ed., Great Issues in American History,
A Documentary Record (New York: Vintage Books, 1958), Vol. 2:
1864-1957, pp. 401-407.
    I believe that, in the final analysis, in the absence of
compelling evidence of probable success, whether a substantial
risk is undertaken must depend on the existence of a very
vital goal. Keeping dubiously valid commitments and extending
democracy are, in my judgment, just not worth the risk. There
is only one objective that could possibly justify the war:
the security of the United States. Was Vietnam necessary
for the protection of the United States? I do not know for
sure, but I doubt it very strongly.
    In all the criticism of the war, it seems to me that
the fact we are living in the nuclear age has been lost sight
of. John H. Herz pointed out in 1959 that "the actual weight
and influence of a given country in foreign affairs still
results from...'old-fashioned' [conventional power factors]
appraisals, but when the possibility of nuclear war is taken
into consideration, they will yield to quite different, and
possibly contradictory, evaluations. A factor effective in one
respect may be deprived of its effectiveness in another context."
International Politics in the Atomic Age (New York: Columbia
University Press, 1959), p.33. See also pp. 22-25, 107-108,
and chs. 3, 6, 8, 10. It is only through "old-fashioned"
analysis that Vietnam could ever possibly be seen as essential
in any way to the security of the United States.
    As I see it, the plain fact is that if its security is
ever threatened, this country will use nuclear force. And
nuclear force will have to be used by any would-be conqueror.
So possession of any land and raw materials in Southeast Asia
can only be described as insignificant. If all of Asia fell
into Communist hands, American security would still not be
jeopardized because, to amend Samuel Johnson's words: "Against
an army [or nuclear arsenal] sailing through the clouds, neither
walls, nor mountains, nor seas, could afford security." Quoted
in Ibid., p. 105. Only nuclear weapons could do the job.
    In short, Vietnam was not merely of questionable impor-
tance to the security of the United States; it was simply irrele-
vant! For this reason, more than any other, I opposed the war.

    I have presented this statement because much of the
dissertation will be devoted to Vietnam and I thought the
reader is entitled to know my views. I have put them in a foot-
note because, as will be explained, my views of the morality and
wisdom of the war are secondary for the purpose of the disserta-
tion. The purpose is to show that, right or wrong, the war
opponent could have ended it long before it was ended.

Dolbeare and Edelman seek to indoctrinate introductory political science students with "a central theme: power in the United States is concentrated in such a way that large numbers of people have relatively little concrete effect on public policies.[103]

The reader will recognize here a point of view contrary to what have been dominant themes in political science for a long time: pluralism and group theory. In recent years there have been numerous attacks on these themes.[104] As noted above (p. 15), Easton seems to concede without argument "the failure of the current pluralist interpretations of democracy...." Other critics are much more severe. Lowi, for example, excoriates "interest-group liberalism" for having "led us into a crisis of public authority in the United States more serious than any other in the twentieth century."[105]

Essential to the attack on pluralism/group theory is the idea that its leading exponents (e.g., Dahl, Truman[106])

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[103]Dolbeare and Edelman, op. cit. (n. 101), Preface.

[104]See, for example, Theodore J. Lowi, The End of Liberalism: Ideology, Policy, and the Crisis of Public Authority (New York: W. W. Norton & Company, 1969); William E. Connolly, ed., The Bias of Pluralism (New York: Atherton Press, 1969); Thomas R. Dye and L. Harmon Zeigler, The Irony of Democracy, An Uncommon Introduction to American Politics (Belmont, California: Wadsworth Publishing Company, 1970); and Green and Levinson, op. cit. (n.71).

[105]Lowi, op. cit., pp. 47-48.

[106]Truman, op. cit. (n.2); Dahl, Who Governs?.... (n.53a); A Preface.... (n.55); and Pluralist Democracy in the United States: Conflict and Consent (Chicago: Rand McNally & Company, 1967).

have been wrong in a key way. They have been wrong in
asserting the political system is neutral and unbiased.
They have been wrong in saying that all groups "get a
piece of the action."

Lowi declares: "Government by and through interest
groups is in its impact conservative in almost every sense
of that term."[107] A charge that pluralists are status quo
advocates[107a] becomes understandable, then, _if_ it is accepted
that a really conservative political system has been defended
erroneously as unbiased. But **should** this be accepted?

This leads to a fantastically fascinating point. In
his political science training, the writer was weaned on
pluralism and group theory. (He still subscribes to it.)
Nowhere does he remember learning that this interpretation
requires or implies that the political system is unbiased.
Quite the contrary. When he read Truman's <u>Governmental
Process</u>, he came across a statement that stuck in his mind.

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[107]Lowi, <u>op. cit.</u>, p. 89. It is instructive to compare
Lowi's extreme presentation of the pluralist view with a
statement by an actual pluralist. Lowi: "The pluralist
component has badly served interest-group liberalism by
propagating and perpetuating the faith that a system built
primarily upon groups and bargaining is <u>perfectly</u> self-
corrective." <u>Ibid.</u>, p. 294. (Italics added.) Dahl: "The
system...tends to be self-correcting, <u>at least in limited
fashion</u>." "Equality and Power in American Society," in William
V. D'Antonio and Howard J. Erlich, eds., <u>Power and Democracy in
America</u> (Notre Dame, Inc.: University of Notre Dame Press, 1961),
p. 89, quoted by J. Peter Euben, "Political Science and Political
Science," in Green and Levinson, <u>op. cit.</u> (n.71), p. 7.
(Emphasis added.) See also footnote 110 below and Connolly,
<u>op. cit.</u> (n.104), ch. 1 and, esp., pp. 9-11, 13ff.

[107a]See <u>Ibid.</u>, pp. 15-16, 31; Easton, "The New Revolution
...," <u>loc. cit.</u> (n.34), pp. 1057ff; Lowi, <u>op. cit.</u>, esp. ch. 3,
pp. 57-58; and below, pp. 59-64.

This statement, that structure is never neutral, appears at the outset of this chapter. Moreover, the root of this dissertation is many years of reading statements, in a political science literature dominated by pluralism/group theory, that the structure and processes of government favor some interests and disadvantage others.

It is with this background that the writer incredulously considers the "new" interpretations of "postbehavioralists." They criticize the pluralists for asserting a proposition that the writer criticizes them for not asserting: that the system is basically unbiased. In other words, <u>new political scientists say the system is far more biased than the extant pluralist interpretations would have us believe, whereas the writer says the system is far **less** biased.</u>

Referring to the attack on behavioralists as value-free and non-normative, Ithiel de Sola Pool "is bothered by the glib assertions...that are appearing with increasing frequency among political scientists, not so much because the statement is wrong ...but because of the <u>extraordinarily low standard of evidence and scholarship</u> revealed by those making the allegation."[108]

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[108]Ithiel de Sola Pool, "Some Facts About Values," <u>P.S.</u>, Vol. 3 (Spring, 1970), p. 105. See also, Arthur Clun, "The Post-Behavioral Revolution in Community Power: A Brief Note from a Frontier of Research," <u>P.S.</u>, Vol. 5 (Summer, 1972), pp. 274-277, esp. p. 274. I quote Pool and cite Clun with some trepidation, for their observations may well be turned against me.

An interesting example of what Pool is talking about is the ready acceptance and propagation of the charge that there have been "systematic attacks on the Black Panther Party." Dolbeare and Edelman, <u>op. cit.</u> (n.101), p. 474. Cf. Edward Jay Epstein, "A Reporter At Large, The Panthers and the Police: A Pattern of Genocide?" <u>The New Yorker</u>, Vol. 46 (February 13, 1971), pp. 45-77.

(Italics added.) A cursory glance at <u>The Governmental Process</u> clearly reveals a discussion of "Governmental Structure and Differential Access."[109] How Truman's discussion of the different factors affecting the degree of access a group has to governmental decisions could have been missed is a mystery to the writer.[110]

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[109]Truman, <u>op. cit.</u> (n.2), pp. 322-332. See also pp. 264-270, 506-507; and Dahl, <u>A Preface....</u> (n.55), p. 137.

[110]Well, not quite a total mystery. Certain statements by pluralists, if taken out of context and qualifications are conveniently omitted, can lead to unintended conclusions. For example, Truman writes: "Perhaps the outstanding characteristic of American politics...is that it involves a multiplicity of co-ordinate or nearly co-ordinate points of access to govern-mental decisions....This diversity assures a variety of modes for the participation of interest groups in the formation of policy, a variety that is a flexible and stabilizing element ...." <u>op. cit.</u>, p. 519. But Truman also says that "multiple... lines of access mean that the locus of initiative in the making of policy is not sharply defined and that the necessity for maintaining a certain comity among many points of control...may promote delay and inaction." <u>Ibid</u>. Obviously, this can favor more conservative groups. By the same token, Dahl is often quoted as saying that "there is a high probability that an active and legitimate group in the population can make itself heard effectively at some crucial stage in the process of decision." <u>A Preface....</u>, p. 145. Often omitted is the statement that "Clearly, it does not mean that every group has equal control over the outcome." <u>Ibid</u>. (See, Euben, <u>op. cit.</u> (n.107), p. 8.)
    Dahl, it should be noted, uses the term "active and legitimate group." He and other pluralists have been pounced upon for ignoring the degree to which Negroes, for example, have been excluded from legitimacy. See Euben, <u>Ibid</u>., p. 7 and <u>passim</u>; and Lowi, <u>op. cit.</u>, pp. 51, 295 and chs. 3, 7, 9.
    That for a long time Negroes received short shrift from the political system can hardly be denied. But it is also hard to deny that there has been extensive and intensive response to Negro demands in recent years. Before one can successfully indict the political system for the historical treatment of blacks, he must first explain why for so long the system was inattentive and why recently attention has grown. What accounts for the change? Is it due to anything inherent in the system or is it the result of changes in the people using the system?

It would appear that the "new" political scientists have not paid close enough attention to the literature of the "old" political scientists. We hypothesize that the policy goals of the new political scientists could have been achieved by applying certain propositions of the old political science to political problems. To test this hypothesis, we shall accept as "given" the policy values of the new priorities-oriented political scientists. The underlying form will be that of applied science: "To get X, do Y."[111] Here "X" stands for the values of anti-pluralists and "Y" stands for pluralist political procedures.

Accepting "given" values as a basis of discussion can and does often evoke adverse reaction. According to Ranney,

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Connolly refers to the "class structure which helps to provide the social context for elite competition; the 'groups' whose lack of organization, persistence, and legitimacy rules them out of the balancing process;...." op. cit., p. 13. What is it that makes a group "legitimate"? Why does a group have legitimacy later but not earlier? To what extent is it up to the political system to make up for deficiencies in the society it serves? Is it up to the government to organize people who do not organize themselves? Once leaders such as Martin Luther King, Jr., for example, came along and provided leadership, organizational skill and persistence, was government unresponsive?
If we are going to blame the system for failing to respond to demands that aren't made, are we on the road to "forcing the people to be free"?

[111]On the forms and nature of applied social science see: MacRae, loc. cit. (n.80); Luther Gulick and L. Urwick, eds., Papers on the Science of Administration (New York: Institute of Public Administration, 1937), pp. 191-195; Alfred de Grazia, "The Science and Values of Administration--- II," Administrative Science Quarterly, Vol. 5 (March, 1961), pp. 557-583, esp. pp. 558-562; and Herbert A. Simon, Administrative Behavior, A Study of Decision-Making Processes in Administrative Organizations (New York: The Macmillan Company, 1957; 2nd Edition), pp. 248ff.

the question of "what <u>professional</u> skills and obligations have political scientists to make and advocate value judgments?" is "perhaps the most bitterly disputed issue...between behavioralists and antibehavioralists."[112] (Ranney's italics.) The "new" political science movement has intensified the controversy. The writer's main competence is not in philosophy. Thus he will limit himself to informing the reader where he stands, and a few additional observations.

For the record, the dissertation was initially motivated by a disenchantment with liberal activists who were, the writer thought, clearly missing opportunities to advance values that he shared. He was a liberal upset by liberals. In particular, as early as 1967, he believed the political system <u>as is</u> provided the chance to end the Vietnam War. He still thinks so. On domestic issues, he has become a "conserberal."[113] However, his primary concern here is not with the rightness or wrongness of given values but with whether and how they may have been achieved, and with what this tells us about the alleged bias of the political system.

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[112]Ranney, "The Study of...," <u>op. cit.</u> (n.70), pp. 15-16.

[113]Either I moved right or liberals moved left while I stood still. "Conserberal" does not mean amalgam or compromise of liberal and conservative. As I use it, I refer to the fact that I am liberal on some domestic issues and very conservative on others. For example, I am liberal on the question of procedural safeguards to make sure a man is guilty of a crime. If these are observed, I am conservative on the question of what to do with the culprit. Frankly, I am sickened by the sight of liberals who worry about medical care for murderers, muggers and rapists when there are law-abiding citizens who have neither proper food nor medical care and, in addition, have to live in terror.

Accepting values as given means that they will not be subjected to critical analysis. Some find this objectionable. It has been argued that value analysis has been short-changed. There has been a growing call for renewed emphasis in political science on value analysis. MacRae, for example, pleads for "systematic discussion of the valuative foundations of social science and public policy."[114]

One can scarcely disagree with MacRae's call for clarity and consistency of what he calls "ethical hypotheses."[115] The writer does not have the background in philosophy to deny that there is a legitimate place for greater <u>actual</u> value analysis than that. "Actual" is stressed because, as Alfred Jules Ayer writes, much of "what seem to be disputes about questions of value are really disputes about questions of fact."[116] For better or worse, the writer subscribes to the argument that, in the realm of values, there can be no real argument. There can only be assertion. As Justice Holmes puts it,

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[114]MacRae, <u>op. cit.</u>, p. 301. See also MacRae's "Scientific Communication, Ethical Argument, and Public Policy," <u>The American Political Science Review</u>, Vol. LXV (March, 1971), pp. 38-50. MacRae is relatively moderate. More extreme views can be found throughout the works cited in footnote 71.

[115]MacRae, "Scientific Communication...," <u>op. cit.</u>, pp. 45-46.

[116]Alfred Jules Ayer, <u>Language, Truth and Logic</u> (New York: Dover Publications, n.d.; revised edition), p. 21. Cf. Ranney, "The Study...," <u>op. cit.</u>, p. 16: "many maybe most, value statements are instrumental rather th~n ultimate. That is, <u>A</u> if good, not in itself (ultimate), but because it maximizes <u>X</u> (instrumental). And any statement about the instrumental value of something has a major empirical component appropriate for the hypothesis-testing techniques of the empirical political scientist."

> When I say that a thing is true, I mean that
> I cannot help believing it. I am stating an
> experience as to which there is no choice....What
> we most love and revere generally is determined by
> early associations....Deep-seated preferences can
> not be argued about...and...when differences are
> sufficiently far reaching, we try to kill the
> other man....[117]

Ayer does not deny that two people can disagree on value questions and try to convince each other. They do this by using emotive language and one person pointing out facts overlooked by the other. But

> if the other person persists in maintaining
> his contrary attitude, without however
> disputing any of the relevant facts, a point
> is reached at which the discussion can go no
> further. And in that case there is no sense
> in asking which of the conflicting views is
> true.[118]

Now, Tracy B. Strong confidently asserts that if "an investigator insists...on maintaining an epistemology on the level of A. J. Ayer's Language, Truth, and Logic, we can shake our heads in disbelief at his naivete."[119] And, regarding logical positivism, of which Ayer has been a leading exponent, MacRae has rued that its "influence still prevailed within American social science even while the effects of ordinary language analysis were undermining it in philosophy."[120]

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[117]Holmes, "Ideals and Doubts," and "Natural Law," in op. cit. (n.53), pp. 304, 311-12.

[118]Ayer, op. cit., pp. 21-22. See also Simon, op. cit. (n.111), ch. 3.

[119]Tracy B. Strong, "'Hold On To Your Brains': An Essay in Meta-theory," in Green and Levinson, op. cit. (n.71), p. 330.

[120]MacRae, "Social Science...," op. cit. (n.80), p. 298.

It is irrelevant here whether or not the overall epistemological criticisms of logical positivism are meritorious. We need note only that its fact-value facet seems to have survived among political scientists who cannot be thought of as being naive. These include Austin Ranney[121] and, indeed MacRae himself. He is "confident that we can distinguish factual from valuative statements" and, moreover, writes that "the grammatical distinction between facts and values deserves to be maintained."[122] An excellent and succinct recent reaffirmation of the fact-value distinction is Ithiel Pool's. He states that there are "irreducible value judgments," but explicitly denies any intention of disparaging them. Instead, he simply declares that they "have a different

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[121]Ranney, "The Study...," op. cit., p. 16. See the quotation in n.116.

[122]MacRae, "Social Science...," op. cit., p. 301. One gets the impression that MacRae is somewhat schizophrenic on the subject. In "Scientific Communication...," op. cit., p. 39, he says: "It was proper to eliminate propositions that purported to be testable empirically, but could not conceivably be tested. But the dismissal of other sentences---particularly ethical sentences---from the recognized discourse of most of the social sciences has left these disciplines without sufficient guidance in dealing with valuative problems or resolving conflicts of values." (Italics added.) This seems clearly to imply that ethical sentences are empirically testable. But MacRae goes on to say: "Ethical discourse cannot submit to a test of empirical validity or verification in the scientific sense...." Ibid., p. 43. (Italics added.) More-over, MacRae doesn't make clear how "empirical validity" is distinguished from truth as used in the following statement: "the academic end of the spectrum, concerned with 'truth,' must include a concern with ethical or valuative questions. Such a concern is necessary even if it does not lead to the same degree of disciplinary consensus that is possible in assertions about facts." Ibid., p. 50. Finally, it is not clear how this usage is different from Ayer's (p. 32) disputing that truth of value statements can be determined.

evidentiary status in logic than do empirical statements of fact."[123] This evidentiary status is postulation and analysis rather than "sensory observations."[123a]

Closely connected with the complaint that value analysis has been sold short by political scientists is the criticism that there has been an unrealistic and damaging over-emphasis on freedom from values.[124]

It is often argued, especially by "new" political scientists, that the value-free goal stressed by behaviorists is impossible to attain. This is because, among other reasons, the very selection of research projects depends upon values. Also, political scientists, like everyone else, are inculcated with values by their upbringing. So "we are involved in value realms today, and we have no choice in the matter."[125]

In his eagerness to deal with the charge, Pool says "that the so-called value-free approach is not now and never was a goal or characteristic of political science."[126] But he goes on to imply that, in an important sense, the opposite is true. Although values are the basis of the selection and motivation of research projects, their conduct must be value-

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[123]Pool, op. cit. (n.108), p. 103.

[123a]To reiterate a point made earlier (p. 42), probably what really disturbs those who say values have been inadequately analyzed is that, in their eyes, these values have been inadequately attained.

[124]Again, these points are made throughout the sources cited in footnote 71.

[125]Dolbeare, op. cit. (n.84), pp. 95-96.

[126]Pool, op. cit., p. 102.

free to be valid. This is because "excessive involvement in one's own value preferences may inhibit accurate observation." The actual job of researching will be done better with a "temporary suspension of passion."[127]

Discussion of value freedom may seem out of place because the writer has made his values explicit (pp. 44, 53). And it may be paradoxical that the dissertation seeks a "temporary suspension of passion" and values in attempting to show how the political system can be used to achieve given values. However, it should be recalled that the method of applied science is being used. Among other things, this means that it is not the writer's values but those of the new prioriticians (with whom he sometimes agrees and sometimes not) that are the basis of discussion. (p. 52) To say how given changes could be brought about is not to say that they should be. "To get X, do Y" does not mean the writer necessarily believes X should be gotten.

The most important question of this thesis is not whether certain changes are desirable: it is whether the failure to achieve them indicates a deficiency of the political system, viz., a conservative bias.

Ironically, for several interconnected reasons, it has been argued that the very attempt to be value-free advances

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[127]Ibid., p. 103. Pool also says that "'objectivity' and 'detachment'...are certainly essential for a good social scientist." Ibid.

certain values, conservative values.[128] First is the "if yer not fer me yer agin me" argument. If you don't say you are for change, you must be against it. There can be no neutrality. Simply to describe reality is an illusion. A researcher who merely claims to *portray* things as they are is really *committed* to things as they are. Second, if one accepts the notion of *The Bias of Pluralism*[129] (p. 49) and the probability that most political scientists are both Oroducts and propagators of pluralism, this follows: for all their professed value-freedom, political scientists not specifically pledged to changing the pluralist system must be too blind to notice its deficiencies and thus must be advocates of maintaining the pluralist status quo. Finally, it is argued that, if the researcher is free of his own values, he must have someone's. These usually turn out to be the status quo orientations of policy makers in power.

The writer's judgment is that these arguments are fallacious. In fact, they are not arguments at all; they are outright assertions. Consider: "Not expressing value judgments...means only that for the most part our findings are (or may be rendered) supportive of the status quo because we do not say they are at odds with it."[130] We may just as well

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[128]These arguments are extrapolated from: Surkin, *loc. cit.* (n.101), pp. 573-581; Easton, "The New Revolution...," *loc. cit.* (n.34), pp. 1057-1059; Dolbeare, *op. cit.*; MacRae, "Social Science...," *loc. cit.*, pp. 294-309; Green and Levinson, *op. cit.*, *passim* (n.71); and Samuelson, *loc. cit* (n.71).

[129]Connolly, *op. cit.* (n.104).

[130]Dolbeare, *op. cit.*, p. 96.

insert "change of" in front of "status quo" and substitute "favor" for "at odds with." Or consider Surkin's claim that "the view...that one's research objective is to describe reality but <u>not</u> to change or criticize it is...fundamentally conservative and will...tend to reinforce existing institutions and social patterns."[131] He does not say why this must be. Instead, noting their recent uses, he tells us that science and technology are not necessarily progressive, as it was once thought."[132] While this is not earthshaking, does it follow that science and technology are necessarily conservative? Or, is it more accurate to say, as does Sharkansky, that "The work of description is not necessarily radical or conservative"?[133] In other words, knowledge can be used to further any point of view. A basic argument of this dissertation is that knowledge of the political system can be used by new prioriticians if they would but open their eyes to it.

In lamenting the enslavement by "that occupational myopia brought about by excessive attention to the facts as they are," which apparently goes hand in hand with "system-

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[131]Surkin, <u>loc. cit.</u>, p. 577. It might be observed that, in order to change reality, one has to first describe it to know what is to be changed. Moreover, to say how change is and can be effectuated is part of describing reality. Finally, we may ask where description leaves off and criticism begins. Paradoxically, to describe the reality of what can be done with available tools is to criticize those whose views are so prejudiced toward changing the tools that they fail to see their possibilities. (See p. 63.)

[132]<u>Ibid.</u>, p. 578. Cf. Euben, <u>op. cit.</u> (n.107), pp. 28-29.

[133]Sharkansky, <u>op. cit.</u> (n.79), p. 4.

maintenance perspectives,"[134] there is a continued and repeated attack on "the status quo." Aside from the obvious question as to whether change is automatically preferable to the status quo,[135] there is a more fundamental problem: Just what is the status quo?

As actually used, there are two distinct kinds of status quo: systemic and policy. These are virtually indistinguishable in new prioritician attacks on the political system (pp. 42-48): The system is responsible for status quo policies; ergo, those who seek to preserve the system favor the policy status quo. However, it is entirely possible to seek to maintain the political system as it is **precisely because** it is flexible rather than rigid, thereby affording the opportunity to change the policy status quo as demands arise.[136] A major

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[134]Easton, "The New Revolution...," _loc. cit._, p. 1058.

[135]In my view, every proposed change must be compared with the status quo to determine which is better. Neither is inherently superior to the other.

[136]To build a political system which would endure because of its adaptability was an avowed purpose of the Founding Fathers. At Philadelphia, they were, in James Madison's words, "framing a system which we wish to last for ages...." Jonathan Elliot, ed., _Debates on the Adoption of the Federal Constitution, in the Convention Held at Philadelphia in 1787_ (revised edition; Philadelphia: J. B. Lippincott Company, 1845), Vol. V, p. 243. John Marshall took note of this objective in referring to "a constitution **intended** to endure for ages to come, and, consequently, to be **adapted** to the various _crises_ of human affairs." (Marshall's italics; bold type added.) M'Culloch v. State of Maryland, 4 Wheaton 415 (1819). It would seem that, thus far at least, Madison's objective has been attained---attained in no small measure because of the adaptability of the political system.

hypothesis of this dissertation is that <u>keeping the political system as is presents no insurmountable obstacle to changing public policies</u>. Altering the system could quite conceivably make policy change much more difficult.

The distinction between two kinds of status quo leads to questioning the discipline-blinded-by-pluralist-values argument. "Because we (as Americans and as political scientists) know from <u>extra-empirical</u> conviction that our political system is just, that it balances the interests of <u>all</u>, and that the United States is a democracy, we lose judgmental perspective on the facts that we find from our research."[137] (Italics added.)

While it is fashionable among critics to view the pluralist/group theory interpretation as a matter of blinding values or mythology,[138] this interpretation involves facts to a much greater degree than values. To favor political systems

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[137]Dolbeare, <u>op. cit.</u> (n.84), p. 97.

[138]Dolbeare, <u>Ibid.</u>, refers to "liberal ideology and democratic mythology." Green and Levinson assert: "this supposedly pure---i.e., value-free---work of contemporary American political science has always been strongly influenced by personal value-judgments, which with few exceptions have been supportive of the political status quo in the United States...." <u>op. cit.</u> (n.71), p. vii. They also go on to refer to myths. "In the world of the academic social scientist, the chief of these myths has been that of the American polity as a working example of 'democratic pluralism'.... [D]emocratic pluralism has been ideological and obscurantist, in that our political order is neither genuinely pluralist nor always democratic." <u>Ibid.</u>, p. ix.
    And Easton discusses "a value framework that accepts ongoing practices as essentially satisfactory....As a discipline we have proved incapable of escaping a commitment to our own political system. This <u>research myopia</u>...has discouraged us from posing the right questions for discovering the basic forces that shape the making and execution of authoritative decisions." "The New Revolution...," <u>loc. cit.</u>, p. 1057. (Italics added.)

which respond to wide varieties (not necessarily "all") of
interests is a value. But whether a <u>particular</u> system is
indeed responsive to such interests is a factual question.
The pluralist interpretation is based on evidence that the
system works in certain ways. (pp. 48-50.) The interpretation
did not lead to the evidence; the evidence produced the
interpretation. Evidence can, of course, be interpreted in
different ways. It is a purpose of this dissertation to
re-examine and re-interpret much evidence pertinent to the
existence or non-existence of pluralism in the United States.

In any case, it is a gross distortion to say that the
prevailing interpretation in political science is based on
"extra-empirical conviction." Indeed, it is "extra-empirical"
to describe the interpretation as "extra-empirical," either
in its derivation or its effects. It is far from automatic
that a pluralist premise will lead to a loss of perspective
on newly discovered facts. It is debatable that those who
have gathered evidence are blinded as a result. (Of course,
some people develop a vested psychological interest in ignoring
what refutes their hard work. But this is not caused by values
as such.)

The very purpose of a value-free approach to the conduct
of research is precisely to avoid blindness to evidence. Are
we to believe that, in at least attempting to be value-free,
we will be blinded, thereby advancing particular values,
whereas being value-enslaved will produce superior "judgmental
perspective" and perception? Surkin proposes a "radical
methodology of social science...based on a critical attitude

toward the <u>status</u> <u>quo</u> rather than the apolitical description of a compliance with established political power so predominant among behavioralists."[139] Is starting with such prejudice more likely to lead to the truth through the perception of evidence contrary to the perceiver's notions? It is this writer's judgment that it is those whose views are most strident who are most prone to ignore evidence they do not like.

Vitriolic critics of the status quo, policy and/or systemic, are less likely to see deficiencies in their interpretations than those who see virtue in the political system but try to keep their values out of their research. In particular, if one starts with a passionate distaste for the policy status quo and is equally passionate in the belief that the policy status quo is due to the systemic status quo, he is likely to ignore changes in policy that can be brought about without any change in the system. One who starts with a bias against the system for its evil and/or uselessness will make very little effort to determine what can be accomplished by using the system. Little effort will be made to ask: have the available tools been used to their maximum potential and if not what can be done to change **that** situation?

This dissertation will ask (and try to answer) these questions. Moreover, every effort will be made to try to deal with evidence that is contrary to the dissertation's answers.

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[139]Surkin, <u>loc. cit</u>. (n.101), p. 581. Surkin's italics.

Furthermore, as indicated above (p. 50), the writer is hardly an uncritical disciple of pluralism; but he does not reject it out of hand either.

Finally, Surkin's reference to "compliance with established political power" brings us to the third point (p. 60) on value-free status quo political science. Easton says that in "the application of his knowledge the political scientist explicitly or _unwittingly_ accepts the value premises of those he serves."[140] (Italics added.) In response, we simply point out that there is nothing more automatic about this than there is that those schooled in a particular interpretation are incapable of perceiving contrary evidence. Political scientists are not necessarily either Freudian robots imprisoned by early pluralist toilet training or Trilbys under the spell of status quo Svengalian decision-makers.[141]

Thus, as the basis of discussion (and only on that basis), we shall accept other values as "given," those of the new

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[140] Easton, "The New Revolution...," _loc. cit._, p. 1059. See also p. 1057; MacRae, "Social Science...," _loc. cit._, pp. 294-298.

[141] One more word on the allegedly status quo nature of political science. Some may have supposed that the political science profession has been oriented toward the left of center all along. The idea that it is status quo oriented may have come as a surprise, especially in light of the fact that, according to one survey, 13.8 percent of a sample of political scientists characterized themselves as politically on the left and another 58.0 percent thought themselves liberal. "The Profession, Faculty Opinion Survey," _P.S._, Vol. 3 (Summer 1970), p. 383. With a huge 71.8 percent of a sample of political scientists seeing themselves as left of center and only 9.1 percent seeing themselves as conservative, how can the profession be called status quo oriented? Perhaps an answer is that, to critics on the extreme left, anything to the right of their point of view is status quo. See the comment by Roy Lokken in footnote 66a.

prioriticians.[142] We shall attempt to show how some of
these values may be or might have been achieved. A major new
prioritician complaint and the principal case to be studied
is the Vietnam War.

The Vietnam case is to be differentiated from other case
studies[143] in two significant respects: (1) The run-of-the-mill
garden variety case study, be it a dissertation or otherwise,
attempts to determine and describe in detail what _actually_
happened with regard to a given matter. The emphasis in **this**
dissertation is on what _could_ have happened: an end to the
Vietnam War long, long ago---certainly no later than the
middle of 1970. We shall propose and defend a plan of action
that could have been followed by peace advocates. In doing
this, there will be a heavy reliance upon an application of
the political science literature.

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[142]New prioriticians do not seem to worry about the
effect on political science of accepting _their_ values. Dolbeare,
for example, opposes accepting as "givens" the "values and
priorities of policy makers." _op. cit._, p. 97. For such
acceptance means "we can be no more than skilled propagators
of whatever those preferences happen to be." _Ibid._, p. 98.
But he goes on to say that "much more revealing and useful
standards of evaluation...include...the stated intentions of
a statute or regulation _or of its supporters and promoters_..."
Ibid. (Italics added.) He does not explain why policy makers'
values would make political scientists propagators, but stated
intentions of statute supporters and promoters would not.

[143]On case studies see: Harold Stein, ed., _Public
Administration and Policy Development, A Case Book_ (New York:
Harcourt, Braceaand World, Inc., 1952), pp. xx-xiv; Herbert
Kaufman, "The Next Step in Case Studies," _Public Administration
Review_, Col. 18 (Winter, 1958), pp. 52-59; Theodore J. Lowi,
"American Business, Public Policy, Case-Studies, and Political
Theory," _World Politics_, Vol. 16 (July, 1964), pp. 677-715;
and Ronald C. Moe and Steven C. Tell, :Congress as Policy-
Maker: A Necessary Reappraisal," _Political Science Quarterly_,
Vol. 85 (September, 1970), pp. 443-470.

(2) The ordinary case study asks: <u>what can the case add</u> to the literature? A primary question of **this** dissertation is: <u>what can the literature add</u> to the case?

But is the literature sufficient to add anything significant? Too often, self-effacing political scientists, sharing an occupational trait common to scholars, have declared that "we don't know enough." Either we don't know enough facts,[144] or we have too many facts[145] and don't know enough about how to interpret them[146] or integrate them with sufficient theory.[147]

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[144]"I do not believe that any serious political scientist concerned about the important problems of the day and aware of the existing levels of knowledge can deny that ours is a data-poor discipline." Evron M. Kirkpatrick, "'Toward A More Responsible Two-Party System': Political Science, Policy Science, or Pseudo-Science?" <u>The American Political Science Review</u>, Vol. 65 (December, 1971, p. 990. Those with the "data-poor discipline" view would have no trouble accepting Stein's concept of "case." Though the term can be used in a variety of ways, he says, "common ground exists primarily in the inherent intellectual approach: examination of particulars prior to or as part of generalization." <u>op. cit.</u>, p. xx.

[145]Easton complains, it will be recalled (p. 60), about "that occupational myopia brought about by excessive attention to the facts as they are." See also his earlier criticism of "hyperfactualism." <u>The Political System</u>, <u>op. cit.</u> (n.56), pp. 66-78.

[146]"Ultimately the basic problem is not the collection of facts but their interpretation." Wilcox, <u>op. cit.</u> (n.102a), p. 75.

[147]Moe and Teel say that critics "of the case method complain of the absence of integrative theory which would permit data to be analyzed cumulatively." <u>loc. cit.</u>, p. 467. Lowi refers to the "one debilitating handicap of all case-studies, the problem of uniqueness." <u>loc. cit.</u>, p. 686. He believes "that the reason for lack of interesting and non-obvious generalization from cases and other specific empirical studies is clearly that the broad-gauged theories of politics are not related, perhaps are not relatable, to observable cases." <u>Ibid.</u>, p. 687. Of course, Easton too complains about lack of "broad gauge" theory.

Or we have too many theories and haven't verified them with sufficient data.[148]

There is never enough of anything in this world. Program proponents, administrators and participants always seem to want more personnel and more money.[149] And we may suppose that, if scholars ever admitted to knowing enough they would lose their _raison d'etre_. The effect on scholars of knowing "enough" would be the same as the effect on doctors of eradicating disease.[149a] Of course, scholars are no closer to total knowledge than the medical profession is to the preservation of eternal life on earth. On the other hand, doctors do know quite a bit about how to put off the inevitable in many cases. Perhaps scholars in general and

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[148]Kaufman, _loc. cit._, esp. pp. 56-57. Kaufman does not deny the desirability of "a coherent, internally consistent, unified body of knowledge." But he says that a beginning has to be made somewhere: "Higher orders of synthesis can be constructed only when there are lower orders to synthesize. Ordering the hypotheses can hardly take place until there are demonstrated propositions to relate to one another....[T]he way to go forward is step by step, increment by increment." _Ibid._, p. 58. Actually, I believe we have much that is "demonstrated." I agree that a beginning has to be made somewhere, but that beginning is in applying the knowledge we have. Political actors must act without full verification. They have to "muddle through," in the words of Charles Lindblom. See "The Science of 'Muddling Through.'" _Public Administration Review_, Vol. 19 (Spring, 1959), pp. 79-88. Indeed, as noted in n.102a, it is often political actions themselves that are the tests of the propositions behind them.

[149]In quite another context James Q. Wilson observes: "demands cannot be met——the competition for leadership among the (largely disorganized) dissident groups will inevitably generate even more extreme demands faster than less extreme requests are fulfilled." "Why We Are Having a Ware of Violence," _The New York Times Magazine_, May 19, 1968, p. 119.

[149a]Is there a Parkinson's Law of scholarship? It may be phrased as follows: the need to know expands to require the services of scholars available.

political scientists in particular know quite "enough" to deal with many present problems. That is the argument here.

In real life, neither doctors nor political actors can afford the luxury of waiting until perfect data and theory are available. They have to operate on the basis of what IS available, however imperfect. "After all, it is not possible to know everything about everything before venturing to say something."[150]

It is the argument here that many lives in Vietnam could have been saved by a proper application of the data and theory available in the political science literature. It is a vast literature. (Those who doubt the point should consult any graduate student preparing for his comprehensive examinations.) Therefore, the overall approach must, of necessity, be eclectic.

In the chapters that follow, we shall examine segments of the literature on electoral behavior, interest groups, political parties, majority rule, the presidency, congress, relations between the latter two, foreign policy, public opinion, etc. Varying concepts and approaches will be used. These include: access, process, policy making, systems, analysis, interpretation, argumentation, empiricism, and history.

The major questions of this study involve the responsiveness and neutrality of the American political system. It is perhaps paradoxical, but any conclusions regarding these fundamental problems of political science that are drawn from

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[150]John Bibby and Roger Davidson, On Capital Hill, Studies in the Legislative Process (New York: Holt, Rinehart and Winston, 1967), p. iv.

the following study will ultimately have been based on what the study derived from political science. Any new generalizations will have been drawn from an analysis and application of pre-existing generalizations.[151]

Limitations

Any study of broad questions by one individual must, of course, be limited. The necessarily eclectic approach means that some things will be left out. Moreover, touching base in a number of different areas of the literature means that none of these areas can be treated in overwhelming depth and comprehensiveness. (However, the writer hopes the reader will concur that they will be cited to a degree sufficient to document the points made.)

The questions of neutrality and responsiveness of the political system involve problems that can take years to solve. In a sense, therefore, this dissertation must be accepted as an interim report.

While certain problems may take years to solve, the subjects to be treated involve relatively current affairs. This presents a dilemma that can only be described as excruciating. It has been well-stated by Robert L. Beisner:

> An unavoidable hazard of writing con-
> temporary history is that events occur more
> quickly than they can be recorded, and any day
> some astonishing change in fortune may cause a
> thesis to collapse and the whole purpose of a
> work to disappear. One can only hope to

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[151]In describing legal research, Stein refers to generalization about the application of generalizations. op. cit., p. xxi.

escape such a fate.[152]

To some degree, this writer has not escaped! He has been trapped by the onrush of events. While writing this chapter, Congress passed and the President signed H.R. 1.[153] This social security legislation contains a provision to provide some aid for sufferers from kidney disease. The reader will recall this as a prime example of the health problems of the country. (p. 7.) Paradoxically, the health problems are by and large still with us.[154] Only the kidney disease example is gone, or so it appears.[154a]

Changing events lead to changing definitions. This presents a particularly difficult problem in trying to define liberalism and conservatism. Liberalism, for example, got the United States into Vietnam; conservatism prolonged the war.

It should be stressed that what follows pertains to issues that are viewed by the political contestants as extraordinarily important. Political tactics which may be out of place on ordinary matters can be quite successful if not used

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[152]Beisner, loc. cit. (n.41), p. 189. In discussing the complaint that political scientists have tackled too much, Hyneman notes that "it is said that our determination to provide up-to-date descriptions of...legal governments requires us repeatedly to do our work over." op. cit. (n.81), p. 130.

[153]The New York Times, October 22, 1972, p. 69; October 31, 1972, pp. 1, 36. Harold M. Schmeck, Jr., "Medicare Aid Is Extended to Majro Kidney Patients," The New York Times, June 22, 1973, pp. 1, 29.

[154]Ibid., October 22, 1972, p. E7. The New York Post, October 10, 1972, p. 45 depicts anew the problems of hemophiliacs.

[154a]Cf. Richard D. Lyons, "Program to Aid Kidney Victims Faces Millions in Excess Costs," The New York Times, January 11, 1973, pp. 1, 10; Editorial "Medicarelessness," ibid., January 14, 1973, p. 16E.

often and applied only to critical issues.

We shall not analyze policies or why particular policies failed. (For example, why the Vietnam policies pursued were not more successful or why welfare legislation did not work is beyond the scope of the dissertation.) The focus is on analysis of why certain policies were not adopted, why others were not prevented, and how these policies could have been adopted or prevented. In short, this is an analysis of political technique. (See pp. 36-39.)

One last limitation should be noted. As we proceed to make a case for certain hypotheses, it should be kept in mind that it will be "a case, not a demonstration like a Euclidean theorem."[155]

We now attempt to demonstrate two hypotheses. First is the general hypothesis that there is far more neutrality in the organization and procedures of American national political institutions than is usually acknowledged by political scientists, old or "new." The very characteristics that many argue bias the system in one direction can be used to guide decisions in the other direction. In other words, it is not at all obvious that the American political system is biased, and, if it is biased, the direction of the bias is not as readily pre-determined as many seem to believe.

Second is the specific hypothesis that, far from exemplifying systemic bias against peace advocates, the

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[155]Henry B. May, <u>An Introduction to Democratic Theory</u> (New York: Oxford University Press, 1960), p. 242. Mayo, of course, was referring to the case for democracy.

Vietnam War could have been ended long before 1973 with the tools of the present system. It is to this second hypothesis that we now turn.

EFFORTS TO END THE VIETNAM WAR: MISCELLANEOUS CONSIDERATIONS

...the Vietnam war...a national Edsel.
---Harold Willens[1]

We are not so sanguine...about the democratic processes and their effect on the Vietnam war.
---Judith Coburn and Geoffrey Cowan[2]

The inability to control Presidential war is... the great failure of the Constitution.
---Arthur Schlesinger, Jr.[3]

But the "system" should not be applauded even if the war were to end tomorrow. For five years, it has provided no real way for the people to express their views on [the] war....If the war is now ended by political action...some will...argue that the system has vindicated itself. That argument...is self-deceiving: for in many crucial respects our system has already failed and requires radical reconstruction.
---Sam Brown[4]

If Vietnam were a story of how the system failed...it would be easy to package...policy-making panaceas....But...the U.S. [sic] political-

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[1]Harold Willens, "Businessmen: New Peaceniks," The Progressive, Vol. 34 (December, 1970), p. 27.

[2]Judith Coburn and Geoffrey Cowan, "Nuremberg Revisited," The Washington Monthly, Vol. 2 (February, 1970), p. 5.

[3]Arthur Schlesinger, Jr., "Presidential War: 'See if you can fix any limit to his power,'" The New York Times Magazine, January 7, 1973, p. 32.

[4]Sam Brown, "The Politics of Peace," The Washington Monthly, Vol. 2 (August, 1970), p. 46.

> bureaucratic system did not fail; it worked.
> ...the way to get...new answers is not by asking why did the system fail, but why did it work so tragically well....
>
> ---Leslie Gelb[5]

> To those who persist...the system is open for the taking.
>
> ---Movement for a New Congress[6]

The Place of the Vietnam War in the Dissertation

Did the protracted and very costly nature of United States Vietnam War participation in the face of the most intensive, sustained and vehement protests justify the conclusion of so many that the American political system was and is an undemocratic failure? That is the central question of this and the following chapters. They will examine:
a) the failure of peace advocates to end American involvement in the war far sooner than President Nixon, and b) how they might have differently---and more successfulll---sought this elusive goal.

This, in turn, will serve as the principal illustration of the main propositions of the dissertation. To restate them: 1) The organization and procedures of American political institutions are responsive to and neutral between competing interests to a far greater degree than is commonly acknowledged or assumed by many political activists (especially on the left) and political scientists. 2) The American political system is

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[5]Leslie H. Gelb, "Vietnam: The System Worked," _Foreign Policy_, Number 3 (Summer, 1971), pp. 165-166.

[6]Movement for a New Congress, _Vote Power; the Official Activist Campaigner's Handbook_ (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1970), p. 51.

NOT biased in favor of conservatives and against liberal activists. 3) The very organizational and procedural features claimed to be against those on the left[7] can be used by them to achieve their goals.

The _major hypothesis_ with respect to United States Vietnam involvement is that it could have been ended long ago, probably in 1968 and definitely in 1970, using accepted practices of the American political system. The purpose here will be to demonstrate that, if the Vietnam was has been the longest was in American history, this is not due to any fault or bias in the system. Indeed, war opponents could have more profitably used their time by studying and using rather than attacking the political system. But attack they did.

The Political System and Vietnam: The Indictment

With no trouble at all, one could compile an encyclopedia of statements that the Vietnam war either a) indicates democracy never did exist in the United States or b) destroyed the democracy that did exist or c) would do so if not ended quickly. From moderates and extremists alike, from scholars, journalists and activists emanated a deluge of statements.

Senator J. W. Fulbright repeatedly indulged his role as leading Senatorial Cassandra:

> If after twice voting against ever-increasing warfare, and ever-increasing militarization of our national life and still being unable to bring about a change in policy, the American people, I fear may indeed lose their confidence in our democratic system. [sic]

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[7]Usage of this term is explained on pp. 20-21.

They might conclude that the government is no longer responsive to the will of the people and they may lose interest in its preservation....[8]

...the continual prosecution of war is absolutely antithetical to the preservation of a democratic system.[9]

It is ironic that the war which started, ostensibly, as one to defend freedom and democracy in South Vietnam may have the effect instead of seriously undermining democracy in the United States.[10]

In 1970, in an admittedly "partisan" book, two political scientists and a social psychologist declared that the war was a "burden which our own political system and national life cannot much longer sustain."[11] Three years earlier, two other political scientists agreed

that the relevant issue is not simply whether the Democratic or Republican Party is more likely to end the war, but whether the system of parliamentary democracy, as we know it, will continue....[T]here are large groups of people in this country who are not really represented in the party system as it now exists---the urban Negro, the marginal farmer or unskilled laborers, the emerging class of students who find the

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[8]United States Senate, Subcommittee on International Organization and Disarmament Affairs of the Committee on Foreign Relations, Hearings, Strategic and Foreign Policy Implications of ABM Systems, 91st Congress, 1st Session, Part I (March 21, 1969), p. 184. This statement was a warning by Fulbright to the new Secretary of Defense, Melvin Laird.

[9]Quoted in: N. Gordon Levin, Jr. "Nixon, The Senate & The War," Commentary, Vol. 50 (November, 1970), p. 82.

[10]Foreign Affairs Division, Congressional Research Service, Library of Congress, Impact of the Vietnam War, Committee Print, United States Senate, Committee on Foreign Relations, 92nd Congress, 1st Session (June 30, 1971), p.v.

[11]Milton J. Rosenberg, Sidney Verba, and Philip E. Converse, Vietnam and the Silent Majority, The Dove's Guide (New York: Har/Row Books, 1970), pp. 4-5.

American Dream a nightmare leading to 1984.
[Italics added, except last.] [12]

If some saw the problem as rooted in the party system, others perceived the trouble to be in Congress. (As we shall note later in some detail, this perception was, for the mypoic peace movement, a discovery almost as prodigious as that of Columbus.) For example, in July, 1970, "the dove minority in the House of Representatives believe[d]---with good reason---that the restrictive House 'system' [was] stacked against them in their struggles to force meaningful debate and voting on Vietnam policy."[13] Of course, it normally takes two houses for Congress to tango. Paralysis of the House is tantamount to paralysis of the whole Congress. Or so it seemed to peace advocates who advocated legislative action to end the war. This, we shall argue, was a major error in their thinking. It led to the misuse of resources, to fears of legislative impotence in the face of the executive, and to concern over the significance of this impotence for democracy. Just after the Cambodian invasion, Tom Wicker declared that

> ...Congressional impotence...will mean that one
> man alone holds in the world's oldest democracy
> the absolute power of war and peace, life and
> death.
> If that is...the...fact, it is repugnant to
> the Constitution, to democratic theory and to
> American ideals; and if that is indeed what "the

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[12]Doris Kearns and Sanford Levinson, "How to Remove LBJ in 1968," The New Republic, Vol. 156 (May 13, 1967), p. 13.

[13]Norman C. Miller, "Why Is the House a Haven for Hawks?" The Wall Street Journal, July 1, 1970, p. 14.

system" has come to, it ought to be changed.[14]

The Progressive asked if the President's power is "absolute and unbridles." It asserted: "On [this question] hinges nothing less than the survival of constitutional democracy...."[15]

If the foregoing views are expressed with some reservation and with a tentative, questioning tone, others have been much more conclusive. For example, addressing the Boston Lawyers' Vietnam War Committee in 1971, the then former Senator Eugene J. McCarthy said:

> We are now in the position the colonists were when they protested taxation without representation. It was not taxation they protested but lack of representation and I say government without representation, if it is not tyranny, it may soon become such.[16]

By 1973, Arthur Schlesinger, Jr. concluded that congressional inability to stop the president is "the great failure of the Constitution." (p. 74 above.)

It is a very short step from presidential tyranny to the elite theory of politics. Late in 1971, radical historian Christopher Lasch took that step:

> ...power is exercised at the higher levels of the American government by the group variously described...as the power elite, the foreign policy establishment, or the representatives of the military-industrial complex.
> ...American involvement in Vietnam...gives concrete substance to these...abstractions. It

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[15]Editorial, "The President's Power," The Progressive. Vol. 34 (June, 1970), p. 3.

[16]"Teach-In on War Starts in Boston," The New York Times, February 23, 1971, p. 8. This point was also made by, among others, Supreme Court Justice Douglas. See pp. 10. 47.

> refutes the genial <u>theory...that the United States
> is a "pluralist" society</u> in which the "countervailing"
> influence of broadly representative constituencies...
> prevents the excessive accumulation of power in any
> single sector of the body politic....
>
> In the formulation of American policy in South-
> east Asia, <u>no conflicting claims had to be accommo-
> dated</u>. Pluralism and countervailing power were
> non-existent, <u>Congress was silent, and the public</u>[17]
> <u>was without effective representation of any kind</u>.
> [Italics added.]

The idea that there was no "effective representation" led

Sam Brown (p. 74) to conclude that the course of the war meant

the system was a failure. Brown agreed that the "system

provided <u>no public debate</u> over whether we should enter the

war....The system has provided poor information to voters and

little active leadership for a position of obvious principle."[18]

(Italics added.)

Brown actually felt that the system, though a failure,

could be used to end the war by employing the delusion of

systemic success.[19] But others sharing his premises were led

to despair. Thus Coburn and Cowan (p. 74) questioned the

efficacy of democratic processes for ending the war. The

reaction of the President of the National Students Association

to the 1970 Cambodian invasion was that it made college students

"a little more cynical about the responsiveness of the political

system...."[20] Finally, when a cease-fire was declared in

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[17]Christopher Lasch, "The Making of the War Class,"
<u>The Columbia Forum</u>, New Series, Vol. 1 (Winter, 1971), p. 2.

[18]<u>loc. cit</u>. (n.4).

[19]<u>Ibid</u>.

[20]Charles Palmer, quoted in: "Student-group chief predicts
activism rise," <u>The Christian Science Monitor</u>, August 22, 1970,
p. 5. As this title indicates, Palmer predicted a rise in
student activism, which would seem to contradict what was quoted
above.

January, 1973, James Reston made the gospel official:
"Vietnam...weakened respect for...the democratic process of
debate, which failed to influence the course of battle for
years and which finally declined into physical combat and
sporadic anarchy."[21]

As Reston seems to imply, despair over legitimate
political methods is apt to make many people turn to other
methods, notably violence. The alleged failure of the system
has been used both as an empirical and a normative explanation
for the extensive violence employed by the peace movement.
(See also p. 16 .)

In 1968, George Thayer held that the "recent upsurge in
violence in the anti-Vietnam War movement...stems wholly from
New Leftists who have despaired of democratic processes."[22]
Thayer was descriptive, not necessarily agreeing with the
despair attributed to the New Left. But in 1970, sociologist
Irving Louis Horowitz seemed to agree that the despair
and therefore its concomitant violence were justified. In a
study of violence in the anti-war movement, he asserted that

> ...demonstrator tactics become more
> violent as they are met with an unresponsive
> and hostile political system...[T]he push to
> violence is as much a function of the exhaustion

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[21]James Reston, "War Leaves Deep Mark on U.S.," The New
York Times, January 24, 1973, p. 1. Reston also says that
Vietnam weakened respect for "the executives who got the
nation involved in the war in the first place, for the
Congress that let it go on for more than a decade and for the
democratic process...."

[22]George Thayer, The Farther Shores of Politics, The
American Political Fringe Today (second edition; New York:
Simon and Schuster, 1968), p. 404.

of non-violent possibilities in resolving the
war problem as it is a declared intent of the
anti-war...movement. [Italics added.][23]

But was there ever an "exhaustion of non-violent
possibilities"? Here is a major example of the intertwining
of the empirical and the normative. (See Ayer at p. 55)
The justification of violence depends on the factual question
of whether 'non-violent possibilities" exist. Those who answer
in the affirmative are apt to disapprove of violence and vice
versa. This was clearly seen in a 1968 debate between the Abe
Fortas[24] and Howard Zinn.[25] Fortas said that "Violence is
never defensible...where there [are] alternative methods of
winning the minds of others to one's cause and securing changes
in the government or its policies."[26] Again the empirical
question is plain. Do the alternatives exist? Fortas said yes.[27]
Zinn demurred:

> ...the American political system is so
> inflexible, so recalcitrant, that all the while
> protest was mounting...against the war, the
> administration was escalating the war...[T]he
> ordinary channels were enough to raise the

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[23]Irving Louis Horowitz, The Struggle Is the Message:
the Organization and Ideology of the Anti-War Movement
(Berkeley, Calif.: The Glendessary Press, 1970), pp. 14, 7.
See also pp. 45-46, 62, 116 and passim.
    Note in particular Horowitz's unquestioning acceptance
of the point of view that the system is "unresponsive and hostile."
Examples of his obvious bias are at Ibid., pp. 107, 119.

[24]Abe Fortas, Concerning Dissent and Civil Disobedience
(New York: Signet Books, 1968).

[25]Howard Zinn, Disobedience and Democracy, Nine Fallacies
on Law and Order (New York: Vintage Books, 1968).

[26]Fortas, op. cit., p. 80. Fortas' italics removed.

[27]Ibid., pp. 80, 125-127.

issue, but not to resolve it. [Zinn's italics.][28]

In sum, it became a fashion to charge that the American political system failed to provide legitimate ways to end the war. This charge was---and is---of more than academic interest. The belief in its validity led not only to intense frustration but also to domestic unrest culminating in extensive violence. The continued belief can produce more of the same.

The Indictment in Perspective

It is a main point of this dissertation that the "non-violent possibilities" were never exhausted. They were hardly even noticed, a situation that the following chapters will try to rectify.

Here, we shall attempt to put the indictment in some perspective by noting: 1) errors of fact by peace advocates, 2) frequent use by political ax-grinders of doomsday rhetoric, and 3) dissent, even by war critics, from the idea of democratic failure.

1) Some of the claims of peace proponents, as exemplified by underlined propositions in the previous section, are astounding in their blatant falsity. It is hard to believe that these statements were made by serious students of public affairs.

It is ludicrous to say that there was "no public debate over whether we should enter the war," and that "Congress was silent." (Brown, Lasch, pp. 79-80.) There never was a formal decision to "enter" the war. Instead, as is well known, there

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[28]Zinn, op. cit., pp. 60-61. See, pp. 60-67 passim.

was a gradual escalation,[29] <u>accompanied by escalating debate at</u>

<u>every step.</u>[29a] A major forum for this debate was Congress.

Whatever else may be said about Congress, it was **not**

"silent." From "The Day We Didn't Go to War"[30] in 1954, to

protests in the early 1960's by Senators such as McGovern,

Morse and Mansfield,[31] to dissents from the Gulf of Tonkin

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[29]A chronology of the escalation that balances brevity and detail is: "Inching Toward an End to a Long and Costly War," <u>Congressional Quarterly Weekly Report</u>, Vol. 31 (January 20, 1973), pp. 86-90.

[29a]Of the inception of bombing of North Vietnam in February, 1965, it was written: "The new 'escalation' of the war prompted immediate pressures to halt the widening hostilities." <u>Congressional Quarterly Almanac, 1965</u> (Washington: Congressional Quarterly Service, 1966), Vol. 21, p. 449. And after the troop buildup in the second half of 1965 was announced, this was written: "October 16---December 31:...the War Continues to Escalate While the Policy Debate in the United States Intensifies." (Italics omitted.) <u>The New York Times Index for the Published News of 1960</u> (New York: The New York Times Co., 1961), p. 1099.

[30]Chalmers M. Roberts, "The Day We Didn't Go To War," <u>The Reporter</u>, Vol. 11 (September 14, 1954), pp. 31-35, esp. pp. 31-32.

[31]Only a tiny sample of the available documentation can be cited here. In 1962, Senator Mike Mansfield delivered an address on "Interests and Policies in Southeast Asia," reprinted in United States Congress, <u>Congressional Record</u>, 87th Congress, 2nd Session, Vol. 108, Part 8 (June 11, 1962), pp. 10048-10050. In this prophetic speech, Mansfield warned of "a possible conflict of indefinite depth and duration, dependent largely on our forces for its prosecution." He asked: Is a permanent policy of that kind justified on the basis of any enduring interests of the people of the United States in southeast [<u>sic</u>] Asia?" <u>Ibid.</u>, p. 10049. His answer: "our enduring interests in southeast Asia are limited....[T]his Nation [<u>sic</u>] owes apology to no nation if it seeks to lighten its commitments in southeast Asia...." <u>Ibid.</u>, pp. 10049, 10050. Much the same conclusions, resulting from a visit to Vietnam by Mansfield and three colleagues, were publicized on the first and second pages of <u>The New York Times</u>, February 25, 1963 in "Senators Warn of Growing Risks in Vietnam." The warning is in: Mike Mansfield, J. Caleb Boggs, Claiborne Pell, and Benjamin A. Smith, <u>Viet Nam and Southeast Asia, Report</u>, Committee Print, United

States Senate, Committee on Foreign Relations, 88th Congress, 1st Session (1963), passim and especially pp. 8-9, iii. If anything, this document contained stronger language than Mansfield's earlier address: "the conflict in Viet Nam could become of greater concern and greater responsibility to the United States than it is to the Government and people of south Viet Nam. [sic] In present circumstances, pursuit of that course could involve an expenditure of American lives and resources on a scale which would bear little relationship to the interests of the United States...." Ibid., p. 8.

It will be our contention later that the behavior of war opponents, particularly in the Senate, was permeated by dishonesty, doublt-talk and an intense desire to avoid responsibility for clear conclusions. Here we may observe that the statements just cited are early examples of this behavior. In the committee print, the Senators go on to say: "The words, 'in present circumstances,' are reiterated lest they be overlooked by those who may assume that there are no circumstances in which American interests might require even greater efforts in Southeast Asia than those we are now making." Ibid., p. 9. In his speech in June, 1962, Mansfield warned against increasing United States efforts in Vietnam and indicated that the efforts to date had failed. This did not stop Mansfield, in ensuing Senate debate, from declaring "100 percent" concurrence with President Kennedy's policy. Loc. cit., p. 10051. In his speech, Mansfield asserted that "In this, as in all cases of foreign policy and military command, the responsibility for the direction of the Nation's course rests with the President.... But Support of the President...does not preclude public discussion of the situation in southeast Asia." Ibid., p. 10048. And this, we shall contend, was characteristic of Senate doves throughout the Vietnam War: long on discussion and short on responsibility! There was a great willingness to talk, accompanied by a steadfast refusal to act.

The words, if not always the actions, of at least a few other Senators were less equivocal. George McGovern said: "...the U.S. [sic]position in Vietnam has deteriorates so drastically that it is in our national interest to withdraw from that country our forces and our aid." "The Vietnam Mess," United States Congress, Congressional Record, 88th Congress, 1st Session, Vol. 109, Part 13 (September 26, 1963), p. 18205. Saying that American policy in Vietnam had "failed," Wayne Morse declared: "I have opposed unilateral U.S. [sic] intervention in South Vietnam from the beginning." "Conditions in South Vietnam," Ibid., Part 12 (August 23, 1963), pp. 15744-5. Morse repeatedly called for getting out of "that rat hole." Ibid., September 9, 1963, p. 16488. Another early critic of American Vietnam policy was Allen J. Ellender. As early as 1956 he was critical of "our aid effort," and, in 1961, he wrote: "Some feel that we should send American troops here. I would not do so under any circumstances." (Italics added.) Quoted in Stephen S. Rosenfeld, "Cutting the Macaroni: The Travels of Allen Ellender," The New Republic, Vol. 161 (September 27, 1969), pp. 26-7. Note that, whereas Mansfield, et al. wrote

Resolution in 1964,[32] to growing Congressional dissent in 1965 (including Senator Fulbright's break with President Johnson),[33] to formal televised Senat Foreign Relations Committee Hearings beginning in 1966,[34] to very extensive debates in both houses (especially the Senate); Congress---or at least some members--- most emphatically was **not** "silent."

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of **present** circumstances," Ellender alluded to **"any** circumstances."

Reference to Senator Ellender raises the somewhat ironical point that the most ardent pursuers and/or supporters of Vietnam policy in the last 1960's included the earliest critics of just such a policy, notably southern conservatives. Senators Richard B. Russell and Lyndon B. Johnson were present at the famour meeting on "The Day We Didn't Go to War." Loc cit. (n.30). On opposition by Russell and John C. Stennis as far back as 1953, see: "Congress and Indochina, Pre-1964," Congressional Quarterly Weekly Report, Vol. 30 (April 22, 1972), pp. 872-3. On the other hand, in 1959, Senator Fulbright was calling for United States combat troops to be sent to South Vietnam. Ibid. Finally, in July, 1965, Senators Fulbright and Russell were briefly united in a group of senators opposing escalation of the war. Tom Wicker, "Johnson's Caution On Vietnam Linked to Senators' Views," The New York Times, July 30, 1965, pp. 1-2.

Whatever may be tru of shifting positions of liberals and conservatives (see n.110), the fact is that early and public criticism of Vietnam entanglement came from Congress.

[32]For debate on the Gulf of Tonkin Resolution, see United States Congress, Congressional Record, 88th Congress, 2nd Session, Vol. 110, Part 14 (August 7, 1964), pp. 18416-18471, passim. For the positions of Senators Morse, Gruening and Nelson, see especially Ibid., pp. 18444-445, 18458-71.

[33]See J. W. Fulbright, "The War in Vietnam," Ibid., 89th Congress, 1st Session, Vol. 111, Part 10 (June 15, 1965), pp. 13656-58. It should be noted that while Fulbright's position was different from Johnson's, calling for "concessions on both sides," the Senator characteristically equivocated: "unconditional withdrawal would have disastrous consequences." Ibid., p. 13656.

For other 1965 Congressional dissent from the President's position, some as early as May, see Congressional Quarterly Almanac, 1965 (n.29a), pp. 180-181, 455.

[34]Senate Foreign Relations Committee hearings, televised in February, 1966 and March, 1969, have been cited above. (See n.102a, ch. I and n.8, ch. II.) In addition, there were televised hearings in 1968: United States Senate, Committee on Foreign

So there was dissent, there was debate, and it was
public. It took place outside as well as inside Congress. The
issue was discussed in the 1950's and early 1960's.[35] In 1965,

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Relations, Hearings on S. 3091, Foreign Assistance Act of 1968,
Part 1: Vietnam, 90th Congress, 2nd Session (March 11, 12, 1968).
    Little purpose would be served by citing all the other
hearings that were held on the Vietnam War. Suffice it to say
that they were numerous and voluminous. Of particular interest
are these Senate Foreign Relations Committee hearings: Hearings,
The Gulf of Tonkin, The 1964 Incidents, 90th Congress, 2nd
Session (February 20, 1968); Hearings, Impact of the War in
Southeast Asia on the U.S. [sic] Economy, 91st Congress, 2nd
Session, 2 Parts (April-August, 1970); Hearings, Moral and
Military Aspects of the War in Southeast Asia, 91st Congress,
2nd Session (May, 1970).
    The hearings which received the most publicity were those
of the Senate Foreign Relations Committee. It has been said
that, with the February, 1966 hearings, "opposition over Vietnam
came into the open...." Francis O. Wilcox, Congress, The Executive,
and Foreign Policy (New York: Harper & Row, 1971), p. 30. (See
note 37 below for evidence of earlier "open" opposition.) Of
the March, 1968 testimony by Dean Rusk, Wilcox observed that it
"marked a significant point in recent American history....[I]t
represented the first time since World War II that the leaders
of the Senate openly and vigorously disagreed with their
President on a really vital question in the field of foreign
relations." Ibid., p. 1.
    Nevertheless, it is noteworthy that other committee far
less opposed to the war---and indeed supportive of it---often
held hearings. Even Wilcox pointed out that "As the Foreign
Relations Committee provided a forum for opponents of the war,
the Preparedness [Investigating] Subcommittee [of the Senate
Armed Services Committee] provided a forum for military leaders
to urge stronger military action." Ibid., p. 30. (An example
of this committee's hearings is cited in n.69, below.) Hearings
in the House of Representatives were virtually ignored. But
they took place throughout the war, even before the first Senate
Foreign Relations Committee hearings. An example: United
States House of Representatives, Subcommittee on the Far East
and the Pacific of the Committee on Foreign Affairs, Hearings,
United States Policy Toward Asia, 89th Congress, 2nd Session,
2 Parts (January-March, 1966). The witnesses and tone of
Foreign Affairs Committee hearings were quite supportive of
the President's policies.

[35]In addition to the Roberts article (n.30), see:
Vietnam Project, Michigan State University, What to Read on
Vietnam: A Selected Annotated Bibliography (2nd Edition; New
York: Institute of Pacific Relations, 1960). This contains
a rather comprehensive list of articles and books published from
1955-1960 which should disabuse anyone of the notion that there
was no debate on Vietnam in that period.

even _before_ President Johnson's decision to increase massively the number of ground troops in Vietnam,[36] the famous "teach-ins" began.[37] These involved prominent citizens, including political scientists.[38] Numerous publications began to

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[36]"Transcript of the President's News Conference on Foreign and Domestic Affairs," _The New York Times_, July 29, 1965, p. 12; John D. Pomfret, "Johnson Orders 50,000 Men to Vietnam and Doubles Draft; No reserve Call," _Ibid._, p. 1.

[37]Of course, the teach-ins were preceded by bombings. (See n.29a.) For a small sample of the sizable teach-in literature, see: Mitchell Levitas, "Vietnam Comes to Oregon U. [sic]," _The New York Times Magazine_, May 9, 1965, pp. 25, 89-92; Max Frankel, "Future of the Teach-In," _The New York Times_, May 17, 1965, p. 29; "Excerpts From National Teach-In on Vietnam Policy and Text of Bundy Statement, Educators Debate Issues Because of Doubt Over Wisdom of U.S. Actions in Asia," _Ibid._, pp. 30-31; Kenneth E. Boulding, "Reflections on Protest," and Richard Flacks, "Some Social Implications of the Teach-Ins," _Bulletin of the Atomic Scientists_, Vol. 21 (October, 1965), pp. 18-21. Boulding "participated in...the first 'teach-in' at the University of Michigan." _Ibid._, p. 18.

[38]This reference to political scientists is not meant to suggest either a) that it took their presence to legitimize war opposition and/or support, or b) that the writer takes jingoistic pride in being a political scientist. Instead, the reference is intended to add to Chapter I's criticism of the notion that political scientists have not play a policy role. (See pp. 33-41.)
In the long course of America's Vietnam involvement, political scientists played roles as polemicists, activists, participants, and scholarly and empirical analysts of policies and processes. These roles obviously overlap. For example, a polemicist often advocates a particular policy position, not only because of his values, but also because of his factual analysis. Also, scholarship can be used to enhance efficiency in the governmental process. (See, ch. I, pp. 33-73, _passim_.)
Again, we must be confined to a small sample of available illustrations. A political scientist with an early role in United States Vietnam policy was Wesley R. Fishel. In the 1950's, Fishel was a champion of and adviser to Ngo Dinh Diem. From 1956-1958, he openly was head of the Michigan State University Advisory Group in Vietnam. Fishel's very significant activities as policy maker and adviser are described in Robert Scheer, _How the United States Got Involved in Vietnam_ (Santa Barbara, Calif.: Center for the Study of Democratic Institutions, 1965). A pro-Diem article by Fishel is "Vietnam's Democratic One-Man Rule," _The New Leader_, Vol. 42 (November 2, 1959), pp. 10-13. The previous two works are reprinted in Marvin E.

Gettleman, ed., <u>Viet Nam; History, Documents, and Opinions on a Major World Crisis</u> (New York: Fawcett World Library, 1965), pp. 235-253, 195-204. Fishel apparently came to regret his support of Diem. <u>Ibid.</u>, p. 191. However, in the dabates of the mid-1960's, which found political scientists divided on the war, Fishel was still a supporter of Administration policy. He was Chairman of the Board of the American Friends of Vietnam from 1964 to 1966. American Political Science Association, <u>Biographical Directory, 1968</u> (Fifth Edition; Washington: APSA, 1968), p. 160. Also, see "Asian Scholars, Specialists Support U.S. Viet Policy," Letter to the New Bedford, Mass, <u>Standard-Times</u>, October 23, 1965, reprinted in United States Congress, <u>Congressional Record</u>, 89th Congress, 2nd Session, Vol. 112 (March 15, 1966; Daily Edition), pp. A1448-9. This letter was signed by other scholars, including political scientists such as Lucian Pye, William B. Dunn, John T. Dorsey, Ralph H. Smuckler, David A. Wilson, and Frank N. Trager. A defense of the war effort by Dr. Trager is <u>Why Vietnam?</u> (New York: F. A. Praeger, 1966). Other political scientists who defended Vietnam policy included Zbygniew Brzezinski, Robert Scalapino and Michael Lindsay. These men, and Dr. Fishel, took a pro-Administration stance at the televised National Teach-In in Washington on May 15, 1965. At that debate, other political scientists---George M. Kahin, Hans J. Morgenthau and Stanley Millet---opposed the Administration. See "Excerpts From National Teach-In...," <u>loc. cit.</u> (n.37). Some of these teach-in participants produced other works. For example, see Robert A. Scalapino, "We Cannot Accept A Communist Seizure Of Vietnam [sic]," <u>The New York Times Magazine</u>, December 11, 1966, pp. 47, 133-141; Hans J. Morgenthau, "'We Are Deluding Ourselves in Vietnam,'" <u>Ibid.</u>, April 18, 1965, pp. 25, 85-87; Morgenthau, <u>Vietnam and the United States</u> (Washington: Public Affairs Press, 1965); and George M. Kahin and John W. Lewis, <u>The United States in Vietnam</u> (New York: Dial Press, 1967). Other political scientists taking positions on war policy were Senator John Tower (R., Texas) who consistently favored excalation (see n.69), and Howard Zinn and Duane Lockard, both of whom opposed the war. Zinn saw the war as justifying violent civil disobediance (see pp. 71-72) and Lockard saw war prosecution as an example of "perverted priorities." <u>Loc. cit.</u> (n.5, ch. I), pp. vii, 2-3.

Most of the foregoing citations involve political scientists who combined analysis of policy contents with proposals of policy courses. Other political scientists focused on policy process analysis for the purpose of achieving policy goals. For the most part, those in this category opposed the war effort. Here are a few examples. Doris Kearns and Sanford Levinson, <u>loc. cit.</u> (n.12), proposed a third party as a means of influencing policy. James David Barber and David R. Mayhew proposed a shift from peace marches to electoral politics in "From the Streets to the Polls," <u>The New Republic</u>, Vol. 161 (December 6, 1969), pp. 9-11. They also went briefly into what it would take to elect doves to Congress. In 1970, political scientists took their part in the post Cambodia-

Kent State outburst. At Yale University, political scientists sought to determine which campaigns were critical and enlist students for them. William K. Stevens, "What Is A University?" The New York Times, May 9, 1970, p. 9. A greater effort along these lines was made at Princeton University, where the Movement for a New Congress was established by political scientists including Gary A. Orfield and Edward V. Schneier. On Orfield, see Jerry Tallmer, "Daily Closeup, The Movement," New York Post, May 19, 1970, p. 47. Schneier, William T. Murphy, Jr., and others prepared the Movement's Official Activist Campaigner's Handbook, op. cit. (n.6). They stated: "in the wake of the Cambodian invasion...the Movement was the only large-scale effort to direct student protest into electoral politics...to mobilize massive grass-roots volunteer efforts to elect a new Congress." Ibid., pp. 5, ix. According to Orfield, the Movement would "supply manpower, brainpower and research...on the records of incumbent candidates...." Tallmer, loc. cit. Another political scientist engaged in congressional roll call voting research to determine who should be supported and/or opposed in the 1970 congressional elections was Garrison Nelson. He wrote "Nixon's Silent House of Hawks; A Documented Analysis of the Anti-War Voting Records of Republicans and Democrats in Strategic Districts," The Progressive, Vol. 34 (August, 1970), pp. 13-20. As the title indicates, Nelson not only prepared an "Anti-War Index" to measure the extent of a Representative's war opposition or support, but he also sought to determine who was most vulnerable to defeat. The latter would be the focus of the anti-war effort, supporting vulnerable doves and opposing vulnerable hawks. One ingredient needed to make use of this kind of analysis was the ability to persuade voters of the correctness of voting for doves. To this end, two political scientists and a social psychologist combined to write a guide for dove persuaders. This was an analysis of public attitudes on the war and a statement of how to change them to a less supportive position. See Rosenberg, op. cit. (n.11). Finally, many political science teachers were called upon to impart their knowledge to student protesters---knowledge of how to campaign, how to persuade, and of war policy itself. "Workshops" along these lines took place at the City College of New York, where this writer was teaching.

In addition to partisan work on Vietnam policy by political scientists, there was also much of the more traditional type of analysis. Non-partisan scholarship in the "value-free" tradition (pp. 33ff.) was especially prevalent in the public opinion field. For example, see: Sidney Verba, et al., "Public Opinion and the War in Vietnam," The American Political Science Review, Vol. 61 (June, 1967), pp. 317-333; Harlan Hahn, "Correlates of Public Sentiment About War: Local Referenda on the Vietnam Issue," Ibid., Vol. 64 (December, 1970), pp. 1186-1198, John E. Mueller, "Trends in Popular Support for the Wars in Korea and Vietnam," Ibid., Vol. 65 (June, 1971), pp. 358-375; and Philip E. Converse and Howard Schuman, "'Silent Majorities' and the Vietnam War," Scientific American, Vol. 222 (June 1970), pp. 17-25. For a

appear.[39]

The conclusion is inescapable that there is a severe deficiency in either the honesty or the knowledge of those who say there was no debate. The same conclusion applies to writers such as Zinn. (p. 82.) He concedes that the issue was raised by "the ordinary channels," but argues that they were "not enough to resolve it." Along this line, many would agree that "the public was without effective representation of any kind" (Lasch, p. 80) and "in the position of the colonists." (McCarthy, p. 79.)

For the record, the colonists did not have the opportunity to choose between competing representatives. The American people did have that opportunity throughout the

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scholarly analysis of the intellectual and ideological nature of the debate on Vietnam War policy, see Stephen A. Garrett, "The Relevance of Great Debates: An Analysis of the Discussion Over Vietnam," The Journal of Politics, Vol. 33 (May, 1971), pp. 478-508.

It is hoped that this discussion, although scarcely exhaustive, is sufficient to contradict the proposition that political scientists have not been adequately concerned with public policy---in this instance, Vietnam policy.

[39]Among them are Gettleman, op. cit., (n.38), and Marcus G. Raskin and Bernard B. Fall, eds., The Viet-Nam Reader (New York: Random House, 1965). These works are significant in their own right and also contain collections of materials of the period. See also the works by Morgenthau, Trager, et al. in n.38.

One readily accessible publication is the newspaper. A measure of the extent to which newspaper coverage of Vietnam increased is The New York Times Index. (n.29a.) The Index for 1960 contained one page on Vietnam and for other years: 1962: 5 pages; 1964: 22 pages; 1965: 48 pages; 1966: 72 pages; and 1970: 101 pages.

No, the Vietnam War does not rank among the undebated, undiscussed, or ignored issues of our time!

Vietnam War.[39a] It is elementary that representative government does not guarantee to any individual or group a representative of their choice. It is axiomatic that in every contested election there **must** be a winner **and** one or more losers. Those who vote for the loser(s) should not be surprised---they often are---if their representative supports policy they oppose. Of course, they have the right (not shares by the colonists) to try to persuade their fellow constituents to displace the incumbent in the next election. However, the right to try is not the same as the right to succeed. The would-be persuaders may fail. To a considerable extent, that is what happened to the peace advocates. They did debate the war issue, but their presentation had serious defects.

It follows that we must take with the proverbial grain of salt Lasch's contention that the "public" lacked "effective representation." He does not define "public." Later, we shall see that the Vietnam policies actually followed had extensive public support. This raises an interesting question: were peace proponents really disturbed by the absence of democracy or was their problem the existence of democracy? (See pp. 99-102.) In the latter case, it must be recalled

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[39a]Of course, Lyndon Johnson was the "peace" candidate in 1964. He disappointed anti-Warriors with the 1965 escalation. They reacted by contesting elections in 1966: "So-called 'peace' candidates are becoming active in the 1966 elections as escalation of the war in Viet Nam continues and the general election...draws nearer." CQ Fact Sheet: On 'Peace' Groups in the '66 Elections: Viet Nam War Spurs 'Peace' Movement in United States," Congressional Quarterly Weekly Report, Vol. 24 (July 1, 1966), p. 1398. See Ibid., pp. 1398-1405, passim.

that the "normal democratic policy is in a sense a decision which gives no claimant everything he asks for."[40] To this, the peace groups might respond by querying whether they got anything they asked for. They might argue that "the democratic process of debate...failed to influence the course of battle for years..." and that "no conflicting claims had to be accommodated." (Reston, Lasch, pp. 79-81.) This point is of very questionable accuracy to say the least. The reasons why will be provided in another context. (pp. 104-105.)

No more space can be devoted here to blatantly false peace movement statements. There were many. More will emerge later. False assumptions are at the root of why the way dragged on for so long. They have to and will be dealt with in attempting to establish the validity of the major proposal of the thesis.

2) Perhaps the most charitable view that can be taken of some of the above statements is that they were made by people carried away by their own rhetoric---on purpose or otherwise. In time of crisis (genuine or imagined), rhetoricians flourish.

For example, consider the Great Depression. In his role as historian, Arthur Schlesinger, Jr. tells us that, when Franklin D. Roosevelt took office as President, there was a "mood of helplessness."[41] This mood was manifested by escalating rhetoric. "In September 1931, the American Legion

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[40]Henry B. Mayo, An Introduction to Democratic Theory (New York: Oxford University Press, 1960), p. 223.

[41]Arthur M. Schlesinger, Jr., The Crisis of the Old Order 1919-1933 (Boston: Houghton-Mifflin, 1956), p. 1.

resolved that the crisis could not be 'promptly and efficiently met by existing political methods.'"[42] In January, 1933, the head of the Farm Bureau Federation said: "Unless something is done for the American farmer we will have revolution in the countryside within less than twelve months."[43] Finally, in the same month, Donald R. Richberg warned a Senate subcommittee:

> There are many signs that if the lawfully constituted leadership does not soon substitute action for words, a new leadership, perhaps unlawfully constituted, will arise and act. We commend this bill as a better means of preserving law and order than machine guns and tear gas. [Italics added.][44]

In his first words as President, Roosevelt responded to the foregoing forebodings. Expressing confidence in the adaptability of the Constitution,[45] he asserted: "This great Nation will endure as it has endured, will revive and will prosper."[46] The nation did.

Richberg seemed to imply that domestic tranquility would be assured by passage of the bill he was supporting. That bill provided for unemployment relief. But it really does not make a difference what the bill was, for this is a favored technique

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[42]Ibid., p. 204.

[43]Edward A. O'Neil, quoted in ibid., p. 3.

[44]Donald R. Richberg, "Statement," United States Senate, A Subcommittee of the Committee on Manufacturers, Hearings on S. 5125, Federal Aid for Unemployment Relief, 72nd Congress, 2nd Session, Part I (January 12, 1933), p. 455.

[45]Franklin D. Roosevelt, "Inaugural Address, March 4, 1933," The Public Papers and Addresses of Franklin D. Roosevelt, Vol. II: The Year of Crisis, 1933 (New York: Random House, 1938), pp. 14-15

[46]Ibid., p. 11. Roosevelt's capitalization.

of protagonists in general. The Depression was, of course, a
time of unquestioned crisis. Now, crisis is not necessarily
synonymous with the end of the world as we know it. In other
words, as we just have seen, even a bona fide crisis can be
overstated and blown out of proportion.

But a generally recognized crisis is not a prerequisite
for rhetoricians to wax poetic. If need be they will invent
or imagine a crisis. For instance, with the hindsight of
thirty-eight years, the Supreme Court decisions in the
Gold Clause Cases[47] do not seem to have shattered the earth.
But dissenting Justice James C. McReynolds, in famous
extemporaneous remarks, declared with passion: "It seems
impossible to overestimate the result of what has been done
here today....[T]he Constitution...is gone."[48]

The Constitution was not quite gone nearly a quarter of
a century later when Senator Jacob Javits supported reform to
make it easier to invoke cloture in the Senate. This was needed

> at an hour of basic crisis in the defense of our
> country when the weapons which challenge us are
> precisely so mortally dangerous because of the
> speed with which they may be effectively used to
> destroy us. In such a time...there is a justifiable

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[47]Norman v. Baltimore & Ohio Railroad Co. [sic] ;
United States et al v. Bankers Trust Co. et al, Trustees,
294 U.S. 240; Nortz v. United States, 294 U.S. 317; Perry v.
United States, 294 U.S. 330 (February 18, 1935). Dissent for
all cases is at 294 U.S. 361.

[48]The New York Times, February 19, 1935, p. 16. These
remarks were taken down by newspaper reporters but not recorded
officially in the United States Reports. The written dissent
declared: "Loss of reputation for honorable dealing will bring
us unending humiliation; the impending legal and moral chaos
is appalling." 294 U.S. 381.

demand for making our organs of decision conform
to the challenge.[49]

Translation: to avoid nuclear annihilation, end filibustering. So far, neither the country nor filibustering has come to an end. And Senator Javits himself has filibustered[50] ---with such delicate skill that he managed to avoid bringing on nuclear war in the process.

In 1964, Senator Joseph Clark also advocated reform. He repeated, with approval, the words of the 1946 Senate Special Legislative Committee: "Democracy itself is in grave danger of _disintegrating_ from internal dissentions _sic_ under the terrific pressures of the post war world."[51] (Italics added.) Again, democracy did not disintegrate. Nor did the language.

1946 and 1964 seemed far from dangerous, and indeed rather tranquil, from the perspective of the May, 1970 Cambodia-Kent State trauma, when John Gardner proclaimed: "the war is the most divisive element in our national life... [T]he nation _disintegrates_....[W]e are dealing with dis-integrative forces that threaten our survival as a society."[52]

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[49]Jacob K. Javits, "Individual Views of Mr. Javits," United States Senate, Committee on Rules and Administration, _Proposed Amendments to Rule XXII of the Standing Rules of the Senate (Relating to Cloture)_, Report No. 1509, 85th Congress, 2nd Session (April 30, 1958), p. 9.

[50]See, for example, David E. Rosenbaum, "Busing, A 'Weapon' Was There and it Was Used," _The New York Times_, October 15, 1972, p. 3E.

[51]Joseph S. Clark, _Congress: The Sapless Branch_ (New York: Harper & Row, 1964), p. 165.

[52]"Excerpts From Gardner's Talk, Barred in Illinois, About Impact of War on U.S.," _The New York Times_, May 14, 1970, p. 22.

(Italics added.) But in 1973, with United States involvement in Vietnam terminated, the nation was still threatening not to "disintegrate."

In order to prevent disintegration, many Members of Congress think the legislative branch should have a greater foreign policy role relative to the President.[53] However, over twelve years ago the rhetoric of the day was quite different. For example, Marquis Childs believed that

> if the American system of divided powers is to
> work effectively then a little restraint is
> essential. Congress by exceeding the broad
> authority it possesses---by legislating
> directly in the conduct of foreign policy as
> in the amendment denying tariff concessions to
> Poland and Yugoslavia---jeopardizes not only
> its own charter but the role of representative
> government in a democratic system.[54]

Imagine that! Over tariff concessions to two small countries "the role of representative government" was jeopardized. It seems that no ax is too petty for the fate of the world---or at least the country---to depend on its fine grinding.

This pehnomenon is not confined to the United States. In a vein similar to that of the above indictment, Enid Lakeman has written:

> There is in fact, in Britain today,
> widespread dissatisfaction with various aspects

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[53]For examples of this oft-expressed view, see: James M. Naughton, "The Congress: Now It's In a Mood For a Real Fight [sic] ," The New York Times, January 28, 1973, p. 3E; "Congress: Views on Reaching the End of the Tunnel," Congressional Quarterly Weekly Report, Vol. 31 (January 27, 1973), pp. 166-170.

[54]Marquis Childs, "The Petty Lords of Capitol Hill," The Washington Post, October 12, 1962, p. A16.

of government, at all levels, and growing
divergence between the point of view of the
ordinary elector and that of the party
politician....Most...electors have no idea
of what, if anything, can be done to remedy
the conditions they deplore.[55]

Lakeman offered an idea: proportional representation. But at
about the time Lakeman's words were most recently published,
British voters had another idea. In classic democratic
fashion, they "threw the bums out," substituting Edward Heath
for Harold Wilson, who has now replaced Heath.

Governments, especially if they are democratic, must
choose between competing claims. Those who lose---or think
they lose when they do not get all they want---are often
unhappy. Thus, they may see their situation as evidence of
the lack or decline of democracy. This is because, in MacIver's
words, "many [are] apt to identify democracy with the things
[they] would like democracy to do."[56]

There is no intention here of minimizing the significance
of the Vietnam War. Quite the contrary. (p. 436.) Neverthe-
less, that war and the barrage of balderdash it generated show

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[55]Enid Lakeman, How Democracies Vote: A Study of
Majority and Proportional Electoral Systems (third edition;
London: Faber & Faber, 1970), p. 253. Also in England,
Chancellor of the Exchequer Denis Healy said: "Unless we
can...halt the accelerating inflationary trends in our economy,
the political and social strains may be too violent for our
democratic institutions to withstand." Alvin Shuster, "Laborites'
'Illusion of Stability,'" The New York Times, March 27, 1974,
p. 12.

[56]This is from a criticism of Harold Laski's concept of
economic democracy in Robert M. MacIver, The Web of Government
(New York: The Macmillan Co., 1947), p. 207.

that we must be very wary when a democracy's current or future existence is questioned by people dissatisfied with its decisions. Issues, be they great or trivial, evoke extreme rhetoric. The presence of such rhetoric is by no means indicative that an issue is insignificant. But it is not a sign of the opposite either. And, even if the issue is of great moment, it still does not follow that doomsday for the system has arrived or is fast approaching.[56a]

3) In fact, the failure-of-the-system concept never was agreed to anywhere near unanimously, even among war critics. As suggested above (p. 92), their problem was more likely the presence rather than the absence of democracy. Gelb indicates that democracy's presence was a major factor in the escalation of the war. He reminds us that the prospect of another loss to Communism struck Presidential hearts with fears of electoral and Congressional retribution.[57] (See also, p. 74.) Hoopes does not go as far as Gelb, but suggests that the democratic conduct of the war was an obstacle to both peace and re-escalation:

> ...the war...was conducted entirely within the framework of the Constitution, with the express or tacit consent of a majority of the Congress and the country until at least the autumn of 1967, and without any press censorship.
> ...in time, Lyndon Johnson's policy of escalation was repudiated and he was driven from

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[56a] For a critical analysis of doomsday ecology rhetoric---much of it fallacious and unsubstantiated---see: John R. Maddox, The Dooms-Day Syndrome (New York: McGraw Hill, 1972).

[57] Gelb, loc. cit. (n.5), pp. 143-144, 166-167.

office....[H]is closest collaborators on
Vietnam [will not likely again attain] high
office. This is a democratic and an entirely
elective form of retribution.
    It remains a sad truth that democratic
majorities tend to move more slowly than
closely informed protagonists of any stripe
would conisder desirable. The Johnson debacle
has shown conclusively that his successor cannot
re-escalate the Vietnam war. [Italics added.] 57a

Hoopes' position is reasonably clear (although it may
not be clearly reasonable[58]). But other prominent peace
proponents have been rather schizoid. For example, Senator
Fulbright worried about the impact of the war on the continued

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[57a]Townsend Hoopes, "The Nuremberg Suggestion," The
Washington Monthly, Vol. 1 (January, 1970), p. 20.

[58]The position may not be reasonable because: 1)
Contending that his retirement was voluntary, President
Johnson denied until his dying day that he was "driven from
office." This writer does not have the evidence to know or
the necessary pseudo-sophisticate cynicism to assert that
Johnson was lying. 2) People forget, often fast. It is doubt-
ful that Johnson's collaborators and/or defenders were forever
barred from high office. The return of Hubert Humphrey to the
Senate is an example. 3) By October, 1967, a majority of a
sample thought that sending troops to Vietnam was a mistake.
The Gallup Opinion Index, Report Number 29 (November, 1967),
p. 4. However, on the question of what to do about this
mistake, the majority gave its consent to the policies actually
followed until the end of the war. 59 percent of a sample
approved President Nixon's handling of the Vietnam situation
late in 1972. See Ibid., Report Number 90 (December, 1972),
p. 2. 4) It is highly debatable that the slowness of
democratic majorities is something to be "sad" about. Whether
one is sad depends on which side of the issue he is on. For
example, it is to be wondered just how many war opponents
were saddened by the slow movement of the anti-school
busing majority. See Rosenbaum, loc. cit. (n.50).
    Regarding troop strength, Hoopes was quite right.
There was a steady de-escalation of troop (but not bomb
tonnage) levels by Nixon.

survival of democracy in the United States.[59] (p. 77.) How-

ever, this did not deter him from calling for the use by

students of lobbying and electioneering tactics in preference

to violence.[60] John Gardner's anxiety about the war included

not simply its effect on the existence of democracy in the

United States but also its effect on the existence of the

United States, period.[61] (p. 96.) If the nation were to

"disintegrate," whose fault would it be? Gardner refers to

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[59]It is interesting that, while many anti-warriors saw
Vietnam as an example of undemocracy in America, they disagreed
on the reason. Senator Fulbright, for example, said (p. 76)
that the people twice voted "against ever-increasing warfare."
This means that the people voted for peace candidates who
proceeded to betray them with escalation and/or protracted war.
But other anti-warriors imply that there was no betrayal
because the "undemocratic" system failed to provide the
electorate with an opportunity to choose peace candidates.
Howard Zinn, for example, described the 1968 election as a
choice "between two Presidential candidates both of whom have
been strong supporters of the war." He then asks: "How can
Fortas think that 'the ballot box' is an effective instrument
in foreign policy?" op. cit. (n.25), p. 64. Coburn and Cowan
similarly say "neither major party offered the voters a peace
candidate in 1968." loc cit. (n.2). Finally, Skolnick, op. cit.
(n.42, ch. I), p. 71 writes: "In the eyes of many of those
opposing the Vietnam War, recent events---such as the nomination
of two champions of President Johnson's war policy---point to a
serious defect in the democratic process."

[60]J. W. Fulbright, "What Students Can Do For Peace," The
Progressive, Vol. 34 (June, 1970), pp. 15-17.

[61]Senator Fulbright did have a worry similar to Gardner's.
He declared in May, 1970: "We are in a condition indicative
of social disintegration." Quoted in Levin, op. cit. (n.9),
p. 73. But if there were those who thought the continued
prosecution of the Vietnam War would undermine democracy in
the United States or the nation itself, there were others who
felt a precipitous and unilateral withdrawal would have the
same result. Levin refers to "conservative charges that
liberals fostered the very domestic upheaval they pretended to
decry...." Ibid. See also Ibid., pp. 74ff; and Gelb,
loc. cit. (n.5), p. 143.

"the growing crisis of confidence in our leadership."[62] But he

is also critical of the followership:

> Many dissidents who resort to disruptive
> tactics say, "We tried working within the system,"
> but most have not in fact tried very hard, cer-
> tainly not within the political system....[T]he
> American people...have typically scorned politics
> and neglected the political process....[B]y that
> neglect we have...denied ourselves the most
> significant path for effective action....
> [Italics added.] [63]

Presumably, the calls by Gardner, Fulbright and others

for reliance on the political process were based on some

confidence in the efficacy of democratic methods. The numerous

actual efforts over the years, especially in 1970 and there-

after, to elect a "peace Congress" and to lobby before Congress

definitely imply a widespread faith that these efforts would

lead somewhere. There were many expressions of this faith,[64]

which was perhaps most bluntly and briefly summed up by the

Movement for a New Congress: "the system is open for the

taking." (p. 75.)

The emphasis in this section has been on anti-war views.

There were, of course, many supporters of war policies who

also expressed faith in the system. These included a spectrum

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[62]Loc cit. (n.52). On leadership, see pp. 11-14. On
Gardner, see also n.48, ch. I.

[63]Ibid.

[64]In addition to the ambivalent expressions already
cited, "Liberals say that it is too soon to write off the
system, that the coming political campaigns will offer
opportunities to the antiwar movement to push its issue...."
Joseph Lelyveld, "Conflict Of Aims Threatens The Peace Movement,"
The New York Times, April 19, 1970, p. 6E.

from village dwellers[65] to New York City high school students.[66]

In any case, we may conclude that the war-produced rhetoric of systemic failure and doom certainly did not have universal assent.

Some Basic Premises and Hypotheses

The foregoing discussion, as well as much of what follows. contains certain premises and/or hypotheses. Before proceeding, it would be well to spell them out in one place. They include: 1) The war was wrongly conceived and prosecuted. 2) The war was a political issue of extraordinary uniqueness. 3) While not a total failure, the peace movement was far from successful. 4) The peace movement was highly fragmented. 5) Opposition to the war was primarily, if not exclusively, a left of center position.

The first point has been discussed. (See n.102a, ch. I.) The second will be documented and explained in another context. Here, it should be noted that the uniqueness of the issue means that what applies to and is implied by Vietnam may not be the case on other questions. This leaves three points to be discussed in greater detail at this point.

Peace Movement: Success or Failure?

Was the peace movement a success or a failure? The preceding discussion seems to imply both. On the one hand, it

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[65]Bill Kovach, "War Baffles an Upstate Village So Much Its People Say Little," ibid., May 5, 1970, p. 19.

[66]William E. Farrell, "Schools Shut, Pupils Combine Protest and Recreation," ibid., May 9, 1970, p. 10.

is contended that the peace movement failed to achieve a much earlier end to the war, which could have been brought about; with strategies other than those actually used. (pp. 75, 93.) On the other hand, Lasch and Reston are criticized for saying that democratic debate failed for years to influence the conduct of the war, and that no anti-war views "had to be accommodated." (p. 93.)

These statements are not contradictory, although they may seem so. To disagree that the peace movement totally failed to have any influence on the war is **not** to say that it had as much influence as it could have had. In other words, it achieved more than nothing but very far less than its potential.

The Lasch-Reston position is clearly ludicrous. Through-out the war, policies were pursued that were considerably less extreme than those advocated by "hawks." Presidents Johnson and Nixon did "accommodate" anti-war views. For example, Johnson rejected 1) an immediate and complete buildup of forces in 1965 via a reserve callup rather than a slow escalation through the draft,[67] 2) use of nuclear weapons, even against Communist China,[68] 3) mining and/or blockading of North

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[67]See sources in n.36 and: Wicker, loc. cit. (n.31); Hanson W. Baldwin, "Military Disappointed; Services Had Sought Reserve Call-Up and Right to Extend Enlistments," The New York Times, July 29, 1965, p. 11. Baldwin wrote: "The wide gap between the military's anticipations and requirements and the President's announcement explains the disappointment and worry felt by many in the Pentagon."

[68]"Speech of L. Mendel Rivers Before the Exchange Club, Hartford, Conn. [sic], August 11, 1965," United States Congress, Congressional Record, 89th Congress, 1st Session, Vol. 111, Part 15 (August 12, 1965), pp. 2039204, esp. p. 20393; Curtis E.

Vietnamese ports,[69] and 4) endless granting of troop requests,
calling a halt to the escalation in 1968.[70] Nixon, while
doing some things Johnson refused to do (e.g. harbor mining),[71]
nevertheless irreversibly and inexorably (although slowly)
reduced troop levels in Vietnam from 543,500 to zero.[72]

LeMay, "General LeMay Tells How to Win the War in Vietnam," U.S.
News and World Report, Vol. 61 (October 10, 1966), pp. 36-38, 43;
Terrence Smith, "Bombing Hotly Debated in the Johnson Period,"
The New York Times, April 17, 1972, p. 10.

[69]Senator John G. Tower, "Vietnam: Victory or Gradualism?"
United States Congress, Congressional Record, 90th Congress, 1st
Session, Vol. 113, Part 20 (September 22, 1967), pp. 26509-12.
Tower not only wanted the closing of North Vietnamese ports. He
also opposed the entire policy of gradual escalation. See also:
United States Senate, Preparedness Investigating Subcommittee of
the Committee on Armed Services, Hearings, Air War Against North
Vietnam, 90th Congress, 1st Session, 5 Parts (August, 1967).
See especially the testimony in Part 1 by Admiral Ulysses Grant
Sharp, Pacific Commander in Chief, ibid. passim, and particularly
p. o8, and "Recommendations to Mine or Bomb Haiphong," pp. 22-24.
See also Smith, loc. cit. (n.68).

[70]In February, 1968, Gen. William C. Westmoreland
requested 206,000 troops in addition to the 525,000 already
authorized. President Johnson's response was to grant authority
for 24,500 more men to be sent to Vietnam. And that was the
final troop escalation of the war. See: Hedrick Smith, et al.,
"Westmoreland Requests 206,000 More Men, Stirring Debate in
Administration," The New York Times, March 10, 1968, pp. 1, 3;
"Transcript of President's Address on the Vietnam War and His
Political Plans," ibid., April 1, 1968, p. 26; Clark M. Clifford,
"A Viet Nam Reappraisal: The Personal History of One Man's View
and How It Evolved," Foreign Affairs, Vol. 47 (July, 1969),
pp. 609, 614.

[71]See "North Vietnam: Nixon Action Arouses Bitter Dispute,"
Congressional Quarterly Weekly Report, Vol. 30 (May 13, 1972),
pp. 1051-53. According to this report, "Entrances to Haiphong
and other harbors were to be mined to stop the flow of...supplies
and equipment to Hanoi and prevent naval operations from ports,
a step long advocated by Vietnam 'hawks' and proposed by Nixon
himself as early as 1965." Ibid., p. 1051. For more on this
subject, see the issue of CQ just cited, passim, esp.
pp. 1053, 1059-60, 1112-13.

[72]"U.S. Troop Levels in Vietnam," Congressional Quarterly
Weekly Report, Vol. 31 (January 20, 1973), p. 86. This table
gives the troop levels at the end of each year from 1960 to 1972.

No doubt, it is hard to establish a causal connection between peace movement activities and presidential action. Suffice it to say that the hawks did not get everything they wanted and, to that extent, the peace movement position, if not its activities, was "accommodated." There is evidence to this effect.

For instance, Mary McGrory quotes President Johnson as responding thusly to Pentagon proponents of Hanoi-Haiphong bombing:

> I have one more problem for your computer. Will you feed into it how long it would take 500,000 angry Americans to climb that White House wall out there and lynch their President if he does something like this?[73]

Clark Clifford, a long time hawk, claimed to have reassessed his position upon becoming Secretary of Defense in part because of the domestic divisions caused by Vietnam protests.[74] Finally, although citing the "frustration" at the "minimal results" of 145 congressional votes on anti-war measures from 1966 to 1972, Congressional Quarterly Weekly Report observed that there was "another viewpoint":

> ...the increasing number of anti-war votes in Congress---from five roll-call votes in 1969 to 35 in 1972---may well have served to reinforce President Nixon's decision to continue his policy

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[73]Mary McGrory, "The Overpowering Man," The New York Post, January 23, 1973, p. 37. McGrory complains that Nixon "for adopting all the dire measures [Johnson] had resisted, had been rewarded with a landslide greater than Johnson's own." In fairness it should be observed that Nixon had de-escalated the war by 500,000 troops, giving him a public support Johnson lacked. Also, the alternative to Nixon must be considered before assuming those who voted for him did so as a reward. Some considered the 1972 election as the Utah choice: in Utah a condemned man once had the option of death by firing squad or hanging.

[74]Clifford, loc. cit. (n.70), p. 612.

of troop withdrawals....The...votes were a constant
indication...of the political costs of slowing
down---or even reversing---the troop withdrawal
program.[75] [Italics added.]

Of course, this is admittedly speculation. Nixon's
troop withdrawals could have been due to the roll-call votes.
Or both the President's action and the roll-calls could have
had one common source: the growing ranks in the population
which wanted out of Vietnam. These ranks may have grown
because of or despite peace movement activities. This problem
will be considered later. Here, it seems reasonable to accept,
at least for argument's sake, the claim by doves such as
McGovern and Fulbright that anti-war efforts produced a smaller
war. (n.102a, ch. I.)

However, this is scarcely a reason for McGovern to take
"satisfaction." We shall see (p. 250ff.) that elaborate
self-congratulation for "minimal results" was a widespread
trait among peace proponents. It is interesting to note that
the alacrity with which doves blamed the system for their
failures to get everything they wanted was matched only by the
speed with which they took credit for themselves at the
slightest indication of success in obtaining anything they
wanted. To the extent that there was war, it was the system's
fault; to the extent there was movement toward peace, doves
were the cause. So went the rhetoric.

In any event, it is the argument here that the satisfaction
and self-congratulation were unwarranted. First, we have noted

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[75]"Congress and the War: Conflicting Assessments,"
Congressional Quarterly Weekly Report, Vol. 31 (January 27,
1973), p. 114.

that opposition to United States activities in Indochina was of very long standing. (pp. 83-93.) In the face of intense and growing opposition, the war escalated by half a million men between 1965 and 1969; de-escalation took another four years. This can hardly be considered a source of satisfaction.

It would be difficult to deny that, even without the peace movement, the war certainly would have ended some day. All wars do end. The termination of wars is as inevitable as their commencement. Whether their termination is speedy or tortuous is quite another matter. It is arguable if the war would have been longer but for the peace movement. But would doves deny that the war should have been shorter, much shorter?

What many of them might say is that, as noted, they produced a smaller war. This leads to a second reason for disputing dove self-satisfaction. Hawks have argued repeatedly that a bigger war would have been much shorter. They say that dove efforts a) gave an incentive to North Vietnam and Vietcong to prolong the war (see Wilcox statement, n.102a, ch. I), and b) prevented the use of force sufficient to "win" the war. (nn.67-69.)

This writer does not purport to know if a bigger war would have been shorter. He is much more confident of this: a war reduced to zero much sooner obviously would have been a shorter war.

It is highly probable that, from its own point of view, the peace movement produced the worst possible course of action: A large and long war which could have been much shorter either through 1) _permitting_ rapid and total excalation or 2) _compelling_ rapid and total de-escalation. It is the

feasibility of the second alternative that we shall attempt to demonstrate here.

If it is feasible, then peace movement self-satisfaction is uncalled for. Except for anti-war efforts, the peace position may not have been "accommodated" and the war may have been larger. But it also should and could have been much smaller and shorter.

Peace Movement Fragmentation: A Problem of Definition

The reader must wonder by now just what the term "peace movement" means. The contrasting views in the movement on the viability of democratic methods (pp. 98-103) give only an inkling of its enormous heterogeneity, which resulted in two obstacles: to peace and to clear definition. The former obstacle will permeate the following chapters; the latter we cover now.

As far back as 1966, the Congressional Quarterly Weekly Report reported: "Numerous 'peace' organizations are active in state and local campaigns."[76] In 1969, Skolnick wrote on "The Disorganization of the Anti-War Movement":

> From within, the [Vietnam protest] movement seems disorganized to the point of chaos, with literally hundreds of ad hoc groups springing up in response to specific issues with endless formation and disbanding of coalitions....[77] [Italics added.]

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[76]"CQ Fact Sheet...," loc. cit. (n.39a), p. 1398.

[77]Skolnick, op. cit. (n.42, ch. I), p. 30. Ironically, Skolnick also pointed out that outsiders often saw the movement as a conspiracy. Below (pp. 117-119), we shall see that Skolnick's own position is closer to the disorganization-chaos view.

By July, 1971, one far from complete mailing list contained nearly 2,000 groups "against the war in Vietnam" and "for radical social change."[78]

It is no wonder that Horowitz complained that "the very definition of anti-war movements is itself contestable."[79] What led Horowitz to say this was the proclivity of peace groups to be interested in issues---sometimes many---other than peace. This raised the question of when a group opposing the war was a peace group and when another designation was more appropriate.

Congressional Quarterly noted in 1966 the emergence of an "Economic Element" as well as concern for civil rights in the peace movement. Moreover, the electorally inclined

> "Peace" groups do not expect single issue
> campaigns by candidates they support. Some
> [thus not all], however, do require a candidate
> to place primary stress on the Viet Nam war as
> a condition for support.[80]

Not only did other issues divert attention from peace efforts, but also there were divergent views on peace itself. Some peace groups focused on Vietnam. But, as the early Congressional Quarterly study and Thayer indicate, the first anti-Vietnam War groups included pre-existing organizations with a historical interest in peace.[81] Some of these, Thayer

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[78]Central Committee of Correspondence, Mailing List of Movement Organizations: Against the War in Vietnam, For Radical Social Change (Philadelphia: Central Committee of Correspondence, July, 1971).

[79]Horowitz, op. cit. (n.23), p. 5.

[80]"CQ Fact Sheet...," loc. cit. (n.39a), pp. 1399, 1398.

[81]Ibid., pp. 1398ff. Congressional Quarterly goes back to 1962 efforts provoked by the Berlin and Cuban crises. Thayer goes back much further than that and provides a much broader

notes, had an even broader concern for general foreign policy question. And, carrying breadth still further, Thayer points out that, in one sense, peace groups contained "hawks" as well as "doves": All Americans wanted peace. Some were hawks who saw peace as a product of strength and vigorous action; others were doves who saw things from an opposite perspective.[82]

Nevertheless, it seems fair to say that most groups known as peace groups were more likely to see themselves as doves than as hawks. But this does not take us very far because there were deep dove disagreements. In a detailed analysis of the debate over the Vietnam War, Stephen Garrett argues that the hawk-dove dichotomy was much too simplistic. For example, among doves there were disagreements over whether the original Vietnam intervention was justified as well as on what to do afterwards.[83] And as far back as February, 1965, the Gallup Poll noted gradations from "superdoves" to "superhawks."[84]

In addition to differences over ideas and issues, the peace movement attracted people of diverse backgrounds. Beisner says that

> leaders of the doves have not been...a
> homogeneous flock....American policy has

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context for peace activities than Vietnam. See op. cit. (n.22), chs. 16, 17, esp. 17. See also Horowitz, op. cit., passim, and esp. ch. 4.

[82]Thayer, op. cit., pp. 456-457.

[83]Garrett, loc. cit. (n.38), pp. 430-481.

[84]George Gallup, "Public Opinion and the Vietnam War, 1964-1969," The Gallup Opinion Index, Report Number 52 (October, 1969), pp. 2-3. According to Gallup a fairly stable 60 percent were between the categories of superdove and superhawk.

been attacked by some of the most
impeccable representatives of the
"establishment," side-by-side with some
of the most scorned and rebellious ele-
ments in American society.[85]

But this does not make Beisner as pessimistic as Horowitz about the possibility of rendering a definition. Noting that "Doves...have adopted various positions on the war in Vietnam," he nevertheless uses the term

to describe those critics who favor de-
escalation over escalation, urge a compromise
peace, and base their recommendations on the
conviction that American intervention was ill-
conceived and has been poorly executed.[86]

It should be recalled, of course, that Garrett shows that there were people known as doves who thought that the American intervention was justified. Others omitted consideration of war origins and confined definitions to what should be done given the fact of American fighting in Vietnam. For example, Gallup described "superhawks" as those who favored "all-out military escalation using nuclear bombs if necessary," and "superdoves" as those who wanted "to withdraw immediately."[87] According to Congressional Quarterly.

Though divided on many points, these
["peace"] candidates appear united in their
insistence that the United States either
withdraw entirely or drastically curtail its
military operations against Communist military

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[85]Beisner, loc. cit. (n.41, ch. I), p. 194.

[86]Ibid., p. 188.

[87]Gallup, loc. cit. For an example of usage, see: "The Superhawks," Editorial, The Washington Evening Star, October 4, 1966, in United States Congress, Congressional Record, 89th Congress, 2nd Session, Vol. 112, Part 19 (October 5, 1966), p. 25214.

action in Viet Nam.[88]

How than are we to define terms here? We must always
be aware that "Anti-war organization is an amorphous, almost
amoeba-like phenomenon....[T]he peace movement is fraction-
alized and atomistic."[89] Skolnick observed:

> ...the peace movement does have some broad
> continuities and tendencies...but...its loosely
> participatory, unstructured aspect can scarcely
> be overestimated. Would-be spokesmen can be
> found to corroborate any generalization about
> the movement's ultimate purposes, but the spokes-
> men have few constituents....[90]

Some terms, of necessity, have to be used to describe
those opposed to the Vietnam War. **For the purposes of this
dissertation, war opposition refers to** those who a) in a
time of escalation favored de-escalation, and b) in a time of
Administration de-escalation, favored even more rapid de-
escalation.[90a] But the reader is cautioned that peace move-
ment, anti-war movement, dove, peace, advocate, peace proponent,
and other similar terms are shorthand references to all kinds of
people. These people had some very different ideas on war
origins, methods, legality, practicality, morality, acceptable
peace terms and plans, and political philosophies.

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[88]"CQ Fact Sheet...," loc. cit., p. 1398.

[89]Horowitz, op. cit., pp. 24, 37.

[90]Skolnick, op. cit., pp. 30-31.

[90a]It is hoped that this definition deals adequately with
the criticism that to label as a dove anyone who favors de-
escalation is to call Richard Nixon a dove, which is certainly
not a view in which most doves would concur. See "The Week,"
National Review, Vol. 21 (December 2, 1969), p. 1202. This is
similar to Thayer's reference to hawks as peace advocates.
(p. 111.)

War Opposition: A Left of Center Position

Regarding peace movement fragmentation and political philosophy, Garrett finds it to be "a striking fact of the debate that some of the most bitter discussion...occurred not between self-styled 'liberals' and 'conservatives' but among those who consider themselves liberals."[91] And Beisner detected few conservatives among doves.[92]

Whether it is true that anti-war schism was left of center schism and that there was little conservatism among war opponents is crucial to the dissertation. This, the reader will recall, is an analysis of the complaint that the American political system is biased against left of center positions. Restated, the principal Vietnam hypothesis is that the system, far from being biased against doves, actually could have been used by them to bring about peace much sooner than was the case. If those with this objective were basically on the political right, the Vietnam hypothesis would scarcely show that the system is unbiased against the left. Thus, if the Vietnam War is to be the major example refuting the proposition of systemic bias against the left, it must be established that war opposition was primarily a trait of people leaning toward the left rather than the right.

It has been pointed out (pp. 27-29) that the practice of this thesis is to define terms in accordance with their actual

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[91]Garrett, loc. cit., p. 481n. It is not altogether clear from the context whether Garrett refers to a split among anti-warriors or to a split between cold war and anti-war liberals.

[92]Beisner, loc. cit., pp. 194-5.

usage. For example, "left" was defined to include "liberals" and "radicals" actually known as such (pp. 31-33). In addition to the statements by Beisner and Garrett, there are numerous examples of common usage which place war opposition on the left and war support on the right. Here, we cite but a few.

Regarding anti-war schism and buttressing Garrett, Joseph Lelyveld of The New York Times wrote in April, 1970: "there has been a deepening cleavage over strategy and ideology within the peace movement between its liberal center and its increasingly radical left."[93] Thayer has been quoted (p. 81) as attributing anti-war violence to "New Leftists." Prosecution of the war was cited by Lockard as an example of "perverted priorities."[94] In fact, opposition to the war was part and parcel of "new priorities" thinking, which was clearly associated with the left.[95]

According to Norman C. Miller of The Wall Street Journal, House districts with "a higher degree of conservatism...[tend] to bring hawkish pressure on Congressmen."[96] On the other hand, he describes Common Cause as "liberal-leaning" in discussing its "pressure on behalf of the soft Mansfield end-the-war amendment" before Congress in 1971.[97] A year earlier, the tougher and more famous McGovern-Hatfield Amendment to cut off

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[93]Lelyveld, loc. cit. (n.64).

[94]Lockard, op. cit. (n.5, ch. I), pp. vii, 2-3, passim.

[95]See ch. I, passim and pp. 2-5, 8-11, 20-21, 26-27.

[96]Loc. cit. (n.13)

[97]Norman C. Miller, "Vietnam Debate: Keep Your Eye on the House," The Wall Street Journal, June 24, 1971, p. 8. See also the Common Cause Statement, ch. I., p. 5.

funds for the war by a date certain was lobbied for by
numerous newly created organizations. Among them was Project
Pursestrings, which, in the words of David E. Rosenbaum of
The New York Times, was formed by a "bipartisan group...of
liberal political activists...."[98]

In an article on Senate debate on the McGovern-Hatfield
Amendment, as well as the much milder Cooper-Church Amendment,
Levin repeatedly refers to amendment supporters as liberals
and amendment opponents as conservatives.[99] Perhaps most
conclusive are the stands on the amendments by groups widely
recognized as liberal and conservative. Two such groups are
the Americans for Democratic Action (ADA) and the Americans for
Constitutional Action (ACA). A purpose of the former is
"restoring the influence of liberalism" and a goal of the latter
is the election of "constitutional conservatives."[100] "In 1970
the ADA helped draft and fought hard for...the Hatfield-McGovern
Amendment...and...the Cooper-Church amendment...."[100a] Thus,
on key roll call votes, the ADA took stands in favor of the
amendments and against attempts to weaken them. The ACA took

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[98]David E. Rosenbaum, "Young Lobbyists Push War Funds
Ban," The New York Times, May 14, 1970, p. 21.

[99]Levin, loc. cit. (n.9), passim. An example: "Senate
Liberals [sic]...faced...the task of defending the McGovern-
Hatfield amendment..." Ibid., p. 81. See also n.61.

[100]"CQ Voting Study: Pressure Groups Rate Each Senator,
Representative," Congressional Quarterly Weekly Report,
Vol. 29 (April 16, 1971), pp. 863, 864.

[100a]Congressional Quarterly Almanac, 1970 (Washington:
Congressional Quarterly Inc., 1971), Vol. 26, p. 1200.

just the opposite positions.[101]

In addition to groups, there are publications recognized as left or right of center. They include The Progressive, The New York Review of Books and The New Republic[102] on the left and The National Review on the right. Over the years, the latter consistently has supported the war and the former three, with equal consistency, has been opposed.[103]

It seems undeniable that the anti-war position was espoused **primarily** by those on the left side of the political spectrum. Two caveats are in order: First, the word "primarily" is stressed because generalizations sometimes have exceptions. For example, what are we to make of organizations such as

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[101]"CQ Voting Study...," loc. cit., CQ Roll Call 208, p. 868; Roll Calls 139, 145, p. 869; Roll Calls 175, 180, 258, p. 870; Roll Call 117, p. 873.

[102]Donald R. Matthews, U.S. Senators and Their World (Chapel Hill: The University of North Carolina Press, 1960), pp. 276-8 uses The New Republic positions as a basis for an "Index of Conservatism-Liberalism." Matthews says of The New Republic: "The magazine...is a widely acknowledged and responsible spokesman of the 'liberal' point of view." Ibid., p. 277.

[103]Some samples are the following: "The Sands Are Running," Editorial, National Review, Vol. 21 (July 29, 1969), pp. 735-737 argues against a precipitous withdrawal and supports the Vietnamization policy. Compare this with the declaration that "We Can't Wait Until 1973," Editorial, The New Republic, Vol. 164 (March 13, 1971), pp. 7-8. See also, "Into the Breach," Editorial, The New Republic, Vol. 161 (September 20, 1969), pp. 1. 5-6. A sample of The Progressive's view is cited in n.15 above. Of The New York Review of Books, Dennis Wrong writes: "...the NYR [sic] has become, in effect, a vehicle of what might be called the haut New Leftism....Vietnam became... the most frequent subject of the NYR's political journalism. In attacking...the deepening American involvement in the spring of 1965, the NYR undoubtedly helped to mobilize intellectuals against the war...." "The Case of 'The New York Review,'" Commentary, Vol. 50 (November, 1970), p. 51.

Business Executives Move for Vietnam Peace[104] and Advertising People Against the War?[105] It might be supposed that members of such organizations would tend to the conservative side, thus refuting the war-opposition-equals-left idea.[106] Before accepting this supposition, however, we must consider the possibility of exceptions also to the conservative businessman stereotype. Liberal businessmen have not been unheard of. The leaders of Business Executives Move for Vietnam Peace included Henry E. Niles, Marriner Eccles, and J. Sinclair Armstrong.[107] There is evidence of liberal leanings by these men,[108] as well

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[104]One brief description of their activities is: Marylin [sic] Bender, "Businessmen Against the War; Executives' Group Revives, Taking Aim At Congress," The New York Times, January 3, 1971, p. 2F.

[105]See "Admen band together in antiwar compaign [sic]," Broadcasting, Vol. 79 (June 15, 1970), p. 48; "Adfolk to Aid Anti-War Push by Business Group," Advertising Age, Vol. 41 (July 6, 1970), p. 63.

[106]Actually, regarding advertising people at least, their own publication, Advertising Age, made a somewhat different criticism. An editorial about the Committee to Help Unsell the War remarked: "The whole episode carries the same old adman image---that of one who waits to see which way the wind is blowing before committing himself publicly and then coming out somewhere short of four-square on the issue." In other words, admen are unprincipled political eunuchs---neither left nor right---who wait until it is safe to jump on the bandwagon. See "Admen and the war," Advertising Age, Vol. 42 (June 21, 1971), p. 12.
Whatever the merits of this criticism, it cannot be made of Business Executives Move for Vietnam Peace, which was formed back in 1967. See "Pressure Points," Congressional Quarterly Weekly Report, Vol. 25, September 29, 1967, p. 1978.

[107]Bender, loc. cit.

[108]Niles is described as "a Quaker and an independent Democrat...the father-in-law of Staughton Lynd, the radical historian and civil rights and peace organizae." Ibid. For the views of Marriner Eccles, see his "Vietnam---Its Effect on the Nation," Address at the Commonwealth Club of California, August 11, 1967; reprinted in United States Congress,

as by others.[109] So we may accept the possibility that there
were exceptions to the proposition that war opposition was
primarily on the left; but at the same time, we may also note
that some of them were cancelled out by exceptions to the
exceptions.

A second caveat is this: while those opposed to the war
were for the most part on the left,[110] not all those on the
left were against the war. Here we come up against the problem
of the "Cold War Liberal." Many have commented on the problem.
Levin's description should suffice:

> ...liberal thought was in a period of
> painful transition from an earlier globalist
> stance of its own to a more limited...con-
> ception of America's role in the world....As
> the Johnson administration continued to

Congressional Record, 90th Congress, 1st Session, Vol. 113
(Daily Edition; August 25, 1967), pp. S12247-9. As for
Armstrong, a former Chairman of the Securities and Exchange
Commission, this writer spoke with him on November 6, 1969.
Armstrong said that the concern of his organization went
far beyond "merely" ending the Vietnam War. He wanted to
improve the "quality of life in America." This included
ending poverty and, in general, "reordering priorities."
This, of course, is part and parcel of liberal jargon.

[109]See, for example, Tristram Coffin, Washington
Watch, Number 84 (September 3, 1970), p. 1. This is a
private newsletter "Circulated To Members of Business
Executives Move for Vietnam Peace and New National
Priorities [sic]" available at 901 N. Howard Street,.
Baltimore, Maryland 21201. Coffin quotes with approval a
statement by John Lindsay on the need for resources to
"fight hunger, poverty and disease and to save a poisoned
environment."

[110]We may repeat that some of the early objectors
to getting involved in the Vietnam War were southern
conservatives (e.g., Senators Russell and Stennis). Once
we were involved they staunchly supported the war. (See n.31.)

>escalate the war in Vietnam in the late 1960's...
>liberal unity in foreign affairs disintegrated.
>Some liberals...were not deterred from their
>earlier globalist vision and tended to find new
>allies among conservative Republican and Southern
>Democratic proponents of the large policy and to
>defend protracted war in Southeast Asia....Other
>liberals...were horrified by Vietnam and... [t]hese
>Left liberals began the search...for a different
>foreign policy....[111]

The Remainder of the Vietnam Discussion

To demonstrate that the peace movement could have ended the war no later than 1970, in the following chapters, we shall: (A) Present an alternative plan of action using some of the very tactics that liberals have claimed bias the system against them. (B) Show why the Spring of 1970 was the best (although certainly not the only) time to put this plan into effect. (C) Explain why the proposed plan was never used. This will involve two things: 1) and analysis of what actually was done by peace advocates and why they did not suceed in ending the war sooner; and 2) an analysis of the arguments against the proposed plan and a statement of why this writer thinks these arguments are not insurmountable.

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[111]Levin, loc. cit. (n.9), p. 81.
The Americans for Democratic Action, cited (p. 116) as an example of an organization with liberal positions, itself went through the "period of painful transition" referred to by Levin. In 1968, there were a number of resignations produced by the decision to oppose President Johnson's renomination. See "ADA" Congressional Quarterly Weekly Report, Vol. 26 (February 16, 1968), p. 301; Marjorie Hunter, 'M'Carthy Backed by Board of A.D.A.," The New York Times, February 11, 1968, pp. 1, 39. It should be noted that "While this is the first time that the national board has directly opposed the renomination of the President, both the board and the organization's membership are strongly on record as opposing Mr. Johnson's war policy." Ibid., p. 39. Nevertheless there were strong dissents.

CHAPTER III

HOW AND WHY THE VIETNAM WAR COULD HAVE BEEN ENDED BETWEEN MAY AND NOVEMBER 1970

> No Money shall be drawn from the Treasury,
> but in Consequence of Appropriations made by Law... [1]
> ---The United States Constitution

> The Congress shall have Power...To raise and
> support Armies, but no Appropriation of Money to
> that Use shall be for a longer Term than two Years. [2]
> ---Ibid.

> Every Bill which shall have passed the House
> of Representatives **and the Senate**, shall, before it
> becomes a Law, be presented to the President of the
> United States.... [3]
> ---Ibid.

> All Bills for raising Revenue shall originate
> in the House of Representatives; but the Senate may
> **propose or concur with Amendments as on other Bills.** [4]
> ---Ibid.

> ...a Majority of each [House] shall constitute
> a Quorum to do Business.... [5]
> ---Ibid.

> Each House may determine the Rules of its
> Proceedings.... [5a]
> ---Ibid.

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[1]The Constitution of the United States of America,
Article I, Section 9, Clause 7

[2]Ibid., Article I, Section 8, Clause 12.

[3]Ibid., Article I, Section 7, Clause 2.

[4]Ibid., Article I, Section 7, Clause 1.

[5]Ibid., Article I, Section 5, Clause 1.

[5a]Ibid., Article I, Section 5, Clause 2.

When a Senator desires to speak, he shall
rise and address the Presiding Officer...and the
Presiding Officer **shall recognize** the Senator
who shall first address him....
---Standing Rules of the Senate[6]

...at any time a motion signed by sixteen
Senators, to bring to a close the debate upon
any...matter...before the Senate...is presented
...the Presiding Officer shall, without debate,
submit...the question:
"Is it the sense of the Senate that the debate
shall be brought to a close?"
And if that question shall be decided in the
affirmative by two-thirds of the Senators present
and voting...[t]hereafter no Senator shall be
entitled to speak in all more than one hour on the
...matter...before the Senate....
---Ibid.[7]

The Senate of the United States shall be
composed of two Senators from each State, elected
by the people thereof, for six years....
---The United States Constitution[8]

...they [the Senators] shall be divided...
into three Classes...so that one third may be
chosen every second Year....
---Ibid.[9]

...in the spreading protest against...United
States...involvement in Indochina and the...shooting
of...Kent State...students...More than 200 colleges
and universities were closed....Some 400...were
affected by strikes....Demonstrations continued to
curtail classes at hundreds of other schools.
---The New York Times[10]

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[6]Standing Rules for Conducting Business in the Senate
of the United States, Rule XIX, Section 1; in United States
Senate Document 91-1, 91st Congress, 1st Session (1969),
p. 21. Bold type added.

[7]Ibid., Rule XXII, Section 2, pp. 24-25.

[8]Loc. cit., Amendment 16.

[9]Ibid., Article I, Section 3, Clause 2.

[10]Robert D. McFadden, "Students Step Up Protests on War,"
The New York Times, May 19, 1970, p. 1.

> Suddenly, in just about a week's time, national trauma has catapulted colleges and universities into an active, overriding political role....
> ---<u>Ibid</u>.[11]

> There was a whole new range of student [sic] and faculty brought into **active** opposition by... Cambodia....We have life-long Republicans...ready to work for Democrats.
> ---Gary Orfield[12]

> At stake is...the success or failure of the experiment called the United States.... A free nation cannot long exist so deeply divided.
> ---Senator Philip A. Hart[13]

> After...invasion of Cambodia there were spontaneous outbursts of rage. It seemed only a brief time before...a national rebellion...would paralyze the whole society....
> ---Stew Alpert[14]

> **Rebellion is in the air.**
> ---Representative Fred Schwengel[15]

<u>What the Peace Movement Should Have Done: An Explanation</u>

Peace advocates should have exerted intense pressure--- including the threat of electoral defeat---primarily but not exclusively upon Senate doves to gain their active participation in or passive support of a filibuster to stop war appropriations.

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[11]William K. Stevens, "What Is a University?" <u>Ibid</u>., p. 9.

[12]Quoted by Trudy Rubin, "Peace groups loosely linked, New Movement aims at Congress; sees funds available [sic], <u>The Christian Science Monitor</u>, May 22, 1970, p. 2. Bold type added.

[13]United States Congress, Congressional Record, 91st Congress, 2nd Session, Vol. 116 (Daily Edition; May 6, 1970), p. S6780.

[14]Stew [sic] Alpert, "Coming Through the 60's," <u>University Review</u>, Number 22, 1972, p. 3. (All the information provided.)

[15]United States Congress, <u>loc. cit</u>., May 11, 1970, p. H4190.

One who becomes convinced that this proposal is sound must also be awed by the magnitude of the Vietnam tragedy. This can be measured by the essentially elementary nature of the elements of the plan.[15a] They are drawn from the Constitution, the rules of Congress, and the political process. It is hoped that the reader will gracefully bear with the following explanation of the obvious.[15b]

Wars cannot be fought without money to buy weapons and pay personnel. According to relevant sections of the United States Constitution (above, p. 122), money may not be spent unless it is duly appropriated by Congress. Defense appropriations are restricted to a maximum of two years. In practice, with certain exceptions, Congress does not appropriate money for more than one year. The fiscal year runs from July 1 to the following June 30. In recent years, the practice further has been for Congress to fail to pass all or most appropriations by the June 30 deadline. To enable the government to pay its bills, Congress has resorted to passing "continuing resolutions." These continue spending authority at the previous year's rates for a very short period of time---a month or two, rarely longer. Each time appropriations expire, Congress, of course, has the opportunity and the power to refuse renewal of appropriations to continue fighting a war such as the Vietnam War.

[15a]Of course, the particular way in which the elements are combined may not be considered elementary.

[15b]On the obvious, see pp. 15-16.

Congress passes appropriations measures in the same manner as it does any other bills---except that money bills, partly by Constitutional mandate and partly by tradition, originate in the House of Representatives. But the approval of **both** the House and Senate is required. Therefore, the failure of the Senate to approve an appropriations bill effectively kills it.[16]

With certain exceptions,[17] Senate rules give each of its members the right to speak indefinitely on matters before it. Debate on a bill lasts as long as any Senator wants to speak. On rare occasions, some Senators will talk endlessly in order to prevent a vote on a bill---in effect, killing it. This is well-known as a filibuster.[18]

There are three ways to break a filibuster. First, the Senate rules provide that two-thirds of the Senators present and voting (often the entire Senate on matters important enough to filibuster)[18a] can vote to close debate (cloture). 67 Senators .

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[16]A comprehensive work on the appropriations process is: Richard F. Fenno, Jr., <u>The Power of the Purse: Appropriations Politics in Congress</u> (Boston: Little, Brown and Company, 1966).

[17]<u>Loc. cit.</u> (n.6), Rule XXII, Section 1, p. 24: "the motions relating to adjournment, to take a recess, to proceed to the consideration of executive business, to lay on the table, shall be decided without debate."

[18]A classic work on the filibuster is: Franklin L. Burdette, <u>Filibustering in the Senate</u> (Princeton: Princeton University Press, 1940). See also nn.67 and 95, ch. VII.

[18a]On June 10, 1964, 100 percent attendance was provided by Senator Clair Engle (D., Calif.) who had but fifty days to live. Dying of a brain tumor that had been operated on, he had himself wheeled into the Senate. Unable to speak, he weakly hand-signaled his vote for cloture on the Civil Rights Act of 1964. See <u>The New York Times</u>, June 4, 1964, p. 18; June 9, 1964, p. 18; and June 11, 1964, p. 21.

comprise two-thirds of the Senate. If 34 vote against cloture, that leaves only 66 and a motion to end debate fails. In short, 34 Senators can prevent passage of any bill, even a war appropriations bill desired by each of the other 501 Members of Congress.

Second, a compromise may be arrived at. The filibusterers fear cloture may be invoked; their opponents fear cloture may fail. So the debaters concede the passage of something; the bill's advocates accept less (sometimes far less) than they want.[19]

Third, 24 hour per day Senate sessions may be scheduled. It is obvious that one or two Senators cannot last very long in trying to speak for 24 or 12 hours per day. However, when more Senators join the filibuster, around-the-clock sessions rapidly los their effectiveness. Each of six Senators must speak only four hours per day; each of twelve has to talk only two hours per day. A filibuster can endure indefinitely once the individual speaking quota is reduced to manageable proportions.

In practice, the proportions are reduced yet more. There are many devices for taking up time. A friendly Senator may interrupt a filibustering colleague for the purpose of asking lengthy questions, thus providing a respite. By unanimous consent, the Senate may decide temporarily to suspend consideration of the filibustered matter in order to take up other

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[19]An example was the Civil Rights Act of 1957. An interesting account of the effect of the filibuster and other parliamentary devices on that legislation is: Howard E. Shuman, "Senate Rules and the Civil Rights Bill," The American Political Science Review, Vol. 51 (December, 1957), pp. 955-975.

pressing business. The deadliest device of all is the quorum call.

The Constitutionally mandated quorum to do business is a majority of each house. More often than not, this provision is ignored or circumvented.[20] But when it suits his purposes, a legislator may demand a quorum call. This occurs frequently during filibusters. If 51 Senators do not respond, the Senate recesses. This is in perfect harmony with the dilatory goals of the filibusterers. Thus their opponents must be present at all times to maintain the quorum. The debaters need be in the Senate only during their speaking turns. Hence, once the filibusterers reach a certain number, not only can they talk forever without much strain, but also it is the Senators trying to break the filibuster with 24 hour sessions who get worn out.[21]

What emerges from the discussion so far is this: Each time appropriations expired during the war, it could have been

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[20]In late 1967, a major attack on welfare was passed with but a handful of Senators present. The late Senator Robert F. Kennedy delivered a blistering denunciation of the procedure and of Senator Russell Long in particular. But nothing could be done at that time. A Senator must always be present to protect the rights of his group by at least demanding a quorum call. See United States Congress, Congressional Record, Vol. 113 (Daily Edition; December 14, 1967), pp. S18645-7, S18747-9.

[21]The late Lyndon B. Johnson was once described as "by general agreement the most skillful and successful [Senate Democratic leader] in the memory of living observers." Ralph K. Huitt, "Democratic Party Leadership in the Senate," The American Political Science Review, Vol. 55 (June, 1961), p. 337. Nevertheless, Johnson met with failure when he tried to exhaust Southerners filibustering the Civil Rights Act of 1960. Senator Richard B. Russell organized a three platoon system. His troops were split into groups of six. Each spent only one day out of three in the Senate. On the other hand, haggard and bleary-eyed Northerners had to be present at all times to answer quorum calls, which were requested throughout the nights. The tired

ended by two groups of Senate doves, once active and one passive. Group I, about 6 to 12, would have filibustered against war and/or other appropriations. (It is a mistake to focus solely on war appropriations. Blocking other money or even any or all presidentially-favored non-money bills in addition to or as a substitute for war funds would have increased the power of the anti-warriors and helped in dealing with other problems as well. These will be explained in another context.[22]). Group

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Northerners pressed a premature cloture motion; predictably it failed. Later, under threat of a renewed filibuster, a much watered-down bill was passed. See Daniel M. Berman, A Bill Becomes a Law, The Civil Rights Act of 1960 (New York: The Macmillan Company, 1962), pp. 59-61, 64-66 and passim.

It is no wonder that Senate Majority Leader Mansfield resisted demands for 24 hour sessions to break the three month long filibuster against the Civil Rights Act of 1964. The quest of cloture rather than physical exhaustion was the method used to break the filibuster. Mansfield felt that 24 hour sessions would have been futile, and also did not want on his conscience the sudden illness or death of any aging Senator who could not take the strain. (The latter would more likely be a Northerner trying to maintain the quorum than a Southerner whose strategy required long absence.) See "Procedures Crucial in Expected Civil Rights Filibuster," Congressional Quarterly Weekly Report, Vol. 22 (February 21, 1964), pp. 355-356; E. W. Kenworthy, Humphrey Asks Speek on Rights; Favors 24-Hour Sessions If Voting Does Not Start," The New York Times, April 18, 1964, p. 17.

It should be noted that, in 1964, Senator Mansfield opposed the objectives of the filibuster. As a long-standing dove, although opposing filibustering in general, he would have supported the objectives of an anti-war filibuster. If Mansfield refused to have around-the-clock sessions to break a filibuster the objectives of which he opposed, it seems very unlikely that he would have scheduled such sessions to deal with a filibuster to achieve objectives he supported. This means that, while the text refers to the maximum number of hours that would have to be consumed, in practice such consumption would not be necessary. In practice the filibusterers would have to consume from 10 to 16 hours per day at most. In short, it is unlikely that anti-war filibusterers would have had to expend the theoretical maximum energy. Also, it is likely that there would have been more than the theoretical minimum number of activists.

[22] "The only effective action, [Senator Eugene McCarthy] suggested, was to get 25 to 30 Senators together to filibuster against all Nixon bills, musing that 'we could bring the government down in six months.'" The New Democrat quoted in Tristram Coffin, Washington Watch, Number 84 (September 3, 1970), p. 2. (Fully cited in II-n109.)

II, 28 to 22, would have done no more than vote against cloture.

What is yet to emerge is a means by which the appropriate Senators could have been induced not to appropriate.

In general, there are three conceivable sources of a legislator's action: internal, external, and a combination of the two. Sometimes a lawmaker acts purely on his own initiative; more often, others cause him to do something. They do this by a) persuasion or b) pressure. Finally, there are occasions when he may induce a docile interest group to start generating some pressure, so that his action will be supported by other legislators.[23]

During the Vietnam War: A) dove Senators could have ended the war with a filibuster on their own initiative, or B) a few dedicated doves could have begun a filibuster and urged their followers to pressure enough other doves to go along to produce success. Of course, this did not happen. Finally, dove constituents could have tried to persuade dove Senators that, since they opposed the war, using their actual power to end it would be the proper thing to do. The writer tried the latter course. (n.138; pp. 177-178.) He found that Senators thought the proper thing required courage and leadership, qualities always in short supply on Capitol Hill, and indeed, everywhere else. The main reason courage was required was that to filibuster war appropriations was to risk an intensely hostile public reaction which could lead to electoral defeat.

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[23]See Lewis Anthony Dexter, "The Representative and His District," Human Organization, Vol. 16 (Spring, 1957), pp. 2-13, esp. pp. 10-11.

Internal initiative and external persuasion being ineffective,[23a] only one source of filibustering remained: **external** pressure.

"Our political system," Lester Milbrath reminds us, "was designed to register...pressures, and we consider it proper when public officials respond to them."[24] An examination of the work of a chief designer of the Constitution supports Milbrath's proposition. Observing that government is "the greatest of all reflections on human nature," James Madison proposed to build a government not only to take into account "the defect of better motives" but actually to use that defect for beneficial purposes. For example, "the constant aim is... that the private interest of every individual may be a sentinel over the public rights."[25] In other words, with no guarantee of eternally high motives,[26] the system was constructed so that it is self-service to perform public service.

"Pressure is effective," says Milbrath, "when it is backed by sanctions. The sanction with the greatest impact on the public official is the decision of the voters to support him

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[23a]For the sake of clarity of the argument here, this point is oversimplified. See chapter VI for an explanation of the idea that possibly a few Senators could have been persuaded.

[24]Lester W. Milbrath, The Washington Lobbyists (Chicago: Rand McNally & Company, 1963), p. 347.

[25]Alexander Hamilton, James Madison and John Jay, The Federalist Papers (New York: Mentor Books, 1961), Number 51, p. 322.

[26]"Enlightened statesmen will not always be at the helm." Ibid., Number 10, p. 80.

or not."[27] The vote sanction is greatest because of the ubiquity of ambition, a selfish motive recognized by writers from Madison[28] to Joseph Schlesinger.[29] Referring to "the ambitions of politicians [as] the source of politics,"[30] Schlesinger states: "Politics thrive [sic] on the hope of preferment and the desire for office....[T]he desire for election and, **more important,** for **re**election becomes the electorate's restraint upon its public officials."[31] Or, as David Truman tersely says, "defeat at the polls [is] a penalty that no elected official can be expected to welcome."[32]

It follows, both in logic and in fact, that office-holders do what they think necessary to hold their offices. It further follows that a group <u>can exert great pressure on</u>

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[27]Milbrath, <u>loc. cit.</u> Milbrath adds: "All other forms of pressure derive meaning <u>only</u> as they are converted into voter pressure." <u>Ibid.</u>, emphasis added.

[28]"Ambition must be made to counteract ambition." Madison in Hamilton, <u>et al.</u>, <u>op. cit.</u> Number 51, p. 322. It should not be supposed that the framers took a totally negative view of human nature. Hamilton, for instance, observed: "The supposition of universal venality in human nature is little less an error in political reasoning than the supposition of universal rectitude." Moreover, he proposed to "view human nature as it is, without either flattering its virtues, or exaggerating its vices...." <u>Ibid.</u>, Number 76, p. 458.

[29]Joseph A. Schlesinger, <u>Ambition and Politics, Political Careers in the United States</u> (Chicago: Rand McNally & Co., 1966).

[30]<u>Ibid.</u>, p. 195.

[31]<u>Ibid.</u>, pp. 1-2. Emphasis added. Schlesinger also says: "A political system unable to kindle ambitions for office is as much in danger of breaking down as one unable to restrain ambitions." <u>Ibid.</u>, p. 2.

[32]David B. Truman, <u>The Governmental Process, Political Interests and Public Opinion</u> (New York: Alfred A. Knopf, 1951), p. 333.

<u>incumbents if it can plausibly threaten their **defeat**</u>, even though this defeat does not result in the **election** of friendlier alternatives. What the peace constituency should have done is now evident.

If dove Senators thought that filibustering war appropriations would cost them their seats, this idea had to be reversed. It had to be made clear that any dove Senator who <u>refused</u> to filibuster or at least support a filibuster would face <u>virtually certain defeat</u>.

The ease of guaranteeing virtually certain defeat derives from another elementary facet of the American political system: It is a two party system with plurality, winner-take-all elections. This means that normally a given office is sought only by two major party candidates (say A and B).[33] Sometimes a third or minor party candidate (C) runs. Whatever the number of candidates, the one receiving the most votes wins and the other(s) get nothing.[34] Usually candidates other than A and B will receive relatively few votes. In any event, the <u>minimum</u> formula for victory is this: the total number of votes divided by the number of candidates, plus one vote. In a three candidate

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[33]For more extended discussions of the nature and causes of the two party system, see: Austin Ranney and Willmoore Kendall, <u>Democracy and the American Party System</u> (New York: Harcourt, Brace & World, Inc, 1956), ch. 7; E. E. Schattschneider, <u>Party Government</u> (New York: Rinehart & Company, Inc., 1942), ch. IV; and V. O. Key, Jr. <u>Politics, Parties, & Pressure Groups</u> (Fifth Edition; New York: Thomas Y. Crowell Company, 1964), ch. 8.

[34]For a discussion advocating and explaining a system in which the losers do not lose, but instead get a share of government (i.e., proportional representation), see Lakeman, <u>op. cit.</u> (n.55, ch. II.)

election, for example, to win C must receive <u>at least</u> 33 1/3 percent of the votes, plus one.[35]

On the other hand, if the goal is not victory, but rather the defeat of A or B, C needs fewer votes. Consider a situation in which, without C, A would receive 53 percent and B 47 percent. Consider also that C's issue positions are close to A's and far from B's. C will most likely take votes away from A. If so and if C gets no B votes, this result will defeat A: C, 7 percent; A, 46 percent; B, 47 percent. In real life, of course, C will almost certainly draw a few B votes. But the principle is still the same: In order to defeat another candidate, C needs far---<u>far</u>---fewer votes than in order to win.[36]

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[35]If C receives 33 out of 100 votes, 67 <u>must</u> be divided between A and B and one of them must receive at least 34 votes. Of course, here we are referring to a minimum number. Often C will need more than that. For example, if A gets 40 votes, C obviously needs 41, leaving B with 19, an unusual but possible event.

[36]Consider this situation: A group decides to go on a picnic. In the interest of economy, the members decide to purchase only one kind of meat. They enter a meat store and the proprietor informs them that he has ham and roast beef, whereupon they decide to take the roast beef. But the proprietor then discovers that he has turkey too and so informs the group. After discussion, the leader informs the storekeeper of this decision: "If you only had ham and roast beef, we would have taken the roast beef. But in view of the fact that you also have turkey we will take the ham." Although the storekeeper's cigar fell to the floor, it shouldn't have. The group contained 25 members schooled in American voting practice. On the first ballot the vote was 13 for roast beef, and 12 for ham. On the second ballot, the vote was 11 for roast beef, 12 for ham, and 2 for turkey.
This story is this writer's adaptation of an anecdote in Herman Kahn, <u>On Thermonuclear War</u> (Princeton: Princeton University Press, 1960), pp. 121-122.
In real life the ham victory is illustrated many times. In 1948, for example, New York State voters cast 2,780,240 votes for Harry Truman, 2,841,163 votes for Thomas Dewey and 509,559 votes for Henry Wallace. Probably, most Wallace voters

Now the final element of the proposal is in place. All
we need do is substitute pro-filibuster candidate for C, dove
Senator who refuses to use his power for A, and non-dove major
party opponent for B. In other words, in 1970, independent
candidates committed to using _all_ available means to end the
war should have been run against any recalcitrant dove Senator
facing a re-election campaign. (The problem of Senators not
running will be considered later.) This would have assured the
defeat of the anti-filibuster dove Senator because both he and
the independent would have divided the votes of the liberal
anti-war constituency. Whether the votes would have been evenly
split is speculative and secondary. The important point is that
enough votes would have been taken from the incumbent to defeat
him, giving probable victory to his major party rival or remote
success to the independent. Facing the spectre of probable
defeat, the incumbent would have been very highly motivated to
cooperate in a filibuster.

Two qualifying points must be made here. The foregoing
discussion focuses on the general election. This does not
preclude the option of opposing recalcitrant dove Senators in
primary elections. For reasons to be noted, this dissertation
is set in May, 1970. By that time, it was too late in some

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would have given their votes to Truman if Wallace had not run.
So the electorate of New York said in effect: "If we have a
choice between Truman and Dewey, we'll take Truman. But in view
of the fact that we also have a choice of Wallace, we'll take
Dewey." Other minor party candidates garnered roughly 46,000
votes in New York State. The figures are in Harry Hansen, ed.,
The World Almanac and Book of Facts, 1962 (New York: The
New York World-Telegram and The Sun, 1962), p. 436.

states to use the primary option. But, in principle, the main idea is to have used as much electoral pressure as possible on the incumbents---in primaries, in general elections, and even in write-in campaigns if necessary. And, while this discussion views 1970 as the most auspicious time the proposal herein made could have been used at any time during the war.

A second qualifying point is that the concept of running peace candidates against peace Senators does not preclude the strategy of striving to defeat hawks. Possibly this tactic could have gotten some of them to change their stands. But hawks had their own constituencies which of course would not be split by a peace candidate. Nevertheless, pro-filibuster candidates might have defeated a few hawks with not very safe seats.

In conclusion, this section has shown how peace proponents could have gotten what they wanted. That they never knew precisely what they wanted is a problem the analysis of which we postpone. (But see also above pp. 109-13.) Here we merely point out that obviously they desired an end to the war. But how fast and on what terms? Should there have been negotiation or immediate unilateral withdrawal of troops regardless of consequences? This writer hypothesizes that his strategy could have been used successfully to demand the most extreme policy: immediate withdrawal of troops as soon as logistically possible. The writer takes Senator Fulbright at his word of October 1, 1969: "I do not believe there is any justification for another American to die in that unhappy land."[37]

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[37]United States Congress, Congressional Record, 91st Congress, 1st Session, Vol. 115 (Daily Edition; October 1, 1969), p. S11627.

What the Peace Movement Should Have Done: Summary

The argument thus far may be summed up by the following propositions:

1. Wars cannot be fought without money.

2. According to the Constitution, Congress must approve money expenditures.

3. For Congress to approve, the Senate must approve.

4. The Senate cannot approve as long as any Senator wishes to debate the matter.

5. The votes of two-thirds of the Senators present and voting are required to close debate.

6. If 34 Senators oppose cloture, the required two-thirds cannot be reached even when all one hundred Senators vote.

7. During the war, an appropriations filibuster never was supported by 34 Senators. They feared electoral retaliation.

8. Human nature being what it is, most Senators, like most elected officials, have an intense desire for re-election and will do what is necessary to assure it. Therefore:

9. Those who can defeat an incumbent have an extremely effective and powerful weapon to use against him.'

10. Such a weapon is provided by the existence in the United States of a two-party system with plurality, winner-take-all elections.

11. A third party candidate appealing to the same voters as a major party incumbent can take away from him enough ballots to throw the election to the major party challenger.

12. By threatening to run and/or actually running pro-filibuster candidates against dove Senators, the peace movement

could have compelled a war-ending appropriations filibuster.

The major proposal of the dissertation has been presented. The remainder of the discussion on Vietnam must be devoted to convincing the reader that the proposal would have been viable if used. This involves, affirmatively, a presentation of the proposal's advantages, and, negatively, a refutation of arguments against the plan.

In the remainder of this chapter, we shall present a statement of the general advantages, an explanation of the particular advantages that existed in 1970, and, finally, a summary of objections to the plan. The following chapters will deal with these objections.

Generally Existing Advantages of the Proposal

It was once said that democracy is the worst form of government except for all the others. Similarly, the _major advantage_ of the strategy just presented is that it is better than all the others used or proposed during the Vietnam War.

It is better because it is easier to achieve. It is easier because, among other things, it relies upon: 1) _blockage_ of legislation rather than passage, and 2) _defeat_ of instead of election.

The legislation to be blocked could be any legislation (p. 128.) But one type of legislation is "must" legislation. Moreover, appropriations automatically expire and require renewal on a regular and frequent basis. (p. 124.) To take some examples ignored at the height of the Vietnam War: In 1968, regular appropriations expired on June 30 and continuing

spending authority terminated on October 31, December 6, and the sine die adjournment of Congress.[37a]

It is of particular interest, by way of establishing some precedent, that between November 1 and 13, 1969, because of a dispute between the House and the Senate, the federal government had no authority to pay most of its bills.[37b]

In 1970, some Members of Congress formed Committees for a Vote on the War. (p. 159.) However, contrary to some peace proponents' puerile plaints that they were never allowed to vote on the war,[37c] the above examples show that they repeatedly had the opportunity to vote. It is true that anti-war amendments required positive action that could be put off in any number of ways. However, in the case of expiring appropriations, the shoe was on the other foot. It was the war supporters who needed positive action and the war opponents who were in the position to block that action.

Not only does appropriations legislation provided repeated blocking opportunities, but also blocking requires much less than passing legislation. Blockage requires a minority of

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[37a]Ibid., 90th Congress, 2nd Session, Vol. 114 (Daily Edition; June 28, July 26, September 30, 1968), pp. S7853-4, S9520-22, S11660; 91st Congress, 1st Session, Vol. 115 (Daily Edition; June 25, November 13, December 4, 1969), pp. S7115, S14305-15, S15678-79.

[37b]For the debate on a highly unusual continuing appropriations resolution, as well as discussion of the general nature of continuing resolutions, see: Ibid. (October 28, November 13, 1969), pp. H10109-41, H10839-40, S14305-16. See also "Spending Authority," Congressional Quarterly Weekly Report, Vol. 27 (November 7, 1969), p. 2176.

[37c]See, for example, N. C. Miller, "Why Is the House...?" loc. cit. (n.13, ch. II).

the members of one house of Congress as opposed to the majority
of each house needed for passage.

Moving to the electoral arena, victory demands a plurality
defined as "most votes"; defeat calls for one vote more than a
plurality defined as "margin of victory." The latter refers to
the number of votes a third candidate must divert from one major
party candidate to assure victory of the other.

These methods involve minorities rather than pluralities.
According to the arithmetic learned by this writer, a minority
is easier to assemble than a simple majority.

Yet, throughout the war, majoritarian assumptions were
behind peace strategies. In 1970, for example, the peace move-
ment tried---and failed---to 1) induce majorities in Congress
to stop war funds by a fixed date, and 2) elect dove majorities
to the next Congress.[38]

The underlying source of these failures was one major
erroneous assumption: that ending the war's money-supply required
the votes of 269 people: 51 Senators and 218 Representatives, a
majority of each house.[39] From this assumption, certain con-

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[38]The reader will recall that attempts to elect peace
candidates go back a long way. See n.39a, ch. II.

[39]"Congress has to have the votes in both houses to pass
any kind of effective restraints" on the President. Senator
Fulbright on the television evening news, February 8, 1971.
Also as late as 1971, this appeared: "A simple majority in
Congress---218 men and women in the House, and 51 in the Senate
---can act to end the war." Committee for Peace and New
Priorities, full page advertisement, The New York Times, April 4,
1971, p. 14E. When this writer made inquiries of the advertising
department of The New York Times in 1970, he was informed that a
full page political advertisement in Section 4 on Sunday cost
$8,000.00 and was going up to $10,000.00. It is sad that so
much money was spent so often to spread arithmetic error.

clusions logically followed.[40] There were not enough doves in Congress to achieve peace; their number had to be increased. Hawks were the only source of new recruits. Upon them must be focused attention and pressure. Either demonstrations and traditional lobbying would make them change their views and votes or they had to be replaced through the election of peace candidates. A majority of votes in two houses would be obtained via the election of a majority of doves by a simple majority (plurality) of votes in each constituency. **A majority was required at every turn!**

On the other hand, we start here with <u>another premise</u>. **Instead of 269 Members of Congress it took only 34 Senators[41] to cut off funds and virtually dictate an end to the war on any terms they chose.** This premise leads to other conclusions.

Obviously, there **were** enough professed Senatorial "doves" to force peace. Indeed, 39 Senators did vote for the 1970 McGovern-Hatfield Amendment, such as it was. (see p. 223.) More than that number had opposed the war in varying degrees. What was needed, then, was not more legislators whose hot air would keep the Capitol warm in the winter and even more swamp-

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[40]These conclusions followed during the long period before the full withdrawal of troops and the Watergate scandals. These two events are discussed on pp. 171ff.

[41]The key numbers that we will use throughout (269 Members of Congress, 218 Representatives, 51 Senators for majorities, and 34 Senators for cloture) are based on 100 percent attendance at roll calls. Any of these numbers can be smaller in the absence of 100 percent attendance. But the essential point is still the same: the number of Senators needed to block cloture is far fewer than the number of Senators and Representatives needed for positive passage of legislation.

like than normal in the summer. What was needed was a way to get those already in office to use their existing power to end the war. That way was to focus intense pressure on garrulous do-nothing doves instead of upon hawks. This pressure would be maximized by the threat of defeat.

It will be observed that the procedures just outlined provide for the greatest possible leverage. That is, they make <u>maximum use of</u> powers at the disposal of <u>small numbers</u>. These are small numbers of legislators and small numbers of voters.

The reader will recall that only six activist Senators were needed to initiate a viable filibuster. (pp. 126-28.) This is six percent of the Senate and about 1.12 percent of the entire Congress. Once this tiny number started to filibuster, the device would have become a major issue and its existence would no longer have been largely unknown to the peace public. Other dove Senators would no longer have been able to hide behind pious rhetoric and clearly worthless resolutions. (See n.31, ch.II.) They would have been forced, once and for all, to take a patent public position: to vote for cloture or not. Cloture could be blocked by another small number: 34 Senators = 34 percent of the Senate = 6.36 percent of Congress.

Note that stark contrast! Under the strategy actually used, success required the cooperation of 51 percent of each house of Congress. Under the proposed plan, success would have needed the cooperation of only 6.36 percent of the Congress or 34 percent of the Senate. Stated differently, under the proposed plan, pressure could have been deemed successful even if it utterly failed to have any effect whatever on 93.64 percent of

the Congress, including 66 percent of the Senate. That is
power maximization.

It might be added that only in Alice's Peace Movement
Wonderland could the task of convincing 269 politicians to act
on their professed beliefs seem easier than convincing 34.[41a]
(The latter is not necessarily easy; it _is_ less difficult than
the former.)

Some of the great political battles of history have been
fought over small numbers. For example, before the landmark
Civil Rights Act of 1964 could be passed, a three month
filibuster had to be broken. In the process, a very large
number of well coordinated lobbyists exerted great pressure and
effort, and there was an unusual and almost military-like opera-
tion in the Senate.[42] And for what? For the votes of _eight_

[41a]An extraordinary example of Alice in Wonderland
arithmetic by a peace advocate is Anthony Lewis, "Moment of
Truth," _The New York Times_, June 28, 1973, p. 47. At that late
date, Lewis carried majoritarian peace assumptions to their most
logically absurd conclusion. When President Nixon vetoed a war
fund cutoff bill, Lewis thought the significance was that it took
2/3 of Congress (the number necessary to override a veto) to end
the war. In reality, 1/3 of the Senate plus one had a veto more
effective than the President's.

[42]The use of military terminology was common. There were
pro and anti- civil rights "forces," " commands," "battalions,"
"generalissimos," "field marshals." "military policy," etc. See
especially, Marjorie Hunter, "Rights Command Set Up in Senate,
Bill's Backers Match Foes in Battle Organization," _Ibid._,
March 22, 1964, p. 41. Senator Richard B. Russell was deemed
variously "commander of the Southern forces" in _Ibid._; "their
'generalissimo'" in E. W. Kenworthy, "Rights Foes Divided on
Dirksen Move," _Ibid._, April 17, 1964, p. 18; and Field Marshal
of the Southern brigade," in "Cracking the Whip for Civil
Rights," _Newsweek_, Vol. 63 (April 13, 1964), p. 32. Senator
Hubert H. Humphrey was referred to in similar terms. For
example, he was called "the generalissimo of the civil rights
advocates" by Senator Russell Long in: United States Congress
Congressional Record, 88th Congress, 2nd Session, Vol. 110
(Daily Edition; March 12, 1964), p. 4880. The civil rights

Senators. That is, at the outset of the filibuster, the pro-civil rights forces were eight votes short of the 2/3 necessary for cloture and had to labor very mightily to bring forth those votes.[43]

In a study of presidential elections, the late V. O. Key remarked that it is "the switching voters...who introduce a degree of flexibility in the political system as a whole."[44] By "switching voters" he was referring to those who cross party lines from one election to the next.[45] They "probably ranged ...from about one eighth to about one fifth, or slightly more,

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Senators also had numerous captains. Their assignments are given in the Bipartisan Civil Rights Newsletter, which is reprinted in the Congressional Record (April 9, June 19, 1964), pp. 7245-54, 13966-81. The publication of a newsletter by a group of Senators favoring a bill is another indication of the unusual degree of organization that was needed and brought forth in an effort to produce eight more votes. See also n.50, ch. I.

[43]The number "eight" was an estimate made at the time. According to the National Committee for an Effective Congress, "CIVIL RIGHTS FATE IN SENATE DEPENDS ON GETTING HANDFUL OF UNCOMMITTED TO SUPPORT MOVE TO END FILIBUSTER [sic, bold type added]," Congressional Report, Vol. 13 (March 23, 1964), pp. 1-4, the "PRESENT DISPOSITION OF SENATORS" (p. 4) was: 23 against cloture, 59 for cloture and 18 in doubt. William H. Riker once wrote of "the crucial one sixth in the Senate (i.e. those who might join a simple majority to vote for cloture)." Democracy in the United States (2nd Edition; New York: The Macmillan Co., 1965), p. 182. But in this example we have a monumental battle for a crucial one twelfth. For a vote estimate similar to the National Committee's, see Revolution in Civil Rights (Washington: Congressional Quarterly Service, 1965), p. 51. See also Congressional Quarterly Weekly Report, Vol. 22 (May 8, 15, 1964), pp. 915-916, 947.

[44]V. O. Key, Jr., The Responsible Electorate, Rationality in Presidential Voting 1936-1960 (New York: Vintage Books, 1966), p. 94.

[45]Ibid., p. 16.

of the survivors from those who had voted at the preceding election."[46]

Consider that so important a component of political health as flexibility depends upon the decisions of 12 to 20 percent of the electorate. That is what election battles and enormous campaign expenditures of money and energy are all about. Consider further that when a president is elected by 61 percent of the electorate, it is described as a "landslide of historic proportions."[47] In other words, to take a concrete example, if 12 voters out of every 100 in 1972 had switched from Nixon to McGovern, the latter would have won.[48] 12 voters make a landslide.

Let us move from the presidential to the legislative arena. 1970, the year of our focus, was a mid-term election year. In a study of another mid-term election year, 1958, Donald Stokes and Warren Miller were impressed by "how little deviation from party there is...."[49] They found that "84 per

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[46]Ibid., p. 17. In fairness to Key, it should be mentioned that he looked at these figures from a perspective different from ours. Here, we use them to illustrate the significance of small numbers. But Key wrote: "Switching voters are more numerous than is commonly supposed " Ibid., p. 16.

[47]"Presidency: Nixon Landslide of Historic Proportions," Congressional Quarterly Almanac, 1972 (Washington: Congressional Quarterly, Inc., 1972), Vol. 28, p. 1013.

[48]Of course the latter would have won a popular majority. That this would have translated into an electoral vote majority is certainly no certainty. The rough popular percentages in 1972 were: McGovern 37.8; Nixon, 60.8; and others, 1.5. Ibid.

[49]Donald E. Stokes and Warren E. Miller, "Party Government and the Saliency of Congress," Public Opinion Quarterly, Vol. 26 (Winter, 1962), p. 534. Italics in original.

cent of <u>all</u> votes for the House...were cast by party identifiers
supporting their parties." Nevertheless, they were forced to
concede that the "remaining 16 per cent is not a trivial
fraction of the whole---standing...for...quite enough [people]
to make and unmake a good many legislative careers."[50]

The ability to unmake legislative careers is a vital
ingredient in our proposal. And, while we have been talking
about presidential elections, landslides and percentages between
12 and 20, the fact is that in many elections the figures are
much lower. For example, Lewis Anthony Dexter observes:

> ...elections in the United States are usually
> decided by shifts of a relatively small proportion
> of the total population.... [M]any [Senators or
> Congressmen] at some stage in their careers have been
> involved in campaigns where a shift of 3 percent or
> less would have changed the outcome....[51]

It seems clear, then, that small numbers always have had
considerable influence in the American political process. To
maximize their power by means which are legal, within the rules,
and with much precedent[51a] is quite legitimate. While it may be
felt that the proposal here is unorthodox, it must be stressed
that <u>it is legitimate</u>.

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[50]<u>Ibid</u>.

[51]Lewis Anthony Dexter, <u>The Sociology and Politics of
Congress</u> (Chicago: Rand McNally, 1969), p. 102.

[51a]The reader might complain that the precedents cited
here refer to a different kind of small number than proposed.
The precedents given refer to small numbers needed to complete
ordinary or extraordinary majorities. The filibuster involves
a minority which seemingly does not complete any kind of
majority. And defeating candidates requires <u>subtraction</u> of
minorities from majorities in order to convert the latter into
minorities too. In due course, precedents for these practices
will be provided and explained.

In conclusion, this plan, had it been used, would have been the quickest means to the quickest end of the war. Making use of devices legitimized by precedent, it would have operated entirely within the political system---in contrast to so many other attempts to end the war. It would have been less difficult to gain the cooperation of 34 Senators than 269 Members of Congress. The incentive to cooperate would have been maximized by a threat of electoral defeat. The probabilities of defeating candidates when victories often depend on relatively small numbers of votes would have been greater than the probabilities of electing candidates.

The Particular Advantages of 1970

For purposes of discussion, it is desirable to choose a relatively fixed reference point to provide concrete examples of what could have been done. The general principles of our proposal could have been applied during most of the war. But 1970, especially the period from May to November, did provide certain advantages, some shared with other years and some not.

Most important avout 1970 were the Cambodian and Kent State events. Prior to these events, the Indochina War had suffered a marked decline as an issue. When this was written, in the midst of the "Watergate Wallow,"[52] it was perhaps a little

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[52]This is an adaptation of President Nixon's famous (or infamous, depending on one's political views) remark: "Let others wallow in Watergate," "Watergate: Near Showdown on White House Records," _Congressional Quarterly Weekly Report_, Vol. 31 (July 21, 1973), p. 1930.

hard to remember a time of relative amity between President
Nixon and Democratic Congressional leaders. But in December,
1969, Senator Mike Mansfield, "a leader among the critics of the
Vietnam war," actually had words of "appreciation" for Nixon's
Vietnam policy.[53]

In March, 1970, there was reference to

> ...the galvanizing appeal _once_ provided by
> the Vietnam war.
>   That _issue_ appears to have been _blunted_ by
> President Nixon's pullout of troops, the advent
> of the draft lottery, the general psychic release
> provided by last fall's Moratoriums, and a
> general feeling that _antiwar protest has become
> futile_. [Italics added.] [54]

On April 15, 1970, demonstrations against the war, styled
after the Moratorium of October, 1969,[55] were scheduled through-
out the United States. "But the fervor of October was missing
for the most part....In most cities, the organizers acknowledged
that they were disappointed." A few days later, on April 19,
the Vietnam Moratorium Committee disbanded, acknowledging "little
prospect of immediate change in the Administration's policy in

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[53]John W. Finney, "Congress Closes Its 1969 Session;
Amity Prevails," _The New York Times_, December 24, 1969, pp. 1,
10. This article also noted that "Vietnam, which...had
seemed potentially the most divisive question, was fading as
an issue between Congesss and a Republican Administration."
Also, President Nixon went to Capitol Hill "With Gifts and
Thanks" in 1969.
    It should be noted that, despite the amity, Max Frankel
wrote of "Confrontation in Capital," _Ibid._, p. 10.

[54]William K. Stevens, "Student Activists Turning From
Campus to Society," _The New York Times_, March 9, 1970, p. 1.

[55]See _Ibid._, October 15-16, _passim_.

[56]"Radicals Disrupt Antiwar Rallies," _Ibid._, April 16,
1970, p. 44.

Vietnam."[57]

To be sure, not all signs pointed in the same direction. There was dissent by radicals from the view that the April 15 demonstrations were a disappointment.[58] A leader of the dissolving Vietnam Moratorium declared: "I don't think the anti-war movement is going to stop now."[59] And, most important for our purposes, there was a determination by elements in the peace movement to make Vietnam an issue in the 1970 congressional elections.

For example, just before Senator Mansfield thanked President Nixon for his Vietnam policy, an article proposed that the focus of peace activity go "From the Streets to the Polls."[60] By April, 1970, one reporter found that the "re-emergence of the war as an issue [was] becoming evident in a number of campaigns around the country....[T]he war out of the mainstream of political debate...will be back long before November."[61]

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[57]David E. Rosenbaum, "Vietnam Moratorium Committee Is Disbanding," Ibid., April 20, 1970, p. 1.

[58]In disbanding, Moratorium leaders said that demonstrations were a "political fad that has worn off." Ibid., p. 6. But radical David Gelber demurred: "that mass demonstrations were a fad in which the public has lost interest [is] a statement which seems clearly negated by the participation of nearly one million people on April 15." "The Moratorium Was Its Own Victim," The Village Voice, April 30, 1970, p. 20. Just where Gelber got his figure of one million he did not say. Perhaps one million is a nice round large figure. See p. 127.

[59]Rosenbaum, loc. cit., p. 6.

[60]Barber and Mayhew, loc. cit. (n.38, ch. II).

[61]R. W. Apple, Jr., "G.O.P. Candidates Going Their Own Way," The New York Times, April 17, 1970, p. 20.

Thus, prior to the Cambodian and Kent State events, planning for electoral activity had been in progress for some time.[62] The new events played into the hands of the electoral activists, intensifying the issue and generating new support beyond their wildest dreams.

Cambodia, Kent State and their aftermath are well known to any adult who was genuinely alive during the period.[63] On April 30, 1970, President Nixon announced that he had sent troops into Cambodia.[64] This provoked protests which led to the fatal shootings of four Kent State University students on May 4th.[65]

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[62]In addition to the previous two sources, see: Lelyveld, loc. cit. (n.64, ch. II); "Group Picks War As Election Issue," The New York Times, January 6, 1970, p. 27; R. W. Apple, Jr., "Peace Forces, Lacking A Leader and Money, Gird for Elections," Ibid., February 2, 1970, p. 30. Even the Vietnam Moratorium Committee, organized for demonstration purposes, had electoral plans: "work would be done to prepare a base from which to assist peace candidates in the 1970 Congressional elections...." Vietnam Moratorium Committee, "Background Sheet on the Vietnam Moratorium Committee and April 13-15," reprinted in United States Congress, Congressional Record, 91st Congress, 2nd Session, Vol. 116 (Daily Edition; April 16, 1970), pp. E3286-87.

[63]The New York Times, other newspapers and news magazines contained extensive coverage, especially in May, 1970.

[64]See, among many other sources, "President Nixon's Decision Sending Troops into Cambodia Provokes Widespreas Congressional and Public Reaction," and "Text of Nixon's Speech Announcing Cambodia Decision," in Congressional Quarterly Almanac, 1970 (Washington, Congressional Quarterly Inc., 1971), Vol. 26, pp. 930-931, 87A-88A.

[65]"Political demonstrations, such as the one that resulted in the deaths of four students yesterday...." Andrew H. Malcolm, "60 Years of Quiet at Kent State Are Shattered in Era of Protest," The New York Times, May 5, 1970, p. 17. See also John Kifner, "4 Kent State Students Killed by Troops," Ibid., pp. 1, 17; Richard E. Peterson and John A. Bilorusky, May 1970: The Campus Aftermath of Cambodia and Kent State (New York: Carnegie Commission on Higher Education, 1971).

The Cambodia-Kent State combination produced an irrational[65a] and hysterical reaction by many people. There was talk of national disintegration (Gardner, p. 96), societal paralysis and rebellion (Alpert, Schwengel, Hart, p. 123). A group of United States Senators who addressed the nation had the announcer who introduced them say:

> Today, in the bright springtime of 1970, the United States...has been ripped apart. Citizens bludgeon each other in the streets of New York. Students die in a campus eruption. Buildings explode, Banks burn. [sic] The Nation's colleges are shut down. The population is polarized, and there are parades of protest everywhere. Not since the days of the Civil War have Americans treated each other like this.[66]

A history professor, presumably knowledgeable in American history, concurred with the Civil War analogy in an address to his class:

> I don't think there's ever been a time since the founding of this nation---including even the days of Fort Sumter---when the future direction of this country has been more problematical and unpredictably than right now.[67]

A common but slightly less pessimistic theme was frequently expressed. This was "The Last Chance for The System." That is, it was the last chance for the system to do whatever was wanted by those who said it was the last chance. Senator

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[65a]After Cambodia but before Kent State, James Reston wrote: "the mood of the moment is anxious and even irrational." "Washington: The Latest Fad---Wrong Way Politics," The New York Times, May 1, 1970, p. 34.

[66]"The Amendment To End the War: a Network Television Broadcast, May 12, 1970, NBC," reprinted in United States Congress, Congressional Record, 91st Congress, 2nd Session, Vol. 116 (Daily Edition; July 16, 1970), p. S11543.

[67]Robert L. Beisner, "On Student Reaction to the Indochina Crisis," The North American Review, Vol. 255 Old Series, Vol. 7 New Series, (Fall 1970), p. 58. Italics added.

Percy, for example, declared: "If the Congress fails to act quickly to end the Cambodian incursions, the system these students have supported may lose their support."[68] A law student said: "I don't know if the political system can work.... I'd like to give it a last try...."[69] Finally, "Students from campuses around the country who testified before a special House panel...professed a continuing faith in 'the system,' but said, in effect that 'this is the last chance.'"[70]

The reader may so "so what" in response to the foregoing statements. Much in them, the reader will say, was the extreme exaggeration of people carried away with their own rhetoric. (An example placing college closings in perspective is on p. 153.) Finally, the reader can point out that the prophets of gloom and doom were, in the hindsight of 1973, wrong. This clearly could have been seen at the time, especially in the light of the writer's section on the rhetoric of doom. (pp. 93-97.)

The reply to this is that a statement does not have to be true to influence people. Adolph Hitler, Joseph McCarthy and many others have had great impact with The Big Lie. Even when a statement is sincerely believed by the person who makes it and there is no intention to deceive, it can still be both

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[68]Senator Charles Percy, "Saturday's March on Washington," United States Congress, Congressional Record, 91st Congress, 2nd Session, Vol. 116, (Daily Edition; May 11, 1970), p. S6891.

[69]Steven V. Roberts, "Students Turn to Politics in Effort to Change System," The New York Times, May 18, 1970, p. 16.

[70]Barry Kalb, "Testing 'The System'---Anti-War Lobby Hits High Gear," The Washington Star, May 31, 1970, reprinted in U.S. Congress, loc. cit. (n.68), June 2, 1970, p. E5062.

<u>very wrong and very influential</u>. So, while it may have been clear to many in 1970 that the storm would pass, to many others it was not so clear at all. In any case, the rhetoric--- as well as the Cambodian-Kent State events apart from the rhetoric--- produced very great **effects**. The **most important**, for purposes of this thesis, was the existence of a very large number of people eagerly desiring to spend time, energy and money to end the war.

According to one estimate in early July, 1970: "Millions of Americans are working for peace."[72] This estimate was probably a gross overestimate. But that does not negate the essential point that, in 1970, many citizens did try to work for peace. Students were a major component of these citizens.

Within a week after Kent State, over 200 colleges were shut and hundreds more were affected by strikes and demonstrations. (p. 122.) In the weeks after that, other colleges were closed and/or affected. According to one account, many students were "radicalized" at Oberlin College, a "Quiet Ohio Campus."[73] If the account was true, 1,000 out of 2,500 Oberlin students went to Washington to demonstrate against the war. Of greatest interest, perhaps, is that even the University of Alabama felt forced to close down two weeks ahead of schedule.[74] Finally, not only were colleges affected, so too were high

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[72]Movement for a New Congress, <u>op. cit</u>. (n.6, ch. II), p. ix. The date is given on p. 5.

[73]John Kifner, "War Radicalizes Many At Oberlin," <u>The New York Times</u>, May 17, 1970, p. 55.

[74]James T. Wooten, "Activism Arrives at U. of Alabama [sic]," <u>Ibid</u>., May 24, 1970, p. 52.

schools. The classes of 275,000 high school students in New York City were cancelled on May 8,[75] and the following week "tens of thousands" of students still stayed away from resumed classes.[76]

A double perspective should be kept in mind. On the one hand, Cambodia-Kent State generated substantial peace resources. (Their elaboration will continue in a moment.) On the other hand, it was too easy to resort to overstatement and misstatement.

For example, as noted, it is to be doubted that "millions" worked for peace. At least the point was not documented. Moreover, the activities on college campuses must be placed in perspective. If a news report found 200 colleges closed in the first week after Kent State, the same report also pointed out that there were 2,500 "higher academic institutions."[77] So the Senators' announces was at best wrong and at worst deliberately misleading when he said "The Nation's colleges are shut down." (p. 150.) Most were not. If the University of Alabama closed early because "activism arrive[d]" there, the fine print of the story noted that most of the school's 13,000 students were "uninvolved; many are interested but afraid of being arrested; and the activists, numbering no more than 250, are determined."[78] (Parenthetically , we once again see the power of small numbers

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[75]William E. Farrell, "Schools Shut, Pupils Combine Protest and Recreation," Ibid., May 9, 1970, p. 10.

[76]Leonard Buder, "Antiwar Protests Disrupt Many High Schools Here," Ibid., May 14, 1970, p. 21.

[77]McFadden, loc. cit. (n.10).

[78]Wooten, loc. cit. (n.74). Italics added.

in the United States.) Furthermore, if there were students who demonstrated against the war and who sought to close down schools, there were other students who acted in support of the war effort[79] and still others who went to far as to institute law suits to compel college reopenings.[80] Let us note one last point in placing student war opposition in perspective. For a long time there was, contrary to common belief, a positive correlation between education and war support. One reason why was advanced by Philip Converse and Howard Schuman:

> It is plain that before entry into Cambodia...most of the vehement antiwar sentiment had appeared at a fairly small number of compuses usually classed as leading universities. Although these institutions are large and...[award] many degrees, they are vastly outnumbered by the hundreds of smaller colleges in the nation....[F]ewer than 25 percent of the college-educated members of the population have ever had contact with a university where antiwar sentiment has been strong for some time....[81]

Two points may be made about this statement. First, it is clear that, rhetoric to the contrary notwithstanding, the statement had considerable validity even after Cambodia. Second,

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[79]McFadden, loc. cit., p. 9 says: "Opponents of the campus antiwar protests were busy on many campuses. [sic]" See also Farrell, loc. cit. (n.75) on a group called High School Mobilization for Freedom in Vietnam and Southeast Asia. Finally, see Joseph B. Treaster, "400 At Connecticut U. [sic] Promise To Aid in Cleanup After Strike," The New York Times, May 18, 1970, p. 16.
It is noteworthy that the protest received banner headline treatment but the protest against the protest, as cited here, was continually buried deep in the inside pages.

[80]McFadden, loc. cit. Trudy Rubin, "Antiwar leaders seek coordination of effort," The Christian Science Monitor, May 14, 1970, p. 3.

[81]Philip E. Converse and Howard Schuman, "'Silent Majorities' and the Vietnam War," Scientific American, Vol. 222 (June, 1970), p. 23.

it is quite true, as the Oberlin and Alabama examples show,
that campuses not previously involved in antiwar protest became
involved in varying degrees as a result of Cambodia and Kent State.

More important, _people_ never before involved were moved
to make an effort. At Oberlin, for example, "previously non-
activist students [were] brought...into vocal and organized
opposition to the war."[82] A student leader at Stanford declared:
"Student[s] who were never involved before now suddenly feel
they've got to do something....This Cambodian thing is insane
to them."[83] Gary Orfield of the Movement for a New Congress
confirmed that "a whole new range of student and faculty" became
activist to the extent that "We have life-long Republicans...
ready to work for Democrats." (p. 123.)

The total number of activists, new and old, may well have
been small compared to the entire population. Activists usually
are. But, compared to what would have been available without the
Cambodia-Kent State catalyst the number was formidable indeed---
to be used to maximum advantage or to be squandered.

Broadly, protesters were channeled into three types of
activity: 1) demonstrations, 2) traditional interest group work,
and 3) election campaigning.

Throughout the Vietnam War, demonstrations were plentiful.[84]

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[82]Kifner, loc. cit. (n.73).

[83]Roberts, loc. cit. (n.69).

[84]The subject of demonstrations will be covered in the
next chapter. Here, however, we note that lists of demonstra-
tions may be found in Horowitz, op. cit. (n.23, ch II), pp. 147-
167; and Amitai Etzioni, Demonstration Democracy (New York:
Gordon and Breach, 1970), Appendix.

What salivating was to Pavolv's dogs, demonstrating was to
anti-warriors. May, 1970 was no exception. The most immediate
reaction to Cambodia was to demonstrate. There was a demonstra-
tion at Kent State when the four students were shot.[85] On
May 8, students marched in New York City and were attacked by
construction workers.[86] On May 9, on very short notice, an
estimated 75,000-100,000 people---mostly college students---
demonstrated in Washington, D.C.[87] Other demonstrations occurred
elsewhere.[88]

While the first reaction of many in the wake of Cambodia-
Kent State was to demonstrate, others responded differently.
Using the "last chance for the system" theme (p. 151), they
formed a multitude of groups to engage in traditional activities
of the system. These groups divided into two basic functions.
The first was to lobby to persuade Congress to adopt antiwar
legislation. Failing that, the second was to campaign for
candidates for Congress who would vote for such legislation.

To a far greater degree than ever before, there was an

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[85]There is absolutely no intention here of implying that
there should therefore have been no demonstrations. Alghough,
factually, there would have been no shooting had there been no
demonstration, this by itself does NOT justify shooting.

[86]See, for example, Homer Bigart and Martin Arnold,
"War Foes Here Attacked By Construction Workers," The New York
Times, May 9, 1970, pp. 1, 10. See also, "Worker demonstrations
turn to violent tactics," The Christian Science Monitor, May 16,
1970, p. 11. For the construction workers' view see Jimmy
Breslin, "One Way to End the War," New York Magazine, Vol. 3
(June 22, 1970), pp. 26-30.

[87]John Herbers, "Big Capital Asks U.S. sic Pullout
in Southeast Asia," The New York Times, May 10, 1970, pp. 1, 24.

[88]Ibid., passim.

awareness that Congress had something to do with the war. With

this awareness, numerous people decided to seek out Congressmen

to "lobby." But, according to one reported,

> It was a kind of grass-roots youth
> lobbying Congress had not experienced before.
> As the week of antiwar activities charged
> to a close, collegians by the thousands roamed
> Capitol Hill. In large meetings and small...
> they told members of Congress and their aides
> of their deep concern about Indo-China.[89]

In less elegant terms another writer, said: "Soon

after...Cambodia, Washington was _swarming_ with students and adults

lobbying in support of legislation to cut off funds for the

Indochina war."[90] A third account simply stated:

> ...thousands of citizens [went] to Washington
> to urge their Congressman [sic] to restrict...the
> war.
> The earliest efforts were hit-or-miss, spur-
> of-the-moment attempts, but within weeks, well-
> organized lobbying efforts began to take place on
> Capitol Hill.[91]

These "lobbying efforts" achieved such a magnitude that

"Anti-War Amdts." were second on a list of "the issues which,

in the judgment of Congressional Quarterly's editors, attracted

the heaviest lobbying efforts of the 1970 session" of Congress.[92]

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[89]Robert P. Hey, "_Congressmen quizzed_, Youthful lobbyists
[sic]," _The Christian Science Monitor_, May 11, 1970, p. 3.

[90]Kalb, _loc. cit._ (n.70), p. E5061.

[91]Movement for a New Congress, _op. cit._, (n.6, ch. II),
p. 47. Still another report referred to "a massive lobbying
effort in Washington against war spending." Roberts, _loc. cit._
(n.69). Roberts points out that students lobbied in state
capitals as well as in Washington.

[92]It was not specified that the list was in order of
importance, but, on the other hand, it was not in alphabetical
order. "Lobby Report," _Congressional Quarterly Almanac, 1970_
(Washington: Congressional Quarterly Inc., 1971), Vol. 26,
p. 1194.

Never before had antiwar lobbying made the list.[92a]

The lobby effort was engaged in by others besides students. For example, the "Academic and Professional Alliance for a Responsible Congress recruited, briefed, and arranged appointments for delegations of businessmen, professors, lawyers, doctors, and other groups...."[93] Some of these groups organized on their own. In New York, for instance, The Lawyers Committee for Effective Action to End the War and The Lawyers Convocation on Vietnam organized to go to Washington and also published a statement with hundreds of signatures, if not more.[94] Lawyers in San Francisco signed a statement and sent it to Washington.[95]

In fact, a device some groups used as a substitute for trips to Washington was the petition, a device time-honored by the First Amendment. Appropriately, one group was called The National Petition Committee.[96] In the New York City area alone, by May 15, students collected 200,000 signatures to petitions to Congress.[97]

[92a]"Most Heavily Lobbied Bills," Ibid., 1969, Vol. 25, p. 1078; 1968, Vol. 24, p. 881.

[93]Movement for a New Congress, loc. cit.

[94]"An Action Program to End the War in Indochina," New York Law Journal, May 14, 1970; reprinted in United States Congress, Congressional Record, 91st Congress, 2nd Session, Vol. 116 (Daily Edition; May 19, 1970), pp. E4772-4.

[95]"A Statement of Concern from San Francisco," Ibid., May 11, 1970, pp. S6929-31.

[96]Rubin, loc. cit. (n.12); James David Barber, James Darnell, and Cyrus Levinthal, Letter to the Editor, "National Coalition for a Responsible Congress," The New York Review of Books, Vol. 14 (June 18, 1970), p. 44.

[97]Stephen MacDonald, "Students Return to Political Action," The Wall Street Journal, May 15, 1970, p. 12. The Congressional

The existence of a petition committee is some indication of the number and variety of groups that formed. Within a month, they were estimated at two dozen,[98] and two months after Cambodia-Kent State there were "dozens of new organizations."[99] Groups, it seems, were formed for every purpose and composed of very different elements. There were even groups composed of Members of Congress: the Amendment to End the War Committee, composed of Senators; the Congressional Committee for a Vote on the War, and the House Committee for a Vote on the War.[100] Finally, there were groups the members of which were groups. The purpose of these groups was to coordinate the activities of the member groups.[101]

As noted, a major purpose of some groups was to campaign for peace candidates. An immediate effect of Cambodia-Kent State was the increase in available manpower. For instance, in Pennsylvania Norval Reece, a peace candidate for the Democratic nomination for the Senate, "was little known outside the Philadelphia area and...had no money to spend on television advertising. But Cambodia and Kent State produced a flood of

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Record for May, 1970 and the months following contains numerous petitions. The National Petition Committee claimed 140,000 signatures from Rochester by mid-June, Barber, loc. cit.

[98]Kalb, loc. cit. (n.70).

[99]Movement for a New Congress, op. cit., p. 5.

[100]Kalb, loc. cit.; United States Congress, Congressional Record, 91st Congress, 2nd Session, Vol. 116 (Daily Edition; August 11, 1970), p. S13146; Editorials, "An Antiwar Congress," "Honoring America," The New Republic, Vol. 162, 163 (May 23, July 11, 1970), pp. 5-7, 5-6.

[101]All sources in n.100; Barber, et al., loc. cit.; Rubin, loc. cit. (n.80).

calls from outraged adults and students asking to join in his campaign." 5,000 students rang doorbells, telephoned, and gave out leaflets.[102] In California, it was reported that, in the Democratic senatorial primary, 20,000 students canvassed for Representative George E. Brown Jr. He had "Voted against war appropriations since 1965."[103]

An important function of both lobby and campaign organizations was to raise money and determine its use. A vast increase in the peace money supply was one more immediate result of Cambodia-Kent State. It may be true that, like the early reports of Mark Twain's death, the importance of money in politics has been greatly exaggerated.[104] Nevertheless, for what it is worth,

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[102]Donald Janson, "War Critic Aided in Pennsylvania," The New York Times, May 19, 1970, p. 17.

[103]R. W. Applr. Kr., "War Foe Apparent Leader in Democratic Senate Primary on Coast," Ibid., May 24, 1970, p. 41. Brown and Reece lost. But that does not degate the point that the manpower was available. And there were other campaigns too.

[104]Political history is replete with examples of losing candidates who far outspent their opponents. Joseph Y. Resnick (1968 Democratic Senate primary) and James H. Scheuer (1969 Democratic Mayoral primary) quickly come to mind. See also: "Broadcast Spending: No Election Guarantee," Congressional Quarterly Weekly Report, Vol. 29 (July 30, 1971), pp. 1621-29. This article says (p. 1621): "Heavy spending for political broadcasts did not guarantee election success for...candidates for Congress or Governor in 1970. Incumbency appeared to be more important...."
Contrary to what scandalous headlines would have us believe, money does not always guarantee political influence to contributors any more than it assures candidates of election success. In connection with the lobbying aftermath of Cambodia, Robert Sherrill gives this biting account: "Shortly after the Cambodia invasion, a trainload of New York lawyers came to Washington to lobby for peace. There they were, many of them reeking of Wall Street retainers, carrying alligator briefcases and the best of credentials, and all buoyed up with the textbook innocence of those who think that Washington politicians welcome visits from solid citizens. In many offices they could not get beyond the poundcake smile of the receptionist. Well, they can

it is widely believed that money is crucial for the merchandising
of political wares: issues and candidates.[105]

Consider the contrast. It has been pointed out (p. 149)
that planning for the 1970 elections antedated Cambodia-Kent
State. However, three months prior to these events the resources
were described as "meager." It was said that peace forces lacked
money: "Money for liberal causes is very scarce."[106]

Eight days after Kent State, five Senators addressed the
nation to "make a case for...the amendment to end the war."[107]
As would be expected of the leaders of any interest group, these
Senators implored their followers to write their Congressmen and
Senators supporting the amendment. Petitions were also asked
for. Finally, Senator Church said: "A dollar for peace could
go a long way. So send your contribution, whatever it may be,
in order that we can continue to speak out."[108]

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take comfort in knowing that even financial backers sometimes
run into the same problems." From "Who Runs Congress?" The
New York Times Magazine, November 22, 1970, p. 56. Again, we
stress that the purpose here is to show the availability of
resources rather than their effective use.

[105]"Money is...the vital principle of the body politic...."
Alexander Hamilton, in Hamilton, et al., op. cit. (n.25), Number
30, p. 188. For the balanced view that money is important, but
that other factors (including the skill with which the money
is spent) are important too, see Alexander Heard, The Costs of
Democracy, Financing American Political Campaigns (Garden City,
N.Y.: Anchor Books, 1962), pp. 4-5, chs. 2-4, pp. 273-276.

[106]Apple, loc. cit. (n.62). Apple wrote, however, that
the Vietnam Moratorium had raised $50,000. But it was claimed
that these funds would not enable that organization to do much.
Also, it dissolved on April 19, 1970. (p. 147.)

[107]Loc. cit. (n.66), pp. S11543-46, at p. S11543.

[108]Ibid., p. S11545.

People did send their contributions. Let Senator

McGovern describe the reaction:

> An appeal for funds was made in the space of
> a few seconds...which we hoped would bring in enough
> funds to pay for the telecast and possibly some
> additional television time. Because of the emotions
> stirred by the Cambodian invasion, the killings at
> Kent State, and, I hope, the quality of the broad-
> cast, approximately 70,000 contributors sent a
> surprising total of more than $480,000. When we
> prepared the programs, sic we were not aware that
> the depth of sentiment in the Nation would generate
> a response this great.[109]

As a result, Senator Church's hope that "we can continue

to speak out" was fulfilled. Apparently there was some diffi-

culty in getting additional time for half hour broadcasts of

the type made on May 12.[110] But Senator McGovern boasted:

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[109]Ibid., August 11, 1970, p. 13146. See Senator McGovern's
whole speech, "The Amendment to End the War," Ibid., pp. 13145-47
for his account of the May 12 broadcast, the money raised and
spent, including a detailed balance sheet of receipts and
disbursements, and the committees formed to use the money.
    In addition to the $480,000 raised by the broadcast, it
was alleged that the volunteer efforts of New York professional
advertising people was worth $200,000. The efforts were to
prepare media commercials purchased by the broadcast-raised money.
Representative Lawrence G. Williams (R., Pa.), "'End-War'
Advertising Raises Serious Questions," Ibid., July 16, 1970,
p. H6877-8.

[110]"We have sought to secure either public service or
purchase further broadcasts of this nature but have been con-
sistently refused...." Senator McGovern, loc. cit., p. S13146.
    The entire question of fair access to the media was very
muddled. It was a classic illustration of the old cliche that
the grass grows greener on the other side.
    On the one hand, this writer continually heard, as a
criticism of his proposal, that antiwar filibusterers would never
be able to have the media access to take their case to the public
(see p. 177). How could they if, even without filibustering,
war opponents did not have media time? That was the latter's
oft-made complaint, of which Senator McGovern's statement in
the previous paragraph is but one illustration. So strongly did
the foes of Administration war policy feel that they filed a
complaint with the Federal Communications Commission, which
ruled (three days after the McGovern statement) that the networks
must give **free** uninterrupted prime television time to the said

> Television announcements have been shown or
> will be shown shortly in 52 cities in 23 States
> and the District of Columbia. Actual coverage
> extends into at least 29 States. That is more

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foes. For a reprint of a September 5, 1970 broadcast in response to the FCC ruling, see: "Additional Statements of Senators; CBS News Special---Vietnam: Voices in Opposition," Ibid., September 16, 1970, pp. S15588-92.

On the other hand, Administration supporters claimed that it was the opponents who had excessive time. To compensate for that, the supporters also filed suit requesting free time. (Moreover, Democrats and Republicans each demanded a remedy for the alleged unfair advantage enjoyed by the other.) An interesting statement presenting the view of war policy supporters about the excessive time (in their view) of the opponents is a speech by Senator Gordon Allott (R., Col.), Ibid., September 1, 1970, pp. S14847-50, esp. S14849-50. Sen. Allott listed a series of television and radio opportunities available to Senators and not the President (e.g., TV news interview programs and talk shows). Allott concluded that, in a very real sense, the anti-war Senators and other opponents had had much more total television time than the President. Ibid., p. S14850.

For a review of much of the media muddle, see Committee for the Fair Broadcasting of Controversial Issues, Against Columbia Broadcasting Systems, Inc...., 25 F.C.C. 2nd 283 (1970). This contains decisions by Federal Communications Commission in five different cases involving demands for equal time by both hawks and doves. Included is the decision mentioned above giving free time to war opponents. For a summary of the decisions, see Christopher Lydon, "F.C.C. Orders TV to Set Prime Time for War Critics," The New York Times, August 15, 1970, pp. 1, 11. See also: In Re Democratic National Committee, In Re Complaint by Business Executives Move for Vietnam Peace, 25 F.C.C. 2nd 216, 242 (1970); "Affiliates question 'loyal opposition,'" "A preliminary bout with fairness," "Noncommercial TV gives doves time," "Prime time opens to war critics," Broadcasting, Vol. 79 (August 10, 17, 31, 1970), pp. 25-27, 45, 51.

Fairness, like beauty, is in the eyes of the beholder. This writer's objective here has been merely to present the issue, not resolve it. Perhaps, however, this much may be said with some confidence: First, the FCC ruling giving war opponents more time seems to dent the arguments of those who said the system was biased against war opponents. Second, the McGovern boast (p. 163) about television announcements documented in the next footnote lends weight to the proposition that, in terms of media access, war opponents could have done much worse. Regardless of whether this access equaled the President's, in 1970, doves had an opportunity to take their case to the public as they never did before. Whether the case that was made was worth making and whether it was made well is another matter.

than half the States of the Union and hardly
qualifies as a limited sample.

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We have encountered little difficulty in
purchasing time for the spot announcements.[111]

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[111]McGovern, loc. cit. (n109), pp. S13146-47. According
to McGovern's press secretary the lack of difficulty in getting
time for spots could have been due to the fact that they were
paid for and the stations heeded the money in a poor economy.
"Adfolk to Aid Anti-War Push by Business Group," Advertising Age,
Vol. 41 (July 6, 1970), p. 63. This article also points out
that the "original...program was rebroadcast...in Los Angeles."
Cf. the McGovern statement at the outset of note 110.
  It is interesting that McGovern-Hatfield Amendment
supporters and opponents alike seemed to agree that the
supporters' activities were unprecedented: the May 12 broadcast
to raise money and the use made of the money to buy television,
radio and newspaper advertising to bring public pressure on
Members of Congress. A supporter, Senator Charles E. Goodell
said the May 12 "broadcast marks the first time that a congres-
sional group has produced such a nationwide program." Congres-
sional Record (Daily Edition; July 16, 1970), p. S11543. An
opponent, Senator Robert Dole (R., Kans.), declared: "regardless
of the merits...of the war amendment, there is no doubt that its
sponsors have broken new ground in the field of lobbying,"
Ibid., August 21, 1970, p. S13910.
  Regarding the question whether these "unprecedented"
activities were proper the supporters and opponents disagreed.
The former took pride but the latter questioned the propriety,
ethics and legality of a Senator bringing "outside pressure" on
other Senators "or by seeking to influence them himself while
acting in the dual capacities of Senator and lobbyist." Senator
Dole, Ibid., p. S13909. Dole proposed legislation that "imposes
the full requirements of lobbying disclosure on Members of
Congress who....[seek] to influence...legislation by direct
appeals to the Congress or by stimulation of the public intended
to produce direct communication with the Congress." Ibid.
p. S13910. For McGovern's answer to Dole see Ibid., pp. S1394-
48. Additional criticism is Williams, loc. cit. (n.109). See
also: "Antiwar appeal is via local TV time," "Dole wants TV
air time to answer antiwar ads," "Dole tries new tack to get
spots on air," Broadcasting, Vol. 79 (June 15, July 27,
August 31, 1970), p. 48, 39, 24.
  Despite the agreement on the unprecedented nature of the
McGovern-Hatfield lobbying amendment, it seems questionable
to say the least that it was unheard of for Members of Congress
to act as spokesmen for particular causes. For example, David
B. Truman tells of a Representative who appeared before a
Senate committee "not only as a member of Congress...but as
vice-president of the National Rivers and Harbors Congress and
vice-president of the related Mississippi Valley Flood Control

The money raised by the Senators was but a beginning. An even earlier indication of the money that would be produced by Cambodia-Kent State occurred on May 8, when a truck driver who supported a demonstration he happened upon raised $100 on the spot in a very short while.[112] On May 22, the Movement for a New Congress seemed "likely to have plentiful funds to operate with."[113] "The Universities National Anti-War Fund in one month raised more than $50,000 for Congressional peace candidates."[114] By mid-June, the National Petition Committee had "raised $50,000 in cash contributions from...Rochester [N.Y.] alone," with pledges of $100,000 from elsewhere.[114a]

According to reports in Congressional Quarterly, the following funds were raised or spent by varying groups: A total of $624,113 was spent by "peace groups." This included $229,468 by The Universities' Anti-War Fund.[115] "New Priorities" groups, of course, supported anti-war candidates. The National Committee for an Effective Congress spent $695,501 and the Council for a Livable World spent $214,626.[116] Another such group

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Association." The Governmental Process, Political Interests and Public Opinion (New York: Alfred A. Knopf, 1951), p. 337. See pp. 336-38.

[112]"Truck Driver Cheered By Antiwar Protesters," The New York Times, May 9, 1970, p. 9.

[113]Rubin, loc. cit. (n.12).

[114]Movement for a New Congress, op. cit. (n.6, ch. II), p. 5.

[115]"Campaign Spending: Record $42.4-Million in 1970," Congressional Quarterly Weekly Report, Vol. 29 (July 23, 1971), p. 1570.

[116]Ibid., p. 1571.

was Common Cause, organized in August, 1970. Its receipts in the second half of 1970 were $1,013,097.[117] "The 1970 Campaign Fund, organized to help liberal Democratic senatorial candidates, raised $874,956 in 1970 and gave the candidates they supported 57 cents out of every dollar raised." Finally, The Committee of Ten in 1970 raised $86,883 and gave 56 percent to 10 antiwar Democratic challengers.[118]

It seems quite clear that the events of 1970 presented the peace movement with vast resources. Above has been given a far from exhaustive glimpse of them. The question in May, 1970 was what would be done with these resources.

The historian who thought the 1970 events were worse than the Civil War (p. 150) cautioned his class: "The university students of America will have a great deal of influence in determining which direction we go from here. Don't blow it."[119]

It is obvious, to this writer at least, that they _did_ "blow it." That this would happen was evident from the bery

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[117]"Common Cause: Big Names Back Lobby Geared to Change," Ibid., August 28, 1971, p. 1834.

[118]"Political Fund-Raising: Methods and High Costs," Ibid., August 14, 1971, p. 1712. Another report says the 1970 Campaign Fund raised $1,069,494. "Campaign Funds, Financial Disclosures," Congressional Quarterly Almanac, 1970 (Washington: Congressional Quarterly Inc., 1971), Vol. 26, p. 1101.
It is interesting that "Democratic candidates for the House and Senate spent more than Republicans in 1970.... Democratic candidates reported spending $6,653,648 compared to $5,968,080 reported by Republican candidates." "Campaign Spending....," loc. cit.

[119]Beisner, loc. cit. (n.67).

beginning.[120] Max Frankel wrote that the May 8 Washington demonstration "was a protest in search of a method by a crowd that knew what it wanted but not how to get it."[121] In July, "most" of the alleged millions working for peace (p. 152) were deemed "ineffective."[122]

Whatever the actual numbers, it was feared in May that the ranks of the peace forces would dwindle. "Antiwar leaders... [were] trying to keep the movement from evaporating without accomplishing its goals...."[123] That there might be "nothing but a fizzle" was the worry. "Despite this apparent boom, the outlook is clouded," wrote one reporter.[124]

After the campaign, William T. Murphy, Jr., a political scientist in the Movement for a New Congress, acknowledged disappointment at the apathy that developed.[125] Far fewer students than hoped for actually campaigned in the general election.

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[120]This writer predicted failure before it happened, not because he is a genius, but because anyone with a knowledge of political realities could see what was coming. The writer prepared, in May and June, 1970, an unpublished manuscript, "The Tragedy of the Peace Movement's Lost Golden Opportunity: The Case for a Senate Filibuster of Appropriations to End the Vietnam War, and the Case for Electoral Pressure to Bring on the Filibuster." See also the writer's Letter to the Editor, "Filibuster to End War," The New York Times, April 19, 1969, p. 32.

[121]Max Frankel, "A Frustrated and Angrier Mood," Ibid., May 10, 1970, p. 24.

[122]Movement for a New Congress, op. cit., p. ix.

[123]Rubin, loc. cit. (n.80).

[124]MacDonald, loc. cit. (n.97).

[125]William T. Murphy, Jr., "Student Power in the 1970 Elections: A Preliminary Assessment," PS, Vol. 4 (Winter 1971), pp. 27-32, esp. p. 29ff.

Two comments about this are in order. 1) As Murphy
conceded, even a small number, properly used, can be very
effective.[126] 2) As time passed after May, more and more people
realized that the majoritarian peace strategy would fail. It is
no wonder that the fall saw a fall in interest and the Vietnam
issue was neutralized.[127] It seems plausible to assume that the
hope of success provided by a more effective strategy would have
prevented all or part of the decline of interest and involvement
in the issue.

The conclusion of this section, then, is that in 1970 the
resources for peace were available. That they produced meager
results was not foreordained. Our contention is that the strategy
outlined in this chapter would have been an effective alternative.

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[126]Ibid., p. 30.

[127]See "Vietnam War an Issue Only in Scattered Campaigns,"
Congressional Quarterly Weekly Report, Vol. 28 (October 30, 1970),
pp. 2734-5; "1970 Races Give No Clear Picture on Major Issues,"
Ibid., November 6, 1970, pp. 2764-5; "Indochina Not an Issue?"
The New Republic, Vol. 163 (November 7, 1970), pp. 7-8; David
Nyhan, et al., "The Election Campaign in Perspective; Reports
from New England, New York, the Middle West, the Southwest, and
the Far West," The Progressive, Vol. 34 (October, 1970),
pp. 36-43. In "The Next Moves for the Peace Movement," The New
York Times, January 9, 1971, p. 27, David Gelber bitterly
complained: "the Democratic opposition virtually deserted the
peace issue in the last election." Gelber was associated with
more radical anti-warriors.
    Despite the evidence provided by these sources (and
many others) however, the reader should also consult The
Gallup Opinion Index, Report Number 65 (November, 1970), p. 4.
This report indicates that 72% of a national sample thought that
the Vietnam issue would be "extremely important" in the thinking
of voters in the 1970 congressional elections. This suggests
that a proper presentation of the issue would have found a very
receptive audience.

Other Features of 1970

Volumes can be written about any year and usually are. Here, we confine ourselves to pertinent points about: 1) appropriations blocking opportunities, 2) senators facing re-election, and 3) 1970 compared to 1973.

Cambodia-Kent State occurred less than two months before a series of appropriations deadlines. (See pp. 124, 137-38.) There were four deadlines in 1970: June 30, July 31, October 15, and the sine die adjournment of Congress.[128] In short, there were four lost opportunities in 1970 to which the excitement and energy of the moment could have been applied. Had such application been made, perhaps interest would have remained.

35 Senate seats were contested in 1970. That 65 Senators were immune to immediate electoral pressure is a serious argument against the writer's proposal. Therefore, who the challenged Senators were, their war positions, and the relative safety of their seats will be discussed in the analysis of objections. Here, we observe that a disproportionate share of liberal seats were contested.

In 1973, the bombing of Cambodia was stopped by appropriations riders approved by congressional majorities. (But see n.86, ch. IV.) Does this establish that majoritarian peace strategy was correct? Absolutely not! Conditions in 1970 were very different.

Especially significant was the presence of a large number of American troops in Vietnam and the absence of a Watergate

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[128]Congressional Record (Daily Edition; June 24, July 30, October 12, 1970), pp. S9745-6, S12421-2, S17776-9.

scandal. The latter in particular gave Congress the "courage" to act to end the war when it was mostly over in June, 1973. In December, 1972, this observation was made: "In the last two years the Senate, often by narrow margins, repeatedly passed end-the-war amendments, only to have them blocked by the Administration in the House."[129] But by May 1973 Watergate's influence was noted: "the House's approval of a resolution to curb American activities in Cambodia could not have happened, in the opinion of most members, if not for the loss of prestige Mr. Nixon has suffered in the Watergate case."[130]

It was entirely characteristic of congressional dovery to "end" the war after over half a million American troops had already been withdrawn from Southeast Asia and the draft terminated. The critical question here, however, is why Congress did not end the war when it would have made a much bigger difference in terms of American lives, money and domestic turmoil.

In 1970, there was still a very large number of troops in Vietnam and 1970 was probably the last year that sizable American casualties occurred. On April 15, 1970, two weeks before Combodia-Kent State, there were 425,583 United States troops in Vietnam.[131] This was one year after the maximum number of troops

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[129]John W. Finney, "Doves in Senate Hold Off Criticism of Snag at Paris," The New York Times, December 18, 1972, p. 2.

[130]R. W. Apple, Jr., "A Mandate Not From Heaven," Ibid., May 13, 1973, p. 1E. See also, John W. Finney, "House, by 219-188, Votes Down Fund to Bomb Cambodia," Ibid., May 11, 1973, pp. 1, 9; Richard L. Madden, "House Again Acts to Curb Bombing," Ibid., June 27, 1973, pp. 1, 8.

[131]Comptroller General of the United States, Report to the Congress, First Review of Phasedown of United States Military Activities in Vietnam, Department of Defense (Washington: General Accounting Office, March 15, 1971), p. 11.

in Vietnam was reached: 543,500.[132] The following troop levels existed at the end of each of the years indicated: 1960, 900; 1961, 3200; 1962, 11300; 1963, 16300; 1964, 23300; 1965, 184300; 1966, 385300; 1967, 485600; 1968, 536100; 1969, 475200; 1970, 334600; 1971, 156800; 1972, 24100.[133] The following deaths occurred in the years given: 1961-1963, 120; 1964, 147; 1965, 1369; 1966, 5008; 1967, 9378; 1968, 14592; 1969, 9414; 1970, 4221.[134] It can be clearly seen that troop levels steadily declined after April 1969 and so did deaths after 1968. From the beginning of 1971 until the cease-fire in January, 1973, there were 1748 American deaths.[135]

Not only was 1970 the most propitious year for the adoption of the porposal of this thesis, it was probably the last year. The decline in troop levels and casualties made it less likely that a non-majoritarian strategy could work and increased the feasibility of a majoritarian plan.

The more Americans in Vietnam the more pressure and con-

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[132]"U.S. Troop Levels...," loc. cit. (n.72, ch. II).

[133]Ibid.

[134]Foreign Affairs Division, op. cit. (n.10, ch. II), pp. 4-7, esp. p. 5. This source gives non-fatal in addition to fatal casualties. The death and wounded figures are given in less detailed fashion than Ibid. in "Combat Casualties in Southeast Asia," Congressional Quarterly Weekly Report, Vol. 31 (January 27, 1973), p. 150.

[135]This figure is arrived at thusly: The number of deaths from 1961-1970, just given, add up to 44,249. At the time of the truce in Vietnam, the "unofficial" American death count was 45,997. Jerry M. Flint, "An American Colonel From Michigan Is Last American to Die in War," The New York Times, January 29, 1973, p. 1. 44,249 subtracted from 45,997 is 1,748. Of this 1,748, 1,380 deaths occurred in 1971. "Combat Casualties...," loc. cit.

cern there would be to stop the war. By December, 1972, when troop levels had declined to 24,100 professional soldiers, dove "Senator...Saxbe...of Ohio reported that his constituents 'couldn't care less about the war'" Also, Senator Dominick of Colorado though the withdrawal of American troops sapped the antiwar movement of will. To be fair, however, Senator Mansfield saw on the way a "volcanic upheaval" against the war.[136]

Paradoxically, the termination of the bulk of the war made it easier, especially with the Watergate contribution, for more and more Members of Congress to go along with "ending" the remainder of the war. The reason why delivering a coup de grace was easier than ending the war at a time of heavy fighting by American troops was, ironically, the very presence of those troops in Vietnam. An argument against a war fund cut was "support the boys in Vietnam; don't take their guns away!"

In short, the presence in 1970 of a large number of troops and casualties created at once a possible favorable basis for ending the war in an intense desire to do so and also a resistance to the same. These arguments will be covered in due course.

Given the decline of American troop involvement in the war after 1970, the reader might wonder why the strategy outlined in this chapter has been presented at all. There are several reasons: 1) To reiterate a point made several times, 1970 was the best time to end the war. But it was **not** the only time. There is no reason in principle why the plan could not

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[136]Finney, loc. cit. (n.129).

have been applied much earlier in the war and saved even more lives. 2) With the invasion of Cambodia and 426,000 troops still in Indochina, there was uncertainty at the time as to which direction the war would take. In 1970, the benefit of 1973 hindsight did not exist. 3) A decline in the number of casualties does not imply that needless casualties are acceptable if they are non-sizable in relation to those of the past. After 1970, 1,748 deaths and many more non-fatal casualties did occur. 4) From the point of view of the anti-bombers, the war should have been stopped. Unlike troop levels and casualties, bombing did not decline steadily. After decreasing from 1968 to 1971, bomb tonnage showed a marked increase in 1972. Some tonnage figures were: 1966, 496319; 1967, 932119; 1968, 1437370; 1969, 1387259; 1970, 977446; 1971, 763160; 1972, 1084359.[137] 5) The political science context of this thesis should be recalled. In 1970, there was an intense desire by many people to end the war. They despaired of the political system. A purpose here is to show what these people could have done with the tools made available by the political system about which there was so much gloom. Ultimately, what should and should not have been tried is for each individual to decide. (See ch. I, esp. p. 58.)

A Preliminary Summary of Criticisms of the Proposal

This writer is acutely aware of criticisms of his proposal. He first conceived of it in 1967 and since then has been made aware of objections by Senators and their aides, peace

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[137]"Allied Bomb Tonnage in S.E. [sic] Asia," Congressional Quarterly Weekly Report, Vol. 31 (January 27, 1973), p. 150.

activists, the political science literature and his own

thoughts.[138]

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[138]The following are some of the persons with whom the
writer communicated: In the week of July 14, 1969, the writer
sought to persuade dove Senators to filibuster war appropriations.
On July 14, the writer spoke to Senator Fulbright, and left an
outline of the plan with the Senator. The writer also wrote to
the Senator on July 25, 1969 in response to the Senator's letter
of July 17, 1969. The Senator also wrote to the writer on
October 9, 1969. In addition the writer has letters from
Senators McGovern and Gore dated respectively July 17 and 14,
1969. Also during the week of July 14, 1969, the writer spoke
to : Muriel Ferris, Legislative Assistant to Senator Philip
Hart; Mary Wachholz of Senator Goodell's office staff; Paul A.
Korody, Legislative Assistant to Senator Stephen Young; Arnold
Brustin, Research Assistant to Senator Gaylord Nelson; William
G. Hedlund, Legislative Assistant to Senator Harold Hughes;
Andrew Lynch, Legislative Assistant to Senator Albert Gore;
Richard A. Wegman, Legislative Assistant to Senator William
Proxmire, John Holum, Staff Assistant to Senator McGovern.
The writer also received Senator Eugene McCarthy's views through
his Appointment and Personal Secretary, Jean Stack. On
September 26, 1969, the writer spoke to Norvill Jones, Staff
Consultant to the Senate Foreign Relations Committee.
On November 6, 1969, the writer spoke with J. Sinclair
Armstrong, a former Chairman of the Securities and Exchange
Commission and at the time a member of the National Council of
the Business Executives Move for Vietnam Peace. On July 9, 1970,
the writer spoke to Professor James E. Darnell, Jr., one of the
co-founders of the Academic Lobby for a Responsible Congress.
(See Barber, et al., loc. cit. (n.96) and Byrna Taubman, "2 City
Profs & Their Lobby," The New York Post, May 9, 1970, p. 10.)
On June 22, 1970 and on January 4, 1971, the writer spoke to
Robert B. Silvers, Editor of The New York Review of Books, the
key role of which is depicted elsewhere (n.103, ch. II). The
writer also received letters from Silvers dated June 19, 1970
and June 4, 1971. The writer also spoke to David Gelber of
Liberation in August, 1970. Moreover, there were several
conversations with Larry Josephson of radio station WBAI,
including an extended talk on the radio on September 2, 1970.
Finally, the writer benefited from conversations with friends
interested in peace, especially from numerous conversations
with Dr. Franklin Leonard Jonas.
From these sources and others, the writer assembled the
summary of arguments against his plan. Objections that one
can infer from the political science literature will appear in
chapter VI. Specific objections will be documented where
appropriate. No pretense is made here that every minute
objection has been presented. In any case, it is the major
objections and criticisms that must be dealt with.

The most obvious question perhaps is this: if the plan
was so good, why wasn't it tried? In the next chapter, several
answers will be given. Among them is that, against implementing
the plan, there was a combination of empirical and normative
arguments advanced and/or believed by doves with varying degrees
of seriousness and sincerity. The arguments include the
following:

Probably the most unacceptable feature of the plan, in
the eyes of its peace proponent opponents, is its utterly
undemocratic character. It involves a very small number of
legislators thwarting the will of the great majority. On top
of that, third candidates would subtract small numbers of voters
from major party candidates thereby defeating them. But the
latter would otherwise be preferred by the majority to the major
party winners.

These tactics would lead to the charge of hypocritical
inconsistency against liberals, who long favored majoritarian
methods. For example, it was virtually a ritual for liberal
Senators to open each new Congress with an attempt to amend the
rules to provide majority cloture.

There were those who felt it was unnecessary to face the
charges that they were undemocratic and hypocritical. They
believed that majorities in Congress to stop the war could be
obtained. Stopping the war against the wishes of the Presi-
dent would be a most serious undertaking, which would have much
more acceptance if done by majorities in two houses rather than
a small minority in one house of Congress.

The use of tactics regarded as "legitimate" was especially

necessary in view of a fact shown in numerous polls. Although
for a long time (since 1967) a majority of the American people
thought initial United States involvement in Vietnam was a
mistake, it did not follow from this that: a) they opposed the
policies actually followed at any given time; b) they would
support immediate withdrawal of troops from Veitnam if compelled
by either majorities of two houses or a minority of one house.
Indeed, there was reason to believe that a filibuster to stop
war funds would produce a widespread and intense public protest:
bucking public opinion would mean more undemocracy. This could
lead to increased violence and polarization in the nation. The
implication here, also, is that the writer's proposal for
immediate withdrawal of troops was too extreme.

A major argument against the plan of this chapter,
frequently heard by the writer, centered on the question of
desirability. It was undesirable and foolhardy to threaten
defeat of dove Senators. Assuming the possibility of such
defeat for argument's sake, it was still held that, whatever
their failures in the peace field, the dove Senators had compiled
notable records in other liberal causes. To defeat them, for the
most part, would not result in the election of more vigorous
anti-warriors. Instead, the new Senators would be more con-
servative. In short, from the liberal viewpoint, a bad situation
would be made worse.

For the above and other reasons, the contention could
be and was made that the plan was unwise and impractical. The
other reasons, which especially focused on the practicality
question, included the following. A particularly difficult

problem was the fact that only one-third of the Senate (35 Senators in 1970) faced the electorate in any one year, thus immunizing two-thirds to electoral pressure. Also, of the one-third up for re-election, a few would retire, and others would be irreconcilable hawks and/or from overwhelmingly safe constituencies: more immunization.

The plan would require, on the part of Senators, leadership, initiative and courage. But it has been rumored that bottles of courage in Senatorial medicine cabinets contain the following statement: "WARNING: The Surgeon General has determined that courage can be dangerous to your political health." Politicians like to stay healthy and this is one more indication of impracticality.

A very large dose of courage would be needed to oppose the wishes of the President, who, it was widely said, had a huge arsenal of weapons to bring into line recalcitrant legislators. These weapons included: 1) superior access, via the media, to an already favorable public opinion (141), and 2) the rewards and punishments of patronage. Moreover, if worse came to worse, the President would just ignore a legislative mandate of which he disapproved. In addition, it was deemed "unwise" to provoke a "constitutional crisis," to violate the principle of separation of powers, and to undermine the President's preeminent foreign policy role. It should be remembered that, for a long time before Watergate, the President was an object of veneration and a source of fear.

Courage would also be required to filibuster appropriations. To filibuster any appropriations would be most unusual. But to filibuster appropriations necessary to provide weapons for

the defense of "our boys" in Vietnam would be unprecedented, frivolous, irresponsible and even criminal. Thus, from the point of view of peace Senators such a filibuster would be undesirable and even immoral. It would be impractical to expect them to do it.

Finally, there were objections of impracticality that could arise from the political science literature. To begin with, it has been shown (and will be elaborated upon) that the peace movement was highly fragmented. Along comes this writer with the proposal that a highly amorphous and fragmented movement adopt and work along some highly complicated lines. Is it reasonable to expect that a large number of people and groups could be expected to follow an exact series of steps?

Moreover, the literature of political science seems to suggest that elections do not have specific one to one policy consequences. Can we expect elections to have a direct influence in order to bring about a specified policy? Also, what is the influence of particular groups? Any given interest group is highly unlikely to get everything it wants, and this difficulty is magnified in the realm of foreign policy.

In short, electoral and group constituencies are most likely to have a general influence on public policy and least likely to have a specific influence. This goes double for foreign policy.

Again we have an argument based on impracticality. But when all else failed, and there were no reasons in particular, this writer heard the cry of "impractical"---asserted without explanation, perhaps in the belief that to assert is to explain.

One other argument might be advanced, not so much by the political science literature, but by political scientists (e.g., those in the Movement for a New Congress). The latter were those active in the 1970 elections. They might say that the writer's attempt to brand the 1970 election strategy as majoritarian is not correct. This is because the focus of their strategy was on certain key Senators and Representatives. They did not try to campaign in every constituency but only in critical ones. It was felt the switch of say 20-40 Representatives could convert the House hawk majority into a dove majority. Thus, in short, these political scientists too were focusing on small numbers.

These then are the arguments against the writer's plan. In the coming chapters, the writer will seek to deal with them, especially the serious ones.

CHAPTER IV

"WHY WASN'T IT TRIED?"   HOT HAWKS, COLD DOVES, AND PETULANT PENGUINS

> This insinuation of the interests of the self into even the most ideal enterprises...makes hypocrisy an inevitable by-product of all virtuous endeavor.
> ---Reinhold Niebuhr[1]

> I'm not into politics that much, and I don't have any faith left in liberal politicians....But if the fourth party looks like fun, and a lot of people I like are doing it, well...
> ---Joan Libby, Vietnam Moratorium Staff[2]

> Listen. I've been demonstrating all week. I demonstrated on Wall Street, I demonstrated at City Hall, I demonstrated at Union Square, I demonstrated at C.C.N.Y. and I demonstrated at N.Y.U. [sic] Tonight I'm going on a candlelight procession. I figured I could take a few hours out and go see "Woodstock."
> ---High school student in May 1970[3]

> Man creates political symbols and they sustain and develop him or warp him....
> ...interests...in substantive power are less easily satiable than are interests in symbolic re-assurance....[C]onditions in which myth and symbolic reassurance become key elements in the governmental process...may...be maximal in...foreign policy....
> ---Murray Edelman[4]

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[1] Reinhold Niebuhr, Moral Man and Immoral Society, A Study in Ethics and Politics (New York: Charles Scribner's Sons, 1932), p. 45.

[2] Quoted by David Gelber, "The Moratorium Was Its Own Victim," The Village Voice, April 30, 1970, p. 52.

[3] Quoted by William E. Farrell, "Schools Shut, Pupils combine Protest and Recreation," The New York Times, May 9, 1970, p. 10.

[4] Murray Edelman, The Symbolic Uses of Politics (Urbana: University of Illinois Press, 1964), pp. 1, 22, 41.

> There are many parliamentary devices...by which
> a Congressman or Senator can go through the motions
> of doing those things that please his constituents
> without in fact materially contributing to what they
> believe in....
> ---Lewis Anthony Dexter[5]

> I am going to join the group that makes the
> symbolic stand at every chance.
> ---Senator Harold Hughes[6]

> It is all mostly talk.
> ---Sen. J. W. Fulbright (not referring to himself)[7]

> ...the confused assortment of political ob-
> jectives on the left---from legalizing marijuana to
> ...providing free abortions---dilutes the political
> impact of the peace movement.
> ---San Brown[8]

> ...the degree of unity in the group is probably
> most fundamental in determining the measure of
> success it will enjoy.
> ---David B. Truman[9]

> **Where** Are the Peacemakers?
> ---Senator Vance Hartke[10]

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[5]Lewis Anthony Dexter, The Sociology and Politics of Congress (Chicago: Rand McNally, 1969), p. 2.

[6]Senator Harold E. Hughes, quoted by Mary McGrory, "Fighting the Draft," The New York Post, May 7, 1971, p. 41.

[7]United States Congress, Congressional Record, 91st Congress, 1st Session, Vol. 115 (Daily Edition; October 1, 1969), p. Skk629. Fulbright was referring to the President. But, of course, the point here is that his words appropriately describe himself and his colleagues.

[8]Sam Brown, "The Politics of Peace," The Washington Monthly, Vol. 2 (August, 1970), p. 24. Brown is paraphrasing Madame Nguyen Thi Binh, National Liberation Front foreign minister and representative to the Paris peace talks.

[9]David B. Truman, The Governmental Process, Political Interests and Public Opinion (New York: Alfred A. Knopf, 1951), p. 167.

[10]Senator Vance Hartke, "Where Are the Peacemakers?" The Progressive, Vol. 30 (September, 1966), pp. 12-14.

Two Questions in One

"Why wasn't it tried?" This question has been asked by
virtually everyone with whom the writer discussed his plan.
(See n.138, ch. III.) It is actually a double criticism.

In one sense, the question is this: "If your proposal
were as good as you say, why was it never tried?" The clear
implication is that, if the plan had any merit, it would have
been tried, and the fact that it was not means that the plan was
defective. Thus stated, we have a patent absurdity which would
scarcely warrant attention except for all the times the writer
heard it. This seemingly extreme statement is made because the
criticism is nothing less than an argument against all progress.
Every technological advance in history at one time could have
been described as having never been tried. That is the very
definition of a new idea. If the fact that a new idea has never
been tried were an argument against its adoption or consideration,
there would be no new ideas. There would be no wheel, matches
or moon trips. So much for nonsense!

In a second and less extreme sense, the question para-
doxically becomes more serious: "The failure of the proposal
to be adopted may mean that there were serious obstacles in its
path. What explains the failure of adoption and does the answer
include major obstacles? Could they have been surmounted? How?"

The writer's answer is that the biggest obstacle to
peace was the peace movement, especially its leaders. There can
be no gainsaying that what follows is not only a criticism of
"dovery" but also of the writer's proposal. If the peace move-
ment had the vices the writer alleges, then how could it have
been mobilized to support the writer's proposal?

But first, why wasn't it tried?

Senator Fulbright's Penguins

The answer to this question is perhaps best given by a conversation this writer had with Senator J. W. Fulbright. This discussion suggested that, while some Members of Congress were doves and others were hawks, almost all were penguins who thrived in a cool political climate and would thus avoid heat at all costs.

In July 14, 1969, the writer presented to Fulbright a proposal for a war-ending appropriations filibuster.[11] The supposedly courageous anti-war leader made three comments.

1) "I cannot do it. I would look stupid."

On April 3, 1969, the Foreign Relations Committee Chairman said: "we can not afford the luxury of delay in ending the war because every week...the war continues some 200 to 400 young Americans lose their lives."[12] On October 1, 1969, he did "not believe there is any justification for another American to die in" Vietnam.[13]

An answer to the why-wasn't-it-tried problem begins to emerge when we consider Fulbright's contrasting comments. Given a choice between avoiding a "stupid" image and stopping what _he_ himself thought was unjustified death, Fulbright preferred the former.

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[11]The writer presented the proposal orally and left with the Senator a more detailed version in a letter dated July 10, 1969. The Senator gave additional response in a letter to the writer dated July 17, 1969.

[12]Congressional Record (Daily Edition; April 3, 1969), p. S3553.

[13]Ibid., October 1, 1969, p. S11627

At this point the reader must be protesting mightily the outrageous unfairness of the writer. Maybe Fulbright did not perceive the choice in the light stated in the previous paragraph. Perhaps he felt he would look stupid if he lead an effort that he thought would not succeed.

The writer's response to this objection is that whether the plan would work certainly was a legitimate consideration. But, if Fulbright's clearly stated views were sincere, his image should not have been a factor in his evaluation of the proposal. If there was a chance it would work, then how he would look, according to his own values, was secondary. If it clearly would not work, then looking stupid was irrelevant. Or are we to conclude that an effort that would not work was worth making if it would brighten rather than tarnish the Senator's image?

In practice, the answer to this question was quite affirmative. The writer was constantly told that his proposal was unfeasible. However, Fulbright and his dove cohorts were constantly engaged in futile gestures. But, oh, what a "smart" image they had!

That a man who considered his image when human life was at stake could, in fact, have a good image brings out more of the why-wasn't-it-tried answer. Even radical elements of the peace constituency were highly impressed with Senator Fulbright. To take one of numerous examples, David Gelver of Liberation wrote as late as early 1971: "There are few men in the national leadership elite who, like Senator Fulbright, have demonstrated long-standing and principled opposition to the war."[14]

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[14]David Gelber, "The Next Moves for the Peace Movement,"

2) Senator Fulbright's second July 14, 1969 comment about the writer's proposal was this: "Have you talked to anyone else?" The writer answered that he had come to Fulbright first because of the latter's prestige. But Fulbright had another question: "What prestige do I have?"

If Fulbright was correct in denying the possession of prestige, then many writers in addition to Gelber have been badly mistaken. For example, Fulbright has been called "Capitol Hill's most influential dove"[15] and "leader of the so-called doves in the Senate."[16] If, then, Fulbright was right, his peace constituency had very faulty perception. On the other hand, if he had prestige but simply did not care to use it, the peace movement was sorely lacking in its "leaders." In any case, whether Fulbright would not or could not take the lead, it was clear that no guidance in the direction of the actual use of power would come from him.

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The New York Times, January 9, 1971, p. 27. Most, but not all, doves were fooled by Fulbright. A particularly pungent peace proponent piece is I. F. Ston's three part "book review" of Tristram Coffin, Senator Fulbright: Portrait of a Public Philosopher (New York: Dutton, 1966). In reality articles, the three parts are: "Fulbright of Arkansas: I," "Fulbright: From Hawk to Dove (Part 2)," "Fulbright: The Timid Opposition," The New York Review of Books, Vol. 7 (December 29, 1969), pp. 5-6; Vol. 7 (January 12, 1967), pp. 8, 10, 12; Vol. 8 (January 26, 1967), pp. 10, 12-13. Also by Stone is "The Supineness of the Senate," Ibid., Vol. 12 (February 13, 1969), pp. 3-4, 6. The attack by Stone is stinging. However, it is well to note that he cannot help saying of Fulbright that "he... is 'all we've got' and we are grateful for him." "...The Timid Opposition." Ibid., p. 13. Later we shall note other deficiencies in the Stone analysis.

[15]Robert S. Boyd and James McCartney, "Fulbright Doubts Gain In Move for Peace," The New York Post, May 2, 1969, p. 37.

[16]Francis O. Wilcox, Congress, The Executive, and Foreign Policy (New York: Harper & Row, 1971), p. 6.

The Chairman feared that he would have no followers if he took the lead. He was so concerned about this possibility that he repeated it in a letter: "I would be interested to know if any of the other Senators to whom you made such a proposal have thought...the means you suggest are feasible or would succeed."[17]

This is an illustration of the classic "leader" who follows his followers. (See pp. 17-19.) In this case, Fulbright wanted to follow his followers in two senses. He wanted to be sure there were followers among his colleagues. But, although unquestionably he had greater access to his colleagues than this writer, the Chairman wanted the writer (a peace constituent and Fulbright follower) to take the lead in rounding up colleagues. Apparently, Fulbright did not care to talk to them. Perhaps he was not on speaking terms with the dove Senators he supposedly lead.[18] Or perhaps he just made the convenient assumption--- without any real evidence---that they would not go along with a filibuster. A negative assumption about a proposal is "convenient"

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[17]Letter to the writer, July 17, 1969. Stone says of Fulbright: "He is a reflective rather than a combative man....He does not have the heretic's zest for standing alone...." "...The Timid Opposition," loc. cit., p. 10.

[18]On September 26, 1969, the writer spoke to Norvill Jones, Staff Consultant to the Foreign Relations Committee. Jones reiterated a Fulbright objection that other Senators would not go along with the writer's proposal. The writer asked Jones how he knew this and expressed the belief that each Senator seems to live in his own little world. The writer suggested that Senator Fulbright call a meeting of dove Senators to find out how they each felt. They could assure each other that, in the event of a filibuster, no one would be alone. Jones' response was: "You just can't call a meeting of United States Senators and get them together in one room." The emphasis was that of Jones who gave the impression of talking about a group of royal princes or prima donnas.

when one does not wish to be bothered with it in the first place. Also, if everyone assumes that everyone else would not go along, we have a self-fulfilling prophecy of failure. And all effort, responsibility and risk are avoided. As the next point shows, there was risk.

3) Aside from a possible desire not to be annoyed, Senator Fulbright based his assumption that he would have no followers on his third July 14 comment, which suggested that, above all, his colleagues were political penguins: "They wouldn't do it. They would be exposed to a tremendous storm of criticism; they could not take the heat." (Emphasis added.)

The "heat," of course, would come from hawks, not doves. In 1969, the principal fear of peace Senators was that of offending supporters of Administration war policies. But what constituted such offense? Implicit in the Fulbright conversation was the distinction between words and action. Fulbright and his fellow doves had long been critical of the Vietnam War. The Chairman did not hesitate to say repeatedly that American boys were being sent to their deaths without justification.[18a] Apparently, then, as long as Fulbright fulminated, he did not seem to think Administration supporters would be offended to the point of generating unbearable "heat." Only if effective action were taken to end the death that had "no justification" would there be heat that "they could not take." This presumption is highly questionable. Just as we shall see that many doves were "taken in" by dove words, so too did numerous hawks attribute

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[18a]"...it follows inescapably that the United States has been fighting a war without need or justification...." J. W. Fulbright, "Vietnam: The Crucial Issue," The Progressive, Vol. 34 (February, 1970), p. 17.

greater significance to these words than warranted. How many voters would be offended by action but not by words? That is very hard to tell.

It should be noted in passing that the words of dove Senators were not without effect. In fact, they achieved the worst of both worlds. They exposed what many thought were errors in policy, thereby intensifying the desire among dove constituents for action to end the errors. At the same time, the dove Senators steadfastly refused to take such action, thus raising the frustration level and willingness of many people to employ methods outside the system.[19]

Whatever the precise difference between words and action, for a long time the major pressure was on dove legislators. Throughout the war, there were strong appeals to patriotism, and to "support our fighting boys and POW's." Moreover, in these matters, Presidential initiatives initially had very high regard.[20] This regard remained high, although not always as high as at the outset. As the war progressed, there was a decline in the percentage of the population who thought the United States ever

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[19]According to Skolnick: "Another factor favoring the [peace] movement's growth has been the refusal of many highly placed persons to go along with the administration policies and assertions. Senate 'doves' such as Fulbright, Morse, Hatfield, McGovern, Gruening, Gore, Kennedy, Mansfield, Hartke, and McCarthy provided continual incentive to further dissent...." op. cit. (n.42, ch. I), p. 43.

[20]Verba, et al. refer to evidence that "suggests that the President's support increases no matter what he does---increase the war or talk of negotiations---as long as he does something. The increase in support, however, tends to be temporary." loc. cit. (n.38, ch. II), p. 333. See also, Rosenberg, et al., op. cit. (n.11, ch. II), pp. 25-29, 46-47. The latter say at p. 28: "The people can be skeptical of the policy in its specifics yet rally to support the President."

ever should have gone into Vietnam.[21] But this decline was all too easily misinterpreted as a decrease in support for policies pursued at any given moment.[22]

Thus, dove legislators were aware of major support for Vietnam policy and of potential voter retaliation for opposition to such policy. War opposition could cost them their seats. To be sure, there was always a dove voter counter threat emanating from the dove candidates who ran against hawk legislators. (p. 92.) In 1970, this became quite significant.[22a] (ch. III.) The power of some dove constituencies to defeat hawk incumbents could not be denied. BUT, through the war, THERE WAS ONE KIND OF "HEAT" THAT WAS NEVER APPLIED OR CONSIDERED: ELECTORAL AND OTHER PRESSURE FROM PEACE CONSTITUENCIES UPON PEACE LEGISLATORS. Never had the latter had to fear the consequences of alienating the former.

From the point of view of peace advocates, this section has not placed dove Senators in a favorable light. However, it is not the intention here to attribute to the latter primary responsibility for the extended durationof the war. It would have been very pleasing to the peace constituency if legislators had led the way to effective **action**. But they did not. Instead,

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[21.]See Mueller, loc. cit. (n.38, ch. II), passim; Hazel Erskine, "The Polls: Is War a Mistake?" Public Opinion Quarterly, Vol. 34 (Spring, 1970), pp. 134-150.

[22]See point 3, n.58, ch. II; Mueller, loc. cit.,pp. 358-359, 367-371.

[22a]In addition to the material cited in ch. III, see Saul Friedman, "Princeton Open War on Congressional Hawks," Detroit Free Press, May 8, 1970, reprinted in Congressional Record (Daily Edition; May 13, 1970), pp. S7099-S7100.

as politicians are wont to do, they acted like penguins. To be sure, they were petulant penguins, but they did avoid bringing excessive "heat" upon themselves. (See also pp. 129-130.)

If politicians understandably act to minimize hear for themselves, it follows that the primary responsibility for the war's duration must belong to the peace constituency, which did not direct heat upon dove Senators. The latter feared the political consequences (heat) that would ensue from using their actual power to end the war. They were not compelled to consider the "heat" that would be generated if they did not use their power. Since the only spectre they faced was hawk heat and not dove heat, it is no wonder that they pleased hawks in the realm of action and doves when it came to words. In sum, the contention here is that dove Senators never exercised their power primarily because their dove constituency never demanded it.

Far from making such a demand, far from stoking the fires to create the heat of action, the peace constituency was actually thankful for the nothing it got. Anything done by congressional peace "advocates" was gratefully accepted and applauded, instead of denounced as utterly inadequate and, in fact, downright fraudulent. Unaware of the very real power of 34 Senators to seize control of and end the war, most dove constituents were satisfied with little more than sops to their pride. They were impressed with speeches and rhetoric, with debates and hearings, with resolutions and with resolutions repealing resolutions, with moral victories and symbolic victories.

An understanding of dove constituents is thus a key to explaining why the writer's plan was not tried. In turn, a

comprehension of the constituents requires a grasp of what impressed them. In other words, what <u>was</u> tried?

<u>Legislative Anti-War "Action": The Congressional Credibility Gap</u>

During the Vietnam War, it became fashionable to talk about the "credibility gap." This was the gap between what Presidents said about the war and the actual truth. Chief Executives Johnson and Nixon did not always tell the truth. And they were caught.

But there was one credibility gap that relatively few detected or wrote about. This was the credibility gap of the legislative branch, especially the Senate. Dove Senators in particular were rarely-caught masters of deceit. Their deceptions were manifested in at least six ways: A) They denied that they had realized how the Gulf of Tonkin Resolution would be used at the time they voted for it. B) For a long time, they managed to get large numbers of people, including peace constituents, to believe "that the war in Indochina is and always has been a Presidential war, initiated and conducted without valid authorization by Congress."[22b] C) They constantly denied that they possessed the power to end the war, when in reality they always had it but dared not exercise it. D) Instead, they continually postured, giving the impression they were doing something "courageous." In fact, they only increased frustrations. E) They justified voting to fund a war they claimed to oppose, on the ground of "protecting our fighting boys." In truth, they

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[22b]Senator J. W. Fulbright, quoted in <u>Congressional Quarterly Almanac, 1970</u> (Washington: Congressional Quarterly Inc., 1971), Vol. 26, p. 952.

knew that this actually placed more and more boys in danger and, in any case, was not the real reason for pro-fund votes. F) They "ended" the war only after it was largely over, and even that action was fraught with fraud.

Point C has been discussed (ch. III) and will be amplified in the next two chapters. The other points will be elaborated upon in the ensuing discussion. Bearing in mind all of these points, especially B, it should become clear that **presidential prevaricators have been no match for legislative liars.**

For example, in 1970, the latter perpetrated a great hoax on their followers. It was in 1970 that the peace movement made its monumental effort, a great part of which was devoted to pushing passage of "anti-war" legislation. This included: 1) Repeal of the Gulf of Tonkin Resolution; 2) the Cooper-Church Amendment; and 3) most significant, the McGovern-Hatfield or "end the war" Amendment.

These three legislative items illustrate the propositions that symbolic reassurance comes far easier than substantive satisfaction and that symbols can warp people. (Edelman, p. 180.) They also show how lawmakers "can go through the motions of doing...things that please...constituents without in fact materially contributing to what they believe in...." (Dexter, p. 181.) Unwilling to take concrete action, legislators, notably Senators, resorted to ruses to make it appear that they were doing something when in reality they were doing nothing. According to Roscoe and Geoffrey Drummond, "congressional critics of the President's [Cambodian] decision...are...skittish about taking any action which would put the responsibility on themselves for

doing anything differently."[23] Finally, these items, in
general, illustrate "a syndrome Congress all too frequently
displays in foreign affairs---how to be on the easy and popular
side of an issue without accepting any responsibility for the
consequences of that position."[23a]

J. W. Fulbright once said of Vietnamization: "it is all
mostly talk." (p. 181.) The same more accurately could have
been said of the Senator's own band of doleful dove debaters.
(At least Nixon did bring hom 543,500 troops more than Congress.)
For example, in June, 1969, Senator Harold Hughes' "personal
agony over this war...[had]...increased to the point where...it
would be criminally irresponsible on my part to remain silent."
So he decided to talk and that's about all he did. For he would
not "force decisions on the President," or support "such rash
measures as unconditional withdrawal."[24] A man of sensitivity
so extraordinary that he can have a "real" conversation with his

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[23]Roscoe and Geoffrey Drummond, "Toughest Decision by
President Shows the Measure of the Man," _Washington Post_, May 9,
1970, reprinted in _Congressional Record_ (Daily Edition; May 11,
1970), p. S6949. On this point, see also n.31, ch. II.

[23a]"On 'American Imperialism,'" Editorial, _The Wall Street
Journal_, August 9, 1971, p. 8. Congress also displays the
responsibility-shirking syndrome in domestic affairs. In James M.
Landis, "The Legislative History of the Securities Act of 1933,"
The George Washington Law Review, Vol. 28 (October, 1959), pp. 48-
49, we are told of a controversy over Title II: "the President
had no idea...what to do and...[told] Rayburn to do whatever he
thought best." The result was "adding to Title II the provision
that the title should take effect only if, [sic] and when the
President determined that it should do so in the public interest
....Rayburn recognized that...it would put the problem squarely
back in the lap of the President and make possible the immediate
passage" of the bill.

[24]_Congressional Record_ (Daily Edition; June 20, 1969),
pp. S6845-6.

dead brother,[25] Hughes' agony not surprisingly increased further, to such a point that by 1971 he was prepared to take the stout step of joining "the group that makes the symbolic stand at every chance." (p. 181.)

A clearly symbolic action taken by the seance aficionado and his colleagues was the repeal of the <u>Tonkin Gulf Resolution</u>. This, the reader will surely recall, provided Congressional support of the "the determination of the President...to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression."[26] President Johnson and his subordinates repeatedly used the resolution as a justification for war escalation, to the endless chagrin of dove Senators.[27] They incessantly protested that they had not known how the resolution would be used when they voted for it. This raises a very real credibility gap question. A glance at the <u>Congressional Record</u> debate will establish that the resolution's implications were clearly delineated by Senators Morse, Nelson and Gruening.[28]

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[25]R. W. Apple, Jr., "Hughes Expected to Shun '72 Race," <u>The New York Times</u>, July 15, 1971, p. 28.

[26]"Tonkin Gulf Resolution Text," <u>Congressional Quarterly Almanac, 1970</u>, p. 950.

[27]See <u>Congressional Record</u> (Daily Edition; June 23, 24, 1970), Senate debate, <u>passim</u>, e.g. p. S9659. See also: "Congress and the War: Conflicting Assessments," <u>Congressional Quarterly Weekly Report</u>, Vol. 31 (January 27, 1973), pp. 114-118, esp. pp. 114, 116.

[28]Examples of protestations of innocence are: United States Senate, Committee on Foreign Relations, <u>Termination of Middle East and Southeast Asia Resolutions</u>, 91st Congress, 2nd Session, Senate Report 91-834 (May 1, 1970), <u>passim</u>, esp. pp. 9-12; Senators Fulbright and Nelson in <u>Congressional Record</u>

In any event, dove Senators decided that something had to be done. Finally, "in 1970, as if to clear a troubled conscience, the Senate voted not once but twice to repeal the Tonkin resolution <u>with President Nixon's approval</u>."[29] (Italics

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(Daily Edition; June 23-24, 1970), pp. S9604-11, S9663-69.

On the implications spelled out in 1964 <u>before</u> the passage of the Tonkin Resolution, see n. 32, ch. II, as well as the <u>Congressional Record</u> for August 6-8, 1964, <u>passim</u>.

On the credibility gap question, in Report 834, p. 11., the Foreign Relations Committee pouted "that, in adopting the Gulf of Tonkin Resolution, Congress had no intention whatever of authorizing the commitment of the Armed Forces to full scale war in Asia." However, there followed the grudging acknowledgment that the "language of the resolution, <u>it is true</u>, lends itself to that interpretation, but...." (Italics added.) Moreover, the Committee and the dove debaters were selective in citing excerpts from the 1964 Tonkin debate. They noted statements disclaiming intent of full scale war, but they omitted, for example, Senator Morse's protestations.

An interesting speculation is whether Senator Fulbright really did not intend the Tonkin Resolution to be an authorization for a full scale war. A scant four and one half months prior to the adoption of the Resolution, Fulbright made his famous speech on "Foreign Policy---Old Myths and New Realities," <u>Congressional Record</u>, 88th Congress, 2nd Session, Vol. 110, Part 5 (March 25, 1964), pp. 6228-32. He said the United States should not withdraw from Vietnam and "will continue to meet its obligations and fulfill its commitments with respect to Vietnam." Also, he suggested as a "realistic option" the "expansion of the scale of the war...by the direct commitment of large numbers of American troops...." <u>Ibid</u>., p. 6232. It should be stressed that all that is being pointed out here is the existence of a credibility gap on the part of the Senator. There is certainly no intention of faulting a man for reevaluating his position. But the denial of ever having had the position is quite another matter. For more on the Fulbright credibility gap and the "Old Myths" speech, see: Stone, "...From Hawk to Dove...," <u>loc. cit</u>. (n.14), esp. p. 10. See also, John Galloway, Fulbright and McNamara: An Investigation of the Gulf of Tonkin Resolution (Syracuse, N.Y.: The Inter-University Case Program, Inc., 1970).

[29]Wilcox, <u>op. cit</u>. (n.16), p. 29. As if his conscience <u>was</u> a factor, Sen. Mansfield said repeal <u>had</u> "served notice that whatever its initial responsibility, |sic| the Senate was henceforth disassociating itself from" Vietnam policy. <u>Congressional Record</u> (Daily Edition; September 1, 1970), p. S14844. In fairness, double repeal was due to procedural/jurisdictional problems. <u>Ibid</u>., June 23-24, 1970, <u>passim</u>. <u>Congressional Quarterly Almanac, 1970</u>, pp. 948-53, esp. p. 952.

added.) The emphasized clause shows that the Senators did not repeal an operative resolution. They waited until it was no longer used as a rationale for the war. A State Department letter said: the Nixon "Administration has not relied on or referred to the Tonkin...Resolution...as support for its Vietnam policy."[30] Although some Senators claimed that the resolution's repeal ended all legal/constitutional basis for the continuation of the war,[31] two truths stand out.

First, the Tonkin resolution never was the sole justification of the war. Nixon never employed it and acquiesced in its repeal.[31a] Johnson used it but denied its necessity,[31b] relying on other bases as well. These included the Constitution, the SEATO Treaty, and "commitments" by prior presidents.[32] Moreover, even if for argument's sake, protestations of original

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[30]H. G. Torbert, Jr., Acting Assistant Secretary for Congressional Relations, Letter to Senator J. William Fulbright, March 12, 1970, reprinted in Report 834, loc. cit. (n.28), p. 35.

[31]For example: Senator Church: "our involvement, at least from the time of the repeal of the...Tonkin resolution was unconstitutional. [sic] Senator Eagleton: "Once the...resolution was repealed, there was not one whit of constitutional or statutory authority...to keep American troops in Southeast Asia." Congressional Record, 93rd Congress, 1st Sessions, Vol. 119 (Daily Edition; June 29, 1973), p. S12566.

[31a]Indeed, it was Senator Robert J. Dole, a Republican Party stalwart and later to become National Chairman, who introduced the repeal provision that finally became law. The dove-sponsored repeal died in committee. See sources in n.29.

[31b]See the late President's statement of August 18, 1967, quoted in Report 834, loc. cit., p. 7.

[32]See Johnson and State Department quotations, Ibid.; D. and A. Larson, op. cit. (n.102a, ch. I); Rusk, "Statement," loc. cit. (n.102a, ch. I); Leonard C. Meeker, "The Legality of United States Participation in the Defense of Viet-Nam," Department of State Bulletin, Vol. 54 (March 28, 1966), pp. 474-489, esp. pp. 484-489.

Tonkin voters (n.28) are accepted, Congress approved a large

scale war in other ways. In May and in August-September, 1965,

Congress could have prevented a major buildup in Vietnam by

refusing appropriations.[33] Lower court decisions have held that

repeated Congressional votes for appropriations amounted to a

de facto declaration of war.[34]

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[33]"Viet Nam Supplemental," "Defense Funds Include $1.7 Billion for Viet Nam," Congressional Quarterly Almanac, 1965 (Washington: Congressional Quarterly Service, 1966), Vol. 21, pp. 180-1, 168-9, esp. p. 181.

[34]"The Supreme Court...steadfastly refused to rule on the ...constitutionality of American involvement in Vietnam." "Supreme Court: Hand Off the War," Congressional Quarterly Weekly Report, Vol. 31 (January 27, 1973), p. 115. See, for example, Massachusetts v. Laird, 400 U.S. 886 (1970). The net effect of the Supreme Court's inaction was, of course, to uphold lower and appellate court decisions. These declined to interfere with the conduct of the war on one or (incongruous as it may seem) both of two grounds: refusal to consider the merits of what was deemed a "political question," or consideration of the merits. Examples of "political questions" non-decisions (which, in effect, decided in favor of leaving things as they were) were: Atlee v. Laird, 347 F. Supp. 689 (1972); Da Costa v. Laird, 471 F. 2d 1146 (1973). The latter case, at p. 1157, also accepted consideration on the merits.
On the merits, various court decisions held that Congress may authorize war in ways other than an outright declaration. In Broussard v. Patton, 466 F. 2d 816 (1972), the Tonkin Gulf Resolution was held to have created a "time of war" for purposes of the application of the Uniform Code of Military Justics. Appropriations, draft and other legislation was held to authorize the war, with and/or without the Tonkin Resolution, in Orlando v. Laird, 317 F. Supp. 1013 (1970), 443 F. 2d 1039 (1971), cert. denied 404 U.S. 869; Da Costa v. Laird, 448 F. 2d 1368 (1971); Commonwealth of Massachusetts v. Laird, 451 F. 2d 26 (1971); Berk v. Laird, 317 F. Supp. 715 (1970).
In a late case, the Court of Appeals, District of Columbia Circuit reached an ambivalent conclusion on the merits and rejected an anti-war action as a "political question." Mitchell v. Laird, 476 F. 2d---No. 2 (June 18, 1973) 533 (1973). [Note on citation: this case was reported in the preliminary paperback edition of the Federal Reporter, but does not appear in the permanent bound edition, having been "withdrawn by order of the court."] On the merits, referring to previous cases (some cited above), the Court said: "The overwhelming weight of authority... holds that the appropriation, draft extension, and cognate laws enacted with...reference to the Indo-China war...did

constitute a constitutionally permissible form of [Congressional] assent." _Ibid_., at p. 538. (Italics added.) However, two of the three judges on the court said they "now [March 20, 1973] regard that body of authority as unsound." The court referred to "the special problem...presented when one seeks to spell out from...legislation the purported Congressional approval...of a war already being waged at the direction of the President alone. This court cannot be unmindful of what every schoolboy knows: that in voting to appropriate money or to draft men a Congressman is not necessarily approving of the continuation of a war.... A Congressman wholly opposed to the war's commencement and continuation might vote for...appropriations...and the draft... because he was unwilling to abandon...men already fighting....We should not construe votes cast in pity and piety as though they were votes freely given to express consent." _Ibid_. (Italics added.)

This opinion is an extraordinary illustration of a judicial credibility gap that may be added to that of Congress. In footnote 28, we analyzed one aspect of this gap: the constant dove denial that the Tonkin resolution was intended to mean what it said. Here, we consider the contention, concurred in by **one** Court of Appeals, that the Vietnam War was exclusively a Presidential war. (Point B, p. 191.)

This is highly questionable for several reasons. 1) The Court condescendingly refers to "what every schoolboy knows." This not only implies that the judges in the other cases cited as the "overwhelming weight of authority" are schoolboys, it also implies that those who write for the widely respected _Congressional Quarterly_ are schoolboys too. For _CQ_ has indicated that "frequent" war appropriations votes were some form of congressional consent to the war. "Congress and the War...," loc. cit. (n.27), p. 114. Additionally implied is that Leslie H. Gelb, Chairman of the Pentagon Papers task force, is a schoolboy. For he testified in 1972 that "Congressmen and senators for years have hidden behind the President....If the war continues, it will be as much the responsibility of Congress as of the President." Quoted in _Ibid_. 2) But what of the Court's argument funds were voted to "support the boys"? Was the Congressional "consent" to the war given under duress? The Court's affirmative answer ignores the fact that Congress approved funds for the war right from the beginning. (See sources in n.33.) "From 1965... through the end of 1972, between 95 and 96 percent of the members of Congress present and voting approved the war-related appropriations bills on final passage, providing an estimated $135.5-billion for the war during that time." "But They Still Approved the Funds," _Ibid_., p. 119. Particularly persuasive and well-documented on this point is _Berk v. Laird_, 317 F. Supp. 715 at 723-727. See also, _Orlando v. Laird_, 317 F. Supp. 1013 at 1018-1019; 443 F. 2d 1039 at 1042-1043.

In this connection, it should also be recalled that at the end of 1961 there were 3,200 American troops in Vietnam and the figure was 23,300 at the end of 1964. But by the end of 1965 the number was 184,300 and by 1969 it was 543,500. (For all troop levels, see p. 171.) It strains credulity in the

extreme to say that, to "protect" 3,200 or 23,300 volunteer
professional soldiers, it was necessary to escalate the war by
one half a million men, placing their lives and limbs in
jeopardy. That is a most bizarre way to "support the boys."
(Because the usual tour of duty was one year, far more than half
a million served in Vietnam in the eight year 1965-1972 period.)

So it could have been argued that the best way to protect
our boys would have been never to have sent them to Vietnam,
and the second best way was to bring them home as soon as
possible. The idea that placing and keeping American boys in
danger was a way to "protect" them was not the only spurious
aspect of the support the boys argument. Two other aspects are:
a) One would think that, if legislators cut off war funds, they
would personally have gone immediately to Vietnam to confiscate
the weapons the boys already had to protect themselves.
Obviously, this is nonsense. Also, it could have been safely
assumed that the Pentagon was not in a state of poverty. It
surely must have had enough weapons to last for quite some time.
In the unlikely event that guns did run out, a bill providing
for weapons and nothing else could have been passed. It is
highly probable that most of the funds in any appropriations bill
did not go directly to the boys. The effect of any fund cut off
would most likely have been felt by the South Vietnamese Govern-
ment and the American military establishment. b) As pointed out
(pp. 125, 128), to end the war it was not necessary to focus
solely on war appropriations. Blocking other money or even
any or all presentially-favored non-money bills in addition to
or as a substitute for war funds would have been very powerful
anti-war action. Thus the support the boys argument could have
been circumvented.

3) Doves were not aware of the deficiencies of the support
the boys argument. Senator Goodell, Congressional Record
(Daily Edition; August 26, 1970), p. S14285. Indeed, when it
was used by the Administration, dove Senators were critical
"since it obfuscated the...reality that the troops were in
danger in South Vietnam only because the President chose to keep
them there in combat on behalf of political and strategic ends.
Senator Fulbright developed the point...." Levin, loc. cit.
(n.9, ch. II), p. 72. There are several problems with this
statement: a) The argument was used not only by the President
but also by dove Senators when they voted to fund a war they
opposed. See, for example, Hartke, loc. cit. (n.10), p. 14;
Church, Hearings, Supplemental.... (n.102a, ch. I), p. 614;
Senator McGovern, Congressional Record (Daily Edition; July 23,
1970), p. S11988. b) Because they voted to fund the war, dove
legislators shared responsibility for keeping the troops "in
combat on behalf of political and strategic ends." These last
two points are further manifestations of the Congressional
credibility gap. c) Since war funds were approved from the very
beginning, when there were very few boys to support and when
Senators such as Majority Leader Mansfield were fully aware of
the potential danger (pp.   ), why were the funds actually
approved? The answer is what every schoolboy really knows:
(i) Schoolboys and girls have been taught from an early
age to revere the President. In 1965, when the war had a

Second, the overriding truth is that, after the Tonkin repeal became effective on January 12, 1971,[35] the conduct of the war was completely unaffected. The proponents of repeal acknowledged as much. The Foreign Relations Committee denied that repeal would be a "definitive action," and also said: "Quite obviously, repeal...will not resolve the constitutional issue with respect to the...war."[36] According to Senator Fulbright, the resolution never was "a valid legal authorization for the war....This being the case, repeal...will not create but simply confirm and clarify the existence of a legal vacuum."[37]

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major escalation, Alfred De Gradia wrote: "...much of the difficulty with the institution of the presidency is the overlay of myth and magic on the President. The fatal need for personification of society, animation of ideals, and worship of heroes introduces continuous disorder into the matter-of-fact problems of running a country." Republic in Crisis, Congress Against the Executive Force (New York: Federal Legal Publications, 1965), p. 70. (Italics added.) See also p. 188 and n.20.

(ii) Until the Vietnam War caused a re-examination (pp. 118-120), American foreign policy was dominated by a very strong Cold War Anti-Communism, with which "every schoolby" had been long indoctrinated.

(iii) Given (i) and (ii), there was widespread public and Congressional support for any action the President justified as anti-Communist. The bitter pill for doves to swallow---the real reason why Congress allowed war escalation---was that the public supported the President's policies. This alone would have produced Congressional support, but most Members agreed with the policies followed anyway. Doves were a Congressional minority. The argument here is that they successfully could have opposed majority public opinion, a majority of their colleagues and the President. But they would not take the responsibility (n.31, ch. II; this ch. passim, esp. pp. 171a, 180 and n.65), for at least two possible reasons. On "political expediency," see pp. 186ff, and Orlando v. Laird, 317 F. Supp. 1013 at 1019. On the influence of the fact that many doves were ex-hawks (n.28) and thus were not sure of and were ambivalent on their anti-war, anti-Administration foreign policy views, see Levin, loc. cit. (n.9, ch. II), passim, esp. pp. 83-84.

[35]PL 91-672, Sec. 12; 84 Stat. 2053 at 2055 (1970-1971).

[36]Report 834, loc. cit. (n.28), pp. 2-3.

[37]Congressional Record (Daily Edition; June 23, 1970), p. S9604.

The Senator also candidly conceded:

> Repeal...is not going to remake the world. I
> am not one bit bemused about the statement that it
> is....[I]t is just one of the little pieces of debris
> of history lying around, and we thought we would throw
> it in the ashcan. Whether we repeal it is not all
> that important.[38]

When all is said and done, perhaps the major result of

the Tonkin repeal was, as suggested above, to salve Senatorial

consciences. The repeal was originally proposed by Senator

Charles McC. Mathias, Jr. (R., Md.).[39] The Foreign Relations

Committee said:

> The major purpose of repeal, as Senator
> Mathias suggested in proposing it, is that it
> would "*symbolically* remove the mortmain of the
> past from the present *posture* of the Congress,
> and would signal a new determination by Congress
> to exercise fully its powers on the vital ques-
> tions of war and peace." [Italics added.][40]

The italicized words get to the "nitty-gritty." What we

have is symbolism and posturing by Congress. And that's about

all. How killing a dead law can be a "signal of new determina-

tion by Congress" is hard to see. The only way to show an

intention of exercising full powers is to exercise them. And

the essential fact is that, in terms of Presidential conduct of

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[38]*Ibid.*, June 24, 1970, p. S9657. It is to be wondered
why it is necessary to throw laws into the ashcan if they have
fallen into disuse. Haven't they been repealed in a de facto
sense? Is the main purpose symbolic and the creation of
appearances? Cf. Jack Roth, "Old Code Allows a Lion on a
Leash," The New York Times, April 3, 1964, p. 35.

[39]John W. Finney, "Senator Mathias Opposes 4 Cold War
Resolutions," *Ibid.*, December 9, 1969, p. 4; Congressional
Record, 91st Congress, 1st Session, Vol. 115, Part 28
(December 8, 1969), pp. 37561-3.

[40]Report 834, *loc. cit.* (n.28), p. 13.

the war, <u>absolutely nothing happened</u> as a result of the repeal. No <u>power</u> was exercised.

The same statement applies to the Cooper-Church Admendment.[41] This did not repeal anything. It purported to do more and in fact did less, if that was possible, than the Tonkin repeal. Instead of Senator Mathias' "signal" that Congress would exercise its powers, Cooper-Church was supposed to be an <u>actual</u> use of power. It ostensibly employed the power of the purse to prevent further United States military involvement in Cambodia. As first passed by the Senate, the amendment

> prohibited [after July 1, 1970] the use of any funds, except when specifically approved by Congress, for retaining U.S. [sic] forces in Cambodia, paying or contracting for training of Cambodian forces or persons aiding Cambodia militarily or for conducting any aerial combat activity in direct support of Cambodian forces.[42]

Given only this partial summary, one might be tempted to agree that the initial Senate passage of the Cooper-Church Amendment was "a major victory for the swelling ranks of

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[41]The Cooper-Church Amendment was proposed to alter HR 15628, the Foreign Military Sales bill. As the Amendment originally emerged from the Foreign Relations Committee, see <u>Congressional Record</u> (Daily Edition; May 13, 1970), p. S7108. For the text of the Amendment as it passed the Senate as part of HR 15628, see <u>Congressional Quarterly Almanac, 1970</u>, p. 944. For an account of the voyage of the Amendment from introduction to final passage, see <u>Ibid.</u>, pp. 932-948, 998-1002. The Amendment was eventually dropped from HR 15628 and, in revised form, became law as part of HR 19911, a supplemental foreign aid authorization bill: PL 91-652, Sec. 7; 84 Stat. 1943 (1970-1971).

[42]Summary of the original Senate passed amendment, <u>Congressional Quarterly Almanac, 1970</u>, p. 944. The July 1, 1970 date was not included in the amendment proposed in May or enacted into law in December, when it was unnecessary.

Senate doves...."[43] Senator Church, displaying a pride of authorship akin to a mother's beaming over her newborn baby, repeatedly reiterated that his amendment was "historic." For example:

> It has never happened in the history of this country that the Senate has voted to restrict the use of funds during a war.[44]

* * * * * *

> The <u>larger point</u> here is that...<u>we are re-establishing senatorial participation</u> in the formulation of foreign policy....
> ...it is a <u>historic victory</u>. I know of no time in the history of the United States, in any other war, when Congress has ever imposed a statutory restriction upon the use of public money to <u>prevent</u> that <u>war from broadening beyond the point that we feel serves the interests of the United States</u>.... [Italics added.][45]

* * * * * *

> ...this is the <u>first time in the history</u> of the United States that Congress has undertaken to write limitations into the law applying to the deployment of American troops abroad in the course of an ongoing war. [Italics added.][46]

These statements do not make clear whether it was the effect of Senate action or the action itself that was "historic." Church indicates that never before was the deployment of troops

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[43]"Senate Votes To Limit Future Cambodia Moves," <u>The Wall Street Journal</u>, July 1, 1970, p. 2. The "major victory" was not clear, for the "swelling ranks of Senate doves" included such long time hawks as Senators Henry Jackson and Robert Dole. The latter was not only a hawk, but also a Republican Party stalwart who later served as Republican National Chairman.

[44]Quoted in <u>Ibid</u>.

[45]<u>Congressional Record</u> (Daily Edition; December 15, 1970), p. S20192.

[46]<u>Ibid</u>., December 29, 1970, p. S21397.

during war, as well as the war itself, limited by the power of
the purse. But, in his second statement, he also says that
the "larger point" is the restablishment of "senatorial
participation...in foreign policy." Along these lines,
Richard L. Strout was impressed by the amendment:

> The Senate did not like Mr. Nixon's going
> into Cambodia without its consent and, after seven
> weeks, managed to say so.
> The message is that [the Senate] feels that
> it has been played with, and bypassed,...in a war
> with which it is increasingly disillusioned, and
> that it won't be trifled with in the future.
> The Senate said , [in effect,] never again.[47]

But never again what? Never again go into Cambodia? Or
never again toy with Senatorial egos? Senator Fulbright
suggested the latter:

> The issue is whether we want to be a body
> that has any influence on foreign policy or be
> a rubber stamp for the executive branch.[48]

> *   *   *   *   *   *

> This is the real meaning behind the Cooper-
> Church amendment---to reestablish the role of
> the Senate in the field of foreign affairs.
> That...is its main significance. The fact that
> it relates to Cambodia as such is more or less
> incidental, at least in the long run. [Italics added.][49]

That a Senator they revered considered Cambodia
"incidental" might have come as a surprise to many doves active
in 1970. To them, "the issue" was not the role of the Senate,
but the saving of lives by limiting and/or ending the war.

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[47]Richard L. Strout, The Christian Science Monitor,
"Curtain falls on 'Cambodia Act 1,'" July 2, 1970, p. 1.

[48]Quoted in John W. Finney, "Nixon 2: Rebuff by Congress
on Issue of Cambodia," The New York Times, June 14, 1970, p. 2E.

[49]Congressional Record, (Daily Edition; June 24, 1970),
p. S9657.

That was the supposed purpose of the Cooper-Church Amendment.[50] However, apparently for some Senators, Cambodia was just a convenient vehicle for the jealous assertion of prerogatives and a compensation for wounded pride.

Of course, one might argue that we are not dealing with incompatible objectives, that action regarding Cambodia was necessary to the reassertion of the prerogatives and dignity of the Senate, and, therefore, that it matters little whether Cambodia was of primary or "incidental" concern to Senate doves. Acceptance of this argument raises the question whether the amendment had any effect on Cambodia. A negative answer means that there was no impact on Senatorial dignity either.

"The actual impact of the Cooper-Church prohibition on retaining U.S. [sic] combat forces or advisers in Cambodia was uncertain," according to Congressional Quarterly Almanac.[51] The uncertainty involved two factors: 1) The amendment told the President to stop doing something after he had already stopped. 2) It was vague in the extreme.

Not only did the Senate alter the original Cooper-Church Amendment so that it would not take effect until after Nixon's announced date for the withdrawal of all United States' troops from Cambodia. "Characteristically, this didn't pass until the GIs had left Cambodia under the President's orders, not the

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[50]"The amendment is simple and straightforward. Its purpose is to prevent U.S. [sic] involvement in a wider war in Southeast Asia and to hasten the withdrawal of American forces from Vietnam." United States Senate, Committee on Foreign Relations, Amending the Foreign Military Sales Act, 91st Congress, 2nd Session, Senate Report 91-865 (May 12, 1970), p. 5.

[51]Congressional Quarterly Almanac, 1970, p. 935.

Senate's."[52] This was because of what, from the perspective of this dissertation, must be considered a supreme irony: a **filibuster by hawks** against passage until the troops were actually out. **CQ** called it "extended debate" and "marathon debate."[53] Senator Fulbright dubbed it a filibuster,[54] and Senator Dole vehemently denied that there was a filibuster.[55] But any way we look at it, the matter was the Senate's pending business from May 13 to June 30 (July 1 in Cambodia), 1970.[55]

As it originally passed the Senate, the amendment (in addition to the summary on p. 203) denied any intention of interfering with the President's constitutional commander-in-chief power, "including the exercise of...power...necessary to protect...lives of U.S. [sic] armed forces wherever deployed."[57] To get an inkling of what this means, we cite as an example Senator Church's interpretation of his "historic" amendment:

> **From the beginning,** from the earliest drafts of the Cooper-Church amendment, we made it clear that **our purpose was not to interfere with** American **air combat activity over Cambodia** related to the interdiction of supply lines that feed into South Vietnam.

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[52]Arlen J. Large, "Senate Doves Develop a Flank Attack," **The Wall Street Journal,** September 8, 1970, p. 6. Italics added.

[53]**Congressional Quarterly Almanac, 1970,** pp. 935, 941. See also, John W. Finney, "Nixon and Congress: Test of Will on Cambodia," **The New York Times,** June 7, 1970, p. 2E.

[54]See n.49.

[55]**Congressional Record** (Daily Edition; June 30, 1970), pp. S10269-70.

[56]**Ibid.,** May 13, 1970, pp. S7098, S7105ff; June 30, 1970, pp. S10275, S10285.

[57]**Congressional Quarterly Almanac, 1970,** p. 944. Italics added.

> We wanted only to restrict air combat activity
> above Cambodia in support of Cambodian forces <u>as
> distinguished from that in support of American
> forces or the needs of American personnel</u>.
> [Italics added.] 58

How Senator Church proposed to effectuate this distinc-
tion in practice was not made clear. Senator Randolph, an
early critic of the Cambodian incursion,[59] gave this more
sweeping interpretation of the amendment for which he voted:

> ...the amendment would not prohibit such
> actions as these: retaliatory measures in response
> to enemy attacks originating from Cambodia; the use
> of so-called hot pursuit into Cambodia of enemy
> forces attacking U.S. [sic] troops; and the entry
> of our troops into Cambodia to prevent an imminent
> or immediate enemy attack. More importantly, the
> <u>Cooper-Church provisions do not prevent the use of
> U.S. airpower in bombing sanctuary areas.</u> [Italics
> added.] 60

In the light of the extensive bombings late in the war,
especially in 1972 and 1973, the underlined sentences were
significant indeed in showing the bankruptcy of the amendment.

It should be noted that by the time the amendment had
reached the end of its tortuous passage route in December,
1970, the provision disclaiming intent to interfere with the
President's constitutional powers had been eliminated.
Senator Stennis questioned Senator Church about the meaning of
a provision which did become law: "none of the funds authorized
or appropriated pursuant to this or any other Act may be used
to finance the introduction of United States ground combat

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[58]*Congressional Record* (Daily Edition; June 30, 1970),
p. 10266.

[59]*Ibid.*, May 6, 1970, p. S6768.

[60]*Ibid.*, June 30, 1970, p. S10275.

troops into Cambodia."[61] Stennis asked:

> So the Senator would not preclude...a
> bona fide effort, the planning of an attack, an
> invasion, technically, of the country to clear
> out and clean out a santuary that was an immiment
> threat to our men in South Vietnam?
> Mr. CHURCH....there would be nothing to
> preclude whatever any planning on any military
> mission. Yet...<u>the President's power</u> as Commander
> in Chief to undertake military action is strictly
> <u>limited to actions</u> restricted both in scope and time,
> and which are <u>directly related to the need to protect
> American troops in the field.</u> [Italics added.] [62]

The problem with this, of course, is that any action could have been justified on the ground of protecting American troops. Church also said:

> ...within the framework of past precedent,
> there is an area of <u>discretionary</u> action open
> to the President as Commander in Chief....
> ...it is true that...the <u>President has power
> to initiate action</u>...to protect American troops....
> If there were a particular concentration just
> over the border which constituted a <u>serious,
> imminent threat,</u> that could be suddenly struck and
> destroyed, that might fall within the President's
> powers as Commander in Chief.... [Italics added.] [63]

Fairness demands acknowledgment that Senator Church denied "that the President can make <u>general</u> war or deploy an army in a foreign country on his authority as Commander in Chief." He also claimed that the amendment precluded a repetition of a May-June, 1970 type of invasion of Cambodia: "an <u>extended</u> invasion...with a large American expeditionary for six or eight weeks...."[64] (Italics added.)

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[61]Ibid., December 15, 1970, p. S20185. See also PL 91-652, Sec. 7a (n.41).

[62]<u>Congressional Record</u> (Daily Edition; December 15, 1970), p. S20186.

[63]Ibid.

[64]Ibid.

Taken together, only one clear conclusion emerges from this "explanation": its utter lack of clarity and, therefore, meaning. In addition to the above-mentioned problem (that any action can be justified as a protection of American troops), there are others. When, for example, does action to protect troops become "an extended invasion"? When is a threat "imminent" and "serious"? What is the "discretionary" area of "action open to the President"?

In the light of the vagueness of the amendment and its explanation, as well as the subsequent bombings of 1972-1973, it is hard to disagree with Roscoe Drummond's assessment of the first Senate-passed Cooper-Church Amendment:

> It is a fake and a facade....
> ...Cooper-Church...keeps the responsibility on the shoulders of the President while creating the impression that he might be exceeding his constitutional power if he acts on his own to protect American troops....
> ...Congress wants to appear...eager to recapture the warmaking authority but does not want to take the responsibility of making the hard decisions of national security and survival which go with it....
> ...Cooper-Church is a...facade behind which many senators can make it look as though they were doing something big but are in reality shrinking from responsibility by doing almost nothing at all. [Italics added.] 65

65Italics added. Roscoe Drummond, "Worse than nothing," The Christian Science Monitor, June 27, 1970, p. 16. In the final analysis, even some of those who gave high marks to the Cooper-Church Amendment, agreed with the Drummond analysis. The article which deemed the amendment a "major victory" (p. 202) also conceded: "because of the language added...the White House could argue that the amendment has little practical effect." (Italics added.) "Senate votes...," loc. cit. (n.43). Richard Strout, who saw significance in the amendment (p. 204), also acknowledged: "In its actual language the Senate action is more shadow than substance. It is ambiguous...." Loc cit. (n.47).

One statement may be added to this distinction between the appearance and the reality of congressional "responsibility." John W. Finney, a reporter with obvious pro-peace proclivities, was aware of the "imprecision" of the Cooper-Church Amendment. He was skeptical that Congress could prevent another invasion of Cambodia by the President. Nevertheless, he could not stop himself from asserting that "still in a *symbolic* and sense, something important was happening."[66] He thought as did some Senators that what was important was that Congress was trying to limit the President in war time. But since Finney conceded a probable failure, we can only conclude that what was really important was the extent to which Congress (or just the Senate) could make "symbolic" gestures for appearance, get away with it, and even convince many people to give their passive and/or active support to this enterprise.

But probably no gesture received more financial support and effort on its behalf than the McGovern-Hatfield Amendment,[67] which was the focus of a vast fund-raising and advertising campaign. (ch. III: pp. 159-166; nn.110, 111.) The reason for this was clear. The Cooper-Church Amendment was designed

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[66]Finney, *loc. cit.* (n.48). Italics added.

[67]The McGovern-Hatfield Amendment (hereinafter referred to as the Amendment) was intended for attachment to HR 17123, a defense authorization bill. The Amendment was first introduced on April 30, 1970, and was revised on May 5, August 19 and August 26. Moreover, there were two predecessors introduced on October 7 and 8, 1969; the first of these two was known as the Goodell Amendment. These six different variations of "end the "war amendments are conveniently reprinted in the Congressional Record (Daily Edition; August 28, 1970), pp. S14575-7. There is a misprint in the August 26 version, for which the reader should consult Ibid., August 26, 1970, p. S14283.

ostensibly to <u>limit</u> the scope of the war. But the McGovern-Hatfield Amendment was ostentatiously called the <u>End</u> the War Amendment and the Amendment to <u>End</u> the War.

Net to this Amendment, the Tonkin repeal and the Cooper-Church Amdndment were mild frauds indeed. The latter tried to obtain from futile actions some self-satisfaction, ego gratification and a measure of credibility and popularity with the peace constituency. However, the McGovern-Hatfield Amendment not only possessed these vices, but also, at its worst, led to a <u>fraud in the most serious sense</u> of the term. <u>the acquisition of free manpower</u> and **cold cash** <u>on the basis of outright mis-representation.</u>

Had Ralph Nader exhibited the same zeal in policing his friends in the Senate as he has done regarding America's "corporate devils," he probably could have revealed a palpable violation of the Truth in Packaging Act. What was packaged as an End the War Amendment was absolutely no such thing. <u>The Washington Post</u>, which favored passage of the Amendment, never-the less had reservations. An editorial agreed "least of all with the <u>patently spurious title</u> that has been given to this measure."[68] In a moment we shall see why.

The end the war theme was repeatedly propounded. For example, in the five-Senator television program of May 12 that raised about half a million dollars (p. 161-162), the announced flatly asserted.

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[68]"The Amendment to End the Shell Game," Editorial, <u>The Washington Post</u>, September 1, 1970; reprinted in the <u>Congressional Record</u> (Daily Edition; September 1, 1970), pp. S14843-4. Italics added.

> ...if "the amendment to end the war" is
> passed, then....
> Through protest...petition...and an act
> of law, we shall have at last ended the Vietnam
> war. [Second sentence exactly as in original.] [69]

Senator Hatfield advised his audience: "If you want to cast your vote to end the war in Indochina...[W]rite your Congressman or...Senator...." [70] Senator McGovern said of his proposal:

> This is not a sense of the Congress Reso-
> lution, it is not a debator's point; it is an act
> of law, which if carried, [sic] will put an end
> to this war in a systematic way. We ask...for your
> support....[71]

An effort on behalf of the Amendment was urged in the May 24 New York Times in a full page advertisement by "Project Pursestrings---A National Citizens Lobby for The Amendment to End the War." [72] The sales pitch included the following points: 1) Congressional vote on the Amendment would be a "vote for war or peace....With your help it can be peace." 2) The Amendment provided that "All troops must be out of Southeast Asia by June, 1971." Both these points were lies, the first implicitly and the second explicitly.

They were lies for two reasons: A) On the advertisement's own terms, American involvement in the war would continue for a year. B) The advertisement did not mention a loophole which would permit the war to continue after that year.

Let us examine what the Amendment really provided. At the

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[69] loc. cit. (n.66, ch. III).

[70] Ibid., p. S11545.

[71] Ibid., p. S11546.

[72] Project Pursestrings, Full Page Advertisement, The New York Times, May 24, 1970, p. 5E. Italics in original.

time of the above-cited program and advertisement, the May 5
version was current. It placed no restrictions on expenditures
until December 31, 1970, after which, in essence, funds could
only be spent for purposes of withdrawal of American troops
from Vietnam.[73] The Amendment did say that "the withdrawal of
all United States military personnel from Vietnam shall be
completed no later than June 30, 1971." (We omit momentarily
an added proviso.) Thus, the May 5 version provided for con-
tinuation of the war in normal fashion for six or more months,
and possibly normal fashion for six additional months. By the
time the Senate voted on the Amendment (September 1), it was
in its fourth version (the sixth version of the end the war
idea). This last variation on a theme of trickery changed two
dates: December 31, 1970 to April 30, 1971, and June 30, 1971
to December 31, 1971. Moreover, the President upon finding
"that members of the American Armed Forces are exposed to
unanticipated clear and present danger...may suspend [the
December 31, 1971 deadline] for...sixty days...."[74] The
effective deadline for all troops to be withdrawn was thus
February 29, 1972.

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[73]Amendment No. 609, loc. cit. (n.67), p. S14576. Troop
withdrawal was the main purpose for which funds could be spent,
but the Amendment also specified other purposes: "assistance
to South Vietnam," exchange of prisoners and asylum for
endangered Vietnamese.

[74]Amendment No. 862, Ibid. p. S14577. The April 30, 1971
deadline refers to a prohibition after that date of any
expenditure of funds to "maintain a troop level of more than
[280,000]" in Vietnam. This could be construed to imply per-
mission to spend money to maintain a sizable armed force in
Vietnam. But the Amendment does seem to mandate withdrawal by
December 31, 1971. See problems in the text.

In sum, the May 5 version provided for continuation of the war for over a year and the version actually voted upon would have continued American troop involvement for a period of 18 more months after the Senate voted. It is thus no wonder that Senator Dole (for reasons of this own) wondered:

> What is the difference between the President's [Vietnamization] program and the so-called end-the-war amendment? Even under the end-the-war amendment, the war can continue for 18 additional months....
>
> If that is ending the war, it is a long last scene.[75]

Senator Hughes conceded that the drawn out timetable was not the wish of doves but a product of the quest for Senate votes in favor of the Amendment.[76] But other dove Senators sought to justify extensions in the deadline.[77] It was argued that the consideration and vote on the Amendment had been delayed.[78] However, this does not explain why the total withdrawal process was extended from one year to 18 months. Other arguments were that long withdrawal would allow an orderly, safe departure and not hamper negotiations between the United States and North Vietnam.

A word on permitting the President to negotiate. The argument was made by Amendment opponents that announcing a fixed date of withdrawal would deprive North Vietnam of any incentive

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[75]Ibid., August 31, 1970, pp. S14646, S14642.

[76]Ibid., p. S14643.

[77]The original Goodell Amendment, loc. cit., provided a final deadline of December 1, 1970. This, as we have seen, eventually became February 29, 1972.

[78]See, for example: Ibid., August 26, 1970, p. S14284; August 19, 1970, p. S13676.

to negotiate. All it had to do was wait for all American troops to leave.[79] But Amendment supporters denied the validity of this contention. They said that the Amendment provided flexibility.

This brings us back to the May 24 advertisement's statement that all troops "must" be out of Vietnam by June 30, 1971. (p. 212.) This was characterized as an explicit lie. The reason is that a major loophole was omitted, almost certainly not inadvertently. Here is the _entire_ relevant provision of the May 5 version of the Mc-Govern-Hatfield Amendment, partially alluded to in the advertisement:

> ...the withdrawal of all United States military personnel from Vietnam shall be completed no later than June 30, 1971, _unless_ the Congress...approves a finding by the President that an additional stated period of time is required to insure the safety of such personnel during the withdrawal process. [Emphasis added.] 80

The final version contained a similar loophole, which enabled dove Senator Symington to deny that the Amendment

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[79]See, for example: "Sound Motive, Dubious Method," Editorial, The New York Times, August 31, 1970, p. 26; Senator Stennis in Congressional Record (Daily Edition, August 31, 1970), p. S14652; Senator Cooper, Ibid., September 1, 1970, p. S14858.

[80]Amendment No. 609, loc. cit. In fairness to Senator Hatfield (cited for misrepresentation, p. 212), his May 12 statement did refer to the possibility of a Presidential request for a time extension. But he did not cite the support the boys basis for the extension and he did lend himself to the plainly misleading end the war theme and label.
Amendment No. 862, loc. cit., the version voted upon contained a similar but shorter loophole, saying simply that the President could "submit recommendations, including (if necessary) a new date applicable to...withdrawal of remaining Armed Forces." In other words, the President could recommend a new "final" or "fixed" date for withdrawal.

would "tie the hands" of the President, militarily as well as diplomatically.

> ...the flexibility...built into this amend-
> ment gives the President a strong negotiating
> hand with the North Vietnamese and Vietcong.
> They have **no guarantee** that if they "wait it out"
> until December 31, [1971,] American military
> forces will have been withdrawn. The President
> alone can delay...withdrawal by 2 months; and...
> request Congress to delay it even longer should
> the enemy...endanger the safe withdrawal of out
> troops. [Emphasis added.] [81]

Symington also argued that South Vietnam would be forced by the Amendment to negotiate because

> the setting of a specific withdrawal date will
> serve notice...that U.S. [sic] Armed Forces will
> not be on the Asian mainland for an indefinite
> period of time....[92]

The combination of a fixed withdrawal date with a loophole made it possible for doves to try to have the best of two worlds. In actuality, what we have is an added illustration of the dove credibility gap.

Both sides, hawks and doves, were mired in self-serving contradiction. Opponents of the Amendment, such as Senator Dole, pointed to the protracted withdrawal schedule with probability of a Congressional extension of the deadline if requested by the President. This, they said, was no different than the President's Vietnamization program and therefore the Amendment was unnecessary. On the other hand, they said a fixed withdrawal date would hamper negotiations. [83] They could not make up their minds whether the

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[81] Ibid., September 1, 1970, pp. S14839-40.

[82] Ibid., p. S14840.

[83] See Dole's statement on p. 214 above. Nowhere is the self-contradiction of both sides more evident than ibid., August 31, 1970, p. S14649. Here, for example, Senator Dole

Amendment was different from the President's policy and whether the withdrawal date was fixed.

The doves could not make up their minds either. To curry the favor of the peace constituency and to convince the South Vietnamese that they ought to make negotiating concessions, Senate doves said the Amendment would end-the-war, getting the troops out by a fixed date. But to Amendment skeptics, whose votes were necessary for passage, peace Senators stressed the existence of a long withdrawal with the possibility if not probability of a deadline extension: thus the absence of any assurance that the war really would terminate by a fixed date, however far off.

It would seem that, whatever the contradictions in debater's points, the existence of a loophole (combined with a protracted withdrawal) rendered probably false the claim that the Amendment would "end" the war. The discussion of the Cooper-Church Amendment indicated that the President could justify virtually any military policy as necessary for the protection of "departing" boys (pp. 208-209), a rationale given recognition and respectability by the McGovern-Hatfield Amendment and its supporters.

Moreover, the loophole made the Amendment totally redundant. The May 5 version, for example, provided for con-

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says: "If a situation arose where the President could not _or did not_ withdraw within the 18 months, I assume Congress would go along with the situation." (Italics added.) But then Dole goes on to say: "Why should the enemy negotiate...if they know that in 6 months, or 18 months they are going to achieve their objective and that we are going to walk off and leave 17 million Vietnamese...."

tinuation of the war for one more year, after which the President would be free to ask Congress for more funds to continue American war participation even longer. But <u>the President is always free to ask for more money</u>, amendment or no amendment. That is the basis of supplemental appropriations bills. Also, at the end of <u>every</u> fiscal year, the President is <u>compelled</u> by the expiration of almost <u>all</u> appropriations to ask for new funds.

In short, the McGovern-Hatfield Amendment artfully pretended to be doing something, when in reality it was doing absolutely nothing but ratifying in fancy language what always had been the normal procedure during wars: appropriations for limited (generally one year) periods followed by Presidential requests for new appropriations.[84] To cite again the pro-Amendment editorial in <u>The Washington Post</u>:

> As a practical matter, the...McGovern-Hatfield provision requires the President merely to do what he would have to do in any case to get the money... to stretch out the war: he would have to ask.[85]

And if the President were to ask, what would happen? Would Congress have said no to a "support the boys" argument? What the Amendment did was to postpone a confrontation with a President who might refuse to withdraw troops. A most, despite McGovern's express denial (p. 212), it was a sense of the Congress resolution stating the desire that the stoops be out by a "fixed" date. Ignored was the fact that, at some time, meaningful Congressional action would require telling the

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[84]<u>The Constitution</u>, of course, provides a time limit of two years on military appropriations. (p. 121.)

[85]Editorial, <u>loc. cit</u>. (n.68).

President: "no more funds NOW!"[86]

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[86]"...critics of the war...did not often consider that
throughout the war there was never a constitutional confronta-
tion between a President determined to pursue the war and a
Congress unwilling to appropriate the necessary funds." "Congress
and the War...," loc. cit. (n.27), p. 114.

This statement appeared in CQ five months before Congress
"ended" the bombing of Cambodia. Quotation marks are used
because what really occurred in June, 1973 was one final
illustration of the Congressional credibility gap.

In a textbook illustration of the practice of their art,
the legislative dissemblers created a widespread impression that
they had ended the bombing. See, for example, "Aug. [sic] 15
Ban on U.S. [sic] Bombing in Cambodia Enacted," Ibid., July 7,
1973, pp. 1854-5.

Despite this impression the argument could have been made
by the President that the measure enacted by Congress was an
express authorization to spend money for bombing. On June 29,
1973, the Senate passed the following amendment: "Notwithstand-
ing any other provision of law, on or after August 15, 1973,
no funds herein, heretofore or hereafter appropriated may be
obligated or expended to finance the involvement of United
States military forces in hostilities in or over or from off
the shores of North Vietnam, South Vietnam, Laos, or Cambodia."
Congressional Record (Daily Edition; June 29, 1973), pp. S12560,
S12580. House Joint Resolution 636, to which the amendment was
attached, went to a Conference Committee. The committee issued
its report with a change in wording: "...no funds herein or
heretofore appropriated may...finance directly or indirectly
combat activities by United States military forces in or over...."
House Report No. 93-364; reprinted in ibid., June 30, 1973,
pp. H5776-7. (Emphasis in both versions added.)

The conference, which included in its membership Senators
J. W. Fulbright and Clifford P. Case, took the express action
of specifically delating the words "or hereafter." Does this
mean that Congress considered and rejected an attempt to
prevent the use of any funds appropriated after June 30, 1973
for "combat activities," including bombing? Does the considered
rejection of a ban on subsequently appropriated funds con-
stitute a specific or at least implied authorization of their
usage for bombing and other combat activities in Indochina?

An obstacle to affirmative answer to these questions
might be inferred from the President's actual cessation of
bombing and his non-resumption thereof. However, the
reader should consider that a) the President has been
severely undermined by the scandals in his Administration,
and, therefore, b) his compliance with the alleged bombing
ban may be due to political factors rather than what is in
the letter of the law.

That is why the proposal of this dissertation calls for the withdrawal of American troops as soon as logistically possible. (p. 135.) Sooner or later that would have been necessary if Congress was ever going to be serious about ending the war on its own rather than the President's time-table.[87] From the dove point of view, the sooner the better. Doves, for example, constantly denied that further American deaths were justifiable and that the war was in the United States' national interest.[88]

From the dove view, then, immediate withdrawal would save needlessly wasted lives. Moreover, a termination of appropriations by June 30, 1970 could have gotten the troops home before the November elections, prior to which the peace

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[87]Doves constantly adopted Presidential timetables as their own. See p. 205 on the Cooper-Church timetable. The final version of the McGovern-Hatfield Amendment included this statement: "In accordance with public statements of policy by the President, no funds...." could be used to keep more than 280,000 troops in Vietnam after April 30, 1971. (See n.74.)

This attempted instruction to the President to do by April 30, 1971, what he had announced he would do anyway, was called "one-upmanship" by Senator Dole. Congressional Record (Daily Edition; August 31, 1970), p. S14644.

One reasoning somewhat different from the writer's, the Senator also indicated that an attempt to set a "fixed" date of total withdrawal implied immediate withdrawal. In arguing that the fixed date would deny the enemy of an incentive to negotiate (n.83), Dole asked: "Why not move the time up until today, or make it 30 days or 60 days from now or as quickly as we can withdraw?" Ibid., p. S14649. (Of course, the Senator did not agree that there should be either a fixed date or immediate withdrawal.) Italics added.

[88]See Senator Fulbright at p. 183. Also, see: Albert Gore, "Priority in Vietnam," Letter to the Editor, The New York Times, March 20, 1969, p. 46. In opposing a "long drawn-out, phased withdrawal," which is what was actually done by Vietnamization, Gore wrote: "Whether there be one Vietnam or two, whether the Government of either or both be democratic or autocratic, Communist or non-Communist, no genuine threat to our security is involved."

movement was in a position to exert maximum electoral pressure on Senators.

We have already analyzed the argument against this idea, that our boys would be denied the weapons with which to defend themselves as they left. (n.34, ch. IV .) And again, Congresss--- or the Senate doves---would have had to face this contention at some time if they ever were going to end the war via the legislative route.

To return to the fraudulent facet of the McGovern-Hatfield Amendment, there are three additional points of interest.

1) According to Senator McGovern, the Amendment raised this

> central question..: Should the Congress exercise its constitutional power to set a limit on the time American forces are committed to Indochina? Or, is the Congress simply a frail and helpless reed ready to submit to on-man rule on the assumption that the burdens of war and peace are the President's alone? That is the issue raised by the amendment...the issue I intend to pursue above all others until we have resolved it.... [Italics added.] [88a]

Similarly, Senator Hatfield spoke of the "real issues...at stake here...." To oppose the Amendment, he argued, was to

> believe...the executive branch should be able to chart and...policy in Indochina...without the Congress saying a single word. It is the difference between those who would yield to the idolatry of the Presidency, those who would grant what amounts to one-man rule, and those who believe....[t]hat we have been granted...an obligation and a duty to exercise a role in the... policies guiding our Nation. We have constructed the Amendment...to share in the responsibility which is ours. [89]

[88a] *Congressional Record* (Daily Edition; August 21, 1970), p. S13948.

[89] *Ibid.*, September 1, 1970, p. S14840.

These statements evoke three comments. First, reference to shared responsibility came rather late for "members of Congress [who] talked like doves before voting with the hawks."[90] Congress did "exercise a role." That was to "share in the responsibility" for the continuation of the war.[91] Second, as in the case of the Cooper-Church Amendment (p. 204), had dove constituents paid close attention, they surely would have found it extraordinary (to put it mildly) that their supposed representatives in Congress considered the "central question" or "real issue" to be the role of Congress rather than the saving of lives and ending of the war. Third, again as in the cases of the Tonkin repeal and Cooper-Church, it seems that we have no more than posturing and Senatorial ego gratification. (p. 201, 204, 205, 209.) However, assuming for argument's sake that Congressional responsibility for the war did not exist from the start, it is hard to grasp how such responsibility and dignity could be established by "action" that would do nothing but illustrate superfluity.

2) Restated, the fundamental fraud of the McGovern-Hatfield Amendment was this: many people were swindled out of their time and money by an "end the war" label although the war would not have been "ended" even if the Amendment had passed. But, its sponsors and supporters whipped up their great lobbying effort, fund-raising and advertising campaign

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[90]Judge Orrin G. Judd, Berk v. Laird, 317 F. Supp, 715 at 724.

[91]Far from being compelled to support the war, said Judge Judd, "The course of events...is more consistent with Congress and the President moving in concert." Ibid., p. 727. Italics added. See also n.34.

in the full knowledge that the Amendment would **not** pass. As
of May 26, 1970, Senator McGovern himself, although citing 23
sponsors and the expectation of an additional 12 to 15 votes,
"did not predict that the amendment would pass."[92] In last
June, the Amendment sponsors actively and successfully fought
having a Senate vote. Their express purpose was to prevent a
vote until after their active media advertising campaign. And
again, in late June, the estimate was about 40 votes for the
Amendment.[93] And, lo and behold, after the media campaign,
when the vote was taken on September 1, the actual number of
votes for the Amendment was 39.[94]

Any knowledgeable person could have predicted that the
Amendment would never pass. In the unlikely event it got
through the Senate, it would face a most unfriendly House of
Representatives.[95] In the almost impossible event that the
House passed the Amendment, it surely would have been vetoed.
Then either 2/3's of each house would have had to override the

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[92]E. W. Kenworthy, "350 Scholars Join Antiwar Efforts,"
The New York Times, May 27, 1970, p. 8.

[93]John W. Finney, "Senate Sets Vote Tuesday on Cooper-
Church Proposal," ibid., June 26, 1970, p. 7; Finney, "Senate
Blocks Move for Early Vote Designed to Kill McGovern-Hatfield
Amendment to End Vietnam War," ibid., June 30, 1970, p. 11.
The May 24 advertisement, already cited for fraudulent
advertising (pp. 212, 215), had one other problem. It
promised a vote on the McGovern-Hatfield Amendment by June 30.
But the Amendment's Senate sponsors rejected the opportunity to
honor that promise. See Senator Allott's comment in Congres-
sional Record (Daily Edition; September 1, 1970), p. S14848.

[94]Ibid., p. S14859.

[95]See, e.g., Miller, loc. cit. (n.13, ch. II); Nelson,
loc. cit. (n.38, ch. II).

veto, or majorities of each would have had to refuse passage
of the entire bill to which the Amendment was attached.
Both of these were highly unlikely.[96]

And yet people who advocated such a scenario repeatedly
referred to the writer's proposal as "impractical." But
the fact is that there <u>were</u> 39 Senators ready to support a
dove amendment right from the May beginning. Would it not
have been much more "practical" to have sought to convince them
to use their power to filibuster appropriations to really end
the war?

3) The filibuster was discussed in a highly ironical
colloquy between Senators Robert C. Byrd and McGovern.[97] (See
also, p. 206.) Byrd noted that the Amendment gave the
President the opportunity to ask for a deadline extension of
the "fixed date." He inquired whether, when the time actually
came for such a Presidential request, a vote thereon could be
filibustered. In an air of Alice in Wonderland unreality,

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[96]As late as January 14, 1973, Majority Leader Mansfield
said: "We can pass resolutions, but we can't end the war. It's
really up to the President; we shouldn't fool ourselves in that
respect. We can cut off funds. Whether or not a majority...
of the Congress would do it, I don't know. If they did, it
would be overturned, vetoed and that veto probably could not
be overridden." Statement on television program Face the Nation,
quoted in "Congress and the War...," <u>loc. cit.</u> (n.27), p. 114.
As late as June 29, 1973, Senator Fulbright said: "No resolu-
tion would be effective if the President is determined to
resume the bombing." <u>Congressional Record</u> (Daily Edition;
June 29, 1973), p. S12566.
    One can only wonder why, with defeatist attitudes like
these, the Senators supported the anti-war legislation of
recent years. Wat is all a put-on and a gross fraud? Did only
Watergate end the war? (n.86.) Cf. Mansfield's statement in
behalf of the Amendment, <u>ibid.</u>, September 1, 1970, pp. S14844-5.

[97]<u>Ibid.</u>, August 31, 1970, pp. S14650-1.

McGovern declared a readiness to insert an "anti filibuster clause" in the Amendment: i.e., a provision that the vote on a deadline extension could not be filibustered. But the fact is, as Byrd and McGovern should have known, that doves always had the power to filibuster Presidential requests for deadline extensions that came annually in the form of requests for new yearly appropriations.

McGovern thus proposed to surrender a power that doves always had and would not have been conferred by the Amendment. Byrd, for his part, did not stop to think that the filibuster had never been used by doves to end the war. And he certainly did not wonder **why**.

Why It Wasn't Tried: The Peace Constituency

Four days before the vote on the McGovern-Hatfield Amendment, Senator Dole concurred in what was presented in point 2 (pp. 222-24): "Any observer of Washington knows that the Senate and the House will never pass it and no President... would ever sign it." This prompted Dole to express a belief and raise a question:

> I cannot believe that the...amendment was introduced with the expectation that it would ever become law....But, since it has been advocated so vigorously and at such expense and with such con-siderable efforts to lobby and pressure...we are entitled to know why it was introduced....
> [Italics added.] 98

A few minutes before the Senate voted, Senator McGovern gave a possible basis for an answer to Dole and also demonstrated the depth of his humble modesty with the following assessment

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98 Ibid., August 28, 1970, p. S14575.

of his Amendment:

> the vote...could be one of the most signifi-
> cant votes Senators will ever cast.
>
> I thank God this amendment was submitted when
> it was [the day before the Cambodian invasion],
> because...in the turbulent days following the
> invasion...and the tragedy at Kent State...., this
> amendment gave a constructive rallying point to
> millions of anguished citizens.
> ...along with...Cooper-Church...,the pending
> amendment helped to keep the Nation from exploding
> this summer. It was the lodestar that inspired more
> mail, more telegrams, more eager young visitors to
> our offices, more political action, and more con-
> tributions from doctors, lawyers, workers, and
> housewives than any other initiative of Congress
> in this summer of discontent. [Italics added.] 99

This self-adulatory appraisal of the Amendment tells us
as well as anything can why the Vietnam War went on for so long.
In the light of the analysis of the Amendment presented in the
previous section, the idea that it could provide a "rallying point
to millions of anguished citizens" must lead us to wonder what
was in their minds. That so many people could be impressed
with, work for, and contribute to the Cooper-Church and
especially McGovern-Hatfield Amendments is an incisive indict-
ment of the peace constituency.

This was a constituency that could not distinguish between
symbols and substance, between appearance and reality or between
words and action.[99a] The lack of discernment was based partly

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[99]Ibid., September 1, 1970, p. S14858.

[99a]One must even wonder if the constituency cared to or
could read. For example, despite Senator Dole's complaint that
the McGovern-Hatfield Amendment had "been subjected to...
fundamental, continuing and substantial alteration" (ibid.,
August 28, 1970, p. S14575), we have shown that the May version
was clear to anyone who looked at it. As noted, it would have
continued the war for a year or more, after which time the
President could ask for money to continue the war. In other words,
the Amendment added nothing to the regular appropriations process,
even before it was watered down.

on naivete and ignorance or elements of the political process
and partly on a need common to politicians and ordinary
citizens, leaders and followers, representatives and consti-
tuents: the need for ego-gratification and a feeling of
accomplishment. As already indicated (Edelman and Dexter,
pp. 180, 192), pride and a sense of achievement will be yielded
far more readily by symbolic gestures, appearances and words
than by substantive action to accomplish concrete goals.

In any event, <u>since the peace constituency was satisfied
with less than ending the war, there was no reason to expect
it to demand---or get---more: actually ending the war</u>. Since
the constituency was willing to enthusiastically accept futile,
redundant amendments that would not end the war even if passed,
there was no reason to expect an appropriations filibuster
that would end the war.

Although a thorough analysis of the peace movement could
produce several dissertations, a brief discussion is essential.

Doves: A Symbolic, Naive, Selfish, Fragmented Constituency

If dove members of Congress engaged in symbolism,
disingenuous rhetoric, and self-congratulation and ego-
gratification, so too did their constituents. There is no end
to available examples.

Two weeks before the Cambodian eruption, "the Boston
Tea Party was <u>symbolically</u> re-enacted with the burning of an
outsized replica of an income-tax form. This was intended as
a plea for mass refusal to pay taxes to support the war."[100]

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[100]Joseph Lelyveld, "Antiwar Protest Is Held Midtown,:
The New York Times, April 16, 1970, p. 44. Italics added.

Roughly two weeks after Cambodia, Oberlin students essayed "a boycott of Coca-Cola as a _symbol_ of America."[101] This was part of a

> national student effort...to boycott Coca-Cola and...the Philip Morris Company. These ...were chosen...largely on the basis of their share in the youth market and company complicity in the war effort. The boycott would cease if the companies agreed to work to end the war.[102]

The writer pleads guilty to a charge of insufficient research, for he failed to discover the nature of Coca-Cola's "complicity in the war effort." But he did witness at both New York University and the City College of New York instances of another form of symbolic protest: the splattering of animal blood to symbolize the human blood spilled in Vietnam.

These are a few of the more esoteric examples of peace movement symbolism. In early 1970, Irving Louis Horowitz wrote:

> Symbolism had always been a consistent element of the anti-war protest, from the place of action---the Pentagon and Independence Hall ---to its timing---Thanksgiving Day, July 4th, the anniversaries of Hiroshima and Nagasaki. The most symbolic acts, burning draft cards and carrying the Viet Cong flag, have generated the most violence. They assault the romantic, irrational, and powerful identification of man with country.[103]

This writer does not pretend to be a psychologist. But the above examples and the Horowitz statement suggest that a major problem of the peace constituency was its strong emotional,

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[101]Kifner, _loc. cit._ (n.73, ch. III). Italics added.

[102]Rubin, _loc. cit._ (n.80, ch. III).

[103]Horowitz, _op. cit._ (n.23, ch. II), p. 43.

irrational content. Jerome Skolnick buttresses this view in
referring to

> acts of obstruction such as mill-ins, the blocking
> of traffic, the temporary and symbolic "seizure"
> of university buildings, the "imprisonment" of
> CIA or Dow recruiters, the granting of "sanctuary"
> to discontented soldiers, and the harassment of
> pro-government speakers.... [S] uch acts.... [h] ave
> a symbolic and expressive character....[104]

Finally, it has been observed that the demonstration was a
very common, often-used method of protest during the Vietnam
War. (p. 155.) Although he seems to favor this method,
Amitai Etzioni comments:

> The slogans and signs...tend to reduce positions
> to highly simplified statements often obscuring
> more subtle differences and expositions. The fact
> that the placard or banner seems to have substituted
> to a considerable extend for the pamphlet is one
> reason that contemporary [1970] protest is frequently
> so Know-Nothing....Demonstrations put a premium on
> gestures, "props", [sic] and vividness---all emotive
> devices---to the detriment of verbal exposition, the
> basis of intellectually rich and subtle communication.[105]

One might argue that the illustrations just presented did
not represent the mainstream of war opposition. This argument
is probably least valid for the early war period and grows in
accuracy as the war drags on. In other words, the conventional
means of political protest, while by no means absent (p. 91;
n.39a, ch. II), were employed least at the beginning of the
war. As the war continued, opposition became more "respectable"
and decreasingly the particular province of the extreme left.
Thus the reader will recall (ch. III) that in 1970 there were
strenuous efforts to "give the system one last chance."

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[104]Skolnick, op. cit. (n.42, ch. I), pp. 71-72. Italics
added.

[105]Etzioni, op. cit. (n.84, ch. III), p. 21. Italics added.

However, as the above discussion of legislative anti-war "action" shows, symbolic activity was in no sense limited to the "less respectable" elements on the left fringes. The May, 1970 cataclysm was antedated not only by a "Boston Tea Party" but also by the enactment of a Massachusetts statute. This law prohibited the use of any of the state's servicemen in the war against their will. Moreover, the state attorney general was directed to represent these servicemen in the Federal Courts.[106]

That this law did not have a ghost of a chance of either stopping the war or preventing at least Massachusetts citizens from fighting against their will apparently did not disturb either the legislature that passed it or dove constituent commentators. Tom Wicker described the enactment as a "Strong Move" and a "bold challenge....[T]he longest step yet taken in making war resistance acceptable and legitimate....[C]lear notice to...Nixon that the country will not indefinitely sustain his policy...."[107] The editors of The New Republic specifically noted the state Governor's caution "against basing any great hopes on the statute." They also agreed that the case of any inductree opposed to Vietnam service would not be helped "since

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[106]"A Test of Legality Of War Advances," The New York Times, April 3, 1970, pp. 1, 12. This article quotes the law as saying the state's servicemen can, without a declaration of war, refuse to participate in "armed hostilities...not an emergency and not otherwise authorized in the powers granted to the President as Commander in Chief." The latter clause is and was subject to great debate and wide lattitude in interpretation.

[107]Tom Wicker, "Strong Move in Massachusetts," Ibid., April 5, 1970, p. E13.

Massachusetts is powerless to control the disposition of federal military forces." Well then are we to conclude that the statute offering little hope and less power was worthless? Why, not at all. For this hopeless, powerless statute "may become a model for other states." The editors concluded: "What the statute does have...is the <u>symbolic force</u> of a weighty and considered protest."[108] While symbols can arouse emotion and action based thereon, in the context of Vietnam War opposition, "symbolic force" was as much a contradiction in terms as "courageous coward" or "strong weakling." In short, "symbolic force" was a substitute for real force, real action to end the war.

Murray Edelman devotes two chapters of his book on <u>The Symbolic Uses of Politics</u> to political language.[109] One form of language is "hortatory" rhetoric, which

> is especially conspicuous in appeals to particular
> audiences for policy support, in election campaigns,
> in legislative debates and hearings...and in
> primary group discussion....[P]eople try constantly
> to persuade others that the policies they espouse
> should be accepted generally.[110]

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[108] "Massachusetts Protest," Editorial, <u>The New Republic</u>, Vol. 162 (April 18, 1970), p. 11. Italics added.

On the notion that the Massachusetts Act was a "model for other states," see Joseph P. Fried, "Laws To Test War Asked in 8 States," <u>The New York Times</u>, May 18, 1970, p. 15. Fried notes that the other states have given similar bills "short shrift." But anti-warriors took heart that bills were introduced in one-sixth of the states. Apparently they could not distinguish between the introduction and the passage of a law.. Fried also says "supporters of the bill and of similar measures" hoped for "a court confrontation. And they also have been impelled by the <u>symbolic importance</u> attached to official state action questioning the legality of the war." (Italics added.) Again, we are back to symbols as a substitute for substance.

[109] <u>Op. cit.</u> (n.4), chs. 6, 7.

[110] <u>Ibid.</u>, p. 134.

Another pervasive form of language is

> legal language, encompassing constitutions...
> statutes...bills....Hundreds of thousands of
> legal propositions are...propounded every year,
> their details dimly sensed but their existence
> appreciated by the lay population....
> [Italics added.] 111

Of these two language forms, Edelman concludes that

> the greater the failure, the clearer the denial
> of benefits to the publics expecting them, the
> more intense is the barrage of hortatory and
> legal language likely to be. The occurrence of
> such a barrage may normally be accepted as
> evidence of the failure. 112

Resort to the Massachusetts symbolic statute and its
actual vacuity combined with a constituency readiness to make
extravagent pretensions for it are one illustration of Edelman's
proposition. The resolutions and amendments emanating from
Congressional Credibility Gap, discussed earlier, are another
illustration. This anti-war "action" was represented by its
sponsors as symbolic of, among other things, a congressional
reassertion of foreign policy and war-making powers. (pp. 201,
204, 210, 221.) On March 16, 1970, during Foreign Relations
Committee hearings on various resolutions, Senator Jacob K.
Javits expressed the view that Congress should not have to take
drastic steps such as appropriations cutoffs. Instead it
should be able to exert influence via joint resolutions such
as one urging withdrawal from Vietnam. However, Under Secre-
tary of State Elliot L. Richardson testified that the only way
to halt the President's continuance of Vietnam operations was to

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111 Ibid., pp. 138-9.

112 Ibid., p. 150.

refuse passage of the appropriate money bills.[113]

Despite Richardson's unambiguous testimony, many peace constituents were all too ready to accept the notion that the various "anti-war" resolutions and amendments were useful and significant, symbolically and/or otherwise. Examples of praise for the Cooper-Church Amendment have been given (pp. 203-4), as has John W. Finney's acceptance of its symbolic significance. (p. 210.) Immediately after the amendment's introduction, the editors of The Christian Science Monitor joined the chorus of those who thought an action "likely to have little effect on present military operations" could nevertheless be an "important Symbolic Move." (See also n.65.) The "move" was "important" because it afforded "meaningful insight into national thinking. It underlines the steadily growing pressure for a definitive end to American involvement in the...fighting. As such it cannot but affect presidential planning."[114] This was an asserted hope without much evidence and was destined to be shattered. (See p. 207.)

The editors of The Progressive also supported the active legislative inactivity, both directly and indirectly. Directly they editorialized that "the various resolutions proposed by such

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[113]Congressional Quarterly Almanac, 1970 (n.22b), p. 951. Senator Javits' distaste for drastic steps led to his being hissed. Immediately after Cambodia-Kent State, he was not yet willing to declare support for the Cooper-Church and/or the McGovern-Hatfield Amendments. Marjorie Hunter, "Collegians Warn Congress on War," The New York Times, May 12, 1970, p. 19. Javits eventually voted for both amendments, probably because in effect they were no more than innocuous sense of the Congress resolutions.

[114]"Important Symbolic Move," Editorial, The Christian Science Monitor, May 14, 1970, p. 20.

Senators as...McGovern,...Goodell,...Hatfield,...Church, and...
Cooper that would impel [sic!!!???] the President to end the
war...represent <u>the best</u>---and perhaps the last---<u>opportunity</u>
to alter the course of American policy by constitutional means.
They merit the most energetic support of all responsible
citizens."[115] Indirectly, the editors turned over their pages
to the exhortations of Senator Fulbright. The things he urged
students to do for peace included; 1) avoid violence and use
lobbying and electioneering techniques; 2) work for "peace"
candidates; and 3) recommend to Representatives the Cooper-
Church Amendment and the Gulf of Tonkin repeal.[116] This is
what Fulbright told students to do, but the reader should recall,
for example, the Senator's opinion on the insignificance of the
Tonkin repeal. (p. 201.)

As for the McGovern-Hatfield Amendment, we have noted
already a not entirely enthusiastic editorial in <u>The Washington
Post</u> (pp. 211, 218). Nevertheless, in supporting passage, the
editorial had this to say:

> ...if there is no need for a law to accomplish <u>what
> is already being done</u>, there can equally be no <u>harm</u>
> in a law which seeks only to accomplish <u>what is
> already being done</u>....All it really does...is to
> reinforce the President's announced intentions....
> just because the amendment accepts the President's
> current sense of timing without foreclosing the need
> for a stretchout later on, it is as much an expression
> of support as it is a restraint.[117]

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[115]"The President's...," <u>loc. cit.</u> (n.15, ch. II), pp. 4-5.
Italics added.

[116]Fulbright, <u>loc. cit.</u> (n.102a, ch. I), p. 15.

[117]<u>loc. cit.</u> (n.68). Italics in original.

That a law, acknowledged to be adding nothing to the status quo, could be supported on the ground that it could do no harm[118] is very revealing about peace expectations. That they were so meager explains why effective action was not demanded. (According to the editorial, the Amendment did not assure the end of the war. Its "main virtue" was that it would "require a certain degree of candor about the war." But, of course, at any time Congress was actually prepared to stop war funding, it could have forced the President to be candid. This required no amendment.)

In late 1969, David Nicols, a reader of The New Republic wrote a letter describing the Goodell Resolution, as well as the McCarthy campaign, as part of a "positive contribution."[119] Needless to say there was no recognition here that the war was continuing despite the McCarthy campaign, and that the Goodell Resolution was still unpassed. It will be recalled that the Goodell Resolution was an intellectual and political precursor of the McGovern-Hatfield Amendment. (n.67.)

The glorification of empty legislative proposals was not restricted to politicians and their journalistic and ordinary letter writing constituents. Academicians were no less naive.

In the week following Cambodia-Kent State, two Biology Professors at Columbia University organized The Academic and Professional Lobby for a Responsible Congress. (p. 158; n.138,

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[118]One is reminded of a possibly apocryphal anecdote. Upon learning that the great leading actor had suddenly died on stage, a member of the Yiddish theater audience yelled out: "Give him chicken soup!" When told that the actor was beyond the help of chicken soup, the theatergoer responses: "It couldn't hurt!"

[119]David Nicols, Letter, The New Republic, Vol. 162 (January 3, 1970), p. 33.

ch. III.) A purpose of the group was to send delegations from throughout the country to Washington to lobby personally for the McGovern-Hatfield Amendment under the impression that it was an Amendment to End the War.[120] Apparently the trained scholars did not take the trouble to read the May version of the Amendment.

Moving from the natural sciences to the social sciences, N. Gordon Levin, Jr., an historian, did read the Amendment. For he wrote an entire article on 1970 Senate summer debate on the war, with heavy emphasis on the Cooper-Church and McGovern-Hatfield debate.[121] Levin thought that "the liberals' harvest from their summer efforts appears poor indeed....[T]here may not have been all that much at stake in the Senate debate...." But evidently Levin would not have thought the harvest to be poor had the Cooper-Church and/or McGovern-Hatfield Amendments passed. (He wrote before final passage of Cooper-Church.) He concludes with this paean to Senators:

> The very fact that they remained so ambivalent about American power and prestige only heightens the moral significance of the action of those thirty-nine liberal Senators who did vote for McGovern-Hatfield. Is it not probably that many liberals had moments of doubt as the globalists predicted international and domestic chaos following upon a Congressionally-forced American withdrawal from Vietnam? Nevertheless, when the time for choice came, most Senate liberals decided that on the grounds of social needs at home and of simple human decency the vicious circle of globalist assumptions perpetuating the cruel struggle in Vietnam had to be broken at this point. [Italics added.][122]

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[120] See Barber, et al., loc. cit. (n.96, ch. III).

[121] Levin, loc. cit. (n.9, ch. II), pp. 69-84.

[122] Ibid., p. 84.

This is extraordinary evidence of the power of wishful-thinking. A professional historian who not only read the McGovern-Hatfield Amendment but also outlined in his article the salient provisions of its final version[123] was still able to conclude that it would have led to a "Congressionally-forced ...withdrawal...." or a break in the Vietnam struggle. Moreover, he does not seem to have considered the possibility that the Senators who voted for the Amendment did so, not out of "simple human decency," but out of political expediency, confident that they would score "brownie points" with their constituents without really "forcing" anything.

Political scientists fared no better than biologists and historians. James David Barber joined with the aforementioned biologists to form a National Coalition for a Responsible Congress. The purpose of this group was to coordinate the efforts of various groups to "lobby for the Amendment to End the War or other peace legislation" and support so-called "peace" candidates who would vote for such legislation if elected.[124] Thus Barber accepted the idea that the Amendment to End the War would actually end the war.

In allegedly "Concrete Advice...For Peace Workers," a social psychologist said the Amendment "required...definitely getting out by a specified date...."[125] Another social psychologist and two political scientists wrote: "The new trend [circa

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[123]Ibid., p. 77.

[124]Barber, et al., loc. cit.

[125]Ralph K. White, "A Postscript For Peace Workers: Some Concrete Advice," in Rosenberg, et al., op. cit. (n.11, ch. II), p. 152.

July, 1970] in the Senate toward attempting to alter present Southeast Asian policy through legislation provides <u>an important action focus</u>." (Italics added.) That is, a person who could "see that letters or other actions in support of such Congressional undertakings can facilitate their success" was more open to conversion from support to opposition to the then current war policy. This was because a change in a person's views is made easier by the availability, "as a way of expressing his altered attitude," of "action alternatives" that would "make a difference."[126] Thus, peace activists were told to recruit new constituents by assuring the latter that their views could "alter present Southeast Asian policy" if they took action to support "peace legislation.

This was triple trouble. Peace leaders were wrong about the effect of the legislation, which in truth would be nil even in the event of passage; they misled their active followers, who in turn would recruit more misled people.

As a final example of applause for vacuous proposals, we cite the Princeton political scientists of the Movement for a New Congress. (See n.38, ch. II.) If the sponsors put forth the Tonkin Repeal and Cooper-Church Amendment as symbols, the Movement was perfectly willing to accept them as "encouraging signs that the legislative branch...is moving toward a reassertion of its constitutional role in the area of foreign policy...."[127] Moreover, the Movement declared that, from

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[126]Rosenberg, <u>et al</u>., <u>ibid</u>., p. 115, 114. The date is derived from the Foreward by Senator McGovern, dated July 21, 1970.

[127]Movement for a New Congress, <u>op. cit.</u> (n.6, ch. II), p. 1.

politics, "Even the losers get some rewards."[128] All one has
to do is organize a campaign against an incumbent. "Even
New York's most hawkish Congressman, John Rooney, was moved
during his primary race against Peter Eikenberry to introduce
a resolution in the House limiting our involvement in Cambodia."[129]
Again an empty gesture and again it is applauded! Are these
political scientists not not aware that numerous bills and
resolutions are introduced every year precisely to impress
constituents and that the sponsors have no intention of fighting
for them, let alone a desire to see them become law?

The readiness to accept and praise symbolic statutes and
proposed legislation was bad enough. But the situation was
even worse. For there was a willingness to see significance
in empty rhetoric. One of the "rewards" of politics, according
to the Movement, was that "some of the most militant hawks
[began] to change their tune." It cites the case of New Jersey
Representative Ed Patten who, at first, supported the President's
Cambodian decision. "[Two] days later, 200 student volunteers
went...to work for Patten's primary opponent....The next day,
Patten...accused Nixon of a 'tragic blunder' in...Cambodia."[130]

But how did this alter policy? If there is one thing
that politicians are adept at, it is making pleasing statements.
And many other peace constituents were pleased indeed. In fact,
if there was anything that they actually demanded, it was not

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[128] Ibid., p. 9.

[129] Ibid., p. 10

[130] Ibid., p. 9.

peace but pro-peace verbiage. Thus, way back in 1967, Senator McGovern felt the need to write an article entitled "'Why Don't You Speak Out, Senator?'" (See n.102a, ch. I.) This was in response to a question asked by many of his constituents. Note that they did not ask the Senator why he did not use his actual power to end the war. They only asked why he did not talk against the war.

The Senator's answer was that, on the contrary, he and a number of his colleagues had been speaking against the war quite a bit. These included men of prestige such as Mansfield, Fulbright and Robert Kennedy. Also included was Senator Vance Hartke or Indiana. In September, 1966, Hartke was pessimistic about an early end to the war, concluding an article: "I think of four words, lasting, words, words of moral demand and of lost blessing: 'Blessed are the peacemakers.' But where are the peacemakers in America today?"

It apparently did not occur to Hartke that the peace-makers might be located in the United States Senate and they included himself and his fellow doves. He complained: "Nothing that we have said seems to fall anywhere save on deaf ears."[131] The question was why didn't they DO something effective instead of talk? Hartke was not unaware of the possibility of fili-bustering appropriations. In 1971, he told a New York peace assemblage that he would engage in "extended debate" on war appropriations[132] But he never followed through.[132a] The

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[131]Hartke, loc. cit. (n.10), p. 14. Italics added.

[132]See "Statement of Senator Vance Hartke; given before the National Anti-War Convention of the National Peace Action

filibuster was for rousing constituents, not for serious assumption of responsibility.

In this connection, the reader might recall our previous reference to Senators who did little more than make speeches. (p. 193) Senator Hughes thought it would be "criminally irresponsible...to remain silent" but not to refrain from using his power to end the war. That was in 1969. But by 1971, he was ready to join a filibuster of all military appropriations: "...it is a matter of fact that no one listens. I am going to join the group that makes the symbolic stand....A year ago, I wouldn't have voted against appropriations or filibustered against the draft. Now I believe it is important to use everything as a protest."[133] One wonders why Hughes would not have done this earlier.[134] In addition it is to be noted that he viewed the filibuster as a symbolic gesture and a protest, but not as a serious way to end the war. (In fairness, perhaps Hughes could not get his colleagues to go along, but until 1971

Coalition at Hunter College, New York City, July 2, 1971," pp. 10-11. Available from the office of Senator Hartke. Hartke said: "I for one am not going to let the 1972 military appropriations bill get through the Senate without a long...long...long discussion...." Italics are Hartke's. His filibuster would be for a McGovern-Hatfield type Amendment.

[132a]"The Senate Nov. 23, [sic] by 80-5 roll-call vote, passed the...defense appropriations bill for fiscal 1972....The bill was considered on the Senate floor for one day...." Congressional Quarterly Almanac 1971 (Washington: Congressional Quarterly, Inc., 1972), Vol. 27, p. 338.

[133]Quoted in McGrory, loc. cit. (n.6). Italics added.

[134]Hughes certainly knew of the device in 1969 because the writer informed him via letter and discussion with Legislative Assistant William G. Hedlund. (n.138, ch. III.)

he was unwilling ever to try. Also, if he saw the filibuster
as a mere gesture, it is unlikely that he tried very hard in
1971.)

This brings us back to the major problem: the peace
constituency. The latter was impressed by speeches to the point
of rapture. Rhetoric was demanded and highly regarded.

We have previously referred to a late 1969 article by
political scientists James Barber and David Mayhew. (pp. 90,
148.) They advocated a shift from demonstrations to electoral
activity in 1970. The purpose of such activity was the election
of a "peace Congress." What such a Congress would do was not
entirely clear. But the authors do inform (or misinform) their
readers that "there is something to that Goodell Resolution..."[135]
Especially important was the election of leaders for peace.
Thus, "senators who have taken courageous leadership for peace
need strong support: Gore..., Hart..., Yarborough..., Goodell...
and others."[136]

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[135]Barber and Mayhew, loc. cit. (n.38, ch. II), p. 9.
The Goodell Resolution was perhaps slightly stronger than its
McGovern-Hatfield successors. This provision is included for
the reader to decide: "It is the...intent of Congress that
all American military personnel be withdrawn from Vietnam on
or before December 1, 1970; so that the retention even of
noncombat military training personnel in Vietnam after that
date would not be permitted without the enactment by Congress
of further legislation specifically approving such retention....
No part of any amount authorized to be appropriated under any
Act shall be used after December 1, 1970, to maintain military
personnel of the United States in Vietnam." Congressional
Record (Daily Edition; August 28, 1970), p. S14576. (Italics
added.)

[136]Barber and Mayhew, loc. cit., p. 10. Italics in
original.

But what is "leadership for peace"? The authors never preceisly and explicitly define the term. But, by implication, they do give a definition of sorts. They say Representative Philbin of Massachusetts "was not among the more than 80 members [of the House] who spoke up for the Moratorium; so far he cannot be called a leader for peace."[137]

In other words, to be a "leader," all one had to do was make a speech in favor of a demonstration. (One wonders what, if anything, had to be done to qualify as a peace follower.) What is more remarkable is that Barber and Mayhew begin: "Tell a hawk congressman you are planning a peace march through his district, and you're likely to get a cold rebuff."[138] Hence, it was time to go "from the streets to the polls." A Congressman was more likely to be persuaded by a dove campaign against him than by a demonstration.[139] **Nevertheless**, the authors proceed to say that one making a speech in favor of demonstrations was a leader for peace. In effect, they say that, to become politically powerful, doves should elect members of Congress who would make speeches in behalf of ineffective gestures. What logic!

Admittedly, the authors would have a "peace Congress" vote

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[137]Ibid. See p. 124 on the Moratorium, which was on October 15, 1969.

[138]Ibid., p. 9.

[139]The basic thrust of the Barber-Mayhew article is that peace marches are ineffective and that, therefore, campaigns to elect peace Congressmen are necessary. However, in contradiction, the authors say: "The massive Moratorium of October 15 and the immense...march of November 15 made their point...." Ibid. What the point was and an analysis of it will come later.

for the Goodell Resolution which, at the very least, would continue the war for another year or more, with possibility of extension. (See n.135.) But it was beyond the imagination of these political scientists to suggest that leadership might involve more than talk, that it might involve effective action to end the war at once. Nor did they suggest that Senators such as Gore, Hart, Yarborough, Boodell, et al. already had the power to end the war and that, because they were not using the power, they were anything but "courageous leaders." Finally, the political science teachers did not instruct their readers that, if hawks would change their views and actions when threatened by a campaign, so too might putative dove Senators.

Other persons prominent in the peace movement frequently propounded the Barber-Mayhew theme that speeches were the sign of courage and leadership. To take one final example, Sam Brown played an important role in the McCarthy campaign, in the Vietnam Moratorium and in 1970.

In discussing the organization of the 1969 Vietnam Moratorium, Brown complains about the attempt to get public support for the enterprise: "There was a perceptible lack of raw courage on the part of most elected officials." However, he exempts from this stricture "the handful of consistent doves, such as...Senators McGovern, Hughes, McCarhty, Hatfield, and Goodell."[140]

What was "raw courage"? It obviously included making statements in support of the Vietnam Moratorium of October 15,

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[140]Brown, loc. cit. (n.8), p. 35. For additional praise of dove Senators, see Gelber's statment on p. 184.

1969. But there was more. It was Brown's view that if Congressional doves "cared about peace in Vietnam _they_ could provide the leadership."[141] Brown thought that, in the Senate, there should have been organization, regular meetings and commitment to "produce a piece of legislation." (Real courage would have required the blockage of legislation.) But because Brown operated on the premise that a majority of two houses based on a majority of the people was required to produce legislation[142] (of whatever dubious character), he above all defined leadership in terms of speechmaking. That is, oratory was required to gather and convince new converts to come into the dove fold. Speaking legislators would make war opposition respectable. At one point Brown says: between November, 1969 and May, 1970, "virtually no one on the Hill did any _peace work_. Even committed doves were asking to be let off from _speaking engagements_...."[143] At another point, Brown says there must be "non-student leadership....The leadership must be willing to _talk_ about Vietnam in terms that will appeal to Middle America...."[144]

We are not suggesting that speechmaking or the demand for it is inherently a vice. If the dove Senators did not possess the power to end the war, leadership through speech would have been justified to garner more recruits among legislators and the

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[141]_Ibid._, p. 42. Italics in original

[142]_Ibid._, p. 43.

[143]_Ibid._, p. 38. Italics added.

[144]_Ibid._, p. 44. Italics added.

public. But, at the very least, Senate doves did have the power to commence a filibuster and probably to conclude it successfully. Consequently, courageous leadership in this context would have been indicated by using the power <u>and</u> <u>speaking in the public forum to justify that use</u>. Also, if the outcome of the filibuster were in doubt, dove Senators would have commanded a much larger audience by their <u>action plus</u> words than by words alone. Then they could have employed speech to defend both the filibuster <u>and</u> war opposition.

Why wasn't this done by the Senators or demanded by their constituents? Why was there satisfaction with resolutions and speeches? Four interconnected factors contributed to a lack of appreciation of what could be done: 1) ideological obsessions, especially a pervasive majoritarianism; 2) intense emotionalism and irrationality; 3) selfishness; and 4) simple failure to consider all the possibilities. These problems existed for both the Senators and their constituents, but, since it is our argument that the former will respond to the latter, we emphasize the latter.

Majoritarianism was so basic a part of the dove thought process that the next chapter will be devoted to it. Grosser and more hysterical aspects of emotionalism have been mentioned. (pp. 228-229.) Whether emotionalism precludes or is a product of the absence of rational, analytical thinking need not concern us here. Suffice it to say that emotion was present in large doses and rational thought was absent. A form of emotion, the need for selfish ego gratification and self-satisfaction, perhaps produced a <u>desire</u> not to think as well as an inability to think.

Before turning to dove selfishness, let us acknowledge the possibility that, on the part of some, there was a simple, honest, unemotional failure to think of what could have been done. This was especially true among those followers who could not have been expected to possess much knowledge of the political and legislative processes. Leaders too suffered from political myopia, in addition to varying degrees of the other factors mentioned.

In any case, we have cited the Crown and Barber-Mayhew praise for dove Senators. In a general editorial on the Democratic Party, The New Republic, a leading peace establishment periodical, stated:

> Democrats seem unaware of any national crisis, or what to do about it.... [T]his is not because the Party lacks sensible men. In the Senate, there's Fulbright, Gore, Hart, Hughes, Kennedy, McGovern, Mondale, Muskie....But they, un-fortunately, are not the men who sit in the most powerful seats....[145]

Right here we have a possible activist nucleus (p. 128) of a filibuster to deal with one facet of the "national crisis." Thus, as far as the war was concerned, it was a delusion that the Senators did not sit in the "most powerful seats." The truly unfortunate thing from the peace point of view was that a widely-read journal was misinforming its readers.

Once it is accepted that the adherents of a cause do not occupy the seats of power and that those who occupy the seats do not support the cause, the next step is to elect to the powerful seats those who do support the cause. That was

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[145]Editorial, "The Clean Feeling of Achievement," The New Republic, Vol. 162 (March 14, 1970), p. 9. Italics added.

probably why <u>The New Republic</u> published the Barber-Mayhew article advocating electoral activity to produce more Congressional doves. That was also the basis of political scientist Garrison Nelson's article on the need to elect more dove Representatives. Nelson claimed that the peace movement was devoting entirely too much of its attention and resources to the Senate, that "the House was all but forgotten, and that: "As currently constituted, the House is a fatal obstacle to the assertion of any meaningful peace initiative in the Congress....."[146]

Whether a deeply imbedded majoritarianism blinded him or he simply failed to consider the matter, Nelson evidently was unaware that the House not only was not a "fatal obstacle" but also was totally unnecessary and irrelevant to "the assertion of any meaningful peace initiative...." (Nelson was also apparently unaware that there was actually a considerable effort to elect dove Representatives by, for example, Barber-Mayhew and the Movement for a New Congress. See also pp. 148, 156, 159ff.

Whatever one thinks of his views, I. F. Stone does his homework, and thoroughly documents his writing, which contains considerable analytical thought. Stone, we have shown, was one of the few to perceive, and rather early at that, the fundamental Fulbright fraudulence. (See nn.14, 17, 28.) Nevertheless, when it came to suggesting what Fulbright really ought to have been doing, Stone fell far short of the possibilities. He thought that Fulbright and his Committee should have been more adept and resourceful in disclosing the truth about the Vietnam

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[146]Nelson, <u>loc. cit</u>. (n.38, ch. II), pp. 13, 15.

War.[147] But Stone did not see that Fulbright had the _power_
to lead his colleagues toward _ending_ the war, rather than
merely investigating, exposing and opposing it.

Not only was there a failure to perceive that dove
Senators already were in "most powerful seats," and that they
could end the war as a consequence. There was a faulty under-
standing of who has the primary responsibility for taking the
initiative in a democracy. It has been pointed out that there
are three sources of legislative initiative: legislators,
constituents, and, sometimes, pressure by some legislators on
their followers to put pressure on other legislators. (pp. 129-
132.) (See also, pp. 19-20, 189-190.) The first and third
sources are sweet luxuries to be gratefully accepted, but cer-
tainly not expected as automatic or a matter of right. In a
democracy, by default, dissatisfied citizens have the ultimate
and primary responsibility for getting legislators to remedy
complaints.

Nevertheless, for many peace proponents, this was a
shocking notion. Sam Brown, for example, said that if Congres-
sional doves "cared about peace...they could provide the leader-
ship." (p. 245.) But what if they did not really care? What
if they were merely posturing? Or what if they cared about
peace but cared more about votes and re-election?

In his reference to "Hill...doves" who asked to be "let
off from speaking engagements," (p. 245) Brown said this was

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[147]Stone; "...The Timid Opposition," _loc. cit._ (n.14),
esp. pp. 12-13.

> an indictment of the responsibility of traditional
> leaders on vital questions of peace and war. They
> were coming to _us_ to be let off, and we were going
> to them pleading for support....[I]t was generally
> assumed that we would provide the initiative and
> they the support. _The world was upside down_.
> [Second italics only] added.

Of course, the world was not upside down. To expect politicians as a matter of course, to act out of selfless motivation without constituent pressure is the ultimate in naivete.

Virtuous Endeavor, Self Interest and the Peace Movement

There was ideological blindness, emotion, failure to think and naivete. But these factors alone do not account for the abundance of adulation heaped upon the activities of dove legislators: symbolic statutes, resolutions, amendments and speeches. Peace constituents also had selfish interests in finding so much in so little.

Reinhold Niebuhr once wrote that the "insinuation of the interests of the self into even the most ideal enterprises... makes hypocrisy an inevitable by-product of all virtuous endeavor," (p. 180.) This statement was illustrated by peace movement statements and activities, much of which were ostensibly based on a deep sense of morality.

Peace proponents had selfish interests in: 1) having fun and an enhanced social life; 2) emotional catharsis, letting off steam; 3) clarity and purity of conscience; 4) a feeling of worth and/or a sense of achievement; and 5) votes for politicians and, for interest groups, members, participants and the possible attainment of peace.

In practice, these interests are far more easily listed than separated. Hence, the examples that follow fit only roughly

into the various categories.

Perhaps few peace activists were candid as Joan Libby,
Because she had little faith in politicians, she conditioned
her future participation in a fourth (peace) party on whether
it "looks like fun, and a lot of people I like are doing it."
(p. 180.) Of demonstrations, Sam Brown writes: "The atmosphere
at a demonstration is one of a communion of peers, often with
recreation and a heady emotional sense of solidarity."[148] About
the reaction to Cambodia-Kent State (p. 156), Brown says: "The
May 9 rally in Washington was cathartic for everyone already
committed against the war---a communion of the wounded."[149] We
have seen that Etzioni agrees that demonstrations "put a premium
on...emotive devices." (p. 229.) Moreover, he concurs that
"some young people meet dates on marches, and other [sic] are
exhibitionistic." Nevertheless, he points out that "this holds
for all political activities and activists. For example,
studies show that one reason citizens are active in political
clubs is that they meet their friends there."[150] And he stresses
that when large numbers of people turn out to demonstrate, say
against the war, the main reason for most of them is that they
sincerely oppose the war.[151]

It has to be acknowledged that conventional political
activity can---and does---offer as much a social and emotional

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[148]Brown, loc. cit., p. 29.

[149]Ibid., p. 30.

[150]Etzioni, op. cit. (n.84, ch. III), p. 25.

[151]Ibid.

outlet as other forms of protest. Hence we must probe further into why so little was accepted as so much and, as a consequence, effective action was not demanded. For all their morality, many anti-warriors were more interested in themselves than in righting the moral wrongs they allegedly cared about.

It is nothing new to say that, in a sense, every action is selfish. One concludes that he will gain more pleasure or suffer less pain by acting than by not, or vice versa. Even one who acts out of charity does so because his conscience and/or his ego are in better condition by virtue of such an act.

This suggests two kinds of selfishness: a) that from which only the actor benefits, and b) that from which others too gain. The latter is often called "unselfishness." The critical question in evaluating a deed's alleged unselfishness is not whether the actor profits from it but whether anyone else does.

Paradoxically, probably those who opposed the war on moral grounds were far less unselfish in their behavior than those with pragmatic reservations. The moralists often equated the war's horrors with Hitler's atrocities. Literally haunted by the example of the "Good Germans" who failed to "speak out" or otherwise oppose Hitler, these doves believed they must oppose the war in some fashion. In the end, for many if not most, a clear conscience became so important that they lost sight of the only really important question: "what will actually end the war?" A clear conscience for themselves became the primary goal and, in the process, effectively saving others from death and mutilation became quite secondary.

Of the doves whose primary objective was to be sure of avoiding the charge of failing to oppose a Hitlerian activity, perhaps few were more explicit or poignant than Lisa Kalvelage. She had come from Germany to the United States in 1947. She had had to assure the immigration official that she understood responsibility; and she also faced numerous questions from others, both in Germany and the United States, about her activities during the Hitler era. Her reply that she was then too young to mount any opposition only brought forth inquiries about her parents. At first she thought it "ridiculous to hold a nation all to blame, For the horrors which the world did undergo." But

> Gradually I understood what that judgment meant to me
> When there are crimes that I can see and I can know.
> And now I also know what-it-is-to-be charged with
> mass guilt
> Once...in a lifetime is enough for me.
> No, I could not take it...a second time,
> And that is why...I'm here today.

> The events of May 25th, the day of our protest
> Put a small balance weight on the other side
> Hopefully, someday, my contribution to peace
> Will help just a bit to turn the tide.
> And perhaps I can tell my children six
> And lator on, their own children
> That at least in the future they need not be silent
> When they are asked: Where was your mother when....?[152]

The protest of May 25 (1966) was the blockage of a napalm bomb shipment.

Others, too, wanted clear consciences. Some went further and sought assurance that their opposition to "crimes against

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[152]Peter Seeger, My Name Is Lisa Kalvelage (New York: Sanga Music, Inc., 1966). Basically the words are from Lisa Kalvelage's own statement, which Seeger "simply tried to turn... into meter, rhyme and music."

humanity" was on record. In fact, one group, which included prominent political scientists such as Hans Morgenthau and Stanley Hoffman, was formed, in part, because

> our own deep democratic traditions...demand
> that we speak out.
> We...declare our names to...the Secretary
> General of the United Nations, both as permanent
> witness to our opposition to the war...and as
> a demonstration that the conscience of America is
> not dead. [Italics added; full statement on p. 255.]

This is a remarkably monumental combination of arrogance, ingenuousness and selfishness. The group self-righteously assumes for itself the role of "conscience of America." Again, we have the naive belief that democracy requires merely speaking out rather than use of the political process to produce effective war-ending action. This, perhaps, is because of the overriding selfish concern with having a "permanent witness" to assure being "in the clear" in the future.

Being in the clear could involve no more than the desire to avoid future self-condemnation and guilt feelings. But in the case of Kalvelage and the above group, there was a wish to let the world know they protested and thereby avoid the charge of war crimes responsibility in the tradition of Nuremberg. Kalvelage, extended her selfishness to the protection of her children against later charges. She took action, however ineffective. The political scientists were content to "speak out." If they equated speech with democracy, what could be expected of the non-educated and unsophisticated followers? Indeed, what could have been expected from Congress?

For certain activists, having a clear conscience requires the possession of a pure conscience. That means adherence to

100,000 signed this Declaration during the JOHNSON Administration.
NIXON is allowing death and destruction to continue and to increase.
Pressure and action against the war are needed.

255.

Individuals Against the Crime of Silence

A Declaration To Our Fellow Citizens Of The United States, To The Peoples Of The World, And To Future Generations:

1 We are appalled and angered by the conduct of our country in Vietnam.

2 In the name of liberty, we have unleashed the awesome arsenal of the greatest military power in the world upon a small agricultural nation, killing, burning and mutilating its people. In the name of peace, we are creating a desert. In the name of security, we are inviting world conflagration.

3 We, the signers of this declaration, believe this war to be immoral. We believe it to be illegal. We must oppose it.

4 At Nuremberg, after World War II, we tried, convicted and executed men for the crime of OBEYING their government, when that government demanded of them crimes against humanity. Millions more, who were not tried, were still guilty of THE CRIME OF SILENCE.

5 We have a commitment to the laws and principles we carefully forged in the AMERICAN CONSTITUTION, at the NUREMBERG TRIALS, and in the UNITED NATIONS CHARTER. And our own deep democratic traditions and our dedication to the ideal of human decency among men demand that we speak out.

We Therefore wish to declare our names to the office of the Secretary General of the United Nations, both as permanent witness to our opposition to the war in Vietnam and as a demonstration that the conscience of America is not dead.

On September 23, 1965, a Memorandum of Law was incorporated in the Congressional Record of the 89th Congress of the United States of America, in which leading American attorneys, after careful analysis of our position and actions in the Vietnam War, came to the conclusion that the U.S. is violating the following accords: The Charter of the United Nations, The Geneva Accords of 1954, the United States Constitution.

To Protest — To Object — To Dissent has long been an American tradition. The following are a few among the many who have signed this declaration to be on permanent record.

ABE AJAY	NAOMI L. GOLDSTEIN	HERBERT D. MAGIDSON	ROBERT RYAN
JAMES BALDWIN	DR. RALPH R. GREENSON	SHIRLEY MAGIDSON	DAVID SCHOENBRUN
(FATHER) J. E. BAMBERGER, M.D. OCSO	PROF. ABRAHAM J. HESCHEL	NORMAN MAILER	LORRY SHERMAN
DANIEL BERRIGAN, S.J.	BRIG. GENERAL H. B. HESTER, RET.	THOMAS MERTON	PROF. ROBERT SIMMONS
REV. PHILLIP BERRIGAN, S.S.J.	DR. STANLEY HOFFMAN	SIDNEY MEYER	DR. BENJAMIN SPOCK
RAY BRADBURY	CHARLES H. HUBBEL	EASON MONROE	FRED H. STEINMETZ, ESQ.
ROBERT McAFFEE BROWN	PROF. DONALD KALISH	PROF. HANS J. MORGENTHAU	DR. NORMAN TABACHNICK
REV. WILLIAM H. DU BAY	EDWARD M. KEATING	HENRY E. NILES	D. IAN THIERMANN
JAMES FARMER	PHIL KERBY	DR. MARK F. ORFIRER	BRYNA IVENS UNTERMEYER
W. H. FERRY	PAULINE KRAMER	AVA HELEN PAULING	LOUIS UNTERMEYER
ROSE S. FIELDS	RING LARDNER, JR.	DR. LINUS PAULING	DICK VAN DYKE
DR. JEROME D. FRANK	RABBI RICHARD N. LEVY	BISHOP JAMES A. PIKE	ROBERT VAUGHN
REV. STEPHEN H. FRITCHMAN	LOUIS LICHT, ESQ.	RICHARD M. POWELL	DR. MAURICE N. WALSH
BEN GAZZARA	DR. ROBERT E. LITMAN	CARL REINER	DR. HARVEY WHEELER
DR. FRED GOLDSTEIN	VICTOR LUDWIG	JANICE RULE	A. L. WIRIN, ESQ.

I wish to sign my name to the above Declaration to the United Nations and want to go on record with this Declaration of the Individuals Against the Crime of Silence.

signature _____

For clarity, also print your name after your signature

address _____ date _____

city _____ state _____ zip _____

Sign, complete and mail to P.O. Box 69960, Los Angeles, Calif. 90069. The office of the Individuals Against the Crime of Silence will then forward the information to the United Nations.

Should you also wish to support additional publishings and communications, send $1 or more in cash or by check made payable to Individuals Against the Crime of Silence. ... This donation entitles you to the lapel emblem, the wallet-size registration card and four personalized letter replicas of the Declaration for you to individually send on to the President and your U.S. senators and congressman. Money is needed to speed our progress.

The strength of our numbers will regularly and effectively be made known. Your signature does have power.

the adage, "to thine own self be true," or, in the current vernacular, "do your own thing." In practice, the results are: pursuit of numerous objectives at one time; refusal to rank them in order of importance and thus sacrifice the less important to obtain the more important; a belief that compromise is unprincipled, immoral and a "sell out"; and a resort to a multiplicity of groups and methods of seeking the plethora of goals.

Chapter II dealt with the definitional problems presented by peace movement fragmentation. (pp. 109-113.) Here we observe that the selfish desire for moral purity, combined with the mistaken belief that diversity is necessarily a virtue, caused serious obstacles to peace. Space precludes giving more than a few examples.

Right from the start, anti-warriors were distracted by non-war issues. (See, e.g., p. 110.) In 1968, a radical sociologist, Sidney M. Peck, warned the anti-war movement against "sterile coalitions based on political 'tendencies' which inhibit multi-issue concerns.... A [multi-issue] political front...oriented to...political confrontation on the main issues of war, racism and poverty, is so vital today."[153] In late 1969, leaders of the radical New Mobilization Committee to End the War in Vietnam announced plans for an "antirepression campaign" to aid Black Panthers and other groups. Also, there were plans

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[153]Sidney M. Peck, "Notes on Strategy and Tactics: The Movement Against the War," New Politics, Vol. 6 (Fall, 1967), p. 55. Note that, while the official date is Fall, 1967, article references to 1968 events make clear that actual printing was about a year later. (To complicate matters further, there is a 1966 copyright date.)

to focus on "economic aspects and corporate involvement."[154]

But by no means were radicals alone involved in the quest for moral purity. Liberal activists were strongly committed to the "new priorities" syndrome. J. Sinclair Armstrong of Business Executives...for...Peace was not "merely" interested in peace but, more importantly, in improving the "quality of life." (n.108, ch. II.) Political scientists of the Movement for a New Congress (n.38, ch. II) had "commitments to the causes of peace, racial justice, and the reordering of national priorities."[155] The Movement's Fary Orfield, in answer to the question whether the scope of the organization went beyond the war, responded: "Absolutely. The whole point is that it's much broader; it's not just a peace movement. I don't think any candidate who suddenly discovers the Vietnam issue and who has a miserable domestic record should be supported."[156] (Italics added.)

Andrew N. Greeley pinpoints the trouble with multi-issueism:

If white ethnic groups (not all of them "blue collar" by any means) are told in effect that to support peace he [sic] must support the Black Panthers, women's liberation, drugs, free love, Dr. Spock, long hair, and picketing clergymen, he may find it very difficult to put himself on the antiwar side.[157]

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[154]"War Foes Planning Winter-Spring Drive For a U.S. Pullout," The New York Times, December 18, 1969, p. 14.

[155]Op. cit. (n.38, ch. II), p. ix.

[156]Quoted in Tallmer, loc. cit. (n.38, ch. II).

[157]Andrew N. Greeley, "Turning Off 'The People'; The War and White Ethnic Groups," The New Republic, Vol. 162 (June 27, 1970), p. 14.

Not only does a selfish desire for moral purity lead to the alienation of potential allies on a given issue,[158] the focus on too many issues also "dilutes" the impact of any one (Brown, p. 181) and prevents devotion of maximum resources to the most important objective.

There was a selfish refusal to compromise on tactics as well as issues. Former Attorney General Ramsey Clark was asked if he thought the war would be an issue in the next election. His answer was that it was "shameful" to put it on that basis. It was a moral matter of ending the killing: "We have to end the bloodshed over there. It has nothing to do with elections."[159] The contention here is that ending the killing had _everything_ to do with elections.

In a previously cited letter (p. 235), David Nicols also stated: "To propose transferring peace energies to one institution---Congress---through one mode of action---primary campaigning---is an abdication of the responsibilities of the movement." Nicols concluded that, with death the alternative, "uncertainty of success...can be no excuse for dropping _any_ potentially effective line of political action."[160]

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[158]See also Brown, _loc. cit._, pp. 24-25, 32-33. Brown sees the need to "choose among contending goals" but also says that taking steps to end the war should not "erode...commitment to other issues." _Ibid._, pp. 32-33.

[159]From the writer's notes on Clark's appearance on _Channel 9 News_, WOR TV, New York, April 29, 1971, 7:30 P.M.

[160]Nicols, _loc. cit._ (n.119). Italics in original. Nicols raises the question of what "effective" means. He acknowledges that, in advance, there is no certainty of success. But after they have been tried, there can be an attempt to evaluate different methods. Many indeed were tried by anti-warriors. The question of how successful they were is discussed elsewhere.

Here we have a possibly sincere belief that different methods should be tried. However, the only result is---and was---division of energies on methods as well as issues. The New Republic recognized the need for coordination, but also, with approval, after Kent State and Cambodia said "individualism is rampant" and noted that many groups "are involving themselves in their special ways."[161] It is highly questionable whether rampant individualism and involvement in special ways was either desirable or practical. David Truman points out that group unity is "most fundamental in determining the measure of success it will enjoy." (p. 181.)

(e.g., pp. 104-109, 270-273). For the reader's convenience, here is a list of some of the numerous dove methods that were tried: peaceful and violent demonstrations and peace marches; moratoria; boycotts; student strikes; flag burning; guerilla theater, including spilling of animal blood, withholding payment of income tax; fasting; draft-card burning; attempting to shut down the United States Senate; all night vigils; sending letters and petitions to Congressmen; traditional lobbying; attempts to pass state laws against the war; lawsuits testing the constitutionality of the general election campaigns to elect doves and defeat hawks; door-to-door canvassing to "educate" public opinion; teach-ins and debates; anti-war speakers; attempts to obtain party platforms with dove positions; appeals to the President to see the light; newspaper advertisements; television and radio commercials and appearances by doves; the Princeton Plan to give time off to students to campaign; roll call vote analysis; the use of computers to analyze records and district populations.

This chapter is already too long to allow documentation of this summary of methods used. Suffice it to say that the experience of Vietnam War opposition does not present a basis of optimism that the diversification of energies will necessarily produce the desired results.

It should be noted that the Vietnam War is a classic illustration of the interconnected nature of American Government. The war involved questions of democracy and constitutional interpretation, the Courts, Congress, the Presidency, executive-legislative relations, interest groups, political parties, public opinion, state and local government, and the foreign policy process.

[161]"An Antiwar Congress," loc. cit. (n.100, ch. III), pp. 5, 7. On coordination, see p. 159; nn.100, 101, ch. III).

The peace movement was extremely fragmented in terms of number of groups, methods and objectives. This was due in no small measure to the naive and selfish pursuit of purity of conscience. Is it any wonder that, with so little unity, there was so little success?

There were those who did not require a pure conscience but were content to settle for a clear conscience. Perhaps they hadn't thought deeply enough to come up with the subtle differentiations of the purists. In any case, many who sought just a clear conscience wanted no more than just to "do something." In May, 1970, A Random House editor said: "Everybody is very anxious to do something."[162] And Sam Brown observes:

> At some point it became necessary for all of us to do something, regardless of political effect, in order to separate ourselves from the government.... Because something had to be done and peace people knew how to produce demonstrations, a quick demonstration [for May 9] was put together. [Italics added.][163]

At times, however, with varying acuity, doves saw the significance of effectiveness. It was not enough to "do something" for its own sake; it was necessary to do something that would achieve peace.

Partly this was motivated by the desire for peace and partly by the need for a sense of achievement. People do not like to feel that their efforts have been for naught. A clear conscience derived from opposing sin is important; but also

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[162]Henry Raymont, "Book Publishers Act Against War," The New York Times, May 10, 1970, p. 26. Cerf was a member of the Publishers Committee for Peace.

[163]Brown, loc. cit., p. 30.

important, especially for feelings of self-worth, is actually
wiping out sin---or seeming to.

Even Lisa Kalvelage, who above all wanted to avoid a
second charge of guilt for war crimes, could not resist reference
to "my contribution to peace." (p. 253.) That was in 1966 and
we all know how much peace was brought about that year. In
1970, however, there was an increase in conventional political
activity. (ch. III.) Particularly after Cambodia-Kent State,
those who turned to lobbying and campaigning disavowed the
intent merely to let off steam. Effectiveness was an important
theme. For example,

> new student activists....[a]re united by more than a
> desire to "do something."

> ...many of them do not want merely to vent their
> feelings. A key word in their vocabulary is
> "effective."
> "It is about time," said...a [university] senior
> ..., "that something was done for effective political
> action rather than just standing around at a rally."164

And the Movement for a New Congress declared:

> Millions of Americans are working for peace. Most
> of them are ineffective. In politics, sincerity,
> dedication, and good will are not enough. No
> prizes are given for running second in an election
> or for being a nice guy....165

The desire to be effective is very commendable. But how
is the effectiveness of an effort measured? There are two
criteria: 1) One is to attain a goal (e.g., peace) in the
"real world." 2) The other method of achievement is by fiat.
That is, a declaration is made that the goal has been reached,

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164Roberts, loc. cit. (n.69, ch. III).

165Movement..., op. cit. (n.6, ch. II), p. ix.

whether or not an examination of reality validates the claim. Hopefully, no one will make such an examination, or it will be cursory.

New York's Governor Nelson A. Rockefeller furnished a few years ago the very model of how the second method operates. He announced that, in sixty days, the Long Island Railroad would, under his direction, become the finest in the country. When the date came, without batting an eyelash, the Governor "officially" declared that the railroad was the "finest" in the country. What more could a very late-for-work, frozen or overheated rider ask for?[166]

Similarly, in 1966, Senator George Aiken of Vermont made a proposal for ending the war. He said that the President should declare that the United States had won the war. It sounded very funny at the time, but that is not far from what actually happened in 1973, when a "just peace with honor" was officially declared.[167]

Anti-warriors, who never tired of proclaiming their superior virtue, were no different from the New York Governor or the Vermont Senator. It has been generalized (pp. 106-108) that the readiness of doves to blame the system for the war and its prolongation was matched only by the alacrity with which

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[166]On October 7, 1969, Rockefeller said: "On this day, we have become, officially, the finest commuter railroad in the country." Quoted in Bill Kovach, "Governor Hails L.I.R.R. [sic] Says He Kept His Promise,""The New York Times, October 8, 1969, pp. 1, 50. Rockefeller eventually provided some foundation for his assertion. See Frank J. Prial, "Most Riders on L.I.R.R. [sic] Think the Service Has Improved," Ibid., August 13, 1971, pp. 1, 30.

[167]See Richard Eder, "Aiken Suggests U.S. Say It Has Won War," Ibid., October 20, 1966, pp. 1, 16.

they took credit for themselves for any real or imagined
progress toward peace. (System-condemnation was illustrated
in the last two chapters. Here we focus on self-praise.)

The desire to be effective and take credit therefore had
much to do with the extensive acceptance and praise of empty
rhetoric and legislative proposals illustrated in this chapter.
There was a clear harmony of interests on this point between
dove politicians and constituents. Politicians were not shy
in taking credit for their fraudulent statutes, resolutions,
amendments and speeches.[168] As human beings, legislators have a
psychological concern with considering their efforts signifi-

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[168]In addition to examples cited already (e.g., pp. 203,
226), a few more may be given. Senator Hartke: "_I led_ in the
plea...against the resumption of bombing...." Italics added.
Loc. cit. (n.10), p. 12. Hartke again: "I know that everyone
in this body is aware of my long record against the war. My
active [sic!] opposition to the war dates from 1963...."
Congressional Record (Daily Edition; June 29, 1973), p. S12557.
Senator Javits: "...the majority leader...made an _historic_
statement just now. This is a resolution which I have the
honor to have my name on because, indeed, with...Senator...(Mr.
Pell), _we were the first_ to offer this particular resolution....
(Mr. Mathias) offered an omnibus resolution on all these matters."
Ibid, June 23, 1970, p. S9588. Italics added. (Javits was
referring to the Tonkin repeal, which Mathias proposed as one
section of a resolution repealing several prior resolutions.
Javits' "honor" was to offer a repeal resolution dealing solely
with Tonkin.) Senator Goodell: "The basic language of the
[McGovern-Hatfield] revision...is language that I prepared. It
adopts the concept---and utilizes the format of _my original_
Vietnam bill...proposed last year. That bill was _the first_ legis-
lation introduced in Congress to prohibit the expenditure of
money...after a stated deadline." _Ibid_., August 19, 1970, p.
S14839. Senator Mansfield: "..._these actions to date have had
a limited effect_. The Senate's repeal of...Tonkin...has not
yet brought an end to the involvement in Vietnam. Nor did the
first Cooper-Church terminate our involvement in Laos. Even
now, a creeping commitment is underway in Cambodia notwithstand-
ing the Cooper-Church amendment. _But who is to say these Senate
measures were without effect_? Who is to say to what other places
and depths in Asia the inertia of present policy would have
carried this Nation without the resistance of the Senate?" _Ibid_.,
p. S14844. Italics added. The reader will note the contradic-

cant.[169] But they have a far greater concrete selfish political
interest: future elections and, thus political careers are at
stake. This requires convincing constituents that their goals
have been met, whether or not this is true. It is probable
that constituents are more likely to be content with psycho-
logical satisfaction. In neither the case of the politicians
or the constituents can a precise demarcation be given between
the concrete and the psychological interests. It is simply
a matter of rough emphasis.

In any case, the **critical point** is this: If the politi-

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tion in the italicized part of Mansfield's statement. His
thinking was shared by other Senators. See, for example, the
McGovern and Fulbright references in n.102a, ch. I.

[169]See John W. Finney, "Senate Rejects a Move by McGovern
for $339-Million Cut in Funds to Develop a Supersonic Bomber,"
The New York Times, September 23, 1971, p. 27. In discussing
the introduction of different porposals by various Senators,
Finney writes: "On the Vietnam issue...the doves face the
problem of reconciling their individual pride of authorship
and agreeing upon a common approach....As one dove privately
summed up the situation..., 'Our problem now is to keep the
Senators from going off on ego trips, thus dividing our
forces.'" Italics added. On Senatorial egos, see also Brown,
loc. cit., p. 43. The references in n.168 to Senators Mansfield,
McGovern and Fulbright can be examples of the psychological
need for a sense of importance and ego gratification, as well
as a conscious grasping for credit. As noted (p. 250), it is
often hard to determine where one begins and the other leaves
off. Finney suggests pride and ego trips as the explanation
for the presentation of a number of anti-war proposals.
However, Senator Goodell has another explanation. In "Parting
Shot on Vietnam," The New York Times, January 5, 1971, p. 35,
Goodell worries about a possible dove credibility loss "if
legislation to end the war were 'politicized'...---particularly
if it were to become embroiled in 1972 Presidential politics.
That could result in a return to the confusing situation of
late 1969, where several Senators were fruitlessly competing
for public recognition of their own varying legislative
proposals on the war." On another psychological factor,
Senatorial conscience, see p. 195.

cians were incorrect in taking credit for their gestures, if these gestures were basically without substantive merit or significance, then the painful conclusion followed for constituents that their efforts too were insignificant in a like degree. But, if the politicians were truly accomplishing deeds of great---or at least some---merit, then the constituents could take the credit for persuading or pressuring the legislators to act---or talk. Ergo, a mutual admiration society. The only qualification for membership was high skill in creating the mirage of success in failure or victory in defeat.

Let it be stressed that there was some awaremess of failure and defeat. In fact, there were early psychological preparations for the acceptance and minimization of defeat via the pretended derivation of some measure of prestige therefrom. For example, although in May 1970 Senator McGovern would not predict his amendment's passage (p. 223), "Senator Goodell predicted that President Nixon would be so badly worried about its possible passage that he would announce...the withdrawal of 50,000 men...."[170] Since Nixon had already announced withdrawals with promises of more to come, it was logical to expect more announcements. Hence, Goodell was, with minimal effort, staking a claim to credit for something he well knew would happen in any event. This was only to be expected from the co-sponsor of an amendment that, even if passed, would do no more than was done by the ordinary appropriations process. (p. 218.) As for Nixon being "badly worried" about the

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[170]Kenworthy, loc. cit. (n.92).

unlikely passage of a non-amendment, one of the principal complaints of dove Senators was precisely that the President did not take them seriously.[171] And it is no wonder!

Senator McCarthy also tried to salvage something in advance from expected defeat: "It is really not important if we win or lose a showdown vote. What matters is that the Senate has shown that it is against the President's policy. The Senate cannot be ignored."[172] By this model of logic, the minority on a roll call vote constituted "the Senate." If the vote were on effective legislation and if the losers were the winners, then perhaps they would not be ignored. Moreover, to those whose lives were in danger, the winning or losing of a show-down vote was not unimportant. What President would respect Senators who thought otherwise?

Constituents too were prepared to accept defeat. We have seen, for example, their eagerness to concur in the idea that the President would be restrained and/or worried by Senate activities.[173] In point of fact, the President was so worried

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[171]For example, Senator Fulbright grumbled about "the Administration's lack of respect for the Senate's constitutional responsibilities...." Quoted in "The President's...," loc. cit. (n.15, ch. II), p. 4.

[172]This is not an exact verbatim quotation, but is the essence of what the writer heard and saw the Senator way on a television newscast, WCBS TV, New York, May 29, 1970, 6:00 P.M.

[173]See Strout statement on p. 204. The Cooper-Church Amendment was described as "a setback for the White House" in "Senate Votes...," loc. cit. (n.43). See also: Joseph C. Harsch, "Mr. Nixon's Ordeal," The Christian Science Monitor, May 14, 1970, p. 20; Editorial, "Senate Peace Influence," Ibid., September 4, 1970, p. 16; Courtney R. Sheldon, "Doves Show Strength," Ibid., September 16, 1970, p. 2. According to Harsch, "Mr. Nixon cannot launch another military offensive without enlisting the leadership of Congress...." But see the next footnote.

about the Senate that he engaged in additional military
escalations.[173a]

We also noted (p. 151) the existence of a "last chance
for the system" theme in 1970. Barry Kalb raised a question:

> What will happen to these young people if their
> campaign for the McGovern-Hatfield amendment fails?
> [Project] Pursestrings [sic] Cohen offers this
> assessment: "It's important how it loses. If a
> majority (of Senators) feel the war should continue,
> that's not really as damaging as if many want the
> war to end but are not willing to put themselves
> on the line for it.
> "That, in effect, says, 'We agree with you...
> that the war should end, but there's nothing in
> the system for you.' That would be disastrous.
> If at least the Senate takes action, it will
> renew people's faith in the political process.[174]

The writer does not profess to comprehend how the Senate
can take action---an apparent must to avoid something
"disastrous"---if a majority "feel the war should continue,"
in which case, an amendment defeat would not be so "damaging."
In any event, there was an expectation of defeat, at least on
the part of some. To salvage pride, in one way or another
a minimum of credit, apparent or real, had to be claimed or
asserted.

In the heyday of student lobbying in May, 1970, one law
student expressed disappointment in only seeing Senate aides.

[173a]In addition to the activities not even prohibited by
Cooper-Church and carried out by the Administration, especially
bombings (see pp. 205-7), it is interesting to note what
happened scarcely a month after the Amendment became law. See
Alvin Shuster, "Saigon Units Drive into Laos....U.S. Gives Air
Help, Also Provides Artillery Support....," The New York Times,
February 8, 1971, pp. 1, 14; "Text of the U.S. Statement on Laos,"
ibid., February 9, 1971, p. 17; Craig R. Whitney, "A New Incursion
in Laos Possible, Abrams Indicates," ibid., April 18, 1971, p. 1.

[174]Kalb, loc. cit. (n.70, ch. III). Italics added.

However, an undergraduate "enthused that he had found the response 'just great....We've got an appointment with one of ...Ribicoff's aides...."[175] One might say that this is merely the naive view of an unsophisticated political babe in the woods. But what are we to make of claim by political science professor Gary Orfield of the Movement for a New Congress? He boasted: "Congressmen are taking us very seriously."[176] (At least that is what they said.) Godfrey Sperling, Jr. of The Christian Science Monitor examined the results of a survey and found "Congress listening to student protest." He concluded: "The impact of the recent student protest on Congress was of considerable dimension."[177]

The total vagueness of these terms is apparent. What is the meaning of "very seriously," "listening," and "considerable ...impact"? Sperling's limited definition of the latter two terms is no help, as he partly admits. Members of Congress were asked: "Did the students you talked to make you more understanding of their anti-war position?" Of 269 responses, 165 were affirmative. But about half the 165 were "anti-war" to start with, and the question is raised as to the definition of "more understanding."[178]

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[175]Hey, loc. cit. (n.89, ch. III).

[176]Rubin, loc. cit. (n.12, ch. III).

[177]Godfrey Sperling, Jr., "Congress listening to student protest," The Christian Science Monitor, June 3, 1970, pp. 1, 3.

[178]For what it is worth, the survey also asked Congressmen: "Do you think you changed the minds of the student[s] --- that is, did you make them any more understanding of the President's position?" 117 said "no" and the rest were uncertain.

If there is one thing these terms do not mean or imply, it is that there was any concrete effect on public policy. It is worth recalling the lessons of the famous Western Electric experiments. Both the improvement <u>and worsening</u> of working conditions led to an increase in worker morale. The reason was that the workers were being given attention, their problems were being <u>listened</u> to, and they felt that there were those who <u>cared</u> about them. Also, from this they derived a feeling of importance. Tangible rewards were less significant than psychological satisfaction.[179]

This proposition was illustrated by Senator William B. Spong, Jr. of Virginia. In May, 1970, he spent a great amount of time with students in order to, in his words,

> take the heat off the college presidents....Maybe we won't have trouble on the campuses, maybe the students will believe in the system, if they know they can come to Washington and <u>have someone listen</u> to them. [Italics added.] [180]

In line with Spong's reasoning, Senator Richard S. Schweiker of Pennsylvania told a group of students: "I hear your message. I read you. I share your deep concern."[181] Schweiker voted for the McGovern-Hatfield Amendment. Spong did not and made it clear to the students with whom he met that he would

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[179]See F. J. Roethlisberger and William J. Dickson, <u>Management and the Worker; An Account of a Research Program Conducted by the Western Electric Company, Hawthorne Works, Chicago</u> (Cambridge, Mass: Harvard University Press, 1939), chs. 1, 8; pp. 86-89, 72, 572-3, 181 and <u>passim</u>. See also Stahl, op. cit. (n.95, ch. I), pp. 201-7.

[180]Quoted by David E. Rosenbaum, "Antiwar Youths Impress Senator," <u>The New York Times</u>, May 24, 1970, p. 51.

[181]Quoted by Hunter, <u>loc. cit.</u> (n.113).

not. But for neither Spong nor Schweiker---nor any other Senator who met with students---did listening, hearing the message or sharing concern mean doing anything that would really alter the course of the President's war policy. All that was intended was reassurance and a pat on the head to give peace people a feeling of worth and accomplishment that they by no means merited.

We can readily imagine the psychological satisfaction' that must have been felt by those who were constantly being reassured of having a considerable impact, being taken seriously and being listened to. All it took to produce this ego gratification was a trip to Washington. The ratio of reward to effort and time expended approached infinity.

If possible, an even greater ratio was derived from attending demonstrations. They did not even require a trip to another city. All that was necessary was a few hours off to participate in a possibly emotionally and socially rewarding experience.[182] (See pp. 250-52.) And from this experience,

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[182]Just how much work did demonstrations entail? San Brown says: "Canvassing operations and education campaigns require a great deal of organization and commitment to work which is generally tedious. A demonstration, on the other hand, only requires going someplace for a few hours, at least for the non-organizers." Loc. cit., p. 29. But, according to Amitai Etzioni, "participation in demonstrations [requires] more time, energy, and exposure to opposition than do other modes of political expression. A person will, under social pressure, sign his name to a petition with which he does not agree more readily than he will demonstrate for a cause in which he does not believe....It would seem easier to bribe a poor person to change his vote...than to get him out to demonstrate." Op. cit. (n.84, ch. III), p. 25.
These statements, at first glance contradictory, may not be so. They may merely reflect a different emphasis by each writer. Brown chooses to compare demonstrations with activities involving greater effort; Etzioni selects for comparison that

extravagant claims could be made. Of the April 15, 1967 demonstration, Peck boasted: "It was successful beyond all expectations and it proved that dissent tactics can succeed in broadening the opposition to the war."[183] Of the October 15, 1969 Moratorium, Brown claimed: "October 15 was far more successful than we had even hoped."[184]

Again we have a problem of definition. What is success? Peck and Brown define it in terms of large numbers turning out for demonstrations, thereby indicating "broadening opposition to the war." For Brown, this also includes obtaining the support of the more "respectable" elements, such as professional people.[185] But neither Peck nor Brown employs a definition of success in terms of ending the war more quickly than desired by the President, and preventing further escalations by him. (See also pp.103-109.)

The question of demonstrations returns us to the critical point (p. 264) regarding the common bond between dove politi-cians and constituents: the desire for credit. When Nicols referred to the McCarthy campaign and Goodell resoltuion as

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which requires lesser efforts.
Of course, much more important than "who works?" is the question "what works?" On that see n.186.

[183]Peck, loc. cit. (n.153), p. 45.

[184]Brown, loc. cit., p. 36. Cf. Brown's reference to the "failures of demonstrations as a peace tactic." Ibid., p. 30. Elsewhere, Brown said that "demonstrations sometimes have more effect on national policy than elections. But, as a matter of tactics, June to November, 1970, seems to be a time for campaigning. Quoted by Applr, loc. cit. (n.62, ch. III).

[185]Brown, loc. cit., p. 36.

part of a "positive contribution" (p. 235), this was not his

entire statement. Here it is:

> If no one had marched, if no other public protests
> had occurred---would there have been a McCarthy
> campaign? Would there have been a Goodell
> Resolution? While one cannot be certain...a good
> case for a positive contribution by the in-the-
> streets movement can be made.[186]

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[186]Nicols, loc. cit. (n.119). Space limits preclude a
detailed discussion of what "contribution," if any, was made
by anti-war demonstrations. By 1970, there was a sizable body
of opinion that questioned their efficacy. For one thing, the
war continued (escalating for four years) despite numerous
demonstrations. For another thing, there was considerable
evidence that they alienated public opinion. "Nothing is less
popular in this country after the Vietnam experience than
political demonstrations...." said James Reston in "Washington:
Who Are the Friends of Israel?" The New York Times, February 25,
1970, p. 46. Marge Sklencar, a coordinator of the Vietnam
Moratorium Committee, conceded that demonstrations were "a
political fad that has worn off." Rosenbaum, loc. cit. (n.57,
ch. III), p. 6. John E. Mueller wrote: "It is conceivable...
that the war would have had somewhat less support in the general
population if there had been no vocal opposition." Italics in
original. Loc. cit. (n.38, ch. II), p. 373n. In November,
1969, a Gallup Poll found one of the "key factors" in a rise in
President Nixon's popularity to be "unfavorable reaction to the
recent antiwar demonstrations." "Sharp Nixon Gain Found By
Gallup," The New York Times, November 23, 1969, pp. 1, 42.
See also Greeley, loc. cit. (n.157), pp. 14-16. According to
Greeley: "...one could make a...persuasive case that a large
segment of the organized peace movement has been self-defeating
---if its goal is to make converts....Peace must be separated
from the peace movement, particularly from its radical fringes.
Militant protests, demonstrations and marches are what peace
does not need...." Ibid., pp. 14-15. See also: John P. Robinson,
"Public Reaction to Political Protest: Chicago 1968," Public
Opinion Quarterly, Vol. 34 (Spring, 1970), pp. 1-9. Doubts about
demonstrations are expressed by peace activists in Lelyveld,
loc. cit. (n.100), and in Gil Scott, "Brooklynite's campaign
attracts students," The Christian Science Monitor, June 2, 1970,
p. 6.
Perhaps the fatal flaw of demonstrations was a commonly
held erroneous assumption: that they represented public opinion.
The man who most needed to be swayed, President Nixon, was fully
aware of this flaw: "...there is a clear distinction between
public opinion and public demonstrations....A demonstration...is
an organized expression of one particular set of opinions, which
may or may not be shared by the majority of the people." "Text
of Nixon Exchange With Student," The New York Times, October 14,
1969, p. 22.

It is clear that, if the campaign (by the man who thought winning was not important) and the resolution were insignificant, then the "in-the-streets movement" made no "positive contribution." Aside from general naivete, there was a selfish motivation not to examine too carefully---or at all--- the activities of legislators. Perhaps, like love, desire to be important is blind.

The same thing applies to the Princeton political scientists of the Movement for a New Congress. They viewed speeches and resolutions as "encouraging signs" and examples of the "rewards" that losers get from political activity. (p. 239.) The writer cannot say whether this illustrates the genuine naive belief that there was something in nothing so as to enhance the pride and prestige of the Movement, or whether it was no more than a cynical attempt to obtain activists for the cause. Suffice it to say that, if the resolutions and speeches were worthless, they could not be cited as "encouraging signs" or losers' "rewards." -

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Despite a growing and widespread disenchantment with demonstrations, old ways die hard. They continued right up to the end of the war. Moreover, some continued to defend them. One notable defender was Amitai Etzioni, op. cit., passim. He distinguished between the peaceful and the violent demonstration, and took a favorable view toward the former. Etzioni asserts of demonstrations that they "are a particularly effective mode of political expression in an age of television, for underprivileged groups, and for prodding stalemated bureaucracies into taking necessary actions....[D]emonstrations are becoming part of the daily routine of our democracy and its most distinctive mark." Ibid., p. 1. Italics added. Again: "...demonstrations, as a major means through which protest can be expressed, are now and will remain part and parcel of the country's political processes and will not disappear....For good or bad, they are now part of our system." Ibid., p. 14. See also, Peck, loc. cit., pp. 42-45.

If the Movement claimed rewards from losing, others went to the ultimate extreme, denying any loss at all. They followed the Aiken precept of converting defeat into victory by simple declaration.

The reader will recall Senator Church's reference to the final passage of his amendment as a "historic victory," and the constituent acceptance of initial Senate passage as "a major victory for...Senate doves."[186a] (pp. 203-204.) (While this amendment did become law, it has been shown not to have prevented further escalations. So it was not a victory because it did not accomplish anything.) As for the McGovern-Hatfield Amendment, McGovern did "thank God" for that inspirational "lodestar," on which was case "one of the most significant votes...ever...." (p. 226.) Of course, the Amendment lost, but: "The McGovern-Hatfield side mainly wanted to display the depth of Senate sentiment for getting out; the sponsors anticipated a 'moral victory' if the amendment got more than 40 votes."[187] In fact, only 39 voted for the amendment. But N. Gordon Levin agreed that they did so with heightened "moral significance." (p. 236.) Others concurred after the vote that there was "Senate Peace Influence" and the Doves Show[ed] Strength."[188] There was some readiness to go along with the

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[186a]The "historic" claim by Church was also accepted by peace constituents. See p. 210. Also, Robert Beisner, a dove historian (pp. 150, 166), wrote of doves: "...despite... discouragements, the doves have served the American people as a conscience [cf. p. 254] and, more than any critics of the past, as a voice of diplomatic reason. And their effect... has been historic." Loc. cit. (n.41, ch. I), p. 216.

[187]Large, loc. cit. (n.52).

[188]Editorial and Sheldon, loc. cit. (n.173).

McGovern and Hatfield claim, as Sheldon put it, "that the lost vote was a won vote."[189] None perhaps was bolder than Senator Church, who asserted in September, 1970: "The most curious feature of this debate is that it has long since been won---by the doves. But the doves don't seem to know it, while the hawks keep on pretending it isn't so."[190]

Church cited as evidence the existence of peace negotiations and troop withdrawals. But, as Sheldon put it, "the country would have been out of Vietnam several years ago if the logic of [doves'] arguments had truly prevailed. What they asked and what is happening today are not quite identical."[191]

Church's reference to the hawk denial of dove victory raises a point made earlier: (pp. 187-88) dove legislators fooled hawks as well as doves. Some hawks were willing to accept extravagant dove claims. In arguing against the McGovern-Hatfield Amendment, Senator Dole said: "To those who say that 40 votes would be a moral victory, I say 40 votes for the amendment would be a moral defeat for this country."[192]

On the other hand, on another issue---the ABM battle of 1969---on which liberals claimed moral victory (with fully 50 votes), Senator John Tower of Texas hit the moral victory nail

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[189]Sheldon, ibid.

[190]Quoted in ibid.

[191]Ibid.

[192]Congressional Record (Daily Edition; September 1, 1970), p. S14845. Senator Stennis also took the amendment seriously. Ibid., August 31, 1970, p. S14651-2. Earlier (pp. 187-88), we noted that hawks as well as doves took dove inactivities seriously. See Eleanor M. Allen, "Symbols of Peace," Letter, The Christian Science Monitor, September 24, 1970, p. 14.

on the head with a mortal blow: "We don't count moral victories around here. It's the final vote that counts."[193]

And this suggests that the concern with effectiveness carries us one step beyond the mere desire to "do something." But doves failed to grasp the difference between a label and what is labeled. Fred M. Hechinger once referred to "The Power of Positive Labeling."[194] The power was that of fooling people into thinking they are getting what is labeled when, in truth, they are not. Calling something effective does not make it effective. A declaration of victory may, in fact, be an admission of defeat.

Summary

In answer to the question of why the writer's proposal was not tried, his encounter with Senator Fulbright was discussed. Fulbright said dove Senators would not filibuster appropriations because, above all, they could not take the heat that would come from hawks. The writer hypothesized that the absence of heat from dove constituents was due to their being impressed with what they got from legislative doves.

What the latter did in 1970 was examined and a Congressional Credibility Gap worse than the President's was revealed. The Tonkin repeal had the approval of the Administration and no effect on the war. The Cooper-Church Amendment passed the

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[193]Quoted in Nathan Miller, "The Making of a Majority: Safeguard and the Senate," The Washington Monthly, Vol. 1 (October, 1969), p. 69.

[194]Fred M. Hechinger, "What's in a Name?" The New York Times, May 31, 1971, p. 19.

Senate just in time to prohibit the President from keeping in Cambodia the troops he already had withdrawn. Amendment sponsors acknowledged it did not prevent certain military activities, notably bombing. Nevertheless, it was hailed by sponsors and accepted by constituents as a symbolic and historic action of great moment. The McGovern-Hatfield Amendment was a fraud in the most serious sense. Money and time were obtained on the basis of the amendment's outright misrepresentation as an End the War Amendment. In truth, it involved little more than the established appropriations process: expenditures were authorized for a war to continue a year or more, after which additional money could be requested.

We hypothesized that the dove constituency was fooled by this legislative anti-war "action" because it was naive, symbolic, fragmented and selfish. How could 34 Senators be expected to end the war if their constituents did not pressure them to do so? Many constituents simply did not know of the power. Others were blinded by ideology, especially an obsession with majoritarianism (which was so important that it will be examined in chapter V). Some were too emotional to think rationally about existing alternatives. Emotionalism included a great preoccupation with symbols (e.g., boycotting Coca Cola and reenacting the Boston Tea Party). There were references to "symbolically significant" statutes and resolutions. Some dove constituents, including political scientists, called speech-making "courageous leadership." The peace constituency demanded, got and were satisfied by words and gestures. But words and gestures do not end wars.

The peace movement was permeated by a narrow selfishness which, instead of benefitting others as well as doves, helped only adherents. Their "anti-war" activities helped them have fun, let off steam, clear and purify their consciences, achieve feelings of self-worth and achievement, and gain votes and followers. A high ratio of self-satisfaction to actual work was achieved. Particularly important, even those who worked hard had a vested interest in seeing very much in very little. To praise Senators for making speeches and proposing "encouraging" resolutions and amendments was to praise the constituents themselves for being able to elicit such important "action." On the other hand, what feelings of accomplishment and worth could come from attacking the legislators as credibility gappers?

As noted, chapter V will cover majoritarianism. Chapter VI will deal with an important underlying assumption of chapter IV: that the peace constituency, had it acted differently, could have produced a war-ending filibuster. What can political science tell us about the capacity of any constituency---let alone the one described above---to compel a particular course of action by their legislative representatives?

CHAPTER V

THE DEMOCRATIC LEGITIMACY OF MINORITY PRESSURES

> The most democratic, stable, and effective type of majority...is a popular majority---namely, one half of all the pooled votes throughout the nation, plus one (or more).
>
> ---James MacGregor Burns[1]

> ...the making of governmental decisions is not a majestic march of great majorities....It is the steady appeasement of relatively small groups.... [T]he numerical majority is incapable of undertaking any co-ordinated action.
>
> ---Robert A. Dahl[2]

> ...the Senate...rest[s]...on the premise of majority rule....
>
> Senator Jacob K. Javits[3]

> The Senate of the United States is...the worst rotten-borough institution in the civilized world.
>
> ---John W. Burgess[4]

> The two houses of Congress are designed to embody the will of the majority of citizens, insofar as that will is known or expressed....[T]he Senate has...come to be viewed as essentially a popular institution.
>
> ---Judith Toth[5]

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[1] Burns, loc. cit. (n.54, ch. I).

[2] Dahl, op. cit. (n.55, ch. I), p. 146.

[3] Javits, loc. cit. (n.49, ch. II), pp. 10-11.

[4] John W. Burgess, "The Election of United States Senators By Popular Vote," Political Science Quarterly, Vol. 17 (December, 1902), p. 656. Cf.: "The Senate of the United States is probably the worst rotten borough institution in the world." Lindsay Rogers, The American Senate (New York: Alfred A. Knopf, 1926), p. 91.

[5] Judith Toth, "Congress and the Public Will," in James S.

The United States, orally, sings a paean to
the theory of majorities; institutionally, it sings
a palinode.
        ...of course...Senate majorities represent
population minorities....
                                        ---Lindsay Rogers[6]

        Not all elective institutions are representative,
and not all representative institutions are elective.
                                        ---C. Herman Pritchett[7]

        A simple majority in Congress---218 men and
women in the House, and 51 in the Senate---can cat to
end the war.
                                        ---Committee on Peace and New Priorities[8]

        The congressional bipartisan antiwar caucus is
not yet a majority; that is why the elections this
November are so crucial.
                                        ---The New Republic[9]

        A society solves a problem only when a majority
of its people involves itself in the process of
resoltuion.
                                        ---Cobbs Grier[10]

        The majority principle is not the last word in
politics---there is no last word....
                                        ---H. B. Mayo[11]

        Despite their deep convictions...they opted to
shut off debate...simply because they did not like
filibusters....

Campbell, Joseph R. Sahid, and David P. Stang, Law and Order
Reconsidered, Report of the Task Force on Law and Law Enforce-
ment to the National Commission on the Causes and Prevention
of Violence (Washington, D.C.: United States Government
Printing Office, 1969), pp. 161-2.

[6]Rogers, op. cit., pp. 95, 99.

[7]C. Herman Pritchett, "Equal Protection and the Urban
Minority," The American Political Science Review, Vol. 58
(December, 1964), p. 875.

[8]Loc. cit. (n.39, ch. III).

[9]"An Antiwar Congress," loc. cit. (n.100, ch. III), p. 6.

[10]Cobbs Grier, in Skolnick, op. cit. (n.42, ch. I), p. x.

[11]Mayo, op. cit. (n.155, ch. I), p. 203.

When our dislike for filibusters becomes more important to us than our distrust of the draft or our revulsion with Vietnam, then we ought to take another look at the filibuster, and its legitimate use.
I do not consider the filibuster horrendous; I think the draft and Vietnam are for worse.
---Senator Alan Cranston[12]

...there are times when a man in public life is compelled to rise above his principles.
...whoever in...public service is handcuffed and shackled by the....[w]ithering and embalming vice of consistency....[w]ill be a man not free to act as various questions come before him...; he will be...locked in a prison...the keys to which are in the keeping of days and events that are dead....
---Senator Henry L. Ashurst[13]

... [shall we] permit the Congress to be stultified by the undemocratic...filibuster[?]
---Senator Javits (1958)
If there are weapons to be used in the Senate and they are used in the public interest, I have no inhibition about that whatsoever.
---Senator Javits (1972) unshackled, unwithered, unembalmed[14]

The Writer's "Undemocratic" Proposal

An underlying assumption of the previous chapter is that

the peace constituency should and could have been mobilized

as an effective force to apply pressure on the "peace" Senators.

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[12]United States Congress, Congressional Record, 92nd Congress, 1st Session, Vol. 117 (Daily Edition; September 29, 1971), p. S15266. Senator Cranston, we should hasten to add, was not referring to any "revulsion with Vietnam" that would actually end the war. He was referring to the kind of innocuous measure discussed in the previous chapter.

[13]The first sentence is quoted in Frank R. Kent, Political Behavior (New York: William Morrow & Company, 1928), p. 300. The remainder is from the Congressional Record, 75th Congress, 1st Session, Vol. 81, Part 2 (February 19, 1937), p. 1411.

[14]The first sentence is from Javits, loc. cit., p. 11. The second sentence is quoted by Rosenbaum, loc. cit. (n.50, ch. II).

We mentioned a number of obstacles to such mobilization
(pp. 246ff.), one of which was that the bulk of the peace
constituency was unaware of the opportunities that existed.
Such awareness could have been produced by the constituency's
leaders if they so chose. They did not. Among the reasons
they did not were arguments against the writer's proposal that
were rooted in ideological "hangups." One of these was a
pervasive, malignant, majoritarianism. Consideration of this
"hangup" merits designation as a chapter.

Tomes have been written on the precise meaning of
democracy, generally with very imprecise conclusions. Because
the writer cannot hope to settle the matter here and because
this thesis is so lengthy, this chapter will be very short.
To some readers, the points to be presented may be obvious.
But they clearly were not and are not obvious to many others,
as indicated by a) the general addiction to simple majoritarian-
ism and b) the vehemence and frequency of the objections made
to this writer with respect to his proposal.

Elsewhere in this dissertation,[15] there is reference to
the majoritarian assumptions of the peace movement and the
minoritarian bases of the writer's plan. They need not be
repeated. Here we might stress, as examples of dove thinking,
the above (p. 280) statements by a Committee on Peace and New
Priorities and by The New Republic. On the basis of the
assumption that a majority in each house of Congress was required
to end the war, much time, effort and money was expended in

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[15]See especially pp. 139-145, and also: pp. 246-249,
368, 375-78, 422-28.

pursuit of the election of the supposedly required majority.
As Senator Cranston's statement (p. 281) indicates, by
September, 1971 there was a feeling among some Senators that
perhaps their majoritarian assumptions were ripe for re-
thinking. (Of course, it should not be supposed that Cranston
was entertaining the idea of filibustering to end the war.
Rather, his stated goal was a statement that the Senate really
would like to see an end to the war.) For the most part,
however, doves concentrated upon trying either a) to convince
themselves that they actually had a majority or b) to become
a majority.

On these points they were constantly in dispute with
Presidents Johnson and Nixon. In the early years of the war,
polls showing majority support for his policies repeatedly
materialized from Johnson's pockets. President Nixon was
widely believed to have coined the term "silent majority" in
claiming support for Vietnamization.[16]

Doves countered these contentions with considerable
contradiction. They argued that a majority twice voted for
presidential peace candidates and also that the majority had
never been given the opportunity to vote for any peace candi-
date. (n.59, ch. II.) They claimed that the silent majority
was a "myth," and at the same time acknowledged the need to

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[16]Nixon's "silent majority" speech was delivered on
November 3, 1969. See also his comments in n.186, ch. IV.
        Whether Nixon thought of the term independently the writer
does not know. But John F. Kennedy once employed the term in
describing the men of courage about whom he wrote: "Some of
them may have been representing the actual sentiments of the
silent majority of their constituents in opposition to the
screams of a vocal minority; but most of them were not." Op. cit.
(n.5, ch.VI), p. 241. Italics added.

persuade people to support war opposition in numbers sufficient
to constitute a majority.[17]

So widespread and so strong was the addition to majori-
tarianism that even radicals such as Sidney Peck were "hooked."
Peck (whose vocabulary included "American aggression,"
"ruling groups," and "neo-colonialism") possessed enough of
a grasp on reality to observe that "while the vast majority
of Americans want the war...to end, they would be more than
happy with an American military victory...." Thus he con-
sidered it necessary that "the vast segment of Americans come
to oppose the war and sustain a resistance movement...."[18]

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[17]See, e.g.: Brown, loc. cit. (n.4, ch. II), passim,
esp. pp. 26, 27, 34, 44, 45. For all his emphasis on majorities,
Brown expresses grudging admiration of the "political clout" of
the "National Rifle Association...an unpleasant model; but if a
tiny fraction of the population can stop gun control...,then
the peace movement can stop the war." Ibid., p. 46. See also
Converse and Schuman, loc. cit. (n.38, ch. II), passim, esp.
p. 17. Also, it is interesting that Vietnam and the Silent
Majority was subtitled The Doves Guide. The guidance was in
how to get the "silent majority" to support anti-war action.
See Rosenberg, et al., op. cit. (n.11, ch. II), passim. More-
over, in mid-1970, Senator McGovern asserted: "it seems
likely to me that a clear majority of the Congress could vote
to impose a firm termination date on American involvement
in the war and not suffer seriously at the polls....[A]ny
political loss would be matched or surpassed by countervailing
gain." "Forward" to ibid., p. ix. Cf. McGovern's comment on
p. 223 above. A final example of majoritarianism is Etzioni,
op. cit. (n.84, ch. III), pp. 48-9: "Needs which are not
considered genuine by the rest of the community, or by large
parts of it, cannot receive effective response in a democratic
society. Thus it is the role of educators, moral leaders,
and of the aggrieved groups to convince at least a majority...
of the legitimacy of their demands." Italics added. See
also, Eckstein's comment quoted below at p. 306.

[18]Peck, loc. cit. (n.153, ch. IV), pp. 52-3.

The general dove concern with majorities was particu-
larized in opposition to the writer's proposal. Just about
every peace proponent with whom the writer came in contact
considered his ideas to be "undemocratic" and anti-majoritarian,
and also thought legislative majorities were the only "feasible"
way to end the war.[19] For example, Robert Silvers referred to
"patently undemocratic obstructionist tactics by a minority
of Senators."[20] In July, 1970, the co-founder of a profes-
sorial anti-war lobby expressed the wishful thinking of the
McGovern-Hatfield Amendment's supporters that they could
indeed garner legislative majorities.[21] Given this expectation,
the professor (James Darnell) argued that an undemocratic
filibuster would be both unnecessary and unsuccessful. This
was an explicit expression of the idea that collecting 269
votes is easier than getting 34. (See p. 142.) According
to the professor, obtaining each of 34 votes against cloture
might be "ten times as hard" as obtaining each of 269 votes
because of the hostile and intense pressures that would be
produced by resort to so undemocratic a method of ending the
war. Needless to say, the 269 were not obtained.

Let us now evaluate the merits of these virtually
universal objections. We shall consider the validity of
majoritarianism and also the concomitant problem that, for
antiwar liberals to have filibustered, after they had for so

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[19]See n.138, ch. III above.

[20]Silvers, letter to writer, June 19, 1970, cited in
previous footnote.

[21]Discussion with Professor James E. Darnell (n.138, ch.
III).

many years opposed the filibuster in principle, would have
exposed them to the charge of hypocritical inconsistency.

Why Minority Tactics Are Legitimate and Democratic

Minority tactics are legitimate and democratic for two
broad reasons: A) They are deeply rooted in the Constitution,
the statutes, legislative standing rule, and traditions of
the United States. The Constitution, statutes and rules were
established by democratic, majoritarian procedures. B) The
complexities of politics are such, that very often it is
exceedingly difficult to determine whether a given action,
procedure or institutional arrangement is minoritarian or
majoritarian. Because these two broad reasons are intertwined,
we shall make no attempt to specify which of the following
examples illustrate which reasons.

To begin with, those who concern themselves with strict
majoritarianism utterly ignore the widespread phenomenon of
plurality elections. This system frequently results in the
election of candidates and the adoption of policies that do
not have the support of majorities of their constituencies.
Enid Lakeman, for example, points out that in the British
elections between 1910 and 1966, "only two governments...have
been backed by more than half the votes case in a general
election...."[22] The profound and dramatic impact of this

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[22]Lakeman, op. cit. (n.55, ch. II), p. 39. In February,
1974, the Labor Party received more seats in Parliament with
fewer popular votes than the Conservative Party. In October,
1974, Labor received a majority of seats on the basis of only
39.3 percent of the popular votes. Alvin Shuster, "Labor's
Majority In Britain Narrow," The New York Times, October 12,
1974, pp. 1, 10.

fact is graphically presented by Pennock:

> ...in 1950 a majority of the voters cast their
> ballots for candidates who were opposed to...
> nationalization of steel....It may even be
> questioned whether most of the nationalization
> program carried out between 1945 and 1950 had
> the support of the majority of the voters, in
> view of the fact that the popular majority
> [plurality?] for socialism in 1945 was, at
> most, a matter of some 65,000 votes, from
> nearly 25 million. Since the nationalization
> program was clearly the least popular plank
> in Labour's platform, their majority, if it
> is to be counted at all, must be attributed to
> other factors.[23]

In the United States, the situation is not different.
For example, from 1789 to 1972 there were 46 presidential
contests. In the 37 elections for which popular vote statistics
are available,[24] 15 (40% of 37) winners received less than 50%
of the popular votes. Because of the electoral college, 3 of
the 15 non-majority winners did not receive even a plurality.[25]
About this, Alexander Bickel once commented:

> ...if...out of 70 million votes one man has 100,000
> more than the other and yet loses, the kind of
> majoritarianism that would insist that that 100,000
> votes and that 100,000 votes alone is decisive in
> that closely divided election is more doctrinaire
> than I go for.[26]

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[23]Pennock, loc. cit. (n.108, ch. VI), pp. 799-800.
See also, Lakeman, op. cit., p.40.

[24]United States Bureau of the Census, Historical Statistics
of the United States, Colonial Times to 1957 (Washington, D.C.:
United States Government Printing Office, 1960), pp. 679, 681,
683.

[25]Ibid., pp. 682-3. United States Bureau of the Census,
Statistical Abstract of the United States: 1973 (Washington,
D.C.: United States Government Printing Office, 1973), p. 364.

[26]Alexander M. Bickel, "Testimony," United States House of
Representatives, Committee on the Judiciary, Hearings, Electoral
College Reform, 91st Congress, 1st Session (February 27, 1969),
p. 418. The writer does not necessarily agree with Bickel's
comment but thought it of some interest in the context of the
discussion.

We might add that, if we are going to be strictly
majoritarian, we must not forget that even in an election won
by a "landslide" majority the existence of a large bloc of
non-voters indicates that the winner's "majority" is far
less than a majority of the total eligible voters. (See also,
p. 144. In mitigation, we can of course point out that, while
a majority of all the eligible voters are rarely for the
winner, they are more rarely against him.)

The final point to be made regarding plurality elections
is that they are not restricted to the British Parliament and
the American Presidency. They are, in fact, common to
virtually all offices. Every time more than two candidates
contest an office there is a chance that the winner will
receive less than 50% of all the votes cast. We have seen one
case in which one kind of meat was favored by the majority of
a group which ended up buying a second kind because the
majority was split by a third meat. (n.36, ch. III.) This
illustrates a problem we will consider in greater detail in
the next chapter (pp. 448-463): "the ancient dilemma of
third parties---that if they nominate a candidate of their
own, they might thereby contribute to the defeat of the major-
party candidate most nearly agreeing with their principles."
(p. 449.)

Some readers may say that, granted many candidates win
many offices with less than 50% of the votes, it is still
preferable that the candidate with the most votes should win.
The writer is certainly not going to argue the contrary
(especially since his proposal takes advantage of plurality

elections). His only purpose in bringing up plurality elections has been to provide an illustration of the proposition that we do not have the majoritarian system posited by the majoritarians. So now let us put aside the plurality problem.

We are still faced with complexities, complexities of such magnitude that Marc Barbut once asked: "Does the Majority **Ever** Rule?"[27] He pointed out, among other things, that opinions cannot be added up: "the sum of several rational opinions obtained by counting up votes is not itself a rational opinion."[28] For an individual, it is both rational and likely that, if he prefers A to B and B to C, he will prefer A to C. So consider three rational individuals: Tom, Dick and Harry. Their preferences are:

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Tom:    A to B;  B to C;  A to C
Dick:   A to C;  C to A;  B to A
Harry:  C to A;  A to B;  C to B
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It can be seen immediately that there is a two to one majority for both A to B and B to C. Yet it turns out that a two to one majority favors C to A![29].

Another complexity of majority rule is presented by Dahl. He uses a hypothetical example to illustrate what happens in real political life with great frequency. Dahl assumes an

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[27]Marc Barbut, "Does the Majority Ever Rule? The curious operations of processes of rational decision in games and political elections," _Portfolio and Art News Annual_, Number 4 (1961), pp. 76-83, 161-8.

[28]_Ibid._, p. 162.

[29]See _ibid._, _passim_, esp. pp. 79-82. The particular formulation of the problem as it appears in the text is taken from Kahn, _op. cit._ (n.36, ch. III), p. 120. See also, Dahl, _op. cit._ (n.55, ch. I), pp. 42-4.

election in which there are only two candidates (thus
precluding a non-majority plurality) and three issues. Each
of the positions of candidate A is supported by 25% of the
voters, and each of the positions of candidate B is supported
by 75% of the voters. Yet A wins the election!

The explanation is far from mysterious. On each issue,
A has the support of a _different_ 25% of the voters. The 25%
on each issue happens to feel most strongly about that issue.
Their vote is determined by the issue on which they are most
intense. Hence, we have a situation in which a candidate is
supported by the minority on each issue and yet receives a
majority of the votes. In each instance, the policies
supported by the majority will not prevail.[30]

Thus, simplistic majoritarianism takes no account of
varying intensities with which voters confront different
issues. Dahl raises the legitimacy question of who should
prevail when "a large minority has a strong preference for one
of two alternatives and the opposing majority has only a slight
preference for the other one."[31]

It may be questioned, in turn, whether the majority with
a "slight preference" is bona fide. Most political scientists
will greet with a bored yawn the commonplace observation that
on most issues there are no majorities. And on those issues
where a genuine "majority has only a slight preference," this
often is based on the fact that many people will give an

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[30]_Ibid._, p. 128.

[31]_Ibid._, p. 99. On this point, see also, below,
p. 376-77, and 124a, ch. VI.

opinion on anything they are asked about, even if they
never gave previous thought to the matter, know nothing
about it and/or could not care less.[32]

Even if the majority with the slight preference really
exists, the truth of the matter is that intense minorities
are provided with ample opportunities to prevail. Bernard
Lande Cohen, an advocate of capital punishment, seeks to
explain how it is that capital punishment is consistently
abolished in the face of majority support. His answer is that
"In the affairs of the world, a relatively small minority can
be more assertive than a passive majority."[33] One reason for
this is that, by definition the minority is assertive and the
majority passive; the minority puts up a strong fight and the
majority often does not even put up a weak fight. Another
reason is that, as we have seen, electoral majorities are often
coalitions of intense minorities. The winning candidates are
beholden to these minorities and indeed are elected precisely
because they share their views. Beyond that, as Cohen among

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[32]An interesting example of this occurred while the writer
was teaching at the City College of New York, which had adopted
the "innovative" view that one of the main functions of students
was to grade their instructors. In the writer's case, a
questionnaire was distributed which gave students the options
"excellent" to "failure" and "does not apply." One question
concerned examinations. The next one solicited student views
on the teacher's other assignments, such as term papers, essays,
etc. This writer gave no such assignments, and 60% of his
students checked "does not apply." However, 40% blithely checked
evaluative options from "excellent" to "failure." In other words,
40% of the representatives of the "best informed younger genera-
tion in history," when asked, willingly gave their opinions on
assignments they did not know they never had!

[33]Bernard Lande Cohen, Law Without Order, Capital
Punishment and the Liberals (New Rochelle, N.Y.: Arlington
House, 1970), p. 205.

many others notes, the designers of the Constitution pro-
vided many obstacles to majority rule. One of these, the
Supreme Court, has been responsible for a number of
criminal law decisions (including the abolition of capital
punishment) opposed to the wishes of the majority.[34]
Another Constitutional obstacle to majority rule is the
United States Senate.

Despite Senator Javits' assertion that the Senate rests
on the premise of majority rule (p. 279), the truth is that
the Upper House is a "rotten-borough institution." Whether
it is still the "worst rotten-borough institution in the
civilized world," as Burgess declared it to be in 1972, is of
secondary importance here.[35] The important point in this dis-

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[34]See, for example, ibid., p. 204; Louis Harris, "Harris:
Despite Ban, 59% Back Capital Punishment," New York Post,
June 11, 1973, p. 13; Warren Weaver, Jr., "Saxbe and Kelley,
Citing Crime Rise, Hold Prosecutors and Courts Guilty," The
New York Times, September 24, 1974, p. 18.

[35]Burgess arrived at his conclusion by literally com-
paring the United States Senate with similar institutions in
other countries such as Mexico, Switzerland, Brazil and the
German Empire. What was compared was the ratio of the popu-
lation of the largest state or province to the smallest. The
United States had the greatest ratio. Burgess found: "On
the basis of...representation according to numbers, the people
of Nevada are nearly one hundred and seventy-five times more
strongly represented [in the Senate] than the people of New
York." loc. cit. (n.4), p. 658. A study conducted in 1895 found
the ratio of the largest to the smallest state to be 133. See
S. E. Moffett, "Is the Senate Unfairly Constituted?" Political
Science Quarterly, Vol. 10 (June 1895), p. 253. By contrast
with the turn of the century, the ratio was down to 66 in 1970.
This is the writer's calculation based on population statistics
in Long, op. cit. (n.261, ch. VI), p. 146. Lest anyone think
that 66 is a good ratio, see n.51 below.
    Earlier (n.4), we noted Lindsay Rogers' probably con-
currence with the Burgess view of the Senate as the world's
worst rotten borough institution. It is of interest that, in
self-contradiction characteristic of political scientists
(p. 358), Rogers also describes the Senate as "the more repre-
sentative branch of Congress, the only forum of the nation."
Op. cit., p. 96. Let the reader choose the more appropriate
description of the Senate.

cussion is that to talk about majority rule in the United States Senate is preposterous in the extreme.

The Senate is Constitutionally minoritarian due to the requirement of equal representation of the states. This results in a situation where, in 1950 for example, 18 Senators from 9 states containing 3 percent of the population had as much Senate representation---and power---as the 18 Senators from 9 states with 54 percent of the population. In other words, a majority of the population had only 19 percent of the power in the Senate. From another perspective, a majority of the Senators came from 25 states with 15 percent of the population.[36]

Reduced to its ultimate absurdity, strict majoritarianism produces this situation. The Constitutionally mandated quorum is a majority of each house of Congress. In 1970, 51 Senators could do business. A majority of these 51 was 26. Assuming the strict party discipline desired by many strict majoritarians, if 26 Democrats and 25 Republicans were present on a given day, the 26 Democrats would be bound by a majority of their caucus: 14 Democrats. So 14 Senators from 7 states with 1.7 percent of the population[37]could make a decision binding on 26.

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[36]Dahl, op. cit., p. 114. 1950 figures are used because they are conveniently presented and Dahl includes an "index of Advantage" for each state. This is the ratio of the state's actual representation to its proportionate representation. The latter is the ratio of the state electorate to the total electorate. According to this measure, in 1950, Nevada had a Senate Index of Advantage of 14.8 and New York's was 0.17. Except for the addition of two states, the situation has not substantially changed since 1950.

[37]Again, the writer's calculation is based on Long, loc, cit.

Senators who would then make the decision binding on the 51 present Senators who were authorized to make a decision for the entire Senate. In short, applying strict majoritarianism, 14 Senators representing 1.7 percent of the population could make a decision binding on the other 86 Senators speaking for 98.3 percent of the population.[38]

These figures place a glaring spotlight on the limits of majoritarianism. The simplistic majoritarians would like to believe that both houses of Congress have been designed to represent "the will of the majority of citizens." (Toth, p. 279.) What these majoritarians do not, can not, or will not face is that there are popular majorities and legislative majorities, and on occasion the twain do not meet. In a legislative body such as the Senate the twain are especially hindered from meeting. When the twain diverge, the majoritarians do not face the need to choose between the legislative and the popular majority.

In any case, it is clear that a minority of the Senate represents a majority of the people, and a majority of the Senate represents a minority of the people. Therefore, it is entirely conceivable that a minority of the Senate can fili-buster in the interests of a majority of the people.

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[38]Cf. Pennock, loc. cit. (n.108, ch. VI), p. 799: "...government through the agency of disciplined political parties may run counter to the principle of majority rule, at least in the sense of responsiveness to the majority of the electorate. If the party that controls the legislative and executive submits to group discipline and supports whatever is agreed upon by a majority of its own membership, it is clear that this majority of a majority may itself represent only a minority of the electorate." How much more does this apply to the United States Senate.

Indeed, it is more than entirely conceivable. It is, in fact, a fact. It is a fact that, in 1964, a minority of the Senate representing a majority of the population employed supposedly minoritarian "obstructionist" tactics to prevent the vitiation of the supposedly majority-rule furthering decisions of the Supreme Court.[39] The vitiation was attempted by a majority of the Senate who represented the minority of the people who had for so long been granted majorities in the state legislatures and federal House of Representatives. So it is ironic but true that ostensible minority tactics were used in the cause of ostensible majority rule.

We use the adjectives "supposedly" and "ostensible" to broach consideration of another complexity of majoritarianism. It is certainly true that in 1964 the House of Representatives and especially the state legislatures were very badly apportioned.[40] To a considerable extent the contrasting actions on the part of anti-reapportionment Senators and the Supreme Court justified Pritchett's comment that "Not all elective institutions are representative and not all representative institutions are elective." (p. 280.) In this instance at least (cf. p. 292) the Supreme Court was representative--- to a point.

The point was reached in the intriguing case of _Lucas v._

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[39]See the six cases beginning with _Reynolds v. Sims_, 377 U.S. 533 (1964). See also "Court Reapportionment Decree Challenged," _Congressional Quarterly Almanac, 1964_ (Washington: Congressional Quarterly Service, 1965), Vol. 20, pp. 383-97.

[40]See Howard D. Hamilton, ed., _Legislative Apportionment, Key to Power_ (New York: Harper & Row, 1964), ch. 2, esp. pp. 6, 7, 9.

Forty-Fourth General Assembly of Colorado.[40a] (Hereafter
Lucas v. Colorado.) What makes this case fascination is that
the Supreme Court ruled unconsitutuional a legislative apportion-
ment scheme "adopted by a popular referendum in which not only a
2-1 majority of all the voters in Colorado, but a majority in
each county, including those urban counties allegedly dis-
criminated against, voted for the...plan...."[41] What made a
referendum possible was a provision of the Colorado Constitu-
tion that established what is popularly known as "initiative
and referendum." According to the Court, "An initiated measure
...is entitled to be placed on the ballot if 8% of those voting
for the Secretary of State in the last election are obtained."[42]
Note that the requirement is not 8% of the population but 8% of
the voters; and not ordinary voters but voters for Secretary
of State. It is well known that this is not an office which
attracts large numbers of voters. Thus to get a measure on
the Colorado ballot actually requires far less than 8% of the
population, considerably less than 8% of all eligible voters,
and less than 8% of the actual voters for such offices as
President, Senator and Governor. Moreover, it should be noted
that "no geographical distribution of petition signers is
required."[43] This means, of course, that the voters in the
least populous counties, who benefited most from the apportion-
ment, could do nothing to stop the voters in the most populous

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[40a]See Howard D. Hamilton, ed., Legislative Apportionment,
Key to Power (New York: Harper & Row, 1964), ch.2, esp. pp. 6, 7, 9.

[41]Stewart dissent, ibid., at 758.

[42]Ibid., at 732-3.

[43]Ibid., at 733.

areas from placing their proposals on the ballot. Thus, Justice Clark was able to dissent from the Court's complaint that the voters had no "clear-cut" choice in their adoption of the apportionment plan under review.[44] Clark dissented by pointing out that "if the voters had desired other choices, they could have accomplished this easily...."[45]

Regardless of what the voters could have accomplished, what they did accomplish deeply disturbed the Court: "Counties containing only 33.2% of the State's total population elect a majority of the...Senate...."[46] The court would not allow this accomplishment to remain in force. But how could it strike down what was adopted by a majority---a 2 to 1 majority ---of the voters? The answer is simple. It is well known that there are certain rights of the individual protected by the Constitution against majority infringement. The Court quotes approvingly from a case involving freedom of religion: "One's right to life, liberty, and property...and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections." Then the Court adds: "A citizen's constitutional rights can hardly be infringed simply because a majority

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[44]Ibid., at 731.

[45]Ibid., at 743. Clark also stressed that, in contrast with other states, the initiative together with state legislative action had been used in Colorado to reapportion the state legislature 8 times since 1881. Ibid., at 742. The Court itself acknowledges this, ibid., at 733: "Initiative and referendum has been frequently utilized throughout Colorado's history. Additionally, Colorado courts have traditionally not been hesitant about adjudicating controversies relating to legislative apportionment." So those dissatisfied with the 1962 apportionment had available remedies.

[46]Ibid., at 728.

of the people choose that it be."[47]

So here we have what ultimately boils down to a classic case of "majority rule vs. minority rights." Or do we? The Court's reasoning on this basis suffers from the defect that those whose rights were infringed were not in the minority at all; they were in the majority. The entire thrust of the reapportionment decisions was not to protect minority rights but to assure majority rule. The rights of the minority were not only protected, but in the Court's view they were excessive. The problem was to secure rights for the majority. In the state of Colorado---and indeed in many other states with the same system---all the majority had to do to get its rights was to will them in an election.

But the Colorado voters did not do that. Instead, they presented both the Supreme Court and us with a major limit on and dilemma of majoritarianism: what happens when a majority votes not to have majority rule? In Lucas v. Colorado, the only way the Court could achieve majority rule was to overrule majority rule. The only way to have a scheme of representation based on the will of the majority was to void the will of the majority.

If this case is not already interesting enough, dissenting Justice Stewart's stinging stricture of the Court is a scintillating source of further fascination. According to Stewart, to arrive at its decision, the Court had to resort to

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[47]Ibid., at 736-7. The case quoted is West Virginia State Board of Education v. Barnette, 319 U.S. 624, 638.

an "uncritical, simplistic, and heavy-handed application of
sixth-grade arithmetic." Taking aim at the Court's unhappiness
that a minority of the population could elect a Senate majority,
Stewart impatiently describes this as "theoretical arithmetic
....[a] meaningless abstraction." His reasoning is worth citing
at length:

> ...a minority of 36% the Court says 33.2%
> of the voters could elect a majority of the
> Senate, but this...has no real meaning in terms
> of the legislative process....[N]o possible com-
> bination of Colorado senators from rural districts,
> even assuming _arguendo_ that they would vote as a
> bloc, could control the Senate. To arrive at the 36%
> figure, one must include with the rural districts a
> substantial number of urban districts, districts with
> substantially dissimilar interests. There is abso-
> lutely no reason to assume that this theoretical
> majority would ever vote together on any issue so as
> to thwart the wishes of the majority of the voters....
> Indeed, when we eschew the world of numbers, and look
> to the real world of effective representation, the
> simple fact of the matter is that Colorado's three
> metropolitan areas, Denver, Pueblo, and Colorado
> Springs, elect a majority of the Senate.[49]

For good measure, Stewart trains his sites on the United States
Senate, making a point possibly damaging to what this writer
has said. (pp. 292-3.) It will be recalled that we stated
that, in 1950 a majority of Senators emanated from states
with 15 percent of the population. In 1960, asserts Stewart,
the figure was 17 percent. But, he observes with considerable
validity that accumulating

> the minimum population which could elect a majority
> of the house in question....[i]s a meaningless abstrac-

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[48]_Lucas v. Colorado_, 377 U.S. 750. According to Bickel,
"Justice Stewart...accused the Court in oral argument of pur-
suing eight-grade arithmetic. When he wrote his dissent, he
reduced that to the level of sixth-grade arithmetic, for the
sake of accuracy." _Op. cit._ (n.26), p. 415.

[49]_Lucas v. Colorado_, 377 U.S. 755.

tion as applied to a multimembered body because the factors of political party alignment and interest representation make such theoretical bloc voting a practical impossibility. For example,... only 17% of United States population have 52% of the...United States Senate. But <u>no one contends that this bloc controls the Senate's legislative process</u>.[50]

Now this writer does not want to go down in history as a "sixth-grade" arithmetician. So we had better go back to our analysis regarding the proposition that the United States Senate is Constitutionally minoritarian. Our contention is that, with modification, this proposition must stand. While we freely concede that our earlier statistics were presented for hyperbolic effect, they illustrate a valid point.

With respect to Stewart's argument, the first thing we must note is that the Justice's own statistics show, as dissenting Justice Clark put it, that the Colorado "Senate's majority is elected by 33.2% of the population, a much higher percentage than that which elects a majority of the Senate of the United States."[51] This makes it much more likely that, on any given Senate action (e.g., filibuster or roll call vote), a minority of Senators representing a majority of the population will be opposed by a majority of Senators representing a minority of the population.

Yes, it is highly improbable that there will be perfect blocs in the percentages earlier given. But the lack of per-

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[50]<u>Ibid</u>. Italics added.

[51]<u>Ibid</u>. at 742. Also, what the Court calls "the maximum population-variance ratio, under the revised senatorial apportionment, is about 3.6-to-1." <u>Ibid</u>., at 728. This is the ratio of the population of the largest district to the smallest and, as we have seen above (n.35), compares to a 1970 ratio of 66 for the United States Senate.

fection does not negate the point. There is often a tendency among analysts to equate the imperfection of a point with its perfect negation. But there is a difference, a big difference.

A very early writer who had this tendency was S. E. Moffett. While many political scientists have a propensity to think that roll call analysis is something new, a glance at the Political Science Quarterly of 1895 will show that, even when there were no computers, there was some concern for numbers among early political scientists. Very often, upon examination and research, we find that "new" findings have been found before. So we could do worse than consult the "unsophisticated" political scientists of an earlier day in order to find out what has been found out.[51a]

Moffett asked: "Is the Senate Unfairly Constituted?" Faced with the apparently "glaring injustice that a combination of the senators from twenty-three states, with a population of 12,401,748, should be able to outvote twenty-one states, with a population of 49,507,158," Moffett wondered "whether such a combination ever did or ever could exist."[52]

An up to date political scientist, he decided to "see what has been our actual experience" by analyzing "the votes in the Senate on a number of the most hotly contested issues...."[53] Moffett discovered

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[51a] "...at least 95% of research is indeed re-search for things that have been found long ago and many times since." Stanislav Andreski, Social Sciences as Sorcery (New York: St. Martin's Press, 1972), p. 11.

[52] Moffett, loc. cit. (n.35, pp. 248-9.

[53] Ibid., p. 249.

the fact that, while the most populous state...
now has 133 times as many inhabitants as the
least populous, the votes on practical questions
have been so balanced that in all the twenty-one
cases cited there has been only one instance in
which the average population of the states ranged
on one side has been as much as twice that of the
states ranged on the other....[I]n every case,
without exception, the small states have been
divided. There is no trace anywhere of that
combination of small states against large which
is thought to portend danger to our political
system.[54]

While these findings are both empirically valid and of
considerable interest, they have drawbacks for the purposes
of our analysis here. Moffett seems to provide evidence to
support Stewart's "meaningless abstraction" critique. Closer
inspection reveals that this is not so.

It is not clear what the significance of the two to one
average is. Not in the greatest presidential election land-
slides in American history has the winner ever had as much
as or nearly twice the number of popular votes received by
the loser. Does this mean that the "landslide" winner lost
or the loser won? Moreover, as Carroll H. Wooddy notes in
criticism of Moffett's interpretation of his own numbers:
"five votes on one side of a question represented, on the
average, as much population as seven votes on the other side."[55]
But for our purposes, the significant question is not concerned
with population averages on opposite sides of issues. The
question is: how often does the Senate roll call vote margin
favor one side while state populations of voting Senators favor

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[54]Ibid., p. 253.

[55]Carroll H. Wooddy, "Is the Senate Unrepresentative?"
Political Science Quarterly, Vol. 41 (June, 1926), p. 221.

the other side? Woody points out that only 10 of the roll call votes studied by Moffett "were closely contested and of these four were carried by votes representing a smaller population than the opposition."[56] Among these votes was one on the Missouri Compromise.[57]

The main trouble with the view expressed 69 years apart by Moffett and Stewart is this. It may very well be a "meaningless abstraction" to expect the smallest states to vote as a bloc against the largest states. But it is an equally meaningless abstraction to assume that there will always be an even division and neutralization of the small state Senators, as well as of the large state Senators. That is to say, it is highly unlikely that the Senators from the small states will be evenly divided and that the same will apply to the Senators from the large states. The truth is that the more badly apportioned a legislative body's membership among the total population, the more likely is it going to be that on a certain number of issues---some quite important ---the members representing the fewer constituents will be on the winning side of roll call votes. This is scarcely what the strict majoritarians would want.

Malapportionment accounts for Wooddy's method. Writing in 1926, long after Moffett but long before the Supreme Court ordered reapportionment of the House of Representatives, Wooddy argued: "It would be unfair to expect Senate votes to corres-

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[56]Ibid., pp. 220-1.

[57]Ibid., and Moffett, loc. cit., p. 251.

pond to exact popular majorities, when votes in the House are marred by inequalities in representative districts."[58] Therefore, Wooddy decided to measure the "unrepresentative" character of the Senate "by the number of Yea and Nay votes carried by senators from states whose representatives would constitute a minority of the House of Representatives."[59] Wooddy's "examination of 'unrepresentative' votes reveal[ed] a number which appear to favor thinly populated areas. The principal cause of such votes...is the presence of a Senate majority representing a minority of the population."[60] More-over, Wooddy found 4 Senates out of 25 (8 years out of 50) in which "the party majority represented a minority of the population."[61]

It stands to reason (admittedly not always the best guide to reality) that the smaller the percentage of the population represented by a majority of a legislative body, and the smaller the number of members required to represent a majority of the population, the more likely that body is to take actions in which a majority of the body represents a minority of the population. The 1964 filibuster to preserve the Supreme Court reapportionment decisions was a case in point.

So we reiterate, as a general proposition, to talk of majority rule in the United States Senate is preposterous in

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[58]Wooddy, loc. cit., p. 222.

[59]Ibid., p. 238.

[60]Ibid., p. 239.

[61]Ibid., p. 238.

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the extreme. However, there is one ironic sense in which we may refer to majority rule in the Senate. Professor Harry Eckstein once complained that "The imposition of minority will on a majority must be considered undemocratic under all circumstances. The Senate's cloture rule functions mainly to impose minority will...."[62] But, just as a majority of the voters in Colorado voted to have a non-majoritarian apportionment scheme, so too has a majority of the United States Senate voted to have the cloture rule on at least three separate occasions. In 1917, the rule was adopted overwhelmingly (76 yeas, 3 nays, 16 not voting).[63] In 1969, there was a filibuster against an attempt to change the rule so as to make cloture easier to invoke. A 51-47 majority of the Senate voted to close debate on the issue of making it easier to close debate. Then, in action all too typical of the United States Senate (see ch. IV), a 53-45 majority proceeded to vote that the majority did not have the authority to invoke cloture.[64] The same thing happened in 1971.[65]

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[62]Harry Eckstein, "To Reform Rule 22," Letter to the Editor, The New York Times, March 5, 1971, p. 34.

[63]United States Congress, Congressional Record, 65th Congress, Special Session, Vol. 55, Part 1 (March 8, 1917), p. 45.
See also, the whole debate, ibid., pp. 19-46, which makes many of the same points made in this chapter. See esp., the article by Senator Lawrence Y. Sherman, ibid., pp. 24-6, which supports his view that "the open forum of the Senate is actually an ally of popular government and not its enemy." Ibid., p. 24.

[64]Congressional Record, 91st Congress, 1st Session, Vol. 115 (Daily Edition; January 16, 1969), pp. S407-8.

[65]Ibid., 92nd Congress, 1st Session, Vol. 117 (Daily Edition; March 9, 1971), pp. S2659-61. The vote for cloture was 55-39. The Chair ruled that cloture had not been invoked

To those who say that the anomalous behavior of the Senate majority was due to the switching of votes by but a handful of Senators[66] and that therefore the whole Senate was not anomalous, we give this reply. First, that a handful of Senators could change the outcome only serves to provide but another illustration of the proposition that small numbers traditionally have great impact out of all proportion to their size.[67] Second, the fact remains that a majority of the Senate

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since there had been no 2/3's majority as required by Rule 22. Immediately thereafter, the Senate voted 55-37 to lay on the table a motion appealing the ruling of the chair.

The situation was somewhat different in 1969, when Vice President Humphrey, four days before leaving office, ruled that the less than 2/3's majority had invoked cloture. The majority proceeded, on appeal, to vote against sustaining the ruling of the Chair.

According to one report, the reason that a majority voted to invoke cloture and then that it did not have the authority to do so was this: "Many Senators fear that if a new Senate cuts off debate by a simple majority, this would open the door to adoption of a rule permitting cloture by a simple majority." "Majority of Senate Backs Proposal to Ease Long-Standing Rule for Curbing Filibusters," The New York Times, January 27, 1971, p. 17. What this headline meant was that the majority did indeed favor relaxing the requirement for cloture from 2/3's to 3/5's. But the majority did not favor cloture by a simple majority.

[66]See, e.g., Editorial, "The Rule 22 Debate," The New York Times, February 8, 1971, p. 32. The editorial correctly points out that it took only six Senators to convert a 51-47 vote for cloture into a 53-45 vote reversing the Vice President's ruling that cloture had been invoked. However, after the editorial was written, a far greater number of Senators reversed themselves in 1971. As noted in the previous footnote, a 55-39 majority voted for cloture and then a 55-37 majority voted to lay on the table a motion appealing a decision of the Chair that cloture had not been invoked. "Senators supporting the three-fifths proposal switched and opposed a move that they feared could lead to closure by a simple majority." John W. Finney, "Senate by 8 Votes, Defeats Campaign to Curb Filibuster," The New York Times, March 10, 1971, pp. 1, 21.

[67]This point is discussed elsewhere at, e.g., pp. 139-45 above and pp. 422-428.

Senate voted against the opportunity to have majority cloture.

In this connection, it is worth noting that the Constitution, which provides many obstacles to majority rule, was adopted overwhelmingly by the Constitutional Convention, and was ratified by majorities of state conventions, the members of which were selected by the people.

Is It Hypocritical for Liberal Anti-Filibuster Senators to Filibuster?

The phenomenon of majorities opting for non-majority procedures brings us to consideration of the charge of inconsistency. That is, for anti-filibuster liberals to have filibustered, would have been hypocritical and inconsistent. For several reasons, this charge cannot be sustained.

First and most important, since when is it inconsistent to follow legitimately adopted rules and customs that have numberless precedents? It is one thing to advocate a change in the rules. It is another thing to act as though the change has been adopted when in fact it has not.

Let us consider an analogous situation involving a famous "fighting liberal," George Norris. In 1910, as a Representative, he led a "Revolution" which stripped the Speaker of his dictatorial powers. When Speaker Cannon was upheld on his ruling that, because a periodic census was provided for in the Constitution, a census bill took precedence over other bills, Norris seized the opportunity. He introduced his resolution to reform the House rules. He did so because, according to the previous ruling, the question of rules was also provided for in the Constitution and therefore privileged.

He introduced his resolution even though he had voted
against Cannon's ruling. Was Norris inconsistent? He did
not think so:

> ...there was no inconsistency in the course
> that I followed. My resolution to change the
> rules...was entitled to the same consideration---
> no more and no less---than Speaker Cannon and the
> Republican majority accorded to [the] census bill.
> It was the House that decided the issue; and it was
> my duty as a member to accept that judgment, and
> follow it, even if I believe the construction...
> adopted was erroneous.[68]

The same reasoning applies to the majoritarian anti-filibuster-
ers. Once we realize that the 2/3's cloture rule was adopted
and maintained by Senate majorities, it becomes easier to see
that there would have been no inconsistency in a war-ending
filibuster. In fact, do not majoritarian Senators, to be
consistent, have an obligation to abide by the will of the
majority of their colleagues?

The truth is that a war-ending filibuster would have
been an entirely consistent use of a procedure expressly
legitimized by majority votes of the Senate, and also by
innumerable precedents established by conservatives and liberals
in every conceivable cause.[68a]

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[68]Norris, op. cit. (n.4, ch. VI), p. 127. In this vein,
we note that Norris both employed and opposed the filibuster.
On his use of it see p. 337 and ch. VII below. On his opposi-
tion, see George Norris, "War Now Declared on the Filibuster,"
The New York Times, March 13, 1927, section 8, p. 1.

[68a]For the classic work on the filibuster prior to 1940,
see n.18, ch. III. This contains numerous precedents.
It is a testament to the power of ideology that, in 1970,
anti-filibuster liberals should have considered living by one
set of rules while conservatives lived by another. Only a
year earlier, the late Senator Dirksen had defended the fili-
buster by presenting a whole list of allegedly pernicious
liberal measures that he thought could only be stopped by the

Second, even if we accept _arguendo_ the notion that it would have been inconsistent for anti-filibuster liberal Senators to filibuster, this certainly have been nothing new. We shall develop this point in another context (ch. VII), but it is relevant here too. There has been a spurt of liberal filibusters since 1970. However, there were many before then as well. To take the above-discussed reapportionment filibuster as one example, and lest there be any doubt about who it was that filibustered, _Congressional Quarterly_ says that debate on "legislation to restrict or nullify the Court's rulings on state apportionment....[was] prolonged, ironically, by a filibuster by Senate liberals...."[69] (Italics added.) As we shall see, it was not all that ironic.

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filibuster. Among these measures were: "federalizing welfare ....guaranteed annual wage....electoral reform....a ceiling on drugs...a ceiling on food...a ceiling on clothing...." _Congressional Record_, 91st Congress, 1st Session, Vol. 115 (Daily Edition; January 16, 1969), p. S405. See Dirksen's whole presentation, _ibid._, pp. 403-6. In the more distant past, the filibuster had been used to prevent anti-lynch laws. If this tool could be used to perpetuate the taking of lives, it is an odd kind of consistency which would demand abstinence from the use of the tool to save lives.

But the most ironic aspect of this so-called consistency by liberal anti-filibusterers is the fact that, at the very time they refused to have an anti-war filibuster, the hawks in the Senate were filibustering to delay passage of even the most inane dove legislation. See p. 206 above.

It is important to keep in mind that, while this discussion emphasizes the filibuster, there are other kinds of minoritarianism advocated by the writer. Precedents for these tactics (e.g., using small numbers to defeat candidates) are extensively discussed in the following chapter.

[69]"Court Reapportionment...," _loc. cit._ (n.39), p. 383. A real irony is that the very existence of any cloture rule at all is due to the reaction against an anti-war filibuster led by a tiny band of progressives who were not "hung up" either on majoritarianism or consistency. See n.63 above and pp. 336-339.

Third, some filibusters by liberals could be justified as furthering liberal ideals.[69a] Others, however, do not come under this rubric. For example, anti-filibuster leader Frank Church should explain the consistency in being prepared and threatening to filibuster for a pork barrel project to assure his own reelection but not to end the bloodshed he so long and so piously criticized. In October, 1962, as Congress was going through the bedlam that precedes adjournment, Senator Church was concerned that a House-Senate Conference Committee would eliminate a $186 million dam on which he reelection seemed to depend. So Church threatened the committee: "If they strike out [the dam], I shall hold the Senate floor as long as God gives me the strength to stand."[70] But the Senator "didn't have to test his strength. The conferees approved the project."[71] Yet Church would not think of filibustering to end the war. Instead he went on to deliver moralistic attacks on filibustering.[72] Here is another---and

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[69a]It should not be forgotten that these ideals include, in addition to majority rule, minority rights. We will see in ch. VII that there have been liberal filibusters in the interest of civil liberties.

[70]Quoted in Richard L. Lyons, "Kerr, Smith Stop Music for Pork-Barrel Polka," _The Washington Post_, October 21, 1962, p. A1. See also, n.181, ch. VI.

[71]Robert C. Albright, "Final Money Bill Stalls Congress," _ibid._, October 13, 1962, pp. A1, A8. Regarding the same bill, $550 million in projects was restored as a result of filibuster threatened by Senator Wayne Morse. _Ibid._

[72]"At present, rule XXII empowers a minority of one-third plus one to govern the Senate. On any matter of real gravity, rule XXII enables the minority to govern. Philosophically, I find that difficult to reconcile with my belief in democratic principles." Senator Church, _Congressional Record_, 92nd Congress, 1st Session, Vol. 117 (Daily Edition; February 18, 1971), p. S1493. Senator Church was one of the two "main

more serious---inconsistency!

Fourth, let us assume that a given dove liberal Senator could not be accused of Church-type filibustering (that is, filibustering to assure one's own reelection combined with general opposition to the practive). He would still be inconsistent in NOT filibustering. To oppose the war and not use an available means to end it can be construed as inconsistent.

What we really have here is an example of the general proposition that basic principles (of politics at least) are inherently contradictory. We have discussed limits inherent in the concept of majoritarianism (e.g., when the majority votes against majority procedures). Another example is the notion of equality. For those who believe in it, the idea that all people should be treated equally seems, on its face, simple enough. But consider the case of Griffin v. Illinois.[73] In this case, the Supreme Court declared equality to mean that every person, rich or poor, must have the same rights to due process. So it was declared that Griffin, not having the money to pay for the trial transcript necessary for his appeal, was entitled in the name of equal protection to a free transcript. Henceforth, in this regard, everyone would be treated equally. Or would he? Justice Harlan, in dissent, declared the Court's interpretation "produces the anomalous result that a constitu-

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sponsors" of Senate Resolution 9 to amend rule XXII to provide for three-fifths cloture. "Senate Again Rejects Change in Filibuster Rule," Congressional Quarterly Almanac, 1971 (Washington: Congressional Quarterly Inc., 1972), Vol. 27, p. 13.

[73]Griffin v. Illinois, 351 U.S. 12 (1956).

tional admonition to the States to treal all persons equally means in this instance that Illinois must give to some what it requires others to pay for."[74] So there are limits inherent in equality; equality of one kind involves inequality of another kind.

And this applies to other principles too. In summary form, we may note that Justice Holmes once declared that the freedom to swing one's arm ends where the next man's nose begins. Which is to say, one man's liberty is limited by the next man's. Does freedom of speech, for example, include the right to advocate the denial of the same freedom for those who disagree with the advocate? Another example is loyalty. What if one becomes aware of a friend's traitorous activity? Loyalty to one's friend is then in conflict with loyalty to one's country. And we have it on no less an authority than Senator Sam Ervin's "old philosophy professor...that the greatest trials we have in the world is [sic] when you are compelled to choose between different loyalties, some of which are conflicting. [sic]"[75]

Thus, there are few, if any, great political principles devoid of internal inconsistencies, and the principle of consistency is no exception. The very rule of consistency would make an anti-filibuster liberal cringe from filibustering would at the same time make him inconsistent in his opposition

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[74]Ibid., at 34.

[75]United States Senate, Select Committee on Presidential Campaign Activities, Hearings, Presidential Campaign Activities of 1972, Senate Resolution 60, 93rd Congress, 1st Session, Book 1 (May 23, 1973), p. 283.

to the war. To be consistent in war opposition, a dove Senator would have been required to use all the means available to him, including the filibuster.

Fifth, but does the end justify the means? To be blunt about it, the ends-means argument is a logical absurdity. Those who are concerned about whether the end justifies the means do not ask whether the means justifies the end. Does the means justify the end? Does reliance on strict majoritarianism combined with the avoidance of minority tactics (means) justify failure to terminate needless killing in Vietnam (end)? The fact is that, whatever we lable as "the means" and whatever we label as "the end," a choice of what is more important has to be made.[76] On the basis, by September, 1971, Senator Cranston was finally prepared to declare: "I do not consider the filibuster horrendous; I think the draft and Vietnam are far worse." (p. 281.) As noted before (p. 283), it should not be assumed that this was meant to be a plea for effective action to end the war. But, at least at last the principle was stated. All of which leads to one final point.

Sixth, it is highly debatable that inconsistency is the worst sin. Senator Ashurst not only did not believe that inconsistency was a sin, he went further. He thought that

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[76]The late Martin Luther King, Jr. made this interesting if somewhat ambivalent comment on the matter: "...the means we use must be as pure as the ends we seek....[I]t is wrong to use immoral means to attain moral ends. But now I must affirm that it is just as wrong, or perhaps even more so, to use moral means to preserve immoral ends." "Letter from Birmingham Jail, April 16, 1963," in Martin Luther King, Jr., Why We Can't Wait (New York: Signet Books, 1964), pp. 93-4.

it was <u>consistency</u> that was a "withering and embalming vice"
that "shackled" public servants. He declared that "there
are times when a man in public life is compelled to <u>rise</u>
<u>above his principles</u>" to be "free to act as various questions
come before him...." (p. 281; emphasis added.) One man
who can never be accused of failing to rise above his
principles is Senator Javits. A long time opponent of
filibustering, the Senator was later found to be neither
shackled, withered nor embalmed by consistency. With "no
inhibition," he asserted that any available weapon should be
used "in the public interest." (p. 281.)

Summary

In this chapter, we have tried to respond to the most
often heard criticism of the writer's proposal. This was that
his proposal was undemocratic. A corollary was that a hypo-
critical inconsistency was required of majoritarians. In
response, we sought to demonstrate that : 1) the political
devices advocated by this writer have been legitimized by
democratic, majoritarian adoption and extensive precedent;
and 2) above all, the complexities of majoritarianism are so
great that it is very hard to know what is democratic and what
is not. Simplistic majoritarians disregard these complexities.

For one thing, the system of plurality elections often
results in the selection of candidates and the adoption of
policies actually opposed by the majority. Pluralities aside,
even the use of strict majoritarianism can and frequently does
produce majority votes for candidates who have only minority
support for their policies on each of the major issues. This

situation is produced by voting based on intensities that vary from issue to issue, a circumstance ignored by the simplistic majoritarians. Also ignored is the distinction between legislative and popular majorities. This distinction applies with special (but not exclusive) force to the Constitutionally minoritarian United States Senate, wherein filibusters have been staged by legislative minorities representing popular majorities. Moreover, the Senate, which contains so many lawyers that it is almost inconceivable that logic would fail to prevail, has produced an example of another majoritarian complexity. A simple majority has more than once voted that a simple majority cannot invoke cloture, twice immediately after a simple majority had voted for cloture. This anomaly raised the question whether it is inconsistent, hypocritical or violative of simple majority rule for devotees of majoritarianism to use a tool adopted and continued by simple majority votes. For this and a number of other reasons, it was shown that the charge that a filibuster by anti-filibuster liberals would be inconsistent and hypocritical could not be sustained.

We conclude, then, that the minoritarian tactics advocated in this dissertation are not necessarily in violation of majority rule or democracy, that these tactics have numerous precedents in the American tradition, and are, therefore, wholly legitimate.

CHAPTER VI

THE PRACTICALITY AND DESIRABILITY OF INDUCING 34 SENATORS TO END THE VIETNAM WAR

The reasonable man adapts himself to the world:
the unreasonable one persists in trying to adapt
the world to himself. Therefore all progress depends
on the unreasonable man.
                    ---George Bernard Shaw[1]

When [Carswell was nominated] everybody said,
"let's be **realistic** and accept **the fact** that he can't
be defeated."...in a place as resolutely archaic as
Congress...everything you do is **unrealistic in
ordinary terms**. We had to fight... [W]e all saw that
...pressure on... [Senators] ...could be effective.
                    ---Representative John Conyers[2]

I sat.... [i]n a company of those.... [w]ho
believed...man's highest courage was to bet his all
on what was no more than the best guess he could make;
who asked no warranties and distrusted all such....
                    ---Learned Hand[3]

I have seen [men]...**retreat**, when actually
realization of their [political] ambitions might
better have come through continued obedience to
their own conscience.
                    ---Senator George W. Norris[4]

...the people of Mississippi continued their
support of [Senator Lamar] , in spite of the fact that

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[1]Quoted in David Boroff, "Words for Today: By G.B.S.,"
The New York Times Magazine, November 6, 1960, p. 132.

[2]Quoted by Richard Harris, "Annals of Politics, Decision
---I," The New Yorker, Vol. 46 (December 5, 1970), p. 118.

[3]Hand, loc. cit. (n.102a, ch. I).

[4]George W. Norris, Fighting Liberal, The Autobiography of
George W. Norris (New York: Collier Books, 1961), p. 364.

on three important occasions... he had stood against
their immediate wishes. The voters responded to the
sincerity and courage...he had shown....
>   ---John F. Kennedy[5]

*   *   *   *   *   *   *   *

...the vote---access to the ballot box---furnishes
the most effective weapon in the citizen's arsenal.
>   ---Abe Fortas[6]

...the ballot box creates **no** access to foreign
policy.
>   ---Howard Zinn, a radical scholar[7]

There have been few elections that really decided
anything more than the personal ambitions of a few
people and what party should distribute the patronage.
>   ---L. O. Hooper, a Wall Street executive[8]

...elections matter....
The election returns....[t]ell us precious little
about why the [winner won].
>   ---V. O. Key[9]

Congressmen are apt to vote as they believe their
constituents desire.
Only rarely is an election a policy referendum or
a "mandate" for designated future actions.
>   ---Gerald M. Pomper[10]

...elections generate important influences....
The holders of...office in democratic government are
guided in many of their actions by a calculus of

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[5]John F. Kennedy, <u>Profiles in Courage</u> (New York: Harper
& Brothers, 1955), pp. 176-7.

[6]Fortas, <u>op. cit</u>. (n.24, ch. II), p. 126.

[7]Zinn, <u>op. cit</u>., (n.25, ch. II), p. 62. See n.28, ch. I,
p. 46 on Zinn's radicalism.

[8]L. O. Hooper, "Market Comment: Election Year Myths,"
<u>Forbes</u>, Vol. 110 (September 15, 1972), p. 89.

[9]Key, <u>Public Opinion...</u> (n.46, ch. I), p. 459; <u>Responsible
Electorate</u> (n.44, ch. III), p. 2.

[10]Gerald M. Pomper, <u>Elections in America, Control and
Influence in Democratic Politics</u> (New York: Dodd, Mead &
Company, 1968), p. 260; "'If Elected, I Promise': American
Party Platforms," <u>Midwest Journal of Political Science</u>, Vol.
11 (August, 1967), p. 318.

electoral effect.

   ...the electoral decision gives great freedom to those who must frame the policies of government.... the election returns offer little guidance on specific policies....
                 ---Angus Campbell, et al[11]

   ELECTIONS are a mystery.
                 ---Gerald M. Pomper[12]

   Our political system was designed to register ...pressures, and we consider it proper when public officials respond to them.
   ...in general the direct "first order" effects of group influence on the policies of the federal government was [sic] slight....[G]roup influence is even weaker in [the foreign policy] arena.
                 ---Lester W. Milbraith[13]

   ...voters are not fools....[t]hat the highbinders of Madison Avenue can humbug....
   ...the masses do not corrupt themselves; if they are corrupt, they have been corrupted....[C]ritical ...for the health of a [democracy are]...the influ- entials, the opinion-leaders, the political activists....
                 ---V. O. Key[13a]

   The chronic supporter of third party tickets need not worry...that he is "throwing his vote away."...[H]istory would seem to indicate that his... is...probably the most powerful vote...ever...cast.
                 ---John D. Hicks[14]

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[11]Angus Campbell, Philip E. Converse, Warren E. Miller, and Donald E. Stokes, The American Voter (New York: John Wiley & Sons, 1960), pp. 5, 544.

[12]Pomper, op. cit., p. 1.

[13]Lester W. Milbraith, loc. cit. (n.24, ch. III); "Interest Groups and Foreign Policy," in James N. Rosenau, ed., Domestic Sources of Foreign Policy (New York: The Free Press, 1967), p. 251.

[13a]Key, Responsible Electorate, p. 7; Public Opinion..., pp. 459, 558.

[14]John D. Hicks, "The Third Party Tradition in American Politics," Mississippi Valley Historical Review, Vol. 20 (June, 1933), pp. 26, 27.

>   ...pressure groups...can best operate within
> the framework of the two-party system....
>   ---Samuel P. Huntington[14a]
>
>   A man who goes against his conscience is the
> worst of all....[T]hey told everyone...how against
> the war they were....[B]ut what did they do?...[T]hey
> just wanted to hold on to their jobs.
>   ---Senator George McGovern (not
>   referring to dove Senators)[14b]
>
>   ...a man of conscience...[r]ealizes that once he
> begins to weigh each issue in terms of his chances for
> re-election, once he begins to compromise away his
> principles on one issue after another for fear that
> to do otherwise would halt his career and prevent
> future fights for principle, then he has lost the
> very freedom of conscience which justifies his
> continuance in office.
>   ---John F. Kennedy[14c]

Because political science is not test tube science, we can never know with total certainty whether the proposal presented in chapter III would have worked had it been tried. We can only assess the probabilities. Here, in case (see p. 72) will be made that it was highly probable that the plan would have succeeded and that its adoption would have been desirable from the dove point of view.

Not all the criticisms previously summarized (pp. 173-9) will be considered. Some were discussed in the last two chapters; others will not be treated at all. In particular, we will not take up the propriety and feasibility of ending the

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[14a]Samuel P. Huntington, "The Election Tactics of the Non Partisan League," Ibid., Vol. 36 (March, 1950), p. 362.

[14b]Quoted in Judith Coburn and Geoffrey Cowan, "The War Criminals Hedge Their Bets," The Washington Monthly, Vol. 2 (February, 1970), p. 8. Emphasis added.

[14c]Kennedy, op. cit., p. 7.

war by opposing the President via a legislative veto of appropriations. (But see n.34, ch. IV.) Any arguments against this aspect of the writer's proposal would have applied with equal force to the actual dove strategy of 1970. This does not automatically render them invalid, but they were extensively debated at the time and have been ever since.[15] Moreover, since our plan required adoption by doves, it was <u>their</u> objections that were the most serious obstacle to the said plan and its testing.

The central 1970 difference between this writer and the peace movement was **not** whether the President could and should have been defied and the war ended with a fund cutoff, but **how** this could have been accomplished. In direct conflict with the majoritarian anti-warriors, the writer argues that their strength would have been maximized by a minoritarian strategy. The ingrained quality of majoritarianism required a separate chapter. Here we evaluate other fundamental questions of practicality and desirability..

Could enough (6-12) Senators have been induced to filibuster appropriations actively? Could a larger group (which, when added to the first, totals 34) have been induced to

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[15]The issue has been debated extensively in the <u>Congressional Record</u>, 91st Congress, 2nd Session---93rd Congress, 1st Session, Vols. 116-119 (1970-1973, q.v. A convenient compilation of the 1970 debate is Eugene P. Dvorin, ed., <u>The Senate's War Powers, Debate on Cambodia from the Congressional Record</u> (Chicago: Markha,m 1971). Two works, taking the dove view that Presidents usurped war powers, but containing also the other side, are: Leon Friedman and Burt Neuborne, <u>Unquestioning Obedience to the President, The ACLU Case Against the Illegal War in Vietnam</u> (New York: W. W. Norton & Company, Inc., 1972); and Arthur M. Schlesinger, Jr., <u>The Imperial Presidency</u> (Boston: Houghton Mifflin Company, 1973), <u>passim</u> and esp., ch. 7.

passively support the filibuster by voting against cloture? How? Could persuasion have worked? If not, could a constituency fragmented into many diverse elements have been mobilized to adopt a rather specific strategy in order to pressure another group (i.e., 34 Senators) to take another specific course of action? What pressures would have worked? What is the effect of constituencies and interest groups upon the specific policies of government? How effective is electoral pressure? How great does the fear of electoral defeat loom in the calculations of legislators? To what extent do third candidates enhance that fear and influence the actions of major party incumbents? Assuming the ability to defeat a Senate dove, would it really have been desirable, especially when such a major party incumbent was likely to share the general liberal orientation of the peace constituency? What pressures and with what success could have been exerted on the 2/3's of the Senate not facing reelection? What is the general overall practicality of the proposal?

Persuasion: How Courageous Is Courage? How Realistic Is Cowardice?

The writer has noted that his attempts to **persuade** dove Senators to filibuster had failed. This was because, especially for the activists, the rare qualities of courage and leadership would have been required. (See 129, 177.)

However, at the time of his persuasion attempts, the writer had not explored the question of just how courageous courage is. Nelson W. Polsby argues that "policy scientists" might possibly have played a role in deflating Senator Joseph R.

McCarthy by exposing the errors in the widespread beliefs on which his power was based.[16] Similarly, perhaps political scientists---especially those historically inclined---could have contributed to shortening the war by persuading some dove Senators to actively or passively support a filibuster. Numerous examples could have been used to show that the adverse consequences of courageous behavior are far less repeated and serious than the predictions of them. Frequent fears of reprisal have been extremely exaggerated. Courageous acts are not always as dangerous as they are made out to be; nor is political cowardice as "realistic" and safe as is generally supposed.

In any case, as a rule, persuasion is preferable to force whenever possible.

Senator Fulbright thought the filibusterers would not be able to take the heat. (p. 187.) However, past cases of "heat" suggest that its political potency is not always as great as is commonly thought. For example, during the 1949 confirmation battle over the Federal Power Commission nomination of Leland Olds, President Harry S. Truman openly confessed to applying "heat" to Senators. He saw nothing wrong with this, and included in his justification a reference to the fact that, when he was a Senator, President Franklin D. Roosevelt applied "heat" to him. Truman conceded that the heat did not get him to vote for Roosevelt's choice for Majority Leader.[16a] In the

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[16]Nelson W. Polsby, "Towards An Explanation of McCarthyism," Political Studies, Vol. 8 (October 7, 1949), pp. 250-71.

[16a]Anthony Leviero, "President Admits 'Heat' To Back Olds," The New York Times, October 7, 1949, pp. 1, 19.

case of Olds, Truman was no more successful. Olds' nomination was defeated resoundingly, 53-15.[17]

Roosevelt's loss on a Majority Leadership dispute was a lesser example of the heat failure from which he suffered. His most memorable heat defeat occurred in the famous attempt to "pack" the Supreme Court. The immediate reaction to the President's proposal was a "widely held belief that FDR [sic] would win his fight."[18] "The boys [Members of Congress] will not be able to take it when he [Roosevelt] turns on the heat."[19] This was the prediction of one group of "six seasoned reporters."[20] The forecast's inaccuracy needs no elaboration here.

Presidents seem to enjoy a constant initial presumption of victory. In the battles over the Supreme Court nominations of Clement F. Haynsworth and G. Harrold Carswell, it was widely assumed at the outset that each nominee would be confirmed with no trouble. In the case of Haynsworth, The New York Times foresaw "Easy Approval"[21] and found, despite the existence of opposition, "little indication" that the nomination would be

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[17] Congressional Record, 81st Congress, 1st Session, Vol. 95, Part 11 (October 12, 1949), pp. 14386-7.

[18] E. Kimbark MacColl, "The Supreme Court and Public Opinion: A Study of the Court Fight of 1937" (unpublished Ph.D. dissertation, Department of History, University of California, Los Angeles, 1953), p. 169.

[19] Nation's Business, Vol. 25 (April, 1937), p. 36; quoted in MacColl, loc. cit.

[20] Ibid., p. 181, n.14.

[21] Neil Sheehan, "C. F. Haynsworth Names By Nison For High Court," The New York Times, August 19, 1969, pp. 1, 27.

blocked.[22] The Carswell case has been extensively considered
by Richard Harris.[22a] In the beginning, there was little
stomach for a second fight by those who already had defeated
Haynsworth. Harris quotes Representative John Conyers of
Michigan as saying "everybody" thought the "realistic" attitude
was to accept Carswell and not try to defeat him. (p. 317.)

The "realistic" view for many politicians---as indeed for
most members of the human race---is to accept things they way
they are and not try to change them. Shaw (p. 317) refers to
the "reasonable man," who "adapts himself to the world." It
is "unreasonable" to try to change the world to fit oneself.
Not contesting the usual way of doing things involves a minimum
of inconvenience and risk.

Truly, if, as has often been said, patriotism is the last
refuge of a scoundrel, "realism," "pragmatism" and "reasonable-
ness" constitute the first refuge of the lazy and the timid.

The reader may protest at this point that the examples
of heat given above involve the President and Congress. But
the ultimate heat in a Vietnam filibuster would come from the
electorate. How would a Senator fare against constituency heat?

Before leaving the above examples, it is worth noting
that, in the court packing matter, one of the reasons the
President was expected to prevail over the Congress was precise

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[22]Warren Weaver, Jr., "Rights and Labor Leaders Oppose
Court Nomination," Ibid., p. 27. See also, Fred P. Graham,
"Haynsworth Nomination Faces Little Opposition in the Senate,"
Ibid., September 4, 1969, p. 34.

[22a]See Harris, loc. cit. (n.2), pp. 60-161; and Harris,
"Annals of Politics, Decision---II," Ibid., December 12, 1970,
pp. 53-131.

because he had been reelected by a huge landslide in 1936. He was thus assumed to carry great weight with the voters. In 1938, Roosevelt did try to throw his electoral weight around. His almost completely unsuccessful attempt to purge recalcitrant Democrats has become a classic illustration of the limits of Presidential influence over Congressional constituents.[23]

The examples that follow will illustrate two propositions. First, the clear fear of constituent reprisal is indeed often a determining factor in Congressional behavior. Second, almost as often, the fear is unjustified.

There are few cases that illustrate Congressional fear better than Senator Joseph R. McCarthy's 1950-1954 dominance of the Senate. Robert Griffith's scholarly book about this phenomenon is significantly entitled The Politics of Fear.[24]

We have observed that pragmatism is part of the first refuge of the timid. It is interesting to note Griffith's final words: "between 1950 and 1954 the politics of the possible were [sic] also the politics of fear."[25]

Griffith attributes McCarthy's success to

the unwillingness of...moderates...to take a
stand which might expose them to obloquy.
Perhaps this was the real key to McCarthy's

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[23]See, e.g., James T. Patterson, Congressional Conservatism and the New Deal, The Growth of the Conservative Coalition in Congress, 1933-1939 (Lexington: University of Kentucky Press, 1967), ch. 8, esp. pp. 238-9, 261-2, 270-87.

[24]Robert Griffith, The Politics of Fear, Joseph R. McCarthy and the Senate (Lexington: The University Press of Kentucky, 1970).

[25]Ibid., p. 320.

continued power---not the ranting of demagogues, but the **fear** and irresolution of honorable men.[26]

Specifically, the fear was that of electoral defeat. Rare is the Congressman who has actually had the attitude expressed by the late Senator Millard E. Tydings of Maryland: "If I can't vote my convictions here, to hell with this job."[27] This statement was said to have been made "not without some exaggeration."[28] But whether exaggerated or not, Tydings had no hesitation in assuming the role of "the Wisconsin Senator's great antagonist."[29] In 1950, McCarthy promptly help campaign against Tydings, who went down to defeat after a 24 year Senate career that included a landslide survival of the 1938 Roosevelt purge.[29a]

Griffith describes the result of the <u>post hoc, ergo propter hoc</u> reasoning that rapidly followed in Tydings' wake:

> The defeat of Tydings was particularly traumatic.... [I] f [he] could be defeated, then who was safe? Even the most conservative and entrenched Democrats began to fear for their seats, and in the months that followed, the legend of McCarthy's political power grew. By 1953 he was credited with nearly a dozen Republican Senate victories....[30]

This analysis was supported by someone who had been in an excellent position to have known the feelings of Senators.

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[26]<u>Ibid</u>., p. 151.

[27]Quoted in Patterson, <u>op. cit</u>., p. 16.

[28]Patterson, <u>Ibid</u>.

[29]Griffith, <u>op. cit</u>., p. 126.

[29a]Patterson, op. cit., pp. 279-86. Tydings, in 1938, won 58.8 percent of the vote in the purge primary. <u>Ibid</u>., p. 284.

[30]Griffith, <u>op. cit</u>., p. 123.

Arthur V. Watkins of Utah had been a Senator himself at the zenith (and nadir) of McCarthy's career. He wrote:

> Whether Senator McCarthy may logically be given major credit for defeating Tydings, he claimed it. The implication of this campaign was plain to some Senators---"cross McCarthy and be destroyed."...McCarthy was willing to leave the impression that bucking him in his anti-communism drive was an unhealthy thing to try....[31]

According to Griffith, this impression was wrong. He concludes his section on "The Myth of Political Invincibility" with this description of the factors in the Tydings loss:

> But it was not the complexities of Maryland's Democratic factionalism, nor its patterns of voting behavior, which attracted nationwide attention. It was McCarthy. Not...Butler [Tydings' opponent], but McCarthy had defeated Tydings; or so the belief was. And this per-ception...was at the heart of McCarthy's... strength within the Senate.[32]

Ten years before Griffith wrote, in 1960, Polsby demonstra-ted that this perception was really a misperception. Polsby, we have noted, argues that "policy scientists" could have helped deflate McCarthy's power. (p. 322.) "It cannot be overemphasized," writes Polsby, "that most of the facts on which this analysis has been based were available while McCarthy was...alive, and in the headlines."[33] This analysis too sought

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[31]Arthur V. Watkins, Enough Rope (Englewood Cliffs: Prentice-Hall, Inc., 1969), p. 19. Watkins was Chairman of The Select Committee to Study Censure Charges Against the Senator from Wisconsin, Mr. McCarthy.

[32]Griffith, op. cit., p. 131. "There ran through the Democratic caucus, reported William S. White as the new Congress convened, 'a general expression of fear that what happened to Mr. Tydings with all his standing in the Senate could happen to any other man in the Senate.'" Ibid.

[33]Polsby, loc. cit. (n.16), p. 268.

to explain

> the **remarkable fear** of McCarthy that...afflicted...
> newspaper people, professional folk, most
> academicians, and his colleagues in Congress. This
> fear can be accounted for...by...a **critical assumption**
> ....[t]hat McCarthy was in fact uniquely powerful at
> the grass roots; that he had a vast following which
> cross-cut party lines and loyalties, which he could
> call upon to defeat his enemies....[34]

After analyzing voting statistics showing that "the
McCarthy vote was concentrated in areas of Republican strength,
and was neither scattered, nor distributed in some pattern
unique to McCarthy, nor particularly strong,"[35] Polsby
addressed the question of McCarthy's ability to defeat other
Senators. Specifically analyzed was the 1952 loss by
Democratic Senator William Benton of Connecticut. The
principal finding was that McCarthy did not defeat Benton.
Rather it was the Eisenhower landslide, since Benton's
strength was basically in harmony with the rest of the Demo-
cratic ticket in both 1950 and 1952.[36]

The major thrust of the foregoing points is that factors
other than Senator McCarthy were responsible for the Tydings
and Benton defeats of 1950 and 1952. But not discussed at all
by Polsby and mentioned only breifly in Griffith's section on
"The Myth of...Invincibility" are those who, in Watkins' words,
dated to "cross McCarthy" and were **NOT** "destroyed." The
defeats left open the readily-exploited possibility that
McCarthy was the cause. But no such possibility existed in

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[34]_Ibid._, p. 264.

[35]_Ibid._, p. 263.

[36]_Ibid._, pp. 265-268.

those many cases of those who opposed McCarthy and long survived him. But, alas, the defeated received attention; the victorious were scarcely noticed.

Griffith referred to the "fear...of honorable _men_." (p. 326.) The one woman in the Senate, Margaret Chase Smith of Maine, evidenced no fear. Within four months of McCarthy's rise to national prominence with his charges and "lists" of Communists in "high places,"[37] Senator Smith delivered a blistering attack on McCarthy's tactics.[38] Her criticism accompanied her insertion in the Congressional Record of her less strong but more famous "Declaration of Conscience."[39] This Declaration was signed by six other Republican Senators: Charles W. Tobey of New Hempshire, George D. Aiken of Vermont, Wayne L. Morse of Oregon, Irving M. Ives of New York, Edward J. Thye of Minnesota, and Robert C. Hendrickson of New Jersey.

Of these seven Senators, two (Aiken and Morse) were reelected in 1950, two (Ives and Thye) were reelected in 1952, one (Smith) was reelected in 1954, one (Tobey) died in office in 1953, and one (Hendrickson) retired in 1954.[40] Not one defeat for opposing McCarthy!

It may be protested that these were all Republicans, who

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[37]Griffith, _op. cit._, ch. 3, passim, and esp. pp. 48-57.

[38]_Congressional Record_, 81st Congress, 2nd Session, Vol. 96, Part 6 (June 1, 1950), pp. 7894-5.

[39]_Ibid._, p. 7895. See also Griffith, _op. cit._, pp. 103-4.

[40]United States Congress, Joint Committee on Printing, _Biographical Directory of the American Congress, 1774-1961_, 85th Congress, 2nd Session, House Document 442 (1961).

supposedly were less vulnerable on the "Communists in govern-
ment" issue. Perhaps this is true, although it is hard to
see why a Republican McCarthy opponent could not have been
smeared and forced into a primary contest. However, there
were Democrats too who opposed McCarthy's tactics and did not
go down to defeat. Herbert H. Lehman immediately associated
himself with Senator Smith's speech and was nevertheless
reelected in 1950.[41] Brien McMahon of Connecticut, one of
those "McCarthy had singled out...for special attention" in
1950, survived that attention.[42] Also, Senator Benton,
defeated in 1952 because (according to Polsby) of the Eisenhower
landslide, was reelected in 1950, despite having already "crossed"
McCarthy running second in Connecticut only to McMahon.[43] (This
is far from a complete list of those who opposed McCarthy and
survived.)

One might argue that, unlike the cases of McMahon, Tydings
and Scott Lucas of Illinois, McCarthy did not "single out" all
his opponents for special attention, and that, if he had done
so, they might have been defeated. But this raises the question
of why McCarthy did not single out others. Perhaps he felt
special attention would not have been efficacious (from his
viewpoint). Whatever the reason, the fact remains that many
McCarthy opponents survived.

This suggests a certain validity in the conclusion of

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[41] Congressional Record (n.38), p. 7895.

[42] Griffith, op. cit., pp. 125, 126.

[43] Ibid., pp. 126, 89.

<u>Profiles in Courage</u>, wherein John F. Kennedy refers to "the continued political success of many of those who withstood the pressures of public opinion, and the ultimate vindication of the rest."[44] However, a more dominant theme of the book, one which Kennedy never tires of repeating, focuses on the pressures endured by his men of courage: "the risks to their careers, the unpopularity of their courses, the defamation of their characters, and sometimes, but sadly only sometimes, the vindication of their reputations."[45] To determine which of Kennedy's themes is more accurate, it is worth examining, however briefly, what actually happened, after their courageous acts, to each of the eight Senators to whom the late President devotes a chapter: John Quincy Adams and Daniel Webster of Massachusetts, Thomas Hart Benton of Missouri, Sam Houston of Texas, Edmund G. Ross of Kansas, Lucius Quintus Cincinnatus Lamar of Mississippi, George W. Norris of Nebraska, and Robert A. Taft of Ohio.[46]

Adams' recalcitrance in the Senate condemned him to severe subsequent suffering as, among other things, Minister to Russia and then to England, Secretary of State, President of the United States and nine terms of servitude in the House of Representatives. Four months after his "seventh of March" speech of 1850, Webster was somewhat reluctantly persuaded by

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[44]Kennedy, <u>op. cit</u>. (n.5), p. 245.

[45]<u>Ibid</u>., p. 1.

[46]Except where otherwise indicated, the information that follows comes from the appropriate chapters in Kennedy's book and/or the <u>Biographical Directory of the American Congress</u>.

the new President, Millard Fillmore, to become Secretary of State.[47] In that low position of disgrace, he died. Kennedy does not even mention that Webster became Secretary of State or that he "was...clearly the dominant member of the new cabinet...."[48] Nor does Kennedy say that "Almost a thousand prominent Massachusetts citizens signed a public testimonial backing his stand."[49] Instead Kennedy focuses almost exclusively on the expected attacks by abolitionists, reserving but one sentence in passing to note the existence of Webster supporters[50] and concluding that he "died a disappointed and discouraged death."[51] The latter was presumably because of the loss of the 1852 Whig presidential nomination.

Benton was defeated (in the State legislature) in 1850, but only after 30 years of consecutive Senate service. Moreover, he was elected to a term as Representative from 1853-1855, after which he was defeated in contests for Representative and Governor.

Houston was defeated by his legislature for reelection to the Senate term beginning in 1859, but he was promptly elected by the voters of Texas to be their Governor for a term starting the same year. (In 1857, while still a Senator, Houston was defeated for the Governorship.) He was forcibly ousted from

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[47]Walker Lewis, ed., Speak for Yourself Daniel, A Life of Webster in His Own Words (Boston: Houghton-Mifflin, 1969), p. 416.

[48]Ibid., p. 437.

[49]Ibid., p. 421.

[50]Kennedy, op. cit., p. 74.

[51]Ibid., p. 80.

office prior to the expiration of his term upon his refusal to accede to secession.

Ross, whose vote saved Andrew Johnson, probably suffered more from his action than any of the other characters in Kennedy's book. But even he served again in public office. According to Kennedy, Mississippians supported Lamar despite his opposition to their wishes. They admired his sincerity and courage. This proposition tends to support Norris' claim that conscience and ambition are not necessarily antithetical. (p. 317.) In any event, after reelection, Lamar's Senate tenure was ended voluntarily by resignation because he had been condemned by President Cleveland to be Secretary of the Interior. Later he suffered an even worse fate, becoming Associate Justice of the Supreme Court.

Like Benton, Norris served 30 consecutive years in the Senate, surviving any number of courageous actions. He was finally defeated, not for any act of defiance, but because of the complacency from which many old Members of Congress suffer.[52]

After his 1946 denunciation of the War Crimes Trials, Taft was returned to the Senate (in 1950 to be sure). He died in the position of Senate Majority Leader. However, according to Kennedy, Taft---and Webster too---sacrificed any further chance of attaining the highest office. It should be noted, however, that in 1850 Webster was already 68 years old. He had

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[52]"In the heat of the campaign, I found myself engaged in one of the great congressional struggles...and I remained in the national capital until the Friday preceding the election." Norris, op. cit. (n.4), p. 363. Cf. "Formulas For Defeat: Age and Complacency," Congressional Quarterly Weekly Report, Vol. 30 (November 11, 1972), p. 3002.

enjoyed a long and distinguished career and, surely, by then had had enough time to have become President if he ever was going to do so.[52a] In 1946, Taft was 57 years old. He too had previously had had "shots" at the nomination and failed. Moreover there was no guarantee that, if they had kept quiet, either Webster or Taft would subsequently have obtained what they previously had failed to get. In short, both men had their chances and there was no assurance that their actions sacrificed anything more than mere speculative future possibilities.

To sum up the Kennedy actors, not a single one failed to acquire some public office after his alleged act of courage. Four out of the eight were not defeated at all as a consequence of their courage. Two of these four voluntarily resigned for other distinguished posts, one died in office, and one was defeated long after and for reasons irrelevant to courage. Of the four not returned to the Senate, one went on to a long career in public service, another was almost immediately elected Governor, a third served a term as Representative, and the fourth, Ross, had problems that, as we shall see, could be

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[52a]Kennedy is self-contradictory on the question of just how prominently the Presidency figured in Webster's calculations. On the one hand, Kennedy says "Webster was doomed to disappointment in his hopes that...latent support [for his speech] might again enable him to seek the Presidency." Op. cit., p. 78. On the other hand, in response to the charge that Webster's "real objective...was a bid for Southern support for the Presidency," Kennedy replies "this...could not have entered into Daniel Webster's motivations." Ibid., p. 79. To the extent that Webster was not so concerned about the Presidency in 1850, his sacrifice was not really a sacrifice at all. Perhaps, Kennedy, writing in 1955, was already preoccupied with the subject and projecting to others (e.g., Webster and Taft) concerns that were actually his own.

explained by mitigating factors.

Two of Kennedy's cases are of particular pertinence to the discussion here: Norris and Ross.

Norris was floor leader of the filibuster against the famous Armed Ship Bill of 1917, which is of interest for two reasons: A) its striking similarity to the Gulf of Tonkin Resolution, and B) its bearing on the question whether fear is pragmatic and courage is "unrealistic."

This writer has had many history course, but it was not until the research for this thesis that he found out that the filibuster against the Armed Ship Bill was not primarily against arming merchant ships. In point of fact the bill was blocked because it provided sweeping authority for the President, authority very similar to the Tonkin Resolution. The resolution (p. 194) provided Congressional approval of the "determination of the President...to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression." The Armed Ship Bill, drafted by President Wilson,[53] provided not only that he could arm the ships, but also that "he be, and is hereby, authorized and empowered to employ such other instrumentalities and methods as may, in his judgment and discretion, seem necessary and adequate to protect such vessels and the citizens of the United States in their lawful and peace-

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[53]Belle Case La Follette and Fola La Follette, Robert M. La Follette (New York: The Macmillan Company, 1953), Vol. I, p. 604. Belle was the Senator's wife and Fola his daughter.

ful pursuits on the high seas."[54]   Senator Robert M. LaFollette considered this to be a request for "unlimited authority.... Study of the...bill convinced him that it meant war and that if it did not confer the power to make war entirely in the President's discretion, there were not words in human language which could accomplish that result."[55]

It seems that in 1917 there was a larger group of Senators who could grasp the plain meaning of the English language than existed in 1964. Moreover, this larger (but still small) group, did something about the matter: they engaged in one of the most famous filibusters in history. This was considered by the political <u>cognoscenti</u> to be very risky. Many Senators feared the bill, but even more did they fear doing something about it.[56] As leaders of the filibuster, both Norris and LaFollette were mercilessly vilified. They were denounced as traitorous obstructors of the "popular will."[56a]

Norris refused to take this lying down and decided to do two things. First, he invited both Nebraska's Governor and Republican state committee chairman to arrange an election to determine if either Nebraskan voters or Nebraskan Republican

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[54]<u>Congressional Record</u>, 64th Congress, 2nd Session, Vol. 54, Part 5 (February 27, 1917), p. 4399. Cf. Kennedy, <u>op. cit</u>., p. 197.

[55]La Follette and La Follette, <u>op. cit</u>., pp. 602-603.

[56]<u>Ibid</u>., p. 615; Norris, <u>op. cit</u>., p. 188.

[56a]Kennedy, <u>op. cit</u>., pp. 197-203; La Follette and La Follette, <u>op. cit</u>., chs. 43-45, <u>passim</u>, esp. ch. 44.

voters wanted to recall him, in which case he pledged to resign. Second, not really believing that this would come to pass, Norris went home to talk directly to the people of his state.

These two steps once again illustrate the limits of "practical" and "sophisticated" politics. For Norris acted without the agreement of a single person who gave him advice. The "smart money" was against his "unrealism."

His like-minded colleagues in the Capitol advised him not to invite a recall election or return to Nebraska. Upon arriving in Lincoln for his first speech, Norris was treated by even his closest friends as a political leper. They saw him only by stealth and advised him to cancel his first speech on a pretext of ill health. They warned him of trouble that would result from his speech. No one would even agree to serve as chairman of the meeting and introduce the Senator to the assemblage. Instead, he had to walk out on stage alone and introduce himself. Nevertheless, his first speech defending his Armed Ship bill filibuster role was greeted with applause, he made additional speeches that demonstrated the existence of much support for his position, and no recall election was called.[57]

(Parenthetically, it is of interest to note that while, in theory, pragmatism and empiricism are handmaidens, in practice, they are often antithetical. One is a basis of knowledge; the other is a basis of action. Essentially, empiricism is the belief that knowledge derives from experience;

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[57]Norris, op. cit., pp. 192-197; Kennedy, op. cit., pp. 197-203.

pragmatism is the view that one should do only that which works (i.e., achieves one's goals). But how to know what works? In theory, pragmatism means that one should do that which experience has shown to work and eschew the opposite. The "practical" politician often says that his "experience" shows that certain courses of action will not work and therefore should not be tried. In practice, however, new circumstances frequently deviate sharply---although, at first, not self-evidently---from past experience, which is thus irrelevant. Hence, whether a new proposal will work will not be known unless it is tried. But, as it is practiced, political (as distinguished from philosophical) pragmatism is used to prevent the actual empirical test. The dogmatic application of the "impractical" label denies the actual empirical test in the name of pragmatism. Of course, the test may involve risk (e.g., electoral defeat) precisely because the outcome is uncertain. In political practice, then, the handmaiden of pragmatism is not empiricism but the "practical" politician's denial of empiricism.)

The other filibuster leader, La Follette, was also attacked for his position. In response, he made a point discussed in the last chapter: "a minority in Congress might at times represent a majority of the electorate."[58] According to his daughter, he "had fought the Armed Ship bill because he thought it meant war and....[h]e was convinced that a majority

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[58]La Follette and La Follette, op. cit., p. 637. See also p. 664.

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of the American people did not want war." This view was

buttressed by numerous letters supporting their position

received by the filibusterers.60 Regarding Wilson's tirade

against the "little group of willful men representing no

opinion but their own," historian H. C. Peterson concluded:

"these wilful men did represent opinion other than their own---

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59Ibid., p. 626. Candor requires acknowledgment that
Senator La Follette was not entirely "convinced" of his own
publicly stated position, as confirmed by his daughter. For
one thing, upon being warned "they'll crucify you," La Follette
said "I know it." Ibid., p. 625. Moreover, according to Norris:
"In Washington before the letters [inviting a recall election;
pp. 337-38] were mailed, there was a meeting in my office
attended by those who had joined in the filibuster....
[W]ord had leaked out [some things never change] that I had
written the letters, had rented a hall, and was going back to
Nebraska to defend myself....La Follette pleaded with me not
to take this step. He said the poeple were in a state of
excitement, and if the election were called by the governor I
should be defeated. All of these associates were against the
action I had decided upon...." Norris, op. cit., pp. 195-6.
     Paradoxically, to the extent that the filibusterers thought
they had the support of the electorate, their action was not
courageous because, if they were correct, they were not risking
losing the next election. To the extent that they thought they
did not have support, they were being courageous because, right
or wrong, they thought they were taking a risk.
     The evidence on actual public support and opposition, as
well as the evidence on the support and opposition they thought
they had, is quite contradictory. See also the next footnote.

60La Follette and La Follette, op. cit., p. 638. See
also: Arthur S. Link, Woodrow Wilson and the Progressive Era,
1910-1917 (New York: Harper & Row, 1954), p. 275. Having
examined the papers of figures such as Norris, La Follette, and
William Jennings Bryan, Link here concludes: "one cannot read
through the thousands of letters, telegrams, and petitions, from
people in all walks of life and all sections of the country
without being profoundly impressed by the depth of the popular
desire for peace and the positive hostility to a war resolution
in response to the German submarine challenge." However, Link
concedes some skepticism with respect to these papers. He ends
up saying: "In the final analysis, American policy was
determined by the President and public opinion, which had a
great, if unconscious, influence upon him...." Ibid., p. 280.

primarily those [sic] of people who voted for Wilson in 1916 on the slogan 'He kept us out of war.'"[61]

A lesson from this might have been drawn by Vietnam war opponents both inside and outside the Senate. A lesson could also have been learned from La Follette's defiant behavior throughout World War I. He endured much hostility and vituperation. For over a year, his loyalty was under a cloud of suspicion, as the Senate considered a resolution calling for his expulsion. Nevertheless, he endured, the charges were lifted unequivocally, he was eventually reelected, and at one point was an eagerly-courted Senate balance of power.[62]

About as obscure as Profiles in Courage is famous, is a fascinating little article by Ralph J. Roske on the Senators who saved Andrew Johnson.[63] At the time of his trial, it was not expected, nor did it happen, that the 12 non-Radical Republican Senators would vote against the President. But it was assumed that Radicals would do so. Thus the burden of pressure was on the seven Radicals who rescued Johnson by one vote.[64] Kennedy accepts the view that these men were martyrs

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[61]Harold C. Peterson, Propaganda for War: The Campaign Against American Neutrality, 1914-1917 (Norman, Okla.: University of Oklahoma Press, 1939), p. 316; quoted in La Follette and La Follette, op. cit., p. 638.

[62]Ibid., Vol. 2, chs. 46-57, passim; esp. chs. 50-51 and pp. 776-7, 900-903, 910-11, 915-191, 928.

[63]Ralphe J. Roske, "The Seven Martyrs?" American Historical Review, Vol. 64 (January, 1959), pp. 323-330. Part of the writer's analysis on pp. 329, 332-339 was inspired by Roske.

[64]There were 54 Senators at the time. 36 votes were needed to convict. Kennedy and Roske agree that there were 42 Radicals. Roske says there were 9 Democrats and 3 Johnson Republicans. Kennedy says there were 12 Democrats. Ibid., p. 324; Kennedy, op. cit. (n.5), p. 133.

who

should be remembered for their courage. Not a
single one...ever won re-election to the Senate.
Not a single one...escaped...threats, bribes and
coercive tactics...and...the terrible torture of
vicious criticism engendered by their vote to
acquit.[65]

Roske presents a wholly different perspective. First,
not all of the seven endured serious pressure.[66] Second, as
with other cases noted above, not only was there opposition,
there was also much support for the acquitters.[67] Third, and
most important, Roske explodes the "myth....[t]hat all the
'martyrs' suffered a permanent political setback...."[68] On the
contrary, they "were not, as a group, hounded out of politics.
Their individual fates differed widely.[69] Roske describes the
peculiar form of "torture" they endured after the trial while
still in the Senate:

All of the seven campaigned actively for Grant
in 1868. They retained their committee assignments
and standing within the party in the Senate. In 1869,
Ross, the most maligned [and Kennedy's main hero],
was able to block the confirmation by the Senate of
a Grant appointee to a Kansas postmastership....
Trumbull, the most active [in seeking acquittal],
was elected to the steering committee which arranged

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[65]Ibid., p. 144. Italics omitted.

[66]Roske, loc. cit., p. 325. Ross endured the most
pressure because of the intense pro-conviction sentiment of
his state, his insecure position as a Senate newcomer, and
most of all because he kept his intentions secret.

[67]Ibid., Roske does not say whether the support
balanced the opposition.

[68]Ibid., p. 323. Italics in original.

[69]Ibid., p. 325.

the business of the Forty-First Congress.[70]

Regarding non-reelection, Roske reminds us that elections entail uncertainty and "many crosscurrents."[71] Only 18 of the 35 Radical Republicans who voted against Johnson were reelected immediately upon the expiration of their terms.[72] Thus voting to convict did not guarantee that a Senator would come back; and the vote to acquit was not necessarily the cause of the non-return of the "martyrs." Other factors were involved.

One such factor is the general rule that dead Senators are not reelected. One of the "martyrs" died during a reelection struggle and his defeat was certainly not a sure thing. However, Kennedy accepts Senator Ross' medical opinion that Senator Fessenden's "political martyrdom...drove him to his grave."[73] Kennedy offers his own opinion that trial pressures were the cause of Senator Grimes' stroke from which he "never recovered."[74] But Roske says Grimes "seemed completely recovered." Grimes claimed within a year of the trial that "those who voted for [impeachment] are now on the defensive....

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[70]Ibid., p. 326. Roske does not say so, but presumably the 7 would not have campaigned for Grant without the latter's approval or that of his campaign managers. This would not have been forthcoming if they thought the acquitters were such lepers that they would do harm. It should be noted that the votes on conviction took place in the second half of May, 1868, just a few months before the campaign.

[71]Ibid., pp. 325, 324.

[72]Ibid., p. 324. A 19th was defeated but reappointed by the governor upon the death of a colleague. For the remaining 16, Roske does not provide the distribution of defeat, retirement, and death.

[73]Kennedy, op. cit., p. 146.

[74]Ibid., p. 150.

I am stronger in the Senate...than...ever...before." However, he resigned after a second stroke struck.[75]

Kennedy says that Fowler's reelection was "impossible," but fails to mention that the latter "lost because he remained a Republican, while control of [his] legislature rested with the Democrats...."[76] Fowler was an 1872 Liberal Republican presidential elector, and voluntarily left politics when the movement failed. Kennedy strongly implies that Henderson's acquittal vote finished his career in the Senate and says that his party compensated him years later only with "lesser offices." Roske points out that Henderson was his party's nominee for Senator in 1870 and 1873 and for Governor in 1872. Since the Democrats opposed conviction, it can hardly be said that his vote was responsible for defeats at their hands.[77] A major factor was the Republican party split by the Liberal Republicans.

Trumbull and Ross joined the Liberal Republicans and then the Democrats, where "they enjoyed all the prominence that the party could grant them."[78] Roske doubts that Ross could have been renominated at the close of his Senate term even if he had voted to convict. Ross was an unsuccessful Democratic gubernatorial candidate in 1880 and it is most unlikely that the impeachment vote was a factor. He was also a territorial Governor of New Mexico as well as a Secretary of the Immigration

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[75]Roske, loc. cit., p. 326.

[76]Ibid., p. 327; Kennedy, op. cit., p. 149.

[77]Ibid., p. 147; Roske, loc. cit., p. 328.

[78]Ibid., pp. 329-30.

Bureau.[79] Grant, a conviction proponent, offered Trumbull the Great Britain ministership and accepted 103 of the Senator's suggestions for federal appointments. Trumbull was also an unsuccessful Democratic gubernatorial nominee.[80]

Van Winkle was defeated by a Radical Republican. Subsequent control of the legislature by the Democrats and death three years after leaving office precluded a return to politics.[81]

Factors other than the acquittal vote accounted for the non-return of most of the seven: resignation caused by ill health, death, shift of state legislative control to an opposing party that had not supported conviction, and Republican party schism.

Courage and Politics: Concluding Thoughts

The most striking thing about the foregoing examples of courage is not how **much** was risked in theory but how **little** was really lost in practice as a direct result. To this, a Senator might respond: "It is nice to know that courageous action has not been the direct cause of the demise of any number of legislators. But how do I know specifically that in my case I would survive if I support a filibuster to end the war?" The answer: "you don't!"

It is important to be clear about what the above examples do and do not show. Action generally considered courageous can

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    [79]Ibid., pp. 327-328; Biographical Directory of the American Congress (n.40).

    [80]Roske, loc. cit., p. 329.

    [81]Ibid., p. 327.

have any of the following results: 1) Despite his fear of
adverse political reaction, a legislator may suffer no
serious consequences. 2) He may be attacked with varying
degrees of intensity but continue to survive---and indeed
prosper. 3) He may be temporarily forced out of office,
living to be vindicated and reelected another day. 4) His
worst fears may be justified by consignment to permanent
political purgatory. In each of the latter two cases, the
frequent existence of any number of factors in an election
should serve as a barrier to any easy assumption of an auto-
matic one-to-one causal relationship between a defeat and a
particular action in question. Research is necessary to
determine if this is so or if other factors are involved.
Research is also required to ascertain whether a retirement is
due to fear of defeat, ill health or loss of desire to continue
in office.

What about the timid course? At first glance this seems
safe. Indeed, the appearance of safety is the very definition
of timid behavior. However, the seemingly safe road may not
be so safe either. A legislator who chooses this path may:
1) suffer no serious retribution; 2) be attacked but continue
to survive; 3) suffer a temporary setback in his career; or
4) be permanently ousted from office by a candidate who advocates
the course eschewed because it was considered "too risky."
Regarding 4), we should recall Roske's point that almost half
the Radicals who chose the safe way did not return to the Senate.
Also, during the Vietnam War, a major element of dove strategy

was opposition to hawks, a number of whom were defeated.[82]

Thus, while the Senator fraught with filibuster fright might not know absolutely his chances of filibuster survival, he might not know either, his chances of surviving if he did not filibuster.

The preceding discussion does **NOT** tell us that courageous behavior is always safe and leads to political immortality. It **DOES** tell us that there is **no** way to determine precisely in advance which is really the safe way and what the result of a particular action will be. The problem faced by elected officials is reflected in Kennedy's complaint that "...we have criticized those who have followed the crowd---and at the same time criticized those who have defied it."[82a] And Dexter observes: "The man who fears...that he may lose some support here or there may make an effort never to offend anybody.... There is not...the slightest evidence that this attitude is any safer electorally than a bolder approach."[83] This is due to a variety of factors, including: the degree of constituency heterogeneity which assures both support and opposition for any

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[82]See above, pp. 134, 148, 139 - 140, 159ff, and chs. III and IV, _passim_. There readily comes to mind any number of legislative hawks whose wings were clipped: Representatives Philbin of Massachusetts, Multer (forced premature retirement) and Farbstein of New York. According to Robert Sherrill, "Members who have been in the House six years of less now [1973] make up nearly half that body...." "Running from the Presidency," _The New York Times Magazine_, December 9, 1973, p. 147. The Vietnam issue played no small role in this high turnover.

[82a]Kennedy, _op. cit._, p. 3.

[83]Dexter, _op. cit._ (n.51, ch. III), p. 12. Parentheses omitted.

position on a major divisive issue; whether and how much the passage of time converts hostile into favorable attitudes; and the extent to which other issues compete with and dilute the impact of any one issue.

We will return to these factors. Here, the main point we stress is **not** that courage always leads to political success; but that brave behavior does not always produce political failure. Similarly, cowardice, laziness and safety do not perforce produce either success or failure. In short, one contemplating "courageous" action should be aware that this need not automatically lead to disaster.

Specifically, for the Senator open to persuasion, a strong case could have been made that Vietnam filibuster participation would not necessarily have been fatal to his political career.

Courage Against Hawks and Fear of Doves: A Contradictory Expectancy?

By now, the reader must have discerned what appears to be a major contradiction. The point of the courage discussion is to provide a basis for having convinced dove Senators that they should have been "courageous" in resisting the "heat" or pressure that would emanate from hawk constituents in the event of an anti-war filibuster. However, it will be recalled that the writer's ultimate weapons for use against dove Senators who refused to cooperate would have been intense pressure from dove constituents.

In other words, apparently the writer expects Senate doves to have been valiant in resisting hawk heat but to have wilted in the torrid atmosphere of dove heat. Would this have been

reasonable to expect? To the extent that the courage argument was persuasive in inducing Senators to resist hawk constituent pressure, could not the same argument have been used to get Senators to resist dove pressure? And, if Senators would have been afraid of dove pressure, could we really have expected them to be any less afraid of hawk pressure?

The contradiction here is more apparent than real. This becomes clear if we bear in mind three points: 1) We are not talking about 100 interchangeable robots. To paraphrase Norvill Jones, Staff Consultant to the Senate Foreign Relations Committee, it must be remembered that we are dealing with United States Senators. These are among the last people in the world who are likely to think alike. 2) The plan set forth in this thesis requires the cooperation of only 34 Senators. 3) The 34 could have been assembled by different methods (persuasion and pressure) from aming different personality types (courageous and cowardly).[84] Indeed, this would have been mandatory.

Senators may be placed on a continuum. At one end are those with the most timorous tendencies and at the other end are Senators with the boldest blood. Given this continuum, we can now turn around the contradiction contention: If some

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[84]On Jones, see n.18, ch. IV. On legislative individuality, see also Dexter, ibid., pp. 6-7, 171-174; Ralph K. Huitt, "The Outsider in the Senate: An Alternative Role," The American Political Science Review, Vol. 55 (September, 1961), pp. 566-75; and Lewis A. Froman, Jr., "The Importance of Individuality in Voting in Congress, Journal of Politics, Vol. 25 (May, 1963), pp. 324-332. According to Dexter, op. cit., p. 6: "The most important difference between Congressmen in many cases is the kind of persons they are...."

Senators could have been persuaded to courageously resist dove pressures for a filibuster, could not others have been prevailed upon to resist hawk pressures against a filibuster? Similarly, to the degree that Senators were afraid of hawk hear, could they reasonably have been expected to be any less afraid of dove pressure?

Although at first glance it might seem so, we are not playing with words here. For example, let us consider the contention that the courage argument could have been used by hawks to resist dove pressures for a filibuster. It is entirely unlikely that doves seeking a war-ending filibuster would even have talked to hawk Senators. The latter thus would not have been aware of the courage argument and could not have used it. But, for argument's sake, let us accept the possibility that, faced with intense dove pressure, some Senators might have resisted it. This makes no difference if even half as many Senators would have courageously resisted hawk pressure.

Remember, failure with 66 Senators constitutes success in a filibuster. (p. 141.) The loss of Senators is not disturbing if 34 could have been won over to the filibuster side. Most of the 34 would have been obtained by fear through pressure. Pro-filibuster courage via persuasion could work with no more than a few.

But this few would have played a vital role and, to the degree that dove Senators had any boldness in them, they should have been given courage encouragement with the most potent possible persuasive arguments. The significance of a tiny

number of courageous doves cannot be overstressed. Learned
Hand once observed: "Ideas, fashions, dogmas, literary,
political, scientific, and religious, have a very similar
course; they get a currency, spread like wildfire, have their
day and thereafter nothing can revive them."[85] Here, we need
not be concerned with the death of the filibuster idea. The
problem was not life and death but birth. Once born, a war-
ending filibuster would have been a relatively short term
undertaking. Once a few Senators gave birth to the idea,
it would have "spread like wildfire."

This would be so because, once a filibuster was in
progress (particularly at an appropriations expiration time):
1) the media would instantly have publicized the idea, giving
it widespread "currency"; and 2) with the public---especially
the peace public---informed, other Senators, no matter how
fearful, would no longer have been able to avoid taking a
stand. Pressures on them would have been much more easily
organized.

That is why a convincing courage case was so important,
even if it swayed only a few Senators. Of course, this still
leaves the problem of the many. Realistically, most Senators
are not at the Tydings end of the continuum. They do not share
the view that they would rather sacrifice their jobs than their
consciences. (p. 327.) As politicians, most Senators are at
the fear end of the spectrum. Walter Lippmann once complained
that "successful democratic politicians are insecure and

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[85]Hand, op. cit. (n.102a, ch. I), p. 58.

intimidated men" for whom "The decisive consideration is not whether the proposition is good but whether it is popular...."[86] Turner Catledge is not any more flattering. In his chapter on Congress, he depicts "public figures" as "men who are more likely to be motivated by ambition, by ego, by power hunger than by a serious desire to serve humanity, men who are generally more interested in preserving their own skins than in saving the world."[87]

Whether or not Lippmann and Catledge go too far is debatable.[88] Nevertheless, as a point of elementary logic, for our purposes we can see that the very meaning of courage implies the existence of cowardice. Since one cannot exist without the other, courage and fear are two sides of the same coin. A more

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[86]Walter Lippmann, Essays in the Public Philosophy (Boston: Little, Brown and Company, 1955), p. 27. Lippmann acknowledged exceptions but called them "so rare that they are regarded as miracles and freaks of nature."

[87]Turner Catledge, My Life and The Times (New York: Harper & Row, 1971), p. 65. Cf.: "Once, at a Fourth-of-July celebration, a reporter wondered and later asked why Mr. Murphy [Boss of Tammany Hall] ...did not join in the singing of the National Anthem. 'Perhaps he didn't want to commit himself,' the boss' aide explained." Arthur Mann, "Introduction," in William L. Riordan, Plunkitt of Tammany Hall (New York: Dutton, 1963), p. ix. See also above, p. 130.

[88]As a politician himself, Kennedy, not surprisingly, dissented from the harsh view of politicians. He contended that there are "innumerable acts of political courage---large and small---performed almost daily in the Senate Chamber." op. cit. (n.5), p. 3. This is probably an extreme reaction to an extreme indictment. This writer's experience, described in chapter IV, leads him to conclude that the Lippmann-Catledge view is closer to the truth than Kennedy's contention that courage is common. This is an empirical statement and not a normative condemnation. The best view of the matter is that of Joseph Schlesinger, referred to in ch. III, p. 131. Schlesinger, far from being upset by the ambition of politicians, considers it a positive force.

accurate metaphor, however, would be that they are two ends of a truncated cone. The courage end has a tiny diameter; the fearful many are concentrated at a very wide base.

By its very nature, political courage can never character-ize more than a few. It takes no courage to march in step with the crowd. What makes a political act courageous is precisely that only one or a few take such action, while the great majority, out of fear of real or imagined consequences, do the opposite.[89]

Earlier (p. 322), we asked whether courage is courageous. We answered, in part, that political action widely considered to be courageous does not necessarily entail any more <u>danger</u> than inaction. However, this does not mean that no more <u>courage</u> is required by action than by inaction. Courage is a prerequisite if many <u>believe</u> that action involves peril. What gives certain behavior the "courageous" label is not so much the reality as the <u>appearance</u> of hazard. In other words, although a deed may not be dangerous, it may still be widely described as courageous if it is done in the face of real fears. The fears may have no basis in reality---what is feared may not exist---but the existence of the fear itself may be real enough.[90]

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[89]Kennedy, <u>op. cit.</u>, pp. 3-4, refers to "the difficulty facing a politician conscientiously desiring, in Webster's words, 'to push [his] skiff from the shore along' into a hostile and turbulent sea."

[90]An underlying premise of this discussion is that imagined fears lead to the avoidance of action. But an interesting (although highly speculative) question is this: Does imagined fear produce inertia, or does a widespread human tendency toward inertia produce imagined fear? In other words,

Even some or all of the courageous actors themselves may act only by vanquishing very real anxiety. Hence, by stressing the non-necessity of danger, the courage argument

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does the desire to avoid action lead inertia-prone people, in order to rationalize their inertia, to search, possibly sub-consciously, for something to fear? Evidence that this may be so is derived from ample examples of inertia in the face of **real** dangers, the inertia being produced by an invalid minimi-zation of the reality. There is no better example than Adolph Hitler. He did all he could, including writing a detailed book, to make clear his intentions. But he just could not get himself to be taken seriously until it was too late. "Statesmen," such as Chamberlain, did everything to minimize the existence of this **very** real as opposed to phantom danger.

It would seem, then, that on some occasions action is eschewed as a result of fear of phantom dangers and, on other occasions, action is avoided by minimizing or totally ignoring actual perils. Perhaps the prevailing principle of the coward is that doing nothing is better than doing something. Doing nothing will result from a) paralysis as a result of phantom fears, and/or b) rejection of real risks.

It might be objected that the writer has been inaccurate in failing to note a real fear to which the western "statesmen" did respond. Had they taken military action to wipe out Hitler, this would have produced serious domestic political repercus-sions in the western democracies. We can just imagine the cries of imperialism if the United States and/or Great Britain and/or France had sent an army into Germany in 1936. Lippmann, op. cit. (n.86), p. 26 bitterly observes: "what Churchill did in the Thirties before Munich was exceptional: the general rule is that a democratic politician had better not be right too soon. Very often the penalty is political death. It is much safer to keep in step with the parade of opinion than to try to keep up with the swifter movement of events." (See also n.102a, ch. I.)

This is true enough. But, aside from the fact that Churchill managed to survive politically despite his being the "messenger who brought the bad news," a larger question is why bad news bearers should expect political death. The clear answer is again that large numbers of people do not want to take the umpleasant action required by the bad news of terrible terror awaiting them. They would rather not know.

If the reader finds the Hitler example ambiguous, he may just think of the proverbial ostrich who buries his head in the sand in the hope his troubles will go away (or do not exist at all). There are, in fact, numerous examples of people who are guilty of negligence in major tragedies that were preventable because they were predicted. The guilty parties do not want tragedies and certainly would have acted to prevent them if they believed they would occur. The trouble is that trouble isn't taken seriously until it happens. See, for example, John Bartlow Martin, "The Blast in Centralia No. 5: A Mine Disaster No One

hereinabove presented can serve to bolster the perhaps shaky
resolve of the few willing to act boldly. Yet, this can be
done for the few without eliminating for the many what gives
an act its seemingly courageous character: a strong feeling
of insecurity.

"If you can't beat 'em, join 'em" runs the old saw.
It follows that, if the strong insecurity could not be brought
under control by the "insecure and intimidated" many who act
primarily out of concern for self-preservation, dove consti-
tuents should have been sure to add their share to the fore-
bodings of dove Senators. This should have been done via
intense pressure, especially electoral pressure. Here we return
to the question whether we could have expected Senators to
succumb to dove pressure and not to hawk pressure. (p. 350.)
This is more of the utterly upside down logic characteristic
of Alice's Peace Movement Wonderland. (p. 142.) For it com-
pletely reverses the actual empirical problem that faced the
peace constituency throughout the Vietnam War. Never having
the slightest worry about offending dove constituents,
allegedly dove Senators all too readily gave in to existing and
even potential hawk heat. (ch. IV; pp. 190, 227.) If this
was the case, why should not at least some of them have been
melted by dove heat, if added? Adding pressures of their own
would have been the only sensible thing for dove constituents
to do if there was already a fear of real and imagined hawk

Stopped," Harper's Magazine, Vol. 196 (March 1948), pp. 193-
220; reprinted in Dwight Waldo, ed., Ideas and Issues in Public
Administration (New York: McGraw-Hill Book Company, Inc.,
1953), pp. 2-22, esp. 21-1.

coercion. If fear was going to play a role---indeed a major role---then there should have been a complete set of fears. If dove Senators were worrying about the reaction of hawk constituents, they should also have been compelled to fret about the dove constituency reaction.

There is certainly no contradiction in saying that one more factor should have been added to the considerations of dove Senators. We are saying that, at the very _minimum_, the of one side should have been balanced by the force of the other. When conflicting pressures nullify each other, a legislator has increased freedom to act on his convictions, if he has any. (p. 348.) Even a timid legislator must make up his own mind when there is a balance of power among contending elements of the constituency to which he wishes to be an obedient servant.

Now, if we recall that only a few activist Senators were necessary to produce a filibuster on which the others would have to take a stand, and if we recall that 39 Senators voted for the McGovern-Hatfield Amendment and more professed opposition to the war in varying degrees;[91] it follows that at least some

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[91]To start, those who voted for the McGovern-Hatfield Amendment were: 1. Birch Bayh (D. Indiana), 2. Edward W. Brooke R. Massachusetts), 3. Quentin N. Burdick (D. North Dakota), 4. Clifford P. Case (R. New Jersey), 5. Frank Church (D. Idaho), 6. Alan Cranston (D. California), 7. Thomas F. Eagleton (D. Missouri), 8. J. W. Fulbright (D. Arkansas), 9. Charles E. Goodell (R. New York), 10. Mike Gravel (D. Alaska), 11. Fred R. Harris (D. Oklahoma), 12. Philip A. Hart (D. Michigan), 13. Vance Hartke (D. Indiana), 14. Mark O. Hatfield (R. Oregon), 15. Harold E. Hughes (D. Iowa), 16. Daniel K. Inouye (D. Hawaii), 17. Jacob K. Javits (R. New York), 18. Edward M. Kennedy (D. Massachusetts), 19. Warren G. Magnuson (D. Washington), 20. Mike Mansfield (D. Montana), 21. Charles McC. Mathias, Jr. (R. Maryland), 22. Eugene J. McCarthy (D. Minnesota), 23. George S. McGovern (D. South

of the professed doves, if freed to vote their convictions by a balance of power stalemate between hawk and dove constituents, would have voted against cloture.

A major theme of this thesis is the maximization of power. (p. 141.) Hence, as stated, the achievement of a balance or neutralization of hawk pressure would have been the very mimimum objective of dove constituents. Of course, they should have sought the most they could obtain. Had they done so, they would have achieved in a number of cases---especially those of dove Senators with shaky seats or stomachs---a preponderance of pressure so great and so credible as to be controlling (i.e., of dove Senators).

So, what this disucssion boils down to is this: There is

Dakota), 24. Thomas J. McIntyre (D. New Hampshire), 25. Lee Metcalf (D. Montana), 26. Walter F. Mondale (D. Minnesota), 27. Joseph M. Montoya (D. New Mexico), 28. Edmund S. Muskie (D. Maine), 29. Gaylord Nelson (D. Wisconsin), 30. John O. Pastore (D. Rhode Island), 31. Claiborne Pell (D. Rhode Island), 32. William Proxmire (D. Wisconsin), 33. Abraham A. Ribicoff (D. Connecticut), 34. Richard S. Schweiker (R. Pennsylvania) 35. Stuart Symington (D. Missouri), 36. Joseph D. Tydings (D. Maryland), 37. Harrison A. Williams, Jr., (D. New Jersey), 38. Ralph W. Yarborough (D. Texas), 39. Stephen M. Young (D. Ohio).
    In addition, a fortieth Senator was absent but paired to vote "yea." This was Frank E. Moss (D. Utah). The source for this vote, given previously at n.94, ch. IV, is *Congressional Record* (Daily Edition; September 1, 1970), pp. S14858-9.

In addition to these Senators, others who were either absent or voted against the Amendment for various reasons, can be considered doves. On the basis of general reading and other sources to be given later the writer would include the following in this category: 41. George D. Aiken (R. Vermont), 42. John Sherman Cooper (R. Kentucky), 43. Allen J. Ellender (D. Louisiana), 44. Albert Gore (D. Tennessee), 45. Charles H. Percy (R. Illinois), 46. William B. Saxbe (R. Ohio).

In short, then, there were at least 46 Senators who opposed war policies in various ways. To this point we shall return.

certainly no contradiction in making different appeals to
different people, persuading a few and pressuring the rest.
It would have made no difference if 2/3's of the Senators
minus one courageously resisted dove demands and/or surrendered
to hawk coercion. The important point was to obtain the
cooperation of a combination of 34 Senators in the converse
category: courageous in resisting hawks and/or responsive to
dove pressure.

But how effective is pressure? In particular, can a
specific part of a constituency compel a specific action on
the part of a specific legislator or group of legislators?
Can this be done via the vehicle of third candidates threatening
electoral defeat of incumbents? Is such defeat desirable?
Are there other and less drastic vehicles?

For aid in answering these questions we turn to the
political science literature.

Propositions on Electoral and Group Influence: Simon's Proverbs?

On the one hand....On the other hand....Yet....But....
However....Nevertheless....While....Although...........

Without these and similar terms, it often seems to this
writer that the political science profession would die from
a bad case of clear and unequivocal expression. The _sine qua
non_ for many if not most political scientists is a license to
make unlimited contradictory statements.[91a]

[91a]The writer makes no claim to total guiltlessness of this
charge. The discussion of the contradiction contention (p.
348ff) is one example of the tightrope between contradictory
statements that political scientists must walk.

One is reminded of Herbert Simon's famous attack on the public administration literature:

> It is a fatal defect of the current principles of administration that, like proverbs, they occur in pairs. For almost every principle one can find an equally plausible and acceptable contradictory principle. Although the two principles of the pair will lead to exactly opposite...recommendations, there is nothing in the theory to indicate which is the proper one to apply....[92]

Had he tried, Simon could have applied his critique to other areas of political science. It is certainly applicable to the literature on the linkage between the government and the governed.

Regarding "The substantial body of literature concerning voting and elections," Richard Rose and Harve Mossawir wrote in 1967: "Even studies within the United States, where rigorous work has most often been done, have left important ambiguities."[93] Illustrations of ambiguities appear in the

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[92]Simon, op. cit. (n.111, ch. I), p. 20. Simon does not mention what proverbs from general life he has in mind, but several occur with no trouble at all: "He who hesitates is lost," but, "Look before you leap." "Haste makes waste" but "a stitch in time saves nine." "Too many cooks spoil the broth," but "two heads are better than one." "A bird in the hand is worth two in the bush," but "don't put all your eggs in one basket."

[93]Richard Rose and Harve Mossawir, "Voting and Elections: A Functional Analysis," Political Studies, Vol. 15 (June, 1967), p. 180. Rose and Mossawir summarize some "ambiguities": "while the authors of The American Voter describe elections as 'a device of control' in the preamble and conclusion of their work, the intervening data and analysis strongly suggest much more diffuse and perhaps tenuous political functions. Similarly, V. O. Key has asserted in his final book, 'Voters are not fools,' but in his penultimate study, Public Opinion and American Democracy, he has presented massive evidence and trenchant analysis arguing that voters who think their ballots are influencing or choosing policy are misguided, if not foolish. Robert Dahl has been distinctive in having a model of pluralistic politics which does not rest upon active exchange of influence between

quotations at the outset of this chapter.

Hicks[94] indicates that the third party vote is "probably the most powerful vote...ever...cast." Huntington suggests that it is best to work within the two-party system. Milbrath says that the political system was properly constructed to register pressures but that "first order" group effects on policy are slight, especially on foreign policy.

For us, the major problem focuses on the efficacy of elections. A denial thereof was part of the overall indictment by certain peace movement elements that Vietnam illustrated the absence of United States democracy. (See pp. 76-83.) Zinn, for example, felt "the ballot box creates no access to foreign policy."[95] In the denial of electoral efficacy at least,

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voters and governors. In Who Governs? he emphasizes, 'The first fact, and it overshadows almost everything else, is that most citizens use their political resources scarcely at all.' [Dahl's italics.] Yet the scope of Dahl's Political Oppositions is defined by the existence of opposition parties at elections, and most contributors emphasize electoral competition as of major significance for the political system." (Note: to avoid confusion, British punctuation has been Americanized in this quotation.)

[94]Hicks, of course, is a historian rather than a political scientist, but his work and the particular proposition cited here have been referred to often in the political science literature.

[95]There was no end to disparagement of elections. See R. Clark's comment, p. 258. According to Gelber, "elections have virtually nothing to do with ending the war." loc. cit. (n.2, ch. IV). Peck said: "Partisan electoral activity is the most difficult of all the tactics of dissent to utilize in behalf of the movement....The problem is that partisan political activity often devolves into crass opportunistic concerns for 'winning' elections. As a result, the chance for significant political education is lost...." loc. cit. (n.153, ch. IV), p. 45. Ron Young of New Mobe declared: "The danger is that, by putting your energies into the elections, you are reinforcing one great weaknes [sic] of the American political system, which is the belief that you can let someone else do your work for you. You settle for working to elect a congressman who might do some-

a radical on the left was in perfect harmony with a conserva-
tive from Wall Street, L. O. Hooper.[96] In contrast, Abe
Fortas saw the vote as the citizen's "most effective weapon."

In between these two extreme positions are mainstream
political scientists, who cannot seem to make up their minds.
For example, Key had great faith in the voters as non-fools
who could not be humbugged but were, nevertheless, susceptible
to corruption by their leaders. Also, Key strongly felt that
"elections matter" although we know "precious little" about
why winners achieve their pluralities. Pomper, in his recent
critique of The American Voter, quotes the statement that
elections give "great freedom" to policy-makers, offering
"little guidance on specific policies."[97] However, Pomper
neglects to note another statement by the Michigan researchers:
that "elections generate important influences" and that "many
...actions" of office-holders are "guided...by calculus of

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thing to end the war." Quoted in Kalb, loc. cit. (n.70, ch. III).
Irving Horowitz wrote: "responsibility for representing varied
interests...make [s] it impossible to isolate the 'peace issue'
....Even the politician who reaches Congress on a peace plank
can scarcely afford a singular dedication to one 'issue.'...
Antiwar politics is thus a specialty which marginal groups
can offer precisely because they are not constrained by the
electoral processes." op. cit. (n.23, ch. II), p. 57.

[96]Perhaps this explains why Wall Street has been character-
ized as a "sleeping giant" which sometimes engages in rather
inept lobbying. See Raymond A. Bauer, Ithiel de Sola Pool,
and Lewis Anthony Dexter, American Business and Public Policy,
The Politics of Foreign Trade (New York: Atherton, 1963),
ch. 17; Andrew J. Glass, "Economic Report/Wall Street, beleagured
and divided, tries to shap congressional pressure for reform,"
National Journal, Vol. 5 (May 19, 1973), pp. 709-718.

[97]Gerald M. Pomper, "From Confusion to Clarity: Issues
and American Voters, 1956-1968," The American Political Science
Review, Vol. 66 (June, 1972), p. 415.

electoral effect." In his own earlier work, Pomper finds that "Congressmen are apt to vote as they believe their constituents desire," although "Only rarely is an election...a 'mandate' for designated future actions." It is no wonder that Pomper at one point finds elections to be "a mystery." Finally, on the influence of constituents, Dexter unequivocally asserts that "members of Congress are both free _and_ constrained."[98]

Contained in the foregoing propositions are two further contradictory tendencies. Briefly (and in more detail below): First, some writers say that elections are merely general, broad, and indirect influences that cannot mandate specific governmental actions. Others---or sometimes the same ones elsewhere in their writing---make a case that, if "elections matter" at all, they matter specifically on specific matters. Second, a necessary condition for electoral influence is that the elected perceive accurately the wishes of their constituents. However, it has been argued that, as human beings, legislators perceive what they want or are predisposed to perceive. Other writers give legislators more credit for being able to see what they do not like and what may be unsettling.

We have not exhausted the contradictions on linkage. But these are sufficient to return us to a question Simon raises about his proverbs: "Can anything useful be salvaged ...?" His answer: "As a matter of fact, almost everything can be salvaged."[99] Regarding the linkage "proverbs," we shall now

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[98]Dexter, _op. cit._ (n.5, ch. IV), p. 11. Dexter's italics.

[99]Simon, _op. cit._ (n.111, ch. I), p. 35.

argue that, if not "almost everything," much can be salvaged, at least enough to support the main arguments of this dissertation.

Well, Do Elections Matter to Specific Groups on Specific Issues?

Our salvage operation will involve a) trying to resolve some of the foregoing conflicts (i.e., showing that they only seem to be contradictory), and b) seeking to demonstrate the clear error of a few of the propositions. Seeming contradictions occur when we assert that two contrary statements are true all the time. Obviously, it is entirely possible for each to be true at different times. For example, as we shall argue below, it is consistent to say that sometimes legislators perceive what they wish to perceive and other times, under certain pressing circumstances, they see accurately what they would rather not see. Similarly, it is not necessarily a contradiction to say, as does Dexter, that lawmakers are "free and constrained." Sometimes they are free and sometimes they are not.

However, when Dexter adds, "but they have considerable freedom to choose where they will be free and by what they will be constrained,"[99a] this, we shall contend, is clearly in error. So too is Key's statement that election returns tell us "precious little" about why winners achieve their pluralities. This oft-repeated[100] point is probably the most

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[99a]Dexter, loc. cit. (n.98).

[100]Robert A. Dahl says: "...in no large nation state can elections tell us much about the preferences of majorities and minorities beyond the bare fact that among those who went

incorrect assertion of Key's long and distinguished career. If there is anything that political scientists, including Key, have studied to depth, it is what the election returns mean. Few, if any, subjects have been investigated more than voting behavior.[101]

Key's writing, especially his last two works, is permeated by a modest desire to avoid any pretense of saying more than justified by available evidence. Modesty does indeed have

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to the polls a majority, plurality, or minority indicated their first choices for some particular candidate or group of candidates. What the first choices of this electoral majority are, beyond that for the particular candidates, it is almost impossible to say with much confidence." Italics added. Op. cit. (n.55, ch. I), pp. 129-130.
    It is one short step from the Key-Dahl view that we do not know much more about election returns than who won, to the Dexter's point that we do not know what difference elections make at all: "It is...hard to find clear statements that even begin to tell us how and under what circumstances elections to Congress may actually affect public policy. Of course, there are hundreds of articles and books dealing with Congress and the legislative process, and there are probably thousands of accounts of political campaigns and of why people vote as they do. But on the key issue---Under what circumstances does it make a difference which candidates are chosen and how people vote?---on that key issue, little light is available." Op. cit., p. 16. Dexter's italics. (Note that Dexter is prepared to say there are accounts of "why people vote as they do." He just is not prepared to acknowledge any knowledge of what difference this makes. See also the next footnote.)

[101]Key died in late 1963. Murray Edelman, writing at about the same time, observed: "voting is...the political behavior that has been most widely and most rigorously studied." Op. cit. (n.4, ch. IV), p. 2. For a start on the vast literature on the subject, consult: Pomper, loc. cit. (n.97), pp. 415-28, esp. n.1, ch. VI; Richard W. Boyd, "Popular Control of Public Policy: A Normal Vote Analysis of the 1968 Election," ibid., pp. 429-449; Richard A. Brody and Benjamin I. Page, "Comment: The Assessment of Policy Voting," ibid., pp. 450-458; John H. Kessel, "Comment: The Issues in Issue Voting," ibid., pp. 459-465, esp. n.1, ch. VII; Pomper, "Rejoinder to 'Comments'...," ibid., pp. 466-7; Boyd, "Rejoinder to 'Comments'...," ibid., pp. 468-470. See also: Rose and Mossawir, loc. cit. (n.93), pp. 173-201, passim.

its place, but we would do well to heed an admonition of
Charles O. Jones. He argues that political scientists

> ...have a base of knowledge that can be
> applied to emerging policy issues. It may not
> be as refined as we would like, but at least
> something is there. Unless we first come to
> know what we know, however, we will continue
> to despair of our ignorance and confirm our
> irrelevance as each new issue emerges.[102]

With this warning in mind, let us see what "we know" about
the linkage between elections and legislative behavior, and
let us see how this applied to the writer's Vietnam proposal.

Briefly, the writer contends here that the literature
demonstrates this summary proposition: on certain specific
issues of high intensity and salience for a number of voters
large enough to alter the outcome of a given election, those
voters via that election can control the behavior of their
elected representatives.

To sustain this proposition, we must first deal with the
very frequently expressed counter-proposition, noted on the
previous page, that elections do not and cannot control or
mandate specific policies.

This is an application to elections of an overall view of
democracy, once defined by Robert M. MacIver as "primarily a
way of determining who shall govern, and _broadly_ to what
ends."[103] In various forms, this 1947 definition has appeared

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[102]Charles O. Jones, "From Gold to Garbage: A
Bibliographic Essay on Politics and the Environment," _The
American Political Science Review_, Vol. 66 (June 1972), p.
595. See also chapter I, pp. 31-41, 67-72.

[103]MacIver, _op. cit_. (n.56, ch. II), p. 198. Italics
added.

numerous times in the linkage literature. The following

are but a few examples:

>Voters set the **broad** trends of public policy
>which all the other influences on policy must
>follow.   [Milbraith] [104]

>...the individual voter may not have a great
>deal of detailed information, but he usually has
>picked up the crucial _general_ information....[H]e
>cannot live in an American community without
>knowing **broadly** where the parties stand....[I]f he
>knows the big thing [sic] about the parties, he
>does not need to know all the little things. [Berelson] [105]

>Elections probably serve better as instruments
>for popular decision on **broad** and **great** issues; the
>details and the trivia may be beyond popular control,
>a fact that at times may lead to a defeat of the
>majority preferences in the minutiae of administration
>....[O]n many specific questions mass opinion may be
>uninformed, though most people may have broad
>sentiments or preferences that may be...logically, if
>not always practically, controlling of subsidiary
>issues.   [Key] [106]

>The decisions of the electorate play a role
>primarily in defining **broad goals** of governmental
>action or **very generalized means** of achieving such
>goals....The public's explicit task is to decide not
>what government shall do but rather _who shall decide_
>what government shall do....[T]he election returns
>offer **little guidance on specific policies....**
>   [Campbell, _et al_] [107]

>...even with disciplined parties, clear programs,
>and sharp issues, one must be chary indeed about in-
>terpreting the results of national elections in terms
>of particular issues....When each of the major parties

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[104]Milbraith, _op. cit_. (n.24, ch. III), p. 347. In this
and the following indented examples the bold type is added
and the italics are in the original.

[105]Bernard R. Berelson, Paul F. Lazarsfeld, William N.
McPhee, _Voting, A Study of Opinion Formation in a Presidential
Campaign_ (Chicago: University of Chicago Press, 1954), p. 321.

[106]Key, _op. cit_. (n.46, ch. I), pp. 459-60.

[107]Campbell, _et al_., _op. cit_. (n.11), pp. 545, 541, 544.

must give some indication of its position on
[numerous and complex] issues...it is unlikely that
an election can give a clear indication of what a
majority of the [equally complex] public wants.
[Pennock] 108

...on matters of specific policy the majority
rarely rules. [Dahl] 109

...Congressmen, in **general**, are also influenced
by and respond to the environment....[S]ome Congress-
men and Senators have been beaten or have failed to
seek reelection because it became _clear_ that their
position _in general_ was contrary to what their district
wanted....[They] are rarely, if ever, beaten on just
one issue. [Dexter] 110

Only rarely is an election...a "mandate" for
designated future actions. [Pomper] 111

A number of writers...have argued that in
effect voters do choose between policy alternatives
....Few academic analysts...would go so far as to
[assert] that voters can mandate their representatives
at an election, although the word 'mandate' [sic] is
still prevalent in the discourse of politicians.
[Rose/Mossawir] 112

Within no logically defensible democratic
theory can a small minority determining the election
by their policy preferences be said to provide majority
support [or mandate] [for the policy] of the winning
candidate . [Epstein] 113

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108 J. Roland Pennock, "Responsiveness, Responsibility,
and Majority Rule," The American Political Science Review,
Vol. 46 (September, 1952), pp. 800, 803.

109 Dahl, _op. cit_. (n.100), p. 124.

110 Dexter, _op. cit_. (n.98), p. 181, p. 3.

111 Quoted from p. 318 above. Pomper has not changed
his view even though his June, 1972 article, "From Confusion
...," _loc. cit_. (n.97) stressed the importance of issue voting.
He says at p. 426: "Greater voter awareness of party differences
does not in itself create a mandating election system." See our
discussion of the mandate question below.

112 Rose and Mossawir, _loc. cit_. (n.93), p. 174.

113 Leon D. Epstein, "Electoral Decision and Policy
Mandate: An Empirical Example," Public Opinion Quarterly,
Vol. 28 (Winter, 1964), pp. 572, 564.

> ...it is clearly fallacious to believe that
> success in a general election indicates that the
> [majority of] voters have endorsed the policies
> advocated by the winning party....[T]he doctrine of
> the mandate, in so far as it purports to be based on
> the fact, must therefore be condemned as invalid.
> [Birch]114

How can we reconcile the foregoing samples with the idea that elections are vehicles for voters to compel---mandate if you will---specific actions by their representatives? We will attempt to achieve a reconciliation through an examination of what the above statements **actually** say. This will include the citation of contrary statements and a definition of key terms.

To take the definition problem first, distinguishing between general-broad-great and specific-narrow is not so simple or clear as differentiating between the blinding, blazing brilliance of the noonday sun and the dismal, dreadful darkness of the new moon night. And although day changes into night only gradually, there are at least precise times of sunrise and sunset. But we do not have even such demarcations to help us determine whether a public policy is general or specific. At best, the application of these terms is arbitrary. This, no doubt, accounts for the same issues being labeled as general and apecific by different analysts.

For example, to establish that, in 1964 and in 1968, "While the voters did not respond ideologically in the full sense of the term, they did respond to the specific issues

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114A. H. Birch, Representative and Responsible Government, An Essay on the British Constitution (London: George Allen and Unwin Ltd., 1964), p. 121.

presented to them," Pomper examined "voter opinions and perceptions on...six _precise_ policy questions...." The latter centered on whether the sample favored a larger or smaller federal governmental role on "aid to education... provision of medical care...guarantee of full employment... enforcement of fair employment and fair housing [and] school integration, and foreign aid."[115] By contrast, Dexter, already quoted as saying Congressmen are subject to general influence, refers to

> almost any _general_ issue with which the Congress may be concerned---MIRV or reciprocal trade or environmental defense or medicare or aid for higher education or the Commonwealth Act in Puerto Rico or foreign aid or the laws about narcotics or celebration of the two hundredth anniversary of the Battle of Yorktown or labor relations programs or whatever....[116]

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[115]Pomper,""From Confusion...," _loc. cit._, pp. 425, 416-7. Italics added.

[116]Dexter, _op. cit._, p. 21. Dexter's italics. It is not entirely clear to this writer just how Dexter means to use the term "general." In the quotation just given in the text, he writes of "any general issue." But he goes on to indicate that there can also be a generality of interest in an issue among the voters and among legislators, as well as a general methodology: "some issues...are matters in which thousands of people have an interest, whereas other issues concern only a very few....Some matters will...interest only a few members of Congress...,whereas some matters will concern a good many. Some are simple...because one committee will handle all of the relevant legislation, whereas others...are complicated, because they involve many committees. Granted that all these differences exist among policy areas and pieces of legislation, there is a general approach suitable for any citizen who wants to understand how to influence congressional action." _Ibid._ This seems to indicate that, while the discussion in the text below refers to the application of general and specific to policy, in fact these adjectives can be employed to modify: 1) a policy itself; 2) a level of knowledge about the policy; 3) number of legislators interested in a policy; 4) number of citizens interested; and 5) an approach to the study of issues (regardless of whether they are few or many, general or specific in other senses).

Aside from the question whether the anniversary of the Battle of Yorktown could in any conceivable way be considered general, it will be noted that Pomper and Dexter cite three issues in common: foreign aid, medical care and aid to education. Yet the writers disagree whether these issues are general or specific. (Dexter refers only to higher education, which, if anything, should be viewed as less and not more general than aid to apparently all levels of education.)

The problem can be further comprehended by examining the Vietnam issue. Was opposition to the war a general or a specific policy position? In truth, it was both. War opposition could be seen as a specific application of a general application of a general anti-cold war foreign policy. In turn, the

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Points 1 and 2 probably have a high degree of correspondence. That is, possession of detailed policy information means information about policy details. Regarding information, this statement by Berelson, loc. cit. (n.105) should be compared with Dexter and Pomper: "the individual voter may not have a great deal of detailed information, but he usually has picked up the crucial general information as part of his social learning. He may not know the parties' positions on the tariff, or who is for reciprocal trade treaties, or what are the differences on Asiatic policy, or how the parties split on civil rights, or how many security risks were exposed by whom...."
Regarding point 4, it is common for writers to discuss the general public versus limited publics. We shall go into this below. But here we might note that Campbell, et al., op. cit. (n.11), p. 544 refer to the "electorate as a whole" and "the wider public." They also discuss "special publics and particular 'interests.'" Pomper also writes of the "whole electorate" and "concentrated 'issue publics.'" Gerald M. Pomper, "Controls and Influence in American Elections (Even 1968)," American Behavioral Scientist, Vol. 13 (November/ December, 1969), p. 216. See also Key, p. 381.

In all these distinctions on applications of the adjectives "general" and "specific" one overriding point must be kept in mind in the discussion below. We will show that these concepts are relational and comparative.

latter might be considered a specific derivation from a general isolationist policy position, which could be a specific aspect of foreign policy in general, which could be a specific issue area under the general rubric of public policy, itself a specific area within general American Government, a specific part of political science in general, a specific branch of social science in general..........

From a different perspective, war opposition could be considered to be a general policy position, of which a desire to stop the bombing, escalate, de-escalate, unilaterally withdraw troops, and negotiate are specific applications. In turn, a desire to negotiate would be general with respect to the questions whether there should be a coalition government and who should be in the coalition, whether there should be elections, who should participate, what the boundaries between North and South should be, who should control what territory within the South..........

It becomes clear, then, that when linkage writers say there is voter control and knowledge only on general matters, this leaves a high degree of non-explanation and non-definition. In truth, there are varying gradations of generality and specificity. Except at the extremities, it is very difficult to determine where one begins and the other leaves off. It is also clear that the very same position or policy matter can be genaral from one viewpoint and specific from another. These descriptions are very arbitrary.

But is not this point equally critical of the writer's contention that voters can, via elections, control the behavior

of their representatives on _specific_ policy issues? Is not

the writer here using the same terminology? Frankly, the

answer is probably affirmative. Perhaps the best solution

to the problem is simply to omit the general-specific

dichotomy altogether. We shall strive to do this as much as

possible. However, it should be stressed that what we have

said is not that these terms are totally devoid of meaning, but

that they have been used with very little clarity.

While recognizing that clarification can be no more than

rough, impressionistic and arbitrary,[117] in so far as we do

employ these terms we shall seek at least some clarification.

Above all, the terms express a relationship. Nothing can be

general or specific by itself. A policy may have a high or a

low degree of generality _only in relation to_ other policies.

A given policy can be general relative to a second policy and

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[117]Of course, among certain circles in the political
science profession, there might be a temptation to introduce
precision by using numbers along a continuum. But the appli-
cation of the general or specific label to the numbers and
through them to a policy question would be no less arbitrary
than a direct label application to the policy itself. Precise
numbers sometimes give only the illusion of precision. They
cannot, in this case, eliminate relativity. 6:00 P.M. is a
precise time, but it is still early with respect to 7:00 P.M.
and late with respect to 5:00 P.M. $1,000.00 is a nice
precise figure, but it is still a fortune to an impoverished
old lady who must choose between going to the doctor and
eating, and it is a pittance to a millionaire.
    A minute is a precise amount of time; so too is an hour.
On this basis, one might have no doubt that an hour is precisely
sixty times longer than a minute. However, this is called into
question by Albert Einstein's explanation of his theory of
relativity for the layman: If a man sits on a hot stove for a
minute it seems like an hour, but if he is with a very pretty
girl for an hour it seems like a minute.
    Perhaps this explains, at least partially, why political
scientists can't quite make up their minds whether elections
are devices for general or for specific control.

specific relative to a third. That is why one man's precise policy question is another's general question.

Thus, when a policy is characterized as broad or narrow, it should be placed in a comparative context. In the above outline of the generality and/or specificity of war opposition, it seems to this writer that his Vietnam proposal would more likely be considered to have a high degree of specificity than vice versa.

But, regardless of classification, the main question must remain whether, via electoral and other pressure, governmental actions, be they viewed as general/broad or specific/narrow, can be compelled---or mandated.

Now, aforementioned writers contend that such actions cannot be mandated. This raises another definitional question: what is meant by "mandate"? In this case, there have been attempts to define the term. A. H. Birch cites two different British views. The first was once espoused by the Liberal Party and most recently held by the Labor Party, and the second has recently been the Liberal and Conservative stand. According to the first position,

> the electorate voted in the knowledge that their behaviour at the polls would determine not only the composition of the government but also the policy to be followed upon the dominant issue of the day....[A] party should go to the electorate with a set of concrete proposals which, if successful, it is thereby mandated to put into practice.

And the second position is, first, that

> the party which wins an election has 'a mandate to govern', [sic] it being understood that, unless the election happens to have been dominated by a single issue (which is exceptional), the

> government should be free to pursue whatever
> policies it thinks appropriate.... [but,] second,
> a ministry's 'mandate to govern' does not
> necessarily entitle it to introduce a major
> change of policy, of a kind likely to arouse
> intense public controversy, if the electors
> have not had the chance to express their views
> on the subject.[118]

Basically, the proposal of this thesis fits more closely into the first sentence of the first position and the qualification clause of the first part of the second position. Of course, Birch rejects the mandate idea (p. 368). So too does Pomper, whose repudiation of mandate is mandated by his definition:

> For elections to serve as mandates, three
> conditions would need to be fulfilled: (1) Govern-
> mental institutions would facilitate the implemen-
> tation of popular verdicts in official policy; (2)
> voters would be concerned primarily with future
> policy questions; (3) majority preferences on these
> questions as expressed in elections could be
> ascertained.

Pomper's conclusion is that "in the United States at least, none of these three conditions is substantially satisfied."[119] It is worth examining his reasons.[120]

Probably Pomper's most important objection is that "Victory for a given party does not necessarily mean that a majority supports each of its programs."[121] This is certainly not going to be denied. In fact, the reader will recall considerable emphasis on this point in the previous chapter.

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[118]Birch, op. cit. (n.114), pp. 116-117.

[119]Pomper, op. cit. (n.10), p. 247.

[120]Ibid., pp. 247-252.

[121]Ibid., p. 248. This objection is deemed "probably most important" because Pomper devotes the most space to it.

But this only raises the question why a policy action can be mandated solely by a majority. The answer is clear enough. It is our old bugaboo of majoritarianism. <u>By definition</u> of the writers who reject the concept, mandate refers to majority preferences. (In addition to Pomper, see Brich, Epstein, and Rose-Mossawir, p. 367.)

This writer cannot recall ever having come across a reference to a standard dictionary in the political science he has read. He would not venture to say whether this says more about his own inadequate knowledge, more about the state of the literature and those who created it or more about extant dictionaries. Be that as it may, in this instance, he is prepared to hazard the horrendous heresy and opprobrium of seeing what the dictionary has to say about "mandate." The relevant part of Webster's definition is this: "mandate....3a: an authoritative command, order, or injunction: a clear instruction, authorization, or direction....b: the authorization to act or approval given by a constituency to its elected representative...."[122]

The dictionary helps us see that it is in the sense of "authorization" or "approval" (3b) that mandate carries a majority connotation. Birch mentions "the fact that...the government's political and moral authority has rested upon its popularity with the voters at the previous election."[123]

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[122]<u>Webster's Third New International Dictionary of the English Language, Unabridged</u> (Springfield, Mass.: G. & C. Merriam Company, 1968).

[123]Birch, <u>op. cit.</u>, p. 117.

Naturally, given a widespread belief in majoritarianism,[124]
is is understandable that discussions of "moral authority"
would focus upon its derivation from a majority of the voters.

The question of desirability/legitimacy was discussed
in the last chapter. Here, we are concerned with actualities.
From this standpoint, we hope to make clear that, as an
empirical matter, some voters, not necessarily a majority, can
mandate their representatives in the other dictionary sense
(3a): "command, order...instruction...direction." That is,
to the extent that the election of a candidate, especially an
incumbent, requires the ballots of a minority of the voters,
this group can successfully **command** certain action.

This does happen and there are political scientists who
would agree. For example, Dahl, it will be recalled, says
that "on matters of specific policy the majority rarely rules."
(p. 367.) The operative word here is majority. For Dahl
explicitly denies any intention of saying citizens exercise
no policy control through elections. He says:

> I have shown both that elections are a crucial
> device for controlling leaders and that they are
> quite ineffective as indicators of majority preference.
> These statements are really not in contradiction. A
> good deal of traditional democratic theory leads us to

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[124]See James W. Prothro and Charles M. Grigg, "Funda-
mental Principles of Democracy: Bases of Agreement and
Disagreement," The Journal of Politics, Vol. 22 (May, 1960),
pp. 276-294. Over 94 percent of a sample agreed with the
broad principle that "Public officials should be chosen by
majority vote." Ibid., pp. 282, 284. It should be noted,
however, that in the eyes of Prothro and Grigg overwhelming
support of the abstract principle did not translate into equal
support of its specific applications. They found that 19.4
percent would deny office to a Negro with a majority and 53.7
percent would deny office to a Communist voted for by a
majority. Ibid., pp. 283, 285.

expect more from national elections than they can possibly provide. We expect elections to reveal the "will" or the preferences of a majority on a set of issues. This is one thing elections rarely do....<u>Elections</u> and continuous political competition <u>do not make for government by majorities</u> in in any very significant way, <u>but</u> they <u>vastly increase</u> the size, number, and variety of <u>minorities whose preferences must be taken into account by leaders</u> in making policy choices.... [I]t is in this characteristic of elections---<u>not minority rule but minorities rule</u>--- that we must look for some of the essential differences between dictatorships and democracies.[124a]

Dahl does not use the term mandate to indicate control

or command. But there are political scientists who have

employed the term with approval. The Campbell group rejects

and them accepts the idea. First, rejection: "The thinness

of the electorate's understanding of concrete policy alterna-

tives...helps explain why...efforts to interpret a national

election in terms of a policy mandate are speculative, contra-

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[124a]Dahl, <u>op. cit</u>. (n.55, ch. I), pp. 131-132. Italics added. While Dahl says that on specific policy matters the majority rarely rules, in a very real sense the majority does rule. What Dahl means is that on any given matter the majority is unlikely to rule. But in the sense that groups adding up to a majority gain accommodation on matters most important to them the majority does exercise considerable control. As Pennock puts it, if legislators adhere to minorities who feel strongly, as opposed to majorities who do not so feel, "such behavior may achieve the desirable result of giving effect to the interest of the whole in greater degree than would have been accomplished by following the weak majority interest." <u>Loc. cit</u>. (n.108), p. 796.
 There is another sense, too, in which, according to Dahl, the majority rules: "the specific policies selected by a process of 'minorities rule' probably lie most of the time within the bounds of consensus set by the important values of the politically active members of the society, of whom the voters are a key group.... [I]n this sense the majority (at least of the politically active) nearly always 'rules'.... For politicians subject to elections must operate within the limits set both by their own values, as indoctrinated members of the society, and by their expectations about what policies they can adopt and still be reelected." <u>Op. cit</u>., p. 132.

dictory, and inconclusive."[125]   Then, acceptance: "political

leaders develop a strong sense of...the permissible bounds

of policy....[L]argely unspoken but widely accepted injunc-

tions may have far greater significance in the electoral

mandate than such issues as may become the subject of partisan

controversy."[126] What this apparently amounts to is that on

some matters there is a mandate and on some matters there is

not, a point to which we shall return.

Two members of the Campbell team, Warren E. Miller and

Donald E. Stokes, later expanded upon the mandate idea in

their presentation of three models of representation.[127] The

three models were Burkean (representative does what he thinks

best for his constituency), "responsible-party" (representative

adheres to party policy), and "instructed-delegate."

Most significant in the present context is the "instructed-

delegate" model. Its nature is evident from its very designa-

tion: the representative acts as a delegate on constituency

instructions, enforceable through elections. It must be stressed

that, unlike many models, those of Miller and Stokes were not

conceived simply as heuristic or theoretical exercise. The

authors clearly contemplated the models, including the

instructed-delegate model, as having descriptive utility. On

this basis others have taken up and expanded upon the usage.

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[125]Campbell, et al., op. cit. (n.11), p. 544.

[126]ibid., p. 547.

[127]Warren E. Miller and Donald E. Stokes, "Constituency
Influence in Congress," The American Political Science Review,
Vol. 57 (March, 1963), p. 45-56.

For example, Loren K. Waldman employed the models, using
"instructed-delegate" and "mandate" somewhat interchangeably.
Waldman found "Congressmen who voted more liberally because
of a _mandate_ in their constituencies....Such Congressmen were
responding to the wills of their constituents as manifested
in their vote for the Democratic Party, and/or its Presi-
dential candidate."[128]

It can be seen, then, that there are political scientists
who do not reject the mandate concept, in so far as it refers
to the "instruction" of representatives by constituents. But,
even if this concept does not necessarily mean that a majority
must give the instructions, Pomper would still point to two
other difficulties with the idea: Can "instructions" be
carried out and, indeed, can they be given at all? (See p. 374.)

Pomper points to the well known complexity of the American
political system, which provides many "barriers" to the imple-
mentation of a mandate.[129] Again, however, we have a problem
of definition. For Pomper assumes that mandates must be posi-
tive in character. But our Vietnam proposal requires the

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[128]Loren K. Waldman, "Liberalism of Congressmen and the
Presidential Vote in Their Districts," _Midwest Journal of
Political Science_, Vol. 11 (February, 1967), p. 83. Italics
added. Key also uses the term "mandate." (See below, p.

[129]Pomper, _op. cit._ (n.10), pp. 247-8. From his school
days, the writer remembers a certain cartoon widely used in
civics books. The cartoon depicted the life of Bill. Bill
was introduced in Congress and then literally had to go
through what Robert Bendiner has called an _Obstacle Course on
Capitol Hill_. (n.25, ch. I.) Finally, Bill emerged from his
ordeal, having suffered numerous assaults and major surgery.
The final caption showed him beaten, battered and tattered as
he emerged from the obstacle course and entered the law books.

"implementation" of a _negative_ mandate. In other words, while an affirmative policy must overcome many barriers, the plan here is exactly to take advantage of that. For our negative mandate, to stop the war, required the use of but one barrier--- the United States Senate.[129a]

Assuming, then, that some instructions **can** be carried out, the question remains whether they can be given at all. In his rejection of elections as mandates, Pomper maintains that "voters are not primarily activated by policy considerations, at least not in the coherent and prospective fashion suggested by the mandate theory."[130] And so yet again we have a definitional problem! For the difficulty is not one that is "suggested by THE mandate theory." It is suggested by one man's _conception_ of the idea.[131] He asserts for an electoral mandate the traits of coherence and futurity. Neither one is necessary.

Regarding futurity, Pomper merely repeats the widely-held view that an election is much more a judgment of past performance than a set of future policy instructions. Earlier

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[129a]Of course, participation in a filibuster does indeed require action. But it is action in response to action, the former taken to block the latter. The main point stands. The filibuster calls for action at one barrier only; the passage of a bill necessitates action at many barriers. Blockage by filibuster is a way of saying "no," whereas a war appropriations bill needs a "yes." "No" can effectively be said at _any_ point; to be effective, "yes" must be given at _every_ point.

[130]Pomper, _op. cit._ (n.10), p. 248.

[131]Pomper's penchant for equating _his_ concept with _the_ concept is also illustrated by his quotation of one aspect of one of Birch's mandate concepts as "the mandate principle." _Ibid._, p. 247.

(p. 22), we quoted Barber's statement that "When it comes to making specific governmental decisions, the public's role is largely a _reactive_ one." According to a 1970 "Guide" for doves, "public opinion looks backward, not forward. It usually reacts to past policies with dissatisfaction for failure and satisfaction for success. It less frequently offers clear guidelines for future policy."[132] Dahl is convinced that, in 1952, the "vote was more of a punishment for past action than a choice of future policy."[133] Finally, in a wagering mood, Key remarks, "The odds are that the electorate as a whole is better able to make a retrospective appraisal of the work of governments than it is to make estimates of the future performance of nonincumbent candidates."[134]

Do these statements mean that we must despair of voter control of elected representatives? Not at all! A Key contention is that "by virtue of the combination of the electorate's retrospective judgment and the custom of party accountability, the electorate can exert a prospective influence if not control. Governments must worry, not about the meaning of past elections, but about their fate at future elections."[135] Leaving aside whatever Key means by "the custom of party accountability,"[136]

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[132]Rosenberg, _et al._, _op. cit._ (n.11, ch. II), p. 52.

[133]Dahl, _op. cit._, p. 129.

[134]Key, _Responsible Electorate_ (n.44, ch. III), p. 76.

[135]_Ibid._, pp. 76-77.

[136]The discovery of a "custom of party accountability" probably would have been a surprise to the American Political Science Association's Committee on Political Parties. See its "Toward a More Responsible Two-Party System," _The American_

we should carefully note that Key says the elect<u>orate</u>---not the elect<u>ion</u>---can exert a prospective influence.

What this really means is that the electorate exerts a prospective influence at a given point in time (X) <u>before</u> an election to be held at time Y. Voters use the Y election to <u>reach back</u> to mandate a desired action between X and Y. In other words, an election can control the past as well as the future. By virtue of their **judgment** of the past, Y voters **influence** the past between X and Y. In this sense, the election can be viewed as a <u>retrospective mandate</u>. There is absolutely no reason why an electoral mandate must be thought of as exclusively and inherently prospective.

Of course, this is not to deny, despite the widely-held view just mentioned, that an election can involve an attempt at future action extraction from candidates. That is what campaign platforms and promises are all about. Sometimes, in fact, promises are even kept. "But...a politics of pre-election commitment [is] not one of post-election fulfillment."[137]

<u>Political Science Review</u>, Vol. 44 (September, 1950), Supplement. However, Gerald Pomper would not have been so surprised. He finds that, at least in some respects, times have changed since the 1950's: "Parties can now meaningfully stand as 'groups of like-minded men' offering particular stances toward public issues. Their victories in elections can now reasonably be interpreted as related to the mass choice of one set of issue positions over another. To this extent, the conditions for a responsible party system have been fulfilled." "From Con-fusion...," <u>loc. cit.</u> (n.97), p. 426.

One wonders if Pomper had in mind the following politicians and their followers: "United" Democrats such as Mario Biaggi, Herman Badillo, Mario Procaccino, Shirley Chisholm, George McGovern, Henry Jackson, James Eastland; and Republicans such as Jacob Javits, John Tower, Edward Brooke and Barry Goldwater.

[137]Key, <u>Public Opinion...</u> (n.46, ch. I), p. 524.

This indicates that, if anything, an election's retro-
spective mandate is much more effective than its prospective
mandate. Legislators often adhere to the former and ignore
the latter. Dahl declares that, cognizant of the retributive
as opposed to future orientation of elections, "Political
leaders...frequently seek to avoid a decision until an election
is over so that they may then act relatively free from campaign
commitments."[138] An example occurred in May, 1974 when the
New York City Council defeated a homosexual rights bill. Instead
of pushing immediate reconsideration, one of the bill's spon-
sors announced plans for taking it up after the November elec-
tion in the hope of getting vital votes "when there was no
longer the threat of an election defeat over their heads."
This threat was seen as responsible for rendering a Council
majority responsive to pressures against the bill.[139]

Because elected politicians often avoid decisions until
they may "act relatively free from campaign commitments,"
Dahl says that "paradoxically an election may actually prevent
rather than facilitate policy choices by the electorate."[140]
What this amounts to is hard to say. In a way, "may" is a
synonym for "may not." Since what "may" be true also "may not"
be true, one term can be substituted for the other without
substantially altering the meaning of a sentence. That this

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[138]Dahl, loc. cit. (n.133).

[139]Edward B. Ranzal, "Backers of Homosexual Rights Plan
to Resubmit Defeated Bill," The New York Times, May 25, 1974,
p. 58.

[140]Dahl, loc. cit. (n.133).

writer may or may not have a "hot line" to the President is a statement as vacuous as it is valid.

Moreover, and more important, the very purpose of postponing unpopular actions until after an election is to avoid the choices of the electorate.[141] It is hard to see how the election contributes to such avoidance. Are we to believe that the same officeholders who wait until after an election to act contrary to voters' wishes would not so act in the absence of any election at all? It is the lack of an oncoming election that permits promise-breaking by politicians. But, when an election is approaching, its very imminence serves to "keep 'em honest." Hence, the election is most likely to "facilitate policy choices by the electorate" in the pre-election period. The proposal of this thesis takes maximum advantage of this period.

It will be recalled that, in May, 1970, peace proponents were to have commanded war-ending action in the then immediate future between May and November. They were in a maximally strong position in May because, in a very short time (at the forthcoming election), they would be able to pass judgment on dove Senatorial performance in the six months _prior_ to November. In the language of the preceding discussion, in November, 1970, dove voters would render a retrospective judgment on whether

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[141]Just a reminder: We have been rather loosely using the term "electorate." It should not be supposed that _all_ the voters, individually and collectively, necessarily make the electoral choice. As we have seen (n.116) and as we shall develop below, what is actually meant here is that the decision of the "electorate" is really a decision of an "effective" part thereof.

Senate doves had complied with the instructions prospectively given in May by dove constituents.

In the third chapter, it was indicated that timing was crucial. Among other reasons, May-November was critical because the time for commitment compliance was PRIOR to the election. Whether or not "a politics of pre-election commitments [is] one of post-election fulfillment" (p. 382), the point here is that Senators facing the voters had no post-election chance to squirm out of their promises. Because the pre-election period called precisely for performance rather than promise, dove constituents required only the will to place a squirm-proof noose around the necks of their Senators. That the time to act was before the election meant incumbents would be evaluated on the basis of their pre-election performance instead of commitments for the post-election period which carried no assurance of being honored.

Whereas in cases such as the above-noted homosexual rights bill pre-election action was feared as a possible cause of electoral defeat, our proposal calls for defeat if no action was taken. In the above bill, postponement was viewed as a way to avoid defeat. In our proposal, action postponement would be a ground for defeat.

The pre-election emphasis here indicates that, for our purposes, the question whether voters can command action subsequent to elections, while not unimportant, is secondary. The ability to render a prospective judgment would be helpful (as we shall see) but is not necessary to establish the validity of the thesis plan. However, we are still faced with another

problem: are the voters capable of rendering even a retrospective judgment?

This returns us to Pomper's reasons for rejecting the idea of elections as mandates. To be a mandate, it will be recalled, an election, according to Pomper, must be a (1) majority verdict requiring (2) positive (3) post-election action on a (4) coherent policy program. We have addressed the first three points, finding them not to be necessary conditions for a mandate. That is, a voting minority can indeed require elected officials to take negative pre-election action. The final question remains: must the voters be "activated by... coherent...policy considerations"? (p. 380.)

Pomper apparently means that to be "coherent," the voters must be "interested in the entire range of policies or in general ideological postures....[and] always consistent in their policy or partisan preferences."[142] But we reiterate that our proposal does not address itself to or require voter "coherence" in this sense. We need establish only that, on one or more issues, vital voters can "command" or "instruct" or force certain actions by those they elect. And Pomper himself helps to establish just this point in his stress on the importance of "precise" or "specific" issues in the behavior of voters. (See also pp. 368-9 above.)

We note in passing that Pomper says the "Voters do not make general policy choices in elections."[143] This is in direct

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[142]Pomper, op. cit. (n.10), p. 248. See also his "Controls...," loc. cit. (n.116).

[143]Ibid. Emphasis added.

contradiction to the view of previously quoted (pp. 366-68) writers who see elections as general policy choices. Pomper is but one of many examples of those who make statements 180 degrees away. To take just one other example, David E. RePass says his findings "have shown that the public is in large measure concerned about <u>specific</u> issues, and that these cognitions have a considerable impact on electoral choice."[144]

To return to Pomper's development of the point we are establishing here, he

> see elections as...particularly important as protections of the vital rights and interests of the voters....[V]oting studies...yield evidence...of elections as means of protecting vital interests. As a whole, the electorate lacks conceptual clarity in regard to public policies. On particular programs, however, there are concentrated "issue publics" which are knowledgeable and able to defend their specific interest. [sic] Concern for these spcial [sic] interests can even overcome the great influence of party identification.[145]

Elsewhere, Pomper indicates that issues not only help "overcome the great influence of party identification," but in fact they help establish that identification: "One of the sources of party identification itself is policy attitude, and attitudes first evident in one election may continue to be relevant and influential in suceeding contests."[146]

This point should be considered in conjunction with the

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[144]David E. RePass, "Issue Salience and Party Choice," <u>The American Political Science Review</u>, Vol. 65 (June 1971), p. 400. Italics added. Other examples appear below (pp. 428-29.).

[145]Pomper, "Controls...," <u>loc. cit.</u>, pp. 215-6.

[146]Pomper, "Rejoinder...," <u>loc. cit.</u> (n.101), p. 467.

RePass conclusion that the "remarkable thing...is that <u>salient issues had almost as much weight as party identification in predicting voting choice</u>."[147] When we consider that salient issues had almost as much weight in predicting voting choice as party identification, and when we consider further that issue positions are an initial and continuing determinant of party identification, we can appreciate the very great role in elections played by voter judgment on issues. This judgment may not be about "general ideological postures" or "the entire range of policies." But is has now come to be widely believed that the "voter...has a good eye for those [political choices] that are most immediately relevant to him."[148]

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[147]RePass, <u>loc. cit</u>. Italics in original. This conclusion is based on a study of the 1964 election.

[148]Judson L. James, <u>American Political Parties; Potential and Performance</u> (New York: Pegasus, 1969), p. 135
There has been some debate on how much of a belief political scientists had in the past in voter awareness of issues. For example, Pomper sees a deemphasis on issue awareness in <u>The American Voter</u>. However, John Kessel disagrees with "frequent statements that the book suggested issues were not of great consequence...." See Pomper, "From Confusion...," and "Rejoinder...," <u>loc. cit</u>. (nn.97, 101), pp. 415, 466-7; Kessel "Comment...," <u>loc. cit</u>. (n.101), p. 460.
While political scientists have convinced themselves (at whatever time) that rational consideration of issues plays a major role in voter decision-making, there is some evidence that politicians and their campaign consultants are not similarly convinced. See "Campaign Consultants: Pushing Sincerity in 1974," <u>Congressional Quarterly Weekly Report</u>, Vol. 32 (May 4, 1974), pp. 1105-1108. The main thrust is that, to win, what is required is an appearance of sincerity rather than a discussion of the issues. And the sincerity push is not just a product of Watergate. A "major influence" was the 1972 Senate campaign of Joseph Biden (D. Del.). "Biden came out of that campaign saying that people voted for him because they trusted him, not because they agreed with him on specific issues." <u>Ibid</u>., p. 1105.

Any given voter is likely to feel strongly about certain issues, find them more important than others, and be willing to take vigorous action(s) on them. This describes the concept of "intensity."[149] The greater one's intensity about an issue, the more likely he is to be aware of it and possess information sufficient to take action. The degree of awareness and information is an issue's "salience."[150] Key refers to the "relative salience" of an issue,[151] thus emphasizing that certain issues stand out.

That there are different kinds of issues (and not just with respect to salience and intensity) has a big bearing on election minimizing propositions. These, we said earlier (p. 368), must be examined very carefully, which we have been trying to do. Further examination of statements asserting little voter control on particular issues discloses very important qualifications and exceptions. Almost every writer uses terms such as "rarely," "seldom," and "usually."

For example, although we are not concerned here with the possibility of majority mandate, we might recall (p. 367) that Dahl said the majority "rarely" rules "on matters of specific policy." According to Pennock "it is unlikely that an election" can clearly indicate what a majority wants. (p. 367.) The

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[149]On intensity, see Dahl, op. cit. (n.55, ch. I), ch. 4; Key, Public Opinion... (n.46, ch. I), ch. 9; and Pennock, loc. cit. (n.108), p. 796 and passim.

[150]On salience, see RePass, loc. cit. (n.144), pp. 389-400, passim and esp. pp. 390-1; Stokes and Miller, loc. cit. (n.49, ch. III), pp. 531-546.

[151]Key, Public Opinion..., pp. 172-173.

Michigan voting researchers recognize the "great potential
ability of the public to enforce a set of concrete policy
demands at the polls," but find "it is clear that this power
is _seldom_ used in American politics."[152] Referring to the
obstacles which block the "implementation" of a mandate,
Pomper concedes that "If public support for a given proposal
is strong and definite, these barriers are not insurmountable.
In _most_ instances, the electorate's wishes are not so clear."[153]
Elsewhere, he says that "Only _rarely_ is an election...a 'mandate'
for designated future actions." (p. 367.) Key tentatively
tenders the tenet that "Elections _probably_ serve better as
instruments for popular decision on broad and great issues...."
(p. 366.) Elsewhere, however, he asserts that "On issues of
great salience to the constituency and about which opinion may
be intense, the legislator may, of course, operate under a
condition almost equivalent to a _mandate_ binding in its effect.
Yet such issues are _few_."[154] Finally, Dexter states that
Congressmen and Senators "are _rarely_, if ever, beaten on just
one issue." (p. 367.) He also repeats "that elections do
not---and in the nature of the case cannot---settle _most_
things."[155] (All italics in this paragraph added.)

The significance of the emphasized terms is very clear.
To say something rarely or seldom happens, to say it occurs in

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[152]Campbell, _et al._, _op. cit._ (n.11), p. 545.

[153]Pomper, _op. cit._ (n.10), p. 248.

[154]Key, _Public Opinion..._, p. 496.

[155]Dexter, _op. cit._ (n.5, ch. IV), p. 33. See also _Ibid._,
passim, and pp. 1, 22.

only a few and not in most cases, is not to say it never happens. But why should we be concerned with what rarely occurs? The answer can perhaps be understood by considering international law. It has been said that _most_ international law is scrupulously adhered to. It just so happens, however, that the ignored five percent is the most important part, having to do with such matters as war and peace. Our point, then is that we can scarcely ignore what happens least if it happens to be most important.

This formulation applies with especially great force, if dealing with the most important issues requires methods different from those of handling less important or ordinary issues. In one of the latter categories falls the issue of Reciprocal Trade. To the study of this area of public policy, Dexter and his colleagues devoted much time, money and effort.[156] Yet, at one point in his discussion of constituency influence, Dexter himself concedes: "(For comparison, we should have studied some explosive issues like McCarthyism or humane slaughtering or perhaps some issues in which the profit-and-loss relationship is clearer, like the question of pay increases for postal employees.)"[157] Moreover, Dexter further

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[156]_Ibid._, _passim_; Bauer, Dexter, and Pool, op. cit. (n.96).

[157]Dexter, _op. cit._, p. 173. In explaining why he chose "environmental defense" as a recent comparative equivalent of Reciprocal Trade, Dexter writes: "In many ways, I would have preferred to choose for my current example the issue of Multiple Independently Targeted Reentry Vehicle (MIRV); but this is not as good an example of the general...dealing with Congress, because it appears...possible that sometime in the near future a great debate will take place on this matter which will dramatize and sharpen divisions...in a manner that _rarely_ happens on issues...." _Ibid._, pp. 20-21. Italics added.

acknowledges that "dramatic pressure...can be effective only on a few issues at most in any one political generation."[158] Whereas Dexter prefers to emphasize the many issues,[159] we are concerned here with the few.

To say that there is a difference between run-of-the-mill issues and the most important issues is not to say that the usual should be ignored. Nor is it to say we deny the old educational adage that "one man's 'crap course' is another man's major," or, in other words, that different people are intense about different issues. Nevertheless, public opinion surveys have clearly shown that some issues have been more widely considered to be of the greatest significance than others. Such an issue was the Vietnam War. (See pp. 436ff.) Because the war was such an issue, we contend that it was one of those in Dexter's category of the few on which "dramatic pressure...can be effective."

Before proceeding to this pressure, we note one more caveat. We are not saying that every issue of the utmost import is amenable to the same treatment. There are no doubt different types of very important issues,[160] and it is entirely

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[158]Ibid., p. 106. Dexter's italics omitted.

[159]"...I am somewhat biased...in favor of observing the fog of politics rather than its highlights." Ibid., p. 132. See also, ibid., p. 181: "...our assertions are...far more than those of a 'mere' case study....[M]uch of what Bauer, Pool, and I first saw as part of our case study is almost certainly characteristic of the institutional system of the current Congress." See also, Bauer, et al., op. cit., passim and ch. 28.

[160]For example, Dahl describes six different types of intensity distribution among the population of different issues. These include one in which a large and intense minority is opposed by an equally large and intense minority, and one in which a large intense minority is opposed by an apathetic majority. See Dahl, op. cit., pp. 92-99.

possible that some propositions apply both to them and to ordinary issues.

The main point here has been simply to emphasize that a) there <u>are</u> different types of issues about which different propositions are germane; b) this explains why there is great freedom for legislators on "most" issues; and why c) there can nevertheless be control of legislators by constituents, not necessarily a majority, on matters not necessarily requiring positive "coherent" action after an election. All of which raises a question:

<u>Under What Conditions Can Certain Constituents Exert Control?</u>

Many factors, some already mentioned, have been advanced and explored as explanations of and influences on Congressional behavior. Here we need not go into a detailed analysis of them, since a useful discussion can be found in almost any book on Congress, interest groups, elections, or public opinion.[161] Instead, we confine ourselves to noting the following determinants of a legislator's behavior on a given issue: strength of personal convictions, if any, on the issue and on the proper role of a representative; past and present interest group affiliations; degree of personal courage;

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[161]In addition to sources cited both above and below, see: Malcolm E. Jewell and Samuel C. Patterson, <u>The Legislative Process in the United States</u> (New York: Random House, 1966), esp. chs. 7-18; William J. Keefe and Morris S. Ogul, <u>The American Legislative Process, Congress and the States</u> (3rd Edition; Englewood Cliffs: Prentice-Hall, 1973), chs. 6-11, esp. pp. 154-160, 234-8, 277-8, 299-313, 354-5, 398-404; Milbraith, <u>op. cit.</u> (n.24, ch. III), esp. ch. 17; Truman, <u>op. cit.</u> (n.32, ch. III), esp. chs. 11-12; Pomper, <u>op. cit.</u> (n.10), <u>passim</u> and esp. pp. 64-67 and ch. 10; Key, <u>Public Opinion...</u>, <u>passim</u>, parts 5 and 6, and esp. ch. 19.

political party stand (i.e., position of party leaders, caucus,

committee chairmen and ranking members, and other influentials);

existence and degree of any Presidential pressure (including

the capacity and willingness to deny patronage appointments,

kill pet projects, veto the bill under consideration or other

bills important to the legislator, ability to sway public

opinion in the legislator's constituency); extent to which

the pressuring President and/or his office are held in high

or low esteem by Members of Congress and/or the public;[162]

norma, customs, and "folkways" of the legislative body;[163]

personal relationships;[164] personality (maverick, "regular

guy," etc.);[165] prior experience (e.g., as legislator or

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[162]Because of Watergate, this point is of no little significance. The days of <u>Unquestioning Obedience to the President</u> seem over, at least temporarily. See n.15 above and sources therein. See also p. 170 above. Factors not specifically documented here either have been or will be elsewhere.

[163]See Matthews, <u>op. cit.</u> (n.102, ch. II), esp. chs. 4-5; Ralph K. Huitt, "The Morse Committee Assignment Controversy: A Study in Senate Norms," <u>The American Political Science Review</u>, Vol. 51 (June, 1957), pp. 313-29; Jewell and Patterson, <u>op. cit.</u>, ch. 15; Robert G. Lehen, "Behavior on the Senate Floor: An Analysis of Debate in the U.S. [sic] Senate," <u>Midwest Journal of Political Science</u>, Vol. 11 (November, 1967), pp. 505-21, esp. pp. 512-16.

[164]Truman, <u>op. cit.</u>, pp. 343-346; and sources in n.163. James Patterson, in his account of the struggle over Franklin Roosevelt's attempt to "pack" the Supreme Court, makes this point: "Perhaps the most interesting aspect of Wheeler's strategy was his effort in the direction of bipartisanship. Here he <u>capitalized upon his friendship</u> with Borah; indeed, Borah called his friend every night during the struggle to ask after his health." <u>op. cit.</u> (n.23), p. 118. Italics added.

[165]Huitt, <u>loc. cit.</u> (n.84); Froman, <u>loc. cit.</u> (n.84); Lehnen, <u>loc. cit.</u>, pp. 516-20; Joseph S. Clark, <u>op. cit.</u> (n.35, ch. I); William S. White, <u>Citadel: The Story of The U.S. Senate</u> (New York: Harper & Brothers, 1956), esp. chs. 7, 10, 15.

governor);[166] legislative bargaining (exchange of votes and/
or other favors on matters of different importance to various
lawmakers);[167] and the potence of any threat of defeat, as
implicit in the previous factors, and as determined further
by a) whether and how much the incumbent desires reelection,
or election to high office, b) interest group pressures and the
extent to which they are buttressed by the c) number of voting
constituents who care about the issue and the intensity with
which they care, d) their perceptual performance (i.e., their
knowledge of issues, candidate positions and candidate behavior),
e) the necessity of their votes for (re)election, f) the degree
of their unity versus the extent to which conflicting pressures
and voters nullify each other (leaving the politician free to
do what he wants, whether he likes it or not), and g) the
legislator's ability to perceive accurately these various wishes
and pressures.

This list probably includes the most frequently mentioned
factors. But no claim of completeness is made. The diligent
researcher will discover the most esoteric explanations of what
makes legislators "tick." This writer's favorite is the hypo-
thesis, advanced by someone with a doctor's degree, that a
legislator's ability is somehow related to the weight of what-
ever brain he has.[168]

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[166]Matthews, op. cit., pp. 103-109; Lehnen, loc. cit.,
pp. 517-518.

[167]Pomper, op. cit. (n.10), pp. 58-64; Lewis A. Froman, Jr.,
The Congressional Process: Strategies, Rules, and Procedures
(Boston: Little, Brown and Company, 1967), ch. 2.

[168]Dr. Arthur Macdonald, "Brain Weight and Legislative
Ability," reprinted in United States Congress, Congressional

As noted, we make no attempt to assess the numerous competing factors that operate in "most" cases. (A separate dissertation would be necessary to do so.) Here, the focus is upon the situations, factors and circumstances of control by constituents.

However many factors operate, in the final analysis, we should keep in mind mentor Sam Rayburn's advice to his protege, Carl Albert:

> Take care of your district, lock it up with
> loving care, and you can get by with anything
> in Washington---even supporting the national
> Democratic programs....Pay special attention
> to constituents who....[r]eally mean business.[169]

Record, 72nd Congress, 1st Session, Vol. 75, Part 7 (April 12, 1932), pp. 8008-8010. See also Macdonald's "Legislative Anthropology As Applied to Congress---Being a Chapter in the Scientific Study of Modern Civilized Man," _Ibid._, Part 9 (May 11, 1932), pp. 9989-9994. See too Representative Griffin's comments on "The Legislative Brain," _Ibid._, Part 12 (June 18, 1932), pp. 13423-4. Griffin implored his distinguished colleagues to have their heads measured so as not to allow the Senators to go on record as having bigger heads and possibly more ability.

[169]Quoted by Sherrill, _loc. cit._ (n.82), p. 139. Italics omitted. It is not clear whether the words are Sherrill's paraphrasing or a direct quote. It is probably the former. It must be noted in the interest of accuracy that Sherrill presents another Rayburn precept that is more in line with some of what follows, especially Dexter's work. The precept is: "Vote your district whenever possible but don't forget your conscience." _Ibid._, p. 141. Italics omitted. Of this, Sherrill observes: "Albert's conscience usually prevails, and he gets by with it. Usually with little risk...." _Ibid_. The question, of course, is what happens when the risk is great. In a case Sherrill cites, in which Albert voted his conscience against strong constituency pressures, the actual role of conscience is debatable. "Only once did he feel that he had made a conscience vote that might be the end of his career. That was on the 1964 Civil Rights Act." After noting district pressures against the bill, Albert said: "I realized that it was a dangerous political vote. You can't defy your people all the time. But I felt that was a landmark vote in my career and would be a flaw on my record that I could never live down if I didn't vote for it....[A] funny thing about the civil-rights feeling in my district....It just died down. Since then, civil-rights votes have been

If paying "special attention to constituents who....
[r]eally mean business" means anything, it means "cater to
those who can defeat you." To this writer it seems that, if
there is any proposition the contradiction-laden political
science profession (see pp. 360ff) is likely to support with
virtual unanimity, it is the "central conclusion" of the late
Julius Turner:

> the representative process...in...America
> involves, insofar as voting behavior is con-
> cerned, the attempt of the representative to
> mirror the political desires of those groups
> which can bring about his election or defeat
> ....The great majority of congressmen...yield
> to the pressures from their constituencies, and
> especially to the pressures of party, in casting
> their votes.[170]

Now, it can be seen that Turner stresses the importance of
the representative's political party. He says, in fact, that

> in spite of the small degree of party voting in
> the modern American Congress compared with other
> countries and other times, party continues to be
> more closely associated with congressional voting
> behavior than any other discernible factor.[171]

But there are two points to be noted about this statement. First,

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inconsequential." Italics added. Ibid., p. 146.
Aside from the fact that apparently Albert made only
one "conscience vote" in a quarter of a century that could
cost him his seat, two other points are worth noting. First,
Albert looked to the future possibility that civil rights
fever would die down. Second, again looking to the future it
is entirely possible that, having had aspirations for a
national leadership position in the House, Albert did not
want to jeopardize his chances by a "flaw...I could never live
down." In other words, perhaps his "conscience" vote had a
strong content of personal ambition.

[170]Julius Turner, Party and Constituency: Pressures on
Congress (Baltimore: The Johns Hopkins University Press, 1951),
pp. 178-9.

[171]Ibid., p. 34.

Froman contends that it is the constituency which determines the party of its representative: districts with liberal traits are likely to have Democratic representatives, and districts with conservative characteristics are likely to be represented by Republicans.[172] Second, Turner concedes that the

> revolt on the part of some congressmen against the pressure of party might be termed "independence." In many cases, however, we discover that when a representative bolts his party he is not voting his conscience, but answering the more insistent pressure of groups in his constituency which disagree with the party.[173]

Turner wrote in 1951. His work was revised in 1970 by Edward V. Schneier who, despite some sharp criticism of Turner by others, saw no need to alter the central points.[174] Although his "single most striking finding...is the continuing decline of party voting in the House of Representatives," Schneier still says that "by any measure party remains the single most important

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[172]Lewis A. Froman, Jr., "Inter-Party Constituency Differences and Congressional Voting Behavior," The American Political Science Review, Vol. 57 (March, 1963), pp. 57-61. See also Pomper's statement on the issue or policy basis of party identification. (p. 388.)

[173]Turner, op. cit., p. 166. Froman writes: "Democrats from conservative-type districts and Republicans from liberal-type districts do tend to vote more conservatively and liberally, respectively, than their party cohorts." Loc. cit., p. 60.

[174]One of the severest, if not the most severe, attacks on Turner's methods and reasoning is W. Wayne Shannon, Party, Constituency and Congressional Voting, A Study of Legislative Behavior in the United States House of Representatives (Baton Rouge: Louisiana State University Press, 1968), esp. pp. 6-23. After a thorough-going attack, Shannon ends up concluding that Turner's work was an "impressive analytical feat." Ibid., p. 22.
    Schneier's revision is: Turner, op. cit. (revised edition by Edward V. Schneier, Jr., 1970). Hereafter, it is cited as Turner (Schneier), op. cit. Schneier purports to take into account some criticisms of Turner and rejects others. Ibid., pp. ix-x; 246-7.

important factor in roll-call voting."[175] But why is party "most important"? Accepting the Froman view, Schneier states that "probably the most important" factor in the "most important factor" (i.e., party voting) is "the coincidence of party programs and constituency interests."[176] And, of course, we must not forget that on many issues there simply are no constituency interests. But when it comes down to a conflict between party position and constituency pressures, the latter prevail. If anything, Schneier stresses this more than Turner: "the individual representative will vote party...[w]hen constituency pressure permits."[177]

The reasons why so many Congressmen yield to pressures are clear. First, as we have noted elsewhere,[178] most Members are political animals who crave to hold on to their offices and aspire to higher ones. Second, Turner notes "this fact, the high mortality of political independents."[179] And Schneier observes: "Rare is the representative who defies both party and constituency. Rarer still is the defiant congressman who serves more than one term."[180] In other words, those who do not care about reelection do not remain very long, and the

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[175]Ibid., p. 239.

[176]Ibid., p. 234. See also, ibid., p. x on what determines party voting in the first place.

[177]Ibid., p. 237. Italics added.

[178]See pp. 327ff., 351-353, 130-132.

[179]Turner, op. cit., p. 174.

[180]Turner (Schneier), op. cit., p. 237.

remaining ones who do care are---and must be---in the habit

of satisfying those upon whom reelection depends.

Again and again, the just-presented themes are repeated

in the political science literature. Few would dissent from

the proposition that, although numerous forces influence

legislative activity, one force, when it is part of a situation,

takes precedence over all the others: the fear of defeat, the

desire for reelection.[181] Other factors operate frequently,

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[181]In addition to sources in n.178, we note the follow-
ing. See below, Dexter's contradiction of himself (pp. 404-06).
See also, pp. 428-29. According to the late President Kennedy,
who, as a Senator, was in a good position to know: "It may take
courage to battle one's President, one's party or the over-
whelming sentiment of one's nation; but these do not compare
...to the courage required of the Senator defying the angry
power of the very constituents who control his future...."
Op. cit. (n.5), p. 243. Also: "few [Senators] would deny that
the desire to be re-elected exercises a strong brake on
independent courage." Ibid., p. 9. Earlier (pp. 352-355), we
observed that courage and fear go hand in hand. There would
be no market for a book on Profiles in Courage if there were
no widespread fear of defeat combined with a desire for re-
election. Joseph McCarthy operated on the basis of a Politics
of Fear. (p. 326.) In his analysis of the fear of McCarthy's
power, Polsby concludes: "In the light of these finding, the
granting of credit to McCarthy for Benton's defeat is no doubt
unjustified, if not entirely erroneous." Loc. cit. (n.16),
p. 268. Italics added. The clear implication here is that if
McCarthy had indeed been reponsible for Benton's defeat, then
the fear of other Senators, as well as the actions based on that
fear, would have been justified.
    In addition, it is worth stressing that, even if there is
disagreement that normative justification would have been pro-
vided, as an empirical matter, we have an illustration of: 1)
what happens when there is a belief that the switch of a small
percentage of the electorate can result in defeat. Many fear
for their political lives and act accordingly; 2) the effect
of the belief that even a few Senators were defeated. (See
p. 327 on the defeat of Tydings. Polsby, loc. cit., p. 265 shows
the most direct effect of McCarthy was only on two Senators.) In
any case, a widespread Senatorial belief that the defeat of a
few is attributable to a given cause can have a powerful effect
on the behavior of many Senators. As in political conventions,
there seems to be a bandwagon, a bandwagon of fear among legis-
lators. (This writer knows of no study directed to the band-
wagon effect in legislative bodies. Here is a fruitful area for

because often they are not preempted by the dominant one.
"Most" issues do not involve the threat of defeat. But, on
those that do, legislators will meet the requirements of those

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fascinating research.); 3) the implications for our study.
Regardless of the actual effect of McCarthy, it seems clear that
a creditable threat of defeat of dove Senators by their peace
constituents would have had a great impact on their behavior.
They very probably would have used their power to end the war.

We may note just a few more cases of the importance of
reelection and fear of defeat. In his discussion of the growth
of Congressional conservatism during the New Deal, James
Patterson points out: "...conservative Democrats could be, and
were elected to Congress even at the high tide of the New Deal
....[T]here was little Roosevelt could do....[I]t was not sur-
prising that of the twenty Democratic senators who were to leave
the party fold on many key occasions by 1936, only four had to
face reelection that year. One...did not want to be reelected
....One had an impregnable state machine behind him. The third
...combined strong organization backing with his own off-again,
on-again backing of the President....Only Gore dared oppose
Roosevelt without machine backing, and he was not even renomina-
ted...." Patterson, op. cit. (n.23), pp. 49-50. Significant for
the Presidential reverence of the Vietnam War era, Patterson
quotes a Senator's conclusion after the Court-packing plan was
defeated: "The court fight has proved that the Senate can say
'no' and...that [Senators] can disagree with the President on
important legislation and yet not lose the support of the voters
back home, even though these voters are largely in favor of the
administration." Ibid., p. 127. Patterson, finally, refers to
"the election of many congressmen...who depended for reelection
upon the powerful groups in their constituencies. Against this
kind of situation presidential resources were of limited value."
Ibid., p. 337.

Robert Dahl says that "In a rough sense, the essence of all
competitive politics is bribery of the electorate by politicians."
He also refers to the "'normal' American political process...in
which there is a high probability that an active and legitimate
group...can make itself heard effectively....I mean that one or
more officials are not only ready to listen to the noise, but
expect to suffer in some significant way if they do not placate
the group...." Op. cit. (n.55, ch. I), pp. 68, 145. Italics
added.

In a similar vein, Walter Lippmann who was not flattering
to "successful democratic politicians" (pp. 351-52) goes on to
say: "They advance politically only as they placate, appease,
bribe, seduce, bamboozle, or otherwise manage to manipulate the
demanding and threatening elements in their constituencies."
Loc. cit. (n.86).

David Brinkley, who never achieved the status of a Lippmann,
declared in a somewhat different context: "If the leaders of

who appear willing and able to defeat them. There is, says

Schneier, "a tendency for representatives to give more weight

to the opinions of those whose support [is] most important in

the campaign..."182

    Just how widely accepted is this view can be seen by looking

further at Dexter, who probably has emphasized legislator freedom

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Congress were not fond of power, they would not have entered
politics to pursue it. Perhaps we are all fond of it, but it
is in the nature of politicians to hunger for it, to work,
connive, and scheme to get it. And having got it, they simply
are not going to give it away." David Brinkley, "Forward," in
Philip Donham and Robert J. Fahey, Congress Needs Help (New York:
Random House, 1966), p. vii.
    Pork barrel legislation is often attacked by self-
designated high-minded citizens. But just why this is important
was once described in the fight over one such bill: "In the
middle are members campaigning for re-election who want the big
bill with its 200 flood control and river development projects
enacted now so they can tell the voters what they have done
for them lately. For some Congressmen, the bill could mean the
difference between victory and defeat." Richard L. Lyons, "Kerr,
Smith Stop Music for Pork-Barrel Polka," The Washington Post,
October 12, 1962, p. A1. Finally, see Stokes and Miller, loc.
cit. (n.49, ch. III), passim, esp. p. 542. Also, Miller and
Stokes, loc. cit. (n.127), p. 54 say: "...the idea of reward or
punishment at the polls for legislative stands is familiar to
members of Congress, who feel that they and their records are
quite visible to their constituents." They go on to say that,
while Congressmen feel their records are visible---and hence
may have considerable impact on reelection chances---"simple
facts about the Representative's [low] salience to his con-
stituents imply that this could hardly be true." Ibid. Of
course, these "simple facts" imply no such thing. For, as Stokes
and Miller say, a small percentage is "quite enough to make and
unmake a good many legislative careers." (p. 145 above.) That
is, if there is low salience to most voters, and yet high salience
to a small percentage, in a close election the small percentage
can tip the balance. Miller and Stokes also acknowledge this
point elsewhere. They say: "his record may have a very real
bearing on his electoral success or failure without most of
his constituents ever knowing what that record is." Ibid.,
p. 55. See also p. 428 below. Of course, the constituents may
know the record on issues important to them.

    182Turner (Schneier), op. cit. (n.174), p. 234.

more than any other student of Congress. If, upon close examination, we find that not even he clearly dissents from the foregoing ideas, it would be difficult to imagine any political scientist who does.

In particular, let us consider three aspects of Dexter's freedom emphasis: 1) Contrary to Turner's hard-boiled view (p. 398), Dexter goes far toward contending that Congressmen will vote their constituencies when their convictions permit. In other words, not a constituency threat of defeat, but the legislator's conscience is the ultimate factor taking preemptive precedence over all others. Citing cases when district pressures prompted Congressmen to change their votes, Dexter qualifies his finding by saying that "Most of these men...cared very little about the issue one way or the other."[183] The implication, of course, is that, if they cared very much, pressure would not have worked. Moreover, when faced with a loss of votes on a given issues, Senators, Dexter notes, would try to take action to avoid such a loss, but "They would not give up basic con-victions...."[184] 2) A Congressman is free to hear what and from whom he chooses, and to interpret this however he pleases. But Congressmen only "to a small degree, consciously choose what they shall hear...[;] in large measure their personalities, careers, and public images make them choose what they hear and

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[183]Dexter, op. cit. (n.5, ch. IV), pp. 169-171.

[184]Ibid., p. 4. Also, Senators or Congressmen "may pay attention to any cause or concern that seems likely to affect any substantial number of voters....[W]ithout violating their own convictions." Ibid., p. 102. See also n.169 above on this point.

how they interpret it."[185] A strong thrust of Dexter's work is that Congressmen have only limited capacity for accurate perception.   3) Implicit in the first two points is that, although there are constraints on legislators, "they have considerable freedom to choose...by what they will be constrained." (p. 363.)

We now look at these points in two ways: First, Dexter's dissent from Dexter; and, second, others' disagreement with him.

In his capacity to contradict himself, or at least straddle the fence, Dexter is the equal of any respectable political scientist. If one examines his work carefully, one finds NOT the theme that desires for reelection and avoidance of defeat are unimportant to legislators, and NOT the theme that they will refrain from taking steps they believe necessary to achieve these desires. Rather, the theme is that so much of what the legislator does is just plain irrelevant to reelection or defeat because of a) irrelevance of many issues to anyone in his district, b) balance of forces on a given issue, c) the existence of multiple and more important concerns to the district, and d) clever concealment of actions that constituents would indeed rise up about if they only knew.[186]

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[185]Ibid., p. 152. Or, in Shannon's interpretation, apparently of Dexter, "the congressman's limited contacts, his selective perception and retention allow him to see what he wants to see when he considers district opinion." Op. cit. (n.174), p. 183.

[186]"...it is naive to assume or believe that most issues are directly decided on the basis of election results and calculations about electoral consequences. There are so many interests and so many issues that members of Congress do not find it necessary to follow constituent views on any given issue." Dexter, op. cit., pp. 1-2. See also ibid., chs. 1, 2, 8, passim and esp. pp. 33ff., 53-61.

After observing that "there is no district viewpoint as such to be represented on the overwhelming majority of issues," Dexter discusses a Congressman who found that three fourths of his mail on an issue came from outside his district. Dexter asks: "What difference, then, would their views make with respect ot his prospects for reelection?"[187] Elsewhere, Dexter cites Massachusetts pro-League of Nations referenda of the 1930s that had no effect on the state delegation to Congress. Why? "These legislators were quite safe in calculating...that there was little likelihood that views on the League would affect their prospects of reelection...."[188]

But what about issues that do "affect...prospects of reelection" because constituents are concerned, aware and the Congressman cannot deceive them about his actual behavior? Here, Dexter makes concessions. He worries that "because we have pointed out that Congressmen...have...considerable... freedom, some students...may...ignore the correlated fact that Congressmen, in general, are also influenced by and respond to the environment."[189] Part of the environment "on a few issues [is] dramatic pressure [that] can be effective...." (p. 392.) The most dramatic pressure of all is the threat of electoral defeat, and Dexter strongly asserts: "...under some specified circumstances...elections can make a great deal of difference in what Congress does; the cynical and frustrated view that

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[187]Ibid., p. 157. Dexter's italics.

[188]Ibid., p. 104.

[189]Ibid., p. 181.

legislation is uninfluenced by elections is simply wrong."[190]
Hence, although reluctant to admit that Congressmen ever act
contrary to their "basic convictions," Dexter does say: "When
the chips are down, and they have to declare themselves, some
will vote against their convictions and for their constituents'
(presumed) preferences."[191]

A well known example of a Senator who supposedly voted
against his convictions and for his constituents is J. William
Fulbright. In referring to the Senator long before his May,
1974 primary defeat, Dexter makes the following observations:

> ...it is entirely possible that the majority of
> Arkansas citizens have never sympathized with...
> Fulbright's stands on international relations; but
> so long as he does not seriously offend them on
> race relations and so long as he helps the utility
> interests and the textile producers of the state
> and so long as he conforms to their general notion
> of what a Senator should be like and takes an
> acceptable stand on some other matters, he has as
> an incumbent a considerable advantage over most
> challengers.[192]

This statement goes far to refute another statement by Dexter,
that "Congressmen and Senators are rarely, if ever, beaten on
just one issue." (p. 367.) In the case of Fulbright, there
seems to have been a good many "so long" and "just one" issues
that could have defeated Fulbright long before 1974.[193]

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[190]Ibid., p. 1. Cf. n.186 above.

[191]Ibid., p. 152. Italics added.

[192]Ibid., p. 2.

[193]Commentaries seen by this writer on the Senator's
1974 defeat did not note that Fulbright did liberalize his
civil rights stand in his last term. For example, he voted
against the Supreme Court nomination of G. Harrold Carswell.

Regarding Fulbright's successor as Foreign Relations
Committee Chairman, Senator John Sparkman of Alabama, Dexter
says that he "has symbolically supported the southern position
on race matters but in fact has actually done a good deal to
contribute to equality for the Negro."[194] Dexter makes it
plain that, if the constituents of Sparkman and his colleague
Lister Hill had learned what their Senators were really doing,
it would have been political "curtains" for them long ago. In
other words, it was not that Sparkman and Hill were unconcerned
about reelection. They were simply good at deceiving their
constituents. (This is not meant to be an expression of
approval or disapproval on the merits by the writer.)

In the case of Vietnam, we might add, there was much
similar deception of constituents. But, unlike Sparkman and
Hill, who operated behind the scenes, the deceptions of
Senate doves were clear to anyone who looked. (See ch. IV.)
Moreover, Vietnam is used by Dexter as another example where
elections played a role in keeping Senators from expressing
their true convictions. Many who feared defeat if they opposed
war policies were swayed by the 1966 election of three
Senatorial candidates who had dissented on the issue. This
showed the others that "it was safe enough to oppose the
President....[T]hese elections thus made a difference."[195]

All this serves to indicate that, contrary to what Dexter
says elsewhere (pp. 363, 404-5), there are some matters on

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[194]Ibid. See also, ibid., pp. 24-5.
[195]Ibid., p. 72. See also ibid., p. 104.

which Congressmen do <u>not</u> have "considerable freedom to choose
...by what they will be constrained." Civil rights and Vietnam
have been two such issues, and in regard to Fulbright, Dexter
also refers to the utility and textile interests and "some
other matters."

Now that we have taken up Dexter's dissent from Dexter,
let us note disagreement by others. Worth mentioning is a
study of the issue of daylight saving time by Wilder Crane.[196]
He found that only 3 of 80 state assemblymen "intentionally
voted contrary to majority opinion in their districts."[197]
On the question of "the extent to which representatives are
compelled to vote contrary to their own opinions in order to
represent their constituents," Crane answered that "when there
were conflicts, most assemblymen made clear that they were
willing to disregard their own opinions in order to represent
their constituents....[A]ssuming roles as district delegates...."[198]

Crane does not indicate whether such roles are assumed
out of a fear of defeat or a desire for service. When a
legislator votes his constituency's preference as against his
own on a given issue, he is not necessarily violating his con-
victions in order to be reelected. He could say that his func-
tion is to represent his district's views on an issue rather

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[196]Wilder W. Crane, Jr., "Do Representatives Represent?"
<u>The Journal of Politics</u>, Vol. 22 (May, 1960), pp. 295-299.
Crane specifically denies that his findings can "justify
sweeping generalizations." <u>Ibid</u>., p. 299.

[197]<u>Ibid</u>., p. 298.

[198]<u>Ibid</u>., p. 299.

than his own. In other words, there are convictions on the role of the representative and convictions on particular issues.

Unlike Crane, Miller and Stokes make clear that they are concerned with constituency influence, "an influence relation [being] one in which control is not voluntarily accepted or rejected by someone subject to it." In particular, they are concerned with the influence of the desire for reelection. They reject consideration of a situation in which "the "Representative accedes to what he thinks the district wants because he believes that to be what a representative *ought* to do, whether or not it is necessary for re-election."[199] Clearly concerned with reelection as a motivating factor, Miller and Stokes do not confine themselves to majority opinion, as does Crane. In pointing out that the "Congressman is a dealer in increments and margins" to enhance "his chance of survival,"[200] they show an interest in any district opinion ---majority or minority---that might require satisfaction for reelection.

An important aspect of reelection and constituency influence is perception. Indeed, perceptual accuracy is absolutely vital to constituent control via elections. There simply can be no such control in the absence of accurate perceptions, both by constituents and by legislators.[200] On issues important to them, constituents must know what their

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[199]Miller and Stokes, loc. cit. (n.127), p. 50n. Italics in original.

[200]Ibid., p. 55.

[201]Ibid., pp. 50-1.

representatives have been up to. We have already cited find-
ings that constituents can meet this requirement and need not
go into the matter here. (See pp. 386-9.) As for legislators,
in order to avoid defeat on an issue, they must be able to
perceive correctly: a) the existence of a respectable threat
of electoral loss if actions desired by certain constituents
are not taken, and b) just what these actions are, even if
they are unpalatable.

Now, one way for a representative to exercise what
Dexter calls the freedom to choose by what he will be con-
strained is to avoid perception of those unpalatable threats
and demands by which he does not wish to be constrained. Do
legislators have the freedom and the luxury to hear what they
want to hear, and screen out, consciously or subconsciously,
discomforting communications?

As we have seen, Dexter's answer is basically affirmative.
He says that whether a legislator "hears anything on an issue,
what he hears, whom he hears from, and how he interprets what
he hears all _vary_ depending upon the kind of person he is, the
kind of associations he has had and has now...., the public
image of his interests and concerns, and the background
information or misinformation he possesses."[202] Moreover,

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[202].Dexter, op. cit., pp. 151-2. Italics in original.
Dexter further elaborates: "A Congressman's Conception of His
District Confirms Itself, to a Considerable Extent, and May
Constitute a Sort of Self-Fulfilling Prophecy....A Congressman
Hears Most Often from Those Who Agree with Him....Some Men
Automatically Interpret What They Hear to Support Their Own
Viewpoint....What Congressmen Hear and How They Interpret What
They Hear Depends on Who They Are....Pressure Is How You See
It." _Ibid._, pp. 157, 159, 160, 161, 171. Dexter's capitaliza-
tion included; italicized bold type omitted.

Dexter and his colleagues, Bauer and Pool, conclude that one of their main contributions is the "extending and qualifying [of] certain insights" in the political science literature:

> If Lippmann, Berelson, Key, and others have shown that, for good or ill, the ordinary man does not conform to Rousseauian prescriptions of citizenship, what we have done here is to say a smiliar thing about his political betters. They, too, fulfill their roles while uninformed, preoccupied, and motivated by adventitious private goals.[203]

There is some evidence that in at least some respects the "political betters" are indeed better than the "ordinary man" (unless he too is better than he is supposed to be[204]). According to Charles F. Chudde and Donald J. McCrone, "Unlike the private citizen, the Congressman does not distort his perceptions to coincide with his own attitudes."[205]

Cnudde and McCrone expanded upon a prior study of civil rights by Miller and Stokes, according to whom: "The Representative's attitudes and perceptions most nearly match true opinion in his district on the issues of Negro rights," a finding attributed to "the charged and polarized nature of this area."[206] What this means is revealed in Cnudde and McCrone's attempt to answer the question, unexplored by Miller and Stokes, "whether

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[203]Bauer, et al., op. cit. (n.96), p. 485.

[204]See pp. 386-89, the sources in nn.97 and 101, and the comments in n.148 above.

[205]Charles F. Cnudde and Donald J. McCrone, "The Linkage Between Constituency Attitudes and Congressional Voting Behavior: A Causal Model," The American Political Science Review, Vol. 60 (March, 1966), pp. 71-2. Italics added.

[206]Miller and Stokes, loc. cit. (n.127), p. 51. They saw civil rights as the issue area where legislative behavior most closely approximates the "instructed-delegate" model. Ibid., p. 56.

Congressman's attitudes distort his perceptions, or his per-
ception of district attitudes influences his own attitudes."[207]
The Cnudde-McCrone answer is highly relevant to our purposes
and, hence, is worth quoting at some length:

> This analysis indicates that constituencies do not
> influence civil rights roll calls...by selecting
> Congressmen whose attitudes mirror their own.
> Instead, Congressmen vote their constituencies'
> attitudes (as they perceive them) <u>with a mind to
> the next election</u>. Constituency influence is not
> provided by candidate recruitment but by elite
> cognitions.
>   Such cognitions, in this specialized popula-
> tion of political elites, <u>do not operate as psycho-
> logical theory would normally indicate</u>. Rather than
> finding perceptions to be influenced by attitudes,
> this study shows that the <u>reverse is true</u>. In the
> area of civil rights, especially, Congressmen are
> <u>in a political situation in which significant
> rewards accrue</u> to those who perceive their con-
> stituency's attitude correctly and vote on that
> basis. The <u>deprivations are so severe</u> that little
> room can be allowed for the Congressman's own
> attitudes to distort this perception. In fact,
> representatives are motivated to bring their own
> attitudes (or, at least, their <u>public</u> attitudes)
> into line with their perceptions of constituency
> attitude. In the case of Congressmen voting on
> civil rights the dynamics of the political
> situation strongly influence psychological
> processes.[208]

In short, if an issue is of such great importance that it
is or can be the focus of a defeat threat, this can work wonders
for perceptual accuracy, "normal" psychological factors to the

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[207]Cnudde and McCrone, <u>loc. cit</u>., p. 67.

[208]<u>Ibid</u>., p. 69-70. Italics added. This statement is
based on a "model [that] has an almost perfect fit to the data."
    It is interesting to wonder why Dexter, <u>op. cit</u>. makes
no mention either of Miller and Stokes, or of Cnudde and
McCrone. Do not political scientists talk to each other?
Perhaps Dexter, in accordance with his own hypotheses, psycho-
logically screened out perceptions that would upset his per-
ceptions about perception. (Dexter, <u>op. cit</u>., incidentially,
appeared <u>after</u> the two works mentioned.)

contrary notwithstanding.[209]

Richard W. Boyd is another writer who uses civil rights as an example of "issues on which the electorate does severely limit the options of political leaders [.]"[210] Boyd's work is significant in the present context because he seeks to delineate the conditions of "Popular Control of Public Policy." However, he also presents us with a serious problem. Civil rights has been used in this thesis (see also, e.g., pp. 142-43) as an example of a major issue analogous to Vietnam. But Boyd specifically distinguishes civil rights from Vietnam. To understand his reasoning, let us first note that, in line with what we have indicated about different types of issues, he places them in "three borad categories:...

> On some issues the electorate exercises no effec-
> tive constraints on leaders' policy choices. On
> others, the electorate permits political leaders
> a wide array of options at the time of the adoption
> of policy, while passing a retrospective judgment
> on such choices in subsequent elections....Finally,
> there may be issues on which the public rather
> severely limits the options of leaders at the time
> of the adoption of policy.[211]

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[209]It should be noted that, since the thesis plan focuses on putative dove Senators, who presumably shared the point of view of their dove constituents, the question of perceiving accurately anti-war sentiments is secondary. (This may not be true of perceiving the kind of "drastic" action called for here.) In any case, Senate doves did not have to be persuaded to oppose the war since they already claimed to do so. The main problem was to persuade them to do something they already professed to believe in: unless of course they did not really so believe after all. (See chapter IV on this.)

[210]Boyd, loc. cit. (n.101), p. 443. Also ibid., pp. 429, 444-6. Boyd sees "public order" as another example of such an issue.

[211]Ibid., pp. 441, 446.

Boyd puts civil rights in the third category and Vietnam in the second. Our contention here is that Vietnam also belongs in the third category. To see why, we must examine Boyd's conditions for his last category. He writes:

> For this close relationship of electorate opinion to policy to exist, the following conditions are surely necessary: (1) A substantial number of people must have intense views about specific policy alternatives. (2) People must have information about the views of competing candidates on the issue. (3) These attitudes must be fairly impervious to short-run manipulation by political leaders. (4) The balance of opinion on the issue must be such that the winning candidate's choice of an issue position significantly affects his probability of being elected.[212]

Boyd says civil rights meets these conditions and suggests the argument that

> Congress ran few risks in its support of civil rights laws in the 1960s---not because an apathetic public paid little attention to policy proposals, but because on these issues Congress carefully stayed within the relatively narrow constraints posed by a watchful electorate.[213]

On the other hand, Vietnam "may be" an example of an issue in which:

> In the main, policy initiatives lie with the leaders, not voters. After a policy is enacted, voters make a retrospective evaluation....The electorate's influence over such a policy is the leaders' anticipation of voters' reactions in the following election....[214]

While it is at least arguable that on civil rights "Congress carefully stayed within...narrow constraints [of] a

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[212]Ibid., pp. 443-4. Italics added.

[213]Ibid., pp. 445-6. Italics added.

[214]Ibid., p. 442. Italics added.

watchful electorate,"[215] we must ask _why_ this was so if indeed it was so. It is probably that many members of Congress are more liberal on civil rights than their constituents (as was shown, for example, by our allusion to John Sparkman and Lister Hill. See p. 407.) It seems clear that, if Congress was narrowly constrained by a "watchful electorate" (third

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[215]We cannot go into a detailed discussion of civil rights. But there is some evidence that, after 1964 the electorate became increasingly less watchful. Carl Albert remarked that, after casting a very controversial vote in 1964, "Since then, civil rights votes have been inconsequential." (n.169.) In particular, in the early 1970s there has been considerable evidence of an apathetic electorate on the civil rights issue. And there has been some Congressional resistance to the electorate when it has watched.

Of the affirmative action program, which has been described in some quarters as a substitution of a quota system for the merit system, Daniel Bell has commented: "What is _extraordinary_ about this change is that, _without public debate, an entirely new principle of rights_ has been introduced into the polity." Bell, "On meritocracy and equality, [sic]" _The Public Interest_, Number 29 (Fall, 1972), p. 37. Admittedly, this change was brought about by bureaucrats, but they based their actions on Federal Statutes enacted by Congress, including Title VI (money cut off provision) of the Civil Rights Act of 1964, which Boyd is clearly open to dispute in categorizing as "within relatively narrow constraints." Another federal statute is the Equal Employment Opportunity Act of 1972, which came about with scarcely a public ripple. The EEOA gave the bureaucrats the power to go to court against major corporations. It is highly debatable whether the "watchful electorate" knows much about this or would approve if it did know. Finally, and most conclusive in establishing the point, is the issue of busing. It has been estimated that the overwhelming majority of the American people opposes compulsory busing for desegregation. Yet, while the House of Representatives, in both 1972 and 1974, has been quick to respond to this public opinion, the Senate has not, thereby blocking effective legislation as of July, 1974.

NOTHING CONTAINED IN THIS FOOTNOTE SHOULD BE CONSTRUED AS A NORMATIVE JUDGMENT BY THE WRITER ON THE MERITS OF THE ISSUES DISCUSSED. Only empirical questions, especially the actual watchfulness of the electorate, were discussed.

Finally, this discussion does NOT contradict the proposition that the most intense groups can exert control. After all, the most intense groups did get what they wanted, while the rest were apathetic for the most part.

category), this was precisely because of "anticipation of
voters' reactions in the following election" (second category).
This would certainly be in harmony with the just mentioned
Cnudde-McCrone and Miller Stokes findings on civil rights.
This, in turn, raises the question whether there is any
difference between Boyd's second and third "broad categories"
of issues.

Inclusion in the third category requires a "substantial
number" of intense people who can "significantly" affect the
"probability of being elected." Presumably, although Boyd's
wording is far from clear,[216] this refers to a subsequent
election. As we have seen elsewhere (pp. 380-386), "the
winning candidate's choice of an issue position" is predicated
not on an election he has won but on one he seeks to win. He
is concerned with the next election and not the last one.
In short, both Boyd's second and third issue categories con-
template electorate influence or control via "subsequent
elections," "anticipation of voters reactions in the following
election," or "the choice of an issue position [which] sig-
nificantly affects [the] probability of being elected"---all
phrases describing the same thing.

We do acknowledge that there is a difference between
the second and third categories, but this is not in terms of
the influence possibilities and methods. The difference is
between an issue on which there was supposedly a "wide array of

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[216]Reference to the "winning candidate" suggests the
election has already taken place. But to say his "choice of
an issue position...affects his probability of being elected"
is to refer to an oncoming election that is yet to occur.

options" for the leaders and one on which they operated under "severe limits."

We do not dispute that President Johnson, after the 1964 election, possessed wide options with respect to Vietnam and that, in 1968, there may have been (see Brody & Page below) an adverse voter retrospective judgment against Hubert Humphrey as the symbol and supporter of a prolonged limited war.[217] Although Boyd does not clearly say _why_ this was the case with respect to Vietnam, here we dispute any implication that what happened was foreordained by the nature of the issue. It is highly questionable whether there was anything inherent in the Vietnam issue that precluded a restriction of options by a constituency so inclined.

If Boyd's third category involves "narrow constraints posed by a watchful electorate," it is up to the electorate, or interested portions thereof, to pose the constraints and to be watchful. There is nothing in the stars that makes this impossible on any given issue. Our argument, then, is that Vietnam policy initiatives did not lie with the leaders automatically, but by default of their constituents. The problem is not to determine _what_ happened---the existence of wide Presidential options is conceded---but to ascertain whether something else (our proposed alternative) _could_ have occurred.

Before continuing further, however, we should observe that, regarding one aspect of what did happen on Vietnam,

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[217]Boyd, _loc. cit._, pp. 433, 442-3.

Benjamin I. Page and Richard A. Brody do dissent from Boyd.[218] Boyd indicates that there was retrospective electoral punishment of Hubert Humphrey in 1968.[219] But Page and Brody, referring to the "slight impact of a great issue," argue that, "Despite the unusually high salience of the Vietnam war in 1968,...policy preferences had little effect on the major-party vote."[220] To be precise, Page and Brody found that "Vietnam opinions could account for only a minuscule fraction--- between 1 and 2 per cent---of the variation in voting behavior." Moreover, contrary to findings cited elsewhere (pp. 386-89; n.148), Page and Brody say "Times may have changed between the apathetic 1950s and the militant 1960s and 1970s, but if so, this change was not reflected in Vietnam policy voting. Voters did not treat the 1968 election as a referendum on Vietnam policy."[221]

Page and Brody are intrigued by "the question of why such a potent issue had so little effect on the voting."[222]

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[218] Benjamin I. Page and Richard A. Brody, "Policy Voting and the Electoral Process: The Vietnam War Issue," The American Political Science Review, Vol. 66 (September, 1972), pp. 979-95.

[219] Although Boyd refers to the electoral punishment of Humphrey, the Michigan Survey Research Center group point out that the group of voters with the most opposition to the Vietnam War, blacks, gave Humphrey 97 percent of their votes. Philip E. Converse, Warren E. Miller, Jerrold G. Rusk, and Arthur C. Wolfe, "Continuity and Change in American Politics: Parties and Issues in the 1968 Election," The American Political Science Review, Vol. 63 (December, 1969), p. 1085. This buttresses the Page and Brody emphasis on the significance of factors other than the Vietnam War.

[220] Page and Brody, loc. cit., pp. 993-994; also passim.

[221] Ibid., p. 982.

[222] Ibid.

Their answer is highly significant for us. They reject the idea that Americans had no opinions or that their opinions had low intensity.[223] They find in fact that, as we noted, the issue was of "unusually high salience." Also, they do not disagree that there is considerable perceptual ability (on some issues) on the part of most voters. (pp. 388ff.)

The main problem, as seen by Page and Brody, was that there was so little difference between Humphrey and Nixon on Vietnam. Most voters accurately perceived this lack of difference and the rest were either confused or interpreted the candidates' stands to be the same as their own. This was the intended result of deliverately ambiguous and obfuscating candidate tactics.[224] On the other hand,

> under more favorable circumstances, citizens can or do perceive objective differences between candidates policy stands, and vote on the basis of those differences.
> In 1968, several candidates other than Nixon and Humphrey took somewhat clearer positions on Vietnam, and stood somewhat farther apart from each other on the issue. Examination of the public's perceptions of those candidates' issue positions, and of public evaluations of those candidates.... [s]hows that Americans _were able_, to a substantial extent, to vote their policy preferences.[225]

In particular, regarding the war positions of Eugene McCarthy and George Wallace,

> Public perceptions...were fairly accurate....We can conclude...that the public displayed a reasonable ability to perceive candidates' issue

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[223]_Ibid._

[224]_Ibid._, pp. 983-990.

[225]_Ibid._, p. 990. Italics in original.

> positions, when those positions were fairly
> clear.[226]

Moreover, these perceptions played a role in evaluating and choosing between the candidates:

> Considering the other factors which were relevant
> to choices between McCarthy and Wallace...the
> impact of Vietnam preferences was very great indeed
> ....We can conclude that, when the American people
> are presented with a clear choice, they are able
> and willing to bring their policy preferences to
> bear on it.[227]

In one respect, this writer disagrees with Page and Brody. They speculate that the Humphrey-Nixon fence-straddling ambiguity, which resulted in an insignificant role for Vietnam in the 1968 general election, was virtually inherent in the American electoral process. That is, in a two-party system, candidates take the middle ground to maximize votes. The implication is that it was the political system that prevented Vietnam issue voting in 1968.[228]

Aside from its admittedly speculative character, there are two problems with this analysis. The first is that the political system did not prevent the major party nominations of Barry Goldwater in 1964 and George McGovern in 1972. Each

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[226] Ibid., pp. 992-3.

[227] Ibid., p. 993. Page and Brody reach this conclusion via the device of a "mock election."

[228] Ibid., p. 995. Page and Brody are not altogether clear. In their conclusion, they speculate that the absence of Vietnam issue voting in 1968 was due to the nature of two-party competition. But elsewhere in their article they state they are studying candidate positions on a number of issues. Page and Brody say their "preliminary findings indicate that it is possible to specify conditions under which Republican and Democrat nominees do and do not take similar positions." Ibid., p. 986n. Italics added.

of these men took far clearer (or far less unclear?)
positions than either of the two 1968 major party candidates.
(McGovern, in fact, had such a tendency to be clear that, in
one famous remark, he declared a willingness to go to Hanoi
on his hands and knees.)

Second, it should not be forgotten that the American
two-party system has always allowed for the running of third
candidates.[229] Constituent groups need not be passive or sit
back and meekly accept any choices offered. Thus, even con-
ceding the lack of a clear choice between major party
presidential candidates, we are not only concerned here with
what did happen, but also with what _could_ have happened.
(p. 419.) One of the things that could have happened was the
running of filibuster-threatening candidates against Senate
pseudo-doves who refused to use their actual power to end the
war. As we have seen, Page and Brody themselves clearly show
the capacity of voters to perceive the positions of such
candidates and to vote thereon. Using a seven point scale,
on which 1 designates "immediate withdrawal" and 7 "complete
military victory," Page and Brody find that the average voter
perceived Humphrey to be 4.05, Nixon 4.39 and Wallace 6.51.[230]
Nothing in the political system prevented the emergence of the
Wallace candidacy, accurately perceived as much more hawkish

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[229]See Ranney and Kendall, _op. cit._ (n.33, ch. III), chs.
18, 19; Key, _op. cit._ (n.33, ch. III), ch. 10; Hicks, _loc. cit._
(n.14), pp. 3-28; William B. Hesseltine, _Third-Party Movements
in the United States_ (Princeton: Van Nostrand Company, 1962);
Howard P. Nash, Jr., _Third Parties in American Politics_
(Washington: Public Affairs Press, 1959).

[230]Page and Brody, _loc. cit._, p. 983.

than that of Humphrey or Nixon. Why should we assume that anything automatically barred the emergence of Senate candidates who would be perceived as close to the dove end of the scale?

In sum, then, we contend that there was nothing inherent in the political system which automatically precluded the running of candidates with clear dove positions on Vietnam. Nor was there anything inherent in the Vietnam issue itself which prevented it from being one on which there could be "issue voting." There was nothing in the nature of the issue that made it impossible for it to be in Boyd's third broad issue category. It certainly could have met his four requirements for the severe limitation of the options of elected officials. (p. 414.)

Boyd's constituency control conditions partly restate what we have discussed elsewhere in the chapter (perceptual ability of the voters, intensity, desire for reelection). But there is one Boyd condition, as well as a Page-Brody point, that we have ignored temporarily and consider now. Boyd says that "a substantial number of people must have intense views," and Page and Brody refer to the "minuscule fraction---between 1 and 2 per cent." (p. 418.) Is two percent "minuscule"? And what is a "substantial number"?

There are three points to make about these terms. First, in some respects, a "minuscule" number can be seen as quite large. Regarding our main example, Vietnam, Rosenberg, et al give us this reminder:

> ...those who are most vocal about the war
> represent a very small percentage of the
> population. On the other hand, small per-
> centages of a country of 200 million mean
> many, many people. The active and articulate
> few may have an importance well beyond their
> proportion of the population.[231]

This is borne out by considering the 1968 election, in which approximately 73 million people voted for President. Thus the "minuscule" 1 to 2 percent, of which Page and Brody write, consisted roughly of between 730,000 and 1,460,000 people.

If one or two percent is minuscule, what is a small fraction of one percent? Consider Dr. Norman Borlaug's grudgingly complimentary complaint about environmentalists: "Although the collective active membership in these organizations is perhaps less than 150,000 their superb organization and tactics make them an extremely effective force...."[232]

The second point is this. Regardless of whether we emphasize absolute numbers and see 1 million as "many, many people," or see them as a percentage to which we apply the label "minuscule," 12 percent is apparently "substantial" from

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[231]Rosenberg, et al., op. cit. (n.11, ch. II), p. 31.

[232]Dr. Norman Borlaug, "DDT, The First Domino," The New York Times, November 21, 1971, p. E13. It is questionable just what Borlaug means by an "active" membership; and it is even more questionable whether an active membership of 150,000 is small in terms of lobbies, provided that the number is accurate.
A question pertinent to this discussion is raised by Polsby and Wildavsky: "Did Senator John F. Kennedy emerge from the 1960 Wisconsin primary with a margin of only 100,000 votes, or did he win by the substantial margin of 100,000?" Nelson W. Polsby and Aaron B. Wildavsky, Presidential Elections, Strategies of American Electoral Politics (New York: Charles Scribner's Sons, 1964), p. 66. Italics in original. Perceptions and perspectives are quite as important as what is perceived. See Einstein's theory of relativity in n.117 above.

both perspectives. We have seen (p. 144) that a variation of 12 percent of the voters is enough to determine whether an election is a "landslide of historic proportions" or a "squeaker." Moreover, referring to "a massive drain from the Democratic ranks" between 1964 and 1968, Converse, et al. note that "the Democratic proportion of the vote [for President] dropped a shattering 19 percentage points from more than 61 ...to less than 43...."[233] As for Boyd, from whom we take the term "substantial," he notes that 77 percent of a survey sample had knowledge of the Civil Rights Act of 1964. That is indeed a substantial number, but knowledge and votes are not the same thing. Regarding votes, Boyd mentions that 90 percent of Negro voters preferred Humphrey in 1968.[234] But we must remember that that 90 percent was a percentage of only 11 percent of the population and a smaller percentage of actual voters. So, there we are again, back to small "substantial" numbers.

This leads to our third point on terminology which, in turn, brings us back to our earlier discussion of whether an election can involve a "mandate." We concluded that, for

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[233]Converse, et al., loc. cit. (n.219), p. 1084. Italics added. Above the statement quoted in the text, Converse, et al. refer to a "truly massive...shift in popular preferences." They cite figures ranging from 20 to 40 percent. But they acknowledge that much of the shift "came from Republicans who were returning home after their desertions from Goldwater." Also, the fact remains that the net switch from the Democrats was 19 percent, which Converse, et al. do describe as "massive" and "shattering."

[234]Boyd, loc. cit. (n.101), pp. 444-5. As we have noted (n.219), Converse, et al., loc. cit., found that no fewer than "97% of black voters in the nation cast their ballots for... Humphrey."

constituents to exercise control, they need not be a majority.
(pp. 374-79.) But we did not say how much less than a
majority the "mandating" constituents could be. Apparently,
a "substantial" number can be much less than a majority.

One writer upset by the thought of minority control,
or a minority mandate, is Leon Epstein (p. 367), who never-
theless provides evidence that a controlling number can be
quite "minuscule" indeed. In a case study of the 1962
Wisconsin gubernatorial election, Epstein found that 1 percent
of the voters determined the winner on the basis of tax policy.
That is,

> since the...election was decided by less than
> a percentage point and since the winning...
> candidate appears to have won somewhat more than
> that percentage as a result of the tax issue,
> the election was, in this sense, decided by
> voter preferences on a given policy question.[235]

Regarding the very small margin of victory, Epstein
makes a very telling observation germane to constituency
control: "the margin would almost have to be small to permit

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[235]Epstein, loc. cit. (n.113), p. 571. An important
observation is in order regarding Epstein's figure of one
percent determining the outcome of the election on the basis
of tax policy. This figure results from a very restrictive
definition. In fact, Epstein found that "a surprisingly high
proportion, over one-quarter, of the voters...gave taxes as
the most important reason for their vote." Ibid., pp. 570-69.
Italics added. Epstein scales down this 25 percent to 1 percent
by eliminating those who, he believes, would have voted the same
in the absence of the tax issue. He assumes that those who
traditionally voted Republican or Democratic would have con-
tinued to do so. He is interested only in those voters who
supported the winner solely on the basis of the tax issue, and
would have voted for his opponent otherwise. Ibid., p. 570.
All this, needless to say, involves highly tenuous assumptions,
and, in any event, excluded many voters who had a keen (if
not necessarily determinative) interest in the tax issue.

one to say...that any one policy issue decided the election."[236]
However, this still leaves him very deeply disturbed. Dis-
playing almost flawless logic, he points out that a small
minority is not a majority.[237] That is, if a minority of
the voters determines the outcome of an election, this does
not indicate majority support (or a mandate) for the policy
position which prompted the determinative minority to vote as
it did.

Here, Epstein's feelings on the question of legitimacy
are beside the point. As an _empirical_ and _descriptive_
proposition, we have seen that candidates do cater to those
upon whose votes they believe their careers depend. And this
belief did seem to exist in Epstein's study: "Taxes...were
the most prominent issue, and both the winning and losing
candidates thought that it had been critically determining."[238]

There is other evidence that "minuscule" numbers, as a
matter of actual empirical reality, have had a "critically
determining" role out of all proportion to their numbers.
(See also n.181 and pp. 140-45.) James David Barber, conceding
that "Speculating on the 'ifs' of history is an intriguing
and dangerous game," proceeds to play it anyway: "What would

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[236]_Ibid._, p. 572.

[237]We say that Epstein's logic is _almost_ flawless because,
while he points out that a substantial minority of the voters
for the winner disagreed with his tax policy, elsewhere in
the article he points out that an equally substantial minority
of the voters for the loser disagreed with the loser's policy.
Ibid., p. 569. In fact, of all the voter, a very slight
plurality (again 1 percent) actually did agree with the
winner's tax policy. _Ibid._, p. 567, Table 1.

[238]_Ibid._, p. 571.

the politics of the 1950's have looked like if a shift of a mere 1.5 percent of the vote in an obscure Republican primary had resulted in the nomination of Robert A. La Follette, Jr. instead of...Joseph R. McCarthy?"[239]

There have been many elections decided by far less than 1.5 percent of the votes.[240] "Landslide Lyndon" Johnson earned his sobriquet in an 87 vote Senatorial primary victory. The 1964 election gave Johnson the right to remove the quotation marks. But in the very same election, a member of the President's party, Senator Howard W. Cannon of Nevada, won reelection with all of 48 votes to spare. That in a Democratic landslide. Granted, Nevada has a tiny population, but 48 votes were still only .035 percent of the votes cast. Cannon, indicentally, was one of the Senators facing reelection in 1970.

If, as Epstein says, an electoral victory margin has to be small to say that any one issue was decisive, an obvious corollary is this. The smaller the margin of victory, the more likely the withdrawal of any one group's votes can also be decisive, and the smaller such a group need be. It is not surprising that "Incumbents know...that an election may be very close indeed" and "feel that they can...increase or decrease their own chances of reelection by pleasing or dis-pleasing somebody."[241] As a consequence, Miller and Stokes

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[239]Barber, op. cit. (n.51, ch. I), p. 3.

[240]Dexter, op. cit. (n.5, ch. IV), pp. 102, 212-16, esp. 215-6. The figures that follow in the text are based on Dexter's.

[241]Ibid., pp. 215, 212.

say that the "Congressman is a dealer in increments and margins." (p. 409.) And they add that, if he has a broad enough base of party supporters, "he can have a measurable influence on his chance of <u>survival</u> simply <u>by attracting</u> a <u>small</u> additional element of the electorate---<u>or by not losing a larger element....</u>" (Italics added.)

In the same vein, Pomper, who sees elections as enabling voters to protect their "vital interests" (p. 387), declares:

> Political leaders represent particular goals and policies....In the process of <u>seeking incremental support</u> for his nomination and election...a candidate and his party make a wide variety of <u>relatively specific appeals</u>....The governmental consequences of elections...are to be found not in the mass electorate's intentions, but in the leadership's commitments.[242]

Commitments made in pursuit of possibly "critically determining" votes help explain contradictory statements by the Campbell group. They have been quoted as saying that "the election returns offer little guidance on specific policies," and that elected officials are often guided by "a calculus of electoral effect." (p. 318.) When they say there is "little guidance," they mean guidance from "the electorate as a whole" or the "wider public." (n.116.) But they also say that there

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[242]Pomper, "If Elected...," <u>loc. cit.</u> (n.10), p. 319. Italics added. In the interest of fairness, we note that Pomper also says that "The election cannot be said to turn on any one or even a few of these appeals along." <u>Ibid.</u> But one wonders why the appeals are made if this statement is true. The answer is that each appeal places a block of votes in place. Therefore, given the possibility of a close election that haunts incumbent candidates, and the reality of the small pluralities we have cited, the loss of or failure to attract any given block can indeed swing the election.

are pressures from "special publics" on "particular policy alternatives." Moreover, "the fact that the wider public has so little say on specific policies strengthens the position of special publics and particular 'interests' in making their demands on government." What gives the special publics their power is that "if it is _thought_ to be directed to specific policies, the electoral decision can be a source both of guidance and pressure as to these policies."[243]

This statement's implication is that the "thought" is a delusion. But the above-cited and other election returns show that it is not a delusion. Indeed two of the statement's authors, Miller and Stokes, write elsewhere that "the fact of constituency influence, backed by _potential_ sanctions at the polls, is _real enough_....[t]hese potential sanctions are all too real...."[244]

The essence of the reality is the "potential" and uncertain character of the sanctions. What the candidate has to live with is uncertainty of reelection, the threat and fear of defeat. (See also, p. 355.) Uncertainty and fear are powerful forces. Frequently, living with the uncertainty and fear of an event is far less endurable than the actual occurrence of the event. This is why an incumbent candidate becomes increasingly vulnerable to pressure as the election comes closer. (pp. 38-86.)

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[243]Campbell, _et al._, _op. cit._ (n.11), p. 544. Italics in original. We might add that, when the special publics are added up, we do have the "wider" or "general" public. See also n.124a above.

[244]Miller and Stokes, _loc. cit._ (n.127), p. 55. Italics added.

We have stressed our proposal's timing advantage in its capitalization on the uncertainties of the pre-election period. (p. 384.) For this reason we can ignore Key's observation that pre-election commitments are not necessarily fulfilled (p. 382), even as we emphasize his statement in support of the foregoing comments about the combined power of "minuscule" numbers and electoral uncertainties:

> The oddities of politics are such that at times the sliver of votes delivered by a pressure organization may appear to have turned the tide. More often it may seem in prospect that the group can turn the tide. Candidates face uncertainties that lead them to commitments to group interests unwarranted by electoral necessities.[245]

It is relatively easy---or less difficult---after an election to say which commitments were "unwarranted by electoral necessities." But who is to know this in advance? Certainly not the threatened; probably not even their tormentors. So politicians must face "the pervasive problem of uncertainty,"[246] and endure a fear of the unknown.[247] This is what gives threats

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[245] Key, loc. cit. (n.137).

[246] Polsby and Wildavsky, op. cit. (n.232), p. 110. See also, ibid., pp. 25-6, 65-7, 110-12.

[247] "...an experiment...which used rate...demonstrated that unpredictable punishment arouses much more fear than does precisely the same amount of pain when the organism has some means for predicting it....'Unpredictability,' Seligman points out, 'makes the fear continual....There is a much greater degree of strain and worry, because the organism has no signal ...which lets him know that the bad thing won't be happening--- that it's possible to relax.'" Work and words of Dr. Martin Seligman, in Maggie Scarg, "The anatomy of fear," The New York Times Magazine, June 16, 1974, p. 20. Original italics.
In an interesting little article, "The Danger of Candor," The New York Times, February 7, 1972, p. 31, Col. William C. Moore defends a "strategy of uncertainty." This takes advantage of what we have noted: "that unknown factors often carry more weight than known factors...." In a sense, Moore's

their power, which is increased in direct relation to the
degree of uncertainty and the extent of the fear as determined
by the presumed magnitude of pain involved in the uncertain
consequences. Also, threat power is multiplied geometrically
by a requirement of performance of what is demanded prior to
the execution of the threat, instead of a requirement of a
mere promise to perform after the execution date if the
political execution is not carried out.

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is contrary to our position. He finds results different from
those advocated in this thesis. "The strategy of uncertainty,"
writes Moore, "is particularly useful to temper action, be
they [sic] diplomatic or military. Uncertainty creates doubt,
induces caution, curbs daring, deters decisions...."
    Obviously, we are not trying to curb daring or induce
caution. The very opposite applies to a filibuster to end the
war. But, it should be kept in mind that Moore is writing
about military and diplomatic decision-makers, the desirability
of their guessing about each other's intentions, and the
possible consequence of deterring major war. The uncertainty
that would be produced by this writer is that of an elected
official about whether or not he would be defeated, and to avoid
or lower the uncertainty he would have to _perform_ certain
"daring" action and avoid caution. Also, a problem faced by
peace proponents was exactly that dove Senators were cautious,
timid and not daring to begin with. Since they already were
timid, there was nothing to lose by imposing uncertainty on
them, creating new doubts that would prompt them to act to
eliminate the uncertainty.
    Regarding these points, a pertinent piece is Kenneth A.
Shepsle, "The Strategy of Ambiguity: Uncertainty and Electoral
Competition," _The American Political Science Review_, Vol. 66
(June, 1972), pp. 555-568. This article is primarily concerned
with the effect of uncertainty upon the voters rather than upon
the candidates. (That is, the voters' uncertainty about
ambiguous candidates' positions, as opposed to candidate un-
certainty of what the voter's response would be to incumbent
candidate behavior.) However, Shepsle does reach a conclusion,
relevant to this discussion, that "it was demonstrated...that
ambiguity actually decreases the appeal of a candidate, that
a candidate restricted to ambiguous strategies is positively
disadvantaged, and that in the contingencies presumed...it is
irrational for candidates not so constrained to behave
equivocally." _Ibid._, p. 567. Italics in original.

Electoral defeat is political execution, a consequence
we have seen to be highly undesirable and painful to most
politicians. Whether or not the threatener gains electoral
victory for himself is secondary. His power comes from the
ability to assure a loss for the threat target."[248]

As Key indicates above, the loss of support of a vital
"pressure organization" can be very crucial. For example,
this was a difficulty facing the John Lindsay's bid for the
1972 Democratic presidential nomination. According to one
account,

> The unyielding opposition of most of organized labor
> ---personified by George Meany...who says that he
> would vote for...Nixon if Mr. Lindsay were
> nominated---recurs again and again in conversations
> about the Mayor.
> "I'm not sure I take Meany seriously when he
> says that," said an Ohio liberal. "But I don't much
> want to take chances. We wouldn't do very well with-
> out labor in 1972." [Italics added.][249]

Of course, Lindsay's ideological twin, George McGovern,
received the nomination and lost Meany's support, which con-

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[248]On defeat threat power, Dexter says: "What you call
pressure, or what you feel to be pressure, depends on how
thick your skin is. To many men in politics threats alone
represent the only real pressure, because they know very well
that few votes are actually lost on any one issue." Op. cit.
(n.5, ch. IV), p. 173. Italics added. In other words, when
there is a threat of losing more than a "few" votes, the threat
can work, and, for "many" that is all that will work. Typically,
Dexter makes contrary statements. For example, he speaks of
"the weakness of pressure and of threats." Ibid., p. 31. He
also says "it is ordinarily a mistake to try to defeat enemies,"
and offers as one reason that the Congressman "starts thinking
about the next election, rather than the last one." Ibid.,
p. 27. It seems to this writer that, if thinking about the
next election implies anything, it implies thinking about
possible defeat in the next election. And, of course, those
who can bring about defeat are in a powerful position, as
Dexter himself indicates elsewhere. (See pp. 427, 404-6.)

[249]R. W. Apple, "Lindsay Accepted by the Democrats,"
The New York Times, November 17, 1971, p. 28.

tributed to the 1972 Democratic presidential debacle. Only
time will tell whether the threat carried out in 1972 will
alter Democratic behavior in 1976.

Perhaps the most menacing political weapon of all is
not the interest group, but the third party or candidate.
Running third candidates, of course, is a major element of our
strategy.

The third party or candidate menace has been mentioned
by many writers. Hesseltine, for example, observes: "Some-
times...the mere threat of a third party has been sufficient
to stay the hand or modify the program of a dominant group."250
Hesseltine adds:

> ...despite the number of third parties and the
> often small vote which they polled, the minor
> parties played a significant role in American
> political history....
> ...no political leader could afford to
> remain unaware of [this] role....[T]hird parties
> had offered opportunities to discontented
> leaders of the major parties who carried thier
> followers into revolt and brought disaster
> to their former associates [Italics]added. 251

Bearing in mind that our strategy calls for only defeat
of major party candidates and not election of the third candi-
dates, let us note that William Goodman points out:

> From time to time, factions of a major party
> have broken away from their parent organizations
> and have attempted to become electoral organizations
> by themselves....In each case the factional leaders
> thought that they had some chance to win, or at
> least decide who would win....These bolting factions,

250Hesseltine, "Introduction," in Nash, op. cit. (n.229),
p. v. Italics added.

251Hesseltine, op. cit. (n.229), pp. 13,100. See other
sources in n.229 as well.

<u>while hopeless as successful parties, must be
taken seriously</u> because of the <u>possibility</u> that
their <u>diversion of strength</u> will affect the
outcome of the election. [sic; italics added.] [252]

A highly significant third party that has had much
success in getting itself "taken seriously" in the past because
of its capacity for "diversion of [major party] strength" is
the New York State Liberal Party. Before the rise of the
Conservative Party, Wallace Sayre and Herbert Kaufman wrote
in 1960 that the Liberal Party was in a "peculiarly strategic
position," having "enlarged its impact on elections in the
state far beyond expectation in view of the comparatively
modest size of the party and its following."[253] The impact,
in fact, was sufficient for the Liberal Party to show the
power of uncertainty and fear of the unknown. "Democrats,"
wrote Sayre and Kaufman, "have shown a <u>tendency to get nervous</u>
even about those contests in which they are more secure than
anywhere else, and to seek third-party support with ever-
increasing frequency."[254] The nervousness was due to "third
parties [having] demonstrated that they might be able to hurt
the Democrats...if they chose."[255] The result of this was
such that even a "Democratic victory, however gratifying it
might have been to the party's leaders, did little to increase

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[252]William Goodman, <u>The Two-Party System in the United
States</u> (Third Edition; Princeton: Van Nostrand, 1964), p. 50.

[253]Wallace S. Sayre and Herbert Kaufman, <u>Governing New
City, Politics in the Metropolis</u> (New York: Russell Sage
Foundation, 1960), p. 183.

[254]<u>Ibid</u>., p. 191. Italics added.

[255]<u>Ibid</u>., p. 187.

their sense of security."[256]

The root of the nervousness and insecurity was the ability of the Liberal Party to be the margin of victory. (p. 427.) According to Sayre and Kaufman,

> Liberals can draw enough votes to constitute the margin of victory....[S]ince the end of World War II, there has scarcely been a legislative election (excluding the City Council) in which the vote on the third-party line (or lines) has not amounted to the margin of victory for a few seats---one or two congressional seats....[257]

Moreoever, the Liberal Party and its progenitor, the American Labor Party

> both...had a pronounced impact on the outcome of many elections....Third-party endorsements of the Democratic candidates for Governor in 1938 and 1954 drew large enough numbers of votes to have brought defeat to these individuals had they gone to someone else.[258]

Finally, in this connection, it is interesting that most people with a fascination for politics probably know that, in 1960, John F. Kennedy defeated Richard M. Nixon by a very close popular vote margin, 118,574 to be exact. But how many know that, in this election won by a Democrat, there were 287,602 more votes on the Republican line than on the Democratic line? The difference was caused by 406,176 votes in New York State for Democratic electors on the Liberal Party line.[259] The

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[256]Ibid., p. 192.

[257]Ibid., pp. 159, 190.

[258]Ibid., p. 187.

[259]Richard M. Scammon, ed., America Votes 5: A Handbook of Contemporary American Election Statistics (Pittsburgh: University of Pittsburgh Press, 1964), pp. 1, 291.

combined plurality of this slate was 383,666 votes.

What about Vietnam? It is all very well to talk about other examples. The Liberal Party, and other third parties too, had years to build up threats taken seriously by major parties. We have to show here that, against major party dove Senators who refused to cooperate in a war-ending fili-buster, a threat of defeat could have been made with sufficient potence to, in Goodman's words, "be taken seriously because of the possibility that...diversion of strength will affect the outcome of the election."

It must be stressed that what was necessary was <u>not a guarantee</u> of defeat <u>but a credible threat</u>. That is, a threat strong enough to create feelings of uncertainty, fear, insecurity and nervousness. Remember, action by dove Senators was called for in the pre-election period. With a credible threat, they could not know whether they would survive. So, then, could a credible threat have been established in the case of Vietnam?

To establish an affirmative answer to this question, we shall discuss two overriding factors: (1) the uniqueness of the Vietnam issue, and (2) the repugnance of defeating one's allies.

Defeat Threat Credibility and Vietnam Issue Uniqueness

Throughout this thesis we have repeatedly referred to the unique character of the Vietnam issue. Accordingly, it is not surprising to note that this uniqueness is relevant to several aspects of the dissertation. Among other things,

uniqueness: a) helps explain why the proposed threat would
have been credible, b) contributes to an answer to the
question how a highly diverse and fragmented constituency
could have been mobilized to follow our plan, and c) justifies
the use of rare and unorthodox (but not unprecedented or
illegitimate) pressures and procedures, including d) the risk
of defeating one's political friends.

What do we mean when we say the Vietnam issue was
unique? We mean that it was rare in many ways. In fact,
"unique" and "rare" may be just too mild to say what we mean.
The issue was a classic for the student of American political
institutions and processes. It had a profound impact on
American society and politics, on the economy, on individuals,
on public opinion. It was, indeed, rare even among Dexter's
"few issues at most in any one political generation" on which
"dramatic pressure on general issues can be effective." (p. 392.)

For the student of American political institutions and
processes, one could write a textbook or teach a course using
the war as the only illustration. There have been few issues
that have better exemplified the interconnected nature of
American Government. The war involved questions of
normative political theory, democracy and constitutional
interpretation, civil liberties, the Courts, Congress, the
Presidency, executive-legislative relations, bureaucracy, interest
groups, political parties, public opinion, state and local govern-
ment, and the substance and process of foreign, military and
economic policy.

The impact of the war can be measured in terms of its cost. In Arthur Schlesinger's succinct words, it was "a war lasting longer than any other in American history, a war causing more American deaths in combat than any except the Civil War and the two World Wars, a war costing more money than any except the Second World War."[260]

Candor compels the concession that there is less in these figures than meets the eye. Advocates have a way of citing percentages or absolute numbers, depending on which happens to support the particular point purveyed at a given moment. For example, in terms of money costs, it is clear that there has been a real and inflationary rise in the Gross National Product over the years, so that if the cost is calculated as a percentage of GNP rather than in absolute dollars a different result ensues. The cost of the Vietnam War as a percentage of GNP was less in relation to other wars than in absolute dollar terms. Similarly, the population has risen, and combat deaths as a percentage of the population were lower in relation to other wars than when listed as absolute numbers.[261] Even in

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[260]Schlesinger, op. cit. (n.15), pp. 178-9. For troop levels, combat deaths, and bomb tonnage, see above pp. 171, 173. On the economic and moral impact of the war, see hearings on same in n.34, ch. II. See also Edwin L. Dale, Jr., "What Vietnam Did to the American Economy," The New York Times, January 28, 1973, pp. 1-2F.

[261]According to this writer's arithmetic, for example, the War of 1812 resulted in 2260 battle deaths or .0301 percent of the 1810 population of 7,239,881. The Vietnam War's 45,997 combat deaths were .0201 percent of a 1970 population of 203,184,772. The Vietnam deaths are in n.135, ch. III above. The other figures are from Luman H. Long, ed., The World Almanac and Book of Facts, 1972 (New York: Doubleday and Co., Inc., 1971), pp. 148-9, 472. It should be noted that the 1970 figure does not include American Nationals overseas, and consequently results in a slightly higher percentage.

absolute terms, to say that the war caused more "deaths in combat than any except the Civil War and the two World Wars" is a dramatic way of saying that the war ranked fourth among nine major wars in American history. (Revolutionary, 1812, Mexican, Civil, Spanish-American, Worlds I and II, Korean, Vietnam.)[262]

Well now, what does all this candor do to the writer's point that the Vietnam War was an issue of extraordinary uniqueness? Not much. Perception is a combination of appearance and reality. Critics of the war, needless to say, strongly emphasized the absolute numbers. This emphasis was used to intensify domestic dissent against the war. For purposes here, this dissent was the war's most significantly unique aspect, and probably greater than in any other war.[263] It was probably greater because in no other war was there such media coverage, both of the gruesome character of the casualties (with actual telecasting of the bloodiest scenes) and the dissidence of the most intense critics.

We have seen, and need only mention here, that, contrary

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[262]Because of the gradual escalation and de-escalation of the Vietnam War, it is hard to say precisely how long the war was. The most drastic excalation, however, occurred in 1965. (Again, see deaths and troop levels, p. 171 above.) If we accept 1965 as a starting point and count the Revolutionary War, then the Vietnam War was not the longest. (However, the dates of the Revolutionary War can also be argued about, but not here.)

[263]Cf. Beisner, loc. cit. (n.41, ch. I), pp. 187-216, passim, which compares dissent in the 1898 war with dissent from the Vietnam War. See also, Samuel Eliot Morison, Frederick Merk, and Frank Freidel, Dissent in Three American Wars (Cambridge: Harvard University Press, 1970). This work compares Vietnam dissent with opposition to the 1812, Mexican and Spanish-American Wars.

to repeated assertions of critics (pp. 74-83), the war was
intensively and extensively debated throughout its duration.
Critics themselves contributed heavily to the debate.
(Without them there would have been no debate.) They received
very great publicity in televised Senate Foreign Relations
Committee Hearings, televised "teach-ins," and other forums.[264]
All this had a profound impact on the salience and intensity
of the issue.

This impact was manifested in three ways. 1) A growing
number of people thought the war was a mistake. From mid-1967
onward, a majority of a sample of the American people consistent-
ly responded to the Gallup Poll that the United States was wrong
ever to get involved in Vietnam.[265] The reader is cautioned
that the belief that a mistake was made originally does not
necessarily imply either disagreement with the policies pursued
at any given moment during the war, or agreement with alterna-
tives proposed by any particular group, hawk or dove.[265a] (See
n.58, ch. II.) However, the belief does provide a public
opinion foundation on which there could have been erected support
for a given alternative by peace leaders who understand how to
appeal to rather than insult the American people.[266]

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[264]See above, pp. 83-91; nn.30-39a of ch. II, esp.
nn. 34, 37, 39, 39a.

[265]In addition to the results of the mistake question
published repeatedly in The Gallup Opinion Index (see, e.g.,
n.58, ch. II), the results are summarized and considered in
depth in Mueller, loc. cit. (n.38, ch. II) and Erskine, loc.
cit. (n.21, ch. IV).

[265a]See also, Rosenberg, et al., op. cit. (n.11, ch. II), p. 37.

[266]On the public relations mistakes of the peace movement,
see chs. II-IV, passim, esp. pp. 250-275, and n.186, ch. IV.

2) We have seen that Page and Brody have described Vietnam as having unusually high salience." (p. 418.) But more than that, people were not only aware of the issue, they also considered it for years to be America's most important problem. According to the University of Michigan's Survey Research Center, prior to the 1968 presidential election, "When asked...to identify the most important problem facing the government in Washington, over 40% [sic] of the electorate cited the war in Vietnam."[267] Dr. Gallup found at the same time that, in answer to the question "What do you think is the most important problem facing this country today?" over 50 per-cent of the sample interviewed said the Vietnam War was.[268] In fact, many times during the war, Gallup asked this question. He found that more people in his samples thought the Vietnam War was the "top problem" from 1964 to 1971 than any other issue.[269] Moreover, 72 percent of a sample interviewed October 9-13, 1970 said Vietnam would be "Extremely Important" in the thinking of the voters for Congress in November.[269a]

It is worth noting that it was not just dissent that led to the extraordinary salience of the Vietnam issue. If "the

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[267]Converse, et al., loc. cit. (n.219), p. 1085.

[268]The Gallup Opinion Index, Report No. 39 (September, 1968), p. 8.

[269]Ibid., Report No. 76 (October, 1971), p. 4. Here is presented a "Gallup Poll 'Mood of America' Barometer." In 1964, Vietnam shared top billing with Race Relations. From 1965 through 1970, Vietnam monopolized the starring role as "Top Problem." In the second half of 1971 (ibid., p. 3.), Vietnam lost its preeminent position to "Economic Problems."

[269a]Ibid., Report No. 65 (November, 1970), p. 4. Cf. n.127, ch. III.

Vietnam war has been the single issue most often named in recent years when Americans have been asked by pollsters to identify our most serious national problem," Rosenberg, et al point out that: "for most Americans the issue has taken on decisive importance because it has been perceived as the source of many domestic problems or as an impediment to their solution."[270] It is worth noting further that, at one point during the 1964 to 1971 period, Vietnam was not the most important Gallup problem. In July, 1970, Gallup observed that the war had "taken a backseat to the problem of campus unrest in the public's thinking (late May)." But if we remember that May, 1970 was the time of the Cambodian-Kent State eruptions (pp. 146-168), we know what caused the unrest on campus. Between campus unrest, caused primarily by Vietnam and Cambodia, and Vietnam itself, there were still 49 percent who saw these two as the most important problem.[271]

So when Rosenberg, et al refer to Vietnam as the "source of many domestic problems or as an impediment to their solution," we note that these included the repeated questioning of the very existence and foundations of American democracy (pp. 74-82), intense and often violent domestic turmoil not necessarily restricted to the campuses (ch. III passim, esp. 146ff.), economic inflation and the diversion of money from purposes seen by some as more important. (n.260.)

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[270]Rosenberg, et al., op. cit., p. 8.

[271]The Gallup Opinion Index, Report Number 61 (July, 1970), p. 3.

3) The third manifestation of the impact of the dramatic character of the publicization and intensity of dissent on the Vietnam issue was, not surprisingly, the increase in manpower, energy, time and money available to war opposition.

A question that has been raised often about the writer's plan is how it could have been expected that the highly fragmented, heterogeneous peace constituency could have been unified and mobilized to pursue the course proposed. Space limits preclude a detailed answer, but the truth of the matter is that, in 1970 especially and even before, there was considerable coordination of peace efforts. One of the attributes of a highly visible and intense issue is that, <u>given the proper leadership</u>, a high degree of organization and coordination can be imposed. This was true, for example, of the lobbying effort for the Civil Rights Act of 1964, which coordinated such diverse groups as beauticians, meat packers, ministers, laborers, nurses, housewives, and businessmen.[272]

But the most important point here is the bearing of the uniqueness of the Vietnam issue upon establishing a credible threat of electoral defeat. The central question is this: what is the probability that sufficient votes could have been diverted from Senate doves to defeat them? It should be recalled that defeat required far fewer votes than election of the pro-filibuster candidates who would run against dove Senators.

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[272]On the fragmentation of the peace movement and its coordination, see above, pp. 109-113, 146-168, esp. p. 159. On civil rights, see above n.50, ch. I; n.42, ch. III.

Five considerations are pertinent to sustaining the proposition that the probability of defeat would have been high enough to establish a credible threat.

First, we have seen (p. 409) that proper perception is vital to electoral control. It is unlikely that any threat with respect to an issue can succeed if the voters are unaware of the issue and candidate positions thereon. The uniqueness of the Vietnam issue, characterized in part by its great salience, clearly enhanced perceptions, both by voters and Senators. Page and Brody showed (p. 419) that "Public perceptions [regarding Vietnam positions of candidates] were fairly accurate." Moreover, "when the American people are presented with a clear choice, they are able and willing to bring their policy preferences to bear on it." Page and Brody studies voter perceptions of presidential candidates. We are proposing threats against Senators. Are their positions as clear to the voters? We answer indirectly, citing a study of Representative salience by Miller and Stokes. They found a very high de ree of party voting combined with very little public knowledge of candidate actions and positions, and they pointed out further.

> The saliency of a candidate is of critical importance if he is to attract support from the opposite party. However little the public may know of those seeking office, any information at all about the rival party's candidate creates the possibility of a choice deviating from party.... [S]uch a choice occurs with some frequency....The condition of no information leads to fairly unrelieved party-line voting and so to an even greater degree does the condition of information only about the candidate of the voter's own party. But if partisan voters know something about the opposition's man,

<u>substantial deviations</u> from party appear.[273]

We, of course, are not concerned with party voting per se. But we are concerned with deviation of votes from incumbent candidates. In this sense, given the obviously greater salience of Senators than Representatives to begin with, and given the "unusually high salience" of the war issue, there can be little question that the perceptions necessary for threat credibility would have been made and made accurately.

Second, if the Gallup Poll was correct---or even nearly correct---starting in 1965, and continuing steadily for at least five years thereafter, a constant 20 percent of the American people were "superdoves." These were people who wanted immediate withdrawal from Vietnam. (p. 111; n.84, ch. II.) In terms of the small numbers needed for diversion from major party candidates in order to defeat them, Gallup's percentage of "superdoves" varied from "substantial" to "massive." (pp. 422-428.)

Third, we should, moreover, keep in mind this observation by Rosenberg, <u>et al</u>: "Peace candidates may be able to arouse a great deal of support [even from] those who are generally dissatisfied...for a whole host of reasons."[274] That is, the mere presence of a candidate sometimes has been sufficient to attract protest votes. In a close election, these votes can alter the outcome. During the Veitnam War, it was well known that some hawk voters actually opted for dove candidates to

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[273]Stokes and Miller, <u>loc. cit.</u> (n.49, ch. III), pp. 540-1. Italics added.

[274]Rosenberg, <u>et al.</u>, <u>op. cit.</u>, p. 52.

express protest. This point appears to controvert the idea that "public perceptions [on Vietnam] were fairly accurate." But appearance is not reality, and the reality is that a pro-filibuster candidate need not be choosey about who votes for him. He can have a strong, solid base of accurate perceivers of his position, supplemented by an additional contingent of blindly protesting misperceivers.

Fourth, it has been argued that peace opposition has been concentrated on the east and west coasts, especially in California and New York.[275] An examination of Gallup Polls demonstrates that, with some variations, war opposition has been evenly spread throughout the United States. In addition, it can readily be shown that peace organizations sprung up and conducted activities in virtually every state in the Union.[276]

Fifth, an alleged detraction from the power of a threat against "liberal," "dove" Senators was the possibility that they might use the threat to appeal to conservative voters.[277] This is a variation of the argument, discussed earlier (pp. 348-358), that dove constituent pressure against dove Senators would generate hawk counter pressure. In addition to our previous points, especially that hawk pressure existed to begin

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[275]Robert Silvers, for example, made this point in his letter of June 4, 1971. (n.138, ch. III.)

[276]See above, pp. 109-10; n.78, ch. II. Also see "A Survey of Moratorium Activity" and "Background Sheet on the Vietnam Moratorium Committee and Spril 13-15," reprinted in Congressional Record, 91st Congress, Second Session, Vol. 116 (Daily Edition; April 16, 1970), pp. E3280-87.

[277]Silvers, letter, June 4, 1971.

with and it only made sense to add dove pressure, we make two:
1) Consider an electoral contest involving a dove Democratic
incumbent, a conservative Republican challenger, and a pro-
filibuster "spoiler." It strains credulity to expect con-
servative voters to cast their ballots for an apparently
liberal dove instead of the genuine article. While there are
almost always deviant voters, these are far more likely to be
outweighed by the voters seeking a genuine dove candidate.
Moreover, the very effort of the Senate "dove" to appeal to
conservative voters would produce a corresponding decline in
appeal to the pro-filibuster voters and increase their inclina-
tion to vote for the candidate with a clear position. In any
event, the pre-election uncertainty, which is so powerful in
producing the deadly fear vital to a credible threat, would
still remain. 2) Regarding counter-pressure by hawks, if a
Senator has the appearance of being pro-dove to begin with
(ch. IV), he is already opposed by hawks, who consequently
have little capacity to withdraw votes and increase the likeli-
hood of his defeat. Hawks do not have the option of dividing
the dove voters. But dove constituents, backing a pro-
filibuster candidate, are in a position to add a new element
to the electoral equation, the diversion and division of the
dove voters. In other words, the pro-filibuster doves can
greatly enhance the possibility of defeat of the incumbent
supposed-dove, whereas any possible hawk contribution to his
defeat has, in fact, already been made.

The conclusion of the foregoing considerations is
inescapable. Had pro-filibuster candidates run against pseudo-

dove Senators, the former would have posed a highly probable and therefore monumentally credible threat of drawing off enough votes to defeat the latter.

Threat Credibility and the Risk of Losing Political Allies

The primary problem in establishing a credible threat of defeat was not whether it _could_ be done but whether it _would_ be done. During the war, the idea of third parties or candidates was not entirely unheard of. For example, in 1967, "for profoundly conservative reasons," Kearns and Levinson suggested "the formation of a third party" that would have "really represented...the urban Negro, the marginal farmer or unskilled laborer, the emerging class of students who find The American Dream a nightmare leading to _1984_." Unlike those utopian third party advocates who expect victory, Kearns and Levinson recognized that "it need not be posited that a third-party candidate would win or even come close." Their main goal was "to demonstrate the existence of a block of voters for whose support a major party must bid...." However, they were basing their call on the possibility that an "acceptable Republican " would run. They specifically left out Nixon and Reagan.[278]

But what if, not an "acceptable" liberal Republican, but a conservative were elected as a result of a left of center third party effort? Robert Silvers, an editor of The New York Review of Books commented to the writer that the peace movement's "electorally minded people...would _not_, for example, have sacrificed [liberal dove Democratic Senator] Hartke to

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[278]Kearns and Levinson, _loc. cit._ (n.12, ch. II).

[conservative Republican opponent] Roudebush [in 1970] under
any circumstances...."[279]

Kearns and Levinson's limitation of their proposal to
an "acceptable Republican" alternative, and Silvers' rejection
of a sacrifice of a liberal Democrat illustrate a problem of
dove constituents. They faced what Key called "the ancient
dilemma of third parties---that if they nominate a candidate
of their own, they might thereby contribute to the defeat of
the major-party candidate most mearly agreeing with their

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[279]Silvers, letter, June 4, 1971. Italics in original.
Ironically, it was Silvers who published one of the few pieces
by electorally minded people embracing the concept of "sacri-
ficing Hartke to Roudebush," because of the sham of the Hartkes.
See Tom Wicker, "The Politics Before Us," The New York Review of
Books Vol. 16 (February 11, 1971), pp. 14-18. Wicker argued
that "The importance of George Wallace was the influence he had
on Richard Nixon...and on his administration....The Democratic
party is not going to be moved by anything less than the same
amount of power that...Wallace wields on the Republican party."
Ibid., p. 16. Two drawbacks of Wicker's article are that he
came around to the third candidate point of view rather late,
and that his central focus was on the presidential election of
1972 rather than on Senatorial elections. Another focus on
1972, written in the midst of the Kent State-Cambodia reaction
of 1970, is: Eugene J. McCarthy, "'A Third Party May Be A
Real Force in '72,'" The New York Times Magazine, June 7, 1970,
pp. 6, 12-19. This article is somewhat amorphous and not
focused on any particular issue. Nor is it clear whether
McCarthy expected the election of candidates with his point of
view or the threatened defeat of candidates for the purpose of
getting them to adopt his view.
    For the most part, the prevailing peace view opposed
third candidacies or espoused such candidacies in opposition
to hawks. An example of the former is a critique of "McCarthy's
Call For a Third Party," Editorial, The New Republic, Vol. 162
(June 20, 1970), pp. 5-6. An example of the latter is Garrison
Nelson's notion that "presenting third-party alternatives in
marginal [House] districts...may at least have the effect of
making Democratic hawks less supportive of war policies."
Loc. cit. (n.38, ch. II), p. 19. For an exotic variation of
this idea, that liberals in the House should throw control to
the Republicans, see John Kenneth Galbraith, "Winning in
November Is Not Enough," The New Republic, Vol. 162 (June 13,
1970), pp. 13-14; "Press the Peace Candidates," Letter, The
Progressive, Vol. 34 (October, 1970), p. 45.

principles."[280]

To deal with this problem, we raise two questions:
1) Was it really necessary to risk the defeat of those incumbent Senators closest to the peace movement's political positions? 2) Just what was risked?

Regarding the first question, agonizing as Key's "ancient dilemma" might be, in the absence of constituency willingness to take the risk of losing a legislator there can be no threat against him. There simply can be no credibility to a threat which is not serious. Sayre and Kaufman noted:

> Strategic considerations practically _force_ the [New York] Liberals to deal with both major parties and _to run independently_ from time to time, for they _would otherwise have no threat_ to hold over the head of either the Democrats or the Republicans.[281]

Stated differently, we have noted elsewhere that executives and legislators have had their credibility gaps (p. 191ff.) Here, we add that constituents too can have a credibility gap in the eyes of legislators. They will take seriously---and be empirically justified in doing so---only "a monumental threat that has behind it more than words, a threat that has behind it people who...have made their intention plain..."[282]

There is a paradox in this discussion. It has been mentioned that, against the writer's proposal, the argument was

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[280]Key, _Politics..._, _op. cit_. (n.33, ch. III), p. 277. Cf. Hicks, _loc. cit_. (n.14), p. 9.

[281]Sayre and Kaufman, _op. cit_. (n.253), pp. 159-160. Italics added.

[282]Wicker, _loc. cit_., p. 16. As noted in n.279, Wicker's context is different.

made (p. 447) that pro-filibuster candidates would enable dove liberal Senators to say, in effect, to conservative voters: "Vote for me or you will end up with someone worse: the pro-filibuster candidate." But dove constituents would hear: "Don't run a pro-filibuster candidate against me, or you will end up with someone worse: the conservative candidate."

Either way, the dove liveral constituents end up being ignored. In the former case, they are ignored because an appeal is allegedly going to be made to the conservative voters. In the latter case, in the absence of a threat emanating from the dove liberal constituents, the incumbent dove liberal Democratic Senatorial candidate, sure of his basic constituency, is free, again, to appeal to voters in the center and on the right by making concessions to them.

There just can be no question that a genuine threat of defeating liberal Senators would have involved the risk of electing candidates worse in the eyes of liberal dove constituents. But to accept this argument as a valid reason for not making the threat is to dispense with the most powerful weapon. To cite Dexter again (n.248), "To many men in politics threats alone represent the only real pressure, because they know very well that few votes are actually lost on any one issue." It was thus up to liberal dove voters to make the threat by demonstrating that there were more than a "few" votes to be lost on the Vietnam issue.

In terms of votes to be lost and as a matter of cold reality, liberal Senators needed the support of liberal constituents every bit as much---and more---as the latter needed

the former. When liberals outside the government worry about the risk of losing liberals in the government, it means that the outsiders can be taken for granted, ignored with impunity and be given the sops described in the fourth chapter.[283] This is exactly what happened. The only way to have gotten the liberal dove Senators to heed their closest allies on the outside was for those allies to have made unmistakably clear that their electoral support was not automatic.

Ironically, once this was indeed made clear, the risk quite possibly would not have been as great as it appeared on the surface. Faced with the specter of defeat at the hands of dove constituents, many Senators would have had a new incentive to cooperate in a war-ending filibuster.[284] Once they had

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[283]It should go without saying that the same point applies to people, in and out of government, of any political persuasion, liberal or conservative.

[284]In some cases, Senators would not simply have had an incentive to cooperate. They would have had no choice in the matter. That is because their major party challengers were so close to them and the uncertainty of their reelection was so great that a third candidate who would siphon off votes would paradoxically create a new certainty: a certainty of defeat if the incumbent failed to accommodate the pro-filibuster element.
    Above (pp. 427-436; n.247), we have referred to the power of threats combined with uncertainty. Here we modify the point. We must recall that how a phenomenon is viewed often depends on perceptions and perspectives. (See, e.g., the Polsby-Wildavsky point in n.232.) Thus whether we view the third candidate threat as one creating uncertainty or as one creating certainty depends on the perspective of the viewer combined with the particular situation.
    Consider two cases. In the first case, the incumbent's seat has in the past been won by close margins and/or the current election seems likely to be close (as determined, for example, by polls and/or the presence of a challenger with a history of strong showings). In this case, what is uncertain is a) whether the incumbent will be reelected in the absence of any third candidate threat and b) the seriousness of the threat. What is certain in the same case is that the incumbent will be defeated if the threat is carried out. If the uncertainty

given such cooperation, there would have been no reason to continue with the threat, which would thus have been withdrawn. Again we cite Sayre and Kaufman: "To strengthen their hand in negotiations, the Liberals often nominate candidates of their own, then have these candidates withdraw if they are satisfied with the results of their threat to make an independent stand...."[285]

But it must be stressed that a strategy of threat cannot be based on a guaranteed expectation of being able to withdraw the threat. There must be a genuine willingness to carry out the threat for any effect to be produced. This leads to an examination of the second question (p. 450): just what was risked?

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of the seriousness of the threat is converted into certainty or at least high probability, and if this is combined with the uncertainty of reelection to begin with, a certainty of defeat is created for the incumbent. In this case, there is an inverse relationship between the certainty of threat success and the certainty of reelection. That is, the less certain the incumbent's initial reelection prospects, the more certain it is that he will be defeated by a third candidate cutting into his electoral coalition. The closer the two major party candidates and the less certain the outcome, the more certain is the third party candidate to succeed in defeating the threatened major party candidate.

Now consider the second case. Here the incumbent seems quite certain of reelection. In this case, the addition of a third candidate will first create uncertainty at the very least, and the candidate, to be sure of reelection, would have to placate the views of the third candidate and his supporters. Recall Sayre and Kaufman's point about Democrats who "have shown a tendency to get nervous even about those contests in which they are more secure than anywhere else...." (p. 434.) As we shall see below (pp. 474-484), no incumbent can be absolutely sure of winning if an effort is made to defeat him. There have been upsets of incumbents with a history of 30 percent pluralities and even higher.

[285]Sayre and Kaufman, op. cit., p. 159.

The argument here is that, even if some liberal dove Senators were defeated for reelection, the loss would not have been so great, especially in view of the possible gain for which the risk was taken. The possible gain of course was an end to the war. The loss would not have been so great because the Senators in question were not the avid champions of liberal causes that they were supposed to be.

Take, for example, Senator Charles E. Goodell of New York. Here was a man who, in a short space of time, managed to gain a reputation as a "courageous" peace Senator. (pp. 242, 244.) The truth of the matter is that he was, as long-time war foe Senator Stephen S. Young of Ohio put it, "a Johnny-come-lately, to opposing our involvement in that miserable... war."[286] One year before becoming Senator, Goodell still subscribed "surely" to the "inevitability" of the domino theory.[287] In fact, for those who thought that the incumbents they supported had deep liberal convictions, it is instructive to compare Senator Goodell's record in his last full year in the House of Representatives with his first full year in the United States Senate. According to Congressional Quarterly's ratings of the "conservative coalition," in 1967, Representative Goodell voted 69 percent of the time to support and 22 percent to oppose the coalition. In 1969, Senator Goodell plummeted to 17 percent in support of the coalition and soared

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[286]Congressional Record, 91st Congress, 1st Session, Vol. 115 (Daily Edition: September 30, 1969), p. S11542.

[287]Ibid., 90th Congress, 1st Session, Vol. 113, Part 17 (August 17, 1967), pp. 23178-80.

to 70 percent in opposition.[288]   Or we might compare Goodell's

percentages of support for the positions of "special interest

groups" on selected roll calls in 1967 and 1969:   Americans

for Democratic Action (13% vs. 83%), AFL-CIO Committee on

Political Education (9% vs. 82%), and Americans for Constitu-

tional Action (74% vs. 10%).[289]

Hwo can we explain Goodell's conversion from avid war

supporter to avid war opponent and from overal conservative to

overall liberal? In the final analysis, perhaps only Goodell

knows for sure; and, given the human brain's capacity for

rationalization, even he may not know. Incontrovertible

eivdence lacking, we can rule out no possibility. We cannot

even rule out the possibility that Goodell had a rare share of

that mystical experience that sometimes influences statesmen.

After all, President McKinley once prayed for divine guidance,

received it and promptly decided to take over, "civilize" and

"Christianize" the Philippines. Nor can we rule out the chance

that the Senator suddenly converted as a result of a sincere

and studied reconsideration of the issues. That this occurred

at the very same time he went from the House to the Senate

might have been, as they say, "purely coincidental."

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[288]"House Conservative Coalition---1967 and 89th Congress,"
Congressional Quarterly Almanac 1967 (Washington: Congressional
Quarterly Inc., 1968), Vol. 23, p. 113; "Senate Conservative
Coalition---1969 and 90th Congress," Congressional Quarterly
Almanac 1969 (Washington: Congressional Quarterly Inc., 1970),
Vol. 25, p. 1057.

[289]"How Special Interest Groups Rate Representatives,"
Congressional Quarterly Weekly Report, Vol. 26 (April 26, 1968),
pp. 918-9; "How Special Interest Groups Rate Senators," Ibid.,
Vol. 28 (February 20, 1970), p. 569. See also p. 89, above
on the groups mentioned.

However, there is another possibility, which is more
likely in the light of the propositions regarding constituency
influence set forth above. (p. 393ff.) If true, this
possibility would be a very remarkable and particularly
striking illustration of the propositions. The likelihood is
that Goodell's change of constituency was responsible for his
change of behavior. In 1967, Goodell had a conservative, rural,
upstate constituency. In 1969, his constituency was the entire
state, which was perceived as much more liberal than the
congressional district.

The significance of this possibility is not that we
have an especially blatant example of a politician who drastically
changes course to try to survive in a new and very different
constituency. What is really significant was the readiness of
the new constituency to embrace a man who, it is very probable,
would for political gain forsake his new constituents just as
readily as the old ones.

In a sense, Goodell did forsake his new constituents for
personal gain. In the process of making a name for himself as
a very liberal Republican, he became indistinguishable from a
liberal Democrat. When, predictably, such a Democrat, Richard
Ottinger the self-styled "deliverer," was nominated in 1970,
the liberal New York State constituency was split. The only
conservative on the ballot was Conservative James Buckley.
When it was clearly demonstrated by public opinion polls that
there was not even the slightest chance for Goodell, he refused
to bow out of the race in the interests of the liberal cause
he professed to represent with the devotion of a convert. For

personal ambition, he ended up, not a servant of his newly-found liberalism, but as, in effect, the third candidate "spoiler" of the chances of the liberal leader, Ottinger, who thus failed to deliver.

From the dove point of view, the tragedy in this was that there was nothing to be gained from the split of the liberal constituency. In this thesis, we have not proposed such a split to serve personal interests of for the sheer joy of it. Our purpose has been to induce candidates to use their power to end the war. It would seem that, for dove liberal interests to have been served, if the New York liberals were going to be split, intense pressure should have been applied to Goodell to lead a filibuster so as to a) distinguish himself from Ottinger and b) get some redeeming value out of his third candidate status.

In any event, given Goodell's record of fancy footwork and refusal to step aside from his "spoiler" role when it was clear he could not win, the main point here is that it is hard to see what was seen in him by liberal constituents. In and of itself, the loss of Goodell was not very significant.

Goodell was not the only or the worst "dove" Senator to take advantage of the Vietnam War for personal political gain. During the Democratic Administration of Lyndon B. Johnson, people such as Edmund S. Muskie and Hubert H. Humphrey were strong supporters of the President's policies. At the 1968 Chicago Democratic National Convention, Muskie was a leader in support of the Vietnam platform "plank" of his party's President. As Vice President, Humphrey set the

standard for his successors for generations to come: "We don't need an Aaron Burr in this Republic."[290] Employing this standard, Humphrey was one of Johnson's staunchest defenders.

When a Republican President took office in 1969, suddenly these Democrats---and many more----discovered the "immorality" and wrongfulness of the Vietnam War. Perhaps they were simultaneously struck by a divine revelation. More likely, they now saw for the first time the opportunity to make the war into a partisan issue from which handsome political profits could be reaped. From the peace perspective, of course, what was needed was bipartisan opposition from as many Senators, regardless of party, as could be rounded up. Republican opposition was just as welcome---and just as necessary---as Democratic opposition.[291]

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[290]Quoted by Page and Brody, loc. cit. (n.218), p. 990.

[291]Officeholders were not the only ones to see value in partisan opposition to the war. There were peace proponents not in government who desired partisan opposition. It was complained, for example, that the Democratic Party "will not confront the Nixon Administration" regarding the war." Edi- torial, "The Democrats: At Peace with the War," The Progressive, Vol. 34 (February, 1970), pp. 3-4. See also this bitter complaint about Democratic leaders in Congress: Gardner B. Thorpe, "Democrats on the War Issue," Letter, The New York Times, February 10, 1972, p. 42. Finally, see the angry speech by Senator Barry Goldwater, "Ending the Johnson-M'Namara War," Congressional Record, 92nd Congress, 1st Session, Vol. 117 (Daily Edition; June 24, 1971), pp. S9825-7.
It should not be supposed, however, that Republicans did not play politics with the war. If the absence of a President of their own party freed Democrats in Congress to move toward dovism, the same was true of Republicans when a Democrat occupied the White House. See, for example, the highly dovish product of the Senate Republican Policy Committee, The War in Vietnam, a "White Paper," reprinted in Congressional Record, 90th Congress, 1st Session, Vol. 113, Part 9 (May 9, 1967), pp. 12030-12041. Among other things, the study asked, "Does

Again, what peace constituents had to consider was this question: what was really risked in the loss of legislators for whom the prime consideration was political profit?[292]

To this question there could be two responses: A) Not every Senator was blatantly inconsistent and obvious in exploiting the war issue for his own selfish reasons. Surely Senators such as McGovern, McCarthy, Hartke, Hart, Stephen Young, et al could be said to have had long records of liberalism in general and consistent war opposition in particular. B) Just how important is consistency anyway? So what if Senator Young was correct in labeling Senator Goodell a "Johnny-come-lately" to war opposition? The important point was that Goodell had come over to the dove side. And so what if his liberalism was only skin deep? At least he was acting in a liberal manner and certainly preferable to any conservative hawk. This applied equally to all the other Johnnies-come-lately.

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bipartisanship mean that Democratic mistakes are Republican responsibilities?" Ibid., p. 12040. Headlines were produced such as: "Senate GOP Study Calls U.S. War Role Error by Democrats." Ibid., May 3, 1967, p. 11526. The sardonic comment of one dove was that "Many [peace] activists were startled to find the Republican Party on their side, but this was within the logic of the American political calendar." Skolnick, op. cit. (n.42, ch. I), p. 45.

[292]It is not this writer's intention to condemn or disparage a legislator for acting in the interests of his constituents regardless of his own views, if any, on an issue. What the writer is trying to show is that a) the legislator's personal dedication to the point of view of his consistuents is highly questionable, b) there is no basis for the constituents to make a hero out of the legislator and assume his loss would be so great, and finally c) most important, in the case of dove legislators, the preeminent point of this discussion is precisely that they only pretended to serve their constituents but did not really do so. For the last reason above all, the loss would have been merely illusory---as illusory as the "dove" actions of the dove legislators themselves.

To these responses there are, in turn, two responses. 1) Of course we cannot fault a person for changing his or her mind. And of course what is past is past, and what is done is done. If a man is making a contribution **now**, there is no point in looking at his past. AND THERE'S THE RUB! If...IF ...**IF** a man is making a contribution now, do not question his past. But were the Goodells of the Senate making a contribution? The primary trouble with the Johnnies that came late was not that they came late. The fundamental trouble with them---and with the Johnnies that came early, for that matter ---was that, in terms of using their actual power to end the war, no Johnnies had come at all, early or late. 2) And even if we concede, _arguendo_, that the McCarthys and McGoverns and Harts had made contributions on liberal issues, we state the obvious point that, in life, some things are more important than others. On the value scale of liberals themselves, surely ending a long war, which had caused so much external and internal disaster, which indeed had dealt staggering blows to the cause of liberalism---surely ending that war deserved top priority.

It must be stressed that we are not discussing the writer's values. We are discussing what was, for many years, the "most important problem" in the view of the general public (pp. 440-443.) But, above all, ending the war was the most important professed consideration of constituent and Senatorial liberals themselves.

The Progressive, for example, editorialized about "the most crucial issue of our time---the continuing commitment of

the United States to the prosecution of the criminal and catastrophic war in Vietnam."[293] At the time of Kent State-Cambodia, Senator Hart's contribution to the originality of debate was that "At stake is...the success or failure of the experiment called the United States."[294] Elsewhere in this thesis, we have referred to the comments of many other Senators who thought there was never or no longer any justification for Americans to die in Vietnam, and who thought there was no American interest served by continuation of the war.[295]

One of two conclusions about these Senators is inescapable. Either 1) they were really insincere, hawks in dove disguise who were deceiving their constituents for votes. Or 2) they sincerely deplored the war, but deplored even more the presumed repercussions for themselves were they to carry their distaste for the war to the logical conclusion of using their existing power to end it.

Whatever their true beliefs, the "dove" Senators do not emerge smelling very sweet; they emerge as people for whom the war was secondary to personal political concerns. The question again arises: what would really have been lost in defeating such individuals? The answer by Robert Beisner, a historian cited above (ch. III), is not very convincing. Beisner warned his students against assailing "the Fulbrights and Gores,

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[293]"The Democrats...," loc. cit. (n.291), p. 3.

[294]Congressional Record, 91st Congress, 2nd Session, Vol. 116 (Daily Edition; May 6, 1970), p. S6780.

[295]See, for example, pp. 83-93, 146ff., 183-84, 187-88, 220; n.31, ch. II and nn.18a, 88 of ch. IV.

McGoverns and Hartkes, Aikens and Coopers....If you think the war can be stopped without the help of such people---and many more---you are...the victim of a dangerous delusion."[296] A major point of this dissertation is that "many more" were not needed because "such people" already in the Senate had the power to end the war. Perhaps Beisner, at the time of his remarks, was correct in saying that the war could not have been ended without the "help of such people." But it could have been ended with thier help. The problem was precisely that such help was not forthcoming. The fact is that no incumbent Senator had compiled a respectable anti-war record as of 1970. We need not dwell further on the point because the fourth chapter is devoted to it. We need only stress that the performance of the 1970 crop of peace Senators was one of pretense and speeches, of raising false hopes, and of gaining political rewards without taking the effective action to end the war that was within their power.

In short, the answer to the don't-risk-the-valuable-people-we-now-have argument is that their value was vastly and sadly overestimated. Moreover, on the scale of priorities of dove liberals themselves, ending the war was the most important consideration. Something that both dove constituents and Senators alike should have remembered was the eloquent advice of Senator John Kennedy, who pointed out that there comes a time when a risk is indeed worthwhile:

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[296]Beisner, loc. cit. (n.67, ch. III).

> ...a man of conscience....[r]ealizes that once he
> begins to weigh each issue in terms of his chances
> for re-election, once he begins to compromise away
> his principles on one issue after another for fear
> that to do otherwise would halt his career and pre-
> vent future fights for pinciple, then he has lost
> the very freedom of sconcience which justifies his
> continuance in office. [p. 320.]

Finally, for dove incumbents who had the power to end
the war but did not use it, and for their constituents who found
them so valuable, we close this section with a complaint by
one of the leading "heroes" of the peace struggle, Senator
George McGovern:

> A man who goes against his conscience is the
> worst of all....[T]hey told everyone...how
> against the war they were.... [b]ut what did they
> do?...[T]hey just wanted to hold on to their jobs.
> [p. 320.]

McGovern was disturbed by professedly anti-war officials in the
Johnson Administration who, instead of resigning in a blaze of
anti-war publicity, chose to "work from within." One wonders
if McGovern ever saw the application of his remarks to himself
and his "anti-war" colleagues in the Senate.

The Problem of Influencing Senators Immune to Electoral Pressure

One more problem must be considered, albeit with un-
fortunate brevity due to the inordinate length of this chapter.
The bulk of the discussion to this point (p. 358ff.) has been
based on the premise that the ultimate pressure is electoral
pressure (p. 131-32), which was to be applied maximally to
induce dove Senators to use their power to filibuster to end
the war.

But how can such pressure be exerted on the two thirds
of the Senate not facing the voters in any given election year?

Moreover, of the one third up for reelection; almost invariably a few announce retirement, others possess impregnably safe seats, and still others are so deeply committed to certain positions (e.g., war support) that no amount of pressure can have any effect on them. What does this immunity to electoral pressure do to our argument?

Several points should be considered in answer to this question. First, we ought not forget that the problem of Senatorial immunity would have applied---and with greater force---to any strategy to end the war. For example, the McGovern-Hatfield Amendment's majoritarian strategy required 51 Senators,[297] or exactly 50 percent more than our proposal's 34. Thus, a much greater proportion of the Senators needed for our proposal was subject to electoral pressure than was the case in any of the peace movement's majoritarian plans.

Related to this consideration, it is very important to reiterate that, while 2/3's of the Senators do not face the voters in any given election year, 2/3's are not needed for the success of a filibuster. 66 percent failure is synonymous with success. (See also pp. 141; 350.)

Another point that must be restated for this discussion is that the most difficult problem was to have "started the filibuster ball rolling." (pp. 129ff.; 350-52.) Only 6 to 12 Senators were needed to initiate and carry on a filibuster. The remainder of the 34 necessary for success need have done no more than vote against cloture. And, for the purposes of

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[297]Not to mention 218 Representatives, whom we omit from this discussion. See p. 139ff. above.

<u>initiation of action</u>, there certainly were enough doves facing

<u>reelection</u> to be pressured into joining the battle. Who were

these Senators?

In 1970, our base year for purposes of discussion, the

seats of the following 35 Senators were contested: 1. Quentin

N. Burdick (D. North Dakota), 2. Harry F. Byrd, Jr. (D. Virginia),

3. Robert C. Byrd (D. West Virginia), 4. Howard W. Cannon (D.

Nevada), 5. Thomas J. Dodd (D. Connecticut), 6. Paul J. Fannin

(R. Arizona), 7. Hiram L. Fong (R. Hawaii), 8. Charles E. Goodell

(R. New York), 9. Albert Gore (D. Tennessee), 10. Philip A. Hart

(D. Michigan), 11. Vance Hartke (D. Indiana), 12. Spessard L.

Holland (D. Florida), 13. Roman L. Hruska (R. Nebraska), 14.

Henry M. Jackson (D. Washington), 15. Edward M. Kennedy (D.

Massachusetts), 16. Eugene J. McCarthy (D. Minnesota), 17. Gale

W. McGee (D. Wyoming), 18. Mike Mansfield (D. Montana), 19.

Joseph M. Montoya (D. New Mexico), 20. Frank E. Moss (D. Utah),

21. Goerge Murphy (R. California), 22. Edmund S. Muskie (D.

Maine), 23. John O. Pastore (D. Rhode Island), 24. Winston L.

Prouty (R. Vermont), 25. William Proxmire (D. Wisconsin), 26.

Hugh Scott (R. Pennsylvania), 27. Ralph T. Smith (R. Illinois),

28. John Stennis (D. Mississippi), 29. Ted Stevens (R. Alaska),

30. Stuart Symington (D. Missouri), 31. Joseph D. Tydings (D.

Maryland), 32. Harrison A. Williams, Jr. (D. New Jersey), 33.

John J. Williams (R. Delaware), 34. Ralph W. Yarborough (D.

Texas), and 35. Stephen M. Young (D. Ohio).

A comparison of this list with the 46 dove Senators

already presented (n.91) reveals the following doves with

expiring terms: 1. Burdick, 2. Goodell, 3. Gore, 4. Hart,

5. Hartke, 6. Kennedy, 7. McCarthy, 8. Mansfield, 9. Montoya, 10. Moss, 11. Muskie, 12. Pastore, 13. Proxmire, 14. Symington, 15. Tydings, 16. H. Williams, 17. Yarborough, and 18. Young.

If we subtract from this group the two retirees (McCarthy and Young) and the one defeated in a spring primary (Yarborough), we are left with a nucleus of 15 dove Senators who were subject to direct electoral pressure in 1970. This was two and one half times the minimum number of activists necessary to carry on an indefinitely sustainable filibuster, an ample cushion against the fact that a few of the fifteen came from "safe" districts.

The extent to which district safety really immunized these 15 Senators to electoral pressure will be considered shortly. But first note that the activists need not have come solely from those facing reelection. There were some Senators with at least a surface record of long and/or deep dovery. Among the nuclear 15, this category included: Goodell, Gore, Hart, Hartke, Kennedy, Mansfield, Proxmire, and Symington; a total of 8. Not among the 15, but included in the category were: McCarthy, S. Young, Yarborough, McGovern, Hatfield, Hughes, Cranston, Nelson, Church, Fulbright, Pell, Aiken and Gravel; a total of 13. This list of 21 Senators were never subjected to intense and sustained public pressure by peace groups to use their actual power to end the war.

We have emphasized the role of electoral pressure as the ultimate pressure. But we have not denied a role for traditional lobbying techniques. Far from it. Our argument has been that they should and must by all means be used, but that

they are most effective when buttressed by electoral pressures. As Milbrath says, "All other forms of pressure derive meaning only as they are converted into voter pressure." (n.27, ch. III.)

Regarding voter pressure, it has been shown that the power of an election is greatest in the period prior to the election. (pp. 380-386.) But it was never said that future elections play no role at all. Although elected officials have much greater room for maneuver when there is no election around the corner, they do think about elections that are not in the immediate future.[297a] In this connection, there is an important element of truth in what this writer considers to be an otherwise excessive stress on legislator freedom by Bauer, Pool and Dexter:

> ...our own experience denies...that it is possible for a politician to simply do what his constituents want. In fact, the option is an illusion. No congressman would long be re-elected who showed no more imagination in interpreting his constituents' needs than to vote at each point in time as his followers felt at the time. At the minimum, a political leader must _guess_ where his followers are going and get there first. The voters do not know that next year or a few years later they may have turned against their present views....[298]

The first two sentences of this statement are most charitably viewed as hyperbole. It is clearly delusory to say

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[297a]In comparing the freedom of House Members with that of Senators, Norman C. Miller comments: "The six-year term undoubtedly does increase a Senator's independence. Yet most Senators live with the realization that they are going to face stiff competition every time they come up for re-election." "Why Is the House a Haven for Hawks?" _The Wall Street Journal_, July 1, 1970, p. 14.

[298]Bauer, _et al._, _op. cit._ (n.96), p. 452. Italics added.

that a legislator's option of doing what his constituents
want is an illusion.[299] But there is validity in the point
that a congressman's reelection is dependent upon his ability
to <u>guess</u> correctly the position of his constituents at that
time in the future when they will pass judgment upon him.
This point must be considered in the context of the Vietnam
War.

In 1970, a Senator two or four years away from reelection
would have had to "guess" where the voters were heading on the
issue. Time was clearly on the side of the doves. Once United
State involvement in the war had terminated, it was highly
likely that the war would fade as an issue, as would any action
dove Senators had taken to end the war. All but the intense
fringe on the extreme right wing were likely to forget the war,
as they turned to other issues such as the economy and civil
rights. By 1970, even most hawks were tired of the war, and
anxious to have it over and done with once and for all.

By contrast, even without benefit of subsequent hind-
sight, by 1970 it was beyond question that there was a trend
of growing opposition to the war.[300] If the war dragged on,
it was distinctly possible that the frustrated opposition would
have become more widespread, more strident and more intense.[301]

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[299]Try, for example, to imagine a Senator from Mississippi
voting for civil rights in 1960, or the liberal Senators from
California voting in accordance with liberal ideology not to
bail out Lockeed in 1971. See also above, p. 406, Dexter's
comments on Fulbright.

[300]See sources cited in n.265 above.

[301]The words "distinctly possible" are used because what
happened was that, as a result of de-escalation, opposition to

Thus, if there had been a genuine threat of electoral defeat in 1970, dove Senators not running in that year would have had to consider that their failure to end the war would have forced them to face their turns in 1972 or 1974. This point would have applied especially after a filibuster had begun. Once this possibility and the Senators' power to end the war had been widely publicized, once the filibuster bandwagon had started rolling, those dove Senators who failed to vote against cloture, would know they eventually would have to answer to the dove voters. In 1970, strident dove constituents could have reminded the dove Senators of Pennock's point "that the more intensely a person feels his interest to be affected the longer he is likely to remember, and seek to punish, acts unfavorable to it."[302]

So, if the dove Senators were most interested in acting in a manner that would most enhance their future reelection prospects, their most reasonable "guess" was that they would have had more to lose by not ending the war than by doing so. But it is possible that those not facing imminent voter judgment may have wanted to consider whatever consciences they may

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the war was spasmodic. The opposition de-escalated with the war. As the pace of the war was stepped up in early 1971, in May and December, 1972, there were corresponding spasms of opposition. But the point stands that, from the perspective of mid-1970, a Senator could not know that there would be de-escalation and what its rate would be. See the earlier discussion of this point in ch. III, pp. 170-173.

[302]Pennock, loc. cit. (n.108), p. 796. We should add that, throughout the war, there was virtually a one way shift of opinion. It was almost unheard of for a dove to become a hawk; many hawks did become doves. (There were, however, some hawks who became more hawkish out of frustration with limited war.)

have had, if any. Here, we briefly digress to restate another point made in a different context. (p. 348-358, esp. p. 356.) Senatorial immunity can cut two ways. Immunity from the pressures of one group can also mean immunity from the pressures of its adversary group. Thus, freedom from the electoral pressures of doves meant equal freedom from any possible hawk electoral pressures. (This freedom was actually more than equal, since there was, as noted, a likelihood of declining hawk pressures and rising dove pressures.) This meant that dove Senators who had long professed troubled con- sciences due to the "immorality" of the war were in a position to "put up or shut up." They were free to operate in a dove direction.

Of course, they did not so operate (ch. IV, passim) and, not being able to expect much from the conscience of many politicians, we must return to our theme of applying the heaviest pressures supported ultimately by electoral pressures. We have indicated that Senators would be concerned with reelection to the Senate in years subsequent to 1970. In reality, the situation was a bit more complex. As Joseph Schlesinger observes, "the constituency to which the legislator is responding is not always the one from which he has been elected, and...it is more important to know what he wants to be than how he got to be where he is now."[303]

In 1970, there were some Senators not facing reelection who sought the 1972 Presidential nomination. There Senators were

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[303]J. Schlesinger, op. cit. (n.29, ch. III), p. 5.

subject to pressure to prove their worthiness for the high office. They could have been told that if they failed to use their powers while in the Senate, there was no reason to expect a better performance from them in the White House; and that, therefore, they would not have the vital support of dove constituents in the 1972 nomination and election process.

Dove Senators with Presidential aspirations in 1970 included: Kennedy, Muskie, McGovern, McCarthy, Harris, Hughes and Percy. It will be noted that use of the weapon of non-support of Presidential aspirations would have removed McCarthy from the list of 1970 retirees immune to pressure. By leading a filibuster, he could have restored his lost prominence as a dove super-star. Moreover, McCarthy made a speech in 1970 acknowledging that the war could be ended by a filibuster. (n.22, ch. III.) He was therefore vulnerable to intense pressure to carry out what he himself said could be done. (He denied that there would be a filibuster, but it could have been pointed out to him that that was only because people like him refused to act.)

Two other Senators on the list of Presidential aspirants, Kennedy and Muskie, were also in the group facing the voters in 1970. These were two Senators most likely to be immunized to Senatorial defeat pressure by the safety of their seats. However, there was nothing safe about their prospects for the 1972 presidential nomination. Therefore, it was in their interests to achieve, not simply Senatorial reelection, but reelection by the widest possible margin. In the aftermath of Chappaquiddick, Kennedy was particularly in need of maintaining his previous margins of victory. If nothing else, both

Kennedy and Muskie could have been threatened with marked declines from their previous pluralities, thus decreasing their viability as presidential candidates.

It has been stated several times that the most difficult problem was to get the filibuster started. Underlying this point is the assumption that, once it had begun and if reinforced with intense electoral and lobbying pressure, there would have been a snowballing bandwagon effect. Although there has been some writing on presidential nominating convention bandwagons,[304] there is virtually no writing on bandwagons in the legislative process. Yet it is fairly clear that, however difficult to pin down with precision, legislators, like other people, have a herd instinct.

An example of this instinct occurred in August, 1974 when conservative Representatives and Senators fell all over themselves jumping on the bandwagon to evict Richard Nixon from the White House.[305] Another example, not so recent, was the power of the fear of Senator Joseph McCarthy. After McCarthy managed to receive credit for defeating Senator Joseph Tydings in 1950, numerous Senators jumped on the don't-cross-McCarthy bandwagon. In dealing with the problem of Senators not up for

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[304]See Ralph G. Martin, _Ballots and Bandwagons_ (Chicago: Rand McNally & Co., 1964); Polsby and Wildavsky, _op. cit._ (n.232), pp. 62, 85-7. On bandwagons and voting behavior, see Daniel W. Fleitas, "Bandwagon and Underdog Effects in Minimal-Information Elections," _The American Political Science Review_, Vol. 65 (June, 1971), pp. 434-438.

[305]See, for example, R. W. Apple., Jr., "Decline In Senate" and David E. Rosenbaum, "Allies In House Shifting on Nixon," _The New York Times_, August 7, 1974, p. 1.

immediate reelection, it is particularly significant to observe that, included among Senators jumping on McCarthy's bandwagon, were those not to face the voters for two to four years. They jumped aboard because, rightly or wrongly, they believed that otherwise they would take their turns to suffer the vengeance of the late Wiconsin Senator. (See pp. 327-28; n.21.) The same point is applicable to the present discussion. Our object was to make Senators not part of the 1970 campaign believe that they would have their turns against a growing dove tide if they failed to support a war-ending filibuster.

There is one further point to be noted on the bandwagon concept. 1970 has been chosen as the base year for the execution of the porposal of this thesis. But, as has been pointed out, there was no reason why the running of pro-filibuster candidates against supposedly dove Senators could not have begun in 1968 or even 1966.[306] Surely, at least a few dove Senators in close races would have been defeated. For example, in 1968, dubbed the "year of the dove,"[307] Senators Bayh and Ribicoff were reelected respectively with pluralities of 3.6 and 8.6 percent of the total votes.[308] This should be considered in conjunction with two points regarding J. McCarthy: 1) Even accepting the notion that he did defeat Senators in 1950, this number was no more than a few. 2) The fear created by the

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[306]The reader is reminded that doves were involved in election activities as long ago as 1966. See n.39a, ch. II.

[307]Beisner, loc. cit. (n.41, ch. I), p. 187.

[308]These statistics and all that follow are from Richard M. Scammon, ed., America Votes 10, A Handbook of Contemporary American Election Statistics (Washington: Governmental Affairs Institute, 1973).

defeat of these few was powerful enough to create a stampede
to McCarthy's corner. (n.181.) It follows from these two
points that, had dove constituents succeeded in defeating
just a few dove Senators in 1966 and/or 1968, by 1970 the
credibility of the dove threat would have been geometrically
greater, both for Senators facing and not facing election
contests. (See also p. 483.)

To sum up the Senatorial immunity argument thus far:
1) There were enough dove Senators running in 1970 to be
pressured into starting a filibuster. 2) Once started,
reinforced by all possible pressures, the filibuster would
have picked up the momentum of a bandwagon, capitalizing on
the herd instinct and fear. 3) Possible pressures included
the specter of future elections (including the presidential
election of 1972), although this specter of course was not as
powerful as that of an imminent election. 4) In 1970, a case
could have been made that time was on the side of the doves.
5) Electoral pressures were reinforcible by traditional lobbying
pressures. 6) The Vietnam War lasted long enough for the entire
Senate to have been subjected to electoral pressures at least
once, prior to and including 1970.

One further aspect of the immunity problem remains to be
touched upon. How can we influence Senators who occupy "safe"
seats and do not aspire to higher office?

Inherent in this question is another question: What is
a "safe" seat? We cannot go into a detailed analysis of the
matter here. Suffice it to note that, to determine the "safety"

of a district or a seat for a given party or officeholder, various writers[309] have used one or both of two criteria: 1) length of uninterrupted tenure and/or 2) margins of victory in previous elections. As a general proposition, it may be distilled from the literature that the longer a party or individual has held a given office and the greater the pluralities in previous contests for the office, the "safer" it is for the party or officeholder.

To this writer's knowledge, only the late Julius Turner ever bothered to state what it means to be "safer." To determine an officeholder's "safety" from defeat in a given election, Turner used as his criterion the victory percentage in the immediately preceding election. He defined "a _safe district..._as one in which the winner in the regular general election receives 60 per cent or more of the vote," _because_ "_the chances of minority success are extremely slim._"[310] What are slim chances? According to Turner:

> If the Congressman represents a district in which his party received two-thirds or more of the total

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[309]For example: Julius Turner, "Primary Elections As the Alternative to Party Competition in 'Safe' Districts," _The Journal of Politics_, Vol. 15 (May, 1973), pp. 197-210; Cortez Ewing, "Primaries as Elections," _Southwestern Social Science Quarterly_, Vol. 29 (March, 1949), pp. 293-298; William H. Standing and James A. Robinson, "Inter-Party Competition and Primary Contesting: The Case of Indiana," _The American Political Science Review_, Vol. 52 (December, 1958), pp. 1066-77; Raymond E. Wolfinger and Joan Heifetz, "Safe Seats, Seniority, and Power in Congress," _ibid._, Vol. 59 (June, 1965), pp. 337-49. Some of the analysis that follows is adapted from Lester Jackson, "District Safety, Seniority, and Chairmanships in the House of Representatives," (unpublished Master's Thesis, Department of Political Science, University of Wisconsin, Madison, 1961), ch. 2.

[310]Turner, _loc. cit._, p. 199n. Italics added.

vote in 1950, the record of elections since 1930
tells him that there is about one chance in 100
that an upset will occur in his district. If he
represents a district in which his party received
from 60 to 66 per cent of the vote, his opponents
have about one chance in 20 of achieving his defeat.[311]

Turner says that to defeat a Congressman in a safe district requires a "combination of powerful factors."[312] We might point out, in passing, that the Vietnam issue was such a powerful factor.

There are certain difficulties with Turner's criterion of sixty percent in one election to establish safety. For one thing, there have been elected officials and parties who have managed to hold on to offices for very long periods of time with very small pluralities. William Standing and James Robinson argue:

> A long series of elections, all won by a small
> but stable margin (say, 52 per cent of the votes)
> will probably look to the practical politician
> like a better indicator of victory in the upcoming
> election than one or two upsets [by his party]
> interrupting a period of superiority by the other
> party, even if the one or two wins be by comfortable
> majorities.[313]

And Nicholas A. Masters, making no reference to percentage at all, claims that "Long tenure by itself is an obvious objective fact, and common sense proof that a district is 'safe'...."[314]

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[311]_Ibid._, p. 197.

[312]_Ibid._

[313]Standing and Robinson, _loc. cit._, p. 1068. Italics added.

[314]Nicholas A. Master, "Committee Assignments in the House of Representatives," _The American Political Science Review_, Vol. 55 (June, 1961), p. 353. In fairness to Master, this is not necessarily his thinking. It is part of his attempt to capture the thinking of members of committees on committees.

Standing and Robinson, and Masters are even more vulnerable to criticism than Turner. The truth is that long tenure and large pluralities---taken singly or together--- suffer from the deficiency of reporting stale news. The political cemeteries are filled with the coffins of politicians who thought they were "safe" because they had long tenure and/ or were previously elected by wide margins of victory. (See also n.317 below.)

At least Turner partly acknowledges this problem by presenting his concept of safety in terms of probabilities of victory or defeat given a certain plurality percentage in the immediately preceding election. But even the use of probabilities presents us with at least five difficulties.

(1) Dexter observes that "sometimes incumbents win because everybody thinks them unbeatable; occasionally (but not very often) the story of the emperor's new clothes may apply to their alleged strength."[315] Again (see pp. 338-39), we have an example of the antithesis between empiricism and political pragmatism. "Practical" politicians expect an incumbent to win and so they do not oppose him; they do not make the test to determine whether in fact he is vulnerable to defeat by a strong challenger. Thus the probabilities of victory cited by Turner are very likely as great as they are because of self-fulfilling prophecy by potential opponents. We do not know how many victories counted by Turner in establishing his percentages were merely victories by

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[315]Dexter, op. cit. (n.5, ch. IV), p. 30n.

default.[316]

To take but one example, in the 1950 and 1956 general election, Alabama's Democratic Senator Lister Hill was reelected by pluralities of 100 percent---in other words, without opposition. In 1962, his 100 percent plurality was reduced to 1.8 percent. In 1956, President Eisenhower won reelection by a landslide, and we can only speculate on Hill's

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[316]A fascinating example of the astounding power of the self-fulfilling prophecy inherent in the "be pragmatic" argument is provided by Lakeman's critique of "The Waster Vote Bogey," op. cit. (n.55, ch. II), pp. 71-3. Lakeman shows that evidently what is "practical" is what people think is practical: "Before the 1950 election the following question was asked in a [British] Gallup Poll: Would you vote Liberal if you thought the Liberals could win?...no less than 38 per cent replied 'yes' ---28 per cent more than then intended to vote Liberal and 29 per cent more than actually did so.... [T]he votes of more than one-quarter of the entire electorate were determined less by what they themselves wanted than by what they guessed most of the other electors to want." (Italics added.) As a consequence, the major parties "devoted much of their efforts to the capture of potential Liberal votes, not by extolling their own virtues or by attacking any feature of the Liberal programme, but by persuading the electors that the Liberal candidates had no chance...."
    Lakeman further notes that, in September, 1968 52 percent of the British voters said they would vote for the Liberals if they could win. When the latter performed well in 1974, it was thus no surprise. In September, 1973, "the polls show[ed] that...30 per cent of the British would vote Liberal against the party's 7.5 per cent in the [1970] elections...." Alvin Shuster, "Britain's Liberals Flexing New Muscle," The New York Times, September 22, 1973, p. 5. In the 1974 elections, the Liberals raised their percentage to 19.3. But they attained no great number of seats in Parliament, due to the nature of the party system, which undoubtedly would have yielded far more seats had the 19.3 percent not been still much lower than the Liberals' potential as expressed in the polls. Richard Eder, "British Liberals Get Big Share of Vote, but Few Seats," ibid., March 2, 1974, p. 10.
    On the "waster vote bogey" and argument, cf. Hicks' statement on p. 319 above. For our proposal, this variant of "pragmatism" had the third party vote, as well as the self-fulfilling prophecy fallacy of the pragmatic argument.

fate if a strong Republican challenge had been made. Never-
theless, the methodology of Turner (and others) would have
counted Hill's 100 percent victory as indicating high dis-
trict safety. Hill did not seek reelection in 1968.[317]

(2) Turner's probability percentages undoubtedly would
have been lower had they been calculated for the Senate.
Most of the work on district safety (n.309) has concentrated
on the House of Representatives. It requires no great
imagination to come up with a plausible explanation for this
focus. There are roughly 13 times as many elections for the
House as for the Senate.[318] This provides greater data for
the House and makes the work of classification more reliable,

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[317]Fairness requires the observation that political prag-
matism is a double-edged sword. "Practical" politicians often
underestimate the vulnerability of incumbents. This can and
does lead to the failure to challenge siad incumbents. However,
when a challenge is made, very frequently included in the ranks
of the "practical" is the incumbent himself. The result is that,
in almost every election, incumbents are defeated unnecessarily
for failure to take challenges seriously. Incumbents are lulled
into a false sense of security by long tenures studded with
victories by wide and "safe" margins, attributable to the absence
of any significant challenges and also to different conditions
in the past. An example was the primary defeat of Emanuel Celler
in 1972 by 600 votes, a defeat that probably would not have
occurred had Celler taken the opposition seriously.
    It has been said that those who ignore the mistakes of the
past are doomed to repeat them. But the study of the past has
its limits. The great problem is to know when to be guided by
the past and when to ignore it. In any event, in politics, to
bet on history repeating itself is not infrequently to be like
the stock market speculator who buys a security on the assump-
tion that, because it performed brilliantly in the past, it
will continue to do so. Alas, as the post-1969 history of Wall
Street shows, this is a dangerous assumption indeed.

[318]The figure is derived thusly: In three successive
election years, 100 Senate seats are contested once each,
whereas 435 House seats are contested three times each. Thus
there are 1,305 House contests for every 100 Senate contests.
Special elections are not counted in this calculation. Nor do
we take into account that when Turner wrote there were 96 Senate
seats rather than the present 100.

at least seemingly. But our concern is with the Senate, and
the existence of less data is not going to make our problems
go away.

With few exceptions, Senators are less likely to feel
as safe from defeat in oncoming elections as Representatives,
even if the Senators have long tenure and/or one or more
previous victories by wide margins. To cite again Norman
Miller: "...most Senators live with the realization that they
are going to face stiff competition every time they come up
for re-election." (n.297a.) The reasons for this are not
strictly germane here, but we mention these possibilities:
A) Compared to the House, the Senate is a small pond for those
who aspire to swim toward great political fishhood. There is
more prestige in being a Senator. Many Representatives give
up relatively secure seats to enter uncertain races for the
Senate; rare indeed is the Senator who travels in the opposite
direction. B) Because there are fewer Senators (in most
states), there is apt to be greater publicity given to both
incumbents and challengers. This results in greater salience
of the Senate contest. It has been pointed out (p. 444-45)
that the more information the voter has about a challenger
the more likely he is to vote against the incumbent. So the
very prominence of the Senatorship that makes it more desirable
also makes it more likely to be seriously challenged, and more
vulnerable to successful challenge. C) The six year intervals
between Senate contests decrease the predictive value of prior
elections. First, there are fewer past elections to go on.
In 18 years, a Senator has three prior elections on which to
base predictions, whereas a Representative has nine. Second,

in six as opposed to two years, changes in both population and events between successive elections are much more probable. As the table on the next page illustrates, there have been some very wide fluctuations from Senate election to Senate election.

(3) For the foregoing reasons, it is highly improbable that we can, with accuracy, tell a Senator who received 60 percent of the votes in his previous election that his chances of reelection are 95 percent. However, for argument's sake, let us accept the latter figure. The Senator still has to contend with the "pervasive problem of uncertainty." And as Sayre and Kaufman have said, even politicians from the safest areas have a "tendency to get nervous." (p. 434.) After all, how does any Senator know whether he will be the one in twenty to be defeated?

This uncertainty is bound to be increased if there is a serious and strong campaign against him, or the threat of one. In January, 1951, in the wake of Senator Joseph McCarthy's alleged defeat of Senator Millard Tydings, there was a Democratic caucus. In this caucus, there was "a general expression of fear that what had happened to Mr. Tydings... could happen to any other" Senator. Significant in the present context is the question raised by a senior Democrat: "For whom does the bell toll?" (n.32.)

Because no one can be sure that, even if the bell tolls for only one in 20 Senators, he is not going to be that one, the 95 percent probability is thereby drastically reduced in terms of the feelings of security it can provide.

TABLE: Examples of Fluctuations in Senate Elections

Senator (Party, State)	Year	Total Votes Cast	
		Winning %	Plurality %
Hill (D., Alabama)	1950 ⎤ 1956 ⎦	100	100
	1962	50.9	1.8
McFarland (D., Arizona)	1946	69.2	39.1
Goldwater (R., Arizona)	1952	51.3	2.6
Dodd (D., Connecticut)	1964	64.6	29.3
Weiker (R., Connecticut)	1970	41.7	7.9
Holland (D., Florida)	1958	71.2	42.4
	1964	63.9	27.9
Chiles (D., Florida)	1970	53.9	7.8
Payne (R., Maine)	1952	58.7	23.8
Muskie (D., Maine)	1958	60.8	21.6
Beall (R., Maryland)	1958	51	2
J. Tydings (D., Maryland)	1964	62.8	25.6
Beall (R., Maryland)	1970	50.7	2.6
Potter (R., Michigan)	1946	67.1	35.1
	1952	50.6	1.6
Hart (D., Michigan)	1958	53.6	7.5
	1964	64.4	29.1
Symington (D., Missouri)	1964	66.6	33.2
	1970	51	2.9
Gore (D., Tennessee)	1958	79	60
	1964	53.6	7.2
Brock (R., Tennessee)	1970	51.3	3.9
Kefauver (D., Tennessee)	1960	71.7	43.5
Bass (D., Tennessee)	1964	52.1	4.7
Baker (R., Tennessee)	1966	55.7	11.4
	1972	61.5	23.7
Mundt (R., South Dakota)	1966	66.3	32.6
Abourezk (D., South Dakota)	1972	57	14
Pell (D., Rhode Island)	1966	67.7	35.4
	1972	53.7	8
Smathers (D., Florida)	1962	70	40
Gurney (R., Florida)	1968	55.9	11.8

Source: See n. 308

Notes: This table is not exhaustive; it is an example sample.
Due to third candidates in some contests, the result of the plurality subtracted from the winning percentage, when added to the winning percentage does not always add up to 100 percent.

This is pertinent to a prior point. We have suggested that dove Senators could have been defeated before 1970. (pp. 473-74.) As the McCarthy case shows, one or two defeats can create a fear bandwagon effect out of all proportion to their numbers. Again, no Senator can be sure if he is among the one, two or more to be defeated. This is compounded once the possibility of defeat has been demonstrated by concrete cases. No Senator can know whether and when it will be his turn. Each is haunted by fear.

(4) Turner's probabilities are based on the study of House elections from 1930 to 1950, a period of stable Democratic control. The Republicans dominated only one Congress, the 80th, in all that time. It is questionable that, had Turner studied a less stable period, he would have found the probabilities of reelection to be so great.

(5) A major part of both our proposal and the foregoing discussion centers upon defeating dove incumbents in general elections. But we have mentioned (pp. 134-35) two other tactics that could and should have been employed by dove constituents: a) the use of primary elections as a defeat vehicle, and b) threatening the defeat of non-dove incumbents.

Regarding tactic a), let us again accept, for argument's sake **only**, Turner's finding that a 60 percent general election victory provides a 95 percent assurance of winning the succeeding election. If the incumbent has to face challenges in <u>both</u> the primary <u>and</u> general elections, his total chances of returning to office are once again diminished. These diminished chances are accompanied by added uncertainties and

fears, thereby magnifying the possibilities of successfully pressuring the incumbent.[319]

Regarding tactic b), _if_ it is true that immunity to pressure increases with district safety, the reverse must also be true. A prior record of close elections must make an incumbent peculiarly susceptible to intense pressure. Add to this point the actual experience of the Vietnam War, during which numerous legislators converted from hawk to dove. (see, e.g., pp. 454-55.) It follows that a serious and intensive effort to pressure "hawk" Senators in close elections very probably would have yielded productive results from the peace point of view.

The foregoing discussion of "safety" leads to an inescapable conclusion: Safety is vastly overrated as a guarantee of a legislator's (especially a Senator's) independence from those of his constituents prepared to exert strong pressures. The incumbent often is not as safe as he thinks he is, and there are ways to create uncertainty and fear whether he is as safe as he really is.

Summary

The central problem treated in this chapter is this: Given the power of 34 Senators to have ended the Vietnam War,

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[319]Turner, _loc. cit._ (n.309), _passim_, was skeptical of the value of the primary as an alternative to two party competition. Be that as it may, the possibility of primary defeats, compounded by uncertainty and fear, cannot be dismissed as impotent. Also, Turner may have counted many self-fulfilling prophecies in discounting the value of primaries. That is, how many primaries went uncontested or weakly contested because the incumbent was _assumed_ to be unbeatable?

how could they have been induced to use that power? Broadly, there were two possible ways: persuasion and pressure.

Conceding that it would have required courage for Senators to end the war, we argued that a vital bandwagon-starting few activists could have been persuaded to be courageous because courageous behavior is frequently far less disastrous than it is widely believed to be. This raised the question how we could expect dove Senators to be courageous in resisting hawk constituent pressures and yet cave in to dove constituent pressures. We answered that Senators are a heterogeneous lot, that a few could have been persuaded to show courage while many allowed their fears to prevail, and that, in any case, fear of hawk pressures was an existing fact of life and it was only common sense to add dove pressures to the equation of fears in the calcu-lations of the timid.

The rest of the chapter considered just how effective dove constituent pressures could be. We were especially concerned with electoral pressures, and found the political science literature on the subject to be laden with incon-sistencies and vagueness. For example, it was not entirely clear where specific influence ended and general influence began. The oft-stated proposition that elections are not mandates was determined to be rooted in a particular defi-nition. Using another definition, it was shown that a voting minority can require elected officials to take nega-tive pre-election action that is not necessarily "coherent" in a broad ideological sense.

After stating the numerous factors that determine legislative behavior, we sought to isolate those conditions conducive to constituent control. An examination of the literature disclosed that constituents who can defeat incumbents can control incumbents. Constituents in this category have been characterized as "minuscule," "substantial" and "massive" in number, in no case referring to anywhere near a majority. Whatever the adjective, the power of these numbers is rooted in the incumbent's knowledge and/or anxiety that they might withdraw from his coalition of electoral supporters and, as a consequence, strip him of his office. It was pointed out that fear and uncertainty have effects greater than the effects of that which is feared. A particularly powerful threat is the third party or candidate that can, via vote diversion, convert a winning major party candidate into a loser. Also, it was noted that both constituents and legislators have the perceptual ability necessary for the control process to work.

We examined the uniqueness of the Vietnam issue, the overall significance of that uniqueness and, in particular, the issue's production of extraordinary salience and opposition. It was the kind of issue on which voters would, if given a choice, base their votes. There was sifficient opposition to render a third candidate---a pro-filibuster candidate---a highly credible threat to any dove incumbent who refused to use his power to end the war. In response to the contention that this would risk the very undesirable consequence of losing incumbents valuable to dove/liberals, it was argued that the

risk was not as great as supposed, that, in any event, the
nature of the issue justified the risk, and that the in-
cumbents simply did not have their alleged value.

Finally, the chapter was concluded with an analysis
contending that, for a number of reasons, Senators were
not as immune to pressure as they appeared to be.

CHAPTER VII

STRUCTURAL NEUTRALITY IN THE FINAL ANALYSIS

> A...misconception entertained by a great many
> Americans is...that government is neutral....[T]his
> ...confuse[s] preferences with realities. It might
> be nice...but the notion that government is neutral
> simply does not fit the facts.
> ---Introductory American Government Textbook's
> Indoctrination[1]

> ...there is no form of government, but what may
> be a blessing to the people if well administered....
> ---Benjamin Franklin[2]

> ...the importance of the rules can hardly be
> overestimated. Once a matter of convenience, and
> designed to secure order...,they are not too
> frequently weapons of personal and party warfare.
> ---Lindsay Rogers[3]

> ...procedures are not merely technical devices,
> designed to permit [Congress] to legislate in an
> orderly fashion. Far from being neutral...,they
> possess substantive importance and are often
> decisive in shaping legislation.
> ---Daniel M. Berman[4]

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[1]Marian D. Irish and James W. Prothro, The Politics of
American Democracy (4th edition; Englewood Cliffs: Prentice-
Hall, 1968), p. 723. Cf.: "The machinery of the House and
Senate is not a neutral registering device. Like any other
human institution, it has a power structure that favors some
kinds of people, interests or enterprises and hampers or
excludes others." Redford, op. cit. (n.92, ch. I), p. 388.

[2]Benjamin Franklin's final address to the Constitutional
Convention, September 17, 1787, in Elliot, op. cit. (n.136,
ch. I), p. 554.

[3]Rogers, op. cit. (n.4, ch. V), pp. 119-20.

[4]Berman, op. cit. (n.21, ch. III), p. vii.

Nor is [Congressional] power distributed in a neutral way; it favors the status quo.
---Duane Lockard[5]

The representative role is inherently conservative....
---Irving Louis Horowitz[6]

Structure and procedure are **not** neutral; they are used to work the will of those who control them. Moreover, alterations in them often have unforeseen consequences.
---Ralph K. Huitt and Robert L. Peabody[7]

...if individuals do vary in the extent to which they use their resources to gain influence, this variation might be fully as important in accounting for differences in influence as variations in the resources themselves.
---Robert A. Dahl[8]

...time...is neutral; it can be used either destructively or constructively....[T]he people of ill will have used time much more effectively than have the people of good will.
---Martin Luther King, Jr.[9]

You don't have to be there if you know which calls to make, which buttons to push, and which favors to call in.
---Adam Clayton Powell, explaining his unique combination of high absenteeism and extraordinary accomplishment[10]

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Congress, powerful as it is in some respects, is, alas, nearly irrelevant where the burning issues...are

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[5]Lockard, op. cit. (n.5, ch. I), p. 123.

[6]Horowitz, op. cit. (n.23, ch. II), p. 57.

[7]Ralph K. Huitt and Robert L. Peabody, "Foreward" to John S. Saloma III, Congress and the New Politics (Boston: Little, Brown and Company, 1969), p. x. Emphasis added.

[8]Dahl, as quoted in n.53a, ch. I.

[9]King, op. cit. (n.76, ch. V), p. 49.

[10]Quoted by Thomas A. Johnson, "A Man of Many Roles," The New York Times, April 5, 1972, pp. 1, 30.

concerned.
                        ---Duane Lockard[11]

    Nothing remotely compares with the Congress as
the hope of reclaiming America.
            ---Ralph Nader, who favors oil nationalization[12]

    The key to the survival of our nation...is the
United States Congress....
            ---Alan Stang, in a John Birch Society publication[13]

        ...53 5 ...Forgettables...on Capital Hill.
                    ---Nicholas Von Hoffman[13a]

    Declaring that no "meaningful reforms" could be
made without reforms in the structure and organization
of Congress, Mr. [John] Gardner said that the citizens'
lobby [Common Cause] would wage a continuing fight on
these issues....
                        ---News Report[14]

    Well, hell is a bottomless pit.
            ---Carl Albert, on House reform debate[15]

    Americans....[h]ave...suffered from a gimmick
approach to political problems. Our genius at
tinkering and improvising leads us to think that the
most serious political problems can be solved by
mechanical devices.
                    ---James MacGregor Burns[16]

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[11]Lockard, loc. cit.

[12]Quoted by John D. Morris, "Congress Facing Inquiry by
Nader," The New York Times, November 3, 1971, p. 19.

[13]Alan Stang, "The Right; Conservatives In The Congress,"
American Opinion, Vol. 17 (July-August, 1974), p. 31. Between
Nader and Stang, political scientist Ernest S. Griffith, prob-
ably a moderate conservative, expresses this similar view:
"The Congress of the United States is the world's best hope of
representative government." Congress: Its Contemporary Role
(4th edition; New York: New York University Press, 1967), p. 37.

[13a]Nicholas Von Hoffman, "Marshmallow Follies," New York
Post, October 15, 1974, p. 37.

[14]"Gardner Bids McGovern Press For Major Reform of
Congress," The New York Times, July 22, 1972, p. 11.

[15]Quoted by Richard L. Madden, "G.O.P. Is Courted On
House Reform," ibid., October 2, 1974, p. 18.

[16]Burns, op. cit. (n.4, ch. I), p. 333.

> Constitute them how you will, governments
> are always governments of men, and no part of any
> government is better than the men to whom that part
> is intrusted.
> ---Woodrow Wilson[17]

> Our Constitution is so simple and practical
> that it is possible always to meet extraordinary
> needs by changes in emphasis and arrangement with-
> out loss of essential form. That is why our con-
> stitutional system....[h]as met every stress of
> vast expansion...,of foreign wars, of bitter internal
> strife, of world relations.
> ---Franklin D. Roosevelt[18]

> ...it is impossible to discover any purely con-
> stitutional solution for what was a profoundly
> rooted social conflict.
> ---Robert A. Dahl[19]

> The popular will is not being frustrated, it's
> just not there, at least not for doing things as
> fast as some would like.
> ---J. Reid Hambrick[20]

> Patience is the hardest lesson for democracy
> to learn
> ---Charles Evans Hughes[21]

> ...the will and the good of the people may be,
> and in many historical instances have been, served
> just as well or better by governments that cannot be
> described as democratic according to any accepted
> usage of the term.
> ---Joseph A. Schumpeter[22]

> A burning faith in democracy and impatience
> with its results is not a new quality among idealists.

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[17]Woodrow Wilson, Constitutional Government in the United States (New York: Columbia University Press, 1908), p. 17.

[18]Roosevelt, op. cit. (n.45, ch. II), p. 14.

[19]Dahl, op. cit. (n.55, ch. I), p. 98. "Profoundly rooted social conflict" refers to the Civil War.

[20]Hambrick, loc. cit. (n.11, ch. I).

[21]Quoted by MacColl, op. cit. (n.18, ch. VI), p. 72.

[22]Joseph A. Schumpeter, Capitalism, Socialism and Democracy (3rd Edition; New York: Harper & Brothers, 1950), pp. 269-70.

> ...when Holmes departed to assume his duties
> on the Supreme Court he was admonished to do Justice.
> He responded thoughtfully that his job was merely to
> enforce the law.
> ---Wallace Mendelson[23]

> ...if my country wants to go to hell, I am here
> to help it.
> ---Oliver Wendell Holmes[24]

Where We Have Been and Where We Are Going: A Brief Review

At this point, it is appropriate to summarize briefly[24a] what we have done so far, in order to see how this last chapter both differs from the previous five chapters and fits into the overall scheme of the dissertation. Chapters 2-6 dealt with the Vietnam War; this chapter does not. The Vietnam chapters and this one have in common the purpose of supporting, via logical and empirical analysis, the principle hypothesis presented in the first chapter.

The initial chapter noted three views of the structure and process of government: 1) that they are or can be made neutral between conflicting elements of society; 2) that they are not and cannot ever be neutral; and 3) that they are rather beside the point. It was further noted that the second view is the most widely accepted, both among activists and political scientists. Finally, this view was rejected.

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[23] Wallace Mendelson, *Justices Black and Frankfurter: Conflict in the Court* (2nd Edition; Chicago: University of Chicago Press, 1966), pp. 120, 116. Regarding the anecdote, Mendelson says: "At best this little tale is incomplete, but it is significant."

[24] Quoted by Francis Biddle, *Justice Holmes, Natural Law and the Supreme Court* (New York: Macmillan, 1961), p. 9.

[24a] The reader who finds this summary too brief should see pp. 22-23, 74-76, 136-37, 276-78, 315-16, 485-87.

The main idea in this dissertation is that the American political system is far more neutral between competing interest groups and far less biased against those on the left than has been generally believed. Here, it is perhaps in order to refine this point. It might be too much to assert that the structure and process of American Government are absolutely unbiased and neutral between conflicting interests. However, we have one firm and irreducible contention. The evidence is sufficient to demonstrate that the frequently made and widely-believed counter-assertion, that the structure and process are biased and never neutral, has not been proven and cannot be accepted "at this point in time."

The principal illustration in this thesis is the Vietnam War. Certainly, the war did not in the slightest degree establish any bias or non-neutrality in the system. The bulk of this work has been devoted to the prime subsidiary hypothesis that, contrary to constant contentions, the war did not demonstrate any absence or failure of democracy in the United States political system. We showed that the tools were indeed available to have legitimately ended the war by 1970 at the latest.

The purpose of this chapter is to provide further evidence and analysis to show that, at the very least, the non-neutrality hypothesis is not proven. There is as much reason to believe the system _is_ neutral as to believe it is biased against the left.

Briefly, the biased system or non-neutrality hypothesis is defective for the following reasons. First, there have been

huge left of center successes via the traditional, ordinary
methods of the American political system. In fact, left of
center activists have achieved such successes that one can
easily compile a respectably thick catalogue of complaints
by <u>right</u> of center activists that the system is biased against
<u>them</u>! Second, liberals also have had much success using the
very aspects of the system they claim render it most biased
against them. Third, the bias hypothesis is based on in-
adequately defined terms such as success, bias, neutrality,
conservatism and liberalism. A particularly important error
is the association of conservatism with the status quo and
liberalism with activist change. Finally, the bias hypothesis
suffers from serious deficiencies of logic.

We now proceed to a consideration of these points.
Because of the length of the dissertation, however, we cannot
go into much detail.

Left of Center Successes Using Ordinary Methods

One can itemize a staggering number of laws that cannot,
by any definition, be considered as right of center. The New
Deal, for example, saw the enactment of legislation establishing
collective bargaining and other rights of labor, social
security, and what liberals long have considered the great
showcase of government planning, the Tennessee Valley Authority.
In the last twenty years, major civil rights legislation has
been a regular occurrence, with enactments taking place in
1957, 1960, 1964, 1965, 1968, 1970, and 1972. This legislation
has revolutionized race relations in such areas as public
accommodations, voting rights, education, housing, and employ-

ment.[24b] In the middle 1960's, the "Great Society" brought about much legislation designed to aid those designated as poor. On food, legal services, health, employment, housing education and community development---to name a few matters---much money was directed toward eliminating what was officially defined as poverty. In addition, Medicare was established and there was immigration reform for the first time in forty years. Also, meat inspection, and automobile and highway safety bills were enacted into law. During the Nixon Administration, there has been legislation aimed toward liberal goals of tax reform, environmental regulation, consumer protection and a growing redirection of emphasis away from the automobile and toward mass transit.

All this is just off the top of the writer's head: common knowledge among those interested in political affairs. Anyone who puts his mind to it can compile volumes on legislation that can scarcely be labeled right of center.[25]

So far we have been referring to legislation. But the political system includes more than Congress. It includes three branches, two major levels (federal and state), and thousands of local forms of formal government, and, cutting across these, interest groups and political parties. Left of center activists have not been without their successes outside of Congress. If we take the judiciary as a notable example,

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[24b]Congressional Quarterly calls its book on the subject Revolution in Civil Rights. Op. cit., (n.50, ch. I).

[25]See also, Ben Wattenberg, The Real America (New York: Doubleday, 1974).

only the most rabid fanatic on the extreme left can deny the occurrence of huge gains for the left of center view under the Warren Court. These gains took place in the field of civil rights, reapportionment, rights of the accused and various other aspects of civil liberties. In the area of informal government, there was nothing to stop the forces of George McGovern from seizing control of the Democratic Party in 1972. That they lost the election is another matter entirely. The point is that they had their chance within the political system. (At the risk of getting ahead of ourselves, it is perhaps an indication of the neutrality of the political system that the major political parties are open to control by groups on **both** the far left and the far right. We must not forget the Republican Goldwater fiasco of 1964.)

Bearing the foregoing in mind, commentators and participants on the left and the right do not seem to have the same view of reality. From the viewpoint of activists on the left, the system appears biased in favor of conservative or right of center causes. That this seems also to be the dominant view among professional students of government, political scientists, appears to validate the view of the left. But this is called into question by the fact that most political scientists---71.8% according to one survey---see themselves as left of center. (See n.141, ch. I.) From the perspective of those on the right, the view is not the same, A sample characteristic comment is provided by Ernest van den Haag:

> The country has been run by liberals. Their
> establishment was threatened for the first time in
> a generation when Mr. Goldwater and then Mr. Nixon
> became candidates. Liberals still dominate the
> judiciary, the universities, the Federal bureaucracy
> and the media. They were unable to prevent Mr.
> Nixon's foreign successes, but he was unable to
> weaken their domestic grip. [Emphasis added.][26]

The van den Haag view is by no means the only or most extreme view on the right. A most interesting experience, one probably not undergone by most people to the left of center, is a perusal of a sample issue of American Opinion. According to its Managing Editor, Scott Stanley, Jr., the July-August, 1974 issue "is edited for Conservatives" and "endorse[s] Conservative principles."[27] One article, by Gary Allen, complains of crime caused by liberal tolerance, welfare, taxation and another facet of our political system, not mentioned above, "More and More Bureaucrats":

> Every five or six of us who work for a
> living must now support one non-productive paper-
> pusher in the bureaucracy. In decaying New York
> City, there are two Welfare recipients and a
> government employee for every five workers in
> private enterprise.[28]

A major complaint by Allen is the growth of federal spending. On this point, incidentally, we need not rely solely on the

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[26]Ernest van den Haag, "The Nixon Haters," The New York Times, December 17, 1973, p. 37.

[27]Scott Stanley, Jr., Letter to the Reader, American Opinion, Vol. 17 (July-August, 1974), inside front cover.

[28]Gary Allen, "The Target Is the Middle Class," ibid., p. 4. The citation of these views is NOT an indication that the writer agrees with them. To a large extent he does not. But whether or not he agrees with the views of right of center polemicists is utterly beside the point. The point is that there are such views and that they are quite different from the left of center view of reality.

right. In the first chapter, we cited the views of Senator Fulbright on the "sick society." He complained about the low amount of spending on "social functions" and the great amount on "military power." We pointed out Fulbright's failure to draw an implication from his own statistics: that social spending as a percentage of defense spending went from 10.5 percent in the 1946-67 period to 20 percent in the fiscal 1968 budget. (See p. 9.) Since then, there has been a continuing shift in favor of spending on liberal programs.

The United States Budget in Brief, Fiscal Year 1975 says:

> defense costs have been a decreasing share of our national budget, falling from 44% of Federal spending in 1969 to an estimated 29% in 1975. Conversely, Federal spending on human resources has increased from 34% of the budget in 1969 to almost 50% of the 1975 budget.[29]

Some of this change in emphasis is due to the shenanigans of political accountants. For example, "human resources" are defined to include veterans benefits.[30] A case can be made that payments to veterans constitute a continuing defense cost. A few years ago, moreover, social security was transferred from a segregated accounting procedure to part of the regular budget, accounting in no small measure for the seemingly rapid increase in the budget in a short time complained about by Gary Allen.[31]

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[29]United States Office of Management and Budget, The United States Budget in Brief, Fiscal Year 1975 (Washington: Government Printing Office, 1974), p. 7.

[30]Also included are: "Education and Manpower, Health, Income Security."

[31]Allen, loc. cit., p. 6.

In rebuttal, it can be argued that social security is social spending espoused by liberals regardless of whether it is included in a regular or separate budget. Also, social spending has increased. Allen claims that the "federal government now spends thirty-seven cents out of every tax dollar on some form of social welfare. This is a fifty percent increase in just six years."[32] He is particularly bitter about the Food Stamp program, citing a news report describing its rapid growth to the point where 1 in every 14 Americans receive food subsidies. Allen laments that "Few things are as exasperating as watching Welfare people in front of you at the supermarket check-out counter as they pay for food with federal Food Stamps and then pay separately with their own money for cigarettes, liquor, and wine. After all, we can't expect the 'poor' to sacrifice such necessities as booze and tobacco."[33] In any case, Allen goes on to quote an article asserting that "Despite five years of conservative rhetoric and efforts at retrenchment, the Republicans have succeded in more than doubling the government's spending on social welfare."[34] Finally, we may cite another Allen quotation from "an angry Republican Battle Line...:

> Wherever one looks, the emphasis is on how much things have grown under...Nixon: consumer safety programs are getting more money; ditto Federal education programs; civil rights enforcement, Indians, public TV, urban public trans-

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[32]Ibid., p. 2.

[33]Ibid., pp. 2, 4.

[34]Jonathan Spivak, The Wall Street Journal, quoted ibid., p. 6.

portation, all are getting more, more, more.[35]

So much for Gary Allen. A _Forbes_ article quotes, perhaps paradoxically in view of the above anti-Nixon views, "conservative, _Nixon-appointed_, cost-effectiveness men" as calling the Department of Health, Education and Welfare the "largest spending unit in the Western world."[36] To establish the point, the article observes that "This fiscal year HEW sent Congress a proposed budget of $110 billion, some $27 billion over the Defense Department's proposed budget, after it emerged from House-Senate conference."[37] This article goes on to describe tactics used by liberals to institute and expand new programs. One such tactic is "snowballing" of "demonstration projects." First, a program is instituted, partially justified on the ground that it will require only a small amount of money to "demonstrate" how it works, and then it is expanded on the ground that it is unfair to spend money on just a few people and not everyone situated in a similar situation.[38]

Given the vast increase in domestic spending, it is not surprising that another writer for _American Opinion_, Medford Evans, refers to "the present 'Liberal' majority in Congress,"

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[35]Quoted in _ibid_.

[36]"With Good Intentions," _Forbes_, Vol. 114 (October 15, 1974), p. 28. Italics added.

[37]_Ibid_. The conference changes of the bill do not affect the point made here. The HEW budget is now much larger than the Defense budget. See "Budget Authority and Outlays By Agency, 1973-75," _Budget in Brief_ (n.29), Table 5, p. 54.

[38]"With Good Intentions," _loc. cit._, pp. 29, 36.

and declares:

> Considering now...matters have gone, from the
> "Liberal" point of view Congressional reform is
> unnecessary.
>   It has by now been well established...that
> a cagey cadre of "Liberals" can accomplish more
> through a Conservative Establishment than they
> can through a "Liberal" one.[39]

Another article in American Opinion says "we now appear to be
enjoying the most Conservative Congress in a decade." But,
in terms of figures, what this means is that "the typical"
Representative voted "with the Conservatives on only 39 percent
of the major issues," and "The average Senator voted with the
Conservatives only 31 percent of the time."[40]

For all that, one final writer for American Opinion
sees Congress as the "key to the survival of our nation."
(p. 490.) This is the same view held by a most unlikely
companion, Ralph Nader: "Nothing remotely compares with the
Congress as the hope of reclaiming America." (p. 490.) A
similar view is also held by moderately conservative political
scientist Ernest S. Griffith: "The Congress of the United
States is the world's best hope of representative government."
(n.13.)

Perhaps the optimism with respect to Congress by
proponents of widely differeing views is a basis for believing
that that body at least is indeed neutral between competing

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[39]Medford Evans, "Chairman: Our Powerful Feudal Chieftans,"
American Opinion, Vol. 17 (July-August, 1974), pp. 88, 83, 85.

[40]"Congress: A Domestic Scoreboard," ibid., p. 21. It
should be noted that this article refers to the 93rd Congress,
before the voters for the 94th Congress signaled "A Clear
Shift To the Left," in "A Mandate to do What?" The New York Times,
November 10, 1974, p. E1. (Section 4.)

views and interests. But before concluding this with finality,
first we must deal with an important problem.

Definitional Difficulties

We have cited evidence (see esp. ch. I) that people with
left of center views see the structure and process of govern-
ment as being biased against their interests. The analysis
in the preceding section shows that citizens on the right
believe that those on the left have accomplished so much via
political action that government is anti-right. How do we
square these diametrically opposed perceptions?

The unvarnished truth is that our problem is rooted in
semantics. To say that government is biased against one's
interests is to say that one has failed to have those interests
satisfied. This raises the question of what one defines as
success and failure.

Success and failure are defined in terms of goals,
objectives or interests. If one has achieved his goals, he
has "succeeded." Otherwise, he has "failed." Of course,
it is easier on one's psyche to say, not that one has failed,
but that he has "been failed," in this case by the govern-
ment. In any event, the definition of success and failure is
determined by ends. If one sets out to make a million dollars
and he only makes half a million, he has failed. But if his
goal was a quarter of a million the same objective event is
deemed "success."

Now the trouble with definitions in terms of goals is
that the definitions keep changing. Murray Edelman has an

interesting discussion on political goals.[41] Referring to the

"fundamentally insatiable character of political goals,"[42]

Edelman advances the proposition that "success in achieving a

political objective leads to demands for larger amounts of

the same benefits or to new goals different in manifest content

but like the old ones in respect to a latent dimension...."

He adds that "failure to achieve a political objective leads

to its abandonment or to a more modest objective."[43]

An important example of these propositions is civil

rights. In the 1940's, the provisions of the Civil Rights Act

of 1964 were probably undreamed of by most blacks and unthinkable

to most whites. In 1963, the late Martin Luther King, Jr. did

dare to declare: "I have a dream." In 1964, the bill was

passed and seen as a monumental achievement. (See p. 21, and

n.50, ch. I.) But by 1974, especially on the part of blacks

too young to remember life in the 1950's, what once took a

herculean effort to get passed had long since become passé.

All of which brings to mind a previously cited remark by James

Q. Wilson:

> demands cannot be met---the competition for
> leadership among the (largely disorganized)
> dissident groups will inevitably generate even
> more extreme demands faster than less extreme
> requests are fulfilled. [n.149, ch. I.]

It is no wonder, then, that "Goals or interests continue to

evoke political discontent regardless of the extent to which

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[41]Edelman, "Persistence and Change in Political Goals,"
op. cit. (n.4, ch. IV), ch. 8.

[42]Ibid., p. 190.

[43]Ibid., p. 153.

the claims they name are fulfilled...."[44] Thus it becomes very easy to see why people both to the right and left of center are dissatisfied. Whatever those on the left get by way of political action, the continual escalation of goals renders this as not "enough." By contrast, to the extent that those on the left get anything at all, people on the right are going to see this as "too much." Hence, mutual "failure."

There is an old saying that to err is human and to blame others is even more human. Since it is always less discomfitting when there is a scapegoat, it is utterly understandable that people on both the left and the right should blame the government or "the system" for their "failures." This point has been documented with respect to the Vietnam War. Elsewhere we observed that the alacrity with which doves blamed the system for their failures to get everything they wanted was matched only by the speed with which they took credit for themselves at the slightest indication of success in obtaining anything they wanted. To the extent there was movement toward peace, doves were the cause. (p. 108.) This point applies equally to other areas of public policy.

Now, one way in which the system is blames is to say it is biased and not neutral. So the tendency to define success in terms of goals---and constantly changing goals at that--- has a direct bearing on the question whether the political system is biased or neutral. In fact, neutrality itself is

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[44]Ibid., p. 154.

commonly defined in terms of goal satisfaction.

We have cited (p. 488) a textbook by Marian D. Irish and James W. Prothro as saying it is a "misconception" to believe that "government is neutral....[T]he notion...simply does not fit the facts." What is really the case is that the notion does not fit the definition. Irish and Prothro go on to say that a "useful analytical approach is to ask of any governmental arrangement...: in terms of its _effect_ rather than of its declared purpose, what is its function? Then ask: who is---or feels---hurt by such a function, and who is---or feels---benefited?"[45] Let us but note, as the foregoing discussion suggests, that there is a vast difference between the objective reality of whether one is hurt and how one _feels_ about it.

In any case, a prevailing practice seems to be to define neutrality in terms of results. To take another example, H. B. Mayo specifically phrases a question about democracy thusly: "Is Any Political System Neutral as to Results?"[46] His answer is negative. Mayo maintains that "Concern over procedure so often determines the outcome," and he cites cases in which "the method and content are inseparable."[47] Many other writers too adhere to this position. (See Berman, Lockard, Horowitz, for example, p. 489 above.)

There are difficulties even if we accept the definition of neutrality in terms of results. But here we simply want to

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[45]Irish and Prothro, _loc. cit._ (n.1). Italics in original.

[46]Mayo, _op. cit._ (n.155, ch. I), p. 214.

[47]_Ibid._

consider the validity of the definition. Let us consider an example. The United States Constitution, sixth amendment, guaratnees those accused of crimes "the right to a...trial, by an impartial jury." In other words, in the context of this discussion, the accused is entitled to a neutral jury. Now suppose in a given case that the defendant is found guilty. That is the result: a guilty verdict. Does the fact that the result is against the defendant, ipso facto, mean that the jury was not neutral and was biased against him? Obviously not. It is of course true that a jury can be biased. It can be biased against the accused, and traditionally defense attorneys have done their best to get juries biased in favor of their clients.

The courts, of course, have techniques---not always applied to be sure---for determining whether juries are biased. For example, the systematic exclusion of Negroes from southern juries just is not acceptable. But there is one criterion which is not used to determine if a jury is biased. That is the finding was based on a sincere effort to weigh the evidence and arguments presented, the jury was unbiased. If pre-conceived notions determined how the jury weighed the evidence, the jury was biased.

The same principle must be applied in defining neutrality with respect to its presence or absence in a political system. Governments---just like juries---do indeed exist for the purpose of making decisions between competing claims. Somebody is going to be "hurt" or "benefited." Maybe everybody is going to "feel" "hurt" in a given instance. The critical question, then, is not who is hurt and who is benefited. The

question is this: is there anything inherent in the structures
and processes of government that make one side of a dispute
likely to "win" and the other side likely to "lose"? In
short, our definition is this: <u>if there is nothing inherent
in the structure and processes of government to render one out-
come more likely than another in a conflict between competing
elements of society, then that "system" is neutral.</u>

To which, the proponent of the biased system hypothesis
will surely reply: "Aha! We've still got you. Because if
that's the way you want it, in the case of the American political
system at least, the structure and processes clearly are against
the left and in favor of the status quo and conservatism."

Again, we have a problem of definition. Books have been
written to define conservatism, liberalism and similar terms
and we do not have the space here to duplicate their efforts.
Let us just be content to cite a representative example of the
thought process that sees the system as biased against liberal
causes. We have quoted Duane Lockard (p. 489) as stating that
congressional power is distributed in such a way as to favor
the status quo. He explains his view thusly:

> Congress is like the rest of American government:
> it is geared to grind slowly. Congress, through
> its formal rules and its informal practices, is
> an institution devoted inordinately to the pre-
> vention of action. Indeed it is so well equipped
> to stop legislation that even conservative interests
> at times have difficulty when they seek changes in
> the law. Usually conservatives need only to stop
> action to achieve at least their more limited
> goals, but liberal legislators, because they seek
> innovation more frequently, encounter obstruction
> from well-entrenched conservative opponents in
> addition to the usual difficulties in putting

together majorities for their proposals.[48]

Distilled into summary form, the system is biased against left of center or liberal causes because: a) those on the left favor change/action and those on the right favor the status quo/inaction, and b) the system is structured with many obstacles to change. (p. 12.)

This proposition is based on highly questionable definitional assumptions. Lockard himself mentions in passing that "even conservative interests at times have difficulty when they seek changes in the law." But does this point deserve to be glossed over in an age of conservative activism?

It must be remembered that this writer stresses definitions in terms of how commonly used terms are indeed commonly used. (p. 26; n.57, ch. I.) The fact is that people known as "conservatives" with probably increasing frequency have been activist. That is, their goals have required action.

One major example of this is the Vietnam War. It will be recalled that war opposition was basically a left of center position (pp. 114-120.) Since continuation of the war required positive action on appropriations, selective service and other legislation, it was the left of center position that required blocking action. The right of center position required action.

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[48]Lockard, loc. cit. (n.5). Cf.: "...the individual member of Congress, even if he merely wants to reflect the demands of his constituency, must reckon with the power relations in the legislative process. These relations are so intricate and the points of leverage so numerous that it is often far easier to prevent action in Congress than to take it." Redford, op. cit. (n.92, ch. I), p. 418. Italics added.

Another example is provided by a Congressional Quarterly study just prior to the 1974 congressional election. The views of candidates were elicited with respect to eight "issues expected to come before the 94th Congress." On all or part of five of these issues, what would generally be regarded as the conservative position required action. These were 1) the relaxation or delay of environmental controls, 2) the curtailment of defense spending, 3) a constitutional amendment prohibiting busing for desegregation, 4) a constitutional amendment restricting abortions, and 5) restoration of the death penalty.[49] The liberal positions on these issues of course would require action blockage.

Lest there be any question on this score, let us return to Gary Allen. We have noted (pp. 498-99) his complaints about growing domestic spending. He goes on to say that "The number one rationalization for ever-escalating Budgets is that they are now largely 'uncontrollable.'"[50] He cites The United States Budget in Brief which does indeed say: "In 1975...almost three-quarters of the budget, will be virtually uncontrollable in the short run due to existing law and prior-year commitments."[51]

The "existing law" provides what Allen calls "built-in escalator clauses for future spending."[52] The remedy, Allen asserts, is simple enough: change the law. He cites

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[49]"Issue Survey," Congressional Quarterly Weekly Report, Vol. 32 (November 2, 1974), p. 3020.

[50]Allen, loc. cit., p. 6.

[51]Budget in Brief, p. 6. Italics in original.

[52]Allen, loc. cit., p. 9.

> Nancy Teeters, a senior specialist in Budget
> economics at the Library of Congress, [who]
> says "although these programs are called
> uncontrollable, all programs are controllable
> is legislation to change their nature is enacted."[53]

So here is another case---a major case---where it is the

conservative position that requires action and the liberal

position that requires the blockage of action. Actually, this

is not a new phenomenon. In a footnote more than a decade

old, Milbraith maintains that "whether the organization in its

broad policy is trying to change or to preserve the status quo

in society....[i]s not a liberal-conservative, welfare state

vs. free enterprise distinction...."[54]

This footnote has become even more relevant since it was

written. It is ironical that, as more and more liberal legisla-

tion is enacted by ordinary methods, the liberal position

becomes identified increasingly with the new status quo and

the conservative position becomes identified with change.

Because liberals, in accordance with the ever-escalating

character of political goals, want to increase the magnitude

of their recently created programs and to have reforms in such

areas as tax policy and health insurance, we cannot maintain

that there has been a total reversal of liberal and conservative

roles regarding the status quo.

But we can and we do contend that whether conservatives

or liberals favor the status quo cannot be determined in advance

by abstract definition. The question can be resolved only on an

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[53]Ibid.

[54]Milbrath, op. cit. (n.24, ch. III), p. 350.

empirical, ad hoc, issue by issue basis. On each issue, the positions of those who are known as liberals and the positions of those who are known as conservatives must be examined to determine who favors change and who opposes it. But this does not end our problems.

To compound our definitional difficulties further, if left of center cannot automatically be associated with change and if right of center cannot be automatically associated with the status quo, maintenance of the status quo may sometimes require action and change of the status quo may require inaction. Milbrath points out that

> the legislative process is not so neatly arranged that defensive [status quo] organizations will nearly always attempt to defeat bills while offensive [change] organizations will nearly always attempt to pass them. Both types of organizations attempt to pass some bills and to defeat others. This results mainly from the fact that numbers of bills are introduced on all sides of questions in each Congress. [Emphasis added.] 55

Once again, we cite the Vietnam War as an example. Once the war was in full scale progress, the status quo position was to continue the war. But this required positive action on a yearly basis. The blockage of such action was required by those who would alter the status quo.[55a] (p. 509.)

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[55] Ibid.

[55a] To muddle the matter more, to prevent action on war appropriations, draft legislation, etc. would itself have required action. There are two kinds of action; passage of a bill is one kind and obstruction of passage is another. Often to prevent positive action requires negative obstructionist action.
    In sum, on Vietnam, the left of center position required a change in the status quo by preventing action necessary for its continuation, and this action prevention required action. Is everything clear now?

Milbrath notes that "It is a truism that it is easier to stop a bill at some one hurdle in a legislative passage than it is to get it over all the hurdles (eight or ten in a two-house legislature and signed into law."[56] Even so, for the above and other reasons, he "suggests that the generalization that defensive organizations find more success than offensive ones must be examined more rigorously."[57]

Such an examination is our purpose here. Above, we have given some indication of definitional complexities involved in this examination. If we define terms in line with actual usage, it becomes plausible that liberals often could have been in a position to further their ends by using the very "obstructionist" procedures that allegedly have biased the system against left of center causes. But this is more than just plausible or hypothetical, and below we examine

Left of Center Successes Using "Anti"-Left of Center Procedures

There have been very many such cases, but here we can only provide relatively very few examples. These are of more than passe historical interest, even with liberals about to take control of the 94th Congress as this is written. Obviously, a group that is in the majority does not need to resort to minority tactics. But although the election results have been interpreted as indicating a shift toward solid liberal control of Congress,[58] it has been noted that a number of newly-elected

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[56]Ibid., p. 349.

[57]Ibid., p. 350.

[58]"Next Congress: Younger and More Liberal," Congressional Quarterly Weekly Report, Vol. 32 (November 2, 1974), pp. 3018-20.

Democrats are more conservative than liberal.[59] Also, a
number of the liberals do not reflect the moderate and, in
some cases, conservative views of their constituencies.[60]
The new incumbents will either have to trim their liberal
sails or not be reelected. The New Republic, in a moment of
soul-searching that let it to "speak from introspection," once
warned its readers: "Liberals, many of whom are poor at
arithmetic, like to think that they constitute a majority of
the United States."[61] The evidence---not to mention the
definitions---on this point is not clear.[62] In any case, past

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"In the Nation, A Clear Shift To the Left," The New York Times,
November 10, 1974, p. El. Mark R. Arnold, "A Congress of
Mavericks," The National Observer, November 16, 1974, pp, 1, 24.

[59]"The range of new Democrats in Congress was a reminder
...of how hard it always is to unite this family of chameleons
....Martha Keys...was state director of the McGovern campaign
....Lawrence McDonald...is an officer of the right-wing John
Birch Society. Leo Zeferetti...is a law-and-order conservative."
Christopher Lydon, "Democrats: Big Field of Dark Horses For
1976...," The New York Times, November 10, 1974, p. E2. See also,
"Landslide Precedent, Stability," Congressional Quarterly Weekly
Report, Vol. 32 (November 2, 1974), p. 3012.

[60]"In House races, a lot of the Democrats who sailed in
on the Watergate tide are more liberal, according to surveys of
voter attitudes, than the people who elected them." Lydon, loc.
cit.

[61]"Filibusters," Editorial, The New Republic, Vol. 164
(February 20, 1971), p. 13. As we shall see, this editorial
changed the magazine's view on filibustering, but did not go
all the way in supporting the practice.

[62]On the one hand, there is evidence of decreasing
Republican support combined with increasing conservatism. Allen,
loc. cit., pp. 17-18 gleefully notes the evidence of increasing
conservatism. See "Conservative sentiment high Despite lagging
GOP loyalty," The Gallup Opinion Index, Report Number 107 (May,
1974), pp. 17-20.
On the other hand, what does it mean to ask people to
classify themselves on an overall basis as liberal or conserva-
tive? In the first place, even if their Congressmen are more
liberal than they are, the fact is that the constituents did

elections (e.g., 1938 and 1966) have demonstrated that liberal dominance of Congress can be short-lived.[63]

In short, there is some question that liberals have the congressional majority they seem to have. And, if they do have it, it is questionable that it will be a long lasting majority. As new Popes are quickly admonished, sic transit gloria mundi! So it is likely that "anti"-left tactics will again be employed to serve left of center causes, as has been done so many times in the past.

So many times, in fact, that it is a sign of extreme empirical ineptitude that, even taking into account the traditional association of the left with change/action and the right with status quo/inaction, these methods ever became connected with the right of center. Aside from the difficult definitional distinctions noted in the previous section, one explanation for the misassociation is the problem of assessing the number of times particular interests resorted to particular tactics. For instance, with respect to one obstructionist tactice, the filibuster, Benjamin V. Cohen and Joseph L. Rauh, Jr.

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elect the Congressmen. Second, the distinction has been made between overall philosophy as a general proposition and operational responses to actual particular questions of public policy. In the latter sense, it has been found that "A majority of the American people have been 'liberal' in the sense of favoring Government programs to accomplish social objectives at least since the days of the New Deal....," Lloyd A. Free and Hadley Cantril, The Political Beliefs of Americans, A Study of Public Opinion (New Brunswick: Rutgers University Press, 1967), pp. 9-10. See also ibid., passim, esp. chs. I, II, and XI.

[63]But we must acknowledge that, however short-lived a liberal Congress may be, its legislation can last for the ages, becoming indeed the new status quo. Witness New Deal and Great Society legislation.

make a grudging concession to empirical realities: "True...
liberals have used the filibuster on memorable occasions for
good purposes. But," they go on to argue, "**more commonly** it
has been used to block much-needed progress...."[64]

This contention raises two important questions that
are probably impossible to answer with finality. But this
very lack of finality is sufficient to suggest that the Cohen-
Rauh view was and is not acceptable. The two questions are:
A) Has the filibuster (and other obstructionist tactics for
that matter) been used "more commonly" to block what liberals
consider to be "much-needed progress"? B) In the very unlikely
event that the first answer is affirmative, **why** is this so? The
remainder of this section will be devoted to answering the first
question as best we can. The next section will consider the
second question.

The Cohen-Rauh view was expressed in response to an
above-cited (p. 513) New Republic editorial, which acknowledged
a change of heart regarding filibusters. Saying, as noted,
that liberals were not always in the majority, it argued that
the filibuster was justified as a device to make the majority
pause. Also, part of what prompted the editorial was that "of
the several filibusters that marked the second session of the
91st Congress [1970], and particularly its last few weeks, most
were conducted by liberals---and to very good purpose...."[65]

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[64]Benjamin V. Cohen and Joseph L. Rauh, Jr., "Filibusters,"
A Communication, The New Republic, Vol. 164 (March 6, 1971), p.
30. Italics added.

[65]Loc. cit. (n.61).

It is truly amazing that a change of heart should have been prompted by the 1970 liberal filibuster flurry---as though there was anything new in this. Filibusters by liberals go back a long way, as we are reminded by Alaska Senator Ernest Gruening, hardly a right wing reactionary:

> The roster of Senators who have been <u>outstanding champions of unlimited debate</u> is impressive. It includes...Joseph C. O'Mahoney...James Couzens... Geroge Norris...Robert La Follette...Charles L. McCary...Dennis Chavez...William Langer...,to name only a few, men of both parties, who have been <u>classed as liberals</u>. [Emphasis added.][66]

Part of the reason that these and other liberal filibusterers were lost sight of was that the filibuster came to be identified prominently with opposition to civil rights legislation, which was favored by liberals. This point is stressed, for example, by Raymond E. Wolfinger in an article written in 1970.[67] According to Wolfinger, "During the 1950s and early 1960s political observers often classified civil rights measures as part of a general liberal legislative agenda."[68] But, Wolfinger maintains, "the issue was something of a special category in the minds of many Democratic politicians...."[69] Most important for our purposes, observing that, to a con-

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[66]Senator Gruening's defense of unlimited debate, January, 1963, reprinted in <u>Congressional Record</u>, 88th Congress, 2nd Session, Vol. 110 (Daily Edition; June 18, 1964), p. 13758.

[67]Raymond E. Wolfinger, "Filibusters: Majority Rule, Presidential Leadership, and Senate Norms," reprinted in Nelson W. Polsby, ed., <u>Congressional Behavior</u> (New York: Random House, 1971), pp. 111-127.

[68]<u>Ibid</u>., p. 118.

[69]<u>Ibid</u>.

siderable extent, filibusters were "reserved for civil rights legislation," he contends that conservatives very infrequently resorted to the filibuster for other than civil rights reasons.[70]

While it is questionable that conservatives have used the filibuster in non-civil rights causes quite as infrequently as Wolfinger claims,[71] it is entirely understandable that, in the past, conservatives would not have filibustered with great frequency. Consider again The New Republic's discovery that liberals were not in the majority. Consider further that, prior to the New Deal, Republicans dominated the Congress for long periods. Consider still further that, in 1937, the Southern Democratic-Republican conservative coalition formed and dominated Congress for a long time.[72] It follows that,

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[70]Ibid., pp. 117; 117-19.

[71]Ibid., p. 118. Wolfinger's minimization of the conservative use of filibusters is defective because: A) As we note elsewhere (p. 518), to the extent that conservatives were in the majority, they had no need to filibuster. If anything, there has been an increase in both liberal and conservative filibustering in recent years. (p. 551.) B) Most serious, Wolfinger counts only "All such cases in which the threat of obstruction was sufficiently serious to lead to a cloture petition...." from 1960-68. Ibid. Italics added. Aside from the fact that Wolfinger apparently believes that "all" entitles him to omit "non-legislative issues such as rules reform and the Fortas confirmation," counting filibusters involving cloture petitions drastically limits and ignores the power of the filibuster threat. The threat may be such that a measure is not even brought up because its supporters believe that to be a futile gesture. Wolfinger himself acknowledges this. (p. 548.) Moreover, cloture petitions may have resulted disproportionately on civil rights issues because the civil rights forces were more intense than anyone else and thus more prone to press futile gestures to their ultimate conclusion.

[72]See Patterson, op. cit. (n.23, ch. VI), passim. See also, Congressional Quarterly's yearly evaluations of the "Conservative Coalition." E.g.: "Conservative Coalition: Influence of Conservative Coalition Declined in 1973" Congressional Quarterly Almanac, 1973 (Washington: Congressional Quarterly, Inc., 1974), Vol. 29, pp. 946-9.

since those in the majority have little need to resort to minority tactics, conservatives would have filibustered infrequently <u>because they had no need</u> to do so. Liberals had the greater need to obstruct the majority precisely because they were in the minority and because, despite common definitional assumptions, conservatives often do try to enact legislation.

Thus, it is highly ironic that a device that came to be associated with conservatives was, contrary to the Cohen-Rauh claim, probably on the whole resorted to more often by liberals. The probability is all the greater if we accept Wolfinger's argument that, in the one domain where conservatives were supposed to have filibustered often, this was a chimera: "The filibuster...does not deserve its fearsome reputation for defeating civil rights bills, but was instead a convenient scapegoat."[73] This is because most civil rights filibusters were not "true filibusters." These are filibusters

> in which a determined minority balked a majority. Two conditions must be met before a particular filibuster could validly be judged a minority veto: 1) House passage of the bill being fili- bustered; 2) a majority vote for cloture. In other words, there must be evidence that the bill would have passed but for the filibuster.[74]

On this basis Wolfinger concludes: "from the [second world] war until 1964 only one civil rights bill was killed chiefly by unlimited debate...."[75]

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[73]Wolfinger, <u>op. cit</u>., p. 120.

[74]<u>Ibid</u>.

[75]<u>Ibid</u>., p. 121.

Wolfinger's argument is subject to counter-argument.[76]
But what is not subject to dispute is that, because of the
civil rights issue, "filibuster" became a dirty word in the

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[76]Wolfinger's concept of the "true filibuster" suffers
from several defects. As already hinted (n.71), the "true fili-
buster" ignores the "silent filibuster." The latter has been
defined as "the prevention or forcing of action through the
threat of a filibuster. As...Dawes states...: 'It is not in
the loss of a few bills killed by open filibustering that the
great public injury results, but from the threat of the use of
the power unless bills are passed...or...changed....The rules
provide a sinister instrument, quietly and continually used...to
modify...legislation of all kinds. Indeed, the open filibuster
seems...to be engaged in only as a reminder...of what the
minority as individuals can do...of they are not appeased....'"
W. F. Willoughby, Principles of Legislative Organization and
Administration (Washington: The Brookings Institution, 1934),
pp. 497-8.

Wolfinger is not unaware of this and notes the point at
the outset of his article. (See p. 548.) But he ignores it
in the concept of "true filibuster," on which he places such
great emphasis in coming to conclusions. To require House
passage and a majority vote for cloture is simple to require too
much for a filibuster to be "true." As noted, many bills do not
get very far precisely because their sponsors know that pressing
them would be a futile effort, which they would rather not make.
In some cases, as we shall see, bills killed by "silent fili-
busters" have been quite monumental in importance.

Moreover, Wolfinger discounts entirely too readily the
genuine reluctance of some Senators to vote for cloture. Given
the wholesale turnover in the Senate in recent years, this
institutional attachment is probably less strong now. But it
was very strong when Wolfinger wrote. The most he is willing to
concede on this point is that "in given circumstances, senators'
procedural preferences are more salient to them than their sub-
stantive views, when the two are in conflict." But he goes on
to contend that "Even this proposition is not very important to
the argument, however. As my discussion of the 1962 Comsat
filibuster shows, procedural issues of this kind seldom keep
senators from voting so as to further their policy preferences."
Ibid., n.26, ch. III.

The trouble with this contention is that a) only one case
is used to establish the point, and b) it is not clear that the
case does establish the point. For Wolfinger admits that the
Comsat bill was supported by "All of the eighteen inveterate
southern filibusterers...," and that yet eleven of these eighteen
voted against cloture. He discounts the latter point by noting
that "These eleven could afford their procedural principles,
however, for the other seven filibusterers made cloture possible,
two by voting for it and the other five by not voting." Ibid.,
p. 122. The implication here is that the eleven anti-cloture

liberal lexicon.   Rightly or wrongly, liberals believed that

unlimited debate was responsible for their civil rights

failures and, from 1949 to 1971, they tried biennially to change

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votes were insincere. But Wolfinger can only assert this with-
out really being certain.

Also, if Wolfinger can use one example, we can use two
examples to refute his one example. Our first case is the 1970
conservative filibuster against Senate passage of a Constitutional
amendment---already passed by the House---to provide for the
direct popular election of the President. It is only fair to ask
why, given the necessity of a 2/3's vote both for amendment pro-
posal and for cloture, there was a filibuster at all. The only
possible answer is that there were Senators who would vote for
proposal of the amendment and not for cloture. Otherwise, the
filibuster would have been unnecessary to defeat the amendment.
See "Electoral College Reform Victim of Senate Filibuster,"
Congressional Quarterly Almanac, 1970 (Washington: Congressional
Quarterly, Inc., 1971), Vol. 26, p. 840.

(Incidentally, the electoral college reform filibuster is
an example of a non-civil rights issue on which Cogen and Rauh
say the filibuster was used to block "much needed progress."
See p. 515 above.)

Our second case is the December, 1970 filibuster against
the SST. On December 19, cloture did not even receive a majority,
the vote being 43 for to 48 against. It was found that "Among
the 48 Senators voting against closure were 11 who voted for the
SST....At the same time, 17 Northern Senators who oppose the
plane but take a stand in principle against filibusters voted
today to cut off debate." Christopher Lydon, "Senate Defeats
Motion to Close Debate Over SST," The New York Times, December
20, 1970, p. 1.

Finally, for Wolfinger to say that the filibuster was merely
a scapegoat for the defeat of civil right bills (p. 518) that a
Senate majority really opposed anyway, ignores an important
point. If forced to vote in the open, many politicians vote
contrary to their real views. (See ch. VI, passim.) For
example, the Rules Committee was often used as a scapegoat for
the failure of the House to consider civil rights bills. This
was the case in late 1963. A discharge petition was filed. The
names of the signers were, according to the rules, supposed to
be kept secret. This enabled Representatives who had not signed
the petition to profess support for the bill while blaming the
Rules Committee. However, one fine day, The New York Times
printed a list of who had signed up to that date. Suddenly,
when put on the public spot, many who had not signed did so.
The magic number of 218 was fast approaching when the Rules
Committee relented and permitted the bill to come to the floor
of the House.

So it is incorrect to belittle the filibuster or any other
device as a mere scapegoat to be blamed for a result that would
be achieved a majority in any case. Any device which keeps

the rules to make cloture easier to invoke.[77] Not wanting to

admit their blatant policy motivations, the rules change

advocates scaled the heights of lofty majoritarianism, arguing

that a majority of the Senate should be permitted to rule. As

is not uncommon in human behavior, they came to believe their

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elected officials off the spot plays a major role. There is
no reason to assume that once a majority is on the spot they
will vote their real preferences. There is no reason to assume
automatically that the same majority that voted against civil
rights cloture would also have voted against a particular civil
rights bill. To take one other case, in the famour Armed Ship
Bill filibuster of 1917, Senator Norris maintained that many
Senators who openly supported the bill and denounced the fili-
busters, privately gave him moral support and encouraged him
to keep up the good work. Norris argues that a majority really
opposed the bill. Only the filibuster then kept them off the
spot. See George W. Norris, "Reform of the Senate Rules in
Answer to Vice Presidnet Dawes," Saturday Evening Post, February
13, 1926, reprinted in Congressional Record, 69th Congress, 1st
Session, Vol. 67, Part 4 (February 15, 1926), pp. 3962-4.
   It should be emphasized that, to say the filibuster was more
than a civil rights scapegoat, is not to say that the civil
rights advocates could not overcome the device, as indeed they
have now done many times. And, as the Rules example showed,
there are way to counter rules that supposedly get in the way.

[77]As far back as 1946, it was argued that rules revision
was a prerequisite to civil rights legislation. See Will
Maslow, "FEPC---A Case History in Parliamentary Maneuver,"
The University of Chicago Law Review, Vol. 13 (June, 1946),
pp. 407-444. Maslow acknowledges that "Unquestionable, the
failure of the FEPC was not solely due to antiquated rules of
parliamentary procedure....[T]he parliamentary history of the
FEPC does not necessarily contradict the assertion of the House
Parliamentarian that a majority 'may work its will at all times
in the face of the most determined and vigorous opposition of a
minority.'...The history...does, however, suggest the need for
the two changes in the rules which will at least facilitate the
bringing of the issue under consideration before the entire
House or Senate for a decision." Ibid., p. 442. And Wolfinger
claimed in 1970 that "Rule 22 reform is almost wholly a civil
rights issue." Op. cit., p. 117.
   But the truth is, as we shall note below, that civil
rights legislation, vast in amount and significance, has
passed without any rules changes at all.

own rationalizations. This resulted, for many liberals, in
an ideological attachment for majoritarianism for its own
sake. (See ch. V.) Again, The New Republic: "Liberals....
[t]end to be addicted to ideological abstractions....And so
on issues of the structure of institutions of government,
liberals generally favor simple, straight-out majoritarian
solutions. Hence, about every two years, they lead a fight
to abolish the filibuster, or" make it easier to stop one.[78]
It is questionable that liberals are any more addicted to
ideological abstractions than conservatives or any other
ideologues. And, as we have seen, it is more likely that,
rather than opposing the filibuster because they were
majoritarian, liberals came to be majoritarian because the
filibuster seemed inimical to their civil rights goals. It is
true that, for a long while, majoritarianism took on a life of
its own for liberals. But they did not always have such an
addiction (see, e.g., ch. V; pp. 336-341) and, as we shall see,
they rapidly lost it after 1971.

In a sense, liberal Senators never were addicted to
majoritarianism. They were never so addicted to it that they
ever gave up the practice of filibustering. What they did was,
in order to square their filibustering with their professed
majoritarianism, to vehemently deny their use of the tactic.
(Talk about credibility gaps!) Given the supreme acuity
instilled in the citizenry by the American educational system,
the result of the frequent denial by liberal Senators that they

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[78]"Filibusters," loc. cit. (n.61).

filibustered was a widespread belief by their liberal constituents that the Senators actually had ceased the practice. Thus, regarding the virtually unanimous opposition to the writer's Vietnam proposal on majoritarian grounds, it is probably that this was much more sincere on the part of activist peace constituents than on the part of their Senators. The latter **never** had ceased the practice of filibustering for any appreciable length of time. (See also, pp. 310; 190ff.)

Perhaps only the last Senator Wayne Morse was ever candid on the subject. In filibustering an atomic energy bill in 1954, he declared: "This is a filibuster. I never sail under false colors."[79] Ten years later, Morse recounted how he became involved in the liberal filibuster to preserve the Supreme Court reapportionment decisions (see ch. V):

> ...the leaders of the debate in opposition to the Dirksen amendment called me....They were concerned about obtaining a speaker for this morning....
> ....I said, "Are you gentlemen filibustering?" **I am still the only liberal who admits that he filibusters.**
> They replied, "We are going to speak at some length." I asked, "Is this another of those prolonged debate situations?"
> I believe the answer, **in a variety of word forms,** was in the affirmative.[80]

Yet for all his criticism of his colleagues, "the alleged liberals in the Senate,"[81] Morse had his ideological limitations

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[79]"Expansion of Atomic Energy Program," <u>Congressional Quarterly Almanac, 1954</u> (Washington: Congressional Quarterly News Features, n.d.), Vol. 10, p. 542.

[80]<u>Congressional Record</u>, 88th Congress, 2nd Session, Vol. 110 (Daily Edition; August 17, 1964), p. 19187. In fairness, we concede that conservatives too often deny filibustering.

[81]<u>Ibid</u>., p. 19188.

on how far he would go in filibustering. In 1953, he announced
that he would not engage in "extreme filibusters."[81a] This
is akin to what Wolfinger called "true filibusters." 11 years
later, his reputation as a filibusterer by-then well-established,
Morse still claimed: "I never have engaged, and never will
engage, in a filibuster that seeks to prevent a vote ever
occurring on a piece of legislation."[82]

This suggests that there are various types of obstruction.
Here we note three in terms of their purposes: A) delay, B)
blackmail and C) death.

A) There are two types of delay. One type erects what
Lindsay Rogers called a "Barrier Against Steamrollers."[83] The
other type buys time for opposition to a measure to build up.
As Morse puts it:

> a use of what my liberal friends in the Senate call
> prolonged debate is justifiable to prevent a steam-
> roller from pushing through the Senate, without
> adequate consideration, a bill which many consider
> not in the public interest, and is also justifiable
> to buy time, if one wishes to put it that way, to
> make the record on the merits of an issue for the
> information of the American people.[84]

There are, again, two types of steamrollers. One type seeks to
ram a bill through when its opponents, a majority, are temporarily

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[81a]"Submerged Lands Act," Congressional Quarterly Almanac,
1953 (Washington: Congressional Quarterly News Features, n.d.),
Vol. 9, p. 394.

[82]Morse, loc. cit. (n.81). Emphasis added.

[83]Lindsay Rogers, "The Filibuster Debate---Barrier Against
Steamrollers," Reporter, January 8, 1959; reprinted in ibid.,
86th Congress, 1st Session, Vol. 105 (Daily Edition; February 19,
1959), pp. A1287-8.

[84]Morse, loc. cit. (n.80), p. 19189.

absent. The other type seeks to hurry the passage of legislation in the chaos prior to adjournment.

Senator Morse tells of "many" examples of his prevention of steamroller tactics of both types.[85] In one case, "late one Friday afternoon," Senate Majority Leader Lyndon Johnson "attempted to get through the Senate, without even a half a dozen Members on the floor....[a] bill containing a wire-tapping section, and...a capital punishment section...." Morse ordered his famous red rose, the presence of which in his lapel was "notice that I am...engaging in a filibuster. If I put it on, Senators will know that the fight has started." Morse told Johnson that "I am satisfied that a majority of Senators are against the bill, and if I can get them back here, they will vote against...the capital punishment and wiretapping sections...." Morse having convinced Johnson that he meant business, the vote on the bill was postponed until the following Tuesday, at which time the Morse-opposed provisions were eliminated by majority votes and the bill was passed.

Morse was also involved in a pre-adjournment filibuster involving wiretapping: "The Judiciary Committee of the Senate had held an extraordinary, special meeting...in the early evening of the night it was planned to adjourn sine die, and voted out a wiretapping bill. The leadership of the Senate announced that it would put the bill on the calendar...for

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[85]Ibid., pp. 19188-9. On the following and other examples, see Walter F. Murphy, Congress and the Court: A Case Study in the American Political Process (Chicago: The University of Chicago Press, 1962), passim, esp. chs. 6-11; pp. 146, 219-23.

passage that night." Morse was willing to accept a vote after there had been hearings and debate; "but I did not intend that night, if I could prevent it, to let the wiretapping bill be steamrollered through the Senate when there had not been adequate hearings."

In these anti-steamroller filibusters, delay was used to enable what Morse felt was the existing liberal majority to pre-vail. However, in situations in which liberals do not have a majority, they may delay action until the opposition, inside and outside of Congress, can build up enough strength and pressure to convert the liberal minority into a majority. But for delay, G. Harrold Carswell, a onetime supporter of white supremacy, would have become a member of the United States Supreme Court.

The late 1969 battle to defeat the nomination of Clement F. Haynsworth had left Senators with very little stomach for yet another fight. So, when President Nixon displayed his usual flair for the selection of outstanding talent by sending Carswell's name to the Senate, very few "political observers" thought there would be any trouble. But, then again, very few thought Haynsworth would lose. (p. 324.)

In any case, not having a majority, liberals stalled for time. For example, on February 4, 1970, they objected to the Judiciary Committee meeting while the Senate was in session. When Chairman Eastland said, very well, he would reconvene the committee after Senate adjournment, Senator Tydings threatened to filibuster until February 5. This was not necessary because Eastland gave in and postponed the meeting until

February 5, at which time Tydings exercised the "right of holdover." This is the right of any member of the committee to ask for a one week postponement of a vote. Had this right been used on February 4, the vote would have taken place on February 11. By a one day postponement, the vote was delayed until February 16, because of the Lincoln's Birthday recess from February 12-15. By strict enforcement of three different rules---the right of holdover, the filibuster, and the dis-allowance of committee meetings during Senate sessions---the liberals purchased 12 days.[86]

Nevertheless, when Carswell's name reached the floor of the Senate, there still were not enough votes to defeat him. Liberals filibustered, thereby further delaying a vote long enough to enable the opposition to marshal its forces and unearth more and more adverse publicity about the nominee. In line with their ideology at the time, liberals pretended they were not filibustering at all. Said one aide to fili-buster leader Birch Bayh: "We were...in effect creating a filibuster, and yet trying not to let it look like a fili-buster."[86a] Whatever it looked like, in the end, the liberals, in line with their ideological antipathy to ever preventing a vote, permitted the vote to take place. No, they did not prevent a vote, but they did delay it. They delayed it long enough to "buy time" sufficient to defeat the anti-civil rights nominee. (To the liberal use of the "anti"-civil rights

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[86]Harris, loc. cit. (n.2, ch. VI), pp. 114-16.

[86a]Quoted by ibid., p. 156. Further discussion of this point is at n.157 below.

weapon to further civil rights, we shall return.)

Now we turn from action delay to action prevention. The latter falls into two categories: blackmail to elicit action on a quid pro quo basis where it is the obstructors who really want action that itself is evidently being obstructed somewhere along the legislative line; and a means of killing, or at least modifying, legislation that is totally contrary to the desires of the obstructors.

B) Blackmail. We have seen how Senator Morse delayed action to stop a Lyndon Johnson steamroller with fewer than six senators on the floor. On another occasion, there were not on the floor any liberals as attentive as Morse. The result was the passage of an amendment to a bill in December, 1967 providing for a freeze on welfare aid to dependent children.[87] In 1969, liberals were still trying to get the freeze repealed. They succeeded because one liberal insisted on "going by the book."

Now "going by the book" is a classic method of extortion. It has been employed by labor unions as a strike alternative, grafting building inspectors and Congressmen. Although the House of Representatives has a reputation for expeditious legislative procedure---compared with the Senate anyway---the truth is that the House rules provide ample opportunities for those in a dilatory frame of mind.[88] So strict enforcement of

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[87]See n.20, ch. III.

[88]A good account of some such opportunities is "Delay Tactics Hit House Over Reforms, Debate Bills," Congressional Quarterly Almanac, 1968 (Washington: Congressional Quarterly, Inc., 1968), Vol. 24, pp. 647-50.

the rules can lead to paralysis of the House. Therefore, in the House---and the Senate too for that matter---much if not most business is conducted by unanimous consent to avoid the rules. This provides any individual member with great blackmail leverage if he is disposed to use it.

Representative Phillip Burton of California was so disposed prior to midnight June 30, 1969 when the welfare freeze was due to go into effect. What Burton did was to object to the unanimous consent request necessary for the enactment of important legislation desired by the President prior to the very same midnight June 30 deadline. Without this legislation the ten percent income tax surcharge then in effect would expire; Mr. Nixon wanted the tax continued. Now we must again digress for a second.

Congress is known for the prominent role of its committees. These committees often consume time, both in the normal course of business and for deliberately dilatory purposes. There are ways to get around committees when the lawmakers so desire. One way is the use of the rider. A rider is a non-germane amendment to a bill that because of congressional or presidential opposition cannot make it into law on its own steam. Sometimes these irrelevant amendments looking for a "free ride" are more significant than the bills to which they are attached and often are really bills in their own right. We have alluded, for example, to Senator Dirksen's attempt to attenuate the Supreme Court's reapportionment decisions. This attempt was made via the vehicle of a rider to a foreign aid bill. Often riders are attached to routine, innocuous, non-controversial

bills that, because of their nature, have already gone through the committees, thereby avoiding committee consideration of the rider. Senator Dirksen, in cooperation with Lyndon Johnson, once went so far as to propose an entire civil rights bill as a rider to a minor bill to turn over an unused army facility to a local school district.[89]

The reason for this digression is that the tax surcharge extension had been attached as a rider to a routine bill providing for the temporary continuation of a suspension of the duty on heptanoic acid, whatever that is. Because the tax rider had not been passed by the House in the original bill, the Senate-passed bill was, according to the rules, supposed to go to the House Rules Committee. This would preclude enactment prior to the deadline and create chaos for tax withholders. The only way to circumvent the Rules Committee was by unanimous consent. This was refused by Burton until a conference committee was appointed and its House members accepted a Senate-passed bill providing for the permanent suspension of the duty on crude chicory roots. This bill, incidentally, contained a rider providing for the repeal of the freeze on federal welfare aid for dependent children.[90]

For a long time, the committee system was considered to be---and in some cases still is---a bastion of conservative

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[89]Berman, op. cit. (n.21, ch. III), pp. 32, 52-56.

[90]An excellent but brief description of these events is Tom Wicker, "Chicory Roots and Children," The New York Times, July 1, 1969, p. 40. See also, Congressional Record, 91st Congress, 1st Session, Vol. 115 (Daily Edition; June 25, 1969), pp. H5211-14.

strength. This is because so many committees have been con-
trolled by conservative senior Southern Chairmen, now a
declining breed. Nevertheless, we have noted that these
committees could be circumvented by liberals with a mind to
do so. The rider was one way. Or instead of circumvention,
there could be extraction of ligislation by blackmail, such
as the denial of unanimous consent when such consent was
urgent. Still another form of blackmail was employed by
liberal Senator Bayh in the Judiciary Committee in 1970.
Again demonstrating that political tools are neutral because
they can be used by anyone, conservative "Senator Eastland...
said with some admiration...that he had used the same ploy
himself," and he "noted that 'both sides are in a trading
position' and predicted a compromise."[91]

Bayh was interested in extracting from the Judiciary
Committee a constitutional amendment proposal calling for the
direct popular election of the President. The Committee had
been bottling up the measure since September, 1969. In early
February, 1970, the aforementioned nomination of G. Harrold
Carswell came before the Committee. (pp. 526-27.) Carswell,
it so happened, was most strongly supported by the very same
Southern conservatives who were holding up Bayh's amendment.
Whereupon, Bayh made a motion that the Committee vote on the
Carswell nomination on a given date, provided that it also
agree to vote on Bayh's amendment by a date certain. The

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[91]Fred P. Graham, "Senate Unit Delays Action on Carswell
In Procedural Snarl," The New York Times, February 4, 1970,
p. 18.

failure to table Bayh's motion meant that those who wanted
a vote on Carswell had to permit a vote on the amendment they
had heretofore thwarted. Incidentally, Senator Thurmond
was so upset by Bayh's motion that he filibustered it from
February 4 to February 4, thereby permitting some of the
delays by liberals mentioned above.[92] (pp. 526-27.)

The filibuster is another device for blackmail. This
device has often been viewed as obstructionist, negative---a
means of delay and prevention of action. What is generally
unrecognized is its positive aspects. These were not always
so ignored. In 1926, for example, Lindsay Rogers pointed out:
"Obstructionist tactics may be used positively as well as
negatively. They are effective not only in defeating measures
that minorities object to, but in forcing the Senate to favor
a particular section of the country, or to sanction a special
improvement."[93] And, in 1934, W. F. Willoughby observed that
"filibusters are resorted to not merely for the purpose of
preventing...action but for forcing action not desired by the
chamber...."[94] Finally, in 1963, George B. Galloway wrote that
"Several successful filibusters have sought and achieved the
enactment of legislation favored by the filibusters. [sic]"[95]

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[92]Ibid. See also, Harris, loc. cit. (n.86). Harris main-
tains that Thurmond's behavior was essential for the defeat of
the nomination. Ibid., p. 115. This is questionable since the
liberals had so many other delay tactics at their disposal.

[93]Roberg, op. cit. (n.4, ch. V), pp. 169-70.

[94]Willoughby, op. cit. (n.76), p. 497.

[95]George B. Galloway, Limitation of Debate in the United
States Senate (Washington: Legislative Reference Service, 1958;
revised August 12, 1963); excerpt reprinted in United States

Although not successful, and indeed not even tried, a proposal along these lines was made in 1971. Still preoccupied with Rule 22 reform, a political scientist, Harry Eckstein, suggested ironically that liberals compel anti-filibuster action by filibustering. He wanted liberals either to filibuster legislation desired by pro-filibuster Senators, or to filibuster so as to "bring virtually all legislative business to a standstill, until the rule is changed, or at least until the fact that the rule can be used for this purpose sinks in. One result might be that government comes to a halt...."[96]

To compound the irony, it will be recalled that onetime pseudo-Senator Eugene J. McCarthy once indicated that the Vietnam War could be ended effectively "only" with a "filibuster against all Nixon bills, musting that 'we could bring the government down in six months.'" (n.22, ch. III.) This was in line with the writer's proposal that, if his primary plan for ending the war by killing war appropriations legislation by filibuster was too drastic for dove Senators, they could have filibustered other legislation desired by the Administration until getting the desired war-ending action. (pp. 128-29.)

The reader might be complaining now that this section is supposed to be dealing with liberal successes, not with untried proposals. Fair enough. An important piece of legislation that

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Congress, <u>Senate Cloture Rule</u>, 88th Congress, 1st Session, Senate Document No. 30 (1963), p. 29.

[96]Eckstein, <u>loc. cit</u>. (n.62, ch. V).

was enacted because of filibuster blackmail was the 1935
Neutrality Act.

But could this be described as left of center? Frankly,
that's a tough question. The conservative and liberal positions
on foreign policy tend to change. There were, for example,
Cold War liberals and Vietnam War liberals. (pp. 119-20.) At
the present time, we seem to be in an era when those to the
right of center favor a much greater role in the world for the
United States than those to the left of center. The latter,
in fact, have been accused of "neo-isolationism." Now, it will
be recalled that those who most vigorously opposed American
entry into the first World War were known as progressives
and certainly not as conservatives. They pressed the most
for true neutrality and filibustered broad war-making powers
for the President. (p. 336.)

Years later, in the 1930's these same people and their
ideological heirs were the most ardent proponents of neutrality.
Senator Norris, floor leader of the 1917 filibuster, "said that
...we had no interest in so-called collective security. 'Our
business is in America.'"[97] Moreover, he asserted in 1936:

> I am opposed to giving the President or any other
> person discretion to say when neutrality legisla-
> tion shall or shall not be applied. The Constitu-
> tion gives Congress the exclusive right to declare
> war, and I am not in favor of delegating that power.[98]

This, of course, was the real issue in the 1917 filibuster and,
incidentally, sounds very much what we hear from liberals today.

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[97]Alfred Lief, Democracy's Norris: The Biography of a
Lonely Crusade (New York: Stackpole Sons, 1939), p. 524.

[98]Quoted in ibid., pp. 523-4.

As far as Norris was concerned, the neutrality legislation did not go far enough.[99]

Others who supported neutrality legislation in the 1930's were such illustrious Progressive stalwarts as Burton K. Wheeler, Hiram Johnson, Gerald P. Nye, and Robert La Follette, Jr.[100] Another Senator who advocated this legislation was Senator Homer T. Bone. Bone's remarkable career included campaigns for public office under such disparate party labels as Republican, Democrat, Farmer-Labor, Liberty, Non-Partison, and Socialist.[101] Now Bone did more than just advocate neutrality; he did something about it. Franklin Burdette indicates what:

> Prospects for [neutrality] legislation seemed none too certain, but in the midst of consideration of a coal bill, on August 20, [1935] Homer T. Bone of Washington began to speak at length about neutrality. Plainly he intended to talk, with the help of other Senators known to be ready to cooperate, will assurance should be given that a neutrality measure should be brought before the Senate....[T]he filibusterers were not to be put off with promises; _they demanded action_. Finally Chairman Key Pittman of the Foreign Relations Committee...reported a neutrality bill, and it passed the Senate the next day. [Emphasis added.][102]

Burdette called this a "filibuster...to force action on neutrality legislation."[103]

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[99]_Ibid._

[100]Selig Adler, _The Isolationist Impulse_ (New York: Collier Books, 1961), ch. 11.

[101]"Ex-Senator Homer Bone Dies; Foe of Washington Utilities, 87," _The New York Times_, March 12, 1970, p. 41.

[102]Burdette, _op. cit._ (n.18, ch. III), pp. 186-7.

[103]_Ibid._, p. 211.

As our final example of filibuster blackmail, it is entirely appropriate to consider Watergate. It has sometimes been said, especially by tortured Republican partisans, that the Senate Watergate investigation (i.e., Sam Ervin's show) would not have taken place if Republicans had had control of the Senate in the 93rd Congress. Therefore, it is worth looking at what, prior to Watergate, had been the biggest scandal in American history: Teapot Dome. This scandal was also broken wide open by Senate investigation. But, unlike the Watergate era, the early 1920's was a time of solid Republican control of both houses of Congress. The last thing the Republican leadership---or most Republican Senators--- wanted was an expose of scandals in a Republican Administration. Yet the permitted such an expose to take place. How come?

The answer: Senator Thomas J. Walsh of Montana, a Democrat with impeccable liberal credentials. Lindsay Rogers tells the story:

> The Republican Party machine was...powerful enough to prevent any investigation by a House committee, and Republicans in the Senate were not anxious to uncover wrong-doing. The Republican leaders knew that Senator...Walsh...and other Democrats could hold up important business; hence they had to consent to the thoroughgoing inquiry that was demanded. As to whether the threatened filibuster that brought about this result was in the public interest, it is sufficient to remark that 3 out of 10 Cabinet members were permitted or pressed to resign, and that there were several indictments and 2 suicides.[104]

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[104]Rogers, loc. cit. (n.83), p. A1288. On Walsh, see "Walsh Was Noted For Fearlessness; Liberality of his Views and Willingness to Fight for the Under Dog Marked Career," The New York Times, March 3, 1933, p. 8.

So for those who are upset that Richard Nixon and company were put through the mill while Lyndon B. Johnson went scot free, there is a possible response. It has often been alleged that, starting out with nothing, on the salary of a public servant, Johnson managed to acquire a vast fortune. If Republicans wanted to have a Senate investigation of how Johnson amassed his wealth, all they had to do was to bring his cherished Great Society to a standstill until an investigation was agreed to.

C) We now turn to death and transfiguration. There are times when obstructionist tactics have no other purpose than to kill a given piece of legislation or at least pull its fangs. Liberals as well as conservatives have employed such tactics. Contrary to common conceptions, as noted, liberals are not always the ones trying to get action. In fact, would-be and actual liberal-killed bills desired by conservatives are downright numerous, as are bills transfigured and disfigured beyond recognition---and value.

In the realm of possibility, a major example of this phenomenon is our proposal for ending the Vietnam War simply by killing appropriations and other legislation necessary for its continued conduct. But this did not happen; we won't belabor the point here.

Getting down to what did happen; we again mention the filibuster to preserve some of the most important Supreme Court decisions ever handed down. These mandated the reapportionment of both houses of the state legislatures on a one man, one vote basis. (See ch. V; pp. 522-24.) Because the areas that gained

representation tended to be more liberal than those that lost representation, the impact of these decisions---and consequently that of the filibuster to preserve them---can scarcely be exaggerated. The filibuster maintained this major redistribution of political power from liberal to conservative; and thus it had an effect on far more than one amendment to one bill in one isolated area of public policy. It is impossible to measure the very many areas of public policy that have been affected by this one filibuster.

The reapportionment filibuster was neither the first nor the last time this device was used by liberals to protect decisions of the federal courts. These courts, due perhaps to liberal control of the presidency and/or the Senate since the early 1930's, are laden with liberal personnel. Wayne Morse, for example, has put on his red rose more than once to preserve what liberals consider to be gains for civil liberties won in the courts.[105]

Most recently---and most ironically---liberals have used the filibuster to prevent reversal of lower federal court decisions deemed to be in furtherance of civil rights. This writer has no special competence or desire to decide the merits of the school busing decisions. Suffice it to say, they provide an excellent example of the extent to which the structure and processes of American Government are neutral.

In 1972, liberals conducted what Wolfinger calls a "true filibuster." (p. 519.) But for the filibuster, an anti-

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[105]See above, pp. 524-25; n.85.

busing bill would have become law. Busing for desegregation would have been banned except to the school closest or next closest to a student's home. Moreover, court busing orders not in harmony with this ban would have been reopened. In accordance with Wolfinger's conditions, the House of Representatives voted 2 to 1 for this bill, and Senate majorities three times voted for cloture of debate on the bill.[106]

Thus, in 1972, the filibuster killed the bill. In 1974, there again was a strong House-passed busing bill. This time it passed, but in a form so weakened as to be without concrete effect. It is hard to attribute the weakening to the filibuster that was threatened, because a Supreme Court decision prior to the passage of the bill vastly decreased the pressure for anti-busing legislation and we can never know whether, in the absence of the decision, the strong provision would have passed or been killed.

Of course, there are limits beyond which a filibuster cannot go. As the southerners learned, a strong popular majority cannot be defied forever. In 1974, there was an overwhelming majority against busing for desegregation and this may have provided the votes for cloture.[107] But the fact remains that, without the filibuster, school desegregation may have come to a grinding halt in 1972.[108]

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[106]Rosenbaum, loc. cit. (n.50, ch. II); "President's Two Anti-Busing Measures Shelved," "CQ Senate Votes 502-4," Congressional Quarterly Almanac, 1972 (Washington: Congressional Quarterly, Inc., 1972), pp. 673, 681-2, 77-S.

[107]Clayton Fritchey, "The Politics of Busing," New York Post, May 30, 1974, p. 30.

[108]Rosenbaum, loc. cit.

The fact further remains that, in the field of civil rights, there has been a complete reversal of roles regarding the filibuster. We must remember, incidentally, that the 1972 anti-anti-busing filibuster was not the first time that liberals used this device in the interest of civil rights. It will be recalled that, in 1970, a delay filibuster played a critical role in defeating the Carswell Supreme Court nomination. (pp. 526-28.)

The filibuster, as we have seen (p. 518), was once largely associated---and possibly over-associated---with the anti-civil rights cause. Now it has been employed to protect civil rights. What could better illustrate the time-bound nature of political writing? And what could better illustrate the neutrality of the tools of the American political process than a demonstration that they can be used in any cause?

We just said that the filibuster was possibly over-associated with civil rights. Some of the examples cited in this section already indicate that the filibuster, whatever its reputation, never really did "occur on a [narrow range] of issues."[109]

Liberals, for example, have consistently filibustered in behalf of federal control and development of resources and energy. In accordance with our practice of defining terms as they are actually used, we cite a newspaper report on a 1954 filibuster against a bill that permitted private atomic energy development. The reporter noted that Senate Democrats were

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[109]Wolfinger, op. cit. (n.67), p. 119.

split "between those ready to go all the way against private power's entry into the atomic field and those not willing to do so. The division is a traditional liberal-conservative with the liberal, or pro-public power, side...."[110]

A year earlier, in 1953, liberals filibustered against a bill to turn over to the states, within their historic boundaries, title of submerged lands and their natural resources (including so-called offshore oil).[111] In 1962, liberals filibustered the transfer to private ownership of a communications satellite developed by the federal government. Cloture was invoked.[112] The 1953 filibuster was also rather unsuccessful.

As for the success on the atomic energy bill, that is debatable and perhaps that filibuster is best placed in the category of those that water down bills. A cloture motion failed.[113] But according to a headline, the Eisenhower "Administration Is Victor."[114] However, Senator Hubert H. Humphrey denied this, pointing out that the liberals were able to add amendments that were "major safeguards." The report stated that "these amendments were aimed at guaranteeing

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[110] William S. White, "Filibuster Sets Campaign Issue," The New York Times, July 28, 1954, p. 12.

[111] "Submerged Lands Act," loc. cit. (n.81a), pp. 388-94.

[112] Wolfinger, op. cit. (n.67), pp. 121-124.

[113] "Expansion...," loc. cit. (n.79), pp. 534-543; William M. Blair, "Senate Ends its Filibuster, Passes Atom Bill by 57 to 28; Administration is Victor," The New York Times, July 28, 1954, pp. 1, 12.

[114] Ibid., p. 1.

that public power bodies shall share in the promise of electoral energy from the atom."[115] What was described as a "major vicotry" for the opposition was an amendment to "authorize the A.E.C. to generate power for its own facilities and for distribution by other Federal agencies. It also would license other authorized Federal agencies to construct and operate atomic power plants, a major goal of public power supporters."[116]

In fact, federal development and operation of public power facilities has been "a major goal of public power supporters" for a long, long, time. Consider the Tennessee Valley Authority which was pressed for and hailed as a great sign of progress by the liberals of the 1920's and 1930's. C. Herman Pritchett states:

> ...the T.V.A. symbolizes man in control of
> his environment and directing his destiny....
> Fundamentally, its contribution has been the
> basis it has supplied for faith in democratic
> institutions. It is well to have it proved so
> dramatically that planning can grow out of
> popular consensus....Faith is based on works,
> and Americans who have looked down on Norris
> Dam...may properly feel that the government which
> could do this can also somehow succeed in meeting
> the challenge of the times into which we move.[117]

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[115]Ibid.

[116]Ibid., p. 12.

[117]C. Herman Pritchett, The Tennessee Valley Authority, A Study in Public Administration (Chapel Hill: The University of North Carolina Press, 1943), pp. 314, 323, 324.
The discussion that follows on liberal and conservative positions on the TVA battle is an amalgam based on ibid., ch. 1; Stephen K. Bailey and Howard D. Samuel, Congress At Work (New York: Henry Holt and Company, 1952), ch. 8; The New York Times, 1924, 1925, passim; and Lief, op. cit. (n.97), ch. 11.

For liberals, then, TVA has been a great symbol, par excellence, of progress and of the greatness of governmental planning and control in all its glory. To create the TVA, it was necessary to pass legislation. Obtaining this positive action was no mean feat. Prior to the enactment of the Tennessee Valley Authority Act in the New Deal, similar legislation had been proposed by the Wilson Administration, passed by the Senate and killed in the House. Later, such legislation was passed by both houses only to be vetoed by the unreceptive conservative Republican Presidents Coolidge and Hoover.

So here we have an example of the classic view that liberals and what they see as progress require positive action.

Of do we?

What is not generally known, at least not in an age when history is considered irrelevant and courses in the subject are no longer required in many colleges, is this: conservatives wanted positive action on the TVA issue every bit as much as liberals. And each side was negative and pro-status quo to the extent necessary to block the positive action desired by the other.

The issue in the 1920's was what to do with the TVA's predecessor: the federal government's World War I nitrate, fertilizer and power projects at Muscle Shoals rapids on the Tennessee River. Liberals, as was their habit, favored government development, ownership and operation. This required positive enactment of legislation. But conservatives, as was their habit too, favored development, control and ownership

by private enterprise. This **also** required positive legis-
lative action!

One of the first actions of the Harding Administration
was to seek to turn over Muscle Shoals to private industry.
(Even the Wilson Administration had proposed a government
corporation for Muscle Shoals development and operation only
after attempts to interest private enterprise had failed.) In
July, 1921, Henry Ford offered to buy the properties at Muscle
Shoals and build additional plants which he would then lease
from the government for 100 years. This deal could not be
consummated without the enactment of legislation, which required
positive action by Congress.

Congress has often been criticized for its slowness and
the cumbersome character of its customs, organization and
procedures. This, as liberal legend would have us believe,
works to the advantage of conservative causes. (See, e.g.,
p. 507.) But the fact of the matter is that, were it not for
what Bendiner called the <u>Obstacle Course on Capitol Hill</u>
(n.25, ch. I), there would have been no TVA and Henry Ford's
heirs probably would even now be running---and profiting from---
the show down at Muscle Shoals. We say probably because there
were other bids from private enterprise. But it is almost
certain that there would have been almost some sort of long
term private control of and profit from Muscle Shoals were it
not for legislative lethargy.

Ford submitted his bid in July, 1921. Favoring private
control but not sure that Ford's was the best offer, the Admin-
istration did not ask for Congressional consent until the

following January. Hearings were held in both houses.
Senator Norris used his position as Chairman of the Agri-
culture and Forestry Committee, to which the Ford offer was
sent, to build up opposition to the plan. By the end of the
67th Congress (March, 1923), no action had been taken.
Finally, in March, 1924---two years and eight months after
Ford made his initial bid---the House passed, by a vote of
227-142, a bill to accept his offer. Senator Norris used his
committee to hold further hearings which delayed matters more.
Finally, in late May, 1924, his committee reported out Norris'
TVA type bill. Congress adjourned without a Senate choice
between the Ford and Norris proposals. Disgusted, Ford with-
drew his offer in October, three years and three months after
making it, even though the lame duck session was committed to
take up the matter in December.

President Coolidge, still favoring private control of
Muscle Shoals, pressed for a substitute that would accomplish
this purpose. A filibuster was conducted by Norris and his
progressive colleagues when the lame duck Senate reconvened
on December 3. A vote on the Coolidge-supported Underwood
bill was delayed until January 14, 1925, when this was passed
as an amendment to the above-noted House-passed Ford bill.
Instead of accepting the Underwood Amendment, the leaders of
the House made the mistake of requesting a conference with the
Senate. By very strong custom, the Senate conferees were
supposed to be the two top ranking majority members and the
ranking minority member of the committee which considered the
bill. This was the Norris committee and the top three members

opposed the bill as it passed the Senate. These men were asked to step aside, and refused for 12 days' further delay. Finally, after the Senate formally declined to stop them from serving, they refused to do so anyway. But they accomplished further delay.

The conference took ten days and submitted a report basically accepting the Underwood Amendment on February 6. Various filibusters including one on the Muscle Shoals bill delayed matters still further until February 19, when Senator Norris took advantage of another delay opportunity afforded by the Senate rules. He raised a point of order that the conference report contained new matter (items not in either the House or Senate version). After more consideration and debate, the Senate took the rare step of sending the bill back to conference on February 23. The conference re-reported on February 26.

Senator Norris indicated that he had rounded up 22 Senators ready to filibuster until the mandatory expiration of the Congress on March 4. Senate leaders and Underwood himself knew that Norris could carry out his threat, thereby preventing consideration of other important business. Therefore, the conference report was not even taken up again in the Senate, the approval of which was necessary for further consideration in the House.

In sum, then, in the 68th Congress, the House had approved a bill in one form to turn over Muscle Shoals to private enterprise; the Senate had approved a different version. The conference reconciled the differences (mostly acceding to the

Senate bill). It is very likely that, had there been a vote in the Senate, that body would have passed the conference report. Had this occurred the House would have taken up and passed the report.

So, in the end, a "silent filibuster"---really a not so silent threat of one---once and for all killed the bill.[118]

Left of Center Obstructionism and Structural Neutrality: Epilogue

We do not wish to detract from the profound importance of the conclusion that, without various means of obstruction and delay afforded by the legislative process, Muscle Shoals would have been turned over to private enterprise by 1925 and there would have been no TVA. But for our purposes here, what is positively astounding is this: the essential role of obstruction in what liberals consider to be so great a symbol of their ideology at its best has been virtually forgotten.

Franklin Burdette's 1940 classic work on the filibuster makes no mention of the contribution of this device to TVA.[119] Nor does George B. Galloway's 1958 list, as revised in 1963, of "Outstanding Senate Filibusters From 1841 to 1962."[120] Evidently the various Muscle Shoals filibusters, culminating in

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[118]Ibid., p. 277; "Congress Centers on Two Bills," The New York Times, February 9, 1925, p. 10. In this story, the prediction was made that the Underwood bill would pass. But that was before some of the parliamentary maneuvers depicted in the above account. In any case, by the end of February the jig was up. In March this was the situation: "Shoals Bill Fight Declared Hopeless," ibid., March 2, 1925, p. 6; and "Senate Talks On As Jam Tightens," ibid., March 3, 1925, pp. 1,

[119]Burdette, op. cit. (n.18, ch. III).

[120]Galloway, op. cit. (n.95), pp. 25-8.

the final and essential "silent filibuster" was not "outstanding." Raymond Wolfinger's 1970 article on filibusters, relying on Galloway's list of "legislation delayed or defeated by filibusters"[121] but making no mention of Galloway's qualifying adjectives "incomplete" and "outstanding," flatly states: "From 1865...until 1950, 36 proposed legislative measures were delayed or defeated by filibusters....All but...eleven...were eventually passed in some form." The eleven "were almost all civil rights measures."[122] But obviously, the bill to turn over Muscle Shoals to private enterprise did not pass "eventually." And it was not a civil rights measure. No mention is made of this.

We can cite other profoundly significant examples of obstruction that have been forgotten. Earlier, for example, we noted that the Teapot Dome investigation, according to Rogers, was extorted by a threatened filibuster. The point here is this: as Wolfinger acknowledges but forgets: "There is no way of knowing for sure how many other measures were shelved or modified by the threat of unlimited debate."[122a] (n.76.)

In short, some of the most significant effects of obstructionist devices such as the filibuster have been barely recorded and long forgotten.

This has a very big bearing on a question raised earlier (p. 515): Has the filibuster (and other obstructionist tactics for that matter) been used "more commonly to block what

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[122]Wolfinger, op. cit., p. 112.
[122a]Ibid.

liberals consider to be "much needed progress"? We think that the foregoing examples are sufficient to indicate that this is a virtually impossible question to answer, given the vast number of very important cases that have been lost sight of by even the most prominent scholars in the field.

Certainly we cannot conclude that obstruction has been more commonly used by liberals, although it has at times not only been no bar but also positively essential to progress. But by the same token, it cannot be concluded either that obstruction has been more commonly used by conservatives.

Perhaps, just perhaps, we might venture to entertain the notion that, rather than being biased against any point of view, the tools of the governmental process are just plain neutral.

This is further evinced by considering the use of the filibuster in recent years. In 1970, Wolfinger claimed that the filibuster occurred on a "narrow range of issues."[123] The above discussion places doubt on the proposition that unlimited debate ever was constricted to the "narrow range" of civil rights issues, even in the heyday of the civil rights filibusters.

But the first half of the 1970's saw a new flowering of filibusters. This is due, perhaps, to a variety of factors that come to mind. 1) Above all, the use of the filibuster as an obstacle to civil rights has declined. Cloture has been invoked repeatedly on anti-civil rights filibusters and, on

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[123]Ibid., p. 119. See also above, p. 540.

the other hand, the pro-civil rights forces have successfully employed the tactic in the Carswell and anti-anti-busing fights of 1970 and 1972. 2) There has been a great change in the personnel of the Senate, which has occurred swiftly. The new members have not been party to the old wars and have not had sufficient time to be inculcated with the old Senate traditions. 3) Finally, fads are contagious. Wolfinger claimed that "if filibusters were more widely used [than on a narrow range of civil rights issues], Rule 22 would not be so difficult to change."[124] But it is just as plausible to argue that, the _wider_ the range of issues on which the device is used, the _harder_ it will be to change any rule in the direction of impeding its use. Once it becomes clear that anyone can play the game successfully, the less likely it is that anyone will try to change the rules. And the simple truth of the matter is that, since 1971, there has been no attempt to make cloture easier to invoke. In late 1971 and 1972, even the older Senators, such as Church, Cranston and Javits, rethought their old opposition to the filibuster. (See ch. V.) As Joseph Kraft pointed out in January, 1973: "Senate liberals now see the value of the filibuster for minorities dear to them. This year, accordingly, there will be no fight on Rule 22."[125]

It is ironic that the filibuster fad of the 1970's started in 1970, the very year it was claimed that the device

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[124]_Ibid._

[125]Joseph Kraft, "Confrontation Congress," _New York Post_, January 3, 1973, p. 44.

was restricted to a narrow range. In 1970, a banner year for the filibuster, it was used by liberals to help stop the Carswell nomination and the SST (among other things), and by conservatives to stop electoral college and welfare reform.[126] In December, 1970 there was a virtual orgy of filibustering.[127] One reporter found that the device was at that time used by "mostly liberals."[128] But an editorial writer thought that "Now it is the commonest tactic of liberals and conservatives alike...."[129]

In 1974, Senator Mansfield concurred with the editorial: "The filibuster has become a weapon for both sides and all sides. It's no longer just the sole practice of the Southerners on civil rights bills. Both sides use it now."[130] In the light of the

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[126]On the Carswell defeat, see pp. 426-28 above. On the SST, see: Lyndon, loc. cit. (n.76); John W. Finney, "Congress Closes As Senate Votes SST Compromise," ibid., January 3, 1971, p. 1; "Congress Ends U.S. Funding of Supersonic Aircraft," Congressional Quarterly Almanac, 1971 (Washington: Congressional Quarterly, Inc., 1972), Vol. 27, pp. 130-40.
On electoral college reform, see n.76 above. On Welfare reform, see Finney, loc. cit.; Warren Weaver, Jr., "A Senate Tactic Virtually Dooms Vote on Welfare," ibid., December 18, 1970, pp. 1, 16.

[127]In addition to the sources cited in the previous footnote, see various issues of The New York Times throughout December, 1970, including: John W. Finney, "Senate Snarled on Major Issues," ibid., December 22, 1970, pp. 1, 20; Finney, "Filibuster Peril Is Facing Senate On 6 Key Issues," ibid., December 17, 1970, pp. 1, 28; Warren Weaver, Jr., "A Closed Session of Senate Fails to Break Impasse," December 19, 1970, pp. 1, 15. Of course, the Congressional Record for the last month of the 91st Congress should also be consulted.

[128]Finney, "Filibuster Peril...," loc. cit., p. 1.

[129]"The Filibuster Senate," Editorial, The Washington Post, reprinted in Congressional Record, 91st Congress, 2nd Session, Vol. 116 (Daily Edition: December 19, 1970), p. S20757.

[130]Quoted by Richard L. Madden, "Senate, Debating Since

analysis of this chapter, what Mansfield was really saying was that the filibuster "has become" what it always was. In fact, as we have noted elsewhere (p. 518), given the long-time liberal minority in the Senate, they probably had more reason to use the filibuster than conservatives. According to Senator Fulbright, "Actually, the history of cloture was that in the beginning, in the early stages, it was always the minority, which was at that time considered the progressive or the liberal element, that utilized it. It got a bad name only in that period when civil rights was the controversial issue here....."[131]

It is probable that, with the increasingly liberal character of the Senate, the filibuster will, in the years ahead, be employed more often by the conservative minority. (See n.86a, ch. V.) But our main point does not concern who uses obstructionist procedures more at any given time. The main point is that these procedures are open to use by any side and this once again is a basis for believing that our political process is neutral.

The question of time and personnel in the majority at various times brings us to another aspect of our theme.

The Illogic of Structural Bias Arguments

Up to now, we have provided external empirical evidence to contradict the argument that the political system is biased

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March 26, Finds Filibusters Now Are More to the Point and Less Long-Winded," The New York Times, April 8, 1974, p. 24.

[131]Congressional Record, 91st Congress, 1st Session, Vol. 116 (Daily Edition; December 19, 1970), p. S20756.

structurally and procedurally. Further examination reveals that contentions of bias are illogical or internally inconsistent.

For a long time, it has been a virtual article of faith among political scientists that "the importance of the rules can hardly be overestimated." (Rogers, p. 488.) It has been a matter of faith that, in Berman's words, "procedures are not merely technical devices....Far from being neutral...,they possess substantive importance and are often decisive in shaping legislation." (p. 488.) Edward V. Schneier, in editing a book of readings for elementary American Government college students, informs them that "the formal rules of an organization on its policy....[a]re almost never neutral in their application, and they tend generally to favor the status quo. 'Going through channels' at the least means delay and at the most defeat for innovative proposals."[132] Again, Bibby and Davidson declare:

> In a legislative body, rules and procedures are intimately related to the political conflicts among individuals and interests. That is, the rules are not neutral but rather work to encourage certain types of actions and discourage others. Mastery of the rules can give a member a formidable resource in the "legislative struggle," and constitutes a part of the mystique of a Sam Rayburn, a Richard B. Russell, or a Howard W. Smith. [Emphasis added.] [133]

Finally, we cite Huitt and Peabody: "Structure and procedure are not neutral; they are used to work the will of those who

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[132]Edward V. Schneier, ed., Policy-Making in American Government (New York: Basic Books, 1969), p. 172.

[133]Bibby and Davidson, op. cit. (n.150, ch. I), p. 197.

control them. Moreover, alterations in them often have un-
foreseen consequences." (p. 489.)

Just to think about these statements, especially the
last two, is to realize their illogic. The rules, we are
told, affect the substance of legislation. But Huitt and
Peabody say that structure and procedure "are used to work the
will of those who control them." Now, on the face of it, if
structure and procedure can work the will of those who control
them, then they _are_ quite neutral. If the structure and pro-
cedure happen to be biased against the "those" of the moment.

So what we have here is really a confusion and failure to
distinguish between the neutrality of structure and procedure,
and the neutrality of those who occupy and use them at any
moment. The occupant-users need not be neutral---and rarely
are---for the structure and procedure to be neutrally open
to use by anyone.

This can be shown by noting the changing attitudes of
competing groups toward different parts and procedures of
government. Due to shifting forces produced by the democratic
process, different interests control different parts of the
government from time to time. This explains the attitudes of
various group contestants on different branches of government
at any given moment. A presidency in the hands of Richard
Nixon will be viewed by left of center activists quite
differently from a presidency in the hands of George McGovern.
Clearly, there is nothing inherent in the structure of American
government which predetermines who occupies the presidency at
different times.

In the aftermath of the 1974 elections, for example, Clayton Fritchey pointed out:

> The situation in 1947-48 posed a positive fiery,
> dynamic President against a negative Congress
> that devoted itself chiefly to obstructing the
> Chief Executive's programs....In the wake of the
> 1974 election, however, we are moving into what
> may be a reverse situation, with a young, liberal,
> 'raring-to-go Congress pitted against a placid,
> conservative do-little President.[134]

Actually, the shift of liberalism toward the Congress, occurred with the election of Richard Nixon. The conventional wisdom that the electoral college worked to the advantage of liberalism went awry in 1968 and in 1972. As early as December, 1969 Ian McDonald pointed to "a significant shift in political attitudes" in which "American conservatives have now begun to look to the White House for support, while reformers place their trust in a Congress that they formerly condemned as hidebound and obstructionist...." This statement was based on a study by the National Committee for an Effective Congress which stated:

> Upsetting the habit of a lifetime, the American
> right wing is turning away from Capitol Hill in a
> burst of affection for the executive. This is a big
> move, for since the days of (Roosevelt), ultra-
> conservatives have held that Congress is their
> territory and the President their target.[135]

But, as previously pointed out (p. 501), reformers and the right alike see Congress as a body on which to place their hopes. This is clearly not because they view Congress as

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[134]Clayton Fritchey, "Don't Just Stand There," New York Post, November 14, 1974, p. 36.

[135]In Ian McDonald, "Reformers look to Congress," The Times (London), December 22, 1969, p. 6.

inherently biased against anyone, but rather it is because of the possibilities of shifting the personnel occupying the seats of Congressional structure and employing its procedures. By the same token we can bet our bottom dollar that the liberals have not ceased trying to recapture the presidency. As Fritchey points out, the 94th is not the first Congress to pit liberal legislators against a conservative President. Hoover faced the same situation.[136]

Shifting personnel also affects the judiciary. Earlier (p. 505), we noted Mayo's belief that procedure determines policy substance and that political systems are not neutral as to results. But Mayo elsewhere gives credence to the notion that the structure is neutrally open to occupancy by the proponents of any position when he states:

> It is amusing to see how public attitudes shift toward the Supreme Court...."[C]onservatives" favor the Court and the whole principle of judicial review against the legislature when "progressive" or welfare legislation is enacted; the roles are reversed with "liberals" favoring the Court and condemning the legislature when the latter is in a conservative or reactionary phase (as in the nororious McCarthy period).[137]

While Mayo does not specifically say so, the change in personnel occupying the Court and the Congress during the New Deal and McCarthy periods had much to do with the changes in respective public attitudes.

It should now be clear, then, that the ideology of the personnel occupying the structure and using the procedures of government has as much if not more to do with the actions of

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[136]Fritchey, loc. cit. (n.134).

[137]Mayo, op. cit. (n.155, ch. I), p. 199.

government as the structure and procedures themselves. In addition to ideology, the aptitude of the personnel of government has much to do with outcomes.

Bibby and Davidson (p. 553), as adherents of the structural and procedural bias view, say that the "rules... work," as though they have their own personality and ideology. But Bibby and Davidson also contend that "mastery of the rules can give a member a formidable resource...."

However, if the rules are not neutral, why should anyone bother mastering them? The rules, independent-minded cusses that they are, will work their will, regardless of what anyone can do. Mastery will not help those against whom the rules are biased, and those blessed with being favored by the rules do not need any help. On the other hand, if mastery of the rules can help activists of any ideological persuasion, then indeed the rules are neutral in a game that can be played by anyone.

That the latter is the more accurate element of the Bibby-Davidson contradiction can be seen if we return to the TVA role of Senator George W. Norris. It will be recalled that Henry Ford's proposition to buy and lease the properties and plants at Muscle Shoals "got a House majority...on March 10, 1924." And, according to Pritchett, "That it was not accepted in the Senate was due primarily to Senator...Norris."[138] One old textbook on Congress devotes a chapter to the TVA struggle.

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[138]Pritchett, op. cit. (n.117), p. 9.

The chapter is entitled: "What One Man Can Do."[139] Finally,
we note the comment of Richard Lowitt, a recent biographer of
Norris:

> He did not attract attention because of the power
> of his personality, his oratory, demagoguery, con-
> trol of a machine, or position as spokesman for a
> particular point of view or powerful vested interest.
> Yet he was a commanding figure....
>   Like Lincoln he was an uncommon common man. He
> chose the simple and the unpretentious.
>   But Norris was something more. He was one of the
> best parliamentarians in American political history....
> [T]he knowledge of...parliamentary procedure...enabled
> him to defeat...Cannon, win the Muscles Shoals [sic]
> fight, and achieve the remarkable record which made him
> one of the most useful legislators in American history.
> That he did all of these things almost singlehandedly
> is extraordinary and in an age when party organization,
> machine rule, and pressure politics were expanding
> their influence and causing increased public and
> scholarly scrutiny.[140]

When Norris used the rules to strip Czar Cannon of his
dictatorial powers, the former had no greater power base than
his seat as a not very senior ordinary member of the House of
Representatives. (pp. 308-9.) In the TVA fight, Norris also
employed the rules as any Senator was entitled to do during
floor consideration of a bill; but this time he was able to
make the most of the fortuitous circumstance that the seniority
system had led to his elevation to the Chairmanship of the

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[139]Bailey and Samuel, op. cit. (n.117), ch. 8. The Bailey
and Samuel account of what one man can do refers, of course, to
one knowledgeable legislator situated in a position of power.
For an account of some remarkably successful governmental
exploits of ordinary people, see Paul Kresh, The Power of the
Unknown Citizen (Philadelphia: J. B. Lippincott Company, 1969).

[140]Richard Lowitt, George W. Norris, The Making of a
Progressive, 1861-1912 (Syracuse: Syracuse University Press,
1963), pp. ix-x. It is significant that these are the character-
istics that Lowitt considered sufficiently salient to emphasize
in his preface.

Agriculture Committee, to which the Muscle Shoals matter was referred in the Senate. In an age when there have been repeated assaults on the committee and seniority systems for their alleged conservative bias, it is well to recollect that the seniority system has propelled some quite liberal people to chairmanships. Moreover, it a Northern Democrat such as the late Adolph Sabath never used the chairmanship of the House Rules Committee with the affect of southern Democrat Howard Smith, whose fault was that? It was certainly not a question of inherent structural bias.

By 1965, it was already apparent that there was a trend toward non-competitive seats in the North, the consequence of which could only be, as a result of the seniority system, that "northern Democrats will become much more influential in the House within a few years...."[141] How ironical it would be if ideological inertia were to produce a change in the seniority system just in time to deprive liberals of its fruits as they once _again_ occupy positions of power.

Back in the 1950's, when control of committees seemed to work to the advantage of conservative causes, the Senate Judiciary Committee under the Chairmanship of Senator James Eastland was particularly unreceptive to civil rights legislation. In fact, Eastland's committee was known as the "grave-yard of civil rights legislation." The role of this committee, among other things, was discussed by Howard E. Shuman, in what

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[141]Wolfinger and Heifetz, loc. cit. (n.309, ch. VI), p. 349.

has become a classic study of the Civil Rights Act of 1957.[142]

This article has been reprinted in numerous anthologies to illustrate the proposition that the biased rules affect the content of legislation. This was an article, according to Schneier, that showed "it was not a lack of popular support that frustrated the liberals, but simply the rules of the Senate. Similar civil rights proposals easily passed the House...simply because the rules of the House were different from those of the Senate."[143] According to Shuman himself,

> the substance of legislation is shaped and modified by the procedures that may be required under the Senate rules, <u>or by the mere threat to invoke those procedures</u>, for they are compelling. The procedures preceding and surrounding the passage of the first civil rights bill in over 80 years illumine and illustrate the effect of the rules on the substance of legislation as have few other legislative controversies in recent years. [Emphasis added.][144]

Upon examination, the article which has been used so often to "illustrate the effect of the rules on the substance of legislation" turns out to illustrate no such thing. For example, it has been mentioned that the requirement that the civil rights bill be sent to the "graveyard" Judiciary Committee was one of the rules that presumably made it so hard to pass civil rights legislation. Shuman points to the difficulty of discharging a Senate committee of consideration of a bill and

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[142]Howard E. Shuman, "Senate Rules and the Civil Rights Bill: A Case Study," <u>The American Political Science Review</u>, Vol. 51 (December, 1957), pp. 955-975.

[143]Schneier, <u>op. cit.</u>, p. 174.

[144]Shuman, <u>loc. cit.</u>, p. 955.

to the possibility of endless filibuster within the Judiciary Committee.

Truly it is a wonder to behold that civil rights legislation ever passed in Congress. But it did. In fact, civil rights bills passed in 1957, 1960, 1964, 1965, 1968, 1970, and 1972. In 1957, Shuman himself shows how the Judiciary Committee problem was solved by liberals. They simply applied the rules in _their_ favor. Rule 14 of the Senate, as quoted by Shuman, states:

> No bill...shall be committed...until it shall have been twice read, after which it _may_ be referred to a committee....[E]very bill...of the House...which shall have received a first and second reading without being referred to a committee, shall, if objection be made to further proceeding thereon, be placed on the Calendar. [Shuman's emphasis.]146

In 1956, a House-passed civil rights bill was sent to the Judiciary Committee due to the inattentiveness of the liberals rather than anything in the rules. With their guard up in 1957, the House-passed bill was placed directly on the Senate Calendar after the liberals made "objection...to further proceeding thereon," and after a Senate majority voted against a point of order raised by Senator Russell. The same procedure was used in the passage of the monumental 1964 Civil Rights Act. Moreover, as noted elsewhere (p. 529), there are other ways of circumventing hostile committees. In 1960, a whole civil rights bill was attached as a rider to an innocuous bill that had already emerged from a committee.

146_Ibid._, p. 965.

So here what we have is not an illustration of the effect of the rules on the outcome of the legislation, but rather a matching of legislative wits between opposing forces. The rules were employed by both sides.

But Shuman points out that the 1957 civil rights bill was severely weakened. Again, was this due to the rules or to the manner in which they were employed? By his own admission factors outside the rules played a role. For example, there was Presidential opposition to the strongest part of the bill and also distorted reporting on the part of the press.[147] Nevertheless, Shuman blames the rules. For example, he blames a "precedent that a motion to strike is only voted on after the perfecting amendments to the basic provisions of a section have been disposed of."[148] The problem presented by this precedent was this: "The supporters of the Douglas [liberal] position were willing to fall back a step at a time, but could not agree to support a weaker provision when it was presented against a stronger [civil rights] position."[149] Again, whose fault was that? We must distinguish between what is man-dated by the rules and what people are "willing...to support."

Although we are ahead of ourselves, we point out in this connection that Southern intransigence resulted in the presence in the 1964 Civil Rights Act of its strongest provision, Title

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[147] Ibid., p. 970.

[148] Ibid., p. 972.

[149] Ibid., p. 971.

VI, which provides for federal cutoff of funds to institutions in violation of the Act. Liberals were so unsure of themselves in the early stages of the 1964 struggle that they were willing to accept deletion of Title VI in exchange for the cessation of the 1964 filibuster. But the Southerners, by choice and not by mandate of the rules, refused to compromise, eventually cloture was invoked, and the bill passed in unweakened form.

In 1957, by contrast, the Southerners were much more flexible and pragmatic in their use of the filibuster. So flexible were they, in fact, that they did not use the filibuster at all. This device which was blamed so often in the past for the lack of progress on civil rights bills was, according to Shuman, "a paper tiger." He goes on to point out that

> the failure to filibuster may be regarded as a carefully calculated decision to avoid consequences which would have been worse, from the Southern point of view, than those of the bill as it passed the Senate.
> ...the threat of a filibuster was used to gain support for pro-Southern amendments. Senator Russell has...admitted what many on the inside felt sure of at the time, namely, that the South would not filibuster and that <u>the threat of doing so was more effective than the reality would have been</u>....[T]he filibuster, after the Rule XXII fight and after the bill was placed on the calendar, became a paper tiger. In retrospect it seems clear that <u>the Southerners did not dare to use it</u> because they feared the results would be the loss of Rule XXII and the passage of a much stronger bill than was passed.[150]

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[150]<u>Ibid</u>., p. 974.

> They...decided to avoid a filibuster while
> using the threat of it to gain their points....
> Because of the filibuster rule, the <u>un-
> willingness</u> of some professed supporters of civil
> rights <u>to see</u> that the South dared not filibuster
> at this time, the consequent <u>surrender to the mere
> threat</u> of its use, and the <u>skillful tactics</u> of
> Senators Fussell and Johnson, the bill as passed
> by the Senate was largely a victory <u>for</u> the forces
> of segragation. [All emphasis added.] 151

Now this is some conclusion to an article purporting to show
the effect of the rules on legislation. Even a not too
careful reading indicates that what the conclusion really
shows is that one side more skillfully <u>employed</u> the rules than
the other side.

Virtually from beginning to end, Shuman's article contra-
dicts what is supposed to be its main point. And yet the
article has been reprinted repeatedly in numerous books on
Congress and on general American Government to show that the
rules have an effect on the substance of legislation. What
is really shown is that the mastery of the rules and the
<u>skill</u> with which they are <u>used</u> determined the substance of the
legislation in question.

That, in truth, the rules have not been a bar to civil
rights legislation is best illustrated by noting the frequency
with which cloture has been invoked on civil rights (1964,
1965, 1968, 1972). It is hard to imagine any legislation
that civil rights groups might now desire! As noted, in 1964
the civil rights forces were more skillful than the Southerners
and they have been ever since. It is noteworthy that the 1964

151<u>Ibid.</u>, p. 975.

civil right fight was led by Hubert Humphrey, who, according to Nelson W. Polsby, "brought to full flower" a post-war Senate "style of service": "This new style combined the concerns over national issues...with patience and a _mastery_ of internal procedure and strategy."[152] (Emphasis added.)

Is the distinction between the rules and the differential skill with which they are _used_ nitpicking? The reader who wishes may call it that. But the writer emphatically answers in the negative. No. NO. _NO_! The distinction, far from being nitpicking, is central to the question whether the rules and structure are neutral or biased.

To the extent that the structure and process of government are biased, rules mastery and skill are not going to help. In a duel between two fencers, do not bet on A, if the end of A's sword is blunt while the end of B's sword is a very sharp point. As A dies, his second would have a very legitimate complaint that the loss was no reflection on A's skill. On the other hand, if A and B have equally sharp weapons, then the better fencer will live.

In analyzing government, it is not so easy to distinguish between the sword and the fencer. It is much easier to rationalize by blaming structure and rules. Nevertheless, there is a profound difference, however psychologically satisfying it may be for the inept to find and blame a convenient scapegoat for their failures.

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[152] Nelson W. Polsby, "Goodbye to the Inner Club," _The Washington Monthly_, Vol. 1 (August, 1969), pp. 30-34; reprinted in Polsby, _op. cit._ (n.67), p. 109.

All too rarely---and then with very little emphasis---
do we find statements, such as Robert Dahl's (p. 489), that
differentiate between political resources and the _use_ made
of them. And all too rarely do we have politicians who boast
as did the late Adam Clayton Powell (p. 489) that "You don't
have to be there if you _know_ which calls to make, which buttons
to push, and which favors to call in."

One more point remains to be made regarding the _use_ of
the political process. We have noted that use is determined
by knowledge of the rules and skill in the application of
this knowledge. There is another determinant: ideology.
There are two kinds of ideology: ideology with respect to
substantive issues and ideology regarding the use of the rules.
We have seen, for example, a reluctance to use minoritarian
tactics on the part of liberals. How much this reluctance is
a hypocritical mask for other factors and how much it is
genuine is hard to determine with precision. But we might
note that even so well-established a filibusterer as Senator
Morse declared that he would never _prevent_ a vote. (. 524.)

We have shown that, in 1970, liberals used the filibuster
to _delay_ a vote on the Carswell nomination. This bought
enough time to round up a 51-45 majority against Carswell.
(Note that the nomination lost by 3 and not by 6 votes since
a change of 3 votes would have produced a tie breakable in
Carswell's favor by Vice President Agnew.)

In December, 1971, the situation was somewhat similar.
Mr. Nixon had nominated Lewis Powell and William Rehnquist.
The latter has turned out to be a very able advocate on the

Court of an extreme conservative view.[153] Why was he confirmed by a Senate full of liberals? The answer is that there were ideological limits to the willingness of liberals to use the filibuster to block a nomination.

In 1968, conservatives used the filibuster to <u>kill</u> the nomination of one more liberal member of the Supreme Court, thereby enabling Nixon to nominate a more conservative member. But with Carswell, liberals, after delay, chanced a vote and barely won. With Rehnquist, they would not block the nomination, even though there were 26 votes against him on the confirmation vote, far more than enough to stage a filibuster.[154]

Indeed, there had been a filibuster of sorts. Again there was an attempt to delay the vote. Senator Bayh, leader of the opposition, explains the ideology very well: "my goal was to delay a final vote on the nomination until the adjournment....I felt that if other Senators had a month away from the rush of business to consider the [complex arguments], we would have had a very significant chance of convincing a majority to reject the nomination." Nevertheless, despite rejection of cloture by a vote of 52 for to 42 against, requiring a shift of 11

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[153]Warren Weaver, Jr., "Mr. Justice Rehnquist, dissenting," <u>The New York Times Magazine</u>, October 13, 1974, pp. 36, 94-99.

[154]Senator Morse complained once: "they cannot beat [the bill] with...a filibuster, unless they really can gather together a group of Senators who will commit themselves in advance to stay put and agree to no parliamentary compromises.
"I have been through this process so many times that I despair of having enough Senators who would stay put." <u>Loc. cit.</u> (n.81).
Of course, to repeat again, this is not a matter of the rules; it is a matter of the <u>use</u> of the rules.

Senators to attain 2/3's, Senator Bayh gave up the fight for delay because: "The Senate...did not agree with me on the necessity for delay. Thus, although my opponents had failed to invoke cloture by a very substantial margin, I saw nothing to be gained by continuing the debate in the face of a leadership decision that the vote would occur before the adjournment."[155] Evidently, Bayh assumes that the leadership can determine how Senators vote on cloture motions. The truth is that we shall never know whether cloture would finally have been obtained. But this is a matter of "hangups" in the use of the rules rather than anything in the rules themselves.

We are now in a position to answer a question raised earlier (p. 515): In the unlikely event that certain procedures have worked against liberal causes more than in their favor, why would this be so? It would be so in very large measure because there has been no full employment of the weapons available.

To take one more example, liberals have raised quite a stir about federal agents who have barged into people's homes unannounced, frightening them out of their wits, destroying their property and creating very dangerous situations. But who in the world passed the legislation enabling such behavior by officials in the first place? Consider Public Law 91-513, which became effective October 27, 1970, providing:

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[155]Letter to the writer from Senator Birch Bayh, March 27, 1972. The Senator avoided answering this question in the writer's letter of March 7, 1972: "if you could have successfully stopped the Tehnquist nomination...only by filibustering, would you have done so?"

> Sec. 509....
> (b) <u>Any officer authorized</u> to execute a search warrant relating to offenses involving controlled substances the penalty for which is imprisonment for more than one year <u>may, without notice of his authority and purpose, break open</u> an outer or inner door or window of a building, or any part of the building, or anything therein, if....
> [Emphasis added.] 156

There may be some dispute that what follows the "if" is reasonable, namely that the warrant issuer may feel that to give notice might lead to destruction of evidence or endangerment of life of the officers. But when people barge in to a house without identification, this also can endanger life.

In any case, the point is that Senate liberals who scream so loudly about civil liberties violations had the power to kill this law before it ever became law. That they did not do so has nothing to do with any alleged governmental bias against liberal causes.

What is more likely the truth is Senator Morse's stricture of "the alleged liberals in the Senate....It is disappointing to find that so few Senators are willing to take an all-out stand for civil liberties...."157

To sum up, so far in this section we have considered the logic of the governmental bias arguments and found: A) There has been a failure to differentiate between the neutrality or

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156PL 91-513, Sec. 509 (b); 84 Stat. 1274 (1970).

157Morse, loc. cit. (n.81). Even of the anti-Carswell delay filibuster, Harris noted: "Probably the opposition's greatest frustration was its inability to persuade moderate Democrats to share the work load. For instance, Senator... Muskie...announced his opposition to the nomination very early, but he refused to take an active part in the fight against it." Harris, loc. cit. (n.86a).

bias of structure and procedure, and the neutrality or bias of those using the structure and procedure. The result of this failure is an attempt to maintain that the structure and procedure of American government are not neutral _and_ that they can be employed to execute the will of whoever controls them. B) There has been much confusion between the rules and the application thereof. The application is determined by knowledge, skill and ideology. The result of this confusion has been the repeated attempt to argue at one and the same time that the rules are not neutral _and_ whoever masters them has a "formidable resource."

Now we turn to one further item of illogic in the bias argument. There has been a constant call for procedural reform on the ground that the existing procedure and structure are biased against the issue positions of the reformers. Gardner has argued that procedural obstacles that allegedly protect the status quo must be eliminated. According to Gardner: "You cannot deal with the substantive issues of policy unless you deal with the awesome structural problems of government."[158] There is reference to Common Cause's "emphasis on influencing the substance of policy through procedural reform."[159]

There is, of course, nothing new in any of this. As Burns reminds us: "In the old days it was the initiative, referendum, and recall; the party primary and proportional

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[158] Quoted by Norman C. Miller, "Common Cause's Growing Muscle," _The Wall Street Journal_, April 10. 1974, p. 16. See also, reference to Gardner on p. 490 above.

[159] Miller, _ibid._

representation; nonpartisan ballots and honest election administration. Today there are proposals to solve...deadlock and friction by...mechanical changes in Congress."[160] Burns suggests that we have "suffered from a gimmick approach to political problems" and "think that the most serious political problems can be solved by mechanical devices." (p. 490; This does not stop Burns from advancing his own mechanical solutions.)

Over and above the lack of anything new in attempts to solve political problems by mechanical reforms, and over and above the considerable evidence in this chapter that Gardner is simply mistaken in believing that the rules operate against the substantive policy changes he desires, there is a severe deficiency in the logic of his argument.

Those who see organizational and procedural reform as a prerequisite to the solution of other problems rarely ever ask how a system stacked against them can be used to change the system. Why is the system biased against substantive change but not against organizational/procedural change? In truth and as a matter of logic, if the reformers have the strength to use the system to change the system, do they not also have the strength to use the system to produce the substantive policy changes they desire?

In the final analysis, the proponents of any view are best advised to occupy as much of the structure of government as they can and make maximum use of the tools afforded by the occupied seats. Pursuing change by first trying to change the

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[160]Burns, loc. cit. (n.16).

rules of the game often amounts to no more than chasing a will-o'-the-wisp.

Rule reform will-o'-the-wispism is illustrated by considering this situation. In 1968, left of center activists failed to get a man of their choice nominated for President by the Democrats. Instead, the nomination went to Hubert Humphrey, then in liberal limbo for his support of Lyndon Johnson's war policies. This led to a renewed call from reformers for nomination via direct national primary. (We will not consider the fact that the first choice of the left, Eugene McCarthy, could never have gained the national prominence in a national primary that he achieved in a state primary.) Now, in 1969 the Democrats of New York City did have a direct plurality primary. This resulted in the mayoral nomination, with 32.8 percent of the votes, of the most conservative and least representative Democrat, Mario Procaccino. This traumatic event sent the chronic reformers into action again. (By definition, a "chronic reformer" is one who, whenever he fails to get his way, emits by conditioned response a proposal to reform the procedure "responsible" for his failure.) The New York City reformers suggested that what the city really needed was a runoff primary between the top two contestants so that the nominee would have received a majority. But it just so happens that in 1969 there was a city with just such a system: Los Angeles. In the first round, liberal-supported black candidate Thomas Bradley received a plurality but not a majority. In the runoff, the more conservative candidate, Mayor Sam Yorty, ran a highly racist campaign and won.

Finally, we note that reformers long complained about the supposedly "boss"-controlled convention system for the nomination of candidates for statewide office in New York. In the late 1960's the reformers got their way. In 1970, the candidates of the New York State Democrats were nominated by a primary which produced a ticket of four Jews and a Black, all from New Yor, City and environs. In the wake of a big defeat, Paul O'Dwyer lamented:

> We're all so fed up with the whole thing....
> We---the Reformers---all wanted a statewide
> primary. We got it and it gave us a ticket so
> unbalanced ethnically and geographically that we
> didn't have a chance....What haunts us is that
> the old bosses would haver have let this happen.
> [Emphasis added.] [161]

O'Dwyer's lament brings to mind a comment by Bertram Gross: "organizational and procedural changes are tools that can be used for a variety of purposes. When they are put to unsuspected uses, those who fought to bring them into existence may conclude that they had created a Frankenstein." [162] Also, Huitt and Peabody point out that alterations in structure and procedure "often have unforeseen consequences." (p. 489.) The unforeseen consequences occur because, despite the contrary Huitt-Peabody contention that "structure and procedure are not neutral," anybody can play the game and use the structure and procedure for his own ends. Barring a change in procedure that excluded certain people from participation, the

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[161]Quoted by Richard Reeves, "Realignment in State Likely," The New York Times, November 5, 1970, p. 30.

[162]Bertram M. Gross, The Legislative Struggle, A Study in Social Combat (New York: McGraw-Hill, 1953), p. 455.

unforeseen consequences are going to occur because, in truth, the rules can be used by anyone; and this goes a long way to establishing the neutrality theme.

Unforeseen consequences due to the ability of different interests to employ new tools would be worth remembering by liberals who contemplate further changes in Congress. As we suggested earlier (p. 559), it would be highly ironical if ideological inertia should produce reforms that strip liberals of power that they would have accrued under the long-established system. The result can be that if conservatives should again take control of Congress, they would be able to assault much more effectively the newly-acquired and also newly-weakened bastions of liberal power.[163]

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[163]As this was written, Democratic members of the Ways and Means Committee were stripped of the authority to make committee assignments. David E. Rosenbaum, "House Democrats End Mills's Rule Over Committees," The New York Times, December 3, 1974, pp. 1, 31.

Anyone who thinks that this represents a change in the rules which will result in a change in the distribution of power and substantive policy influence in a liberal direction is wrong. The truth is: First, there has been no change in the only rules that matter: a) the long time election of committee members and chairmen by each house and b) the long time power of a majority of the party caucus to do what it wants. Second, in the past, the Ways and Means method of assignments suited a majority of the Democratic Caucus. In the 94th Congress, this was no longer the case and, therefore, applying the rules that always existed, the Democrats decided on changes. The reason for this decision was first and foremost that there were many more liberally oriented Democratic personnel. (We omit Mills' strip teaser association, only an excuse for liberals, who generally are on the side of the permissive, to do what they wanted.) So it is not a change in a particular rule that will produce a change in power; it was a change in personnel---and hence power---that enabled the new membership to apply rules, that always existed, in a way favorable to liberal causes.

In sum, we do not have a change of the influence of rules at all. We have an example of changing personnel occupying power and consequent change of use of existing rules.

So we reiterate that it is perhaps best to make do with
what one has and not assume that the grass grows greener on
the other side. As noted above, three different methods of
nomination did not help liberals in 1968, 1969 and 1970. But
by the same token, in 1973, with no reforms at all, but with a
change in times and public attitudes, Bradley defeated Yorty
in Los Angeles. A change in New York City produced no change
at all in 1973 for Abraham Beame defeated the more liberal
Herman Badillo in both the first-round and runoff primaries.
The statewide system in 1974 did not produce the same disastrous
results for New York Democrats that occurred in 1970. This was
due again to a change in times, the absence of Rockefeller,
Watergate and vastly different behavior among the Democrats
themselves.

Finally, we note that between 1968 and 1972 the left was
able to capture control of the Democratic party. Those who
argue that this was due only to a change in the rules should
ask themselves how it happened that the rules were changed.
Did the organization and skill of the McGovern forces in using
the originally existing rules have something to do with the
rules change?

But, the reader will argue, McGovern lost. And so he did.
Why?

Concluding Comments: Neutrality and the Significance of Structure

To say that structure and procedure of American Government
are neutral---or to say that at the very least the evidence does
not support a contention that the structure and procedure of

American Government are not neutral---is not to agree with
Alexander Pope's famous couplet to the effect that forms of
government are a matter for fools to contest.

Structure and procedure <u>can</u> be neutral, but they do not
<u>have</u> to be neutral. It should be stressed that this has been
a dissertation about the <u>United States</u> political system. The
written document known as the Constitution of the United States
was a consciously conceived compact, designed by people with a
greater awareness than most designers of what they were doing.
It was Madison's express objective (see p. 1) to design a
neutral Constitution. It is our contention that he has
succeeded to a far greater extent than he could have known
and his descendents do acknowledge.

But there are other forms of political procedure and
structure. This writer makes no claims to expertise on
foreign governments, but there are many totalitarian systems
which are not open to use by anyone who comes along. Whether
a given political system is democratic or totalitarian is
probably far more significant than the precise particular
forms of various democracies. The key is the right of can-
didates to compete and voters to vote.

What they come up with is entirely different matter.
Holmes remarked that if the people wanted to go to hell he was
on the Supreme Court to help them. This was his sardonic way
of expressing judicial restraint. But there is nothing in a
democracy that is going to guarantee good personnel or wise
decisions. As Schumpeter reminds us, "the will and the good
of the people may be, and in many hisotrical instances have been,

served just as well or better by" undemocratic governments.
(p. 491.) But such governments do not permit competition
and the right to change the personnel occupying positions of
power. And, as a matter of truth, there is no guarantee that
totalitarian governments will indeed serve better the will
and the good of the people. At least in a democratic govern-
ment the people have the right to choose those who are going
to send them to hell if it comes to that.

If the American people permitted---and that is the right
word, make no mistake about it---George McGovern to seize con-
trol of the Democratic Party and then decided to choose
Richard Nixon by a landslide, that is fundamentally a problem
of democracy and not one of particular democratic procedures
and structures. Procedure and structure do make a difference;
in the United States there is at least as much reason to
believe they are neutral as to believe they are not.

One of the reasons why many people mistakenly assume that
the "system" is biased is, as we have suggested, that they
tend to confuse the structure of institutions with the par-
ticular personnel occupying that structure at any given time.
The personnel are subject to change---sometimes quickly, as
in the House of Representatives, and sometimes with agonizing
slowness, as is the case of Supreme Court Justices.

Be that as it may, the American people have been given
opportunities to select from drastically different options
regarding the personnel they want to occupy their govern-
mental structure. These choices have varied from the far
right to the far left and, in the case of the major parties,
from Barry Goldwater to George McGovern. Again, those who

complain about the rejection of these options are, in the final analysis, upset about democracy.

We close by observing that, in one sense, the American political system is biased. It is biased against those on the fringes of ideological movements. Horowitz complains that the "representative role is inherently conservative." (p. 489.) This is so, he argues, because the representative must reconcile conflicting views to stay in office. But there is nothing "inherently conservative" about this. If the American people were on the fringe there would be no need to reconcile anything.

At bottom, when those on the fringes of ideological movements complain that the "system" is "stacked" against them, they are really lamenting, without wishing to admit it, that they "ain't got the votes." They are, in the words of Justice William O. Douglas, "miserable merchants of unwanted ideas: their wares remain unsold."[164] In the absence of any ability to sell these wares, only a ruthless dictatorship could impose them. Perhaps the trouble for some is not the absence of democracy but its presence.

The truth is, as the Goldwater and McGovern experiences have shown, that the American political system is remarkably open to the merchants of all kinds of wares. They have had their chance to compete. They lost.

Among the "miserable merchants of unwanted ideas," and

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[164] Justice Douglas dissenting in <u>Dennis v. United States</u>, 341 U.S. 494 at 589 (1951).

among losers of every stripe, there is a commonly mistaken
view that the right to compete is the same as the right to
win. But this is not the case. The right to compete pre-
sumes the vital necessity of losers. The loss of a loser does
not mean automatically that the system is biased against him.

For there is always another day. The losers need not---
and often do not---remain losers. They can, in our political
system, continue to market their wares. Of course, the sale
may take time to consummate. But as Justice Charles Evans
Hughes said, "Patience is the hardest lesson for democracy
to learn," and as Mendelson reiterates, "A burning faith in
democracy and impatience with its results is not a new
quality among idealists." (p. 491.)

The impatience leads to the charge that the system is
"unresponsive." But this misses entirely the point that,
for a political system to be democratic and responsive, it
must also be unresponsive. There can be no responsiveness
without unresponsiveness. The idealists like to equate their
goals with the goals of "the people." But there are people
and there are other people. There is conflict between com-
peting claims. If the idealists had no opposition, their
claims would be met with little trouble. In order to respond
totally to the claims of one group, it is necessary to
ignore---or unrespond to---the claims of another group.
Compromise has been defined as mutual dissatisfaction.
Idealists see any compromise as betrayal and unresponsiveness.
But when a group is not getting its way, this means another
group is. Democracy is responding to one group by not

responding to another.

But the latter has the opportunity to sell its wares. Persuasion that "unwanted ideas" should be wanted strikes this writer as infinitely preferable to their totalitarian imposition. And, if persuasion fails and there is "no sale," whose fault is that?

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Note

Sometimes it is easier to provide an example of a term than a definition. Other times, the definition comes easier than the example. A case of the latter is the distinction between primary and secondary sources. A primary source is the object of study; a secondary source is something _about_ the object of study. This is far simpler to put into words than into practice. For example, if a _New Republic_ editorial is used in this dissertation for its report of events, it is a secondary source. But when it is employed as an illustration of peace movement thinking, it is a primary source. Because so many of our sources can be classified as both primary and secondary, the distinction will be avoided.

This bibliography is confined to works actually cited in footnotes. On the other hand, not every item cited above is listed below. In particular, ordinary news reports from news magazines and newspapers are not listed. Instead, there is a general category of "Newspapers and Periodicals."

Nothing better illustrates the limits of bibliography than the fact that, in general, statements of legislators are not included here. They are covered by one single entry, the _Congressional Record_. Thus an extensively used and extremely important source is given the same weight as works listed below but used very few times in the text. Hence, the bibliography grossly distorts the relative significance of the sources which can only be gleaned from a thorough footnote examination.

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