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HOW YOU SAY IT REVEALS MORE THAN WHAT YOU SAY

As any girl knows, there is a world of difference between the simple statement, "I love you," and a tortured "I...er...uh...love you."

This is cited by John Kord Lagemann in an August Reader's Digest article, "Your Words Give You Away," as an example of the pauses between words being more revealing than the words. Try "listening between the lines," he urges.

For instance, we instinctively notice how often someone says "I," "me," "my," and "mine." To most of us, excessive use of the first person singular simply means that the person is a bore--but it can mean something more. "When one's automobile is out of order," says Dr. O. Hobart Mowrer of the University of Illinois, "one is likely to refer to it oftener. Likewise, when a person's psychic equipment is grating and squeaking, it is understandable that his attention should be directed toward it much of the time."

Counts made at the University of Iowa and the University of Cincinnati demonstrate that hospitalized mental patients use "I" oftener than any other word--about once every 12 words, three times as often as normal people.

The use of passive verbs instead of active is another clue to personality: the person who says he "was taken" to a place probably feels less in control of his world than the one who says he "went" there. One way of recognizing a person's values is by cataloguing the adjectives he uses to express approval or disapproval. A man whose usual words of praise relate to strength or size--"powerful," "overwhelming"--may not get along with a woman whose value judgments are in terms of beauty versus ugliness.

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HISTORIC LANDMARKS CAN ATTRACT TOURIST DOLLARS WHEN PRESERVED

Destruction of historic landmarks, often to make room for a new thruway or shopping center, is more than an affront to our heritage: it often deprives the community of real cash revenue, Blake Clark writes in the January Reader's Digest.

The destruction is widespread. At least 25 percent of what were our finest specimens in 1941 now are gone. But, Clark writes, cities where the wrecking crews were blocked, sometimes are rewarded with a tourist bonanza. According to a government survey, an historic residence, church or other attraction that brings as few as 28 tourists a day to town will contribute as much to the local economy as a new business with a $100,000 annual payroll.

Some tourist-wise communities have thrown a shield around whole areas: New Orleans' Vieux Carre, Beacon Hill in Boston, the Old and Historic Charleston District in Charleston, S. C., the old Georgetown section of Washington, and parts of Natchez, Miss., are examples.

A few years ago, an architect was horrified to learn that the beautiful Superintendent's Residence at West Point was to be torn down. He hurried to Washington to protest, but nobody paid any attention, until he had an idea. He called on Sen. Harry F. Byrd of Virginia.

"Senator," he asked, "Did you know that General Robert E. Lee's famous home when he was superintendent of West Point is about to be destroyed?"

That did it. Sen. Byrd made a telephone call. The building still stands.

One of the first preservationists was Ann Pamela Cunningham, a South Carolina woman who saved the proudest prize in our past, Mount Vernon. Washington's home was in disrepair and in danger of falling into ruin when she formed the Mount Vernon Ladies' Association. They bought the historic place for $200,000 and restored it as a national shrine, in 1858.

A similar spirit motivates the Westchester County, N. Y. group now hard at work to save Boscobel, a classical Hudson River mansion built in 1804, long considered one of the most distinguished examples of its kind of architecture. It was on government property, and deteriorating. In 1950, the government ignored local protests and sold it to a wrecker for $35. It was torn down, but even the ruins were beautiful. Admirers bought them and moved the pieces to Garrison, N. Y., where they are being stored until funds can be raised to restore Boscobel as an art and historic center.

Deciding just which structure to preserve, and how to do it, is a baffling job for amateurs. They can get advice from the National Trust for Historic Preservation, 2000 K St., N. W., Washington 6, D. C., a private nonprofit organization supported entirely by patriotic individuals and organizations.

As to whether a structure should be preserved, says the Trust, these questions are basic:

1. Is it of substantial historical or cultural importance? It could be a mansion, a pioneer's squared-log cabin, a sod house or Indian mound.

2. Is it suitable -- accessible to the public and in presentable condition?

3. Can you maintain it, once you have bought it? Few places can sustain themselves from admission fees. Perhaps yours can be adapted to use by an organization or business firm without losing its significance.

If we can save enough of the places where Americans who went before us lived and worked, Clark writes, we can sense their way of life, their ideals and character.

The article, "Wanton Disregard of Our Heritage," is condensed from the Diplomat.

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HUNTING FORBEARS IS FUN FOR THOUSANDS

For some refreshing mental exercise, try "climbing" your family tree!

This slightly startling advice comes from the Reader's Digest, which says in a September article of this title, that thousands of amateur genealogists are gaining fun and satisfaction - and surprises - tracing their family histories.

To start, you need only yourself, notes author John J. Stewart. List basic facts about yourself: birthplace and date, sisters and brothers, schooling, marriage and children, career. Then do the same with your parents and grandparents.

Now the field is wide open. Consider: you have eight great-grandparents, sixteen great-great-grandparents, and by the time you go back 20 generations you can lay claim to more than a million direct antecedents!

Obviously you'll need help. A number of books guide family-hunters; among those listed in the Digest article, a handy one is the "Guide to Genealogical Records in the National Archives," available for 50 cents from the U.S. Government Printing Office, Washington, D.C. 20402.

You may also check to see if anyone else is working on your line by registering with the Pedigree Referral Service of the Mormon Church's Genealogical Society in Salt Lake City. The Mormons consider genealogy an important religious obligation, says the article, and they've spent millions gathering and recording vital records from all over the world.

Genealogists have many motives in carrying on their quest for kinsmen. Some see it as a way to make the past come alive. Others do it in the hope of qualifying to join such organizations as the Daughters of the American Revolution, or to bear a family crest or coat of arms. To still others, it is a hobby that offers the excitement of sleuthing without the danger.

Many genealogists find forbears that help them prove their claims to distinguished lineage. But there is no guarantee of this, and sometimes the opposite is true. One distinguished scholar traced his family line back several generations to a man named Sylvester Hanks, then was rewarded by finding this quatrain in a record of the era: "Though born of woman, he died by man, his name was Sylvester Hanks; Love of money got the best of him, And he was hung for robbing banks."

The article is condensed from Family Weekly.

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Reader's Digest NEWS RELEASE
200 PARK AVE. NEW YORK, N.Y. 10017
Contact: Charles Pintchman at (212) 972-3772

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JAPANESE MONKEYS EVOLVING

IN ASTONISHINGLY HUMAN WAY

For the past two decades Japanese scientists have been involved in one of the most obscure--yet fascinating--studies of animals ever undertaken. And their conclusions may cast new light on the beginning of man.

The studies involve a close and continued observation of Japan's 28,000 wild monkeys (Macaca Fuscata) in 28 wildlife reserves on four separate islands. Scientists now believe that the monkeys appear to be tracing a social evolutionary path strikingly similar to our own.

An article in the November Reader's Digest reports that even though the primates have been in Japan since prehistoric times, they have only recently come down from the trees, and are now spending 60 percent of the daylight hours on the ground.

Some other astonishing man/monkey similarities: the monkeys can walk on two feet for 60 feet or more; they respect tribal frontiers; they communicate efficiently with each other via 37 different, clearly recognizable vocal sounds and scores of nuances and combinations. But they've also picked up one of our less desirable human traits -- civil war, for one example.

Author Christopher Lucas stresses that none of the monkeys are tamed or trained, with the scientists zealously careful not to disturb their subjects' natural behavior.

According to anthropologist Junichiro Itani, "Japan's monkeys show a steady pattern of progress. They keep learning new things -- and their children pick up the new habits. We are now convinced that 90 percent of an adult monkey's behavior is acquired by learning, not instinct. One consequence: each monkey troop is developing different ways and manners."

For instance, a troop of monkeys on the balmy island of Koshima is friendly, disciplined and seldom hostile to humans. They swim, dive and frolic in the sea. Yet, until 1959, no monkey had dared venture into the water. By 1962, almost all monkeys were paddling and nowadays, their offspring are veritable water babies.

But in northern Japan, the monkeys are evolving differently; they are timid and suspicious, roaming the snow-swept hillsides in tightly packed columns hunting for food.

Wherever the location or the size of the monkey troop, their lives are played out according to a rigid system. There's always a super-monkey, or chief, then sub-leaders, followed by the mass of adult males. The females have their own hierarchy.

Japan's three main centers for monkey study - Japan Monkey Center in Inuyama, the Primate Research Institute of Kyoto University and Osaka City University - attract scientists from all over the world. Dr. Masao Kawai, biosociologist at the Kyoto Research Institute claims that the monkeys have developed a distinctive "preculture", whose customsare passed down through generations. "This is genuine historical change," he says. "These monkeys are on the threshold of civilization as we know it."

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Charles Pintchman at (212) 972-3772

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SAYS CONGRESSIONAL MAJORITY CAN STOP SUPREME COURT EXCESSES

The Reader's Digest this week called for Congressional action to reverse what it terms the Supreme Court's increasing tendency to rewrite the Constitution.

Millions of Americans now believe that the Court has exceeded the powers that the founding fathers meant it to have. But according to evidence in the Digest, the fault may be less with the Court than with Congress.

By failing to assert powers that it clearly possesses, Congress has allowed the Court to hand down decisions that, in the words of Justice John M. Harlan, amount to "nothing less than an exercise of the amending power."

According to author Eugene H. Methvin, a Digest Associate Editor, the framers of the Constitution intended that a judge should strike down a legislative act "only when he is certain that reasonable men could not disagree" that it is unconstitutional. The great jurist Oliver Wendell Holmes argued that a judge confronted by legislation that he thinks unwise can only say, "Damn 'em, let 'em do it."

Yet the present "activist" majority on the Court, led by Chief Justice Earl Warren and Justice William O. Douglas, has profoundly changed the fabric of American life through decisions that have added to the Constitution, in the view of many legal scholars. The Court's decisions on prayer and Bible reading in classrooms are an example. Equally far-reaching was the 1964 reapportionment decision, which in effect rendered "unconstitutional" legislatures of most of the 50 states. Its decisions on criminal procedures have brushed aside century-old laws governing presentation of confessions and physical evidence to juries.

These decisions, the Digest asserts, have in effect made the Court a law-giving body impinging on the duties of Congress. And Congress has only itself to blame. For at least two Constitutional provisions give it the right to curb the Court.

One of these is the 14th Amendment, which specifically names Congress as the protector of the rights it creates.

"While Congress cannot reverse a Supreme Court decision in a specific case, it can write new remedies which the Court is then obligated to apply in resolving such cases in the future," the Digest argues.

(more)

(2) SUPREME COURT EXCESSES

For example, Chief Justice Warren himself acknowledged last year that by simple majority vote Congress could write rules for police interrogations different from those that the Court handed down.

Another check on the Court is Article III, which gives Congress the right to make "exceptions and regulations" to the Court's power to appeals. Congress has used this right before. In 1868, for example, it stripped the Court of power to hear appeals in habeas corpus cases.

Yet in the present situation Congress has been strangely ineffective. The House did vote in 1964 to forbid the Court to interfere in state legislative apportionments. Similar action in the Senate would have been sufficient under Article III, many authorities feel. Instead, the Senate tried to pass the measure as a constitutional amendment - needing a two-thirds majority. It failed by seven votes.

An amendment to permit voluntary school prayer also failed by a narrow margin. "Both goals might well have been accomplished, by a simple majority vote." Methvin writes.

In failing to play the checking role assigned to it by the founding fathers, Congress is in effect allowing the Supreme Court to rewrite the Constitution through "interpretation."

"The time has come for our elected representatives to blow the whistle," says the Digest.

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NEWS FROM THE Reader's Digest

Charles Pintchman at (212) 972-3772

PRESS INFORMATION
200 PARK AVENUE
NEW YORK N.Y. 10017

For Release: A.M., September 27th

NIXON CALLS FOR NEW PROGRAMS TO HEAL WOUNDS OF "LAWLESS SOCIETY"

'Far from being a great society, ours is becoming a lawless society." So declared former Vice President Richard Nixon today. He further asserted that America's most urgent need in the wake of last summer's urban riots is to strengthen its police and other anti-crime forces.

But, he warned in a copyright article in the October Reader's Digest, it would be a "national tragedy" to allow the riots to impede Negro advances "toward full and equal membership in American society."

"The riot statistics show that the Negro has already paid an enormous price for the violence," Mr. Nixon writes. "It was the Negro's home, often his shop, his future that were burned out by the rioters. It would be a compounded injustice now to penalize the law-abiding Negro majority for the criminal conduct of the lawless minority."

While racial tension played a role in the riots, Mr. Nixon asserts that they were symptoms "of another, and in some ways graver, national disorder -- the decline in respect for public authority and the rule of law in America."

Much of the blame for this must fall on our judges and courts, he says. "The fault cannot be traced to any single decision. It is rather the cumulative effect of many decisions, each one of which has weakened the law and encouraged the criminal."

To restore balance, Mr. Nixon advocates strengthening police forces around the nation. "The first step is better pay and better training and higher standards for police. We must attract the highest caliber of individual to the force. Second, there must be a substantial upgrading in the number of police.

"The added manpower is to bring the physical presence of the law into those communities where the writ of authority has ceased to run," he says.

In calling for new programs to aid the chronically impoverished, Mr. Nixon seems to ally himself with one conclusion of the controversial Moynihan Report by urging that such programs recognize the reality of "the disintegration of the Negro family."

"Only a minority of Negro children reaching the age of 18 have lived all their lives with both of their parents," he notes. Current programs fail to account for this fact; indeed one federal program "provides money for dependent children -- only as long as the father stays away from the home." Obviously, according to Mr. Nixon, "It is time to stop using warmed-over programs of the '30s to solve the problems of the '60s."

Before rushing into massive new programs, however, Congress should find out why the programs of the past have failed, Mr. Nixon writes.

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NEWS FROM THE Reader's Digest

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Charles Pintchman at (212) 972-3772

FOR RELEASE MONDAY A.M. MARCH 27

LBJ DECEIVED PUBLIC IN CALL FOR "WAR" TAXES

President Johnson deceived the American people when he insisted that a tax hike was needed to give our "fighting men in Vietnam the help they need," says The Reader's Digest in its April issue.

Digest Washington Editor Charles Stevenson, who headed up a team of investigators from the Washington bureau of Reader's Digest, discloses that the fiscal 1968 budget proposes huge domestic-spending increases--up $27 billion since fiscal 1966!--that will more than drain off the extra $5.5 billion in "war" taxes that have been requested.

The President claims that his proposals have been cut to eliminate all nonessentials. But Stevenson notes that even while Mr. Johnson was revealing the details of his "waste-free" budget, the Dept. of Housing and Urban Development (DHUD), to take only one example, was announcing grants for such purposes as "beautifying Berkeley, Calif., with a municipal putting green and a rose garden; landscaping the Overland Park, Kan., city hall; and bestowing a decorative fountain in Kingsport, Tenn."

"And why not? The President had tucked away $127 million in his budget, nearly doubling the funds now available to DHUD for this category of unconscionable wartime spending," Stevenson writes.

Says Rep. Frank Bow of Ohio: "Whatever they tell you, scratch beneath the surface of any (Federal) agency and you'll find extravagance -- and expenditures we can do without." Adds Rep. Tom Curtis of Missouri: "We can carve away well over what $5.5 billion of new 'war' taxes would raise without doing a bit of damage."

Some areas the experts suggest for possible budget trimming are:

* The swollen farm program, up $296 million to $6.255 billion this year -- despite a sharp decline in the nation's farm population;

* Education, for which the Administration has asked $5.2 billion, $622 million more than last year, in the wake of handouts to such high-income communities as Grosse Pointe, Mich., and Beverly Hills, Calif.;

-more-

2) War Budget ...

* Urban programs, for which Mr. Johnson wants an additional $3 billion even though DHUD has more than $16.5 billion left over from prior years.

People are realizing, the article notes, that this whole federal grant-in-aid welfare state is calamitously uncontrolled. The system keeps 2,600,000 federal employees busy in 150 Washington bureaus and in some 400 regional offices -- busy operating overlapping, duplicating machinery. Programs for the disabled are scattered among 28 agencies, for example. Vocational and job training come under 57 separate programs; housing under 35, transportation under more than 20.

No wonder New York's Sen. Robert Kennedy says that untangling the thicket of aid programs is the most serious problem in government today. Or that Sen. Charles Percy of Illinois says, "It's time we started solving problems instead of just throwing money at them."

Congress is in a mood to take stock of federal spending, the article notes. But it is being beseiged by skilled armies of budget boosters, special-interest groups ranging from aerospace industries to the organized mayors of America who are urging their members, to write to Washington.

To combat the tide of lobbyists, the article urges citizens everywhere to "mobilize a massive demand for fiscal common sense, for getting their money's worth from government. Nothing less than a deluge of individual, thoughtful letters can give our legislators the needed backing to insist upon more effective, frugal government."

Confides one House member: "I'm waiting to hear from constituents who really want to lower outlays as I do, especially for projects back home."

Says House Appropriations Chairman George Mahon of Texas, "Congress is not going to practice restraint unless the message comes through loud and clear from the people."

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By Eugene H. Methvin

IS THE SUPREME COURT REALLY SUPREME?

Recent controversial rulings by the High Bench raise anew the troubling issue: Who is the ultimate arbiter of the Constitution? Our founding fathers provided a foresighted answer

Fifty-two percent of the American people rate the Supreme Court's performance as "only fair" or "poor," according to a recent Louis Harris opinion poll. "The Justices are stretching the judicial process to try to translate their notion of an ideal society into reality," says Prof. Philip B. Kurland, editor of the University of Chicago Law School's *Supreme Court Review*. From legal scholars to the man in the street, from Congress to the Justices themselves, this most revered of our governmental institutions is today drawing stinging criticism.

Some of the most eloquent protests have come from within the Court itself. In 1962, when the Supreme Court invaded the political thicket of legislative reapportionment, the late Justice Felix Frankfurter denied that the Court had constitutional authority for its move. He accused his colleagues of "a massive repudiation of the experience of our whole past."

In another case last year, Justice Byron R. White charged the Supreme Court with laying down spe-

cific rules that have "no significant support" in the history of the Constitution.

Justice John M. Harlan has despairingly proclaimed that recent Court decisions amount "to nothing less than an exercise of the amending power by this Court."

Direction by Decision. Repeatedly in recent years the Court has claimed vast new powers to change by judicial decree the shape of our constitutional system. A narrow majority of "activist" Justices, spearheaded by Chief Justice Earl Warren and Justice William O. Douglas, has increasingly taken away from juries and legislatures—the two authentic voices of the people—crucial decisions affecting the order and direction of American life.

Consider the Court's decisions in three vital areas:

School Prayer. The Court has declared that reading the Bible or saying the Lord's Prayer (or even a non-sectarian prayer) in voluntary classroom religious exercises is unconstitutional. It has relied on the theory that the First Amendment ("Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof") somehow requires the Court to impose a wall of separation between religion and any sort of governmental activity.

This notion is "sheer invention," say many distinguished law scholars, among them Dean Erwin Griswold of Harvard Law School. We have, Griswold says, "a spiritual and cultural tradition of which we ought not to be deprived by judges carrying into effect the logical implications of absolutist notions not expressed in the Constitution, and surely never contemplated by those who put the constitutional provisions into effect."

Reapportionment. In one stroke, in June 1964, the Court rendered "unconstitutional" the legislatures of most of the 50 states. The action boldly asserted a judicial power never before claimed. It was based on the 14th Amendment. The dictum that "no state shall deny to any person the equal protection of the laws" means, said Chief Justice Warren, that states cannot adopt "Little Federal" plans, in which one house of the legislature is apportioned like the U.S. Senate, to accommodate other factors (historic, economic or geographic) than population. The states must, instead, elect *both* houses on a "one man, one vote" basis.

Justices Potter Stewart and Tom Clark objected sharply. They called the Court's action "the fabrication of a constitutional mandate," and said, "The Draconian pronouncement finds no support in the words of the Constitution, in any prior decision of this Court, or in the 175-year political history of our Federal Union."

The quarrel arose because many state legislatures had failed to reapportion their districts as people

moved from country to city and from city to suburbs. Other states, however, had reapportioned conscientiously—Colorado, for one. In 1962, Coloradans went to the polls to choose between two reapportionment plans, and voted 305,700 to 172,725 in favor of a "Little Federal" plan which gave Colorado's lightly populated western mountains and eastern wheatlands a few more members in the state senate than their population warranted. A majority in every county, including urban Denver, supported this plan.

Justices Clark and Stewart pleaded with the Court to avoid destroying such local initiative and decision. Under the "equal protection" clause, they said, federal courts might properly void any systems which prevent ultimate majority rule. "Beyond this there is nothing in the federal Constitution to prevent a state from choosing any electoral legislative structure it thinks best suited." Colorado simply "sought to provide that no identifiable minority shall be completely silenced or engulfed," an aim that "fully comports with the letter and spirit of our constitutional traditions." The Justices pleaded in vain.

Criminal Procedures. Historically, the administration of criminal justice has been left to the states. The Constitution originally gave the federal government no authority whatever to intervene in ordinary criminal matters. However, the 14th Amendment forbids sta es to deny a person "due process of law," and the Court has now been using this language as reason to impose a new set of detailed, and controversial, rules of its own making on state law enforcement.

In 1961, for example, five Justices asserted that "due process" requires a state judge to keep physical evidence from the jury if he finds any legal fault with the police search that obtained it. That overruled long-standing Supreme Court decisions and nullified contrary rules in 26 states. Then, in 1964, five Justices prohibited the century-old practice in 15 states of letting the jury decide whether a confession has been coerced. Justice Clark protested: "Dependence on jury trials is the keystone of our system of criminal justice, and I regret that the Court lends its weight to the destruction of this great safeguard to our liberties."

In June 1966, Chief Justice Warren and four fellow Justices imposed on all states a new rule, never before followed in any state: Judges must also keep a confession from the jury unless police can prove beyond doubt that they warned the suspect of his rights, and even furnished him a lawyer throughout interrogation if he wished.

There is mounting evidence that the Court's massive federalization of criminal justice has grievously crippled law enforcement. FBI statistics show that, since the 1961 ruling, the rate at which police are solving reported crimes—a rate which had held steady for years—has dropped by almost ten percent. In New York

City, after last year's ruling on interrogations, the proportion of unsolved murders increased by 40 percent. Indeed, the Supreme Court's rulings have compelled the freeing of many apprehended and confessed criminals.

Last September, for example, a woman stood before Brooklyn Judge Michael Kern. She had confessed to taping her four-year-old son's mouth and hands and beating him to death with a broomstick and a rubber hose. Nevertheless, because of the new Supreme Court ruling, her signed confession, the state's only evidence, had to be thrown out.

"Thank you, your honor," the woman said.

"Don't thank me," the judge replied icily. "Thank the United States Supreme Court. You killed the child and you ought to go to jail."

Conflicting Philosophies. These highly controversial decisions reflect a titanic clash of judicial philosophies in today's Supreme Court. Justices Harlan, White and Stewart are currently the chief representatives of the philosophy of judicial restraint propounded by the great jurist Oliver Wendell Holmes: In a democratic society, judges who never face the discipline of the ballot box must defer to elected legislators in policy choices—and leave it to the voters to discipline the legislators at the polls if the legislators' decisions are bad. A judge should declare a legislative act unconstitutional only when he is certain that reasonable men could not disagree. Otherwise, said Holmes, even though the legislators have decided unwisely, a judge is obligated to say, "Damn 'em, let 'em do it!"

On the other side in today's Court, Chief Justice Warren, Justice Douglas and usually Justice Hugo L. Black represent the activist philosophy, or what is sometimes called "political jurisprudence." This school holds that constitutional claims coming to the Supreme Court involve, primarily, conflicting values and interests. There may be no express law relevant to today's conditions. So, in weighing conflicting interests, the Justices must impose their own "social preferences." This philosophy sees the Justices as the modern interpreters of the values expressed in "our living Constitution."

Last year, for example, the Court outlawed Virginia's poll tax—even though it had unanimously upheld a similar tax 29 years before. Even Justice Black denounced this change by judicial decree as "an attack on the concept of a written constitution which is to survive unless changed through the amendment process."

But do we want the Court to be such a lawgiving body? Carried very far, this philosophy would mean in effect abandoning our written Constitution. The High Bench would become not a court of law but a Grand Policy Council, a "Big Brother Club," as one law professor irreverently dubbed the activists.

From the first, men like Thomas Jefferson feared the federal judiciary as a dangerous, fundamentally anti-

democratic power. Their fears have proved valid. For half a century (between 1890 and 1937), reactionary "activists" on the Court virtually destroyed the nation's legislative ability to cope with the industrial revolution, to regulate wages and working conditions, child labor, utilities, railroads, labor-management wars. They nullified 52 acts of Congress and 228 state laws. Ultimately, in the "limited constitutional revolution" of 1937, President Franklin D. Roosevelt, Congress and public pressure persuaded three activist Justices to retire or switch, thus allowing needed social legislation to stand.

Today, the Court is again exhibiting judicial "activism"—only this time designed to impose radical change instead of a freeze. "When in the name of interpretation, the Court *adds* something to the Constitution that was deliberately excluded from it," warns Justice Harlan, "the Court in reality substitutes its view of what should be so for the amending process."

To Guard the Guardians. Who *is* the ultimate arbiter of our Constitution? *Does* the Constitution limit the Justices as well as the legislators and the President?

The founding fathers, understanding the tendency of all men to grasp ever more power, labored to subject every branch of government to checks and balances. They specifically included the Supreme Court. To the ancient question, "Who will guard these guardians?" they answered emphatically, *"The people—through their elected representatives."* And, historically, we have asserted that authority on many occasions.

For example, one powerful check on the Court is the President's power of appointment. In 1870, President Ulysses S. Grant filled two vacancies. The votes of these new Justices made it possible to reverse a recent crucial decision, which declared that Congress had no power to issue paper money. Last June's crucial five-four decision on criminal confessions could not have been made had not President Johnson's first appointee, Justice Abe Fortas, promptly lined up with the activists. Since Justice Clark, a moderate, has recently retired, and since several Justices are over 65, Presidential appointments may completely reshape the Court in the next few years.

The Constitution also plainly specifies two major ways in which Congress can check the Court:

• The 14th Amendment—under which the Supreme Court has dictated state legislative apportionments and criminal procedures—specifically names Congress as the protector of the rights it creates. While Congress cannot reverse a Supreme Court decision in a specific case, it *can* write new remedies which the Court is then obligated to apply in resolving such cases in the future. Last year, for example, Chief Justice Warren specifically acknowledged that Congress may, by simple statute, write rules different from

those that the Court handed down for police interrogations.

• Article III empowers Congress to make "exceptions and regulations" to the Court's appellate jurisdiction. Thus the Constitution explicitly makes *our elected legislators* the supreme judges—by simple majority vote—of what types of cases the Court may decide. Says Herbert Wechsler, Columbia Law School professor and director of the American Law Institute, "The plan of the Constitution was quite simply that Congress would decide from time to time how far the federal judicial institution should be used. Congress has the power, by enactment of a statute, to strike at what it deems judicial excess."

Thus the judges are *not* the sole arbiters of the Constitution. The framers of the Constitution laid on Congress a duty to define the rights it provided, and to act as a counterweight to the Court.

"Beyond the Bounds." Though it has acted at other times—for example, in 1868, when it stripped the Court of power to hear appeals in habeas corpus cases—Congress has failed so far to rein in the present Court. In 1964, the House did vote 218-175 to forbid the Court to interfere in state legislative apportionments. This simple majority vote was, under Article III, sufficient. But in the Senate, an attempt was made to seek passage of the measure as a constitutional amendment, and it missed—by seven votes—the required two-thirds majority. An amendment to permit voluntary school prayer also failed by a narrow margin. Both goals might well have been accomplished, by a simple majority vote, under Article III and the 14th Amendment.

Some scholars are convinced that the present Supreme Court would have declared any such effort unconstitutional. Others argue, however, that if the Court had gone to that extreme, Congress could then have retaliated by restricting the Court's future jurisdiction in cases of the kind under Article III.

In the absence of such an effort to check the Court, five Supreme Court Justices, in alliance with one third of either House or Senate, are—by "interpretation"—radically amending our Constitution. Yet amendment is supposed to require a two-thirds vote of Congress and ratification by three fourths of the state legislatures.

The great liberal Justice Benjamin N. Cardozo wrote: "Judges have, of course, the power, though not the right, to travel beyond the bounds set to judicial innovation by precedent and custom. Nonetheless, by that abuse of power, they violate the law."

The founding fathers named Congress as the referee to guard the bounds beyond which the Justices should not go. The time has come for our elected representatives to blow the whistle.

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Why, with all the progress Negroes have made, is there still so much bitterness and turmoil? An eminent Negro writer explains what remains to be done if our nation is to meet the challenge of providing equal justice and opportunity for all its citizens

The Negro's Place in the American Dream

By Carl T. Rowan

When Edward W. Brooke took the oath of office as a U.S. Senator last January, almost every literate person from Chattanooga to Capetown knew that the 47-year-old Massachusetts Negro was making history. Throughout the free world, newspapers, television and radio had heralded the fact that he was the first Negro to grace "the world's most exclusive club" in almost a century—since a post-Civil War Mississippi legislature, dominated by northern interests, sent two Negroes to the Senate.

But only a handful of Americans, and probably no foreigners, could readily comprehend how different was the society that produced Brooke from the one that gave the Senate Mississippi's Hiram Revels and Blanche Kelso Bruce—or, more important, how different American Negroes of 1967 are from those of 1875.

Consider: when Senators Bruce and Revels were in Washington, there were five million Negroes in the United States, and 80 percent of them could not read or write. Many states had laws forbidding the education of Negroes. The advocates of slavery and white supremacy believed, correctly, that to keep a man in bondage, you must deny him the liberating force of knowledge.

The Negroes of that era had no income of consequence, no economic

power. They had few civil or any other rights. In the elections of 1860, only the New England states (with the exception of Connecticut) allowed Negroes to vote on the same terms as whites. In short, the presence of Revels and Bruce in the U.S. Senate was a social, political and racial anachronism. The Civil War was over and the Negro was a free man on paper. But he was still a slave to his indentured past, and to the bitter reality that he had been permitted to acquire almost none of the requisites for survival in a turbulent, fiercely competitive society.

How different the picture when Senator Brooke took his seat! The number of Negroes in America had risen to more than 22 million. They were earning $27 billion a year, and were enjoying a standard of living matched by very few groups anywhere else in the world. The percentage of U.S. Negroes in colleges was higher than the percentage of *white* citizens receiving higher learning in Great Britain, West Germany or the Soviet Union. When Brooke took his oath of office, Negroes were being entertained at the White House, helping to enact the laws of Georgia, sitting in the Cabinet of the President, running the post offices in the three largest cities in the United States and competing in major beauty contests.

Fires of Discontent. Unfortunately, that is only part of the story of what has been happening in American race relations. It does not begin to explain the fires of discontent that burn in the slums of every American city, or the sit-ins and other protest demonstrations that have caught the attention of a confused world. Nor does it explain to the puzzled, sometimes angered white American why so much racial violence exists in the time of Brooke's triumph.

What Americans of all colors need urgently is a realistic perspective of our country's most serious domestic problem. We need to understand the magnitude and the grandeur of what it is that we Americans are trying to achieve: the first society in human history to establish a true equality of opportunity, a genuine mutuality of respect.

When I ask myself whether we are failing or succeeding, I recall a recent poker game when, with delightful monotony, I kept raking in the dollars that Ambassador Llewellyn Thompson, TV newscaster David Brinkley, movie czar Jack Valenti and others were heaping into the pot. When I caught a king for a full house to win my fifth straight pot, columnist Art Buchwald leaned across the table and fairly shouted,

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CARL T. ROWAN, former Deputy Assistant Secretary of State for Public Affairs, U.S. ambassador to Finland and director of the U.S. Information Agency, was the first Negro to sit on the National Security Council and attend meetings of the President's Cabinet. The author of four books, he first gained recognition as a reporter and foreign correspondent for the Minneapolis *Tribune*, and consistently won awards for distinguished journalism. He is now a syndicated columnist for the Chicago *Daily News* and more than 100 papers here and abroad, and a radio and TV commentator for the Westinghouse Broadcasting Co.

"You win one more pot, Rowan, and this is going to be a segregated poker game again!"

Remembering how we laughed, I am inclined to think that we Americans are learning something from time and human experience.

But perhaps an intimate poker game does not prove very much. What is the record in those broader areas affecting masses of Americans? My mind drifts back to 1951 and to my first visit to Washington as a newspaper reporter. Jim Crow rebuffed me at every turn. All the major hotels were closed to Negroes. About the only place a Negro could buy a meal other than in all-Negro restaurants was at Union Station. He could rarely get a taxi. In the ensuing years, a revolution has taken place in our capital—a social revolution greater, perhaps, than in any city of Asia, Africa or Latin America. And Negroes checking into a chain motel in Mississippi, or a posh hotel in New Orleans or Houston, know that the revolution is spreading.

The Wine of Freedom. Why, then, the current discontent? Why are Negroes pressing harder than ever, when the last two decades have brought so much dramatic progress? There are two reasons: first, few things are more intoxicating than freedom. Man tastes of it, like a fine wine, and wants more. Today's Negroes have known just enough liberty to believe that real citizenship may soon be theirs. So they press onward, sometimes irrationally, occasionally experiencing the anger and frustration that are inevitable when old barriers refuse to budge.

But the most important reason for the civil-rights turmoil, for the impatience and anger in every Negro neighborhood, is that all this progress has touched the lives of only a minority of American Negroes.

Take the number of Negroes in college. As of last July, 207,316 Negroes were attending college, constituting 4.6 percent of the total U.S. university enrollment of 4,491,269. It may soothe the American conscience to note that this nation's Negroes enjoy better higher-educational opportunities than do Africans, Asians and even Europeans.

But the Negro knows that such statistical comparisons hide injustices. No American Negro of any pride measures his well-being in terms of a comparison with the citizen of Ghana, Brazil or Britain. His only yardstick is: "Do I enjoy freedom, opportunity, abundance to the same degree as other Americans?" The Negro answers by saying that if colored Americans enjoyed real equality, there would be 518,000 Negroes in college rather than 207,000. He tells himself that the majority of colored college students ought not to be segregated in second-rate public institutions, or in predominantly Negro private ones that are in many instances inferior. He knows that the statistics of progress do not show that far too many Negroes are consigned to abominable elementary and secondary educations or that,

when it comes to such vital aspects of education as on-the-job training through union apprenticeships and teen-age employment, the U.S. Negro is still shamefully neglected.

"Freedom Now." The fact is that while many of us, white and Negro alike, congratulate ourselves on our racial progress, we remain oblivious to setbacks that may produce grievous repercussions for years to come. In 1948, teen-age Negro males actually had a lower rate of joblessness than did teen-age white males (7.6 percent as against 8.3 percent). In recent years the unemployment rate for white teen-agers has soared to almost 12 percent, but among Negro youngsters it has reached an incredible 25 percent. These figures suggest that, as jobs become scarcer, Negro Americans are among the first to be squeezed out, as a result of both discrimination and inadequate education. In every racial outburst these frustrated, unemployed youths are in the vanguard, crying for "freedom now" or "black power" or for some measure of change. This is the Negro America that the parade of progress has bypassed, leaving an ugly pall of desperation.

Thus a significant and serious element of the turmoil in our cities is not so much racial strife as class conflict, with Negroes at the bottom of the social ladder working against Negroes at the upper end as vigorously as they work against whites. These Negroes who have not shared in the general postwar economic progress in America are vulnerable to demagogic cries that all Negroes who have prospered have sold their souls to the white man. And because the birth rate among low-income Negroes is higher than among high-income Negroes, the ranks of the impoverished, poorly educated, frustrated Negro are growing faster.

The gulf between classes of Negroes is acutely obvious in terms of income: the undereducated Negro (one to four years of schooling) earns $382 for every $1000 earned by his better-prepared brother. The Negro's future, then, and the peace of our cities, will be determined largely by our success in getting enough education and technical training to the Negro masses to halt this increase in the ranks of the undereducated.

But education alone is not the solution. Facts compiled by our government prove that even Negroes at the top of the educational scale suffer in comparison with whites of similar educational background. A U.S. Census Bureau survey in 1966 showed that, for individuals with eight years of schooling, the median annual income for whites was $1266 higher than that for non-whites. Move the comparison to workers with a high-school diploma, and the "dollar gap" increased to $2031. And whites "with some college training" showed a median income $2850 higher than that of the comparable Negro.

"Am I My Brother's Keeper?" I recall taking a Minnesota employer to task a few years ago because he had given a job to a white applicant

even though all evidence indicated that a Negro applicant was better qualified. In a flash of anger, the employer said: "The Bible says that I'm my brother's keeper. Well, that white fellow looks more like my brother than the Negro does, so I gave him the job."

That kind of "brotherhood" has been practiced for years in our labor unions, particularly in the skilled trades. A prominent builder said to me a few weeks ago, "Do you realize that I've never seen a Negro plumber, electrician or bricklayer?" The discriminatory hiring policies of industry, too, are well known. The postwar "revolution" has pushed some firms to a level of "tokenism" —that is, the number of Negroes in desirable positions has risen to where the last one hired can say, "I'm No. 2."

The Gift of Opportunity. Much of the trouble arises from a misunderstanding of what the real problem is. For years ahead, millions of whites and Negroes will not get all the education they should. The big issue is that the "undereducated" white person can find jobs, often excellent ones, but the "undereducated" Negro generally cannot.

The great need now is ample opportunity for the Negro in the blue-collar world that gives sustenance to such a large percentage of the population. He must be able to earn a living, to support a family and to preserve some measure of dignity.

I have criticized publicly the advocates of "black power." But I understand the bitterness and despair that lead many Negroes to embrace that destructive slogan. What I do not understand is that better-educated white Americans, who have so much more to lose by racial violence, should think that the answer to one stupid slogan is an equally stupid one called "white backlash." We must concentrate on the only goal that will bring peace within our nation and peace within our consciences: the goal of creating a truly just society. And we must realize that there is no magic route to that goal. It involves the simple, day-to-day business of educating colored children in decent schools; of opening unions to apprenticeship training, and our business and factories to on-the-job training.

Former Secretary of Commerce John T. Connor has said that if the Negro enjoyed equality in the fields of education and employment, the U.S. Gross National Product would rise by $23 billion a year. Our welfare costs would dwindle, too. Clearly, the whole nation would benefit.

But the bonus beyond price would be proving that we Americans *can* surmount the pettiness, the meanness, the backwardness that have sent so many civilizations before us plummeting into decay.