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NEWS-LETTER

VOL. XX, No. 1 • WILKES COLLEGE, WILKES-BARRE, PENNA. •

HELLO AGAIN

The I. R. A. NEWS-LETTER resumes regular monthly publication with this issue, following an 18-month suspension resulting from complete destruction of equipment, public affairs library, and mailing lists. Ironically, the last issue was at the printer being readied for mailing on the morning of June 23, 1972.

Because the College has always considered the Institute of Regional Affairs and its News-Letter as a primary opportunity for community service, it gave high priority to restoration and improvement of its equipment and library. The main reason, therefore, for the long delay in resuming publication of the NEWS-LETTER was the difficult task of compiling and preparing a completely new mailing list and address plates.

The last issue was to be mailed to more than 2,600 public officials, community leaders, public and university libraries, and friends of the College nationwide. The NEWS-LETTER staff appreciates the many inquiries from previous recipients who missed it since the Flood, especially those outside of the affected area who were naturally not aware of the extent of the havoc.

We apologize to those former readers who may have been inadvertently missed on our new mailing list and invite current readers to help us restore them to our files. We also hope that new recipients will find the NEWS-LETTER of interest and value. So, we say hello again to our old friends and welcome to the new.

We should also emphasize that, unlike the NEWS-LETTER, Wilkes College and the Institute itself have never ceased to function despite the handicaps of the flood and recovery effort. I.R.A. staff effort, in fact, has been greater than ever. Although most traditional services and activities continued uninterrupted, the main thrust of activities has been recovery oriented, as this first issue for 1974 reflects. These activities deeply involved I.R.A. in both citizen, governmental, and quasi-governmental associations and agencies.

The NEWS-LETTER may have been out for a while, but not out! Like the Valley and its people, it has come back!

I.R.A. STAFFS RECOVERY

The Flood Recovery Task Force is undoubtedly the most unique organization to be born as a result of a confusion and helplessness in the immediate flood emergency. As an action agency, the Task Force was organized by community leaders to assist the Federal, State, and Local efforts in recovery and to ensure that resources were available to fill gaps in the program.

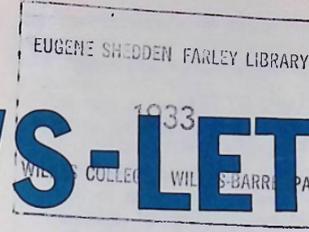
Having taken the lead in the attention of the Federal and State on the dimensions of the disaster, the inadequacy of existing legislation, and effectively, this group gave unique efforts within the terms and conditions of Economic Development Administration deal with urgent and immediate needs as well as those more future-oriented.

Paralyzed as it was with its own limitations, Wilkes College determined to continue traditional community service by offering the services of the Institute of Regional Affairs as the Task Force's administrative support. This was done by loaning the I.R.A. Director, its facilities and staff for the duration of the Task Force's major efforts. Formerly quartered in the Wilkes College building, the Task Force was moved in recent months to offices in Franklin Hall.

Although the Task Force was in the virtually every activity during the emergency period, its mandate was to take both immediate and future-oriented direct action with governmental agencies. Numerous to delineate here, its major activities to be most significant in five areas defined by EDA:

- (1) Develop a program in the Valley to provide citizen leadership for the future redevelopment of the flood

(continued on next page)



NEWS-LETTER

VOL. XX, No. 1 • WILKES COLLEGE, WILKES-BARRE, PENNA. • FEB. 15, 1974

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The NEWS-LETTER may have been down, but not out! Like the Valley and its courageous people, it has come back!

I.R.A. STAFFS RECOVERY TASK FORCE

The Flood Recovery Task Force, Inc. is undoubtedly the most unique and productive organization to be born as a result of the confusion and helplessness during the immediate flood emergency. A catalytic and action agency, the Task Force was incorporated by community leaders to assist and coordinate Federal, State, and Local efforts in flood recovery and to ensure that proper agencies were available to fill gaps in the recovery program.

Having taken the lead in focusing the attention of the Federal and State governments on the dimensions of the disaster, and on the inadequacy of existing legislation to deal with it effectively, this group gave unity to recovery efforts within the terms and conditions of its Economic Development Administration grant to deal with urgent and immediate problems, as well as those more future-oriented.

Paralyzed as it was with its own devastation, Wilkes College determined to adhere to its traditional community service dedication by offering the services of the Institute of Regional Affairs as the Task Force's administrative arm. This was done by loaning the services of the I.R.A. Director, its facilities and staff for the duration of the Task Force's mandate. Administration, formerly quartered in the Sterling Hotel, was moved in recent months to the Institute's offices in Franklin Hall.

Although the Task was in the forefront of virtually every activity during the immediate emergency period, its mandate from EDA is both immediate and future-oriented. Involved in direct action with governmental agencies too numerous to delineate here, its work continues to be most significant in five major areas defined by EDA:

- (1) Develop a program in the Wyoming Valley to provide citizen input and leadership for the future planning and redevelopment of the flood-stricken com-

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INSTITUTE OF REGIONAL AFFAIRS
NEWSLETTER
VOL. XX FEB. 15, 1974 NO. 1

This News-letter, published monthly as a community service, originates in the Institute of Regional Affairs of Wilkes College. Notes and inquiries may be addressed to Director, Institute of Regional Affairs Wilkes College, Wilkes-Barre, Pennsylvania 18703.

Subscription free upon request.

munities and provide assistance to them in ascertaining their future rehabilitation needs.

- (2) Coordinate the efforts of each municipality in the flood-stricken area of the Valley in their planning and development for the rehabilitation and future of the area.
- (3) Provide assistance to political subdivisions of the Valley to solve problems relating to government structure, the development of efficient government and maximum coordinated services, and the erosion of the tax base as a result of Hurricane Agnes Flood.
- (4) Aid in expediting reconstruction and construction of highways, bridges, cross-valley expressway, and mass transportation systems for the Valley.
- (5) Develop additional resources, including financial, technical assistance and others, to aid flood-stricken victims. In providing such technical assistance, first priority is to be given to those problems which will result in immediate or near-term restoration of jobs. All work is coordinated with the Federal disaster recovery programs, and related efforts, both public and private.

The Task Force has dramatized the value of a single coordination agency to meet the exigencies of "brush fire" type problems, such as overwhelmed the Valley during the flood period. But, more than that, its emphasis now on future-oriented areas extends the conviction of the correlation of local community actions through a permanent organization modeled on its structure and action areas.

STRIP MINE RECLAMATION BILL PROPOSED

A bill to provide grants to states for regulating surface coal mining operations and for the acquisition and reclamation of abandoned mines, H.R. 11500, has been proposed by Representative Morris Udall,

Chairman of the Interior and Insular Affairs Committee on the Environment, and 15 co-sponsors.

The bill would establish an Abandoned Mine Reclamation Fund and authorize \$40 million for its initial operation, with open-ended funding thereafter. Grants would be available to states with approved programs for up to 90% of the costs for the purchase and reclamation of the abandoned and unreclaimed mined areas. Beginning in 1975 with \$10 million, annual grants would increase yearly for technical assistance and administration and enforcement of state programs.

The bill would authorize states with approved programs to designate land areas which are unsuitable for surface mining operations because of critical environmental or historical concern, incompatibility with existing land-use plans, or if the areas are natural hazards or renewable resource land areas. These states would be authorized to issue permits for surface mining operations only to persons agreeing to carry out an approved state or federal reclamation plan for the operations covered in the permit.

I.R.A. PERSONNEL CLEARING HOUSE

The need for professionally trained personnel to administer the increasingly complex operations of local government in the Wyoming Valley has long been recognized. At the time of the Flood, however, little progress had been made in this direction, probably partly because of the large number of small size local jurisdictions involved. The dire results of the lack of trained administrative and supervisory personnel were thrust home by the local government efforts during the Flood and in the weeks and months of the recovery period.

The Economic Development Administration recognized the handicap to prompt and effective recovery effort without the know-how of trained administrative personnel on a fulltime basis. One of its earliest actions was to establish a Clearing House for Municipal Personnel. EDA designated the Institute of Regional Affairs to serve as the Clearing House on the basis of its past record of personnel training and its own fulltime professionally trained administrative staff. I.R.A. not only assisted local officials to recruit qualified candidates for responsible administrative positions, but continues to provide counsel and assistance to such officials and personnel. Much of its effort was related to the work of the local Co-ordinators throughout the Valley who were primarily concerned with funding and administering programs of recovery.

Activity in this recovery program was quartered in the I.R.A.'s Franklin Hall facilities under the direction of the Institute's Director, Andrew Shaw, Jr. His staff consisted of Mrs. Teresa McDonald, Walter H. Niehoff, and Philip R. Tuhy.

A NEW WAY TO REDUCE BLIGHT

Urban renewal, public housing, and Model Cities have been the principal tools for reducing or eliminating urban blight since the fifties. Generally restricted to areas of concentrated blight in cities, these programs involve complex organization and procedures and are subject to detailed and oft-times confusing standards and controls by three levels of government. Admittedly, their success has been spotty and controversial. Among other criticisms, projects on a massive scale, and generally restricted to cities, do not reach blighted homes scattered here and there throughout a community. It is also charged that such projects do not satisfy the common desire to enjoy ownership of single family residences.

The 19th century practice of homesteading has been proposed, and is currently in the trial stage in Philadelphia and Wilmington. In an effort to develop the west, the Homestead Act gave free land to settlers who would live on the property and develop it for a given period of years. Representative William D. Hutchinson, Schuylkill County, has introduced legislation, based on the Philadelphia and Wilmington experiments, to extend the principle of homesteading to the free acquisition of blighted homes which have been abandoned and acquired by municipalities for whatever reason.

Under the proposed legislation, titled the Urban Homesteading Act of 1974, abandoned property would be offered free, or for a minimal cost, to an individual provided "he lives in the property for five years and brings it up to the municipal housing code standards within 18 months of receiving a conditional deed". At the end of the five-year period, a clear title would be given to the homesteader.

The homesteading idea is intended primarily to provide still another tool in the struggle against urban blight. A secondary effect, however, in many ways is the one with the greatest impact for our cities. Individuals who would benefit primarily by this type of program are those low and moderate income families who cannot meet the high down payments in today's realty market, and who cannot easily handle the monthly principal and interest payments.

Perhaps the concept offers some hope to smaller municipalities who have been largely left behind in the anti-blight programs. Here the problems of decay and blight are not as extensive as in the larger communities, and are, therefore, more susceptible to solution through the "homesteading" concept.

TAKE IT ALL OFF!

This is the time of the year when we ought daily to doff our hats to that most maligned employee of our urban communities — the snow clearance crewman. Instead, we are prone to overlook the exhausting nature of his work,

the inefficiencies of even the best and newest equipment, and pressures of street priorities, and heap him with insult and scorn. What did you do, or think, the last time a plow accidentally pushed street snow back onto your recently cleared sidewalk or driveway? What, when you cleared a place to park only to have the plow on a second run block you against the curb?

Perhaps only a personal experience as a crewman can make the urban dweller understand the responsibilities and complexities faced by these workers and the officials who supervise the operations. Snow clearance is undoubtedly the most expensive, exhausting, exasperating, and frustrating single municipal service. A thousand factors, unrecognized by those of us who handle only a single shovel on a single sidewalk, combine to make each snow clearance a unique operation.

Not the least of these factors is the sometime liability of the municipality for injury to persons or property for things done improperly, or forgotten under the stress of the operation. As a matter of fact, such a situation occurred in the Borough of Norristown in which the Borough was successfully sued for \$7,000.00.

In the case of Phelan v. Norristown Borough, the plaintiff, while attempting to cross a side street at an intersection (most difficult to plow), was injured as a result of a fall on a mound of snow and ice thrown up when the Borough plowed the intersection.

In the original suit in the Montgomery Court, the Borough contested its liability on the ground that a municipality is not liable for injury to a person who falls upon an accumulation of snow and ice in a roadway resulting from natural conditions. The Borough cited as support a decision in Solinsky v. Wilkes-Barre in 1953. This local case held that a municipality may be held liable only for injuries resulting from an artificial accumulation of snow and ice. The Montgomery case designated the accumulation as "artificial" since the fall occurred on a mound which was allowed to exist a week after the snowfall. This was considered enough time to put the Borough on notice of the danger created by its own employees.

Norristown appealed to the Pennsylvania Superior Court which in mid-1973, upheld the claim against the Borough.

It is interesting to note that the Superior Court did not uphold Norristown's contention that Phelan was guilty of contributory negligence because "he had allegedly tested a known danger". The higher court ruled that even though a person has prior knowledge of a defect, "it does not follow that he must avoid that defect to reach his destination".

This case is not mentioned here to suggest
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that every resident of the area should bring suit against a municipality for a fall on a neglected mound of snow. It does suggest that perhaps the mound was not completely removed because of the persistent pressures of citizens for faster and faster clearance operations which may lead to very expensive neglect on the part of an over-worked crew.

We doff our hats to the snow crews in the Valley and urge them to forgive and forget their irritated but well-meaning critics. We urge them to make less haste and "take it all off!"

HUD LOW-RENT HOUSING MANUALS AVAILABLE

Three handbooks on low-rent public housing have been issued and are available to appropriate officials through HUD. One is on low-rent public housing, another on low-rent housing applications, program reservation and preliminary loans processing instructions, and the third on the low-rent public housing turnkey method.

The first handbook (7400.1) contains general information and certain requirements and procedures which pertain to all low-rent public housing programs. It contains policies and procedures in effect as of September 30, 1973.

The second (7405.2) reflects the consolidation of issuances containing area office procedures for processing low-rent public housing applications, program reservations and preliminary loans, for coordinating low-rent public housing production and renewal assistance activities and for amending preliminary loan contracts. It contains rules, regulations and policy matters as of September 30, 1973.

The third (7425.1) reflects the organizational changes resulting from the establishment of regional and area offices and incorporates procedural changes affecting the Turnkey

method that have been issued since 1970. It includes the pertinent policies and requirements for carrying out the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

I. R. A. JOINS HANDS WITH SRBA

The Susquehanna River Basin Association, organized early in the 60's for flood control and use development of the entire length of this great river basin, was given a massive spur to action by the tragic effects of the long neglect of this river resulting from the "greatest natural disaster in American History".

Concerned in the past with promoting a considerable number of river developmental actions with the aid of the Federal and State agencies, the Agnes disaster made it apparent that there was an immediate need to reshuffle former priorities. Consequently, among its other continuing activities, flood control is now the number one priority within the river basin.

Here, too, the Institute of Regional Affairs, which had been involved in Association activity from its inception, was selected as its quarters, and its staff designated to provide all administrative aid and research.

The Association is a citizen-oriented organization comprised of community leaders throughout the Basin who recognize that this last great river must be properly controlled if the Region's economic potential is to be realized.

THOUGHTS FOR TODAY

Have you noticed that the long lines of cars waiting for gas are moving at a snail's pace?

It isn't what you earn, it is what you save that makes you rich!

Every man is guilty of all the good he didn't do!

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NEWS-LETTER

VOL. XX, No. 2 • WILKES COLLEGE, WILKES-BARRE, PENNA. • MARCH 15, 1974

COMMUNITY ENRICHMENT

The traditional primary thrust of I.R.A. activities has been toward the improvement of local governments in the Northeast Region with the ultimate objective of upgrading community life. This does not mean that the Institute is interested only in the mundane operations of local governments such as street maintenance and construction, physical recreation, refuse and garbage disposal, and the like. Perfection of government administration in itself may make community living more convenient and economical, but this accomplishment would still leave much to be desired.

Cultural enrichment, indeed, is the silver ribbon which transforms the ordinary drab box into a beautiful gift. To be sure, I.R.A. is not directly involved in cultural development of communities through the various art forms. But, whether it be through governmental, institutional, or private effort, opportunity to enjoy the fine arts sets one community apart from the common herd.

Because college cultural activities are already contributing so much to the enrichment of living in this area, the Institute, through its NEWSLETTER calls its 2200 readers' attention to the establishment of the Sordoni Art Gallery and other fine art activities at the College.

The Sordoni Art Gallery, a gift of the Sordoni family, was officially opened to the public on November 25, 1973. Approximately, the first exhibition presented paintings of George Catlin, Wilkes-Barre-born lawyer, universally recognized as the greatest documentarian of the American Indians and their life-styles. The priceless paintings were loaned to the Gallery by the National Gallery of Art, and the National Collection of Fine Arts of the Smithsonian Institution. Nearly three thousand art lovers, including numerous school and civic groups, enjoyed the guided tours under direction of the Wilkes-Barre Junior League.

Vivian Varney Guyler, Assistant Professor of Fine Arts, Director of the Sordoni Art Gallery,

expressed the College's encouragement from the public reception of this first venture in the College's new educational resource, and sketched succeeding and future departmental art exhibits.

Two well-received exhibits were one of Graphics, titled Birds of Mount Desert, Maine, by Carroll Sargent Tyson, Jr.; another, a display of water color acrylics by J. Philip Richards, Assistant Professor of Fine Arts, Wilkes College. A sculpture exhibit of the works of Herbert Simon, also Assistant Professor of Fine Arts, will be displayed to March 30.

This school term's program at the Sordoni Gallery will conclude with an Alumni Invitational Exhibit, primarily of paintings, scheduled to run during the last three weeks in May.

In addition to the Sordoni Gallery exhibits, displays of various art forms by students are open to the public at the College's Conyngham Gallery on a continuing basis. Special features at Conyngham included a traveling exhibit of paintings and graphics by the Old Bergen Art Guild, and a ceramic exhibit, including a Gallery talk and demonstration, by Joseph Stalonne.

REVENUE SHARING THE FIRST YEAR

Revenue Sharing under the State and Local Fiscal Assistance Act of 1972 marked its first anniversary in October. Originally, this innovation in Federal-State-Local relations was hailed either as "Manna from Heaven", or "Santa Claus four times a year".

This innovation in federal-state-local relations was justified by two related and consequential allegations. The first was that state and local officials are in a better position to determine their fiscal priorities than the federal bureaucracy; the second, that traditional categorical grants-in-aid are too restrictive and, therefore, reduce the potential benefits of federal grants by confining local initiative. Whether or not the

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INSTITUTE OF REGIONAL AFFAIRS
NEWSLETTER
VOL. XX MARCH 15, 1974 NO. 2

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Subscription free upon request.

"eating proves the pudding" cannot be judged fairly after only one year of experience. Time will tell whether states and their local units can rise to the expectations of the Assistance Act.

It is obvious that the first step necessary for an evaluation of the efficiency of local determination is valid data showing how shared funds have been expended and to what extent state and local efforts without federal dictation have contributed to solutions of their functional and fiscal problems. Until March 1 of this year, studies of the uses of revenue funds during the first year have not been very conclusive, since they were conducted only on a state-by-state or regional basis for the most part. National statistics were assembled by some unofficial organizations, but much of the data are fragmentary and estimated.

For example, the National League of Cities — U. S. Conference of Mayors recently released a somewhat revealing breakdown of revenue sharing data by population groupings of cities:

Cities	Operating and Maintenance	Capital Expenditures
500,000 and over	88%	12%
250,000 - 499,999	80%	39%
100,000 - 249,999	49%	51%
25,000 - 99,999	38%	60%
10,000 - 24,999	29%	70%

Based on the League's survey, it is obvious that the trend appears to be that large, highly urban cities used revenue sharing funds to meet their enormous operating budget deficits suffered annually by the inner cities, while the smaller units favored expenditures for capital projects. Whether or not this scheme of allocations nationwide will eventually soften the fiscal pressures on state and local governments remains to be seen.

The first official actual use report, which was released on March 1, 1974 by the Office of

Revenue Sharing, reflects a similar trend in allocation to operating and capital expenditures. Of the \$2.8 billion in general revenue sharing funds spent by 32,665 state and local governments through June 30, 1973, 24% was spent for education, 23% for public safety, and 15% for transportation. Major expenditures varied with the type of government unit. State governments spent 65% on education; cities spent 44% on public safety, 15% on public transportation, and 13% on environmental protection and conservation; counties spent 25% on public transportation and 23% on public safety.

According to the ORS report, the amount spent for operation and maintenance, rather than for capital expenditures, tended to increase with the size of the unit's population. For example, cities under 25,000 used 33% for current expenses, while cities over 25,000 used 79% and state governments 94%.

Since a prime objective of the Assistance Act is to enable government units to reduce taxes or avoid tax increases, it is significant to note that this result was attained by almost half of the units reporting. About a third indicated that revenue sharing funds had also helped to avoid or lessen debt increases.

State and local governments have gladly accepted the fiscal windfall of general revenue sharing, although time is evoking a variety of objections and criticisms, depending on the status and circumstance of the political jurisdictions. The Advisory Commission on Intergovernmental Relations elicited a number of these from five panels of state, county and city officials after one year of revenue sharing experience. They are worthy of note.

While all panels welcomed the transfer of unrestricted federal funds to state and local governments, there was also unanimous insistence that categorical grants should continue unabated as a form of federal aid. There was considerable adverse comment on the cutbacks in categorical grants which followed closely the enactment of revenue sharing.

In other words, the general expectation has been that revenue sharing dollars were to supplement existing grants, not replace them. The possibility of further cutbacks in categorical grants, coupled with the five-year limit of revenue sharing programs, has also created a high degree of uncertainty on future funding. This uncertainty has also created a consequential confusion on the allocation of sharing funds.

A suggestion to counteract this last observation was that Congress should consider renewal and extension of the Act in the third or fourth year, rather than await its termination at the end of the fifth year.

Panel witnesses suggested that two general factors influenced decisions on whether to use the funds for current or capital expenditures. One set of factors centered on the need and certainty of continuing such funding beyond the existing five-year limit; the other on the complex audit requirements.

The general restriction that revenue sharing funds may be used only for eight broad "priority areas" did not appear to raise severe problems for most officials. However, the audit requirements which direct recipient units to follow each revenue sharing dollar to its ultimate use was severely attacked. If funds received are intermingled with general tax funds, it would take an extremely complex accounting system to separate them for federal audit. It was generally suggested that either two separate accounts be set up locally, or that all revenue sharing funds be used for a very few functions, such as police or fire or sanitation. The latter would free general tax revenues for other purposes.

The exclusion of user charges for local services, such as garbage and refuse collection and disposal, recreation, and parking facilities, has created for many cities a festering problem because of the present formula for calculating the fund allocations to state and local units. The current formula allocates funds on the basis of population and relative tax effort, the latter adhering to the Census Bureau's definition of taxes. This definition excludes user charges and service fees.

The ACIR report reflects a common feeling that citizens should participate in decisions on the use of revenue sharing funds. But, some urban officials indicated that because revenue sharing funds are needed most to maintain existing city services, the potential for citizen participation is limited. The report also suggests that, except for some special interest groups, the response of citizens to invitations to assist in the decision-making process has been disappointing.

One unforeseen effect of revenue sharing discussed by the panels was the possible impact on the many small units of local government which have been the target of reformers for decades. There is a general feeling that because there is no population cutoff for receiving such aid, the Act might indirectly prop up non-viable units of local government which might otherwise be merged

into larger units by force of fiscal circumstances. There is wide agreement that such small units should not be kept alive by artificial insemination of federal funds. On the other hand, there is considerable doubt that revenue sharing is the appropriate tool for accomplishing a restructuring and reorganizing of fragmented local units of government.

Information on the implementation of the State and Local Assistance Act is becoming more prolific and informative. However, one year's experience is not enough to warrant or support final conclusions. After all, states have practiced revenue sharing with their local units for many years, and the perfect program has not yet evolved at that level. Federal revenue sharing was the result of political compromise in an atmosphere of haste. Hopefully, political pressures will iron out some of the rough edges in the future.

CATALYTIC AGNES

If it's any comfort to victims of Hurricane Agnes, She was not only catastrophic, but catalytic. A catalyst is something which initiates a reaction, and, judging from the increasing number of congressional proposals to establish an effective form of comprehensive disaster relief, She was the catalyst which produced current national concern and action. Some day, and we hope very soon, the confusion and suffering following natural disasters will be alleviated because the nation had the foresight to set up a relief program which would go into action immediately and automatically.

The most recent of such bills, proposed in the Senate by Quentin Burdick and Jennings Randolph, shows considerable progress in both the nature and comprehensiveness of disaster relief thinking.

This bill gives priority for public facilities and public housing assistance to applications from public bodies in major disaster areas. It makes disaster assistance contingent on possession of adequate insurance and provides grants to state and local governments for disaster assistance programs.

The proposal would authorize open-ended funds for state disaster preparedness programs, including provision for technical assistance. Grants up to \$250,000 would be available for developing plans and programs, and up to \$25,000 to cover 50% of the costs to improve, maintain, and update approved plans. Federal agencies would also be authorized to use their personnel, equipment and other resources to support and cooperate with state and local disaster programs.

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Other significant provisions would include open-ended funds for grants to state and local governments for removing debris resulting from a disaster and for paying up to the full costs of repairing, restoring, reconstructing, or replacing public facilities. It would also authorize payment of up to 75% of the costs of assistance to individuals who have limited ability to meet disaster-related expenses. It would make eligible for food stamps and surplus commodities low-income households not able to buy adequate amounts of nutritious food.

A provision which will no doubt arouse considerable controversy, authorizes the President, at the request of the Governor, to impose wage, rent and price controls at predisaster levels.

Skeptics may shrug off this and other similar proposals by suggesting that the nation will have to suffer many more Agneses in more sections of the country before a comprehensive preparedness program becomes a reality. Perhaps so; perhaps not! At least Agnes is serving her catalytic function.

THOUGHTS FOR TODAY

Ann, our spoiled college student, should remember when her parents offered her two choices at dinner: "Take it or, Leave it."

To live outside the law you must be honest!

At eighteen, our convictions are hills from which we look; at forty-five, they are caves in which we hide!

Do it to-morrow — you've made enough mistakes to-day!

IRA NEWSLETTER
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INTRODUCING ADVISORY COMMITTEE

The Institute of Regional Affairs is pleased to announce acceptance of appointment to its newly created Citizen Advisory Committee by the following civic leaders: —

Tom Bigler
Station WBRE-TV

Raymond Carmon
Pennsylvania Economy League

John Chaplinski
Pennsylvania Power & Light Company

Charles Hardwick
Sterling Engineering & Manufacturing
Company

Robert Jones
United Penn Bank

James Kenny
Labor Representative

Edgar Lashford
Chamber of Commerce

Hon. Frank O'Connell
Pennsylvania General Assembly

Harold Rose
Wyoming National Bank

Richard Ross
First National Bank

Eugene Roth
Attorney-at-Law

Roman Rubinstein
Pomeroy's Department Store

Edward Schechter
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NEWS-LETTER

VOL. XX, No. 3 • WILKES COLLEGE, WILKES-BARRE, PENNA. • APRIL 15, 1974

DINE WITH US!

The Twenty-second Annual Dinner of the Institute of Regional Affairs will be held at 6:30 P.M., Wednesday, May 29, in the Dining Room of the New Men's Dormitory. We cordially invite you to attend.

That's the usual trite way of announcing an event and extending invitations. With that done, may we say what we really want to say.

We enjoy talking with you via this NEWSLETTER. But, we want so much to meet with you personally and to have you enjoy an evening out with others like you who share common interests in civic progress through improved local government. This Annual Dinner is the one occasion when friends of the Institute can chat across the table with old and new acquaintances. Please come so we can enjoy each other's company! After twenty-two years, we have quite a family gathering!

This NEWSLETTER is an invitation to all 2200 readers. But, soon you will also receive in the mail a special invitation from Fred H. Miller, Program Director, containing instructions on how to make reservations. We expect the usual response from local government officials, employees, and civic leaders in Northeastern Pennsylvania, and Luzerne County in particular.

The event is the occasion for awarding certificates of completion for courses sponsored by the Institute for local officials and employees, as well as those conducted by the County Civil Defense Unit. A special award is awarded annually to that person demonstrating outstanding community service.

For those who enjoy a mixture of wisdom and wit, the speaker of the evening, Mr. Richard M. Jackman, promises an unusual treat.

Mr. Jackman, a native of Iowa, graduated from the University of Iowa School of Journalism and was a correspondent for the Chicago Tribune and the United Press. For the past 15 years he has been a communications and public relations consultant in private industry. His long experience in publication

and editorial work has made him a popular lecturer throughout the country. In recent years, he has been closely identified with the nation's space program and with problems of urban America. His Dinner topic will be "Never Treat Humans Like Relations".

We'll be seeing you on May 29!

DEDICATION AND COURAGE

Franklin Hall has been the headquarters of the Institute of Regional Affairs for about two years. It was once the home of the District Office of the United Mine Workers of America. For those who inquire, it exudes traditions of dedication and courage by men who worked in the dank darkness of the coal mines and sought to achieve social and economic dignity for their occupation.

A plaque at the main entrance reflects the travail and bitterness of the oppressed miner days gone by, but, more than that, the crisp, sharp and pregnant words cut in bronze lift the spirit of those who stop to read them: —

JOHN L. LEWIS

President of the United Mine Workers of America addresses the Bituminous Operators' Negotiating Committee, April 10, 1946, at the National Coal Conference in the Shoreham Hotel, in Washington, D.C.:

"For four weeks we have sat with you; we attended you when you fixed the hour; we departed when weariness affected your pleasure.

"Our effort to resolve mutual questions has been vain; you have been intolerant of suggestions and impatience of analysis.

"When we sought surcease from blood-letting, you professed indifference; when we cried aloud for the safety of our numbers, you answered: 'Be content - - 't was always thus!' When we urged you to abate a stench, you averred that your nostrils were not offended.

(continued on next page)

INSTITUTE OF REGIONAL AFFAIRS
NEWSLETTER
VOL. XX APRIL 15, 1974 NO. 3

This News-Letter, published nine times annually as a community service originates in the Institute of Regional Affairs of Wilkes College. Notes and inquiries may be addressed to Professor Walter H. Niehoff, Editor, Institute of Regional Affairs, Wilkes College, Wilkes-Barre, Pennsylvania 18703.

Subscription free upon request.

"When we emphasized the importance of life, you pleaded the priority of profits; when we spoke of little children in unkempt surroundings, you said: 'Look to the State!'"

"You aver that you own the mines; we suggest that, as yet, you do not own the people."

"You profess annoyance at our temerity; we condemn your imbecility."

"You are smug in your complacency; we are abashed by your shamefulness. You prate your respectability; we are shocked at your lack of public morality."

"You scorn the toils, the abstinence and the perils of the miner; we withhold approval of your luxurious mode of life and the nights you spend in merriment."

"You invert the natural order of things and charge to the public the pleasures of your own indolence; we denounce the senseless cupidity that withholds from the miner the rewards of honorable and perilous exertion."

"To cavil further is futile. We trust that time, as it shrinks your purse, may modify your niggardly and anti-social propensities."

MUNICIPAL EMPLOYEES COVERED BY NEW PAY LAW

Local government employees will be brought under minimum wage coverage and age discrimination protection for the first time beginning May 1, 1974. The new legislation, overwhelmingly approved March 28 by both chambers of the Congress and hailed by the President as a "step in the right direction", brings coverage to some 7 million persons,

including about 5 million federal, state and local workers.

The law not only expands coverage to state and local employees, but extends overtime coverage to state and local government workers, nursing home and local mass transportation employees.

One of the most controversial provisions gives limited overtime coverage to policemen and firemen, requiring such compensation for tours of duty in excess of 240 hours in a 28-day work period during the calendar year 1975, 232 hours during 1976 and afterwards, unless the Secretary of Labor determines lower figures should be used beginning in 1978. Police and fire forces with fewer than five employees will be exempt.

An estimated 36 million workers who had coverage before 1966, will have a \$2 floor beginning May 1; \$2.10 on January 1, 1975; and \$2.30 on January 1, 1976.

Those brought under coverage by the 1966 act and the new law will have a minimum of \$1.90 on May 1; \$2.00 on January 1, 1975; \$2.20 on January 1, 1976, and \$2.30 on January 1, 1977.

Under the 1974 act, coverage of the Age Discrimination in Employment Act is extended to state and local government employees, and the annual authorization level for carrying out the Act is increased from \$3 million to \$5 million.

WANT A HOUSE CHEAP?

An article in the February NEWS-LETTER, titled "A New Way To Reduce Blight", commended the homesteading concept for attacking the problem of blighted housing scattered throughout a community, and noted a proposed Urban Homesteading Act introduced by Rep. W. D. Hutchinson, Schuylkill County.

The Department of Housing and Urban Development has now given a limited but significant support to that concept.

HUD recently announced that it will sell up to 4,000 single family houses to localities throughout the country for ANY legitimate use, including urban homesteading. Such sale is restricted to municipalities, which may then dispose of the properties to individuals willing to participate in a local homesteading program.

It will sell structurally sound houses to communities for their unrepaired, as-is value in an effort to conserve existing housing and regenerate interest in the urban core of these municipalities.

A PAIL OF PAINT AND YOU

Our Valley recently was shaken up by a survey which showed that the area's physical image leaves much to be desired. Recall that a goodly percentage of natives, and as many as 80 percent of newcomers and visitors, have an ugly image of most communities. We may like to blame this unfavorable reaction on the Flood, but, looking back, we must admit that our Valley was never as green and clean as it should have been. And, we must also admit, there is much to be desired in areas not remotely affected by Agnes.

This unfavorable report makes more significant than ever the Wyoming Valley's Tenth Annual Clean Up - Paint Up campaign sponsored by the Wyoming Valley Community Improvement Council.

Local governments have a definite responsibility for the appearance of their communities. Hopefully, they will respond to the urgings of the Improvement Council by setting an example of early effort. However, though government can lead, it cannot do the whole job itself. Personal pride and individual work are the essential ingredients of an attractive community. "Cleanliness is godliness", not only inside our homes, but outside as well.

Travelers abroad are often impressed by the cleanliness of streets and sidewalks and the well-kept appearance of even the oldest homes. In Holland, for example, it is still common to observe housewives and business employees scrubbing down the walks each morning. It is still a custom in our own dutch country to keep one's home and yard "clean as a whistle", and the occupant of an unpainted home and unkempt yard is looked upon with disdain by his neighbors.

The Improvement Council has been trying for years to persuade EVERY resident to clean up - paint up - fix up. But, despite its dedicated efforts, our Valley is embarrassed by the reports of its ugly image. Maybe there is some single, simple, easy way to get the job done once and for all without bother to anyone of us?

Why not raise local taxes to an amount needed to permit the municipality to paint every house or place of business, using an army of extra employees? Too harsh? Then why not ask the federal and state governments to do the job in the name of health and welfare? If that fails, maybe we could locate an aged multi-millionaire who would establish a fund to finance the free painting of every home in the Valley once every five years! Then too, maybe there's a paint fairy, a hammer fairy, a rake fairy, a hose and broom fairy, all of whom could do our job for us!

Silly? Perhaps! But not any sillier than allowing our homes and surroundings to go to pot while we commiserate with others like us on how terrible our community looks.

Spring is "busting out all over" in all its beauty and splendor! But Spring can't clean up what man has neglected! You can! All it takes is a pail of paint, a few tools, some elbow grease and -- YOU!

That clean neat look at your home is like a smile on your face!

A HELPING HAND

Victims of Hurricane Agnes deeply appreciated the "helping hand" extended to them by countless strangers from many parts of the country. Wilkes College shall forever remain indebted to those who pitched in to aid and support it in time of great crisis. Despite the fact that the College will require years to recuperate completely from the flood disaster, it has promptly moved to give a similar "helping hand" to an Ohio community and a sister college ravaged by the recent mid-west tornados.

On April 17, the College sent a team of three administrators with a background of experience gained in our own flood emergency and recovery to Xenia, Ohio, to assist in recovery efforts there. This community was almost completely leveled. The team effort was focused primarily on assisting Wilburforce University, nine-tenth of which was destroyed by the tornado. Conferences lasting several days were held with University and local government officials, including City Manager Robert Stewart, providing benefit of Wilkes' experience in dealing with catastrophe.

President Francis J. Michelfini responded immediately to a request by the Koppers Company, Inc., of Pittsburgh for assistance to the University.

The College administrators comprising the team were Andrew Shaw, Jr., Director of the Wilkes College Institute of Regional Affairs and Executive Director of the Greater Wilkes-Barre Flood Recovery Task Force; Thomas Kelly, College Director of Development, and Thomas Moran, Director of Public Relations at the College. All three were at the forefront of the Wilkes recovery effort and took to Xenia and WilburForce the full experience gained here at and since the time of the Flood.

22nd ANNUAL DINNER
MAY 29, 1974
NEW MEN'S DORM

PUBLIC SERVICE CAREER DAYS

Career opportunities for students of Political Science at Wilkes College and the relevancy to such careers of the existing and proposed Political Science curriculum was explored in a two-day series of student sessions in the Stark Learning Center on March 25-26. The program was sponsored by the College Department of Political Science. Dr. Jean M. Driscoll, Chairman.

Presentations were given by acknowledged experts in a wide variety of career fields, focusing on the vocational values of study in Political Science together with a good grounding in the Humanities in general. Opportunities in their respective fields were discussed by the following guest speakers:-

- Mr. Thomas A. Kiley — President First National Bank of Eastern Pennsylvania and Chairman, Wilkes College Board of Trustees: - Banking, government, and other public services.
- Mr. Roy Morgan — Radio Station WILK: - Communications.
- Mr. Charles De Julius — Philadelphia Office: - Action, Peace Corps, and Vista.
- Mr. Edwin Smith — Personnel Specialist, Veterans Administration: - Federal Civil Service Careers.
- Mr. Allen Gordon — Former member of Peace Corps: - Social Services.
- Dr. Charles Gurdon, Esquire — Local attorney and Assistant Professor, Business Administration, Wilkes College: - The Legal Profession.
- Dr. Mahmoud H. Fahmy — Associate Professor, Education Department, Wilkes College: - The Teaching Profession.

IRA NEWSLETTER
Institute of Regional Affairs
Wilkes College
Wilkes-Barre, Pa. 18703

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ECONOMIC LOSS THRU URBAN RENEWAL

A city cannot be held liable for the devaluation of a property resulting from an urban renewal project unless there is a physician invasion, damage or injury, or a restraint of some type, or action by the city to appropriate the property.

This ruling was handed down on March 14, 1974 by a federal district court in Cincinnati in re Maurice M. Sayre v. the City of Cleveland.

According to the decision, if eminent domain rights have not been abused, economic loss caused by urban renewal does not constitute a taking of property without compensation within the meaning of the fifth and fourteenth amendments of the Federal Constitution.

THOUGHTS FOR TODAY

Some people treat life like a slot machine, putting in as little as possible while hoping for the jackpot.

A street preacher carried a sign that said: "Streakers, Repent — Your End Is In Sight."

What this country needs are some colleges that teach everything the students think they already know.

He who deliberates fully before taking a step will spend his entire life on one leg.

If you pitch your expectations low, taking folks as the inefficient creatures they are, you will be surprised at how much better they perform than you had hoped.

A chef is a man with a vocabulary so extensive it enables him to give soup a different name every day.



VOL. XX, NO.4 • WILKES COLLEGE, WILKES-BARRE, PENNA. • MAY 15, 1974

NEWS-LETTER

I. R. A. COMMENCEMENT

By the time this NEWSLETTER reaches you, Wilkes College will have celebrated its 27th Commencement, awarding diplomas to some 560 young men and women. By that time, too, the Institute of Regional Affairs will also have had its 22nd "Commencement," and will have awarded certificates to another group of dedicated local officials and employees who have completed in-service courses especially designed for their work.

The appeal of the Institute's in-service programs and its life-long success is attested by the fact that it is said, "The Institute has a larger number of alumni than the College."

Congratulations and best wishes are in order to the college graduates. We trust they are aware that "education" does not end on Commencement Day." This is true in many respects, but the in-service study by I.R.A. students who have long since completed their formal school training gives this old advice a special meaning.

Involvement in local government as a citizen, official or employee more often than not continues to follow the old Jacksonian concept that "government work is so simple that anyone can do it, and everybody should have his go at it". Education in government work has traditionally been "on-the-job training". But local government is no longer simple, and can no longer be entrusted to just anyone. Just as private employers demand adequate background and training qualifications before hiring even the best college graduates, so too is government at the local level coming to realize the importance of proper training for specific positions.

The new graduates of the Institute are, too, congratulated and have our best wishes because they are responding to the needs of to-day by recognizing education as a continuing process.

A NEW WRINKLE

Everybody knows about the effort to limit population growth nationally and internationally

so man won't smother himself.

Have you heard about the proposal to limit the population growth in a particular municipality? Ancient philosophers, like Aristotle, suggested a variety of optimum populations for cities, but none were ever really implemented. So the idea is not a new one except for the fact that Petaluma City in California has actually tried to limit its annual growth.

The city's population jumped from 14,000 in 1960 to over 30,000 this year. Until 1971, the city encouraged new development by annexing land and providing all the desirable services. This followed the normal American pattern that a city is progressing only if it grows in size and population.

But by 1971 a problem began to appear. It seems that growth exceeded the community's resources for increasing services. The city fathers then imposed a 15-month moratorium on construction to ease the demand for services. This did little to alleviate the problem, so in 1972 the residents voted 4 to 1 for an ordinance to limit growth by limiting new water and sewer services to only 500 new subdivision units per year. This looked like the answer, for who would build a new home without water and sewers!

Unfortunately for the city, a Federal District Court judge has just ruled the ordinance unconstitutional as a violation of a person's right to live where he wants to. The judge said, "Every city has to take its fair share of the population explosion."

Attorneys for both sides have predicted that the issue will ultimately be decided by the United States Supreme Court.

CO-OP COPS

Eight boroughs and townships in Lehigh and Northampton counties have initiated discussions on a proposal to merge their small police forces into one intermunicipal force of more than 50. The object is not just another common police

(continued on next page)

INSTITUTE OF REGIONAL AFFAIRS
NEWSLETTER

VOL. XX MAY 15, 1974 NO. 4

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agreement for mutual assistance in emergencies. It seeks an area police service, combining the personnel and facilities of the individual jurisdictions under a control commission representing each participant equally. The plan resulted from a survey to upgrade police services made by the Pennsylvania Department of Community Affairs.

The goal is to upgrade police services and provide better protection for the area residents in a large area of the counties outside the core cities.

Under the plan, each municipality would retain its own police force, but a complete merger on a permanent basis would be effected in two ways: (1) Making each officer of the participating departments a fully sworn member of every department, and (2) establishing a joint commission with representation from each community to govern the area operation. It contemplates a central communications system with one phone number for all municipalities, and a potential expansion of the system to include a central records system. Commission representatives would be the mayors of boroughs and the presidents of the governing bodies of townships. Joint purchasing procedures are also included.

The joint commission would have the responsibility of maintaining proper control of the respective departments and establishing rates for police services based on the program's operation on a shared-cost basis.

Funding for setting up the cooperative purchasing, necessary initial supplies and equipment, and costs of the first year's operation is expected to be borne 95 percent by federal and state funds through the Governor's Justice Commission, with the remaining 5 percent shared by the participating municipalities.

The Lehigh Valley area has a better than average record of intermunicipal cooperation,

including joint purchasing agreements in which even the cities have joined, and a successfully operating Council of Governments. This record augurs well for the joint police service proposal.

This, if consummated, will not be the first in Pennsylvania. That honor goes to Kingston and Dallas townships which effected a complete merger of the township police departments about four years ago based on a survey of Back Mountain police needs by the Institute of Regional Affairs. Dallas Borough failed to sign the agreement. The agreement between the two townships was formally signed at a dinner at the Irem Temple Country club, and was witnessed by members of the IRA staff, who drew up the documents, and by representatives of the Commonwealth. The plan had the endorsement of the State Attorney-General.

Unfortunately, the merger did not last very long. All terms of the agreement were worked out successfully, but the two governing bodies withdrew because of salary matters unrelated to the merger itself.

IRA successfully circumvented certain legal restrictions which have long stood in the way of unified police forces in the state. Among the unique features proposed by the Institute was equal representation through the mayor and presidents of governing bodies who under law have control of the police function, and swearing in each police officer as a member of each jurisdiction within the merger.

Although the Lehigh Valley proposal is only in the discussion stage, enough details are known to indicate that its merger plan contains all or most of the following concepts originated by IRA for the Back Mountain merger four years ago:-

1. SINGLE POLICE DISTRICT. Municipal boundaries which currently restrict the jurisdiction of the existing police departments should be eliminated in-so-far as future police activities are concerned, so that a single police district comprising the total geographic area is established.

2. JOINT POLICE COMMISSION. The merged police department should be under the general supervision of a Joint Police Commission, consisting of the mayors of boroughs and the presidents of the township governing bodies, responsible ultimately to the governing bodies of each jurisdiction.

3. FUNCTIONS OF POLICE COMMISSION. The Commission should prepare annually a budget for the merged police department and supervise and direct the police activities of all officers.

4. POLICE DISTRICT PERSONNEL. The
(continued on next page)

number of police and/or civilian personnel allotted to each municipality as set forth in the agreement should be appointed and/or removed by the respective governing bodies, subject to the Civil Service Regulations applicable to the municipality and after consideration of a recommendation by the Joint Police Commission.

5. POLICE HEADQUARTERS. A single central police department headquarters should be located either in or as near as possible to the center of the joint area.

6. EQUIPMENT AND SUPPLIES. All existing police equipment, materials and supplies should remain the property of the purchasing municipality until replaced, at which time replacements and additions should be purchased as common property by the Joint Police Commission.

7. DEPUTIZATION OF PERSONNEL. Each governing body should formally deputize all officers of the merged department to perform police duties, in order to legalize the performance of such duties of police officers in any part of the police district outside of the officer's appointing municipality.

8. MERGER AGREEMENT. A merger agreement should be adopted by ordinance, rather than motion or resolution, automatically renewable from year to year until terminated, with a given period of notice, by the governing body of a municipality.

IRA hopes the Lehigh Valley plan will be adopted and prove successful. Such a police merger is in the interest of better local government wherever it is first implemented successfully. But IRA also thinks it would be a feather in the cap of Northeastern Pennsylvania should a successful merger take place here first.

The Great Flood is supposed to have taught us the lesson of intermunicipal cooperation. Has it?

THE NEWS MEDIA AND YOU

Will Rogers once said, "All I know is what I read in the newspapers." It seems to follow that if he hadn't read the newspapers he wouldn't know anything at all. A community without local news coverage, especially in the area of its governmental affairs, is a dead duck, or on the way to becoming one!

Local government news in the newspapers, radio, and television is receiving increasing emphasis. This poses a serious challenge for municipal officials to work harder to achieve better news media relations even though tensions between the media and officials seems to be mounting. Tensions are the result of pull

in opposite directions by two forces. Bad news relations evolve from lack of knowledge or misunderstanding of the duties and responsibilities of both officials and the media. We intend here to point the finger at our local officials, if only because we choose them and, therefore, have a right to expect response.

We have all heard officials complain about the media and its reporters. "You can't trust reporters." "I didn't say that at all." "They didn't put in all I told them." "They never get things straight." "They only print the spectacular." "Reporters are inexperienced and vicious."

The hard truth is that most of the time local news media do get things right; you can usually trust reporters; they don't have space or time to print everything; they are often deceived by the withholding of unfavorable information; and, occasionally they misquote.

The complaints of news media reporters against public officials can be equally extreme — and equally wrong.

The simple fact is that much of the misunderstanding arises because many city officials, from mayors to meter readers, don't know how media reporters operate, how to work with them, or the importance of good press-government relations.

Officials should first become aware of the importance of good media relations to their community programs and operations.

Still, it is not uncommon to hear about specific encounters, large and small, occurring between officials and the media reporters. The results usually include disappointment, annoyance, and bitterness on one side or both. Incidentally, in such case, both sides lose — but the public loses most.

What can local officials do to correct their side of the problem?

1. Get to know your reporters on a personal basis. Get yourself "backgrounded" on how the specific media operates so you can understand their procedures and problems.
2. Avoid misleading reporters with deliberate falsehoods or half-truths. Responsible reporters know that sometimes officials cannot talk about certain things, so, rather than try to deceive, say "No comment". However, don't overuse it.
3. "Off-the-record" remarks are useful in keeping the reporter updated, but a good reporter can "smell" when this practice is used to mislead him or bottle him up.
4. Provide each of the media with an adequate
(continued on next page)

number of releases or other printed material. Most important, don't expect to have your release printed verbatim. News writing is a special skill, both frequently not found among local officials.

5. Try to be helpful about unfavorable news. Trying to hide it is futile. Even an average reporter can sense this practice, and will uncover and print it anyway.
6. Take the necessary time with reporters to explain carefully a difficult or technical situation so that everybody can understand.
7. Remember that the reporter's audience is the general public whose reading or listening time is about half an hour, who are reading or listening to the story for the first time, and who generally have no major interest, per se, in the official and his problems.
8. When talking to a reporter, assume that he will print or broadcast every word. Of course, he won't, but at least you will make your story honest and clear.
9. Respect the deadlines of the newspaper, radio or television. Improperly timing a release may result in its rejection. A story that is good to-day may be no good tomorrow.
10. The best way to be sure the reporter calls you when your interests are at stake is to make sure that you answer all of his calls promptly and honestly.

Basically, local government relations are the same as relations between all people. Each person is a special being with a special job to perform. If one side ignores this fact, no gimmicks can rectify the hostility and controversy which follow like the day follows the dawn.

IRA NEWSLETTER
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Reporters, like municipal officials, are human. There are good ones and bad ones; responsible and irresponsible ones; bold and bashful ones; nice guys and pests. And most of them carry a set of rules and ethics around in their heads, too.

A British publisher once said, "It is not the job of the press to be loved. We are determined to give the voters, the taxpayers, the information they should have to participate intelligently in our democracy." That's the job of a municipal official, too!

THOUGHTS FOR TODAY

Some midtown streets are so potholed that a gentleman got two blowouts — and his car was parked.

Tact is the ability to make your blind date think she got the worst of it.

The trouble with to-day's economy is that when a man is rich, it's all on paper. But when he's broke, it's in cash.

People who complain that the country spends more on liquor than on education don't realize how much you can learn from your bartender.

"Expletive" is a nine letter word meaning a four-letter word.

A bargain is a ludicrous transaction in which each party thinks he has cheated the other.

This is the time of the year when people plan to drive thousands of miles to have their pictures taken standing next to their cars.



VOL. XX, NO. 5 • WILKES COLLEGE, WILKES-BARRE, PENNA. • JUNE 15, 1974

SORRY YOU MISSED IT!

We're sorry that all 2200 recipients of the NEWSLETTER weren't able to attend the 22nd Annual Awards Dinner of the Institute of Regional Affairs on May 29. It was a real treat, featuring one of the most enjoyable and inspiring speakers ever, and included award of Certificates of Attainment to 509 enrollees in the I.R.A. In-Service Training Program, and three service awards for outstanding public service. Seven Northeastern counties were represented at the dinner.

The program was arranged and supervised by Fred H. Miller and Viola G. Harris, I.R.A. Program Supervisors, with Philip R. Tuhy, Associate Director I.R.A., serving as toastmaster. The Invocation and Benediction were given by Major Earl Camuti, Chairman Coordinating Council, Salvation Army, Wyoming Valley. Certificates were presented by Miss Harris and Mr. Miller, representing the Institute.

Dr. Francis J. Michelini, President, Wilkes College, welcomed the diners, recalling that the Institute had graduated more students than had the College and commended the Institute and staff for its 22 years service in promoting the College's dedication to community service. He congratulated award recipients for their awareness that education is a continuing process and on their willingness to contribute their time and efforts voluntarily to better fit them for public service in their chosen fields.

Following introduction of the I.R.A. staff and special guests by Andrew Shaw, Jr., Director of I.R.A. and Assistant to the President, Mr. Richard Jackson, Consultant in Human and Public Relations, spoke on the subject "Never Treat Humans Like Relations". Relying mainly on his own style of rapid-fire and sparkling wit, Mr. Jackson hammered through his thesis that each person could realize daily happiness and satisfaction by planning ahead and then executing each day some act toward other individuals which would not ordinarily be considered necessary. The speaker received the longest ovation in the memory of guests who had attended the dinner

NEWS-LETTER

over a period of many years.

"Outstanding Service Awards for 1974" were presented by Dr. Michelini to Federal Judge Max Rosenn and to Director Andrew Shaw, Jr., for outstanding effort in flood recovery work and for their contributions to the betterment of the community. Judge Rosenn's award was accepted by Mrs. Rosenn.

Mrs. Hugo V. Mailey, widow of the founder of the Institute and its Director until his death 1971, was again a special Honored Guest.

I.R.A. MAY WORKSHOPS

Two well-attended workshops were conducted by the Institute of Regional Affairs during May under direction of Miss Viola G. Harris and Mr. Fred H. Miller, Program Directors.

The first, held on May 21 and repeated on May 22, was conducted by the Institute in cooperation with the Luzerne County Intermediate Unit #18 in the Stark Learning Center. Specially designed as part of the In-Service Training Program for Educational Secretaries, the workshop topic "Communications" explored the general area of communications in relation to school secretaries, telephone techniques, and filing procedures. A total of 78 school employees attended the two sessions, conducted informally by Miss Harris, approaching the subject from the "manner in which we talk to one another and how we can be better listeners".

The second workshop on May 23, also conducted in cooperation with Intermediate Unit #18, was attended by 17 school business personnel and secretaries, and discussed the topics "Accounting Procedures" and "Insurance". Instructional presentations were made on "Accounting" by Robert S. Capin, Dean of Academic Affairs, Wilkes College, and on "Insurance" by J. A. Caron, CPCU, Vice President, First Insurance Management Companies, Wyncote, Pennsylvania. Fred Miller supervised the program.

Certificates of Attainment were awarded at the Annual I.R.A. Awards Dinner.

INSTITUTE OF REGIONAL AFFAIRS
NEWSLETTER
VOL. XX JUNE 15, 1974 NO. 5

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SPECIAL AWARD TO DIRECTOR SHAW

Andrew Shaw, Jr., Director of the Institute of Regional Affairs, received a Special Service Award from Wilkes College "as an expression of appreciation for his total commitment to improving public service and his untiring efforts as an outstanding public servant for the municipality, county, and the Commonwealth. The award was presented by Dr. Francis J. Michelini, President, Wilkes College.

In his presentation, Dr. Michelini said, "In any search for an example of success in matching the man with the job, one could hardly do better than Andrew Shaw, Jr., and the Institute of Regional Affairs".

In addition to his duties and responsibilities as Director of I. R. A., Shaw is a member of the College's Department of Political Science, and Executive Director of the Flood Recovery Task force since its inception. He is Secretary of the Susquehanna River Basin Association, and Chairman of the Advisory Board of the Northeastern Regional Personnel Service Center.

Because of his broad training, wide experience, energy and dedication, he was recently appointed by Dr. Michelini as Assistant to the President for Management and Institutional Research.

Shaw is a native of Plains, returning to his home area to service the College and the Institute following receipt of the degree of Master of Governmental Administration at the University of Pennsylvania. employee of the City of Philadelphia, Director of the Lehigh Valley Branch of the Pennsylvania Economy League, and most recently Director of Research, Central Division of the Pennsylvania Economy League headquartered in Wilkes-Barre.

THE BETTER TO SERVE YOU

Residents of many Northeastern Pennsylvania communities are assured of better services in the future because 509 men and women dedicated to public service raised the level of their competence by completing specialized courses of study sponsored by I.R.A. in cooperation with the Luzerne County Civil Defense and the City of Wilkes-Barre.

This number of Certificates of Attainment in 10 courses was awarded at the Institute's Annual Awards Dinner on May 29. This constitutes the third largest number of completions in any one year, the record being 689 completions in 1971. The courses and the number of certificates earned this year were: —

Course	Number Completions
Accessors (Site Analysis)	115
Accounting	17
Auxiliary Police	58
Basic Communications	12
Communication & Filing	78
Constables	41
Disaster Planning & Operations	15
Light Duty Rescue	25
Medical Self Help	54
Small Arms	94

Course instructors provided by the College, the City of Wilkes-Barre, and the Luzerne County Civil Defense Department were: —

Instructor	Affiliation
Capin, Robert S.	Dean Academic Affairs, Wilkes
Broody, Anthony	Medical Self Help Instructor, Luzerne County Civil Defense
Dubick, Daniel	Asst. Communications Officer Luzerne County Civil Defense
Garrity, Thomas P.	Chief Assessor, Luzerne County
Goldenziel, Gene E.	Attorney, Lackawanna County
Harris, Viola G.	Program Supervisor, I.R.A., Wilkes
Krombel, Edwin	Asst. Fire Chief, Wilkes-Barre
Lowe, John	Captain of Police, Wilkes-Barre
Scott, Daniel	Asst. Fire Chief, Wilkes-Barre
Souchick, Nicholas	Director, Luzerne Civil Defense
Wint, Walter E.	Sgt. Detectives, Wilkes-Barre

ARE STATES COMING ALIVE?

Apparently Watergate and other events of 1973 which precipitated loss of the public's confidence in government have produced public reaction which is forcing states to consider ethics law or election finance reforms. In 1973, 25 state legislatures enacted significant laws aimed at money and secrecy. Some of the new laws will reform campaign practices in the states, others call for doing the public business in the open.

This year promises to be even more productive. In their 1974 "State of the State" messages, the governors of at least 26 states proposed such legislative reform.

Governor Carter, Georgia, chastised the lobbyists and endorsed the Attorney General's ethics legislation, and broad ethics laws were supported by governors in Illinois and Mississippi. Conflict of interest would be more closely regulated under proposals in Alaska, Arizona, Kansas, Missouri, Oklahoma, and Tennessee.

Financial disclosure requirements for public officials would be stiffened by proposals in Idaho, Michigan, Missouri, Oklahoma, and Tennessee. Contract awards to architects and engineers would be more closely regulated to insure ethical conduct by measures in Kansas, Maryland, Missouri, and Tennessee, and lobbyists would be regulated by gubernatorial proposals in Michigan, Missouri, and Tennessee.

The doors of government would be opened to citizens through "sunshine" laws in Mississippi, which, together with Tennessee and West Virginia did not have open meeting laws in 1973. Improvements in open meeting laws have been proposed in Arizona, Michigan, Rhode Island, and Wisconsin.

Campaign financing reforms, mostly to beef up financial disclosure of candidates and campaigns, have been proposed by at least 22 governors in Alaska, Colorado, Delaware, Idaho, Indiana, Kansas, Maine, Maryland, Michigan, Minnesota, Missouri, New Mexico, New York, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Virginia, Wisconsin, and New Jersey. Limits on campaign spending have been proposed in Kansas, Maine, Minnesota, and Wisconsin.

Anonymous or cash campaign contributions may be limited or prohibited in Kansas, Maryland, South Carolina, and Wisconsin. Corporation contributions would be banned in three additional states, and in Maryland those connected with corporations doing business with the State would have to report contributions made to individuals. New Jersey is considering public financing of gubernatorial elections and limit corporation contributions. The \$1.00 checkoff system on state

tax returns has been proposed in Delaware and Minnesota.

In an effort to knock down more barriers to voter registration, four states have been asked by their governors to establish branch registration offices, mobile registrars, registration by mail, and registration up to 10 days before an election. Moving primary election dates from spring to September has also been proposed.

Perhaps California has taken the lead in this reform movement. Governor Pat Brown, Jr. has requested an independent citizens commission to review ballot measures, taking this task from the legislative analyst. He has also called for a constitutional amendment to make the Secretary of State a nonpartisan position. At the time of this writing, California voted more than 2-1 in favor of a constitutional amendment severely restricting campaign contributions and financing.

Probably, not all of these proposals will be enacted, or, perhaps may be considerably watered down. Nevertheless, their mere consideration should prove at least something: — Government at any level in a democracy will act when and if the public is aroused enough to put pressure where the action must be taken.

This movement by the states in the ethic and election reform area is reminiscent of what occurred in the states to reorganize their executive branches following federal action by the Hoover Commission, and also almost universal action by the states in enacting more stringent anti-racket laws following the famous Kefauver Commission Report.

JUDGE MAX ROSENN HONORED

The Honorable Max Rosenn, Esquire, Judge of the United States Court of Appeals, Third Circuit, received the Institute's Public Service Award for his "total commitment to improving public service and his untiring efforts as an outstanding public servant for the municipality, the county, and the Commonwealth". The presentation was made by Dr. Francis J. Michelini, President of the College and was accepted by Mrs. Rosenn in the absence of the Judge.

Judge Rosenn's services during the Great Flood of 1972 and during the recovery period alone merited special recognition. During the initial period of confusion and unorganized emergency activity, Judge Rosenn and a handful of civic leaders incorporated the Flood Recovery Task Force in July. He became its chairman and continued to guide its catalytic, action, and coordinating programs until September when its programs were well underway. Having resigned at that time, however, he continued as chairman by unanimous request of the Board of Directors, until

(continued on next page)

December. He continues to serve as an active member of the Task Force.

A native of Plains and currently a resident of Kingston, he was graduated from Cornell University in 1929, received a law degree at the University of Pennsylvania Law School in 1932, and graduated from the University of Michigan's Judge Advocate General School in 1944 while serving in the U.S. Army.

He was admitted to the Bar of Luzerne County in 1932 and to practice before the Superior and Supreme Courts of Pennsylvania, the Supreme Court of the United States, the Supreme Court of the Philippines. In addition, he was an Assistant District Attorney of Luzerne County, and is currently a member of the Pennsylvania Supreme and Superior Court Criminal Procedural Rules Committee.

Even a partial account of his public services reflects his broad talents and his total commitment to the people. Included in these services are former Secretary of Public Welfare under Governor William Scranton; member of the State Executive Board; former Chairman of the Pennsylvania Human Relations Commission; Chairman of the Governor's Council for Human Services; member of the Pennsylvania Commission on Interstate Cooperation; Pennsylvania State Council of Civil Defense; member of the Governor's Commission to Revise the Public Laws of Pennsylvania; Chairman of the Pennsylvania Executive-Legislative Task Force to Restructure the Delivery of Human Services in Pennsylvania State Government.

He holds Honorary Membership in the Federal Bar Association, the American College of Trial Lawyers, and the International Academy of Trial Lawyers.

Despite his involvements as a Federal Judge

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and Commonwealth activities, Judge Rosen keeps his finger on the pulse of Wyoming Valley and continues to respond to the peoples' needs.

I.R.A. RECOGNIZED TOO

A surprise award was presented to Director Andrew Shaw, Jr., at the Annual Awards Dinner by General Frank Townend in recognition of the years of public service performed by the Institute of Regional Affairs throughout Northeastern Pennsylvania.

The citation reads: —

"For outstanding cooperation and dedicated service rendered by the Director and Staff of the Institute of Regional Affairs, Wilkes College. The Defense Civil Preparedness Agency, Luzerne County Civil Defense, and the residents of Luzerne County express appreciation for fifteen years of assistance in the Continuing Education Program for Civil Defense Volunteers."

THOUGHTS FOR TODAY

A hypocrite is someone who writes a book praising atheism and then prays that it will sell well.

Marriage is the difference between painting the town and painting the porch.

There must be a lot of good left in some people, because most of it never gets out.

The United States is the only country in the world where the jury is locked up and the defendant goes home.

If you can't eat a peanut butter sandwich without getting it stuck to the roof of your mouth — try eating it upside down.

A bore is one whose actions and conversation have the impact of a stalker in a nudist camp.



VOL. XX, No. 6 • WILKES COLLEGE, WILKES-BARRE, PENNA. • JULY 15, 1974

NEWS-LETTER

SO LONG 'TIL FALL

This NEWSLETTER is published on a monthly basis nine times each year. There is normally a three month hiatus during the summer months to permit staff time off for vacations, to make activity plans for the coming school year, and to establish firm schedules. Then too, since most of our readers also take vacations, it would be difficult to forward all copies to them at their favorite mountain or shore resort, and we certainly couldn't expect the publication to be read with its due interest by those who will take long naps on the household hammock.

So, the next issue will reach you by mid-October. We do hope you will miss us until then.

CELEBRATE WHAT?

July 4, 1976 will mark the 200th anniversary of our independence as a nation. Age itself gives us little cause for celebration for among the family of nations, we are not the eldest or the youngest. Nor is the mere fact of independence. The true significance of the observance is that two centuries ago a nation was founded on tenets of faith which for the first time in history proclaimed the dignity and freedom of the Common Man. We celebrate because through all the vicissitudes of history, the ideals of the Revolution of '76 have survived as the creed of America and the hope of the peoples of the world.

Preparations for the occasion are underway. Philadelphia, the City of Independence, has been designated as the official Bicentennial City, and the Congress has made initial appropriations for projects there. But all American communities should, and will undoubtedly participate in appropriate fashion. Everywhere there are signs of planning pains. How to celebrate is the large question of the moment, and, perhaps, may be the primary concern for the next two years, and counting.

How we celebrate is indeed important. But, we submit, our primary concern now and in the

future should be with what we are celebrating. Communities can at any time sponsor public displays, hold parades, perform pageants, listen to speeches, and even construct monuments, bridges, hospitals, recreation centers, or dedicate public parks. These are good. But such activities are not enough apropos of our Bicentennial. Its' true significance, and the thrust of our effort, should be in recalling the principles of the American Creed born in the Revolution of '76 and reaffirming our faith in that Creed as the goal of the continuing American Revolution.

At this very moment in our history, there is a growing doubt whether the American people remember the basics of that revolutionary faith. We are often said to be a confused people lacking real social values because we have forgotten the facts and meaning of the democratic ideals which have bound us into a free nation. The mere word "revolution" has become traitorous. Ignorance of the articles of faith upon which our nation was established and developed is approaching an alarming state. To relearn and rededicate ourselves to the fundamentals of American independence — this is the problem during the next two years which should be of primary concern to our governments, our churches, our schools, our families, and all individuals.

There is no better teaching guide for relearning the facts and meaning of our democratic experience than the unique and courageous words of Thomas Jefferson:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are life, liberty and the pursuit of happiness. — That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. — That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new

(continued on next page)

INSTITUTE OF REGIONAL AFFAIRS
NEWSLETTER
VOL. XX JULY 15, 1974 NO. 6

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Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness."

These truths, which are the American Creed, had lain dormant in the spirit of man for centuries. Our Declaration of Independence for the first time in history congealed then into a positive credo and bravely proclaimed them to the world. They have since been the goal of all freedom loving peoples. They comprise the soul of America. Their reaffirmation is the object of the Bicentennial.

Perhaps we ought to paste a copy of Jefferson's statement on our bathroom mirrors to remind us each morning that these ideals are what America is all about. Many of us have never learned them; others have forgotten them; and still others question the validity of the contention that striving for them has been the essence of our nation's history.

Some attribute our greatness as a free nation to our long isolation by two oceans from the destructive wars of Europe; others to the good fortune of rich natural resources at the very moment when the Industrial Revolution required them. Frederick Jackson Turner wrote that it was the existence of the ever-shifting frontier and its challenges which endowed American civilization with unique promise and vitality and a NEW set of ideals to meet the demands of the new environment. The great flood of immigrants to this country, it is frequently said, occurred, not because Europeans sought to escape the civil and political oppression of class societies, but purely to escape their abject economic poverty.

In his Nobel Prize winning book, "The Americans: The Democratic Experience", Daniel Boorstin tries to show that we became a great democratic nation, not because of some

intangible principles, but because of the things all Americans were able to buy and enjoy, including everything from candy bars to air conditioning.

There may be at least some validity to all of these theories, but the logical implication is that throughout our history, yes, even on July 4, 1776, Americans have only paid "lip service" to the truths of the Declaration. Obviously, as individuals and as a nation we have not always "lived up to" Jefferson's American credo. Neither have we fully achieved its ultimate goal. Nor have we agreed on the meaning of "equality of all men", how "government by the consent of the governed" can be implemented, or if the "right to alter or abolish" unacceptable government includes the right to violent revolution.

There is, indeed, a dichotomy between our democratic ideals and their practice, and our failure to resolve the difference in two centuries poses a threat to our free society. Gunnar Myrdal, noted Swedish scholar, pointed out this conflict between the principles of what he termed "The American Dream" — the essential dignity of the individual, the basic equality of all men, and certain inalienable rights to freedom, justice and fair opportunity — and the treatment of minority groups, especially the negroes, in America. He did not, however, disavow the principles nor the practice. His thesis was that the disjunction between the national creed and daily practice were really a promising sign. Despite our conflicting views, he says, there is a strong unity in our nation because we all have something in common — "a social ethos, a political creed." It is difficult to avoid the judgment that this American Creed is the cement in the structure of this great and disparate nation". In short, Americans may not always "practice what they preach", but they do believe that Jefferson's principles OUGHT to rule our nation's conduct. These principles may be a myth, but the important point is that as a people we believe in them as our American Creed.

Our geographic frontiers are gone; our critical resources are near exhaustion; our immigration laws no longer invite the freedom-seeking poor and oppressed of the world; and, our almost universal enjoyment of material conveniences may be severely limited by economic dysfunction. If these were the forces which created and developed our nation, and held us together spiritually, what future has America without them?

Americans have never put much stock in ideologies like the neatly tied theoretical packages of Marxist-Leninism, Fascism, or National Socialism. But Americans as

individuals and as a nation have always had ideals to which they turned in time of frustrations, uncertainties, and troubles. It may not be possible to make a comprehensive list of them or to organize them into a logical system and equality than the world ever dreamed possible.

It may not be altogether correct to call Jefferson's basic concept a comprehensive creed. Nevertheless, his pregnant words are both the beginning and the ending of whatever our creed may be.

The failure of our modern educational institutions, our churches, and our families to inculcate and explain the inner meaning and importance, yes of worship, of the immortal words of our Declaration of Independence, is a real threat to the life of the world's greatest and freest nation. Ignorance and unawareness of the Declaration's concepts among our high school and college students is appalling. It is, if anything, worse among those with little or no schooling. Little wonder that some "cynics" contend that our country is falling apart at the seams. What else can we expect without a creed of common social values to bind us together?

What should we celebrate during our bicentenary? The articles of conviction and faith which gave dignity and nobility to our original Revolution and provided a common faith which made us one people.

How should we celebrate our Bicentenary? Have your pageants, your speeches, your parades, your monuments, and spend the next two years in preparation. But, better still, bend every effort during those years to relearn, reaffirm, and reteach through every means the essential equality of all men, the basic rights of a free people, the right of the governed to govern, and the alterability of government as the people deem appropriate and proper.

To this goal, "We pledge our lives, our fortunes, and our sacred honor."

CIVIL DEFENSE COURSES

The Luzerne County Civil Defense Center has released its 1974-75 training schedule of courses offered without charge by Civil Defense personnel with the cooperation of the Institute of Regional Affairs.

All courses consist of two-hour classes held once each week according to the schedule listed below. The first meeting of each course will start at 7:30 p.m., with subsequent starting

times arranged in accord with the wishes of the students.

Certificates of Attainment will be awarded to those completing a course by the Institute of Regional Affairs.

Light Duty Rescue		
Aug. 19	8 wks.	Concrete City
Auxiliary Police		
Sept. 5	10 wks.	Control Center
Basic Communications		
Sept. 6	10 wks.	Control Center
Medical Self-help		
Sept. 11	8 wks.	Control Center
Small Arms		
Sept. 16	8 wks.	W-B Police Hq.
Shelter Management		
Oct. 8	4 wks.	Control Center
Control Center Operations		
Nov. 4	6 wks.	Control Center
Auxiliary Police		
Jan. 9	10 wks.	Control Center
Small Arms		
Jan. 13	8 wks.	W-B Police Hq.
Disaster Plan & Operation		
Jan. 13	6 wks.	Control Center
Medical Self-help		
Jan. 15	8 wks.	Control Center
Shelter Management		
Feb. 25	4 wks.	Control Center
Light Duty Rescue		
Apr. 21	8 wks.	Concrete City

Instructors will include:—

E. Krombel; W. Wint; D. Dubik; A. Broody; Capt. J. Lowe; A. Edwards; N. Souchik.

Interested persons should contact the Luzerne County Control Center.

TUHY DIRECTS COMMUNITY EFFORT

Professor Philip R. Tuhy, Department of Political Science at Wilkes College, and Associate Director of the Institute of Regional Affairs, has been assigned to the position of Director of Wilkes Community Effort in the Wilkes College Office of Community Programs. Mrs. Rebecca B. Jost, former Director who has left the area to join her husband, has informed community organizations of the appointment, urging parties interested in submitting requests and suggestions concerning student volunteer aid and services which the College may provide to contact Professor Tuhy at Franklin Hall, 165 South Franklin Street, or by telephone number 824-4651.

I. R. A. IN-SERVICE PROGRAM

The 1974-75 In-service Training Program sponsored by the Institute of Regional Affairs is now in the process of formulation by Viola Harris and Fred Miller, Program Directors. Courses and meeting times have not been finalized as of the publication date of this NEWSLETTER, but, according to the Directors, the following are being contemplated:—

Proposed Course	Number of Weeks
Basic Police	24
Police Administration	12
Basic Fire	15
Fire Technology	12
Borough Officials	12
Borough Secretaries	10
Township Officials & Commissioners	12
Security Guards and Police	24
Correctional Workers	24
School Educational Secretaries	6
School Board Directors	6
School Bus Drivers	6
School Custodians	2 (days)
School Business Officials	6
School Food Service Workers	6
Municipal Officials	10
Instructor Training	15
Family Crisis Intervention	20
Legal Secretaries	6
Wine Tasting	3
Basic Photography	6
Creative Stitchery	8
Model Trains	8

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PMAA SURVEY

The Institute of Regional Affairs is in the completion stage of a survey of the characteristics and qualifications of members of Pennsylvania Municipal authorities affiliated with the Pennsylvania Municipal Authorities Association. The project was commissioned by PMAA to provide updated information to assist the Association and its Board of Directors in policy-making and to facilitate its relations with state governmental agencies, the general public and its individual members.

THOUGHTS FOR TODAY

A speaker once said, "My duty is to speak and yours to listen, but if you finish before I do, please let me know."

Calvin Coolidge once profoundly concluded that "When people get out of work, unemployment tends to rise."

It's not too bad to learn that your grandfather was the town drunk until you realize that he lived in New York City.

Some people who drove compact cars during the gas shortage tried to maintain their status by showing pictures of the Cadillacs they had at home.

After several years of matrimony, many a wife notices that something has gone out of her marriage. Usually it's her husband.

An indecisive gentlemen thought of killing himself but couldn't make up his mind. So he threw himself in front of a parked car.

To dress up his streaking outfit, the well-dressed man wears a clip-on-tie.

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NEWS-LETTER

VOL. XX, No. 7 • WILKES COLLEGE, WILKES-BARRE, PENNA. • OCTOBER 15, 1974

TO MEET AN OBLIGATION

We suggested in our July issue that the best way to prepare for celebration of the American Bicentenary in 1976 was to bend every effort during the next two years to relearn, relearn, and reaffirm the principles of the Declaration of Independence and the Constitution of the United States which reflect the American Creed. Having made the suggestion, we feel obligated to do what we ask of others.

To this end, we plan to devote a portion of each subsequent NEWSLETTER to identify the concepts generally accepted as basic elements in our Creed and to comment on each to stimulate the reader's thought and evaluation in terms of his own point of view. The importance of the series is not what we say, but your individual reaction through self-evaluation.

Since the Institute of Regional Affairs and its NEWSLETTER are primarily dedicated to improvement of community life through good government, such a series might be challenged as irrelevant, dealing as it does with a Creed for the Nation as a whole. It is enough to say that the strength of the Nation can be no greater than the composite of its local communities. There can be no American Creed apart from that acknowledged and practiced in the local communities in which we live.

We urge our readers to give meaning to our Bicentenary by contributing their own reflections on the American Creed to those about them who may not otherwise be aware of what our American Revolution, and the Nation to which it gave birth, are all about.

IS THIS OUR CREED?

DO YOU BELIEVE? —

That all men are inherently equal, having rights as human beings beyond the power of society and its government;

That the State was made for Man, not Man for the State, and that the individual's liberty is

the most unalienable right, to be protected by equal justice under law tempered by mercy;

That liberty is secure only under government based upon the consent of the governed, and that the people desire to govern themselves and are capable of doing so;

That the purpose of government is to protect Man's unalienable rights, and that representative government best fulfills that purpose;

That government should be based upon established legal principles, not on arbitrary force or the will of any individual or group, and that separation of the powers in government and the separation of Church and State are conducive to this end;

That government officials are subordinate to the law and are bound to legal processes for law enforcement rather than resort to arbitrary force or violence;

That the military establishment must always remain subordinate to the civil authority;

That political equality mandates universal suffrage, uncontaminated by discrimination because of race, color, creed, or nationality, and that a free system of political parties is an essential avenue to this objective;

That viability of government requires decision-making by majority will, changing rules only by legal and orderly methods, and assuring constitutional protection of all minorities;

That freedom of choice, including the right of dissent without persecution by society or government is the essence of democracy;

That government should be an instrument to protect the welfare of all the people against economic and social abuses;

That our inherent rights and societal privileges are secure only by performance of corresponding duties;

That the moral, if not the legal, right to revolt against hopeless odds of an arbitrary and repressive government is inviolate, but that

(continued on next page)

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our flexible political system makes its use remote, provided the people exercise their responsibilities;

That the American system and all that our Creed implies depends now and ultimately upon a responsible and responsive system of free and unshackled public education.

THE STATE OF RS

October marks the second anniversary of Revenue Sharing under the State and Local Fiscal Assistance Act of 1972. It seems an appropriate time to take stock of the state of RS today as we did in the March, 1974, issue of the NEWSLETTER on its first anniversary. Evaluations of this innovation of returning to the local level the power of decision-making range from a big success to a big bust.

If we stand in judgment of RS at this stage of the game, it is only fair that we base our evaluation on the success or failure to meet the objectives of the Act. Although there remains considerable controversy over these objectives, some generalization is valid. The strict limitations of existing categorical grant programs of the Federal government violated the American tradition of local self-determination of needs and priorities, and, at the same time, excluded most localities from the benefits of federal funding to ease the financial bind in which they were squeezed. The intent of the Act was to reduce such restrictions by broadening the fundable categories to bring financial assistance within the reach of every level of government and to permit each jurisdiction to determine how such funds could best be used — reduce local taxes or avoid increases; raise the quality of old services or permit addition of new ones, either through improved operation and maintenance or by capital expenditures; or, to reduce public indebtedness or avoid undue increases.

The information for evaluation a year ago was not definitive. Some trends were developing, but the results of scattered and fragmentary surveys, including one by the Office of Revenue Sharing, did not cast much light upon the success or failure to attain the objectives of the Act. They appeared to indicate that in the first year public safety and education were the largest recipients, and that large, urbanized municipalities used most of the funds for meeting their enormous maintenance and operating deficits, while small communities favored capital expenditures. There was then some evidence to indicate that about half the units applied RS funds to reduce taxes or at least avoid increases, and to some extent to avoid or lessen debt increases. A primary concern a year ago was that RS grants were replacing previous categorical grants, not providing new money for discretionary use.

Unfortunately, on this second anniversary current data sheds little more light on the results of the program. The Advisory Commission on Intergovernmental Relations itself admits that the Planned and Actual Use Reports required under the Act are "worthless for any analysis of the ultimate impact of the program". The Commission asserts that while central cities have received more aid than suburban communities, they have received substantial cutbacks in categorical programs. It also notes the eroding effects of inflation and minimizes the effects of incentives for greater use of the personal income taxes.

Even the Office of Revenue Sharing hedges somewhat in its conclusion that although the RS program "appears" to be satisfying many of the objectives of the Act, more accurate and more current data to provide more equity in allocations and that population and per capita income data, which are the basis for determining allotments, have not been updated.

Any doubts of the weak spots in the RS program are dispelled by noting that ACIR has made a long list of recommendations to improve the program where weaknesses have already become conclusive. The Commission especially recognizes the prevalence of discriminatory practices and the reluctance of states to alleviate the pressures of local taxation by adoption of state personal income taxes.

Senator Muskie's Subcommittee on Intergovernmental Relations last June issued a report on the use and attitude toward revenue sharing in 14 states, 16 counties, and 15 cities. The fact that only 45 jurisdictions were informally surveyed by telephone, and that the survey touched on only six broad questions, is indicative of the shallowness of information

currently available. As far as most of our readers are concerned, only the state government of Pennsylvania and Allegheny County were contacted.

The Report produced only four major conclusions about RS nationally, and they are so general as to be of little use in a reasonable evaluation of the program to date. These results were that (1) general revenue sharing has helped to hold down taxes at the State and local level; (2) a significant majority of large cities still face critical fiscal situations, while a majority of States and counties presently enjoy stable or good fiscal conditions; (3) cutbacks in Federal categorical programs have clouded the promise of revenue sharing as new money; (4) State and local officials still overwhelmingly support the concept of general revenue sharing.

No data was provided on Allegheny County, but did include the replies from the Pennsylvania government. The State said that revenue sharing had no direct effect on its tax level; that RS funds are looked at as both new money and replacement for loss of categorical grants or impoundments; that the funds permitted new programs in transportation, subsidies for school districts, aid to counties to meet court costs, mass transit and day care, but that funds also replaced others lost. The State alleged that programs for the aging would have suffered without RS, and that the State's fiscal situation is healthy, with a sizeable year-end treasury surplus, despite a \$300 million cut in State taxes. And, it should be especially noted, that although the State considered the RS concept good, it admitted that the program was not having as much of a positive effect as predicted.

Where, then, do we find ourselves on this second anniversary of the Revenue Sharing program? Has it been a big success or a big flop? Much as we should like to provide a reasonably positive answer, the fact is that no one really knows for the simple reason that no comprehensive study has been made by even the Office of Revenue Sharing. But, in all fairness, it is unreasonable to expect that such a revolutionary and innovative program should be subject to final judgment after only two hectic years of experience.

One conclusion, at least, is obvious from all our sources — State and local officials are overwhelmingly in support of RS, despite the many criticisms against it. And, judging from reports of the intensive lobbying by these officials and their organizations, the fate of General Revenue Sharing will be decided by the congressmen and senators elected in November.

HUH???

We all know the meaning of "Huh???", because we use it quite often. It's a slang expression we use to avoid suspicion of our ignorance when some sophisticated overwhelms us by talking over our heads. In short, it's a coverup. Not only is it common among laymen, but, we fear, it may be the fastest growing part of the vocabulary among local government officials.

Oldtimers say that life in the "good old days" was happy because it was simple. The "younguns" learned it in school. Local government, too, was once quite simple, and, as Andy Jackson contended, any "common man" could understand its operations and perform its duties. Almost any ordinary person felt capable of performing local official duties, and accepted the "honor" of elective or appointive office. Perhaps all but the "town idiot" could grasp municipal problems and cope with them. Thus, there was little or no need to ever say "huh???" to coverup ignorance. Anyone knew how to build or repair a dirt street, and frequently wielded a pick and shovel himself. The fact that an elected constable was available in itself tended to keep crime off the streets. Many of the economic and social problems of to-day were the personal responsibility of the individual citizen. They may have been "tough", but, since they were not within the duties of local officials, there was no need to cover official ignorance or helplessness with a "huh???"

Things have changed! Life has gotten quite complex and the problems of local government have more than kept pace. The decades of the fifties, sixties and the early seventies have witnessed a perplexing increase in the number and complexity of local problems and the techniques for their solution. Even governmental terminology has become quite overwhelming, confounding even the "experts".

Pity the local councilman and school director, or the township commissioner or supervisor! For the most part, they still fit Jackson's category of the "common man". We "honor" them by electing them to office, assuming, of course, that they can comprehend their jobs and perform their duties effectively. But their roles are no longer as simple as Jackson claimed. They need to know more than how to "drag" rutted streets in the Spring. They are no longer concerned only with minor crime or protection of health by placing a quarantine sign on a house afflicted with the mumps. People can no longer handle many of their own problems and look more and more to their local officials. They demand hard-surfaced streets, ready pure water supply, sanitary

sewage, expensive fire and police protection around the clock, school mergers and more sophisticated education. Such services and the highly technical problems of financing them have for a generation overtaxed the capabilities of many elected public servants. As if these were not enough to overwhelm officials, innovative federal and state programs for health, housing, urban renewal, and model cities have reached a point almost of incomprehensibility for the average lay official. Now, how many public officials could face their electorate if they openly admitted they do not understand? So they simply avoid embarrassment by saying "huh???".

For some time, though, the "experts" came to his assistance. They understood and appeared to have all the ready answers. Consultants could make study after study, which, if they did not solve the problems, at least provided enough delay to permit the elected official to avoid an immediate decision based upon ignorance. Delay is no longer tolerated as it once was. Consequently, when confronted with a problem or a complicated technique, the local official has no saving resource except to act as if he understands by saying "huh???".

And the end is not yet in sight! Political Science, or the study of decision-making, is producing more and more sophisticated concepts and techniques to aid officials to meet modern problems. Local officials must keep pace with these new developments or local government may be "doomed". We have a feeling that publicly elected officials will be saying "huh???" more and more.

Try these challenges for size! — The systems approach to decision-making; inputs; outputs; feedbacks; methodological approach; work simplification; goal centered policy

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development; value analysis; dysfunctional communication and consequences; linear programming; analytic-integrative approach to organization; planning-programming-budgeting system; program evaluation review technique; boundary maintenance; cognitive dissonance; payoff vectors; multiple regression; role playing; model construction; beta coefficients; and, multicollinearity.

Sound horrendous? Sure! But don't worry gentlemen, even the "experts" have been seen "hitting for the hills", and it sounds like they are muttering "huh???". Do the best you can to keep up! But if you can't, you might as well continue to do what it seems everyone else is doing — just say "huh???".

THOUGHTS FOR TODAY

Don't put down your hometown because its population is small. I love mine even though its so small that if one person gets the flu, it is considered an epidemic.

A complaining citizen wrote to his congressman about crime in the streets — and got mugged on the way back from the mailbox.

A sign of the times — a supermarket with a sign on the wall announcing that "Nobody under \$21 admitted".

Psychologists have discovered that there are three ages at which men misbehave — young, middle and old.

A hard-pressed young couple bought a house "with a nineteenth century atmosphere". Turned out the bathroom was in the back yard.

When flying across the nation, one must remember there's a time difference. For example, Washington is six months behind the rest of the country.

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NEWS-LETTER

VOL. XX, NO. 8 • WILKES COLLEGE, WILKES-BARRE, PENNA. • NOV. 15, 1974

EQUALITY '76

Two centuries ago, Jefferson proclaimed that the first "self-evident" truth of democracy was that "all men are created equal." In one sense or another since, all democrats have believed in equality, but the variety of meanings has been, and still is, almost as great as the number of people who have been concerned with it. The men who made the "Democratic Revolution" in 1776 made a strong commitment to this ideal. But, undoubtedly, the meaning and validity of the ideal has never been quite "self-evident", nor the meaning as clear and unambiguous as even the revolutionaries sometimes proclaimed them to be. Indeed, the controversy over its meaning is still confused and heated.

Equality remains the first article of the American Creed. Democracy cannot exist without some sort of belief in human equality. But in what sense are men equal? And in what respects should they be treated equally? Which inequalities are justified and which are arbitrary, illegitimate, or unjustified? Although no definition of equality will be universally accepted, Americans in the Bicentennial years owe their personal commitment to continue our historical search for a common understanding.

The concept of equality is as old as recorded history. Herodotus, fifth century B.C., understood democracy as a society in which there is "equality of right." Christianity proclaims the equality of all men in the "eyes of God", that man has the "divine spark", and since every man is thus "of God", every man is equal in the sense that no man can claim he is more important than any other man. Even Plato recognized the concept, in a negative sort of way, when in the Republic, he bemoaned "dispensing a kind of equality to equals and unequals alike".

Equality obviously lay at the heart of the American Revolution; the equal rights of Englishmen, the equal rights of mankind. Jefferson merely captured its essence in the Declaration. But even Richard Bland, perhaps the least egalitarian of the revolutionary leaders

said that "Rights imply equality if the instances to which they belong and must be treated without respect to the dignity of the persons concerned in them. —Therefore, no reflection ought to be made on any man on account of birth, provided his manners rise decently with his circumstances, and he affects not to forget the level he came from".

Equality did not long remain a mere concept after the Revolution. Tocqueville, traveling in America in the period of Jackson's "Common Man", observed that equality was an actual condition among the people in our society. "Nothing struck me more forcibly", he said, "than the general equality among the people.

—I perceived that this equality of condition is the fundamental fact from which all others seem to be derived". He believed that the people's belief went far deeper than mere cant; that they believed in essential value of each person as a human being, one person being much like another. "Equality — is the leading feature of the United States".

James Bryce, in 1889, reaffirmed Tocqueville's observations. "—In America men hold others to be at bottom exactly the same as themselves. If a man is enormously rich — or if he is a great orator — or a great writer — or a great soldier — or a great President, so much the better for him. He is an object of interest, perhaps of admiration, possibly even of reverence. But he is still of the same flesh and blood as other men. The admiration may be a reason for going to see him and longing to shake hands with him. But it is not a reason for — treating him as if he was porcelain and yourself only earthenware."

True, there have been and still are those who neither deny the validity of any kind of equality, or conceive the term to mean sameness in every respect. John C. Calhoun, in his Disquisition on Government", completely denied Jefferson's theory of equality, calling it a "myth", arguing that people do not come into this world with inherent or inalienable rights but only as infants and nothing else. Many more

(continued on next page)

INSTITUTE OF REGIONAL AFFAIRS
NEWSLETTER
VOL. XX NOV. 15, 1974 NO. 8

This News-Letter, published nine times annually as a community service originates in the Institute of Regional Affairs of Wilkes College. Notes and inquiries may be addressed to Professor Walter H. Niehoff, Editor, Institute of Regional Affairs, Wilkes College, Wilkes-Barre, Pennsylvania 18703.

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Recent authorities consider all the symbols of democracy, including equality, as empty words. They contend that Americans no longer believe in the "self-evident truths" of Jefferson which are supposed to unite citizens and to guide and restrain men's passions in the "struggle for political power". Jose Ortega Y Gasset, in the "Revolt of the Masses", contended that the democratic ideal of equality is the root of our problem, because it has brought the masses to political power. He said that culturally this revolt of the masses is a revolt against competence "an acid which dissolves all traditional and civilized standards of human conduct." Totalitarians believe in a basic inequality between men and that the strength of society lies in a "universe of unequals".

It is obvious that the one concept of equality that is rarely accepted in America is that of "sameness" or "egalitarianism". Even portions of the New Testament suggest the desirability and righteousness of egalitarianism. And at the time of Jesus of Nazareth there were a number of sects based upon the principle of equal shares. Despite this foundation in Christianity, Americans have disavowed such complete "sameness", as witness the failure of early American communal societies to attract sufficient numbers to survive.

What reasonably positive assumptions about equality can we Americans accept? Can we agree that the primary value of the individual is the very foundation of our democracy — that it begins and ends with the individual? Can we accept as equal every individual as a "person" with separate identity and worth, and that every "person" as a "human being" is very much like another? Can we continue recognizing the physical, intellectual, emotional differences in each other, and still believe that all men possess moral and rational faculties and, therefore, have an equal right to an opportunity for self-realization? Can we accept an equality of differences without succumbing to the

leveling belief in "sameness"? Do we realize that the sense of equality is a basic human need, and that we need to be regarded in our own eyes and those of others as equal in worth, dignity, and opportunity? And if we answer affirmatively to these questions, can we not merely equate our privileges of equality, but assert our obligations?

In a sense, because of the differences in interpretation, the concept of equality perhaps tells us little about American tradition. Perhaps it is wiser to suggest that the vitality of the concept and its role in American society, lies in the very conflict and controversy over its meaning. Perhaps Gunnar Myrdal was right in concluding that the "American Creed" is a "myth", and that our strength lies, not in the fact that we practice its ideals, but that we believe we "ought" to do so.

LET THE SUNSHINE IN!

It is an easy rationalization to blame the shortcomings of self-government on the people's lack of interest and participation. It seems only fair to place part of the blame on those local officials who have for so long discouraged or destroyed the public's inherent desire to have some significant input. No where are these obstructive tactics more apparent than in the conduct of governing bodies, who, for whatever motives, prefer making public decisions free of public oversight.

Have you experienced tactics similar to these in your community? Notices of regular council meetings are improperly advertised, or not at all. Notices of rescheduled or special meetings are posted at inconspicuous places, even at front entrances which are locked, while the meeting takes place in the rear. Decisions are informally made at secret caucuses, and formally voted on without discussion, debate, or public input, at regular sessions. Minority members, and sometimes even the minority faction of the majority, are not informed of "workshop" sessions. Agendas are not publicized prior to public meetings so that potentially interested citizens are not alerted to attend and present their views. Public meetings of governing bodies are interrupted and members go into "executive sessions", either clearing the hall or moving to a backroom to privately discuss matters which should be open to the people. Minutes and other "public" documents are arbitrarily denied to inquiring citizens. Citizens, including the media, are refused recognition, and even ejected from the meeting, if their known positions

counter those of the majority. Minority members, who might be inclined to fight for the public, are refused recognition, cut off from debate by arbitrary rulings of the chair, or made inconspicuous by being seated in semi-darkness outside the range of the single light in the room.

Such practices may not be common; neither are they unusual. They are not only violations of the American tradition of openness in public affairs, but they are in direct violation of law. The Pennsylvania General Assembly decades ago recognized their prevalence by enacting "open meeting" and "right to know" legislation designed to eliminate them. For many years, the codes of every class of municipality in the state have contained provisions mandating specific types of public notice for regular, rescheduled, and special meetings, and provided penalties to discourage practices inimical to public participation.

The "Right to Know" statute, enacted in 1957 and amended in 1959, consolidated protection provisions of the codes into a single act applicable to county commissions, councils of cities, boroughs and towns, school boards, the Pennsylvania Turnpike Commission, and "any state or municipal authorities". It included in "public meetings" any session at which "voting on ordinances, resolutions, or motions" took place, and those involving "official action" dealing with such matters as receipt, borrowing or disbursement of funds, fixing personal or property rights, and the use or disposal of services, supplies, materials and equipment. Specifically excluded, however, were meetings which would disclose facts about the institution, progress, or results of investigations by the boards. In general, then, this statute opened all local meetings to the public, whether regular or special.

The question obviously arises why these undesirable practices have persisted despite their illegality. Perhaps because of gaps or loopholes! Perhaps because the penalties were minimal! Perhaps because the remedies available to the individual citizen were not spelled out! Perhaps because the citizen forfeited his rights because "you can't beat city hall". Whatever the reasons for tolerating the conduct of official public business in the "dark", the people of Pennsylvania were roused from their slumber by highly publicized results of "secrecy" as practiced in "Watergate" incidents, the involvement in Vietnam, Public Utility Commission favoritism, and,

perhaps, the disclosures of Ralph Nader and Herbert Denenberg. But roused they were, and their voice has been heard. It may be that response to public demands by legislators come easier in an election year.

Nevertheless, the General Assembly enacted a new "Open Meeting" law, commonly called the "Sunshine Law", which became effective in September. Its purpose is similar to that of previous enactments in the general law of 1957 and the various municipal codes — to "Let the sunshine in" where public business is conducted. It does, however, extend the law's provisions to more agencies, clarifies and expands the meaning of "public meetings", specifies public remedies against violations, and increases penalties slightly. The interest here is in the provisions as they effect local government.

The act provides that all meetings or hearings in any political subdivision of the Commonwealth at which "formal" action is scheduled or taken shall be open to the public, and no such formal action shall be valid unless taken during a public open meeting. No public meeting shall be adjourned, begun, recessed, or interrupted in any way for the purpose of an executive session. However, executive sessions may still be held "during the course of a properly constituted public meeting", not to exceed thirty minutes, but only for the purpose of considering dismissal or disciplining, or hearing complaints or charges against a publicly elected officer, employee, or considering actions with respect to labor negotiations.

Meetings must be held at specified times and places and the public notified both by posting the announcement at a conspicuous location in the public building, and by publication once in a newspaper generally circulating in the jurisdiction. Such notice of regular meetings must be given at least three days prior to the first, and twenty-four hours notice must be given of any special or rescheduled meeting. Such notices must be given to newspapers, radio and television stations, serving the area, on request. Public notice requirements may be waived by any agency only when the meeting is to deal with "an actual emergency involving a clear and present danger to life or property". Any individual or organization desiring to receive notices of meetings shall receive such notice by providing the authorities with appropriate stamped, self-addressed envelopes.

Penalties are directed against the individual members of public agencies. Any individual who participates in a meeting or hearing conducted in any way to "intentionally" prevent any interested party from attending, is subject to a fine of \$100.00, plus costs of prosecution. Any person who resides in or has his principal place of business in the jurisdiction where a violation occurs may bring action in the Court of Common Pleas for a declaratory judgment or an injunction.

Since this new "Sunshine" law is basically similar to previous statutes as concerns local governing bodies and agencies, its advantage over the old legislation must lie in a few differences. Previously, executive sessions could be called at any time without public notice, including those called during a regular or special session, for any purpose, and were therefore frequently used for surreptitious purposes. They were not restricted as to purpose.

The new act, now only two months old, already has raised questions and objections. The main point of attacks at this moment appears to be whether "caucuses" or "workshops" must be open to the public and with proper notice. The controversy hinges on the words "when formal action" is taken. If "formal action" is understood in the clear words of the act as taking a binding vote, they would both fall outside the act. Any "vote" at a "caucus" or "workshop" has been considered "informal", subject to confirmation at an open meeting. If this interpretation is continued, the "Sunshine" law is no more useful than previous legislation. The chief objection to

caucuses and workshops has been that matters are discussed and agreed to in secret, leaving citizens attending open meetings with little or no opportunity to learn who gives what reasons for the formal actions.

In the final analysis, it is much too early to acclaim the new law as the sunshine which will destroy the diseases of political wheeling and dealing which have persisted under prior legislation. Local government is only as good as the individual officials who conduct it. Despite the law, they have in the past pulled down the shades in devious ways when it suited their purposes. Not the law, but the honor and integrity of our officials will continue to decide when the shade is up or down.

THOUGHTS FOR TODAY

An appropriate Christmas message to a friend: — "100 kilowatts of power have been turned off in your name".

It's been so long since we've seen a \$10 bill that we can't remember even the number that's in each corner.

If Rockefeller becomes Vice President, the government will probably be the first organization he joined that isn't showing a profit.

Retirement pension: — Standard of leaving.

The Watergate tapes have a touch of the holiday season — there's 18 minutes of "Silent Night" in them.

You can look across the Hudson and see right into New Jersey. New Yorkers say that's the only disadvantage.

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NEWS-LETTER

VOL. XXI, No. 1 • WILKES COLLEGE, WILKES-BARRE, PENNA. • JAN. 15, 1975

WHO SHOULD GOVERN '76

We suspect that a major difficulty contributing to the instability evident today in American society and its institutions is ignorance of our intrinsic pattern, our failure to understand and grasp the rationale and the principles developed in American political struggles. If we could see clearly the reasons why America has been a good place in which to live, despite adversities, — not merely the goods we so obviously enjoy, but the hidden machinery, the intricate network of customs, ideals, and institutions upon which they depend — then we could face the unsettled present and the unknown future with characteristic confidence.

We have suggested that our approaching Bicentenary should witness a reaffirmation of the revolutionary concepts that all men are in some way equal and possess certain inherent and inalienable rights. We now suggest the same for the Jeffersonian declaration that governments are instituted to secure these rights, "deriving their just powers from the consent of the governed." We undoubtedly take our right to govern too much for granted. We should appreciate that the idea did not come easily, nor without great sacrifices. It was one thing to disavow government by a royal tyrant; another to decide who should govern in his place.

Jefferson did not invent the concept of government by the consent of the governed, nor did he coin the phrase. He succinctly stated an idea whose time had not come, and was not really to come until the adoption of the Federal Constitution.

In early Athens, government administration was controlled by a senate chosen by lot of the citizens. While the early Hebrews adhered to the Oriental belief in theocratic authority derived from Jehovah, they also believed that the "people" voluntarily accepted the rule of Jehovah in return for his divine favor. The Teutonic tribes not only had popular assemblies at the national level, but local representative bodies as well. Even in France, in the reign of

Charles VI, the king's chancellor stated to the people that "Monarchs rule by popular consent and royal splendor flows from the sweat of the subjects." Martin Luther, who was prince-oriented, was unaware that his doctrine of the "priesthood of all believers" would eventually lead a spiritual concept to democratic rights of the individual in political life. The Jesuits opposed rule by divine right, contending that the king was only an earthly agent, receiving his power from the people. Locke and Rousseau were just the most familiar proponents of "popular consent" at the time of the Revolution.

Although we trace our revolutionary doctrine of government by consent of the governed directly to the English parliamentary system existing when the break came, the idea had already been given practical application in the Mayflower Contract and in the Fundamental Orders of Connecticut. While popular representation developed throughout the colonies from the first such assembly in Virginia in 1619, application was aristocratic-oriented toward the English class system. At the time of the Revolution, a large part of the colonial population was unrepresented. Having accepted the doctrines of equality and natural rights, the colonists eventually worked out a more democratic system of government than had been possible under the rigid English class system. The Declaration of Independence proclaimed the right of the people to govern; victory in the Revolution provided the opportunity to test it; the Federal Constitution gave it final legal sanction.

The general tendency in the nineteenth and twentieth centuries has been toward an extension of the right of the people to govern. This was manifest in the abolition of slavery, removal of religious and property qualifications for voting, extension of suffrage to women, reduction of the voting age, the direct primary, and, to some extent, revival of direct popular legislation by means of the initiative and referendum. Most Americans like to think that at least on the surface, and despite some undemocratic tendencies in our political institutions

(continued on next page)

INSTITUTE OF REGIONAL AFFAIRS
NEWSLETTER
VOL. XXI JAN. 15, 1975 NO. 1

This News-Letter, published nine times annually as a community service originates in the Institute of Regional Affairs of Wilkes College. Notes and inquiries may be addressed to Professor Walter H. Niehoff, Editor, Institute of Regional Affairs, Wilkes College, Wilkes-Barre, Pennsylvania 18703.

Subscription free upon request.

tions, our country has moved closer to successful government by consent of the governed than any nation in history.

Aristocratic Justice Holmes respected popular sovereignty even to the point of saying that democracy includes the "right of the people to make fools of themselves." But that right has been challenged since Aristotle, the first political scientist, contended that only the intellectually endowed are intended to command. Henry L. Mencken said, "The last joke upon man may be that he never learned to govern himself in a rational and competent manner," and that "It is incomparably idiotic and hence incomparably amusing."

Critics of government by consent, such as Burke, Hamilton, and John Adams, believed democracy to be essentially violent, excessive in its use of physical force, anarchical, and short-lived. Others claimed popular government eventually degenerates into mob rule, revolution, and anarchy. Many emphasized the inefficiency, extravagance, and inconsistency of democratic government and its tendency to crush excellence and use a resistless public opinion to reduce individuals to a uniform level of mediocrity. Still others pointed to the rise of the demagogue and corruption in "people" government. Many argued that it does not necessarily safeguard liberty, that it excludes its ablest leaders, and is hostile to progress in art and science. They have also attacked the tendency of representative government to over-legislate, and more recently, even demanding proportional representation, not on the usual basis of population, but of functional groups which comprise the electorate.

In our time, the three most prevalent criticisms of "government by the consent of the governed" have been that it is too autocratic, fascistic, oppressive, tyrannical, — in essence a police state; that it is not "government by the people" but by an elite; and, that it is not competent, but inefficient and ineffective. The

proponents of the latter criticism have been countered with the modern trend to make "people's" government more efficient and effective by introduction of the "professional" into the processes of representative government. However, James, Burnham, in "The Managerial Revolution", fears this trend and poses the question — If real decision-making is being transferred from the hands of our elected representatives, how can the "people" control the "managers" who are not subject to electoral control? Robert Dahl sees an enigma in what he considers a fruitless search for able representatives when he says, "Men of great learning are not always virtuous, and men of virtue are not always learned."

Despite some validity in the attacks of the "peoples'" critics, life without "government by consent of the governed" is inconceivable. Government without consent is inconsistent with personal freedom. It is an affront to human dignity and respect. Self-interest demands government by popular consent because nothing is quite so strong a buttress to social institutions as a firm foundation in self-interest. Besides, government by popular consent is likely to be more stable and durable, because, as Jefferson said, "Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; — that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed." With all its weaknesses, democracy may be, as Winston Churchill once said, "the worst kind of government that has ever been tried — aside from every other kind that has been tried."

We can lose our right to govern! Henry Steele Commager said that the American people are busy doing what Franklin warned us against:— Because of impatience, anger, and fear, many Americans have been giving up essential liberties, "not for safety, but for the appearance of safety, — corroding due process of law, not for order, but for the semblance of order, equating dissent for lawlessness and nonconformity with treason."

We have not yet perfected the processes essential to the "right to govern", but in a short two hundred years, we have come a long way. Still, our Bicentenary finds us yet honestly to face and answer some questions about popular government not resolved by the Revolution, nor by the descendants of the Sons of Liberty. How can we provide and maintain a real equality of influence and power over government against the concentration of power in the hands of an elite? If the problems of modern government are becoming too complex for the "ordinary citizen"

to understand, how can the people make decisions with sufficient knowledge and expertise? How can popular government act quickly and decisively, especially in times of crises, and still retain the essence of government by consent? How can popular government prevent the majority from exploiting and tyrannizing the minority, and at the same time avoid constant dissension and even subversion by discontented and thwarted minorities? Can a system really operate with the consent of all, or is this concept only a cloak for the interests who rule by accumulating the resources with which to rule? Our anniversary gift to the nation in 1976 could be no better than a final and complete answer to these questions.

The message of our Bicentenary is a challenge, for the principle of self-government is on trial now more than ever before. The Bicentenary has significance only if we recall the revolutionary beginnings of our nation, remember the threats and ordeals to our liberties in the past, and relearn the true meanings of the great ideals and principles upon which our nation was founded. This will restore, what many believe, is a lost framework for our lives.

Re-dedication is not too much to ask, for we have a solemn duty to the freedom fighters of the past and the future! This is OUR cause! We repeat Tom Paine: "The sun never shined on a cause of greater worth. 'Tis not the affair of a city, a county, a province, or a kingdom, but of a continent. 'Tis not the concern of a day, a year, or an age; posterity are virtually involved in the contest, and will be more or less affected, even to the end of time, by the proceedings now."

TAX EXEMPT HOUSEWIVES

Most housewives, who have no income independent of their husbands, have probably at one time or another resented having to pay personal taxes to the municipality or school district. Why should a housewife, having no income of her own, be required to pay an annual per capita or other head tax, or a flat-rate or assessment based occupation tax? The answer is simply because legislation, supported by the courts, has said so for many years!

Pennsylvania courts have consistently maintained that "an occupation tax is not invalid as a tax on earned income where the tax is based on the assessed value of an occupation regardless of the taxpayer's income from such occupation." Again, "a tax on the occupation of housewife is not invalid, since the concept of 'occupation' is not limited to vocations produc-

ing a monetary return but includes any activity to which one's time is devoted or in which one is regularly engaged." So, the conclusion has been that "The occupation of housewife, even though not income-producing, is taxable."

Oldtimers, no doubt, remember the days, several decades ago, when many housewives simply ignored their personal tax bills. Sometimes husbands paid the wife's tax as a matter of pride and good citizenship. Once, then, if the husband did not voluntarily assume his wife's tax bill, it was not paid. Of course, the nonpayers violated the law, but were beyond prosecution or collection devices applicable to their income-earning husbands, simply because the wife had no employer from whom the unpaid taxes could be collected. However, unfortunately for "the little woman", the law then closed that tax haven by making the husband liable for his wife's personal taxes under penalty of collection from his employer.

Signs of relief from such personal taxes against non-income housewives are beginning to appear! At least two county courts have ruled that, under certain conditions, such housewives may be exempt from per capita and occupation taxes levied locally because their occupations are not "occupations for tax purposes."

Eligibility for exemption appears to hinge on whether or not the municipality or school district levying such taxes have included in the ordinance or resolution an exemption clause based upon the amount of annual income. The Local Tax Enabling Act of 1975, as well as the School Code, permit local tax bodies to exempt by resolution or ordinance any person whose total annual income from all sources is less than \$2,000 from the per capita or similar head tax, occupation tax, or occupational privilege tax, or any portion thereof, and may require regulations such as questionnaires and affidavits to secure exoneration. Although the Pennsylvania Constitution formerly prohibited classification for tax purposes under the uniformity clause, the revised Constitution allows tax exemptions on the grounds of age, disability, infirmity or poverty. The General Assembly in 1971 enacted legislation permitting local tax bodies to exempt those whose income is less than \$2,000 per annum. This legislation has been upheld.

In April, 1973, the Allegheny County Court ruled that housewives do not have to pay per capita taxes to the Penn Hills School District in accordance with its resolution exempting persons with annual incomes below \$2,000. The question at issue was whether married women living with their husbands, who work solely within the home and have no income other than that of their husbands, are "persons whose

total income from all sources is less than \$2,000 "and, therefore, exempt from the school's \$10 per capita tax.

The School District argued that the Act permitting exemptions must be interpreted as a "poverty" exemption, limited to those persons who are considered IN NEED of tax exemption. It also argued that "income from all sources" includes not only money income, but all benefits in kind, including the wife's "right of support" from her husband. The courts had previously ruled that housewives DO have occupations of sufficient value to support tax assessment and a tax levied as an occupation tax. The housewife contended that the School District "cannot pick and choose amongst those persons falling within the defined class as opposed to a wife without independent income."

In this case, the court held that the exemption must be determined on not whether "housewife" is an "occupation", but whether her income is less than \$2,000. It affirmed that the husband's income does not belong even in part to the wife per se, and, therefore, cannot be allocated to preclude exemption from the per capita tax. It concluded that housewives are members of a class eligible for exemption, and that while she receives a value in the satisfaction derived from serving her family, it is "not the kind of value with which the tax collector can be paid."

In March, 1974, the Lancaster County Court of Common Pleas ruled that housewives with no independent income, and who comply with the Penn Manor School District's procedural requirements, are exempt from paying the flat rate occupation levied by the District. The School resolution levying a \$10 occupation tax on all residents of the District 21 years of age and over, applied to all "occupations" subject

to assessment for taxation under the general County Assessment Law and the Local Tax Enabling Act for municipal purposes. A housewife claimed she was eligible for exemption because she was not engaged in an "occupation" for tax purposes. This claim seems to rest on the ruling of Justice Paxson, speaking for the Supreme Court in Banger's Appeal, when he said that an occupation tax "is not a tax upon property, but upon the pursuit which a man follows in order to acquire property and support his family. "In performing household duties, apparently, the housewife is not "in pursuit of property."

In this case, too, the court held that housewives are not engaged in any trade, business or undertaking for profit nor for any financial gain, and are, therefore, not engaged in "occupations" subject to the tax.

THOUGHTS FOR TODAY

The best thing about being self-employed is that you can humiliate your employee.

Without political bossism the average citizen would be paying off politicians who couldn't even help them.

Technology has brought meaning to the lives of many technicians.

If you ask enough people, you can usually find someone who'll advise you to do what you were going to do anyway.

Technology has produced a new occupation — tail-gunner on a sugar truck.

Many of today's presidential hopefuls who claim to hear the country calling them are ventriloquists.

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NEWS-LETTER

VOL. XXI, NO. 2 • WILKES COLLEGE, WILKES-BARRE, PENNA. • FEB. 15, 1975

REVOLUTION '76

In 1848, Karl Marx and Friedrich Engels concluded their Communist Manifesto with a declaration that the ends of the workers "can be attained only by the forcible overthrow of all existing social conditions. Let the ruling classes tremble at a communist revolution. The proletarians have nothing to lose but their chains. They have a world to win."

In 1776, Thomas Jefferson proclaimed in the Declaration of Independence "that when any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. -- When a long train of abuses -- evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security."

Both statements are justification and cries for revolution against the authority of the state. Yet, any American today who supported the right to revolution proclaimed in the Manifesto would be stigmatized as an un-American revolutionary under the Gitlow decision defining such as "one who instigates or favors revolution." On the other hand, Americans are about to honor the violent revolution which gave the nation its origin. Can the right of the people to revolt against arbitrary government be both claimed and disclaimed logically? This may be a mere philosophical question, and, therefore, one of little significance. But all practical realities have a philosophical orientation. Is there, or is there not, a fundamental "right to revolt"? Our dilemma in 1976 will be whether we can reaffirm our belief in the complete Declaration of Independence, or only those portions which do not disturb us.

Americans, on the whole, tend to avoid the term "revolution". When they use it, they usually refer to some kind of an abrupt break with the past, or some rapid or unusual change in the direction of an institution or policy. This

was not the meaning in 1776. Force is the real nature of revolution, and force it was that we now call the "American Revolution". Robert Reinow defines revolution as "an appeal to arms of a portion of an organized society for the purpose of reallocating governmental power, changing personnel, or modifying the ends of the organization". The courts have defined it as "a complete overthrow of the established government in any country or state by those who were previously subject to it."

Obviously, there is no "legal" right to revolution, since government has political power exercised through laws of its own making. Revolution becomes "legal" only when it has succeeded. The U. S. Supreme Court has consistently ruled against the act of revolution. It has, however, attempted to draw a line between dissent, which we too often attempt to punish, and actual revolt, which we definitely attempt to thwart. For example, we cannot be penalized by government for merely thinking revolution. With certain limitations, we can even legally advocate revolt. Our thought and acts become illegal only when the courts consider them to constitute an "overt act against the government" or when they present a "clear and present danger".

If, then, there is no "legal" right to revolt, can there be any such right at all? Throughout history, revolution has been justified on moral grounds, a higher or natural law, and, surprisingly, at times even practical grounds. The ancient Chinese considered piety the root of all virtue, from which was derived the duty of obedience to all authority, but they also taught the right to revolt against arbitrary authority. An ancient Hindu political writer said, "the unity of opinion expressed by the many, is more powerful than the king. The rope that is made of many threads is strong enough to drag the lion." John Calvin held that the primary function of the state was the promotion of religion and every Christian was bound to support the state in these purposes. However, he also taught that government bodies must restrain the king and that Christians might "lawfully" take up arms under "authorized

INSTITUTE OF REGIONAL AFFAIRS
NEWSLETTER

VOL. XXI FEB. 15, 1975 NO. 2

This News-Letter, published nine times annually as a community service originates in the Institute of Regional Affairs of Wilkes College. Notes and inquiries may be addressed to Professor Walter H. Niehoff, Editor, Institute of Regional Affairs, Wilkes College, Wilkes-Barre, Pennsylvania 18703.

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leaders" to overthrow usurpation, or when the king's laws were counter to those of God. Bentham, the English Utilitarian, argued that the state is based not on the "consent of the governed", but upon the habit of obedience because it was in the people's interest to be governed. He accepted revolution only as a moral right, which might become a moral duty in case the "benefit to be secured was greater than the evil of revolution." The American colonists, including, of course, Jefferson, based the "right" to revolution on the doctrine of natural rights of man.

There are, indeed, many who disclaim this right, or, perhaps, deem it unnecessary and futile to be discussed. Thomas Hobbes held that unjust rulers must be left for punishment by God alone. Voltaire accepted the doctrine of equal rights but had no intention to prepare men for revolution, because he expected reforms to be carried out by the rulers themselves. Likewise, Kant, who disliked violence, held that changes in governments must be made in a legal way by the sovereign himself. Jonathan Boucher, opponent of the American revolution, or any revolution, shouted, "The right of revolution is a damnable doctrine, derived from Lucifer, the father of rebellion."

Revolutions do not occur suddenly, like the appearance of a U. F. O., in a clear sky. The element of "suddenness" in the word "revolution" as used here is a common misconception. Revolutions develop slowly, frequently from circumstances beginning so long ago that the origins have been forgotten. Political revolution evolves in an atmosphere of instability resulting from a lack of universal agreement on basic concepts in society. Political stability exists only when the many accept, acquiesce in, or adhere firmly to common purposes, when there is a consensus on such things as property rights, recognition of individual effort, security, and worth, and when rules of conduct which assure each

individual as to how his fellow citizens will behave are generally accepted.

Stability would be simple and eternal if society remained static. But society is fluid, and this fluidity has an unsettling effect upon political stability. Political instability, or change, arises from technological innovations, or change, but frustrated expectations of the rising, privileged, rapid and uncontrolled population growth, the "cold war", the rise in the status of the individual in society, and changes in cultural values. Political society cannot be inflexible. It must change to meet the needs of a changing society or eventually be replaced. It may be replaced peacefully by evolution, or by unstable change, which is revolution.

Our American system has survived, despite periods of great instability. It will continue to survive when constitutional channels for communicating demands are able to find room for the most widespread and persistent demands, when the structures and processes for resolving conflicts and formulating and implementing acceptable policies are able to operate effectively, and when these structures, processes, and policies continue to be recognized as legitimate by persons and groups making them. In the final analysis, when these things are not prevalent, and people have reached the end of their endurance of the failures of government to meet their legitimate needs, revolution is inevitable.

Crane Brinton has summarized some of the signs which have preceded most revolutions. Economic grievances are nearly always present, although it is strange that violence does not coincide with the bottom of a depression. When inefficiency of government becomes great, when there is a general loss of public confidence, and when political leaders seem to have lost the vision, old governments disintegrate and collapse - they are not overthrown. When intellectuals criticize instead of support a government's policies and aims, that government becomes unstable because it has lost its significant influence over the public mind, for it has been said, "Before the first shot is fired, the face of the regime is smudged with ink." Discontent, dissension, and defection in the armed forces is frequently the eleventh hour signal of a revolt.

A subtle sign of approaching revolution may be the creation and acceptance of a "social myth" which generally takes the form of a kind of utopian relief from actual or imagined oppressions. Revolutions are never openly fought for sordid or selfish grounds. There must be virtuous sentiment, soul-appealing slogans, and the like, that lift the movement to the level of a religious crusade. Ortega said that "every

revolution cherishes the entirely chimerical object of realizing a more or less complete utopia. The plan inevitably fails." Le Bon observed that the "immediate effect of a revolution may be to change nothing but the label."

We like to consider a revolution as unthinkable. But if we remain true to the Revolution of 1776, can we deny the right of revolution in 1976? Is there any inconsistency in the fact that the conservative groups are dedicated to the ideals of the American Revolution, but resist any revolutionary tendencies in our political system today?

We are not suggesting, or urging a revolution in the United States, nor even suggesting that one might someday occur. We are accused of being a violent people, yet, except for the Civil War, we have never seriously approached resort to the ultimate violence -- revolution. It is significant that we, who are supposedly so violent, have lived successfully, though not perfectly, under the same written constitution for nearly two hundred years, while throughout the rest of the world regime after regime has been toppled by revolution.

Enemies of American democracy like to say that to follow Jefferson's declaration of the right and duty to revolt is a condemnation of stability and order in society. They like, too, to remind us that Jefferson later did say that a revolution about every nineteen years is "a kind of necessary medicine to preserve the health of the state." This may not be denied. But those who are dissatisfied with our system as it is developing and contemplate violent revolution ought to remember that sometimes "the operation is successful but the patient dies."

Whatever the circumstances in America in 1976, we ought to recall Jefferson's admonition that "Governments should not be changed for light and transient causes; -- mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed."

WHY COUNTY CHARTER DEFEATS?

Most informed observers agree that the defeat of the charter referenda last November in Luzerne and Lackawanna counties was a tragic mistake. Supporters of improved county government continue to pinpoint the reasons for rejection of the proposed charters in preparation for another attempt five years hence. In this evaluation, however, there is considerable diversity among local supporters who were personally deeply involved in the Charter Revision Movement.

Observations by outside analysts are quite helpful because of their objectivity. The National Association of Counties is such a source. Professional analyses of successes and failures in charter revision campaigns in several states, including Lackawanna County in Pennsylvania, are featured in the COUNTY NEWS, Vol. 7, No. 4, January 27, 1975, published by the Association, 1735 New York Avenue, N. W., Washington, D. C. 20006. With the Association's kind permission, we are presenting verbatim the following excerpts from that issue for consideration by our regional readers.

"For its entire history, the National Association of Counties has been dedicated to the improvement of county government. Our policy position paper states that county officials pledge themselves to accepting responsibility for strengthening and improving county government -- to effectively lead in matching county government performance to the challenges of their constituents.

"County officials recognize that the government that is not flexible enough to change with needs is doomed, and the county home rule charter is one means of obtaining this flexibility.

"Every government study commission begins its work in a politic-free atmosphere, ready to produce a utopian county government charter to be extolled by county officials and citizens alike. Most commission members soon find that they must roll up their sleeves and work with the clay which is the current county politics, traditions, functions and personnel.

"Most observers say endorsement by elected officials is necessary for charter passage. The Lackawanna County (Pa.) Government Study Commission touched on everything consultants consider necessary - from the development phase of the charter to the final campaign. They presented the charter to civic associations after holding countless hours of public hearings. Yet they failed to win support of county commissioners and other elected officials. Ultimately the officials injected enough doubt into voters' minds to defeat the charter.

"How does a charter gain acceptance from elected officials? Officials must be convinced that the proposal will improve the county. Lackawanna's Commissioners thought the proposed charter too extreme.

"Both proponents and opponents caused confusion. Elected officials used extremes in their arguments: High taxes! Runaway bureaucracies! They used the most effective tactic opponents can muster in a local campaign. Unable to react soon enough to meet

their opponent's arguments, Vote Yes committee-men were faced with an electorate no longer sure of what the charter meant.

"Janet Brown, another member of the study commission, suggests that rather than attacking the existing structure with such vehemence, the Vote Yes committee should have campaigned on the positive elements of the proposed charter. There have been no major political scandals in Lackawanna County. Without hard evidence, accusations of inefficiency and corruption were irrelevant.

"All of these factors, the massive revamping of the elected row offices, the inability to articulate the positive elements of the charter in lieu of hard evidence of governmental inefficiency, and the sudden emergence of organized, well-positioned opposition contributed to an atmosphere of confusion which was just enough to defeat the proposed charter for Lackawanna County.

"Several conclusions concerning the politics of adoption can be summarized from the analysis:

- Since voters know little about the operation of local government, they depend on their elected officials for guidance on referenda concerning a change in county structure. If their support cannot be obtained, other elements must work heavily in favor of the commission's work.

- The power of political parties must be taken into account as well as the political climate of the county during the time of study.

- Campaign tactics mean more than clear or clever brochures and good speeches. The commission must recognize the most influential groups in the county, whether they

be civic groups, municipal councils, public employees, ethnic or racial groups and work with them according to their power in the community.

- Recognition of voter attitudes and typical response in the particular county is important.

"NACo recognizes the variations and complexities of each county. It is inappropriate, therefore, for the association to assume a position pro or con on a specific modernization effort. The platform does mandate us to provide all relevant information to county officials, charter commissioners, and interested parties (the public).

"It is NACo's hope that frequent study and explanation of the relationship between the charter commission, elected officials, and the public will make all these groups more aware of the importance of working together to produce strengthened, more flexible and visible county government."

I. R. A. recommends the stated issue of COUNTY NEWS to all supporters of improved county government.

THOUGHTS FOR TODAY

Man does not live by words alone, but sometimes he has to eat them.

Did you ever notice that the moment you became friends with someone is when you admit to each other that both of you dislike a third party.

Since the Post Office boasts that neither snow nor rain nor gloom of night holds up the mail, we are beginning to wonder what's doing it.

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NEWS-LETTER

VOL. XXI NO. 3 • WILKES COLLEGE, WILKES-BARRE, PENNA. • MARCH 15, 1975

LIBERTY '76

The Bicentenary is not the anniversary of our nationhood! Our Nation was "conceived" in 1776, but not yet born. Nationhood was achieved only after years of bloody struggle "to dissolve the political hands which connected them to another", nearly a decade of conflict and disunity among thirteen separate and independent states, and a "cliff-hanging" campaign to ratify and institute the Constitution of a new nation.

Our Bicentenary is the two-hundredth anniversary of that crucial day in July of 1776 when candid and courageous men declared "the causes which impelled them to the separation". And those causes converged to become LIBERTY. "Give me liberty or give me death"; "life, liberty and the pursuit of happiness"; "proclaim liberty throughout the land"; to secure the blessings of liberty to ourselves and our posterity . . ."; "Conceived in liberty, and dedicated to the proposition that all men are created equal".

Liberty is the essence of all the articles of faith in the American Creed! Without it, nothing else matters. Without its reaffirmation, our commemorative year may well be recalled as the "Year of the Great Carnival".

Alistair Cooke, in "America", observes that the phrase "American Revolution" causes a certain glow even in the most entrenched conservatives, who would never revolt against anybody except a new revolutionary and who, in the Revolutionary War, would most probably have been on the loyalist side. This is because Americans are taught a very simple view of their revolution — as a simple rebellion against a tyrannical king. True, it was a political revolution, and as such, it would be quite simple to understand. But it was also a social revolution — the first major convulsive response of a whole people to the innate longing of man for individual liberty. The political revolution of 1776 ended after Yorktown. The social revolution is still in progress, and will remain so, for what liberty has been achieved does not

preserve itself, nor can its ultimate be attained. Our task is to preserve and enhance the liberty conceived in the Revolution.

We tend to take liberty so much for granted, and understand so little about it, that, perhaps even its most elemental meaning has been forgotten. The thrust of this essay, like those before and those to come, is intended to stimulate the individual to search for that meaning. Since we agree with the axiom of the scientist that "to ask a pertinent question, means you are well on the way to a pertinent answer", we present three basic questions for consideration: — What is liberty? What should be the relationship between liberty and government? What are the potential dangers to liberty?

Of course, it is virtually impossible to secure universal agreement on the meaning of liberty. In the first place, we get a bad start by confusing liberty with freedom. True, Webster says they are synonymous, but that means they are "similar", not the "same". Both words imply the absence of compulsion or restraint, but at that point their meanings diverge. The Declaration of Independence recognizes that liberty and freedom mean different things when it refers to liberty as one of the inalienable rights of man, and then proclaims freedom from a tyrannical ruler. We suggest that freedom implies to be free FROM something, while liberty implies the freedom to DO something. Thus, the Revolution was fought to free the colonies FROM undue interference in colonial affairs; it was also fought to secure the inherent rights of men to DO with their lives what they chose and in any manner they chose. The latter is liberty!

We can view the Revolution as a battle for freedom, using Black's Law Dictionary definition as "the prevalence in the government and constitution of a country, of such a system of laws and institutions as secure civil liberty to the individual citizen". In this sense, freedom is, at least in part, the absence of governmental compulsion or undue restraint which prevent the individual from exercising his liberties.

Liberty is quite different! Black's defines it

(Continued on next page)

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NEWSLETTER
VOL. XXI MARCH 15, 1975 NO. 3

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as the enjoyment of "all personal rights under conditions essential to the equal enjoyment of the same rights by others". We prefer the classic definition of John Stuart Mills as stated in "On Liberty": — "liberty consists of our right to do whatever we choose as long as it does not interfere with the equal rights of another". Consequently, we are FREE under a government which interferes with LIBERTY only when its exercise is hurtful to others.

Of liberty, Mills said, "This, then, is the appropriate region of human liberty. It comprises, first, the inward domain of consciousness: demanding liberty of conscience in the most comprehensive sense; liberty of thought and feeling; absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral, or theological. Secondly, the principle requires liberty of tastes and pursuits; of framing the plan of our lives to suit our own character; of doing as we like, subject to such consequences as may follow; without impediment to our fellow-creatures, so long as what we do does not harm them, even though they should think our conduct foolish, perverse, or wrong. Thirdly, from this liberty of each individual, follows the liberty, within the same limits, of combination among individuals; freedom to unite for any purpose not involving harm to others."

It is no longer debatable that liberty cannot exist among humankind without a political community. Since we have defined freedom in terms of "FROM" government, and liberty as the right "TO", we have, perhaps, produced a paradox. How can man have liberty and at the same time be subject to compulsion or restraint of government? The Declaration of Independence generalized an answer when it proclaimed that the purpose of governments is to secure liberty. But it did not specify exactly what governments should or should not do to secure those ends.

This seeming paradox brings us to our

second "pertinent" question:— Where should be drawn the line between individual liberty and state authority? How free should each individual be? When, and to what extent, is government justified in restraining individual liberty to act as he chooses? When is the exercise of the power of the state legitimate? At what point on the fulcrum should we place the plane to achieve the perfect between the two forces?

This is, perhaps, the oldest unanswered question in political science. Answers range from one end of the spectrum to the other. At one extreme, is anarchism, which solves the problem by having no government at all. Fairly close falls the traditional American concept of individualism which would limit the state in all aspects or our lives to the narrowest exercise of authority, and leave to its citizens an almost unhampered sphere of free action. At the other extreme, is a paternalistic socialism which would extend state action to its widest limits and submerge the individual in the political and social mass. America has its anarchists and totalitarians, and all the shades in between. Few of us embrace either extreme, but neither have we reached a consensus on the "in-between". Is this not a challenge for 1976?

Our final question is are we aware of the potential dangers to our liberty, including our tendency to tilt the balance of action in favor of the "Big White Father", and do we retain enough of the "Spirit of Seventy-six" to confront those dangers?

Attacks on our revolution and its principles should not be taken lightly. Daniel Leonard, in 1776, ridiculed the whole idea of the Revolution and its aspirations for freedom and liberty:— "will not posterity be amazed when they are told that the present distraction took its rise from a three penny tax on tea and call it a more accountable frenzy and more disgraceful to the annals of America than that of the witchcraft?" H. L. Mencken, in this century, reviled the people's love of liberty: — "—all the revolutions in history have been started by hungry city mobs. . . even historians deduce that the city breeds the love of liberty. — I can think of no city revolution that actually had liberty for its object in any rational sense. — When the city mob fights, it is not for liberty, but for ham and cabbage." Frank Knight accuses us of making freedom and liberty "symbols for nearly everything that human beings think they want and do not have, and which, consequently, as they infer, it must be somebody's obligation to supply."

Our exhortation that Americans in 1976 pledge themselves to reaffirm and enhance

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liberty would be characterized by Mencken as "window-dressing". He said, "Liberty means self-reliance, it means resolution, it means enterprise, it means capacity to do without. — Has Homo Sapiens any talent for this magnificent self-reliance? He has the same talent for it that he has for writing symphonies in the manner of Ludwig Von Bethhoven. He not only doesn't long for liberty; he is quite unable to stand it. He needs protection. All else is affectation, delusion, empty words".

Are we ready to agree with Fisher Ames when he charged, in 1905, that "we behave at all times floated, with a fearless and unregarded course, down the stream of events, till we are now visibly drawn within the revolutionary suction of Niagara, and everything that is liberty will be dashed to pieces in the descent"? Or, rather, are we prepared to answer the challenge of Tom Paine as we have composed it from various parts of "Common Sense" and "The Crisis"—?

"Tyranny, like hell, is not easily conquered; yet we have this consolation with us, that the harder the conflict, the more glorious the triumph. What we obtain too cheap, we esteem too lightly: 'Tis dearness which gives everything its value. Heaven knows how to put a proper price upon its goods: and it would be strange, indeed, if so celestial an article as freedom should not be highly rated. Those who expect to reap the blessings of freedom, must, like men, undergo the fatigues of supporting it. Now is the seed-time of continental union, faith and honor. The least fracture now will be like a named engraved with the point of a pin on the tender rind of a young oak; the wound will enlarge with the tree, and posterity read it in full-grown characters. O ye that love mankind! Ye that dare oppose, not only the tyranny, but the tyrant, stand forth! Every spot of the old world is overrun with oppression. Freedom hath been hunted round the globe. Asia, and Africa, have long expelled her — Europe regards her like a stranger, and England hath given her warning to depart. O! Receive the fugitive, and prepare in time an asylum for mankind."

MISS NOW — CRY LATER

If "Governments, like clocks, run by the motion which men give them", this is an important year for those Pennsylvanians who profess concern for the viability of their local governments. The general election in November will be exclusively "municipal". Only local officials from the county down will be chosen. Voting will not be confused, or influenced, by having to choose federal and state officers at

the same time. This year the voter can concentrate on choosing between local candidates, most of whom he knows or has the opportunity to know. The exclusive focus on local candidates should make it easier for the voter to choose quality officials at home, or, if so inclined, simply to "throw the rascals out".

There's a slight hitch though! There's a Municipal Primary scheduled for May 20. Registered voters who participate will "elect" no one to any office. Maybe that's one reason why so many eligible voters will either stay home that day or go fishing. The Primary is a preparation for the November election. Its function is to permit registered voters to participate in the "nomination" of candidates of their chosen political party for each office. Winners in the Primary are pitted against candidates of the opposing party in the general election. This process was supposed to democratize political parties and the election process.

Americans, fortunately, are quite sensitive to restrictions on any of their rights and privileges. This includes the right to vote. Recall the violent opposition of males to the Woman's Suffrage Amendment, or the demonstrations and riots for free elections in the South! This makes it difficult to understand why, at the same time, most Americans ignore the right given in the primaries to have personal input into the quality of candidates of both major parties from whom the local officials will actually be chosen.

Ordinary voters did not always have this preliminary choice. Originally, at the federal, state, and local levels, party candidates were designated by the caucus. Political leaders, or "bosses" simply met privately to name the candidates most amenable to them. Consequently, in the general elections, voters had only a choice between candidates not of their choosing. Revolt of the "Common Man", beginning in Jackson's time, against control by "King Caucus", resulted in adoption of the convention system of nominating party candidates. Under this plan, which is still prevalent in some states, the enrolled voter of each party is permitted to vote for delegates to a local or state convention. The delegates then choose the party's candidates. This was, perhaps, somewhat more democratic than the caucus. But, unfortunately, local delegates were still "dubbed" and "endorsed" by the political leaders against whom the unorganized mass of party members was ineffectual. The convention was little more than "democratic window dressing".

The Direct Primary, as we know it, was once

(Continued on next page)

INSTITUTE OF REGIONAL AFFAIRS
NEWSLETTER
VOL. XXI APRIL 15, 1975 NO. 4

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Massachusetts prohibited pleading for hire in 1641, while Virginia lawyers were considered mere laymen helping friends at court. In 1624, Thomas Norton, the first trained English lawyer who arrived in Plymouth, was jailed and expelled for "scandalous behavior." In Pennsylvania, it was said, "They have no lawyers. Everyone is to tell his own case, or some friend for him. — 'Tis a happy country."

However, early colonial law was not all bloodthirsty. The Puritan zeal "to reform every aspect of human activity" led to many legal innovations, particularly in procedure. By 1776, fewer capital crimes were on the books than in England, where trial by combat was finally repealed in 1818 by "an embarrassed Parliament which quickly buried the corpse." While the death penalty was possible for any thief in England, Massachusetts imposed it only on repeaters. In Quaker West New Jersey, restitution of property or hard labor was substituted for hanging. A few colonies released a man from the death penalty if he could read (or at least memorize) one verse of the Bible, and this was later liberalized to branding the thumb of the guilty who couldn't read the verse.

While the Revolution sought "equal justice for equal men", it had little immediate effect on either substantive or procedural justice. Each "separate and independent state" went its own way, but generally the "ordinary course of justice" imported from England continued. For example, in English law, treason was used to suppress all sorts of persons or groups considered enemies of the state, and it was treason to levy war on the kingdom, violate the king's eldest unmarried daughter, alter or clip coins, or make silver resemble gold. In 1781, New York simply seized this terrible weapon by providing that whoever preached, spoke, wrote, or printed that the king had or ought to have "dominance" over New York thereby committed a "felony without benefit of clergy", and was sentenced to death or banishment.

In fact, the number of acts defined as "criminal" grew steadily from 1776 to about 1850. In addition to the classic crimes, there were enacted a great number for economic offenses and many defining "public morality". In 1796, Tennessee barred clergymen from public office. In 1818, Connecticut, which paid lip service to freedom of worship, froze every resident into his congregation, church, or religious association." In 1831, Indiana made it a crime to allow epsom salts "to remain unenclosed and exposed to stock, cattle, or horses of the neighborhood, and it was unlawful to use "profane swearing". In 1838, the new Constitution of Pennsylvania outlawed dueling by depriving offenders of the right to hold public office, and permitted divorce only by individual application to the legislature.

Tom Paine's complaint quite accurately predicted the state of justice in post-revolutionary America when he said that "the courts still hobble along by the stilts and crutches of English and antiquated precedents — which are tyrannical."

Little as it was, and considering the long-established standards of that time, reforms in criminal justice began to appear even as the shooting was going on. In 1776, the first Constitution of Pennsylvania, reputed to be the most democratic constitution in history, specifically obligated the legislature to "reform the penal laws". In 1784, the New Hampshire Constitution provided that "No wise legislature will affix the same punishment to the crimes of theft, forgery, and the like, which they do of murder and treason. — The true design of all punishment being to reform, not to exterminate mankind". In 1786, Pennsylvania abolished the death penalty for burglary and sodomy.

The most significant change in the concept of justice after the Revolution, however, was the gradual shift from crime as a sin to crime as an offense against property and the use of law to further the community's economic affairs. The criminal was "no longer a sinner against God, but rather one who preyed upon the property of his neighbor."

Our illustrations are intended to show the sharp contrast between early and modern concepts of justice as we view them from today's stage. Justice as it was conceived and practiced before and after the Revolution would not be considered justice today. Justice is historically conditioned, its nature and practice being a product of the people and their time. The heroes of the Revolution sought justice for all men, and, in their own terms, moved in the right direction.

(Continued on next page)

No generation can attain the unattainable ideal of justice. Erich Fromm said in "Escape From Freedom" that striving for justice is an inherent trend of human nature, although it can be repressed and perverted like striving for freedom. In striving for the Higher Justice, as our forefathers did, they sowed the seed and nourished the seedling from which has grown the Tree of Liberty. We, in our time, must nourish that tree or lose our heritage, for despite a strong dash of history, the strongest ingredient in justice at any given time is the present.

THE VOTER AND LOCAL PARTIES

Advocates of improved local government must inevitably focus on the operations of local political parties, for it is they who provide the official machinery for nominating candidates, conducting the campaigns, managing the voting process, and organizing the governments which make decisions affecting the community. They are as well the basic strength and organization of our state and national parties. Washington's fears that political parties in general are sinister forces which divide the people unnecessarily have proven largely unfounded. The concept of competing political parties is so basic to our political system that it is hard for us to conceive of their not existing.

Unfortunately, the growing trend in America is to take a dim view of political parties, especially at the local level, and seek satisfaction of private and public interests through non-party associations. Theoretically, a political party is a voluntary association of persons sponsoring certain ideas of government or maintaining political principles or beliefs in public policies of governments. The general failure of local parties to put this theoretical function into practice is, perhaps, the principal cause of the high percentage of apathetic or alienated voters. The legal duties and functions of local parties are of no particular interest to the average voter who needs and wants some concrete guidance from his party to assist him in making his personal choice of candidates at primaries and elections. Local party activities, such as primaries, attract normally less than 25% of the eligibles primarily because the issues are poorly presented and candidates are related to issue positions only vaguely.

Naturally, political leaders take issue with this conclusion. And, in specific instances, they are probably correct. The important point, however, is not who is right or wrong, but, from the viewpoint of preserving party viability, what the mass of voters BELIEVE about their local party.

A large proportion of the electorate feels politically powerless because it BELIEVES that local parties are controlled by a small self-perpetuated group of powerful and selfish individuals who use public office for private gain. They BELIEVE that parties endorse only candidates in the primaries who will serve that selfish interest. They BELIEVE that party officers and workers are narrow hacks or even crooks. They BELIEVE that primaries are deliberately managed to maintain control in the select inner circle. They BELIEVE that party "tickets" are racially, ethnically, and religiously balanced to win votes, not to represent integrated policies. They BELIEVE that no matter what party or candidates are in power, the local government will be run about the same.

Having such BELIEFS, there is little wonder that voters throw in the towel. The resulting apathy in the primaries or elections spills over into ultimate implementation of public policies. A party may have control of the offices in local government, but is quite powerless without general public support. Local parties may correctly take exception to what voters BELIEVE is wrong or bad about their operation, but mere denial will not eliminate them. Parties which shrug off voter attitudes reflected in the large "stay-at-home" vote, eventually find themselves on the outside.

Pennsylvania has the "closed" type of primary in which a voter registered in a particular party may only cast his primary ballot for a candidate listed on his party's ballot. This frustrates the voter who is dissatisfied with his party's list of candidates, so he is inclined to stay home on primary day. In the general election, the voter is frequently frustrated when he is dissatisfied with the two major competing party candidates but faces the common reality that he wastes his vote by casting it for an independent or third party runner. In many states, adverse voter reaction to these frustrations has resulted in legal adoption of the open primary system under which he is permitted in the primary to vote for any candidate of either party. More than 60% of American cities over 5,000, outside of Pennsylvania, use the nonpartisan ballot in general elections, thus eliminating the party label from the names of candidates entirely. Both reforms were the result of popular rebellion against local party failure to "open up" to their needs. Not that these reforms have lived up to expectations. But they do show that parties must satisfy their potential members or face eventual legislative mandates.

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In our state, local parties can take a giant step forward by formulating specific and informative organization programs and policies, or platforms, if you will, and then support primary candidates who, in turn, support the platform. This will not only unify local parties around significant local issues, and form the basis of meaningful competition between parties, but should go a long way toward helping the potential primary voter identify candidates with issues and policies on which he has a position. Endorsing a candidate in the primaries who supports the party program is quite different and more acceptable to the voting public than the current "organization" endorsement.

ANNUAL I. R. A. DINNER

The Institute of Regional Affairs extends to all readers of its NEWSLETTER a sincere invitation to attend its 23rd annual dinner which has been tentatively scheduled for the evening of Wednesday, May 28, in the Dining Hall of the New Men's Dormitory.

This annual affair is held to honor the hundreds of men and women who have successfully completed special short courses designed to improve local services and to recognize those men and women who have been nominated and tapped for outstanding public service in their own communities. It is attended

23rd ANNUAL DINNER
INSTITUTE OF REGIONAL AFFAIRS
MAY 28, 1975

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by public officials, civic leaders, and other individuals who are interested in community welfare.

Final arrangements will be completed in late April. However, in view of the past attendance record, interested readers are urged to telephone the Institute (717 - 824-4651, ext. 229 or 308) for details and to make reservations.

The NEWSLETTER has enjoyed talking TO its readers, and its staff looks forward to talking WITH them at the dinner.

THOUGHTS FOR TODAY

There are lots of books telling you how to manage when you retire, but what most of us need is one telling us how to manage until.

Today's economy is much like old-fashioned underwear. Sometimes the bottom drops out.

A woman driver is one who drives like a man — and gets blamed for it.

We'll all be TV stars some day. All funerals are performed before a live audience.

It's not fair to say that half the politicians are crooked, when we know that half of them are honest.

Friends suspect that a recent marriage isn't going too well — he stays out all night and she doesn't know it.

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VOL. XXI, NO. 5 • WILKES COLLEGE, WILKES-BARRE, PENNA. • MAY 15, 1975

NEWS-LETTER

LAW, NOT MEN! '75

There appears to be a growing sense of injustice in government among the American people as we approach our Bicentennial. Surrounded by evidences and allegations of abuse and misuse of official power, a significant segment of the public rationalizes that if government strains or circumvents the law the people are justified in the same conduct. This is a strange, and perhaps ominous attitude, for a people whose revolutionary heritage is steeped in the principle of respect for law.

And yet it may not be so strange, for if we are true to our Revolution, we must accept the traditional concept of "government of laws, not of men." And "law" includes individual citizens as well as officials. However, we use the term "government of laws, not of men", in its historical sense to mean that those who govern should do so according to law, not their personal whims or private interests.

Subjection of the governors to the rule of law is an ancient concept. Aristotle proclaimed it in his Politics. The Justinian Code bound the prince to the law. James Harrington (The Commonwealth of Oceana) said that government in which men subject the people to their private interest and make laws according to that personal interest is an "empire of laws, not of men." "Who believes", he said, "that the law can hurt him, which is but words and paper, without the hands and swords of men?" Anatole France spoke of the majestic equality of government by law, "which forbids the rich as well as the poor, to sleep under bridges, to beg in the streets, and to steal bread."

Worship of the law, of course, has never been universal. Oliver Goldsmith (The Traveller) charged that the "Law grinds the poor, and rich men rule the law." An unknown early poet rhymed that "The law doth punish man or woman, that steals the goose from off the Common; but lets the greater felon loose, that steals the Common from the goose." Many Americans assume this pose toward law, and in so doing they expose their ignorance of what the concept meant at the time of the Revolution and today. The misunderstanding stems from

the idea that all laws must, indeed, be enacted by men in the first place, and, too, must be executed and enforced by men. This view of law was expressed by William Penn when he said that "All governments, like clocks, run by the motion which men give to them."

"Government of laws and not of men," is, in a sense a rhetorical exaggeration. Yet there is a crucial contrast which emphasizes the distinction between the two. A government of men flouts or defies all efforts at restraint upon its activities; a government of laws observes restraints. In the former, government is absolute, and therefore uncontrollable; in the latter, bridled and harnessed.

The distinction becomes clearer if we properly separate laws enacted by men, and laws obtaining from a higher power. The first acts of disobedience and resistance in the colonies were against laws enacted by men — the King and Parliament. As colonies without sovereign rights, the revolutionaries stood on weak ground when they challenged the legality of laws properly enacted by their common legislature in England. Failing in their reliance on the "rights of Englishmen", they shifted to the ancient principle of a "natural" or "higher" law.

The existence of a "higher law" was evident in the earliest colonies. The Puritans deemed it the law of God. Others used it as a reflection of man's "right reason." Our Revolution and the constitutional system which resulted, confirmed one central principle governing the "higher law" — that all men are essentially equal before it. In theory, even the common law was not man-made in the ordinary sense. The judges "uncovered the law," or found it; they did not make it or tamper with it as it was found. Whereas statute law was the direct work of men, and was subject to abuse and misuse, the "higher law" was beyond their will or authority. Man-made law was to be obeyed only if it conformed to the ideal of "natural" law as each man's reason conceived it. Tom Paine spoke of law as it "ought to be" when he said, "But, where, say some, is the king in America? I'll tell you; he reigns above, and doth not make havoc of mankind like the Royal

(Continued on next page)

INSTITUTE OF REGIONAL AFFAIRS
NEWSLETTER

VOL. XXI MAY 15, 1975 NO. 5

This News-Letter, published nine times annually as a community service originates in the Institute of Regional Affairs of Wilkes College. Notes and inquiries may be addressed to Professor Walter H. Niehoff, Editor, Institute of Regional Affairs, Wilkes College, Wilkes-Barre, Pennsylvania 18703.

Subscription free upon request.

Brute of Great Britain. — In America the Law is King. For as in absolute governments the king is law, so in free countries, the Law ought to be king."

That memorable portion of the Declaration of Independence in which Jefferson delineates the "self-evident truths," at the same time delineates those tenets which Americans have always claimed as their definitive "natural rights". They were the "natural laws" fixed indelibly in our constitutional system by the Revolution. Resistance movements throughout our history have relied on this distinction between ordinary and "higher" law, challenging the former by appeal to the latter. Yet, except for some religious denominations, comparatively few Americans are aware of the idea of "higher" law. But there still is a growing feeling abroad that if a man-made law is unjust or unjustly administered, a "higher law" prevails. This is as it should be if we are to maintain our progressing revolution in the interest of social justice.

But there is an inherent difficulty here. Where is the "higher" law to be found? Who is to be entrusted with its discovery? What, in fact, are the specific "higher" laws? And, how is reasonable stability to be maintained in modern society, if everyone assumes prerogatives himself? Would not the ultimate result be anarchy?

Anarchists believe in the complete abolition of government and man-made law, and reliance solely on the "natural law" of society. Mikhail Bakunin, a nineteenth century anarchist exalted "natural law." "We may ignore natural laws or even not know them at all, but we cannot disobey them, for they contribute the basis and the very condition of our existence. We are unconditionally the slaves of these laws. But in such slavery there is no humiliation, or rather it is not slavery at all. For slavery presupposes an external master, a legislator standing above those whom he commands, which those laws are not extrinsic in relation to us; they are inherent in us, they constitute our nature, our whole being. And it is only through those laws

that we live, breathe, act, think, and will. Without them we would be nothing; and we simply would not exist."

In essence, that is what Mr. Jefferson proclaimed to all the world. Yet, while he believed in as little man-made government as feasible, Tom was not an anarchist. Are we, then, anarchists who believe in those natural rights for which the "rabble of '75" took up arms? No indeed! For anarchists believe in no man-made law, while we do — so long as it is justly enacted, equally and honestly administered, and constantly conscious of its limitations on human rights. These are subject only to the "higher law."

Americans revere this fundamental law, as it is reflected in its constitutional principles, and take pride in its revolutionary ancestry. The Constitution was to be a "government of laws, not of men," leaving men to effectuate those principles by man-made statutes. This concept has served us well for nearly 180 years, with minor changes through constitutional amendment and judicial review. The question becoming more and more audible is whether we of this generation can make the concept responsive enough to the strains of an increasingly complex society. Are we facing the crisis of 1787 — the formulation of a new constitution, adjusted to new and unique moral and social criteria of the "higher law"?

Assuming ours continues to be a "government of laws, not of men" under the traditional values, those "higher laws" are not self-enforcing. Many constitutions, like that of the Soviet Union, have included the finest sounding guarantees, which in practice are not worth the paper they are written on. Nor does the defense of the "higher law" lie with such institutions as the legislatures and the courts, indispensable though they be.

The truth is that institutions are strong to the extent that a large enough section of the public feels keenly enough to have them so. If enough Americans are sufficiently determined to preserve and exercise their "natural rights" under law, these rights will be exercised and preserved, and institutions will be found to do the job. But where that determination is lacking, no congress, no court can fill the gap.

We cannot disavow the "natural law"! We cannot disavow the American Revolution! The ultimate sanction, therefore, of all human civil liberties under a government of law and not of men resides in the same source that created the country and its Constitution initially and renders it effective — the political will of the people. Freedom in any society is what the people earn and guard for themselves.

Whatever it is, there remains a "higher law" in America, and that law, not fallible men, must be preserved as the ultimate governor in our society.

THE KING IS DEAD!

Our Revolution got rid of a king, and the Constitution buried the idea of monarchy in America. Yet, some of the accoutrements of absolute monarchy have survived in the constitutional supremacy of state governments over their local units, and in the doctrine that a state and its local governments cannot be sued without the state's consent.

It is a common principle of civil justice that a private individual who inflicts injury or damage against the person or property of another individual may be subject to suit. Such acts are called torts. They include injuries sustained through unprotected excavations, diverting drain water to another's property, unsafe sidewalks, physicians' malpractice, or maintaining "attractive nuisances" such as dangerous abandoned buildings or unguarded machinery which constitute a threat to children.

The same right of an individual to sue a municipal corporation for similar transgressions, however, has been denied or limited in our states for nearly two hundred years. The doctrine of municipal tort immunity under common law thus established a dual standard which perpetuated the obsolete concept that "the king can do no wrong."

The historical roots of governmental immunity are found in the English common law decision in *Russell v. Men of Devon* in 1788. This case established in common law the principle that "a wrong to an individual by the State must be submerged in the convenience of the public." In England there were no exceptions, and this doctrine of absolute immunity crossed the sea to Massachusetts in 1812. On *Mower v. Leicester*, the immunity of a county was upheld on the grounds that it was incorporated by the sovereign state for purposes of "public policy."

The *Mower* case soon became the basic law in New England, and later, with few exceptions, the common law of the states. Pennsylvania joined the parade in 1888 when it first held that school districts, as quasi-corporations created by the state for the sole purpose of administering public education for the state, are immune for tortious conduct of employees, since the "individual advantage must give way to the public welfare."

Absolute municipal immunity inevitably succumbed to exceptions in the face of developing democratic social justice. In state after state, the courts decreed a limited right to sue for the tortious acts of municipalities by distinguishing between public functions which were "governmental" in nature and those which were "proprietary." Meanwhile, England abolished the entire doctrine of municipal

immunity. Modification of the doctrine did not occur in Pennsylvania until 1958, when, in the case of *Morris v. Mt. Lebanon Township School District*, the Pennsylvania Supreme Court, while refusing to abrogate it entirely, ruled that municipal corporations "are not immune from tort liability for negligent acts of their servants performing proprietary functions." Immunity remained inviolate, however, in performance of "governmental" functions.

In general, state courts, including Pennsylvania, have defined governmental functions as those in which the municipality acts for the state in the exercise of the police power, matters of concern to the state at large, and those performed for the primary benefit of the general public, rather than for a dominantly local purpose. Proprietary functions, on the other hand have been defined as those performed for the peculiar benefit of a municipality, or those which have a "business character" or produce "revenues".

These general definitions did little more than confuse the issue. Chief Justice Traynor, California Supreme Court, hit the target when he said, "The rule of governmental immunity for tort is an anachronism, without rational basis, and has existed only by the force of inertia. Moreover, the distinction between governmental and proprietary functions is probably one of the most unsatisfactory known to the law, for it has caused confusion not only among the various jurisdictions, but almost always within each jurisdiction."

The injustice of such vague and limited immunity is obvious. In one state or another, the following have been considered "Governmental" functions, thereby denying the individual the right to suit: — Not liable for injury caused by the negligence of a policeman to remove a rope placed across the street; not liable for blood poisoning from compulsory vaccination by a city physician; not liable for the death of a small boy by a fire truck responding to a fire; not liable for injuries on a neglected school ground; not liable for unjustified assault or false arrest by a police officer; not liable for negligence in clearing snow and ice from public property; and, not liable for the injuries caused during street construction. Of course, one could always bring suit against the employee as an individual, but it has been exceedingly difficult to squeeze blood from a stone.

This confused common law doctrine of limited immunity was in force in Pennsylvania as late as May, 1973, and there is much evidence that officials and citizens alike are unaware of a change. In that year, in *Ayala v. the Philadelphia Board of Education*, the Pennsylvania Supreme Court, at long last

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abolished the total doctrine of immunity. No longer must Pennsylvania play word games to secure justice.

This case involved the mangling and amputation of a young boy's arm in a school upholstery machine which had no safety device, was in a dangerous and defective condition, and was left unsupervised. Should the school district be liable for injury to the innocent youth to the same degree as a private individual who negligently caused the same injury? In prior years — NO! At last, YES! Local governments and quasi-corporations now stand on the same ground as people!

This is a milestone in social justice in Pennsylvania. In rendering the opinion of the Court, Justice Roberts saw no reason for continuance of the "king can do no wrong" concept, since it was clear that, whatever may have been the original basis for the doctrine of immunity, "no public policy considerations" presently justify it by "an amorphous mass of cumbrous language about sovereignty. In this day of sociological enlightenment, and in a republic, we should stick to the medieval idea that the king can do no wrong. It is unfair to burden an individual with the consequences of a tortious injury, when it can be borne without hardship by the community." Further, "The Revolutionary War was fought to abolish that divine right of kings on which the doctrine of immunity is based."

"It is fundamental to common law", said the Justice, "that one may seek redress for every substantial wrong." In short, the wrongdoer is responsible for the consequences of his misconduct, and there is no sound reason for permitting governmental units to escape the effect of this principle.

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Experience in other states should dispel the fear of a "flood of litigation" against the municipalities, but "it is the business of the law to remedy wrongs that deserve it, even at the expense of a flood of litigation." The change should be a plus, rather than a negative for municipal government, because a negative illwill between local government and its citizens has at last been removed.

The King is dead! A constitutional amendment would prevent his resurrection!

THOUGHTS FOR TODAY

The world's not altogether sorrowful — at least we never see a TV commercial without a happy ending.

Some arguments have two sides — and no end.

There is some evidence that we are shorter in the morning than the evening, but we're sure most of us are a bit short at the end of the week.

Isn't it hard to be humble when you're as great as you are?

A man without principles has everything at his disposal.

It's not so bad if your mind goes blank, if you remember to turn off the sound.

A real friend is one who can tell you all his troubles — but doesn't.

The first man gets the oyster, the second man gets the shell.

A fellow doesn't last long by what he has done. He's got to keep on delivering as he goes along.

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NEWS-LETTER

VOL. XXI, NO. 6 • WILKES COLLEGE, WILKES-BARRE, PENNA. • JUNE 15, 1975

CONSTITUTIONALISM '76

The Declaration which changed a long series of civil disturbances of the colonists against the mother country into a full-scale Revolutionary War by "thirteen separate and independent states", proclaimed the "self-evident truths" upon which the new nation was to be founded: Equality of all men; inalienable natural rights; government to secure these rights; government by the consent of the governed; and, the inherent right to alter or abolish government which is destructive of these rights.

Having won the struggle to eliminate the imperial power was but one of two steps in the founding of the "new nation". It cut "the ties which bound it to another." The second step, and perhaps the more difficult, was to create a single united nation under a structure of government which would attain the ends for which the Revolution was fought. This ultimate objective was not realized until after more than a decade of war and a feeble and unsuccessful attempt at confederation during the Eighties. This almost anarchistic period, however, was the "Seedtime of the Republic", for it brought to a focus a century and a half of colonial political experience in the Constitution of 1787. This experience impressed upon the colonists the First Principle required to structure a political system conducive to attaining the "self-evident truths". They had learned that if there was to be a government of laws and not of men, a government subject to a higher natural law, such principles must be permanently fixed in a written constitution, subject to peaceful alteration only by the explicit will of the people themselves.

Thus, constitutionalism has become, and remains, the foundation stone of our American political creed. Our Constitution is the organic and fundamental law of the nation, establishing the charter and conception of its government, laying the basic principles to which its internal life is to be conformed, organizing the government, and regulating, distributing, and limiting the functions, and prescribing the extent and manner of the exercise of sovereign powers. Its Bill of Rights, now at last binding upon all the states, is a fixed and enlarged

image of the "self-evident truths" of the Declaration of Independence. Its remaining provisions provide the procedures and fix the limitations under which these truths are to be attained and preserved.

The American concept of constitutionalism is more than history. In America it is a psychological characteristic seeded and nourished in the early colonists in an insecure and lonely environment and aggravated by alienation from the distant motherland. For a century and a half before the Revolution, colonials had endured the oppressions of political, social, and economic power over which they had little or no control. Thus the suspicion of unrestrained power was indelibly impressed upon their character.

James Iredell had said that history justifies the "strongest suspicion of men in authority," and Hamilton recognized well that most men have a deep lust for power and an inclination to abuse it unless restrained. Fiery Sam Adams condemned the natural tendency of men of authority to more power than the people felt safe to grant. Ben Franklin believed fervently in the limitation of the ruling powers by fundamental and higher law to make them the servant of the people. Montesquieu, in *The Spirit of the Laws*, wrote, "Constant experience shows us that every man vested with power is apt to abuse it; and to carry his authority as far as it will go. — to prevent this abuse, it is necessary from the very nature of things, power should be a check to power." Hamilton warned that "As too much power leads to despotism, too little leads to anarchy." Sam Adams advised that "To expect self-denial from men, when they have a majority in their favor and consequently power to gratify themselves, is to disbelieve all history and universal experience. — There is no man so blind as not to see, that to talk of founding a government upon a supposition that nations and great bodies of men, left to themselves, will practice a course of self-denial, is either to babble like a new-born infant, or to deceive like an unprincipled impostor."

Believing in a "government of laws and not of men," and that man-made laws, and the men

(Continued on next page)

INSTITUTE OF REGIONAL AFFAIRS
NEWSLETTER
VOL. XXI JUNE 15, 1975 NO. 6

This News-Letter, published nine times annually as a community service originates in the Institute of Regional Affairs of Wilkes College. Notes and inquiries may be addressed to Professor Walter H. Niehoff, Editor, Institute of Regional Affairs, Wilkes College, Wilkes-Barre, Pennsylvania 18703.

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who executed them, were, indeed, subject to a "higher law". The early colonists tended to fix limitations on men in written form. What they considered the "fundamental" laws were contained in written documents like the Bible, church organizations, English documents, charters, and compacts. They knew very well that men, not some words on paper, would govern them in the future. Yet they flattered themselves that through fundamental principles of their charters and first constitutions they would continue to be ruled by the law of all generations rather than the discretion of any one. Thus the commitment to constitutionalism as the expression of the higher political morals essential to freedom and democracy was well-fixed in the colonial mind by the time of the Revolution.

This early tendency toward "constitutionalism" in the colonies was considerably quickened during the long period of strife over the ill-defined boundaries of English imperial power and colonial rights. The word "unconstitutional" had become a household word by the time of the infamous Stamp Act. They were not all constitutional lawyers, but their common sense by and large could differentiate between an immoral and a moral law made by men. Simply because a statute was enacted, did not mean it had to be obeyed. After all, Pharaoh made a decree that all new-born Hebrew boys were to be killed at birth, and Herod had ordered all young children in Bethlehem to be slain. Was it right for magistrates to execute the order and for the peace officers to kill the babies? Once, when France was democratic, the democracy ordered the butchery of thousands. Was it a moral duty to massacre the people? It is the legal and moral duty of officials to execute every statute, no matter how immoral or wicked to the individual's conscience? Reliance on the Constitution, rather than on personal whim and power, or force and violence, has always been the bedrock of the American political system.

It goes without saying that in today's unsettled world, when most of us are seeking a psychological crutch to sustain us, many Americans are questioning the fundamental law of the Constitution. While not of our time, Walt Whitman expressed the feelings of a significant segment of the population. He vehemently opposed what he called "excessive management" and the officiousness of the law-making powers in moral behavior. He detested "sumptuary legislation, Sabbath-closing ordinances, anti-drinking statutes, and the by busybodies," as useless and an offense to the human spirit. Legislators, he said, were all too frequently sinners themselves, and had no right to force men legislatively into virtue. "Blue laws were made by hypocrites and thus produced more of the same." Closer, perhaps, to a current attitude, Whitman roared that "behind the facade of appearing as wise leaders, the politicians practice favoritism, support special interests, exploit the poor, and maintain their privileged positions through all manner of chicanery."

We have today essentially the same Constitution as did our forefathers. It was established, and remains, the guardian of our national conscience. The colonials laid down their "lives, fortunes, and sacred honor" to protest against laws which offended their consciences or the "higher law" of society. We are about to honor them for their courage and sacrifice. Today we would jail them, or worse, brand them as undesirables and ostracize them. Or, on the other end of the spectrum of officialdom, we would look the other way or limit punishment for abuses of power to the "personal anguish" of the abuser. There is an ominous tone to the warning of Theodore Parker who said, "When a nation is willing to accept laws which violate that nation's conscience, the nation is rotten." Should we not reply that if a statute is right, in accord with our higher law, and fairly enforced upon all, we should ask how we can best obey it? When the law or its execution, is wrong, ought we ask in the spirit of our Revolutionary birth, how we can best disobey it, — most safely, most effectually, with the least instability or violence?

The belief in a "higher law" expressed in our Constitutional system is deeply rooted in the American Creed born of our Revolution. At the same time, while we are not usually inclined to articulate it openly, the inherent right to resist abuses of our fundamental law remains an equal article of that Creed. Otherwise, in honesty, we should be compelled to condemn and disavow the Revolution we now celebrate.

Can our generation reconcile its deep commitment to the present constitutional

(Continued on next page)

system with the ultimate right to overthrow it? The Men of '76 did! At the very moment they were revolting against the English constitution, they insisted that "public happiness depends on a virtuous and unshaken attachment to a free constitution." Loyalty to that constitution was incumbent upon them only so long as it reflected the principles enunciated by Jefferson. Once it failed to do so, they felt justifiably absolved from that loyalty. If we disavow the inherent right to correct abuses by whatever means, we should be surrendering the last weapon with which to protect our liberty against potential tyranny. As Jefferson said, the very existence of that right as the ultimate weapon is the best deterrent to the abuse of power in a democracy.

"Some men look at constitutions with sanctimonious reverence", said Jefferson, "and deem them like the Ark of the Covenant, too sacred to be touched. They prescribe to the men of the preceding age a wisdom more than human, and suppose what they did to be beyond amendment. — I think moderate imperfections had better be borne with; because, we accommodate ourselves to them, and find practical means of correcting their ill effects. But I know also that laws and institutions must go hand in hand with the progress of the human mind. — We might as well require a man to wear the coat which fitted him when a boy, as civilized society to remain ever under the regimen of their barbarous ancestors. — Each generation is as independent as the preceding one, as that was of all that had gone before. It has then, like them, a right to choose for itself the form of government it believes most promotive of its own happiness."

WHO RUNS OUR SCHOOLS?

Who runs our public schools?

What a stupid question! Everybody knows that our local schools are the responsibility of the school directors whom we elect. The boards run the schools — they make the budget, set the tax rates, approve the curriculum, hire the administrators and teachers and fix their salaries, provide and maintain buildings and equipment, schedule the number of days in the school term, approve teacher assignments, oversee school management, and establish such educational policies they deem "in the best interest of our children." Of course, our school boards run the schools!

Our question is not stupid! It's quite a shock to newly elected board members to learn with experience how restricted are their powers to assure "our children of the best possible education." School control by local boards is an American tradition. It is also a myth! For the

sake of our children, we ought to be aware of what the situation in Pennsylvania really is.

In the first place, our state constitution places specific responsibility for the establishment and maintenance of a system of public schools on the state legislature. This body has delegated certain responsibilities and powers to local school boards primarily in the Public School Code. The Code is commonly viewed as a grant of authority, but in reality it is a limitation of authority, so ridiculously detailed that it leaves comparatively little discretion to those who are supposed to "run the schools." The proposed new school code may or may not be an improvement in the direction of "home rule", but it definitely remains legislative restraint on local districts. So, we may correctly say that our school boards "run the schools" within the limitations of the prevailing Code.

The Public Employee Relations Act of 1970, commonly known as Act 195, has added another restrictive element, and at the current stage of interpretation has further confused the question of "who runs our schools." The Act justly guarantees public employees, including public school teachers the right to organize and bargain collectively, and even to strike under stated circumstances. School boards are required to bargain with teachers on "matters affecting wages, hours and terms and conditions of employment, as well as the impact thereon upon request by public employee representatives." This provision certainly further limits board members, but eliminates the age-old powerlessness of teachers to have input in determination of their economic welfare.

There is, however, another provision which was intended to restrict the mandate to bargain with employees solely to matters affecting wages, hours, and conditions of employment. Public employers, including school boards are not required to bargain "over matters of INHERENT MANAGERIAL POLICY," which include but are not limited to such areas of discretion or policy as the functions and programs, standards of services, overall budget, utilization of technology, organizational structure, and selection and direction of personnel. They are also required to discuss with employees policy matters which have an impact on the "bargainable matters."

School boards have interpreted the Act to mean that they had to bargain only on wages, hours, and conditions of employment, and insist that "managerial policy" matters are excluded. Teachers are emphasizing the "impact" provision, and are increasingly insisting on bargaining on "policy" matters. The

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issue, therefore, which has been heard by the Pennsylvania Supreme Court in the State College Area case, decided recently, is exactly what matters are considered "managerial", and, therefore, not bargainable. The Court did not decide which of 21 items presented are or are not bargainable, but has remanded the items for review by the Pennsylvania Labor Relations Board.

In your judgment, which, if any, of the following items are "managerial" and should be left exclusively to boards, or which, if any, have an impact on wages, hours, and conditions of employment and should be subject to bargaining by teachers? Providing adequate instructional material? Cafeteria for teachers? Eliminating hall, bus, lunch, and study hall duties? Chaperoning athletic activities? Leaving the building when not teaching? Maximum class size? Handling supplies? Determining the school calendar? Designating holidays?

Unless the legislature clearly defines "managerial policy", each decision will apparently be made on a case by case basis by the Labor Relations Board. Meanwhile, the answer to "who runs our schools" is probably the legislature, school boards, teachers — and maybe even the pupils.

I.R.A. ANNUAL AWARDS DINNER

The twenty-third Annual Awards Dinner of the Institute of Regional Affairs, Wilkes College, was held on May 28 in the New Men's Dormitory with Philip R. Tuhy, Associate Director, master of ceremonies. The dinner marked the close of the Institute's most productive year of in-service training courses with more than 1,400 Certificates of Attainment presented by Fred Miller and Viola G. Harris,

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Program Supervisors. The occasion noted the expansion of the I.R.A. Program from regional to statewide coverage.

The Institute's Annual Special Award for Public Service was presented to Bill J. Gross, Fire Chief of Duryea Borough, for outstanding public service to the Wyoming Valley area. Chief Gross not only served his home community for more than twenty years, but has been a leading figure in Luzerne County Civil Defense, and has many years of uninterrupted service as an instructor in the Institute's Program.

Entertainment was provided by the Wyoming Valley Chorus of the Wilkes-Barre Chapter of SPEBSQUA, Inc.

Mrs. Hugo V. Mailey, widow of the Founder of the Institute, was again the guest of honor. Other guests were welcomed by Robert Chapin, Dean of Academic Affairs, and Andrew Shaw, Jr., Institute Director. The invocation and benediction were delivered by the Reverend Paul Visoky, Pastor of Saint Mathew Evangelical Lutheran Church.

THOUGHTS FOR TODAY

A nice title for a clock-watching employee is an "Expert In Time Study Analysis."

College students should make a special effort to be kind to their parents. After they get through paying to educate them, their offspring are all they have left.

Many parents wish their teenage daughter would hurry and grow up: Right now, she's all skin and phones.

The only person who got all his work done by Friday was Robinson Crusoe.

A man is seldom as smart as his mother thinks, or as dumb as his mother-in-law says.

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NEWS-LETTER

VOL. XXI, NO. 7 • WILKES COLLEGE, WILKES-BARRE, PENNA. • OCT. 15, 1975

REPUBLIC '76

"I pledge allegiance to the flag of the United States of America, and to the REPUBLIC for which it stands" reflects our commitment to another fundamental article of the American Creed which was born in the revolutionary struggles of the eighteenth century. By no means the first in history, our republican form of government was the only logical replacement for the absolutism of hereditary monarchy. It was unique, however, in terms of the large geographical area to be governed, and sociological diversities existing in the thirteen colonies. It remains unique as history's oldest republic under the same constitution.

The republican principle is the fountainhead of our system of government. Consequently, any threats, encroachments, or deviations from its essential nature jeopardizes the entire structure. Unfortunately, most Americans mouth the word "republic" with little or no understanding of its basic character, and, therefore, unaware of the subtle erosion of its principles and practices in our interest-centered society.

Once the Revolution forced upon the colonies the necessity of choosing a form of self-government, they had to choose one of three options — hereditary monarchy, oligarchy, or democracy. Having already revolted against the tyrannies of the first, and not inclined to tolerate further the arrogance of the British oligarchy, they had only one choice. Colonial political thinkers were British to the core, and they borrowed extensively from English writers. But their borrowing was highly selective, choosing only what met their needs and ignoring or rejecting the rest. Thus, they rejected both monarchy and oligarchy or aristocracy and paid special attention to those concepts which the royal governors tended to play down. Thus, democracy!

This choice presented problems for the leaders of the Revolution and, later, the Constitutional Convention, for they were not as democratic as we are inclined to think. Democracy commonly meant placing government in the hands of "a general assembly of the whole people", as John Wise put it in his "Vindication." Not that they completely

disavowed the Jeffersonian principle of the essential equality of all people as human beings, but they did sharply question the ability of the uneducated masses to administer such a complexity as government. Then, too, they were ever conscious of the Aristotelian axiom that democracy inevitably deteriorates into mobocracy and eventually despotic dictatorship.

While the general feeling was that individual liberty would be most secure under a form of democracy, it was fraught with serious dangers. And "pure democracy by an assembly of the whole people" was certainly impractical for a whole nation. The genius of the leaders, therefore, gave democracy a typical American twist. By 1776, most Americans agreed with John Adams that "there is no good government but what is republican." Thereby, they provided a system in which sovereignty resided in the whole people, but would not actually be exercised by them. This is the essence of a republic.

But just what is a republic? Although the Constitution of the United States guarantees to each state a "republican form of government", it does not define the term. And the Supreme Court, to which we are accustomed to look for such interpretation, has consistently refused to define it on the ground that this is a political question within the jurisdiction of the executive and legislative branches.

It is universally agreed, nevertheless, that a republic is a democracy in which the sovereign powers are lodged in the mass of people, while the laws are enacted and executed by their representatives. In the "Rights of Man", Tom Paine characterized it as "representation grafted upon democracy", thus, "arriving at a system capable of embracing and confederating all the various interests and every extent of territory and population." In the Federalist, Number X, James Madison saw the great difference between democracy and a republic as "the delegation of the government, in the latter, to a small number of citizens elected by the rest."

By interposing another element between popular sovereignty and the act of legislating, the Founders acknowledged Montesquieu's

(Continued on next page)

INSTITUTE OF REGIONAL AFFAIRS
NEWSLETTER
VOL. XXI OCT. 15, 1975 NO. 7

This News-Letter, published nine times annually as a community service originates in the Institute of Regional Affairs of Wilkes College. Notes and inquiries may be addressed to Professor Walter H. Niehoff, Editor, Institute of Regional Affairs, Wilkes College, Wilkes-Barre, Pennsylvania 18703.

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philosophy. In the "Spirit of the Laws", he said, "As most people have sufficient ability to choose, though unqualified to be chosen, so the people, though capable of calling others to account for administration, are incapable of conducting administration themselves." The Revolutionaries, therefore, acted on the premise that one essential organ of free government was a representative legislature which was to serve as the instrument of consent through which the people "tax and restrict themselves."

The Scotch-Irish were the most vehement supporters of representative government, while the Germans were quite passive. The former's only dissatisfaction with representation in their adopted colonies was that they were not representative enough. Being generally made up of gentlemen of property and prestige, colonial legislatures were more dedicated to royal authority than to the common interests of the ordinary subjects. Consequently, in many colonies in 1764, civil war seemed most likely on these grounds than was war with Great Britain. Such was the Regulator Movement which exploded in organized and sustained violence in North Carolina between 1768 and 1771.

Not all of the leaders of the Revolution favored a republic. John Adams felt that the British system would be the most perfect ever devised by man, if only a few of its defects and abuses were corrected. Hamilton differed only because he felt that the British system was perfect as it was, and that correction of its few vices would make it impractical. Washington had even less confidence in the "natural integrity and discretion of the people, and in the safety and extent to which they might entrust themselves with a control over their government." Even the radical Thomas Jefferson commented that "173 despots would surely be as oppressive as one."

A perennial problem in representative government, just as puzzling in 1976 as in 1776, is the proper function of an elected representative. Samuel Cook's solution in 1770 is of little

help. For he vaguely proclaimed that "No business that can be done by the people themselves should ever be trusted to their delegates." This begs the question as to exactly what the people are capable of doing themselves.

Then, as now, there are two diametrically opposed views of the proper function of elected representatives.

The first has been called the Mandate Theory. It was originally propounded by Rousseau, who contended flatly that the representative should never make policy, but simply register the policy preferences of his constituents. It was enunciated by William Paterson in the Constitutional Convention when he said, "the principle of representation is an expedient by which an assembly of individuals chosen by the people is substituted in place of the inconvenient meetings of the people themselves." In other words, a representative has no business voting against the will of his constituents, even if he thinks that mandate wrong or harmful, and if he doesn't know what that mandate is, he should go home and find out before he votes.

The Independence Theory considers government problems too complex to be handled by people other than those who make representation a fulltime job. People have their livelihood to earn and have no time nor inclination to be informed. Therefore, the representative must initiate, not merely reflect, policies. Supporters of this view disagree that this position leads to oligarchy, since the people retain the power to remove through elections. Thus, until he is so removed, the representative should at all times follow his own views and judgment. "Government and legislation are matters of reason and judgment", said Edmund Burke, "not of inclination; and what sort of reason is that in which the determination precedes the discussion, in which one set of men deliberate and another decide, and where those who form the conclusions are perhaps three hundred miles distant from those who hear the arguments?"

A natural response is to contend that the proper function of a representative in a republic is a combination of the Mandate and Independence theories. But such a middle ground has evaded our republic to this day. We still face the dilemma of how to make representatives truly representative. And new factors have complicated the problem since 1776 — political parties, organized labor and corporate interests, irrational legislative districts, professional lobbies, partisan congressional committees fortified by the "senility" system of leadership. All of these have enlarged the legislative response to organized special interests, but have left the unorganized mass of citizens almost helpless bystanders.

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Most of the Founders favored a republic. They did not believe in the right of the people themselves to enact laws, but they were fearful that representatives might pass laws contrary to the natural rights of man. They believed their newly formed Constitution provided protection against the inadequacies of popular rule and, at the same time, protection against invasion of the liberties of the people.

Modern America apparently differs sharply with the Founders, for in this century, particularly since the Great Depression and World War II, there has been a growing inclination toward popular mistrust of elected representatives. Emphasis is turning to the right of the individual citizen either to be free of legislative regulation, or to participate directly in the lawmaking process. The initiative and referendum, increasing use of petitions, and hostile demonstrations, tax revolts, refusal to recognize or obey unpopular laws, are but a few indications of this trend. We are currently witnessing the greatest confrontation of the people and their representatives, short of open revolt, in history.

Our Republic, or representative democracy, has worked well during nearly two hundred years, but we have not yet solved the problem of representation which is the essence of a republic. This is a challenge to which we should commit our efforts in the Bicentennial year.

TRAINING ADULT COUNSELORS

Wilkes College is currently conducting a second section of a special course initiated last spring to train counselors to serve adults in the communities of Lackawanna and Luzerne counties. Funded under Title I of the Pennsylvania Higher Education Act for Community Service and Continuing Education, the course is designed to provide specialized training for a total of forty practicing secondary school counselors and psychologists in order to make available to adults the professional advice and guidance which are normally available only to secondary school students.

This course implements the new concept of the Higher Education Act by emphasizing "not the people with the problem, but rather the people who work with the people with the problem." Certified school counselors already possess the basic skills of counseling, and the specialized training to counsel students with their peculiar problems. This basic training is a logical foundation for additional training in the special skills needed to assist adults.

Under direction of the Institute of Regional Affairs, the course has been offered to school counselors in the 19 senior high schools of Intermediate Unit 18 in Luzerne County, and the

20 senior high schools in Intermediate Unit 19 in Lackawanna.

The main theme of the instruction is to teach appropriate forms of communication between the adults with problems and the counselor. It is designed to accelerate the process of understanding the individual adult and his specific problem, evaluating that problem in terms of his particular environment and psychological situation. Instruction involves use of appropriate texts, special batteries of tests, and qualified guest lecturers.

Prof. Philip R. Tuhy, Associate Director of I.R.A., is the project Director. Dr. Joseph T. Bellucci, Department of Education, is the Instructor-in-charge, while Barbara Bellucci, is Problem Coordinator.

The problem of providing adult counseling was aggravated by the Great Flood of 1972, but recovery progress has not obviated the need for such assistance by adults. This initial effort reflects the College's continuing policy of community service.

WHOSE SHAME?

A journalistic investigation of selected American cities disclosed widespread political corruption, ranging from macing teachers and other public employees, burglaries by policemen, favoritism in contracts, and buying elections, to downright lawlessness. The following extracts, with few word changes, represent the attitudes and conclusions of the author: —

Public spirit has become private spirit; public enterprise has become greed. The typical American citizen is the business man. The typical business man is a bad citizen. He is busy. If he is a "big" business man, he is very busy with politics. He buys bootleggers, defends grafters, originates corruption, shares with "bosses", deplures reform, and beats good government with corruption funds. He is a self-righteous fraud. He is the chief source of corruption, and it were a boon if he would neglect politics.

Our moral failure is explained by the dominance of our political life by business values. The commercial spirit is the spirit of profit, not patriotism, credit, nor honor; of individual gain, not national prosperity; of trade and dickering, not principle. The typical business man is a bad citizen.

The "boss" is not a political, he is an American institution, the product of a freed people that have not the spirit to be free. Our political corruption is democratic corruption. It is corruption with consent. The people themselves get very little. They are forced to surrender by intimidation, but the political

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leaders have their hold because they take care of their own. The political "ring" never breaks the law because they never have to; they simply rewrite the law to their purpose.

You may blame the politician, or, indeed, any one class. You may put it on the ignorant foreign immigrant, or any one nationality. But no one class is at fault, nor any one breed, nor any particular interest groups.

The corruption that shocks us in public affairs, we practice in our private concerns. There is no essential difference between the pull that gets the individual a personal favor and that which is the basis of corruption in labor unions, banks, or political machines. A bribe is bad, that is, it is a bad thing to take; but it is not so bad to give one, not if it is necessary to a private interest. The American people don't mind grafting, but they hate scandals. They don't kick so much on a jiggered public contract for a street, but they want the street and no fuss and no dust.

Whose is the shame that our cities are corrupt? Not really the politician, because, being a political merchant, he will supply what the people demand. We are pathetically proud of our democratic government. The government is ours. But that is the point. We are responsible, not our leaders, since we follow them. We cheat our government and let our leaders loot it; and we let them wheedle and bribe our sovereignty from us. We break our own laws and rob our own government. The spirit of graft and of lawlessness is the American spirit. The corruption which breaks out here and there is not an occasional offense, but a common practice because the people tolerate, or even demand, it.

The point is that what goes on in our large cities is going on in most cities, towns, and villages. The problem of municipal government has not been solved. The people may be tired of it, but they cannot give it up — not yet! The problem will be solved only by an awakening of the conscience of the people!

THE ABOVE EXTRACTS are from *The Shame of the Cities* by Lincoln Steffens, 1904, to see our civic shamelessness and set fire to American pride."

THOUGHTS FOR TODAY

Caution is the period between "STOP" and "GO" when nobody knows what to do!

A teacher is a student who is not so sure!

If nudity is immoral, why are so many cupboards bare?

Pass the man on the side of the road and you won't get mugged . . . but he may be a cop!

Franklin admonished that "Early to bed and early to rise makes a man healthy, wealthy and wise" — but you sure miss a lot!

The Lord saith, "Our house has many mansions." Judging from man-made pollution, somebody forgot the bathroom!

According to *Woman Libers*, "You Jane, me Tarzan" were the first words of the most insidious plot in history.

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NEWS-LETTER

VOL. XXI, NO. 8 • WILKES COLLEGE, WILKES-BARRE, PENNA. • NOV. 15, 1975

MAJORITY RULE '76

Majority rule is one of the cardinal principles of the American political system. The concept of reaching governmental decisions based on the will of at least "one more than half" was, of course, not invented by the American Revolution. In fact, many of the early leaders viewed it with alarm as an open door to mob rule. And a closer review of its application throughout our history suggests that observance has not been proportionate to its pronouncement.

Obviously, in a democracy unanimity is impossible. Most political decisions are choices between alternative views, each of which has supporters among the people — vocal or silent. Thus, only one side can have its way; others must lose. The enigma was, and remains, how should a democratic government, based on the principle that decision-making power must be vested in ALL members of the community, determine WHICH of the disagreeing groups will carry the day. Theoretically, the mathematical formula of majority rule is the logical solution.

The principle of majority rule requires that no government decisions be made against the ultimate desires of popular majorities. When there is disagreement on particular issues, the government should respond to the larger rather than the smaller number. This does not mean that all issues must or should be subject to popular referendum. That would be impractical. Consequently, elected or appointed representatives are invested with the power to make decisions, the people retaining the power to approve or disapprove through the elective process.

However, though legally equal, citizens have an unequal influence on governmental affairs at all levels. Once a candidate is in office, what guarantee is there that he will do what the people expect of him? Then, too, not all citizens participate in elections, and when they do, their involvement is apt to be haphazard, unpredictable, and largely unregulated. Nevertheless, we have still not produced a better substitute.

Clearly, majority rule is an extension of the Age of Enlightenment when man became

recognized as reasonable and capable of knowing self-interest. It assumes that there is a greater chance for the right policy to emerge through a combined decision and exchange of ideas, than through the judgment of the few. Even political scientists who cannot give unqualified support to the judgment of majorities contend that political participation by the greater number of citizens will at least prevent abuse of power and privilege by a select few.

Since Plato's time, many political scientists have argued that one wise and benevolent ruler, or group of leaders, is infinitely more qualified to decide policy than is the mass of the people. In fact, current studies leave little doubt that the majority is apathetic most of the time, and is generally uninformed and uninterested in governmental matters. But, historically, most American leaders, though perhaps not refuting Plato, insist that the likelihood of continued errors and injustices is much less under a democratic state governed by majority rule, than a totalitarian state. While the public may be uninformed or misinformed, it usually becomes morally outraged, and then actively involved, when it perceives an injustice. Americans have historically turned against officials or policies which blatantly defy democratic values. As Lincoln observed, "You cannot fool all of the people all of the time".

Although our Founding Fathers feared the dangers of rule by a numerical majority, they feared more the centralization of decision-making powers against which they had successfully revolted. Yet, because they were not completely sold on majority rule, fearing the "tyranny of the majority", they incorporated in the Constitution certain curbs on majority power, including separation powers, checks and balances, the Bill of Rights, amendment of the electorate, without direct participation of the electorate, and a supreme court to guard the rights of minorities as well as majorities. History supports the Founders fear of the "tyranny of the majority".

There were among the early leaders a few perceptive men who foresaw another kind of tyranny which could make a mockery of the principle of majority rule, leaving it eventually

(Continued on next page)

INSTITUTE OF REGIONAL AFFAIRS
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VOL. XXI NOV. 15, 1975 NO. 8

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only a myth in the creed of the nation. Among them was James Madison who, in the Federalist Paper Number Ten, best stated the fear that at some point representative government by majority rule might come to be dominated by powerful interest groups, or factions, whose power would create, in effect, a "tyranny of the minority".

Madison recorded his apprehensions over unbridled power of factions when he described them as "citizens who are united by some common impulse of passion or interest, adverse to the rights of other citizens". Voting power of factions would decide measures "not according to the rule of justice, . . . but by the superior force of an interested and over-bearing minority". He thus foresaw the fundamental problem we face today by realizing that by banning such interest groups we should put an end to liberty, leaving the problem of how to "secure public good and private rights against the dangers of factions, and at the same time preserve the spirit and the form of popular government".

No political system can provide both majority rule and minority rights in the absolute sense. An effective limit upon majority rule on behalf of minority rights means that there is no real majority rule. On the other hand, if majority rule succeeds on imposing its will in all cases, the system cannot always be protecting minority rights.

Obviously, a mathematical formula establishing a majority as "one more than half" cannot reveal the true will of ALL members of our society, nor even a certain consensus. On most issues there always exists that evasive "silent majority", and polls notwithstanding, we have discovered no satisfactory method of determining its will. Black's Law Dictionary resorts to semantics to avoid the problem of the "silent majority" by defining majority rule as a "rule by the choice of the majority of those who actually vote, irrespective of whether a majority of those entitled participate." The ultimate answer lies in moving the "silent ones"

into the "vocal side".

Black's is still a rather narrow definition of majority rule, and is certainly not in accord with our evolving concept that true democracy means that the interests and welfare of ALL the people, not just those who vote, should be served by those making the decisions. In short, our officials are expected to determine the best interests of the majority of ALL the people, not merely the voting members, and to make decisions accordingly, even though the decision may be unpalatable to the voting majority.

Mathematical majorities, and the officials chosen by them, must, therefore, learn to voluntarily restrain themselves from stepping over the line of minority or "silent majority" interest. Without such restraint, democracy no longer exists. While organized groups have "spoken for the majority" during most of our history, their failure to deal with the problems of many population segments they claim to represent has spawned innumerable groups, collectively called the "New Left". Their rise to positions of influence and power, though alarming to some, is the direct result of chronic neglect by the "majority". Since these groups draw much of their support from the dissatisfied "silent majority", the prevailing "majorities" might take heed.

Neglected minorities have long ago learned from the conduct of aggressive minority groups who claim to speak for the majority that "the squeaking wheel gets the grease". They have chosen "disruption" of orderly processes as their chief weapon against a majority which ignores their needs and rights. Unrestrained majorities, are, therefore, as much a threat to democratic society as the disruptive approach of outvoted minorities. Vocal minorities are increasing in America.

Government by a majority of those who participate is an established fact in our nation. However, in the early years of our third century, our attention must be focused upon the unsolved problem integrating the "silent majority" into the ranks of the "active majority" and replacing self-interest of the few by the welfare of ALL.

TO CLEAR THE AIR

Statewide associations of municipalities are indispensable adjuncts to the constitutional and statutory process of local government. The Pennsylvania legislature recognizes them by statute and authorizes local expenditures for their support. They provide the only effective tool for organized communication and exchange of experiences at the local level, maintain open lines for local input and feedback in the state legislative policy-making, represent a united

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voice in promoting policies to meet their respective needs, and conduct a variety of educational activities in functional areas the better to equip local officials to meet their growing responsibilities.

Despite this indispensable role, their general public visibility is quite low. Not only do many municipalities fail to support membership, but the average layman demonstrates his awareness of their existence mainly when he has some adverse criticism to vent. Probably the most common objection to participation in a state association by the disgruntled taxpayer is the expenditure of public funds for attendance of members of governing bodies and the other officials at the annual association conventions. Unaware of, or overlooking, the educational and personal exchange value of such meetings, there is frequently an air of implicit or explicit muttering about "junkets" or "free vacation splurges" at public expense. Unfortunately, there are abuses, but if the law controlling attendance and expenses is carefully analyzed, so-called abuses may turn out to be honest misinterpretations of statutes which vary in substance, lack of clear definition of terms, and no mechanism for policing. Discussion of a few of these "problem areas" relative to annual conventions should illustrate the overall situation in re cities, boroughs, and townships in Pennsylvania.

The municipal codes authorize selection of delegates to state conventions, explicitly by the governing body in boroughs and townships, and implicitly in third class cities. However, variations in the number of authorized delegates and the lack of specific procedures for selection have, in some known cases, encouraged unfounded criticism, and, in others, opened the door to abuses.

Third class cities and boroughs have no statutory restrictions on the number or official position of delegates. The respective codes indicate only "one or more delegates from elected or appointed officials", in the case of boroughs, and merely "delegates" for third class cities. In these instances, lack of restraint in limiting the number tends to create the impression that the convention is "paid vacation" for anyone favored by the governing body.

The township codes impose definite limits on the number of delegates. Second class townships may send "one supervisor, secretary, or manager" whose "expenses shall be paid." First class townships may authorize the "three commissioners" and "not more than three other officers of the township designated by the commissioners". While this is specific enough, public criticism has been directed against those cases where the limits have been ignored, and attendance has been authorized as a "fringe benefit" to non-officers, or to officers in excess

of the limitation.

Based upon the principle that no official action may be taken by a governing body except at a valid meeting, and then only by ordinance, resolution, or motion, the informal designation of "paid delegates" without an act recorded in the minutes is a clear violation of the law, and an action which encourages public suspicion and mistrust. In at least one instance, it has been claimed that inclusion of an item for convention expenses in the annual budget is in itself sufficient authority to designate the number of delegates and pay "expenses" without further formal action recorded in the minutes.

It should be remembered that a budget is merely a statement of estimated receipts and expenditures, or a plan whereby expenditures are controlled. It is not final authority to expend. And neither is the appropriation ordinance accompanying the budget more than a general authority to expend public funds. Funds budgeted and appropriated by ordinance do not create a vested right in any fund and are subject to revocation before actual payment. The general rule in undepartmentalized boroughs and townships is that specific expenditures are valid only if prior authority is given by action of the governing body or ratified by the same after the expenditure has been made.

Consequently, in all cases governing bodies should provide for convention expenses in the annual budget, and, by recorded motion prior to the convention, designate the authorized appointed or elected officers who are to be delegates, as well as specify the amount of "expense allowance" for each. Treasurers and controllers would be remiss to authorize payments unless expenditures were properly ordered or ratified.

Possibly most criticism of conventions stems from the amount of expense money allowed each delegate for the four days to which each code limits him. The Third Class City Code allows "necessary expenses" without setting any limit. In boroughs, each delegate shall be allowed for "expenses incurred" not more than \$50.00 per day, plus 12¢ per mile travel expense to and from the meeting. First Class Townships have a like provision, while the second class code merely specifies that "expenses shall be paid."

Whether or not maximum allowances are specified in the codes, there are at least three other gray areas which provoke uncertainty among governing bodies and provide sources of complaint to the "taxpayer." All three involve the question as to what may be legitimately included in the amount of the delegates' allowance, other than travel expenses.

Legitimate items of expense are not
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specifically defined in the statutes. In Second Class Townships, allowances merely include "expenses" without defining them. The Third Class City Code allows payment for "necessary expenses", also failing to define. Both the Borough and First Class Township Code, which, on the surface, limit allowances to \$50.00 per day, specify allowances for "expenses incurred". The Borough Code further beclouds the questions by authorizing a per diem maximum "in addition to any compensation allowed by law", but does not identify the latter.

Case law casts little light on this question. A 1950 decision involving the Borough of West Hazleton seemingly settled at least one issue by ruling that "loss of wages" incurred by a borough councilman in attending the convention is an "actual expense" and payments made for that purpose are proper. Under the \$50.00 limitation, today's high cost of accommodations and meals, inclusive of "loss of wages" in the maximum allowance is largely academic.

A 1952 decision involving Edwardsville Borough struck at a common practice of making up the difference between "actual expenses" and the amount paid by the Borough by including "questionable items". It ruled that items for "taxis, shows, etc." are not proper expenditures and subjected councilmen to surcharge for such payments.

A final source of complaint is that concerned citizens have no way of checking the validity of convention allotments if governing bodies ignore the spirit and the letter of the statutes. Suspicions could be reduced or eliminated if the statutes mandated detailed itemization of delegate "actual expenses incurred" for such requirement would make the accounting an open public record. Without further verification, a single line item in the budget allotting a total amount for conventions

invites at least doubt. Statutes do not specify itemization. But court decisions, as well as common sense, do. In the 1944 case involving the Borough of Monaca, the court confirmed our contention that "convention expenses must be appropriated" and, at the same time, that it is the "duty of delegates to submit itemized expense accounts." The courts seem to have recognized the confusion of governing bodies caused by the absence of clear statutory requirements for itemization, by ruling in the West Hazleton and Edwardsville cases, previously cited, that councilmen will not be surcharged for failure to itemize "expenses" at the time of payment, if such itemization and accounting is made, although belatedly, at the hearing on an appeal from the audit report.

This article should not be construed as a definite legal opinion on the subject. It merely recognizes that the effectiveness of state associations of municipalities and their officers is effected by public criticisms which could be largely avoided by the enactment of uniform municipal code provisions clearly defining the existing vague terms which confuse sincere public officials and provide grounds for public criticism.

THOUGHTS FOR TODAY

Not all fairy tales begin with "Once upon a time." Some start with "When I am elected. . ."

It has been proposed that property owners who pay their taxes in advance be given a medal, but the question is: What would they have left to pin the medal on?

A television set is a box into which we crawl when we want to hide from ourselves.

"Be temperate in all things", said the Greeks, and archeologists are still digging up their cities.

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