

The Liberals Past history *Get a Whumping*

A Commentary
By Nicholas von Hoffman

When it hurts the most is when you get it from people who others think are your friends and allies. When the righties give it to Nixon for having converted into a de facto Democrat, the crack has an extra sting. The same with the liberals. It must have hurt something special when the magazine *Commentary*, a publication of ancient liberal pedigree, took out after the American Civil Liberties Union last month and whumped 'em good . . . not only an article but an editorial also.

The article was written by Joseph W. Bishop Jr., who is the Richard Ely Professor of Law at Yale University. He's also, according to Aryeh Neier, the ACLU's executive director, a former Acting General Counsel of the Army, and a chap who testified in front of the House Internal Security Committee (nee Un-American Activities Committee) in favor of the McCarran Act concentration camps.

As you can imagine, such a writer could really do a job on the ACLU and he did and that gave great comfort to the organization's detractors. William F. Buckley Jr., teeheed; The Wall Street Journal editorially heehawed.

The gist of Bishop's attack is summed up by his observation that ". . . one is struck immediately by the general homogeneity of the politics of the people ACLU supports—draft resisters, black militants, campus radicals, belicose peace demonstrators and the like." To this Neier answers, "We spend more time defending them because the government spends more time prosecuting them. There have been few cases of repression of the right in recent years; those that there have been usually have been challenged by the ACLU."

Even if Neier is correct, Bishop has gotten hold of something. Anyone who's been around ACLU lawyers when they're in action can see these guys tend to sympathize and agree with leftish clients while Bishop does not. In his article he scores off the brothers Berrigan as "religious fanatics." He describes the ACLU's appealing the court-martial of the war-resisting Army Captain Howard Levy as "the finest example of zeal over realism." But, if zeal makes him skittish, the acquittal of some of the ACLU's clients makes him doubt justice itself: "More Panthers have been acquitted than convicted, some on evidence which might well have supported a finding of 'guilt.'"

He doesn't like those scurvy, scuddy, scungy people. He doesn't like the whole thing . . . doesn't like it when the ACLU fails to attack Castro for shooting the opposition, doesn't like it if the organization doesn't defend the directors of the Penn Central Railroad when they come under Congressman Wright Patman's tongue whippings or when it goes to court to prevent the House Internal Security Committee from publishing "a list of Old and New Left revivalists on various campuses."

From having once been a non-partisan detached de-

fender of the Bill of Rights, now the ACLU's "views depend very much on who is interfering with whose freedom of speech and action . . . the 'activists' within ACLU . . . barely recognize that the public has any interest at all in the government's preservation of stability and order or in the protection of the United States from internal and external violence."

Can that possibly be a liberal position? It was once. That's good 18th- and early 19th-century Whig thinking. It's still good thinking if you're rich and/or fortunately placed so that you can escape everything from the boss and the draft to air pollution. Then the only freedoms you need are the older, formally structured, political ones.

The magazine's editor, Norman Podhoretz, makes this ever so clear in his piece backing Bishop up. Podhoretz is a man who entitled his autobiography, "Making It," and now that he's made it, he's going to hold on to it. He's satisfied: "Never has there been so much talk of repression, but never has there been so great a degree of civil freedom, probably in the history of the world, as exists in the United States today."

That may be true, but people can't reconcile themselves to restraints on their freedoms by being told they've got it better than Mao's coolies hoeing on the collective. They see themselves getting the shaft from credit agencies, from highways being rammed through their backyards, from the draft, from the IRS, from the outsiders running the local schools, from the big companies they work for and the big unions they pay their dues to. The whole country is laboring under a sense of compulsion, of having to move aside and move along for reasons of state, for reasons of progress, for reasons too technical for us to understand. And that's not just a left feeling; the righties have it too.

Who doesn't have it? Men like Bishop and Podhoretz who writes, "If, then, there is a danger to civil liberties, it arises at the moment not from the government but from the desertion of liberty by liberals, the erosion of their old belief in its value, the weakening of their devotion to its cause."

It's statements like that that prompt people who used to be proud to call themselves liberals to seek out new identifications. Liberals Bishop and Podhoretz in their liberal magazine, now in this time when everybody's itching, irritated and irate over lack of personal freedom, now they say the ACLU should stand with them, and not even surreptitiously scratch.

So the magazine is right. The ACLU isn't liberal anymore. It's moved on into something riskier, more up to date, but certainly more useful. Nixon is now the liberal. They ought to send him a free subscription.