Yale Review of Law and Social Action

Volume 3
Issue 3 *Yale Review of Law and Social Action*

Article 3

1973

Solving Social Crises by Commissions

Robert B. Reich

Normally everthing goes well in our world. But at night when we are sleeping, sometimes things go wrong. Army ants invade the camp; leopards may come in and steal a hunting dog or even a child. If we were awake these things would not happen. So when something big goes wrong, like illness or bad hunting or death, it must be because the forest is sleeping and not looking after its children. So what do we do? We wake it up. We wake it up by singing to it, and we do this because we want to awaken happy. Then everything will be well and good again.

Colin Turnbull, The Forest People

Solving Social Crises by Commissions

Robert B Reich

"The report of the Commissioners," said Washington in his sixth address to Congress,[1] "marks their firmness and abilities and must unite all virtuous men." The first commission to deal with a social crisis in America had recommended that the President send troops into western Pennsylvania to end the Whiskey Rebellion. As a cartoon of the day put it, sending 15,000 troops into the Allegheny and Monongahela River valleys against a few farmers for the collection of such a small tax was like swatting flies with a meat axe.[2] But social order was at stake; and that commission, like the scores of crisis commissions which were to follow it, provided the chief executive with a strategy for restoring the commonweal while assuring the public that the problem could, in fact, be handled.

Whenever this nation experiences the kind of social crisis that challenges the capacity of its institutions to handle disorder, a commission of distinguished citizens is asked to probe the causes of the crisis and recommend solutions. In the wake of seventy bombings across the nation, three attempted and two successful political assassinations, and fourteen riots all between 1910 and 1913,[3] President Taft's Commission on Industrial Relations launched a "searching inquiry"[4] into the causes of labor unrest. "The nine members of the Commission," wrote Walter Lippman on the eve before their final report was issued, "have before them the awesome task of explaining why America, supposed to become the land of promise, has become a land of disappointment and deepseated discontent."[5] After having questioned seven hundred witnesses, taken six and one half million words of testimony, traveled

1 Washington Papers, sixth address to Congress, March 17, 1796.
2 The Commentator, April 12, 1796 at 3, col. 2.
3 See G. Adams, Jr., *The Age of Industrial Violence*, ch. 1, (1966).
4 February 12, 1972, Cong. Rec. 62d Cong., 2d Sess., vol. 48, part 2, at 1661.
5 Lippman, *The Great Conquest*, 30 Everybody's Magazine 502 (April, 1914).
6 See 104 Outlook 492 (July 5, 1913).
7 Final Rept, Sen. Doc. No. 415, 64th Cong., 1st Sess., Serial no 6929, at 2
8 N.Y. Times, April 23, 1929, at 3, col. 1.
9 *National Commission on Law Observance and Enforcement, Final Report*, at 13, 57, 59, 74, 101 (1931
10 133 N.Y. World 99 (1931).
11 *National Commission on Law Observance and Enforcement, Final Report*, at 88 (1931).
12 Id at 121.

to fifteen cities where violence had erupted, and contemplated surveys and reports from fifteen social scientists,[6] the Commission issued its report. "We find the major cause of industrial unrest to be unemployment," they wrote. "We recommend further prosecution of monopolists under existing law."[7] Lippman's "awesome task" seemed strangely unfulfilled.

Fifteen years later, the "noble experiment" embodied in the Eighteenth Amendment seemed in danger of collapse; the flouting of prohibition brought into question the whole system of law enforcement. In his inaugural address President Hoover promised "the widest inquiry into the shortcomings of the administration of justice and into the causes and remedies for them."[8] Headed by former Attorney General George Wickersham, the National Commission on Law Observance and Enforcement produced eleven volumes of interviews, surveys, statistics, and opinions, all tending to show that police were often insensitive, brutal, and corrupt; that defendants were rarely accorded a fair trial; that prisons were inhumane; and that prohibition was unenforceable.[9] But the Commission made few recommendations for change. "Seriously and solemnly they reported that conditions were very bad," mused the N.Y. World, "and then recommended nothing to be done about it."[10] Prohibition was probably unenforceable, the Commission concluded, but should remain on the statute books.[11] And although police disregarded the law, "the remedy for abuses of this sort involves the serious difficulty of altering rooted habits."[12]

Nine major crisis commissions have probed America's conscience since 1963, five of them appointed by Presidents, two appointed jointly by President and Congress, one by a governor, and one by the chief judge of a state court: the Warren Commission on the assassination of President Kennedy,[13] the McCone Commission on the Watts riots of 1965,[14] the Katzenbach Crime Commission on the "law and order" crisis that dominated political rhetoric in 1967,[15] the Kerner Commission on the ghetto riots of 1967 and 1968,[16] the Eisenhower Commission on the causes and prevention of violence in 1969,[17] the Scranton Commission on the campus uprisings of 1970,[18] the Lockhart Commission on obscenity and pornography in 1970,[19] the Shafer Commission on marijuana and drug abuse in 1972,[20] and the McKay Commission on the Attica revolt of 1972.[21] These commissions assured America that ghetto rioting, crime, campus violence, obscenity, drugs, and prison rioting could be handled if the American people had the "will" to handle them. "America will prevail," the Eisenhower Violence Commission summed up its report. "It has absorbed millions of immigrants and given them freedom to develop in their own manner—to chase an honest buck, build, aim at the moon, build a bomb, and dream their dreams."[22] But the commissions were reluctant to hold specific institutions or individuals responsible for the crises which they explored, and their recommendations for change comprised a curious mixture of vagueness and homily. Few if any of their recommendations were actually followed.

The American crisis commission is unique among the citizen task forces, special conferences, study groups, advisory groups, and planning commissions that surround our more formal institutions of government. All of these groups are temporary; all attempt to "involve" private citizens who otherwise have full time occupations and who rarely get paid for their government efforts. But unlike the perennial conferences on aging, children and youth, or health, crisis commissions do not generally attempt to mobilize special interest groups behind specific pieces of upcoming legislation; unlike planning commissions such as the Commission on Reorganization of the Executive Branch or the U.S. Commission on Reform of the Federal Criminal Code, crisis commissions do not generally attempt to devise legislation or plan specific programs. Crisis commissions are triggered by particular social crises, and their attention is focussed on discovering why the crises occurred and how they can be avoided in the future.

In their pursuit of "cause," crisis commissions resemble grand juries and Congressional investigating committees. They are often given the power to subpoena witnesses and compel disclosure of information; their reports, transcripts, and evidence are often reviewed by courts which have jurisdiction over grand jury investigations being conducted simultaneously with the commission's investigation.

---

13 *United States Commission to Investigate the Assassination of President Kennedy* (19) hereinafter cited as *Warren Commission.*

14 *Governor's Commission on the Los Angeles Riots of 1965, Violence in the City—an End or a Beginning?* (1965) hereinafter cited as *McCone Commission.*

15 *President's Commission on Law Enforcement and the Administration of Justice, The Challenge of Crime in a Free Society* (1967) hereinafter cited as *Katzenbach Commission*; Task Force Reports, hereinafter cited as *Katzenbach Task Force* on—.

16 *National Advisory Commission on Civil Disorders, Report* (1968) hereinafter cited as *Kerner Commission.*

17 *National Commission on the Causes and Prevention of Violence, To Establish Justice, to Insure Domestic Tranquility* (1969) hereinafter cited as *Eisenhower Commission*; Numerous Study Group Reports, which will be cited by name.

18 *President's Commission on Campus Unrest, Report* (1970) hereinafter cited as *Scranton Commission.*

19 *National Commission on Obscenity and Pornography, Report* (1970) hereinafter cited as *Lockhart Commission.*

20 *National Commission on Marihuana and Drug Abuse, Marihuana: A Signal of Misunderstanding* (1972) hereinafter cited as *Shafer Commission.*

21 *New York State Special Commission on Attica, Report* (1972) hereinafter cited as *McKay Commission.*

22 *Eisenhower Commission* at 261.

Yet, unlike grand juries, crisis commissions are not required to proceed in secrecy, they are not required to warn defendants "marked" for prosecution of their Fifth Amendment rights, and they are generally immune from challenges that their members have been selected according to arbitrary or biased standards. [23] On the other hand, if crisis commissions go beyond their investigative role and make specific findings of guilt, they are held to an even higher standard of due process than are grand juries. [24]

Crisis commissions also resemble legislative investigating committees, such as the Kefauver Special Committee to investigate organized crime or the infamous McCarthy Subcommittee on Investigations. Many crisis commissions, in fact, are created by legislative fiat, and a few legislators are normally appointed to the commissions. In 1909, angered by Theodore Roosevelt's rather loose and cavalier use of commissions, Congress prohibited the use of public funds for any commission that it had not specifically authorized. [25] New York State's Moreland Act of 1907 [26] treats that state's chief executive much more generously, granting him the power to appoint commissions, subpeona and enforce the attendance of witnesses, and pay all the expenses directly out of the state treasury.

But for all their involvement with legislatures, crisis commissions have an important symbolic role "above politics." They are comprised for the most part of private citizens and, unlike legislative committees, they possess large, gangling staffs of lawyers, social scientists, and consultants.

The real function of crisis commissions in American life places them far away from any other government institution. They are as significant for what they fail to accomplish as for what they do accomplish. Crisis commissions have a *cultural* function which can be understood only by looking at them as a single phenomenon. The purpose here is not to condemn any individual commission, for in their specifics crisis commissions vary a great deal. Nor is it the purpose of this article to suggest specific reforms that might be undertaken to make crisis commissions "work" more effectively. Rather, what is attempted here is to draw more general connections, and to show the significance of crisis commissions in American culture. Such an inquiry, looking back over the crisis commissions of the last decades from a vantage point deep within the social bog of Nixon's second term, is an ironic and revealing exercise. It illuminates a great deal about how social crisis is perceived in this country, and about the role of ritual in America.

● Everyone knows that little or no relationship exists between what crisis commissions recommend and what politicians actually do. When politicians are interested in taking action, they do not resort to crisis commissions. Nixon justified his deus ex machina intervention in the Calley case by contending that the matter was just "too important to pass the buck to another commission." [27] Franklin D. Roosevelt appointed no crisis commissions during his crisis-filled tenure of office, and Lyndon Johnson resorted to crisis commissions only during his last two years of office, after the Great Society had bogged down in Southeast Asia. Some of the most harrowing social crises of this nations's history were never studied by crisis commissions. Lincoln, presumably, never felt called upon to appoint a commission on slavery; Lyndon Johnson never even replied to Robert Kennedy's proposal that he be appointed chairman of a Presidential Commission to Study and Evaluate the Conduct of the Vietnam War. [28] It seems doubtful, at this writing, that Richard Nixon will appoint a Watergate Commission.

For politicians unwilling or unable to take political action, however, crisis commissions are ideal vehicles for keeping the public occupied and content that the social crisis is being "handled." During Herbert Hoover's phlegmatic administration he appointed no less that ninety-four separate commissions, of which forty-eight can easily be classified as the crisis variety. [29] His Commission on Economic Trends, for example, convened in the wake of 1929's rather uninspired economic trend, studied the situation for six months and then reported that the "tempo" of industry and commerce had changed. [30] Similarly, in 1967, when news broke of the CIA's role in the National Student Association and other private groups, Johnson appointed a special commission to investigate and recommend action. The commission had three meetings and never reported its findings. [31]

The appointment of a crisis commission also provides he chief executive with an ideal means of taking the wind out of impending legislation. Taft's Commission on Industrial Relations forestalled some liberal programs then brewing in Congress. [32] The Katzenbach Crime Commission was created, according to its chairman, as a way of delaying a ground swell movement in Congress for "law and order" legislation. [33] The Kerner Commission was also a defensive reaction, buying time for the adminis-

---

23 See, e.g., People v. Johnson, 203 N.E. 2d 399, 401 (Ill., 1965) (secrecy); U.S. v. Scully 225 F. 2d 113 (2d Cir., 1955) (protection of Fifth Amendment rights); Cassell v. Texas, 339 U.S. 282 (1950) (representative grand jury).

24 See, e.g., Hannah v. Larche 363 U.S. 420 (1960). In Jenkins v. McKeithen, 395 U.S. 411 (1969), the Supreme Court held unconstitutional a Louisiana statute creating a Civil Rights Commission for the state, claiming that the Commission was adjudicating criminal culpability without providing adequate due process safeguards. The Court held the Commission to a higher standard than grand juries, reasoning that investigative bodies such as the commission have no claim to specific Constitutional sanction . . . And the Commission is in no sense an independent body of citizens. Rather, its members serve at the pleasure of the Governor. 395 U.S. at 430. Thus it seems doubtful whether the Warren Commission–surely going beyond a mere investigating role–could have subpeonaed Marina Oswald had her husband still been alive when the investigation was being carried out.

25 Sundry Civil Act, amendment–U.S.C.–.

26 N.Y.L. ch 539 as amended by ch 131.

27 N.Y. Times, April 14, 1971 at 2, col. 4.

28 See Drew, *On Giving Oneself a Hotfoot: Government by Commission,* 221 Atlantic 45 (May, 1968).

29 W. Myers and W. Newton, *The Hoover Administration,* at 492 (1936).

30 *President's Commission on Economic Trends, Final Report,* 12 (1929).

31 See Drew, supra note 30.

32 See Adams, supra note 3, at 34-38.

tration to work out new strategies in the wake of the 1967 riots. And according to several commentators, [34] the Lockhart obscenity and pornography commission was little more than an attempt to head off the "anti-smut" campaign then raging in Congress. [35]

Once a crisis commission has issued its report, a chief executive can use it, abuse it, or ignore it with impunity. The temporary life of crisis commissions make them particularly vulnerable to political whim. Crisis commissioners do not remain commissioners after their reports are issued. They go back to their normal occupations, their staff disperses, and their funds dissipate. Thus commissions can not easily reply to political attack, nor can they descry political indifference. They possess no ready constituency to carry on their banner, no powerful interest group with a continuing stake in their proposals. In short, crisis commissions have no political clout.

To steal the limelight and possess no political clout invites trouble in a Washington starved for whipping boys. The three most recent crisis commissions were hung in effigy high above the White House, to the certain political advantage of its occupants. Vice President Agnew accused the Scranton Commission on campus unrest of supplying "mere pablum for the permissivists." [36] The Commission assumed a position of neutrality, he said, "between the fireman and the arsonist." [37] Instead of responding directly to the report, President Nixon delivered a major speech the same week the report was issued, assailing college faculties who bowed to student demands, and asking Congress for an additional one thousand FBI agents to prowl the nation's campuses. [38]

The Lockhart Commission on obscenity and pornography fared worse. An ominous warning came two days before the release of the Commission's report when Postmaster General Winton Blout asserted that "this administration is simply not going to legalize pornography. Under cover of the First Amendment the dirt merchants have erected a multimillion dollar empire dedicated to human degredation." [39] Attorney General John Mitchell was quick to point out that "The Commission is not connected with the Nixon administration." [40] Meanwhile, presidential speechwriter Patrick Buchanan was assigned to help write the dissenting report of Commissioner Charles Keating, the lone Nixon appointee to the Commission. [41] The Vice President, on the same day that the report was issued, demanded that laws be passed "to restrain bad taste and outrageous vulgarity." [42] The President did not respond to the report.

The President did reply personally to one recent Commission study. "I am in disagreement," he said after reading the Shafer Commission's report on marijuana. "Reading it did not change my mind. I oppose the legalization of marijuana, and that includes its sale, its possession, and its use. That is my position, despite what the Commission has recommended." [43]

Commission reports normally prompt less political action than rhetoric. By the time the reports are issued, much of the public concern and legislative momentum that existed when the commissions began operating has been lost. Commission recommendations usually fall on politically deaf ears. One former commissioner remembers that "there was a great ceremony with plaudits in the Rose Garden when our appointment was announced, and then at the end we couldn't find anyone to hand the damn report to." [44] In testimony before a Senate subcommittee investigating Presidential Commissions, [45] Chairmen Katzenbach, Kerner, and Milton Eisenhower all stated that their reports had resulted in little or no political action. [46] Two follow-up studies, one conducted a year after the Kerner Commission reported, and the other conducted two years after, [47] both concluded that almost no progress had been made on any of the Commission's recommendations. [48]

When read together, the decades of crisis reports contain a kind of repeating cadence: the same findings, the same recommendations, the same tones of righteous indignation and moral exhortation. "It is a kind of Alice in Wonderland," noted Kenneth Clark, veteran of several crisis commissions, "with the same moving picture shown over and over again . . . and the same inaction." [49] The reports of the Commissions themselves reveal an ironic awareness that their words often substitute for political action. The quote from Kenneth Clark appears in the introduction to the Kerner Commission report, as a kind of apologia. The McKay Attica commission prefaced its report by asserting that "the need is not for more statements but for more action." [50]

---

33 Statement of Nicholas deB. Katzenbach, May 26, 1971, Hearings before the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary, United States Senate, 92nd Cong., 1st Sess hereinafter cited as Hearings.

34 211 The Nation 132 (August 31, 1970).

35 Id.

36 N.Y. Times, Sept. 25, 1970 at 1, col. 1.

37 Id.

38 N.Y. Times, Sept. 23, 1970 at 1, col. 1.

39 N.Y. Times, Sept. 29, 1970, at 11, col. 1.

40 N.Y. Times, Aug. 23, 1970 at 61, col. 6.

41 N.Y. Times, Sept. 13, 1970, sec. IV, at 5, col. 1.

42 N.Y. Times, Sept. 25, 1970, at 1, col.

43 N.Y. Times, Mar. 25, 1972, at 12, col. 5.

44 Cited by Drew, supra note 30.

45 Hearings, at May 25, 1970, May 26, 1970, and June 22, 1970.

46 Id.

47 *National Urban Coalition, One Year Later* (1969); *The Kerner Report Revisited* (P. Meranto, ed. 1970).

48 Id. *One Year Later* at 2-6; *Kerner Revisited* at 5.

49 *Kerner Commission* at 29.

50 *McKay Commission* at xiii.

Old recommendations seem strangely modern. The 1931 Wickersham Commission's report on law observance and enforcement, for example, is a contemporary document, sharing much of the language and sentiment of the Katzenbach Crime Commission which issued its own report thirty six years after the Wickersham report. Both reports call for an inventory of the cost of crime,[51] both speak of the need for centralized crime statistics[52] and centralized state prosecution systems,[53] both recommend more education and training for police,[54] and the recruitment of minorities into the forces.[55] Both reports note the tragic failure of prisons,[56] and both document the need to strengthen probation and parole services.[57] Both recommend community-based corrections,[58] and dwell on the necessity for making more visible and uniform the many discretionary aspects of arrest and prosecution.[59] Both reports express outrage that most offenders are held for months awaiting final disposition of their cases, and that few of them ever have a full trial.[60] The Wickersham report, now more than forty years old, resounds with phrases which are familiar. "The prison system is antiquated and inefficient," it warned. "It does not reform the criminal and it fails to protect society."[61]

But no more than three years after being issued, the Wickersham report vanished. In 1934, Franklin D. Roosevelt convoked six hundred state judges, prosecutors, and police officials to discuss the federal role in state and local enforcement efforts; but in neither the meetings, nor in the policies which grew out of the meetings, was the Wickersham report even mentioned.[62] Only once, after the conference had adjourned, did the President of the A.B.A. note how unfortunate it was that "the Wickersham report, which made one of the most thorough investigations of law observance and enforcement in our time, now gathers dust on the shelves of college libraries."[63]

Crisis commissions also have an uncanny way of predicting issues. Their somber warnings of what will occur if their recommendations are not adopted often come true. The 1919 Chicago Commission on Race Relations, for example, traced the causes of rioting in that city to the exclusion of negroes from "financial power," the difficulty of their finding decent housing, and discrimination in employment.[64] The Commission warned that unless these causes were remedied, more violence would occur in future years.[65] The Scranton Commission on campus unrest warned two years before the killings at Southern State University that "sending civil authorities onto a college campus armed as if for war—armed to kill—has brought tragedy in the past; if this practice is not changed, tragedy will come again.[66] And a presidential commission on the status of women warned in its 1963 report of serious social dislocation and discontent unless women of America began to receive equal pay with men, equal legal rights to contract, convey, and own property, and equal opportunity in hiring, job training, and promotion.[67] The report also recommended paid maternity leave and subsidized child care services.[68]

The obvious inability of crisis commissions to promote political change has led many to call for their abolition. After having served on the Eisenhower Violence Commission, Judge Leon Higginbotham called for a "national moratorium on any temporary study commissions to probe the causes of racism, or poverty, or crime, or social crisis."[69] Columnist Carl Rowan argues that commission reports simply "add to the pool of social bitterness and despair" whenever they arouse hopes of action that those in power really have no intention of carrying out.[70]

And yet, over and above their short-lived utility to politicians there is something in American culture that expects and demands crisis commissions. The ritualized convocation of prestigous citizens to "probe the causes" of social crisis can not be explained by political expedience alone. The shock of Attica touched a deep nerve in America, as did the widespread use of marijuana, the campus strikes, the outbreak of pornography, ghetto rioting, the flouting of prohibition, and labor unrest. America sought explanations for such disorder. More than that, it sought the reassurance which politicians could not give it. The "blue ribbon" panels of private citizens, the well-publicized hearings, and the voluminous reports which followed, provided this kind of reassurance.

The substance of the reassurance is that the social crisis can be understood and that a solution is available for it. The reports of the crisis commissions which have appeared in the last decade, in thick paperback editions, packed with awesome statistics, powerful exhortations, and simple recommendations for action, provided America with tangible evidence that disorder was *comprehensible.* The crisis commissions supplied answers which could make "sense" out of the social crises without

---

51 *Wickersham Report on the Costs of Crime* 49-53; *Task Force Report Cost of Crime* 42-59.

52 *Wickersham Report on Criminal Statistics* 5-18; *Task Force Report on Cost of Crime* 123-237.

53 *Wickersham Report on Prosecution* 37-38; *Katzenbach Commission* 147-149.

54 *Wickersham Report on the Police* 1-10; *Katzenbach Commission* 91-125.

55 Id.

56 *Wickersham Report on Penal Institutions* 170-174; *Task Force Report on the Prisons* 159-187.

57 Id.

58 Id.

59 *Wickersham Report on Prosecution* 6-29; *Katzenbach Commission* 130-131.

60 *Wickersham Report on Prosecution* 59-73; *Task Force on the Courts* 4-13.

61 *Wickerhsam Report on Penal Institutions* at 173.

62 *Proc. of the Att Gen's Conference of Crime,* 3-8, 17-20, 456 (1935).

63 Id. at 198.

64 *The Chicago Commission on Race Relations, The Negro in Chicago: A Study of Race Relations and a Race Riot* (1922) at 220, 229.

65 Id. at 35-39.

66 *Scranton Commission* at 149.

67 *President's Commission on the Status of Women, Report,* (1963) at 3, 8, 14, 15, 27.

68 Id. at 33, 39.

altering old patterns of perception. For the real threat that these crises posed was not so much an immediate threat to the nation's order, but a far deeper threat to the nation's way of viewing itself. It was this larger threat with which the crisis commissions dealt. Crisis commissions rationalize crisis within old familiar frameworks. In so doing, they bring crisis under control.

Colin Turnbull, in *The Forest People,*[71] describes the ritual of the "molimo" employed by pigmies of central Africa when a crisis such as illness, bad hunting, or death has affected the tribe. The "molimo" expiates the evil and reaffirms the peaceful relationship between the tribe and their forest. It is a ritual of purification which is at the same time a celebration of everything the forest has given to them in times past. Atonement and reaffirmation are entwined within the "molimo" festival, which continues for several weeks. During the festival, all the normal activities and routines of the tribe are suspended. The sound of the molimo trumpet, blown by a special member of the tribe, symbolizes the forest calling to its people, and the pigmies sing in response. The festival ends in a dance, led by the oldest and most venerable members of the tribe, and joined in by the youngest members.

The festival of the "molimo" restores order to the tribe by making the evil comprehensible. It is related to our own ritual of rationalizing social crisis. For the crisis commission also performs a symbolic purification and reaffirmation, and it contains its own carefully measured cadence. The analogy between the two rituals provides a framework for understanding the one in which we periodically take part.

> This was a time to get back to the forest as quickly as possible and to hold the biggest molimo festival the forest had ever seen, to make the forest happy again.[72]

Crisis commissions are convoked to explain only certain kinds of social disorder. They are not called into being by individual, unrelated acts of lawlessness which occur every day in America. Nor are crisis commissions created primarily because of the lawlessness of agents of law enforcement, such as the state troopers who killed forty three men at Attica, the national guardsmen who killed four students at Kent State, or the Mississippi Highway Partolmen who killed two students at Jackson State College. Nor, finally, are crisis commissions convened solely because the laws which are widely violated are themselves suspect, such as laws prohibiting alcoholic beverages, marijuana, or pornography.

Crisis commissions are convoked to probe and explain the kinds of disorder which are the most difficult for America to understand. Unrelated acts of lawlessness will always occur; indeed, they are expected. Explanations for them are left to the normal processes of criminal justice, and the deeper explanations for them are left to academics. The lawlessness of agents of law enforcement, while not to be condoned, is understandable to an America whose armies and mythic frontier sheriffs enforce the peace with brute force. The process by which laws which are widely violated are created in the first place belongs to a nether-world called politics which is perfectly understandable to America.

But the widespread disorder produced by labor in 1913, drinkers of alcoholic beverages in 1929, and ghetto blacks, students, pornography dealers, marijuana smokers, and prisoners during the past decade, cries out for explanation. These can not be understood as parts of the normal processes of disorder that accompany law breaking, law enforcing, and law making. Their scale is too large to invoke grand juries, prosecutors, judges, and academics. Disorder is not only widespread, but it is also dangerously close and highly visible. Rather than being carried on by social outcasts who can be labeled "deviant," the lawlessness comes from groups more central to American culture: laborers, youth, students, blacks, drinkers. Because of this, individual guilt no longer seems relevant. The question of who is responsible becomes more problematic. Widespread, extraordinary lawlessness undermines the normal way responsibility is attributed to those who act. It suggests deeper causes, and it implicates all the social institutions which surround the lawlessness.

As a result, the advent of social crisis of this sort normally suspends criminal procedures pending the outcome of the quest for the "real cause" of the crisis. Actions that would have brought about criminal prosecution had they occurred in normal circumstances now become single bits of evidence of the "real cause" and mere symptoms of the forces which lie behind them. For example, in the wake of large scale labor violence in 1913, the Commission on Industrial Relations forestalled many criminal prosecutions, despite the opinion of the editors of the New York World who insisted that "Labor leaders should have appeared before a grand jury. A crime is a crime, and those who breach and practice it should be addressed, not by professors of economics, but by the police, jury, and judge."[73]

---

69 *Eisenhower Commission* at 119.

70 211 The Nation 132 (August 31, 1970).

71 C. Turnbull, *The Forest People* (1962).

72 Id. at 50.

73 N.Y. World, May 22, 1914 at 15, col. 3.

The pursuit of the "real cause" calls into question every institution in American life. Disorder is felt to be a contagion whose roots might be anywhere and everywhere. The flouting of prohibition prompted Hoover to call for "the widest inquiry into the shortcomings of the administration of justice and the observance of law in American society." [74] Johnson's mandate to the Eisenhower Violence Commission ordered "a penetrating search for the causes of violence–into our national life, our past as well as our present, our traditions as well as our hopes, our culture, our customs, and our laws." [75]

Such a penetrating search cannot be carried on through the normal channels of politics. Bargaining to consensus between special interests may be tolerable for arriving at workable programs, but is totally inappropriate for discovering the truth. Moreover, political institutions are as tainted with responsibility for the crisis as any other institutions. "The matter is far far too important for politics," said Johnson in appointing the Kerner Commission. "It goes to the health and safety of all American citizens–Republicans and Democrats." [76]

What is needed is an impartial tribunal, above politics, to carry out the investigation. Something major has gone awry, and what is sought is a parent who can set it right again. The most outstanding example of such a tribunal is the British royal commission.

For almost a thousand years the British royal commission has functioned as a supra-political and supra-legal institution. It is the conscience of Britain, forever restoring credibility to other British institutions and pointing out what should be done. As a distinctly royal body, convoked by the monarch, it is separate from Parliament. At various times in British history it has, in fact, been a vehicle for royal ascendancy over Parliament. [77]

Although the history of the British royal commission extends back to 1080 when William I sent out a royal commission to compile the Domesday Book, the golden age of the royal commission did not arrive until the mid-nineteenth century. It was the Age of Victoria. "The history of British democracy," wrote Felix Frankfurter, "might in considerable measure be written in terms of the history of successive royal commissions." [78] During a span of forty years, successive royal commissions shepherded a social revolution. There was a commission on the Poor Laws, on children in factories, on the Irish poor, on military punishment, on children in mines, on penal servitude and capital punishment, on trade unions, on labor laws, on women and children in agriculture, on mining accidents, on reformatories, and on housing. The commissions recommended and sought passage of legislation that profoundly enlarged the range of social problems for which government took responsibility. [79]

That the British royal commission is "above politics" is a fact understood even by politicians. Regardless of who is in power when the report of the commission is issued, the commission's "blue paper" is formally responded to by a cabinet "white paper" which outlines in detail the Government's views on the report and the Government's proposals for implementing the commission's recommendations. For example, the 1929 Royal Commission on Police Powers and Procedures recommended changes in the administration of justice that would expand the rights of the accused and decriminalize several types of gambling. Although within two months of the Commission's report the Conservative Government was replaced by Ramsay MacDonald's first Labour Government, a "white paper" was duly issued by the Labour Government, and within six months many of the recommendations had been instituted. [80]

A more telling example is the recent Royal Commission on Local Government which filed its report in late 1969, six months before Prime Minister Heath took the reigns. [81] The Commission recommended that all large cities in Britain employ the London model of a single urban area council with neighborhood and borough units–a radical overhaul of government that would undoubtedly trample upon many vested political interests. Its recommendations were closely analogous to those made by the Eisenhower Violence Commission for the organization of cities in this country. [82] But unlike the stony silence which received the Eisenhower Commission's recommendations, Heath's 1970 "white paper" on local government incorporated essentially all of the royal commissions' proposals, and the Government is actively pursuing them at this time. [83]

If royal commissions are so effective in Britain, why are they so ineffective here? If the royal commission is the model of authority to which America looks in times of social crisis, why hasn't the model been adopted in its entirety, as a vehicle for genuine political change? According to Franklin D. Roosevelt, the reason was simple. "The royal commission makes its report to Parliament and the thing goes through almost automatically, without fuss or feathers. But in the United States, we lack the proper temperament." [84]

---

74 72 Cong. Rec. 21, 27 (1929).

75 *Eisenhower Commission* i, ii.

76 *Kerner Commission* xvi.

77 See T. Lockwood, *A History of Royal Commissions*, 5 Osgoode Hall L. J. 172 (1967).

78 F. Frankfurter, *The Public and its Government* at 162 (1930).

79 C. Carr, *Concerning English Administrative Law* at 3-4 (1941).

80 See Hanser, *Guide to Decision: The British Royal Commission* at 148 (1965).

81 See Hearings, May 26, 1971.

82 Id.

83 Id.

84 Press Conference April 21, 1938, in Public Papers and Addresses of Franklin D. Roosevelt, vol. 1938, at 288 (1949).

Roosevelt's analysis misses the point. The difference between the British royal commission and the American crisis commission is more than a mere matter of temperament. The real difference lies in their very different functions. The British royal commission does not try to explain social crisis. It is not called upon to place blame or responsibility. It does not perform a public function of reaffirmation. The British royal commission is essentially a planning body, called into operation after the political organs of government have decided to take action. Its reports are designed to be used by politicians and they are issued without fanfare. The American crisis commission, on the contrary, has an important public function. It explains and reaffirms.

- He went up to Ausu and took the molimo trumpet from him and gently filled the forest with strange sounds . . . [85]

The quest for the "real cause" is a quest for the truth; but not simply any truth. It is a quest for a truth that can be understood without the necessity of altering other accepted truths, "We have arrived at a time in our history," Herbert Hoover pontificated at a news conference shortly before announcing the appointment of the Wickersham Commission, "when because of the increasing complexity of our civilization and the delicacy of its adjustments, we must make doubly certain that we discover the truth before we determine our policies." [86] The quest is for a simple answer that cuts through the complexities and ambiguities. "Find the truth," Johnson told the Kerner Commission. "Find the whole truth." [87]

Truth in America depends upon facts, upon hard data and lots of numbers. Regardless of whether or not a particular fact is relevant, it possesses a concreteness and a certainty that, when combined with thousands of other such facts, bestows authority and legitimacy. Crisis commissions are specially designed to collect facts. Hoover's Commission on Social Trends, for example, was charged with "conducting an extensive survey into significant social changes in our national life over recent years and to produce a body of systematic fact about social problems that will be of fundamental and permanent value." [88] The Commission report, when completed, ran to eight fat volumes, each of which resembled a small World Almanac.

The fact-collecting efforts of crisis commissions are exhaustive. Instead of being content to interview a mere sampling of the individuals involved in a particular crisis, the commissions often interview nearly everyone who has had anything whatever to do with the event. The Kerner Commission conducted more than 1200 interviews in twenty three cities that had experienced rioting, collecting over 1500 pages of depositions. [89] The Walker Study Team of the Eisenhower Violence Commission based its report of the rioting at the 1968 Democratic National Convention on 3,437 statements of eyewitnesses and participants, one hundred eighty hours of motion picture film, and 12,000 still photographs. [90] The McKay Attica Commission interviewed 1600 of the 2243 inmates who were at Attica during the uprising (all of them would have been interviewed but for the fact that many had already been released and could not be located). [91] Each Attica interview lasted an average of forty four minutes. The Commission also interviewed four hundred of the four hundred fifty correctional officers who were present on the day of the rioting, two hundred seventy of the approximately three hundred State Police who participated in or who had direct knowledge of the events, two hundred National Guardsmen who had firsthand knowledge, and almost all of the one hundred sheriffs, undersheriffs, and deputies who had been involved. [92]

Crisis commissions have documented the history of social movements, ethnic migrations, violence in America, political assassinations, marijuana use, collective disorder, and prisons in America. They have conducted extensive public opinion surveys on such diverse topics as why people use marijuana, [93] what people think should be the government's response to pornography, [94] and the extent to which people have altered their personal habits out of fear of violent crime. [95]

Often, fact collecting is carried on by public investigators. The Walker Study Team, for example, relied upon the FBI for more than two thirds of the eyewitness accounts on which it based its report, and also sought help from the U.S. Attorney's office in Chicago. [96]

---

85 Turnbull, supra note 73, at 75.

86 W. Myers, *The State Papers and Other Public Writings of Herbert Hoover*, vol. 1, at 197 (1934).

87 *Kerner Commission*, xvi.

88 Myers, supra note 88, at 195.

89 *Kerner Commission* at 574 et. seq.

90 *Rights in Conflict* at xiii (1968).

91 *McKay Commission* at xxviii.

92 Id. at xxx-xxxiii.

93 *Shafer Commission* at 68-73.

94 *Lockhart Commission* at 187-88.

95 *Eisenhower Commission* at 19.

96 *Rights in Conflict* at xiii.

But the great bulk of fact collecting is normally carried on by small armies of interviewers, researchers, and consultants under the direct employ of the commissions. The Kerner, Scranton, and Attica Commissions each had in excess of one hundred full and part time staff assistants. [97] Beyond these stretched myriads of consultants: academics, think-tank groups, experts hired to produce specific studies. The Kerner Commission, for example, awarded an $18,000 contract to Trans Century Corporation, a Washington-based research group, for a study of employment trends; $45,000 to Columbia University's Bureau of Applied Social Science Research for a study of the arrest records of rioters; $45,000 to a University of Michigan research group for an analysis of the life habits of rioters; $38,000 to the International Association of Chiefs of Police for a study on police preparedness; and $10,000 to Systemetrics, a subsidiary of the Real Estate Research Corporation, for coordinating and summarizing all the other research projects. [98] Individual social scientists are hired for special research projects, and often carry out the work at their own universities. The Eisenhower Violence Commission assured all its social scientists that their work would be published in full, even if the Commission disagreed with its findings, as it did with Jerome Skolnick's Politics of Protest. [99]

Thus, crisis commissions orchestrate a large number of people who do nothing but collect facts. Many of them are professionals trained specifically to collect facts; if they were not collecting them for the commissions, they would be collecting them for government agencies or under government research grants. Facts are the foundation on which the commissions base themselves, and yet the business of collecting the facts is not the responsibility of the commissioners. As one disgruntled member of the Wickersham Commission put it, "We do not vouch for anything in the report; it is all the work of hired experts." [100]

But facts alone are not enough. The facts must be applied in a scientific way in order to arrive at rational explanations. As Hoover told the Wickersham Commission, "After the facts are discovered and assembled in their true perspective, the conclusions to be drawn from them must be the inexorable march of logic." [101] Truth is as much a matter of science as it is of hard data; America's worship of one is firmly linked to its worship of the other.

Rational explanations are discovered through induction, step by step backwards from the volumes of facts about what actually occurred, toward those initial events and conditions that are truly "responsible." The "inexorable march of logic" is thought to be objective and neutral. Thus, the broad social conditions that lay at the beginning of the casual chain are discussed in the bland, neutral terms of science. "Labor unrest," reasoned the Commission on Industrial Relations, "has as its fundamental cause the frustration of unemployment." [102] The McCone Commission found the basic cause of the Watts riots to be "the resentment of blacks" which exists as a product of "past mistreatment in the South and present maladjustment in the North." [103] The Scranton Commission discovered student alienation as the fundamental cause of campus unrest. "Over time, more and more students have moved in the direction of an ever deeper and more inclusive sense of opposition to the larger society" [104] Frustration, resentment, and alienation also lay at the heart of the Attica revolt: "Like the urban ghetto disturbances of the 1960's, the Attica uprising was the product of frustrated hopes and expectations." [105]

Frustration, resentment, alienation, and maladjustment seem to be neutral terms, but they are not. They emphasize the inability of the actors to come to terms with what are characterized as neutral or at least inevitable social conditions–unemployment, mistreatment, injustice, or thwarted expectations. Responsibility for social crisis seems to rest with those who have not been able to adjust. The obvious implication is that it is their fault for not adjusting.

The commissions detail a universe in which no one seems to have any control. The reason for poverty is not some personal failing, but "the accident of being born to the wrong parents, or the lack of opportunity to become un-poor, or some other circumstance over which the individual has no control." [106] It is not the ghetto youth's fault that he is violent, according to the Eisenhower Violence Commission. He is violent "because loosely-organized inner-city families make children subject to premature autonomy" resulting in "resentment of authority figures such as policemen and teachers." [107] The commissions exonerate the actors from blame while at the same time keeping responsibility focussed directly upon them. By not pursuing the inquiry further, by not shifting focus to discover why the ghetto family has become

---

97 See *Kerner Commission* at vi, viii; *Scranton Commission* at xvii-xx; *McKay Commission* at v-vii.

98 As reported by Kopkind, *White on Black: The Riot Commission and the Rhetoric of Reform*, 44 Hard Times at 1-4 (September 15, 1969).

99 Hearings, May 26, 1971.

100 As reported by L. Symes, *The Great Fact-finding Farce*, 1964 Harpers 354 (1932).

101 Hoover State Papers vol 1, pp 362-364, address to the Hoover Commission on Home Building and Ownership.

102 *Commission on Industrial Relations, Report*, supra note 7.

103 *McCone Commission* at 27-28.

104 *Scranton Commission* at 58-59.

105 *McKay Commission* at 105.

106 *President's Commission on Income Maintenance, Report* (1967).

107 *Eisenhower Commission* at 31.

loosely-organized, why no opportunities exist to become un-poor, why students feel alienated from the rest of society, or why the hopes of the new young breed of inmates had been frustrated, the commissions engage in a kind of disguised blame. The actors themselves may be faultless but they are, nevertheless, the source of the "problem." It would be unjust to condemn them, and yet it seems obvious that they are what needs to be changed if social crisis is to be averted in the future.

This tendency to place a disguised blame becomes more apparent when the commissions venture into social psychology. The actors not only fail to adjust to the circumstantial facts of racism, exploitation, or injustice, but they can not tolerate their own subjective feelings of racism, exploitation, and injustice. According to the Scranton Commission, "Students' basic ways of seeing the world became, during the 1960's, less tolerant of war, of racism, and of the things these entail . . . They feel that government, the university, and other American institutions have not responded . . ." [108] The Attica Commission provided a similar analysis: "The Attica rebels were part of a new breed of younger, more aware inmates, who came to prison full of deep feelings of alienation and hostility against the established institutions of law and government." [109] By attempting to be neutral in not suggesting whether these feelings are justified, the commissions imply that everything would have been all right had these actors not felt the way they did. The "problem" becomes isolated within the actors' heads; although they are not blamed for having such feelings, the feelings and perceptions become the loci of the problems, and the objects of efforts at social problem solving.

Furthermore, in looking for the causes of particular law breaking, commissions rarely consider whether the law being flouted is itself unjust or unenforceable. Instead, they inquire into the reasons why the average law breaker is driven to act as he does, and they probe his background and upbringing. The Wickersham Commission emphasized that prohibition was not working because many individuals reacted with hostility toward the law and its enforcement and "many felt that repression and interference with private conduct are carried too far." [110] The Shafer Commission on marijuana attempted to discover why America's youth had begun ingesting the drug. It found the fundamental causes to be their "loss of a vision in the future," their "loss of a sense of community," and the life style of their medicine and alcohol ingesting parents. [111] Once again, the problem is located in the heads of the actors.

The use of inductive logic tends quite conveniently to isolate the problem within the actors themselves. Given mounds of raw data about the crisis, the social scientist will attempt to locate factors which are both necessary and sufficient explanations of the crisis. If factors **A, B, C,** and **D** for example, were all present when the crisis occurred, but **A, B,** and **C** have also existed elsewhere and produced no such crisis, while factor **D** tends to be present whenever crisis occurs, **D** is singled out as the most likely necessary and sufficient explanation. Thus racism, police brutality, and exploitative landlords and merchants can not sufficiently explain the ghetto riots of the mid-1960's because they existed for a long time before rioting occurred, and they also existed in many areas where no rioting took place. Similarly, intolerable prison conditions seem to be an insufficient explanation for Attica, because essentially the same conditions existed before and elsewhere with no such result.

The social scientist will seek out those factors which are new to the situation and which correlate with the crisis. [112] The new factors are likely to be a new political awareness or a new experience shared by all of the actors involved. These new factors will then be viewed as the "real causes" of the crisis. They will explain why the crisis happened where it did and not elsewhere, and why it happened when it did and not before.

The process of discovering necessary and sufficient explanations will inevitably point up what was new about an otherwise unchanged situation; the status quo will be disregarded, even though it may fairly be judged as intolerable. What will be emphasized as the "real cause" of the crisis will likely be something peculiar to the actors' perceptions, for the actors' perceptions are almost certainly new. Thus, the Scranton Commission reasoned:

> Since war and racism ary not new to American society . . . the emergence on campus of these issues as objects of increasingly widespread student protest can only have been the result of some further cause, a change in some factor that intervened between the conditions (war, racism) in the country and their emergence as issues that led to student protest. [113]

---

108 *Scranton Commission* at 59.

109 *McKay Commission* at 105.

110 *Wickersham Report on Prohibition* at 77-78.

111 *Shafer Commission* at 42.

112 See Jones and Davis, *From Acts to Dispositions,* in *Experimental Advances in Social Psychology* vol 2 at 219 (L. Berkowitz, ed. 1965).

113 *Scranton Commission* at 60.

A pragmatic solution is one to which politicians, administrators, and corporate executives who would be responsible for making any changes that did occur, could potentially agree. It is here that commissions find themselves in a dilemma. For it is often these same politicians, administrators, and executives who are at least in part responsible for the crisis having occurred in the first place. To indict them for having contributed to the crisis would be likely to negate any support which they might provide for the action program. The most pragmatic strategy is to underplay their responsibility for the crisis. And yet, in doing this, commissions provide the politician, administrator, or executive with an easy excuse for not acting on the recommendations: Why should I act? he might say, after all, I'm not responsible.

This ambiguity expresses itself both when the commission is identifying the causes of the crisis and when it makes its recommendations. Even the McKay Attica Commission, which produced one of the most pointedly frank reports of the entire group, condemned Governor Rockefeller's decision not to come to Attica in carefully modulated phrases: "Recognizing the decision was not an easy one for the Governor to make, the Commission nevertheless believes that conditions made it appropriate for the Governor to go to Attica." [129] The recommendations for action are seldom if ever directed to specific institutions and individuals. The Attica Commission recommended that correction personnel be trained to understand and deal with the "new breed" of inmates, and to understand and control the racism in themselves, but the Commission neglected to place responsibility for carrying out the recommendation on any individual or agency. [130]

A modest program is also necessary if it is to gain moral force. Moral force depends upon the legitimacy of widespread consensus. The appeal must be to those values that America already accepts. The exhortation is, after all, a ritual in which all of America is to take part. A high level of generality and homily in the program make it a perfect vehicle for moral uplifting.

Exhortation is addressed to all of America; responsibility for acting on the program is widespread and diffuse. "The major need is to generate new will," preached the Eisenhower Violence Commission, "the will to tax ourselves to the extent necessary to meet the vital needs of the nation." [131] Few could disagree with this sentiment. Exhortation is addressed to an America that seems to have a single will and a single voice. The Attica Commission pronounced that "no excuse can justify the failure of the American people to demand a better system of criminal justice . . .Time is running out, particularly when we know better than we do." [132] The Kerner Commission urged America to "tackle the major unfinished business of this nation." [133] And the Katzenbach Crime Commission insisted that "America must translate its well founded alarm about crime into social action that will prevent crime." [134]

A part of the exhortation is saved for the actors who participated in the crisis. While their acts are understandable, they are not to be condoned. "The holding of human lives for ransom is wrong and only leads to more violence"; [135] "violence can not built a better society . . ."; [136] "Universities should be rededicated to the central purposes of teaching and scholarship." [137] "All history teaches us that as a conscious method of social reform, violence is a dangerous method to employ. That is why our nation has sought to avoid violent methods of social change." [138] The Vietnam War was raging at its most furious level when this last statement was drafted.

Violence is not all that is condemned. Although the Shafer Commission found no evidence linking the smoking of marijuana to crime, ill health, or road accidents, it condemned marijuana use as "irresponsible" when it "impedes the individual's integration into the economic and social system." [139] Years before, the Wickersham Commission had espoused a similar rationale for prohibition: the law should remain and be observed, said the Commission, because with it the nation can experience increased productivity, increased efficiency, and the elimination of "blue Mondays." [140]

The major premises are left out of all these exhortations: that there is no cause in present day America which would justify violence, and that economic productivity and integration into the social and economic system are valid ends in themselves.

---

129 *McKay Commission* at 324.
130 *McKay Commission* at xvi-xviii.
131 *Eisenhower Commission* at xxix.
132 *McKay Commission* at xv.
133 *Kerner Commission* at 410.
134 *Katzenbach Commission* at 15.
135 *McKay Commission* at 106.
136 *Kerner Commission* at 11-14.
137 *Scranton Commission* at 13.
138 *Eisenhower Commission* at 97.
139 *Shafer Commission* at 128.
140 *Wickersham Report on Enforcement of Prohibition Laws,* at 128-230.

The specific proposals underlying the large moral exhortations are so modest that they hardly seem to merit the weighty righteousness of the prose that surrounds them. The Violence Commission urged America to "reconstruct its urban life" [141] but it called merely for the 18-year old vote, an expansion of legal services, draft reform, programs for ghetto youth, and injunctions against interference with First Amendment Rights. [142] The Scranton Commission pronounced that America "must establish respect for the processes of law and tolerance for the exercise of dissent," [143] but recommended merely that the President meet with students, that state and local officials make more careful plans for handling campus disorders, that more federal aid be given to black colleges, that National Guardsmen be better trained, and that university administrators make clear the limits of permissible conduct on their campuses. [144]

A basic recommendation running through all commission reports is that more federal funds be spent on "the problem." While most Americans are likely to resist paying more taxes, the sentiment that they after all *should* pay more taxes for solving the nation's social ills is a sentiment to which almost all can agree; it is a moral sentiment, somewhat akin to the rightness of making charitable contributions. More to the point, it has nothing to do with redistributing America's power or wealth. Moreover, according to several commissions, most of the funds that are needed can come painlessly from "reordering priorities." Thus the Eisenhower Violence Commission estimated that about $20 billion would be necessary to cure the problems it identified, but it reasoned that the entire sum would automatically be available when the Vietnam War ended. [145]

A final theme in the proposed solution is that America's institutions must become "humanized" and "more responsive." This is the Scranton Commission's basic prescription for the universities, and the Attica Commission's basic proposal for the nation's prisons. Within all commission reports there is a great deal of talk about the necessity that administrators, guards, the police, and other enforcement personnel become more "sensitive" and "understanding." The assumption underlying these proposals is, that if people could only communicate with each other, if they could truly understand each other's motives and ambitions, then most crises could be averted. Bitterness, hostility, violence, and disorder are seen essentially as irrational responses to misinformation and

Here, perhaps, lies the most vital aspect of the ritual of reaffirmation: the assertion that there is always a peaceful, positive solution to every social conflict which is in the best interests of all participants; that there are no irreconcilable conflicts between Americans: between labor and management, wets and drys, rich and poor, black and white, students and university administrators, marijuana users and those appalled by marijuana use, prisoners and their captors. The ritual of reaffirmation assumes rational compromise.

With all the verbiage about reconciliation, it seems somewhat ironic that the commissions' most specific recommendations have to do with tactics for using force most effectively to control disorder. While the commissions' recommendations for positive social change are addressed broadly to all of America and made to depend upon the national will rather than on elected officials, this is not true of the recommendations for controlling disorder. These latter recommendations are addressed directly to the officials involved. The commissions recommend that authorities move in quickly to end disorder, [146] and specific methods of riot control are suggested. [147] The Eisenhower Violence Commission included among its recommendations the draconian suggestion that

> we devise means of identification of specific violence-prone individuals for analysis and treatment in order to reduce the likelihood of repetition; provision of special schools for the education of young people with violence-prone histories; special psychiatric services and employment programs for parolees and released offenders with a history of violent criminal acts. [148]

The necessity for programs both "doable" and morally uplifting creates, quite understandably, a gulf between what are perceived to be the causes of the crisis and the solutions which are offered for dealing with them. The gulf between causes and solutions is mirrored on the commission staff by tensions between social scientists and lawyers.

---

141 *Eisenhower Commission* at 271-282.
142 Id.
143 *Scranton Commission* at 8.
144 Id. at 8-15.
145 *Eisenhower Commission* at xxv, xxix.
146 E.g., see *Eisenhower Commission* at 41; *McKay Commission* at 213; *McCone Commission* at 17, 19.
147 See, e.g., *Kerner Commission, Supplement on Control of Disorder*, at 484.
148 *Eisenhower Commission* at 273.

Obviously, the Commission found the "real cause" to be lodged in the perceptions of the students:

> Clearly, whatever it is that transforms a condition into an issue lies in the eyes of the beholder—or, more precisely, in his opinions and perceptions. The emergence of these issues was caused by a change in opinions, perceptions, and values—that is, by a change in the culture of students. [114]

The Scranton Commission thereby implies that the "problem" of campus unrest was located in the student culture, not within the conditions of racism and the Vietnam War.

Social scientists will naturally attempt to limit and isolate those intervening variables that provide a sufficient explanation for the crisis. But it should not be inferred from this that the intervening variables are in any way more important than the conditions that surround them, or more worthy of social concern. Nor should it be inferred that the new factors which have been isolated, such as the student culture, are somehow abnormal or extraordinary. On the contrary, the fact that intolerable social conditions have existed without producing such anger, frustration, and alienation might be thought to be more surprising. And yet, by suggesting that the opinions and perceptions that exist within the actors are the "real cause" for the crisis, and that America would have gone on much as it always had "but for" such perceptions, the commissions appear to be placing responsibility for the crises squarely on "the eyes of the beholder." It is a short step to the idea that what needs to be done is to change these perceptions.

Occasionally a commission will make a superficial attempt at broadening responsibility, such as the Kerner Commission's famous indictment of "white racism". The Commission solemnly announced that "White racism is essentially responsible for the explosive mixture which has been accumulating in our cities since the end of World War II." [115] The Commission saw the "fruits" of that racism as discrimination in education, housing, and employment, all resulting in social disorganization within the ghetto: "Segregation and poverty have intersected to destroy opportunity and hope." [116] This explosive mixture was catalyzed in recent years by three "ingredients"—frustrated hopes, an ethos of legitimized violence, and powerlessness. Finally, to this was added the fatal "spark" of incitement by extremists and police brutality. [117]

The Kerner Commission presented America with a recipe to which everyone could agree because it made all white citizens responsible, and in so doing made no one responsible. The huge social force called "white racism" was as all-embracing as it was vague. It permitted America to condemn itself and then get on with its normal business. It suggested an irrational feeling on the part of most Americans which could only be rectified by a basic change in attitudes; it suggested that teachers and preachers had a much greater role to play than politicians.

Such a broadening of responsibility is not really a broadening at all, because it ignores those specific individuals and institutions in America, such as labor unions and land speculators, for whom racism means significant benefits. And it fails to condemn those acts which sustain and perpetuate racist policies within political units, within institutions that deliver social services, and within private organizations. White racism, left as it was without definition, separates an attitude from the specific self-interested acts which give that attitude concreteness and make it fundamentally blameworthy.

Placing responsibility upon an attitude embraced by all of white society is merely another way of isolating and sanitizing the problem. It implies that feelings and perceptions need to be changed, rather than institutions and power relationships.

The process of isolating the problem and making it as elusive and unthreatening as a perception or an attitude is crucial to the goal of reaffirmation. Without it, every institution in America would be suspect; with it, America's way of perceiving itself is preserved. Social crises challenge America's faith in its institutions and, more fundamentally, in its way of viewing those institutions. Crisis commissions contribute to restoring that faith. Commission reports virtually ring with confidence about America's basic institutional strengths. The Commission on Industrial Relations assured America in 1914 that "labor

---

114 Id. at 61.

115 *Kerner Commission* at 10.

116 Id. at 10-11.

117 Id. at 11.

desires what we all want—a job, a decent place to live, . . ." [118] Hoover's Commission on Economic Trends assured America in 1929 that "the bogy of overproduction is illusory." [119] The Kerner Commission assured America that "Negro protest has been firmly rooted in he basic values of American society, seeking not their destruction, but their fulfillment." [120] The Scranton Commission assured America that "we are a nation of enduring strength. Millions of Americans—generations past and present—have given their vision, their energy, and their patient labor to make us a more just nation and a more humane people." [121] The Eisenhower Violence Commission reassured America that, despite violence in its cities and on its campuses, "America will prevail." [122]

Any commission report that violates the ritual of reaffirmation is suppressed and its report withheld from the public. Mayor LaGuardia's Commission on Conditions in Harlem, created in response to the Harlem riots of 1935, produced a report entitled The Negro in Harlem—a Report on Social and Economic Conditions. The report, issued under the direction of E. Franklin Frazier, then Professor of Sociology at Howard University, traced as causes of the rioting the racial discrimination in the Independent Subway System, the civil service, and labor unions. It also placed responsibility on New York City realtors and developers for creating a Negro Ghetto: "Crowded in a ghetto, the negro tenant is forced to pay exorbitant rentals." [123] The report criticized city health agencies for not providing systematic and comprehensive health care to Harlem residents, it criticized the city housing administration for inadequate enforcement of the city housing code, and it chided the city for awarding contracts to private firms that discriminated in employment. The report was never released. Its findings were impounded by the City Council, and a news blackout, voluntarily agreed to by every major New York paper, assured that no one would ever miss it. [124]

A similar fate befell one subcommittee of the Kerner Commission. Entitled The Harvest of Racism, the report of the subcommittee determined that many riots were motivated not by a desire to achieve the American ideal, but rather by a revolutionary goal "attached to the distribution of power in the whole system." [125] The report suggested that riots were important political acts, useful in gaining public attention and building black awareness. The report was rejected by the Commission. Research Director Robert Shellow, who produced the document, was dismissed, along with his staff of four assistants. [126]

> They had been fulfilling their duty to the forest by rejoicing with the molimo for the long and good life that had been granted the old lady. They had acknowledged the gift of fire of life from the forest, and the forest's right and power to withdraw it. [127]

The task of identifying and isolating a problem as the "real cause" of the crisis fulfills only a part of the goal of reaffirmation. America needs to know, in addition, that the problem can be solved, that a solution is available, and that the solution does not entail any radical change in the way America perceives social life. This calls for the development of a *program for action* by the commission. The commission is called upon to employ advocacy and exhortation. The exhortation is fundamentally moralistic, because the program is based upon principles to which all of America can agree.

The program for action does not follow inevitably from the description of the problem. The "real cause" of the crisis could suggest many different possible ways of dealing with it, but there is only one program. Although it is not thought to be beyond the "competence" of the commission to find explanations for the crisis within the great social forces of our age—white racism, the youth culture, migrations into the city, the breakdown of the family—it is considered to be beyond the competence of the commission to recommend a program that would meet these social forces head on. Instead, the program for action is a far more modest one.

There are other reasons for modesty. The program must be one that is "doable"; that is, the solution must be within the realm of practical political change if it is to restore confidence. "One of the few things that Bill Scranton insisted on," said one member of the Scranton Commission, "was that all of the things we recommended be doable by the people to whom they were recommended." [128] A program that appears quixotic and politically naive will not reaffirm the nation's ability to solve its problems.

---

118 *Report,* supra, note 7.
119 *Report* supra, note 32.
120 *Kerner Commission* at 281 et. seq.
121 *Scranton Commission* at 15.
122 *Eisenhower Commission* at 261.
123 The Negro in Harlem . . . (N.Y. Municipal Archives, unpub)
124 Locke, *Dark Weather vane,* 25 Survey Graphic 457 (August 1936).
125 See Kopkind, supra note 100.
126 Id.
127 Turnbull, supra note 73, at 154.
128 Interview, February 14, 1973, name withheld.

Lawyers are tempted to systemize reality and place it into neat categories; reality for them tends to be quickly transformed into supporting evidence for particular programs which they wish to advocate. They are generally practical salesmen, yearners after the concrete. They work quickly and well under the pressure of inevitable deadlines, and they normally have a well developed political sensibility.

In contrast, social scientists tend to shun the easy categories and sharp distinctions. Their reality is usually far more subtle and variable. They do not generally perceive themselves as advocates of particular positions, but more often as dispassionate truth seekers. They do not work hastily, they are apt to function poorly under pressure, and their political sensibilities normally lean toward the naive.

That conflict should exist between social scientists and lawyers on crisis commissions hardly seems surprising. Lawyers normally occupy the upper ranks of commission staffs. The executive director of the commission, whose job it is to coordinate the staff and supply the commissioners with summaries of evidence and draft position papers, normally is recruited from a large law firm. He in turn hires lawyers to assist him, usually recruited from the sprawling network of young lawyers who flow between the federal agencies, Congressional committees, and associate positions in the firms.

Social scientists fill the lower ranks of the commission staffs. They are hired by lawyers, and are often viewed by lawyers as "technicians" and "hired hands" whose job it is to fill in the footnotes and examples for the lawyers' "briefs." Regardless of what evidence the social scientists come up with, it is the lawyers who decide what materials will appear in the drafts submitted to the commissioners. "We always knew what we wanted better than the social scientists," said one young lawyer on the Scranton Commission staff. "We would go to them because we didn't have the time to do the work ourselves." [149] Often the lawyers become impatient with the "inefficiency" of the social scientists. Thomas Sheridan, executive director of the McCone Commission examining the Watts riot, complained that "a lot of material was coming in . . . but it wasn't in the practical world. And we wanted hard facts." [150]

Crisis commission lawyers often feel that they must produce defensible conclusions and programs in a relatively short span of time. They sense the political factors at work—the need to produce their final recommendations while the crisis is still fresh in politicians' minds. The Kerner Commission produced its report within eight months, in order to be considered in Johnson's budget message. [151] The Eisenhower Violence Commission issued its first report within the first four months of its existence. And the Scranton Commission came out with its initial recommendations within three months of being convened. "We have to work urgently," said Matthew Byrne, the executive director of the Scranton Commission. "The troops are out of Cambodia and the kids are out of school, but the crisis is going to be there all over again in the fall." [152]

The press for quick results creates a tendency to vindicate initial assumptions. The Kerner Commission, for example, took the testimony of several black militants *after* the chapters of the report dealing with black militancy had already been approved in final form. [153] Crisis commissions are, quite obviously, the arbiters of their own procedures: they contain no critical review mechanism, no cross examination, no position of "devil's advocate." According to James Short, director of research for the Eisenhower Violence Commission, "The social scientists find themselves . . . in a position of having to argue for a systematic, objective view, looking at alternative hypotheses and bringing the weight of evidence upon alternatives." [154] Despite the care of social scientists, shoddy workmanship may slip by. For example, the Lockhart pornography commission cited, in support of its proposal to liberalize obscenity laws, a survey that it had conducted which asked a random sample of people to spontaneously mention what they considered to be the most crucial problem then facing America. Since only two per cent of the sample spontaneously mentioned pornography, the Commission concluded that Americans do not regard pornography as a serious social problem. [155]

The conflict between documenting complex facts and advocating relatively simple and modest solutions also challenges the crisis commissions' symbolic legitimacy and authority. They are meant to be objective, above politics. And yet, in advocating particular programs which are not necessarily supported by the facts they recount, the commissions begin to resemble any other lobby group in Washington. Moreover, in picking and choosing their facts as support for their programs, they make themselves vulnerable to political attack. Finally, in seeking a moral consensus, they expose themselves to any other groups which claim a contrary consensus.

---

149 Cited by Etzioni, Wall St. Journal, July 9, 1968 at 1, col. 3.

150 Cited by Jacobs, *Prelude to Riot: A View of Urban America from the Bottom* at 238 (1966).

151 Hearings, Testimony of Otto Kerner, May 25, 1970.

152 N.Y. Times, Sept 27, 1970 at 1, col. 8.

153 Jacobs, supra note 152.

154 Cited in Friedman, *Dialogue with James Short*, 5 Issues in Criminology no 1, Winter 1970, at 30.

155 *Lockhart Commission* at 187-188.

The old woman had returned, alone. All the others were in their huts, and the men seemed to be singing as though by their song they could drive the last remaining female away. They sang louder and louder, but she kept circling the kumamolimo, keeping in the shadows, until with surprisingly swift and agile strides she was once more in our midst. [156]

Both the factual explanations for why the crisis occurred and the recommended program for dealing with it come ultimately from the commissioners themselves. The commissioners personify American success by way of personal achievement: they have made it; they are individually prominent and venerable, untarnished by political ambition and above aggressive careerism. A survey of nine major commissions between 1917 and 1970 reveals that 97 per cent of the commissioners on them were male and 57 per cent were lawyers, with an average age of 54.3 years and an average skin pigmentation of lily white. [157]

Commissioners are drawn from a relatively small elite. They are perhaps the closest thing we have in America to a Disraelian aristocracy. Twenty per cent of the commissioners on any major commission either have served before on another commission or will serve again on a future one. The rosters of commission members carry familiar names: Henry Rowan, President of RAND; J. Irwin Miller, Chairman of the Board of Cummins Engine; Thomas J. Watson of IBM; Clifford Alexander of A & P; Kermit Gordon of the Brookings Institute; Charles Thornton of Litton Industries; Dean Bayless Manning; of Stanford Law School; Crawford Greenewalt of E. I. Dupont; and Kingman Brewster of Yale. Commissioners are not meant to represent America; rather, they are meant to stand above America and guide it, as they do in real life.

Neither are the "minority" members of commissions thought to represent minorities. They are, rather, the elites of their minorities: Roy Wilkins, Whitney Young, Ed Brooke, and John Johnson, publisher of Ebony; Mary Bunting, president of Radcliffe; George Meany, Walter Reuther, and I.W. Abel; Joseph Rhodes.

A curious kind of pluralism determines the mix of commissioners. Commissioners are, after all, thought to be above partisanship. And yet, it seems important to insure nonpartisanship by harnessing the elites of every organized segment of American opinion. "The distinctive virtue of the government commission," writes Daniel Bell, "is that there is a specific effort to involve the full range of elite in order to see if a real consensus can be achieved." [158]

But conducting a commission by way of consensus has a political flavor of logrolling and bargaining which seems at sharp odds with he dispassionate seeking after truth supposed to characterize commissions. The identification of the "problem" and the presentation of the solution to it imply a process of discovery, not a process of compromise. And yet, according to Henry Ruth of the Katzenbach Crime Commission, "It is difficult to convey the bustling atmosphere that proceeds the development of consensus—the frustrations, the in-fighting, the evolution of a reconciliation of polarized views." [159]

The process of coming up with authoritative answers by way of consensus produces some odd results. For example, the strong summary language of the Kerner Commission report was written by Mayor Lindsay's staff, who felt that the rest of the report was not sufficiently hard-hitting. Lindsay merely threatened to issue it as a minority dissent unless the Commission adopted it as their own. [160] A second example comes from the Warren Commission: three commissioners felt that there was "compelling" evidence that Kennedy and Connally had been hit by the same bullet; three others felt that the evidence was just barely "credible." The Commission was deadlocked until consensus was reached by reporting that the evidence of one bullet was merely "persuasive." [161]

Sometimes, of course, consensus breaks down. The Eisenhower Violence Commission split 7 to 6 on the "truth" of whether non-violent civil disobedience necessarily destroys respect for the law and leads to other forms of lawlessness. [162] The Lockhart pornography commission was racked by the dissents of commissioners Charles Keating, founder of Citizens for Decent Literature, the Rev. Morton Hill, president of Morality in Media, and the Rev. Winfred Link, administrator of the McKendreee Manor Methodist Retirement Home in Hermitage, Tennessee. They called the report a "Magna Carta for the pornographer." [163]

---

156 Turnbull, supra note 73, at 155.

157 A. Platt, *The Politics of Riot Commissions* at 12 (1971).

158 Bell, *Government by Commission,* The Public Interest Spring 1966, at 34.

159 Ruth, *To Dust Shall Ye Return?* 43 Notre Dame Lawyer 827 (1968).

160 Lipsky and Olson, *Riot Commission Politics,* Trans-Action, July-August 1969, at 18.

161 Epstein, *Invitation to Inquest,* at 65 (1965).

162 *Eisenhower Commission* at 89.

163 *Lockhart Commission* at 458 et. seq.

Why must crisis commissioners engage in pluralist bargaining? Why are dissenting reports thought to be such serious blows to the credibility of majority reports? British royal commissions often issue separate reports of their dissenting members, and the dissents do not undermine the effectiveness of the majority reports; if anything, the majority reports thereby become more credible. But unanimity and consensus is crucial to the central purpose of American crisis commissions, which is to reassure rather than to plan.

Social psychologists tell us that there are two primary means by which each of us forms new conclusions about reality. [164] The first means is by discovering a new frame of reference or a new way of viewing reality that explains our perceptions more simply and consistently than any we have had previously. The new frame of reference might be a new kind of discrimination, or a comparison, or a new mode of analysis that we had never before employed. The second means by which we form new conclusions about reality is by way of other peoples' perceptions. We are simply swayed by consensus; we use other peoples' perceptions to judge the accuracy of our own.

270

Our conclusions about reality are constantly being altered both by new frames of reference and by new consensus. If, for example, we observe some object in the sky that looks like a flying saucer, we might check out our conclusion by consulting with others who may have seen it, as well as by observing pictures of illuminated marsh gas or other phenomena that could provide a more accurate and consistent frame of reference.

Our willingness to rely upon consensus as a source for our conclusions about reality will depend upon the trustworthiness of those who make up the consensus. Our confidence about a conclusion based on consensus will depend upon our assessment of the integrity, ability, and disinterestedness of those on whom we rely. In contrast, our reliance upon a frame or reference does not depend upon its source; the frame of reference, if it is a good one, stands on its own as a simpler and more consistent way of making sense out of our perceptions than any framework we used previously.

Crisis commissions could attempt to provide America with new frames of reference for understanding the reality of social crisis. Crisis commissions could offer America explanations for crisis and means for dealing with crisis that are in and of themselves compelling because they clarify and make sense out of much that was before ambiguous. To the extent that commissions did this, they would not need to be concerned with "selling" their findings, resorting to exhortation, or arriving at a consensus among commissioners. But to the extent that crisis commissions aim to shape America's conclusions about social reality by the sheer weight of the commissions' own perceptions of that reality, they are forced to rely upon the status, prestige, and integrity of their commissioners. Unanimity among them then becomes crucial, for a sign of disharmony may give rise to doubts about their wisdom and integrity.

Since the central function of crisis commissions is not to change America's perceptions of social reality but, on the contrary, to reassure America that its old ways of perceiving need not be altered, crisis commissions do not provide new frames of reference. The processes of isolating and sanitizing social problems, and providing neat and "doable" solutions for them, simply reinforces old frames of reference and old modes of analysis. In fact, crisis commissions impare the development of new frames of reference which might otherwise follow from crises which shake America's confidence in its old ways of perceiving social reality. The dominant technique that is used to preserve these old frames of reference is, of course, consensus.

Thus the status, prestige, and disinterestedness of commissioners is crucial to the commission's task of reassuring America that social crisis can be understood and dealt with without any radical change in how America views itself. Once this fundamental reaffirmation has been achieved, the final stage of the ritual may begin.

> The old woman solemnly went among us again, untying each man. Nobody attempted to loose himself, but as each man was untied he began to sing once more—the molimo was free. [165]

"The reports of commissions," warned The Nation in its editorial of March, 1900, "are seldom accepted as conclusive, either by legislators or by the people at large." [166] Crisis commission reports are issued amid a great deal of public fanfare: commissioners appear on television panels, the reports' recommendations are featured in magazines and newspapers, the commissions' findings are made available in cheap paperback editions, frequently with fifty or more pages of photographs. But the most interesting aspect of the reports' issuance is that everyone of any notoriety who reads the reports feels called upon to agree or disagree with them. The reports are viewed

---

164 See H. Kelley, *Attribution Theory in Social Psychology* in 1967 Nebraska Symposium on Motivation 192 (1967); see also Kelley, *Moral Evaluation*, 26 American Psychologist 293 (1971).

165 Turnbull, supra note 73, at 155.

166 The Nation, vol 70, no. 1814, at 255 (April, 1900).

as polemics about which every editorial writer, news commentator, politician, and citizen group is expected to have an opinion.

The report of the Scranton Commission provoked sixty six House Republicans to resolve that the Commission had failed to place enough blame for campus unrest on "spine-less college administrators." [167] They called the report "erroneous and unfound." One university president claimed that the report was "calculated to please the violence prone." [168] Another said that the Commission had simply placed "too much emphasis on the Vietnam War." [169]

The report of the Lockhart pornography commission produced a similar storm. The Senate voted sixty to five in favor of rejecting it. Thirty four Republican Senators urged Nixon to disavow it. [170] And Billy Graham called it "one of the worst, most diabolical reports ever made by a Presidential commission." [171]

Indeed, every commission report has produced a storm of criticism. Many have, in addition, provoked "counter commissions." The McCone Commissions' analysis of the Watts riot prompted the California Advisory Commission of the U.S. Commission on Civil Rights to issue its own report. [172] The Kerner Commission's report moved the Senate to authorize MeClellan's subcommittee "to make a full and complete study and investigation of riots." [173] The Scranton Commission's report provoked the College Young Republicans to form a Free Campus Commission to study campus disorder from the viewpoint of the "silent majority." [174] And the report of the McKay Attica Commission elicited a contrasting report from New York's Commissioner of Corrections. [175]

It might at first seem curious that reports which are supposedly based on hard facts and the "inexorable march of logic" should be viewed as polemics. But the hard facts and social science which is applied to them merely form a backdrop for the important consensus of the commissioners about why the crisis occurred and what should be done about it. The conclusions of the commission are understood to be the "views" of its commissioners. As such, they can be agreed with or disagreed with. They invite participation; they provoke debate.

By reducing social crisis to controllable and comfortable proportions, crisis commissions perform the important feat of defusing substantial threats to America's perceptions about itself. Once reassured that no fundamental changes are demanded in frames of reference, America feels free to reassert its normal range of argument. The social crisis is de-mythologized to the point where everyone once again is confident about dealing with it and having an opinion about it. The parameters of the old debates are familiar and comfortable. The social crisis enters the cocktail party.

What is rarely if ever challenged in this final stage of the ritual is the crisis commission's fundamental reassurance that the social crisis can be understood and can be dealt with within the old perceptual framework. For it is this fundamental reaffirmation that permits debate. Without it, America would not know where to begin the polemic.

The crisis commission does not enter the fray. Once its report is issued, it disbands. Its executive director goes back to his law firm; its young lawyers go back to their government agencies and Congressional committees; its social scientists and consultants go off to seek further research grants; and its commissioners go back to their executive positions. The commission's task is over. Having restored the boundaries for rational debate and reassured America that those boundaries are sound, any further existence for the crisis commission would be superfluous.

Social crises do, of course, ultimately give rise to new ways of perceiving social reality. We no longer view the struggle of the labor movement during the first two decades of this century as motivated by the "frustration of unemployment" as did Taft's Industrial Relations Commission. Nor do we view prohibition as a "noble experiment" which, according to Hoover's Wickersham Commission, contributed to American productivity. And President Eisenhower's Commission on National Goals, which declared in 1960 that "At whatever cost, we must maintain strategic and tactical forces of sufficient strength to deter the communist powers and to cope with military aggression even on a limited scale," [176] seems now to comprise a tragic and distorted framework for viewing reality.

But the transition to new frameworks for viewing social reality is a painful one; it causes fear and confusion; it discourages action. Crisis commissions ease that transition. They make social crises seem controllable and understandable within a rational framework that is comfortably familiar. It is, no doubt, an unfortunate ritual, but perhaps a necessary one.

---

167 N.Y. Times, September 30, 1970, at 13, col. 1.

168 N.Y. Times, Sept 28, 1970, at 34, col. 4.

169 Id.

170 N.Y. Times, Oct 14, 1970, at 30, col. 4.

171 Id.

172 See Platt, supra note 159, at 20.

173 Id.

174 N.Y. Times, Oct 13, 1970 at 33, col. 1.

175 R. Oswald, *Attica* (1972).

176 *President's Commission on National Goals, Goals for Americans* at 18 (1960).