

BOOK REVIEWS

PATERNALISM. Edited by Rolf Sartorius.¹ Minneapolis, Minnesota: University of Minnesota Press, 1983. Pp. ix, 287. Bibliography, index. \$29.50.

Paternalism, a collection of essays, is primarily the result of a 1980 conference that brought together the leading scholars on the subject.² Complementing the newer pieces are six previously published articles, including some of the most influential writings on paternalism in the last fifteen years.

The moral issue in this philosophical debate is simply stated: when is paternalistic intervention with personal behavior justified, and when is it to be resisted? *Paternalism* explores the defensible limits of authority, in both state and private contexts, for actions taken on behalf of the affected parties. The topics addressed in the book range from the regulation or prohibition of harmful activities (such as cigarette smoking or mountain climbing) to the enforcement of beneficial measures (such as seat belt laws). These examples reflect the vast array of interferences in modern society that might be justified on paternalistic grounds.

In his introduction, Rolf Sartorius notes that recent philosophical and political concern with moral rights has raised a challenge to the defenders of paternalism. This challenge has necessitated a rethinking of the doctrine by critics and proponents of paternalism.³ The principal idea contested is whether the limits to justified paternalism should be determined in reference to the basic moral rights of individuals or by a utilitarian approach. For instance, consider a law that restricts persons for their own health and safety, such as the recent proposal to ban the sport of boxing.⁴ At the risk of oversimplification, a moral-rights theorist may object to the law because, arguably, it interferes with the free choice of rational individuals. Under a consequentialist approach, however, this paternalistic intervention would be unjustified only if the harms created by the regulation outweigh the aggregate benefits.

The strength of *Paternalism* is precisely that its contributors are not oversimplistic, but rather probe the issues that underlie paternalistic decision making. This in-depth analysis has contributed to the evolution of the scholarly understanding of what constitutes a paternalistic interference. This is readily apparent in the two essays by Gerald Dworkin. While his initial conception of

1. Professor of Philosophy, University of Minnesota. B.A., University of Pennsylvania, 1961; M.A., Ph.D., Princeton University, 1965.

2. Sartorius, Preface, in *Paternalism* at v (R. Sartorius ed. 1983) [hereinafter *Paternalism*].

3. Sartorius, Introduction, in *Paternalism*, supra note 2, at ix, xii.

4. See N.Y. Times, Dec. 6, 1984, at A1, col. 4. This example illustrates the important effect that scientific advance (in this case, the discovery of new evidence linking boxing and brain damage) has on the likelihood that paternalistic claims will be made, and thus highlights the need to understand the limits of justifiable intervention.

paternalism⁵ focuses on interference with a person's liberty of action, he later broadens the definition to encompass more subtle violations of personal autonomy, including "a usurpation of decision-making" even if neither force nor coercion is used.⁶

Paternalistic behavior is not restricted to state action alone, as exemplified by Allen E. Buchanan's critique of the conventional physician-patient relationship. Buchanan finds that the medical paternalist model allows doctors to make a number of moral judgments (as opposed to exclusively clinical decisions) on behalf of patients.⁷ Consistent with Dworkin's definition of paternalism, Buchanan further argues that paternalistic behavior, such as lying or withholding information, violates the precepts of informed consent, and that decisions of whether to initiate or discontinue life-saving measures are choices properly reserved to the patient or her family.

In order to determine whether a particular act of interference is justified, it is important to distinguish paternalistic claims from other possible rationales. Joel Feinberg, like Buchanan, demonstrates that paternalistic concern for others may disguise essentially moral decisions.⁸ Feinberg questions the conditions under which the state may prevent the exploitation of a voluntarily consenting victim. He argues that to prevent the exploiter (e.g., a prostitute or a pornographer) from doing the victim's own bidding can be disrespectful of the victim's autonomy. Of course, if the victim is harmed (not simply wronged) then criminal sanctions may be justified. In that case, however, the rationale for such intervention would be the prevention of harm to others, and not paternalism.⁹

When, therefore, can paternalism be justified? And should a rights-based or a utilitarian approach be used? A starting point for contemporary scholars is John Stuart Mill's *On Liberty*,¹⁰ which in 1859 set forth the classic anti-paternalist position. Mill's logic is utilitarian and argues for an absolute prohibition of state paternalism. Among modern philosophers, Sartorius makes a utilitarian case for the absolute prohibition of paternalism in political decision making, but others find that the utilitarian claims alone are not sufficient.¹¹ Dworkin and Feinberg argue that Mill implicitly relies on a second strain of argument: the independent value of free choice.¹² These two moral-rights

5. Dworkin, *Paternalism*, in *Paternalism*, supra note 2, at 19.

6. Dworkin, *Some Second Thoughts*, in *Paternalism*, supra note 2, at 105, 105-07.

7. Buchanan, *Medical Paternalism*, in *Paternalism*, supra note 2, at 61, 68-69, 76.

8. Feinberg, *Noncoercive Exploitation*, in *Paternalism*, supra note 2, at 201, 232. Feinberg contends that there is no principled way to translate the feeling of moral repugnance for exploitation into criminal repression, since to do so would "warrant massive interference in human life." *Id.* at 230; cf. Wikler, *Persuasion and Coercion for Health: Ethical Issues in Government Efforts to Change Life-Styles*, in *Paternalism*, supra note 2, at 35, 44.

9. Feinberg, supra note 8, at 225.

10. J.S. Mill, *On Liberty* (7th ed. Boston 1871).

11. Sartorius, *Paternalistic Grounds for Involuntary Civil Commitment: A Utilitarian Perspective*, in *Paternalism*, supra note 2, at 95; see notes 14-19 and accompanying text *infra*.

12. See Feinberg, *Legal Paternalism*, in *Paternalism*, supra note 2, at 3; Dworkin, supra note 5; notes 20-22 and accompanying text *infra*.

philosophers differ, however, as to how legitimate paternalistic acts should be morally justified.¹³

In an essay condemning the policy of involuntary civil commitment, Sartorius amplifies Mill's consequentialist themes.¹⁴ Mill recognized the possibilities that the paternalist's judgment may be wrong and that the judgment (even if correct) might interfere with persons to whom it does not apply. Due to these risks, the individual's misjudgments "are far outweighed by the evil of allowing others to constrain him to what they deem his good."¹⁵ Sartorius contends that this utilitarian calculus establishes a prohibition at the legal and institutional levels, although paternalism might be justified in particular cases. His example of involuntary commitment is convincing, probably because of the severe harms (i.e., the stigma and frustration for wrongly committed mental patients) associated with even a small margin of error. However, by relying on the criminal law maxim that "it is better that ten guilty men go free than that one innocent man suffer,"¹⁶ Sartorius implicitly accepts a rights-based moral theory. Thus, the scope of his argument seems limited to instances when the consequences of misapplication are great, or when the criteria used to identify exceptions to paternalistic acts are particularly unreliable.

While acknowledging that utility is central to Mill's thought, Dworkin and Feinberg agree that this line of reasoning establishes merely a rebuttable presumption that paternalistic acts are morally wrong.¹⁷ Buchanan argues that the presumption against paternalism should frequently be determinative of a given issue, even without reliance upon moral rights arguments, because the burden of rebuttal rests with the would-be paternalist.¹⁸ Yet, at least in theory, an interference would still be justified on utilitarian grounds if, as a factual matter, it maximizes the good of the subject of the paternalism. This is

13. See notes 24-30 and accompanying text *infra*.

14. Sartorius, *supra* note 11.

15. *Id.* at 99 (quoting J.S. Mill). In addition to the problems of misidentification and misapplication, utilitarian concerns are elaborated by other authors in *Paternalism*. For instance, the measure of harms must take account of the frustration of the unwillingly coerced person. Brock, *Paternalism and Promoting the Good*, in *Paternalism*, *supra* note 2, at 237, 256. It is also important to the individual's personal growth to make choices, even if they are bad ones, in order to develop self-knowledge and strength of will. *Id.* at 255-56; Regan, *Paternalism, Freedom, Identity, and Commitment*, in *Paternalism*, *supra* note 2, at 113, 115-16. Further, the remedy may be simply ineffective; it is ironic that "the very conditions under which paternalistic intervention seems most justified are those in which many of the methods available are least likely to succeed." Wikler, *supra* note 8, at 44-45. Finally, a slippery slope argument also cautions against the introduction of any justified intervention, for fear that additional interferences would follow. Brock, *supra*, at 254.

16. Sartorius, *supra* note 11, at 101.

17. Feinberg, *supra* note 12, at 9; Dworkin, *supra* note 5, at 26.

18. Buchanan, *supra* note 7, at 79. Buchanan's claim is slightly stronger than the pure consequentialist position. He describes moral principles, something less than moral rights, that create a presumption against interference without reliance on rights-based arguments: "Even though moral presumption against [certain forms of deception] . . . may not be as strong as the presumption entailed by a moral *right* to informed consent, it must be taken seriously if the

the essence of Dan Brock's consequentialist position.¹⁹

For Mill's prohibition to be absolute, an abstract right—the freedom to choose the mode of one's existence—must be recognized as a good that has value independent of whatever choice is made.²⁰ Rights theorists note this valuation is implied in Mill's primary admission of justified paternalism: to sell oneself into slavery is unacceptable because future exercises of liberty are foregone.²¹ The presumption against interference is overcome under this exception. The state must assume that the individual should not be able to forfeit her ability to choose freely. Interestingly, the justification theories developed by Dworkin and Feinberg would, in contrast to Mill's theory, permit a rebuttal of the strong presumption against the enforcement of slavery contracts in appropriate cases.²²

None of the authors represented in this collection argue the extreme libertarian position that all paternalism is unjustified.²³ Both rights-based theorists and utilitarians assume that some degree of interference with personal behavior is morally defensible. Even Mill himself allowed for paternalism in some cases, such as toward children. The anti-paternalist, in arguing for the right of self-determination, ideally contemplates that the subjected individual is a mature, rational decision-maker. Where this condition is not met, the rights-based theorist may be able to justify interference.

For Dworkin, the reasonableness of parental paternalism provides a model from which other forms of justifiable interference may be extrapolated.²⁴ Just as children will eventually recognize the wisdom of the controls on their behavior, a notion of "future-oriented consent" may be applied to emotionally or mentally deficient adults. Dworkin suggests three situations in which rational people presumably would consent to societal protection from their irrational tendencies: (1) when people fail to act in accordance with values that they would acknowledge to be goods; (2) when extreme pressures create a temporary state of fear or depression; and (3) when a person mis-

moral principles in question are acknowledged as intuitively plausible elements of our shared morality." *Id.*

See also Dworkin, *supra* note 5, at 33. Dworkin expressly incorporates a rights-based view and stresses that the burden to be met by the paternalist must be "heavy and clear."

19. Brock, *supra* note 15, at 258. A consequentialist position is one that looks to the consequences of an act to determine its justifiability.

20. Dworkin, *supra* note 5, at 27.

21. See *id.* at 28.

22. Feinberg, *supra* note 12, at 12; Dworkin, *supra* note 6, at 110.

23. See R. Nozick, *Anarchy, State, and Utopia* 14 (1974) ("Is there really someone who, searching for a group of wise and sensitive persons to regulate him for his own good, would choose that group of people who constitute the membership of both houses of Congress?"). Nozick would allow a person to do (or allow another to do) anything to herself, unless she had obliged herself to some third party. *Id.* at 58. However, paternalistic restrictions would be justified in individual communities, as long as there is liberty to choose among communities. *Id.* at 320.

24. Dworkin, *supra* note 5, at 28-34. Dworkin asserts that the notion of consent is "the only acceptable way to delimit an area of justified paternalism." *Id.* at 29.

perceives the dangers of an activity.²⁵

An obvious difficulty of this theory is that (in the first situation) it presupposes goods that are universally valued, such that they would permit interference with the universal right of moral autonomy. Dworkin gives the example of health, but in a discussion of behavioral reform for health planners, Daniel Wikler casts doubt on whether health can indeed be considered such a primary good.²⁶ Wikler concedes that health is universally valued if considered alone, but he insists that its significance should not be overestimated by paternalists. For example, when time factors are considered, it is perfectly rational for an individual to choose activities that may enrich her life, even if they involve the risk of shortening it. Brock, who attempts to construct a theory of the good as a necessary element of his consequentialist viewpoint, points out significantly that theories of the good are often in complete opposition to each other.²⁷ A second objection to Dworkin's theory is raised by both Brock and Donald H. Regan. They deny that consent could possibly be a requirement for justified intervention (though it may be relevant to the question), since persons may consent to what would not best promote their good, or may fail to consent to what is in fact their good.²⁸

Perhaps a more satisfying approach to the justification of paternalism is to appreciate that there are limits to individual autonomy rights. Feinberg proposes the standard of voluntariness: to the extent that a decision is involuntary—that is, influenced by misinformation, compulsion, distracting emotions, or defective reasoning—it may be said that the individual's choice is just as alien to her as the choice of another.²⁹ Thus, the state is justified in interfering with choices that are manifestly unreasonable, provided that they are both objectively suspect and substantially involuntary. Feinberg would allow legal paternalism in cases where actions create the presumption of involuntariness. He would avoid government tyranny, though, by allowing voluntary risk-takers to rebut this presumption and to show the deliberateness of their actions.³⁰

Feinberg does not deal specifically with the problem of permanent involuntariness, but the prospect of indefinitely impaired reasoning tests the limits of his criteria for justified paternalism. Buchanan considers one such situation, the decision-making process for terminally ill incompetents.³¹ He focuses on the concept of "substituted judgment," and argues that this standard respects the patient's right of self-determination and appropriately reduces the scope of medical paternalism. Buchanan warns that the important common

25. *Id.* at 29-33.

26. Wikler, *supra* note 8, at 41-42.

27. Brock, *supra* note 15, at 253. See notes 46-48 and accompanying text *infra*.

28. *Id.* at 239; Regan, *supra* note 15, at 137 n.17. Regan argues that this problem is inherent in a theory of either prospective or retrospective consent.

29. Feinberg, *supra* note 12, at 7-9.

30. Feinberg points out that the legal machinery for testing voluntariness could become impractical. *Id.* at 14.

31. Buchanan, *The Limits of Proxy Decision-Making*, in *Paternalism*, *supra* note 2, at 153.

law developments in this area are jeopardized by a failure to recognize the limits of substituted decision making.³² In particular, he suggests that the strength of the standard is improperly diluted when applied to two types of cases: (1) when there is insufficient evidence of what the patient's will would have been; and (2) when the incapacitated person never had cognitive abilities that could be described as fully voluntary.³³

Wikler discusses another situation involving permanent involuntariness—the requirement that mildly retarded persons submit to the guidance of others before making important decisions (e.g., entering contracts or having children), a practice that exists in many states.³⁴ His main concern is to explain an apparent paradox: how can persons of “normal” intelligence justify paternalism towards those of limited intelligence, and yet deny that they may themselves be regulated by persons with relative intellectual superiority? Wikler answers this challenge to the moral-rights position by developing a nonrelative conception of competence. In other words, he claims that there is a threshold level of competence in a given society. The majority benefits economically from setting that level high; for example, the value of contracts depends on the likelihood that persons will perform their obligations.³⁵ Those who are deemed incompetent (that is, below the threshold level) are subject to regulation, and those who are able to function competently in society retain their autonomy, free from the paternalistic interference of superiors.

Brock questions why the threshold conception should be employed in a rights-based theory of anti-paternalism and thus revives the challenge to the moral-rights theory that Wikler had anticipated.³⁶ According to Brock, there is no valid reason why persons of normal intelligence should refuse the paternalistic assistance of their superiors, for by accepting guidance they would be able to maximize their own good. Feinberg's theory of voluntariness is similarly criticized for its failure to protect the “non-best” choices that rights are supposed to shield from paternalism.³⁷ It seems, however, that there is a qualitative difference between the prevention of downside risks and harms, and the enforced securement of an activity's maximum benefits. Norman O. Dahl responds to Brock by pointing out that the desire to act on one's own choices can be an ideal component of a person's good, and thus a rational person may prefer to act on her own choices even if doing so would not maximize her good.³⁸

Many of the theorists represented in this volume combine elements of both rights-based and consequentialist arguments. Dworkin, who claims orig-

32. *Id.* at 156.

33. *Id.* at 156-60. Buchanan also argues for reform of the criteria for “brain death,” and for clarification of the state's interest in preventing suicide. *Id.* at 160-65.

34. Wikler, *Paternalism and the Mildly Retarded*, in *Paternalism*, *supra* note 2, at 83.

35. *Id.* at 89-90.

36. Brock, *supra* note 15, at 241-42.

37. *Id.* at 244-46.

38. Dahl, *Paternalism and Rational Desire*, in *Paternalism*, *supra* note 2, at 261, 266.

inally that interference is only justified on the basis of actual or future consent,³⁹ refines this position in his later essay.⁴⁰ In spite of a moral concern for individual rights, there is a tendency for his arguments to assume a utilitarian character when he considers the "hard" cases—fully voluntary actions that may warrant interference nonetheless. For example, the ultimate justification for enforcing safety measures, such as requiring sailors to carry life preservers, is that the action minimizes risks with only a "trivial" loss of freedom.⁴¹ Similarly, efficiency may permit certain collective decisions to be made without unanimous consent, even if the nonconsenting parties are fully rational.⁴²

This integration of utilitarian and rights-based concerns is not limited to the consent theory. Wikler, who generally follows Feinberg's voluntariness standard, also would let considerations of utility determine issues that should not be given the status of rights.⁴³ Buchanan argues that valid rights-claims might be overridden when two conditions are met: (1) that the utility to be gained is quite substantial; and (2) that the prediction of this gain is practically certain.⁴⁴ The concession that, at some point, moral rights must yield to utilitarian concerns is not fatal to rights-based theories, but it seems that greater elaboration is needed to explain how such lines are to be drawn.

Even Brock, whose consequentialist approach vigorously refutes the role of moral rights in a theory of paternalism (he accepts the claim of moral rights in other contexts⁴⁵), nevertheless comes close to advancing a rights-based argument.⁴⁶ In mapping out consequentialist restrictions on paternalism, which he discusses under the rubric of "potential for abuse," Brock recognizes that there are different theories of goods that may irreconcilably conflict. Therefore, it is sensible to erect barriers against paternalism at an institutional level. Brock makes a distinction between political and moral rights, but in light of the further qualifications that caution against interference,⁴⁷ his position is not as distanced from that of the rights theorists as it may appear.⁴⁸

39. See note 24 *supra*.

40. Dworkin, *supra* note 6.

41. *Id.* at 108-10.

42. *Id.* at 110. Dworkin lists the conditions under which collective decisions can be made, but he does not satisfactorily explain what distinguishes such issues from those in which efficiency claims are to be resisted.

43. Wikler, *supra* note 8, at 51.

44. Buchanan, *supra* note 7, at 78.

45. Brock, *supra* note 15, at 240.

46. *Id.* at 249-58.

47. *Id.* at 254-56; see notes 14-15 and accompanying text *supra*. Of particular interest is Brock's acknowledgement that there are many activities (in different degrees) in which the goal is "the exercise of one's own judgment and abilities in the activity, defective or imperfect though they may be." Brock, *supra* note 15, at 256. It is Dahl's contention that all human activity may be of this sort. See note 38 and accompanying text *supra*. Brock does not suggest how to distinguish between the various types of activities.

48. In fact, Brock claims that his consequentialist position aims to accommodate higher-order interests of persons (as suggested by J. Rawls, *A Theory of Justice* (1971)), and he accepts the possibility of using nonconsequentialist reasoning at the level of policy making, though not in the case of a single individual. Brock, *supra* note 15, at 254-57.

An apparent attempt to reconcile the rights-based and utilitarian positions is made by Regan.⁴⁹ He utilizes the perspective of the idealized paternalist—one who is both omniscient and able to discriminate perfectly in intervening—so as to avoid Mill's utilitarian criticisms. Beginning with Mill's own example of justified paternalism, the prohibition against selling oneself into slavery, Regan deduces the principle that a person's freedom should be maximized over time, and interventions that satisfy this criterion are justified. It is aptly noted that this approach might be viewed as a "utilitarianism of rights," though Regan limits his position to the maximization of a single individual's rights over time.⁵⁰

While freedom-maximization explains the extreme example of slavery, where all future exercises of freedom are destroyed by a single act, this argument breaks down when a person's act results in merely a risk of curtailing her freedom. Thus, to support Regan's prohibition of cigarettes, he must claim that smoking diminishes the freedom of each risk-taker, "at least statistically speaking."⁵¹ Regan admits, parenthetically, that this appeal to statistics is "somewhat inconsistent" with the viewpoint of an omniscient ideal paternalist:

I would concede that if the ideal paternalist can separate those smokers who will suffer bad effects from those who will not, he should coerce only the former. Since we in the real world are unable to make this distinction, it is convenient to talk in terms of statistics and in terms of all smokers suffering a statistical harm, although this raises problems that I am going to ignore.⁵²

In fact, though, these problems cannot be ignored, for in doing so Regan makes an unacceptable leap in logic. By professing an ideal vision, but then slipping back into the "real world," Regan's conclusions must be subjected to the full force of Mill's utilitarian attack.

In order to evaluate whether an action or a law is justified on paternalistic grounds, one additional consideration is extremely valuable. Dworkin and

49. Regan, *supra* note 15. Regan disclaims general conclusions that might be drawn between his three principal arguments, of which only the first is discussed in this review. However, it is clear that the common denominator is a concern with the time line of a person's life, and how paternalistic interventions might be justified with respect to changing values and circumstances.

50. *Id.* at 117.

51. *Id.* at 118. By contrast, other risk-generating activities cannot be justifiably banned. As an example, Regan makes the unsupportable claim that mountain-climbing "is likely to be much more important to people who want to climb mountains than cigarettes are to people who want to smoke cigarettes." *Id.* at 120. The premise for this comparison is then revealed: "I am inclined to think that mountain-climbing is intrinsically a more valuable activity than cigarette-smoking." *Id.*

To accept Regan's freedom-maximizing approach, then, subjective valuations must be made in the guise of the intuitive judgement of an idealized paternalist. In reality, such values could be weighed differently by rational people, and there need not be a single correct measurement.

52. *Id.* at 118.

Wikler urge that the "least restrictive alternative" be used when there is more than one way to accomplish a desired end.⁵³ This focus on the means of intervention is applicable to both rights-based and utilitarian theories. For the former, the rights of individuals are given maximum respect; for the latter, unnecessary harms are thereby minimized. As an example, recall the proposal by the American Medical Association to ban the sport of boxing. A less controversial goal is the education of the public in order to increase the probability that the boxer's consent is based on adequate information. Another alternative that is less intrusive than absolute prohibition is to improve safety measures, thus reducing the total harms without increasing the harm done to those who would be deprived of enjoyment or livelihood. At the same time, such improvements show respect for the rights of persons to choose freely what risks they are willing to accept.

While most of the authors in *Paternalism* are professors of philosophy, there are a few exceptions. Jack D. Douglas offers a sociological perspective of paternalism in various societies—from European feudalism to management-worker relations in Japan.⁵⁴ He distinguishes two categories of paternalism: (1) cooperative paternalism, in which the long-run aim is to develop independence; and (2) conflictful paternalism, in which fostering independence is not the goal.⁵⁵ The former is modeled after genetic paternalism, and is grounded upon reciprocal love and a perceived mutuality of interests. The latter generates feelings of pride and shame in the dominant and submissive parties, respectively, in proportion to the perceived submission. Douglas is skeptical of altruistic claims, and he asserts that private motivations are impure in the vast majority of cases.⁵⁶ He concludes that conflictful paternalism is inevitable in the modern welfare state, and he chastises those who "lend the prestige of scholarly analysis to the protestations of state paternalism."⁵⁷ Douglas's view of human nature may seem unduly harsh, but it is difficult to rebut his insistence that only sincerely cooperative paternalism can be justified.

Herbert Morris, one of two law professors at the conference,⁵⁸ seems at first blush to be much more confident in the state's ability to act as a substitute parent. Building from the parental model of punishment ("punishing is a complex communication to the child"⁵⁹), Morris argues that the state performs an analogous function by communicating its morality through incarcer-

53. Dworkin, *supra* note 5, at 34; Wikler, *supra* note 8, at 39. "[T]he relative weight of the case against paternalistic intervention can be lessened by making adjustments for the proportion of intervention, benefit, and intrusion." *Id.* at 45.

54. Douglas, *Cooperative Paternalism versus Conflictful Paternalism*, in *Paternalism*, *supra* note 2, at 171, 180-96.

55. *Id.* at 174-75.

56. *Id.* at 179-80.

57. *Id.* at 196-99.

58. Regan, a professor at the University of Michigan School of Law, is the other.

59. Morris, *A Paternalistic Theory of Punishment*, in *Paternalism*, *supra* note 2, at 139, 145.

ation of criminals.⁶⁰ He anticipates the controversial nature of this position and makes it clear that the paternalistic rationale for punishment is by no means exclusive.

The consequence of recognizing a paternalistic justification for incarceration is to impose limitations on the state's ability to punish.⁶¹ When punishment does not serve a communicative function (due, for instance, to an inability to appreciate the relevance of social norms, or to a mistake of law), it is less justifiable. Furthermore, a paternalistic rationale imputes to the individual basic autonomy rights that survive incarceration. A danger of Morris's theory is that it could induce judges to lengthen prison sentences solely for the good of the individual: that is, for her moral improvement. But if Douglas's admonition is kept in mind, that the state is not able to practice cooperative paternalism, then this theory might be limited to its intended use, the restriction of punishment in appropriate circumstances.

Because the writings in the volume tend to be dense and abstract, the numerous typographical errors are occasionally distracting. Nonetheless, *Paternalism* serves as a useful and thorough survey of a fascinating topic. The previously published selections, compiled from a variety of journals, provide the necessary background. The conference participants continue the debate over justifiable paternalism with helpful insights and clear analysis. As a result, the reader is able to gain a sophisticated understanding of the numerous legal issues that involve paternalistic reasoning.

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60. *Id.* at 146-47.

61. *Id.* at 150-51.

QUIET REVOLUTION: THE STRUGGLE FOR THE DEMOCRATIC PARTY AND THE SHAPING OF POST-REFORM POLITICS. By Byron E. Shafer.¹ New York, New York: Russell Sage Foundation, 1983. Pp. 618. Index. \$29.95.

INTRODUCTION

In 1984, a power struggle, which promises to alter the contour and content of American presidential politics, culminated within the Democratic party. The Reagan landslide notwithstanding, the two most significant developments in contemporary American politics occurred during the most recent Democratic presidential nomination campaign; both the vice-presidential nomination of Geraldine Ferraro and the candidacy of the Reverend Jesse Jackson heralded a new political era. The roots, developments, and implications of this internal struggle are richly documented and impressively analyzed in Byron E. Shafer's *Quiet Revolution: The Struggle for the Democratic Party and the Shaping of Post-Reform Politics*.

Quiet Revolution is a study of two aspects of Democratic party politics—delegate selection rules and the presidential nomination process. Despite its significant contribution to the study of party politics, *Quiet Revolution* has serious analytical flaws. The book and its shortcomings are best understood in the context of two recent developments.

The first of these developments is the increased influence of the “feminists” within the Democratic party.² Leading feminist groups have been exerting increased pressure on the Democratic party since the implosive Democratic National Convention in 1968.³ The force of the influence of such groups was at its peak when Democratic presidential nominee Walter Mondale chose Geraldine Ferraro to be his running mate. However, in an attempt to reunite the fragile alliance between organized labor, urban and ethnic minorities, feminists, intellectuals, middle class reformers, and regular party officials, Mondale disregarded regional and ideological balance in his selection.⁴ Although the party's attempt to capitalize on the “gender gap was rejected by the voters,”⁵ the visibility of women and “women's issues” in future party politics is assured.

Second, the dramatic and powerful campaign of the Reverend Jesse Jackson suggests that effectively disenfranchised groups—racial minorities and the poor—might develop political alternatives that challenge the prevailing power

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1. Andrew W. Mellon Professor of American Government and Politics at Oxford. B.A., Yale University, 1968; M.A., Ph.D., University of California at Berkeley, 1979.

2. *Making History*, Newsweek, July 23, 1984, at 16.

3. B. Shafer, *Quiet Revolution* 460 (1983) (illustrating the role of the National Women's Political Caucus in the struggle for power within the Democratic party).

4. *Making History*, supra note 2, at 18.

5. Perlez, *Women, Power and Politics*, N.Y. Times, June 24, 1984, § 6 (Magazine), at 22.

alignments within the Democratic party.⁶ It appears that as a result of Jackson's candidacy, black America may finally rebuke both the traditional civil rights leadership⁷ and the undependable Democrats,⁸ and rechannel its support to an ideologically alternative leadership—possibly a third party.⁹ Conversely, the Jackson candidacy may have revitalized the political power of individual black office holders and traditional black Democrats. At a minimum, the Jackson candidacy paved a trail for women¹⁰ and black political actors to follow, and momentarily forced the irreconcilable ideological differences within the party to the forefront.¹¹

Despite the book's simplicity—Shafer's focus is one-dimensional and he oversimplifies American party politics—*Quiet Revolution* presents plausible, and often stunning, theses. Shafer uses 122 interviews and extensive archival research to create a paradigm which centers around the recommendation and implementation of "the greatest systematically planned and centrally imposed shift in the institutions of delegate selection in all of American history."¹² This "shift" began in Connecticut, prior to the 1968 Democratic Convention, with a meeting of minor political reformers, all members of Eugene McCarthy's nomination campaign. The objective of this meeting was to initiate a process which would reform the delegate selection rules and transform the presidential selection procedures.

According to Shafer, the struggle to implement these rule changes caused the "institutionalization" of reform and the "circulation" of elites within the party. Shafer first argues that the realm of party rules has become a "new policy arena with its own substantive issues, its own specialized actors, and its own distribution of influence in an arena where the most concerned and most highly mobilized . . . managed to secure their policy wishes."¹³ While Shafer wisely cautions that institutionalized reform is not guaranteed, he suggests that a campaign to reform party rules may arise within every quadrennial between national conventions.¹⁴

Shafer then claims that the reform politics of 1968-72 produced a new elite which replaced the "regular party" as the dominant force in the Democratic party. Prior to 1968, the regular party—consisting of organized labor,

6. White, Jackson, Democratic Revolutionary (Op-Ed), N.Y. Times, Apr. 5, 1984, at A23, col. 1.

7. Kopkind, Black Power in the Age of Jackson, *The Nation*, Nov. 26, 1983, at 539; see also Reynolds, Jackson and the Pols: Will Jackson be the Lone Ranger?, *New Republic*, Apr. 30, 1984, at 11-13.

8. Kopkind, *supra* note 7, at 536, 538.

9. *Id.* at 541.

10. Perlez, *supra* note 5, at 76 ("The example of Jesse Jackson's campaign and its impact will almost certainly add impetus to the candidacies of women in both parties."). Even Reverend Jackson observed the impact of his candidacy upon women's struggle for parity within the Democratic party. See *The Jackson Dilemma*, *Newsweek*, July 23, 1984, at 21.

11. Kopkind, *supra* note 7, at 538; see also White, *supra* note 6.

12. B. Shafer, *supra* note 3, at 4.

13. *Id.* at 527.

14. *Id.*

party officials and officeholders, and traditional black leadership—represented the blue-collar electorate and was the dominant force within the party.¹⁵ By 1972, the role of the regular party had been diminished by the alternative Democratic coalition which consisted of dissident elements within the national party, established liberal interest groups, feminists, specific reform organizations, and the indecisive black leadership.¹⁶ The rise of these new elites accompanied a series of events in which major political actors (including Democratic National Committee chairpersons) advocated participatory reforms, and regular party members unwittingly accommodated the reformers. Ironically, the regular party was victimized by its own brand of compromise politics.¹⁷

Shafer suggests that each new reformist conflict results in the ascendance of a new elite, which is disassociated from the regular party. The author uses the presidential nominations of George McGovern in 1972 and Jimmy Carter in 1976 to substantiate his thesis. According to Shafer, neither McGovern nor Carter garnered significant regular party support during their respective campaigns.¹⁸

Usually, a book heavily dependent upon archival research risks subordinating the analysis to an exposition of detailed facts. However, Shafer avoids this problem by beginning the 20 chapters with separate synopses of the narrative development and thesis. Each chapter's historical development is concluded with an analysis section, labelled "implications". As a result, the lengthy narrative is engaging and coherent.

The lucid narrative, however, cannot conceal the faults inherent in Shafer's paradigm of American party politics. This review will critique that paradigm in the next two sections. First, the review will discuss the relationship between institutionalized reform and the delegate selection rules commission. Second, the review will analyze the impact of the actual rules upon elite party politics.

I

DELEGATE SELECTION RULES COMMISSION AND INSTITUTIONALIZED REFORM

Shafer overemphasizes the role of elites in politics without acknowledging the role of class struggle within the Democratic party. For example, Shafer focuses on the delegate selection rules, which are the domain of elite party politics, as the basis of political party transformation. In political theory and in practice, rules offer a means for order in factional politics. Political theorist Thomas Hobbes pointed out that rules are human creations designed and defined to focus the attention of a political community upon a commonality of

15. *Id.* at 7, 525.

16. *Id.* at 8.

17. *Id.* at 527.

18. *Id.* at 531.

purpose, but they are also the domain of the authority which must define and enforce them.¹⁹ Political scientist Sheldon Wolin, in *Politics and Vision*, enunciates Hobbes view:

A political order involved more than power, authority, law, and institutions: it was a sensitive system of communication dependent upon a system of verbal signs, actions, and gestures bearing generally accepted meaning. Hence, one of the most important factors in establishing and maintaining the identity of a political society was a common political language . . . the commonness of meanings depended on a ruling power capable of enforcing them; that is, of declaring, for example, the precise meaning of a right and punishing those who refused to accept the assertion.²⁰

Hobbes's view and Shafer's emphasis are essentially limited. Criticizing Hobbes, Wolin states that "[f]or all its fruitfulness, the conception of political society as a system of rules was inadequate. It rested upon the fallacy of believing that the essential problems of politics could be reduced to ones involving the interpretation of rules, the determination of infractions, and finality of judgement."²¹ Shafer's view of reform politics presents similar problems.

According to Shafer, reform politics emerged as a central activity of the Democratic party at the 1968 Democratic National Convention, when a group of party insurgents bargained with party regulars to develop a set of reform resolutions.²² These resolutions led to the establishment of the Commission on Party Structure and Delegate Selection, which marked the beginning of institutionalized reform within the Democratic party.

Shafer's suggestion that actual reform may begin when recommendations for reform are formally made obscures the relationship of the "masses" and the "elite" to social reform.²³ Although the reformers were not an imposing force prior to August 1968,²⁴ the seeds for dissent and subsequent reform were planted in the flaming urban ghettos and in the anti-war demonstrations of the mid- to late-sixties. The call for party reform was a natural extension of the chaos which enveloped the Democratic party by 1968. The zenith of this chaos occurred at the Democratic National Convention in Chicago when Mayor Daley's police force battered members of the clergy, peace activists, children, middle-aged demonstrators, women, reporters, and broadcasters.²⁵

The confusion of the times and the general discontent of the American public allowed the less powerful reform coalition to redefine power relation-

19. S. Wolin, *Politics and Vision* 259 (1960).

20. *Id.*

21. *Id.* at 272.

22. B. Shafer, *supra* note 3, at 13.

23. *Id.*

24. G. Hodgson, *America in Our Time: From World War II To Nixon What Happened and Why* 366 (1976).

25. *Id.* at 371.

ships within the party at the 1968 Convention. As Shafer points out, the significance of this battle over party rules went virtually unnoticed because of the political eruptions outside the National Convention and within the Rules and Platform Convention Committees.²⁶

Regardless of the origins of party reform, the reformers began to assume an identity after the 1968 Convention. During the presidential campaign, party regulars (primarily Hubert Humphrey's supporters) offered, as a concession, control of the Commission on Party Structure and Delegate Selection to reformers.²⁷ The reformist character of this Commission developed after George Wallace and other Southern Democrats defected to form the American Independent Party, and Humphrey was defeated in the national election.

Shafer skillfully details an unusual occurrence in American politics—a party commission adopted an activist character and actually transformed party politics. By 1968, the creation of commissions had become a staple of compromise politics. During the period between 1965 and 1968, the president, Congress, and executive agencies appointed 132 boards and advisory commissions covering various topics.²⁸ Michael Lipsky and David J. Olson, in *Commission Politics*, stated that presidents utilize commissions as “mere instruments in the policy process, sources of advice which may be freely taken or disregarded.”²⁹ They note that generally,

commissions are established in significant degree to provide appearances of activity without necessarily committing leadership to a course of action. This imperative for creating commissions leads directly to the operational paradox, that commissions simultaneously may expect, and may not expect, executive support. The difficulties of working within this dilemma substantially influence and somewhat undermine the commission's efforts.³⁰

The external political environment and internal party politics allowed the Party Structure Commission (which was modelled on the National Advisory Commission on Civil Disorders)³¹ to become more than a cosmetic body. The role of the Democratic National Committee Chairperson Fred Harris was the key element to the Commission's empowerment. Harris impanelled twenty-seven reform-oriented commissioners and appointed George S. McGovern as Commission Chairperson.³² In an attempt to unite the crisis-plagued party, Harris lent “executive support” to the Commission. The Committee on Political Education (COPE) of the AFL-CIO, which was the last representative of the labor faction within the regular party, protested the appointments and sev-

26. B. Shafer, *supra* note 3, at 28, 38.

27. *Id.* at 42.

28. M. Lipsky and D. Olson, *Commission Politics: The Processing of Racial Crisis in America* 91 (1977).

29. *Id.* at 98.

30. *Id.*

31. B. Shafer, *supra* note 3, at 15.

32. *Id.* at 73.

ered ties with the Party Structure Commission.³³ The resulting recommendations, despite the absence of doctrinaire reformers on the Commission, provided sweeping institutional change and defined the limits of reform politics within the party.

Shafer succinctly describes internal commission politics. The Party Structure Commission essentially functioned according to the dictates of its chairperson and staff. The role of the staff, largely comprised of militant reformers, was crucial; it retained ultimate control over the recommendations' reform content. Commissioners met infrequently and acquiesced to the will of the more stable and informed staff.³⁴ According to Shafer, the staff and commissioners adopted a participatory approach to party reform. This approach to reform was designed to open access to party decision making to the alternative Democratic coalition (i.e. white-collar Americans).³⁵ Shafer suggests that this method eventually overcame the disciplined, organized approach to party politics adopted by regular party figures and leaders. This is exemplified by the decline of "machine" politics in northeastern cities.

The eventual dominance of the participatory approach, through the implementation of the Party Structure Commission's recommendations, leaves one question unanswered—*how can reform become institutionalized within the Democratic party?* Shafer suggests that party reform may be institutionalized in the realm of party rules.³⁶ However, even if Shafer is correct in asserting that an institutionalized battle concerning delegate selection rules may occur within every quadrennial between national conventions, then that arena is not automatically a forum for reform politics. Instead, it may become a new arena in which an established elite may manipulate its opponents, and maintain power.

This scenario highlights the heart of reform politics: if reform is defined as *any* new formulation of power relationships—even those exclusively among elites—then proponents of social change for the disenfranchised must reevaluate the character of reform within the Democratic party. More appropriately, social change activists should measure reform by the quantity and quality of power secured by the disenfranchised during periods of change. Similarly, they should deem reform institutionalized only where succeeding periods of change improve the position of the disenfranchised, party insurgents, or outsiders.

II

DELEGATE SELECTION RULES AND ELITE PARTY POLITICS

The author defines reform as an activity which simultaneously empowers

33. *Id.* at 98.

34. *Id.* at 153-58.

35. *Id.* at 99.

36. *Id.* at 527.

party elites and constricts the role of the regular party.³⁷ Not only is Shafer's view of reform limited, but his assertion that Democratic party reform may be institutionalized through delegate selection and presidential nomination rules is unsupported by recent political developments. A comparison of the delegate selection rules of 1968-72 to those recently recommended by the Hunt Commission in 1980 illustrates a backlash which has regenerated regular party power.³⁸

In 1972, the Democratic National Committee adopted eighteen guidelines to reform the delegate selection rules. The Committee designed the rules to increase direct public participation by attracting the white middle-class; the reformers were relatively unconcerned about increasing the participation of blacks, women, and youth. Supporters of increased direct participation considered blacks, women, and youth as one group.³⁹ However, the rules did focus on demographic targets to facilitate some level of participation from these "minority" groups.⁴⁰

The McGovern Commission completely altered the institutions of delegate selection in order to further open the process. For example, it prohibited party caucuses in which the "bottom level of party officers . . . met to select delegates to some higher party gathering in a tiered system of party meetings which eventually chose the delegation to the national party convention."⁴¹ With the prohibition of party caucuses, some commissioners assumed that the participatory convention would become the major delegate selection institution.⁴² Delegate primaries, which emphasized the prospective delegate to national conventions, were replaced by candidate primaries, which placed the name of the actual presidential candidate on the state primary ballot.⁴³ The Commission further constricted the role of the regular party by limiting the number of delegates appointed by state central committees to a maximum of ten percent,⁴⁴ and by eliminating all ex-officio delegates.⁴⁵ The Commission also required state "parties to apportion delegates to the national convention on a formula giving equal weight to total [raw] population and prior democratic vote for the president."⁴⁶ The result was a potpourri of complicated formulas for internal redistribution of state delegates. This requirement pro-

37. *Id.* at 529.

38. McGovern, *The Democrats Change the Rules*, *The Nation*, May 15, 1982, at 580.

39. B. Shafer, *supra* note 3, at 192.

40. *Id.* at 201.

41. *Id.* at 198, 572 n.4; cf. McGovern, *supra* note 38, at 580. In defense of the McGovern-Fraser rule changes, McGovern stated that "[t]he reform commission over which I presided in 1969 and 1970 did not favor primary elections over caucuses and conventions. Nor did any state adopt the primary system for 1972 that had not used it before." His view seems at odds with Shafer's. Despite the absence of labor, McGovern claims every element of the Democratic party was represented.

42. B. Shafer, *supra* note 3, at 198-99.

43. *Id.* at 199, 572 n.5.

44. *Id.*

45. *Id.* at 202.

46. *Id.* at 200, 544.

hibited state parties from apportioning delegates according to population alone or some measure of state Democratic vote.⁴⁷ States were also prohibited from reserving a minimum of state convention delegates to their smallest geographic units. By the final call to the 1972 Convention, a majority of state parties were in full and certified compliance with the guidelines.

In 1976, reforms intended to draw in mainstream Democrats to the political process were extended. The winner-take-all rule, which awarded entire state delegations to plurality leaders within the state, was outlawed. In 1980, the district rule, "the one by which delegates are elected directly but by smaller districts," was similarly outlawed.⁴⁸

In contrast, the Hunt Commission rules increased the role of official party members and decreased the opportunity for party unknowns to win the presidential nomination.⁴⁹ First, the winner-take-all rule was reinstated, thereby diminishing proportional representation.⁵⁰ Second, thirty-four states instituted a requirement that candidates cannot secure at large delegates unless they receive more than 20% of the vote in a congressional district.⁵¹ Third, higher numbers of delegates in the 1984 Democratic National Convention were chosen by state parties. Also, higher numbers of delegates were party regulars; twenty-two percent of the delegates to the 1984 Convention were elected officeholders and party officials.⁵² Finally, the Hunt Commission assailed progress made towards proportional representation in 1980:

The Hunt commission also eased the rule adopted in 1980 that provided for proportional representation. Instead the so-called 'loop-hole primary' has been given a green light. Rather than guarantee each candidate a percentage of the delegates in a state or Congressional district based on the voting percentages they each have won, a state will now be able to award all delegates in a Congressional district to the candidate securing the most votes in the primary election, caucuses or conventions. Alternatively a state is allowed to stay with proportional representation, but may choose to give the top vote-getter in each district an extra delegate.⁵³

The Hunt Commission exemplified the Democratic party's desire to return the orthodox party leaders to power.

The regressive delegate selection rules, applied by the Democratic party in the 1984 presidential campaign, illuminate the final and most glaring flaw in Shafer's analysis—a simplistic view of elite two-party politics. Before 1968, according to Shafer, the Republican party was primarily responsive to white-

47. *Id.*

48. *Id.* at 529.

49. *Game of the Rules: Will Jesse Make it Messy?*, *New Republic*, January 9, 1984, at 10.

50. *Id.* at 11.

51. *Id.*

52. McGovern, *supra* note 38, at 581.

53. *Id.* at 581-82.

collar constituencies, and the Democrats sought to attract blue-collar constituencies.⁵⁴ Shafer further argues that past reform alignments caused both parties to be responsive to different sectors of the white-collar electorate.

Within the Democratic party, the reformed delegate selection rules instituted between 1972 and 1976 led to the demise of an orthodox party elite that represented organized labor, party officials, and the organized-disciplined approach to party politics—the blue-collar coalition, according to Shafer. The alternative coalition which grew out of the reforms represented the white-collar electorate and the participatory party approach. Shafer believes these two elites are distinguished from each other by the backgrounds, experiences, perceptions, and values of their major representatives in presidential politics.⁵⁵

Shafer's analytical division of political power brokers into white-collar and blue-collar constituencies obscures the special interests which permeate American political life today. Furthermore, his dichotomy ignores the ideological and regional struggle, which characterizes power shifts within the Democratic party. Shafer readily admits that "(l)eading spokesmen for the groups in both coalitions . . . were evidently white-collar."⁵⁶ However, he fails to understand the significance of this reality. As members of "white-collar" America, regular party leaders, despite their blue-collar supporters, tend to develop ideological ties which are against the interests of blue-collar constituencies. For example, major labor leaders such as Lane Kirkland of the AFL-CIO have close ideological ties to the corporate "ruling" class and the Eastern Establishment.⁵⁷ Seymour Martin Lipset observed that the relationship between union leaders and the rank and file is divided along special interest lines:

The special interests and kinds of activity union officials experience, both on and off the job, create bonds of sentiment and a common orientation and perspective which, while sharpening the cleavage between officials and rank and file, serve as important cohesive elements with the leadership group. The members of a union officialdom, who share more in common with each other than they do with the rank and file develop a self-consciousness about their common interests which finds expression in their use of the organization machinery for the defense of their individual tenures and group retention of power.⁵⁸

C. Wright Mills, in *The Power Elite*, pointed out that labor leaders' ties to the political and economic elite are inevitable. He wrote, "[t]he labor unions have become organizations that select and form leaders who, upon becoming successful, take their places alongside corporate executives in and out of gov-

54. B. Shafer, *supra* note 3, at 530.

55. *Id.* at 538.

56. *Id.* at 535.

57. L. Shoup, *The Carter Presidency and Beyond: Power and Politics in the 1980s*, at 178-79 (1980).

58. S. Lipset, *Political Man: The Social Basis of Politics* 400 (1981).

ernment, and alongside politicians in both major parties, among the national power elite."⁵⁹

The prevailing struggle between elites, therefore, has much less to do with class differences than it does with ideological differences drawn largely along regional lines. Kirkpatrick Sale observes that the power of the Eastern Establishment⁶⁰ has declined as the "Southern Rim" or "Sunbelt" has prospered.⁶¹ Shafer minimized this shift of power when he noted that the "western and southern states were overrepresented, at the expense of the Northeast."⁶² One cause for the underrepresentation of the Northeast was the intransigence of party leaders to change. Consequently, outmoded political machines, such as Richard Daley's in Chicago, were simultaneously losing population, revenue, and power.⁶³ While the white, middle-class population and power shifted to the South and the suburbs, Republicans captured larger portions of the presidential votes in the South between 1952 and 1972 than did the Democrats.⁶⁴ Since the 1970s, southern blacks have become a stronger supportive group for Democrats,⁶⁵ particularly during the Jackson presidential campaign.

Viewed in the context of regional power shifts, the political analysts can develop a better understanding of the factors which led to the rise of Jimmy Carter.⁶⁶ Although, the rule changes between 1968-76 aided Carter,⁶⁷ his relationship to the rising Atlanta establishment and the Eastern Establishment (i.e., the enigmatic Trilateral Commission) provided a base of "ruling class" power and voter appeal which made Carter a viable presidential candidate.⁶⁸ Contrary to Shafer's thesis, the political managers who operated the Carter campaign and were subsequently appointed to administrative positions were not party insurgents, but rather members of the Atlanta and Eastern Establishments.⁶⁹

If this regional-ideological power model supported by Laurence H.

59. C. Mills, *The Power Elite* 262 (1956).

60. L. Shoup, *supra* note 57, at 18 n.8. The author provides an excellent definition of this ruling class:

The term Eastern Establishment refers to both the leaders of the upper class families of the northeast coast of the United States and the key institutions they control. These families are centered in New York City especially, but also in Boston, Philadelphia, and Washington D.C. They control a complex of institutions which are dominant in the political, economic and social life of America—leading financial, industrial and media corporations, law firms, policy planning organizations, exclusive clubs, top foundations, and elite universities.

61. See generally *The Rise of Sunbelt Cities* (D. Perry & A. Watkins eds. 1977).

62. B. Shafer, *supra* note 3, at 56.

63. K. Sale, *Power Shift: The Rise of the Southern Rim and Its Challenge to the Eastern Establishment* 8 (1975); D. Broder, *Changing of the Guard: Power and Leadership In America* 42-43 (1981).

64. D. Broder, *supra* note 63, at 4.

65. *Id.*

66. See generally L. Shoup, *supra* note 57.

67. B. Shafer, *supra* note 3, at 535.

68. L. Shoup, *supra* note 57, at 16.

69. *Id.* at 103-05.

Shoup, Sale, and David S. Broder is correct, then Shafer's perspective is too narrow. The present elite power shift began before the reforms initiated by the Commission on Party Structure and Delegate Selection. Nevertheless, the extensive rule changes were a clear reflection of the elite-ruling class conflict. From this perspective, the recent Hunt Commission rule "revisions," which *constricted* access in favor of party regulars, may be said to have facilitated Mondale's nomination, the result of much support from labor and party officials.

CONCLUSION

Despite its analytical failings, *Quiet Revolution* is an excellent work. In addition to providing new insights into various aspects of the delegate selection process, Shafer documents the origins of women's current political power in the Democratic party.⁷⁰ The National Women's Political Caucus, established in 1971, exerted pressure upon the alternative coalition to establish demographic quotas beneficial to women, and, to a lesser extent, minorities and youth.⁷¹ Black groups, such as the Congressional Black Caucus, originally led the fight for demographic representation, but black local party and public officials thwarted their own development by offering unwavering support to orthodox Democratic leaders.⁷² Consequently, the emergence of women as a force in the delegate selection and the presidential nomination process led to the Vice Presidential nomination of Geraldine Ferraro.

In short, Shafer has offered the political scientist, historian, student, and pundit of party politics a wealth of material with which to analyze America's political future. The author's perspective and theses are clearly stated and highly intriguing. Although his analytical conceptions of institutionalized reform and elite party politics are questionable, the book is highly recommended for its rich historical analysis.

RHINOLD LAMAR PONDER*

70. B. Shafer, *supra* note 3, at 460.

71. *Id.* at 470.

72. *Id.* at 471; see also B. Burrell, *A New Dimension in Political Participation: The Women's Political Caucus*, in *A Portrait of Marginality* 242 (M. Githens & J. Prestage eds. 1977) ("By comparison [with the black movement] feminism proved to be an even more durable—and slightly more successful—force to be reckoned with. The backbone of the movement was the National Women's Political Caucus.") (quoting *Newsweek's* account of the 1972 Democratic National Convention).

* The author would like to dedicate this book review to Carrie B. Ponder, his mother, and Mary Alice Parker. Both women provided the necessary spiritual and intellectual support during the writing of this work.

