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The Idea of Fraternity in America. by Wilson Carey McWilliams

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apparatus, localism and judicial independence still remain significant factors. The constitutionally-induced belief that judges ought to be independent in the conduct of their offices strengthens autonomy. Fish seems to argue that the process of council and conference negotiation, bargaining, and persuasion is insufficient to maintain judicial discipline. Yet he also recognizes the need for a certain degree of judicial independence to attach to the district judge. The significant problem running through the whole issue of judicial administration is how to balance two competing needs—administrative centralization and judicial independence.

Fish's volume is comprehensive, well conceptualized, splendidly researched, and so designed as to lead the unfamiliar reader effectively through a maze of administrative bodies. But the book at points seems too extensive, heaping detail upon detail, and more rigorous editing would have improved the volume. Nonetheless, the book strikes this reviewer as essential for any student of the judicial process, and it should encourage more attention to this vital dimension of the judicial system.

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The Idea of Fraternity in America. By WILSON CAREY McWILLIAMS. (Berkeley: University of California Press, 1973. Pp. xiv, 695. \$14.95.)

This book is an unusual, possibly an important one. We ordinarily associate the concept of fraternity with French ideals, the equivalent of the American pursuit of happiness—or of property. Though I applaud the author's change of focus and of approach, I think he has erred on the side of fogginess in his definition of fraternity (see the long and far from clear "argument" on pp. 7-8), and in the inclusion of materials which go beyond even the announced "comprehensive and original interpretation of American historical and political thought." A surprising array of literary figures are dealt with at length, while some major political and historical thought is omitted. Unhappily, McWilliams has not always used the best available texts of books discussed; occasionally there is a strange misreading of his subjects' writings.

For example, John Wise, Parrington's "village democrat," is said to have as "modern authorities" Hobbes and Pufendorf. Pufendorf he did quote, paraphrase, and plagiarize. Hobbes he probably did not know. In any case, Hobbes's political theory would have been as unacceptable as his theology.

Much that is written about Jefferson is very good, and the approach is unusual, but there are serious inaccuracies, like the suggestion that Jefferson "suspected the separation of powers." This is nonsense. For over a generation Jefferson criticized the Virginia Constitution for too little separation of powers. In *Notes on Virginia* (1781-82) he wrote that all the powers of government "result to the legislative body," and "one hundred and seventy-three despots would surely be as oppressive as one."

If McWilliams does more than justice to Mark Twain, he does less than he deserves to F.D.R. and the New Deal. Surely F.D.R.'s conception of a "country in which no one is left out" is relevant to the development of fraternity, however defined. And the message to Congress on January 11, 1944, while we were still deeply involved in the war, restating and enlarging the aims of the New Deal, deserves serious consideration. It receives none.

The author's long discussion of the race dilemma provides a valuable interpretation. But there are two notable omissions: the role of the Supreme Court in breaking the deadlock over segregation and the Civil Rights Acts which were made possible by the Court's action. And that chapter begins with a statement that I think is incorrect except for a short period: "For nearly a century, American politics has been dominated by the struggle between the assimilated and the ethnic minorities." Dominated?

In the Epilogue appears a quotation, "The United States is a sick society," to which McWilliams adds, "(as indeed it is)." What I would like is a much clearer idea of the meaning of sick. Is today's society less well—or sicker—than that of 40 years ago, when unemployment was far beyond anything this generation has known? Or sick as compared with 140 years ago, when slavery existed in about a third of the country, when labor unions were conspiracies in the eyes of the law, when men, women, and children worked 14 hour days in mills and factories—until laid off or discarded? Where would one find a well country? In the Communist bloc? In Africa, the Middle East, or South America? Even the small, homogenous countries of Western Europe have critical troubles.

Perhaps it is wrong to suggest that much of the author's point of view was shaped by our unhappy intervention in Vietnam and by bitter resentment at the slow pace of racial integration. It was evidently completed before the miasma of Watergate swept upon us. Anyone who thinks we are in Utopia is ignorant or insensitive or both. But the sweeping designation of a sick society calls for clarification and for comparison with the state of other societies today and yesterday—elements lacking in this book.

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Hegel. By RAYMOND PLANT. (Bloomington: Indiana University Press, 1973. Pp. 214. \$7.95.)

We are faced with the problems Hegel faced but without Hegel's way of resolving them, if he did resolve them. Plant's thesis, which is not widely held but which is well argued and entirely unexceptionable, is that Hegel's speculations were intended as therapy, that Hegel's "System of Science" amounts to a civil theology.

The spiritual diremption of the age, for Hegel, was expressed through existing philosophy and through Protestant Christianity. A new civil theology could be created not by pre-Christian myth nor by another reformation, but only by "post-Christian" science, which, we must add, is not philosophy except in a very loose sense. As Jesus had overcome the infinite pain of the Jewish separation, Hegel would overcome modern dualism, evident in society as well as in thought. His speculation centered on the symbol of the Holy Spirit, which was transformed into Spirit (*Geist*), and which "developed" as history. The System of Science gives a description ("phenomenology") of this historical activity and, presented in more or less detail according to circumstances, becomes the reconciling public cultus.

Plant's treatment of subsidiary themes, the dialectic of master and slave, for example, and how they relate to Napoleonic politics is well handled and clearly written. What is unusual is that he pays due attention to the place of the *Philosophy of Right* in the system: the state described by Hegel is the truth or result of history.

His criticism of Hegel is less satisfactory than his presentation.