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Editorial Book Review

The Revolt Against Olympian Oracles

MARBLE PALACE. The Supreme Court In American Life. By John P. Frank. Alfred A. Knopf. 302 pages. $5.00.

THIS swift and not overly heavyweight book by the onetime clerk of Associate Justice Black aims at being an ambassador to the public at large. It is a chatty, story-telling, and only occasionally frowning work about the history, men, and habits of the Court; but it comes at a period of torrid southern tempers of bills to curb the Supreme Court's jurisdiction and just in the wake of a stern reprimand to the Court from the chief justices of state supreme courts across the land. It greets hot tempers with casual conversation around the pot-bellied stove, and Mr. Frank seems to assume that familiarity, far from breeding contempt, will perhaps dispel some of it.

Let us hope it does.

The cool temper of Mr. Frank's book may be explained by his familiarity with Court history. The storm in which our highest court finds itself is by no means a new one. Mr. Frank cites to illustrate this fact President Jackson's oft-recounted struggle with Chief Justice Marshall over the second United States Bank bill, the hurricane of the Dred Scott decision (in which there were nine separate opinions), the furor of "court-packing" in 1937. He also observes that the energy of the Court regarding crucial national issues runs in cycles and that at this time it happens to be riding the crest of one of those cycles.

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THE title, MARBLE PALACE, puts us down on current ground. The situation, as Mr. Frank presents it, is familiar both to assailants and defenders of the Supreme Court. In a country professing democratic majority rule, where a man is not in theory bound by any decree, ukase, or law which has not undergone certification at the polls, you have a glistening Olympian "Marble Palace." From it nine moral men, clad in black robes, insulated by lifetime appointments, can at a stroke declare "the law of the land." Confronting these Olympian thunderbolts you have sometimes disgruntled people and elected officials, tribunes of that people, resisting by weapons from temperate, lofty and academic words to national guard troops. You have other interested branches of government, and you have a hot, if largely pre-decided, quarrel about the nature of the federal union. All this Mr. Frank sees as a basic problem of judges in a democracy — of men whose very loftiness and independence cannot help but irritate all the rest of us.

Mr. Frank weaves several commonsense theories about this clash. They put him clearly out of the camp of mystery-makers who act as if acid criticism of the Court is a novelty. Also — it goes without saying — out of the camp of the Jenners, Butlers and Brickers who would delight to maim it.

One "pseudo-answer" to the incompatibility between judges and democracy "is to deny that the Court is exercising a policy-making function and to assume that it is simply declaring law, as if it were running a huge slot machine from which preordained results roll when it pulls the handle. . . ." As the author acknowledges, this view has been completely junked by the abandonment of stare decisis in many cases where the Court has reversed itself. . . . The real answer is that the Court serves not as a barrier to the democratic will, but as a gyroscope that helps to keep the democratic machine in balance and to prevent it from running wildly in one direction or another. That gyroscopic function is evident in the Supreme Court's late controversial attempt to reduce the excesses of loyalty-security fever.

Mr. Frank, who gives us personalized glimpses of the gods at labor in their Marble Palace, is quick to say that "they share the ardors and excitabilities of men who do not wear robes to do their work." It is one of the tragedies of government, which Plato did not in any way solve, when he approached it in the "guardians" of THE REPUBLIC that our fellow mortals with common ardors and excitabilities must be tapped and elevated to Olympus that they must depersonalize themselves to make a workable "gyroscope." Another unpleasant reality is that American government is by tradition short on mystery and ritual. We find it difficult to accept Supreme Court justices or indeed any public officials as impersonal gods of the balance-wheel.

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MARBLE PALACE does not set out to justify the Court politically or philosophically. But its assumption is apparently that to comprehend all is to pardon all. That approach may appeal to persons of a judicial frame of mind. It is not likely to still the anxious, tight-lipped but powerful minority who await a chance to butcher the Court, or to the larger number who are in the spell of their demagogy.

The author's probe into the issue of Court sovereignty, when such a probe is badly needed, does not penetrate deeply enough to satisfy the Court's friends. Certainly not deeply enough to placate its enemies. Mr. Frank does not seem to be disturbed that in our restless democracy we have moved closer and closer to a position in which the public will respect and tolerate legal sovereignty only as long as it is convenient. Court critics will acknowledge a certain sovereignty in the Marble Palace, but only while justices parade themselves with harmless symbolism in black robes but do not make decisions which nullify cherished social practices.

The same fringe group of extremists have defended the Court's composition and powers as they did during President Roosevelt's "court-packing" melee, protesting loudly that its sovereignty must not be tampered with. But they support legislation to tamper with it if they feel their own power and place under threat. There may, of course, be alternatives to an independent judiciary as a gyroscope in democracy, but as yet we haven't turned them up. The sovereignty of convenience, such as we have now, can only lead to deterioration.

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THE strange thing is that we haven't seen this problem of sovereignty with more clarity. Anthropologists, with their studies of presumably "primitive" cultures, have given us miniature show-cases of the problem, and have argued with force that the instincts which make those societies function are not chased away by technological complexity. We must all have oracles and need them as anchors, "gyroscopes," all the more as societies grow more complex, more populous, and more impersonal. We need some weight against quick shifts of popular interest and opinion. That role is played in primitive cultures by elders, witch-doctors, medicine-men, image-bearers, tricked up in outlandish paint and costume which separates them from momentary public caprice. These are the oracles. In the U. S. the Olympian justices in their involate Marble Palace have played much the same role. The U. S. and not the South by itself, is in many ways revolting against its oracles, and the slow destruction of judicial independence and dignity can lead only to trouble.

From The Florida Times-Union

'SECRET AS ALL GET OUT'

THE government of the Confederate States of America following the example of a competitor, has lifted the secrecy label from millions of military papers dating back as far as April 14, 1861. An official of the government who requested that his name be kept secret said in Richmond that the delay was caused by a desire not to embarrass "another government" by revealing the mistakes of its bureaucrats and military men before they were revealed by the government that made them.

Immediately after the release of the papers, marked "Sorta Secret," "Mighty Secret" and "Some Kinda Secret," writers set to work reading them and writing about them. The writers said they hoped later governments could profit by a knowledge of mistakes already made. Some of them already called their work by an old-fashioned word, "history."

Even the briefest review of the papers threw new light on what has been called "America's Dark Age." New heroics appeared as well as new blunders. The name of James Ewell Brown Stuart, who first distinguished himself at a place called Bull Run, was revealed. The papers showed that once he led his cavalry completely around an army commanded by McClellan. Several blunders and a taste for alcohol by General U. S. Grant have been let out. It was believed in Richmond that the influence of Grant and McClellan was largely responsible for keeping the papers secret.

By far the biggest surprise in the secret papers so far was the new knowledge that the forces of R. E. Lee surrendered to Grant at Appomattox. It had been believed in Richmond that Grant surrendered to Lee. These particular papers were stamped "Secret As All Get Out." There is just no telling what else might be in those papers.

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A foursome were playing golf on an Augusta, Ga., course. A man ran up to them and asked: "Would it be all right if the President plays through? War has been declared."—LAVON MILL, DEMOCRAT.

Poem In Which Is Revealed One Of Life's Greatest Treasures:

How much brighter living seems
Wrapped in golden olden dreams.
—ATLANTA JOURNAL.

A thief broke into a Jacksonville home and robbed the piggy banks of children. Now what will Pop do for pocket money? — FORT MYERS (FLA.) NEWS-PRESS.

People's Platform

'Let Us Find The Leaders And The Solutions'

Charlotte

Editors, The News:

IN YOUR editorial, "How the Infinity Ended Rather Abruptly," you have begun to place your finger on the problem of today.

For the last few years, there has been mass hysteria among the rank and file of southerners. The cause can be traced back to May 17, 1954, as its actual starting point.

The effects have been nurtured by the politicians, both north and south, guided and abetted by the press of this republic.

Tensions cannot be built up without the lid being blown off. It's now time for all to stop and take a closer look at why the bombings have come about and to approach the solution in a sane manner.

The press of the republic has not done its duty nor has it been fair in its reporting. Its aim has been to sell papers with naughty black headlines.

Just as the yellow press got this republic into the war with Spain so has it contributed its share to the deluge that has hit us.

The reporting has not been fair and accurate. Take the case of Gov. Faubus of Arkansas, for example. He is doing his duty as the people have ordered him to do and is following the constitution of his state. Yet the press cannot be factual and report the true facts. Anytime it prints a word about Gov. Faubus it must be in a derogatory manner.

This pattern has been followed in all of the reporting of any strife that has arisen.

It has gone so far that all communications between the races have been broken down. The only communication lines open are between the NAACP Negroes and the so-called liberals.

Neither group represents the real thinking people nor can offer the solution to the problem confronting us.

The problem has become so complicated and bemuddled that only God knows the answer now. But it certainly seems that the time has come for the militant groups on both sides to be forced to back down or a showdown will come between them — and everybody will be forced to declare their loyalty.

Man cannot be forced to change their thinking or way of life by law. When all we read about is strife and more force it has a way of building up within us each day a little more hardening of the heart, and each day one more dot must be put on the chart as to where we stand, and then that day comes when the dots on one side outweigh the dots on the other, and a choice has been forced with no turning back.

On both sides, we find men ready to do battle and to engage in violence. Their deeds become rallying cries for others to follow and give their believers more courage to do more.

In every strife throughout history, the arrest and conviction, and even the death, of the original group of leaders does not stop the battle. It only adds zeal and more determination to the followers.

GOV. ORVAL FAUBUS
Victim Of Yellow Press?

What is needed to stop this growing menace is leadership, and this leadership should come from the Fourth Estate, the newspapers. Instead of making headlines and inaccurate reporting to suit the tastes of yellow journalism, we need a positive approach.

As stated earlier, I do not know the solution, but somewhere there must be men and women who do have the answer without having taken sides with either group.

For the sake of our great republic, let us find these leaders and find the solution.

— GRADY S. THOMAS

'Oh, No! I Thought You Were Watching TV Or Reading'

Pin A Medal On Mr. Jonas

Marden

Editors, The News:

I ATTENDED a high school commencement last spring, and I was happy and proud for the bright students who took the scholarship awards and for the healthy, well-coordinated ones who were given the athletic medals, and for the forceful and perhaps more profound ones who were chosen for leadership recognition.

But I was a little sad, too, for the members of the class who weren't gifted with brains or athletic ability or leadership qualities. However, I had sold the school authorities short, because they had thought of the same thing. And out they came with an award to make happy some poor kid who had no ability whatever—the perfect attendance award.

I was forceably reminded of this the other night watching Mr. Jonas on television glow with pleasure in telling of his perfect attendance record.

We're all proud and happy that he was there.

— MRS. BOB HARBINSON

Did Clark Support Minimum Wage?

Vale

Editors, The News:

I KEEP hearing certain Democrats talking about Dave Clark's record in the North Carolina legislature but I have yet met one that could tell me what his record is. When the shoe begins to rub they change the subject.

Did Dave Clark ever cast a vote in favor of a state minimum wage law? In North Carolina 500,000 working people out of 1,100,000 are not covered by the federal wage-hour law. One half of the working people of this state have no minimum wage coverage.

Of course, Dave Clark has plenty of money. Why should he be concerned about people who earn only 40 cents an hour?

—HAROLD SAIN

Lawmakers Have A 'Larger Trust'

Charlotte

Editors, The News:

THE populace of the Tenth District has made Mr. Jonas a member of the ruling body of the United States, and he apparently is enjoying the honor by devoting full time to specific favors for specific voters. The advertisement run by his supporters on Oct. 9 contains 49 letters from constituents, none of which compliments him directly or by inference for statesmanship or patriotism directed toward national problems which so desperately require attention. Only three made any mention at all of even an interest in national affairs.

A total of 537 senators and congressmen is a rather small board of directors to handle the affairs of this corporation of 175 million stockholders. A congressman who makes a full - time career of special favors for individual voters is overlooking his larger trust to a nation in danger. A question logically arises what Uncle Sam's plight would be if every one of the members of Congress became similarly absorbed.

A fair share of attention to the needs of constituents with genuine problems in Washington is certainly desirable for all congressmen, but apparently the only way a Republican in an overwhelmingly Democratic district can perpetuate himself in office is to devote full time to this. The national interest is bound to be the loser. Is the Tenth District ethically entitled to continue such a situation? With Russia forging ahead of us on various fronts and with only 531 men available to pass judgment on our means of catching up, Johnny's much-delayed application to OCS can afford to be left exclusively in the hands of the military.

—HARRIETTE DAVENPORT

Answering Roll Call A Vital Responsibility

Lincolnton

Editors, The News:

MR. BILL Robinson's Platform letter Oct. 14 overlooks one important and vital responsibility of a congressman.

Rather than being insignificant, I tend to believe every House roll call is important not only in order to vote for and help pass good legislation but also to vote against bad proposals.

Mr. Robinson is correct in assuming committee work to be important but legislation does not become law by committee vote.

The votes that pass laws are still made on the floor of the House and Senate. Mr. Jonas' record of 98 per cent attendance compares extremely well to Mr. Clark's rather poor record of 75 per cent.

—CHARLES EUREY

Small Farmer Has Just About Had It

Lincolnton

Editors, The News:

IN the past these congressional fights have gone on like there was nobody in the district but Charlotte and like the Charlotte people were against farmers. And Mr. Jonas has gone to Washington and voted for things to ruin the small farmer and he's just about done it. His sliding price scale has nearly slid us into bankruptcy.

I think the city people realize now after five years that when farmers don't get a fair price for their crops, it doesn't bring down the cost of food or clothing. It just puts less money into North and South Carolina to be spent in Charlotte.

—HAROLD G. HOOPER

Clark Demonstrates 'Genuine Concern'

Charlotte

Editors, The News:

NEW Mecklenburgers of whom I am one, now know how the candidates stand on vital issues. There is a difference.

David Clark gets my vote because of his stand for aid to education, slum clearance, and passage of the Kennedy-Ives labor bill, and because he is aware of the responsibility Congress has in the field of foreign affairs.

David Clark's statements show genuine concern and intelligent thought. His performance in the North Carolina legislature marks him as a man who will make his presence felt in the deliberations of the House of Representatives.

—S. D. CURRIE

'Bragging' Offends Lincolnton Voter

Lincolnton

Editors, The News:

I FLATLY predict that David Clark will beat Raper Jonas in the congressional election.

I was not so confident two weeks ago, but I firmly believe this now.

I can't stand to hear a man brag about himself, especially in public, and that's all Mr. Jonas has done in his television speeches. I've heard at least a dozen people say the same thing, and most of them voted for him before.

Mr. Clark is very modest and quite able. He certainly is a hard worker.

—BLANE LEONHARDT

Who's On First?

Diplomacy Versus Publicity

By WALTER LIPPMANN

WASHINGTON

ON BEHALF of Mr. Dulles, whose press conferences have such a bewildering variety, we must remember that he is doing something which has rarely, if ever, been done before. He is conducting a delicate and difficult three-cornered negotiation — with the two Chinese governments and with our principal European allies. Parallel with it, he is conducting a series of press conferences. In these he is concerned not so much with the disclosure of the facts as with saving face in Formosa, in Washington, on Mr. Nixon's circuit, and among his critics at home and abroad.

This requires much tactfulness and firming, and much assistance that there be no public demand for a straightforward statement of the American position.

DULLES' DILEMMA

The trouble lies in the attempt to continue an intricate secret negotiation with a continual outpouring of public pronouncements. Thus it is evident that if there is to be any kind of understanding with Peking, it will have to be one in which nothing is agreed to in principle though concessions are made in fact. It is evident also that if concessions are made Mr. Dulles must endeavor to bring them about without forcing a Chiang to admit that he has made them.

"Well, Here We Are Again . . ."

Granting that this is all necessary, it is also necessary to accompany it by so many contradictory public statements. For what, most people have rather short memories, there are a large number of responsible people in the capitals of the world who can remember what was said from one week to the next.

These people would rather be told honestly that the negotiations are delicate and must be secret than to be told so many different things. For then they come not to believe any of them. Mr. Dulles is much concerned, and fairly enough, with saving Chiang's face. He is much concerned, and rightly, that Red China should not think that he is running away. He is much concerned, excessively, perhaps, with avoiding having a compromise called appeasement. But he should also be concerned that the word of the secretary of state is believed and is trusted. On that important aspect of the whole matter he has not been concerned enough.

SUGGESTION BOX

It would be a great relief, and it would enhance the prestige of this country, if the secretary of state announced that the situation had entered a phase where the issues are too delicate and critical to be discussed in public statements. Most people would believe him. Most people would accept his decision. And a great deal of the embarrassment caused by the twisting and turning would be avoided. For this is one of the occasions when good diplomacy cannot be combined with honest publicity.

Editors' Note: Mr. Lippmann's reports will be missing from The News' editorial page for three weeks. He will resume writing in November following a trip to the Soviet Union.

Drew Pearson's Merry-Go-Round

Chiang Threatens To Leave Formosa

WASHINGTON

HERE is the inside reason why both Eisenhower and Dulles announced they would not try to force Chiang Kai-shek to pull his forces out Quemoy. The generalissimo has threatened to pack up to Japan and leave Formosa to its fate.

Chiang went into his point after Dulles' press conference attack that Nationalist occupation of the offshore islands was "foolish" and that Chiang wasn't likely to rule the Chinese mainland again.

Tossing A Tantrum

In the mood Chiang this amounted to calling him a fool. He then quite a tantrum, then flapped into Broadway. He would seek sanctuary cause in Japan, he said, where he had spent his carefree exile days. He even selected the spot. Beppu, a hot springs resort on the east coast of Kyushu, Japan's southernmost island.

Dulles Alarmed

This threat to abandon Formosa alarmed Dulles, who has no wish to let Formosa slip behind the bamboo curtain. If Chiang were to walk out in protest over American policy, the whole Nationalist structure might collapse. One intelligence estimate warns that a third of Chiang's forces would go over to the Communist side in case of a breakdown on Formosa.

Eating His Own Words

To soothe Chiang, Dulles called another press conference and embarrassed to eat his former words. The disposition of Nationalist troops, he said, is "entirely a military matter."

"We have no plans whatsoever," he added, to urge Chiang to reduce his forces on the offshore islands.

Just The Opposite

This is exactly the opposite of what Dulles has been urging in secret talks with Nationalist leaders. In return for a partial withdrawal from Quemoy-Matsu, he has offered to beef up Chiang's forces on Formosa with supersonic jet planes, anti-aircraft rockets, and other modern weapons. He has also offered to station American Marines on Formosa as evidence of our determination to defend this main island to the last ditch.

He Wants A Weapons

Chiang is dickering for atomic weapons which Dulles has politely let him know cannot be granted. The generalissimo has also demanded that Dulles call off the Warsaw talks with the Chinese Communists. What Dulles has been trying to do is walk a diplomatic tight rope that will appease the Nationalists without provoking the Communists.

Secret Talks

Secretary of Defense McElroy has been carrying on the military negotiations directly with Chiang in Taipei. But Dulles has also talked with Chinese Ambassador George Yeh in Washington.

During these secret talks Dulles agreed with Yeh that the Red cease-fire is only a temporary tactic and that the Communists can be expected to stir up trouble again—if not in the Formosa Strait, then somewhere else. Renewed pressure on Korea, Dulles suggested, is a likelihood.