

EDITORIAL

No Better Way

As much as we are turned off by the steady upward climb of gasoline prices, we are advocating that they rise one more cent and that the state gasoline tax be temporarily raised from eight to nine cents per gallon. Then let's hope it stays there until we have the money to repair the crumbling state road network.

PennDOT has cancelled its 1974 road resurfacing program because of a shortage of maintenance funds, and state legislators, in agreement that additional funds are needed are not agreeing on how to obtain them.

There's no better way than an increase gas tax. There's no fairer tax than a tax that charges in direct proportion to the use of the tax benefits.

Those who drive little, use little gas, and thus pay little tax. Those who are heavy users, like the trucking firms, will pay heavily.

Out-of-staters, using our roads, will be paying too.

—Russ Williams

Something Missing

No matter how close one listened to President Nixon's State of the Union message there was something missing.

A few nights later, the nation was treated to the wise words of Senate Majority Leader Mike Mansfield, who designed his speech as a rebuttal to the President. But again even close listening found something missing.

As the big daily press arrived the next morning after the speeches, we scanned them hurriedly to see if some other political leader had voiced concern that the same thing was missing. But the search through several of the nation's largest newspapers was fruitless.

It's obvious that the President was in a tight spot that Wednesday night. But he did have plenty of time to work on his State of the Union address. Sen. Mansfield may have held the upper hand in his remarks, as leader of the Democratic controlled Congress, and perhaps he didn't have as much time to prepare. But he omitted that special something just as sure as did the President.

Both men were obviously aware of the frustrations that plague the people of the nation. Both know that Watergate, detente, the energy crisis, inflation, recession, and the rising cost of food are up-permost in the minds of constituents. But both men also know, or should know, that the people need something more than promises of solutions to material problems.

Neither of the leaders said anything really that we have not all heard before in political rhetoric. The President told us in essence that we had a few problems, but that things were going to get better because he was going to make it so. Sen. Mansfield said that things were not quite as well off as the President had indicated, but that Congress was going to wrestle part of the control of the government away from the Executive, and then things would be better again. Everyone who believes that may stand up and cheer.

It adds to the rhetoric, perhaps, but neither man mentioned integrity. Neither suggested that one of the basic things missing in government these days is basic honesty. Neither man hinted that the next crop of congressmen to descend on Washington, or the next man to occupy the White House is going to be selected more because of his basic virtues rather than how much money he has in his campaign chest or better still, how he came to acquire it.

Neither man said he wanted to change the electoral process so that a member of the working class can rise to high office without the contributions of the ITTs, the dairy industry, or other special interests. Neither said that they were going to turn the special interest groups out of the temple and make room for a voice who has no special benefactor except the public interest.

It appears to us that both men spent their time talking about material things to a nation divided not because of long lines at the gas station, or the lack of steaks at the meat counter, or what's happening in the Mideast. It seems to us that the time has come for our leaders to drop their rhetoric in favor of a few basic virtues like honesty, integrity, abolition of secrecy, and representation for all Americans.

—J.R. Freeman

Conservative View

by James J. Kilpatrick

Long Way from Myra Bradwell

Alas for Myra Bradwell! She was born too soon. One of these days, when the U.S. Supreme Court completes its judicial ratification of the Equal Rights Amendment, perhaps the women's libbers will revive her name and pay her posthumous honors.

These reflections are prompted by the court's action the other day in cases involving three pregnant school teachers, two of them in Cleveland, the third in Chesterfield, Va. All three had been suspended from their jobs under school board regulations. With Justice Rehnquist and Chief Justice Burger dissenting, the court ruled the suspensions unconstitutional and laid down new guidelines. Local school boards henceforth must not infringe upon the "basic constitutional right" of school teachers to get themselves pregnant and stay on the job.

It was a notable victory for women's liberation. The majority opinion, written by Justice Stewart, further buttressed a judicial structure that has been under construction since November, 1971, when the court nullified an Idaho statute which said that "males must be preferred to females" in certain probate cases. Subsequently, the court has held that single women in Massachusetts are entitled to obtain contraceptives; that Louisiana and Texas cannot discriminate against illegitimate children; and that the U.S. Army must treat women officers like men; and that the Pittsburgh Press cannot classify help-wanted ads by sexual preference.

Whether the court sails under the flag of Equal Protection, or Due Process, or Privileges and Immunities, the course is clear: The Court itself, *sub silentio*, is ratifying the pending Equal Rights Amendment. It is of only passing interest that Montana on Jan. 21 became the 32nd state to ratify, leaving six to go. Stewart and his gallant colleagues are making the states obsolete.

One supposes that Myra Bradwell would be pleased. All that I know of this pioneer liberator is that she was born in Vermont, moved to Chicago, got a legal education, married and in 1872 applied for a license to practice law. This was only four years after the Fourteenth Amendment had been declared part of the Constitution. The Illinois Supreme Court flatly turned her down, and on April 15, 1873, the U.S. Supreme Court voted 8-1 to affirm.

Justice Samuel F. Miller spoke for the court, saying that if a state wants to prohibit women from practicing law, nothing in the Fourteenth Amendment stands in the way. Justice Joseph P. Bradley added a concurring opinion in which he rang all the bells of male chauvinism:

"The civil law," said Justice Bradley, "as well as nature herself, has always recognized a wide difference in the respective spheres and destinies of man and woman. Man is, or should be, woman's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life."

It is repugnant to the concept of family,

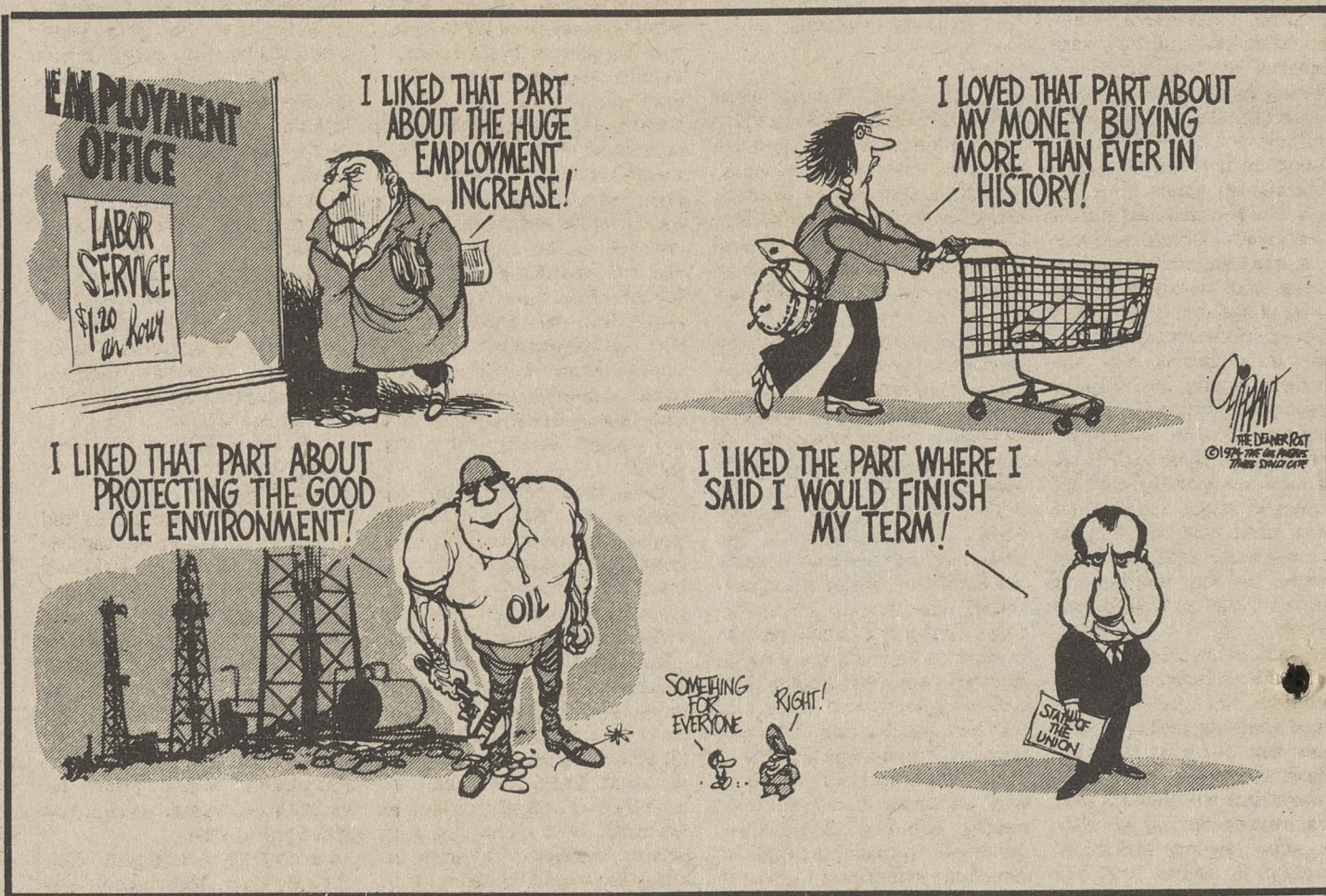
Justice Bradley went on to say, for a woman to adopt "a distinct and independent career from that of her husband." To be sure, many women were unmarried, but they are exceptions to the general rule: "The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator."

In Justice Bradley's interesting construction of the law, both constitutional and divine, Justices Stephen Field and Noah Swayne agreeably joined. It was quite some time, I suppose, before Illinois licensed lady lawyers.

Now this is our thought for today: Not one comma of the Fourteenth Amendment has been changed since that day in April when this Illinois Portia lost her case. Only the

judges have been changed. It is a fair assumption that the eight justices who concurred in *Bradwell v. Illinois* in 1873 had a clear understanding of what the Fourteenth was intended to accomplish. Certainly they must have had a clearer understanding of "intent" than the eight justices who united in 1973 in *Frontiero v. Richardson*, the case of the woman officer.

Well, Justice Bradley is dead, but Justice Stewart lives. The Constitution is what the judges say it is, and the "intention of the framers" no longer greatly matters. It doesn't greatly matter, in any event, in that expanding citadel of jurisprudence which ought to be known to memorialists hereafter as the Myra Bradwell School of the Law.



TRB

from Washington

Fulani is a little girl who lives in India, with small bones and lackluster eyes, who is only eight but looks 12, and she is probably one of the millions who will die this summer from the food shortage growing out of the oil shortage. About mid-August America is likely to discover that there is a crisis, not merely in India but possibly in Africa, much of the Mideast and parts of Latin America, and it will send emergency food supplies, by which time it will be too late. If a world food bank is begun it will have to be done now. There seems no sign of movement, however, by the government here.

We are so bemused by our gasoline shortage, that we can't see what's happening on Spaceship Earth. It's not hard to trace, however. Oil is a big component of nitrogen fertilizer; if oil leaps in price so does fertilizer. Japan imports oil, uses it to produce fertilizer, exports it to India. Less fertilizer, less food. Lester Brown of the Overseas Development Council, tells me that Japan has cut fertilizer production 25 percent and its exports will be reduced probably one-third. China will grab what it can. It means that the Indian subcontinent of 740 million (including India, Bangladesh and Pakistan) will suffer.

That's only a part of it. Food also depends on irrigation. In Asia two million irrigation wells are often pumped by small motors, chugging along, burning oil. The price of oil rises, irrigation costs more; food costs more; people who can't pay die.

In few places are food and population more delicately balanced than in India. Ber-

nard Weinraub cabled in the *New York Times* last week from New Delhi of a striking election upset by the Communist Party in the heart of Bombay that jolted Prime Minister Indira Gandhi's New Congress Party. Three years ago the Congress Party polled 216,000 votes; now it's 70,185. Among the reasons: the "unprecedented 20 percent rise in the price of food in the last 12 months." Of course democracy in India is a thousands time more worth saving for the US than the odd government in South Vietnam for which we spent billions and 50,000 lives. But what will we do about it?

The sudden Arab oil boycott is something that has never, repeat never, occurred before in economics. It recalls Jay Gould's attempted "gold corner" in 1869. It affects the world and the United States in grotesque ways that we have yet to realize. The pedicab fare has doubled in Jakarta. And little Fulani may die of hunger in Bangalore.

"I want all African and Asian brothers here to know," Hubert Humphrey grimly told representatives of 45 nations in mid-November at an international food conference in Munich, West Germany, "that when the Arab nations boycott oil to the United States, all they are doing is signalling you that you will starve."

This is too strong; a lot of other factors are involved. But the fact remains that in any crunch the poor and helpless fare worse, and in the crisis now developing the earth may be pushed over into a famine forecast for years.

About a third of the world's 3.9 billion people goes to bed hungry at night. World population increases two percent a year,

about 80 million people. It will double at the present rate by the end of the century. That means double the food to feed them. And there are these ominous circumstances:

—For the first time America's arable land, the world's great bread basket reserve is all in use.

—World grain reserves expressed in days' consumption stood at 95 days in 1961 now is down to 37, smallest in history.

—Fertilizer supply is very short and the price is zooming.

—Something strange is happening to the world fish catch; some feel the very oceans are overfished; for the past 21 years the total world catch increased every year to 70 million metric tons in 1970; it has dropped in the past three years to 62 million.

Lester Brown comments, "With less fertilizer and two percent regular increase in population, this is the first year in which one can say positively, 'There will be a reduction of food production in Asia, regardless of the weather. Never before in my memory has it been possible to say that.'"

Countries are divided into two tiers, the northern tier with relatively low birth rate and adequate food supply, North America, Western and Eastern Europe, the Soviet Union and Japan, recently joined by Korea, Taiwan and Mainland China. The other tier are the hungry lands with relatively high birthrate—most of Africa, much of the Mideast, the Indian subcontinent and parts of Latin America. This is the crisis of the 4 F's: food, fuel, fertilizer and fertility.

"This year there is no cushion any longer," Mr. Brown says, "things are very thin with a shortfall of fertility. With a drought somewhere, or unfavorable weather, there would be a scramble for food unlike anything we've ever seen. And in Washington a feeling that no one's in charge."

Most people can't believe the food supplies won't expand, just as they were sure cheap gas would continue. This may prove ultimately correct but in the meantime there could also be the greatest calamity in the history of mankind. The weather cycle is important. The US and Canada now control a larger share of the world's exportable grains than the Middle East does of oil, and the US provides 90 percent of the world soybean exports. Bad weather could reduce this. A cycle of droughts has hit North America roughly every 20 years since the Civil War when records were first made; the 1930's created the dust bowl and in the 1950's it appeared again. Even a mild return would be dangerous today.

"The issue that may well arise before this year is over," Lester Brown says, "is whether the more affluent nations will tighten their belts to fill what will be by far the largest food deficit in Asia that we've ever seen."

Tony Dechant, President of the Farmers Union, recently denounced the lassitude in Washington: "A world grain crop like that of 1972," he said, "would doom millions to starvation."

Fortunately prospects are for a bumper crop, but with high fertilizer prices it is not certain that the hungry lands can buy it.

Capitol Notes

by William Eckenbarger

The idea that the Pennsylvania General Assembly makes decisions on the basis of what is best for the general public is an illusion that persists despite some damning evidence to the contrary.

This is not to say that the legislature never acts in the public interest—only that it acts in the public interest by accident rather than by design.

The illusion is fostered by the special interests that abound in the legislative halls—and which really determine what the senators and assemblymen translate into the law of the Commonwealth.

Take the current furor over the proposal to abolish the state's retail liquor monopoly. The anti-monopolists are arguing that the public will get lower prices by turning retail liquor distribution over to private enterprise. Pro-monopolists counter that the public is better served by a system that exerts maximum control over the sale and use of alcoholic beverages.

Thus each side is couching its pitch in the rhetoric of what is best for the people—thus fostering the illusion that this will be the basis

for the legislature's ultimate decision.

The truth is, however, that each side is motivated by its own narrow economic interest, and the liquor issue will be decided on the basis of which can exert the most muscle at the opportune moments.

Another major issue before the lawmakers is no-fault automobile insurance. Most insurance companies are pushing for the bill on grounds it will be good for their policyholders. Negligence lawyers, on the other hand, are opposing it on grounds it would rob the people of Pennsylvania of important legal rights.

One of the enduring absurdities of Pennsylvania life is its Blue Laws, that myriad of legal restrictions on "worldly activity" on Sundays. The issue, which is a perennial one in Harrisburg, is always discussed in terms of public morality. It has nothing whatsoever to do with morality.

The Blue Law battle is between those commercial establishments that want to do business on Sunday but can't, and those that can do business on Sunday and don't want any further competition. The public interest? It's not even visible.

One would think that it would be the legislators themselves who would represent the public, warding off the assaults of special interest lobbyists. But the legislature has fallen so far behind the times that it must rely on others for basic information. The chief source of such information is the lobbyists, who write bills for the lawmakers and otherwise provide them with the expertise with which to make decisions.

The legislature is a rudderless vessel,

manned by part-time land-lubbers who know little of the sea. As such, it follows the direction of the strongest wind.

What to do? One could go at length listing the need for more and better legislative staffing, less secrecy and all the other familiar remedies prescribed for the Pennsylvania General Assembly.

But they all point to a single essential—harder-working, more conscientious legislators.

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