

Nightstick uses psychology

It's only in recent years that most of us have become aware that police nightsticks have names.

In the old days, the nightstick was known to everybody as a billy or a billyclub.

The billyclub, a simple piece of police equipment, is to the modern nightstick as the abacus is to a computer.

Among the new sticks are the Prosecutor and Source. They're so technologically advanced that perhaps they deserve names. But do the names have to sound so ominous?

And who names these things, anyway? What kind of qualifications does an employee have to establish to get the assignment of naming a nightstick?

According to Holyoke police, the Prosecutor is designated technically as PR-24. That sounds like a catalogue order number, and it's likely that the technical designation was nothing more than a handy derivation of the name the nightstick namer applied to the stick.

The Holyoke department is the latest in Western Massachusetts to acquire the Prosecutor, a plastic nightstick said to resemble a martial-arts baton.

Holyoke Chief Harold Skelton describes the Prosecutor, which is also part of the Springfield Police Department equipment, this way: "There is the power draw and the swing in a semi-circular motion. The stick rotates and generates a sound in the air that has got to generate a psychological effect on a person."

What person? The person to be subdued or the person doing the subduing?

The point to keep in mind about the new generations of nightstick is that they do something in addition to what the old-fashioned billyclub does.

There used to be a saying about nightstick-happy police officers — "They let their clubs do their talking for them" — and now, thanks to Prosecutor's sound-generating capability, the old saying has been endowed with a kind of retroactive accuracy.

Each Prosecutor costs the police \$27. That's not expensive for a psychological noise-producing nightstick, and Prosecutor is clearly not in the same class with Source, which costs \$130 each.

Source is designed for zapping, and zapping costs money. This stick, disturbingly reminiscent of a cattle prod, emits an electrical charge that momentarily stuns the target person.

Police science marches on.

Church-state issue argued

The Justice Department has interjected itself into an issue that is too often mistakenly considered a tinselly, frivolous matter: government involvement in Christmas.

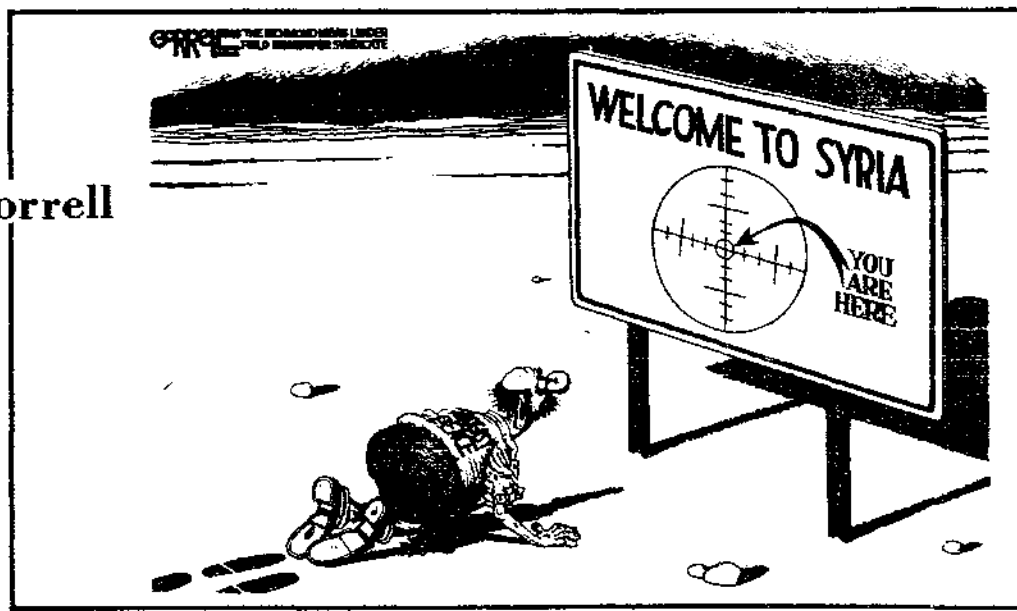
A department brief urges Supreme Court reversal of lower court rulings that government sponsorship of nativity scenes is unconstitutional.

Framers of the Constitution did not envision "a contrived exclusion of religion from our public life" and did not seek "to disable the state from acknowledging that religion is an important part of our heritage," the brief said.

For millions of Americans, but not for all Americans, religion is indeed an important part of their heritage and their everyday lives. The government cannot avoid acknowledging that, but it should not overlook the circumstance that these millions of citizens are not all served by the same religion.

The issue is whether government should put its official stamp of approval on any religion by spending taxpayers' money for displays symbolizing a specific religion and whether government should permit the use of tax-supported public property for such displays. We say it shouldn't.

Gorrell



KONDRACKE

'Debategate' must be probed

By MORTON KONDRACKE

There are two good ways to insure that there are no more repetitions of the "Debategate" affair — the bucketing of briefing documents from the Carter White House to the Reagan campaign in 1980. One is to have a thoroughgoing investigation of Debategate. The other is not to have any more presidential debates.

President Reagan, House Speaker Tip O'Neill, House Majority Leader Jim Wright and many other politicians are pook-pooing the debate affair. The president says that even if some Carter papers did get transferred to his campaign organization, they were not important, and their receipt was not unethical.

He has asked the Justice Department to "monitor" the case but, so far, no full-scale investigation is under way that might lead to the appointment of a special prosecutor.

Meanwhile, Rep. Don Albosta, D-Mich., has been allowed to launch a "low-key" congressional investigation, but it has only cool support from Democratic leaders Wright and O'Neill, who never much liked Jimmy Carter.

Well, there's more to this than that. In the first place, some history. Ronald Reagan ultimately won the 1980 election by a landslide, but as the candidates prepared to debate, all public polls showed the race tightening up nationally and in the key states. Reagan's pollster, Richard Wirthlin, was showing his man ahead by 43 percent to 37, but also found that 11 percent were undecided.

In other words, at the time Reagan's staff members prepared him to debate, they had every reason to be tense — and to be tempted when Carter documents came their way.

We will never know whether his prepping by David Stockman, Jeane Kirkpatrick and columnist George Will caused Reagan to win the debate and the election. But it certainly did no harm to the Reagan side to know in detail what points Carter planned to make and what

attacks he would level against Reagan. Stockman bragged in a speech on the very day of the debate that he knew just how things would go. Reagan indeed was able to parry every Carter thrust.

So, these documents were valuable property. They were taken from their owner and given to someone else — secretly. That is close to the legal definition of theft. The material was accepted and used. That is close to the definition of receiving stolen property.

At first, it appeared that this was a one-shot, low-level filch. But as the Reaganites searched their files, it appears they got documents from three separate domains in the Carter White House: the domestic council, the national security council and the vice president's office. Carterites say that no low-level employees had access to all three.

That suggests two possibilities: a high-level spy, which is possible but unlikely, or a network of low-level moles. Either way, somebody in the Reagan entourage was running a significant espionage operation.

There is a third possibility: that so

many separate people in Carter's White House were so disgusted with his administration that they were voluntarily committing political treason.

Yet, it's also possible, as Carter pollster Patrick Caddell insinuates, that the debate papers are "just the tail" of a very big rat — that is, that a large-scale political spy operation was mounted against the Carter White House to obtain all sorts of campaign and government intelligence.

It is a fact that the Reagan forces feared an "October surprise" — possibly, Iran's release of the U.S. hostages — that would turn the election to Carter. Were spies really after Iran material, and got debate books in the process?

It all ought to be investigated. At the same time, assuming that only debate materials are involved, this country could do itself a great favor by not having the presidential election hinge on the outcome of a televised debate — certainly, not a single debate late in the campaign.

TV debates basically are TV shows. They reward glibness, stage presence and superficiality, not wisdom, depth and judgment. Gerald Ford may have lost the presidency in 1976 because he made a verbal stumble in a debate with Jimmy Carter over whether Poland is free. Does anybody seriously think Ford didn't know who runs Poland? Does anybody think Ford's slip had anything to do with his ability (or Carter's) to be a good president?

If we have to have debates at all, there should be several, but a better test of the candidates would be to give them each three free half-hours of airtime to fill up as they choose. How they do it — what they say and how they say it — would be a better test of governing ability than the present system.

Debates are like war, and people are so anxious to win, they sometimes think that anything's fair. Politicians were supposed to have learned some ethical lessons from Watergate, but it seems some of them forgot. We need a new investigation to remind them.

Mark Russell

The scuttlebut in Washington is that Reagan's 1980 campaign manager William Casey had delivered a book containing Jimmy Carter's secret election strategy. Which is why Mr. Casey is now head of the CIA and not secretary of Agriculture.

Having that book could very well have helped Reagan win the debate with Carter and go on to win the election — a case of the actor memorizing the other player's script.

Mr. Casey recalls none of it and some suggest that a "mole" ferreted the book out of the Carter White House. I wonder if the mole was related to the killer rabbit?

EVANS

Jane Fonda and U.S. government now an 'item'

By M. STANTON EVANS

WASHINGTON — Rep. John McCain, R-Ariz., was understandably upset the other day when he found that movie star Jane Fonda and spouse Tom Hayden had been official guests at the launching of the Challenger space shuttle.

McCain, after all, was a prisoner of war in North Vietnam when Fonda showed up there in 1972 to deliver propaganda broadcasts for the Communists. He well remembers that while he and other POWs (including Sen. Jeremiah Denton) were suffering unspeakable tortures rather than feed Hanoi's propaganda mills, Fonda gave the Communists exactly what they wanted on a silver platter.

Faithfully mouthing the Marxist line, Fonda told American pilots their leaders were criminals whose motives and orders should be questioned. For reasons yet to be satisfactorily explained, she was never charged with treason for doing this, though there were plenty of people (including me) who thought she should have been, and still do.

Instead, Ms. Fonda is happily making movies, selling exercise books, and being

treated as a VIP guest of the American government. Why she was invited to the shuttle launching is a bit of a mystery, one explanation being that female astronaut Sally Ride, the star of this space outing, had been a resident of Hayden's Assembly district.

A more plausible theory is that inviting Fonda, along with Gloria Steinem, was an inept attempt by somebody in the Reagan administration to appeal to radical feminists. This view is supported by the fawning statement of a NASA spokesman who said that, "I'm particularly pleased that Jane Fonda is coming. She's considered to be a role model by a lot of young women."

This is quite a tribute to a shameless and so far unrepentant propagandist for Hanoi. In one broadcast for the Vietnam communists, for instance, Jane told our pilots that "the men, who are ordering you to use these weapons are war criminals according to international law and in the past, in Germany and Japan, men who were guilty of these kinds of crimes were tried and executed."

In similar eloquent vein, Fonda told American flyers, "The people back home are crying for you. We are afraid of what must be happening to you as human beings. For it isn't possible to destroy, to receive salary for pushing buttons and pulling levers that are dropping illegal bombs on innocent people, without having that damage your own soul."

When some of the POWs got out of Viet-

nam and came home with tales of torture, Fonda dismissed them as "hypocrites and liars." She says she herself had talked to POWs in Vietnam, and everything was fine. "They assured me they were in good health," she said. "When I asked them if they were brainwashed, they all laughed. Without exception, they all expressed shame at what they had done."

These preposterous denials have long since been refuted by the gruesome testimony of the survivors. (For those who doubt the terrible agony inflicted by the Vietnam communists, John Hubbell's excellent study, POW, is recommended.) In fact, one returning POW, William Bengt, said he was tortured precisely because he refused to sing the praises of Jane Fonda.

Other Fonda opinions on the war included the statement that "all of the slaughter and all of the killings that are happening in Vietnam on all sides are the responsibility of the United States. The Vietnamese would not be fighting if

the United States were not bombing their country to keep a Saigon dictator in power." This, too, was unadulterated Communist propaganda, utterly refuted by events.

As for communism itself, Fonda is on record as saying: "I would think that if you understood what communism was, you would hope, you would pray on your knees that we would someday become Communist." (Slightly different versions of this statement by Fonda were reproduced twice a decade ago in a House investigation of her activities, and a third time last year by Richard Grenier in an article for "Commentary.")

Activities and statements of this kind are hardly the stuff of respectable liberal politics in the United States, much less of anything that might be considered conservative or moderate. Why then was Jane Fonda a guest of the Reagan government at Cape Canaveral, and why was she described by an official spokesman as a "role model" for young women?

WILL

Bad check, bad decision

By GEORGE F. WILL

WASHINGTON — A South Dakota law and a fraudulent check have led to a Supreme Court ruling with this interesting aspect: The theory on which the majority opinion rests — a theory about objective criteria — is refuted by the fact that four justices vigorously dissent from it.

When Jerry Helm was arrested for writing a "no account" check for \$100 he had six felony convictions — three for burglary, one for obtaining money under false pretenses, one for a third-offense driving while intoxicated, one for grand larceny. South Dakota's recidivist law authorizes a judge to impose a sentence of life imprisonment without



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parole on an offender with three previous felony convictions. The judge in the bad-check case sentenced Helm to life without parole.

The Eighth Amendment proscribes "cruel and unusual punishments." Until last Tuesday the Supreme Court had never held that a prison sentence alone was, because of its duration, cruel and unusual. But last Tuesday a bitterly divided court held that the sentence given Helm was unconstitutionally disproportionate.

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Justice Powell, joined by Justices Brennan, Marshall, Blackmun and Stevens, held that the principle of proportionality has always been implicit in the Eighth Amendment and applicable to all punishments.

The court's majority seems complacent about the flood of appeals now certain to rush toward the judiciary. The majority says appeals of prison sentences should be disposed of by applying three "objective criteria." They are:

Is the harshness of the punishment reasonably related to the gravity of the offense? Are more serious crimes subject to the same or lighter punishments? Do other jurisdictions impose the same punishment for the same crime?

Five justices consider these criteria "objective." Four justices consider the criteria an invitation to the judiciary to make many subjective

Chief Justice Burger, joined in dissent by Justices White, Rehnquist, and O'Connor, says the majority has undermined the rule of law by disregarding a decision rendered just two terms ago. In a 1980 case the court held that a life sentence (with possibility of parole) imposed after three nonviolent felony convictions was not cruel and unusual punishment. Now the court says that life without parole (but with commutation by the governor still possible) is cruel and unusual.

Four-ninths of the court hotly dispute five-ninths of the court concerning even the seriousness of Helm's crimes, and the right of states to identify habitual criminals and remove them from circulation.

Five justices minimize the seriousness of Helm's record, referring to his crimes as "non-violent." Four justices say that four of the crimes (the three burglaries and the third offense, driving while intoxicated) "had harsh potentialities for violence." Four justices ask: If the majority says that life without parole is disproportionate for seven felonies, how about for eight? Twelve? By what other "objective criteria" will courts now second-guess state legislatures?

Burger says that the most accepted doctrine is that the "cruel and unusual" clause was intended to prohibit the kind of torture meted out during the reign of the Stuarts.

Even if it is humane to conclude that Helm's sentence is unjustly severe, it is impermissible to conclude that therefore the sentence is unconstitutional. The Constitution enumerates, allocates and — the chaos of illimitable judicial intervention in society — regulates government powers. Chaos results if the Constitution is read as a guarantee that every use of power shall be just. That is why justices often have a vocational duty to make their heads overrule their hearts. Five seem to have failed to do that in this case.