

**THE CIVIL RIGHTS ERA: ORIGINS AND DEVELOPMENT OF NATIONAL POLICY.** By Hugh Davis Graham.<sup>1</sup> New York, NY: Oxford University Press. 1990. Pp. 578. \$35.00.

*William L. O'Neill*<sup>2</sup>

This large (476 pages of text), intensively researched and well-written book is difficult to summarize because of its odd structure and authorial reticence. Parts One and Two, which comprise the first 300 pages, are tightly focused on the White House, the Justice Department, and agencies like the Equal Employment Opportunity Commission that were most involved in establishing civil rights policy in the executive branch under Kennedy and Johnson. This portion of Graham's book is an institutional history that spells out in great detail how policy was formed and how it was implemented by federal bureaucrats. There is a great deal of useful information here, if few surprises.

Part Three is devoted to the Nixon administration, and here the narrative picks up and changes character. This is a revisionist account of Nixon's support for civil rights, though written in a critical rather than a laudatory spirit. As Professor Graham sees it, Nixon was a man without any principles where civil rights were concerned, who advanced the cause out of pure expediency. This section also contains a relatively short but interesting chapter on key court decisions, which otherwise do not figure prominently in the book, and a concluding chapter that goes significantly beyond the main body of the text. Part Three is so different from Parts One and Two that it is as if the author, intending to write one kind of study, had ended up with another, and rather than integrating the two, laid them end to end.

This is not to say that Parts One and Two have no connection with Part Three. They do set the stage, even if at too great length, for the coming of Nixon and the climax of the civil rights era. In particular they introduce two themes that will dominate Part Three, the vexing problem of quotas and the emergence of gender as a civil rights issue. Graham sums up the president's domestic achievements as follows:

Nixon's pre-Watergate record of legislative and program

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1. Professor of History and Policy Sciences, the University of Maryland, Baltimore County.

2. Professor of History, Rutgers University.

achievement as President is surprisingly rich in reform initiatives, attempts at strategic planning, fresh reassessments of federal-state relations, and far-reaching executive reorganization. Substantively, however, the domestic achievements of the first administration are a strangely mixed lot, and the mix reflects Nixon's own lack of any coherent and internally consistent ideology.

What Graham calls Nixon's "policy incoherence" explains much that went wrong in the field of civil rights.

Nixon's lack of convictions made him open to new ideas, and no one in his administration had more new ideas than Patrick Daniel Moynihan, a Democrat who rose through three administrations to become counselor to the president with cabinet rank under Nixon. Moynihan's greatest achievement in this role was to sell Nixon on the idea of abandoning the service-oriented Great Society approach to welfare in favor of an incomes strategy. Rather than continuing a separate program for each social ill, Moynihan proposed one big Family Assistance Program (FAP) that would take care of many evils. Instead of a welter of federal, state, and local agencies dealing with welfare recipients in a variety of ways requiring a vast bureaucracy, there would be a simple income transfer to any family whose earnings fell below a certain point. The FAP had the advantages of simplicity, uniformity, and cost-effectiveness, since it would not provide services but only income supplements.

It would also, Moynihan believed, save the black family, a particular concern of his even before the 1965 release of his Report on the Negro Family. In it Moynihan warned that the black family structure was disintegrating, illegitimacy rates having soared beyond twenty-five per cent. An important reason was that welfare checks, primarily in the form of aid to dependent children, were paid to mothers, freeing them from dependence on fathers and thereby weakening the black male's position and incentives to work. The Moynihan Report was excoriated by black leaders and white sympathizers for being patronizing if not actually racist, and the black family was banned as a subject of debate.

The FAP was Moynihan's attempt to preserve poor black families without having to talk about them, since the program would apply to families on the basis of need rather than race. Unlike aid to dependent children, which encouraged divorce and illegitimacy, it would use federal funds to strengthen the family. However, the FAP fell victim to Nixon's apathy and the unwillingness of congressional Democrats to support a Republican initiative. Graham is unsympathetic to Moynihan's approach for reasons he does not make

clear. Given the spectacular failure of the conventional welfare approach—even before the Reagan Administration's budget cuts—it seems a pity that the FAP was not at least attempted. No doubt it would have fallen short of Moynihan's optimistic goals, but even a limited success might have spared the underclass from the extreme degrees of poverty and dysfunction that exist today, when over sixty percent of black children are illegitimate.

The FAP occupies very little space in Graham's book and is not even listed in the index, since he is much more interested in gender and especially quotas than social pathology. His thesis, not revealed until the last chapter, is that during the 1960s the government shifted from trying to promote equality of opportunity to bringing about equality of results. During what he calls Phase I of the civil rights era, quotas were eliminated for being discriminatory. During Phase II, though government agencies avoided using the word, quotas became an important means of determining compliance with government regulations.

Graham sees this change as part of a general expansion of the administrative state, particularly at the state and local levels. Thus, while in the 1960s the federal bureaucracy added 400,000 employees, in the 1970s there was almost no growth while state and local government workers increased by four million persons, an increase of forty percent. In addition, many federal programs were jobbed out to private contractors. New agencies were linked to the new interest groups that developed in the 1960s—the consumer, anti-war, civil rights, environmental, worker health and safety movements, among others—creating a vast shapeless movement Graham calls the “new social regulation.” Unlike traditional regulatory agencies, which enforced the law by issuing cease-and-desist orders to offending businesses, the new agencies tended to issue broad rules. Bureaucratically this had the advantage of not requiring an agency to prove that someone was at fault or had done harm. Now it needed only to set standards and insist that they be complied with.

Graham is vague about the utility of this shift as a whole, but where civil rights are concerned he seems to think it pernicious because it merged with the effort to achieve equality of results, which he definitely dislikes. Having failed as a mass political movement, civil rights was to enjoy some success as an interest group activity, he argues. First blacks and then women, Asians, American Indians, the elderly, gays, and the disabled formed close ties with the new regulators and appropriate congressional committees. Federal courts were so sympathetic that by “the middle 1970s the expansion

of judge-made social policy had threatened . . . to supplant the imperial presidency, now crippled by Watergate, with an imperial judiciary.”

Complicating this shift to rule by judges was the growing tension between race and gender, for blacks were turning against equal treatment just when organized women—after a long history of struggling over the merits of protective legislation—were unifying behind it. As so often Graham is unclear about what this signified, since in his view women and middle class blacks have both benefited from Phase II. His book ends on this ambiguous note.

Graham pours out his interpretations in a series of broadsides at the end. The basis for these sweeping assertions is not adequately prepared earlier in the book, and such new evidence as appears at the end is sketchy and unconvincing. For example Graham says that women were the greatest beneficiaries of EEO legislation because their “proportional group share of income” increased during the sixties while that of white men declined. If Graham means that the share of total personal income going to women increased, he is certainly right, but that is because the female work force expanded more rapidly than the male. The average income of working women did not, however, increase compared to that of white men as Graham’s thesis would require.

By ending with Nixon, Graham avoids discussing today’s much more conservative federal bench and federal civil rights establishment. Thus we don’t know if we are supposed to regard *The Civil Rights Era* as a work of history only, or as bearing on current issues. Except for his dislike of quotas, even the author’s personal preferences are frequently hard to make out. This does not lead to objectivity so much as confusion, since we get little sense of what directions policy-makers ought to have taken. Even the theory he embraces concerning the new social regulation is not very helpful since he fails to develop its implications.

The most troubling aspect of this book is Graham’s decision not to deal with the making of the underclass. It now looks as if America had its last opportunity to save the black working class during the Johnson and Nixon administrations, when unemployment, housing decay, drug use, crime, single motherhood, and other problems were much less serious than they later became, and when Washington was not yet immobilized by the political stalemate and crippling debt that prevent social action today. Graham provides useful information concerning racial quotas and judicial activism which are certainly legitimate subjects. He fails, however, to dis-

cuss the major policy failures that have led to the ruinous situation of the underclass today.

**THE NEW FREEDOM: INDIVIDUALISM AND COLLECTIVISM IN THE SOCIAL LIVES OF AMERICANS.** By William A. Donohue.<sup>1</sup> New Brunswick: Transaction Publishers. 1990. Pp. 250. Cloth, \$29.95.

*Edward J. Erler*<sup>2</sup>

The motto of the Invincible Order of Assassins, an eleventh century Islamic sect described by Nietzsche as “that order of free spirits *par excellence*,” was: “Nothing is true, everything is permitted.”<sup>3</sup> According to Professor William Donohue, this has become the effective motto of “the ascendant idea” of contemporary American morality. His studied conclusion: “Something has gone wrong.” Indeed!

For a sociologist Professor Donohue is unusually insightful in his analysis of the root causes of the “new freedom” that he deplores. But his account of the new American morality is more than insightful: it is written with a verve that is altogether rare in academic works. It is also infused with something that is even rarer in academia—a genuine moral outrage about the condition of American society. In fact the book as a whole might be characterized as a refreshingly honest (and sustained) *cri de coeur*, culminating in a lament that the new freedom has destroyed our capacity for moral outrage. But as Donohue rightly points out, the capacity to feel and express moral outrage inspired by what James Madison called “a consciousness of unjust or dishonorable purposes”<sup>4</sup> is the necessary cement of any civilized society. The new freedom has simply provided the solvent that will dissolve the moral connections that form the basis of every decent society. Yet it is precisely this spiritedness or thumos which leads men to sustain and protect the values of the community that ideological liberalism—the source of the new morality—views as the greatest obstacle to progress.

The revolution that produced the new morality, according to

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1. Adjunct Scholar, Heritage Foundation.

2. Professor and Chair, Department of Political Science, California State University, San Bernardino.

3. Friedrich Nietzsche, 3 *Genealogy of Morals* sec. 24 (tr. Walter Kaufman and R.J. Hollingdale, Vintage Books, 1967).

4. Federalist 10 (Madison) in Jacob E. Cooke, ed., *The Federalist* 56, 64 (Wesleyan U. Press, 1961).