RECURRING THEMES, ENDURING VALUES:
CHARLES S. HYNEMAN
ON DEMOCRACY, DEMOCRATIC IDEALS,
AND POLITICS IN AMERICA


The three works cited above, by no means a complete listing of the scholarly work of Charles Hyneman during his long and prolific professional career, seem, in the opinion of the authors of this essay, to set out most clearly, and in most pointed fashion, his basic and enduring ideas on democracy, democratic ideals, and democratic politics in America.* At least three other works, The

* These two works are now out of print. In the judgment of the authors of this essay, both have considerable value and interest for students. Reissue by the publishers, or at least reprinting of portions of each, would be highly useful.

A more nearly complete listing of Professor Hyneman’s work follows:
"Bureaucracy and the Democratic System," Louisiana Law Review, vol. 6, (Dec., 1945);
"What is the Best Form of Government for the I-lappiness of Man?," The Daniel Lecture, University of Oklahoma (Norman: University of Oklahoma Press, 1955);
"The American Lesson in Democratic Government," address at the University of Tennessee, 1962. In Government and World Crisis (Knoxville: The University of Tennessee, 1962);
"Legislative Experience of Illinois Lawmakers," University of Chicago Law Review, vol. 3 (December, 1935);
"Administrative Adjudication: An Analysis," Political Science Quarterly, vol. 51, (September, December, 1936);
"Executive Centralization in Administration," Proceedings of the Southern Political Science Association, Tenth Annual Meeting, 1937;
I. DEMOCRACY IN AMERICA

Taking his works as a whole, Hyneman believes that in conception and development, democracy in America means government constrained to discover what people want, and to do what they want—constrained through the instrument of regular election of those officials who make broad policies and who are charged with the responsibility of seeing to it that these policies are carried out. Hyneman explicitly rejects the idea that a regime is democratic if officials seek to do what they believe the people want, but are not subject to sanction in the event of error in divining the popular will, or if officials are free to do what they think best for the people, what they believe the people ought to want, without regard for what the people do, in fact, want, or how the people respond to what is done on their behalf.

The rejection of these latter two conceptions of democracy is central to the theses developed in *Bureaucracy in a Democracy* and *The Supreme Court on Trial*. Neither bureaucrats nor the Justices of the Supreme Court are subject to the discipline of popular elections. Hyneman, we should think, could never accept Carl Friedrich’s thesis that, on the whole, American bureaucrats have, bred into their bones, a sense of the popular will, which combined with a strong commitment to the "democratic ethic" and a deep-rooted (and admirable) professionalism dispose them to doing what the people want. Friedrich, of course, in no sense rejects traditional

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"Administrative Reorganization: An Adventure into Science and Theology," *Journal of Politics*, vol. 1 (Feb., 1939);
"Executive Administrative Power and Democracy," *Public Administration Review*, vol. 2 (Autumn, 1942);

For additional listings of the work of Professor Hyneman, please see "A Brief Bibliography" in Hyneman and Gilbert, *Popular Government in America*, pp. 293-295.

The publishers of the works cited, in the order listed are: University of Illinois Press, Urbana; *American Political Science Review*, vol. 56 (Dec., 1962); and Appleton-Century-Crofts; New York.

modes of effecting control over the bureaucracy; he simply regards them as inadequate. Nor could Hyneman accept Norton Long’s argument that the American political system is such that the parties, the Congress, and the President can never provide adequate direction-nor, even, perhaps adequate protection for bureaucrats when, for example, they get into trouble with clientele groups. Long believes that bureaucrats must fill out their own mandates, and be alert to providing their own political support. 4

Much less tolerable for Hyneman is Peter Woll’s set of assumptions (1) that the American bureaucracy, highly ethical and highly professional, is more representative than either President or Congress, both being too much concerned with politics to give the requisite thought and attention to policy, and (2) that the bureaucracy is more attuned to national needs (or, at least, to the needs of national interest groups) than are the members of Congress who are, perforce, parochial in outlook, or than the President preoccupied with constructing and maintaining a political coalition to reelect him and to enable him to govern, in the broadest possible sense. 5

Hyneman readily concedes the value of the function of the judiciary in resolving individual disputes under the law, and in finding solutions to conflicts between the law and the claimed rights, or interests, of individual citizens. In part because of the high value attributed to these classic functions of the courts-and in part because he cannot accept the argument that judges are under obligation to rescue the American people from the failures of the political process and the political branches, and to assume a special responsibility for protecting the democratic process, and for identifying national ideals and pressing public officials to pursue these ideals-Hyneman rejects an activist Court. Judicial activism can erode the essence of the political process. It can, in addition, undermine the essence of the true judicial function, that of resolving disputes arising under the law. The making of law, and the adjudication of rights under that law should never be lodged in the same group of men, lest judges be diverted from the hard but important work of adapting existing law to the varieties of individual cases which may arise, into the more challenging and heady business of proclaiming new law; and lest public confidence in judicial impartiality be severely damaged.

To recapitulate: Hyneman defines democracy as elective, responsive, and responsible. Those who make policy and who have final responsibility for enforcing it, must be subject to the discipline of submitting themselves to election, or re-election, by the people. Only the sanction of the regular election, the renewal (or non-renewal) of the mandate, ensures that officials keep "in touch," and remain momentarily prepared to adjust, and to adapt policy (in sharp contrast with what Hyneman calls the viscosity and rigidity of the judicial decision, proclaiming "the law").

Only selection by regular election ensures representativeness in the critical meaning of that democratic concept, all studies of the ethnic and geographic origins, educational backgrounds, and prior career experience of bureaucrats and Supreme Court Justices to the contrary, notwithstanding.

And yet—though politics is primary—though a proper functioning of regularly scheduled elections is the single fundamental guarantee of American democracy, though government based upon popular sovereignty came first, historically, and is antecedent to much else, Hyneman insists that American government, and the will of the people, are subject to limitations, which are, in kind, not simply transient or merely political—limitations having to do with inalienable rights which neither government nor the majority may take away. Thus, the two democratic traditions of liberty and of equality co-exist in American thought and practice.

Hyneman does not believe that limited government is antecedent to popular government; rather, he subscribes to the reverse, principally because of his deep confidence in the electoral sanction, and his lesser confidence in the working effectiveness of written, or legal controls over governmental power which, frequently being ambiguous, can be interpreted variously, and often so as to give advantage to a group, to an interest, to an idea "whose time has come."

The true safeguard of inalienable rights is in the spirit of the people—in their untiring devoted pursuit of the ideals of autonomy, equality, and commonalty, all of which must at all times be in vital, thriving state. The likelihood that any of the three may overwhelm the others, or that any one may shrink, or fail to keep pace with the others, is all too great. Such a development places democracy in precarious state.

For example, see Hyneman and Gilbert, *Popular Government in America*, Ch. 1.

Ibid., especially pp. 5-9, and Ch.11.
II. DEMOCRATIC IDEALS

There is a way of life in which men are accustomed to make choices and assume responsibilities, in which people accord deference to one another; in which one man’s status in critical social relationships is essentially the same as that of all other men; in which men are relieved from suspicion of all other men because they have common standards of behavior and share confidence that particular acts will excite certain expected responses. It is this way of life, defying exact description, that provides the environment in which democratic government can flourish.

The ideals, then, which must be realized in a society, if democracy is to exist, are liberty, or autonomy, for the individual and the group, equality, and commonalty (the sharing of some standards of behavior, some beliefs, some expectations). It is not possible to set precise measurements of how much of each of the three is required; it is not possible to say with exactness what the relationship of each to the other should be. Hyneman speculates that equality and commonalty are, on the whole, mutually re-enforcing: if men enjoy essentially the same status in critical social relationships, they are more likely to show deference and respect for others, to have confidence that there are common purposes and interests, that confidence which binds, which holds the society together.

Autonomy, for the individual or the group, may impinge upon and diminish equality, may undermine the sense of community or commonalty. "Excess of autonomy [especially] for groups can ... entail intolerable departures from equality for the population as a whole. Excessive autonomy reduces commonalty to ineffectiveness." Nevertheless, it is impossible to believe that a people can govern themselves through the election of officials unless as individuals and in a multitude of groups to which they may be attracted by diverse motives, they take responsibility for a variety of significant decisions. Moreover, it is impossible to believe that government can be effectively checked in the absence of groups-unions, organizations of business men, professional associations, religious institutions, voluntary welfare and social associations—all of them working to achieve their ends, through public and private means. Although it is unknown how much individual and group autonomy are necessary for popular control of government; observation of experience in other countries amply supports the assertion that "any
nation that wants government by the people must prepare for it in social organization and social instruments that lie well outside the realm (ordinarily called) politics.

Because in a democracy all men count in some sense, each is to be counted as all others-equality is an ideal which must pervade all aspects of life. All are entitled to be treated with respect; all are free to express themselves; all enjoy a right to worship in accordance with individual conscience. All must have a degree of economic well-being such that they are enabled to command respect, to read, write, and speak so as to communicate with others, to worship as they please.

Hyneman fully appreciates the complexities, the subtleties which abound in the concept of equality, more precisely in any attempt to pin down the "true" meaning of equality. He suggests that, especially of late, "equality" has seemed to be synonymous with "identity." Unless \( A \) is like \( B \) in every respect, is treated like \( B \) in every respect, they are thought not to be equal. Yet \( A \) and \( B \), two different human beings, have different aspirations, and place different values upon most, if not all things. And why should they not?

If "equity" could be substituted for "equality," then there would disappear, at least from our thinking about the matter, many of the absurdities which have come to be associated with identity of treatment of persons and things which are not identical. In their place would come concepts of fairness, of reasonableness, of balancing the preferred with the feasible. As Hyneman writes, "[Equity] encourages persuasion and bargaining. The connotation of 'equality,' in contrast, invites men to state their claims as absolute rights and to justify them by dogmatic assertions."

Without commonalty, some degree of likeness of mind and of behavior, deriving, in part, from common knowledge, common beliefs, and common purposes, there will be either no government, or government which is imposed, rather than resting upon the consent of the governed. In developing and preserving commonalty, the family, peer groups, the schools, the communications media, all play highly significant roles.

In summing up in the chapter entitled "On the Preservation of Democratic Foundations" (Popular Government in America), Hyneman expresses his optimism concerning a continued sturdy autonomy for individuals and groups in the U.S. (though he

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recognizes that others fear the erosion of this autonomy through (1) the delaying of adulthood for young people who are kept longer in school and off the job market, (2) the decline in jobs for all, and (3) the increase of public and private bureaucratic intrusions into the lives of individuals); his hope that equality, or equity, is being realized in greater measure; and his apprehension that commonalty is in jeopardy; or more likely to be, than either autonomy or equality. So persistent has been the cry that conformity is bad per se, being different (irrespective of how or why different) is good, that we are in danger of forgetting that order is essential to the achievement of goals, and the fulfillment of personal and national ambitions.

Hyneman believes that democratic politics, and the forms and institutions of the American governmental system can be made to serve the advancement and preservation of autonomy, equality, and commonalty. It is to this function of democratic politics, and of American government, that we turn next.

III. DEMOCRATIC POLITICS

Democratic government being that which is constrained-through the instrument of elections-to do what people want, it follows that for Charles Hyneman the acts of voting in elections, of appealing to electoral officials for what one wants, and of reacting to what is done are most important to continuing popular control of government. But only on the occasion of election of public officials, or of the infrequent referendum on a specific public issue, are the principles of equality and majority rule given clear observance. The departure from equality and majority decision is "striking" where participation takes any form other than voting. Public officials, pressured to administer laws in one way or another, perhaps even to allow them to lie dormant, cannot count heads; they respond to those who bring the greatest pressure to bear upon them. Hyneman concludes, then, that "much of the writing that puts emphasis on provision for equality and majority rule in the American political system strays a long way from reality."¹²

Even in the election of officials, or in a referendum on policy issues, a merely casual observer may recognize that the choices made are not necessarily those which each voter would place first, were he wholly free to choose who the candidates would be, or how the issue

¹² Ibid., p.56.
would be stated. The candidates appearing on the ballot get there in consequence of a variety of factors. An issue is framed sometimes in such fashion as to give the greatest assurance that advantage will accrue to one interest or another, sometimes in such fashion as to exclude possibilities which might be more palatable to large numbers of persons. Those who have influence in party circles where nominees are advanced or side-tracked, or who frame the referendum questions, determine the range of choices for the voters.

In an election, it is certain that each man has one vote, and that a majority, or plurality, will elect one candidate over another, or accept or reject a referendum proposal. Why the majority or plurality forms is unclear, what the mandate given is unclear. Hence, the importance of pressure upon the elected official as he goes about his business. But no one knows to what extent the pressure brought represents a majority view, or whether it represents a majority at all. No one knows how unequal the resources for bringing pressure may be among those holding conflicting points of view about what the official should do.

It is not until the next election that voters, each with one vote, may make known their judgment about the record of an office holder. With V. O. Key, Charles Hyneman believes that voters make their judgment on the basis of a record, or that part of it which is of particular interest to them. With Key, he believes that voters, to a very great extent, function as individuals, make up their minds in light of individual self-interest; they do not all, always, act exclusively or predominantly as members of a group, a party, a class, or an ethnic group, or in consequence of economic status, though most will belong to one or several groups, and most will at some point recognize a particular issue, or a candidate, as having particular significance for a group or groups to which they belong. Hyneman is fully aware that groups may have far more effect upon the conduct of officials than does the voter. Those officials who are not elective, e.g., those who compose the bureaucracy, are more likely to be susceptible to the activities of groups—and not simply because they do not submit themselves to election, but also because they are required by law, by common sense, and by the desire for survival, to listen attentively, and to cooperate.

Hyneman, then, recognizes the existence in America of two sys-

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13 Reference is made to Key’s *The Responsible Electorate* (Cambridge: Harvard University Press, 1966).

14 The works previously referred to by Norton Long and Peter Woll are among the most explicit in making this point as to bureaucratic obligation and bureaucratic survival. Many other works have also addressed this theme, including Pendleton...
tems of demand-and-response: the one, the populist demand-response system depending upon popular election of officials, the other, the pluralist or group demand-response system depending upon the exertion of pressure and of influence upon public officials. His preference is for the former because it offers to the many the opportunity to share equally in influencing government. In contrast, the pluralist demand-response system offers no guarantee that many will share equally in influence. (This is, in fact, no necessary part of the goal of the group. Groups encourage and fortify oligarchy. They confront no necessity consistently to educate the people in order to have influence.)

But while his preference is clear, as are the reasons for that preference, he concedes that there is a close inter-relationship between the two demand-response systems, that indeed there are not "two demand-response systems in the world of American politics, but a single bifurcated system which operates on differentiable fronts, for differentiable objectives, by differentiable methods." And he remarks that while historians have done a good job of reporting the nation's reliance on the two demand-response systems, political scientists have done woefully little to explain their co-existence or to relate them to democratic ideals. We believe that he would regard Peter Woll's "relating" of the two demand-response systems, and of the group demand-response system to democratic ideals as unacceptable, because Woll is clearly prepared to relegate control of government by the electorate and by elected officials to a very low position, as largely ineffective.

The individual voter being at his highest degree of effectiveness in casting his ballot in elections, he can be very greatly assisted in


17 The brief bibliographical essays entitled "Populist, Pluralist, and Elitist Interpretations" and "Democratic Government: Populist Model" in Hyneman and Gilbert, *op. cit.*, are excellent sources for those wishing to read more extensively on the two demand-response systems,
registering a choice through the mechanism of political organization, the political party.

For Hyneman, the party’s goals are two-fold: (1) a short-run goal to present candidates who will win elections because they express, in some fashion, the beliefs and aspirations of a majority of the voters; (2) a long-run goal of fostering commonalty. Thus, the central business of the party may be labeled "compromise," an exceedingly complicated piece of business, in consequence of the multiplicity of issues and interests of the people of our nation, the highly dynamic character of life in the U.S., and the structure of government in the U.S., which divided powers and decision-making among three branches of the same level of government and between levels of government, e.g., local, state, and national.

As issues and interests are not static, so, too, is the division of power and decision-making not static. But recognizing that there has not been, and probably will not be, a final resolution of the problem of who does what at which level—recognizing, then, that it is impossible to say where the voter or the party organization may have the greatest impact, Hyneman is persuaded (as was Morton Grodzins, for example) that multiple points of access to government can be clear gain, both for the voter and for the party organization.

Hyneman believes that whatever local and state governments may do, or control, that much, or that little, is a means of flexing the voter's muscle, sharpening his perception of his interests and that of others, strengthening his awareness of issues, and of what governments may do about these issues, heightening his sense of what government does well and responsively, and what it does poorly.

Enormous complexity characterizes governmental structure, party organization, the framing of governmental programs, and party platforms, and the designation of party candidates. This complexity contains relatively little basis for anxiety that the electorate will maintain a reasonable control over government. The far more serious problem is that of maintaining effective checks by elective officials upon the bureaucracy. In his earlier work, *Bureaucracy in a Democracy*, Hyneman proposed a Central Council to be composed of the President, leaders of his party in Congress, and outside, some members of the Cabinet; this Council was intended to enhance both Presidential and Congressional power, to formulate and enact a legislative program and to direct and control the bureaucracy. isbn

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1. It should be noted that *Bureaucracy in a Democracy* was published in 1950. At approximately the same time, E.S. Corwin proposed in *The President: Office and Powers* (New York: New York University Press, 1957) a cabinet to be constructed from a Legislative Council created by the two Houses of Congress and containing
As he correctly puts it, it is not that the President, an elective official himself, in fact directs, disciplines, controls the bureaucracy, but rather that members of his staff, officials of OMB, and others—non-elective, unknown to the public, and only irregularly or sporadically responsible to President and/or Congress—give whatever direction comes from the top to the bureaucracy.

Hyneman believes that Congress has the necessary power to control far more effectively than it presently does. A re-orientation of its thinking as to its power vis-à-vis the President and the bureaucracy is in order.

Nevertheless, the problem of bureaucratic power in a democracy will remain a difficult one to solve, however resolutely it may be attacked by a determined President and Congress.

IV. DEMOCRACY AND THE STUDY OF POLITICAL SCIENCE IN AMERICA

As has been indicated in the foregoing pages, Charles Hyneman has in the course of much of his work raised a number of issues of critical importance to an understanding of American democracy which have been very little, or very poorly, explored by political scientists.

These include: (1) the relationship between popular government and limited government; (2) the actual meaning and consequences of both popular government and limited government in America; (3) the meanings of autonomy (for the individual and the group), equality, and commonalty; (4) the combination of these three which is optimal for the preservation of a democratic society, and, therefore, a democratic government; (5) the effect of maximizing, or minimizing, any of the three, upon the other two, and upon democratic society; (6) the true character of each of two demand-response systems, the populist, dependent upon elections, and the pluralist, or group-pressure demand-response system; (7) the interrelatedness of the two demand-response systems; (8) the extent of majority rule in America.

One cannot hope to deal adequately with Hyneman's convictions and hopes as to what political scientists may accomplish, if they wish to turn their attention to these critical matters. Recognizing that something short of an adequate statement will be made, one may nevertheless assert the following:

leading members of both Houses, plus Department and Agency heads, as considered necessary. Professor Corwin believed that such a Cabinet would provide continuity in the office of the presidency.
1. Hyneman believes that political science has dared to define its boundaries broadly enough that it can be, as it should be, the integrative social science. "The study of human relationships suffers from over-specialization." 19 The political scientist may hope to counterbalance his shortcoming in failing to use the most highly developed skills of other disciplines "by a fuller response to the baffling fact that all reality is interrelated." 20

2. The defined terrain of the study of political science-legal government-is broad enough, and specific enough to enable political scientists to address themselves to the important questions. Hyneman does not define "legal government" in such fashion as to make it an overly narrow focus of study. Like others, he finds such efforts at redefining the focus of political science as "authoritative allocation of values" and "power," and the use of it, overly broad, ambiguous, and of no special utility in pinning down the subject matter of political science.

3. The probability is that we often put too little emphasis upon value analysis, and especially that we often put too little emphasis on what Hyneman calls "multiline reasoning" about values. "Multiline reasoning does not preclude focus of attention and treatment which fixes, in a structure of values, the place of the value which is central to the discourse." 21 Hyneman has been especially critical of those who have placed First Amendment rights, or rights deriving from the equal protection guarantee, above all others, and out of the context of competing values. (See "Free Speech: At What Price?" and The Supreme Court on Trial.) He has, correctly, we believe, characterized too much political science writing as single-line, or one-line analysis which contradicts the inter-relatedness of all reality and is blind to the fact that to give special status to one value inevitably entails alteration in the status of others.

4. Political scientists too often confuse personal preference with value. Values are desirable in themselves; they supply their own justification. They are not means to ends.

Hyneman does not argue that political scientists must avoid statements of preference. "Efforts to restrain or exclude personal preference inevitably become restraint on imagination. . . . Society especially needs in our time the advice which political scientists give in statements of personal preference. Government today per-

19 Hyneman, The Study of Politics, p. 133.
20 Ibid., p. 135.
21 Ibid., p. 185.
vades all of human affairs. . . . Thoughtful political scientists can provide better advice than other people on many things relating to government."2

He argues for disclosure of preference, and recognizes that adequate disclosure, though difficult to define, should meet certain standards:

First, all tenable conclusions, with supporting evidence, should be set forth.

Second, the availability and quality of evidence should be made clear.

Third, evidence should be used even-handedly.

Fourth, appeals to emotion, to prejudice, should be strenuously guarded against.

Fifth, avowal of personal preference, commitment, values is highly desirable.

5. The function of theory is to clarify the values served by and sustaining American democracy. Hence, whether the field being taught is political parties, local government, or public administration, theory, classical and modern, has an important place. That place is not confined to courses labeled "Political Theory."

V. CONCLUSION

We conclude on a note which seems to us preeminently appropriate in any treatment of the work of Charles Hyneman—a note of optimism, both for political science and political scientists, and, more importantly, for the American citizen, and the future of American democracy.

Fully conceding all the perplexities which vex, and sometimes sharply divide American political scientists, Hyneman nonetheless stands steadfast with the conviction that men acting together for a multiplicity of purposes, public and private, are engaged in enormously complex undertakings. The study of their pursuits must then be complex, must include description, analysis, judgment—science and intuition.

He admonishes political scientists (1) to be realistic about the necessary scope of their undertaking, (2) to be honest in the designation of values as distinguished from preferences, (3) to be sensitive to the variety of values in human activity which often necessarily

22 Ibid., p. 190. The discussion of standards of adequacy for disclosure of preference occurs on pp. 190-191.
compete and conflict with one another, (4) to be aware of the very great utility in studying, and re-studying the same phenomena, and (5) to achieve a greater utilization of theory in all of their endeavors, however practical and pragmatic some of these will be.

In our opinion, he is especially stern in reproaching those who have indulged too often in one-line, as opposed to multi-line reasoning about values. As he writes, "... everything valued comes at some cost to other things which are also valued. ... Compatibilities are overemphasized and incompatibilities are underemphasized." Much writing, by political scientists and jurists, including those on the Supreme Court, since World War II suggests the ascendency of one value over all others, so that there is no inquiry as to whether there is serious impairment of the others. In "Free Speech: At What Price?," Hyneman presses political scientists to undertake the important task of developing analytical tools by which there may be measurement of the impact upon all important values in the society of the attribution of a preferred position to any one.

Again, though sensitive to the troubling threats to the foundations of democratic society and democratic government in America at the present time, he remains hopeful about men and about institutions.

Plainly, he is concerned, above all else, with the strengthening of political institutions and processes, with the strengthening of the elective branches of government.

This sets him apart from most who have written in recent times about the bureaucracy because although he never doubts the necessity for a corps of professional, expert, career civil servants to carry out the policies determined by elective officials, he cannot accept that this corps should be allowed to escape the effective guidance and control of the legislative and executive branches. He rejects the argument in support of the representativeness of the bureaucracy, because bureaucrats do not obtain their mandate at the polls. He has known from personal experience that many members of the bureaucracy are indeed competent and devoted servants of the public—but he insists that the public must tell them what to do through the public's elected representatives. Given his preference for the populist demand-response system, he cannot accept the thesis that the national bureaucracy is responsible and representative because it is sensitively attuned to great national interest groups.

2. Ibid., p. 185.
Although we believe it likely that he would no longer support the institution of the Central Council which he proposed something more than twenty years ago, it remains clear from his most recent work that he believes that both President and Congress have powers which will enable them to control the bureaucracy, sometimes in cooperation, sometimes independently. Both need to be imaginative, adaptive, and vigilant. Neither should waste time in arguments as to which shall control the bureaucracy.

His work on the Supreme Court also sets him apart from many. In Part V of *The Supreme Court on Trial*, entitled "Judicial Power and Democratic Government," he explores, first, the contrast between the political-responsive status of the legislator and the executive, on the one hand, and that of the Supreme Court Justice on the other, the justice having no "relationship with a sizable population which makes it legitimate and customary for that population to control or influence the Justice;" 24 second, the contrast between the legislative-executive process of policy development ("step by step, do what you can, later but not now") 25 and the judicial function of proclaiming the law (characterized, as he writes, by rigidity and viscosity); third, the contrast between the range of resources available to legislators and executives in discovering the need for, and in making and enforcing the law, and the limited power of the judge to declare and order compliance; and, finally, the fundamental questions as to how judges "know" what the highest ideals of the nation are, or should be, and why judges should be vested with the authority to proclaim and enforce these ideals.

Hyneman believes that the necessary ingenuity is available for the changes that may be required to strengthen the political process. He is hopeful that the will to exercise this ingenuity will manifest itself.

Although aware of what many regard as serious inroads upon the ideal of individual and group autonomy, 26 he is confident that we have the necessary amount of autonomy for the continuation of popular government.

He believes that the national response of the last two decades, in both public and private action, gives ample reassurance that the nation's most serious deficiency in its aspiration to achieve equality—that is, the status of the Negro—is steadily being remedied.

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24 7 *The Supreme Court on Trial*, p.241.
25 8 *id.*, p.250.
26 5 *tpra*, p. 9.
It is the ideal of commonalty which is now most seriously endangered, and probably will be for some time to come. Accordingly, he offers some proposals which he believes will be helpful in strengthening a spirit of toleration.

First, he believes that those who truly understand the genius of the American party system can work for improvement in electoral-representative institutions and practices which will be consistent with that genius. We understand that he believes the parties to be prime instruments for effecting accommodation, and engendering compromise. Reform, then, which underscores sharp difference on sensitive matters (economic status, religion, class, sex, ethnic origin), between the two parties, or within a party, should be thought about long and carefully-and, probably, in the end rejected.

Second, he affirms his conviction that the Federal system—or, in his terms, distributed self-government—continues to offer an escape from some tensions which might reach the boiling point if they could only be dealt with on the national level, and to offer as well an opportunity for active participation in government to many.

Third, he urges the men and women "who specialize in having ideas and throwing them out for consideration by other(s)" (academicians, performers in the communications media) to show a greater respect for the common man, to cease viewing "that distant part of the population called 'the people' to be a brake on the wheels of progress."

Hyneman believes that common men perceive the low regard in which they are held by many of the "idea" people. Accordingly, he believes that the invaluable service which can be rendered by the idea people is rejected. Common men are "turned off," and, instead, are likely to turn to that leadership which "specializes in plain talk, dogmatic assertions, and sympathy for its audience. This is the leadership of the extremes in public policy, right and left. This leadership, which attracts because a trustworthy intellectual leadership is not trusted, capitalizes on distrust and cultivates distrust... . Its most enduring handiwork is the construction of barriers to commonalty."

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27 Hyneman and Gilbert, op. cit., Ch. 17, especially pp. 286-292.
28 It must be noted that Hyneman never suggests that the American society’s goals will become, or should become, static, or simple. Hence, the term "commonality" carries with it not the slightest hint of conformity to what is, but rather is intended to convey that spirit of toleration and compromise which animates a people who "know" they agree enough to disagree, and to go forward to work out solutions to their disagreements.
29 Hyneman and Gilbert, op. cit., p. 289.
30 Ibid., pp. 290-292.
A major reason for the continued validity and interest of the work of Charles Hyneman is that, in more than forty years of scholarly work, Hyneman has not succumbed to the intellectual fads, the ideologies which have beset political science. We believe it likely that, in Hyneman’s view, the strength of the American political system lies in its capacity to resist fads and ideologies.

Ever the democrat, ever the unyielding foe of elitism, ever the man of common sense and subtle understanding of complexities—this is Charles Hyneman, as his written works reveal him to us—a man eminently worth reading, and re-reading.

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