

"The Constitution Is Gone"

WHEN ASSOCIATE JUSTICE James C. McReynolds retired on February 1, he took with him the "reactionary" label which the New Deal centralizers had affixed to his point of view. Yet when Woodrow Wilson appointed him in 1914, Mr. Justice McReynolds carried in to Supreme Court the "liberal tag."

Political terminology has a very fluid dictionary. Words become expressions of approval or disapproval rather than means of communication. Definitions fit what you want them to define. Therefore, political phrases are useful only as instruments of propaganda; their use in expressing thought is negligible and dangerous. We begin to understand the oriental aphorism that the power of speech was given to men in order that they might conceal their thoughts.

Likewise, political instruments are temporary in character. Their purpose is to fix a status quo which at any given time serves the interests of those who fix it. A new group comes into power, or a change of conditions becomes more beneficial to the group in power, and, presto, the status quo is conveniently transformed into a new political set-up. Sometimes the law is changed, sometimes an old law is "interpreted." Expediency decides the method.

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Mr. Justice McReynolds, as Woodrow Wilson's Attorney General, was a "trust-buster." He had invoked the Sherman Act against some of the nation's largest corporations. That was the "liberal" thing to do in those days. In the time of President McKinley, on the other hand, his attitude would have been termed extremely radical.

But, Mr. Justice McReynold's ideas on private enterprises and states' rights—quite in accord with the most liberal thought a quarter century ago—did not jibe with Mr. Roosevelt's ideas of centralized power. (By the way, Mr. Roosevelt's youth centralization was synonymous with the most reactionary toriyism.) Therefore, in the current lingo, Mr. Justice McReynolds became a reactionary.

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So political labels are bandied about. How about the political instrument—the Constitution—which both Mr. McReynolds and Mr. Roosevelt were sworn to uphold? Is that a fixed guide to political thinking? We have the testimony of Mr. McReynolds himself on that point. When the Court over-

ruled him in an early New Deal case, he cried out from the bench: "The Constitution is gone!"

And so it was. But, which Constitution? If we study the history of that political document we find that it was changed, interpreted and re-interpreted so often in its lifetime that very little of it—save the unimportant features dealing with the physical set-up of the government—has had permanence of purpose or even direction.

There have been, from this point of view, several constitutions. The decisions of the Supreme Court have always conformed to the political point of view of the people in power, although "old men" have had a tendency to temporary non-conformity. Eventually they capitulate.

Behind all of these changes in the Constitution—changes which, particularly in the past decade, have amounted to complete revisions—is the pressure of new social conditions resulting from economic forces. No constitution, no political form or instrument can withstand the impact of these economic forces. Just as there is no permanence of meaning in political phrases, so there can be no fixity of tenure for political totem-poles. The economy of the people is the only reality; all else is merely its reflection.

