

THE OPERATORS. By Frank Gibney. New York, N.Y.: Harper & Brothers, 1960. Pp. 275. \$3.95.

THE first few pages and the last couple of chapters of this welter-weight work raise a perennial and perplexing question and one of the highest importance: What accounts for the periodic rise and fall in the morality of human society in general and the United States in particular?

This timeless problem has, of course, been endlessly masticated by generations of philosophers, historians and politicians, certainly since Sumerian and probably since Mousterian times, but it remains as tough as ever, for there are not many among the long, sometimes tedious and sometimes stimulating parade of Jeremiahs, Marcus Catos,¹ Savonarolas and Barry Goldwaters who have been able to get very far from their own notions of morality or their preconceptions as to the causes of its decline. "The complaints of contemporary writers, who deplore the increase of luxury and depravation of manners, are commonly expressive of their peculiar temper and situation. There are few observers who possess a clear and comprehensive view of the revolutions of society, and who are capable of discovering the nice and secret springs of action which impel, in the same uniform direction, the blind and capricious passions of a multitude of individuals."² Most of them have attributed the particular gangrene which fretted them to one or more standard causes: (1) a falling away from the old-time religion, whatever it happened to be; or (2) "luxury"; or (3) the misleading of the populace by scoundrelly demagogues, usually of leftish persuasion. Mr. Gibney's situation is that of a long-time denizen, or inmate, of the Time-Life empire, but he seems on the whole innocent of the peculiar temper of that realm. He plugs no specific explanation or cure, though towards the end of the book I seem to detect a leaning in the direction of number (1), *supra*.³ He is a competent reporter, and as befits a competent reporter, he reports. But a reader or reviewer can scarcely resist the temptation to speculate upon the etiology of the morbid phenomena which he describes. "Luxury" can probably be dismissed at once as a cause of moral (as distinct from physical or military) decay. For one thing, it usually proves on examination to mean that the critic's richer compatriots have been rubbing in the fact that their standard of living is more elegant than his own, or that those who used to be poorer have begun to emulate that standard, by indulging in the contemporary equivalents of Cadillacs, TV sets and fancy plumbing.⁴

1. I have in mind both the eminent M. Porcius Catos-the elder, the great and disagreeable Censor, and his comic, pathetic and noble minded great-grandson, Cato Uticensis.

2. 2 GIBBON, *THE DECLINE AND FALL OF THE ROMAN EMPIRE* c. XXVII, p. 45 (Modern Library ed.).

3. *E.g.*, pp. 265-69.

4. Compare, for example, *Piers the Plowman*, whose fourteenth century author thwacked peer and peasant with notable impartiality. *E.g.*,

Laborers that have no lande to live on but their handes,
Deyned not to dyne to-day on night-old worts.

For another, to the extent that high living really is an evil, it is a symptom rather than a cause. For a third, there is no evidence whatever that the inhabitants of "under-developed"—*i.e.*, poor—countries are much less prone to lying, hypocrisy or public and private thievery than are, for example, Swedes, Englishmen or Americans, though their opportunities may be less. As for the other two causes, it is notorious that the two most corrupt eras in American history (leaving aside for the moment the one with which Mr. Gibney is concerned), those of Grant and Harding-Coolidge, were marked by the political dominance of sound, conservative statesmen and the prevalence of at least the sort of piety which expresses itself in regular devotions and ostentatious reverence for clergymen.

The patent fact is that nearly every man is part hog and part hero, though the proportion in which these ingredients are mixed varies enormously among individuals, and also in the same individual from one time to another. Were it not so, the species would likely have long since joined the stegosaur and the sabertoothed tiger. Thus, it is well within the bounds of possibility that the "reputable executive," whose hoggish and larcenous day, spent largely in theft, embezzlement, bribery and general cheating of his employer and his government, Mr. Gibney entertainingly chronicles in Chapter I, spent a good part of World War II enduring (though probably not uncomplainingly) discomfort and danger which would have struck a Spartan⁵ as severe. As usual, George Orwell has put it better than any other modern:

Evidently it corresponds to something enduring in our civilization, not in the sense that either character is to be found in a "pure" state in real life, but in the sense that the two principles, noble folly and base wisdom, exist side by side in nearly every human being. If you look into your own mind, which are you, Don Quixote or Sancho Panza? Almost certainly you are both. There is one part of you that wishes to be a hero or a saint, but another part of you is a little fat man who sees very clearly the advantages of staying alive with a whole skin. He is your unofficial self, the voice of the belly protesting against the soul. His tastes lie towards safety, soft beds, no work, pots of beer and women with "voluptuous" figures. He it is who punctures your fine attitudes and urges you to look after

May no penny-ale please them, nor no pece of bacoun,
 But it be fresh flesh or fish, fried other bake,
 And that *chaude* or *plus chaud* for the chill of their mawe.
 But he be highly hired, else will' he chyde, . . .

LANGLAND, PIERS THE PLOWMAN, PASSUS VI, lines 309-14, pp. 77-78. (10th Skeat ed. 1932). I have slightly modernized the spelling.

5. The modern stereotype of the hardy and ascetic Spartan may be somewhat exaggerated, though the Greeks themselves seem to have regarded them as retaining a greater measure of antique virtue than any other Hellenes. But it is a somewhat disconcerting fact that each and every Spartan hoplite was accompanied to Plataea by a squad of seven Helot batmen, to shine his armor, lug his baggage, do kitchen police and generally relieve the Spartan of menial fatigues—a circumstance which so impressed Herodotus that he mentions it no less than four times. See HERODOTUS, PERSIAN WARS, Bk. IX, chs. 28-29 (Rawlinson transl., Modern Library ed. 1942).

Number One, to be unfaithful to your wife, to bilk your debts, and so on and so forth. . . .

. . . Codes of law and morals, or religious systems, never have much room in them for a humorous view of life. . . . Society has always to demand a little more from human beings than it will get in practice. It has to demand faultless discipline and self-sacrifice, it must expect its subjects to work hard, pay their taxes and be faithful to their wives, it must assume that men think it glorious to die on the battlefield and women want to wear themselves out with child-bearing. The whole of what one may call official literature is founded on such assumptions. . . .⁶

This is undoubtedly true; and it is a step, but only a step, toward understanding. It does not tell us why in this country Sancho Panza was so alert and aggressive, and Don Quixote so subdued, not to say comatose, in the years of Grant, or Harding-Coolidge, or Eisenhower. It is quite unfair to blame it on the eponymous statesmen of these eras. All of them, of course, believed in soft-pedalling the demands of the state on the citizen, and all of them stood for a cheerful, determined, and probably quite genuine ignorance of gathering thunderheads, but they did not by eloquent demagoguery persuade the people to adopt such ideas. None of them, indeed had taste or talent for that kind of demagoguery (which, after all, is only a *schimpfwort* for the knack of arousing the people); none had at his command anything approaching eloquence or even lucid English;⁷ and in any case none had any ideas which could have been made to appear important or exciting by any rhetorical frescoing less coruscating than that of Marcus Cicero or William Jennings Bryan.⁸ On the contrary, they were elected, with cheers and enormous popular majorities, precisely because their ideas or lack of ideas perfectly expressed the prevailing temper of the electorate. We are left still wondering *why* the electorate felt that way at these particular times.

For these American examples of precipitate decline in national virtue there is at least one very obvious explanation; it is surely more than coincidence that each of them followed hard upon the heels of a major and correspondingly disagreeable war. Sancho Panza, having been suppressed, ignored, and snubbed for several years, simply burst from his cell with a hell of a yell and thoroughly indulged his long pent-up libido. Probably this explanation is too simple to be wholly accurate, and it is certainly not exclusive. For one thing, the Civil War and both World Wars were, like most wars, periods of rapid technical development, so that at the close of each there was a huge reservoir

6. Orwell, *The Art of Donald McGill*, in A COLLECTION OF ESSAYS 111, 120-21 (1954).

7. A partial exception must be made in favor of Grant, whose autobiography is straightforwardly and admirably written. But here he dealt with matters about which he actually knew something.

8. Again a partial exception must be made for Grant, who undoubtedly had in his great days significant ideas on how to win wars. But this ability proved, as everyone knows, incapable of transfer to the chores of the presidency. It seems intrinsically likely that its successful functioning depended on the presence of a Lincoln in the background.

of industrial progress and production to fill the equally huge demand for consumer goods; the appetite for gravy grows with what it feeds upon.

The problem for lawyers and politicians in such eras is the extent to which their art and science can arrest the progress of the disease—I will not say cure—and contribute to the patient's convalescence. Mr. Gibney seems in two minds about this. At one point he places a large part of the blame on "due process of law,"⁹ by which I hope he means not the injunctions of the Fifth and Fourteenth Amendments but the unnecessarily slow, cumbrous, feeble and archaic enforcement machinery, very little of which is required by the Constitution, which converts so much of our criminal law into the likeness of a monkey, especially if the criminal is a well-heeled operator. Elsewhere the author refers to the "futility of mere legal correctives" unaccompanied by "some strong self-governing help from the men who live under those laws,"¹⁰ which is a sound observation, if not original. Equally valid, and not as common as it ought to be, is his perception of the fact that one of the principal road-blocks in the way of catching up with those Operators who actually violate the criminal law is "the federal system of government."¹¹ There is generally some place in which the crookedest operator can operate, if not legally, at least with confidence that the local law enforcers will not molest him and that the holy principle of states' rights will hamper and maybe block altogether the efforts of the feds to get at him. "Every effective operator is a strong states' rights man," says Mr. Gibney.¹² There are dark days when it seems to me that I can detect any kind of rascal (whether downright felonious or merely anxious to preserve the integrity of some political or economic device whereby A can bully or swindle B out of his rights) by the loudness and fervor with which he chants his litany to states' rights.¹³

Nevertheless, I think the law, if intelligently drafted and enforced, could do a good deal more than it does to discourage at least the more pernicious and outrageous symptoms of hoggishness, of the sort to which Mr. Gibney devotes the bulk of his book. There is certainly, for example, plenty of room for improvement in the Internal Revenue Code and the laws dealing with advertising and securities, and still more room for improvement in the enforce-

9. P. 16.

10. Pp. 256-57.

11. P. 16.

12. *Ibid.*

13. Here, lest I be accused of wanton and aggravated assault upon a cow sacred to many diverse castes, some of them perfectly honest, I go on record to the effect that my deep suspicion of most of the people who talk too much about states' rights does not necessarily mean that I favor their abolition. There was a good deal of practical truth (though very few liberals admitted it) in the observation of the late Frank Hague, that "When I hear a man talking about his Constitutional rights, I say to myself, 'That man's a Communist, that man's a red' "; but no rational man sees in the fact that rascals regularly invoke the first ten Amendments a reason for repealing them. I doubt that Mayor Hague himself had such ideas.

ment of those laws, even in their present inadequate state. Some of my youth was spent in the courts in enthusiastic and sometimes successful efforts to break up or avenge various crude and refined schemes to bilk the government and the public. In those days I was convinced that the moral tone of the citizenry could be raised to a dizzy height if only Congress would enact a few more statutes, raise my pay and hire a lot more of my contemporaries. These beliefs have followed my hair—going but not gone, and in spots putting up what the French Army's *communiqués* used to call "*une résistance opiniâtre*." I still think that tougher laws and tougher enforcement could accomplish a good deal in at least some of the Operators' favorite areas, though I recognize that the validity of this idea is to some extent predicated on the supposition, which is unsupported by the available evidence, that the ethics of legislators are appreciably higher than those of their constituents.

Certainly no legal therapy affords a sure-fire cure for the malady. Neither, alas, does any effort, theological or philosophical, to persuade individuals voluntarily to behave more decently. It has been tried, of course, in all times and places, and on a few occasions the results have been impressive and lasting. But not even such gigantic reformers as Christ or Buddha managed to reform the species, or even their followers, completely and permanently, though the world's stock of decency would surely be far less without them. It wasn't long after their departure that their successors had to resort to threats of hell-fire and sanctions still less spiritual, as they still do. The most that can be said—it is much—is that penalties and exhortation between them can greatly aid the natural forces of the body politic. Fortunately, the disease seems to be self-limiting. Very rarely, if ever,¹⁴ does it actually kill the patient; usually, for whatever reason, the society gets well, or, at least, the more alarming symptoms abate. Something happens, perhaps a war or a depression, perhaps simply a revulsion against fleshpots and the mentality that goes with them; Don Quixote wakes again, and most people behave more decently for a while.

At any rate, most of Mr. Gibney's chapters are devoted not to such inconclusive speculations but to an entertaining classification and description of the various frauds and cheats who proliferate on the contemporary scene. His facts are largely drawn from the archives of the Federal Trade Commission, the Department of Justice, the Post Office, the Federal Bureau of Investigation, the Securities and Exchange Commission, the Better Business Bureau and the Internal Revenue Service. Roughly speaking, his principal categories of Operator are consumer fraud specialists; patent nostrum peddlers; securities swindlers; confidence men, large and small; embezzlers and takers of bribes and kickbacks; expense account artists; and tax evaders. It is readable stuff, and even instructive in places, but it adds very little to the sum of knowledge. Essentially it is no more than an up-to-date Bestiary of Operators, a Newgate

14. Perhaps it did in such cases as the Roman and Byzantine empires, though historical pathologists in these cases are by no means in agreement on the results of the autopsies.

Calendar of whitecollar crime. It convinced this reader not so much that we live in an era of unprecedented depravity as that after all we get off pretty easy, for all of Mr. Gibney's horrible examples, save a couple (such as TV repair frauds) which are intrinsically modern, are old stuff. Most of them indeed are but tame and pallid reflections of the gaudy and gargantuan frauds who made life interesting for our ancestors. True, the TV commercials for cathartics, reducing pills, cures for headaches, anxiety, tension and insomnia, stimulators of golden liver bile and all the rest are ineffably vulgar and tedious, and no doubt as dishonest as the proprietors dare, but it is not probable that they actually kill many of their customers. Compared to the Homeric quacksalvers of two or three centuries ago,¹⁵ or the cures for cancer, syphilis and tuberculosis which lined the shelves of every enterprising drugstore sixty years ago, or even to the almost modern Doctor Goat-glands Brinkley, their contributions to the limitation of the half-wit population are pitifully small. My own guess is that far more of this good work is accomplished by the huge tribe of Christian Science practitioners and other faith healers—a category of frauds¹⁶ which Mr. Gibney fails to include in his encyclopedia, perhaps because he shares the prevailing American view that good manners, if not the First Amendment, prohibit public criticism of any religious group having more than 10,000 adherents and not preaching cannibalism, ritual murder or un-American activities.

Or take Mr. Gibney's Chapter IV, devoted to boiler-room operators and other securities swindlers. No doubt they are pests, and no doubt they fleece the unwary to the tune of several hundred millions a year, but they are to the giants of the past as the Alexandrine poets are to Pindar and Sappho. Where among them is the peer of Jay Gould or Jim Fisk, or even the minor masters of that superb school of swindlers?¹⁷ Or Howard Hopson, the nobly gifted inventor of the collapsible debenture?¹⁸ We shall not soon look upon their like again, for which the Lord be praised. Tax dodgers, to be sure, probably bilk the government on a scale previously unknown to history, simply because their opportunities are so much greater; honest men are taxed at rates unheard of since the times of Diocletian and Louis XIV, and the humane mores

15. See, *e.g.*, HAGGARD, *DEVILS, DRUGS AND DOCTORS*, chs. XIII, XIV (1929).

16. Another caveat must be inserted here, for numbers of them undoubtedly believe in their own magic and so, strictly speaking, are not fraudulent, though not many are in business for their health. Moreover, their therapy is often highly effective (as the orthodox faculty freely concedes) in those cases, which are of course very numerous, where the patient's troubles can be cured or alleviated by an improvement in his state of mind. But the same argument could be made for the old patent medicines, especially those which contained a stiff lashing of alcohol.

17. See ADAMS, C.F. AND H., *CHAPTER OF ERIE* (Great Seal Books ed. 1956); JOSEPHSON, *THE ROBBER BARONS passim* (1934).

18. A collapsible debenture was convertible into common stock at the option not of the holder but of the issuing corporation. For an account of some of Hopson's choicer skulduggery, see *In re Associated Gas and Electric Co.*, 61 F. Supp. 11 (S.D.N.Y. 1944), *aff'd*, 149 F.2d 996 (2d Cir. 1945).

of our government preclude recourse to the strong-arm collection methods of those monarchs' tax-gatherers. Taxpayers are no more dishonest than they were in the Grant administration; the *ur* income-tax of that day was enthusiastically evaded, and by devices at least as brazen as those in vogue today.¹⁹ In short, about all that Mr. Gibney's opus establishes is that more Operators cheat more victims out of more money than was possible in similar eras of the past, for obvious reasons. It is an elementary law of biology that the fox and rabbit populations increase *pari passu*. The foxes are not less principled, or the rabbits more defenseless, than in the Grant and Harding-Coolidge eras; there are merely more rabbits, and they have more lettuce.

So also with respect to Mr. Gibney's chapter²⁰ on Graft and Government; no contemporary scandals can rival Teapot Dome, or the Tweed Ring, or the Crédit Mobilier or, fading back a couple of thousand years, the governmental corruption which was almost routine in classic antiquity.²¹ Mr. Gibney, like many another moralist before him, harks back at one point to the civic virtue of the *Senatus Populusque Romanus* in republican times, "before the Emperors inaugurated statism, bread and circuses."²² That civism is, however, largely imaginary, for the Senatorial oligarchs of the republic's last couple of centuries were corrupt on a scale which far surpassed anything seen after the reform administrations of Julius Caesar and Augustus had introduced a modicum of honesty into the Roman polity, and probably anything seen since. Mommsen's critical judgment was that King Jugurtha (who was in a position to know) "spoke no more than the simple truth when he remarked, on the occasion of his leaving Rome, that if he had only had enough money, he could easily have bought the city itself."²³

From the standpoint of money honesty, the Eisenhower administration, if not quite as pearly as the celebrated hound's tooth, was not below the American average. Some of its members, of course, were on the take, but most of these operated at relatively low levels. Nevertheless, *The Operators* contains one really remarkable insight: to wit, that that administration had its own form of non-economic moral rotteness. "A public trust can be betrayed by cowardice, inaction or verbal misrepresentation as surely as it can be betrayed by graft," says Mr. Gibney,²⁴ and cites a number of examples, notably the President's astounding series of post-Sputnik statements, all designed to persuade the public that there was nothing to worry about, that the United States was comfortably ahead, or anyhow rapidly catching up, in the space and missile

19. See, e.g., Twain, *A Mysterious Visit*, in SKETCHES NEW AND OLD 384 (1875):

20. Ch. IX.

21. See, e.g., HERODOTUS, PERSIAN WARS, Bk. VIII, chs. 4-5 (Rawlinson Transl., Modern Library ed. 1942); JOSEPHUS, ANTIQUITIES OF THE JEWS XIV, 9; 3-5, XIV, 12: 2 (Meridian ed. 1960).

22. P. 262.

23. 2 MOMMSEN, RÖMISCHE GESCHICHTE 156 (9th ed. 1903). The bread and circuses, of course, long antedated the empire.

24. P. 245.

race. "One would hesitate to accuse President Eisenhower of the same conscious misrepresentation used by some members of his administration. . . . But it is hard to hold back the word 'misrepresentation' from excuses like the foregoing, made about a matter of the most vital national security. Suppose an official of a manufacturing company had made similar public statements about the value of a product, over a period of years. The verdict of the market place, I fear, would have been unmistakable."²⁵

Now this, considering that it was written in 1960, is both perceptive and courageous. Hardly any among the small number of journalists and political experts who managed to stay immune to the Eisenhower charm went beyond cautious intimations that the President's intelligence, information and industry were not of the first order. A few, sourer and bolder than the rest, went so far as to suggest that his outlook might be usefully broadened if he were now and then to advise and consult with someone other than the Board Chairmen, oil millionaires, successful speculators and Chamber of Commerce Presidents whose company he found soothing and edifying and whose political opinions, centering mostly on the Sound Dollar and No More Government Meddling, he all too plainly regarded as statesmanship of a high and superior order. But almost to a man these gentle critics prefaced or concluded their adverse comments, however mild, with touching tributes to the Little Father's benevolence and sincerity. An ineffectual and even bewildered president he might be, one whose trusting disposition and faith in the goodness of human nature were too often betrayed by scoundrels unworthy of his ideals; but nonetheless a Matterhorn of moral grandeur, a sort of Edward the Confessor. Mr. Gibney deserves high credit for being one of the very first to see and say that the beatified Ike was in fact an astute and not very scrupulous politician; he differed from his less successful protégé, Mr. Nixon, mainly in that, while neither allowed any finicky considerations of pedantic fact to get in the way of successful votecatching, Ike managed to do it with a marvellous appearance of virtuous detachment from partisan politics. For this passage, if nothing else, *The Operators* will deserve a footnote in the histories of the age of Eisenhower.

For this and a number of other reasons, including its entertainment value, the book is well worth whatever it costs to rent it from the nearest circulating library. The evils its author describes and deplores really *are* evils, and dangerous ones at that; they call for neither tolerance nor complacency. That they are ancient evils, like smallpox or tuberculosis, is no reason for Mr. Gibney or you or me to shrug his shoulders. Mr. Gibney at least goes after them horse, foot and guns, in a way which admirably exemplifies a fine old American tradition:

. . . we're wan iv th' gr-reatest people in th' wurruld to clean house, an' th' way we like best to clean the house is to burn it down. We come home at night an find that th' dure has been left open an' a few mosquitoes or life-insurance prisidints have got in, an' we say: "This is turr'ble. We

25. P. 250.

must get rid iv these here pests." An' we take an axe to thim. We desthroy a lot iv furniture an kill th' canary bird, th' cat, th' cuckoo clock, an' a lot of other harmless insects, but we'll fin'lly land th' mosquitoes. If an Englishman found mosquitoes in his house he'd first thry to kill thim, an' whin he didn't succeed, he'd say: "What pleasant little humming-bur-rds they ar-re. Life wud be very lonesome without thim," an' he'd domesticate thim, larn thim to sing "Gawd Save th' King," an' call his house Mosquito Lodge.²⁶

There is much to be said for the American reaction. It is about time for it to develop.

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26. Dunne, *National Housecleaning*, in MR. DOOLEY: NOW AND FOREVER 246-47 (1954).

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