the weekly Standard

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A STINK GROWS IN BROOKLYN
CHARLES KRAUTHAMMER

RONALD REAGAN AND HIS IMAGINARY FRIEND

Robert D. Novak on Edmund Morris's disgraceful "memoir"

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Boehner v. *McDermott*

SCRAPBOOK fans will remember a Dec. 21, 1996, conference call during which members of the House Republican leadership discussed pending Ethics Committee actions concerning then speaker Newt Gingrich. They will remember this phone call because a full account and partial transcript of it was published a few weeks later—on Jan. 10, 1997—by the *New York Times*, in a front-page story under the byline of reporter Adam Clymer. Mr. Clymer had obtained a tape recording of the conversation from the Ethics Committee's then ranking Democrat, Rep. Jim McDermott of Washington state. Who had himself obtained the tape from a Florida couple, John and Alice Martin. Who had made the tape by illegally intercepting, on a police scanner, the cell-phone transmission of Rep. John Boehner of Ohio, then chairman of the House Republican Conference.

The Martins pled guilty to felony violation of the federal Electronic Communications Privacy Act and paid a fine. But McDermott's criminal exposure—his disclosure of the recording to Clymer was on its face another felony—remained unresolved, the subject of a typically slow-footed and partisan-tinged Justice Department investigation. So in 1998, Boehner sued McDermott for civil damages, as the privacy law allows. And now, finally, as a result of that litigation, McDermott would appear to be in trouble.

U.S. district judge Thomas Hogan had initially dismissed Boehner's lawsuit, arguing that the privacy law was unconstitutional as applied to McDermott: that McDermott had a First Amendment right to deliver an illegal tape recording to the *New York Times*. Two weeks ago, however, the Court of Appeals for the Washington, D.C., Circuit rather brutally overruled Hogan and reinstated Boehner's suit. And did so with particularly choice words for Jim McDermott.

Here was Judge David Sentelle: "Knowing of these felonies, a Member of the Congress of the United States, the elected representative of his people, the sworn servant of the law, dealt with the felons, received from them their feloniously obtained communications, and converted it to his own use." And that was in dissent! On the law, Sentelle sided with Hogan.

But his two colleagues on the circuit court were not so generous. Douglas Ginsburg found no Supreme Court precedent for the proposition that full First Amendment protections apply to unlawfully obtained information. "McDermott did not in fact lawfully obtain the tape," Ginsburg wrote separately in concurrence. "McDermott knew the transaction was illegal at the time he entered into it."

Judge Ray Randolph, writing the majority opinion, refused even to accept the possibility that McDermott's "speech" rights were at issue in the first place. "What speech?" Randolph asked, mockingly. After all, the congressman has not been sued for anything he said; he has been sued for delivering an illegal recording to a reporter. "McDermott's behavior in turning over the tapes doubtless conveyed a message, expressing something about him," Randolph dryly noted. But the message is not a flattering one: "In receiving the tape, McDermott took part in an illegal transaction." The First Amendment is not a license to break the law.

The D.C. Circuit has as much as announced that Rep. Jim McDermott is a felon. Shouldn't the House now take steps to expel him? ♦

Morris v. *the Berlin Wall*

Elsewhere in this issue, Robert D. Novak dismantles Edmund Morris's bizarre "memoir" of Ronald Reagan. But THE SCRAPBOOK's friend, Reagan speechwriter Peter Robinson, has a footnote to add: Morris's ludicrous mistreatment of Reagan's celebrated "Berlin Wall" speech (which Robinson drafted).

Dutch calls the audience for this speech "too small . . . to make for genuine drama." In fact, the crowd, by all accounts, numbered more than 10,000. Morris writes that Reagan was "trying hard to look infuriated" throughout his appearance at the Wall, but managed only "a look of mild petulance." In fact, shortly before he began his remarks, the president was informed that East German police had forcibly dispersed a group of spectators on the Wall's Communist side. The incident was reported at the time. As was the fact that Reagan was incensed by it.

Then there's this. Morris calls the speech a "rhetorical opportunity missed." How so? Reagan "could have read Robert Frost's poem on the subject, 'Something there is that doesn't love a wall,' to simple and shattering effect." In other words, according to Morris, Ronald Reagan should have cited, at the Berlin Wall, an over-anthologized poem about the virtue of walls. ♦

Clinton v. *Tocqueville*

For four long years now, Professor John J. Pitney Jr. of Claremont-McKenna College has provided THE SCRAPBOOK with dispatches from the front lines of the war against "fake Tocqueville"—the most widely circulating falsely attributed quotation in all America. The news has been uniformly bad; the damn thing refuses to die. And now another high-level setback: President Clinton, for the second time in as many years, has cited "Tocqueville."

Scrapbook

Let's go to the videotape, this from last week's White House prayer breakfast—the one at which Clinton announced that he's still undergoing faith-based "counseling" for . . . you know, his "problem":

"Now, if you go back to what de Tocqueville said [actually it was some anonymous twentieth century speechwriter], that 'America is great because America is good,' and then you realize somehow we've managed to make the most of this incredibly complex, modern economy, it seems strange, if the murder rate is still higher here and the accidental death rate is exponentially higher. Why is that? Is that because we're not good, but we're evil? Is it because we're not smart, but we're stupid?" Maybe. ♦

Butterflies Are Expendable

Winner of THE SCRAPBOOK's prize for boneheaded environmental feeble-mindedness is the story in the *New York Times* metro section of Sept. 27 (brought to our attention by alert reader Jonathan Balsam), headlined "Malathion Spraying May Affect Monarch Butterflies."

Now, the spraying is successfully wiping out mosquitoes carrying West Nile virus, which has killed 43 people in New York state. And the butterflies? Here's the story's thesis: "While this year's butterfly migration started off with near-record numbers [perhaps a hundred million], no one can know if it would have been larger without the spraying." And its source? A lone jogger who saw a few dead monarchs in Central Park. Schoolchildren in science fairs do better than this. ♦

The Wit and Wisdom of Jesse Ventura

The problem with the Reform party, as Paul Gigot archly pointed out last week, is that it's not a political party, it's a Halloween party. And that was before the self-immolating *Playboy* interview by Jesse Ventura, governor of Minnesota and the party's leading elected official. A sample:

- On God: "Organized religion is a sham and a crutch for weak-minded people who need strength in numbers."
- On obesity: "I love fat people. Every fat person says it's not their fault, that they have gland trouble. You know which gland? The saliva gland." [Ba-da-boom!]
- On who killed JFK: "I believe we did. The military-industrial complex."
- On the afterlife: "I would like to come back as a 38 double-D bra."

To which, THE SCRAPBOOK can only say: Bring back the professional politicians! ♦

The Wit and Wisdom of Al Gore

"For the environmentalists here, the first word I learned to spell was green—G-R-E-E-N!"—Al Gore on the campaign trail, as reported by the *New York Times*'s Katharine Q. Seelye. And Gore wonders why his campaign's floundering. ♦

Casual

Send in the Clowns

Every Saturday morning, from early June until late October, I go to the farmer's market in our town and feel as if I have stepped into a Koren cartoon. People look a bit shaggy, strange, rather as if they were themselves animated fruits and vegetables. While there, I myself sometimes feel a bit arugulish (funny, I don't look arugulish. Ka-boom). Something there is about fresh produce amassed in vast quantities that brings out the goofiness in people.

Nearly everyone at this market seems in a state of dishabille. Lots of feet in sandals, women without makeup, men unshaved, hair flying. Baseball hats are ubiquitous. And T-shirts everywhere, T-shirts asking that we save this or that animal, or testifying that one has been in this or that bicycle or marathon race, or commemorating one's trip to Paris, Key West, Vegas, or Martha's Vineyard.

Across the back of the T-shirt of a young man I note eyeing the portobello mushrooms is written "Tofutown." Not that I am dying to go there—I exceeded this year's tofu budget by January 2—but nothing on the shirt reveals where Tofutown might be. (Boulder, Colorado, it turns out.) A woman of a certain age wears a T-shirt that reads, from top to bottom, "I am Woman, I am Invincible . . . I am Tired." An older dude wears a T-shirt bearing the legend "Whatever . . ." A man with a substantial alderman (as they used to call pot bellies in Chicago) wears a black T-shirt with white cursive lettering that reads, "Bad Spellers of the World—Untie." On the yellow shirt of a pudgy, smiling woman is written the question: "Does Anal Compulsive Need a Hyphen?" Only when it's an adjective, Toots, I want to tell her, now go home and change that silly shirt.

Having a playful yet, I like to think, quietly malicious mind, I cannot help inventing a few T-shirt messages of my own. Here is a sampler: "Hard Rock Cafe—Purgatorio"; "Bet You Don't Know Me," with "Federal Witness Protection Program" on the back; "CCCP—The Party's Over"; "I Survived The Joyce Carol Oates Literary Oeuvre"; and "Space for Rent, Owner Has Forgone All Attempts at

Kevin Chadwick, with apologies to Edward Koren

Original Wit." I don't see any surefire big sellers here, but you never know.

What is the meaning of people walking around in these T-shirts? It is one thing to wear one's heart on one's sleeve, quite another to wear someone else's humor on one's chest. Has it to do with that central casting director within each of us, who instructs us on how to present ourselves to the world? All these people in their comic T-shirts have clearly answered the call to send in the clowns.

There ought—to devise a less than fresh transition—to be clowns, but I'm not sure they ought to appear in T-shirts with other people's jokey lines written on them. A quick inventory of my own shirt drawer reveals a sweatshirt with Dartmouth on it, another with Illinois written in Hebrew, and yet a third with "Runyon's Travelling All-Stars"—Runyon's being a bar in Minneapolis owned by a friend—which advises, in small print, on its back: "There is no free lunch."

My T-shirts tend to carry straightforward messages: "Evanston Public Library," "98.7 WMFT Chicago's Classical Music Station," "Chicago Joe's" (a restaurant and sports bar), and (this sent to me by a friend who was in the OSS during World War II) "Central Intelligence Agency." I sometimes wear my Central Intelligence Agency T-shirt to épater les liberals at the university gym where I exercise, though, near as I can make out, I don't seem to have épated too many.

As a kid, I owned a jacket that had KoolVent Awnings written on its back. KoolVent in those days sponsored one of the best softball teams in Chicago—I came into the jacket through a friend, whose father ran the local franchise—and I thought that, wearing it, I might be taken, by the less than fully cognizant cognoscenti, for a better athlete than I was. This jacket was the only item of clothing I wore to which my father ever objected. "Why the hell do you want to be a walking advertisement for someone else's company?" he would say. Or: "Why don't you just walk around in sandwich boards instead?"

Today a large portion of the middle class is a walking ad for Ralph Lauren, DKNY, Calvin Klein, Tommy Hilfiger, and the rest of the designer mafia. Decades ago I wore Lacoste tennis shirts with the company's small alligator over the breast, but I have long since forsworn wearing any garb with a designer logo, and, in agreement with my father, have come to feel it's stupid to offer oneself as a human billboard for another person's goods. Maybe the time is ripe for a T-shirt that reads, "'Let's Kill All the Designers'—Nietzsche." You don't suppose anyone will check the quotation, do you?

Joseph Epstein

Too Big For New Jersey

David Frum's suggestion that Steve Forbes should consider running for the New Jersey Senate seat in 2000, instead of running for president, would make sense if Forbes had not placed such a strong second to George W. Bush in the Iowa straw poll ("How Steve Forbes Can Win Big," Sept. 27). Forbes exceeded expectations, and George W. Bush came up far short of his much trumpeted expectations. Unfortunately, this is the only voting contest of this year—of the Bush campaign's choosing.

However, the campaign is just beginning. The Iowa straw poll told us that when the voters are focused, they want a conservative with Steve Forbes's character. They want someone who is willing to lead and take a clear stand for cutting taxes, and not silently sit by while the president promises a veto. They want someone who won't just wait after years of failure, and then only tinker at the edges of school choice. They want someone who will stand firm for better health care, and speak out against new interest rate hikes by the Federal Reserve. Republicans want someone who will speak out in favor of less government, not embrace the status quo.

This is why Governor Bush has refused to debate. He refused to attend the Florida Candidate Forum. He used his allies to cancel the Florida straw vote and the primary in Delaware. These are not the signs of someone who is going to win, but of someone who is going to watch and squander the lead he has in the polls against Vice President Gore or even Bill Bradley. Remember the track record of moderate Republican nominees—Dewey, Ford, Bush, and Dole? Conservatives cannot afford to sit back and see their principles sacrificed.

Voters need a strong Republican primary contest so they know their candidate can stand up in the general election and win in November. In the last two presidential cycles, the moderate establishment has led the Republican party down the road of defeat. We cannot let that happen again. Instead, conservatives must rise up as we did in 1980 and elect our candidate, Steve Forbes, president.

In the Iowa straw poll, a solid majority, 56 percent of the 25,000 voters, cast their votes for a candidate who had never held public office before. Maybe the voters are tired of career politicians? Steve Forbes led the outsider vote and the conservative vote. The voters respond to his message of less government, and of change in Washington.

Steve Forbes found Frum's comments personally flattering, but unfortunately a U.S. senator from New Jersey is not as effective at leading the United States as the president. The next president must be not another moderate politician, but a conservative with character, such as Steve Forbes. That's what America needs, that's what the voters are looking for. And it's not for The Weekly Standard to decide; it's for the voters to decide. We look forward to a long and vigorous campaign, and the sooner we engage in a real issues debate with specific solutions, the better off we will be.

Kenneth Blackwell
National Chairman, Forbes Campaign
Alexandria, VA

Go Bunny Go!

William Kristol's editorial describing Pat Buchanan's estrangement and almost certain departure from the GOP was right on ("Pat the Bunny," Sept. 27). Pat should leave, and Republicans, especially conservatives, should wish him Godspeed.

Pat has been, in my opinion, the premier spokesman for us social conservatives, and has accurately articulated the causes of our moral and political morass. Now, unfortunately, the effectiveness of his message has been damaged by his increasingly strident isolationism and protectionism, his recent statements regarding the inadvisability of U.S. world war involvement plus other off-the-wall ramblings, and by the widely held perception that he is an anti-Semite.

These unfortunate misadventures make him a liability to the GOP. Perhaps his true home is with the Reform party and its gadfly leadership. Also interesting to see is how much support

he can command from the rank and file Reform party members, a diverse group who generally don't share Pat's socially conservative views. Nonetheless, the GOP will be well advised not to abandon many of the social policies he has championed.

BRENDAN J. GALVIN
Severn, MD

WHILE WORKING in the trenches for Barry Goldwater in 1964, I saw him attacked not only by the Democrats, but viciously so by pundits friendly to the GOP as well as by the GOP itself (the Rockefeller wing). Goldwater's character was belittled, his mental capacity questioned, and he was charged with being anti-Semitic. And now, reading William Kristol's and others' commentary doing the same to Pat Buchanan, it's AuH_2O *déjà vu*.

Too bad; I had hoped better of Kristol and THE WEEKLY STANDARD. But I shouldn't be surprised, after my experience in '64, with the above-mentioned pundits being at it again.

KENNETH E. WYMAN
Huntsville, AL

I DON'T UNDERSTAND WHY conservatives like William Kristol are trying so hard to get rid of Pat Buchanan. He has been a standard bearer for the conservative movement for decades, and his supporters are the vital grassroots activists that the GOP cannot afford to lose. I certainly don't agree with all of Buchanan's views, but it is really hard to see him vilified by Kristol, George Will, John McCain, et al. I can see why Republicans would go after him *when* and *if* he left the party, but this attempt to run him out is intolerable.

KEVIN R. YODER
Holliston, MA

BEING A CONSERVATIVE Democrat, I never thought I would have anything in common with a conservative Republican magazine, but I have a growing respect and admiration for the courage and integrity of William Kristol. I will read your "dinky little magazine," as Pat Buchanan called it, because anything Buchanan dislikes that much can't be all bad.

GAIL MADDEN
Cincinnati, OH

HURRICANE HOOPLA

THE SCRAPBOOK'S STATEMENTS accusing the news media of hyping Hurricane Floyd's impending danger as "premature, ill-advised, and draconian" and causing unnecessary mass evacuations ("Hurricane Hysteria," Sept. 27) show you to be shallow, self-centered, and irresponsible. What is a little inconvenience compared to the possibility of lost lives and property?

Obviously, you have never experienced the erratic wrath of a full hurricane, or you would realize that there is no way to accurately predict its path or its destructive potential. Anytime the weather station says a hurricane of any strength is coming—or may be coming—my way, I am leaving. I strongly advise others to do the same.

In the meantime, I would also advise you not to use your influence to encourage others to ignore hurricane warnings. Maybe Floyd wasn't "the storm of the century," but try telling that to thousands of North Carolinians who lost everything, including their families.

ANNA SENN
Greensboro, NC

HELPFUL HELICOPTERS

WHILE LAWRENCE KAPLAN complains about the congressional Republicans' insistence on allocating funds for National Guard helicopters, this week those same aircraft are being used by citizen-soldiers to save fellow Americans from drowning in North Carolina ("Who Now Loathes the Military?" Sept. 27). These helicopters are always available to the U.S. Army for national and international deployment.

Kaplan and others who write in THE WEEKLY STANDARD are often full of fine ideas about how our Army could intervene more heavily to staunch the flow of blood in places like East Timor and Kosovo. But our Army is too small to engage in all the conflicts you would like while remaining ready for a major war. For me, the lives of North Carolinians will always be more precious than those of East Timorese or Kosovars.

ROBERT FAIRCHILD
Hampton, VA

CORRECTION

AN ARTICLE by Elliott C. Rothenberg in our July 20 issue ("The Terrorist Next Door") mistakenly attributed to Jay Benanav of the St. Paul, Minn., city council the statement that Symbionese Liberation Army fugitive Kathleen Soliah, a.k.a. "Sara Jane Olson," had been a "great citizen of our community." The statement was actually made by a legislative aide to Mr. Benanav. We apologize for the error.

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the weekly Standard

A Party of Appeasement?

In the late 1960s, the Democratic party encountered in its ranks a New Left contemptuous of American institutions but powerful in the most prestigious of them. A few Democrats in the old Harry Truman mold were willing to confront the radicals head on. But the party establishment decided to be "sophisticated." They tried to work with the radicals, to corral them, to engage them in dialogue.

The American people drew the obvious conclusion: The Democratic party establishment was gutless. Since the party elites didn't have the courage to defend American institutions and principles against the Blame America First crowd, Americans decided that the Democratic party could not be trusted with the White House. The Democrats went on to lose five of the next six presidential elections.

Now the Republican party faces a similar challenge, in the person of Pat Buchanan. The essence of Buchananism is not anti-Semitism, or protectionism, or isolationism. The core belief that animates these derivative elements of Buchananism is that American government throughout the twentieth century has been a disgrace and a fraud. Buchanan is as much a Blame America First radical as the leftists of the late 1960s. His claim that the United States had no business getting into World Wars I and II follows from his belief that for the past hundred years, and right up till today, the American government has been hijacked by elite and ethnic interests that do America harm. He believes the American government stupidly and malevolently sent hundreds of thousands of men to their deaths. Today, he doesn't want America to lead the world because he doesn't think America is worthy of leading the world. He doesn't want to export our ideals because he doesn't believe in American ideals. For all of his reactionary nostalgia for an America that allegedly once was, he objects to the core principles of the American experiment. That's why, like the New Left, he objects to the American Century.

How is the Republican establishment responding to the rise of a Blame-America-Firster in its midst? Well, everyone steps up to the microphones and offers ritual denunciations of Buchanan's theories about World War II. But then, in the next breath, most Republican leaders become détente-niks. The Republican national chairman, Jim Nicholson, pays a call on Buchanan at his home to ask him to remain in the party. Senior Republican senators equivocate. Most of the presidential candidates express the hope that Buchanan will be with them on GOP debate platforms early next year. George W. Bush sets the tone. "It's politics. I don't want Pat Buchanan to leave the party. I think it's important, should I be the nominee, to unite the Republican party. I'm going to need every vote I can get among Republicans to win the election."

The Republican establishment, of course, has some sophisticated reasons for appeasing Buchanan. Sometimes publicly, and more often privately, party operatives will explain their tactical calculation: Denouncing Buchanan will alienate some of his supporters in the party and only give him more attention. They even offer a few bad historical analogies. Dwight Eisenhower, they claim, let Joseph McCarthy burn himself out rather than split the party by taking him on. But Eisenhower's kid-glove treatment of McCarthy, even after McCarthy's attack on George Marshall, was a shameful blunder that Eisenhower later regretted. The GOP's tolerance of McCarthy, meanwhile, damaged anti-communism for a generation.

Denouncing Pat Buchanan may indeed alienate some of his supporters. But failing to denounce him will alienate the country. For the Buchanan question isn't finally about Pat Buchanan. It is about the Republican party. Does the party stand for anything? Does it believe in American ideals and American global leadership? Does the Republican party celebrate the achievements of the American Century and does it plan to build on those achievements in the century to come?

Or is it just a collection of politicians who seek office, and who will swallow anything in their efforts to accumulate support for the next election? Is the Republican party's slogan really going to be "It's Politics"? At the beginning of this decade, the national Republican party repudiated David Duke. Surely it should not close the decade with the appeasement of Pat Buchanan, who once said:

"David Duke is busy stealing from me. I have a good mind to go down there and sue that dude for intellectual property theft."

The differences between Pat Buchanan and Republican principles are not minor issues that can be smoothed over behind closed doors. They are fundamental. Some Republicans, to their credit, have recognized this. Of the presidential contenders, John McCain has made the essential point: "By continuing to appease Buchanan, several of our candidates appear to have put politics ahead of our party's principles." On Capitol Hill, a few clear voices have acknowledged that inclusion becomes suicide when it means including enemies. "I would say, don't let the door hit you on the way out," Senator Slade Gorton declared. Senators George Voinovich and Chuck Hagel have echoed these remarks.

It's not hard to predict what will happen if Republicans continue to appease Buchanan. The public will conclude that Republicans don't really believe in anything but winning. And Republican loyalists will know in their hearts that this conclusion is not wrong.

Meanwhile, Buchanan's dark influence will grow within the party, simply because the forces of Buchananism will know what they believe and what they want. The Republican establishment will not. Buchanan seems to believe that he can exploit the mushiness of his opponents. Last week, he said, "If you stay with it, and . . . keep going back at 'em, and back at 'em, and let them keep hitting you and go back at them, then it sort of fades away and you are standing there smiling." If Pat Buchanan is smiling at the end of all this, the Republican party will be much diminished.

Last week, George W. Bush showed no hesitation in criticizing House Republicans for trying "to balance their budget on the backs of the poor." Needless to say, there was a fair amount of politics involved in this statement, with Bush polishing his "compassionate conservative" credentials at the expense of the hapless House GOP. Here Bush is willing to sacrifice party unity to help himself in next year's election. That's fine with us. But on the much more important matter of Buchanan and Buchananism, an issue that truly defines him and his party, Bush goes wobbly.

If the Republican party can't stand up to Pat Buchanan, and if it can't explain why it rejects his view of America, is it a party worthy of governing?

—William Kristol

the weekly Standard

The Harassment of Gary Bauer

In 1993, the *Washington Post* dismissed Christian conservatives involved in national politics as "largely poor, uneducated, and easy to command." Offered as simple fact rather than someone's opinion, the characterization was not only a slur. It was incorrect. And the *Post* ultimately apologized for its mistake. Now, there's another false idea that the media, including the *Post* again, seemingly want to impose on evangelical Christians engaged in politics—or at least on Gary Bauer, the Republican presidential candidate who used to run the Family Research Council. The idea: that Bauer, as a serious Christian, should refrain from ever meeting alone with a woman, even a top campaign staffer, who's not his wife.

This absurd standard grew out of staff turmoil at the Bauer campaign and a subsequent rumor that Bauer was having an affair with a young woman on his staff. Last week, Bauer, with his wife Carol and three children at his side, flatly denied the rumor. He said it was "trash can politics at its worst. . . . I have not violated my vows." And no one stepped forward to charge that he had.

Instead, a new accusation surfaced. Charles Jarvis, Bauer's former campaign chairman who now backs Steve Forbes for the GOP nomination, said Bauer had met alone in his office with the woman and traveled with her on several occasions. That, Jarvis said, gave "the appearance of impropriety" and violated the rules supposedly governing Christian conservative men. The press, notably the *Washington Post*, took this fresh charge with utmost seriousness. "Christian politicians and evangelical leaders commonly follow an unspoken rule not to meet behind doors with female staff members or travel alone with them," the *Post* said.

No, they don't. Billy Graham follows that rule, and so do some ordained ministers, and it may well be appropriate for them. But it's not "commonly" followed by Christian men in secular positions, nor should it be. Think about this for a moment. What if Bauer had turned away a top female staffer who wanted to meet with him privately, telling her a male aide must be in the room? And what if she had quit, gone to the *Post*, and told of the incident? Bauer would have been pilloried for following a medieval practice that discriminates against women, puts them at a sharp disadvantage, and is breathtakingly unfair.

As it turned out, Bauer was pilloried for violating a standard that hasn't been applied to any other candidate, Christians included. Texas governor George W. Bush has talked often (more often than Bauer, actually) about his deep faith in Jesus Christ as his personal savior. Yet he surely meets privately with his press secretary and adviser Karen Hughes, who's considerably younger. And what about Vice President Albert Gore, who recently told religion writers that his Christian faith "is the center of my life"? Should this preclude him from conferring alone with Elaine Kamarck, his top policy adviser? Of course not.

There's one especially pernicious aspect of the attack on Bauer. Jarvis has repeated his complaint about Bauer meeting alone with a woman (his deputy campaign manager) in numerous TV interviews. Surely Jarvis knows what most people will suspect when they hear him: that Bauer is having a Clinton-like sexual affair. But when asked, Jarvis has said he doesn't believe this to be true, nor do other disgruntled staffers who've left the Bauer campaign. The meetings, after all, occurred at Bauer headquarters, where Bauer's older daughter works. And the travel? They were routine political trips, on commercial airline flights, with the young woman along in a conventional staff role. The truth is, Bauer is a deeply moral man who's never given the slightest hint of being romantically interested in a woman other than his wife.

Gary Bauer has made mistakes in his campaign. He let a staff dispute between Jarvis and campaign manager Frank Cannon fester for months. Jarvis wanted Bauer to de-emphasize the Iowa straw vote in August. Cannon advised a full-scale effort. Bauer sided with Cannon, finished fourth (beating Patrick Buchanan), and was regarded as having helped his cause by playing in Iowa. Jarvis soon left the Bauer campaign. Perhaps Bauer should not have called a press conference to deny a rumor that most people outside the political community hadn't heard. Bauer and his strategists reasoned that the rumor had created doubts and disappointment among his core supporters, many of them evangelical Christians, and had to be quashed. In that, Bauer succeeded, only to be tagged with a new charge that ought to be dismissed out of hand.

It gets worse. Jarvis defended his defection from Bauer to Forbes by telling Gail Collins of the *New York Times*, "What's wonderful about Steve Forbes is that he will never be alone with a woman. Never." Does Forbes—magazine publisher, businessman, devoted husband, father of five daughters, presidential candidate—really want to be held to this standard? Please, Steve, say it ain't so.

—Fred Barnes

The Mayor, the Museum, and the Madonna

Pseudo-courageous blasphemous art: how many times have we seen this show? **BY CHARLES KRAUTHAMMER**

CULTURE WARS, CHAPTER 36. The Brooklyn Museum of Art readies an exhibition of high decadence called "Sensation." The mayor of New York threatens to close down the museum if the exhibit is not canceled. The mayor is pilloried by the usual suspects—a consortium of New York museums, the ACLU, the highbrow press—for philistinism and/or First Amendment abuse.


AFP

The exhibit itself is nothing very special, just the usual *fin-de-siècle* celebration of the blasphemous, the criminal, and the decadent. The item that caught Rudy Giuliani's attention is a portrait of the Virgin Mary adorned with elephant dung and floating bits of female pornography. The one that caught my attention is the giant portrait of a child molester and murderer—made to look as if composed of tiny children's handprints.

The culture-guardians scream "censorship." The mayor makes the quite obvious point that these artists can do anything the hell they want, but they have no entitlement to have their work exhibited in a museum subsidized by the taxpayers of New York City to the tune of $7 million a year.

It is an old story. Art whose very purpose is *épater les bourgeois* is at the same time demanding the bourgeois's subsidy. Of course, if the avant garde had any self-respect, it would shock the bourgeoisie on its own dime.

But how silly: Self-respect is a hopelessly bourgeois value. The avant garde lives by a code of fearless audacity and uncompromising authenticity. And endless financial support.

The art world has sustained this cultural blackmail by counting on the status anxiety of the middle class. They are afraid to ask the emperor's-new-clothes question—Why are we being forced to subsidize willful, offensive banality?—for fear of being considered terminally unsophisticated.

This cultural blackmail has gone on for decades, with the artist loudly blaspheming everything his patrons hold dear—while suckling at their teats. Every once in a while, however, someone refuses to play the game. This time it is Giuliani. And sure enough, he has been charged with philistinism, or as the *New York Times* editorial put it, with making "the city look ridiculous."

"The mayor's rationale," says the *Times* with unintended hilarity, "derives from the fact that the city owns the Brooklyn Museum of Art and provides nearly a third of its operating budget."

Rationale? It is self-evident: You own an institution—whether you are an individual, a corporation, or a city with duly elected authorities acting on its behalf—you regulate its activity. This is no "rationale." It is a slam-dunk, argument-ending, QED clincher.

Let's be plain. No one is preventing these art works from being made or displayed. The only question is whether artists have a claim on the taxpayer's dollar in displaying it.

The answer is open and shut: No. It is a question not of censorship but of sensibility. Can there ever be a limit to the tolerance and generosity of the paying public? Of course. Does this particular exhibit forfeit whatever claim art has to public support—and the legitimacy and honor conferred upon it by the stamp of the city-owned Brooklyn Museum?

The Virgin Mary painting alone would merit an answer of yes. Add the child molester painting, the 3-D acrylic women with erect penises for noses, "Spaceshit," and "A Thousand Years" ("Steel, glass, flies, maggots, MDF, insect-o-cutor, cow's head, sugar, water, 213 x 427 x 213 centimeters"), and you get a fuller picture: an artistic sensibility that is a peculiar combination of the creepy and the banal.

Of course everyone loves to play victim, the status of victim being, as Anthony Daniels put it in the *New Criterion*, "the personal equivalent of most favored nation." But the idea that art of this type is under assault or starved for funds is quite ridiculous. Art of this type is now the norm. It is everywhere. Galleries, museums, private collections are filled with it.

It is classical representational art that is starved for funds. Try finding a school in your town that teaches classical drawing or painting. As James Cooper noted some years ago in the *American Arts Quarterly*, "A modest grant to a small art academy was recently denied by the National Endowment for the Arts because, the terse NEA memo explained, 'teaching students to draw the human figure is revisionist and stifles creativity.'"

Add some dung, though, and you've got yourself a show.

The role of the artist has changed

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radically in the last century and a half. It was once the function of the artist to represent beauty and transcendence and possibly introduce it into the life of the beholder. With the advent of photography and film, the perfect media for both representation and narration, art has fought its dread of obsolescence by seeking some other role.

Today the function of the artist is to be an emissary to the aberrant: to live at the cultural and social extremes, to go over into the decadent and even criminal, to scout forbidden emotional and psychic territory—and bring back artifacts of that "edgy" experience to a bourgeoisie too cozy and cowardly to make the trip itself.

This has been going on for decades. It must be said, however, that at the beginning of the transformation there was an expectation that the artist would bring skill and a sense of craft to his work. Whether their conceit was dandyism, criminality, or sexual adventurism (free love, homosexuality, and the other once shocking taboos of yesterday), artists of the early modern period still felt a need to render their recreation of shock with style and technique.

Having reached a time, however, when technique itself is considered revisionist, anticreative, and, of course, bourgeois, all we are left with is the raw stinking shock. On display, right now, at the Brooklyn Museum of Art.

It is important to note that the artists and promoters who provoked the great Brooklyn contretemps are not feigning their surprise at Giuliani's counterattack. They genuinely feel entitled to their subsidy. They genuinely feel they perform a unique and priceless service, introducing vicarious extremism into the utterly compromised lives of their bourgeois patrons.

Ah, but every once in a while a burgher arises and says to the artist: No need to report back from the edge. You can stay where you are. We'll have our afternoon tea without acid, thank you.

And then the fun begins. ♦

The Thinking Man's Candidate

In praise of the underappreciated (if hopeless) Dan Quayle campaign. BY CHRISTOPHER CALDWELL

WHEN DAN QUAYLE announced last week that he was abandoning his campaign for the Republican presidential nomination, comedians reacted like depositors during a bank run—banging at the gates to withdraw all the jokes they'd saved up for dead winter nights. Craig Kilborn noted, ruefully, "Quayle has agreed . . . to remain in the public spotlight for an additional three months until another national laughingstock can be appointed."

It was precisely because of his status as national laughingstock, of course, that Quayle never stood a chance. In an age when television turns people into archetypes, he was caught in the wrong allegory and cast as Stupiditie. It's moot whether Quayle would have made a good president, and his bid was certainly a *strategic* failure. But to snicker at it is shallow and glib. Quayle's campaign was actually one of high intellectual

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purpose, of noble ideals and great programmatic specificity. With his departure, the 2000 race has lost such class as it had. No joke.

Quayle sought to run a Reaganite campaign. On domestic policy, he managed to be both stern and cheery. He revealed, for example, a precise three-point vetting process for picking Supreme Court justices. It didn't include a litmus test on abortion, but it did include "an appreciation for morality and religion in our society." He rued a separation of church and state that had come to mean "all state, no church."

Quayle wanted to be a Reaganesque (or Rooseveltian) Happy Warrior, and succeeded. He took Reagan's 11th Commandment (*Thou shalt not criticize another Republican*) to absurd lengths. When he announced for president last April, Quayle noted that he had agreed with Steve Forbes in 1996—*and still did*. "Steve Forbes, in my opinion, is right on the issues," he said. "We don't have a substantive difference on the issues." When Lamar Alexander became the first casualty of the Iowa straw poll, certainly taking some heat off Quayle, Quayle made this extraordinary plea on the Fox News Channel: "Lamar, if you're listening . . . Look: You were elected governor twice in the state of Tennessee. You served in the Bush-Quayle cabinet. You've got a good message. I hope that you stay in this. We need you."

His speeches were colorful, sophisticated, and fresh. Quayle had real blame to throw around, and he settled on regulation-mad legal elites as a whipping boy. But his attacks always had a lot of the *left*-populist flavor that Reagan was the last Republican to tap. "In funding its cultural agenda, the legal aristocracy has not worked alone. It has been aided by a willing and compliant news media and an entertainment community that transmits counterculture values. They live in gated communities and send their children to expensive private schools. This is their world. But it's not the real world."

What doomed the Quayle campaign in the end was that it's no longer Reagan's world either. Take economics. Quayle urged supply-side orthodoxy, attacked hikes in the minimum wage, and called for a 30 percent income tax reduction. Such policies wouldn't have hurt the economy (and would have increased the sum of human freedom). But they were focused on the need to stimulate entrepreneurship—a pressing concern when Reagan ousted Carter, but rather a coals-to-Newcastle proposition today.


Roberto Parada

Or take foreign policy. Quayle and John McCain were the only two Republican candidates to have one. Quayle's was: Stop the bombing in Kosovo. ("A mistake from the get-go . . . a war that didn't have to be fought.") Stop military cutbacks and focus on *big* enemies. ("As a superpower, our role is not peacekeeping. Our role is peacemaking.") Engage China. Except for their agreement on the need for preparedness, McCain's foreign policy is largely the opposite, and it played better.

On both these issues, Quayle was yesterday's man. But it wasn't merely that Quayle failed to assimilate the end of Reaganism; it's that he was wholly oblivious to the way Bill Clinton has transformed American politics. There was something positively archaic—something so . . . *eighties*—about Quayle's unwillingness to avoid questions, his eschewal of spin, his attempts to tell the truth as best he could. Asked in May whether Clinton wasn't being unfairly blamed for Chinese espionage, Quayle made the amazing reply, "Did it occur on Reagan's watch, Bush's watch, Clinton's watch? Probably all of them. I don't really know." Asked in June whether the question of his electability wasn't driving most of his potential supporters to Bush, he said, "I'm up against it all the time." In early August, a *Los Angeles Times* reporter suggested Quayle was running not to win but just to get a kinder judgment from posterity. Quayle replied, "I can see how people would say that."

George W. Bush makes an interesting contrast. Bush got trapped in an embarrassing situation last July, having scheduled a full campaign day in Seattle while 6,000 quota-chasing minority journalists were holding their Unity '99 convention there. Panicked into attending and cornered on affirmative action, Bush wound up mumbling Clintonesque mend-it-don't-end-it platitudes. "What's important to say," Bush said, "is not what you're against. It's what you're for. I'm for increasing the pool of applicants and opening the door so that more people are eligible to go to the university systems." By contrast, Quayle grasped the issue forcefully. "Had I been there," he said, "I would've opposed this idea that government should discriminate. I am absolutely in total opposition against quotas. I think affirmative action does need to be ended." That could stand as Quayle's epitaph: *Had I been there* . . .

By June, Quayle's campaign chairman Kyle McSlarrow was sending out press releases saying, "We are

delighted to have cut George Bush's lead to a mere 45 points." But the unsuitability of Reaganite politicking to a Clintonite world was put on ultimate display in August at the Ames, Iowa, straw poll. Quayle cheerily tried to pooh-pooh the event as a "mid-semester review," or a mere "fund-raiser." After all, the straw poll measured little more than how much money you were willing to shell out to buy votes. So Quayle treated his eighth-place finish as a non-issue. In 1988 he might have gotten away with this. But in 1999 it was the Quayle campaign's death knell.

There were exceptions. The Manchester *Union Leader* was ready to give Quayle its endorsement. The *Boston Herald*'s Don Feder was Quayle's only outright backer in the press. Michael Barone of *U.S. News* made the more measured assessment: "You can make an intellectual case for Dan Quayle that's a pretty strong one. He shows . . . a considerable mastery of the issues, in particular foreign and defense issues." But in general, the *Indianapolis Star*, a Quayle organ, was right to lament that "today's hip reporters just cannot bring themselves to write about Quayle without a sneer in their choice of words." American political journalists are ever ruing the lack of serious engagement with "the issues," but when Quayle tried to focus on the issues in a considerable way they ignored him. Now that he's ended his campaign, their attitude is: Good luck, Dan! Don't let the door hit you on your way out!

Quayle in fact was the authentic polar opposite of Clinton in this race. Not that he got that message out, and not that it necessarily would have mattered if he had. The problem is that, loath as we are to admit it, Americans don't *want* an opposite of Clinton. At the end of the 1990s, we want a president with a lot of Clinton in him—glib, unctuous, unspecific, self-satisfied. Well, lucky us! Given that only George Bush, Bill Bradley, and (maybe) Al Gore have a chance to win this race, we're going to get one. ♦

There's No Way Like the Third Way

Tony Blair and his triumphant Labour party envision a long reign. **BY IRWIN M. STELZER**

Bournemouth, England

Britain's Labour party gathered last week for its annual conference at a small town on the English Channel. A few short miles from continental Europe. Which is where British prime minister Tony Blair sees his country's future.

Halfway through what he hopes will be the first of many terms in office, Blair has finally begun to define his "Third Way," the path down which he (like Bill Clinton) claims to be taking his nation. We Americans had better pay attention, for the foreign policy part of this self-styled "radical" politics will affect the conduct of our foreign policy in a profound way.

It has been a staple of our foreign policy that we can count on the Brits to be at our side in times of crisis, lending such support as a nation of Britain's size can be expected to give. Indeed, ever since its empire disappeared and its resources shriveled, Britain has ambitiously aimed to "punch above its weight" in the world. And it has done just that, providing more help to America than we had any reason to expect from a small nation. During the Cold War, Clement Attlee's Labour government stood firm against Russian bullying; in the Gulf War, Britain was the one European nation to commit significant resources; in Kosovo it was the Brits who stood with us while most of Europe dithered; in the U.N., it is Britain that fights alongside America to hold back French appeasement of Saddam Hussein.

All that may be about to change. Britain's wildly popular prime minister says that his country's "destiny is with Europe." No longer must it be Britain's role to serve as a direct ally of America, and to hell with the French and the Germans if they won't go along. Henceforth, the United Kingdom will become a "bridge" between Europe and America.

A Britain seeking to act as such a bridge will have to give equal weight to the wishes of the forces on both sides, rather than unambiguous support to one or the other. Add to that Blair's desire to forge a common defense policy with the French, and you have—from America's point of view—a lost ally. A nation that under Margaret Thatcher allowed us to use bases in Britain to launch an attack against Qaddafi's terrorist Libya will, under Blair, seek French agreement before proffering such assistance. A nation that once courageously held off Hitler until America could get its act together, will now be in bed with the nation that surrendered to the German dictator even though it had more troops in the field than he did. France, to be blunt, has long had as its principal foreign policy goal the containment of American culture and power. The offspring of the Franco-U.K. mating is unlikely to be as reliably pro-American as was pre-Blair Britain.

In Blair's defense one might point out that America has not exactly proved a rock on which Britain can realistically construct its own foreign policy. Faced with the resistance of what can hardly be termed a modern fighting force, America fled Somalia;

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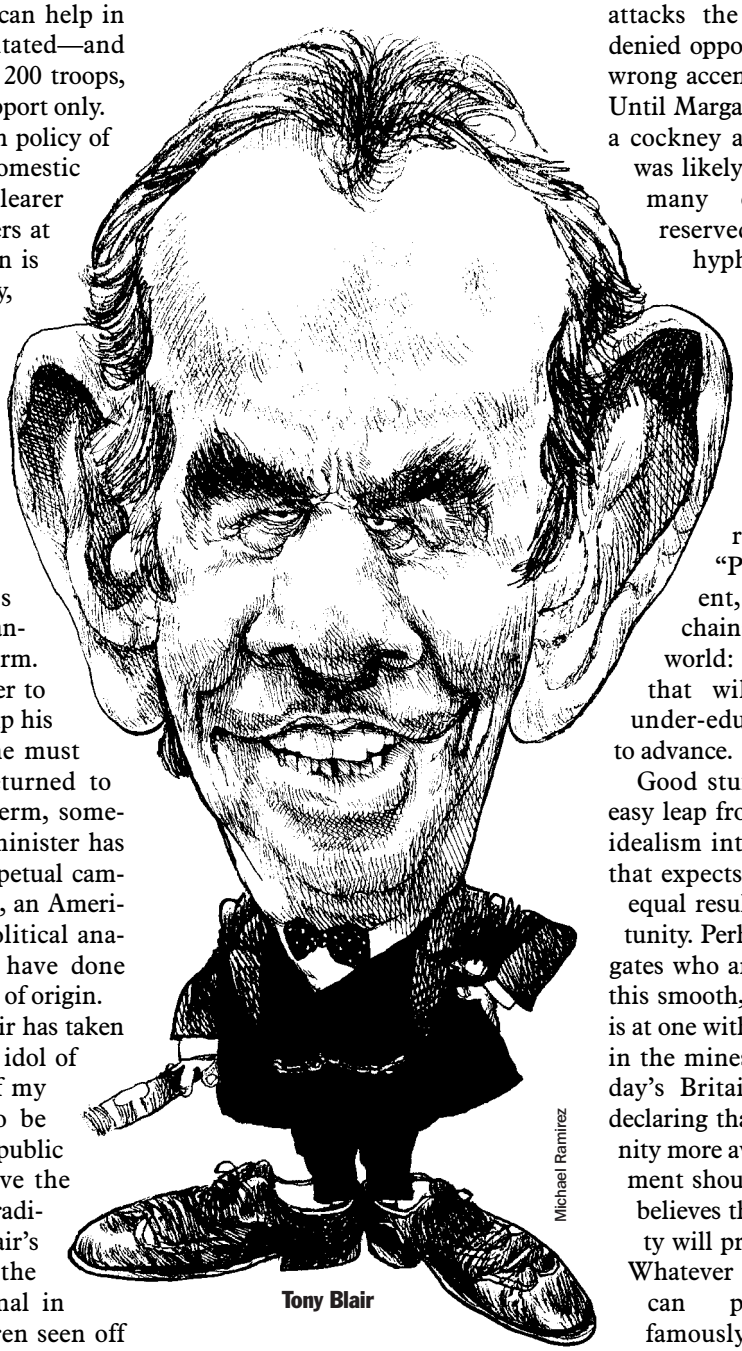
in Kosovo, Blair was introduced to Bill Clinton's no-casualty notion of warfare; and the prime minister cannot help noticing that when Australia, which risked the lives of its soldiers alongside America in five wars in this century, asked for American help in East Timor, Clinton hesitated—and then promised a derisory 200 troops, and those for logistical support only.

So much for the foreign policy of Third Way Britain. Its domestic aspects were also made clearer by Blair to careful listeners at Bournemouth. If imitation is the highest form of flattery, Bill Clinton, were he capable of embarrassment, would be blushing.

Start with Blair's stated primary objective: reelection. With a general election still as much as three years away, Blair announced that his radical goals for Britain cannot be achieved in one term. Or indeed in two. In order to serve his nation and to help his party achieve its goals, he must concentrate on being returned to office for a second full term, something no Labour prime minister has ever achieved. So the perpetual campaign has come to Britain, an American import that many political analysts feel Britain would have done well to leave in its country of origin.

Now consider what Blair has taken from Hillary Clinton (an idol of Labour's rank-and-file, if my unscientific sample is to be credited). The goal of all public policy must be to improve the lot of children. Not the traditional family, although Blair's own is probably among the most admirably traditional in Britain—scrubbed children seen off to school by a loving mother, who returns from a hard day at the office to oversee their homework, with weekends devoted to games with father. No, the prime minister's sympathy is reserved for the child of a single mother, a child born in poverty with no knowledge of its father.

It is to such a "family" that the bulk of the nation's resources must be devoted. Never mind that such a policy has proved self-defeating in the United States. Or that directing resources to such "families" in Britain has only made its illegitimacy rate the highest in Europe. Or that, as Blair well knows, encouraging the formation of such families, which is what open-handed public assistance and moral legitimization by government combine to do, eventually boosts truancy, delinquency, crime, and poverty rates.



Michael Ramirez

Tony Blair

Add to all of this a deep belief in equality. The prime minister is at his best and most persuasive when he attacks the class system that has denied opportunity to those with the wrong accents or the wrong parents. Until Margaret Thatcher came along, a cockney accent or a Jewish name was likely to mean exclusion from many of the opportunities reserved for their betters, hyphenated names and titles preferred. Blair would like to tear down the remaining barriers to equal opportunity. Although he told his followers that, for him at least, "the class war is over," he nevertheless relied on its language: "People are born with talent, yet everywhere it is in chains"; "a spectre haunts the world: technological revolution" that will further deprive the under-educated of an opportunity to advance.

Good stuff. But it is a quick and easy leap from this beguiling radical idealism into a crude egalitarianism that expects government to produce equal results, not just equal opportunity. Perhaps a conference of delegates who are not really certain that this smooth, well-educated politician is at one with a party that has its roots in the mines and factories of yesterday's Britain is not the place for declaring that, having made opportunity more available to all, the government should rest. Or perhaps Blair believes that equality of opportunity will produce equality of results. Whatever . . . as a former Republican presidential candidate famously said. The fact is that Blair drew his loudest applause when he reminded his audience that he had eliminated what was known as the assisted places scheme, which financed a private-school education for gifted but poor children—a form of "elitism" that the Labour party has

long found a thumb in the eye of its belief that all children are created equal or, if not, should at least end up equal in income.

Well, maybe not the loudest applause. That probably came when Blair promised a moral crusade aimed at "the salvation" of his country. This would involve a full-scale assault on "this libertarian nonsense masquerading as freedom." Drug dealers and muggers are to be swept from the streets. The DNA of all offenders is to be kept on file and evidence from crime scenes matched against it. Indeed, immediately before Blair's speech one of his top ministers told me that he has been set the task of profiling—yes, profiling—those who might commit a crime, so that they can be incarcerated before they have an opportunity to strike. As for the civil libertarians who worry about these measures, Blair reminded them that the pensioner has a civil liberty to stroll home of a summer evening, and the parent a civil liberty to drop a child off at school without fear that he or she will fall into the clutches of a drug dealer.

Meantime, the stroll toward this more equal and less crime-ridden Third Way Britain will be financed by economic growth. Chancellor Gordon Brown, who Concorded in to the party conference from the G-7 meeting in Washington, gave a rousing speech, promising the party faithful that his careful management of the nation's finances would eventually produce "full employment," the grail of the British Left since the end of World War II. Brown then rushed from the conference hall and Concorded back to Washington for further meetings with the world's bankers and finance ministers before the applause died down.

The self-styled Iron Chancellor, Brown is given considerable credit for Britain's strong economy. True, he did build on the foundations laid by Margaret Thatcher, who among other things broke the power of the trade unions to paralyze and bankrupt the country. But he did have the courage to grant semi-independence to the Bank of England, which seems to have gotten monetary policy about right. And he did resist pressure from the unreconstructed left wing of his party to tax and tax and tax and spend and spend and spend.

So the economy grows and the Treasury's cup runneth over. Like Bill Clinton, Brown plans to spend this flood of tax revenues on health (free dentistry for all) and education (more opportunities for higher education and cut-price movie tickets for 16-18-year-olds who stay in school). A small tax cut for low-earners is probably in the cards, but only a small one: If the economy continues to grow, so, too, will public spending. This, in a country already suffering from a flight of innovators to America, where risk capital is more lightly taxed (the bleats of those who would lower capital gains taxes in this country to the contrary notwithstanding).

Still, there is no question that Brown has proved to Middle England—those voters who were once fearful that Labour's profligacy would produce spiraling taxes, inflation, and ruin—that New Labour (Blair's name for the party) is competent to manage the economy. That assurance, plus Blair's sensational campaigning skills and disarray in the ranks of a Tory party that is trying to figure out which of its principles to scuttle in search of a softer, kinder image, might just give Labour the multiple terms that Blair says he needs to complete the "reform" and "modernization" of his country.

Which is more than Tony Blair's people think is in store for the New Democrats across the Atlantic. One cabinet minister told me that he had just returned from a trip to America, during the course of which not a single Democrat in the White House or on the Hill told him that Al Gore could beat George W. Bush. Indeed, this Blairite has sent his boss a memo urging that discreet contacts be made "with Austin," by way of preparing for a personal Blair-Bush relationship different from the frosty one that existed between Bush the elder and Blair. All of this, of course, if it can be done without antagonizing Clinton. ♦

Can Bush Capture California?

Al Gore has made 60 visits to the state as vice president; George W. Bush has campaigned there three times. Guess who's ahead.

By Matthew Rees

Los Angeles, California

George W. Bush's speech here on September 2 on education reform got all the publicity, but just as notable was what he said minutes later in a private meeting with 100 local Hispanic leaders. "There have been times in the past when Republican presidential candidates have not contested California. There have even been rumors I won't be contesting California. But they're not true. I'm here today, and I plan to come back again and again, as often as y'all want me. I think we can win California."

Promising to wage a concerted effort to win California is among the most reliable campaign-season clichés, and Republicans like Bush's father and Bob Dole uttered it repeatedly in the past two presidential elections, even though they didn't mean it. But everything looks different with Bush. He's already begun mounting a massive effort to build support throughout the state, with a campaign team in place and Californians occupying senior slots in his national strategy sessions. Indeed, the surest sign he's serious about the state is that he's visiting not only glitzy areas like Santa Barbara and Silicon Valley, but also Riverside and Bakersfield, cities most California residents avoid like the plague.

The case for contesting California is simple. First, if Bush prevails in the March 7 primary—it's winner-take-all—he will have gone far toward winning the nomination. Similarly, there are 54 electoral votes at stake in the general election, and if Bush won them it's almost inconceivable he wouldn't win the presidency (Texas and Florida, Bush strongholds, have 57 electoral votes between them). Second, his enormously successful fund-raising, coupled with his decision not to accept federal funding for his campaign, means he'll have the resources needed to advertise in expensive, but vote-rich, media markets like San Diego, Los Angeles, San Francisco, and San Jose (Steve Forbes is the only Republican who can hope to compete with him in the primary). Third, contesting the state forces his rivals, whether in the primary or the general election, to do the same if they hope to defeat him, and thus draws their resources away from other battleground states.

There's one more argument for Bush's making a run at California, particularly in the general election: He's got a decent shot at winning the state. While Republicans have fared poorly in California recently—Dan Lungren and Matt Fong, last year's GOP nominees for governor and senator, both got slaughtered—Bush is different. A recent poll of state voters by the Public Policy Institute of California, a non-partisan San Francisco think tank, found him leading Al Gore by 49-44. This is striking considering Gore has made nearly 60 trips to California as vice president, while Bush has come to the state just three times since launching his presidential bid.

That small number of visits, though, masks a flurry of campaign activity. Last year, for example, Bush raised $500,000 from California residents during his reelection campaign for governor. And the day after he was reelected, he called David Dreier, a senior California congressman with whom he's been friends for over 20 years, to sound him out on the political scene. Bush told Dreier he was giving serious thought to running for president and added, "I'd like you to be part of my leadership team in California."

The two stayed in regular contact over the next few months, and in June Dreier was named one of five co-chairs of the California campaign (the others are Condoleezza Rice, a Hoover Institution fellow who was a senior foreign-policy aide in the Bush White House; Jim Brulte, a state senator; Ann Veneman, food and agriculture secretary for Governor Pete Wilson; and Eloise Anderson, Wilson's director of social services). Even more impressive is

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Joe Ciardiello

the breadth of support for Bush among California's Republican elected officials: Thirty-six of the state legislature's 47 Republicans are backing him, as are 19 of the state's 24 GOP House members.

Overseeing Bush's entire California effort is Gerald Parsky, a Los Angeles investment banker. Tapped in March, he will help Bush penetrate the state's vast network of campaign donors (the California finance director is the highly regarded Brad Freeman), while also assisting in policy development. Parsky coordinated the opening of a campaign office on Wilshire Boulevard in Brentwood (it's just down the street from the McDonald's made famous by O.J. Simpson), but he's also been involved with outreach to Hollywood. Early this year, he arranged for two top Warner Brothers executives, Terry Semel and Gerald Weintraub, to meet Bush in Austin. The meeting was designed to be a simple get-acquainted session, but Semel was so impressed with Bush that immediately after the hour-long meeting he told Parsky he wanted to host the governor at his Bel Air mansion.

Bush liked the idea, so before his $2.3 million Los Angeles fund-raiser on June 29 he stopped off at Semel's to rub shoulders with 100 entertainment industry bigshots, such as Oliver Stone, Quincy Jones, and Warren Beatty (when Bush introduced himself, Beatty replied, "Hi, I'm Bulworth"). Semel enthusiastically endorsed Bush at the event—"He's the guy," he said—and reports afterwards were that the mostly liberal group liked Bush, particularly because he didn't directly castigate them in his 15-minute speech. "My job is not to pit one group against another," he told them. "My job is . . . to call on all of us to do our part to help usher in the responsibility era." Word of Bush's appeal has been spreading. "I've never seen a Republican make this kind of inroads into Hollywood," says Lionel Chetwynd, a conservative activist who's spent 30 years in the area as a director and screenwriter.

The outreach to Hollywood is part of the Bush team's larger strategy of courting California constituencies other Republicans have lost. Another example is Hispanics, who are 15 percent of the state population. Bush has been touting his support for immigration and his opposition to Proposition 187, the 1994 California initiative that proposed denying state services to illegal immigrants, and he sprinkles his speeches with Spanish phrases. The campaign strategy calls for Bush to reach out to Hispanic business and political leaders through a variety of private meetings, such as the session after his September education speech, in hopes the word will spread that he's an acceptable Republican. Bush has already won the endorsement of Hector Barreto, chairman of the Latino Business Association, and expects more leaders to follow.

An even more aggressive strategy has been laid out for Silicon Valley, which in the past has been apolitical but leaning Republican. An array of top Democrats, including Bill Clinton, have aggressively sought the support of its fiscally conservative, socially liberal residents. Most Republicans have either ignored the area or made awkward attempts to campaign there, losing lots of money and a great many votes.

Bush officials saw it made no sense to write off Silicon Valley and for six months have waged an extraordinary effort to line up support there. That's smart, considering Bush has a few natural advantages over his Republican and Democratic opponents. First, his "compassionate conservatism" sells well among people feeling a twinge of guilt over all the money they're making, but looking for non-governmental solutions to social problems. Second, Texas is home to a number of high-tech companies, and Bush understands the industry better than most Republicans. And third, in a culture addicted to success, Bush looks like a winner.

The lead organizer for Bush in Silicon Valley is E. Floyd Kvamme (pronounced Kwa-may), a partner at Menlo Park's vaunted venture-capital firm Kleiner, Perkins, Caufield & Byers. Kvamme first met Bush last year, when he hosted a fund-raising breakfast for him. "He made a tremendous impression," recalls Kvamme, "talking about the importance of technology and how it benefited the California economy." Earlier this year Kvamme met with Bush in Austin at the urging of James Barksdale, the former CEO of Netscape and a Bush supporter. Impressed with how much Bush was willing to listen dur-

ing the meeting—"He's a bit of a sponge," says Kvamme—he returned and began mobilizing a crew of Silicon Valley titans to raise money for the governor.

Kvamme breaks down the other leading Bush operatives by age: Those in their twenties and thirties are being organized by Gregory Slayton, the 39-year-old president and CEO of ClickAction, a Palo Alto-based e-marketing company (its stock was up 469 percent last year). Timothy Draper, a local venture capitalist, is handling the fortysomethings, Barksdale of Netscape the fiftysomethings, while Kvamme says he's handling "the old guys" himself. The energetic Slayton is also the founder of Silicon Valley Bush 2000 (www.svb2000.com), a group organizing young professionals to support the candidate. At a July 1 fund-raising breakfast in Palo Alto attended by 500 people, Bush singled out Slayton. "He represents the young entrepreneur who's realizing the American dream," remarked Bush at the beginning of his speech. "Thank you, buddy."

So intense is the Bush effort in northern California that his supporters are reaching out to specific industries. Bob Grady of Robertson Stephens in San Francisco and Scott Ryles of Merrill Lynch in Palo Alto are two who have been targeting their fellow investment bankers, while Kathy Behrens of Robertson Stephens and Thomas Stephenson of Sequoia Capital in Menlo Park are working the venture capital community (Bush slept over at Stephenson's home the night before the July 1 fund-raising breakfast). On the CEO front, John Chambers of Cisco in San Jose and Brian Halla of National Semiconductor in Santa Clara have been talking Bush up among other industry dynamos. Bush also has an influential supporter in Tony Perkins, editor-in-chief of the *Red Herring*, a San Francisco magazine that covers the high-tech world.

A final feature of Bush's Silicon Valley schmooze has been the Technology Network, a bipartisan group in Palo Alto founded two years ago to help introduce elected officials to the region's players. In March, two of Technet's Republicans, Lezlee Westine and Margita Thompson, met with top Bush strategist Karl Rove to brief him on Silicon Valley (Rove has taken a special interest in the area). Shortly thereafter, 55 self-proclaimed "New Economy leaders" placed an ad in the *San Jose Mercury News* urging Bush to run for president. The ad, timed to appear on a day Gore was visiting the area, received heavy press coverage. Thompson, an adroit political operative, is now one of four salaried employees in Bush's Los Angeles campaign office.

Beyond Silicon Valley, Bush's chief politicos in the state are Brulte, the state senator, and Scott Saddler, one of his advisers. Brulte is recognized in Sacramento as the best political strategist in the legislature, and many believe his tactical decisions leading up to the 1994 elections were responsible for Republicans' winning an assembly majority for the first time in 24 years. The legislature's conservatives aren't so sanguine about Saddler, given his association with McNally Temple Associates, a decidedly moderate political consulting firm in Sacramento.

A potentially sensitive issue for Bush's California campaign is Pete Wilson, the state's former Republican governor. Wilson hasn't announced whether he'll support Bush, but a source close to him says he's been approached about it by Bush operatives. He's also been quoted indicating he expects Bush to be the nominee (Parsky, Bush's California chairman, is a close friend and supporter of Wilson).

While popular when he left office in January, Wilson still provokes strong feelings among many of the Hispanics Bush is trying to win over, and Democratic strategists have threatened to make an issue of a Wilson endorsement. Recent speculation has been that while Wilson will endorse Bush, his more public role will be to mobilize support for a pro-Bush "independent expenditure" tentatively titled "Shape the Debate," which will be directed by veteran California consultant George Gorton.

Regardless of Wilson's activities, the Bushies know California will be anything but an easy victory. "We all acknowledge it's uphill," says Dreier, pointing to a Democratic governor, two Democratic senators, and Democratic control of both houses of the legislature.

Indeed, one ominous signal for Bush if he wins the nomination are the words of Garry South, the senior political adviser to Governor Gray Davis. South says Bush can't win California in the general election because he's too conservative on hot-button concerns like abortion, guns, and the environment. "We wrote the book on how to slice and dice a candidate on those issues," boasts South, referring to Davis's dissection of Dan Lungren, his conservative opponent, in last year's gubernatorial election. "If we have to get out the Vegematic again, we will."

Bush returned to California for a four-city tour on September 28-30—he stopped in Silicon Valley for a fund-raising lunch—and more visits are in the works. No one knows just how many, but senior campaign advisers predict Bush will spend more time in California than any other state save Texas between now and the March 7 primary. That could deliver the boost Bush will need to seal the nomination. If he becomes the GOP nominee, the real test of his mettle will be whether he keeps coming back to California during the general election. If he does, and if he wins the state, he'll be the next president. ♦

Enemies of the First Amendment

The campaign finance reform proposals before Congress may sound attractive at first. Unfortunately, they muzzle free speech.

By Bobby R. Burchfield

For those who decry the amount and role of money in politics, the problem has an obvious solution: Simply outlaw certain campaign donations and strictly limit spending. To accomplish this, however, reformers must get around a long line of court decisions holding that restrictions on political giving and spending suppress political dialogue and thus violate the First Amendment's guarantee of free speech.

Fortunately for the country, there is no way around the First Amendment. The essential provisions of all campaign finance proposals—and that includes the Shays-Meehan bill passed by the House on September 14 and the less sweeping McCain-Feingold bill now pending in the Senate—inevitably fetter the political debate that is basic to our system of government.

Both the case for campaign finance regulation and this core obstacle remain essentially what they were when Congress passed the Federal Election Campaign Act of 1971 and extensively revised it in 1974. Congress recognized that the goals of regulation advocates—"leveling the playing field" by equalizing resources available to candidates, reducing the total amount of money in politics, and eliminating the reality or appearance of quid pro quo corruption—could be achieved only through a vast regulatory regime. The post-Watergate reforms attempted to regulate all activity that "influences a federal election" by imposing disclosure requirements, contribution limits on donations to parties and federal candidates, and spending limits on candidates and independent groups.

Even before they were fully implemented, large portions of the 1974 reforms were struck down by the Supreme Court as offensive to the First Amendment. In its landmark *Buckley* v. *Valeo* decision in 1976, the Supreme Court ruled that restrictions on political giving and spending have the direct effect of limiting core political speech. "The Act's contribution and expenditure limits," the Court held, "operate in an area of the most fundamental First Amendment activities." Since virtually all means of mass communication require money, limits on campaign spending "necessarily" reduce the number of issues discussed and the quality of the debate. The Court found it "beyond dispute" that campaign regulation was motivated at least in part by the desire to limit communication.

Buckley made clear that the only governmental interest in campaign finance sufficient to override these First Amendment concerns is the need to prevent "corruption," which the Court defined as the giving of dollars for political favors—essentially bribery. The Court unequivocally rejected efforts to reduce or equalize candidate spending as "wholly foreign" to the First Amendment. *Buckley* also emphasized the critical importance of letting both donors and spenders know what activities are subject to regulation. To provide notice to donors and spenders, the Court crafted the "express-advocacy standard"—that is, only speech that "expressly advocates the election or defeat of a clearly identified candidate" can be regulated.

Specifically, the *Buckley* Court upheld limits on the contributions individuals can make to candidates and parties for express advocacy in federal elections. (Corporations and unions had been barred from making federal political contributions for decades.) The limits—$1,000 in gifts to a candidate each election cycle and $20,000 each year to a political party for federal election activity—were deemed narrowly tailored to serve the compelling government interest of eliminating actual or apparent corruption. Disclosure requirements for giving and spending for express advocacy also withstood challenge.

But perhaps more important is what the Court refused to allow. *Buckley* struck down all efforts to limit the amount candidates, parties, and interest groups can spend.

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Since the moment *Buckley* was decided, campaign regulation advocates have attacked it. Common Cause, the Brennan Center for Justice (named, ironically, for the principal author of the *Buckley* opinion), and other pro-regulation groups unabashedly call for *Buckley* to be overruled. In a case currently pending before the Supreme Court, senators John McCain and Russell Feingold, joined by other congressional advocates of tighter regulation, have called the constitutional protections elucidated in *Buckley* a "straitjacket" preventing their proposed reforms. They are absolutely right. But it is the reforms that are defective, not the Court's understanding of the First Amendment.

An important by-product of the reforms of the early 1970s is the distinction between "hard" and "soft" money, hard money being money raised subject to the limitations of the Federal Election Campaign Act, soft money being everything else. Under current law, political parties are allowed to accept both soft and hard money, so long as they keep them in separate accounts and do not use soft money for express advocacy. The current wave of reform proposals aims to stamp out soft money—that is, to bring all political party spending under the regulatory net. The central feature of the Shays-Meehan bill, thus, is a ban on the solicitation or acceptance of soft money by national political parties. The bill would allow national parties to accept only fully regulated hard money.

But the Shays-Meehan bill would do much more. It would effectively prohibit preelection political advertising by corporations, unions, and other groups. Under *Buckley*, dozens of courts have rebuffed federal and state efforts to regulate corporate and union advertisements that do not urge the election or defeat of a clearly identified candidate. No problem. The House bill simply redefines express advocacy to encompass any "communication" on radio or television that *mentions* a candidate within 60 days of an election. Only hard money could be used to fund such advertisements—meaning, in disregard of settled First Amendment law, that corporations, unions, and other interest groups could not fund them. Shays-Meehan, in other words, would make it illegal for Common Cause, which raises all its money outside the Federal Election Campaign Act's restrictions, to pay for a radio advertisement on October 1 in an election year saying "Support the Shays-Meehan Bill." Virtually no one expects this provision to withstand constitutional scrutiny.

But the House bill would impose new restrictions on hard money as well. It would overrule the Supreme Court's 1996 decision in *Colorado Republican Federal Campaign Committee*, under which political parties have a First Amendment right to spend any amount of hard money to advocate the election or defeat of a particular candidate, so long as they do not coordinate that spending with the candidate. The House bill would prohibit such "independent expenditures" favoring a candidate if the political party also engages in any coordinated activity with the candidate—which it always does.

Finally, Shays-Meehan would punish any candidate who spent more than $50,000 of his *own money* on his campaign by denying him party funds. The Supreme Court held in *Buckley* that a candidate can spend as much of his own money as he likes, since he obviously cannot corrupt himself. Apparently members of Congress, a great many of whom first won election by spending from their personal or family fortunes, are now so secure in their huge fundraising advantage over challengers that they are willing to impose the $50,000 limit on all who run for office.

Days after the House passed the Shays-Meehan bill, senators McCain and Feingold introduced a pared-down version in the Senate. In its present form, the McCain-Feingold legislation would prohibit soft money donations to national political parties and provide some fairly meaningless protection for a small class of workers against use of their union dues for political activities. Commendably, McCain-Feingold abjures many of the offensive features of the House bill. It would not regulate speech by corporations, unions, and other groups; it would not limit independent expenditures by political parties; and it would not bar individuals from financing their own campaigns.

Even without those odious provisions, however, McCain-Feingold flunks the constitutional test. Like the House bill, it would prohibit the Republican and Democratic national committees and their affiliated congressional campaign committees from accepting soft money.

Unable to justify this provision by citing instances of bribery, advocates of the soft money ban must argue that soft money donations create the appearance of corruption. Donors, they say, receive unequal "access" or "influence" in the legislative process. But this argument is specious. The largest soft money donation to the Republican National Committee during the 1998 election cycle was $500,000, a lot of money, to be sure, but only .28 percent of the RNC's total receipts during that cycle. The largest soft money donation to the Democratic National Committee during the same cycle was $250,000, or .21 percent of its receipts. These donations cannot legally be earmarked to aid any specific candidate. Can anyone credibly argue that the RNC or DNC pressures its officeholders to change positions on issues—inevitably alienating other donors—to increase its receipts by a few tenths of a percent?

The tobacco companies, reformers cry, use soft money to buy influence. But during the 1998 cycle, while Congress was considering legislation that would have imposed

Patrick Arrasmith

hundreds of billions of dollars in additional taxes on the tobacco industry, the tobacco companies' donations to Republican party committees declined by almost 20 percent, from $5,232,789 during the 1996 cycle to $4,225,611. It is lobbying expenditures by tobacco companies that rose, reaching $77,474,400 in the 1998 cycle, eighteen times their soft money donations.

The fact is that special interests rely on lobbying, not soft-money donations, to obtain influence. During the 1998 cycle, the top ten corporate soft money donors gave the national parties $12,002,390—and spent $104,176,042 on lobbying. To believe that eliminating soft money donations to political parties would equalize access to legislators is simply naive.

Not only does the soft money ban, then, target a nonexistent problem, it also offends the Constitution in several respects. The Republican and Democratic parties are national parties. In addition to candidates for federal office, they help candidates for governor, state legislator, and mayor. And when they aid state and local candidates, they must comply with state law. Thirty states currently allow corporate contributions to parties; thirty-seven allow union contributions. Simply put, each of these states has made a sovereign legislative judgment about how campaigns for state office will be financed. Like the House bill, McCain-Feingold would summarily overrule those state judgments. It would impose existing federal contribution limits on national party participation in state and local elections, and would create a new federal contribution limit for state political parties. As policy, this is yet another instance of Congress imposing its will on the states. As law, it is an open assault on the Constitution's federal structure and on the powers reserved to the states by the Tenth Amendment.

Finally, the soft money ban would restrict the ability of political parties to engage in pure issue debate—about taxes, health care, gun control, and so on. The Supreme Court made clear in *Buckley* that speakers have an unfettered First Amendment right to discuss issues, using money from any source.

Clearly unconstitutional, a ban on soft money spending by political parties would also be ineffectual: It would simply cause corporations and unions to redirect their soft money resources—from donations to parties, which are fully disclosed, to independent issue advertising, which is not. Corporations and unions would remain free to mount blistering attacks on any candidate by name based on his character or voting record. So long as their speech did not expressly advocate the candidate's election or defeat, it would be constitutionally protected.

Senators McCain and Feingold appear to recognize that the restrictions on corporate and union issue speech in the House bill are unconstitutional. They are perfectly willing, however, to place political parties at a severe disadvantage in relation to such special interests. To join the issue debate at all, parties would have to divert their hard money from direct candidate support. The unavoidable effect of a soft money ban for parties would thus be an abridgment of the parties' political speech and a violation of their right to equal protection.

If restricting issue speech by corporations and unions, personal spending by candidates, and independent spending by parties is so clearly offensive to the First Amendment, why do campaign finance reformers keep trying to do it? The short answer is, they have to. Campaign finance regulation that addresses only party and candidate activity is doomed to fail, since political donors will inevitably use their resources to engage in independent speech that does not expressly advocate any candidate's election. Such speech is fundamental to our democracy. It encompasses virtually every public policy discussion on the air and in print—and is fully protected by the First Amendment.

The reformers know this. As they recently told the Supreme Court in a brief, the giant free speech "loophole" thwarts all efforts at "meaningful" reform. Why else would reform advocates ranging from House minority leader Dick Gephardt to presidential candidate Bill Bradley advocate amending the Constitution to clear away the First Amendment as an obstacle to increased regulation?

But free speech is not a loophole, it is the oxygen of democracy. Plainly overreaching, the regulatory scheme constructed by the House would certainly fail the test of constitutionality. McCain and Feingold, though intending to be more deferential to the Constitution, would leave open the means of evading their restrictions. Either way, the effort to ban soft money is doomed to fail. ♦

Team Clinton on the Supreme Court

The real record of Ruth Bader Ginsburg and Stephen Breyer, President Clinton's liberal judicial appointees.

By Andrew Peyton Thomas

The ideological fog that often blurs coverage of the judiciary seems particularly thick as the Supreme Court convenes this week for a new term. The press routinely describes Ruth Bader Ginsburg and Stephen G. Breyer, Bill Clinton's two nominees to the Court, as "centrist," or "moderate." In newspaper accounts, the word "pragmatic" follows their names as if it were an honorific.

Yet only someone at the far left end of the spectrum can honestly view the jurisprudence of Justices Ginsburg and Breyer as "moderate" or "centrist." It is true that the two Clinton appointees are not activists on the order of the late William Brennan and Thurgood Marshall, but that does not make Team Clinton "moderate" or "centrist." By such lights, Franklin Roosevelt would qualify as a conservative.

Since Ginsburg and Breyer joined the Court in 1993 and 1994, they have, almost without exception, come down on the liberal side of major constitutional disputes. Their opinions rely heavily on dry quotations from case law, a common Warren Court device. But their pedestrian prose belies a quietly persistent activism that is distinctly liberal and without any New Democrat qualifications. Particularly in regard to criminals' rights, Ginsburg and Breyer are greatly out of step with the poll-driven politics of the man who appointed them. The liberal "quartet" of which they are leading members has handed down many opinions that make for timely reminders that the 2000 presidential election is crucial to the rule of law. The next president will probably make at least a couple of Supreme Court appointments. If Clinton's are any guide, another Democratic president would give liberal activists on the bench a working majority.

Issues of federalism are a helpful starting point for gauging the politics of Ginsburg and Breyer. Both justices favor greater power for the federal government and a correspondingly diminished role for the states. They dissented, for example, in *United States* v. *Lopez* (1995), the landmark case in which the Court struck down the Gun-Free School Zones Act as exceeding Congress's authority to regulate under the Commerce Clause. *Lopez* reversed 60 years of unchecked federal self-aggrandizement at the expense of the states. In Breyer's dissent, which Ginsburg joined, they firmly distanced themselves from the Court's majority.

Similarly, in *Printz* v. *United States* (1997), Ginsburg and Breyer, along with Stevens and Souter, dissented from the majority's ruling against the Brady handgun law's requirement that local law enforcement officers perform—free of charge to the federal government—background checks on prospective handgun buyers. In his dissent, Breyer sought guidance on the proper constitutional order not from the intentions of the Framers, but from the "federal systems of Switzerland, Germany, and the European Union." (He did, however, note conscientiously that Madison and Hamilton explicitly "reject[ed] certain aspects of European federalism.")

Clinton's justices likewise have been reliable warriors for various social causes espoused by liberals. In *Washington* v. *Glucksberg* and *Vacco* v. *Quill* (1997), the Court upheld state laws in Washington and New York prohibiting assisted suicide. Ginsburg, however, joined Justice O'Connor's separate concurring opinion, which left open the possibility of recognizing a constitutional right to assisted suicide in the future. In another separate and concurring opinion, Breyer talked of a "right to die with dignity." Ginsburg and Breyer joined the majority in *Romer* v. *Evans*, which declared unconstitutional a voter-approved amendment to Colorado's constitution that prohibited special anti-discrimination laws for homosexuals.

Ginsburg and Breyer have been much less solicitous of the rights of religious minorities. Ginsburg was part of

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Illustrations by Jay Bevenour

Ruth Bader Ginsburg

the majority in *Board of Education of Kiryas Joel* v. *Grumet* (1994), which declared unconstitutional New York's creation of a single school district to serve an enclave of Hasidic Jews. In *Agostini* v. *Felton* (1997), the Court showed more favor toward religious freedom, causing Ginsburg and Breyer to dissent. The *Agostini* decision overturned a 12-year-old ruling in *Aguilar* v. *Felton* (1985), which forbade New York City from sending public school teachers into parochial schools to provide remedial education to disadvantaged children. Ginsburg's dissent, joined by Breyer, Stevens, and Souter, was unusually pointed by her normally staid standards. She accused the majority of not abiding by the Court's "non-agenda-setting character"—a curious remark given her liberal activism on so many other issues.

Ginsburg has not disappointed feminists who supported her nomination. She wrote the majority's opinion in *United States* v. *Virginia* (1996), which forced the Virginia Military Institute to admit female cadets after a century and a half of all-male enrollment and instruction. *Virginia* is the most radical feminist opinion handed down by the Court since *Roe* v. *Wade*. Brushing aside expert testimony, Ginsburg criticized VMI's reliance on "fixed notions concerning the roles and abilities of males and females" and "overbroad generalizations [that] make judgments about people that are likely to . . . perpetuate historical patterns of discrimination." Even so, in a footnote she acknowledged that VMI would have to "adjust aspects of the physical training program" because of "physiological differences between male and female individuals." In an eloquent dissenting opinion, Justice Scalia lambasted the majority for "abolishing public single-sex education" and for writing the "smug assurances" of the age into the Constitution.

Ginsburg and Breyer contributed again to feminist jurisprudence in *Miller* v. *Albright* (1998). The Court, in a 6-3 vote, upheld federal statutes that set different citizenship requirements for illegitimate children born abroad to U.S. citizens. If the *father* was a U.S. citizen, the offspring was required to obtain formal proof of paternity. As the majority opinion pointed out, a child's blood relationship to his birth mother is easily established by records, unlike a child's relationship with his father. In her dissent, which Breyer and Souter joined, Ginsburg argued that this long-standing law was based on "stereotypes" and violated the equal protection clause of the Fourteenth Amendment.

Breyer has also made it hard to mistake him for a moderate. Along with Stevens, he dissented from the Court's 1999 rulings in *Murphy* v. *UPS* and *Sutton* v. *United Airlines*, which held that the Americans with Disabilities Act does not include people with high-blood pressure or myopia.

But criminals' rights are more significant to the activist jurisprudence of Ginsburg and Breyer than either federalism or social issues. And here Ginsburg and Breyer prove, beyond a reasonable doubt, that they are no moderates. Criminals' rights is, after all, the realm in which a New Democrat earns his keep, for "centrist" voters and independents willing to look the other way at sex-related Oval Office felonies are far less tolerant toward those who would menace their own lives, liberty, and property. Yet there is no "New Democrat" jurisprudence visible on this court.

Ginsburg and Breyer dissented from the Court's 5-4 decision in *Kansas* v. *Hendricks* (1997) to uphold that state's Sexually Violent Predator Act, under which sex offenders likely to recidivate could be involuntarily committed. The defendant in *Kansas* was an intractable child molester with a 40-year record of pedophilia who freely conceded he might strike again. Hardly a candidate for rehabilitation, the defendant once said, "treatment is bull—." In his dissent, Justice Breyer, joined by Ginsburg, Stevens, and Souter, argued that the Kansas law violated the Constitution's ex post facto clause by imposing

additional punishment for the offender's crimes. The law must seek to "cure" rather than simply confine, Breyer stated, even while acknowledging a deep split among psychiatrists over whether pedophilia qualifies as a mental disorder.

In dissenting opinions, Ginsburg and Breyer have gone beyond merely preserving existing criminals' rights. In *Minnesota* v. *Carter* (1998), the Clinton appointees would have extended the exclusionary rule to throw out evidence obtained by a police officer who, while looking through a window from a public place, observed drug dealers packaging cocaine. Although the dealers did not live in the apartment and were not even staying there as overnight guests, Ginsburg and Breyer felt they deserved the same Fourth Amendment protection as the tenant. By contrast, Scalia in his concurring opinion noted that the Fourth Amendment was intended only to protect people in their own homes. Ginsburg and Breyer also would extend the exclusionary rule to bar the admission of allegedly tainted evidence not only in criminal trials, but in parole revocation hearings as well (*Pennsylvania Board of Probation* v. *Scott*, 1998).

The Clinton duo joined the majority opinion in *Thompson* v. *Keohane* (1995), which expanded the dictates of *Miranda* v. *Arizona* (1966). *Keohane* held that instead of deferring to state court determinations, federal courts should conduct their own factual reviews of whether a suspect was "in custody," and therefore in need of being read his *Miranda* rights. In their dissent in *United States* v. *Balsys* (1998), Ginsburg and Breyer insisted that the right against self-incrimination applies not only to people fearing prosecution in American courts, but also to those facing possible prosecution in a *foreign* country—a position that no other justice embraced.

In the last few years, Ginsburg and Breyer have actively undermined reform of habeas corpus litigation. In 1996, Congress passed the Anti-Terrorism and Effective Death Penalty Act to put an end to the multiple, frivolous habeas appeals that state inmates, particularly death-row inmates, file in federal court, creating decades-long delays. Ginsburg and Breyer joined the majority in *Lindh* v. *Murphy* (1997), a 5-4 ruling that held that the new law applied only to death-row inmates, not less serious offenders, exempting the vast majority of habeas petitioners.

These two justices later joined the majority in another 5-4 vote in *Hohn* v. *United States* (1998), which gave the High Court jurisdiction to review lower federal court decisions that denied applications for appeal. In a dissent joined by Rehnquist, O'Connor, and Thomas, Scalia remarked that "the Court ignores the obvious intent of the [1996 law], distorts the meaning of our own jurisdictional statute, and overrules a 53-year-old precedent." In another dissent, Ginsburg and Breyer, along with Stevens, would have had the Court rule that a state inmate need not even present all claims to a state supreme court before availing himself of his federal habeas rights.

Ginsburg and Breyer have sought to bolster the rights of prisoners and allow them to sue their keepers more easily. In *Sandin* v. *Conner* (1995), the Court held that prisons do not have to afford inmates a mini-trial before placing them in disciplinary segregation. In separate dissents, Ginsburg and Breyer argued the due process clause of the Fourteenth Amendment required such proceedings. In *McMillian* v. *Monroe County, Alabama* (1997), Ginsburg filed a dissent joined by the Court's other three liberals that maintained that inmates should be able to sue county sheriffs as well as state prison officials under federal civil rights laws.

Breyer wrote the majority opinion in *Richardson* v. *McKnight* (1997), in which the Court held, 5-4, that guards working at private prisons are not entitled to qualified immunity from suit by prisoners alleging a violation of their federal civil rights. Breyer argued that "History does *not* reveal a 'firmly rooted' tradition of immunity applicable to privately employed prison guards," adding that "we have found no conclusive evidence of a historical tradition of immunity for private parties carrying out these functions."

In a dissent joined by Rehnquist, Kennedy, and Thomas, Scalia took issue with this historical survey. He reported that "as far as my research has disclosed, there may be more case-law support for immunity in the private-jailer context than in the government-jailer context." Scalia further noted, "The only sure effect of today's decision—and the only purpose, as far as I can tell—is that it will artificially raise the cost of privatizing prisons."

The Supreme Court's death penalty decisions have probably the most to teach us about the liberal activism of New Democrat appointees. There is no mistaking the bias at work in the death penalty opinions written by Ginsburg and Breyer. During Ginsburg's six years on the Court, 19 appeals of death sentences have generated full Court opinions. In those 19 cases, she has sided with the convict 13 times. In his five years on the bench, Breyer has ruled in favor of the death-row inmate in 10 of the 14 cases on the High Court's docket. And two of the cases in which they ruled against the murderer—*Felker* v. *Turpin* (1996) and *Calderon* v. *Ashmus* (1998)—were unanimous, narrowly drawn decisions.

Before Breyer was appointed, Ginsburg had a 3-2 record of ruling in favor of the convict. His confirmation only emboldened her liberal instincts. Since Breyer

Stephen Breyer

joined, she has been 10-4, exactly the same as Breyer, with whom she votes in lockstep. Frequently, Stevens and Souter join them. In short, the Supreme Court is one vote away from having a majority that is obstructionist against the death penalty.

Ginsburg's earliest anti-death-penalty ruling was *Powell* v. *Nevada* (1994). Kitrich Powell was arrested for felony child abuse of his girlfriend's 4-year-old daughter. When she later died of her injuries, Powell was charged with and convicted of first-degree murder. On appeal, the Supreme Court considered whether he had been given a probable cause hearing within sufficient time. Writing for the majority, Ginsburg applied retroactively a Supreme Court ruling that required probable cause hearings to take place within 48 hours of arrest. Since Powell did not receive a probable cause hearing until four days after his arrest, his incriminating statements had to be suppressed, even though, as Thomas noted in a dissenting opinion, the "statement was not a product of the [48-hour] violation."

The most peculiar example of Breyer's death-penalty jurisprudence is his dissent earlier this year to a memorandum opinion, *Federal Republic of Germany* v. *United States* (1999). Arguing that Arizona's pending execution of a German citizen would violate the Vienna Convention, Germany sought an injunction. In a per curiam decision, the Court denied Germany's request. In his dissent, which Stevens joined, Breyer argued, "in light of the fact that both the International Court of Justice and a sovereign nation have asked that we stay this case . . . I would grant the preliminary stay that Germany requests." By Breyer's reasoning, not only should death-row inmates be empowered to continue filing frivolous habeas appeals, foreign countries should be given veto power over the timing of our executions.

Ginsburg and Breyer have signed onto some other notorious opinions. Consider *Calderon* v. *Thompson* (1998), yet another horror story from the Ninth Circuit. In 1981, Ginger Fleischli's body was found buried in a field 10 miles from Thomas Thompson's apartment near Laguna Beach, California. A rope as well as a sleeping bag and blanket were around her half-dressed body; her head was wrapped with duct tape, and five stab wounds penetrated her head near the right ear. Thompson was convicted of her murder and sentenced to death in 1983. After multiple appeals and finally a request for a rehearing by the full court, a panel of Ninth Circuit judges in June 1997 denied further appeals by the condemned man. California officials scheduled Thompson's execution for August 1997.

Then just two days before the scheduled execution, a closely divided Ninth Circuit (now including two judges who had not participated in the earlier panel) vacated Thompson's death sentence on the grounds of ineffective assistance of counsel. The court said that errors by a judge and a law clerk had invalidated the proceedings.

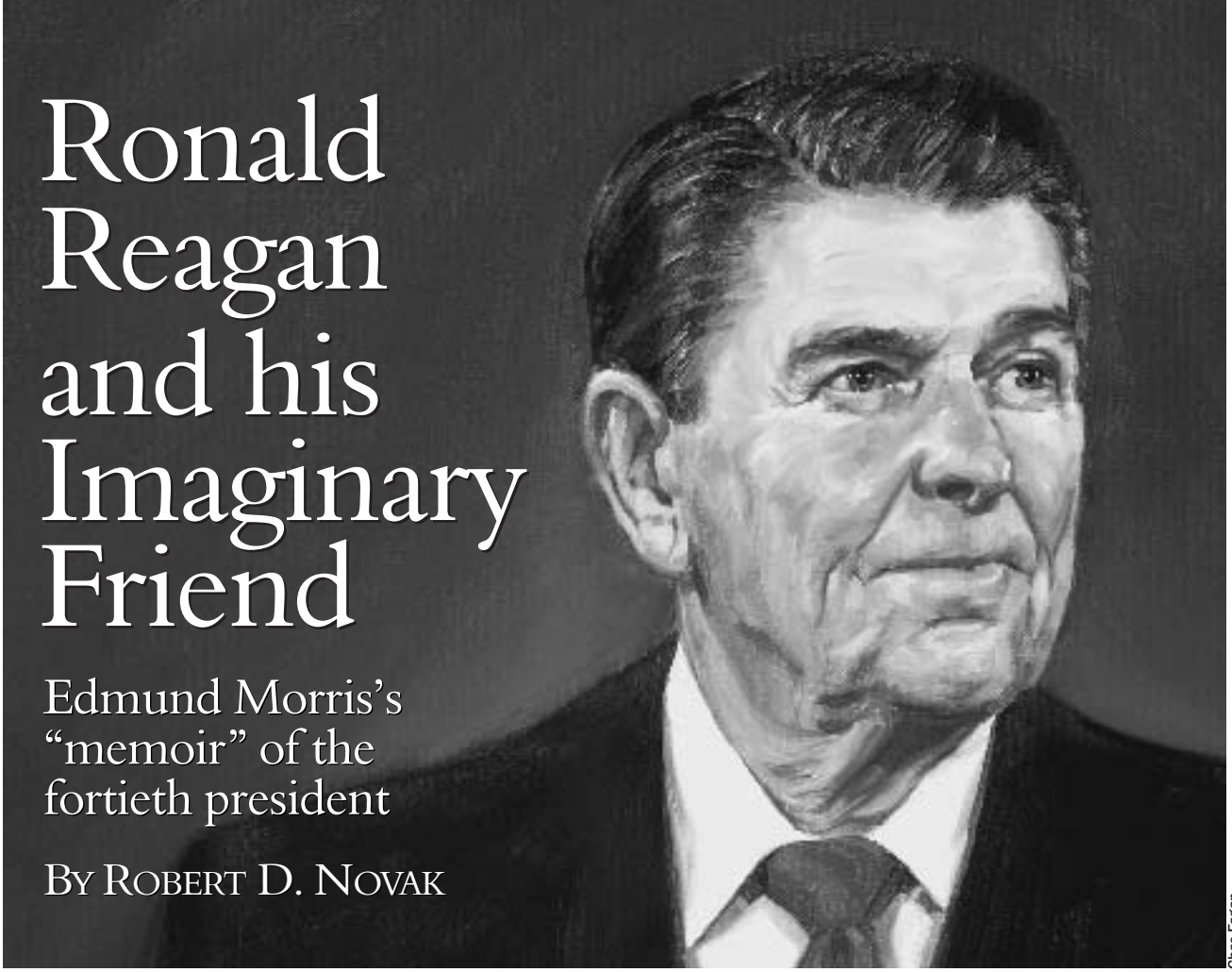
In the Supreme Court's majority opinion, Justice Kennedy wrote, "It would be the rarest of cases where the negligence of two judges in expressing their views is sufficient grounds to frustrate the interests of a State of some 32 million persons in enforcing a final judgment in its favor." Nevertheless, Ginsburg and Breyer, along with Stevens, signed onto Souter's dissent, which defended the judges' last-minute intrigue.

The jurisprudence of Ginsburg and Breyer should serve as a clarion blast to conservatives toying with apathy or a third-party vote in the 2000 presidential election. On a wide range of key constitutional issues, the liberal bloc on the Supreme Court is one vote away from a liberal activist majority. And the cases of Ginsburg and Breyer have taught us that self-styled "moderate" Democratic presidents appoint immoderately liberal judges. ♦

Ronald Reagan and his Imaginary Friend

Edmund Morris's "memoir" of the fortieth president

BY ROBERT D. NOVAK



Chas Fagan

Somewhere in this collage of fancy, notes, and errant musings might be found a legitimate biography of the fortieth president of the United States. Certainly, Edmund Morris did not spend the last fourteen years idly waiting for the muse to seize him. Quite apart from his unprecedented access to Ronald Reagan and the presidential diary, he poured through thousands of boxes in the Reagan library and interviewed hundreds of sources. If the literary affectations and fictional aberrations were ruthlessly torn from *Dutch*, might a skilled editor uncover a valuable account of Ronald Reagan?

Not really. Strip away Morris's pretentious bric-a-brac, and what would be left is still a grossly inadequate biography. The high points of a historic presidency are consistently misinterpreted and distorted. Reagan's great accomplishments are minimized or glossed over while irrelevant failings are dwelled on. The 674-page tome (followed by 155 pages of notes) is filled with irrelevant and tedious digressions, yet hurries over an incomplete exposition of great events. It is difficult to believe that this is the Edmund Morris who wrote so elegant a conventional biography as *The Rise of Theodore Roosevelt*.

The trepidation the admirers of Reagan felt while waiting for this long-overdue book (originally scheduled for 1991) derived from two sources. It was rumored that Morris would report that Alzheimer's disease actually seized Reagan while he was still president. And it was feared that Reagan would be presented as a hollow man, a puppet king manipulated by his captains.

Dutch
A Memoir of Ronald Reagan
by Edmund Morris
Random House, 874 pp., $35

Neither fear now seems justified. One of Morris's least equivocal findings is that the disease did not seize Reagan until he was at least three years out of the White House. And Morris makes clear that, for better or worse, the important decisions of the Reagan administration were the president's own.

But having said this, *Dutch* presents—and embroiders—the conventional liberal wisdom about Ronald Reagan, and the book will be read with satisfaction by the president's detractors. Over the last three years of the presidency Morris (as the authorized biographer and silent observer of presidential meetings) had the opportunity to view Reagan closely, and in *Dutch* he refers to the president's "encyclopedic ignorance" and "hardening of his mind." Reagan lacked "intellectual energy" and "had long since abandoned inquiry for the reiteration of old certainties." "Reagan was, after all, an old man, with scar tissue near his heart and steadily atrophying powers of concentration." "An apparent airhead" emerged in the interviews with the author. "Beyond amazement, I was distressed by the relentless banality, not to say incoherence, of the president's replies."

Robert D. Novak is a nationally syndicated columnist for the Chicago Sun-Times *and a CNN commentator.*

This surely was not what Nancy Reagan and Michael Deaver had in mind when, entranced by the Pulitzer prize-winning biography of Roosevelt, they selected Morris to write about the man whose greatness they wanted to preserve for posterity. Whatever the inherent merits or demerits of court biographers, the choice of Edmund Morris was monumentally bad.

A native Kenyan and naturalized American, Morris is neither an academic historian nor a professional political writer. An advertising copywriter in London and New York before surprising the world with his Roosevelt book, he makes it clear that he neither likes nor understands politics. *Dutch* disposes of Reagan's 1980 campaign in a page and a half and his 1984 reelection in half a page. It is as though David Halberstam disdained basketball when he set out to write his biography of Michael Jordan.

Just as Jordan is essentially a basketball player, so Reagan was quintessentially a politician, from all the way back to his early manhood. Morris's failure to come to grips with this reality leads him to complain about his "unfathomable" subject, with secrets "buried in the alabaster depths of Ronald Reagan." He quotes a supercilious Canadian ambassador to Washington as calling Reagan "the most enigmatic character of modern times." When Morris tells Reagan this, the president replies in shock: "That's me? I think I'm an open book."

Indeed, he is. What puzzles liberals as well as his biographer is not Reagan's complexity but his simplicity. How could someone so primitive in his belief in his country, private enterprise, and the evils of communism capture the affection of his countrymen and, albeit begrudgingly, be considered a successful president? Morris describes his research at the Reagan Library: "I would pull another gray box toward me, wondering which of its miscellaneous folders might disgorge Dutch's Rosebud." Morris was so perplexed that, addressing fellow authors years after the book was due, he revealed a massive writer's block.

His solution was to transform a biography into a "memoir" by inventing a doppelgänger of himself, a contemporary of Reagan born a quarter century before the real Morris, not in Nairobi but in northern Illinois, who was briefly a classmate of the future president at Eureka College and tracks him until he supposedly merges with the real Edmund Morris in the late 1960s. Nor is he the sole fictional character. The author invents for his character parents (his father ran for mayor of Aurora, Illinois), a son (an SDS Weatherman who helped write the Port Huron statement and was then driven underground by Reagan), and a fellow Eureka student who becomes a newspaper columnist.

The problem is not merely that Morris inserts these apparitions into an otherwise conventional biographical structure. On occasion he turns his book into a motion picture script that might have been fresh and innovative when John Dos Passos did it seventy-five years ago. Morris sometimes quotes verbatim from his own notebook and is prone to rely on unsubstantiated sources. Abjuring any attempt at seamlessness, the biographer is almost always present—sometimes as the doppelgänger and sometimes as the real Edmund Morris.

This is surely not what Nancy Reagan and Michael Deaver had in mind when they selected Edmund Morris to write the president's biography.

From the beginning, the author poses unanswered questions about his arch techniques. Why "Dutch," a nickname not used by anyone for sixty years? Why the book's dedication to Christine Reagan, the child of Ronald Reagan and Jane Wyman who lived only a few hours after her birth in 1947 and whose memory was limited to her parents' recollections? Perhaps because of Morris's attempts to link Reagan's unexceptional boyhood to his extraordinary manhood.

The early years that might be swiftly covered in a conventional biography's first chapter stretch out for a hundred pages as Morris indulges the pretentious analysis that sets his tone: "the child was already sheathed in a strange calm. The paralysis of sensibility was what steadied his heart when he walked down those steps in Geneva to introduce himself to Mikhail Gorbachev."

The fictitious Morris, strangely obsessed by the young Reagan as a lifeguard, spies on him one summer day:

> Apparently, he had just been for a dip, because the fabric steamed the sun. He yelled a warning at some urchins leaning over the platform rails, sat down under an oak tree, took off his glasses and opened his book. I craned my neck to look at the title: *A Princess of Mars*, by Edgar Rice Burroughs. He began to read. The day was hot and still. Presently he shrugged off the top of his damp suit. The loops fell away, leaving behind pale ghosts of themselves.

Morris attempts to connect this Dutch Reagan with the mature Ronald Reagan. "I was introduced to Dutch several times, and each was the first as far as he was concerned," he writes in his fictitious guise as a Eureka student—reflecting a lifelong characteristic of Reagan. In his recounting of a student play at Eureka, he writes: "How often in later years I was to see that same frown when aides altered the President's schedule."

But Morris's digressions to create an imagined life for his doppelgänger in fact diminish the focus on the young Reagan and grow tedious as the author strives for verisimilitude:

> Signing on with the Federal Writers Project had been easy, given the Chicago office's self-image as a relief agency for intellectuals. All that one needed to do was confirm that one had tried and failed to sell manuscripts to commercial publishers and I certainly had proof of that. . . . [T]he work was delightful. Along with about fifty other hacks, I had to write a thousand words a week for what eventually became *Illinois: A Descriptive and Historical Guide* (Chicago, 1939).

When Morris gets to Reagan, the tone is dismissive. When, after taking a Hollywood screen-test, he told the studio that he must return to his radio job



Random House, UPI/Corbis-Bettman

Ronald Reagan as a young man, an actor, and president.

in Des Moines before hearing the results of the test, Reagan was intuitively evoking an aloofness that would always serve him well. But to Morris it was "that fatal insolence, equally composed of adrenaline and testosterone that surges up in young men at moments of uncontrollable excitement." As a featured actor, Reagan is described as showing "that infallible sign of a bad actor, the inability to listen." Morris's imaginary mother declares: "He's a bit too oilyslick for my taste." Morris's imaginary columnist friend Paul Rae is quoted as saying of Reagan's widely praised performance in the film *Kings Row*: "Dutch too nervous, straining at charm—the effort makes him seem over-rehearsed."

Morris's fictitious "war diary" of 1943 relates:

> Dutch has discovered *Reader's Digest*. Reveres it as the sum of all human wisdom, monthly added to. Its indiscriminate accumulation of facts, whether sterile or insignificant, its braying religiosity, its virginal jokes & muscular Christianity arouse his simple wonder that the world can be so ordered & decent, so endlessly interesting.

The biographer is addicted to single sources for his revelations. The sole basis for the astounding claim that before World War II Reagan tried to join the Communist party is the superannuated Communist novelist Howard Fast, who is quoted as saying Reagan "said he was determined to join. They discussed it with the local Party leader, who asked around, and word came back that Reagan was a flake." "FFL" (the former first lady, Nancy Reagan) is the sole source for the claim that the previous Mrs. Reagan, Jane Wyman, "said she would kill herself if he didn't marry her."

But the seminal event of Reagan's Hollywood years, his evolution from New Deal Democrat to conservative Republican, is lost amid Morris's preening. Reagan's introduction to Communist-battling as head of the Screen Actors Guild is obscured by snideness. Reagan eventually became "free to identify himself with the kind of rich Republicans he had gotten to know since marrying Nancy: hard-tanned men who wintered in Scottsdale, talked mostly in digits and ornamented their dens with Steuben glass eagles." As for Reagan's role as an FBI informer, pointing out subversives in the motion picture industry, the author can only write: "I taxed him on the subject one day, and he retreated behind such a fog bank of circumlocution that there was no way to pursue him without shipwreck."

Amid all this bashing, the biographer is oblivious to strong currents in Reagan's development. Morris largely ignores Reagan's complaint spelled out in his autobiographical *Where's the Rest of Me?* in 1965 (a fascinating book deemed by Morris to be "unreadable by anybody of sound mind") that his conservatism deprived him of movie roles. Morris also ignores the eye-opening quality of the New Deal supertax on rising actor Reagan, except to comment—in his doppelgänger role—on Reagan's complaints in the 1950s about the 91 percent federal income tax rate: "If I had known what a passionate tax reformer he was to become, I guess I would have taken note of the early assaults upon Uncle Sam." Ignoring the impact on Reagan made by the 100,000 General Electric workers he addressed as the company's official spokesman, Morris suggests it was "the same worker 100,000 times."

Morris's account of Reagan's governorship omits and confuses important events known to any political reporter. He omits Reagan's surrender to state income tax withholding—an example of the man's pragmatism when he saw no alternative. Contrary to unsubstantiated claims that Reagan showed "a growing remoteness in his manner" after eight years as governor, he shed his movie star aloofness and became accessible to rank-and-file state legislators.

Neglecting the political give and take of Reagan's rise, Morris dwells on the details of the 1981 assassination attempt: "Apart from the debilitating effects of surgery and fever, he had traded half of his own fresh blood for the staler, cooler contributions of strangers—a major psychological insult from which he would never entirely recover." But he never returns to the subject.

The account of the epochal eight years of the administration (a point reached four hundred pages into the book) is abysmal. Reagan's breaking of the air controllers' strike, against the wishes of his political advisers, is not treated as the signature early event that signaled to the rest of the world that here was a man that could not be trifled with. The 1981 tax cut that revived the economy is viewed with contempt ("nobody really knew just how many billions of debt the President was about to visit on the Treasury"). The arms

buildup in the face of a rampant Soviet Union on the march worldwide is derided ("the Pentagon became a second Fort Knox"). The essentially irrelevant controversy over Reagan's visit to the German military cemetery at Bitburg is called the "crisis of his career."

What truly interests Morris is Reagan's relationship with Mikhail Gorbachev, whom Morris admires extravagantly. "Dutch in his way is more of an ideologue than Gorbachev—who at least acknowledges the derelictions of his own system." On hand as official biographer to record the first Reagan-Gorbachev encounter at Geneva, Morris takes exception to Reagan's tough line recollecting Moscow's reluctance to give Allied bombers landing rights in World War II: "I thought he might have had the grace to acknowledge that the Red Army spilled a lot more blood to win the war than we ever did."

Morris was not at the historic Iceland summit, bumped from the plane by the chief of staff, Don Regan. That may explain his hasty and incomplete exposition of a historic event in which the president, overpowering Secretary of State George Shultz and other advisers, adjourned in disagreement rather than abandon the Strategic Defense Initiative. It was the turning point of the Cold War, after which the Kremlin knew it could no longer compete, but Morris does not understand: "A public relations blitz engineered by his communications director Pat Buchanan had persuaded many Americans that Reykjavik was the greatest diplomatic triumph since the Louisiana Purchase."

For all the emphasis this book places on the U.S.-Soviet relationship, Morris misses Reagan's rhetorical triumphs. "'Mr. Gorbachev, tear down this wall,' declaims Dutch, trying hard to look infuriated, but succeeding only in an expression of mild petulance. The occasion too staged, the crowd too small and well-primed, to make for genuine drama." As for his famous, heart-stopping speech at Moscow University, Morris writes that the Russian students understood that Reagan "is old and somewhat naïve and the dupe of some of his own sentimentalities. They know he is talking nonsense, but they forgive him because they know his heart is good."

Considering the fourteen years committed to the project, *Dutch* abounds with mindless errors. Secretary of Housing Sam Pierce was not "the only black man in the Reagan Administration." Morris contends that "El Salvador's current 'democratic' regime was so reactionary as to make Somoza's [dictatorial regime in Nicaragua] look benign," when in fact the Salvadoran president at the time was the liberal Christian Democrat Jose Napoleon Duarte. He suggests that for the asking, Reagan could have been Richard Nixon's vice president after Spiro T. Agnew's resignation, when in fact it never was possible.

The worst error is the biographer's judgment about the Iranian-laundered aid for the Nicaraguan contras: "My suspicion, for what it's worth, is that Dutch did authorize the transfer, not having the smallest comprehension of the laws he was subverting." It's not worth much, since he has no sources. He did not ask the one man who would know, because "by proclaiming himself to Congress as a liar, Colonel North has forfeited any claim to the truth." For this book, Morris interviewed Gay Talese, Charlton Heston, and Pat Boone, but not Oliver North.

In a television interview on *60 Minutes* to usher in the book's promotion, Morris calls Ronald Reagan "a great president and a great man." I cannot find those words in *Dutch*. Nor can I find an appreciation of how the man lifted the spirits of the nation, another point made by the author in television interviews. Whether Edmund Morris was saying one thing for the book-buying public and writing something else for posterity, Ronald Reagan awaits a true biographer to do him justice. ♦

Lives and *Times*

America's paper of record and the story of dynastic succession in a democratic age. **BY NOEMIE EMERY**

In the late 1980s, when Prince Charles visited the United States, he asked to meet his American counterparts—the people who shared his pressures and problems. And so he dined with the blood heirs of publishers: Donald Graham, the son of Philip and Katharine Graham and the grandson of Eugene Meyer, owners of the *Washington Post* and *Newsweek*; and Arthur Ochs Sulzberger Jr., the son of one Arthur Sulzberger and the grandson of another, publishers of the *New York Times*.

Charles made the right choice. Our leading newspapers—our self-proclaimed guardians of republican virtue in the most democratic of modern societies—run themselves on the most traditional form of aristocratic descent.

The Trust
The Private and Powerful Family Behind The New York Times
by Susan E. Tifft and Alex S. Jones
Little Brown, 870 pp., $29.95

This gives their national role an interesting tension and, with their undoubted power, it makes their family lives as fascinating as any tale of Roosevelts, Rockefellers, or Kennedys. Christopher Ogden made a riveting book out of the story of the Annenberg publishing family. Katharine Graham wrote a memoir entitled *Personal History*, a casting of her own tale as a royal princess who was forced by adversity to ascend a publishing throne and yet managed to hand on an expanded empire to her son. Two recent books—one by Marie Brenner and another by the husband-and-wife team of Susan E.

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Tifft and Alex S. Jones—dissected the fall of the Binghams of Louisville, a family that started imploding with the death in a freak accident of the crown prince, Worth Bingham, and developed into a Lear-like battle among his princess sisters. And now, with *The Trust*, Tifft and Jones have given us the story of the owners of the *New York Times*, the House of Windsor in the publishing galaxy—and, like the Windsors, filthy rich, encrusted with honors, and probably well past their prime.

The *Times* is the most clannish of newspapers, seeding cousins, nephews, and in-laws liberally through its news and business departments. But that may be because of the way they picture themselves. Other publishers put out a paper. But, as Tifft and Jones make clear, the Ochs-Sulzberger clan see themselves as the custodians of something quite rare and precious, a national treasure. "I have come to believe that what is good or bad for the *Times* is good or bad for every American," the financier Thomas Lamont once wrote to the family, which concurred with his feelings. As another friend put it, "It's as if they were overseeing the National Gallery of Art."

But even art doesn't describe it: The family members tend to confuse the firm at least with religion and possibly with God. The language in *The Trust* is heavy with biblical reference. There was the covenant between the *Times* and its readers. The family matriarch Iphigene Ochs Sulzberger is described as speaking in parables and her grandchildren as the disciples who will carry on her work in the world. "For many," Tifft and Jones write, "working for the *New York Times* was both a mission and a substitute family," with alumni coming back frequently to visit the paper and "reconnect, if only for the moment, with something larger than themselves"—which suggests that their employees shared the beliefs of the Ochs-Sulzberger family. Much has been made, in this book and elsewhere, of whether the family has been too Jewish, or not Jewish enough, or, in leading branches, Jewish at all. But it scarcely matters. As Jews and as Protestants, the family members have ranged from indifferent to agnostic. But none of them has disbelieved in the one true religion of the *Times*.

Both the clan feelings and the sense of mission descended from the founder, Adolph Ochs. Born in 1858 to Bavarian immigrants, Ochs became the owner of the *Chattanooga Daily Times* when he was only twenty. Eighteen years later, he expanded his influence, buying the decrepit *New York Times*. In a market dominated by partisan tabloids, he carved out a quality paper, seeking ads from the higher priced merchants, while promising a "clean, dignified, and trustworthy"

Adolph and Effie Ochs in 1933.

paper, dedicated to giving the news "without fear or favor, regardless of party, sect, or interests involved." Where his rivals sought confrontation, money, and power, Ochs craved admiration. "By the turn of the century," the authors report, he "had fostered a mystique about the *Times* that had many convinced that the paper was on its way to becoming the greatest in the nation. . . . His technique was to create the appearance of sweep and majesty, and then to work relentlessly to make it a reality," plowing back profits to better the paper.

It paid off brilliantly during World War I, when the *Times* found its niche as the Paper of Record, creating an unrivaled diplomatic archive and expanding war coverage by cleverly anticipating where the next battles would happen. The *Times* came out of the war with a Pulitzer Prize and enhanced stature as almost a new branch of government.

A dynastic trust demands a succession, and the family behind the *New York Times* has always had an imbalance of daughters—which has brought a series of battles over the years as male cousins and nephews struggled for power with the husbands of the girls. Ochs had one child, a girl. Iphigene Ochs, her father decided, could not herself become publisher, but—as the *Washington Post*'s Eugene Meyer thought of his daughter, Kay—she could at least bring one into the family. And so it was made a condition of her marriage to the dashing Arthur Hays Sulzberger that he leave his job in his own family's business and come to work for the *Times*. Immediately, he was plagued by the son-in-law syndrome that would help drive Kay Meyer's husband Philip Graham to suicidal depression, struggling to earn retroactively what he had already been given.

Like Graham, Sulzberger reacted with obsessive work that would bring on near-breakdowns, while being unfaithful to and frequently insulting Iphigene. "When you work for your wife's father, there's an enormous desire to assert yourself in some way," said his old friend Charley Bartlett. "Bedding beautiful women boosted his self-confidence, gave him something indisputably his own, and kept Iphigene off-balance, thereby maintaining his masculine prerogatives of power and potency," Tifft and Jones insist.

There was a long affair with the stunning blonde actress Madeleine Carroll (whose ex-husband would later marry one of the Sulzbergers' daughters), whom Arthur invited to visit his family, where Iphigene received her as an honored guest. Like Graham, Sulzberger cut a more glamorous figure than his intelligent wife and sometimes enjoyed letting her know it. At a posh family dinner, Sulzberger ostentatiously presented his wife with a small pig made of seashells, with the message, "Happy Birthday to My Shellfish Pig."

Iphigene could twist the knife herself, on occasion. At the celebration of Arthur's twentieth anniversary as publisher, as he was harvesting greetings from President Eisenhower, Adlai Stevenson, Winston Churchill, and other notables, her toast took the crowd's breath away: "Dear Arthur. Once more you must admit that I am right. If this were not a man's world as I've always insisted it is, I would not be left out in the cold tonight. If I'd been the boss's son, instead of his daughter, this party might have been for me instead of you."

But Arthur's tenure saw the *Times* reach its peak. As the United States became the world's greatest power, the publisher of the most important paper to cover it became by extension a figure of worldwide significance. Traveling abroad frequently, he was treated as the head of a sovereign country; his speeches and statements on political matters recorded by his and others' newspapers as news. In Britain in 1942, he lunched with Lord Mountbatten, conferred with Dwight Eisenhower, and dined at Chequers with Winston Churchill, whose American grandfather, Leonard Jerome, had been a director of the *New York Times* in its pre-Ochs days.

These were the decades when Philip Graham and his friend Joseph Alsop could pressure friend John F. Kennedy to put their other great friend Lyndon B. Johnson on his national ticket and thus alter history. But when Arthur took to giving out New Year's greetings over the *Times*'s radio station in the rolling patrician tones of a Franklin D. Roosevelt, even his family thought he was going too far.

Yet no one could deny the paper's centrality. When General Leslie Groves, the man in charge of directing the Manhattan Project, wanted an official version of the story of how the atomic bomb was developed, he chose as his Boswell William L. Laurance, the science reporter for the *New York Times*. So Arthur Sulzberger, the man who years before had the good fortune to marry Mr. Ochs's daughter, became one of the very few men in the country to know in advance that the United States would drop the atom bomb on Japan.

As the 1950s wore on, Arthur Hays Sulzberger faced dynastic problems of his own. He and his wife and his wife's father had watched anxiously as he and Iphigene had produced three girls in a row. But when the longed-for boy did arrive—called Punch, for his ties to his big sister, Judy—he was rapidly pushed to one side. A poor student, and a diffident child, he did not much impress his high-powered bon-vivant father, who began looking elsewhere for heirs.

His eye settled on his eldest daughter's husband, Orvil Dryfoos, a quiet broker on Wall Street who was thrilled


Orvil Dryfoos

to leave his job to become heir in training, and who had wooed his wife by showing her, in his parents' apartment, his carefully saved back issues of the *Times*. Orvil was seen as the hand on the tiller, the steady presence, the "coach," who would keep things in order. Meanwhile, Punch, the blood heir, was being put through his paces in a half-hearted process of training to do something, though no one was quite sure just what. In royalist terms, "Punch had become the *Times*'s version of the Prince of Wales, hapless, not taken seriously, and without a job of substance," set by his father to do over the men's room, and water the trees outside of the news plant.

Assuming the publisher's throne in 1961, Orvil was greeted on his first day with a brief half-day strike—and when he returned to his office after settling the strike, he found that a Steuben glass owl given him by Punch and his sisters had somehow been broken in half. It was an omen, as bleak as the jeweled cross that had tumbled from the crown of England on the accession of Edward VIII. Two years later, after the ending of a brutal 114-day walkout, Orvil was dead of a heart attack, literally killed by the strike.

With this, the succession, which might in time have been diverted to Orvil's son Bobby, moved back to the male Sulzberger line. Put in at the insistence of his wife and his grandmother, Punch in his time would prove the good steward, standing up to presidents, unions, *Times* poobahs, and shrill left-wing cousins; seeing the paper through the Pentagon papers, the installation of the op-ed page, and the breakout in 1971 from two to four sections, the addition of which—feature-like sections on the arts, food, decor, and science—would save the paper from fiscal catastrophe. It was a modernized *Times* he passed on to Arthur Ochs Sulzberger Jr., his only son, from the first of three marriages.

Beginning and ending with the triumphal party in 1996 when the family celebrated the centennial of Ochs's great purchase, Tifft and Jones's *The Trust* is intended as a success story—which in some measure, it is. After a century, the *Times* is still an important paper, and its ruling family still has not fractured; two tricky successes for a dynasty.

So why does this talk of the *Times* as a trust, a cathedral, now seem so dated? Part of the reason has to do with the times, not the *Times*. The great days of the newspaper came in the age of the great institutions: the Big Three car manufacturers, before foreign imports; the Big Three television networks, before video, dishes, and cable; the big labor unions, before the unionized worker gave way to the small entrepreneur and the home office. The *Times* started out before weekly national news magazines like *Time* and *Newsweek*, flourished before televised coverage, and peaked before C-SPAN and the all-

news-all-the-time networks. The *Times* is still the most complete paper, but the *Washington Post* and the *Wall Street Journal* do some important things better, and are usually much better written. Serious newspaper talents are more likely to start at the *Times* and move elsewhere than to seek out the *Times* at the height of their powers. The *Times* is no longer *the* paper, but merely *a* paper, though of the uppermost tier.

Much more than merely the changing times has gone wrong with the *Times*, however. Its three pillars, as defined by its founder, were comprehensiveness, fairness, and dignity. But the new heir—loathing privilege as only someone who got his job by being somebody's great-grandson can loathe it—has embraced an agenda of identity politics and left-leaning values.

And at the same time that the paper veered socially far left of center, Ochs's iron wall of separation between the editorial and the news sections began springing serious leaks. A gay reporter dying of AIDS was allowed to cover gay themes in the news pages while remaining an activist. Much worse than all this were the campaigns carried on in the news pages against black conservatives, the most egregious of which was a notorious profile of quota foe Ward Connerly, which gave the impression that minority opponents of the *Times*'s editorial agenda were deeply disturbed.

The *Times* then hired as head of its Washington bureau a woman who had coauthored a book-length attack on Supreme Court Justice Clarence Thomas, one of the paper's favorite targets. Anita Hill's charges against the Justice for sexual harassment were reported for weeks on the paper's front pages.

But when in 1999 a credible rape charge was brought against a president who was a social liberal whom the *Times* had twice supported, the news was not reported until five days later on page sixteen—and then in a story whose focus was the anguish of the staff of the paper in deciding to print it at all.

Other attempts to make the *Times* trendy came off like a yard sale at Tiffany's. There was the page-one story on Kitty Kelly's book about Nancy Reagan that merely repeated Kelly's unsourced nasty rumors and broke the *Times*'s old rules about using anonymous quotations rarely and pejorative anonymous quotes never. Then came the profile of the plaintiff in the William Kennedy Smith rape case, which gave her name, repeated old gossip, and said she had "a little wild streak."

All photos: Little Brown

Three generations of Sulzbergers: Arthur Sr., Arthur Jr., and Punch.

The *Times*'s explosion from four to six sections (seven on Fridays) dropped all pretense at writing. The new sections became vehicles to stoke yuppie greed, the incitements to spend lavishly on entertainment and luxuries mocking the editorial commitment to self-restraint and community spirit. "Whereas the *Times* used to want to make its readers better citizens, it now seems more interested in making them better consumers," said James Wolcott in *Vanity Fair*.

Like the daily feature sections, the Sunday magazine also changed, becoming fatter and stranger. The revamped magazine ran one story with pictures from a Japanese sadomasochism movie and another with pictures of Nazi trinkets made from human skin. A feature called "Styles," that ran for two years, was filled with stories on gay rodeos; a clothing store specializing in lace-up "bondage trousers" and a piece on "the body part as fashion accessory" referred to gay sexual practices.

Readers complained, Tifft and Jones report, but "the gay stories kept coming, as did fashion pieces that many readers considered so cutting edge as to be incomprehensible." In response to complaints, Arthur Jr. made speeches suggesting that "alienating older white male readers meant that 'we were doing something right.'"

It hardly seems worth mentioning that this is not the mystique that Adolph Ochs had in mind for his paper back in 1896. The *Times* news pages can still be impressive, and the paper has many fine writers who write many good stories, but it is now in key ways a less fair and less serious paper. This is the problem with dynastic endeavors. Sometimes a trust fails when it slips out of control of the family. Sometimes it fades when it stays. ♦

Losing for the Gipper

The rise of Notre Dame football and the decline of the Catholic college. **BY RALPH MCINERNEY**

In the fall of 1910, a twenty-two-year-old Norwegian immigrant caught the train from Chicago to South Bend, Indiana. And there at the University of Notre Dame he would stay for the rest of his life, studying and teaching and, more important, playing and coaching football until his name and that of Notre Dame were synonyms. Only twenty-one years elapsed from his arrival on campus to his death in a plane crash in 1931, on his way to Hollywood for negotiations about a film on Notre Dame, but he remains the symbol of American Catholic success in athletics.

Rockne of Notre Dame
The Making of a Football Legend
by Ray Robinson
Oxford Univ. Press, 290 pp., $25

Knute Rockne graduated *magna cum laude* in 1914, but he remained on campus to act as an instructor in chemistry and assistant football coach. He took over as head coach when Jesse Harper resigned in 1918, and the rest is history—and mythology. For good and ill, Rockne made the entire sport of college football what it has become.

Fall is more than just the season of Notre Dame football. It's also the season of books about Notre Dame football. Ray Robinson's *Rockne of Notre Dame: The Making of a Football Legend* is the latest in a vast library about Knute Rockne and his school, and Robinson's book is indicative of how the genre has evolved. From adulation and hagiography, writers have moved through skepticism to debunking. But even today—with the Fighting Irish off to the start of what promises to be their worst football season in living memory—the underlying fascination for the man continues to swamp the surface criticism.

He was an indefatigable player, a wily coach, a tireless entrepreneur, and his own publicity department. He endorsed products (a model of the Studebaker automobile was called the Rockne), he ran summer camps, he became a national celebrity, he wrote books on coaching, and—something that is almost universally ignored by his biographers—he wrote a novel, *The Four Winners: The Hands, the Feet, the Head, and the Ball*, published in 1925.

It's sometimes alleged that Catholic colleges began to field football teams in order to achieve parity with other private colleges. The logic of this claim leaves much to be desired, needless to say, and it is conjectural in any case. Still, it suggests something about the evolution of Catholic colleges that seems to reflect a desire to ape their sectarian counterparts. Knute Rockne's career at Notre Dame may have provided the occasion for the secularization of Catholic education—where secularization means something like the willingness to weaken or even betray the ideals of a Catholic college in the hope of being accepted by those who do not share those ideals.

At the time of Rockne's arrival at Notre Dame, Catholics were still the objects of deep-seated prejudice and bigotry in America. Maryland and Louisiana, the Franciscans in the Southwest, and the Jesuits and Franciscans who explored and traded, naming the lakes and rivers and preaching the gospel, had been eclipsed by the Puritan ascendancy in the telling of our national story.

But Catholics arrived in droves from the mid-nineteenth century on, lots of them Irish fleeing the famine. The University of Notre Dame was founded by a young Frenchman, Father Sorin, in 1842, but within a few years, the Irish began to dominate his school. It's telling that a new history of Notre Dame, *Being Catholic, Being American: The Notre Dame Story, 1842-1934*, is written by a man named Robert Burns, and the biography of Father Sorin is being prepared by a man named Marvin O'Connell.

Burns gives an agnostic account of the beginnings of Notre Dame football, leaving it to the reader to realize that something far more substantial than football was involved. G.K. Chesterton, a 1931 visitor to the campus, captured the spirit in his poem "The Arena." Rufus Rauch called it "probably the most mystical celebration of football ever written." The poem places the contest in the shadow of the Blessed Virgin Mary, whose figure tops Notre Dame's famous golden dome: Our Lady of Victories, "The Mother of the Master of the Masterers of the World."

Queen of Death and deadly weeping
Those about to live salute thee,
Youth untroubled; youth untortured;
harmless war and harmless mirth.
And the New Lord's larger largesse
Holier bread and happier circus,
Since the Queen of Sevenfold Sorrow has
brought joy upon the earth.

Chesterton appreciated what a Catholic thing football was at Notre Dame, and he discerned its apocalyptic implications. On the field, a Catholic university was making a statement about its presence in this country. The hegemony of the Ivy League, fated to become effete and ineffectual, was eclipsed by the caliber of football played at Notre Dame. On the playing fields of the nation, as in law and politics, in the police, in boxing and journalism, the Catholic immigrant asserted his presence in a WASP environment.

Still, Notre Dame was always hospitable to non-Catholics. Knute Rockne came to the school a Lutheran, and he was by no means an oddity. Jesse Harper was not a Catholic, and the legendary George Gipp was received into the

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Church only on his deathbed (Burns's account of this is skeptical). It wasn't till after his arrival at Notre Dame that Rockne converted.

It's not his personal relation to Catholicism, however, but his professional success that raises questions about the relation between athletic programs and the mission of a Catholic university. Once, men had come to the university as students and gone out for football. Scheduling was happenstance. In 1895, the future creator of Tarzan, Edgar Rice Burroughs, who was arranging football for Michigan Military Academy, contacted Notre Dame and the legendary Amos Alonzo Stagg in Chicago only a few weeks before proposed games. Such ad hoc arrangements would not last. Soon players were recruited for the university who had little interest in being students. The threat of parallel institutions—the athletic and the academic—loomed.


Oxford

With the advent of radio, a school's teams became the most prominent thing about it, and with television, enormous sums of money were in the offing. Once alumni had alerted coaches about prospects in their vicinity, but soon the recruiting of future players became an organized effort, aided by the national ranking of high school players and the creation of a pool of players for whom the colleges competed. Any connection between athletic ability and academic promise became increasingly tenuous. Colleges became the farm teams of the pros.

The case of George Gipp was a portent. The Gipper came to Notre Dame to play baseball but was induced by Rockne to try football. Gipp was one of the greatest college football players of all time. But it is fanciful to describe him as a college student. He might have registered for classes in some semesters, but his academic record is nearly non-existent. And yet, when he was expelled, local dignitaries and businessmen, motivated by the publicity and the influx of money Gipp's play meant to the community, petitioned the university to reinstate him. They prevailed. A specious examination was given as a condition of reinstatement, and Gipp returned for another season.

One would be a purist indeed who suggested that universities should be governed solely by the disciplines in its curriculum. A host of practical and administrative decisions necessarily encompasses the pursuit of education. Sports too play an important role in educating young people. And then, as Chesterton saw, Notre Dame's football team had an anagogic meaning for American Catholics. But college football has grown so professional that teams have become entities unto themselves, whose connection with their universities is merely an accident. Scandals that make George Gipp look like a choir boy multiply. Chesterton's poem seems irrelevant to football Saturdays now.

But Chesterton's poem seems irrelevant to more at Notre Dame than just football these days. The current president, along with his counterparts in other Catholic institutions, has recently declared the school's independence from "Church control" and has embraced a concept of academic freedom which, if consistently applied, will make Catholicism itself an alien threat in the classrooms of Notre Dame. The fuss is over a papal document, *Ex Corde Ecclesiae*, whose title makes the solid historical claim that Catholic universities arose "out of the heart of the Church" and must thus take responsibility for their significance in the Catholic world. But for ten years now, America's Catholic universities—with Notre Dame in the lead—have fought ferociously against the requirements of *Ex Corde Ecclesiae* in a desperate desire not to differ in any significant way from secular universities.

It's difficult to imagine Notre Dame as other than a Catholic place. There is the famous grotto, the campus basilica, the chapel in every residence hall, the crucifix on the classroom walls. Worship will surely continue on campus. But religious services are no more central to the university than athletics. It is in the classroom that faith must make a difference, and the secularization of the mind and imagination is what is making Notre Dame indistinguishable from its secular counterparts.

In DuLac University, the thinly disguised Notre Dame of Rockne's novel, there is no religion, no priests, no worship, no church or chapel. There is a reference to "muckerism" which, in Notre Dame lore, refers to the bigotry to which the team and school were sometimes subjected. But in the context of the novel, it is meaningless. Jipper Gite, Elmer Higgins, Hunk Hughes, Shorty Dunn, and dozens of other characters' names evoke echoes of real players, and the book contains photographs of Rockne coaching and a Notre Dame team in action. But the atmosphere of the story is wholly WASP.

It is not simply in his novel that Rockne may have been a prophet about the future of the institution where he coached. The success of Notre Dame football is the story of athletics redefining the relation of sports to academics. The link is not completely broken, of course, but the notion of the "student athlete" has become ironic: For the athlete, the university is merely a necessary stop in a professional career, and classes are merely an expedient. Even the Gipper was ready to play elsewhere, like the other "tramp athletes" who went from campus to campus.

And if there remains at best an uneasy truce between the aims of athletic departments and the Catholic universities to which they belong, so too there remains at best an uneasy truce between those universities and the Church to which they in turn belong. It is a real question how long the truces between the body and the mind, and reason and faith, can be kept in these days of tension. Catholic doctrine holds that the tension is unnecessary. But in America—and especially in South Bend, Indiana—it's real and getting worse. ♦

Not a Parody

Excerpts from the *New York Times* coverage of the opening of "Sensation," an exhibit of new art at the Brooklyn Museum of Art

James Estrin/The New York Times

Shark in Sea of Dark Suits

The Brooklyn Museum of Art held a preview last night of "Sensation," the exhibit that Mayor Rudolph W. Giuliani has called "disgusting." A shark in a tank of formaldehyde drew positive responses, but some thought a cut-up cow did not work as well. Page A24. Michael Kimmelman's review, page B31.

Many people, of course, gathered in front of the now-famous painting "The Holy Virgin Mary," which is festooned with elephant dung and has become the centerpiece of the dispute between the city and the museum. . . .

[Art collector Peter] Norton, for one, was quite taken with the "Virgin Mary."

"I was surprised how pretty, how lyrical, how sympathetic it is," he said. . . . "It has the glowing quality of cloisonne or terrazzo." . . .

The exhibit also contains several pieces by Damien Hirst, who works mostly in dead fish and animals. These include a shark, a sliced-up cow, a lamb and a bisected pig in formaldehyde-filled cases and a Rube Goldberg-like device in which maggots feed on a dead cow's head and give birth to flies, which are eventually zapped by an electrical device called an "insect-o-cutor." . . .

[Museum curator Arnold L. Lehman] quickly turned serious, saying: "Public funding of the arts is an investment in the values and the ideals embodied in the First Amendment of the United States Constitution.... The Brooklyn Museum is more than just one work of art that incorporates animal dung."

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