

WILLIAM J. BRENNAN, Jr., has retired from the Supreme Court. In three decades on the nation's highest court Brennan did more, perhaps, than any other American politician except for Lyndon Johnson to promote the agenda of the liberal left: the antiwhite racism of the "Jim Snow" system, radical feminism, the reduction of the authority of the police to combat crime, the liberation of obscenity, and the confinement of religion to a constitutional ghetto. The means for accomplishing these ends? The massive expansion of federal power in general, and of the power of the federal courts in particular, at the expense of the lawmaking authority of Congress and the state legislatures.

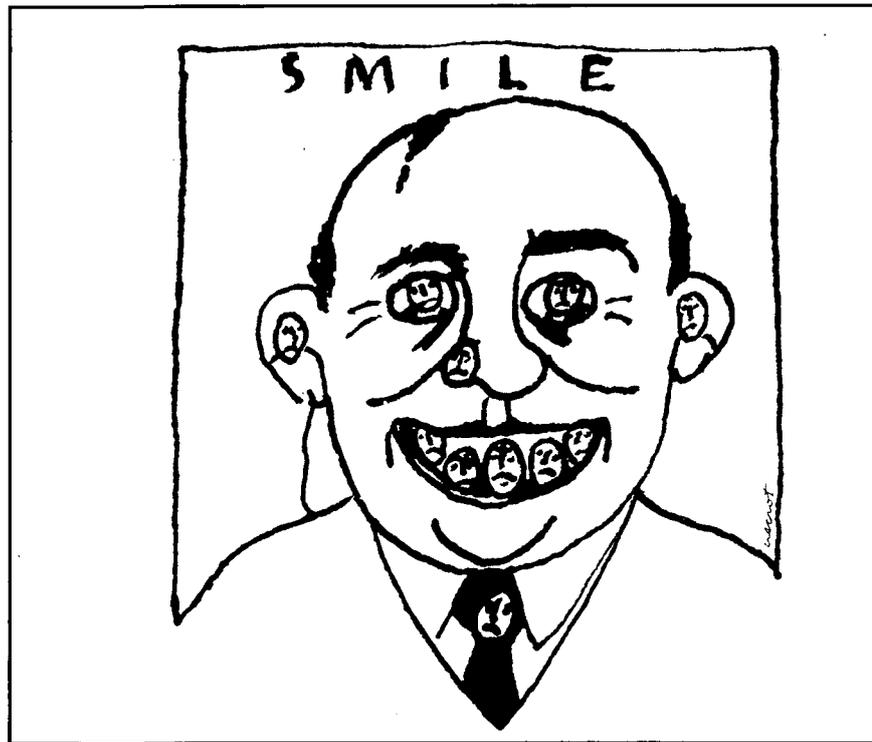
At least Johnson went to the trouble of persuading Congress to pass laws. Brennan, J. and the majorities he assembled in the heyday of the Warren (really the Brennan) Court simply grandfathered their nostrums on the Constitution. "He simply is one of the most important figures of the latter half of the 20th century," Stanford law professor Gerald Gunther gushed to *Newsweek*. Among the legacies of this world-historic liberal statesman: (the exclusionary rule, which forbids the use of evidence gathered during a warrantless search; relaxed rules governing press libels of public figures; and the strict "one-man, one-vote" standard for legislative redistricting. Thanks to these Warren Court decisions orchestrated by Brennan, criminals find it easier to walk free on technicalities, able people who do not want every detail of their lives reported by the press have abandoned government service to plain-vanilla nonentities and bold-faced deviants, and federal judges and government attorneys draw and redraw state and congressional districts with as much concern for local self-determination as the dynasts who partitioned Silesia. Among Brennan's final gifts to the American people are the latest opinion protecting desecrators of the flag, and another recent holding

that the federal government may engage in racial discrimination in awarding broadcast licenses, as long as it discriminates against white people.

"At the core of the process of government erected by the framers—unwieldy, imperfect, wearisome, sometimes maddening—lay a profound vision of justice, and [it is] the duty of the Court to make that vision a reality for the least of men," the presumably wieldy, perfect, and never wearisome Brennan wrote last year. "The genius of the Constitution rests not in any static meaning it might have had in a world that is dead and gone, but in the adaptability of its great principles to cope with current problems." If the explicit provisions of the Constitution conflict with its "vision of justice," its "great principles," as divined by a committee of lawyer-sibyls, then so much the worse for the Constitution. "The fatal constitutional infirmity of capital punishment is that it treats members of the human race as nonhuman, as objects to be toyed with

and discarded," says Brennan. But the Constitution expressly *allows* capital punishment, as its references to capital crimes and "jeopardy of life or limb" in the Fifth Amendment show. If we accept Brennan's theory, then the Constitution is—unconstitutional. This is not broad construction; it is not construction at all; it is oneiromancy.

"Justice delayed—till the Justice resigned," conservatives may observe with pleasant anticipation. Although the liberal triumvirate on the Senate Judiciary Committee, Kennedy, Biden, and Metzenbaum, may try to "bork" David Souter, Bush's nominee to replace Brennan on the Court, Souter has left no "paper trail," having said and written almost nothing controversial or significant between law school and the age of 50. Looking for the most unobjectionable nominee he could find, to prevent the confirmation hearing from turning, like those of Bork and Ginsberg, into an *auto-da-fé*, Bush has found Bartleby the Scrivener. The sailing still may not be smooth;



Andrzej Czeczot

the fact that conservative Republicans are comfortable with the nomination may impel abortion activists and advocates of reverse racism to concentrate their fire, in the absence of inflammable public statements, on any alleged character defects they can find, or invent, in the life of this retiring New England bachelor.

Whatever the fate of the Souter nomination, time is on the side of Republican opponents of leftover Warren Court judicial activists (Thurgood Marshall and Harry Blackmun are both in their 80's and failing). Once the Rehnquist Court has firmly shifted to the right, after this or the next appointment, liberals may be forced to save some dubious "achievements" of Brennan and the Warren Court by recasting endangered old opinions in legislation: new law is but old precedent writ large. The Kennedy-Hawkins quota bill is precisely such an attempt to give liberal precedents disfavored by today's conservative Court a new lease on life in the law. Should the Court's disastrous and unconstitutional ruling in *Roe v. Wade* finally be overturned, liberals will fight in 50 state legislatures to have its provisions reenacted. (Judicial activism by state courts with state constitutional provisions as pretexts is also proving increasingly popular with the left.)

There is a danger that, as liberals are rediscovering democracy in Congress and the states, conservatives will forget it. Already many conservatives, in this age of Republican Presidents, have abandoned their principled opposition to arbitrary executive power. In an era of Republican judges, judicial activism on behalf of conservative and libertarian values might be tempting to the right. Pro-business federal judges in the late 19th century, after all, perfected judicial activism, which was arguably invented by the High Federalist John Marshall; liberals merely dusted it off for their own purposes after World War II.

It would be a bittersweet victory for judges like Brennan who have abused the judicial power to see their opponents adopt their methods, if for different ends. The great issues of society should be decided amid debate and publicity by elected representatives, not by judges and clerks reading briefs, or by executive bureaucrats sending

secret memos from one cement labyrinth to another. In a republic, when a judge of the highest court resigns, no one should care. The great questions in a republic are: what electoral system is the best for our purposes? what do the different parties offer? who will control the legislative leadership and the committees in the legislature? In the oligarchic monarchy that is the post-FDR United States, more attention is paid to the selection of a largely functionless Vice President than to the election of a Senate Majority Leader, and the retirement of an elderly Supreme Court Justice, unlike the resignation in disgrace of a House Speaker, shakes the country to the roots. Perhaps one day America will be a self-governing republic again. If so, William J. Brennan, Jr., may turn out to have served the country by providing an exemplary warning to future generations of what happens when judges, betraying their trust, decide to rewrite the Constitution they claim to enforce.

—Michael Lind

NELSON MANDELA idolized? Am I the only one who didn't do a spastic street dance over his arrival in America? Tell him to take "power" in the wrong African language?

California Assembly Speaker Willie Brown said being with Mandela was like "being in the presence of God." A worshiper along the parade route in New York called Mandela "our savior." A man in Los Angeles said we should lay down "palms in his path."

A few banana peels, maybe.

Mandela is a Red. Worse, he is a Red out of a time machine, who seeks to impose wealth-destroying Marxism on the only country in Africa where everyone has enough to eat.

Mandela also endorses killing and torture by his African National Congress (ANC). When he was arrested in the 1960's, he was carrying ANC explosives to commit sabotage. His *eminence rouge* is the bloodthirsty Lithuanian Communist Joe Slovo. And at his Harlem extravaganza, Mandela sought to honor the aging Puerto Rican Communists who shot up the U.S. Congress and tried to kill President Truman.

Mandela's no hero; he's the political equivalent of 2 Live Crew. Excuse me

if I sit out this rap.

Yes, he spent years in prison—or, rather, in a comfortable house on the prison grounds—although his criminal record justified a death sentence under South African law. Yes, he was ideologically steadfast, just like the Bolsheviks jailed by the tsar. I guess this is admirable in some sense, although I can't think of why right now. And yes, he's dignified and wears thousand-dollar suits. But con men always put up a good front.

Also visiting was Mrs. Winnie Mandela, whose gang of thuggish paramours, the Mandela United Football Club, killed a fourteen-year-old black boy in the basement of her Soweto mansion. They thought he might have talked to the police.

Mrs. Mandela apparently ordered—and enjoyed—the murder. Certainly she has praised the murder of black men and women suspected of talking to the police. She wants them tied up with gasoline-filled automobile tires around their necks, and then set on fire. "With our sticks of matches and our necklaces," she says, "we will liberate this country."

Mandela calls Communist Cuba the "country that stands head and shoulders above the rest" in its "love for human rights and liberty." Indeed, Cuba is his model. South Africa's government is already bloated. If Mandela gets his way, it will look like the Reverend Al Sharpton after a barbecue.

We were supposed to return the clenched-fist Communist salute to Mandela because he's the leader of all South African blacks. But that's another lie. He's chief of the Xhosa tribe, which the ANC represents, along with the smaller tribes traditionally dependent on the Xhosa.

Inkatha, led by Mangosuthu Buthelezi, chief of the Zulus, represents the Xhosas' hereditary enemy. If the Xhosas come to power, the industrious Zulus know they will be oppressed, and perhaps even massacred, a pattern all too common in Africa. The fighting in Natal Province today represents the beginning skirmishes in what may be a war of extermination.

Apartheid was a socialist-inspired scheme to cartelize the labor market for white labor unions. Ironically, only real separateness will work now. The

country must be partitioned, with each people — whites, Xhosas, and Zulus — allowed a homeland. A free market is also needed, not only for more prosperity, but to lessen group tensions.

Despite their sins—which pale, if you will pardon the expression, next to the institutionalized theft, witchcraft, and mass murder of the typical African government—the Boers have built a magnificent civilization. And *not* “on the backs of the blacks”; South Africa has by far the highest black standard of living on the continent.

Yet the whole country may go up in flames, as Mandela lights the Molotov cocktail. And there is virtually no American dissent—just media hype designed to Jesse-Jacksonize this country by strengthening black demands for race privilege.

When questioned about his endorsement of Castro, Mandela said “a country’s internal policies” were none of his business. That was an evasion, of course. Mandela loves Castro’s internal policies. But there is a lesson here.

America, wrote John Quincy Adams, “goes not abroad in search of monsters to destroy,” lest she be entangled “beyond the power of extrication, in all the wars of interest and intrigue, of individual avarice, envy and ambition, which assume the colors and usurp the standard of freedom.”

Mandela, a smarmy demagogue, has assumed the colors and usurped the standard of freedom, but we ought not to be fooled.

Although we should wish the Boers and the other great peoples of South Africa well, their internal policies *are* none of our government’s business. That means no aid to the terrorist ANC, and immediate repeal of the economic sanctions designed to lower black standards of living, and thus foment bloody revolution.

Nelson Mandela wants to impale his country on a Xhosa-Communist spear. We ought not to be sharpening the blade.

—Llewellyn H. Rockwell

A TALE OF TWO prisoners. Nelson Mandela spent many years under arrest. Aleksandr Solzhenitsyn spent many years in a slave labor camp, as a fugitive and exile, and as a nonperson.

Mandela resisted a mildly repressive

regime by terrorism. Solzhenitsyn resisted a brutal totalitarian state by heroism and eloquence.

Mandela sought the bestowal of benefits and privileges. Solzhenitsyn sought liberty to work, worship, and think.

Mandela was freed by bringing to bear the power of giant empires and media oligarchies on his own small country. Solzhenitsyn was freed by years of harrowing maneuver against an omnipotent but incompetent state, helped by the attention of handfuls of people in various free countries.

Mandela represents an alien, at bottom incomprehensible culture. Solzhenitsyn represents the deepest and noblest aspirations of our own culture.

Mandela is a very skilled politician. Solzhenitsyn is one of the greatest artists and most eloquent prophets of our age.

In America, Mandela is fawned on by Congress and the President. In America, Solzhenitsyn is avoided by Presidents and other politicians.

What does this tell us about America?

Think about it.

—Clyde Wilson

“DON’T VOTE, It Only Encourages Them” goes the bumpersticker, and it is only one among many signs of voter unrest. Another proposal, newly revived and cropping up in states like Oklahoma and South Dakota, is to reform Congress by limiting congressional terms. Back in 1978 two then-freshman senators, John Danforth and Dennis DeConcini, sponsored legislation that would limit the tenure of representatives in Congress to twelve years, or two terms for senators, six terms for congressmen. Gallup found at the time that 60 percent of the public favored the idea. In 1984 Jack D. Douglas, a sociologist at San Diego, took one step further and suggested that all our representatives be limited to a single term.

The most recent proposal, from Americans to Limit Congressional Terms and with a 70 percent public approval rating, goes back to Danforth-DeConcini—two men who twelve years later are still in office, by the way—and would limit senators and congressmen to twelve years. Such

limits would solve the present problem of incumbents-for-life, and give new energy to elections in which incumbents now enjoy the wolf’s share of the PAC money (so necessary for those expensive campaigns) and a 98 percent chance of being returned to office by their gerrymandered districts.

It’s a very appealing idea. Unfortunately, as I believe the author of the bumpersticker understands better than congressional reformers, without restoring the character of the American politician, true political reform is impossible. The more things may change, the more the Teddy Kennedys and Alan Cranstons of this world will remain the same and remain in power. Just look at term limits in Mexico. Mexican law prevents any man from being president for more than one six-year term, and I hardly need to point out that this limit has done nothing for voter empowerment there. In Mexico’s effectively one-party system, the choice of the next president falls to the president in office (and through him the PRI power structure).

The same is true here in one-party cities like Chicago or states like Kentucky, where the battle for mayor or governor is settled in the primary, with the ruling party’s choice enjoying the advantage. The same is also true for any race in which an incumbent is running. Given the difficulties of ousting an incumbent, our United States are essentially a nationwide patchwork of one-party strongholds. Mexico City has little on us.

Even should the term-limit reforms go through, what’s to prevent our next Tip O’Neill from spending eight years in Congress, twelve years in the Senate, and then as much time as the party will allow him as Massachusetts’ governor or as a federal appointee? In each race after his first he will still have the advantages of incumbency and name-recognition, and despite limited terms he could enjoy a good 25-years plus on the public payroll, spending tax money. (In Mexico, because of the limited terms and the six-year rollover in ruling cliques, politicians at all levels are very dependent on the political bureaucracy for keeping them in jobs when they or their patrons are out of power. Institutionalizing that further here is not what I would call an improvement.)

No: there is a better way to send a

message to Congress that reform is needed. It is for the several states to mandate a "None of the Above" box on every ballot. Let's say your choice is, as here in Illinois in the governor's race, between Neil Hartigan, the Democrat (or presently the "Outs" party candidate, in terms of the governor's mansion), and Jim Edgar, the Republican (or "Ins") candidate. The biggest issue of the campaign is taxes—and both men are pro-tax, arguing only about how much of the two-year "temporary" tax hike of 1989 should be made permanent (nothing is so permanent as temporary change, especially when the change ups your taxes) and at what rate other taxes need to rise.

For those citizens who are, wistfully, of the "read my lips" school of taxpayer satisfaction, it's hard to get too excited about either man. Given that kind of contrariness, next November 6 those Illinoisans are going to stay home, clean their ovens, and join the swelling ranks of apathetic nonvoters.

Give them a "None of the Above" box, however, and they would suddenly have a vote to cast whether or not the Ins and Outs had fielded an appealing candidate.

To work, "None of the Above" needs to be more than a message: it needs some teeth. Should "None of the Above" win the most votes, no candidate could be returned. No mandate, nobody in the seat. My prediction is that in the first year of this reform (should it catch on nationally) nobody would occupy a good third of the House seats and a quarter of the Senate. The joke for years has been that your local congressman is at his best when he's on a junket to Bimini or legislating Grandparents' Day and National Granola Week, and that we are most in trouble when he actually turns his attention to what is supposed to be his job. Here is the voters' chance to have Nobody for Congress, who can do nothing at all. Given the nature of our representatives today, "taxation without representation" is looking very attractive.

I am talking here about a fed-up public going on strike; not leaving the Union, quite, but seceding from the dirty business of government for a term or two (or more—why not?) in an effort to communicate to the national

parties that their men of so-called sterling character look more like nickel silver. Having a choice between Tweedledum and Tweedledee, who have made a nice interparty gentleman's agreement not to use the snuck-on-through congressional pay raise as a campaign issue, is no choice. What every state, county, city, and township needs is the power of the Great Nay.

Just think of it: Nobody in the Senate messing around with the Bill of Rights, Nobody in the V.P.'s office flying by Air Force Two to attend the funeral of some Latin American strongman the voters have never heard of, Nobody in the House moving to send pots of money to a country that only last week was our sworn blood enemy, Nobody teasing his hair or powdering his nose for his appearances on C-SPAN, Nobody, to rewrite Alexander Haig here for a minute, *in charge*. As Jerry Rubin put it—who for all his many faults once understood the crying need today for practical jokes in public life—the power to define the situation is the ultimate power.

—Katherine Dalton

THE UNIV. OF MICHIGAN has not given up. Federal District Court Judge Avern Cohn's August 1989 ruling that Michigan's anti-discrimination and discriminatory harassment policy (inaugurated in April 1988) was unconstitutionally vague and overbroad merely sent administrators back to their drawing boards. After implementing an interim policy last September, University President James Duderstadt assembled three committees (representing students, staff, and faculty, respectively) to advise him on the formulation of a new permanent policy—a policy that, while still not finalized at press time, promises to be little different from the old.

Indeed, by merely throwing out the unconstitutional terms of the original policy, which prohibited "stigmatizing or victimizing" individuals or groups, and replacing them with rules that (as stated in the interim policy) forbid "physical acts or threats or verbal slurs, invectives or epithets . . . made with the purpose of injuring the person to whom the words or actions are directed and that are not made as part of a

discussion or exchange of an idea, ideology or philosophy," the University of Michigan is demonstrating that it has missed the point. Judge Cohn's decision may stop Michigan from banning such remarks as "Women just aren't as good in this field as men" (an example of sanctionable conduct provided in a policy guide that Michigan has since withdrawn). But who's to say that the university's new policy won't still prohibit such acts as neglecting to invite a suspected lesbian to a residence hall floor party or displaying a Confederate flag (other no-no's according to the now-defunct guide)?

Similarly, while Michigan may now hesitate to initiate a formal hearing against someone like the School of Social Work graduate student who openly stated his belief that homosexuality was a disease (as happened in January 1989), it is unlikely that the administration will stop persecuting students like the one who read an allegedly homophobic limerick during class and was subsequently "persuaded" to attend an educational "gay rap" session ("reeducation" is a favorite sanction of policy administrators), write a letter of apology to the *Michigan Daily*, and apologize to his class.

Many students feel the administration is wrong to focus its attention on the guidelines. In fact, it was a Michigan psychology graduate student who (with the Michigan ACLU) filed the suit that ultimately struck down the university's original policy. Proceeding under the pseudonym "John Doe" for fear of adverse publicity, the student claimed that the policy impermissibly chilled his right to freely and openly discuss controversial theories positing biologically-based differences between sexes and races.

Most Michigan students join Doe in harboring no illusions about the administration's proposals. In an October 30, 1989, article in the *Michigan Daily*, each of ten student groups interviewed—from the College Republicans to the Lesbian and Gay Rights Organizing Committee—said the interim policy was not the answer to discrimination. Although four of the groups favor a stronger policy and more student input, both the College Republicans and the College Democrats (among others) realize that any such code is wrong. The president of

the College Democrats, for example, was quoted as saying, "An anti-discrimination policy deals with the problem after it happens; if you want to handle the problem, you have to go to a deeper, tougher level."

But the most fervent opposition to the university's efforts has come from the student government. The Conservative Coalition Party, which controlled the Michigan Student Assembly during the 1989-1990 school year, actively opposed an anti-discrimination policy as a solution to tension on campus. As Alan Charles Kors noted in the *Wall Street Journal* last October, "Free Speech," "Question authority," and "Leave us alone" are now battle-cries of the right.

The Conservative Coalition, however, lost last April's student assembly elections to the liberal Action Party, whose stance on the issue is less clear-cut. Newly-elected Michigan Student Assembly President Jennifer Van Valey (an Action member) campaigned on the following statement: "Students are adults—they can handle themselves as adults. The Code will only strengthen the oppressing arm of the administration. . . . We will never sit down and negotiate a Code with the administration. We have nothing to lose by not sitting down. If we sit down to talk, we'll have a code in a second." Yet this same Jennifer Van Valey was co-chair of the student advisory committee that University President Duderstadt established to review the interim guidelines, and two weeks after her campaign promise to oppose the code, Van Valey reportedly stated that "Racist speech is not free speech. . . . [I]t's not our purpose to come up with a policy that will get by a court . . . but to create one that stops harassment."

The student advisory committee has since withheld its recommendations from the administration, informing the regents that it refuses to negotiate with an administration that has, in its opinion, consistently ignored student input. But Van Valey has rejected the idea of a code only insofar as it strengthens the administration at the expense of the students; she believes that a similar policy implemented and administered by students would be "ideal."

Whether or not the student government approves, the University of Michigan's administrators will have

their anti-discrimination policy. But whether or not the policy that the university finally implements will stand up in court, the administration is indeed misguided. For Michigan's policy (like those at the University of Pennsylvania, the University of Connecticut, and the University of Wisconsin) is more than a radical attack on free speech—it is a bad solution to the university's troubles. Word changes and specifications cannot mend the fatal flaw in the university's policy: regardless of its form, such a policy suppresses discussion of the underlying problem even as it smooths things over on the surface.

Michigan's distinguished demographer Reynolds Farley illustrates this point. Farley discontinued his popular undergraduate course in "race and cultural contact" after a column in the *Michigan Daily* cited examples of so-called racially insensitive statements that Farley had made. Several Michigan faculty members have consequently informed Farley that they, too, are eliminating discussion of race-related issues from their courses, in the fear of being singled out by the "Speech Suppression Movement," as *Fortune's* Daniel Seligman has termed it. The administration's approach to problems of discriminatory harassment is suppressing the very dialogue it must promote if a "rainbow" of races, religions, and creeds are to coexist on campus with a minimum of friction.

As Judge Cohn noted in his decision, Thomas Cooley, a 19th-century justice of the Michigan Supreme Court and a professor at Michigan's Law School, recognized early on that debate is preferable to sanctions where offensive speech is concerned. As Cooley argued in 1868, even if speech "exceed[s] all the proper bounds of moderation, the consolation must be that the evil likely to spring from the violent discussion will probably be less, and its correction by public sentiment more speedy, than if the terrors of the law were brought to bear to prevent the discussion." Unfortunately, it does not appear that the University of Michigan has taken this advice to heart.

—Christine Haynes

O.B. HARDISON, JR., distinguished scholar, critic, and former di-

rector of the Folger Shakespeare Library in Washington, died on August 5. Mr. Hardison had taught at Princeton and the University of North Carolina, and was University Professor of English at Georgetown. He had received scholastic and literary honors from more than twenty universities and societies, including Italy's Cavaliere Ufficiale in 1974 and the Order of the British Empire in 1983. Mr. Hardison's articles in our September issue, "Stratford 1990" and the "Shaw Festival at Niagara," were the first of what were to be a series of pieces on North American drama for *Chronicles*. His insights and erudition will be greatly missed.



We wish also to note the career changes of several friends of *Chronicles*. William R. Hawkins, a regular contributor to the magazine, is running as a Republican for the U.S. Senate seat in Tennessee currently held by Albert Gore. He is backed by the Tennessee Conservative Union. Bill moved to Tennessee from Illinois in the mid-1970's, when the GOP controlled the governor's mansion, both Senate seats, and a majority of the House; it can now claim only three congressmen. Also entering the political arena is John K. Andrews, former president of the Independence Institute. Andrews is running as a Republican for the governorship of Colorado, a conservative state represented by radical politicians. Finally, NYU Dean Herbert London is the Conservative Party's nominee for the governorship of New York. Dean London has been a frequent contributor to our pages, and his campaign will, at the very least, have a wholesome influence on the lazy New York Republicans who routinely sell nominations to the highest bidder. Finally, we wish to announce the publication of a monthly newsletter by historian and biographer Otto Scott, *Compass*. Mr. Scott is a rare bird, a Christian conservative who is also a great raconteur and a man of the world. Covering "books, plays, movies, persons, and events worthy of notice," the first issue appeared last month; subscriptions can be ordered by writing *Compass*, P.O. Box 1769, Murphys, California 95247.

Principalities & Powers

by Samuel Francis

Two years after George Bush moved downtown to the White House, the suspicion is beginning to twinkle in the brains of his conservative followers that the President is not one of them after all. What tipped them off to this shattering truth was their leader's nonchalant decision last summer to support a tax increase. But for some months previously they had had ample warnings that the Duke of Kennebunkport was not in fact the Gipperite they had concocted in their heads.

The same week Mr. Bush broke his pledge not to raise taxes, he was wining and dining Mr. and Mrs. Nelson Mandela of the African National Congress. Mr. Mandela, sometime fellow of the penal colony on Robben Island, is most noted for a brutally conceived but incompetently executed plot to wage people's war against white South Africans in the 1960's. His consort, the incomparable Winnie, has more recently acquired fame in her own right as an apostle of "necklacing" as well as the object of an official investigation into the torture and murder of a young man in her household. Given the lies and propaganda that have enveloped the Mandela family since Nelson's emancipation last February, it is perhaps understandable that the President had to meet with him. But that he and Mrs. Bush greeted the gruesome twosome so gladly ought to have suggested something about the first family even more strongly than the President's new fiscal policy.

Indeed, the whole substance of the Bush era is suggestive in a way that ought not to please the right. You can tell a good deal about politicians from the social gatherings they attend and the symbols they play with. Last spring Mr. Bush invited to the White House representatives of the "gay community" to observe the presidential signing of what is now known as the "Hate Crimes Act." That too ought to have dropped a hint to social conservatives that the President and his closest advisers don't experience the kind of abdominal heaves that normal people, not to mention real conservatives, invariably feel when they contemplate the subject of sodomy. But though there was some

mutated grumbling about the incident, most right-wingers were silent.

Then, perhaps most substantively, there is the actual legislative record. The first two years of the Bush administration have witnessed an expansion of federal power on a scale probably not seen since the Great Society legislation of 1965. Not only the "Hate Crimes Act" itself, which requires the federal government to keep records of criminal assaults against ethnic and sexual "minorities"—for the ultimate purpose of showing that American society is pathologically hostile to such groups and that major therapeutic programs are needed to extirpate its sickness—but also half a dozen other noisome statutes have sailed through Congress this year with not much more than a whimper of opposition from Mr. Bush.

The Child Care Bill, the Disabilities Act, the Clean Air Act, and the Kennedy-Hawkins Civil Rights Act of 1990 all promise to embark the country on the shoreless seas of utopianism. Unlike most of the social and economic legislation of Lyndon Johnson's era, these laws threaten not merely to cost taxpayers more money, restrict freedom, and fatten the bureaucratic herds, but also to manage, manipulate, and generally reconstruct the cultural norms of American society. As enacted, some of them may seem a bit toothless, but the point is that almost all of them stick their toes in a door that the federal government had not until recently been able to force open. The common assumption of most of them is that there is something profoundly wrong with some of the characteristic norms of American life, that these norms are and ever have been racist, brutalizing, and unfair toward more or less supposedly helpless or victim categories of citizens—the handicapped, the young, the deviant, the nonwhite, and the simple souls who want merely to breathe pure oxygen and drink clear water—and that it is the duty of the state to cure mainstream America of its spiritual and behavioral affliction of being mean to such groups.

Yet what is surprising about their passage through Congress is not only the generally tepid resistance from the Bush White House but also the equally spineless response they received even from congressional conservatives.

Utah's Senator Orrin Hatch actually helped cosponsor (with Senator Ted Kennedy) the Hate Crimes Bill—"I feel very deeply about people's heartaches and problems, and I don't care what their sexual preferences are," Mr. Hatch told the *New York Times*. "That's their business and I'm not going to judge them by my standards or what I think is right."

The Clean Air Act, strenuously opposed by the journalistic myrmidons of the right, nevertheless galloped through the Senate with only six Republican nays. While Senator Jesse Helms, Idaho's Steve Symms and James McClure, Oklahoma's Don Nickles, Wyoming's Malcolm Wallop, and Mr. Hatch's colleague from Utah, Jake Garn, voted against it, other tory stalwarts clambered on board, including Mr. Hatch himself, Texas Senator Phil Gramm, known for his free marketism, and retiring solons William Armstrong of Colorado and Gordon Humphrey of New Hampshire, who can have no reason to fear the orchestrated votes of the earth-shoe lobby.

Of course, most of these gentlemen, including the President, have sought to redeem their conservative souls by strapping themselves to the pole of the flag amendment, thundering for more capital punishment, denouncing drugs, and polishing up periodic declamations on the greatness of America and the sanctity of the family. So far that has succeeded in persuading their constituents to keep them in office, but how much longer it will work is unknown. In any case, such issues are thin substitutes for the meatier dishes that the seemingly immortal left keeps serving up. To be fair to Mr. Bush, why should he call for stronger wine when the guests at his own table sip only Perrier?

In the last few years, much has been written (a bit of it by me) about the intellectual derailment of the American right and the transformation of its mind into a body of notions indistinguishable from New Deal-Great Society liberalism. A foreign policy that dotes on "global democracy" rather than the national interest as the defining object of the State's affairs, a domestic policy that celebrates the charms of the underclass and ponders how to improve its condition even