

plan was upheld by Brennan in direct contradiction of the explicit language of Title VII, the antidiscrimination provision of the Civil Rights Act of 1964. As Justice Scalia noted in his astute dissent: "In fact, the only losers in the process are the Johnsons of the country [Johnson was the man who, though more qualified, was passed over in favor of a woman], for whom Title VII has been not merely repealed but actually inverted. The irony is that these individuals—predominantly unknown, unaffluent, unorganized—suffer this injustice at the hands of a Court fond of thinking itself the champion of the politically impotent."

**Crime and Punishment.** Brennan was an enthusiastic participant in the revolution in criminal procedure that is typified by *Miranda v. Arizona* (1966), where the Warren Court's obsession with and invocation of the "human dignity" of the criminal class (somehow the dignity of crime victims failed to have an impact on the Court's thinking) led it, in case after case, to place the most preposterous restrictions on police and prosecutors. The result was predictable: time and again the jailhouse door was thrown open to release criminals on trivial technicalities. Additionally, Brennan worked relentlessly to have the death penalty declared unconstitutional, notwithstanding the fact that the Constitution itself explicitly presumes its validity. The basis for Brennan's concern was again human dignity, but the human dignity of the convicted—not the victim whose human dignity is vindicated by the penalty of death. This point goes to the central problem with Brennan's approach; as Robert Bork has noted, even "if there were a human dignity clause in the Constitution of the sort Justice Brennan would import, it would not necessarily give the results he wants. A Justice of different temperament could as easily dwell upon the human dignity of the murderer's victim as upon the dignity of the murderer. . . . What concepts such as 'dignity' and 'privacy' mean in application depends entirely upon the sentiments of each judge."

**Sex and Law.** This ongoing phase of the revolution involves the eradication of any and all sexual distinctions—no matter how reasonable—in the law. This ideological assault gained considerable momentum in *Frontiero v. Richardson* (1973). In this case (a discussion of which Eisler omits), Brennan struck

down federal statutes that distributed military benefits on the basis of sex. In language that perfectly captures the reductive and feverish quality of the feminist legal mind, he wrote: "There can be no doubt that our Nation has had a long and unfortunate history of sex discrimination. Traditionally, such discrimination was rationalized by an attitude of 'romantic paternalism' which, in practical effect, put women, not on a pedestal, but in a cage." This part of the revolution is ongoing because Justice Ginsburg participated in this case on behalf of the American Civil Liberties Union. In other words, the sort of abrasive, stupid language that appeared in *Frontiero* will doubtless be seen with increasing—and depressing—regularity in the opinions of the Court.

"This isn't bad constitutional law," Edwin Meese once commented. "It isn't constitutional law at all." The cases discussed above, furthermore, are only a mere sampling, highlights from the revolution. Alas, Eisler's book is silent on the intellectual sources of this revolution. Brennan, for example, was very close to Judge David Bazelon, who can only be described as a kind of extreme version of Brennan. Who influenced whom? What books shaped Brennan's thinking? (Eisler does mention Brennan

reading St. Thomas Aquinas; one finds it, to say the least, difficult to describe Brennan's work as Thomistic.) This information would have been helpful in a biography, particularly when the subject has made his name by thinking and writing about the law.

As to the question of Brennan's judicial legacy, it can only be described as pernicious. The decisions he wrote or significantly influenced have fundamentally changed the way we live. Indeed, it is certainly not going too far to say that they are one of the main reasons that we have become a culture obsessed with rights. And Brennan, more than any other Justice, is responsible for transforming the Supreme Court from a constitutional arbiter into a lawless "bevy of Platonic Guardians" (again, Learned Hand's phrase) and for transmogrifying the Constitution from a document of ordered liberty into an instrument for continuous egalitarian revolution. What is especially distressing is how firmly Brennan's influence has been entrenched in both the judiciary and the legal academy. Aside from the occasional dissent by Justices Rehnquist, Scalia, or Thomas, or a law-review article by, say, Lino Graglia, very little is written in opposition to what is now an oppressive constitutional orthodoxy. <C

## Reflections on Presidential Sex Preferences

by Katherine McAlpine

Though some wish they could put Hillary  
in a pillory,  
one shudders and cowers  
to think we could have wound up with Jennifer Flowers.

## A Documented Life

by Frank Brownlow

*Curriculum Vitae*

by Muriel Spark

Boston: Houghton Mifflin Company;  
213 pp., \$22.95



Muriel Spark (1992 winner of the Ingersoll Foundation's T.S. Eliot Award) is a prolific writer with some 19 novels to her credit as well as volumes of poetry, short stories, criticism, and biography. Yet she was a surprisingly late starter. She was nearly 40 when her first novel, *The Comforters*, appeared, its theme provided by a period of personal crisis to which she has returned more than once in her later books. This memoir, apparently a first volume, brings her life story up to the moment when *The Comforters* was published and, as she writes, "Everything changed."

It is a story of fair beginnings and ghastly mistakes, of misdirection and driving ambition culminating as it might have seemed at the time in breakdown and collapse, but then transformed by a providential confluence of forces into a new life and a long, successful career—not that Mrs. Spark, never the most straightforward of narrators, tells it that way. Instead, as she writes in her introduction, she has been seriously irritated from time to time by fanciful, sometimes fantastic accounts of her life, and the purpose of her book is to correct them, settling some scores in the process. "I determined," she declares on her first page, "to write nothing that cannot be supported by documentary evidence or by eyewitnesses." And it turns out that she is the owner of an enormous personal archive enabling her to do just that. It dates back to 1949, when she decided to preserve just about everything that concerned herself on paper: checkbooks, accounts, appointment books, notes, correspondence—the lot.

When she made that unusual, even eccentric, decision, she was emerging from a period of bruising employment as general secretary and editor to the Poetry Society of London, a coven of freaks,

as she presents them, whose behavior evidently convinced her that for the rest of her life she had better have everything in writing. As Mrs. Spark's readers know, her novels tend, almost obsessively, to be about the accumulation and use of knowledge about other people. Approached in that context, the existence of this massive engine of retaliation against trespassers on her life story is as fantastic as anything in the novels themselves.

Under the title *Curriculum Vitae*, then, backed by her archive and her old friends, Mrs. Spark presents the facts of her life and leaves the perception of its underlying plot or fable, if there is one, to her reader. The book falls into two parts that one can think of as Innocence and Experience. In the first part she is born Muriel Camberg in Edinburgh in 1918 to a fairly poor but close and happy family. Her father, Bernard, was a very nice, very good, utterly normal Scotsman, whose only peculiarity in that world was that he was Jewish. Muriel adored him; as she says, "He was no problem." Her mother, Cissy, was less predictable. She was an Englishwoman who disconcerted the young Muriel by speaking in an English accent and wearing nice things among the frumpy Presbyterians of Edinburgh.

Mrs. Spark tells the story of her Edinburgh childhood with an appealing mixture of love and candor, and her recollections of its sights, sounds, smells, and characters bring to mind a world that now seems nearly as remote as the Middle Ages. At the heart of her life in that world was the superb Scottish school that provided the original of Miss Jean Brodie. There Mrs. Spark was first encouraged to think of herself as a writer, and there she enjoyed her first successes. In fact, she won an Edinburgh schools' poetry prize, and, feeling "like the Dairy Queen of Lanark," was crowned Queen of Poetry, an aberration in local taste that her most admired teachers joined her in disapproving.

When she left school at 17, she could afford neither a university nor a secretarial school, so she enrolled herself in what sounds like a technical college to learn an economical, businesslike prose style. She did some school teaching in return for secretarial instruction and took a job in a

smart shop on Princess Street. But she leaves this period of her life in some mystery. It ended dramatically when, aged 19 and against her parents' wishes, she went out to Rhodesia to marry a man some ten years older than herself. In Britain in 1937, this was an extraordinarily strong-headed thing to do. Writing over 50 years later, she still doesn't know why she did it. Certainly, wanting to leave Edinburgh and see the world, and thinking the man "interesting," hardly explains so violent an act.

The marriage was a disaster. When she found herself thousands of miles from home and friends with a young baby and a mentally unstable husband, she set about extricating herself with the same strong will one suspects got her into trouble in the first place. Since the only grounds for divorce were infidelity or desertion, she deserted her husband, no doubt spurred to act by a truly bizarre coincidence. She found herself in the same hotel as a former school friend and her husband; the husband shot the school friend. Seeing the parallel with her own situation, she "escaped for dear life," as she writes, and one believes her. Her African experience contributed to her troubles with the Poetry Society after the war, when Marie Stopes, of birth control fame, wrote an "outrageously impudent letter" inquiring about the circumstances of her divorce. (Marie Stopes, says Mrs. Spark, had lived with Oscar Wilde's old lover, Lord Alfred Douglas, "an arrangement which I imagine would satisfy any woman's longing for birth control.")

Eventually, despite wartime suspension of normal travel between Africa and Britain, she succeeded in making her way home. With great good luck she got a job with a secret branch of the Foreign Office, broadcasting what would now be called disinformation to the Germans. She is reticent about her contributions. Rumor reports that she invented the story about the officers' bomb blowing Hitler's pants off, but perhaps this is one of the fictions she would like to squash. When the war ended she set about making a career for herself in London.

In 1945 Mrs. Spark was a young, modestly educated divorcée from the provinces, without money, influence, or friends. Being heroically free of self-pity,