



# It's Raining in My Heart

*New Year's Eve*

It's drizzly and cool here in glorious L.A.—that means low 70's—but with a dreary fog. Still, a lot better than beloved Sandpoint. It's been snowing there for about three months solid, and I now hear it's snowing and raining. The roof of the high-school gym collapsed in town, and so did the roof of an elementary school in Priest River, where I sail my boat in summer. No, thank you. I'll stay in Southern California in the winter.

I am all alone. Alex and Tommy have gone off to Philadelphia to visit her sister and her family. I am deputized to take care of the dogs, the fish, and Tommy's new kitty, Peabo, who started life as a stray. Peabo was run over near Paramount while Alex was driving by about two months ago. She naturally took the kitty to a pet hospital, paid over a thousand dollars to get it repaired, and lent \$500 to a woman who was waiting in the waiting room and who later stopped payment on the check ostensibly repaying the loan. Now I can never find the kitty, whose only talent is to hide under the bed.

The original plan had been for me to spend New Year's Eve Day with my pal Shoshonna and her son, Martin Luther. I have become fond indeed of the boy. Just two days ago, at age two, he stretched out his arms and pointed at me and my dogs and said, "You're my family and I love you" (or words to that effect). It's really sweet and sad, particularly because Shoshonna's former lover, the father of Martin Luther, rarely sees the child. I am happy to step into the two-year-old's

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life and pay attention to him. That's a gift for both of us.

We had a crisis later that night, though, because I told Shoshonna that I would give Martin Luther a gift for Christmas. "Great," she said. "We want a TV and VCR combination." I gasped, but said I would consider it. She went with me to the Good Guys to get it. I said I thought just a TV might be enough for now. But she demanded to know why I wouldn't get her a VCR, too. I said I didn't want to shell out that much money for a gift for a two-year-old all at once.

Shoshonna, the most aggressive woman on earth, threw a fit. She accused me of every manner of moral evil, left over *two hundred* crank calls on my various phones—after she left with the TV—and promised to wreck my life because I had not gotten her the desired VCR. I AM NOT KIDDING. This really happened. She also was furious because I said that, because she was so demanding, I would not take her and Martin Luther out on New Year's Eve. This occasioned dozens more calls saying how mean-spirited and cheap I was.

No good deed goes unpunished. This is gospel truth.

So, to make sense of all this, I had a quiet New Year's Eve with the nutty nutritionist, Mary Muff Maguire. She came over to my apartment, and allowed me to eat about two bites of chicken before she said she thought we had eaten enough.

Then we watched TV. She was bored with my channel surfing until I came upon Court TV. They were showing a documentary about a 1992 parole hearing for Manson family murderer Leslie Van Houten.

"This is great," said Mary Muff with a terrifying earnestness. "I'm *fascinated* with

every aspect of the Manson family. I read *Helter Skelter* three times when I was a teenager."

"Was that to see how sick they were?" I asked. "Or how the legal system took so long to deal with them?"

"No," she said. "I thought that the way the Manson family lived was a sort of guide to how I wanted to live as a hippie. It really looked great to me. I never saw how they could regard Manson as Jesus, but the rest of it looked good to me."

Oh, I see. Well, I have to go back to planet earth now, dear girl.

After Mary Muff left, I locked all of the doors, then went to sleep with the dogs. I guess I can't blame her too much. She's from a sad background. Mary Muff's father abandoned the family when she was five, and she never saw him again. It seems to me that whenever I meet a truly sad woman, she's been abandoned by her father.

*New Year's Day*

Again, it's overcast and dreary, but no rain. So I headed off to the Santa Monica boardwalk (it's cement, of course) to meet up with Mary Muff to ride bikes. She's actually rollerblading, and I am riding a rented bike.

Just as I pulled up, a light rain began to fall. What the heck, I thought. I'll ride anyway. Mary Muff turned up in her blades and rollerblading outfit, a skintight body suit that might possibly make her seem a bit bigger-hipped than she might like. Still, she is a lovely early-middle-aged woman. A bit like Marilyn Monroe, only now her hair is a rich, dark red.

We went zooming along the boardwalk. She rides like a pro athlete from that great movie, *Rollerball*, blowing slow-

er riders out of the way, riding on the wrong side of the path to avoid sand, just a killer on skates, heh-heh. Every so often she slows down, grabs the back of my jacket, and I pull her along with my bike. Then she starts to tell me about someone named Jonas that she is madly in love with even after he treated her badly for years. "You know, I'm getting a bit tired of hearing about this guy," I said. "You talked about him all day on New Year's Eve, and I don't know him so it's a little tiresome to keep hearing about him. Maybe you could listen to me for a while, so I can tell you how Alex was the most beautiful girl at Yale and how everyone would gasp when she walked by because she was so beautiful, plus she was really smart and plus she's a really successful lawyer and plus she is just about a perfect Mom."

She looked angry. "No, I want to talk only about myself," she said. "I'm not kidding. I like to just meander along talking only about myself. I want to share my truth with you."

Again, this sounds as if it should be a joke, but it was not. She also talked about her daily food intake—a sure sign of self-obsession; about her weight, ditto; about her sisters, who are nuns; and her brothers, all of whom are bond traders.

Then, that deepest of dark underwater trenches, she started to talk about clothes she had seen in stores. Wow. There could have been a Chinese submarine in the water a mile offshore getting ready to shoot a missile into Los Angeles, and Mary Muff would still have paid it little attention, if any. She had to talk about what she had seen at Nordstrom's that day. Is it just me, or is she maybe just stoopid?

We went to a good Japanese place on Wilshire for an early dinner. She began to tell me about all of her years taking angel dust and crank—an extremely potent, highly refined version of amphetamines. Then she started talking once again about how fascinated she was with Leslie Van Houten.

"Let me ask you something," I asked her. "Do you think all of that drug use

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when you were a kid might possibly have affected your mental state and your personality today?"

This made her angry. She's taken to wearing blue contacts, and even beneath her blue contacts, her brown eyes flashed

with rage. "You dare to ask me such a question?" she asked. "You're the one who's crazy even to ask. Of course I'm normal. You and your boring nerdy intellectual friends are the crazy ones. You never had the guts to have any fun."

She drove off in a huff in the Jaguar she got from a former boyfriend.

Later that night, nestled in bed with Susie, half-Dalmatian, half-whippet, and ancient, lumbering Ginger, I called in for my messages.

There were three from Mary Muff Maguire. "I hate you," she said. "You wouldn't let me talk about myself. That's called 'stealing my truth' where I come from. I could say some really mean things about you, because you're a worthless creep, but I won't because I don't want to sink to your level."

I think I've made some major mistakes in my choices of friends lately. No more redheads on rollerblades.



JOHN SPRINGS

Sunday

**T**ommy is back!!! Today he and I went to the Santa Monica boardwalk to bike and blade. He clumped along after me on his ancient blades. Then I bought him new wheels—just to bribe him—and he was able to go about ten times faster, more smoothly, with more pleasure. On those new, softer, better-gripping blades, he could really hustle.

There were grandmothers windsurfing, college students playing street hockey on rollerblades, parents pushing kids on blades. Mexican families blocking the bikepath. Asian families picnicking on the bikepath. Intense women zooming along.

The sun was a dazzling orange. This was early January and here we all were *à la plage*. I looked back at my boy. He wasn't there. He was ahead of me, turning around, smiling and laughing at me. The future.

After blading, he wanted to go to Universal City Walk to buy lava lamps. Why? Because I have bought the apartment next to mine at the Shoreham Towers for us to use as a game room/club house. We are putting a ping-pong table and a big screen TV and a pinball machine in there. Should be a rockin' good time. Tommy also wants lava lamps. So, off I went with him in tow to the lava-lamp store on City Walk.

My little angel boy, Tommy Stein. We talked about how lava lamps work, how Mommy's new car, a huge BMW that she had to have, was different from the ancient Acura, what kind of car he wanted to have when he was 16 (currently, the choices are a Hummer and a cement mixer so Daddy won't have to worry about his safety), about why modern American cars weren't as well made as cars in the 1950's. (At least that's my impression.)

"Well, in the 1930's, my grandfather worked on the assembly line at Ford Motor," I said, "and he was very smart. But I think current assembly line workers are probably not quite at that level. If men are that smart now, they work at an investment bank or in a law firm."

"Why didn't your grandfather work on Wall Street or a law firm?" Tommy asked.

"Well, he came from Russia as an

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immigrant. He had little education, no important connections, no money. Plus, there was major league discrimination against Jews then. It was hard for Jews to get jobs in most American industry. Or most law firms or most banks. So he did the best he could. You and I, by contrast, live in a total Garden of Eden of opportunity. Jews have never had it so good ever in history as we have it in America right now. Come to think of it, neither has anyone else in America ever had it so good. And you and Mommy and I are really blessed beyond are wildest dreams. We should have one day of prayer and thanksgiving every week.”

“We do, Daddy,” Tommy said. “It's called the Sabbath.”

I am so glad he goes to a religious school.

Monday

**I**'m en route to Cleveland to give a speech to a group of Young Presidents of businesses. They called me about a year ago and made the date, and now I am keeping it.

One of the tragedies of Cleveland is that it is served primarily by Continental, an airline that is apparently staffed at some levels by convict labor with convict supplies. How else could you possibly explain the gray, institutional—well, prison—look of the Continental terminal, or the lack of basic amenities like water-fountains and toilets? How else explain the cruel overcrowding at the terminal? Hundreds of people lying on the floor because the terminal is double-booked by both Continental and United. What a mess.

The airplane was packed, just jammed beyond words. Even in first class, my knees were up against the back of the seat in front of me. My next door neighbor, a frequent traveler to Cleveland, said, “That's why it's called Continental.” Then he told me about his business, gathering and transmitting oil and gas. It's amazing how many different things people out there in America do year by year. I tend to think of everyone writing about policy or about Hollywood, but it's not like that at all.

The driver who met me at the airport, a man in his sixties, told me that his obsession was watching old black-and-white movies. He got so wrapped up in it, he drove miles past the hotel. “I forgot,” he said. “I forgot you were a paying passenger. I was just taking you to my home.”

I'm sure the John Wayne Gacy Hotel is a nice place, but I'll stick with the Ritz Carlton, where I had my reservation. The phones did not work, but my cousin, the lovely Jane, a major decorator in Cleveland, was there to take me to dinner with an amusing friend.

By the time I was ready to sleep, it was snowing outside. The snow fell on a totally depressing gray street and failed to lighten up the gray facades of the remorseless buildings of downtown Cleveland. A block away was a dark gray ship canal. The whole world since I got to the Continental terminal in LAX this morning had turned gray.

Tuesday

**I** have to say I am very impressed with the Young Presidents. For one thing, they really are young. They head fairly good-sized companies, sometimes really big companies, that make lawn care products, hardened alloys, bridge parts, interior landscaping. But they look like fraternity boys. For another thing, they toil obscurely, but lucratively, in the guts of the system, as one might say. They all look cheery and very nicely turned out. The wives in particular have extremely intelligent, thoughtful faces. Their husbands give self-effacing little speeches as they are proposed for membership. They're also dressed nicely, like grownups, in suits and normal ties and shoes. I could easily get used to being around these people. They talk about

their kids a lot, and that thrills me. The sign of well-rounded people: bragging about their kids comes before bragging about their incomes.

After the speech, I went to my room and read for hours, and then off to sleep, again hemmed in by the gray walls of downtown Cleveland. The only color here is the people.

*Wednesday*  
**O**ff to the Rock'n'Roll Museum and Hall of Fame. It is a strange glass and steel building with a pyramidal shape, somewhat like the buildings of the Louvre or other Parisian constructions I sometimes see in magazines. My cousin says it's got the same architect, I.M. Pei.

The tour starts with a simply great movie about the birth of rock music. It scares us at the beginning by saying, "Can you believe once there was no rock and roll?" as if to say, "Can you believe there was once no polio vaccine?" Then, to drive home the terrifying thought, it shows us a film clip of a family watching Dean Martin singing "Memories Are Made of This." Then they show a family sitting together in front of an old TV and that's supposed to be bad, too. It looked darn good to me.

The rest of the movie was excellent. It was about a mystery train picking up black work music in the South, mixing it with jazz, mixing that with hillbilly or country, and the result is Elvis Presley and also Bob Dylan.

The second movie was as bad as the first one was good. The high point of it was that anti-talent, Madonna, pretending to be bothered by censorship. She is such a nasty, sick, confused woman that for her to wrap herself in the Constitution makes me dizzy. Plus, she claims to be about sex, but she is really anti-sex, a sort of Hester Prynne imitation of what she imagines sex to be. Then there is a lot of whining about rock stars dying of

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drug overdoses. I feel sad for anyone who dies, but when aging rock star addicts commit suicide, it's not like 18-year-olds dying at Omaha Beach.

The rest of the museum is a mixed bag. Yes, it has a lot of waxwork dummies of rock stars. But



they are all identical, one to another.

There is, however, a good Bruce Springsteen exhibit that has the words to "Back Streets" in his own handwriting. Almost nothing about Dylan, though, and that is a shame.

Two different guides at the museum asked for my autograph. Getting asked for my autograph at a rock stars' museum. Art.

What can I say about the flight back? It was Continental. We were in the air five and three-quarters hours. The food was awful. They served us some kind of synthetic ice cream. Yuk.

But at home, little Mr. Perfect flew into my arms and hung there from me as if I were a jungle gym.

*Thursday*  
**L**unch at Morton's, I happened to run into my old shrink, Paul. We went for a little stroll in the sunshine and he asked about my life. I told him about Peter Feierabend, about Mary Muff Maguire, about various joys and sorrows of middle age.

"You need to let go more," he said. "Have more fun. What can you do that's just fun for you? That's legal."

I thought about that real hard and decided to go bike-riding on the Santa Monica boardwalk, even though I was all by myself. En route, I checked my messages. There were several from Mary Muff Maguire telling me what a creep I am and how I criticized her and made her feel terrible and belittled her and had better stop torturing her.

I feel really bad for Mary Muff. No father, money crazed brothers. I called and left a message on her toll-free number. (Hmmm. Why does she have a toll-free number anyway?) "I want you to know that I think you often have good insights," I said. "I'm on my way to go biking and I owe that to you since you suggested I do it to lose weight."

I rented my bike and rode along in the blessed sunshine. Suddenly, as I headed south along the bike

path, I felt a tingling dread, as if some evil were about to descend. Suddenly, just in front of a boarded-up beach club, there appeared Mary Muff Maguire, hurtling toward me on her blades, dressed to the nines, made up like crazy, with sparkling diamond earrings someone had given her, eyes flashing. "Hi, Ben," she said.

"Hi, Mary," I said. "I just left you a very nice, encouraging message."

"I know," she said. "I'm going to call the cops on you."

"What? Why?"

"It's offensive. It's harassment."

"Mary, it's not harassment to tell someone she has good insights. I think the police will be mad at you for wasting their time."

"If I say it's harassment, it's harassment," she said.

"That's not the law," I said.

"If I say it, it's the law," she said.

"Well, okay. Actually, I think you and Hillary have a lot in common..."

After my bike ride, I went off to glorious Pepperdine to teach my class in finance and ethical issues. My students look extremely alert and cheery. In fact, they look the best they have ever looked.

In my mail box were lovely notes from friends. Plus an invitation to hear a speech by Antonin Scalia. In fact, the whole day has been great except for my run-in with Mary Muff Maguire.

A basic truth: nutty people tend to act nutty, and paranoid people tend to act paranoid.

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*Friday*

**L**unch at Morton's again, this time with John Mankiewicz. John was my student at UC-Santa Cruz in 1972 and we have been close friends ever since. He is from that famous Mankiewicz family and he is a funny, funny guy. He is ten years younger than I am, but looks much older than he is. I told him about my need to have more fun.

"I feel the same way," he said. "I make a ton of money, so much that I can't figure out how to spend it, and I feel like I need to find some new ways to have fun."

"Maybe a trip to Ireland," I suggested.

"Or a trip to Thailand," a waiter tossed in as he passed by.

"Or maybe a really great stereo," I said.

"Yeah, a McIntosh one with tubes," John said.

"But we definitely need to do something," I agreed.

"Hey, did you hear about Alan Rucker?" John asked out of the blue.

"No, is he writing the Oscar Show this year?" I asked. Rucker is a bud of 21-years' standing. He founded TVTV, a great documentary company, produced a couple of TV shows, and now writes awards shows. He does not write the Oscars, I am happy to say, but I wish he did. I like him especially because his son, a teenage baseball player, struck out Lowell Milken's son at a high school game recently. (I wish I could forget these Milken folks, but their minions still send hate mail about me to TAS. That keeps Milken in my thoughts.)

"No, he's in the hospital, paralyzed from the waist down from some weird kind of virus."

"WHAT???"

We hurriedly finished and rushed over to nearby Cedars-Sinai. We had a tough time parking because the Chairman of the Board, Frank Sinatra himself, is in here. But we parked and found Rucker lying there with a handgrip above his head.

He had a gray beard, but then he had a gray beard last time I saw him, too.

Otherwise he looked not just good but great. He told us cheerily about his situation. A virus had come out of nowhere, attacked his spinal cord's myelin, and next thing you know, he collapsed and was paralyzed. "It took ninety minutes from start to finish and now I've been in bed for thirty-two days. I can't feel my feet. You could shoot me in the foot and I wouldn't feel it. But don't."

We talked more and I gave him the names of some experts in myelin that MS-stricken, wacky but gorgeous Dotty had given me long ago.

"There is full recovery in about a third of the cases, and partial recovery in a third, and no recovery in a third," Rucker said. "But just learning how to sleep like this is really difficult."

John and I left the hospital in a full state of shock. "I guess we have a good idea of what to do for fun," I said to John.

"I guess so," he said.

I went home and napped and then had a call from Sandpoint from Craig Savage, the administrator of Peter Feierabend's will. "You won't believe this," he said,



JOHN SPRINGS

"but Glenn Warren had a car crash and is in the hospital with extensive brain damage, on life support, and there is some doubt that he'll ever recover."

Oh, no.

"Glenn swerved to avoid a jack-knifed car and trailer on the road between Hope and Sandpoint and got hit by another car. He lost a lot of blood. They airlifted him to Deaconess Hospital in Spokane. He's not responding well to the brain activity tests. I think it's pretty bleak."

I got to know Glenn best after Peter died. He turned himself inside out helping Burdette and the kids. He drove over 500 miles in one day to identify Peter's body. He orchestrated the disposal of the ashes in Lake Pend'Oreille from my boat last October. He said some touching words then about Peter's spirit in the lake and in the sky. Now, he's in a coma in Deaconess Hospital in Spokane. What is it about Sandpoint? People die too soon there.

Saturday

Up early to watch Tommy in a soccer playoff game. It was at an unfamiliar field in a dismal spot in West L.A. Tommy's team won by a lot. We parents formed an arch of hands and the boys ran through it twice, laughing and giggling as they slapped five with their moms and dads. Every boy on the team except one had both parents there. These are rich kids in every meaningful way.

Afterwards, Tommy and I rode bikes and bladed in Santa Monica. It was cold. Tommy was a bit sluggish until we ran into Arnold Schwarzenegger pulling two of his kids with a bike. He got a chorus of "Arnold" as he rode along. He stopped to talk to us for a long time, and showed Tommy his Hummer. I know him from conservative political events, principally a dinner long ago for Milton Friedman. He is amazingly friendly. I asked him if he needed help putting his bike in his Hummer. We both laughed. Tommy said, "I think I'm coming down with a cold."

"While we live we are gods," said Nabokov.

On the way to Malibu, the sky was a perfect reddish orange. ☼

You deserve a factual look at...

# The Golan Heights

## To Whom Do They Belong? Can Israel Survive Without Them?

Now that Gaza and part of Judea/Samaria (the "West Bank") have been turned over to the Palestinians, the clamor for peace with Syria becomes ever more strident. Hafez Assad, Syria's president, has left no doubt, and it is generally understood that he will not make peace with Israel unless the Golan is returned to him in its entirety and without any conditions.

### What are the facts?

**Historical Background**—The Golan was always part of the Jewish homeland. The Syrian claim to the Golan is tenuous. Syria, as a political entity, did not exist at all until after the first World War.

Even before the establishment of Israel in 1948, the Syrians subjected the villages in northern Israel to almost daily shellings, making normal life impossible. In the 1967 Six-Day War, Syria attacked Israel and was defeated. Israel occupied the Golan Heights and in 1981, for all practical purposes annexed the area.

**Syria and its President**—Syria is the most destabilizing influence in the Middle East. It is classified by the U.S. State Department as a narcotic-dealing and terrorist state. Its main fury is directed at Israel, which is perceived as a bulwark of Western influence and civilization, both of which Syria totally rejects.

Syria's President, Hafez Assad, is a tyrant, every bit as ruthless as his Iraqi counterpart, Saddam Hussein. Syria is a world center for terrorism. It still harbors Nazi bigwigs, who found welcome there after the World War. Few doubt that Assad was the mastermind in the suicide attack on the Marine barracks in Beirut in which 241 Americans died, and in the explosion of Pan Am flight #103 in which 270 people lost their lives. He oversees one of the largest narcotics operations in the world.

In its keen desire to bring peace to its people, after almost fifty years of war and bloodshed, Israel had been prepared to make far-reaching concessions to Syria on the Golan, in exchange for real peace. But Benjamin Netanyahu, who has promised his people *shalom batuach* (peace with security) is not prepared to give up all of the Golan and to return to the "death trap" borders of 1967 or anything close to them. In order to survive within such borders, Israel would have to rely on the goodwill of the Arab states, most of which—with the recent exception of Jordan and of the cold peace with Egypt—are still in a declared state of war with Israel. An aggressor will attack only if confident of victory. With the Golan in Israeli hands, attacking Arabs could be confident of defeat, and peace would be preserved. To hand the Golan to Syria is a prescription for war and for Israel's destruction.

**Military Security**—The Golan is about the size of Queens, NY. If it were part of Syria it would be less than 1% of its territory. But it is of a supreme strategic importance to Israel. Its high ground provides early-warning capability, without which Israel would be subject to surprise attack by the Syrians. Its loss would obligate Israel to maintain a state of mobilization that would be economically and socially untenable. On the Golan itself, there are only two natural bottlenecks through which tanks can advance. Those choke points are defensible and made possible the repulse of

1400 Syrian tanks that attacked Israel in the 1973 war. But with the Golan in Syrian hands, and without the radar installations that would give Israel warning of any

military movements, thousands of tanks—backed up by missiles and airplanes—could overrun Israel in a matter of hours. The Golan does not make for perfect defense, but it gives Israel a small breathing space for mobilization.

The Golan is the source of over one-third of Israel's fresh water. In 1964, with the Golan in Syrian hands, Syria attempted to divert these headwaters and to cripple Israel's water supply. It is more than likely that, given another opportunity, Syria would once again attempt to destroy Israel's water supply.

"With the Golan in Israeli hands, attacking Arabs could be confident of defeat and peace would be preserved. To hand the Golan to Syria is a prescription for war and for Israel's destruction."

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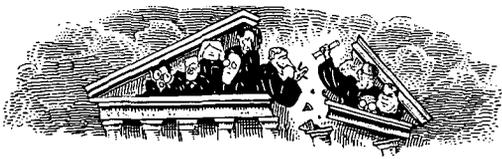
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by Terry Eastland

# Deactivate the Courts

## How Congress can lead a conservative counterattack.

Here is a rule with which to measure the 105th Congress: How will it fare against judicial activism? Both House Speaker Newt Gingrich and Senate Majority Leader Trent Lott have asked the heads of their judiciary committees (Henry Hyde and Orrin Hatch, respectively) what can be done about the problem, which dates back to the nineteenth century. America's judges have often overstepped their appropriate powers by legislating both liberal and conservative results. But with the rise of the Warren Court (1953-1968) and the intensely liberal agenda it pursued, the conservative counterattack began.

That counterattack has until now relied upon the executive powers to nominate and appoint judges. In the years since it began, Republican presidents have had ample opportunity to stamp their marks on the American judiciary. In 1968 Richard Nixon ran explicitly against the Warren Court, promising to appoint "strict constructionists." But no more than one of the four Justices he appointed (William Rehnquist) came close to fitting the bill. Nor did Gerald Ford's lone appointee, John Paul Stevens. The Burger Court (1969-1986) gave the country *Roe v. Wade*, a decision absolutely without constitutional basis, and proved only slightly less activist than its predecessor.

In 1980 Ronald Reagan ran for office on Nixonian terms, attacking judicial activism

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and vowing to name "constitutionalists"; his successor George Bush—pitted against Michael Dukakis and a Democratic Party in happy agreement with the results (and methods) of modern judicial activism—ran on those terms as well. Reagan and Bush named three-quarters of the lower bench and appointed five associate justices in twelve years, with Reagan also elevating Rehnquist to chief justice.

But here we are in 1997, and judicial appointments have not fixed the problem of judicial activism. In fact, some of the opinions drawing the sharpest criticism from conservatives were written or joined by Reagan and Bush appointees. The Court's opinion last year in *Evans v. Romer*, for example, which invalidated an amendment to the Colorado constitution prohibiting the state and localities from treating "homosexual orientation" as a prohibited basis for discrimination, was written by Reagan appointee Anthony Kennedy and joined by Reagan appointee Sandra Day O'Connor and Bush appointee David Souter.

Now, with the probability that by 2001 every other federal judge will be a Clinton appointee and the possibility that President Clinton might name another justice or two (his two appointees are the first by a Democratic president since LBJ), the problem Gingrich and Lott say they will address threatens to become worse.

It would be wrong to conclude from the history of Republican judicial selection that presidents cannot influence the direction of the courts through their choices for the bench. Indeed, the federal courts, including the Supreme Court, would have been more activist had Hubert Humphrey,

George McGovern, Jimmy Carter, Walter Mondale, or Dukakis been elected president. Nixon, Ford, Reagan, and Bush could, in many instances, certainly have made better choices at all levels of the federal judiciary. But a president's choices are also influenced by the Senate, which shares the power of appointment; and if the Senate is controlled by the party opposite, the odds increase that the president will not get his first choice.

Only two of the ten justices appointed by Republican presidents since 1969, for instance—Sandra Day O'Connor in 1981 and Antonin Scalia in 1986—were nominated when the GOP controlled the Senate, while the only two justices appointed by a Democrat since the 1960's—Ruth Ginsburg in 1993 and Stephen Breyer in 1994—were nominated when Democrats were in charge. The only Supreme Court nominees not to be confirmed during these years were made by Republican presidents and rejected by Democratic Senates: Nixon nominees were twice denied and, in 1987, the Senate also rejected Robert Bork.

That rejection turned out to be one of the most important political events of the 1980's; had Bork joined the Court, there can be little doubt that *Roe* would have been overruled. Other activist decisions would have been reigned in; new ones would not have been rendered. As it happened, Anthony Kennedy, whom Reagan appointed in Bork's place, joined with O'Connor and Souter to cast the decisive votes to uphold *Roe* in *Planned Parenthood v. Casey* (1992). Kennedy also wrote not only *Romer* but the Court's 1992 decision in *Lee v. Weisman* (joined by O'Connor and Souter) disallowing prayers at public middle- and high-school graduation ceremonies. Kennedy has not been a total joy for liberals—his race jurispru-