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## Biden Plans News Conference

WASHINGTON (AP) — Facing a controversy that threatens his presidential campaign and his reputation, Sen. Joseph Biden is trying to counter plagiarism allegations that stretch from his law school days 21 years ago to his current campaign speeches.

The Delaware Democrat said he would answer reporters' questions Thursday, following reports by The Washington Post and CBS News that he was accused of plagiarism while a first-year student at Syracuse University's law school in the 1960s.

Those reports followed three days of newspaper articles citing sections of assorted Biden campaign speeches this year that matched other politicians' earlier statements almost word-for-word.

Biden's spokesmen initially tried to discount the plagiarism reports as "frivolous" and not worthy of response, but by Wednesday evening the candidate was promising to "outline it all" in an attempt to prevent further damage to his campaign.

The Post reported in Thursday's editions that Biden failed a law school course in legal writing because he lifted a section of a law review article for one of his papers.

Biden told colleagues on the Senate Judiciary Committee that he repeated the course, eventually earning a "B" grade, and that a board of inquiry cleared him of any intentional deceit, the Post said.

"I made a mistake, and I will outline it all tomorrow," Biden told the newspaper.

CBS reported that Biden was late for Wednesday's confirmation hearings on Supreme Court nominee Robert H. Bork because he was trying to obtain a copy of his law school records. As head of the committee, Biden chairs the hearings.

Biden is a 1968 graduate of the Syracuse law school. Travis Lewin, the law school's dean, would not comment on the reports.

Earlier, Biden campaign officials had discounted news reports suggesting he used unattributed quotations.

"This is getting pretty frivolous," press secretary Larry Rasky said Wednesday. "I'm not going to engage in text analysis."

Biden often quotes both the late President John F. Kennedy and Robert Kennedy in his speeches, but he was criticized last week for not attributing a statement to Neil Kinnock, leader of Britain's Labor Party.

Biden used words very similar to Kinnock's in an Aug. 23 debate at the Iowa State Fair and in an Aug. 26 interview with the National Education Association. He had attributed the statement to Kinnock in previous addresses.

Two newspapers said Biden also used quotes from Robert Kennedy in his speech to the California state Democratic Party in February without attribution.

The San Jose Mercury News quoted Biden as saying in that speech:

"This standard ... doesn't measure the beauty of our poetry, the strength of our marriages, the intelligence of our public debate, the integrity of our public offices. It counts neither our wit nor our wisdom, neither our compassion nor our devotion to our country."

Then-Sen. Robert Kennedy, in a March 1968 speech at the University of Kansas, said:

"The gross national product ... does not include the beauty of our poetry or the strength of our marriages, the intelligence of our public debate or the integrity of our public officials. It measures neither our wit nor our courage, neither our wisdom nor our learning, neither our compassion nor our devotion to our country."

A text of Biden's speech distributed to reporters attributed the quote to Kennedy, but Biden did not use the attribution in delivering the address.

The New York Times reported that Biden also used another quotation without attribution.

AP-NY-09-17-87 0706EDT

USA Today  
9/23/87

Labor leader Neil Kinnock's anecdotes were taped alongside Kinnock's original speech. An aide to an unidentified opposing candidate sent the tape to *The New York Times* and *Des Moines Register*.

Days later, while watching a Biden speech on C-SPAN, White House political aide Jeffrey Lord recognized echoes of a celebrated Robert Kennedy speech and notified *The New York Times*.

C-SPAN also was present in the Claremont, N.H., living room where Biden exaggerated his academic accomplishments. *Newsweek* was tipped off.

On Wednesday, the White House acknowledged researching Biden's positions on issues. But it unequivocally denied it had leaked any information.

Modern political life has become a "high-stakes obstacle course," says former *Wall Street Journal* columnist Suzanne Garment, now a scholar at the American Enterprise Institute. Intensive press scrutiny is one of those obstacles.

But some candidates are less vulnerable than others. Televangelist Pat Robertson, for example, has been accused of embellishing his educational, military and business achievements. So far, he's escaped widespread attention — perhaps because he isn't taken seriously enough.

And President Reagan has uttered his share of lines from Hollywood screenplays. Remember, "I paid for this microphone"? Reagan said that during a 1980 primary debate in New Hampshire. The quip was slightly adapted from a line in the movie *State of the Union* — "I paid for this broadcast."

Biden's plagiarism was not so easily overlooked, some theorize, because it underscored his basic flaw — that he had nothing to offer but hollow rhetoric.

"The journalists who cover the political scene develop opinions of the candidate and sooner or later they find things that conform," says Garment.

This wasn't always the case. True, the illicit affairs of both Alexander Hamilton and Thomas Jefferson were campaign issues in the 1804 presidential race. And in 1884 Grover Cleveland's illegitimate child caused a campaign uproar. (He won anyway.)

But in recent history, the indiscretions of presidential candidates, and presidents themselves, have gone unreported.

Posthumous biographies of Presidents Roosevelt, Eisenhower, Kennedy and Johnson revealed publicly what only their intimate friends and an elite, clubby press corps once knew: They had extramarital affairs.

"Every major political figure in this country I've known has committed adultery," says Richard Goodwin, former speechwriter and adviser to both Kennedy and Johnson. "We're going to end up with a man of perfect virtue and no imagination."

Adds Rep. Pat Schroeder, D-Colo., who is considering entering the race: "We're not running for Mother Teresa."

So why is the modern candidate held to a stricter standard? In part, the post-Watergate morality.

"We've been wrong time after time having a president who is not what we thought he was in the campaign," says historian/author Barber, a Duke University professor. "That justifies asking all kinds of questions."

Intensive scrutiny also follows dramatic changes in the political process.

"Before, political leaders used to take candidates aside and ask them if there was anything negative or damaging in their backgrounds," says political observer William Schneider. "Now the press has assumed that role, and it's all done publicly."

Further, in a bloated candidate field — six Democrats and six Republicans — there's a natural sorting-out process. Says Ada W. Finifter, political science professor at Michigan State University: "It's not inappropriate to weed out people who don't stand muster on character."

But has the press gone too far? William Carrick, campaign manager for Rep. Richard Gephardt, D-Mo., says, "I don't think it's a blood-thirstiness that's excessive. We're getting into real gray areas" over privacy issues.

Ethicist and philosophy professor Sissela Bok says, "I feel strongly there should be limits to probing into the privacy of candidates, but when privacy gets mixed up with honesty it's a case the public should consider."

Historian Doris Kearns Goodwin argues that politicians have always told personal stories to endear themselves to the public.

Lyndon Johnson was a celebrated raconteur — and was equally as celebrated for his exaggerations. Once, while trying to instill a sense of patriotism into Vietnam war troops, Johnson related how his great-grandfather had died at the Alamo. Later, he admitted to Goodwin that his great-grandfather hadn't really died at the Alamo, but rather at the Battle of San Jacinto, the last battle in Texas' war for independence. Years later, Goodwin discovered that, in fact, Johnson's great-grandfather was in real estate and had died in his own bed.

"When so much of modern politics is creating an image, the question to ask is whether the candidates know who they are themselves rather than the projection of what the country wants them to be at the time," says Goodwin.

"The real test is whether they have enough sense of self and self-confidence, the honesty and straightforwardness to get through. If they get through, that shows us something about their potential to handle the presidency."

Contributing: Richard Benedetto

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# Overheard

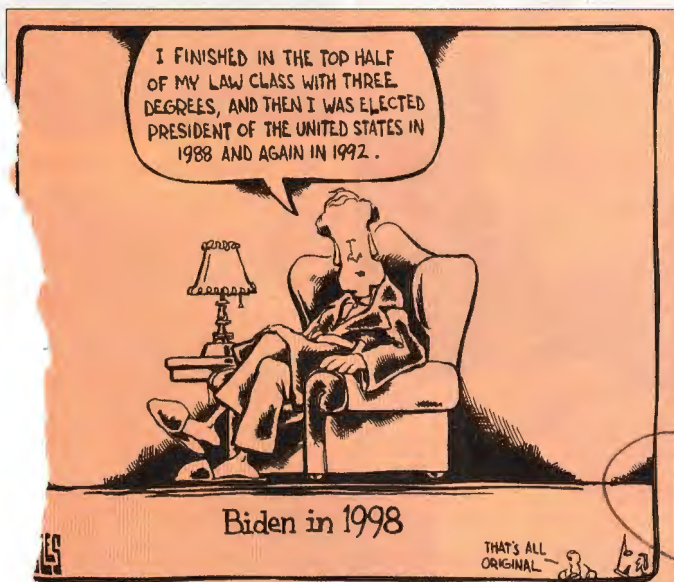
**B**etter get it right.”  
*Senate Judiciary Committee chairman (and ex-presidential candidate) JOSEPH BIDEN, to pro-Bork witness Lloyd Cutler when Cutler was asked about his law-school record*

**P**ull yourself together.”  
*ELIZABETH TAYLOR, to a reporter who asked her if Michael Jackson really has a shrine dedicated to her*

**T**he invitation had said, ‘Come for the weekend and run for the presidency.’ Now nobody would be allowed to leave the house until the last guest had been murdered.”  
*Columnist RUSSELL BAKER, on the Democratic presidential race as a corpse-in-the-library mystery*



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**C**ookie is delectable, Haig is electable.”  
*Message in fortune cookies sent by ALEXANDER HAIG’S staff to members of the Washington press corps*

**E**very Jewish boy’s nightmare come to-life.”  
*BARRY MANILOW, on his years as Bette Midler’s musical director*

**I**f I were not George Bush’s mother-in-law, I would certainly be working for you.”  
*A note from WILLA MARTIN PIERCE (actually Bush’s stepmother-in-law), accompanying her \$5 check to Jack Kemp*

**O**nly lie about the future.”  
*JOHNNY CARSON’S advice to aspiring politicians*

ork would be the most disastrous event in judicial history as e known it as a defendant.”

ABBIE HOFFMAN

**V**e are not exploiting them. We are just meeting the needs he market, like importing chemicals or slippers.”

*CHEEON FUNG, manager of a privately run project to bring Chinese peasants to the United States as temporary farm workers*

a professional individual. I’m a warm and caring in, I’ve got a lot of intelligence and a great deal of dreams oals.”

*KAYE LANI RAE RAFKO, the new Miss America*



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ABBIE HOFFMAN; DANNY GREEN; LYNDON CAROLINE



# A U.S. Ambush in the Gulf

New tactics produce a small but satisfying victory as Iran is trapped in the act of laying mines

It took three days to spring the trap. On Friday, Sept. 18, an old landing craft called the Iran Ajr left the Iranian port of Bandar Abbas and sailed out into the Persian Gulf, carrying a cargo of mines. U.S. intelligence planes tracked the Iranian Navy ship, waiting for an incriminating act. Finally, on Monday night, two American helicopters spotted the vessel in the shipping channel about 50 miles northeast of Bahrain. Watching through infrared night-vision equipment, the helicopter crews saw the Iranians push a mine over the side. The Americans radioed the news back to their commander and three minutes later were told to open fire. Their orders—personally delivered to the gulf by the chairman of the Joint Chiefs of Staff only a few days before—were to disable the Iranian ship, but not to sink it, if possible. Giving the Iranians no warning, the helicopters sprayed the vessel with rockets and machine-gun fire. The Iran Ajr had sailed into an ambush.

The high-tech skirmish in the gulf early last week brought the United States a small but satisfying victory over the forces of Iranian fundamentalism. The Iran Ajr was caught red-handed; the neatly laid trap produced "not just a smoking gun, but a gun [actually] going off," Defense Secretary Caspar Weinberger boasted during a subsequent tour of the fleet. The Iranian minelayer was captured intact, shown off to the press and then scuttled in the gulf. Five of its crew were listed as dead or missing, while the other 26 were handed back to Iran through intermediaries in Oman. The operation was a masterpiece of stealth and timing and interservice cooperation, involving Air Force spy planes, Navy ships and an elite Army helicopter unit known as the "Night Stalkers" (page 26).

After a series of humiliating setbacks in the Middle East—most recently the tragedy of the USS Stark—the United States finally had a morale-building success. The credit belonged not just to able seamen and airmen, but perhaps most of all to a slightly



MARK DUNCAN—AP

A smoking gun: Weinberger at sea

stooped, round-faced admiral with an unthreatening mien and a penetrating mind. As chairman of the Joint Chiefs, Adm. William J. Crowe Jr. has quietly restructured the vast military bureaucracy to cure some of the ills that caused earlier disasters. He has cut through the snarled chain of command that contributed to the deaths of 241 Marines in Beirut in 1983 and has overcome some of the interservice rivalries that complicated the abortive Iranian rescue mission in 1980. Crowe helped to ensure the success of last week's operation by giving its commander both clear rules of engagement and the freedom to act.

Of course, the American ambush settled nothing. At the United Nations, Iran's president, a Muslim clergyman named Seyed Ali Khamenei, denounced the administration's minelaying evidence as "a pack of lies" concocted by "the Great Satan." Threatening retaliation, he warned



Red-handed: Mines aboard t.



## JUDICIAL APPOINTMENTS

BY TOM SEPPY

WASHINGTON (AP) -- CONSERVATIVES WHO HELD UP A JUDICIAL APPOINTMENT THEY DIDN'T LIKE FOR 18 MONTHS HAVE NO RIGHT NOW TO COMPLAIN ABOUT THE PACE OF SENATE HEARINGS ON OTHER NOMINEES, SEN. JOSEPH BIDEN SAYS.

BIDEN, THE LIBERAL DELAWARE DEMOCRAT WHO CHAIRS THE SENATE JUDICIARY COMMITTEE, WAS VISIBLY ANGRY THURSDAY WHILE MAKING THAT REMARK TO SEN. GORDON HUMPHREY, THE CONSERVATIVE REPUBLICAN FROM NEW HAMPSHIRE.

HUMPHREY HAD COMPLAINED THAT THE DEMOCRAT-CONTROLLED COMMITTEE WAS "PLAYING GAMES" WITH PRESIDENT REAGAN'S JUDICIAL NOMINEES BY HOLDING UP ACTION ON THEIR NOMINATIONS.

THAT PROMPTED BIDEN TO SNAP, "I THINK IT IS TIME YOU STOP THIS MALARKEY." HE POINTED OUT THAT HUMPHREY AND OTHER CONSERVATIVES BLOCKED THE NOMINATION OF STANLEY SPORKIN TO THE U.S. DISTRICT COURT IN WASHINGTON FOR A YEAR AND HALF.

THE EXCHANGE CAME DURING A SESSION IN WHICH THE COMMITTEE APPROVED SEVEN FEDERAL JUDGESHIPS SUBMITTED BY REAGAN, INCLUDING STEPHEN S. TROTT, A HIGH-RANKING JUSTICE DEPARTMENT OFFICIAL, FOR THE 9TH U.S. CIRCUIT COURT OF APPEALS IN SAN FRANCISCO.

HOWEVER, HUMPHREY AND SEN. STROM THURMOND, R-S.C., DEMANDED TO KNOW WHEN THE COMMITTEE WAS GOING TO ACT ON OTHERS INCLUDING BERNARD H. SIEGAN, A UNIVERSITY OF SAN DIEGO LAW PROFESSOR AND A FORMER COLLEAGUE OF ATTORNEY GENERAL EDWIN MEESE III.

SIEGAN WAS NOMINATED LAST FEBRUARY FOR A SEAT ON THE 9TH CIRCUIT APPEALS COURT BUT HAS BEEN OPPOSED BY CRITICS WHO SAY HIS VIEWS ON CONSTITUTIONAL RIGHTS ARE OUTSIDE THE LEGAL MAINSTREAM. SIEGAN HAS TESTIFIED BEFORE THE COMMITTEE ONCE, AND ANOTHER HEARING IS SCHEDULED FOR JANUARY.

*Contd*

THURMOND SAID THERE WERE STILL SIX APPEALS COURT AND 13 DISTRICT JUDGE NOMINATIONS PENDING BEFORE THE COMMITTEE.

"LET'S VOTE THEM UP OR DOWN, IF THEY ARE CONTROVERSIAL," HE SAID. "LET'S NOT HOLD THEM UP."

HUMPHREY COMPLAINED THAT THE COMMITTEE WAS "PLAYING GAMES" AND SAID "COMMON DECENCY" SHOULD PRECLUDE KEEPING A PERSON SUCH AS SIEGAN WAITING MORE THAN 10 MONTHS BEFORE A HEARING WAS HELD ON HIS CANDIDACY.

"WHEN CAN WE EXPECT HIS NAME TO BE PLACED ON THE AGENDA?" HUMPHREY DEMANDED. "WILL HE BE ON THE NEXT BUSINESS AGENDA?"

BIDEN REPLIED POINTEDLY: "THERE IS NO EVIDENCE, NOR HAS THERE BEEN ANY EVIDENCE, THAT PEOPLE HAVEN'T GOTTEN A FAIR HEARING. ALL THESE PEOPLE WILL GET THEIR CHANCE AT A FAIR HEARING."

"IF YOU ARE GOING TO PLAY THIS POLITICAL GAME, MAYBE I OUGHT TO PLAY POLITICS, TOO," HE CONTINUED. "I'M TIRED OF THIS TRIPE. IT MAKES ME A LITTLE BIT ANGRY ABOUT HOW THIS TRIPE IS GOING ON."

"YOU AND YOUR FRIENDS ON THE RIGHT HELD UP SPORKIN FOR 18 MONTHS AND HE WAS A REPUBLICAN," BIDEN SAID.

BIDEN SAID HE HAS PROMISED THURMOND THAT HE WILL SCHEDULE VOTES ON ALL OF REAGAN'S NOMINATIONS, EVEN DURING THE COMING PRESIDENTIAL ELECTION YEAR, A TIME WHEN ACTION TRADITIONALLY IS SLOW.

"I'LL HOLD A VOTE UP UNTIL THE DAY BEFORE THE PRESIDENT LEAVES OFFICE," HE SAID. "AND I'VE TOLD SEN. THURMOND THAT."

"I CAN'T FATHOM WHAT WOULD HAVE HAPPENED IF K. HAD A LIBERAL PRESIDENT AND YOU WERE CHAIRMAN OF THIS COMMITTEE," BIDEN SAID TO HUMPHREY. "I DOUBT THAT ONLY ONE JUDGE WOULD HAVE BEEN REJECTED."

THE COMMITTEE HAS REJECTED ONLY REAGAN'S NOMINATION OF ROBERT H. BORK TO THE SUPREME COURT DURING THE PAST YEAR THAT DEMOCRATS HAVE CONTROLLED THE PANEL. REAGAN HAS MADE 64 JUDICIAL NOMINATIONS DURING THE PERIOD.

IN ADDITION TO APPROVING THE APPEALS COURT NOMINATION OF TROTT, THE COMMITTEE ON THURSDAY APPROVED THESE U.S. DISTRICT JUDGE NOMINEES: JEROME TURNER OF THE WESTERN DISTRICT OF TENNESSEE, FRANKLIN S. VAN ANTWERPEN OF THE EASTERN DISTRICT OF PENNSYLVANIA, ALFRED M. MOLIN OF NEW JERSEY, ROBERT S. GANTHROP III OF THE EASTERN DISTRICT OF PENNSYLVANIA AND DEAN WHIPPLE OF THE WESTERN DISTRICT OF MISSOURI.

AP-WX-12-04-87 1545EST



## / Charges of Stalling on Judge Nominees Irk Biden

By DOUGLAS JEHL, *Times Staff Writer*

WASHINGTON—Senate Judiciary Committee Chairman Joseph R. Biden Jr. (D-Del.), responding heatedly to charges that Democrats are deliberately holding up Administration nominations for federal judgeships, promised Thursday that all nominees "will get an up or down vote" before next year's presidential election.

But Biden issued a thinly veiled warning that he will do his best to block those nominations unless Republicans "stop this malarkey."

"You all want to stop the judges, keep pushing," he vowed.

The clash occurred after the committee sent to the Senate floor with favorable recommendations the nominations of Associate Atty. Gen. Stephen S. Trott to the 9th Circuit Court of Appeals and of six others to federal district courts.

After the vote, Sens. Strom Thurmond (R-S.C.) and Gordon J. Humphrey (R-N.H.) urged that the committee expedite hearings for 20 other judicial nominations still pending before the panel.

The senators complained that months-long delays in the confirmation process seriously disrupt the lives and legal practices of judicial nominees. "It's about time we stop playing games," Humphrey said. "It's really indecent."

Some Republicans, noting that some nominations have been be-

fore the committee for almost a year, have suggested that Democrats might deliberately be pursuing a slow-down strategy to leave judicial appointments to the next President.

However, Democratic leaders have blamed the backlog on the extended time consumed by consideration of President Reagan's Supreme Court nominees and asserted that each appointee requires thorough scrutiny. They noted also that conservative Republicans on the panel have themselves held up action on some candidates they thought might be too liberal.

Humphrey urged the committee to move quickly, at least on the

nomination of University of San Diego law professor Bernard Siegan, who was nominated to the 9th Circuit 10 months ago. Biden promised to schedule a second hearing for Siegan next month but said the nomination of the conservative scholar is so controversial that he could not yet say when a vote might take place.

In the exchange that ensued, Sen. Patrick J. Leahy (D-Vt.) sided with Biden. "I will not . . . go along with rubber-stamping anybody," said Leahy, who heads the subcommittee that screens judicial nominees.

Staff writer Ronald J. Ostrow contributed to this story.

5:30 P.M. NEWS UPDATE

PRESIDENT/SUMMIT (Norman Sandler, UPI) -- The White House, bidding to ease anxieties on the right, discounted prospects for dramatic achievements at next week's summit Wednesday and characterized the meeting as one "between old enemies." Six days away from the signing of a treaty to eliminate an entire class of nuclear missiles, Administration officials sought to dampen expectations about the summit's outcome and displayed sensitivity to conservative worries that concern for his legacy has gotten the best of President Reagan.

(Ira Allen, UPI) -- President Reagan and Soviet leader Gorbachev will meet privately for at least seven hours next week and eat together once on each of the three full days of their summit, the White House said Wednesday. Counting appearances this week, the two leaders will have spent more than half of that time making their cases to the American public on television.

ARMS CONTROL (AP) -- The Soviet Union has given the U.S. missile information required to close a nuclear arms control treaty, a high-ranking U.S. official said today, clearing up a last-minute snarl as the two sides prepare to sign the accord. The passing of the information to American representatives in Geneva today appeared to extinguish a flare-up less than a week before the commencement of summit talks....

MILLER/SPENDING CUTS (UPI) -- President Reagan is ready to permit automatic spending cuts if an alternative budget-cutting deal gets bogged down on Capitol Hill, White House budget director James Miller said Wednesday. But Miller predicted Congress would beat the Dec. 16 deadline for passing a new tax and spending plan.

CASEY/CONTRAS (UPI) -- The wife of the late CIA Director William Casey presented a \$140,000 donation Wednesday to a wounded contra commander for a rehabilitation center to help rebels maimed in the conflict in Nicaragua.... Contributions from across the U.S to the William Casey Fund for Nicaraguan Freedom Fighters will help to create the center for technical training and rehabilitation of wounded contras, Sophia Casey said.

HAITI (Reuter) -- The Reagan Administration has not considered intervening in Haiti, where widespread violence forced a halt to the first free elections in 30 years, the White House said on Wednesday.... Charles Redman told reporters the U.S. was consulting with the Organization of American States on the role the OAS might play. He welcomed an OAS condemnation of the violence and its appeal for renewal of the election process.

ANTI-DRUG MONEY (UPI) -- Republican and Democratic senators criticized the Administration Wednesday for failing to distribute most the \$1.7 billion set aside by Congress more than a year ago to fight drug abuse. "Simply put, there is no federal leadership in the struggle against drugs in America," Sen. Joseph Biden said at a hearing of the Senate Caucus on International Narcotics Control.

## NETWORK NEWS SUMMARY

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(Wednesday Evening, September 24, 1987)

### BIDEN

NBC's Garrick Utley: Once again, the question of character dominates presidential politics. First it was Gary Hart, who pulled out of the race because of his relationship with Donna Rice. Today it was Democratic Sen. Biden. In his case, the transgression was using other people's words and ideas while embellishing his own record.

(NBC-Lead)

ABC's Peter Jennings: And now there are six Democrats, officially running for the presidency with five months to go before the first meaningful expression from the voters themselves. Sen. Biden has decided to pack it in. It has boiled down to character: the chairman of the Senate Judiciary Committee, the man in the dock for using other people's words without credit, and being less than truthful about the credits he received at law school and at college, went home to consult with his family last night. And those who make their living in politics had no doubt then that his campaign was over.

(ABC-Lead)

CBS's Dan Rather: Sen. Biden blames mostly himself for blowing it and bows out for '88. The Senator said a continuing spotlight on his mistakes and mis-statements about his record brought him down. He said he'll keep the high visibility chairmanship of the Senate Judiciary Committee -- now ground-zero for the Bork nomination battle. Biden took no questions today. Tonight the unanswered questions include who got Biden? Who was leaking his records? And was there a White House connection?

CBS's Lesley Stahl reports on the controversy, including Republican sources who tell CBS News that the White House has been doing opposition research on Biden in preparation for the Bork hearings, that included a look into his law school records, and his embellishments of his academic achievements. White House official Joseph Rodota admits that he did comb through Senate records but denies digging into Biden's personal background.

(CBS-Lead)

### PERSIAN GULF

Utley: The Pentagon said today that the 26 crewmen captured on the Iranian ship in the Persian Gulf Monday night will be turned over to the Red Crescent in Oman for transfer to Iran. NBC News has learned that the capture of the ship has been an intelligence coup, yielding charts of all the Iranian minefields in the gulf, and information on where mines are stored in Iran and where new minefields are planned. Meanwhile, at the U.N., the political fighting over what Iran is doing in the gulf continued today.



Tom K -

Book rhetorical update FYI.

T. White

8/11/87

Sent to Korologos - 8/11/87

- Conservative Digest piece
- Bawer Draft

# Conservative Digest

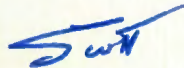
August 5, 1987

Mr. Thomas F. Gibson III  
Director of Public Affairs  
Room 160  
Old Executive Office Building  
Washington, DC 20500

Dear Tom:

Enclosed is an advance copy of our  
latest exercise in moderation.

Best wishes,



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When Oliver North and other men were fighting in Vietnam, varsity athlete Joe Biden managed to flunk his physical. He says it got scary when he almost flunked out of law school, but he practiced law four years before the left made him a Senator

## Keep Your Eye On The Mean-Spirited Senator Joe Biden

BY WILLIAM P. HOAR

**S**ENATOR JOE BIDEN (D.-Delaware) thinks he should be President of the United States so that he can "rekindle the fire of idealism in this country." His media consultant claims to believe Biden is "image perfect," and the profound *People* magazine says the "hot, handsome," 44-year-old Senator "is the Dems' new White House hope." Never mind that by the Fourth of July the polls had Biden at no more than three percent, and that he was sitting at the bottom among the declared Democratic candidates. Will he break through as did his man Jimmy Carter? Indeed, is that the Biden strategy? One remembers that Joe Biden was the first Member of Congress to support Carter and was his national campaign coordinator.

Or will the infamous Biden brashness turn off the electorate? After all,  
**September, 1987**

the Senator does have a predisposition to become overwrought. Last year, for example, he foamed before the National Association for the Advancement of Colored People that he is "engaged in all-out warfare with the right wing in this country," which the Senator claimed is "waging a permanent, overt, unabashed, total assault on the values and programs of a just America."

Further indication of Joe Biden's moderation and sense of history is to be found in his contention that Ronald Reagan is "the most anti-arms-control President since . . . Christ, period." Indeed, when the Delaware fulminator became Chairman of the Senate Judiciary Committee after the 1986 elections he claimed: "Over the last six years, the Committee was most concerned with moving the far-right social agenda, whether it was mandatory



## CONSERVATIVE DIGEST

school prayer or making America a Christian nation." Joe vowed that now the "far-right agenda will not be the agenda of the Committee." Moderation, you see, is not his strength. Speaking of federal judges, Mr. Biden is not even happy with Sandra Day O'Connor. Or so it seemed when he declared: "They can send up a conservative, a scholar, an intellectually competent person. But they can't run these bimbos through anymore."

Sometimes Joe stretches the truth as much as he stretches those transplanted hairs across his scalp. Last year, in an interview with the *Philadelphia Inquirer*, the Judiciary Chairman told the world about a potential Supreme Court nominee he *could* support. It was Robert Bork, former Yale Law School professor, U.S. Solicitor General, and judge of the U.S. Court of Appeals for the District of Columbia. Here is how Biden put it: "Say the administration sends up Bork and, after our investigation, he looks a lot like another [*Associate Justice Antonin*] Scalia. I'd have to vote for him, and if the [*leftwing special-interest*] groups tear me apart, that's the medicine I'll have to take. I'm not Ted Kennedy."

Did Joseph Biden mean it? When President Reagan nominated Judge Bork to the Supreme Court, as liberals squawked that Joe should withdraw his early endorsement of Bork, he flew to their bidding with chicken feathers flying and said that some mythical "balance" would be lost if a conservative were named to the Supreme Court. He even dreamed up a new wrinkle for the Constitution, claiming

"that the Senate has equally as much right to insist on ideological purity as the President does." Never mind that Biden earlier objected to any Justice Department "litmus test" for judges, pretending to care only that nominees be "qualified."\*

If Joe continues to play to the crazies of his party, wages all-out war on Bork, and loses, that should spell the end of his candidacy. Win or lose, it will end any chance of Biden being elected in 1988. Giving the American people a chance to watch him live and in action can only be fatal to him. While those who observe him closely disagree on whatever it is that makes Biden so obnoxious . . . it certainly works.

**Early Callowness.** The question of Joe Biden's short fuse comes up so often that his handlers have formulated a response. It goes like this: "I have a lot of adrenaline and I play to win." Joe does, in fact, emote a lot and he often speaks of having taken part in sit-ins in Wilmington during his teens. "My stomach turned upon hearing the voices of Faubus and Wallace," he says. "My soul raged on seeing Bull Connor and his dogs."

\*In a prepared statement for an October 17, 1985, hearing on the nomination of Solicitor General Charles Fried, Senator Biden remarked glowingly of the "extraordinary responsibility" and "proven legal ability" of predecessors including, specifically, Thurgood Marshall and Robert Bork, as those who "have remembered that their first responsibility is to the people of the nation." Now the left wants Joe to say it ain't so, and he meekly complies.

September, 1987

## KEEP YOUR EYE ON JOE BIDEN

Of course, experience suggests that we can only believe about half of what this man says. And who knows which half? By 1975, Biden was telling observers: "I think the Democratic Party could stand a liberal George Wallace — someone who's not afraid to stand up and offend people, someone who wouldn't pander, but would say what the American people know in their gut is right." This was at a time when the liberal pointy-heads, as Wallace had called them, were instituting forced busing for racist purposes in Joe's state of Delaware.

Seeing which way the sentiment was running in the white Wilmington suburbs, young Senator Biden acquired a reputation of being different from the far left . . . on the busing issue. Never mind that Biden originally claimed busing to be a phony issue; that he frequently voted with liberals on busing, according to a *Wilmington News Journal* analysis; that he later switched; but that, even then, he did little more than sponsor a mild version of legislation that did nothing to reduce court-ordered busing. When his opponent tried to puncture the myth that Joe was an anti-buser, Biden raged on and on during his 1978 re-election campaign until he publicly declared his opponent to be "full of cr\*p." In this, as in other legislative matters, Biden may be short on horsepower but he is long on exhaust.

The Senate career for Joseph Robinette Biden Jr. began a whole four years out of law school in 1972 after a two-year stint on the New Castle County Council where, as is his pat-

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tern, he was more a show horse than a work horse. One fellow councilman reported: "He's the greatest opportunist I've ever seen in public life." Said another (and contrast this with how Joe now urges young voters to give up "self-interest"): "I quickly discovered that Joe was in County Council for Joe and Joe alone." Well, as it turned out, this former public defender of muggers was there to run for the U.S. Senate.

And in an upset victory — in which about two-thirds of his money\* came from national sources such as labor unions, environmental extremists, and radical activist groups — Biden squeaked by the elderly Senator J. Caleb Boggs by some three thousand votes. Immediately upon attaining incumbency, Biden testified in favor of public financing of elections, saying: "It's the most degrading thing in the world to go out and have to raise money . . ." Better, from his point of view, to restrict the spending of opponents and have Uncle Sam force taxpayers to back candidates they don't support.

The second-youngest Senator ever, Joseph Biden only reached the prescribed age of thirty after his election. That very next month, before he assumed office, Biden's wife and a daughter were killed in a tragic automobile accident in which his two young sons

\*The pattern has held. An analysis of reports filed with the Federal Election Commission just before the 1984 election showed that 89.9 percent of "Broadway Joe's" funding came from out-of-state, with New York topping the list.

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were also injured. "Though never voiced publicly," reported *Delaware Today*, "many people accused Joe Biden of extracting maximum publicity from his misfortune." That seems cynical. But the revealing facts are that Biden arranged to have himself sworn into office in the hospital with his children in a ceremony *done a second time* for a better television angle. Ever since, says a story repeated in almost every Biden biography, he has attempted to be near his family by commuting by train between Wilmington and Washington. That is, until he began his run for President.

In an article in the *Washingtonian* magazine, with which Biden regrets having cooperated, the young Senator seemed to author Kitty Kelley to be shrouding himself in widower's weeds in an office decorated like a shrine to his late wife, even turning down repeated invitations to visit with the Kennedy family. Kelley illustrates Joe's thinking in such Biden comments as: "I don't think the issues mean a great deal in terms of whether you win or lose." The young Senator also told the reporter he supported the military draft. "I'm scared to death," he said, "of a professional army." He did not himself serve in the military, managing during the Vietnam War to fail his draft physical despite having been a varsity football player. Indeed he says he "almost flunked out" of law school.

The left meanwhile knows Joe as one of its own, though sometimes the voters must be fooled. Not long before

his first re-election campaign, for example, Biden noted that the electorate in Delaware is mostly conservative. "If they categorized me as a liberal, they'd wipe me off the slate," he told the *Philadelphia Sunday Bulletin*. Similarly, in remarks about the far-left Americans for Democratic Action the Senator told Kitty Kelley: "Those ADA ratings get us into so much trouble that a lot of us sit around thinking up ways to vote conservative just so we don't come out with a liberal rating." Not *too much* time in Biden's case; his lifetime A.D.A. rating squats comfortably at about 74 percent.

Early in his first Senate term, Biden told the *Washingtonian* he didn't favor legalized marijuana, but in 1977 he voted in favor of decriminalizing its possession — something which not even Teddy Kennedy was then prepared to do. And Big Labor was obviously pleased with Biden's performance, giving him more than \$58,000 for his initial campaign and almost doubling that in 1978 to \$103,000 for a state with less than a quarter of a million voters. William Winpisinger, the firebreathing radical who runs the machinists' union, now says he is "intrigued" by the Delaware Senator, which is suspicious in itself. But another union official quoted by *Business Week* asks: "Is he just a speech? Is there anybody there?"

Unfortunately for Joe Biden, his votes *are* there. Senator Biden voted during his first term to surrender U.S. sovereignty over the Panama Canal and claimed we never bought or owned the canal anyway. And in 1977 he



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told a Delaware newspaper: "The most rewarding thing that's occurred legislatively to me in the Congress, in a specific sense, was my effort in helping bring the Vietnam war to a legislative end." Hanoi of course saw the way it was all done as a bloody opportunity and the dominoes fell. Biden didn't even want to provide enough aid to allow South Vietnam a decent interval before being overrun. The Delaware Senator, reported Rowland Evans and Robert Novak in 1973, "wants all aid ended and 'can't imagine what would change my mind,' unless it were proof of Communist reprisals against South Vietnamese after a military collapse. But Biden added quickly: 'I question that I would even then.'"

**Positions.** While Presidential candidate Biden has of late been reported by his advocates as steering a middle path between, say, protectionism and free trade, his heart and votes over the years place him solidly with the extremists. Consider: He voted to abolish the Electoral College system under which we elect our President because he made a "deal" with a fellow liberal, then said he didn't know whether he wanted it abolished after all. He has opposed the Balanced Budget Amendment, though he sponsored the deceptive "K.G.B. Freeze" (named for Senators Kassebaum, Grassley and Biden) which would have cut almost \$180 billion from defense programs. That is typical of Biden's anti-defense posturing. He has voted against, or for cuts in, the MX missile, the B-1 bomber, our anti-satellite weapons,

the cruise missiles, and has even offered his own amendment against chemical weapons. Biden was also against military aid to El Salvador that saved that country from the Communists, and as early as 1982 he delighted the antediluvian ultraist Mary McGrory by being the only member of the Senate Intelligence Committee to vote against aiding the freedom fighters in Nicaragua. He would later admit that (surprise!) the Communist Sandinistas were supporting the Communist guerrillas in El Salvador and that he had been briefed *prior* to C.I.A. covert activities, such as harbor mining against the Sandinistas — but none of that brought him over to the anti-Communist side or prevented him from smearing the Agency efforts.

Just as he opposed repeal of the Clark Amendment lest our anti-Communist efforts be restored in Africa, Biden voted to gut a resolution that sought to reaffirm a 1962 declaration of Congress opposing aggressive intervention in this hemisphere by either the Soviets or Cubans. Now, running for President, Joe Biden claims he'd "come down" on Danny Ortega "like a ton of bricks" if the Nicaraguan Communists moved troops "across the border or set up a Soviet or Cuban base." Moreover, he now claims, "I'd tell Gorbachev or Castro: 'Keep out.'" Perhaps what Biden has in mind is a "Keep Off The Grass" sign.

Joe apparently believes in the power of mere words. They are, after all, so . . . ephemeral. For instance, Biden spearheaded President Carter's futile efforts to get approval of the SALT

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II Treaty but quickly dropped the issue after the matter proved a hot political potato. Senator Biden's 1984 opponent for the Senate, John Burris, told us that Joe's switch to support for the Grenada rescue after it proved popular was so sudden that when Burris brought it up in debate Biden went apoplectic. Joe is apparently the kind of turkey who thinks his mother was a dove and his father a hawk. But, despite the fact that the Soviets have continually violated the 1972 A.B.M. Treaty, he is trying to curry favor with the extremists of the left by holding us to the most narrow interpretation of that treaty and opposing what he says is a Reagan desire "that we can seek and gain nuclear superiority." (Golly, can you think of anything worse?) This from a man who has claimed to know more about Soviet weapons "than any other elected official in Washington, D.C."\*

Having never had his precious hide shot at by the beloved comrades, Senator Biden seems to forget who has declared themselves our main enemy.

An article by Brit Hume in *The New Republic* in 1986 pointed out several reasons why Hume thinks Joe Biden is just a "windbag." According to Hume, the Senator says "he was 'the single most active' Democrat on the Intelligence Committee, a claim that is hard to assess, since the committee's proceedings are almost en-

tirely secret. Biden says he 'twice threatened to go public with covert-action plans by the Reagan administration that were harebrained,' and thereby halted them. Committee rules forbid him from saying what those plans were." Conveniently.

When the Senator learned that the once doctrinaire liberal *New Republic* planned to do a story on him, he went to the editor-in-chief to have the assignment changed. After all, *New Republic* boss Marty Peretz had kicked in with \$2,500 for Joe way back in 1972. But, to Peretz's credit, the article was published. It was called "Mighty Mouth."

**Other Issues.** Never one to rush to the aid of the country, Senator Biden has done all he can to prevent capital punishment even for treason, espionage, or assassination of a President. Indeed he is so cavalier about national security that he was one of only six Senators to oppose making it a crime to expose the identities of American intelligence officers. Joe Biden is, in short, in the vanguard of liberal extremists. He thus turns up for federal land control, but against the Alaska Pipeline development; for compulsory unionism, but against prayer in public schools; for special treatment for Communist regimes, but against aid to anti-Communist countries. On one day last year he was even against applying the same sanctions to the Soviet Union as to South Africa. Senator Biden knows his constituency very well, and has actually voted against allowing life insurance companies in the District of Columbia to test for AIDS.

\*If Ronald Reagan were re-elected, this 4-F military expert predicted in 1984, U.S. troops would be in Central America in a year.

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On other matters of life and death, the fact that Senator Biden is a Roman Catholic has given him an unwarranted reputation as being anti-abortion. He has repeatedly come out against pro-life bills and has stated: "I do not favor any piece of legislation that would curtail or limit a woman's right to have an abortion performed; that is their legal right." As a Presidential candidate, Biden has gone further and stated he would *not* veto a bill providing federal funding to kill unborn children; and he has supported funding for Red China's infanticide practices. The unborn don't vote, you see, and Red China has a very small ethnic constituency in the United States. Joe knows how to play the game. On his honeymoon with his present wife in 1977, for instance, he toured Holocaust sites and has taken his sons to Dachau when each reached age fifteen.

On the issue of whether America should be defended, Senator Biden says *no*. Am I being unfair? You judge. Joe Biden testified this year that there is "a recognition by the superpowers that the effort to build nationwide defenses would only prove economically wasteful and strategically futile . . ." Never mind that the Soviets have *acted* otherwise. This guy doesn't even want to defend our cities against nuclear attack. He characterizes the Strategic Defense Initiative as "fantasy," and he told frenzied California Democrats that if we deploy such protection it will mean "nuclearizing the heavens, and yielding the fate of the earth to the

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malfunctioning of a computer chip."

**Judiciary Committee.** Except for a handful of fanatic backers, both friends and foes of Joseph Biden acknowledge he has a weak legislative record. Indeed, over a recent period of six Congresses, only three of his bills were enacted into law. "It is," reported the *New York Times* earlier this year, "the question of substance that has bedeviled Mr. Biden."

An article in *Esquire* in 1982 by Robert Sam Anson spoke of other things that were being said about Senator Biden: "That he was a clock watcher. That he got easily bored ('the attention span of a gnat,' said one reporter who covered him). That he has problems with staff. That he talked too much. That he popped off. That he didn't do his homework. That he was, as Gary Hart, his rival from Colorado, put it, a 'buzz-saw,' all noise and bite."

That buzzing has been done mostly off the Senate floor.\* But it is the same old buzz — the same speech he's been giving since 1983. He simply lifted Gary Hart's 1974 theme ("It's our turn") and stole liberally, often without attribution, from addresses by the late John and Robert Kennedy.

Senator Biden's performance on the Judiciary Committee does provide a rare measure of the man. I say "rare" because the ranking Democrat on Judiciary missed, between 1979 and 1982, some 270 of 292 full Committee hear-

\*After re-election in 1979 he missed more votes than all but eleven Senators and was in the top four among junketeers.

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ings. "The single most important reality we have," says the Senator, "is judges." In his consideration of Reagan nominees he has been a smirking smart aleck, a pettifogging troglodyte, a hypocritical sermonizer, and a thug throwing mud on the character of better men.

Under Biden, delay on nominees has been all but criminal, taking an average of nine weeks between nomination and hearing — three times as long as under Chairman Strom Thurmond. His sadistic gloating when appointee William Clark could not name some outré Prime Ministers in southern Africa must have set a record for ninnysm. And he is said to have beamed with pleasure when he heard that he had by his unwarranted cruelty reduced the wife and daughter of Attorney General Edwin Meese to tears in the hearing room. The Senator's subsequent finger-pointing and smart-mouthing addressed to an elderly Secretary of State was so nasty that both liberals and conservatives were defending George Shultz. As for himself, Joe publicly patted his own back: "I speak for the oppressed, whatever they happen to be."

Then there were the cheap shots at Associate Justice William Rehnquist when he was nominated to be Chief Justice of the United States, dubbed a "Rehnquisition" by an outraged Senator Orrin Hatch. Among other things, Rehnquist was hit for not having the right views (in Biden's eyes) when he was a *law clerk* and for having tolerated an unenforceable racial covenant on property he owned. That

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last bit fizzled when it was discovered that the house in which Senator Biden resided when he was first elected to the Senate (his father's) also had a provision preventing ownership and occupation by Negroes.

When the very liberal Abner Mikva was nominated to be a federal judge in 1979 and a few conservatives opposed him, Biden opined: "Although a nominee's personal views on matters likely to come before him are relevant, they are not nearly as important as the more elusive qualities of demeanor and personal temperament. Specifically, I do not believe that elected officials should be disqualified for service on the federal bench simply because during the course of their political careers they have advocated positions with which some have disagreed."

Biden doesn't know the difference between pulling his weight and throwing it around. When Daniel Manion, a conservative, was nominated for the federal bench, Senator Biden openly declared on April 30, 1986: "I think you are a decent and honorable man but I do not think I can vote for you *because of your political views.*" And he even had his staff search the nominee's legal papers for typographical errors. In fact, it was a tactical counting error by Biden himself that probably got Manion confirmed. The Delaware Senator broke his word to his colleagues and retracted a promised "pair" in parliamentary finagling that backfired on him.

Then there was Senator Biden's performance on the nomination of Ed

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Meese to be Attorney General. Here Biden exhibited a cross between the indecision of a Hamlet and the antiphrases and sarcasms of a Mark Antony out for blood. Time and again Biden said such things as: "I've concluded you've done no criminal wrong, and I don't believe you're unethical." And: "I've not been able to conclude in my mind that you are an unethical man." Biden would then demand a "higher standard," one that even he admitted would likely be seen as "unrealistic."\* When Joe Biden praises your honor it's like hearing a hanging judge say you have a pretty throat.

In the Meese hearings, Biden played for the cameras in what the *Wall Street Journal* dubbed "one of the smarriest, most reprehensible and self-indulgent speeches delivered in a Senate hearing room in at least 30 years." But liberals say Joe hopes to top that when he gets his claws into Judge Robert Bork.

**Running For President.** Joe Biden has of late been on the road running for President. This part-time Chairman of the Judiciary Committee, who tried to appoint an all-Democratic star chamber to block Reagan judicial nominations, and even closed down the Security and Terrorism Subcommittee, has been on the road from Thursday night 'til Tuesday morning trying to talk his way into the Pres-

\*Before Biden's last re-election he told Delaware law-enforcement personnel he would support Meese. Some say this is typical of his four-flushing.

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idency. To help in crucial Iowa, where precincts which represent about two-tenths of one percent of U.S. voters have been targeted, Joe Biden and his "Fund For '86" gave away basketball trophies and provided \$39,710 to Democratic candidates. Even so, some 65 percent of those who attended the last caucuses were still undecided in July, and about 42 percent were not sure which candidate they were "most interested in taking a closer look at."

Helping Joe in such matters is Patrick Caddell, the pollster (and liberal advocate of gun confiscation) who "unretired" for Biden's race — one which Joe passed up last time. That was why Caddell felt free to give his game plan to Gary Hart.

Caddell had won in 1986 for congressional leftists such as Alan Cranston and young Joseph Kennedy II, and before taking on Hart as a client he worked for George McGovern in 1972 and Jimmy Carter in 1976 and 1980. Pat Caddell and Joe Biden are so close that Joe claims: "Sometimes I don't know where Pat's thinking stops and mine begins." Other Biden campaign advisors held top jobs with the Carter and Mondale teams in 1980 and 1984. A front-page article in the liberal *Washington Post* in late June revealed that Joe had kept his "political operatives squirreled away" on the public payroll as part of his personal or committee staffs but doing no Senate work whatever.

At Senator Biden's formal entry into the Presidential contest he contended: "Discontent over the failure of our political system is rampant

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through our citizenry. And bluntly, it is in this gathering of discontent that my candidacy intends to find its voice." Helping draft that speech of "discontent" was the same Pat Caddell who was instrumental in Jimmy Carter's infamous 1979 "malaise" speech calling for self-sacrifice. Once again America is being asked to oppose "unrestrained individualism." Biden chivies fraudulently: "For a decade, led by Ronald Reagan, self-aggrandizement has been the full-throated cry of our society — 'Got mine; go get yours!'"

Does Joe mean it? You tell me. Among announced current Biden stands in this race is his pledge of *no* cuts in domestic spending, though he says there will be slashes in "wasteful weapons systems." And a President Biden would have a day-care center at the White House; a forgiving of interest owed on Third World debt; and, a new student-loan expansion and limitation on repayments.

Meanwhile, candidate Biden says what he calls conservative views on poverty are "hypocritical and hateful." And Biden says Americans must "reject another conservative myth about poverty, the myth advanced by conservative intellectuals — that gov-

ernment programs encourage poverty, rather than alleviate it." Never mind the hard statistical data that confirm this, or the common-sense aphorism that one gets more of whatever one subsidizes. Joe says we should "also reject the conservatives' ultimate conclusion — that the real answer for the poor is less government help, not more." And the Biden demagoguery goes on and on.

The answer, says Senator Joe Biden, is to spend seven billion more dollars on poverty programs and provide, among other things, "free" (that is, taxpayer-funded) medical care for "all poor children under the age of 12." Even poor kids in puberty know there is no such thing as free lunches or Band-Aids.

So it goes, as Senator Joseph Biden attempts to rub raw the sores of discontent, marshal hatreds, and hold out the allure of free bamboozlement — proving once more that while silence may for a time camouflage a fool, once he starts speaking out he will break cover and remove all doubt. Senator Joseph Biden is in fact a pluperfect churl — a mean-spirited and dangerous man who is nevertheless the current favorite among state Democratic party leaders.



### Cutting Remarks

THE MINISTER was trying to point out the divine glories of even the most mundane things of this world when he exclaimed from the pulpit: "Every blade of grass is a sermon." He must have been convincing, because just a few days later a car slowed down in front of the parsonage as the clergyman was mowing his lawn and a parishioner called out to him: "That's the right idea, pastor. Keep your sermons short!"

Democracy and Robert Bork  
By Gary L. Bauer

Congress has from the Iran hearings learned the lesson that questions of public policy -- especially on controversial issues such as funding the resistance in Central America -- should be resolved democratically, by consulting the people instead of trying to get around them. Now Congress would do well to implement this lesson. It's first opportunity to do so will be to confirm Robert Bork to the Supreme Court.

Bork has been described as some kind of right-wing ideologue, which he certainly is not. He is a conservative, but a judicial conservative. This means that he believes in judicial restraint. His jurisprudence consists of reading the Constitution for what its framers took it to mean. And it consists of reading laws in the way intended by the elected officials who passed them. instead of reshaping them according to judicial whim.

In this sense Bork's philosophy is profoundly democratic. It relies on the good sense of the people. It defers both to the longstanding social compact that generated the Constitution and to the contemporary will of the people as expressed through their chosen representatives. "The moral content of the law must be given by the morality of the framer or the legislator, never the morality of the judge," Bork said in 1984.



Does this make Bork the inflexible enforcer of outdated orthodoxies, as his critics have charged? Does this mean that Bork doesn't believe that society should adapt to changing norms? By no means. Bork only insists that such change should come about democratically, rather than by judicial fiat.

"If the revolution in sexual mores is in fact ever to arrive, we think it must arrive through the moral choices of the people and their elected representatives, not through the ukase of this court." Bork's view, expressed in the context of upholding a statute forbidding sodomy, does not address the substantive wisdom of allowing or forbidding behavior; it defers the question to the people who must live by the rules they make for themselves.

By contrast, Bork's detractors in Congress have been forced into a peculiarly anti-democratic posture. Their position is that the people do not have the right to settle questions such as abortion, crime, prayer, busing and reverse discrimination even though these bear directly on their lives, often on the most private spheres of their existence. Senator Kennedy appears to believe that if it were up to the people America would be "a land in which women would be forced into back-alley abortions, blacks would sit at segregated lunch counters, roque police could break down citizens' doors in midnight raids, schoolchildren could not be taught about evolution, writers and artists could not be

taught about evolution, writers and artists could be censored at the whim of government, and the doors of the federal courts would be shut on the fingers of millions."

What profound cynicism about the people is contained in this complaint! We are witnessing the incredible irony that legislators are organizing opposition to the nomination of a judge who believes in faithfully abiding by the intent of their laws and deferring power to them. Indeed some of the Congressmen most vocal during the Iran hearings about the need for the American people to determine policy through elected officials now seems to insist on a Court which deprives the people of this power.

It is true - of course - that the Supreme Court is not mean to be a direct channel for the popular will; in some cases, it must repudiate popular sentiment in ensuring individual rights. But when? Some legal theorists and Congressmen believe -- whenever judges feel like it Judge Bork believes -- only when the Constitution clearly says so.

When the Constitution speaks aloud, Judge Bork has heard the message very clearly. For instance, the Constitution makes it clear that free speech and the free press are among the most fundamental of rights. In Ollman vs. Evans, Bork upheld this right. "Those who step into areas of public dispute," he said, "Who choose the pleasures and distractions of controversy, must

be willing to bear criticism, disparagement and even wounding assessments." Bork's ruling has been described as the most important free press decision in a decade.

The rights that Bork is unwilling to enforce are rights that contravene the views of the American people and the Congress which, moreover, are nowhere to be found in the Constitution. Can anyone find a requirement for busing, except by the most strained reading of the text? Where is reverse discrimination stipulated in the Constitution? The right to privacy which has been invoked to justify abortion on demand is similarly hard to find.

The point is not that society should not have these arrangements. The point is that it is the people who should exercise control over them. After all, they are the ones who must live under them.

A vote for Judge Bork is a vote for constitutional protection of individual liberties. But, equally important, it is a vote for "We the People," for the right of citizens to govern themselves through the democratic process, instead of through judicial elitism.

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