

Merck—the \$5.2 billion-a-year drug giant—is upset that people think it's a greedheaded bloodsucker.

So, by jove, Merck's executives have decided to do something. Does that mean stopping their greedheaded bloodsucking? Don't be insane—bloodsucking is wildly profitable!

Merck's honchos want to deal with the appearance of bloodsucking, not the money-making reality. Thus, they have now launched a \$20 million advertising blitz to portray the drugmaker as a huggable, teddy bear of a corporation. Their PR slogan is "Merck: Where patients come first."

How cuddly. Less cuddly, however, is the fact that this blast of corporate back-patting follows the recent revelation that Merck's best-selling drug, the pain reliever Vioxx, has had an unfortunate side effect called "death" in patients who trusted it. Merck's top executives knew about this side effect but withheld the information from doctors, patients, the media, and regulators—all the better to suck profits before the news got out.

Now Merck hopes to deflect public disgust with ads featuring cute children, adding a tagline asserting that this altruistic corporation is out to eliminate cancer and Alzheimer's so that such adorable children should never suffer. What's not to love about that?

Another of the ads features a man-on-the-street interview with a guy saying that people shouldn't "have to choose between their groceries and their medicine." The announcer then intones, "At Merck, we believe in the same things you do." Gosh, really? Then why did Merck hire a horde of lobbyists to push through a law making it illegal for us folks in the USA to import Merck's medicines from Canada at a third of the price the bloodsucker is charging us here at home?

You don't have to be in Who's Who to know What's

—continued p. 2

The



LOWDOWN

■ Edited by Jim Hightower and Phillip Frazer ■ Vol. 7 No. 8 ■ August 2005

While all eyes are on social issues, the real litmus test is:

Will this judge rule for the powerful —and against The People?

In 1981, when blowhard televangelist Jerry Falwell exclaimed that Sandra Day O'Connor was not right wing enough for him, and that every good Christian should rise up in righteous opposition to her nomination to the U.S. Supreme Court, Senator Barry Goldwater retorted: "I think every good Christian ought to kick Falwell right in the ass."

Twenty-four years later, here we go again. O'Connor is now stepping down from the top court,

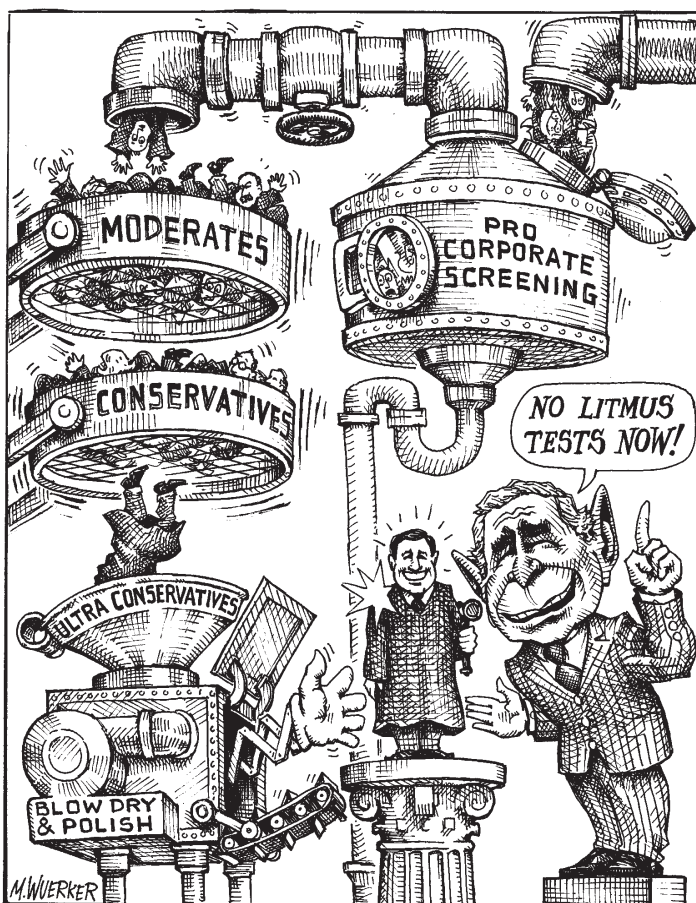
Chief Justice William Rehnquist will soon follow, and there are several openings on the little-known but equally important federal courts of appeals. So here come Falwell, Pat Robertson, James Dobson, and other flamethrowers of right-wing religious extremism demanding that their very own president must reward the faithful by stacking the courts—America's third branch of government—with judges in their image. No mere strict conservatives in the O'Connor/Goldwater mold will do, they screech, instead insisting on nominees from the certifiably kooky right.

Sure enough, Bush has nominated some nutballs to the appeals courts—

judges whose views on such social issues as abortion, gay rights, and Biblical government bring the Falwells to orgasm. In recent years, these issues have become preeminent in every debate over a court seat, as though they were all that courts deal with. Accordingly, the current battle in the U.S. Senate for confirmation of W's nominees is being cast by the media and partisans on both sides as a titanic clash over the judicial enforcement of *social* values—the politically potent evangelical right versus moderates and liberals.

But this singular focus on social issues deceives the

larger public about the real reason these particular people have been chosen by Bush, and it drastically understates the true depth of what's at stake for America in filling these judgeships. The essential populist reality is that whatever other ideological agenda Bush's nominees will seek to impose from the bench, every single one of them will be dutiful and aggressive pushers of the corporate agenda. They will use their enormous judicial power to steal rights, money, property, and power from us consumers, workers, farmers, small businesses, the middle class, poor people, and other ordinary citizens on behalf of the corporate interests they have spent their



What. When a corporation throws \$20 million into a PR campaign to try to tell you that it's "good"...it isn't.

MAD COW, AGAIN

U.S. officials have stumbled down a meandering trail of denials regarding the deadly, meat-borne Mad Cow disease. When it was first detected in British cattle, the official line was that the brain-destroying disease could not be transferred from cows to humans, so not to worry—eat your burgers.

Then, when dozens of Brits began to die from eating the meat of contaminated cows, the line was that, well, yes, in Britain, but not in the USA, where we have regulatory firewalls to protect the public from cow madness. But, oops, recently officials had to admit that a mad cow had been found here. Not to worry, said officialdom, for this was a Canadian cow, and it's only one—so eat your burgers, all is well.

Now we learn that all is definitely not well. Last November, U.S. Ag Department officials found another cow that appeared to have the disease, but—good news, they said—we applied our "gold standard" test and it was negative, so all clear, eat your burgers. But such watchdogs as Consumers Union demanded a more sophisticated test. When USDA's own internal watchdog agreed to order that extra test, the cow was found to have the disease. Well, shrugged Ag Secretary Mike Johanns, "Science is ever evolving." Yes, but our policy makers aren't. Johanns basically defended the status quo on behalf of beef-industry giants, saying in essence: Eat your burgers.

The denials and stalling must stop. All cows over 20 months old must be tested, and the industry must be banned from feeding any cow parts to cattle, including a ban on feeding cattle blood to calves. For more info, go to www.notinmy-food.org.

—continued on p. 3

entire careers serving.

Bush proclaims that he has "no litmus test" for people he chooses for judgeships—but that's a lie. It's true that, as governor of Texas, he named some judges who were not rabidly antiabortion, and not all of his federal nominees have been Falwellian on the subject. But being procorporate is an absolute litmus test for him.

The courts and you

You wouldn't know it from the establishment media's coverage, but the vast majority of federal court decisions are not about gay marriage, abortion, the Ten Commandments, and the like. A far bigger chunk of appellate cases involve such matters as corporations trying to loot pension funds, HMOs denying proper care to patients, nursing homes abusing Granny, polluters contaminating our drinking water, executives defrauding stockholders, manufacturers making shoddy products, biotech companies and meat processors adulterating our food supply, retail giants practicing predatory pricing to squeeze out small competitors, bosses engaging in sexual or racial or age discrimination, companies injuring or cheating workers, developers grabbing other people's property—and other variations on corporate profiteering.

Courts have been the one place where even the poorest, least powerful American can hold the richest and most powerful accountable. That's why Big Money, which already controls the executive and legislative branches of our government, is now going after the third branch with a vengeance.

They want the Supreme Court, of course, but also the 13 circuit courts of appeals. These relatively obscure panels of judges (Quick:

Can you name even one judge on the appeals court for your area?) have as much or more say over our lives as do the Supremes. This is because the top court takes only about 90 cases a year, meaning that the appeals courts are the final stop for 99% of federal cases.

Despite the right-wing whine that those bad ol' Senate Democrats are blocking George W's court picks, in fact they've given the nod to all but five of his 219 nominees. In May, cringing at GOP charges that they were being "obstructionists," the Dems cut a weak deal with some of the quasi-moderate Republican senators, agreeing to lifetime judgeships for three true extremists. Sheesh. If the meek ever inherit the earth, these Senate Democrats are going to be land barons. Let's meet a couple of those given a free pass:

PRISCILLA OWEN. By letting this political progeny of Karl Rove rise to a seat on the 5th circuit court, the Dems have saddled us with a total corporate ideologue who'll spend the rest of her judicial life ruling against consumers, workers, the environment, open government, etc.

Priscilla spent 16 years as a lawyer representing oil, gas, and other energy giants at a powerhouse corporate-defense firm in Houston. Then, in 1994, she decided to serve these clients from a higher level, running for a seat on the Texas Supreme Court. Rove, who was engineering George W's grab for the governor's seat, took a shine to this dyed-in-the-wool corporatist and signed on as her political consultant—for a modest fee of \$250,000.

Karl helped her collect \$1.1 million from the Texas business establishment, leading her to victory. It

was a savvy investment for the corporate donors who subsequently had cases before her—they enjoyed her avid support in 85% of their state supreme court cases. Enron, for example, was an Owen donor in '94 and was repaid handsomely just two years later when she wrote the court's opinion excusing the high-flying energy giant from having to pay a quarter-million dollars in local school taxes. Such other donors as Union Pacific railroad, Farmers Insurance, Texas Utilities, and HEB supermarkets had Priscilla faithfully on their side in every one of the 12 cases they had in her court.

Contrary to the right-wing mantra that judges should not be judicial activists, Owen is a notoriously pugnacious and energetic activist on behalf of corporate power. In '98, for example, she sided with Uniroyal Goodrich Tire Company in a case in which a man was severely injured when a truck tire he was inflating exploded in his face. The court ruled for the victim—but Owen sourly dissented, claiming that the man was at fault for not having read Uniroyal's printed warnings. She even tried to restrict the rights of juries by asserting that in cases where a manufacturer has issued a printed warning, jurors should not even be allowed to consider whether the product itself is unsafely designed.

Even Alberto Gonzales, who served on the state supreme court with her, once formally chastised her for "an unconscionable act of judicial activism," and the very conservative *Houston Chronicle* editorialized that she "is less interested in impartially interpreting the law than in pushing an agenda." Now she's in a position to push her corporate agenda down the throats of all Americans.

Do something!

Information:

- Alliance for Justice, www.allianceforjustice.org, 202-822-6070
- People for the American Way, www.pfaw.org, 800-326-7329

Both of these groups are excellent sources for background information on Bush's nominees. You can find synopses of the nominees' opinions and learn about their conflicts of interest.

Agitation:

To do your part to counter the corporate/right-wing judiciary, you can:

- let others know what's at stake and who Bush's nominees really would serve
- have conversations with family, friends, coworkers, and members of your church, union, clubs, and other groups

- send out emails or write a blog

- write letters to the editor and call talk shows

Also, be sure to contact your senators and ask them to stand against the corporatization of our federal courts. You can find out their addresses, phone numbers, and emails at www.senate.gov.

Saint Scalia the "Strict Constructionist"

The right wing reverently points to their hero on the Supreme Court, the sainted Antonin Scalia, as a towering example of how judges should be "strict constructionists," rather than judicial "activists." The Constitution, bel- lows Scalia himself, "should be interpreted to mean exactly what it meant when it was adopted," not rewritten by judges trying to extend the original meaning of the words. He says that the citizenry, not judges, should make the decisions about abortion, gay rights, and other issues not explicitly mentioned in the Constitution. If you want to change the law, go to Congress, he says, not the courts.

I don't know whether to laugh, scream...or go bowling! Scalia, the self-anointed "originalist," is the same black-robed Supreme who twisted our Constitution into contortions in *Bush v. Gore*! All that he and four other hijackers on the Court did in this 2000 case was to stiff the citizenry of Florida and assert the right of judges—i.e., the five of them—to make the decision about who occupies the White House, a power that certainly is not mentioned either explicitly or implicitly in the Constitution.

Scalia later conceded that this unprecedented judicial grab had no basis whatsoever in law: "The only issue was whether we should put an end [to the election], after three weeks of looking like a fool in the eyes of the world."

The fact is that Scalia and other right-wing judges are not hesitant at all to be ardent activists and stretch the Constitution to the breaking point any time it serves their own ideological or political goals.

WILLIAM PRYOR, JR. This guy is a twofer for Bush—a religious wacko and a career corporate shill, so the White House spent a fortune in political capital to put him on the 11th circuit court. They failed twice to get the Alabaman confirmed in 2003, but Bush nominated him again this year for a full life term—and he was part of the Democratic May cave-in.

They've given us another corporate lifer. His seven years in legal practice were in firms representing the likes of AT&T, Goodyear, GE, ADM, and Philip Morris. Then he went into politics, eventually becoming Alabama's attorney general with the enthusiastic and generous backing of the state's business powers.

He definitely danced with them

that brung him, loudly proclaiming at the start of his term that he would not join other states in suing tobacco companies over their ill-gotten gains. A former AG who had taken on the nicotine dealers called Pryor "the biggest defender of tobacco companies of anyone I know. He did a better job of defending [them] than their own defense attorneys."

Pryor also urged federal courts and Congress to roll back the Clean Water Act, and he filed briefs calling for the gutting of the Family Leave Act, the Age Discrimination Act, and the Disabilities Act. But his most outlandish embrace of the corporate agenda came with his 1999 creation of the Republican Attorneys General Association—a

front group for channeling corporate cash into the campaigns of right-wing Republican AGs, thus currying favor with state officials charged with suing corporate wrongdoers. RAGA's slogan could be taken from this old Russian proverb: "Tell God the truth, but give the judge money."

As the *Washington Post* reported, RAGA was set up with "the explicit aim of soliciting funds from...industries facing state lawsuits over cancer deaths, lead poisoning, gunshots, and consumer complaints." It was a lawsuit-protection racket for corporations, and the money poured in—Pryor himself took \$100,000 of this corrupt money for his 2002 reelection. But he never had to declare the names of the donors, because RAGA launders unlimited corporate funds through an arm of the Republican National Committee.

In fact, the donors include Shell Oil, Brown & Williamson, Pfizer, MasterCard, Eli Lilly, Anheuser-Busch, Citigroup, SBC, Amway, US Steel, Aetna, Nextel, GM, and Microsoft. These stealth donations, clearly a conflict of interest for a state's top lawyer, were a topic of inquiry when the Senate held hearings on Pryor's court nomination. But, gosh, said Bill, he was totally unaware of any money that RAGA solicited from Alabama companies, nor could he recall whether any tobacco firms were RAGA members.

He lied. The *Post* uncovered documents showing that Bill personally phoned Alabama corporations in 1999 to get money for RAGA, and that he also rang up Philip Morris and Brown & Williamson to get these tobacco giants to give \$25,000 each to become RAGA "Roundtable" members.

So, with the complicity of the

COURT "LIBERALS" OK HOME GRABS

Something downright spooky is happening to me: I find myself agreeing with Clarence Thomas!

In a 5-4 decision, the Supreme Court has ruled that state and local governments may now use their power of eminent domain to seize someone's home or business and hand it over to private developers. Specifically, the majority said that the city of New London, Connecticut, was within its rights to take 15 homes from residents in an old waterfront neighborhood so a corporation can build offices, a hotel, and upscale apartments in their place.

In his dissent, Thomas said, "The Court has erased the public use clause from our constitution." I agree. This clause allows private property to be taken by the government only for public uses, such as building public roads, parks, schools, etc. But the Court's majority has now stretched this clause beyond recognition by ruling that the seizure is OK as long as there's a public purpose involved. In the Connecticut case, the purpose was to get more property taxes for the city by replacing the individual homes with a large-scale, ritzy development. In plain words, government officials have just been cleared to turn over your property to companies that'll pay more in taxes.

Bizarrely, it's the so-called "liberals" on the Court who voted for this theft, and it was Thomas, Scalia, Rehnquist, and O'Connor who nixed it. As O'Connor noted in her blistering dissent, those who'll profit from this plutocratic ruling will be "those citizens with disproportionate influence and power in the political process, including large corporations."

I'm with her. And for the Court's clueless liberals, I propose that they pop a populist pill every morning to help them see the difference between the people's interest...and corporate interests.

—continued on p. 4

GET THE LOWDOWN!

YES! I want to receive a full year of *The Hightower Lowdown*—12 issues in all—for an unbelievably ridiculous, low, low price.

☐ Send me one year of *The Hightower Lowdown* for just \$15. (Seniors & students—\$12.)

☐ Send me two years of the *Lowdown* for \$27. (Seniors & students—\$22.)

To give a gift of the *Lowdown*, enter the recipient's name and address below and include your name and address on a separate sheet.

NAME _____

ADDRESS _____

CITY _____ ST _____

ZIP _____

Mail this coupon with your payment to: ***The Hightower Lowdown*, P.O. Box 20596, New York, NY 10011**

08/05

The **LOWDOWN**

EDITORS: Jim Hightower, Phillip Frazer
COPY WIZ: Gwenda Blair **ARTISTE:** Matt Wuerker
DESKTOP: Sahu Barron **CIRCULATION:** John Ernst
RESEARCH: Laura Ehrlich **PUBLISHER:** Phillip Frazer

The Hightower Lowdown (ISSN 1524-4881) is published monthly by Public Intelligence Inc., 375 South End Ave #14P New York NY 10280. © 2005 in the United States. Periodicals postage paid at New York, NY. Subscriptions: 1 year, \$15; 2 years, \$27. Add \$8/year for Mexico or Canada; add \$12/year for overseas airmail. Back issues \$2 postpaid. **Allow 4-6 weeks for receipt of first issue and for all subscription transactions.** POSTMASTER: Send address changes to: *The Hightower Lowdown*, P.O. Box 20596, New York, NY 10011. Moving? Missed an issue? Call our subscription folks toll-free at (866) 271-4900 or write lowdown@pipeline.com. Send us fan mail or hate mail at: P.O. Box 20511, New York, NY 10009-9991 or editors@hightowerlowdown.org. Printed with 100% union labor on 100% recycled paper.

THE ARMY GETS PERSONAL

Hey, youngsters—Uncle Sam not only wants you, he's got your number!

Not yet sure what you want to do in life? Why not get paid and see an exotic part of the world while you're getting it all together? You could summer in sunny Iraq...where there's never a dull moment!

If you are 16 to 25 years old, chances are you'll soon be receiving such a sales pitch from the Army. How will recruiters find you? Easy—thanks to a new database secretly built by the Pentagon, they know where you live. They also know your phone number. And your social security number, your email address, your height and weight, your grades in school, your ethnicity...and so much more.

The Pentagon's "Joint Advertising Market Research Studies Division" (did you know they had one of those?) brags that this super-dandy database is "arguably the largest repository of 16-to-25-year-old youth data in the country, containing roughly 30 million records." It includes the names and personal info on 3.1 million graduating high school seniors and 4.7 million college students—possibly including you or someone you know. All this is to be used to recruit young folks to fill the troop quotas for George W's war in Iraq.

There are, however, two little glitches with the Pentagon's sweeping new database. First, it was illegally compiled. Officials began building it three years ago without giving public notice and allowing public comment—a flagrant violation of the Federal Privacy Act. Second (and more alarming to mothers and fathers), the private data allows military recruiters to do a sales job directly on their children in their home.

To help shut down this illegal, intrusive database, call the Electronic Privacy Information Center: 202-483-1140.

hapless Democrats and the lack of basic journalistic curiosity by the media, Bush has now put a lying, corrupt, corporate toady on a court where he'll get to rule over cases affecting you and me for the rest of his life.

There are many more of these corporate activists in Bush's judicial corral. For example:

■ **Janice Rogers Brown.** Always identified in the media as "a sharecropper's daughter," she's really spent her career as a loyal servant of giant corporations. She's now ensconced on the D.C. circuit court where she'll continue her crusade to trash the New Deal and deregulate corporate power.

■ **William Myers III.** A longtime lobbyist for mining and energy giants, he's now been nominated to the 9th circuit court. As Bush's top lawyer at the Interior Department since 2001, Myers' main contribution has been to twist rules and common sense in order to open up more of our public lands to plundering by the industries he used to represent.

■ **Henry Saad.** A hardcore GOP activist in Michigan, he's a lawyer who built his career defending such corporations as Ford and GE in cases involving the abuse of labor rights, injury of workers, sexual discrimination, etc. He's nominated to the 6th circuit.

The corporate rush

The Republican coalition of social-issue diehards and self-serving corporatists often comes apart on court decisions. Reagan appointee Sandra Day O'Connor, for example, is unacceptable to the Fallwellistas because she supports *Roe v. Wade*

and affirmative action, but she's been beloved by big business for supporting them on practically every case—especially those involving the amount corporations should pay when they harm someone.

Sandra was not enough, however. Realizing the appeals courts can be their bread and butter and that even some 40% of cases decided by the Supremes involve business matters, the U.S. Chamber of Commerce and the National Association of Manufacturers vet every Bush nominee and they'll spend millions on election-style campaigns in the coming weeks to pressure senators to vote for corporate-minded judges.

In fact, the Chamber and the NAM teamed up to submit two names to Bush as corporate America's preferred choices for O'Connor's Supreme Court seat. One of the two was John G. Roberts. Bush has now selected him for the seat. As in the case of previous Bush choices for judgeships, the fight over Robert's nomination will center on his views on social issues, but he won Bush's nomination because of his lifelong corporate loyalties.

When Pryor was up for confirmation, a corporate front group, bearing the deceptive name of Committee for Justice, ran a media blitz to back Pryor's confirmation with ads that would make you think that CFJ is a bleeding heart, liberal outfit. The ads depicted Pryor as a victim of religious discrimination who was being blocked by Democrats because he's Catholic. Of course, CFJ doesn't give a damn about religion—it was organized and funded by lobbyists for tobacco, oil, insurance, and drug companies. Its chief operative

is C. Boyden Gray, a corporate weasel from Daddy Bush's presidency, whom you might remember for having advised Bush the Elder to lie about the Iran-Contra scandal. Gray not only serves as Corporate World's shadowy liaison to George W on judicial nominations, but you can also find him on Fox News posing as an unbiased "Supreme Court analyst."

Please, obstruct!

The Bushites and their right-wing attack dogs have assaulted Democrats and anyone else who opposes W's nominees as "obstructionists"—a tag that America's gullible media establishment now uses unquestioningly. The right-wing message is that it's the prerogative of the president to name justices, and the Senate minority must defer to his choices.

Horseradish. In forming our government, the framers were adamant about having strong checks and balances and a clear separation of powers, for they rightly feared the rise of an unbridled, imperial executive. They gave the power of "advise and consent" to senators specifically so the nominees of a president could be thoroughly vetted—not merely on their technical qualifications, but especially on their records, their views on public-policy issues, and, yes, their ideology.

It's not obstructionist to demand straight answers from these extremists, nor is it obstructionist to block them for their extremism. Rather, this is the *Constitutional duty* of senators! Bush and his corporate cronies own two branches of our government—let's not roll over and let them take the last one.

www.hightowerlowdown.org

PERIODICALS
CLASS
Postage Paid at
New York, NY

The Hightower Lowdown
P.O. Box 20596
New York, NY 10011

MOVING? MISSED AN ISSUE?

Please call or write us at:
The Hightower Lowdown
P.O. Box 20596
New York, NY 10011
lowdown@pipeline.com

**Subscribers' toll-free
number: (866) 271-4900**

7:8 August 2005

JUDGES PICKED TO RULE FOR THE POWERFUL

- 1 Merck prescribes ads
- 2 Mad Cow again
- 3 Court "liberals" OK home grabs
- 4 The Army gets personal