

Senior Citizen

Herbert Hoover: A Public Life, by
David Burner, *New York: Alfred A.
Knopf, 1979. xii + 433 pp. \$15.95.*

THE INDICATIVE THING about Herbert Hoover was his Quakerism. This is the admiring burden of this formidably researched and searching study. Hoover would have had an instant and devastating response to Krushchev's taunt that his cosmonauts on their exodus to the

moon had encountered no angels. To this positivist of positivists such testimony sufficed, at a stroke, to dismiss the immemorial faith which his master doubtless had in mind when he defined religion as the opiate of the people. But Hoover, physicist, and engineer, and believer, would have rallied the skeptic politician for an almost idiot failure to recognize the palpable evidence which the moon excursion did vouchsafe: that long before their departure the cosmonauts were studying with grateful awe and devout humility the implacable laws of inter-planetary traffic: because they knew that a variance of a fractional millimetre would trigger a denouement fully as conclusive as, and a good deal lonelier than, anything apprehended in the Book of Exodus, 20:1-17.

True, Hoover would have objected to Marx's derisive term "opiate." But out of a lifetime of personal experience and a knowledge of humankind in all its forms and reaches broader perhaps than that of any of his contemporaries, Hoover might have stricken "opiate," inserted "solace" or "comfort" and conceded freely the one point in the entire Marxoid literature in which he concurred. Hoover, in brief, observed a watch, and with Bishop Paley, inferred a watchmaker. As mining geologist, as relief administrator in Belgium, as American Secretary of Commerce, as, true, only a one-term President, and finally as elder statesman—perhaps he could be called the original, the magisterially prototypical senior citizen, Hoover saw reality as a logically apprehensible whole, as an organic complex, as, indeed, an a-chaos, a *cosmos*, infinitely various, but intricately inter-related. It was true that the inter-relationships, in the demographic areas especially, seemed from time to time to waver, snarl, or blur under the impact of human need and impulse; but it was man's obligation as an intelligent being to sort out, to push for, to cut through to the ultimate intelligibility in which efficiency, hence plenty, hence comity resided—to shift, adjust, compose

the vagrant data into the unyieldingly beneficent *Datum*. This sense of obligation explains the voluntarism which premised all the Hoover projects. For early instance, in an 1898 letter home from a mining venture in West Australia, he wrote:

I had to discharge an old accountant, a man 72 years old, and entirely incapable of doing this work. . . . But when I told him we would need a younger, more energetic man, he broke down and cried, and told me of his wife to whom he sent his entire salary. . . . We have made a purse of \$300 for him and we think we can get him another place in Perth. . . . If this were my own business, I would be too tender-hearted to let him go, but I have to get things into shape for the company. . . .

Thirty years later President Hoover was contemplating a widely divergent program of public welfare enterprises in behalf of the elderly, their unemployed children, their unattended grand- and great-grandchildren in what Professor David Burner describes as a

now well developed and recognized brand of social activism, with its balance of government initiatives and federal restraint, its preference for voluntarism stimulated by publicity from Washington and organized on a vast scale. . . .

This states with exactitude the Hoover stance and method—and rather more clearly than another passage of a still notable book. The author explains the "indecisive" Hoover of the Depression Presidency as one who "per[con]?ceived an economy that was not the market mechanism of the laissez-faire theorists, but the product of the will to order. . . . [His] writing put expertise and cooperation in the central place that classical economists had assigned to competition and prices." But surely this is to misunderstand the Hooverian transformation of

the Commerce Department into a multifaceted statistical and information agency, as admirably narrated elsewhere in the book. "The will to order" sounds vaguely fascist but of course Burner has taught us that it was a will voluntarily coordinated on the basis of the clear insight into the movements of price and the pressures of competition with which the Commerce statisticians had equipped the free Hooverian entrepreneurs. To confuse the more enlightened rudder men with the natural market forces they were more enlightenedly to govern and surmount is surely a lapse in a usually impressive study.

After all, it was the Hoover¹ passion for statistics, for information and its broad dispersal that precipitated the range of commissions and investigative bureaus that marked Hoover's presidency and frightened the reactionaries of his own Republican party. They voiced fears that constitutional barriers were being breached and that experts and technicians were imperilling old humane freedoms. It was part of the generalized askanceness with which the GOP regulars viewed this upstart Westerner that they had failed to sense his instinctive constitutionalism, failed even after his denunciation in the 1932 campaign of his adversary's insistence that it was for the Supreme Court of the United States to do what the regnant administration wanted it to do and tried to make it do in the famous court-pack message to the Congress of February 5, 1937. Hoover shared fully in the view common among commentators on the American government that the Supreme Court epitomizes the moral essence of the people, hence that the President's nomination of Supreme Court Justices is an overt index to his own quality. An American Bar Association study cited by Burner "judged the Hoover nominations to be of a generally higher quality than those of Harding, Coolidge and FDR." The explanation in the *New Deal* years may appear in a lively passage

from former Justice William Orville Douglas' memoir, *Go East Young Man*. The friendship of FDR and Justice Felix Frankfurter was well known in Washington. Burner recalls how FDR, hearing of General MacArthur's unauthorized rout of the so-called Bonus army of indigent World War I veterans in 1932, "turned to . . . Frankfurter and grinned, 'Well, Felix, this will elect me.'" Of course FDR was elected in 1932 for the first of four terms. However, Douglas recalls that the FDR-Frankfurter intimacy was somewhat unstable:

As we [FDR and Douglas, also a close friend and himself named to the Supreme Court in 1939] sat together at a small table at a buffet supper [FDR] asked me if I were not going to ask him who was going to be the next Supreme Court Justice, taking the place vacated by James F. Byrnes. . . .

"No," said Douglas, with a twinge of scruple, "I will not ask you that question. But I will ask you who is not going to be appointed."

He threw back his head and laughed in his typical robust way. "That's a good question and I'll answer it. Learned Hand is *not* going to be appointed.

Learned Hand had had a distinguished career both on the District Court and on the Court of Appeals. So I replied, "You are passing by a fine man, Mr. President."

"Perhaps so. But this time Felix overplayed his hand."

The President put down his fork and turned to me, saying, "Do you know how many people asked me today to name Learned Hand?" Pausing only a second he added, "Twenty, and every one a messenger from Felix Frankfurter [himself, of course, a distinguished jurist and judge of jurists]. Pausing for another second, he thrust out his jaw and added, "And by golly I won't do it."

Comment on this incident in a review of

a biography of Herbert Hoover may seem irrelevant but it highlights the rather different methods of choice and the notably different quality of the chosen. For Chief Justice, his first nomination, Hoover recalled Charles Evan Hughes, who had served notably as associate justice for ten earlier years, resigning to run, and fail, for the Presidency in 1916 against Woodrow Wilson. Hoover's second nominee was Owen J. Roberts, who had distinguished himself as federal prosecutor in the Teapot Dome scandals. Benjamin N. Cardozo was Hoover's third justice, a member of the prestigious New York State Court of Appeals and ranked by most students of the American Jurisprudence with Hughes, Holmes, Brandeis—and Hand. Two years after his confirmation, Cardozo was to warn his colleagues and the public at large against a judicial abuse still frequent and a related peril by no means abated, as indicated by steadily remissive rulings in the criminal law and, more spectacularly, by the wholly new jurisprudence of voluptuary² gender—contra-conception in bedlock as in wedlock, and that failing, contra-birth with like undifferentiation—all grounded merely on what Justice Douglas, its pioneer, called “emanations” from the first ten and the fourteenth amendments.

However, a “fertile source of perversion in constitutional theory is the tyranny of labels,” Cardozo had written for the Court in a 1934 murder case (*Snyder v. Massachusetts*), in which the defense had raised novel pleas under the Fourteenth amendment:

Out of the vague precepts of the Fourteenth amendment a court frames a rule which is general in form, though it has been wrought under the pressure of particular situations. Forthwith another situation is placed under the rule because it is fitted to the words, though related faintly if at all to the reasons that brought the rule into existence. . . . But justice, though due to the accused, is due to the accuser

also. . . . The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true. The criminal law will be brought into contempt if gossamer possibilities of prejudice to a defendant are to nullify a sentence pronounced by a court of competent jurisdiction . . . and set the guilty free. . . .

There is some sign now of greater caution in the Court's rulings in criminal matters, but none as yet (summer 1979) in the gender cases.

Burner cites a “liberal scholar's” view that the Cardozo appointment “shone as a sublime moment for good government.” Certainly the Snyder and other Cardozo opinions were compatible with the values which a business periodical found in Hoover's public discourse: “reason, knowledge, patience, good will, quiet negotiation, restraint of passion, moderation and calm, prudent common counsel, what are the facts?” Explicitly and implicitly the author demonstrates the play of these Quakerly words in relief programs, political campaigns, domestic administration, foreign policy. But, a Hoover fan, hence sworn to candor, he cites, also, another sample of Hooverian verbiage: sisyphian, vacuous, super-vened, attenuated, palpably—all “in flat, metallic voice” from the campaign speeches of 1932. John Nance Garner, FDR's first Vice President was another candid man, describing the Democratic campaign publicity of that year as designed to “whittle Hoover down to our size.” Burner's contrast between the two equally authentic Hooverian vocabularies goes impressionistically far to explain how the Quaker orphan boy raised on the frontier in modest poverty by the plain and inner-lighted people rose so high, but not higher—to only one Presidential term not four—how stoutly he resisted the Democratic whittling but was to some degree whittled.

Reviewed by C. P. IVES

¹After all, it was Hoover, coming to office in 1929, and out of a background of carefully amassed statistical knowledge who warned that the Americans, controlling twenty percent of the world's oil were even then consuming sixty-five percent of it and, later, "there is a limit to oil supplies . . . the time will come when . . . the Nation will need this oil much more than it is needed now. . . ."

²*Voluptas*: [L.] Pleasure; specif., sexual pleasure. [Webster] *i.e.* *Just for fun.*