PS1 for 8/21/86#THE LIBERAL LAWYERS' LAMENT#The bitterness of the battles over the Dan Manion and William Rehnquist nominations makes it clear that a lot more was at stake than the decisions that will ultimately be handed down by those two men in their judicial positions. The liberals suddenly realized that the jig is up for their 20-year practice of changing the laws of our nation through litigation rather than legislation.#It has dawned on the liberals that Ronald Reagan is effectively doing what Democratic Presidents have always done, namely, using the presidential appointment power to name persons of their own political persuasion to lifetime jobs in the federal judiciary. In the pre-Reagan era, somehow Republican Presidents didn't have the knack or the knowledge to use that power with skill and determination.#About the time that the Kennedy-Johnson federal court appointments settled into their lifetime sinecures on the federal judiciary, the liberals apparently came to a collective conclusion. They decided that, since it required so much blood, sweat and tears to lobby Congress and state legislatures to amend our laws, it was easier to hire smart lawyers and persuade the courts to change our laws to enforce liberal policies.#Except for the Civil Rights Law of 1964 (put through Congress by a non-liberal, Senator Everett Dirksen), most of the major public policy changes in the last generation have come about through court decisions rather than through legislation. Most of the policies that the voters are so unhappy about, such as those on crime, abortion, prayer, pornography, and busing, were locked into law by Supreme Court decisions rather than by the legislative process.#This explosion in decision-making by courts has been accompanied by a giant increase in the number of lawyers. Fifteen years ago, the United States had 343,000 lawyers. Today, there are nearly 700,000. That's a 100 percent increase over a time period in which our population increased only 15 percent.#You would think that the increase in the supply of lawyers would drive their fees down, but it's been just the opposite. Fifteen years ago, the top starting salary of a lawyer on Wall Street was $20,000. Today it is $65,000.#It seems that the more lawyers our country produces, the

more they cost--a curious inversion of the law of supply and demand. Maybe it's the proof of the old saying that one lawyer in a town will starve to death, but if another lawyer arrives, they both can make a good living.#The doubling of lawyers should be good news for young lawyers: more lawyers, more litigation, more fees, more income. But, according to recent complaints in the press, the lawyers are not happy.#The most revealing commentary on the disaffection of lawyers with their profession was contained in this summer's 20th anniversary publication of the Section of Individual Rights and Responsibilities of the American Bar Association. This is a self-righteous publication called ""Human Rights.''#The commentary on the inside front cover reveals that today's young liberal lawyers are unhappy because they have discovered that the game is over for the practice of achieving liberal goals through aggressive litigation.#They say that the ""problem is money ... even if you win, you've got these terrible battles over fees.'' So, Title VII lawyers are shifting to medical malpractice; and unionside lawyers talk about changing to management.#The commentary complains that ""there are a few straightout liberals left on the bench, but they always want to settle. They use tricky, compromise rulings to head off appeals, because they know and you know, it is all over if the other side goes up on appeal.''#The commentary explains the difference between the Reagan appointees and the Nixon-Ford judges. The latter, the commentary says, were ""big-firm senior partners, legal Lee Iacoccas ready to make a deal. They did not like us activist lawyers, but it was good business to keep us around. We filed the suits and everybody made money.''#But the Reagan appointees? They are different. The commentary complains that ""under Reagan, there are more incorruptibles. They are more academic, more ideological, and readier to stay on the bench, iron-butted, and give up big corporate law incomes. And they are young.''#The Reagan Administration is slowly but surely changing the federal courts by appointing judges who believe that judges should be judges, not legislators. After all, the U.S. Constitution does say that ""all'' legislative power is entrusted to

the Congress; none of it was given to the judiciary, which should have power only to decide if laws are constitutional, not whether they are wise.#The Old Right, the New Right and the Religious Right may not fully appreciate the magnitude of the Reagan Revolution. But the liberal lawyers surely do. Right on, Ronald Reagan.