

Liberty

November 1995

Vol. 9, No. 2

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Hiroshima:
Paeans to Peace
Are Not Enough

Green Light To Kill: The FBI at Ruby Ridge

by R.W. Bradford

How to Launder Money

by J. Orlin Grabbe

Inside Bosnia Today

by Bryan Alexander

The Return of H.L. Mencken

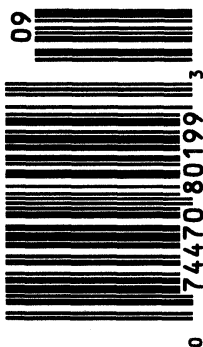
by Max Schulz

Dope Dealing in Chicago

by Matt Asher

Also: *Richard Kostelanetz* on Edmund Wilson, the image and the man; *Jesse Walker* on the radio wars; *David Ramsay Steele* on the changing of the millennium; *Mark Rembert* on Joe Califano's malpractice . . . plus other Articles, Reviews, and Humor

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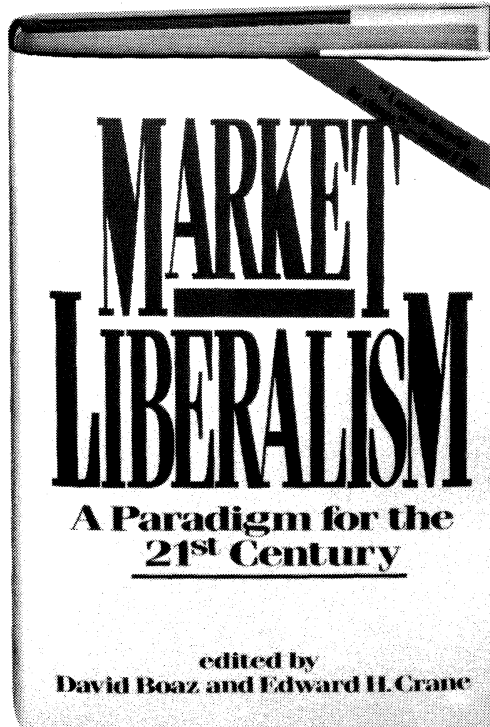
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Letters

An Old-Fashioned Home

I disagree with Randal O'Toole ("The Battle of Oak Grove," September 1995) about the "new urbanism." At bottom, neotraditional town planning is a return to the small lots, garages on alleys, and neighborhood shops of the 1910s and 1920s — about like the neighborhood I live in, which was developed pre-zoning. After 50 years of building on big lots, tying homeowners to these goddamned lawns, and chewing up the countryside, a way emerges to conserve land while still preserving the single-family house. The garages on alleys are a way to move the garage out of the front of the house, so they can bring back the old-fashioned porch, built within talking distance of the sidewalk. Streets are narrower to save on land, and a grid system of streets takes traffic off the arterials. Allowing small shops nearby ends the 100% reliance on cars.

I live in a neighborhood like that, and I like it. Such neighborhoods have not been built since the 1940s, I think. My house was built in 1921.

O'Toole's story has to do with the retroactive application of "new urbanist" zoning on an already-built neighborhood, which is something I'd never heard of. New urbanism was explained to me as a way to build a type of new development that is *disallowed* by traditional zoning.

Bruce Ramsey
Seattle, Wash.

C'mere — Scratch My Back

I know that my publisher, some time ago, sent you a review copy of my recent book, *The Decline and Fall of the Supreme Court*. I have heard nothing about any impending review from your quarter.

The facts suggest a *quid pro quo*. If I learn in a timely manner that my book has been assigned to a reviewer, I will renew my subscription. If not, not. That is probably somewhat too starkly put. But you cannot with any show of reason accuse me of obfuscation.

Christopher Faille
Enfield, Conn.

We Would, But He Works for Free

I pondered Ronald Wilkerson's

letter in the September *Liberty* for all of ten seconds before my laugh reflex kicked in. *What* happens to those "libertarian ideas" he claims he sneaks into *Star Trek*? Surely they aren't on the screen. All I ever see is advertising for big government in the form of the United Federation of Planets and its military arm, Star Fleet.

Question: Does anyone *ever* do anything for profit on the show? Well, yes, but then they're polluters or stereotypes so old that dust visibly falls off (the Farengi are just medieval Jews with big ears and bad teeth).

John Bergstrom got it right. Keep paying him.

Robert McMillin
Garden Grove, Calif.

In Rand's Way

R.W. Bradford's discussion ("Rand: Behind the Self-Mythology," September 1995) of the relationship between Rand and N.O. Lossky, her most memorable philosophy professor at the University of Petrograd, raises significant historical questions. Bradford states that, contrary to Rand's reminiscences, "Lossky was not a Platonist, gave reasonably easy examinations, in no way treated woman students poorly, and was not even at Petrograd University when Rand studied there." This is not entirely correct. While in *Ayn Rand: The Russian Radical* I dispute Lossky's reputation as an "authority on Plato," it is certainly conceivable that Rand would have viewed the mystic-collectivist *content* of Lossky's philosophy as thoroughly Platonic, even if his dialectical methodology owed more to both Aristotle and Hegel. Students of Lossky didn't consider his exams especially difficult; the exams were described as forthright and fair. And though Bradford is correct to note that Lossky was not a misogynist, it is incorrect to suggest that Lossky was totally absent from Petrograd University.

Lossky had been barred from teaching in the university proper due to his religious convictions, but he retained an appointment to the University of Petrograd annex, the Institute of Scientific Research. Rand would have had to make a conscious decision to study with Lossky, to seek him out, and to gain permission from the university to take

his courses. She may have learned of the celebrated Lossky from her earlier attendance at the Stoiunin gymnasium, a school for young women at which Lossky taught, and which was founded and administered by his in-laws.

While it is accurate to note that the folly of Randian "self-creation" often stands in the way of a serious discussion of her thought, this is not the scholar's greatest obstacle. Take from one who knows — the greatest myth that scholars like myself have faced is the belief that Ayn Rand was merely a "pop philosopher" or a "dime novelist." It is through such characterizations that many academics and publishers have thwarted any serious consideration of her profound intellectual legacy. Their time is up. Ayn Rand is here to stay.

Chris Matthew Sciabarra
Brooklyn, N.Y.

Constructive Criticism

Whether or not the many negative "facts" R.W. Bradford quoted about Ayn Rand are true, her contribution to the philosophy of freedom remains untarnished. Furthermore, such a vicious personal attack against someone who is no longer alive to defend herself ought to be beneath a person of Bradford's stature. His time would be better spent dealing with more constructive issues.

Christopher B. Heward
Torrance, Calif.

Occam's Razorbacks

R.W. Bradford ("I'm not a real president, I just play one on TV," September 1995) imputes Bill Clinton's ignorance of the Constitution to all of us who choose to live in Arkansas. ("Yale is an equal-opportunity, affirmative-action institution and it must be hard for Eli to find enough Arkansans to fill its quota.") He then resorted to self-satisfied, smug elitism by noting that, although Clinton, a former instructor in constitutional law, was apparently ignorant of the Constitution, it was understandable because "his law professorship was at the University of Arkansas Law School."

While I, like many others in Arkansas, share Bradford's opinion of Clinton, neither your disapproval of his politics nor his lack of respect for his learning in the law (received at Yale) justifies his suggestions that Arkansans are in need of affirmative action in order to be accepted at institutions such as Yale and that, even at that, we poor, inbred

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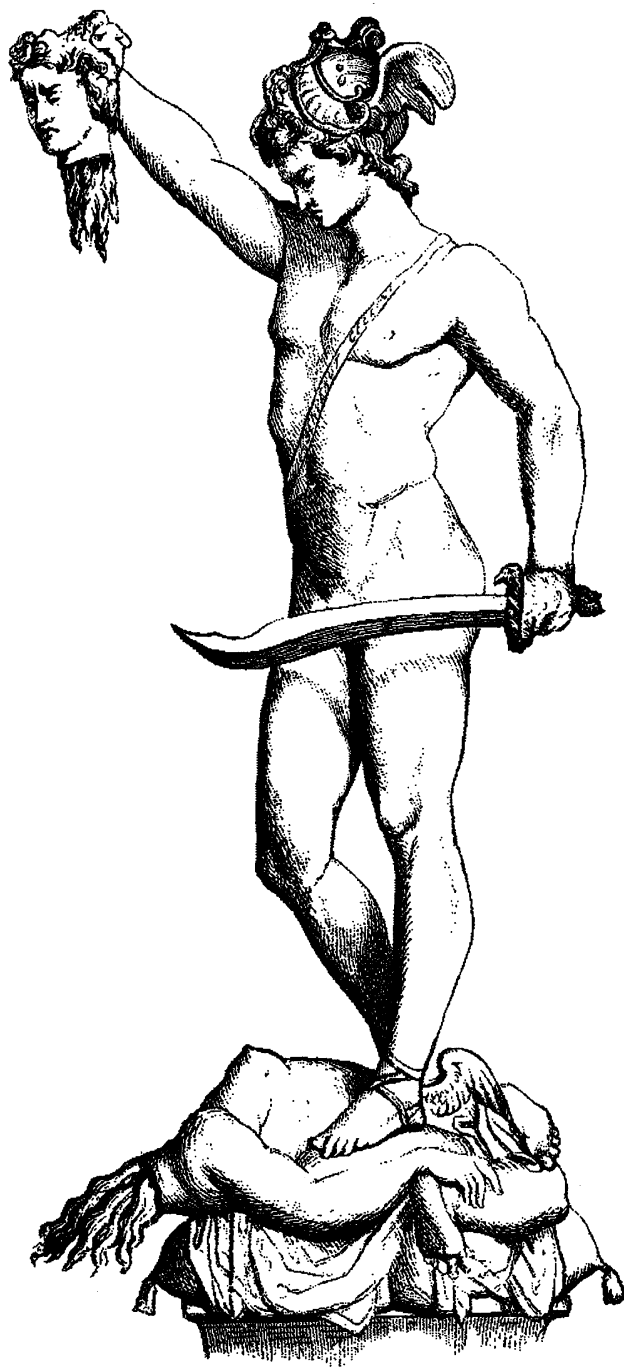
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Letters, continued from page 4

hillbillies can't even scrape together the brain cells to fill out our quota. By applying your criteria, your dim-bulb musings would lead me to believe that the residents of Washington are arrogant and aggressively ignorant.

Furthermore, your swipe at the school of law at the University of Arkansas indicates that you are as ignorant of the quality of that institution as you are of the people of this state.

Being a native of Arkansas, as well as a resident by choice, I am, *ipso facto*, intellectually incapable of understanding the U.S. Constitution or the case law interpreting it with which I work in my law practice every day. It must then be true, *a fortiori*, that divining the insights set out in your publication is far beyond my meager capabilities. At subscription renewal time, if I can get my inadequate brain to work, I will take that into account.

W. Paul Blume
Little Rock, Ark.

The Zombies Are Coming! The Zombies Are Coming!

R.W. Bradford's use of "holocaust" to describe Waco ("Judgment call," September 1995) is obscene. None of the victims of the "real" Holocaust had any choice. Most tried desperately to avoid it. *All of the Davidians were volunteers. They had choices and elected not to use them!*

The starting point for any discussion of Waco has to be: "Was there any reason for the government to be there in the first place?" That has been answered clearly. David Koresh was a certifiable wacko, albeit a charismatic one. It does not matter that he had religious delusions. What matters is that his followers had become mindless zombies and were building an arsenal that could easily outgun all the local authorities. They were in a position to take away other people's most basic liberty, namely, their lives.

Farren H. Smith
Camden, S.C.

Death With Dignity

R.W. Bradford's commentary on the Waco massacre brings to mind the following incident. On the night of March 16, 1190, following six days of anti-Jewish riots in York, England, the leaders of the Jewish community and

their families locked themselves in their synagogue and set fire to it, perishing in an act of religious martyrdom. In Judaism, this type of martyrdom is called *Kadosh HaShem*, Sanctification of the Name. When the holocaust occurred in Waco two years ago, I was struck by the parallel to this little-known incident in medieval history. That the Davidians may also have thought of themselves as acting to "sanctify the name" is a possibility I do not discount. Neither, apparently, does Bradford.

While Bradford presents a compelling argument that the FBI must bear the burden of responsibility for whatever actually happened at Waco, I quarrel with him on one point. I don't like the suggestion that the Davidians themselves bear no responsibility. Assuming — and this is all we can do — that the Davidians did intend to immolate themselves and their children with them, this was a conscious act on their part. I would grant them the dignity of responsibility for that act; to do otherwise demeans an act which the Davidians must have considered the ultimate test and expression of their faith. Moreover, to grant that dignity to the dead in no way detracts from the terrible responsibility borne by the FBI agents and their superiors for creating the situation that drove the Davidians to their tragic and final end.

W. Luther Jett
Washington Grove, Md.

Wes, We Hardly Knew Ye

I don't read *Liberty* anymore because it doesn't provide me with anything I need in my battle to get myself free. Actually, I have already won that battle. I only continue it to get the rest of you free because that is the only long-term assurance that I will stay free.

I have loved *Liberty* from its inception but you are stuck where I was back in 1987. I simply outgrew you.

Westley Deitchler
Miles City, Mont.

Buchanan's Rainbow

If creating the "general climatic conditions that makes rainbows possible" is "the forgotten core of American conservatism," as Paul Piccone suggests ("Blunder on the Right," May 1995), then no one has forgotten it more thoroughly than the conservatives themselves.

Pat Buchanan might sometimes

sound as if he wants institutions under which diversity will flourish. But as soon as anyone starts building "rainbows" that don't conform to his white male stereotype, he'll be the first to use federal power to squash them.

The real supporters of diversity are the libertarians, whichever party they find themselves in. Why confuse everyone by calling them "conservatives"?

Charles Richardson
Fitsroy, Australia

Shame!

To review a book which you obviously never read must require considerable courage. The thousands of folks, worldwide, who know the facts about the struggle between the 40 retirees of Antelope, Oregon, and the Indian guru, Bhagwan Shree Rajneesh, and his cultists will now hold all of R.W. Bradford's writings in suspect ("A Place in the Sun," September 1995).

Had Bradford read *A Place Called Antelope*, he would have discovered that the religion of the Rajneeshes was not the concern. Their political clout put Wasco County in jeopardy when they imported thousands of voters from around the nation and then, to further their edge at the polls, poisoned over 750 county residents.

And shame on him for demeaning "small-town" folks.

Donna Quick
Ryderwood, Wash.

... continued ...

I explained this earlier, but I suppose I'll have to keep it up.

If I hear that you plan a review of my recently published book, *The Decline and Fall of the Supreme Court*, I will resubscribe. If I do not hear that, I will not.

Christopher Faille
Enfield, Conn.

Letters Policy

We invite readers to comment on articles that have appeared in the pages of *Liberty*. We reserve the right to edit for length and clarity. All letters are assumed to be intended for publication unless otherwise stated. Succinct, type-written letters are preferred. Please include your phone number so that we can verify your identity.

Reflections

Who's to blame? — After listening to Janet Reno's testimony at the House committee hearings on the Waco holocaust, I was inspired to conceive a new theory of the responsibility for starting World War II. The Polish Army is at fault. After all, they got in front of the German assault. —RH

Colinoscopy — It's a guilty pleasure, but I love watching primaries, conventions, and election returns. Most experts have anointed Bob Dole as the GOP nominee. Do the Republicans really want a man who could run with the slogan "If you liked Nixon . . ."? But the rest of the field isn't much better: Dole is joined by such winners as Lamar Alexander and Phil Gramm.

With such an appalling cast, many an alleged outsider has started dropping hints that he may run. Malcolm "Steve" Forbes, Jr. (who has just entered the race as a Republican), Colin Powell (who may run as a Republican or independent), and New Jersey Sen. Bill Bradley (who would run as a Democrat or independent) are the flavors of the month. Of these three, Forbes is the best — but that's not saying much. His message amounts to warmed-over Kempism. He told *Reason* a few years back that he is "pro-growth. If that means enterprise zones, I'm supportive." More recently, *Wall Street Journal* columnist Paul Gigot noted approvingly that Forbes will fill the Republican Party's "growth and optimism void" by stressing a "rising tide" instead of "shrinking government." All of this is wonderful if you believe there's nothing more important than an ever-growing economy. As for me, I have my doubts about the virtues of endless growth — and whether it can be sustained without constant government manipulation.

Media darling Colin Powell is the most popular of the would-be candidates, but so far he's just an empty uniform who's criticized the "liberals" and the "far right" enough to achieve centrist respectability. Here's a sample of his advice to the country, from his book *My American Journey*: "We have to start thinking of America as a family. We have to stop screeching at each other, stop hurting each other, and instead start caring for, sacrificing for and sharing with each other. We have to stop criticizing, which is the way of the malcontent, and instead get back to the can-do attitude that made America." Blah, blah, blah.

Powell's momentum is rolling along on nothing more than his respectability and his skin color. To his credit, he doesn't buy into this nonsense about his "transcending race" and has indicated an unwillingness to serve as Republican window-dressing.

The worst of the lot is Bill Bradley. As *Newsweek* points out, Bradley is a "100-percenter with Clinton on major issues, from Head Start to student loans to the Brady bill to job training." When he deviates from the Democratic Party line, it's usually for things like aid to the Nicaraguan "contras" (read

"terrorists"), who he supported in the mid-1980s. He will soon be hawking a book — the ghostwriting industry always booms at election time — that he describes as a "journey into America and a journey into myself." Yecch! Brace yourselves for more pap along the lines of Colin Powell's tome.

Newsweek reports that Bradley "has been fascinated in recent months by the challenge of restoring American 'civic society' — the conversations neighbors have with each other, ideally across racial lines, in local restaurants, school boards, living rooms." This is a worthy goal, but Bradley is wedded to a political faction that has worked overtime to build up the federal government at the expense of exactly this kind of real community. Until he credibly distances himself from that faction, he's just chattering. —CS

GOP flip-flop — Last year, when the Clintons suggested imposing "managed care" (i.e., bureaucratically controlled medical care) on all Americans, Republicans rose as one and denounced this as a monstrous threat to everyone's health. Now the Republicans, as part of their attempt to cut down the growth of Medicare spending, propose managed care for old people. Maybe there's something to the old Democratic saw about Republicans being heartless about old folks after all. —RWB

America, I want to talk to you! — On September 19, the Unabomber made his debut as a newspaper columnist, quickly establishing himself as my second-favorite pundit (after Hillary Clinton). The Unabomber — or, as he prefers to call himself, "the terrorist group, FC" — got into print by announcing he would stop bombing people if the *New York Times* or *Washington Post* would print his anti-industrial ravings. (*Penthouse* volunteered to excerpt them, but this wasn't enough for FC, thus blowing the theory that he's just another frustrated guy dreaming of getting published in *Penthouse Letters*.) After much soul-searching — and not a little government pressure — both papers chose to run his manifesto. Word has it the document is no duller than Abe Rosenthal's "On My Mind," but much longer.

The great fear is that this will only salt the bomber's appetite: today he demands space in the *Times*, tomorrow a spot on *The McLaughlin Group*, next week a chance to guest-host *Larry King Live*. Before you know it, he's the White House press secretary. Well, so what? What media figure *hasn't* left a pile of bodies in his wake? You think MacNeil and Lehrer got where they are today on their merits? Now who's being naive? —JW

Pap faction — I finally caught up with *True Romance*, the Quentin Tarantino-scripted sex- and gore-fest Bob Dole denounced in his infamous attack on Hollywood. (His speech is said to have been written by Mari Maseng — Mrs. George

Will — which explains all: getting laid by that smug little prig could derange any gal.) Dole, of course, got it exactly wrong: *True Romance* is a sweet picture in which a boy kills a pimp while defending his girl's honor, after which they take it on the lam. Then again, what would Dole know of honor? After all, in 1971 he snarled "I want out" to the wife who had nursed his war wounds and endured his black moods, and before you know it he was making goo-goo eyes at the much foxier Elizabeth Hanford.

That Dole's silly speech was roundly applauded by "conservatives" shows just how debased the American Right has become. Among the many pernicious legacies of Newt Gingrich's hero Teddy Roosevelt is the notion of the presidency as the "bully pulpit." Bully shit! Even the most expansive Schlesingerian conception of the executive doesn't make the president a cross between Roger Ebert and Miss Grundy. Can anyone imagine Grover Cleveland issuing an *ex cathedra* opinion on the latest novel by Howells? —BK

Who weeps for Waco? — The House hearings on Waco have come and gone, and seem to have had remarkably little impact. On the opening day, little Kiri Jewell testified that Davidian leader David Koresh repeatedly molested her. On the closing day, Janet Reno replayed her "I-take-all-responsibility-the-buck-stops-here" act, while the Republican members of the committee looked on with trepidation.

So far as the Left is concerned, the hearings were a right-wing bullet aimed at everything good and progressive in American government, but somehow missed its target, thank God. So far as the Clinton apologists are concerned, the hearings were a right-wing bullet aimed at the Clinton administration, missing its target thanks to the heroic efforts of loyal Clintonistas on the committee, especially Rep. Charles Schumer. As far as the Right is concerned, somehow the new Republicans failed to bring the story into focus and rally public opinion, mostly because they were not well-prepared. (They didn't bother to figure out that Kiri Jewell was going to testify that she was molested — or to learn that she was not a resident of the compound, despite her testimony.)

The Republicans blew it, everyone agrees.

I'm not so sure. Yes, there's little doubt that the Republicans lost the public relations battle. The superficial reports from the hostile media, ranging from *The Wall Street Journal* to your local television news team, told a very simple story: It's too bad so many children were killed, but David Koresh was a monster, and maybe a few mistakes were made, but he got what he deserved.

But the congressional hearings did a great deal more than provide grist for news purveyors and opportunities for political posturing. The Joint Subcommittee had subpoena power and used it. They obtained thousands of pages of documents, many of them discrediting the ATF, the FBI, the attorney general, and the president. No longer is it credible for anyone to maintain that what happened at Waco was right or just or reasonable.

The hearings may have lost the public

relations battle. But they won the battle of history.

Even *The New Republic* now acknowledged, in an unsigned editorial, that many issues were settled:

More to the point, there is no need to endlessly debate the details of Waco. Many of them have been incontrovertibly established, and they do not flatter the administration. There were no drugs at the compound. Koresh was not "stockpiling" weapons, he was trading them. The ATF never adequately understood the religious volatility with which it was dealing. Time, like force, was on the government's side. The feds had opportunities to seize Koresh when he left the compound, but they blew it. The gas they used made a surrender less likely. And so on.

Law enforcement is a noble and necessary element of government, but at Waco the Clinton administration acted coarsely and thoughtlessly and lethally, and then it refused to consider what it had done.

Of course, *TNR* didn't arrive at this conclusion without taking a cheap shot at Waco's most determined critics:

For the anarchists of the right the destruction of the Branch Davidians confirmed that the government is evil, that the finest symbol of freedom is a rifle, that America is an eschatological scene. These people do not weep for Waco. They have a use for it.

I suspect *TNR* was talking about me and people like me here. If so, they are crudely insulting. Yes, there is a sense in which I am pleased that the events at Waco have helped some Americans see their government as a monster that has "acted coarsely and thoughtlessly and lethally, and then . . . refused to consider what it had done." But if the editors at *TNR* think I would prefer the government act monstrously at the cost of the lives of over 80 innocent human beings to it acting sensibly and fairly and humanely, they are grievously mistaken. I wept for the Davidians, like all decent people. But there comes a time when one should dry one's tears and try to do what one can to ensure that there are no more Wacos. —RWB

No secrets in cypherspace — Community ConneXion, an Internet privacy server in Berkeley, California, has challenged hackers to find security flaws in Netscape Navigator, a wildly popular program that provides easy access to the Net.

Ian Goldberg and David Wagner, members of the "cypherpunk" community, have found a way to break through Netscape security in 25 seconds. Since Netscape has advertised itself as a safe way to transmit sensitive data, customers have been sending their credit card numbers, as well as bank account and stock portfolio information, over the Net.

Community ConneXion will send Goldberg and Wagner free limited edition T-shirts.

—WM

Forbes in, Browne down — Steve Forbes' entry into the presidential race must have sent shivers down the spines of Harry Browne's campaign managers. Radically lower taxes, less regulation, a return to sound money, and "killing the tax

Liberty's Editors Reflect

CAA	Chester Alan Arthur
RWB	R.W. Bradford
SC	Stephen Cox
RH	Robert Higgs
BK	Bill Kauffman
WM	Wendy McElroy
RO'T	Randal O'Toole
CS	Clark Stooksbury
TWV	Timothy Virkkala
JW	Jesse Walker

monster" are all themes that will resonate well with those voters who are most susceptible to Browne's message, as will his refusal to accept taxpayer subsidy for his campaign.

Unlike other Republican candidates, Forbes has no ugly baggage on the issues of crime, drugs, and civil liberties. His stand on abortion — no federal funding, no third-term abortions, parental notification before minors can get abortions — is more forthright than Browne's expressed position. The fact that Forbes is better known, better financed, and not burdened with the label of an obscure third party will also work in his favor.

Whether Forbes will be able to make much headway toward the Republican nomination remains to be seen. My guess is that he will do well, given his competition. Steve Forbes is the only plausible outsider seeking the nomination, the only candidate calling for genuine tax cuts, the only candidate who hasn't endorsed the Wars on Crime and Drugs. His ability to finance his own campaign will free him from the need to spend half his time dialing for dollars and schmoozing with fat cats. He is personable and reasonably articulate, especially when compared to other politicians. While all the other Republicans except Arlen Specter compete for support from social conservatives, Forbes ought to be able to build broad support from the Republicans who aren't social conservatives — those who favor less regulation, less taxes, and less government, but have little no desire to clamp down on civil liberties — a category certainly less vocal, but quite possibly more numerous. —CAA

Stand by your man — By now it is apparent to everyone that Rush Limbaugh long ago sold his soul — and whatever claim he once had to intellectual integrity — to the Republican Party. And most of us didn't really need a book entitled *Logic and Mr. Limbaugh* to notice that he is more than willing to marshal a fallacy now and then in his chosen cause.

Apparently, Limbaugh is not the only political commentator who has made such a deal. Syndicated columnist Molly Ivins has also sold out. But being her charming, out-of-sync-with-the-masses self, she sold *her* soul to the Democratic Party. She has taken on the role of *pro bono* spin-doctor for the Clinton administration.

One could, of course, attack this left-wit for her posturing down-home-isms, her egregious use of backwoods homilies in defense of big-city liberalism. But I won't, since I used to enjoy her style, and since I probably would enjoy it still if similarly shanghaied for *my* brand of cosmopolitanism. No, what is objectionable about Molly Ivins is that, professing herself wise, she makes fools of her fans.

Consider just one recent instance of Molly Ivins' "integrity." In a column that I pulled off the Net, Molly Ivins asserted that the accusations ("common on the Net and elsewhere") that Bill Clinton is a murderer are "absurd." Yes, she said *absurd*. She offered a warning:

To those who like to titillate themselves with sludge, I pass along an observation of Voltaire's: "Those who can make you believe absurdities can make you commit atrocities."

Molly Ivins thus shows herself as a clever, but ignoble, rhetorician.

It is not *absurd* to suggest that our president is guilty of murder. Of course, it is unlikely that the Clintons are

involved in a personal conspiracy to commit murder — I doubt they took out a contract on poor old Vince Foster, who probably killed himself, sickened by his role in Arkansan corruption.

But Clinton's role in the Waco holocaust is looking more suspicious every day. The more outright lying I heard from the FBI as the Waco hearings rolled on, and the more I try to decipher what went on at the Davidian compound at Waco, the more likely it seems that the fires were an *intended* consequence of the final tank raid at the Davidian compound.

Until the hearings, I thought the conflagration was simply a result of bureaucratic face-saving gone horribly wrong. Now I think a very different verdict is equally plausible: Bill Clinton gave the command to go with the tank raid, to save *his* face, to salvage his popularity, to make sure he wouldn't go down in history (or the polls) like his predecessor, Jimmy "I Couldn't Do Anything About the Hostages" Carter. My guess is that Bill Clinton made a huge mistake, a mistake that made him responsible for the deaths of nearly a hundred people, people whose gravest crime was to put their eschatological beliefs ahead of their own safety and who couldn't find a way (or, deluded by their ideology, didn't bother to find a way) to keep the murderous thugs at the FBI from killing them.

I now wonder just how far Molly Ivins will go to protect Clinton's reputation. Two years ago, Ivins was refreshingly critical of the feds' assault on the Davidians. Will she now argue that this is not murder, but merely statesmanship?

By the way, I'm not sure where Molly's Voltaire quotation came from, but I bet the old Ferney gardener was slamming the Catholic Church, which he hated. Would he approve of our government's Cult (i.e., deviant religion) Policy?

It is disgusting to see a humanist liberal's words be used to exonerate criminal conduct by government officials.

But Molly Ivins will do pretty much anything to save her man. —TWV

Oregon rules — I have an intimate familiarity with Oregon forest practice rules, since I worked hard to change them during the 1970s. At that time, Oregon's forest practice rules were written by a board of forestry that, by law, was dominated by representatives of the timber industry. Not surprisingly, the rules were filled with weasel words, such as



"minimum," "avoid," and "whenever possible."

During an annual review of the rules, I asked the board to eliminate these ambiguities, but I got nowhere. I then went to the legislature, at the time dominated by Democrats, and lobbied to change the board to one composed mainly of citizens with no financial interest in the industry. But the state's governor was a Republican, and Democratic leaders didn't want to give him the power to appoint all members of a new board. I gave up after two legislative sessions, which turned out to be too soon. As soon as a Democrat was elected governor, the legislature changed the board to exactly the setup I had proposed: seven members, no more than three of whom could have a financial interest in forest products. (This was standard for other Oregon boards and commissions, so I can't take credit for it.)

The new board soon took an aggressive look at the state's forest practice rules. But by this time, I had discovered the role of incentives, and was no longer enamored with the idea of regulating every one of Oregon's 24 million forested acres.

In 1989, I made a presentation to the board arguing that the best thing they could do to improve forest practices was to lobby the federal government to charge recreation fees. This would encourage private landowners to also charge fees which, in turn, would lead those landowners to take better care of the non-timber resources on their land. I cited examples of International Paper and other companies in the South that began to leave large buffer strips around streams and lakes in order to promote more recreation.

The board found this an interesting idea, but I imagine they had little faith in their ability to convince the feds to charge for recreation. So they passed stringent rules of the kind I supported in the 1970s: strict requirements regarding buffer strips, logging practices, and so forth.

A few months ago, I got a phone call from my dad. A friend of his had promised her dying brother that she would finance his son's college education. Now that her nephew was about to start college, she wanted to sell the timber on a patch of forest she owned to help pay the tuition.

The state told her she couldn't cut the trees because nearly all of them were within a 200-foot buffer strip along a fish-bearing stream. She remembered the trickle of water that ran through her property and couldn't imagine it had any fish in it. "Yes, it does," said the state forest officer. "The Fish and Wildlife Department stocked it with fish last week."

My stomach went hollow when I heard this story. The rules I fought long and hard for nearly 20 years ago were now in place. But I had always imagined that those rules would apply mainly to big timber companies. Even though I knew that a quarter of Oregon's timber is in small wood lots, I never thought that the rules I wanted would impoverish individual people.

Be careful what you ask for. You may get it. —RO'T

Christendom and Christendumber — Søren Kierkegaard distinguished Christianity from Christendom. Though we should not expect evangelical Christians to follow the Danish existentialist in very many things, one would think that they could follow him in this distinction, at the very least. Why? Because the distinction seems so in the spirit of Jesus of Nazareth, the Man whom

Christians putatively follow. Jesus was very clear on this: outward observance and institutional arrangements are not what is important; *what is in your heart* is what is important. To believe this requires no strange dialectic, no *outré* hermeneutic, no advanced theology. It is the soul of Christianity.

But it is *not* the soul of Christendom, which is all about external observance and public pronouncements.

Nor, apparently, is it at the heart of modern, public evangelical advocacy. What matters to too many such Christians seems to be nothing other than Pharisaic posturing about public rituals and public confession.

What matters here, in America, is "public prayer in the schools."

I am not the first to note how the perennial demand to reintroduce "public prayer in public schools" sounds like a "whitening of sepulchers," akin to the public demonstrations

Rush Limbaugh may have been fooled by Clinton's "turnaround" on the prayer-in-school issue, but evangelicals are not as marginally religious as Rush.

of religiosity that Jesus excoriated in the "scribes, Sadducees and Pharisees" who ostentatiously prayed on the streetcorners. And I am not the first person to be unsurprised to witness the majority of Christians flee the teaching of Jesus and embrace its supposed opposite. Jesus said that one would have to give up much to enter the kingdom of heaven; why should anyone be shocked to discover vast hordes of supposed followers shirking the narrow path, traveling the open road of public religion instead?

But as unsurprising as this may be, it is a bit depressing. The idea that corralling classrooms of children and praying at them could have a salutary effect indicates a belief not in the teachings of Jesus but in the accommodations of Augustine, who tried to refit Christianity to rule an empire, rather than to subvert the worldly ways of man. Now, there is much to be said against Jesus and otherworldliness in general, I am sure, but not by Christians. (One would think.)

And it is unsurprising to hear Bill Clinton speak to this issue, trying to show Americans that he "cares" about their religion. Clinton's style of presentation — earnest, oh-so-earnest declarations from a heart-on-sleeve politician — sickens, of course. Every word he says echoes the contrived emotionalism of Jimmy "I was 'born again' in the back of a limo" Swaggart or nearly any other of the half-dozen stars of the "Christian media." I have known many ministers and revivalists and missionaries of integrity. Apparently the vast numbers of Christians out there in TV Land have not, elsewhere they would not fall for brummagem spirituality. It is not the Spirit that these men are filled with. But they still draw a loyal audience. Amazingly, Clinton still draws a viewing audience. Clinton's paeans to spirituality are as unconvincing as his predecessor's testimony that he had been "born again." (But then again, Bush probably did not lie completely: politicians are born again and again, each election, with ritual regularity and magical magnitude. They live for each rebirth, for

each shift of the opinion polls.)

Thankfully, the content of Clinton's prayer-in-the-schools program seems unobjectionable; he is very moderate, demanding nothing that the Supreme Court has not already granted. School time and space designated for a diversity of extracurricular activities may include prayer meetings and Bible studies, and voluntary student prayers (such as in the lunchroom, or, traditionally, before tests) may not be prohibited. There is nothing radical here, nothing not reasonable, nothing worth much comment. An atheist could support this position. Indeed, a likely atheist does: Bill Clinton.

Alas, I doubt that the institutional evangelical community will be content with the Clintonian compromise. Rush Limbaugh may have been fooled by Clinton's "turnaround" on the prayer-in-school issue, but evangelicals are not as marginally religious as Rush. Clinton's pronouncements are over two months old now, and no great change has visited us. Public evangelicals have not judged Clinton's "heartfelt" defense of Christianity as a great victory. They pray for something much more rich and strange: an official recognition of the "Christian roots" of America, an institutionalization of religion and ritual in public places. They pray for a sea change, a washing away of America's secularism, a conversion of America into the pillar of Christendom it once was.

They pray, I think, for too much.

So this is my prophecy: until evangelical Christians convert, en masse, to the sober separatism that lies dormant in their exiles' faith, until they renounce the temptations of worldly power and officially sanctioned ritual, there is little hope for freedom in this country. The state will remain supreme as long as masses of respectable people still invest it with the authority to bolster their fragile faith.

Pray for a religious revival.

—TWV

Back to the present — Revivals, it has often been noted, follow a 20-year pattern. There was a '50s revival in the '70s and a '60s revival in the '80s, so I suppose the present obsession with the age of Pol Pot, Studio 54, REO Speedwagon, and other atrocities was inevitable. There was a valiant attempt to stave it off at decade's dawn, by moving, not forward, but *backwards*, into the '40s. But it was not to be. Harry Connick, Jr. sold a few records, and that was it: the '40s were reburied and the '70s were upon us again.

A friend of mine used to manage a bookstore located under a dance club. In 1991, he and I began to hear strains of Sister Sledge wafting down through the pipes, while outside, nineteen-year-olds who barely remembered John Travolta camped it up in leisure suits. I called them dancing fools; they didn't mind. It was Disco Night at the Nectarine Ballroom.

On TV, an unlikely outfit called the Seventies Preservation Society started appearing late at night, hawking CDs of mediocre '70s hits; at first, I mistook it for a sketch on *Saturday Night Live* (another institution that should have stayed in the older decade). Bill Clinton was elected, dragging Fleetwood Mac in his wake. Nixon was re-rehabilitated on his deathbed. Henry Kissinger churned out another book. Pop sociologists declared *The Brady Bunch* my generation's formative experience; on their advice, beer advertisers produced short films of hippie golfers waxing nostalgic over Supertramp, *Frampton*

Comes Alive, and related horrors of the not-so-distant past.

I tried to retreat — first to the '20s, 'till my stereo grew tired of Fats Waller; then to the early '80s, where, by being 15 years behind my time, I could be five years ahead of it. None of this seemed to work, so I decided to jump the gun and embrace my own era. I am now a '90s revivalist.

Remember the '90s? A time of lost innocence, so long ago. . . . A time when the worst thing you could get from sex was AIDS . . . a time when men and women of different races could share a freeway in relative peace . . . a time when most young Americans hadn't even heard of Andorra, let alone fear they might die there one day. A time when people weren't too jaded and cynical to enjoy a grunge record. A time when abortion was a legal right, not an unfortunate consequence of the average woman's diet. A time when Rush Limbaugh still hadn't gotten the notion that he could sing.

You don't miss your water, kids, until your well runs dry.

—JW

Report from Ruby Ridge — Contradictions are everywhere. Agent Lon Horiuchi testified at Randy Weaver's trial that visibility was "excellent" when he shot Vicki Weaver, but the FBI snipers claimed at the Senate Ruby Ridge hearings that visibility was poor, and their supervisor said, "You could almost say the sun never came up, it was dark, it was rainy," etc. The rules of engagement gave the snipers a "green light" to shoot anyone, but were really no different from the FBI's standard policy on deadly force. The sniper felt free to fire on the people from the Weaver cabin because they were threatening to shoot an FBI helicopter, but none could recall seeing or hearing the helicopter at the time of the shooting. Weaver held his gun in the "port arms" position (from which it is impossible to fire a gun), but was also threatening the helicopter. The marshals and FBI agents were acting to protect Weaver's wife and children, yet his wife and children, we were repeatedly told, were as big a threat to them as Weaver himself. (This last claim turned out to be an understatement — at least partly. Sammy Weaver actually



fired toward his attackers shortly before he was machine-gunned in the back and killed. Randy Weaver, on the other hand, testified that he never in his life aimed a gun at any other human being, and no testimony was introduced that contradicted his claim.)

The contradictions go on and on — except in the testimony of Randy Weaver. Remarkably, his testimony has been entirely consistent, even with the statement that he wrote out while surrounded by the FBI, convinced that he and the rest of his family were about to be killed. —RWB

The thin line blues — Out of the blue, the O.J. Simpson trial rounded a corner and turned socially relevant. Mark Fuhrman, the LAPD detective O.J.'s lawyers had accused of framing their client, claimed on tape that he had manufactured evidence and committed perjury throughout his police career. To add insult to injury, he peppered these comments with the word "nigger." Suddenly, issues of police corruption, brutality, and racism were back in the public eye.

Meanwhile, in Pennsylvania, Mumia Abu-Jamal was granted a stay of execution. Jamal is the black activist-journalist sentenced to death in 1982 for allegedly killing a Philadelphia police officer. A lot of people believe in Jamal's innocence; his cause has been embraced by institutions and individuals both admirable (Amnesty International, Salman Rushdie) and embarrassing (Detroit City Council, Jacques Derrida). Jamal's status as leftist *cause célèbre* has led many a conservative wag to denounce the Free Mumia movement as mere "fashion," a profoundly irrelevant charge. Support for Mumia Abu-Jamal is no more (or less) fashionable than support for Randy Weaver. The greatest tragedy of the modern political landscape may be that the defenders of white separatist Weaver and the defenders of ex-Panther Jamal have been unable to make common ground — as though the issue at stake were the opinions of the state's victims, and not their civil liberties.

Indeed, whether Jamal is innocent or guilty may be less relevant, ultimately, than the ruptures in our justice system his experience has exposed. In 1982, Mumia's past membership in the Black Panthers was used as evidence that the murder was premeditated. Prosecutors read from a twelve-year-old interview in which a teenaged Jamal advocated political violence, as though this were germane to whether the adult Jamal committed this particular violent act. Police made little or no effort to look for other suspects, and failed to test Jamal's pistol to see whether it had been fired. Jamal was not allowed to defend himself, and was assigned a court-appointed attorney who was later disbarred; his efforts to dismiss counsel were blocked. Most disturbingly, the prosecution's star witnesses were an arsonist on probation and a prostitute, both ripe for police manipulation. Both changed their stories several times, and both delivered testimony at

the trial that was contradicted by several other eyewitnesses — witnesses the prosecution did *not* call.

The judicial mayhem suffered by Jamal, the police corruption embodied by Fuhrman, the FBI's contempt for the lives and liberties of the Weaver family — these represent systemic problems that go far deeper than any particular defendant's innocence or guilt. Fuhrman's past deeds prove nothing about his behavior in the O.J. case, but they say a lot about what can happen when a society puts too much power in the hands of its police. Power corrupts. And as long as police work includes incentives to be crooked and opportunities to be a thug, crooks and thugs will join the police force, embarrassing their colleagues and making life miserable for the rest of us.

If Jamal's cause has become fashionable, it is nowhere near as fashionable as the current drive to do *anything* to stop crime. Anything, that is, except uphold individual responsibility — for cop and criminal alike. —JW

How much wood would Packwood pack if Packwood could pack wood?

— The first time I witnessed Sen. Bob Packwood (R-Ore.) in action, I was impressed. He was smooth, very smooth, the acme of smoothness. Young and impressionable, I saw Packwood as the ideal to which all politicians should aspire. He came across as knowledgeable, reasonable, considerate, witty, wise.

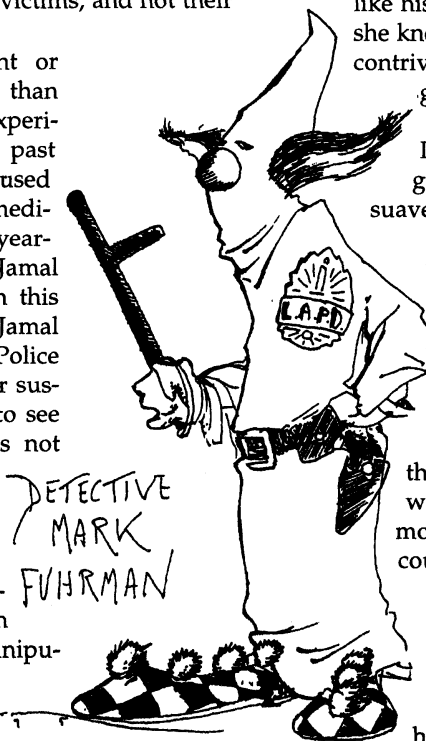
After his second debate in 1980 with Ted Kulongoski (Democrat) and Tonie Nathan (Libertarian), I chatted with a friend about the relative merits of the candidates in this race for the Senate. She loathed the politics of the Democrat, and admired both the politics and person of the Libertarian (who had effectively "skewered" the Big Guys in her first debate with them, according to the major papers). But regarding Packwood, I could see she was struggling. She did not like his "big government Republican" orientation, and she knew that every ounce of his being was a carefully contrived artifice. But he was, as she admitted, so very good at his pretense. "Suave," she said of him.

If someone had asked me, right then, how Packwood got on with the ladies, I would have guessed *very well*. Little did I know that this suave senator was a cad, at the very least.

I had no way of knowing, of course, that there would be such a disjunction between his personal and public personae, but I don't think I would have been shocked. It's tough, being a politician, having to pretend to believe all sorts of nonsense, simply to please the masses of "rationally ignorant" voters. The cognitive dissonance can wear at a guy. Perhaps that is the reason Packwood couldn't keep it together, why his drunkenness and lechery and "hegemonic seduction" (old-fashioned macho-rapist courting) became a big part of his life.

And why it led to his undoing as a senator.

Though I am not usually sympathetic toward politicians, before September 7, when Packwood resigned from the Senate, I had a hard time working up support for the calls for his ousting. It seemed somehow indecent that a



politician's *private* indecency should lead to his undoing, while the *public* indecencies of many a previous solon had been passed by with hardly a handclap. I loathe caddishness and despise rape, but Packwood's furtive assaults, as related by his many accusers, seemed simply pathetic. Since he was not prosecutable under law, ousting him while having let others' greater crimes slip by seemed itself indecent.

But as Packwood's infamous diaries came to light, the complexion of the case changed: what was so "shocking" about the diaries was not all the sexual bravado and indelicacies, but all the confessions of graft, special privileges, and violations of the public trust.

Not really shocking, of course, but it made Packwood's forced resignation much easier to swallow. There is justice in seeing a politician destroyed for his abuse of power. It may be true that this abuse is as commonplace as Packwood's own misuse of alcohol and his abuse of women. But tolerance for commonly practiced indecency is on the wane. Adding fuel to the bonfire of the vanities would be a good thing.

Perhaps the standards are reversing themselves. Perhaps now we will expect bluntness in politicians and suavity in private persons. The figure that Packwood cut in public life may become standard in the realm of sexual relations: knowledgeable, reasonable, considerate, witty, wise.

We could do worse. With Packwood, we obviously have. —TWV

Minor detail — In a letter in September *Liberty*, John Weaver, an Army veteran, took offense at R.W. Bradford's assertion that the Army "psychologically prepared" Timothy McVeigh to "kill without remorse." I also have military experience and can confirm that the ability to kill the enemy without remorse was one of the goals of my training. Of course, I was in the Marine Corps, where we learned that the real enemy was the U.S. Army. —CS

Jerry Garcia, 1942–1995 —

For over 30 years, guitarist Jerry Garcia and his band, the Grateful Dead, crisscrossed the country playing a freeform blend of folk, blues, jazz, country, and rock'n'roll. His death at 53 brought an abrupt end to this uniquely American tradition in music, leaving an empty space that cannot be filled.

But some good things never die, like the free community that always surrounded Garcia and the Dead. The Deadheads, the circus-like society of fans that followed the band from one arena to the next, embodied a cultural dynamic that is at the very core of American society, where individual freedom melds with tradition and chaos becomes order.

A Grateful Dead concert was first and foremost about spontaneity. That is what attracted Deadheads to the band in the first place, and the reason why some would follow the Dead across the country, seeing dozens of shows a year. The Dead never played the same set twice, or even the same arrangement of a song. Every show was a perfectly unplanned event. As Garcia described it, "We're just doing what we do [on stage], but we don't know why." Sometimes the music created was great, and sometimes it was not so great. But most Deadheads would argue that even a bad Dead show was far better than watching any other band play the same set the same way, every night, every year.

The music itself is the best metaphor for the social order that gathered around a Grateful Dead concert. To quote a classic Garcia tune: "It's got no signs or dividing lines, and very few rules to guide." In whatever city the band was playing, a spontaneous community of Deadheads emerged to sell and buy clothing and food, to tell tales about the road or sell a tape of a particularly crisp second set from the last Pittsburgh show. With very few rules to guide it, this spontaneous order allowed tens of thousands of people to gather peacefully, to meet and trade in an open, unregulated market.

While the press has made much of the several times this delicate order broke down during the final tour, what made this Deadhead scene so amazing was the mere fact that it usually worked well. Last year alone, 1.7 million people attended a Grateful Dead show, and many, many more showed up to be a part of "the scene."

Needless to say, some people never got it. Many never even tried, blithely dismissing both band and fans as worthless hippies — tired relics of the '60s counterculture. "At least Cherry Garcia lives," columnist Richard Grenier sarcastically eulogized in the *Washington Times*.

"Because if you overindulge in ice cream you just get fat. But if you overindulge in a Jerry Garcia's lifestyle you might end



Newtonian Logic:

"If we have been endowed by our Creator with certain inalienable rights, then someone who sells a person an addictive, life-destroying substance diminishes us all. . . . [Therefore] drug users should face serious economic penalties: 10 percent of their gross assets for first conviction, 20 percent for a second conviction, and 30 percent for a third conviction. . . . [D]omestic drug dealers should face sentences and confiscation of property that are as steep as the Constitution allows. . . . [A]nyone importing commercial quantities of drugs should be regarded as an invader of our national boundaries . . . [and be subject to] a mandatory death penalty . . . [and] we should intensify our intelligence efforts against drug lords across the planet and help foreign governments to trap them. . . . For our children's sake, it is the right direction, the right scale, and the right intensity."

— *To Renew America*

up a slab at the Serenity Knolls drug treatment center." *Wall Street Journal* editorial feature editor David Asman was equally unimpressed: "Onstage and offstage, Garcia was a drugged-up knockoff of a social experiment that went sour."

You might expect social conservatives to have little interest in or tolerance of a strange-looking fellow like Garcia, with his long wiry hair and white beard. But perhaps the harshest criticism of Garcia and his following came from *Washington Post* columnist Coleman McCarthy. Garcia had committed the unforgivable sin of going about the business of his own life instead of embarking on some holy crusade for social justice. He "avoided involvement in the hard social issues of human rights, hunger, and disarmament," sniffed McCarthy. Garcia didn't run for Congress or even join the

Peace Corps. He just played in a band, and "gathered to himself throngs of the self-absorbed."

Heroin is bad stuff, but McCarthy's intolerance for anyone who fails to live the good life (as defined by Coleman McCarthy, of course) is truly toxic. Ironically, while McCarthy feels good about spending other people's money on ineffectual government programs, Garcia was funneling over \$1 million a year in Grateful Dead earnings to private charities through the band's philanthropic arm, the Rex Foundation.

Just days before Garcia's death, another *Washington Post* writer, Carolyn Ruff, took time to fret over the "darker, more malevolent side of the Grateful Dead milieu . . . where the looming specter of capitalism rules supreme." Even President Clinton, with no apparent sense of irony, took advantage of Garcia's death to worry over others' poor lifestyle choices.

Though it probably pains liberals and conservatives alike to think it, Jerry Garcia and the Grateful Dead embodied "capitalism" at its very best. This is true in the vulgar meaning of the term, because Garcia made big bucks. The Grateful Dead was a huge, multimillion-dollar business venture that spent the past decade on *Forbes'* list of top-grossing entertainers.

But Garcia was also a "capitalist" in Hayek's more metaphysical sense. Without any intention of doing so, he contributed to the social order. As musical entrepreneurs, Garcia and the Dead created a peaceful cultural phenomenon, nurturing the very process of free association between free individuals. Such freedom may not be perfect when measured against some imagined utopian standard, but it works here on Planet Earth.

For Deadheads, Garcia's death is difficult to accept. "He's gone," the song goes, "nothing's gonna bring him back." But his musical legacy can live forever. And so will freedom, if our government and society's intolerants see fit to just let us be.

—Matt Kibbe

"Maybe we ought to try to figure out what has happened to cause these people to hate the federal government."

"I have a concern I think that's greater than this, and I've written to my congressmen and senators about it, first time I've ever done that in my life — and that's my concern that we are fast going down the road to a federal police force in this country. We seem to have a tendency to federalize every crime; right now everything from carjacking to abating child support is a federal crime in this country. That really worries me. And I think in this kind of hysterical state we're in after Oklahoma City, that we run a big risk of passing some very repressive laws that are going to be, in years to come, detrimental to our civil rights in this country. And as a law enforcement officer I worry about that.

"I think that for law enforcement to be effective, it has to be accountable. And to be accountable, it has to be controlled at the lowest possible level. It worries me to think that we're vesting, and I don't mean to be fingering the FBI outfit, but we seem to be vesting a tremendous amount of authority in the FBI to take over every aspect of civil law enforcement in this country. And I feel strongly about that. I think that it is detrimental to our continued freedom in this country, because I don't believe anybody wants a national police force in this country, and I certainly don't. I just think we need to kind of step back, take a deep breath, and look at this thing. And, you know, all the militia stuff and all that, it is serious, no doubt about it. But maybe we ought to try to figure out what has happened over the years to cause these people to so just absolutely passionately hate the federal government.

"People talk about being anti-government. I think sometimes I'm anti-government. I don't like paying all the taxes I'm paying and a lot of other things. And I resent the fact that I think every aspect of our daily life is intruded onto some way by some level of government. I'm not going to go out and take up arms against this country. Quite the contrary, I'm going to defend it. I'm going to defend the constitution of Texas and this country as long as I can. But I just think that we ought to look at that."

— Capt. David Byrnes, Texas Rangers,
testifying before the House Waco Committee,
July 17, 1995

Every spud a king — Recently, my friend Paul and I were discussing the bad habits of certain Republican leaders. Among the most disreputable of those habits is the practice of invoking Franklin Delano Roosevelt, the Republican Party's ancient enemy, as a figure whom all Americans ought now to venerate. Former President Reagan said fond things about Roosevelt, and Newt Gingrich is currently doing the same, despite the fact that Roosevelt created the social-welfare state that the Republicans supposedly want to dismantle.

During our discussion, I mentioned to Paul that Roosevelt, the new idol of small-government Republicans, had gone so far along the road to the omnipotent state as to support a Potato Control Act.

Paul exploded.

"Control potatoes! You can't control potatoes!"

continued on page 48

Television

The Prime-Time Police State

by R.W. Bradford

Justice flickers as America adjusts its reception.

As customary, September marked the hyper-hyped beginning of a new television season, this one with over 40 new programs on the six broadcast networks alone. But it was not the mass debut of new sitcoms about single people sharing apartments, or new "dramas" about police or physicians or single people sharing apartments, or even the return of old, well-established hit programs along those lines, that provided the most compelling television. Indeed, the best television was not even to be found over the airwaves.

No, the best television was found on an obscure channel available only to cable subscribers and satellite receivers. I refer to C-Span, the non-commercial network created and funded by cable operators to cover the affairs of government, in hopes that by showing the tedious speeches of congresspeople, regulators, and bureaucrats, somehow their industry will minimize congressional interference, regulatory intervention, and bureaucratic meddling.

The affairs of state are usually as dull as Saturday night in Villisca, Iowa, so most C-Span programming is boring beyond tedium: politicians sloooooowly reading uninteresting speeches or witlessly evading reporters' questions, droning conferences staged by special interest groups, and worse. Consequently, C-Span's viewers are normally pretty much limited to politicians' mothers and girlfriends, reporters realizing their bosses won't know they covered a dull press conference by watching it from the comfort of their apartment, and a few

hopeless fans of politics.

By marvelous coincidence, just as the new fall television season began, a Senate subcommittee began hearings on the events surrounding federal marshals' attempt to arrest Randy Weaver for failing to appear in court on a gun law violation.

You'll recall that the affair resulted in the killing of Weaver's wife — whose head was blown off as she held their infant child in her arms — and his son, a boy less than five feet tall, weighing only 80 pounds, plus the wounding of Weaver and a houseguest, the death of the family dog, and (not incidentally) the death of one federal marshal.

You know the rest of the story. Bo Gritz, the former gung-ho Green Beret, agreed to act as a negotiator. Gritz had credibility with Weaver, and the FBI reluctantly accepted his services. Weaver and Harris surrendered and were charged with all sorts of crimes, ranging from violations of gun regulations to murder. The U.S. attorney sought the death penalty. In due course, Weaver and Harris were tried by a jury of their peers. Harris, who had fired the bullet that killed U.S. Marshal Degan, was found innocent of all charges. Weaver was found

innocent of all serious charges and of the original gun violation, but guilty of failing to appear at his court date and of violating pre-trial release conditions. He served a brief sentence, and was released.

Whether moved by zeal to defend the U.S. Constitution or hope of drawing attention to his longshot presidential candidacy, committee chair Arlen Specter was plainly not one to be haplessly manipulated by hack apologists for abusive state power. No, Specter's Ruby Ridge hearings would not suffer the fate of the House hearings on Waco. There would be no Kiri Jewell to grab headlines with incredible stories of rape, no wimpy Republicans bending over backwards to support "law enforcement," no matter how brutal, irrational, or lawless it may be.

Of course, Specter had an advantage over the GOP Waco investigators: at Ruby Ridge, despite the FBI's best attempts to insure that there would be no "long siege" (i.e., to kill everyone involved, as it would later do in Waco), several of the targets of the government assault lived to tell their story. And the "compound" at Ruby Ridge was not burned to the ground, destroying physical evidence.

Those who have watched the hearings have by now seen moments of high drama, heart-wrenching pathos, hilarious comedy, and sheer horror.

Randy Speaks

The hearings began with the testimony of Randy Weaver. By the government's account, Weaver was a monster who had plotted a war with the U.S. government for nearly a decade, hoping to murder as many innocent people as he could in the process.

The Randy Weaver who testified before the committee bore little resemblance to that monster. He was dressed in simple work clothes and spoke the humble language of the rural America from which he came, apologizing for

Committee chair Arlen Specter was plainly not one to be haplessly manipulated by hack apologists for abusive state power.

his lack of eloquence, adding that if his wife could be there, she could explain things better. ("My wife was the smarter of the two by far," he explained. "She could speak very well . . . she could tell you like it was a lot better than I can.")

Weaver told how he had come to believe the government was out to get him, how he had been ensnared by his own poverty and the blandishments of a professional informant into selling two shotguns whose barrels he had shortened, how he had refused a government offer to let him off on the misdemeanor charge if he would only "turn snitch" and try to entrap his friends. With little embellishment, he told how he came to be arrested on a misdemeanor charge and had not appeared for his trial.

He spoke simply, emotionally, plainly. He told how he withdrew to his mountain cabin where he tried to live in isolation with his family, only to be the subject of extensive government surveillance involving videorecorders hidden in the forest, helicopters flying overhead, and even the government's tracking the menstrual cycles of his teenaged daughter.

He spoke of the events of August 21, 1992, when heavily armed men in camouflaged clothing surprised him and his son and their friend Kevin Harris as they followed their barking dog in search of game, how one of the men shot his dog, and how they then turned their machine guns on him and his family. He told how Harris and Weaver's 14-year-old son had fired back at the armed intruders and tried to escape to their shack, and how his little son was shot twice, once in the arm and once in the back, as he vainly retreated for safety. He told how his family retreated to their cabin, trying to understand what had happened.

Tragic as the events of August 21 were for Weaver and his family, the following day was worse. Late in the afternoon, he and his daughter and Harris left their cabin to go to the shed where his son's body lay. As Weaver went around the shed and was about to open its door, he was shot without warning, from behind, by an FBI sniper. As he ran back to his home, the FBI sniper shot again, this time killing his wife Vicki, who was standing behind the front door, and seriously wounding Kevin Harris, who was going through the door. He wept openly as he told of prying his infant daughter from the arms of his wife, who lay on the cabin floor with her head blown off.

He spoke sincerely, even pathetically, about the terror of the next few days, as he and the surviving members of his family lay on the floor of their cabin, next to the rotting corpse that had been his wife and their mother, fearful that if anyone stood up, federal agents would see them through the windows and shoot them dead too. He told how FBI agents sent a mechanical robot armed with a sawed-off shotgun to bring him a telephone, and how he had refused to be killed by such a transparent ruse, and how FBI taunted him and his family. In a particularly pathetic moment, he admitted that he had felt his only hope to come out alive was for Jesus Christ to return to Earth and perform a miracle.

Weaver made no attempt to hide or sugarcoat his unpopular political and religious views, admitted to past mistakes, expressed regret that he had refused to appear in the first place — a

decision that, in conjunction with the zeal of ATF, the Marshals' Office, and the FBI, ultimately resulted in the deaths of his wife and son. He came across as utterly guileless. Even Dianne Feinstein, who at first seemed intent on defending the law enforcement authorities by discrediting Weaver, softened and seemed even to sympathize a bit as the hearing wore on.

Send in the Cops

Things were different the following day, when the ATF agents testified. Herb Byerly, the ATF agent in charge of the case against Weaver, was one very sweaty guy, palpably evasive when questioned by former prosecutors Specter, Patrick Leahy, and Fred Thompson, all of whom seemed to smell entrapment and suspect an outright frameup.

Thompson questioned Andrew Vita, assistant director of enforcement for ATF, about the quality of the initial case against Weaver, pointing out that the case depended completely on the testimony of a single undercover agent. Somehow, the undercover agent had

By the government's account, Weaver was a monster who had plotted a war with the government for nearly a decade, hoping to murder as many innocent people as he could in the process.

neglected to record key conversations that he claimed established Weaver's guilt, though he recorded many other conversations with Weaver. Worse still, the agent's payment was contingent on helping ATF prove its case, giving the undercover agent a motive to misrepresent this conversation. Vita was glib, slickly evading questions. Thompson was no fool — observing at one point that Vita was "begging the question" — and the senator was clearly frustrated.

Thompson turned his attention to Byerly. Thompson wanted to know about the letter Byerly had written the U.S. attorney, stating that Weaver had a long criminal record. He wondered

whether this claim was true. Byerly admitted that it was not. Thompson noted that this false information was contained in a letter requesting that the U.S. attorney prosecute Weaver. "Of course, the U.S. attorney's office sometimes declines minor cases even

Weaver spoke the humble language of the rural America from which he came, apologizing for his lack of eloquence. He made no attempt to hide or sugarcoat his political and religious views.

though they're clear violations of laws, don't they?"

"Yes," Byerly admitted, "they do."

"Do you think your telling the U.S. attorney that he had other convictions in the plural, that he had more than one other conviction, might have had something to do with their determination to prosecute this case?"

"No sir, I don't. That letter, ah, is a typographical error, error. Ah, I had been in, ah, telephone, ah, contact with the assistant U.S. attorney, ah, before that, on several different times, and discussed this case with him. The, ah, that was a cover letter which accompanies the criminal case report. The case had been discussed with the U.S. attorney's office prior to the submission of this letter and the case report."

"Well, I don't know what you just said. But it says here that he was convicted of activities . . ."

Thompson's allotted time was up, but Specter took up the issue.

"Well, Mr. Byerly, on that point did you tell the U.S. attorney that that letter was incorrect, that he had been convicted or had prior convictions?"

"No sir, what that, that letter, ah, is, is somewhat of a synopsis of what was contained in the case report. There is a, one of the exhibits in the case report is a record of criminal history, ah, and that record of criminal history was showed definitely to the U.S. attorney that Mr. Weaver had no prior convictions."

"Well how do you know that that

was shown to the assistant U.S. attorney?"

"I don't know that, sir."

"Well, did you take any affirmative steps to correct your letter which said that he had prior convictions?"

"I had telephone conversations with the assistant U.S. attorney concerning, ah, Mr. Weaver's, ah, criminal background, he was certainly aware of it, the, ah, telephone conversations."

"Well, just a moment ago you said you hadn't told the U.S. attorney that the letter was incorrect. Now what's the case?"

"I . . ."

"Excuse me. Had you told the assistant U.S. attorney that the letter was wrong when it said Mr. Weaver had prior criminal convictions?"

"I don't recall. I don't know if I did or I didn't. But I know I discussed the case with the assistant U.S. attorney, who knew that Mr. Weaver did not have a prior criminal history."

"Well, how did you know that the assistant U.S. attorney knew that Mr. Weaver had no prior criminal history?"

"Because I discussed the case with the assistant U.S. attorney."

"But did you discuss the fact that your letter was wrong and in fact Mr. Weaver had no prior convictions?"

"I don't know, sir."

Specter's time was up, so he turned the floor over to the Sen. Leahy, who took another tack. "I'm somewhat troubled by all of this.

For what it's worth, I own a lot of weapons: handguns, revolvers, semi-automatics, long guns. I do a lot of shooting, target practice . . . I also, like Sen.

Thompson, have prosecuted cases and used informants. I say that because I sit here listening to all these little things that just jangle wrong in my mind as I hear this testimony. . . . We have a U.S. marshal, Marshal Degan, who's dead,

leaving behind a widow and two orphan children. We have two members of Randy Weaver's family dead. We have millions and millions of dollars spent. We have the humiliation of some of our top and best law enforcement agencies in this country. We have careers being ruined, some through mistakes and some apparently through intentional — I'd call it malicious — action. And all this comes from somebody who sold two shotguns that you or I could buy at Sears Roebuck and spend an extra 15 bucks for a hacksaw, cut them off, and if we have any ability at all at woodworking put the pistol grips on them and so on. I was thinking of this over and over again, how anything could come so tragically wrong. Agent Byerly, you said that you wouldn't have done anything different up to the time of Mr. Weaver's arrest and arraignment. Would you have done anything differently after that part? After the arrest and arraignment."

Byerly looked left, then right, then down, then swallowed hard, then blinked. Eventually he said, "I'm not sure I understand your question."

Leahy repeated the question.

Byerly again seemed stumped. He began to answer several times but each time stopped before the first word was fully formed, looking around the room like a trapped animal. Finally, he summoned an answer to this softball question. "If I could have

done, or if I could do anything, to bring back the lives that were lost, of course I would."

"So would we all. What I'm thinking about are the procedures."

"I've thought about this a lot, Senator. I believe in my heart that what I pursued, the techniques that I used, were proper. I discussed the case with the assistant U.S.

attorney's office. I made my recommendation that he be prosecuted. The U.S. attorney's office looked at the cases and the U.S. attorney's office pushed the case forward. There was,



ah, information that, ah, I provided to the U.S. attorney's office concerning various, various facets. I explained to the U.S. attorney's office concerning the, ah, 1985 investigation ah of Mr. Weaver. I made them aware of all the information that I had, and they, they stated that they wanted to take the case."

Leahy changed the direction of his questioning. "Well, let's get a little bit into how you get the information you had and what information refers to things that were actually there and things that were prompted by the government's own action. I assume the ATF has guidelines for dealing with organizations like the Aryan Nations where some members might engage in criminal acts while other members' sole interest in the organization is to protect constitutionally protected speech. . . . Do you have such guidelines?"

"Ah, yes."

"Are they written down?"

"Ah, yes."

"Do you offer training or guidance to agents or informants on how to conduct surveillance on things like the Aryan Nations?"

"We provide instructions as to entrapment, as to, ah . . ."

"What I'm saying is, if you're talking about organizations where some members may be there just because they want to express their views, hateful though we may find them, and you have other members who might be there engaged in criminal activity. Do you have training on that?"

"To provide to informants?"

"Yes."

"No, sir."

"To agents?"

Byerly again looked around the room, apparently unaware of whether he had ever had such training himself or administered it to others. At this point, the other witness piped up, giving a long-winded, cliché-laden answer that Leahy could not understand.

And so it continued: Vita long-winded and slick; Byerly acting like a liar fearing discovery; both of them as evasive as Weaver had been forthright the previous day.

Specter was well-prepared, even brilliant. Before the hearings were over, he had proven that the ATF's case

against Weaver was a sham — a case of entrapment, plain and simple — and that the government had not even attempted to make a *prima facie* defense against entrapment when Weaver was ultimately tried in federal court. Specter mopped the floor with the ATF agents, reducing the sleazy Byerly to claims of a failing memory and the smarmy Vita to babbling incoherently about how he is "working very hard to restore the public trust."

. . . And the Second Time as Farce . . .

On September 13, the hearings turned to comedy. Kenneth Fadeley, the undercover agent who had entrapped Weaver on the gun law violation, insisted on testifying from behind a screen with his voice altered to sound like Daffy Duck. Perhaps the funniest moment came when he

Weaver wept openly as he told of prying his infant daughter from the arms of his wife, who lay on the cabin floor with her head blown off.

explained that although he had on four separate occasions during the Weaver trial admitted that he would be paid for his undercover work only if he came up with evidence that would convict Weaver, in fact, ATF offered him no incentive at all. He had simply been confused at the trial, he explained. He had tried to explain his error to the U.S. attorney, but had been unable to find his office. (One wonders whether his confusion at the trial resulted from having to appear without the protective screen or the Daffy Duck disguise.)

The hearings became theater the next day, when the U.S. marshals who were "doing surveillance" on the Weavers on August 21, 1992 testified. The dramatic highlight was Marshal Larry Cooper's claim that he had not killed little Sammy Weaver, despite all the evidence to the contrary, but that the real killer was Randy Weaver. His theory was that, as Randy Weaver ran for his life up the mountain to get away

from Cooper's murderous machine gun fire, Weaver stopped, turned around, and took a wild shot down the mountain, accidentally killing his son. When Specter pointed out that the shot that hit Sammy in the back was moving on an upward trajectory, and therefore had presumably come from below, Cooper suggested that Randy Weaver had perhaps stopped to shoot wildly from a depression further up the mountain. Another bizarre moment occurred when the marshals suggested that the Weaver family had ambushed *them* — despite the fact that it was the marshals who surprised the Weavers after surreptitiously entering their property, clad in camouflage, armed with machine guns and silenced weapons.

On September 14, the hearings changed genres again, this time to a horror story. Lon Horiuchi, the FBI sharpshooter who shot Mr. Weaver, gravely wounded Kevin Harris, and killed Mrs. Weaver refused to testify on grounds that his testimony might incriminate himself. This was no surprise. At the trial, he had testified that as he fired at the fleeing Harris, it appeared that Harris "was trying to hold the door open or moving someone out of the way," making it clear that he knew there was someone behind the door and had fired through it anyway. And after the event, he made a sketch of a door with a window with two circles that look a lot like a woman's head and a baby in just about the same position as Vicki and her baby daughter Elisheba. So there was powerful evidence that he had willfully shot a person who posed no immediate threat to anyone and who had not even been accused of committing any crime; that is, that he has committed second-degree murder.

But the other eight FBI "sniper/observers" who accompanied Horiuchi the day he shot Randy Weaver, Kevin Harris, and Vicki Weaver *were* there to testify — and testify they did, in horrifying detail.

The snipers were members of the FBI's elite "Hostage Rescue Team," created to respond to violent situations where hostages are held. Before proceeding to Ruby Ridge, the snipers had met with superiors. Richard Rogers, head of the HRT, told them that this would "be no long siege," that the

family was to "be taken down hard and fast."

Rogers gave the snipers rules of engagement (ROE) that limited the conditions under which they could shoot their weapons:

- (1) If any adult in the area around the cabin is observed with a weapon after the surrender announcement had been made, deadly force could and should be used to neutralize the individual.
- (2) If any adult male is observed with a weapon prior to the announcement deadly force can and should be employed if the shot could be taken without endangering any children.

By all accounts, the ROE were extraordinary. The usual FBI policy requires that the target of deadly force "pose a threat of serious physical harm, either to the officer or others . . . [and]

Professional ATF informant Kenneth Fadeley insisted on testifying from behind a screen with his voice altered to sound like Daffy Duck.

possess an immediate threat to the safety of others." The ROE at Ruby Ridge authorized deadly force against "any adult male observed with a weapon," whether or not he was acting in a threatening matter, immediate or otherwise. It went even further, saying that deadly force "should be employed" (emphasis added). The FBI snipers understood what they were there to do:

- "We had a green light to use deadly force against an armed adult male." (Agent Monroe, August 31, 1992)
- "My understanding of the ROE was that if I saw an armed adult outside the residence, I was to use deadly force against that individual." (Agent Winger, August 28, 1992)
- "The ROE were that if before the occupants of the cabin were notified that they were to surrender a male adult occupant were seen

carrying weapons that deadly force could be used." (Agent Whitcomb, August 31, 1992)

- "We were told that we should use deadly force if no children were endangered." (Agent Tilton, August 31, 1992)

Agent Dale Monroe began by reading a statement: "I would like to correct something said last week in this hearing. Mr. Spence said we were trained killers. We are not. We are trained to save lives." Before the day was over, viewers had strong reason to reject that claim.

Monroe, who had been the partner of the killer Horiuchi, then took questions. The purpose of their mission that day, he explained, was to "observe and report." This was too much for Sen. Herb Kohl, who noted a powerful distinction between "observe and report" and "green light to use deadly force." Clearly, the snipers were not getting off to a good start with the investigators.

Not surprisingly, the questions turned to the issue of whether the shots Horiuchi fired that killed Vicki Weaver and wounded Randy Weaver and Kevin Harris were justified. This was not a surprise to anyone, given Horiuchi's testimony cited above at the trial of Weaver and Harris, the testimony of the other snipers, and the simple facts that no one from the Weaver cabin had fired a weapon or even aimed one at anyone since the FBI took over the case, that Weaver had been shot in the back as he was moving away from the FBI snipers and the helicopter, and that Harris and Vicki Weaver had been shot when Harris was racing into the cabin and Vicki was holding nothing more threatening than a little baby.

Sen. Specter wanted to know about the special rules of engagement: Were they permission to use deadly force?

"They were an authorization to use deadly force only as long as the requirements for the overall policy is met," responded Agent Monroe. "That is, that a threat has been shown to myself or another, and a threat of grievous bodily harm or death. And I only interpreted those rules of engagement within and under that umbrella. They were advisories."

Specter was stunned by this assertion that the shooting of Vicki Weaver

was justified even under normal rules of engagement, which require an immediate threat of bodily harm. "Well, Mr. Monroe," he asked, "if the rules of deadly force were to be used, or deadly force was to be used where there's threat to yourself or another, then can you explain to the subcommittee what

Specter mopped the floor with the ATF agents, reducing the sleazy Byerly to claims of a failing memory and the smarmy Vita to babbling incoherently about how he is "working very hard to restore the public trust."

the justification was for Mr. Horiuchi's shot which ended in the death of Mrs. Weaver?"

"Well, first of all the actions of the subjects the previous day," responded Monroe. "We knew that there was a propensity for violence; they had already exhibited that. However, the reason for the shot was because in my opinion, the helicopter crew was in danger by the conduct of the individual, adult males, with the rifles shortly after they came out of the cabin."

"Was the helicopter crew endangered, in your opinion, at the time Mr. Horiuchi fired the shot which killed Mrs. Weaver?" asked Specter.

Monroe paused. "I believe as long as the helicopter is airborne and it contains individuals that could be harmed, and at any time there are individuals out that have exhibited propensity for violence and shown that, I believe that the helicopter at all times was in danger. And I also believe that whether the individual, whether the threat was outside the cabin, whether the threat to the helicopter was outside the cabin or inside the cabin. . . . Actually, in my opinion the threat was heightened with the individuals inside the cabin because the rules of engagement were restrictive; they were not broadening of the deadly force policy. We knew there were children inside that cabin. The individuals exhibiting threat could go inside the cabin and from any point they could fire."

Specter: "Are you saying then it was to prevent them from going inside the cabin and taking positions to fire at the helicopter?"

Monroe: "Well, I definitely feel it was to prevent, to stop the threat and prevent the threat that was being exhibited and ongoing."

Specter: "Mr. Monroe, law enforcement necessarily has latitude in the use of deadly force. And I've seen a fair amount of it from experience that I've had. But there are the constitutional bounds, and I think you have articulated them well: the threat of deadly force against you or another or grievous bodily harm. But what we want to understand is, and we don't have Mr. Horiuchi here, and you were beside him, so you're the closest person to the event, and we're asking you for your interpretation. Although you cannot give Mr. Horiuchi's interpretation, you are as close as we have at the moment. So is what you are saying that even though there was not a threat at that moment, as these three people were running into the house, of grievous bodily harm or death to anyone, that the shot was taken to prevent them from being in a position subsequently where there would be a threat of death or grievous bodily harm to others, including the people in the helicopter? I'm trying to understand what you really mean here..."

Monroe: "Yes, in my opinion, the threat, the threat of death had been exhibited, had been, their conduct, it was continuing..."

Specter: "But was there a threat of death to anyone or grievous bodily harm at the precise moment that the shot was fired which killed Mrs. Weaver?"

Monroe: (pause) "I believe a weapon can be fired from any position. Previously we were told that Marshal Degan had been killed and I did not think that his death was the result of a highly planned shot. And even though the individual was running into the cabin, our position, specifically Mr. Horiuchi's and mine, could possibly have been known by the individuals knowing where that first shot had come from."

Specter: "Mr. Monroe, are you aware of the conclusion of the Department of Justice that the second

shot, the one that killed Mrs. Weaver, was fired in violation of constitutional standards?"

Monroe: "I'm aware that the Department of Justice did come to that conclusion and I'm in complete disagreement with that."

Specter: "Well, Mr. Monroe, you were on the field, you have standing to agree or disagree with anybody. . . . You and the others were on the firing line. And that's a very different

Richard Rogers told his team of snipers that "this would be no long siege," that the family was to "be taken down hard and fast."

position to be in. . . . We're interested in how you felt, and you think, about that shot. Was [it] justified under the standard for avoiding death or grievous bodily harm, even though nobody was in jeopardy at that precise moment?"

Monroe: "Yes, I believe the second shot was just as justified as the first."

Monroe's meaning was plain. He believed he and any other police officer had a license to kill anyone who had ever committed a violent act. Sen. Thompson, apparently horrified at this notion, wanted to be sure that Monroe understood what he was saying:

Thompson: "So, at any time for the next few days, if you had seen them outside the cabin armed . . . say the helicopter has made another run the next day. And they showed no movement toward the helicopter, didn't point anything at it . . . [but] they saw the helicopter. Under the standard rules of engagement, you would still be allowed to shoot them because of the danger that was still posed [because] they had the day before . . . pointed a gun at it?"

Monroe: "Senator, I don't want to get into hypotheticals, I know what I saw. I know the threat that was administered by the two adult males. And those are the conditions that met the requirements of deadly force."

Thompson: "Well, you know, rules of engagement, you know, has to do

with hypotheticals. Let's say that you're chasing a fugitive. Obviously, under the standard rules, you are under immediate danger of death or grievous bodily harm. But let's say he turns and runs, and you chase him. Under the standard rules, is it your interpretation that you would be allowed to shoot him in the back?"

Monroe: "If the individual has already demonstrated that he is a danger to society — has already been involved in the killing of another, and I have reason to believe that if he gets away he will kill again, then the deadly force policy, the policy will authorize deadly force to prevent the escape."

Thompson: "And the potential that he will kill again is your interpretation of immediate danger of death or grievous bodily harm under the current rules. Does everybody agree with that?" At this point he looked around at the other agents, none of whom offered any dissent. "If somebody once poses that kind of threat, then that kind of threat kind of hangs out there forever and you can shoot them on sight. Is that your idea?"

Monroe: "Senator, that was a hypothetical, and I did not—"

Thompson: "Well, I know, but it's pretty important."

Monroe: "I'm just saying if I had reason to believe that the individual continued to pose a threat. I thought that I had reason to believe that."

Sen. Leahy then asked each FBI sniper whether he agreed with Monroe. All affirmed their agreement, confirming Gerry Spence's claim that they were "trained killers," but demonstrating they were not very well trained about when to kill.

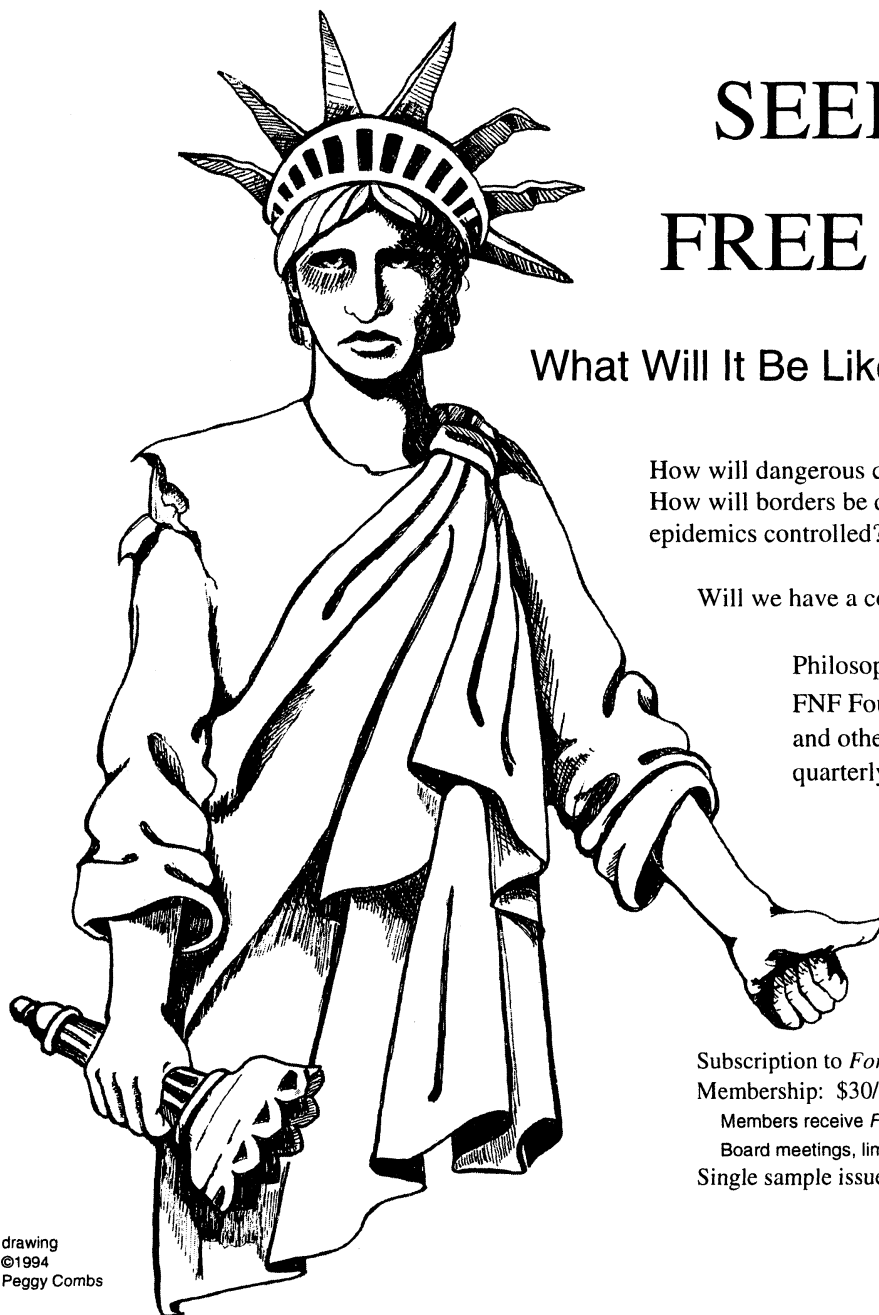
Then Sen. Specter, perhaps remembering Randy Weaver's desperate plea for permission to go to the bathroom, asked the FBI snipers whether any desired a brief break. All manfully denied any need or desire. Sen. Thompson joked, "That doesn't include counsel, right?" Specter allowed that "if counsel would like a break, we'll take a break." The FBI attorneys jumped up as one and acclaimed a need for a break.

When he returned, Monroe virtually recanted his earlier testimony, claiming that deadly force could be employed only when a direct, immediate threat

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was evident. He added, preposterously, that he believed Weaver and Harris were immediately threatening the helicopter even when they were retreating into the cabin, subverting his previous testimony that he had never seen the helicopter, hadn't heard it except some 10 to 15 minutes earlier, and directly contradicting Horiuchi's testimony at the trial that the helicopter was behind the snipers and that Weaver was walking away from the helicopter when Horiuchi shot him, as well as his own testimony that Weaver and Harris were holding their guns in the "port arms" position — with their right hand on the stock and their left hand on the barrel — a position from which it is impossible to fire a weapon. Sen. Abraham, who obviously sympathized with the FBI, summarized Monroe's new justification for using deadly force as "they might have had a chance to turn and shoot at a helicopter that might have been in the vicinity."

Even the Justice Department's review of the events at Ruby Ridge, which assumed that every statement by every government employee was true, rejected this argument, and stopped short of accusing Horiuchi of murder (or manslaughter) only because it limited its concern to whether the actions violated internal bureau policies or federal law:

On one hand, Horiuchi believed that at least one subject was armed and had intended to shoot at the helicopter, and that the subjects now knew at least generally where a sniper was located. However, this perception must be evaluated in conjunction with the reality that the subjects were returning to their home and had not returned fire when shot upon. Thus, their actions as they ran into the cabin were not aggressive, but rather protective or defensive.

We find Horiuchi's explanation of the threat and necessity of the second shot speculative. Based on the facts known and the actions of the subjects, we do not believe it was reasonable to perceive an immediate threat as they ran back into the cabin. Once the family was back in the cabin, the potential threat to the safety of the helicopter and law enforcement personnel was more remote than when Horiuchi had earlier believed that the armed male

was about to position himself to shoot at the helicopter.

Although we believe Harris and the Weavers knew that law enforcement personnel were present, no call out or surrender announcement followed the first shot. The subjects were never given a chance to drop their arms to show that they did not pose a threat. The subjects simply did what any person would do under the circumstances: they ran for cover.

Monroe's new testimony was clearly an attempt by the desperate FBI attorneys to mitigate his more horri-

This was too much for Sen. Herb Kohl, who noted there is a difference between "observe and report" and "having green light to use deadly force."

fying earlier testimony, to which all the other agents had agreed.

A week later, the highest level of the FBI confirmed the FBI policy that agents in the field should be a law unto themselves, with no oversight.

Larry Potts was the direct supervisor of the FBI operation at Ruby Ridge, and later supervised the FBI operation at Waco. He was rewarded for his service by promotion to the position of assistant director of the FBI.

In a carefully prepared statement before the Specter Committee, Potts asserted: "The split-second decision of a sniper to fire, and the basis for doing so, are best known and understood by him alone, and it is unfair to condemn that decision from the perspective of hindsight."

To sum up: In the opinion of the FBI agents who laid siege to the Weaver cabin, if a law enforcement officer believes, even erroneously, that a person has committed an act of violence and is likely to do so again, he can act as judge, jury, and executioner and kill that person in cold blood. *This is the conscious operating policy of an elite officer of the nation's most elite law enforcement agency. And this policy is supported by the highest officials within the FBI.*

This illustrates what is most disturbing about the events on Ruby Ridge. The problem is not that a partic-

ular government agency or a particular government agent has gone astray. It is not that somehow, by some horrible mistake, Lon Horiuchi killed Vicki Weaver. It is not that some aberrant agency entrapped Randy Weaver.

The problem is that this is the way the U.S. government works today.

Behind the Veil of Secrecy

The Weaver case is an aberration, all right. It is an aberration because Randy Weaver refused to be blackmailed into going undercover after he was entrapped, and because the FBI snipers failed to kill him when they fired their high-powered rifles at his back as he moved away from them on August 22, and because the FBI committed a horrible public relations mistake when it killed his wife, and because against all odds a negotiator came on the scene who was acceptable to Weaver and who the FBI could not reject, and because Weaver obtained, free of cost to himself, the services of a highly skilled attorney to level the legal playing field against a government that spent tens of millions of dollars to put him down, and, when that failed, to convict him of murder and execute him.

If Randy Weaver had given in to the BATF's blackmail and become a government agent, he would have become part of the oppression he hated. If he had appeared for the trial for the crime for which he was entrapped, the chances that an attorney of the skills and resources of Gerry Spence would have been available to him were virtually nil, and he almost certainly would have been convicted. If he hadn't moved suddenly and unexpectedly as an FBI sniper fired at his back, he would have been killed and forgotten. If the FBI had been able to kill the people in the Weaver cabin, any investigation would have been inconclusive.

Typical television fare is contrived and imposed on the audience. The Ruby Ridge hearings offered the viewer something very different: the sort of drama that goes on frequently, but is usually hidden from sight. It was television at its very best.

The man who deserves the most credit for the Ruby Ridge hearings, Arlen Specter, promises another blockbuster miniseries soon: hearings on the saga of the Branch Davidians. Watch for it in late October. □

Travelogue

Hiroshima

by Michael Oakes

All the monuments in the world can't stop war.

The train from Iwakuni was old but well-maintained and clean. It ran mostly along the sea, with the tile roofs of old homes on the mountains' side and the red and white smokestacks of industrial Japan hugging the coast on the other. Not all of the country is organized like this, but

most of it is. In the resort town of Beppu, farther south on Kyushu — the island the American Sixth Army would have invaded on November 1, 1945 had Mr. Hirohito not spoken up in August — restaurants and hotels along the coast have their interesting sides facing the street, not the sea. A McDonald's playground faces the street; 50 yards of oceanfront property behind it is an ugly parking lot.

Though we left Iwakuni Station at 5:07 in the morning, the air was already hot. I'm told there are places hotter than western Japan during summers, but I've never been to any of them. Here, it's hot enough for young and old women to carry parasols to block out a few of the sun's rays. It's hot enough for old men to wear straw hats and hang narrow towels around their necks. Japan is hot like movies make Africa and India seem hot. Only there are no oxen blocking traffic in dirt streets in Japan.

The train passed through tunnels and across bridges and curved slowly right. Even this early, there were people waiting at each stop — men in shirts and ties heading for offices, well-educated women in uniforms heading for the same offices to make tea for the men, young couples holding hands and wiping their sweaty

brows with Mickey Mouse handkerchiefs. The eastern sky lightened quickly. We saw an occasional island, cone-shaped and mystic in the morning haze, and fishing boats in the few areas not fully industrialized.

As the train wound north and east, the sun rose over Miyajima Island on our right and hung in the dull white sky in an impressive imitation of the Japanese flag. It was a red-orange ball, solid, fully round, for a few moments unobstructed. There it stayed until the train scooted west and the taller love hotels and *pachinko* parlor signs shoved it out of sight.

We arrived at a fully alert and freshly swept Hiroshima Station a few minutes before six, the morning of August 6, 50 years after the dropping of the bomb.

The Bomb

The story of the bomb received a good telling this year. Despite the surrounding controversies, no one really disputes the essential facts of the bombing itself, and within the first hour of a visit to Peace Memorial Park, in the heart of the city, it's clear that Hiroshima's city government is obsessed with burning these facts —

figuratively, of course — into the world's collective memory.

On August 6, 1945, at 8:15 a.m., a B-29 Superfortress named "Enola Gay" dropped a uranium bomb nicknamed "Little Boy" on the city. It had been delivered aboard the USS Indianapolis to Tinian Island, about 1,700 miles from Hiroshima. Its last transport was flown by a Lt. Colonel Paul Tibbets, who according to television looks like Bobby Ewing.

The blast and subsequent fires probably killed as many as 50,000 to 70,000, in a matter of a few hours. The numbers are not now and never will be exact. Wartime Japan, though pitiful, was a dynamic place. People moved constantly, from city to city, city to country, country to city. Many women and children were evacuated from the cities; but many of them came back regularly. Schoolchildren were often away in the mountains; but they were also often in the middle of the cities, supplementing factory forces and helping the volunteer corps. Soldiers moved in and out, depending on assignments. Korean slaves were stashed here and there, including as many as 30,000 in Hiroshima on August 6.

Hiroshima might have had 330,000 people in the city that morning; or it might have had 400,000.

Many of the first victims were killed instantly. The bomb's destructive power was about 20,000 tons of TNT, creating a fireball 180 feet in diameter with an internal temperature of 300,000 degrees Celsius. Anyone within 500 meters of the hypocenter was destroyed instantly. People within

The memorials themselves lack passion — which is to say, perhaps, that they are essentially Japanese.

1,000 and 2,000 meters of the hypocenter were burned by the thermal flash or injured by flying debris. Within a radius of a mile and a half of the hypocenter, all wooden structures were destroyed and burned either immediately or by later spreading fires.

A few concrete structures survived, but their interiors were gutted by fire. The most notable was the Hiroshima Prefecture Industrial Promotion Hall, the now familiar A-Bomb Dome. Its ruins stand about 50 yards from the hypocenter.

The rest of Hiroshima was flat, gray rubble. Moonscape.

By November 30, 1945, Hiroshima police headquarters listed 78,150 dead and 13,983 missing. By the following year, August 10, 1946, 118,661 had died due to the blast or injuries sustained from the blast; 3,677 were still missing. As of August 6, 1992, a register at the "Cenotaph for A-Bomb Victims" in Peace Memorial Park contained 176,964 names. This year, the list was updated to 192,220 names.

What all of this means is that Little Boy was a very good bomb. It killed, it destroyed, it terrified. It did this while Bobby Ewing and his small crew remained airborne 35,000 feet above and headed quickly back to safe territory.

Three days later, another B-29, this one nicknamed "Bockscar," made three passes over the city of Kokura, the second target for an atom bombing. Cloud cover was prohibitive, however,

and "Fat Man" later fell on Nagasaki.

On the evening of August 14, 1945, Mr. Hirohito recorded his surrender announcement. When it was broadcast the next day, many Japanese were shocked to hear his voice, believing him divine. Many other Japanese had thought the divinity story ridiculous, and continuing to use this good sense had not believed the military's optimistic view of the war for the past two years; these people weren't surprised at all. Still other Japanese couldn't understand what their emperor said: he spoke in a traditional dialect reserved for the educated and royal classes, which means that he spoke rather pompously and that a lot of hungry, fatherless, barefoot schoolkids had no idea what language he was speaking.

Peace Memorial Park

A taxi popped open its automatic door and spit us out at the Peace Memorial Post, in front of the Hiroshima Peace Memorial Museum and right next to the Peace Tower. These are just steps from Peace Bridge, the Monument in Memory of Marcel Junod, and the Clock Commemorating the Repatriation of Those Who Chose to Return to the Democratic People's Republic of Korea, this latter being a commemoration of the freeing of Korean slaves, as many as a million of whom were brought to Japan during the Japanese occupation of the Korean peninsula. (Across the park is the Monument in Memory of the Korean Victims of the A-Bomb.)

Peace Memorial Park is a triangle-shaped stretch of land roughly under the hypocenter of the bomb's blast and framed on two sides by brown rivers that merge at the tip. Aioi Bridge at the tip is T-shaped and often mentioned as a target for the Enola Gay's bombardier. The park is uncharacteristic for Japan. It has trees and shrubs, except for a few more typical wide open spaces that are just dirt and gravel. It has benches, too, further distinguishing it from other Japanese parks. When I visited two years earlier, on another hot summer day, homeless men napped on the benches. On this anniversary day, a CNN crew used a bench to fiddle with their equipment.

At the base of the triangle are the

museum and the International Conference Center. Odd-shaped pilings support the main hall of the museum, symbolizing "humanity's power to rise from amidst ruin." The proportions are all wrong, though, and the result is a heavy, squat structure that looks like art deco designed by someone who wasn't really trying for art deco. It has a sort of bent, Jetsons look to it. It fits right in with the rest of Japan's architecture.

This isn't just pettiness. Peace Memorial Park is esthetically unappealing. It isn't necessarily flat-out ugly — like, say, the Miro thing in Chicago. It is something more disappointing: it is unexciting, unmoving. The monuments and memorials are often concrete, very plain — *simple* was probably the desired effect — but at the same time shallow and unemotional. They lack drama and force. Despite the park's purpose — to commemorate the atomic bombing — the memorials themselves lack passion; which is to say, perhaps, that they are essentially Japanese. Nothing remotely on the edge of design, no dramatic, passionate expression could have maneuvered through Japan and

Is it really necessary to have one memorial tower for A-bomb victims and one for A-bomb-related victims? Must there be both a Peace Tower and a Peace Clock Tower?

Hiroshima's bureaucratic approval mazes.

One of the most popular memorials is the Children's Peace Monument, nicknamed the Tower of a Thousand Cranes. It is about 27 feet tall, a smooth concrete structure open underneath and balanced on three narrowing legs. On top is a bronze statue of a girl "stretching her arms up in the air and holding a crane, conveying hope for a peaceful future." The bronze has tarnished badly, spreading a green-gray dye on the concrete, and the statue is surprisingly small, like an inexpensive afterthought. Originally, a bell and windchime were designed for the

underside, which might have been pleasant. These were removed, though, and placed on display in the museum.

But the most interesting feature has nothing to do with the planned memorial itself. Surrounding the base are tens of thousands of paper cranes — folded by schoolchildren, mostly, from all over the world. These lay in massive colorful piles, some with expressions of hope and peace and grief attached. They steal the show. They are fresh air in an otherwise dull and muted park. They express so much better what the memorial should have expressed — great sorrow for the thousands of children who were killed by the bomb — that it's possible to hardly notice the tower and the tiny statue.

The dullness is pervasive because the monuments and memorials are pervasive. Near the Children's Peace Monument is the Peace Fountain, the Figure of the Merciful Goddess of Peace, the Stone Lantern of Peace, the Statue of Peace, the Peace Bell, and the Peace Clock Tower (which is surely sometimes confused with the afore-

mentioned Peace Tower and the nearby Flower Clock). There is a Statue of a Prayer for Peace, a Pond of Peace, a Flame of Peace, a Peace Cairn, a Monument of Prayer, a Prayer

That there have been "No More Hiroshimas!" is true merely by a technicality.

Monument for Peace, and a Prayer Haiku Monument for Peace.

Children are represented not only by the Tower of a Thousand Cranes, but by the Monument to the A-Bombed Teachers and Students of National Elementary Schools, the Hiroshima Second Middle School A-Bomb Memorial Monument, the Mobilized Students' Merciful Kannon Monument, and the Memorial Tower to the Mobilized Students. ("Mobilized" students were schoolkids who worked for the Imperial Army. Over 10,000 Japanese students died from

Allied bombings, and of these it's estimated 6,000 died in Hiroshima.) There is also a Statue of a Merciful Mother and a Statue of a Mother and Child in the Storm.

This isn't yet half of it. The list goes on and on: the Memorial Tower to Console A-Bomb Victims, the Memorial Tower for A-Bomb-Related Victims, the Atomic Bomb Memorial Mound, and the A-Bombed Grave-stone (which is not a gravestone for the victims, but rather a "bombed" gravestone of the Asano family, who were lords during the pre-Perry days of feudal Japan).

Walking through the park is at first a genuinely sober experience. This is, after all, the site of thousands of deaths, of massive destruction from a single bomb the size of a Kawasaki jet ski. This is the Hiroshima of our junior high school textbooks, with their otherworldly pictures of a desolate, ruined landscape. The elderly Japanese who pass us may be survivors of that day. The taxi driver who delivers us from the train station may have had parents

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it wasn't in a nuclear holocaust but in those seeds of racial hatred sown deep in the past.

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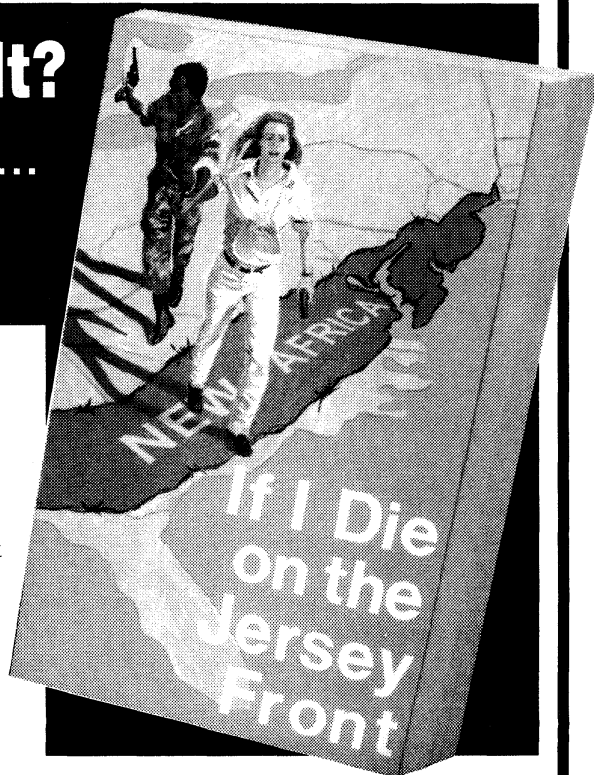
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or brothers or sisters who instantly turned to ash — or worse, who suffered later from radiation sickness.

The first few memorials and monuments drive some of this home.

But here are five more. Then another eight over there. Twenty after that. In all, there are 60 of them, and just as at first the nature of the place itself draws you up straight and sober, later the weight and persistence of all these peace things backfires. Is it really necessary to have one memorial tower for A-bomb victims and one for A-bomb-related victims? Should there be both a Peace Tower and a Peace Clock Tower? Mightn't the city officials be acting a little extra sensitive — or, frankly, extra silly?

Silly? In Hiroshima?

Here is a Hair Monument, sponsored by the Hiroshima Barbers' Association. The inscription reads: "We enshrine here hair, cut and gathered in the morn of life." According to the Hiroshima Peace Culture Foundation's *Hiroshima Peace Reader*, the Hair Monument is "a prayer for the advancement of the barbering profession and an expression of gratitude."

Some People

I traveled with Sarah, a tall, noticeable woman who is the kindest and most sensible person on the planet. We watched the crowd gather from near the entrance to the Peace Memorial Museum in order to be first in line after the outdoor memorial service. But we held back. All the really good seats for the service were reserved for the surviving victims, victims' relatives, politicians, "peace ambassadors" from other countries, and no doubt some of those barbers, too.

So we waited while a steady flow of hundreds passed us. The tour groups arrived in their buses. Neatly weaving single-file lines of Japanese followed their tour guides everywhere, many with matching hats or matching ribbons pinned to matching shirts. Throughout the park we saw these groups walking along paths, stopping like a drill team at a monument, observing it, taking pictures, then quickly moving on again in neatly weaving single-file lines. Americans and Europeans may think the Japanese travel like this only when abroad. They

don't. They learn this drill in pre-school. They use it when they go to the post office.

Troops of boy scouts blocked our way to the museum doors, so we waited patiently nearby. I took Sarah's picture while she stood in front of them. People are interested in Sarah as much as they are uninterested in me. The scouts gave us some "Hallos" and "Good mornings." I like that. I like hearing everyone speak my language.

Steve from Redondo Beach, California, joined us. He introduced

Nicely, politely, everything in Peace Memorial Park asks for peace. But there's no clue as to what's required to achieve and maintain it.

himself and wanted to know where we were from. Sarah volunteered this immediately, she being kind, while I noticed Steve had a message-button fetish and that the messages had something to do with the writer Mr. Karl Marx. Here to attend the "International Symposium: 50 Years of A-Bombing of Hiroshima and Nagasaki," Steve was a delegate of the Socialist Workers Party of the U.S.A. I asked him how he liked Japan, and he answered quite well, noting that the capitalist world was falling apart nicely, beginning with the 1987 dive at the NYSE and continuing through the lies of the Bush administration, the "continuing recession in the West," the bursting of the bubble economy in Japan, of course, and the French nuclear testing decision. "Things are really coming together for us now," he said, what with the ill treatment of the *hibakusha* (the victims of the atomic bombing), the falling Japanese stock market, and, well, there was probably no need to explain how badly the dollar was doing.

No there wasn't.

Actually, what I'd really wanted to know was how he liked Japanese food and did he have any difficulty using chopsticks.

Mr. Hiroshi Matsubara, 71, from Osaka joined us next. He was dressed in an old coat and tie, a sort of 1955

Jimmy Olson look, with a walking stick and a hat that would have been expensive in 1955. He was a survivor of the A-bomb, one of the *hibakusha* Steve was apparently aligned with, though I didn't see them together. He had been a student at a technical college two kilometers from the blast. Because of his technical studies he had not been pressed into service, and he seemed happy about that. He seemed happy, too, that the Americans had dropped the bomb and ended the war. He kept saying "Good, good," with great emphasis. "America is good country, good country."

Mr. Matsubara showed us many pictures from his wallet. He had small, cropped photos of himself as a student in high school and later as a young, quite handsome man. They were naturally old and brown, sepia, remarkably well cared for. He showed us pictures of his sons, and of an American woman named Deloris Smith, whom he had loved once (and even now) greatly. There was Deloris on the street in Osaka. There was Deloris on the roof of a department store. Deloris Smith took a fine picture, her smile wide and confident. She had hair like you'd expect of an American woman in the 1950s, and for a moment I wondered if we weren't looking at photos cut from *Life*. But then here were Deloris and Mr. Matsubara together, the happy international couple. Sarah asked what happened to her, and he said he didn't know. "She knew I was married, of course."

A group of junior high school students moved around us in the museum line. Japanese children are the happiest, healthiest children in the world. They are full of life, pampered at home and at schools, loved unconditionally, secure in the knowledge that a parent is always waiting for them. This is true at least until the last year of junior high school, when studying for senior high school entrance exams takes priority over everything and the kids realize this joy they've experienced until then has nothing to do with the grown-up lives they'll have in Japanese society. At 14 or 15, the adolescent Japanese yearns for individuality and at the same time realizes that bitter old men in the education ministry in Tokyo are determined to deprive

them of it.

But these students around us were 12- and 13-year-olds. They were still fun. They learned our names and asked Sarah if she was a movie star. They wanted to know our favorite foods and favorite movies and favorite sports. They knew Michael Jordan was from Chicago. I introduced them to a woman from Chicago who was standing in front of us and told them she was Michael Jordan's sister. They didn't believe that because she's white and he's black. "It's an American joke," one of them said.

Yes, it was a silly American joke. Though the real joke was that these quite ordinary junior high school students were conversing with two foreigners in a language other than their own, and enjoying it, and doing a good job of it. And that millions of Americans don't realize this is the kind of people Toyota recruits.

One of them, a quiet guy half my size, kept inching in front of me. He seemed not to respond to my tugging him backward, so I put my foot on his to hold him in place. My foot was a giant's foot on his. I could have crushed his toes with a tap. He studied the situation for a moment, and then placed his other foot on top of mine,

Explosion-devastation. Explosion-devastation. It's like an exceptionally didactic MTV video stuck on replay.

preventing me from moving forward, too. He looked up at me, his black hair thick and shiny and ready for a cut, and smiled.

Get rid of the old men in Tokyo and these kids will take this country someplace.

Suddenly, the constant flow of people stopped. The kids grew quiet. Beside us a tour guide held his colorful banner and behind him his group members halted together like a marching band. The boy scouts stopped fidgeting and straightened their ranks. The chattering hum of thousands disappeared.

It was 8:15, the moment 50 years

ago when atomic weapons were used for the first time.

The Peace Bell tolled.

The Devastation

When the bomb struck, people in Hiroshima were already weary from air-raid warnings earlier that morning. The national volunteer corps in Hiroshima Prefecture and mobilized students from area middle schools and girls' high schools were continuing work on the sixth phase of dismantling buildings for fire breaks. According to the records at Hiroshima police headquarters, over 10,000 households already had been displaced by the dismantling of buildings through phase five.

At 8:15 the day was well underway. It was summer. People were outside doing their chores, getting to places, talking, gossiping, buying train tickets, some praising the Emperor, some wondering when the hell the war would finally end.

Survivors of the initial blast were pitifully helpless. Flesh dripped or hung in strips from their arms and torsos. The intense heat seared them, leaving many alive for minutes, some for hours, with nothing but bodies of pain. Their heads and limbs swelled and bloated from the heat. Survivors witnessed people limping with hair on fire, some with hands and arms melting. Faces were ravaged by flying debris. Children cried under burnt corpses.

Many stumbled to the rivers, only to drown from strong currents or beneath the growing flotilla of bodies, which eventually washed out to sea. Thousands of others lay on river banks in piles. A group of high school girls dragged themselves to one spot along a river. One of the few survivors wrote: "When I tried to help them, the flabby bodies slipped and fell away. Nothing could be done. Shouts surrounded me, 'Do you want me to die — to die?' And with these ringing in my ears I fled."

Later, radiation sickness killed thousands more. Hair fell out, eyes bled, organs stopped functioning, massive growths and scars appeared, sometimes disappeared, often reappeared. For days and weeks, many lay sick on clinic floors, soaked in blood and vomit and excrement, alive yet not

really alive. Doctors had little idea how to treat them and no means to do it anyway. Doctors and nurses died, too.

Inside the Hiroshima Peace Memorial Museum is a record of all this. There are fingernails of victims. There are preserved, alien-looking growths and blackened ooze pressed from hands. Eyeglasses, watches, lunch boxes; scorched pants, shirts, hats, belts, socks, school uniforms. Steel I-beams warped and bent like

Who started the war and why it started and what the Japanese did and what the Americans were trying to do — Hiroshima ignores it. Instead: here's the bomb, here's what it did.

taffy. Concrete littered with tiny shards of glass. A white wall streaked with black rain.

Stone steps from a bank show the shadow of the man who was sitting there when the bomb struck. A pile of dark hair that fell off a woman is encased in glass.

There are endless pictures of the devastation — of crumbled temples, of derailed streetcars, of a mound that was once Hiroshima Castle and in which 23 Allied POWs were kept, of survivors at Miyuki Bridge standing in line — always the Japanese in lines, even then — awaiting treatment, their clothes just burned rags hanging from shoulders and elbows.

There's the constant playing of film footage of atomic explosions. TV monitors on pedestals and hanging from the ceiling repeat brief sequences over and over. Explosion-devastation. Explosion-devastation. It's like an exceptionally didactic MTV video stuck on replay.

No question: it was a very, very good bomb.

The Peace Message

The museum has been criticized for its singular focus on this, the bomb, without providing a corresponding context. Dave Barry has written that

the museum presents the bomb as though it were lightning out of the blue. This complaint has some merit, for there is hardly any mention at all of the war or of the circumstances of early August 1945. In 1994, a new entrance to the museum provided a slightly broader perspective. There is now a brief history of Hiroshima's role as an important military city. There's mention of the troops stationed in the city, some in the homes of civilians, and of the surrounding Mitsubishi factories. This then quickly turns into a fuller discussion of nuclear weapons, ending with graphic appeals to rid the planet of them.

The peace movement in Japan developed from the country's physical and psychological confrontation with what happened here and at Nagasaki. The initial sense of outrage, later grief, and still later resolve to insure "No More Hiroshimas!" is uneasily linked in a complex nexus of events and still unresolved issues. Censorship, first by the Japanese government, later by the U.S. Occupation, delayed this confrontation until the 1950s. By then, various parties in Japan struggled for control of the political reins, and the Cold War turned hot in Korea. Censorship again blocked from formal education any discussion of Japan's wartime behavior in Manchuria, in Korea, at Nanking, on the Bataan Peninsula.

The movement, like general peace movements elsewhere, became a magnet for political influences and programs. It was a small but significant battleground for Japan's socialists and Communists, both groups working hard to use nuclear weapons, and the *hibakusha*, to their own political advantage. In the 1960s, the U.S. and Japan renewed their security arrangement, prompting students and other groups

to engage in widespread protests (for Japan anyway). This fueled a rash of commemorative services and symposia and conferences devoted to ending development of nuclear weapons. The prospect of U.S. nuclear arms at bases in Japan, the continuing U.S. military presence itself, gradually increasing attention to Japan's wartime atrocities — these complex issues made it particularly appealing for most Japanese to focus their attention back to the simpler beginning, back to Hiroshima and Nagasaki, to the uncomplicated, awful,

The bomb is merely an outcome, a consequence of what and how people choose to think, as are all other weapons.

no-questions-necessary nature of nuclear weapons.

Surrender also brought the Japanese a difficult realization: they'd been had. On top of adjusting to defeat and occupation, ordinary Japanese citizens faced, at least momentarily, the treachery of their leaders and the meaning of their own weaknesses and gullibility. With much of the truth still concealed by censorship; with an inability to comprehend the nature of the disasters not just in Hiroshima and Nagasaki but elsewhere in the Pacific; with self-defenses kicking in, understandably, at a time when much of their world was revealed a sham; with these giant, white outsiders now in control of their precious islands; with obvious hunger, poverty, and devastation everywhere, the Japanese very quickly after the war saw themselves as victims. Exactly of what they were

victims was not so clear. Gradually, this "new and most cruel bomb" Mr. Hirohito mentioned in his surrender announcement on August 15 looked like the answer.

Americans, too, look for the uncomplicated in their analysis of the bomb. The result is outrage over any perspective that doesn't hold the bomb as the best solution to a war that had to be ended at all costs. A real struggle with the various factors influencing Truman's decision to use the bomb, and with how one ought to view that decision 50 years later, is as difficult for Americans as the same struggle with their own government's acts in the Pacific is to Japanese.

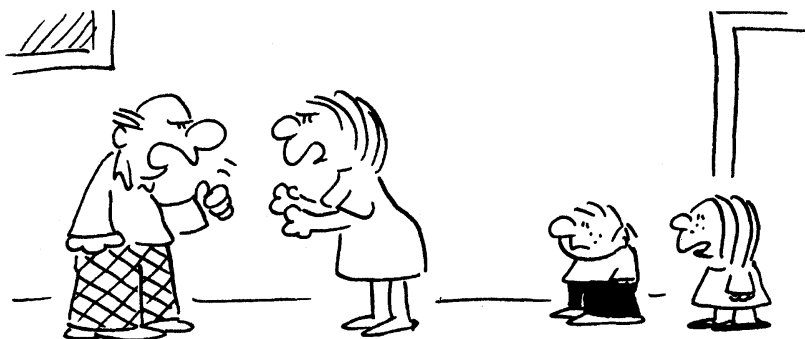
So we are left with two of the most intelligent groups of citizens on the planet settling for two painless but inadequate and hopelessly opposed notions.

The simple A-bomb-is-evil story is what Hiroshima's Peace Memorial Museum offers. Who started the war and why it started and what the Japanese did and what the Americans were trying to do — Hiroshima ignores it. Instead: here's the bomb, here's what it did. That's the city's choice, one its people are certainly free to make. And as a reminder of what happened here 50 years ago, the museum succeeds very well.

But as a self-chosen symbol of, and platform for, world peace, Hiroshima fails sadly.

Everywhere in Hiroshima's plea for peace, from the Children's Peace Monument to the MTV-like videos, the message sounds hollow. It does so because it focuses specifically on the weapon and not at all on the principles, or lack of principles, behind its use. Nearly 6,000 children were killed by Little Boy. Yes, well, that will happen when nations are at war; it will happen when one nation uses its schoolkids to supplement armed forces; it will happen when the other nation decides to bomb civilian targets.

The bomb is really trivial. It's merely an outcome, a consequence of what and how people choose to think, as are all other weapons. It's a cliché few take seriously anymore, but it's nevertheless critical if we're to understand anything enduring about



"Actually, I suppose we should consider ourselves lucky to be here at all."

Hiroshima: guns don't kill people, people kill people. Really. The atom bomb itself means hardly anything. Certainly, it's not necessary for human atrocities.

I headed for the bomb shelter searching for my father and brother, trying hard not to step on the stinking, charred bodies. Other bodies, many of them, were floating down the river. I finally reached the shelter only to find my father's body, rigid and charred black. "Father's dead!" I screamed, but mother just sat there, saying nothing. Then she murmured my brother's name. I saw his body about a meter away. . . . I could tell from his clenched fists that he had died in agony. One body nearby was ghastly; black, congealed blood came from his mouth . . . another one had its head split open and brain matter was oozing out.

Those are the words of Kikuko Uchida. She's a survivor of Tokyo, not Hiroshima.

In March of 1945, U.S. B-29s hit Tokyo with napalm bombs in a massive air raid. First a circle around central Tokyo was bombed, establishing a ring of fire through which few could escape or enter to help. The center of the ring was then carpet-bombed. A firestorm erupted. Whirlwinds of fire moved quickly through the wooden residences. It was so hot, people burst into flames. River and canal water boiled. B-29 crew members — in the planes above it all — retched from the smell of burning flesh. More than 100,000 died in that air raid, more than the immediate death tolls of either Hiroshima or Nagasaki.

A U.S. Strategic Bombing Survey concluded that "probably more persons lost their lives by fire at Tokyo in a six-hour period than at any [equivalent] time in the history of man." Brig. General Bonner Fellers, an aid to General MacArthur, called the Tokyo bombing "one of the most ruthless and barbaric killings of noncombatants in all history."

Having no atomic bomb, the Japanese killed 50,000 at Nanking in China. German records suggest 135,000 people died from the Allied bombing of Dresden. Approximately 300,000 Japanese were killed in the battles to take back the Philippines. More than 10,000 Japanese died during the

battle for Guam; 21,000 died fighting for Iwo Jima. On Okinawa, only weeks before Hiroshima, 150,000 Japanese military and civilians died.

With only muskets and cannon, 53,000 Americans died at Gettysburg.

You don't need atomic bombs to kill an incomprehensibly large number of human beings.

Hiroshima fails tragically to establish an understanding of what kinds of ideas lead to war and what principles are required for people to live together in peace. Nicely, politely, everything in Peace Memorial Park asks for peace. But there's no clue as to what's required to achieve and maintain it.

"Nuclear weapons are clearly inhumane weapons in obvious violation of international law," claimed Hiroshima Mayor Takashi Hiraoka in his Peace Declaration for 1995. "So long as such weapons exist, it is inevitable that the horror of Hiroshima and Nagasaki will be repeated — somewhere, sometime — in an unforgiving affront to humanity itself." Maybe. For what it's worth, they haven't been used again. Despite the Cold War and the arms race and those warhead stockpiles, the world since has been unharmed by nuclear weapons.

Unfortunately, it hasn't been spared the horror or the unforgiving affront to humanity. For what's really ghastly about Hiroshima is that all this effort, all this storytelling — all these calls for peace, the words and symbols, the Peace Bell and Peace Bridge and Peace Tower — all this did nothing to prevent Mr. Stalin's Gulags, or Korea, or Vietnam, Cambodia, Argentina, Afghanistan, Iraq, Iran, Somalia, Bosnia . . .

That there have been "No More Hiroshimas!" is true merely by a technicality.

Leaving

We left the museum near noon. The chairs from the morning service were being folded and packed away. People still stood in line to lay flowers at the Cenotaph and offer prayers for the victims. However disappointing and sometimes silly, Peace Memorial Park is still a place for people to remember those struck dead on a terrible day. There's value in that.

We walked past the A-Bomb Dome,

the greatest monument here. It's a huge structure, though all the pictures I've seen of it make it appear much smaller. There are wonderful shade trees around it and a lot of grass. It's ironic that this area blasted 50 years ago by a split atom is one of the greenest areas in any Japanese city.

Tour group members rested in the shade, wiping their necks and brows. Half the people aimed cameras at someone else.

I thought of my favorite photograph in the museum. In it, perhaps two dozen junior high school boys are sitting in ranks on the ground — some with uniform shorts on, some shirtless. They hold their shaved heads at the same slight angle. A teacher stands under a tree that isn't a tree any more, just a black stump with two stubby arms reaching up. You have to look at the picture closely to realize the school teacher, in a drab teacher's uniform, isn't a corpse hanging from one of those stubby tree arms. Behind the teacher is a hill still covered with rubble. The hill ends a football field later at the ragged remains of a church. The rubble and wreckage are pale and pasty, same as the sky. Moonscape. The dark cropped heads of the school boys stand out like charcoal briquettes.

The picture is at once stirring and frightening.

It's stirring because with total destruction all around them, the Japanese still manage to hold classes, shave heads, wear pieces of uniforms, teach children, listen to teachers. There are no texts or chalk or maps. But no matter. Classes must go on, there are lessons to be learned. The determination is remarkable.

It's frightening, though, because with total destruction all around them, the Japanese children are still in uniform, still attending classes, still in orderly rows, still taking in every one of their teacher's words. And there is a chilling sense that nothing has changed.

Before we turned toward the station, I looked around for some of the junior high school students who entertained us in line, but I couldn't find them. I wanted to see them one more time and tell them to kick all old men in the shin. □

Journal

Travels in Bosnia and Points West

by Bryan Alexander

Sunday and Monday, 16–17 July

The closer I get to Bosnia, the more I see soldiers. There were none on the flights leaving Detroit and Cincinnati, but the airport at Zurich bulks with sullen UNPROFOR, each Nordic and obsessed with staring at the floor, smoking, bellying the bellicose iconography of their ranks and uniforms. The L1011 to Croatia is crammed with these men, their officers cold and lonely. From our point of view during our descent, Zagreb is first of all largely horizontal, and second overrun with U.N. aircraft, jeeps, APCs, helicopters, humans.

And they've renamed the place. The Slavic airport is no longer called *aerodrom* or something like it, but a wholly alien two-word term that fails to sink into my brain. This should disturb me more than it does.

I wait in the terminal, brooding on Swissair's loss of my luggage (all of it, save my conference paper, passport, camera, and books). A formidable Croat official stolidly refuses to offer me hope. A fatalist Slav — I despair when confronted with stereotypes.

The next plane, traveling in a direct path, would fly over either the battles raging around Bihac or the insurgency of the Krajina, or both. Instead we arc placidly over the Adriatic, flirting with Italy until we land in the Republic of Croatia once again.

The city of Split is, in fact, split: the airport and part of the town are on one side of a bay, the urban center on the other. Exhausted, I stare at half-completed buildings from a vast bus, the driver of which festoons his perch with rosaries, pictures of the Pope, Mary images, crosses, crosses. We arrive safely.

The Hotel Bellevue glowers at a looming, fascist-like plaza. One member of our delegation is already present. Bob is a terrific historian and now a businessman. We talk over dinner.

Back at the hotel, too tired to think or even read, I fall asleep.

Tuesday, 18 July

I am awakened by loud church bells. This Catholic country is enthralled by its services, waging sonic warfare against travelers every noon. I stagger into the day.

Split interlaces the historical baklava of Diocletian's Palace, a Roman gigantism encrusted with and mutated by Venetian, Turkish, Yugoslav accretions. I sip bad tea next to a Coca-Cola sign affixed to fourth-century stonework. I ask for *kleb* ("bread," according to my Russian and more limited Serbo-Croat). The waiter pales, then, returning with a basket of the stuff, slams it down onto my rickety table, snarling "*KRUG!*" Evidently I have made a mistake. I withdraw to the seashore, reading Thomas Mann amid smells of salt and aging styrofoam.

Later, I discover the American delegation: Bob the historian-businessman once more, John the medievalist, Dennis (who sounds exactly and terrifyingly like John Huston) of more modern times, Marian of tombstones and material culture. We sip overpriced beer, watch the sun drown itself in the Adriatic behind a troop ship, and talk. I ask about the currency, the kuna (I'm an English lit academic, not a Balkanist). Its name refers to an animal, the marten, whose pelt was apparently medieval Croatian currency. It was also the printed money of the fascist Ustashe regime. Imagine Hitler's face on every deutschemark and you'll get an idea of its diplomatic effect.

I ask about the confusion with the waiter. The vocabulary is changing, comes back the answer. Serbo-Croat used to be used uniformly across all of former Yugoslavia. But Tudjman, Croatia's ruler, has started a program of vocabulary reform, redesigning the language to be "truly Croatian." Radio stations, newspapers, and TV reporters all receive lists of the new terms. Our waiter knows eight or ten words for the same fish.

Marian tells us that our destination, the city of Mostar, has this day come under fire. No one suggests calling off our trip.

Still no luggage. I wrest a promise from the sleepy hotel clerk to forward it to me in Bosnia, should Swissair retrieve it and send it on. The clerk refrains from laughing at me.

Wednesday, 19 July

Bob has talked a European Union rep into getting us a ride. Shortly before noon we clamber into an EU van and are

driven north, toward the Republic of Bosnia and Hercegovina (labeled BiH in graffiti). At the border we pass a line of 20 or more trucks filled with aid and supplies, all pulled over for paperwork checks. Some of the drivers, used to the routine, have set up tables for marathon card games.

The region between Mostar and the Croatian border is occupied by a roving militia. They don't stop us; we don't see them. We pass sharp mountains, sudden valleys, house after house tiled with red, and chthonic old staring women in black.

Mostar is like Los Angeles in two ways. (1) It has lost thousands of citizens to violent deaths. (2) Surrounded by mountains, its air is warm and trapped. Worse yet, the mountains are bare and reflect the sunlight into the city, baking its atmosphere. We arrive without incident, spiraling down toward the blindingly white buildings. Arriving on the city's west side, a furious contact man races us over a tiny military bridge far too quickly for me to make out much, kicks us out on the east side of town, and drives off at top speed in a fog of dust.

We are met by Professor Bedic, a tall, gloomy, immensely resourceful mathematician and speaker of English. He gives us the tour of the city — or, rather, of its eastern sector. In 1993, local Croats drove Muslims from their homes in brutal urban fighting, then kept the west side to themselves behind the (extravagantly capitalized) EU/UNPROFOR DMZ. Croat forces lazily patrol the line, seizing Muslim men who attempt to cross and shipping them to camps. So today we just see one half of Mostar, which is plenty. Bedic leads us through the furious sun, along alleyways, from building to building, along the green Neretva River, to points near the DMZ, into buildings that still stand, to the former gates of those that do not. Every surface bears bullet holes or grenade gouges or both. I lag behind, reading graffiti: BiH, Clinton Clitoris, Viva Dole, Peace, Victory, Victory, Peace.

Two children peek around a corner behind me, giggling. I stare at them. They scream. Old reflexes take effect: I mug, wagging my mouth. The kids riot, run, come back with friends. It hits me: I'm the only person around with a full beard. The Bosnians prefer to be as clean-shaven as possible. I relax into children's games, making monster noises, pretending to chase them. Our group and its guide are amused but proceed; I tag along; so do the kids. Dennis laughs and calls me a Pied Piper. The children scream "*Chetnik!!!*" This means enemy Serb. *Ha ha*, I think, *good joke*. They're calling me by the name of a monster, a monster that butchers their families. And they laugh.

We peer in our Open University Conference site — a bunker, essentially — and retire to the guest house. A mad scholar named Salih mercilessly tells me his life story as Mostar's ur-curator in French, Russian, English, Serbo-Croat, stopping only when he realizes I don't speak German and have run away.

Thursday, 20 July

First day of conference. Bob and John discuss their pro-BiH book, take questions on politics. Halfway through the session, the bunker's electricity fails. With one smooth

motion, every attendee, die-hard smokers all, whips out lighters, matches, candles. Later I spot the greatest sign of optimism in the Balkans: posters for an anti-smoking campaign.

We meet with the president of the *okrug* (a level of government between city and republic), who cheerfully assures us that he has no real power at all. Our meeting ends with air raid sirens punctuated by shell impacts; we flee to a basement until things seem calm. The genial president treats us to an ambitious lunch.

In the blast of afternoon I set out on my own to look at mortar craters, ruined buildings, and roving tribes of children. A gang of lazy drunks accosts me, snarling "... *chetnik* ..." languorously, daring me to sample a mysterious fluid in an anonymous bottle. Remembering the bizarre and homicidal alcoholic experiments of my Russian friends, I shudder but stomp forward, seize the viridescent bottle, and drink deeply. The stuff is infernally bad, naturally, but not without character. Smiling, I praise their abilities and ask for an extra bottle. "*Bravo chetnik!*" My followers are children and drunks. Tomorrow: march against Milosevic ...

Friday, 21 July

As we walk in the last morning breeze to the day's lecture, we hear explosions, then see NATO planes race by overhead; it's hard to tell whether the noises are shells or sonic booms.

In 1992, a Serb army assaulted the city, killing many, then withdrew under pressure from Bosnian Army units operating nearby. In 1993, war broke out again with the Croat drive to exterminate the Muslims. Things have been largely quiet since then, which is why Mostar seemed a good site for the conference.

Walking along an alleyway on cobblestones old as the Ottoman empire, I chat with a street vendor. Among his usual wares (plates, paintings, colored sticks) stands a display of fallen shells, Cyrillic-labeled Serbian projectiles on one hand, Roman-inscribed Croat items on the other, neatly arranged by type and size, all priced in deutschemarks. (DM is the basic currency here. BiH issues the dinar, but in vain — a one-dinar note costs two to print.) The man tries to convince me that the British police won't mind me smuggling a semi-dud shell through their country. I could see that with the Americans, but not the Brits ...

Saturday, 22 July

Today we cross to West Mostar for the first time. We pass by our lecture bunker, then two utterly ruined buildings. Baked in the heat, several checkpoints scowl at our displayed American passports. This Croat half of the city is comparatively well-off. It looks like bits of Queens or Detroit: some damaged cars, run-down buildings — typical urban semi-squalor, semi-affluence. Pictures of the Pope follow us everywhere, beaming, blessing, welcoming us to his friendly hands. Bob and I go to the Hotel Ero, which is a sort of Casablanca-style interzone. The European Union has its HQ here, as does a mayor. (Mostar has three mayors: one Muslim, one Croat, one EU. It also has five (5) police forces, all fully and eagerly armed: Muslim, Croat, EU, *okrug*, and Croat-Bosnia Federation.) Ero has mysterious guests from

France, Germany, the Philippines, Argentina, the U.S., and points unknown. Once we see the crown prince of Jordan swoop in — or, rather, we see his wake: hotel security fall back before Croat cops, Croat army, UNPROFOR, the ubiquitous men in black suits with shades and machine guns and attaché cases, pressing the teeming mass ever forward, spilling over chairs, sofas, tables, crushing everything in their path, shepherding the invisible object of their mission through the lobby and out again.

The tide of security passes. Bob and I buy Dove bars and eat them blissfully in the 100-degree heat as we walk back to the East, apartment buildings and healthy automobiles giving way to wall stumps, collapsed roofs, gutted cars.

Sunday, 23 July

John has fallen in love with an orphan girl. We are sitting in a café, drinking beer and talking about Tito and Thomas Mann. Police forces cruise past, some friendly, others caressing their rifle stocks. Bloated grasshoppers cling to roofs, walls, rubble; rumor has it they are good luck, since the last time such a plague hit was in 1945, when another war ended. Something hits the back of my head. I whirl; I see John laugh, then bullet-riddled walls, then a staggering apartment building. Some of its balconies and floors are collapsed or missing, the rest are overcrowded with laundry and ancient women. On one balcony: a giggling little girl, hands filled with hard red onions. "Brot!" she shouts. "On . . . brot!"

"It's your beard, Bryan, she's probably never seen anything like it," counsels John. He calls for her to join us. She hurtles down to our table: little Esme, eight years old, missing half her family in the war. John is entranced by her energy, her smile, her audacity. Esme has no thought for him, lusting after my beard instead, touching it, giggling. Sated, she demands we join her and her truncated family in their new apartment (more refugees from the west side of town). We decline, but will visit tomorrow. She responds with an apocalypse of pouts, but is fobbed off by ginger ale and ice cream. John is smitten. I resolve to be his guide and co-tormentor.

Monday, 24 July

My paper on Romanticism and military discourse is a shambles. The translator, Mirsad the anti-Semite, screws up nearly every other word, massacring nuances and whole meanings. A deranged and massive veteran demands I tell him about *pro-war* poetry and how to kill Serbs. I drink more coffee, and listen to a series of recitations of Bosnian war poems.

After the conference we meet with the ombudsman of the semi-hallucinatory Croat-Bosnian Federation. This agreement is largely on paper, since neither side has done much to act on it. The stolid ombudsman tells us that he's not sure it really exists, but that he can use it to do some good for people on both sides. No, he wasn't aware the Federation has police. Who are these guys?

Esme finds us afterwards, naturally. We follow her to her flat, John grinning and lurching on his ruined leg, me crushing the good-luck fat grasshoppers that Esme lives in fear of with my steel-toed paratrooper boots — the only footwear

I've had for a week, since my luggage has yet to arrive. Esme's uncle, a BiH soldier on leave, tells us that Dole will save them by allowing the Bosnians to arm themselves. I drink endless cups of Turkish coffee while listening to Esme's familial conspiracy theories.

Before and after dinner I am followed by my usual entourage of drunks and children.

At night, we Americans sit on a terrace, staring at the dark mountains, listening to the crump of shells, whistling rockets, chattering rifles. Troop trucks rumble by, gone before we can get a good glimpse of their affiliation — NATO? BiH? Croats? We resign ourselves to history. Vietnam vet Bob tells us, "This reminds me of Saigon."

Tuesday, 25 July

I lecture to a University class on English in the morning, then to a select few about America in the afternoon. These Mostari, mostly women, are eager to leave Bosnia and become business leaders. They are also concerned with apocalypse and doom. A classful of fatalist Horatio Algiers.

Many of them read science fiction; *Neuromancer* is their favorite book. My colleagues introduce some science fiction of their own to the affair, raving about how e-mail will help Mostar thrive. Bedic snarls back, "Sure! Once we have phone lines."

An evening's entertainment: the University of East Mostar offers youths dancing to old Balkan and Turkish folk music. Terrific vitality, style, dexterity. Feet stamping, hearts pounding, we are interrupted by a counteroffer. The faculty at West Mostar U. desires our presence at a gala event, to include the faculty of the East. We pile into EU vans again, every Eastern prof always within one foot of an American. They cross the checkpoints calmly, their thoughts hidden. Our hosts have prepared a bizarre program at Hotel Ero, where a Swedish choir group regales us with Elizabethan music in English. The Croats are mad about being Western, but this is ridiculous.

We eat a very late dinner thrown by the friendly president of the *okrug*. There is no tangible presence of government here, no respect for the state. These Muslims have lived in terror too long not to adore immediate community, not to distrust the distant Republic. I think of the huge gulfs between the West Mostar Croats, of their chilly demeanor toward one another, as these Muslims down vodka and wine, feed each other food (grown often by themselves), tell stories, and refuse to weep. I grow hazy with fatigue, residual heat, too much vodka, the paucity of my Serbo-Croat — and am asked by the assembly to resolve the essential difficulties faced by modern states. I stand, weave, my mind a heaving blank, then ramble about how no elected official can do right by us, how voting for *sentient beetles* is as useful as supporting a Democrat or Republican or Socialist or . . . I collapse, toasted in every sense.

Wednesday, 26 July

Our last day in Bosnia. I walk with limping, Esme-sick John to the last session. John is in many ways insane. Two days ago, a shell hit a building one block away, throwing rubble into the air and onto the surrounding area. The rest of

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Exposé

The Money Laundromat

by J. Orlin Grabbe

Above ground or below, as paper or electrons, money will always find a way.

It was bright lights and balmy action. Thomas Constantine, the head of the U.S. Drug Enforcement Administration (DEA), claimed we've entered a "new world order of law enforcement."¹ He was referring to the cooperation of British, Italian, and Spanish authorities in setting up a fake bank in Anguilla, in the Caribbean. It was a sting to trap money launderers.

Like all pirate organizations, the group calculated success by the amount of booty seized. And this cleverly code-named "Operation Dinero" added \$52 million, nine tons of cocaine, and a number of paintings (including works by Reynolds, Reuben, and Picasso) to official coffers. There were also 88 arrests. It was a great scam in classic DEA style: government officials got to keep the goods, while taxpayers got to pay for the incarceration of up to 88 people.

The British Foreign Office — those wacky guys who, you will recall, conveniently released a barrage of information about Nazis in Argentina at the outbreak of the Falklands (Malvinas) war, and who also helped coordinate Operation Dinero — have since made a propaganda video about this official foray into fraudulent banking. Among others it stars Tony Baldry, junior minister.

Be prepared for more of the same. The nine tons of coke should enable the British Foreign Office and the nosy DEA to burn the midnight oil for months to come, planning other booty-gathering raids and video thrillers. After all, the Financial Action Task Force report of 1990 encouraged

international banking stings like this one. But it isn't just the pseudo-bankers you should worry about.

The Banker as Snitch: The Brave New World of Law Enforcement

In the world of money-laundering, you pay your thankless banker to turn you in to the government. In 1993, a federal judge in Providence, Rhode Island, issued the longest sentence ever given for a nonviolent legal offense: 600 years in prison for money-laundering. The launderer had been fingered by his bankers, who then cooperated with federal agents in building a case against him, even while the same bankers received fees for providing him services.

American Express was recently fined \$7 million for failing to detect money-laundering, and agreed to forfeit to the U.S. Justice Department another \$7 million. As part of the settlement, the bank will spend a further \$3 million in employee education, teaching them recommended procedures for spying on customer transactions.

In his book about banker Edmond Safra, author Bryan Burroughs notes:

"To truly defeat money launderers, banks must know not only their own customers — by no means an easy task — but their customers' customers, and in many cases their customers' customers' customers." And then, as part of an argument clearing Safra's Republic National Bank of money-laundering charges, Burroughs recounts how he visited the office of the Financial Crimes Enforcement Network (FinCEN) and talked with one of its top officials. The official said that Republic had made "some solid suggestions about new ways the government could track dirty money."²

But most people still have not gotten the message that their banker is a spy. They are still stuck in yesterday's world, where the Right to Financial Privacy Act of 1978 allowed banks to monitor their own records and inform the government when there were suspicious transactions in an account, but prohibited them from telling the government the account number or account's owner. The Privacy Act was effectively gutted by the Annunzio-Wylie Anti-Money Laundering Act of 1992, which gives protection from civil liability to any financial institution,

director, officer, or employee who makes a suspicious transaction report under any federal, state, or local law.³

Money-Laundering — What Is It, Anyway?

There's a specter haunting the international financial markets: the specter of crime by nomenclature, by theological semantics. To be sure, the faceless piece of transaction information that makes money "money" — a useful medium of exchange, whereby we exchange everything for it, thus avoiding the direct bartering of wheelbarrows for oranges — has been under attack before. The '60s brought us

Like all pirate organizations, the DEA calculates success by the amount of booty seized.

"Euro"-dollars, and the '70s "petro"-dollars. Now we have "narco"-dollars, "terror"-dollars, and (who knows?) maybe "kiddie-porn"-dollars. Today, some of the data bits stored in banks' computers comprise "clean" money and others "dirty" money, the latter legalistically smitten with original sin.

As Yogi Berra might say, it's digital voodoo all over again.

Since the governmental powers-that-be can't do much about drug-dealing or terrorism — if only because they themselves are the chief drug dealers and terrorists — they have transferred these and other (often alleged) sins to the money supply. And since every dollar is a potential "narco"-dollar or "terror"-dollar, they must track each one as best they can.⁴ The fact that monetary monitoring has done nothing to diminish either drug-dealing or terrorism is of no importance, because it's all part of a larger game. All the players can easily see that this same financial tracking yields political side benefits in the form of social control and government revenue-enhancement.

The body of U.S. law about money-laundering includes the Bank Secrecy Act of 1970, the Comprehensive Crime Control Act of 1984, the Money Laundering Control Act of 1986, the

Anti-Drug Abuse Act of 1988, the Annunzio-Wylie Anti-Money Laundering Act of 1992, and the Money Laundering Suppression Act of 1994. International efforts include the U.N. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988; the Basle Committee on Banking Regulations and Supervisory Practices Statement of Principles of December 1988; the Financial Action Task Force Report of April 1990 (with its 40 recommendations for action); the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds of Crime of September 8, 1990; the 61 recommendations of the Caribbean Drug Money Laundering Conference of June 1990; the agreement on EC legislation by the European Community's Ministers for Economy and Finance of December 17, 1990; the Organization of American States Model Regulations on Crimes Related to Laundering of Property and Proceeds Related to Drug Trafficking of March 1992; and a tangled bouillabaisse of Mutual Legal Assistance Treaties.

Anyone who has studied the evolution of money-laundering statutes realizes that the "crime" boils down to a single, basic prohibited act: *Doing something and not telling the government about it*. But since the real big-brotherly motive is a Thing That Cannot Be Named, the laws are bogged down in prolix circumlocution, forming a hodge-podge of lawyerly fingers inserted here and there into the financial channels of the monetary system.

"Most economically motivated criminals always have wanted to appear legitimate," says attorney Kirk Munroe. "What is new is the criminalization of money laundering. The process itself now is a crime separate from the crime that produced the money."⁵

The President's Commission on Organized Crime has defined money-laundering as the "process by which one conceals the *existence*, illegal source, or illegal application of income, and then disguises that income to make it appear legitimate" (emphasis added).⁶ Now, apparently, simply concealing the existence of income is money-laundering.

But whatever money-laundering is, in practice U.S. law purports to detect

it through the mandatory reporting of cash transactions greater than or equal to a threshold amount of U.S.\$10,000. For countries in Europe the figure ranges from ECU 7,200 to ECU 16,000.

In the U.S., Section 5313 of the Banking Secrecy Act requires a Currency Transaction Report of cash deposits or transactions of \$10,000 or more. Section 5316 of the act requires a Currency or Monetary Instrument Report for transport of \$10,000 or more of currency in or out of the United States. Section 5314(a) requires you to report any foreign bank or financial accounts whose value exceeds \$10,000 at any time during the preceding year. Section 60501 of the IRS Code requires the reporting of business transactions involving more than \$10,000 cash.

Suppose you're an arms dealer in trouble and need a criminal lawyer. (You've violated those pesky ITAR restrictions because you carried a copy of Pretty Good Privacy on your portable computer when you drove over to Matamoros from Brownsville for the day, and you forgot to fill out those customs forms, and that girl you met said she just *had* to set up a secure channel to her cousin who works in Washington, D.C., as an undocumented maid for a

In the world of money-laundering, you pay your thankless banker to turn you in to the government.

potential Cabinet nominee. . . .) The lawyer charges a modest \$200 an hour, so the first month you pay him \$7,000 in cash. The next month you pay him \$4,000 in cash. Under current U.S. law, the lawyer is required to report complete information about you, including the \$11,000 total cash payment, on IRS Form 8300, and ship it off to the IRS Computing Center in Detroit within 15 days of receiving the second payment (which put the total above the reporting threshold). Never mind such matters as attorney-client privilege, the Sixth Amendment right to counsel, or the Fifth Amendment right to be free from self-incrimination. If your attorney does not make the report, and

the IRS finds out about it and prosecutes him, the courts will probably back up the IRS.⁷

The scope and arrogance of the money-laundering statutes knows no bounds. The Kerry Amendment to the Anti-Drug Abuse Act of 1988 demands that *foreign nations* must also require financial institutions to report deposits of U.S.\$10,000 or greater, and to make this information available to U.S. law enforcement. Otherwise the president is directed to impose sanctions against non-cooperative countries.⁸

Having extended the concept of evil to cover a vaguely defined practice called "money-laundering," and having established a system to help detect it, the laws have proceeded to make evasion of the monitoring system evil also. This tertiary sin may be found in the practice of "smurfing," or "structuring," which basically amounts to any method of spreading cash among accounts or across time to avoid the \$10,000 reporting threshold. Structuring is defined in a 1991 amendment to the Bank Secrecy Act thusly: "Structure (structuring). . . . [A] person structures a transaction if that person, acting alone, or in conjunction with, or on behalf of other persons, conducts or attempts to conduct one or more transactions in currency in any amount, at one or more financial institutions, on one or more days in any manner, for the purpose of evading the reporting requirements. . . . 'In any manner' includes, but is not limited to, the breaking down of a single sum of currency exceeding \$10,000 into smaller sums, including sums at or below \$10,000, or the conduct of a transaction or series of transactions, including transactions at or below \$10,000. The transaction or transactions need not exceed the \$10,000 reporting threshold at any single financial institution on any single day in order to constitute structuring within the meaning of this definition."⁹

And what does the government do with the information it collects? When your lawyer's report reaches the IRS Computing Center in Detroit, it is entered into the Treasury Financial Data Base (TFDB). Similarly, if you cross a U.S. border with more than \$10,000 in cash, you will fill out Customs Form 4790, which will be sent

off to Customs' San Diego Data Center, and it too will eventually show up in TFDB. These and other forms will now be available on-line in the Treasury Enforcement Communications System. The TFDB data will also be processed through the FinCEN Artificial Intelligence System, which is trained to

The '60s brought us "Euro"-dollars, and the '70s "petro"-dollars. Now we have "narco"-dollars, "terror"-dollars, and (who knows?) maybe "kiddie-porn"-dollars.

identify suspicious transaction patterns.

So when you deal in cash, expect to give a note to the government, a crumb to the friendly FinCEN AI System. But the system has a voracious appetite, so the reporting doesn't stop with cash. The heart of any modern monetary system is the digital transfer of electronic money through the telecommunication links among bank computers. Internationally, banks are connected by a computer messaging system operated by the Society for Worldwide Interbank Financial Telecommunication (SWIFT). Domestically, banks within a country use equivalents of the U.S. clearing systems operated by the Federal Reserve (Fedwire) and the Clearing House Interbank Payments System (CHIPS). A Federal Reserve Policy Statement of December 23, 1992 asks financial institutions to include (if possible) complete information on the sender and recipient of large payment orders sent through Fedwire, CHIPS,

and SWIFT. "Historically, law enforcement efforts to curtail money laundering activities have focused on the identification and documentation of currency-based transactions; however, recent investigations have focused on the use of funds transfer systems," the statement notes.

The focus on funds transfer brings in the resources of the National Security Agency. The NSA has been monitoring civilian communications ever since it installed IBM computers at Menwith Hill in the U.K. in the early '60s to keep track of international telex messages. NSA tentacles are now ensconced not only in transatlantic communications, but also in Pacific satellite transmissions, the regional Bell System offices, the SWIFT messaging system, the CHIPS clearing computers in Manhattan, and Fedwire. In addition, a satellite surveillance system picks up the high-frequency transmissions of specially constructed computer chips that are activated by certain types of transactions-oriented financial software.

U.S. agencies are not alone in financial monitoring: the Council of Europe has even recommended Interpol be given access to SWIFT to assist in money-laundering detection.¹⁰

The PROMISED Land

When most people hear the term "money-laundering," they think of Miami, London, Hong Kong, or Panama City. But what about Arkansas? *Money Laundering Bulletin* reports, in what it calls "The Greatest Story Never Told," that an "archive of more than 2000 documents . . . allege[s] that western Arkansas was a centre of international drug smuggling in the early 1980s — perhaps even the

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headquarters of the biggest drug trafficking operation of all time."¹¹ Perhaps that is why it was in Arkansas that modifications were made to the stolen PROMIS software system to enable it to spy on banking transactions. For where there are drugs, there must be money-laundering, or so one can suppose.¹²

The PROMIS software was created by the Washington, D.C.-based software company Inslaw for a single purpose: to track people. It was initially designed to be used by federal prose-

Money-laundering boils down to doing something and not telling the government about it.

cutors. Want to know who the judge was on a particular case? Ask PROMIS. Want to know all the similar cases that same judge has heard? Ask PROMIS again. How about all the accused money-launderers a particular attorney has defended? And so on. But after the Justice Department acquired the PROMIS software by "trickery, deceit, and fraud" (to quote a federal bankruptcy judge who tried the case) and installed it in most of its regional offices, the system was modified and sold to foreign intelligence organizations, then modified again and sold to banks.

To see the relationship among these apparently diverse uses, consider the following items of information about Joe Blowup, who lives in Sacramento:

Item 1: Monday, June 3. Master-Card record of payment by Joe Blowup for lunch at the Cliff House in San Francisco.

Item 2: Wednesday, June 5. Motor vehicle records show an automobile registered to Joe Blowup is involved in a minor accident in Barstow.

Item 3: Saturday, June 8. Check for \$3,000 made out to Pierre "C-4" Plastique is deposited in Pierre's account in Glendale Federal Savings, and clears against Joe Blowup's First Interstate account in Sacramento on Tuesday, June 11.

Who might be interested in this computer-sorted chronology?

Firstly, anyone wanting to track Joe Blowup's movements. He was in San Francisco on Monday and in Barstow on Wednesday. The sequence also generates obvious questions for further investigation. Did he meet Pierre in Barstow and give him the check there, or did he drive on to Los Angeles? What is the check payment for? And who did Joe Blowup have lunch with in San Francisco? In order to generate relevant questions like these, federal agents, spies, and other detectives all want a copy of this neat software.

Secondly, banks and other financial institutions. Notice that, in fact, most of the information is financial. That's because financial institutions keep carefully detailed transaction records, and over the years they've become increasingly sophisticated in doing so. There is nothing nefarious in this per se. If I go to a bank to get a loan, the bank has a right to make an evaluation as to whether I will repay it. They are principally concerned with (1) ability to pay and (2) willingness to pay — and to make this evaluation, they rely on current and historical information. In the example here, none of the items is of interest to banks, unless that accident in Barstow created a financial liability that would affect Joe Blowup's ability to repay other loans. But if the (modified) PROMIS software organizes banking transactions in a nice way, banks too will want a copy of it.

Thirdly, tax authorities. Do Joe Blowup's financial records indicate a pattern of rather more income than he has been reporting? Or, in the case of doubt (and this is the fun part), is there a record of assets the IRS can seize in the meantime? The IRS wants a copy of the software so it can better understand Joe Blowup's — and your — spending patterns, even though present IRS files already put private credit bureaus like TRW and Equifax to shame.

In the 1980s, intelligence organizations around the world salivated over the PROMIS software's ability to track terrorists, spies, political opponents, and attractive models. Aside from distribution to almost all the three-letter agencies in America, PROMIS was allegedly sold to intelligence organizations in Canada, Israel, Singapore, Iraq, Egypt, and Jordan, among others. In addition, the DEA, through its proprie-

tary company, Eurame Trading Company Ltd., in Nicosia, Cyprus, is said to have sold PROMIS to drug warrior agencies in Cyprus, Pakistan, Syria, Kuwait, and Turkey. PROMIS was also converted for use by the British Navy in connection with its nuclear submarine intelligence database.¹³

There's more here than Ed Meese and Hillary Clinton's cronies' simple desire to make a fast buck. The sale itself was part of an intelligence operation. As former attorney general Elliot Richardson noted, "One important motive for the theft of Enhanced PROMIS may have been to use it as a means of penetrating the intelligence and law enforcement agencies of other governments. The first step in this scheme was the sale to the foreign government of a computer into which had been inserted a microchip capable of transmitting to a U.S. surveillance system the electronic signals emitted by the computer when in use. Enhanced PROMIS has capabilities that make it ideally suited to tracking the activities of a spy network. Several INSLAW informants formerly affiliated with United States and Israeli intelligence agencies claim that both the United States and Israel have relied on 'cutout'

There is nothing intrinsically evil in storing a great deal of information about ourselves.

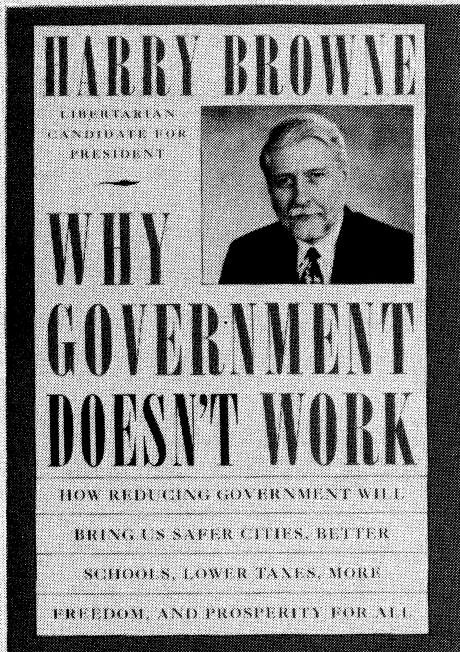
companies to provide ongoing support for the PROMIS software."¹⁴ Of course, what can be done with foreign intelligence computers can also be done with banking computers, and at least one of these "cutout companies" is a major provider of banking software.¹⁵

The Gathering Storm

All of these efforts — the legal reporting mechanisms, the spying by bankers, and the supplementary activities of such organizations as FinCEN, NSA, and Interpol — fly in the face of a contrary technological and social development: anonymous digital cash made possible by advances in cryptology.

continued after advertising supplement

Liberty Book Club



Why Government Doesn't Work by Harry Browne

Two decades ago, Harry Browne turned the world upside-down with *How I Found Freedom in an Unfree World*. Now he's back, and he's stirring up controversy again. As candidate for the Libertarian Party's presidential nomination, Browne hopes to bring the message of freedom to the general public like no one has before.

From the corridors of Washington to the lowliest of county councils, political power has been overtaking social power for decades, all the while running our country into the ground. Always eloquent, always convincing, Browne shows that in every area the state has stuck its snout — welfare, drugs, industry, medicine, you name it — it has only made the situation worse. Only voluntary action, Browne argues, can make this country great again — and that means slashing away at America's overgrown government.

This book is Browne's call to action — for committed libertarians and not-yet-libertarians alike. A must for anyone who wants to hit the streets and make a difference! **Publisher's price \$19.95 — Liberty Book Club price \$14.95, hardcover**

What America Needs — and What Americans Want

The 1994 election may have shown that the American public is fed up with politics as usual, but it's clear that the GOP isn't going to deliver on its anti-government

promises. In this inspiring speech, Harry Browne explains why the time is right for a Libertarian victory, and lays out his plan for dismantling the federal government. What can one man do to stem the tide of statism? Plenty, says Browne — but only if he is elected. **Audio: \$5.95. Video: \$19.50.**

XXX

A Woman's Right to Pornography

by Wendy McElroy
Autographed!

feminism and pornography, McElroy pulls no punches: Pornography, she concludes, does not oppress women — it liberates them. Anyone defending a woman's right to her own sexuality must also defend a woman's right to pornography.

Publisher's price \$21.95 — Liberty Book Club price \$18.95, 243 pp., hardcover

"Wendy McElroy eloquently exposes and courageously opposes the evil naiveté of the currently fashionable anti-pornography movement." —Thomas Szasz

Sexual Correctness

A new breed of feminist has declared war on due process and individual liberty, in the process undermining women's autonomy — the very value they claim to uphold.

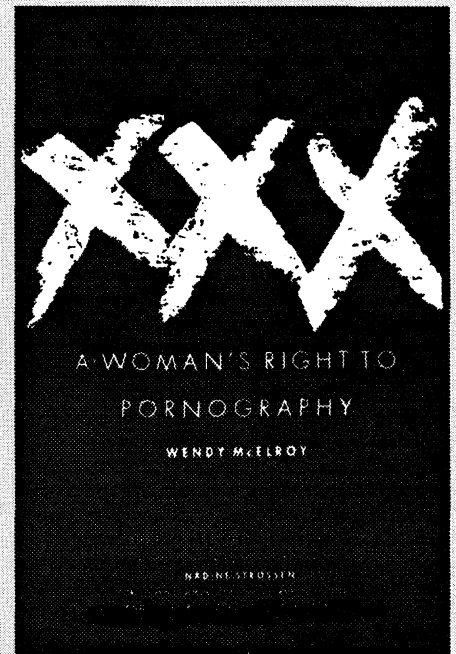
In this information-packed talk, individualist feminist Wendy McElroy gives the chilling details of the latest illiberal court precedents and speaks up for the civil liberties of men and women alike. **Audio: \$5.95. Video: \$19.50.**

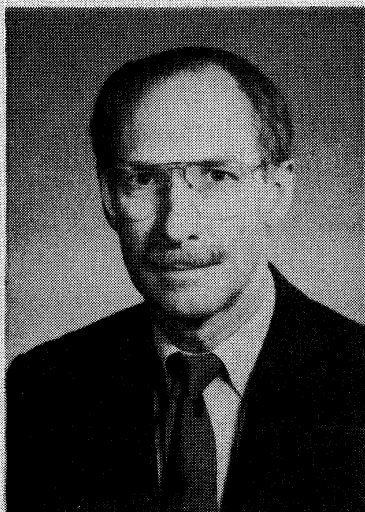
Women and Pornography

Heard all the stories about porn oppressing women? Don't believe the hype. In this eye-opening tape, Wendy McElroy defends the rights of women in the porn trade against the real oppressors: the "feminists" who would take away their livelihood. Don't miss it! **Audio: \$5.95. Video: \$19.50.**

Unlike the ideologues who rant about the horrors of the porn industry, long-time libertarian and feminist activist Wendy McElroy actually investigated it, interviewing the women and men who earn their livelihood from porn. With a both sympathetic and critical ear, McElroy creates the most complete portrait of the world of porn yet.

From this emerges a stirring defense of sexual freedom. Surveying the mutually complementary histories of





Hazardous to Our Health? edited by Robert Higgs

The Food and Drug Administration is one of the most powerful — and therefore *dangerous* — agencies in the country. With each of its decisions, it seizes the power of life or death over millions of Americans. And it has used this power perniciously: Its approval delays have led to a holocaust of suffering and death.

How could an agency ostensibly created to protect the public be one of its worst enemies? To explore this and related questions, FDA expert Robert Higgs has put together the most comprehensive study of the agency yet published. *Hazardous to Our Health?: FDA Regulation of Health Care Products* explores the genesis of this tyrannical agency, why it has become the monstrous opposite of what it was supposed to be, and how we can stop it before it kills again.

At a time when the FDA is coming under closer scrutiny, this book shows us how to protect the American public from the Therapeutic State. A must!

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Pretense of Protection

FDA regulation of medical devices is a prime example of government "protection" that kills. In this fascinating talk, Robert Higgs shows how the FDA has retarded medical technology, what incentives it has to keep technologies off the market, and how it justifies its restraints. By the talk's end, you'll be screaming for David Kessler's blood! **Audio: \$5.95. Video: \$19.50.**

The Prospects for FDA Reform

For now, abolition of the FDA may be just a libertarian dream. But is there any hope for serious FDA reform? A year after the Republican Congress was swept into power on the strength of its anti-government rhetoric, Robert Higgs takes a hard look at the prospects for real change. A real eye-opener. **Audio: \$5.95. Video: \$19.50.**

Freedom of Informed Choice: FDA vs. Nutrient Supplements by Durk Pearson & Sandy Shaw

Bestselling science authors Durk Pearson and Sandy Shaw have been putting it to the FDA for years. Here they give a well-informed exposé of America's pharmaceutical "fearocracy." **\$6.95, 126 pp., softcover**

The authors' "'split label' proposal makes great sense." —Milton Friedman

Speakeasies in a New Age of Prohibition

The FDA's war on drugs increasingly resembles that of the DEA. In this informative and entertaining tape, science writers Durk Pearson and Sandy Shaw take a look at the regulators' New Prohibition and its social effects. **Audio: \$5.95. Video: \$19.50.**

Our Right to Drugs

No one is more radically opposed to the War on Drugs than Thomas Szasz, and in this devastating analysis he pulls no punches. The War on Drugs is bad not only for its side effects, he tells us, but is completely wrong-headed from the roots on up. No lover of liberty will want to miss this speech!

Two audiotapes: \$12.95

Welcome to the Liberty Book Club! This special section includes several items not available anyplace else, including a selection of the exciting talks given over Labor Day at the 1995 *Liberty* Editors' Conference. Also making their debut are the hottest sellers at the conference: Wendy McElroy's *XXX: A Woman's Right to Pornography* and Harry Browne's *Why Government Doesn't Work*. And much more . . . enjoy!

Ambush at Ruby Ridge

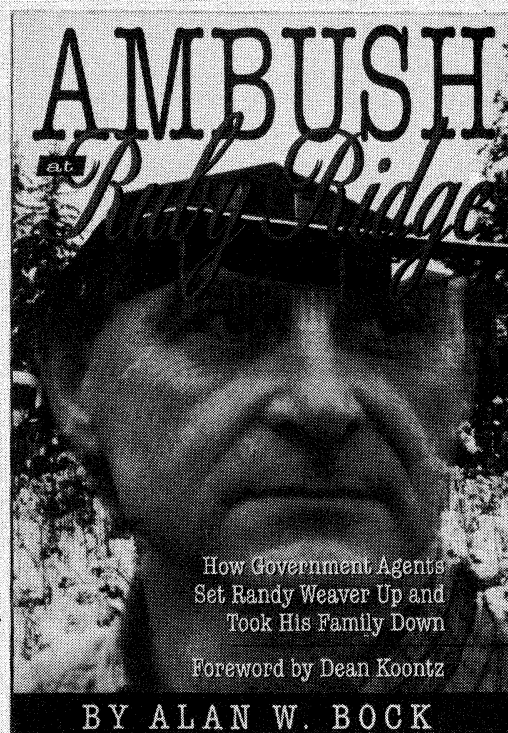
by Alan Bock

In a year in which pundits and politicians alike have fretted about an "anti-government" mood sweeping the country, the truth has slowly but surely come out: This mood is *justified*. Along with the Waco massacre, the event that has done the most to marshal dissent was federal agents' August 1992 attack on Randy Weaver and his family, during which Weaver's wife and son were brutally gunned down.

In this enthralling book, Alan Bock, senior columnist for the *Orange County Register*, explores in-depth the events leading up to the ambush and what happened after. Bock exposes how the feds entrapped Weaver, murdered his loved ones, then attempted to cover it up. More importantly, Bock demonstrates that, far from being an isolated event, the Ruby Ridge massacre represents a rising tide of attacks on American citizens by their own government. The book also includes a sharp foreword by bestselling novelist Dean Koontz.

A courageous and important exposé!

Publisher's price \$22.00 — Liberty Book Club price \$18.95, 281 pp., hardcover



Voices of Dissent

The Oklahoma City Bombing

Half a year after the terrorist assault on the federal building in Oklahoma City, the conspiracy theories are flying. But who really knows what they're talking about, and who's just a paranoid flake? Explosives expert Larry Grupp investigates the different theories of how the bombing was done — including the official story — and offers his own hypothesis. The most believable explanation to date, in full (but easy-to-understand) technical detail. **Video: \$19.50.**

Going to Extremes

When people are radicalized, they often embrace all sorts of suicidal — or even homicidal — strategies. How do libertarians get drawn into martyrdom? How do others get drawn into terrorism? How can radicals avoid the other danger — of being sucked into the system? Is electoral politics a dead end? This tape deals with all these questions and more, debated by Wendy McElroy, Pierre Lemieux, David Friedman, Timothy Virkkala, and R.W. Bradford.

Audio: \$5.95. Video: \$19.50.

The Assault on Private Property

The newest, fastest-growing revolt against the state is the property rights movement. Now the federal government has stepped up its war on private ownership of land. Join Wayne Hage, Jane Shaw, Karl Hess, Jr., Richard Stroup, R.W. Bradford, John Baden, and Fred Smith for the latest news from the frontlines.

Audio: \$5.95. Video: \$19.50.

Revolution

The militia movement is readying itself for a revolution. But is the time really ripe? In this tape, Pierre Lemieux asks the questions, "Revolution — if not, why not? And how do you know if it is time?" **Audio: \$5.95. Video: \$19.50.**

A Globe of Villages

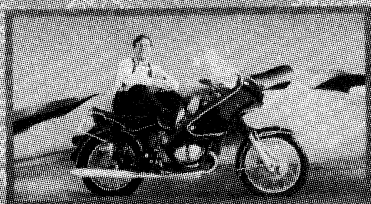
The Beltway monster has an insatiable appetite for power. Bill Kauffman makes an eloquent plea for decentralization, arguing that returning power to communities is the best way to ensure individualism will flourish. **Audio: \$5.95. Video: \$19.50.**

If Government Is So Villainous, Why Don't Government Officials Seem Like Villains?

Most bureaucrats really believe in what they're doing. A lot of them are actually nice folks. But their actions lead to suffering, even death, for millions of their fellow human beings. How is this possible? Economist-philosopher Daniel Klein of the University of California offers a compelling explanation.

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Investment advisor Doug Casey is also a world traveler, visiting Third World backwaters and chatting with tinpot dictators from Cuba to Central Asia. In this fascinating talk, he recounts his recent adventures — and tells what valuable wealth-protecting information he learned. **Audio: \$5.95. Video: \$19.50.**

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The War on Drugs has sent U.S. government officials after your right to privacy, turning the very money you use into an instrument of your own subjugation. J. Orlin Grabbe explains how and why the government has taken over the banking system for its own ends, and how you can get your privacy back. **Audio: \$5.95. Video: \$19.50.**

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Letters of Ayn Rand

edited by Michael Berliner

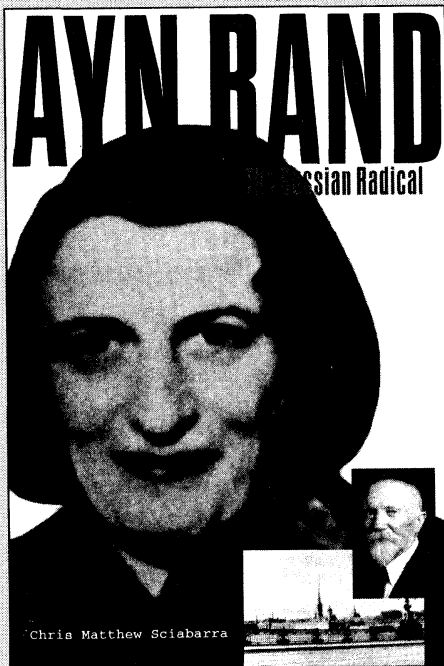
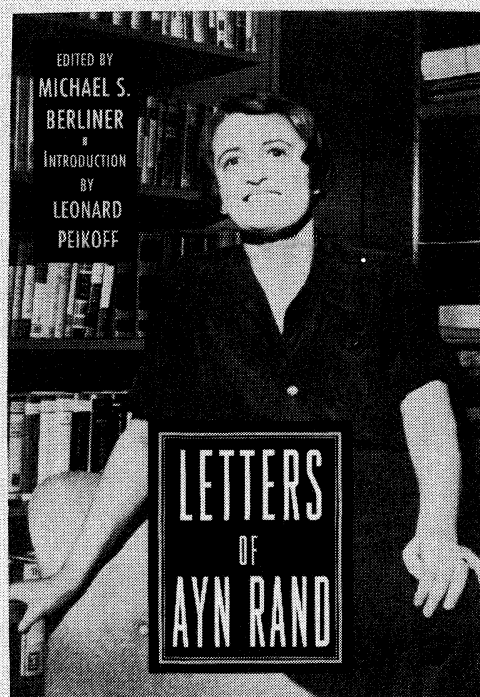
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This book is indispensable for scholars, for fans, and for anyone else interested in the life of one of America's most fascinating, controversial, and popular writers. A must!

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"It is almost eerie to hear her inimitable voice again, so many years after her death, but this book is Ayn Rand, exactly as I knew her." —Leonard Peikoff



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—Duncan L. Clarke, *American University*

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Does Foreign Policy Matter?

Most libertarians focus their energies on domestic issues. Should they pay more attention to the world around them? R.W. Bradford and Leon Hadar hash out the pros and cons of foreign affairs. **Audio: \$5.95. Video: \$19.50.**

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Fred Smith points out some nasty roadblocks on the way to freedom — and how libertarians can navigate around them. **Audio: \$5.95. Video: \$19.50.**

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How to Write Op-Eds and Get Them Published

Have you ever wanted to get your libertarian views in the editorial pages, next to the Cal Thomases and Anna Quindlens of the statist Right and Left? In this valuable workshop, widely published journalist Jane Shaw explains how to write a strong newspaper column, and the ins and outs of getting it into the papers. **Audio: \$5.95. Video: \$19.50.**

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Do libertarian intellectuals overrate the importance of ideology? In this wide-ranging lecture recorded live in New York City, *Liberty* editor R.W. Bradford makes the case that ideas might not be as important as you think. **Audio: \$5.95.**

Machinery of Freedom author **David Friedman** isn't just an innovative economist and political philosopher. He's one of the most dynamic, fascinating speakers in the libertarian milieu. Now's your chance to see him in action . . .

Liberty via Encryption

New encryption technologies are going to revolutionize the world by making absolute privacy possible for the very first time. In this tape, David Friedman explores the encrypted world of the twenty-first century: a world of surveillance-proof electronic money, tremendously decentralized power — and a new threat of cyberspace crime. Friedman explains why the government will be unable to stop the new technologies, and suggests ways to deal with the problems this new world will bring. A riveting talk! **Audio: \$5.95. Video: \$19.50.**

Why Not Hang 'em All?

Everyone's talking about crime and punishment, but few ever approach the topic from an economist's point of view — and even fewer without an unrealistic trust in government. In this *tour de force*, David Friedman explains the benefits of apparently inefficient punishment, with a historian's eye for how different societies have dealt with crime issues in the past. **Audio: \$5.95. Video: \$19.50.**

Private Law Enforcement in Eighteenth-Century England

Two hundred years ago, prosecution of felons in England was a *private* matter, rather than one for district attorneys or other agents of the state. How did this system work? Why did it emerge? What were its advantages — and disadvantages? What can it teach us today, in the very different world of 1995? David Friedman holds your attention for all of this fascinating talk. **Audio: \$5.95. Video: \$19.50.**

Is Cyberspace Liberspace?

David Friedman, Leon Hadar, Pierre Lemieux, and Ross Overbeek debate the impact the Internet, encryption, virtual reality, electronic money, and other technological innovations will have on the political realm. Is cyberspace leading us toward greater individual freedom? Or is it all cyberhype? **Audio: \$5.95. Video: \$19.50.**

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The honeymoon seems to be over for such green giants as the Sierra Club and the Wilderness Society, with their bloated bureaucracies and statist politics. But is the bell tolling for the environmental movement as a whole? And where do free-market environmentalists fit in? Fred Smith, Randal O'Toole, Jane Shaw, Rick Stroup, and R.W. Bradford explore these and other questions. **Audio: \$5.95. Video: \$19.50.**

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Randal O'Toole is a libertarian who has worked with environmentalists for years, observing the strategies of one of the most successful political movements of the twentieth century. In this fascinating talk, he applies his insights to the battle for freedom.

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The principal opponent of any contemplated system of encrypted digital cash is the Leviathan that feeds off money-laundering laws. The edicts against money-laundering are attempts to make all financial transactions visible, while the aim of anonymous digital cash is to keep financial activities private. People-monitoring systems such as those utilizing PROMIS track individuals by the electronic trails they leave throughout the financial system. But anonymous digital cash is specifically designed to make such tracks virtually invisible.

Money-laundering, as Barry A.K. Rider has frankly observed, "amounts to a process which obscures the origin of money and its source."¹⁶ On that basis, the pursuit of anonymity in financial transactions is money-laundering.

At the beginning of the '90s, money laundering was an offense in only four of the (then) twelve members of the European Union. Now all twelve have made it a crime. In a scramble to justify continued large budgets, intelligence organizations have hopped on the anti-money-laundering bandwagon. The U.K. intelligence service MI5, in an attempt "to justify its existence after reviewing its future in the light of a probable reduction in counter-terrorist operations in Northern Ireland," has been "pressing for a change in the law which would see it involved in countering drug-trafficking, money laundering, computer hacking, nuclear proliferation and animal rights groups — a far cry, say police, from its original remit to 'protect national security.'"¹⁷

Even accountants are getting in on the act. Australia's Institute of Chartered Accountants has issued "a set of guidelines on money laundering, including a recommendation that client confidentiality take second place to public interest if an accountant suspects laundering is occurring."¹⁸

So the coming battle over financial footprints is inevitable, and perhaps inevitably bloody. But in the end it is the money-laundering regulations that will have to go. For one thing, advances in the technology of anonymity are putting financial privacy within the reach of everyone. For another, there is a growing awareness

that the existing laundering statutes have little or no effect on terrorism or drug-dealing, but instead are related to an upswing in government-sponsored harassment of targeted political groups.

Electronic Finance 101

Many of the basic features of electronic cash — variously referred to as "e-cash," "digital cash," "digital money," and so on — may sound novel to those unfamiliar with the financial markets. But much of the financial sys-

tem is already on an electronic basis, and has been so for years.

To see why, consider the foreign exchange market.¹⁹ This is a largely interbank market for trading the currency of one country for the currency of another: dollars for pounds, dollars for yen, and so on. But if I, as an interbank trader, sell U.S. dollars for British pounds, what are the actual logistics of the transfer? Consider the problems that would be imposed by a cash-based market. The standard transaction size in the foreign exchange mar-

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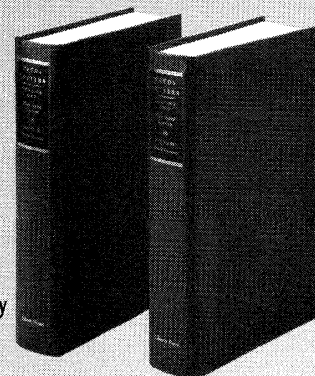
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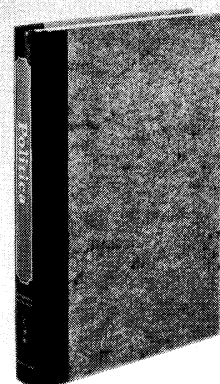
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Foreword by Daniel J. Elazar

This is "one of the most important works of political philosophy from seventeenth-century Germany," notes Professor Patrick Riley at the University of Wisconsin. "American readers especially will find *Politica* fascinating. Althusius' work offers the most subtle understanding of federal government before the writing of *The Federalist*."

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ket is an amount of currency equivalent to U.S.\$1 million. A \$20 bill weighs about one gram. So, if transacted in cash, the \$1,000,000 — 50,000 bills — would weigh 110 pounds. Imagine the cost of such a transaction: I'd have to fill up a suitcase with \$20 bills, lug the 110-pound suitcase to a Manhattan taxi, take a long ride to Kennedy Airport, fill out a Currency or Monetary Instrument Report, check my baggage, arrive at Heathrow seven hours later, retrieve my baggage, go through customs, and catch a cab to the appropriate British bank in central London. Once there, I would pick up the equivalent in pounds sterling and reverse the whole process. Anyone trying to change dollars into pounds will go to some other bank where he doesn't have to pay for my plane tickets and cab fares, not to mention my courier salary and that lunch I had at the Savoy before I headed back to New York.

Transaction costs are too great for the market to be organized on a cash basis.

In the present markets for cocaine and heroin, the weight of the drugs is less than the weight of the cash proceeds. In the early '80s, drug transactions were often settled for cash. Paper money was actually loaded into suitcases and moved around. To save time, however, the cash wasn't counted. After a spot check of bills for denomination and authenticity, the suitcases were simply *weighed* to determine the total value. This measurement was accurate enough. But foreign exchange trading does not suffer from the burdens of illegal drug trading, and has evolved to a more efficient standard.

To see how international money transfers really work, consider the case of a Greek immigrant who has opened a restaurant in Boston, has made a little money, and wants to send some cash to the folks back home. In earlier days he probably would have gone down to the Western Union office and handed the attendant cash to "wire" to his mother in Athens. The Western Union office in Boston would put the cash in its safe, or perhaps deposit it in a Boston bank, and would meanwhile send a message to the Athens office: "Give so-and-so X dollars" (or, more likely, "Y drachmas"). That is, the cash

received was not the same as the cash sent. All that was sent was a message. But no one cared, because cash itself is *fungible*: the dollar that is taken out is interchangeable with, but not the same as, the dollar that was put in. The bills are also *unregistered*: no particular name is associated with any particular serial number.

In this example, bills were put into the safe at one end of the transaction, and different bills were taken out at the other. Consider now a slight modification to this scenario: Eurobond

People-monitoring systems track individuals by the electronic trails they leave throughout the financial system. But anonymous digital cash is specifically designed to make such tracks virtually invisible.

trading. Eurobonds are generally placed in the depository systems operated by Euroclear in Brussels or Cedel in Luxembourg. Once bonds enter the vault, they generally stay there, because of transactions costs. If a trader in Frankfurt sells a GM Eurobond with a coupon of $7\frac{1}{8}\%$ and maturing in 2012 to a trader in London, they both send messages to Euroclear. Euroclear compares the two sets of instructions, checks the cash balance of the London trader, then switches the computer label of ownership of the bond to the London trader, and the ownership of the requisite cash to the Frankfurt trader. Again, however, the bonds are not registered, and are fungible within the parameters of a particular issue. There may be several thousand GM Eurobonds with a coupon of $7\frac{1}{8}\%$ and maturing in 2012, and the London trader owns one of them, but his ownership is not attached to a particular bond serial number.²⁰

This is pretty much the way the foreign exchange market works. If a New York bank deals dollars for deutschemarks with a London bank, they send each other confirmations through SWIFT. Then the New York bank will

turn over a dollar deposit in New York to the London bank, while the London bank will turn over a deutschemark deposit in Frankfurt to the New York bank. The Frankfurt bank simply switches the name of the owner of the deutschemarks from the London bank to the New York bank. The New York bank now owns X-number of fungible, unregistered (but completely traceable) deutschemarks at the Frankfurt bank.

"I remember my shock when I learned that the fastest way for two banks in Hong Kong to settle a dollar transaction was to wire the money from Hong Kong to New York and back again," said Manhattan Assistant District Attorney John Moscow.²¹ He was shocked because he didn't understand how the process works. The "wired" dollars were sitting in New York all along as numbers in a bank computer, originally labeled as owned by the first Hong Kong bank. After the transaction is completed, they are still in the same place, but labeled as owned by the second Hong Kong bank. There is nothing mysterious about this at all.

Now let's modify the basic scenario again: Yankee bond trading. Yankee bonds are dollar-denominated bonds issued by non-U.S. citizens in the U.S. bond market. Yankee bonds are registered. If you buy a bond, your name is attached to a particular bond with a particular serial number. If someone steals the bond, he will not be able to receive interest or principal, because his name is not attached to the bond serial number. So when Yankee bonds are traded, the seller's name is removed from the serial number of the bond being sold, and the buyer's name is attached.

To this point we have talked about things that potentially exist in physical form. I can take a bond out of the vault, or I can cash in my electronic deutschemarks for printed bills. The final modification to these various scenarios is to get rid of the physical paper entirely. Such purely electronic creatures already exist: U.S. Treasury bills — short-term debt instruments issued by the U.S. government. You buy, for example, a \$10,000 T-bill at a discount, and it pays \$10,000 at maturity. But you don't see a T-bill certi-

cate, because there isn't one. T-bills are electronic entries in the books of the Federal Reserve System. You can trade your T-bill to someone else by having the Fed change the name of the owner, but you can't stuff one in your pocket. You can "wire" your T-bill from one bank to another, because the "wire" is just a message that tells the Federal Reserve bank to switch the name of the owner from one commercial bank to another.

Smart and Not-So-Smart Cards

So most of the financial system is already electronic, and "wiring" money doesn't correspond to the mental image of stuffing bills down a phone line. To bring this story closer to home, let's consider how most of us use a computer and a modem on a daily basis to make financial transactions. Even if we don't own a modem. Or a computer. Let's talk about smart and dumb cards — ATM cards, credit cards, phone cards, and the like.

Some "smart cards" have microprocessors and are actually smart (and rel-

atively expensive). They're really computers, minus a keyboard, video screen, and power supply. Others, such as laser optical cards and magnetic stripe cards, are chipless and only semi-smart.

Laser optical cards are popular in Japan, and can hold up to four megabytes of data — enough for your tax and medical files and extensive genealogical information besides. The cards are a sandwich, usually a highly reflective layer on top of a nonreflective layer. A laser beam is used to punch holes through the reflective layer, exposing the nonreflective layer underneath. The presence or absence of holes represents bits of information. A much weaker laser beam is then used to read the card data. You can later mark a file of information as deleted, or turn it into gibberish, but you can't reuse the area on the card.

Magnetic stripe cards, popular everywhere, don't hold much information. An ATM card is one example. Data is recorded on the magnetic stripe on the back of the card similar to the way an audio tape is recorded.

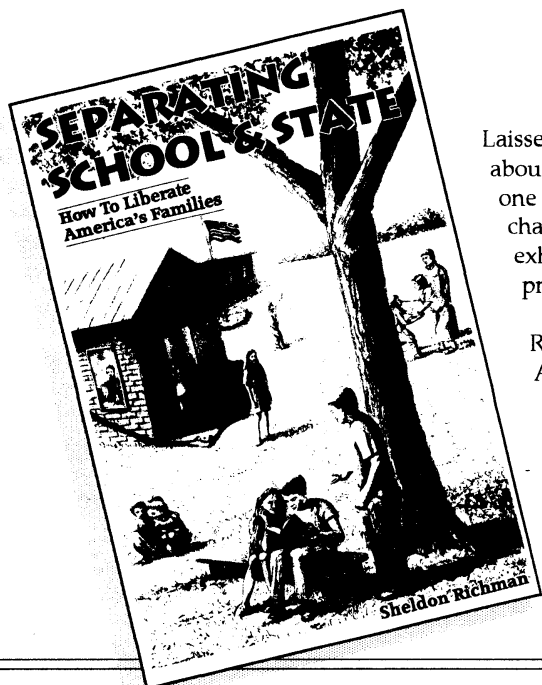
There are three tracks, the first of which is reserved for airline ticketing.²² This track holds up to 79 alphanumeric characters, including your name and personal account number (PAN). The ATM doesn't actually use the first track for transactions, but it may read off your name, as when it says, "Thank you, Joe Blowup, for allowing me to serve you." The second track contains up to 40 numerical digits, of which the first 19 are reserved for your PAN, which is followed by the expiration date and other information. The third track will hold 107 numerical digits, starting again with your PAN, and perhaps information related to your PIN (personal identification number, or "secret password"), along with other information, all of which potentially gets rewritten every time the track is used.

The ATM machine into which you insert your card is itself a computer. The ATM typically has both hard and floppy drives, a PC mother-board that contains the microprocessor, and a power supply — as well as drawers for deposits, cash, and swallowed cards. If

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the ATM is "on-line" (i.e., connected to a distant central bank computer, which makes all the real decisions), then it also has a modem to communicate over phone lines with the central computer. When you make a request for cash, the ATM machine compares your password to the one you entered. If they are the same, it then takes your request and your PAN, encrypts the information, and sends it on to the central computer. The central computer decrypts the message, looks at your account information, and sends an encrypted message back to the ATM, telling it to dispense money, refuse the transaction, or eat your card.

Somewhere between the ATM and the authorizing bank, there is usually a "controller," which services several ATMs. The controller monitors the transaction, and routes the message to the correct authorization processor (bank computer). Some transactions, for example, will involve banks in different ATM networks, and the transaction will have to be transferred to a different network for approval. The controller would also generally monitor the status of the different physical devices in the ATM — to see that they are operating properly and that the machine is not being burglarized.

Consider some of the security problems in this framework. The first duty of the local ATM is to verify you've entered the correct PIN. A typical way of doing this is to recreate your PIN from your card information and compare it to the one you entered.

Here is a general example of how PINs are created (there are many variations). The bank first chooses a secret 16-digit "PIN key" (PKEY). This key will be stored in the ATM's hardware. The PKEY is then used as a DES-encryption key to encrypt 16 digits of your account number, which the ATM

reads off your card. The result of the encryption is a 16-digit hexadecimal (base 16) number. Hexadecimal numbers use the digits 0 to 9 and also the letters A to F (the latter standing for the decimal numbers 10 to 15). Next, a table is used to turn the 16-digit hexadecimal number back into a 16-digit decimal number.²³ The first four digits of the resulting 16-digit number are the "natural PIN." (If you are allowed to choose your own PIN, a four-digit "offset" number is created, and stored on the third track of your ATM card. This offset will be added to the

It is not clear how replenishing one's card balance at an ATM is any more convenient for the user than getting cash at an ATM.

natural PIN before it is compared to the one you entered at the ATM keyboard.)

Since this comparison between the natural and entered PIN is done locally in the ATM hardware, the customer's PIN is not transmitted over phone lines. This makes the process relatively more secure, assuming no one knows the PKEY. But if an evil programmer knows the PKEY, he can create a valid PIN from any customer's account number. (Customer account numbers can be found by the hundreds on discarded transaction slips in the trash bin.) He can easily and quickly loot the ATM of its cash contents.

The security problems worsen when the ATM gets a "foreign" card. A foreign card is essentially any card from any bank other than the one that runs the ATM. The local ATM does not know

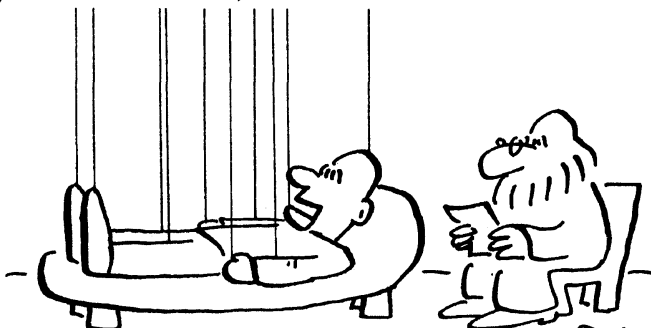
the PKEYs of these other banks, so the PIN that is entered at the ATM must be passed on to a bank that can authorize the transaction. In this process, the account number and PIN will be encrypted with a communication key

(COMKEY), and then passed from the ATM to the ATM controller. Next, the account number and PIN will be decrypted at the controller, and then re-encrypted with a network key (NETKEY) and sent on to the proper bank.

Foreign PINs give the evil programmer three additional possibilities for defeating security. The first way is to get hold of the COMKEY. He then taps the line between the ATM and the controller, and siphons off account number/PIN pairs. A second possibility is to get access to the controller, because the account number/PIN pairs may be temporarily in the clear between encryptions. The third possibility is to obtain the NETKEY, and tap the line between the controller and the foreign network.²⁴

The COMKEY and NETKEY are generally transmitted over phone lines, so the chances of acquiring them are pretty good. These two encryption keys are themselves usually transmitted in an encrypted form, *but the keys used to encrypt them are sometimes sent in the clear*. Thus, while banks are generally somewhat careful with their own customers, they are often quite helpful in giving rip-off artists access to the customers of other banks. The evil programmer simply reads off the encryption keys and uses them to decrypt the COMKEY and NETKEY, which are in turn used to decrypt account numbers and PINs.

The way to solve these security problems is to use smart cards and public-key cryptography. That way, banks could transmit their public keys in the open without worrying about evil wire-tapping programmers. Customer messages encrypted with a bank's public key could only be decrypted with the bank's private (secret) key. Digital cash issued by the bank could be signed with the bank's private key, and anyone would be able to check that the cash is authentic by using the bank's public key. In addition, the bank would not be able to repudiate cash signed in this way, because only the bank had access to its own secret key. Communications between ATM machines and bank computers could also take place with randomly-generated encryption keys that can be determined by each of the



"I feel so manipulated!!"

two parties, but which could not be discovered by someone who listens in on both sides of the traffic.²⁵

Are Smart Cards the Mark of the Beast?

Besides optical and magnetic stripe cards, there are two types of "chip" cards. Chip cards are basically any cards with electronic circuits embedded in the plastic. One type of chip card, called a memory (or "wired logic") card, doesn't have a microprocessor and isn't any smarter than the cards we discussed previously. Prepaid phone cards are of this type. They may have about 1K of memory, and can execute a set of instructions, but can't be reprogrammed.

Then there are the truly smart cards, which have a microprocessor and several kilobytes of rewriteable memory. Smart cards allow for greatly increased security, since access to their data is controlled by the internal microprocessor. And there can be built-in encryption algorithms. This versatility has made smart cards controversial.

The negative reputation arises from certain cases where smart cards were imposed by force, as well as from smart-card storage of biometric data. The use of smart cards became a prerequisite for Marines to receive pay-

It is smart cards more than any other aspect of banking technology that will allow for financial privacy. It's simply a matter of taking control of the technology.

checks at Parris Island. Fingerprint-based smart card ID systems were implemented by the Los Angeles Department of Public Social Services and the U.S. Immigration and Naturalization Service. The "childhood immunization bill" introduced by Sen. Ted Kennedy (D-Mass.) would have used smart cards to track vaccinations of all children under six years of age, together with at least one parent, across geographical areas. Access con-

trol at the U.S. Department of Energy Hanford Site requires smart card badges that store the cardholder's hand geometry. Security access through retinal scan patterns stored in smart card memory have been tested at the Sandia National Laboratory.

Visa recently announced plans for creating an "electronic purse." The purse would be a reloadable spending card. You would charge the card up at an ATM machine, where it would suck some cash value out of your account and store it in memory. You would then use the card instead of cash to make small purchases. Visa is attracted by the estimate that consumer cash transactions in the U.S. are about five times the size of bank-assisted transactions (those that use checks, credit cards, and debit cards). Visa has been joined in this endeavor by a consortium that includes VeriFone, the leading supplier of point-of-sale transaction systems, and Gemplus, the leading manufacturer of smart cards.

There may be increased security in the use of an electronic purse, but it is not clear how replenishing one's card balance at an ATM is any more convenient for the user than getting cash at an ATM. Since Visa is not advertising the privacy aspects of electronic purse payments, one must assume this feature was omitted in the planning. Hence a cynic could conclude that the "electronic purse" is little more than a Rube Goldberg device which, by substituting for cash, will create a better set of PROMIS-type transaction records.

These and other examples suggest possible uses of smart cards for more general surveillance and social control. The truly paranoid envision the use of a single smart card for every financial transaction, medical visit, and telephone call. This information would be sent directly to a common PROMIS-like database, which would constitute a record of all your activities. In addition, they suggest, "your card could be programmed to transmit its identification code whenever you use it. So you (or your card, anyway) could be instantly located anywhere on earth via the satellite-based Global Positioning System."²⁶

But smart cards don't have to be used this way. Recall that mainframe

computers once seemed destined to turn the average citizen into Organization Man, a creature to be folded, spindled, and mutilated in lieu of IBM's punched cards. The advent of the personal computer, however, showed that the same technology could be a tool of individual freedom and creativity.

There is nothing intrinsically evil in storing a great deal of information about ourselves, our finances, and our current and future plans. That is, after all, exactly why some of us carry around portable computers. But in this case the use of the computer is volun-

Digital cash transactions should be untraceable yet at the same time enable you to prove unequivocally whether you made a particular payment.

tary, and we ourselves control both access to and the content of the information. The same may apply to smart cards. It is smart cards more than any other aspect of banking technology, I believe, that will allow for financial privacy through cryptology, for anonymous and secure digital cash transactions. It's simply a matter of taking control of the technology and using it to enhance personal freedom.

Electronic Cash the Way It Ought to Be

Suppose we had it our way. Suppose we sat down to create digital cash that had all the right properties. What would these be? Think of the attractive properties of currency — physical cash.²⁷

- (1) Physical cash is a portable medium of exchange. You carry it in your pocket to give to people when you make purchases. The digital equivalent of this process could be provided by smart cards, which would actually improve on the mobility of physical cash: the weight of \$1,000,000 in digital money is the same as the weight of \$1.
- (2) You would want the ability to make digital cash payments off-line, just like you can with

physical cash. A communication link between every store you shop at and your bank's authorization computer shouldn't be required. Moreover, if digital cash is to have all the desirable qualities of physical cash, you should be able to transfer it directly to another smart-card-carrying individual. Smart cards that could connect directly to other smart cards would be ideal in this respect, and would represent an improvement over physical cash. Even if everyone observed two smart cards communicating, they would have no way of knowing whether the transaction involved \$5 or \$50,000. There would be no need to slide money under the table.

- (3) Digital cash should be independent of physical location — available everywhere and capable of being transferred through computer and other telecommunication channels. So we want a smart card that can jack into the communication nodes of the global information network. One should be able to pop into a phone booth to make or receive payments.
- (4) Got change for a dollar for the quarter slots in the pool table? Just as we "make change" or divide physical currency into subunits, so should electronic cash be divisible. Electronic calculators can perform an operation known as division, and so can third-graders. So smart cards ought to be able to handle this also, even if it presents a few difficulties for theoretical cryptology.
- (5) To be secure against crooks and rip-off artists, digital cash should be designed in such a way that it can't be forged or reused. We wouldn't want people spending the same money twice, or acting as their own miniature Federal Reserve System, creating money from nothing. This cryptological problem is different between on-line and off-line cash systems. In on-line systems the bank simply checks whether a piece of cash has been spent before.

Proposed off-line systems rely on a framework developed by David Chaum. Chaum has been

the preeminent cryptological researcher in the field of digital cash.²⁸ In his framework for off-line systems, one can double-spend the same piece of digital cash only by losing one's anonymity. This has considerable value, because the bank or person, knowing the identity of the devious double-spender, can send out a collection agent.

But I consider this way of enforcing the "no double-spending" rule a serious flaw in Chaum's framework. Catching thieves and rip-off artists is not the comparative advantage of either banks or the average citizen. (Banks are usually only good at providing transactions services, and charging interest and fees.) Would you really want to see, say, The First Subterranean Bank of Anonymous Digital Cash merge with the Wackenhut Corporation? Luckily, however, there are alternative approaches that will prevent double-spending from ever taking place.²⁹

- (6) The most important requirement for individual freedom and privacy is that digital cash transactions should be untraceable yet at the same time enable you to prove unequivocally whether you made a particular payment. Untraceable transactions would make impossible a PROMIS-type data-sorting of all your financial activities. In Joe Blowup's financial chronology, discussed previously, you wouldn't be able to connect Joe Blowup's name to any of his purchases. Similarly, no one would know about the money you wired to Liechtenstein, your purchase of Scientology e-meters and the banned works of Maimonides, or your visits to the Mustang Ranch. Privacy-protected off-line cash systems can be made nearly as efficient as similar systems that don't offer privacy.

Parallel Money Systems

To set up a digital cash service meeting these requirements, you would need to buy the rights to use patents held by David Chaum and RSA, or equivalent rights, and then set

up a bank to issue accounts and smart cards in a legal jurisdiction where the service won't run afoul of the local banking and money-laundering laws. Of course, in many other countries the money-laundering statutes will be quickly amended in an attempt to apply the same reporting requirements to anonymous digital cash transactions as currently apply to currency transactions. Such laws will probably generate little compliance.³⁰ Since the transactions in question are unconditionally untraceable, there won't be any evidence of wrongdoing.

Anonymous digital cash will arise as a parallel system to the existing one of ordinary money. Therefore, there will be a record of the initial entry into the anonymous system. For example, you might write a \$10,000 check drawn on Citibank to The First Subterranean Bank of Anonymous Digital Cash. This check will be recorded, but no subsequent transactions will be traceable, unless you make transfers back out into the ordinary banking world. Over time, as more people begin to use the anonymous cash system, some wages will be paid in anonymous digital cash. This will enable all income transactions, as well as expenditures, to take place entirely outside the ordinary monetary system.

Since the anonymous cash system will exist parallel to the existing system, a floating exchange rate will be created by market transactions between ordinary money and anonymous money. Think, by analogy, of a currency board. Such a board issues domestic currency through the purchase of foreign "hard" currencies. In the same way, anonymous digital cash will be issued through the purchase of ordinary cash or bank deposits. That is, when you make a deposit at The First Subterranean Bank of Anonymous Digital Cash, First Subterranean will issue you an anonymous digital cash account, and will in turn acquire ownership of the ordinary money. The exchange ratio will not necessarily be one-for-one: anonymous digital cash that does not meet some of the ease-of-use requirements listed previously may exchange for less than one ordinary dollar. On the other hand, digital cash that meets all those requirements will trade at a premium, because anonymous digi-

tal cash has enhanced privacy aspects. Money-launderers, for example, currently get about 20% of the value of money that is made anonymous. That represents an exchange rate of 1.25 "dirty" dollars for one "clean" dollar. The market will similarly determine the exchange ratio between ordinary and anonymous digital money.

In the 1960s, various tax and regulatory burdens and political risk considerations gave rise to a new international money market, the Eurodollar market, which was created specifically to get around these regulatory and political roadblocks.³¹ When a junior staff mem-

ber of the Council of Economic Advisors named Hendrik Houthakker discovered the Eurodollar market's existence, he thought it was an important development, and recommended that some discussion of it be included in the annual *Economic Report of the President*. "No, we don't want to draw attention to it," he was told. When Houthakker himself later became a member of the Council under Nixon, he made sure the Report included a discussion of the Euromarkets. But it was only much later, in the mid-'70s, that the Report said, in a burst of honesty: "The emergence and growth of the

Eurodollar market may be viewed as a classic example of free-market forces at work, overcoming obstacles created by regulations, and responding to market incentives to accommodate various needs."³²

In a similar way, some future report will say that "the emergence and growth of anonymous digital cash may be viewed as a classic example of free-market forces at work, overcoming obstacles created by surveillance technologies and money-laundering regulations, and responding to market incentives to accommodate the public's need for financial privacy." □

Notes:

1. Quoted in *Money Laundering Bulletin*, January 1995, p. 3.
2. Bryan Burrough, *Vendetta: American Express and the Smearing of Edmond Safra* (HarperCollins, 1992), pp. x, xi.
3. Sec. 1517 (c) states: "Any financial institution that makes a disclosure of any possible violation of law or regulation or a disclosure pursuant to this subsection or any other authority, and any director, officer, employee, or agent of such institution, shall not be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure."
4. "A completely cashless economy where all transactions were registered would create enormous problems for the money launderers" (emphasis added), *Report of the Financial Action Task Force on Money Laundering*, February 7, 1990.
5. Kirk W. Munroe, "Money Laundering: The Latest Darling of the Prosecutor's Nursery," law firm of Richey, Munroe & Rodriguez, P.A., Miami, Florida, 1994.
6. President's Commission on Organized Crime, *The Cash Connection: Organized Crime, Financial Institutions, and Money Laundering* (U.S. Government Printing Office, October 1984). This definition is certainly more coherent than Michael Sindona's circular statement that "laundering money is to switch the black money or dirty money . . . to clean money." The U.S. definition of money-laundering is found in 18 U.S.C. 1956, which was enacted in 1986, and strengthened in 1988, 1990, and 1992. It sets out three categories of offenses: transaction offenses, transportation offenses, and "sting" offenses:
Transaction Offenses: It is a money laun-

dering transaction crime for any person to conduct, or to attempt to conduct, a financial transaction which, in fact, involves the proceeds of specified unlawful activity, knowing that the property involved in the transaction represents the proceeds of some crime, and, while engaging in the transaction, with either (a) the intent to promote the carrying on of the specified unlawful activity, or (b) the intent to commit certain tax crimes, or with the knowledge that the transaction is designed at least in part (a) to conceal or disguise the nature, location, source, ownership, or control of the proceeds, or (b) to avoid a cash reporting requirement.

Transportation Offenses: It is a money laundering transportation crime for any person to transport, transmit, or transfer, or to attempt to transport, transmit, or transfer, a monetary instrument or funds into or out of the U.S., and, while engaging in the act, with either (a) the intent to promote the carrying on of specified unlawful activity, or (b) the knowledge that the monetary instrument or funds represent the proceeds of some crime, and the knowledge that the transportation, etc., is designed, at least in part, (i) to conceal or disguise the nature, location, source, ownership, or control of the proceeds, or (ii) to avoid a cash reporting requirement.

"Sting" Offenses: It is a money laundering crime for any person to conduct, or to attempt to conduct, a financial transaction which involves property represented to be the proceeds of specified unlawful activity, or property used to conduct or to facilitate specified unlawful activity, said representation being made by a law enforcement officer or by another person at the direction of, or with the approval of, a federal officer authorized to investigate or to prosecute §1956 crimes, and, while engaging in the transaction, with the intent to (a) promote the carrying on

of specified unlawful activity, or (b) conceal or disguise the nature, location, source, ownership, or control of the property believed to be the proceeds of specified unlawful activity, or (c) avoid a cash reporting requirement.

7. See Samuel J. Rabin, Jr., "A Survey of the Statute and Case Law Pertaining to 26 U.S.C. 60501 (Forms 8300)," in Fletcher N. Baldwin, Jr. and Robert J. Munro, *Money Laundering, Asset Forfeiture and International Financial Crimes* (Oceana Publications, 1994, three volumes).
8. Section 4702 of P.L. 100-690.
9. 31 C.F.R. 103.11(p) (1991).
10. "The means should, in fact, include access by Interpol to the telecommunications system SWIFT," *Draft Explanatory Report on the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime*, September 8, 1990.
11. *Money Laundering Bulletin*, March 1995, p. 3.
12. Curiously, however, some of the same set of characters were apparently involved on all sides: in drug-running, money-laundering, and the theft and modification of the PROMIS system. I will leave it to someone with more lawyers, guns, and money than I have to bring that part of the story to light.
13. U.S. Congress, Committee on the Judiciary, *The Inslaw Affair*, House Report 102-857, September 10, 1992.
14. Memorandum to Judge Nicholas Bua from Elliot Richardson, p. 34. The NSA, naturally, does not acknowledge the existence of such a chip, much less provide technical information. But in order to avoid detection of the chip's transmission signal by the organization being spied upon, the chip would be designed so its broadcast would be masked by the general — or some characteristic — electronic noise of the computer. This could imply a

low-probability-of-interception digital spread spectrum (SS) communication system with a broad bandwidth, perhaps with a transmission frequency in the range of 1–10 gigahertz. As a related example of this technique, a "low level wideband SS signal, can easily be hidden within the same spectrum as a high power television signal where each signal appears to be noise to the other." Quoted from "Spread Spectrum Techniques," in Geoff Lewis, *Newnes Communications Technology Handbook* (Oxford, 1994). The broadcast power requirements of such a chip would not be large, but rather similar to a walkie-talkie's. The information broadcast by the chip could then either be monitored locally and re-transmitted to satellite, or transmitted directly to a geosynchronous signals-collection satellite such as Magnum. The Magnum and other U.S. spy satellites are operated by the Air Force on behalf of the National Reconnaissance Office, while NSA does the signal processing. (I am grateful to John Pike, Director of Space Policy & CyberStrategy Projects, Federation of American Scientists, for advice on the information in this footnote. He is not responsible for any errors or the specific content of any statement.)

15. I have in mind an NSA operation. But recently, the CIA approached my own former company (which sells banking software) and proposed that it provide cover for their agents to enter foreign banks. The CIA also separately offered to pay \$100,000 for the customer list of a particular bank among the Swiss big four.
16. Barry A. K. Rider, "Fei Ch'ien Laundries

— the Pursuit of Flying Money," in *Money Laundering, Asset Forfeiture and International Financial Crimes*.

17. *Money Laundering Bulletin*, April 1995, p. 2.
18. *Ibid.*, p. 4.
19. Details of the foreign exchange, Eurocurrency, and Eurobond markets are covered at length in J. Orlin Grabbe, *International Financial Markets* (Simon & Schuster, 1995, third edition).
20. Eurobonds are bearer bonds. So if you have the bond in your pocket, you own it, in the same way you own the dollar in your pocket. The same goes for interest coupons — they are to be paid to bearer. Most Eurobond-issuing companies pay interest to Euroclear, which distributes the payments to the owners of the bonds stored in its depository vaults. But the companies are afraid that if the bonds are stolen, they will have to pay the same coupons again. Hence they insist coupons be clipped and destroyed as they are paid. When I visited Morgan Guaranty (which operates Euroclear) in Brussels in 1982, there were 20 employees whose full-time job was clipping coupons.
21. John W. Moscow, "The Collapse of BCCI," in *Money Laundering, Asset Forfeiture and International Financial Crimes*.
22. Details of the card size, layout, coding, and recording are laid out in ISO standards 7810 to 7813. The first track is sometimes called the International Air Transport Association track, the second the American Bankers Association track, and the third the Mutual Institutions National Transfer System track.
23. This may be as simple as assigning the numbers 0 to 5 to the letters A to F. If this assignment is made, the probability is three-fourths that a digit in the resulting decimal number is one of 0 to 5, while there is only one-fourth probability that a digit is 6 to 9.
24. Computer logs are often kept for each part of a transaction. So the evil programmer doesn't have to tap lines if he can get hold of the logs instead.
25. Public-key encryption is implemented in the Datakey smart card of the National Institute of Standards and Technology. This card uses the Hitachi H8/310 processor. Atmel and Phillips chips also include public-key encryption hardware, and allow algorithms to be implemented by the card's application designer. Smart and other chip card standards are laid out in ISO 7816. More on smart cards can be found in Jose Luis Zoreda and Jose Manuel Oton, *Smart Cards* (Artech House, 1994). The recent ANSI X9F standards include those for using public key systems to secure financial transactions. The communication link would involve two-way authentication using Diffie-Hellman key exchange.
26. From Clark Matthews, "Tomorrow's 'Smart Cards': Technical Marvels That Give Government Fearful Power," reprinted from *The Spotlight*, undated.
27. Some of the following points were broached in a different way by T. Okamoto and K. Ohta, "Universal Electronic Cash," *Advances in Cryptology — Crypto 91* (Springer-Verlag, 1992).
28. See David Chaum, "Achieving Electronic Privacy," *Scientific American*, August 1992; "Blind Signatures for Untraceable Payments," in D. Chaum, R.L. Rivest, and A.T. Sherman (eds.), *Advances in Cryptology — Crypto '82* (Plenum, 1983); "Online Cash Checks," in J.J. Quisquater and J. Vandewalle (eds.), *Advances in Cryptology — Eurocrypt '89* (Springer-Verlag, 1990); "Efficient Offline Electronic Checks," with B. den Boer, E. van Heyst, S. Mjolsnes, and A. Steenbeek, in *Advances in Cryptology — Eurocrypt '89*; "Cryptographically Strong Undeniable Signatures, Unconditionally Secure for the Signer" with E. van Heijst and B. Pfizmann, in J. Feigenbaum (ed.), *Advances in Cryptology — Crypto '91* (Springer-Verlag, 1992); "Numbers Can Be a Better Form of Cash than Paper," in D. Chaum, *Smart Card 2000* (North Holland, 1991); "Privacy Protected Payments: Unconditional Payer and/or Payee Untraceability," in D. Chaum and I. Schaumuller-Bichl (eds.), *Smart Card 2000* (North Holland, 1989); "Security Without Identification: Transaction Systems to Make Big Brother Obsolete," *Communications of the ACM* 28:10, October 1985; "Smart Cash: A Practical Electronic Payment System," in J. Bos and D. Chaum, *CWI-Report CS-R9035*, August 1990; "Untraceable Electronic Cash," with A. Fiat and M. Naor, in S. Goldwasser (ed.), *Advances in Cryptology — Crypto '88* (Springer-Verlag 1989).
29. "[P]rior restraint of double-spending can be achieved by using a tamper-resistant computing device that is capable of merely performing a signature scheme of the Fiat-Shamir type (of one's own choice), such as the Schnorr signature scheme" (Stefan Brands, "Highly Efficient Electronic Cash Systems," March 17, 1994).
30. I highly recommend Henry David Thoreau's essay "Civil Disobedience."
31. These included the interest ceilings set by the Federal Reserve's Regulation Q, Kennedy's Interest Equalization Tax, and the Foreign Credit Restraint Program. See Grabbe, op. cit., chapter 1.
32. *Economic Report of the President*, 1975.

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Critique

Mediocrity Bites

by Richard Kostelanetz

The NEA: the final insult.

An insider at the National Endowment for the Arts has finally revealed the major deficiency of that well-intentioned institution. The secret is not the NEA's slight support of putative pornography (which is no crime), nor its purported bias toward the esthetic avant garde (which isn't true). According to Joseph Epstein, a consummate insider — for over two decades editor of the Washington-based *American Scholar*, and for six years a councilor (trustee) of the NEA — its principal failure is its support of mediocrity, its preference for people who have done little and are not likely to do much more. "Mediocrity, the question of what might be called quality control, was rarely discussed during my time at the NEA," Epstein concludes in a recent *Commentary* article (April 1995). "It could not be."

As I have noted in these pages before ("Subsidized mediocrity," May 1990), the dominant characteristic of the annual lists of winners of, say, writing fellowships from the NEA, both now and in the past, is that nearly all the names are unfamiliar. The recipients are neither commercial writers nor small-press celebrities, neither widely loved nor widely despised. You can get a similar impression of unfamiliarity by looking at the lists of winning visual artists or composers in NEA competitions or winning scholars in competitions at the companion National Endowment for the Humanities.

This is not a new phenomenon; it has characterized grantwinners for decades. You may rightly wonder by

what hocus-pocus these people, rather than others, were chosen. After all, you don't get any sense of rampant anonymity from looking at the beneficiaries lists from the Guggenheim or MacArthur Foundations.

The problem at the NEA/H is not that the best don't apply but that they are so rarely rewarded. In this respect, the NEH is probably worse than the NEA, if only for the former's persistent favoring of academic *apparatchiks* over independents who necessarily survive more competitive circumstances. Indeed, Epstein's failure to examine the NEH, which works out of the same Washington building as the NEA, makes one wonder about his motives and integrity. (What is also lacking from his memoir is what he did as an insider to combat the mediocrity. I know of at least one example where he behaved otherwise, and thus suspect more.)

The initial difficulty with this critique is that mediocrity is a hard charge to prove. You need to know more about culture and excellence than most newspaper reporters have, not to mention their editors, to identify a list of nonentities. A major problem with Epstein's essay is that he

"proves" mediocrity by citing familiar, overly publicized examples that he thinks *Commentary* conservatives would find offensive. But these, necessarily, are not unknowns. Nor are all of them mediocre.

To get a surer sense of this sweet tooth for mediocrity, look at cultural funding in other countries. At the Canada Council there is a stronger obligation to support the best, if only because the Council's purpose is insuring the survival of Canadian culture. Everyone involved there knows this won't happen by distributing purses to anonymities. (The Canadian independent filmmaker R. Bruce Elder recently expressed surprise that a widely published American writer we both knew, honored both here and abroad, had never received support from the NEA. "It could not be," I had to tell my friend — this writer's publication record counted for nothing at the NEA and indeed might be held against him. Someone like him would have been regarded differently in Canada, Elder assured me.)

In my observation, German cultural authorities operate under the assumption that they must support the best, the very best, if they are to

respect not only themselves but taxpayers' money. To do anything less would sabotage the reputation of enlightened patronage that marks a great country. It's easy for a skeptical outsider to mock German smugness about cultural discriminations but less easy to dismiss the quality of the results. (Ask many Germans why Germany is a superior country and they will cite as a reason such cultural support, particularly of opera and theater. No sane American could make that claim.)

One gets the unfortunate impression, first, that the folks at the Endowments have so little respect for American possibilities that they would prefer to make other First World countries look better, and second, that they couldn't smell the best even if it were passed directly under their noses. One truth that Epstein dares not utter, writing in the editorially authoritarian and self-consciously neoconservative *Commentary*, is that such mismanagement has been worse during Republican regimes.

When Epstein blames the NEA mediocrity partly on a lack of leadership, one implicit conclusion of his critique is that the most persuasive reason for dismantling the Endowments has simply been administrative insufficiency. My opinion is that the lack of leadership complements the nature of annual *ad hoc* panels whose

ill-chosen members see a once-in-a-lifetime opportunity to reward friends, lovers, and debtors, in addition to learning from the inside about Endowment chicanery, before beating it safely home. (That explains why the current list of winners, particularly at the NEH, includes a disproportionate number of previous panelists.)

A principal failure of the Endowments has been their inability, or unwillingness, to improve the economy of American culture and thus eliminate our traditional reputation for cultural philistinism. Anyone familiar with any art can identify major figures who never received much, if any, NEA/H support, who are still economically struggling, whose productive future as artists/scholars is threatened. I'm talking not of people I think important, but of individuals recognized by many, whose names often appear in the histories of their respective arts. Discriminating critics in the future will inevitably use these individuals as a measure for the failure of American governmental patronage, much as earlier generations of under-supported major American figures (Walt Whitman, Thorstein Veblen) have been used to indict private patronage in their times.

Anyone familiar with the culture of applications can remember many promising projects that never happened for lack of support. Other major

figures, especially of an avant-garde orientation, continue to earn more of their incomes abroad than here, to our embarrassment. The worst thing to be said about the National Endowments is that the KGB couldn't have done a more subversive job if it tried.

Whether the Endowments self-destruct of their own incompetence or are terminated for weaker reasons, one shouldn't fear the end of American culture. A truth kept secret by the NEA's defenders is that so much has happened — and will continue to happen — in America wholly without them. The reason is not merely that the preference for mediocrity, sort of known to everyone, has not bestowed persuasive cultural authority on NEA/H beneficiaries, but that this support has finally been so slight. Epstein cites these statistics: "Federal support for the arts costs the taxpayer only 64 cents a year, whereas the figure in Germany is \$27 and in France and Canada it is \$32." That means the NEA/H bureaucrats could not become cultural czars comparable to those in the old Stalinist countries *even if they tried*.

To some, this discrepancy means that America has been self-consciously bush league. To others, it means that Americans have been justifiably dubious about the benefits of government cultural largess. You don't pay your money and you get your choice. □

Alexander, "Travels in Bosnia and Points West," *continued from page 32*

us flinched and hid, but John simply sat and grinned. "Nothing bad can happen to me in *my* Bosnia," he told us. He loves this country to madness.

The last lecture is awful. The speaker is a slow, agonizingly cheerful Austrian named Stoyan, who tells the audience at length that they should forgive their enemies, turn the other cheek to the Serbs, sit down with the Croats once more. The audience of veterans, widows, widowers, and wound-sporting survivors is polite in a tight-lipped way. As Stoyan rambles, I doze in the heat, hoping some poor local would off the man. Suddenly a quiet economics professor leaps to his feet and pounces on a fat grasshopper, flinging the creature across the audience, where it lands at the feet of another scholar. The two

men pounce, joined by others who leap across chairs. The mumbling Austrian stares.

The EU threatens to leave us in Mostar, then sends a van at the last possible moment. Our driver (dazzling in all-white EU uniform) guides us along the yard-wide labyrinthine death-trap blind-curve shell-pocked roads. We cross mountains, valleys, sinkholes, and lakes, then descend into Split.

I take the bus to the airport and at last find my damn suitcase. For the rest of my trip I revel in the luxury of a hairbrush, changing shirts three times a day.

Thursday, 27 July

It's hard to enjoy Split. The natives are arrogant, very well-dressed, obses-

sively Western. The Ustashe graffiti is now unbearably obscene. Croat Army soldiers roam the streets — more of them than usual. We do not know about Operation Blitz yet. Pictures of the Pope and Tudjman are everywhere.

The hotel has a new clerk, a demented Croat who thinks he's a Scotsman. "We arre going to hunt the monsterrr," he says, then quotes Burns.

John buys an issue of the *Feral Tribune*, Croatia's only dissident paper. The masthead describes the journal as anarchist and Satanist. Much better.

Friday, 28 July

We fly out of Split, then Zagreb. More UNPROFOR troops, tanks, and aircraft. The airport is still not called *aerodrom*. □

Legal Report

High Noon for the Feds?

by David J. Owsiany

Has the federal government's authority reached its peak?

Since the adoption of the Constitution, the federal government has grown from an institution with limited, enumerated powers to one of practically limitless scope and authority. In late April, the U.S. Supreme Court issued an opinion, in the case of *U.S. v. Lopez*, that may signal, finally, a limit on this ever-expanding set of powers.

The founding fathers' view of the federal government seems radical to the political elite of today. In *Federalist* #45, James Madison wrote:

The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the state governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State.

Article I, Section 8 of the Constitution enumerates the powers of Congress, including the power to "regulate Commerce" among the several states. It is this commerce power that has been the principal vehicle for the federal government's expansion of authority.

On March 3, 1817, President Madison vetoed a bill that pledged funds for "constructing roads and canals, and improving the navigation of water courses, in order to facilitate, promote, and give security to internal commerce among the several States, and to render more easy and less expensive the means and provisions for the common defense." In his veto message Madison wrote that the power to regulate commerce among the several states "can not include a power to construct roads and canals, and to improve the navigation of water courses."

Madison conceded that he was "not unaware of the great importance of roads and canals and the improved navigation of water courses, and that a power in the National Legislature to provide for them might be exercised with signal advantage to the general prosperity." However, he concluded, such a power was "not expressly given by the Constitution" and could "not be deduced from any part of the Constitution without an inadmissible latitude of construction."

For the most part, the commerce

power remained limited until the late 1930s. In the early years of the New Deal, the Supreme Court found several new, far-reaching federal laws — such as the Bituminous Coal Conservation Act of 1935, which set maximum hours and minimum wages for workers in coal mines — to be unconstitutional on the grounds that they were invalid uses of the commerce power. Franklin Delano Roosevelt eventually had the opportunity to change the character of the court by nominating justices who took a broad, expansive view of the authority of the federal government. By 1937, the Court found the National Labor Relations Act, which significantly redrew the relationship between employers and unions, to be a valid use of the commerce power because labor disruptions could affect commerce.

In the 1943 case *Wickard v. Filburn*, the Supreme Court upheld the Agricultural Adjustment Act of 1938, which permitted the secretary of agriculture to set quotas for the raising of wheat on every farm in the country. The court held that a farmer who

raised wheat for consumption on his own farm could be penalized by the secretary of agriculture if the farmer's wheat production exceeded his quota. Even though the wheat was consumed domestically on the farm, the court concluded that the farmer's activities could be regulated by the feds. The

Apparently, Clinton believes only the federal government can protect children.

Court had opened the floodgates. As Robert Bork has observed, the *Wickard* case "meant that the most trivial and local activities could be regulated by the federal government."

This broad reading of Congress' commerce power has been extended to criminal statutes in order to uphold federal laws that criminalize local activity. In the 1971 *Perez v. U.S.* case, the court upheld Title II of the Consumer Credit Protection Act, which made "loansharking" a federal crime. Justice Potter Stewart, the lone dissenter in *Perez*, pointed out that loansharking has no clear connection to interstate commerce and that local crime is the responsibility of the states. No other member of the court in 1971 recognized any limitation on the federal government to criminalize local activity.

But now — finally — in the *Lopez* case, the court has found a limit on the

commerce power. In *Lopez*, the court struck down the portion of the Gun-Free Zones Act of 1990 that made it a federal offense "for any individual knowingly to possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone." Writing for the majority, Chief Justice William Rehnquist commented that while Congress has broad authority under the Commerce Clause to regulate "numerous commercial activities that substantially affect interstate commerce," it cannot regulate each and every aspect of local schools.

Justice Stephen Breyer, in a dissent joined by Justices John Paul Stevens, David Souter, and Ruth Bader Ginsburg, indicated he would have upheld the Act. According to Breyer, Congress could have found that guns in schools "significantly undermine the quality of education in our Nation's classrooms." Breyer concluded that poor education caused by guns in our schools affects commerce because (1) inadequately educated graduates "must endure low paying jobs" and (2) communities and businesses must endure an inadequately trained workforce.

As Rehnquist pointed out, under Breyer's theory of the commerce power, Congress could mandate a federal curriculum for all elementary and secondary schools, since the curriculum relates to the adequacy of education, and that certainly has enough effect on commerce to confer congressional authority to act under the

Commerce Clause.

Following *Lopez*, the Clinton administration reacted as one might expect the federal government to do when it is told it cannot do something: it vowed to do something. Clinton asked Attorney General Janet Reno to find a way around the ruling. Apparently, Clinton believes only the federal government can protect children. It does not matter to him that more than 40 states already have laws criminalizing gun possession near schools similar to the federal law struck down in *Lopez*.

The founding fathers' approach to the commerce power is supported by at least one member of the court, Justice Clarence Thomas, who in a concurring opinion in *Lopez*, called for

The founding fathers' view of the federal government seems radical to the political elite of today.

Commerce Clause jurisprudence that "is more faithful to the original understanding" of the Commerce Clause. But the question remains whether the *Lopez* case marks a return to the founders' intent or merely an outer limit on the reach of federal power. Either would be welcome, but the former might indicate a shift in power away from the federal government to the states. □

"Reflections," continued from page 14

Potatoes are uncontrollable! You can do anything with a potato. You can bake it, boil it, fry it, mash it, stuff it. You can cover it with butter, margarine, sour cream, chives, or gravy. You can have French fries, German fries, American fries, home fries. You can make hash-brown potatoes! You can go to a yuppie restaurant and order 'new potatoes' or just stay in your living room with a big old bag of potato chips. You can start a meal with potato soup, move on to potato salad, and climax with potato pancakes.

"Potatoes, inserted in a glass and propped up on toothpicks, are a child's

first experience with the science of growth. Potatoes have eyes, about which much can be learned. And that's not all. Any science fair will demonstrate that a potato battery can actually be used to run a clock. And for younger children, there's Mr. Potato Head! He may not literally be a potato; he's some kind of plastic, of course; but his form is an homage to potatoes.

"The potato started off in the jungles of Brazil, it ruled as queen in the Andes, and it ended up on fancy tables by the rue Saint-Honoré. The potato is welcome everywhere. No tariffs, quotas, or agricultural-management

decrees can arrest its progress. If you can't grow enough other food to keep you alive, potatoes will do the job. Potato culture was one of the first large-scale efforts of scientific agriculture, and it was its greatest success. Since the eighteenth century, potatoes have supported the immense population of the northern hemisphere.

"The potato: how easy to buy! how delightful to eat! how simple to spell! Can anyone who trifles with the potato have good intentions?"

Think about this, Mr. Gingrich.

—SC

Aphorisms

Economical Cogitations

by Daniel B. Klein

Some folks are dissatisfied with free enterprise if it doesn't work perfectly, and satisfied with government if it works at all.

Bribery must stop, you say? Tell it to Schindler.

Affirmative action: Countering prejudice by providing a sound reason for it.

When the circus of politics is finished, the groundskeeper sweeps the litter into a pile and calls it "the law."

The Political Dialectic of Twentieth-Century America: The Conservative believes the government should run education, place a check on vice, fine-tune the economy, promote democracy abroad, and be led by a man in pin stripes. His opponent the Liberal believes the government should run education, place a check on vice, fine-tune the economy, promote democracy abroad, and be led by a man in plaid.

When the anti-capitalist holds profit-hungry business in contempt, he conveniently neglects the fact that business is the paid servant of customers and the served payer of employees.

The democratic faith comes in two varieties, the naïve and the sophisticated. The naïve democrat believes that if everyone would just be nice and participate, as in a town meeting, we can make it all work out. The sophisticated democrat recognizes the tender-minded folly of this view and is ready to face the tough truth: we must enlist qualified experts to make it all work out.

The dirigiste intellectual takes experience with scribblings about a subject for experience with the subject itself.

Is it the will to control that gives birth to the pretense of knowing, or is it the will to know that gives birth to the impulse to control?

Wisdom in economics: refined knowledge of the unknowableness of the economy.

The dispute between two economists over whether or not

the labor market is competitive is usually a dispute over the meaning of competition, just as the dispute between two lovers over whether or not he loves her is usually a dispute over the meaning of love.

Some economists are a riddle. On an issue-by-issue basis they are libertarians seven times out of ten, but when you put it all together you get a Clinton supporter. The answer to this riddle often lies in conjugal consideration.

Liberty is like licorice: some people hate it and some people love it.

The value of safeguarding a man's right to life against unjust force divided by the value of his life itself equals, on average, three hundred thousand.

To work its wonders the principle of individual liberty need not be mythologized, but only upheld. But to be upheld it must be mythologized.

The battle is not one between power and justice, nor between unjust power and just power. The battle is between unjust power and less just power.

Clever leftists miss the point when they contend that individual liberty is "mere" mythology. The point is that it is mythology worth consecrating.

The government's war on smoking is getting so outrageous, it is turning smokers into libertarians and libertarians into smokers.

Good taste favors *laissez faire* even for personal activities that show bad taste.

Laws that prevent the choosing of sin also prevent the choosing of virtue.

If we hold groups rather than individuals accountable, we all end up criminals.

May the socialist enter private industry, and the libertarian, government.

Examination

Undercover Economist

by Matt Asher

The Chicago school of economics they don't teach you about.

It's 2 a.m., and we're sneaking through the dark hallways of Robert Taylor Homes, one of the nation's poorest housing projects. Cold air rushes through the chain link fence that serves as an outer wall. Barely muffled sounds echo from behind the painted cinder blocks. Karen tugs at my arm, and we duck into a smoke-filled room. She lives here, on Chicago's South Side. I live on the North Side. Karen is black. I am white. She is here to sell bags of pot. I am here to solve a mystery.

Taking the expressways, it's a ten-minute drive from Robert Taylor Homes to Lincoln Park. If you had a nickel bag¹ of marijuana on the seat next to you, its selling value would double during the short trip, from \$5 to \$10. This could never happen on the open market. What economists call arbitrage would quickly set in, as people bought massive quantities on the South Side to sell on the North. But this is the black market, with peculiar rules stemming from its own peculiar nature.

For starters, there is no official contract enforcement on the black market. With the government out of the picture, disputes are often resolved by private force. So dealers and buyers take precautions to minimize disputes. Buyers go to dealers with a good reputation, and dealers try to feel out new customers to make sure they aren't dangerous, or cops. It is the risks of dealing that push black-market prices higher than their open-market counterparts. Dealers factor in the risks of their business tacitly, without formal T-balance accounting.

But even the greenest dealer I spoke with had some idea as to how much profit justifies how much risk.²

Demand for pot is generally not very price-sensitive. For a typical customer paying a typical price, the cost of getting high is about \$2, less than the cost of a fast-food meal. Someone who's developed a tolerance for the weed would need about \$6 worth — but that's still cheaper than a movie. As a result, the limits of what a dealer can charge are set by his competition, not his customers. And because the wholesale price of marijuana tends to be about the same throughout Chicago, retail price differences tend to be a function of transaction costs. One might expect such costs to be relatively uniform throughout the city. Yet the price of marijuana is approximately 60% higher, gram for gram, on the North Side.

To investigate why this substantial price difference exists, I spoke to a number of dealers from different parts of the city. Two were typical: "Karen" from the South Side and "John" from the North Side.

Karen

It is rare, but not unheard-of, for women to deal pot. Like most who

do, Karen started young. She sold her first nickel bag when she was 15. Now 19, she has carved a small business out of Chicago's South Side. "Business is good," she tells me. "Just last week I added another worker. That makes three."

Karen earns approximately \$50,000 a year, tax-free. For that money she works hard, often 40 or 50 hours a week. Each week she purchases one pound of marijuana, which costs her about \$1,000. She (or her employees) breaks it into 500 "nickel-bags,"³ which sell for \$5 each. This makes Karen's gross weekly revenue \$2,500. Subtracting the \$1,000 she pays for product and another \$500 for workers and miscellaneous expenses, and she is left with \$1,000 profit per week.

Each of Karen's three salespeople deliver about 170 bags, for which they receive \$150 per week. A good worker can make 15 deliveries per hour, which puts his salary at \$12 to \$14 an hour. This is significantly more than could be made flipping burgers, but these street-level dealers are the ones most often exposed to cops and random violence.

Karen has little first-hand contact with her customers. Each link in the

selling chain knows only the person directly above or below him. This way, if one link gets busted the others are insulated. But despite subordinating the riskier aspects of the operation to her employees, Karen has had her scrapes with the law. On several occasions, police officers have taken money from her during random searches. "They ain't never found product," she says. "I'm smarter than that. But once they took near two grand from me. That was stupid. Should never have been carrying around that much."

Karen figures her odds of spending a year in jail are one in ten for every year she deals. How bad would spending a year in jail be? Having spent a few days in jail before charges were dropped, Karen figures \$200,000 would be enough compensation. Multiplying her perceived odds of spending a year in jail with her required compensation gives her a legal risk of \$20,000.⁴

Karen also faces the threat of dealing-related violence. She downplays this: "No, man, selling pot ain't like that. Nothing's ever happened to me."

Karen opposes legalization. "Hell, no!" she explains. "That would put me out of business!"

My brother, he was into some serious shit. They gave him pumpkin head." Pumpkin head? "That's where they punch you and kick you in the head until it swells all up. Like you got this big melon on your shoulders." Karen laughs and shakes her head. "Man, they fucked him up. But I stay away from that shit."

Accordingly, Karen sees her odds of falling prey to dealer-related violence as "only" one in 250 per year of selling. It is hard to get her to estimate what might be fair compensation for such an attack, considering the result could be anything from a black eye to a bullet in the head. Karen says \$100,000 might be enough for an "average" attack. Given this figure, her required compensation for physical risk is \$4,000 a year.

Finally, consider Karen's opportunity costs. She has a high school

diploma, unlike most of her peers. But a diploma from a Chicago public school, especially one on the South Side, is only worth so much. If she put all the energy she now gives dealing to "goin' legit," Karen figures she could make \$20,000 a year — and that's only if she's "lucky" enough to land a factory job. So, including these opportunity costs, the total price of dealing is \$44,000 per annum.⁵ Since she makes \$50,000 a year dealing, Karen realizes a \$6,000 surplus for selling pot. Economically speaking, selling on the black market is her most rational choice.

Karen opposes legalization. "Hell, no!" she explains. "That would put me out of business!"

John

John deals pot on Chicago's North Side, primarily in the yuppie-dominated neighborhood of Lincoln Park and the artsier Wicker Park. A college friend turned him on to marijuana, then turned him on to dealing. For John, this is strictly a part-time job: a way to pay the bills, pay some of his college tuition, and fill his CD racks.

"If things get dangerous, I'll just quit," he says. "But unless they do, it's like, why not? Easy money."

Every two weeks, John buys a quarter pound of marijuana. This costs him \$300, or \$200 more per pound than Karen pays. Most dealers offer strong financial incentives to buy in mass quantities, because, as one dealer put it, "The fewer deals you need to unload your stash, the fewer chances for things to get fucked up."

From the quarter pound that John gets, he makes 100 nickel bags.⁶ This is fewer bags per pound than Karen. But then, John sells his bags for twice as much — \$10 apiece. John has no workers to deliver the goods; he does all the selling himself.

John's customers are drawn from his circle of friends. Most of the transactions take place over the weekends, many of them at parties. Word gets around that John is the man to go to, so he has little trouble unloading 50 bags a week. This gives him a total revenue of \$500 a week, or \$350 in net profits.⁷ Since John deals 40 weeks a year, his business brings in \$14,000 a year. Tax-free.

Now consider John's costs in terms

of perceived risk. He figures his chances of spending a year in jail at one in a thousand for every year he deals. At first John insists that "no amount of money" could compensate him for spending a year in jail — "I've heard stories, man. . . . I don't know if they're true, but I don't want to find out." So I bargain with him.

"Would you spend a year in jail for a million dollars?" I ask. He shakes his head. But when I get to \$2 million, John says that might make a year in jail worth his while. This puts his legal risk at \$2,000 a year.

John sees the risk of drug-related violence as small. He estimates it at

Clearly, if John has the stomach for it, dealing is his best economic choice.

one in a thousand per year as well. However, since John has less tolerance for pain (or death) than Karen, an average attack might hurt him \$500,000 worth. So it takes \$500 a year to compensate John for the physical risk he takes.

Finally, consider the opportunity costs of dealing. With his current level of education, John thinks he could get a part-time job making \$8 an hour. If he spent 16 hours a week at a job instead of dealing, he would make \$128 a week, or about \$100 take-home. At the same 40-week-per-year rate, dealing has an opportunity cost of \$4,000 in lost wages per year. Of course, if John gets caught, that might reduce his future earnings. But even if his future wages dropped \$1 million upon conviction, that only adds another \$1,000 to the opportunity costs of dealing.⁸ So the total cost to John of dealing is \$7,500 — or \$6,500 less than the amount he makes dealing.⁹ Clearly, if he has the stomach for it, dealing is his best economic choice.

Accounting for Differences

We have seen how it is advantageous for John to sell nickel bags at \$10 a pop, and also worthwhile for Karen to sell them at \$5 each. But this still doesn't fully account for why the prices are different. After all, if

Chicago were all one market, everyone would get the same price for an equal-sized quantity of marijuana.

But Chicago isn't one great big market. It is one of the most segregated cities in America, both racially and economically. Even though Karen and John live only miles apart, they live in very different worlds. In some North Chicago areas, the average annual income approaches \$90,000. In the Southside area where Karen operates her business, it is less than \$2,000.¹⁰ Continuous poverty tends to cheapen the value put on life. For many who spend their lives "trapped" in the ghetto, opportunities to earn \$50,000 per year are few. Dealing drugs offers, to those willing to take the risks, immediate and tangible benefits.

Economists would call dealers like Karen "risk-loving," because it requires little (monetarily) to get her to risk her life. Likewise, John would be considered "risk-averse," since he would quit dealing if it weren't twice as profitable as his next best alternative. It is these disparate risk profiles — and, hence, varying transaction costs — that contribute most to the difference in prices.

Additionally, competition on the South Side is fierce. Customers are more likely to shop around because they aren't buying from friends, and because the marginal cost of money is high to them. An extra dollar means a lot to someone making \$40 a week.

Northsiders are inclined to stick to dealers they know, even if the price is a little steep, because they fear the police more than they fear running out of cash.

There is also a difference in the social status of dealing. On the North Side, few are impressed by one's willingness to skirt the law. On the South Side, many are. Because merely surviving in the projects is hard, those willing to "do whatever it takes" to get by are viewed more positively. It is hard for those who see police as oppressors to be upset with nonviolent criminals.

Other factors help keep prices on the South Side low. Over 100,000

In some North Chicago areas, the average annual income approaches \$90,000. In the Southside area where Karen operates her business, it is less than \$2,000.

people live in Robert Taylor Homes, a series of concentrated high-rises. It is a highly compressed market, so economies of scale can take effect. And Southside dealers form stronger attachments to their jobs. They are less inclined to quit, even if profits fall or risks increase. For John, dealing is a way to make extra cash; for Karen it is a way of life.

This still doesn't explain why Northsiders don't carpetbag their way south for cheap bags of pot, or why Southside dealers don't head north for higher profit margins. The reason for the former is that most whites have no desire to visit the projects. This may be just as well, as their chances of being mistaken for police or getting shot are high.

Southsiders remain so because that is their world. Selling pot on the North Side is done through friends and connections; you have to know people to do it. It would be hard for a black Southsider to set up shop in the North. Even if he could make the necessary connections, he would be regarded by police as an automatic suspect.

Still, where there are profits to be made, there are bound to be profiteers. I met one such man: "Eric." He lives on the North Side, but has Southside friends who are black. Some of these friends deal. Eric purchases bags from them, already packaged and ready to sell, then makes the ten-minute drive back up to Lincoln Park. He even has a section of his car removed for hiding the goods. The result: quick profits, little work, and very little risk.

There aren't enough Erics out there to induce arbitrage and cut the price differential between the two markets. So for now, those willing to be color-blind will find there are definite economic advantages to dealing on the black market, as well as the white. □

Notes:

1. A "nickel" bag of pot is supposedly equal to one-twentieth of an ounce, or 1.4 grams. Similarly, a "dime" bag is one-tenth of an ounce, or 2.8 grams; and a "quarter" is one-fourth of an ounce, or seven grams. However, all these weights are theoretical. Most dealers understuff their bags, especially after they have established a firm marketplace.
2. It is important to note that dealer compensations are based on perceived, not actual, risks. If dealers underestimate the risks associated with selling, prices will be "artificially" low. If they overestimate the risks involved, costs will be "artificially" high. This is similar to a construction worker who under- or overestimates the physical risks of his trade. Either way, the compensation they require will depend on perceived risks.
3. This is equivalent to one-thirtieth of an ounce, or one-third less than a "real" nickel bag would weigh. Karen tells me she can get away with this because her brand is very fluffy, and so the bags look packed even when significantly understuffed.
4. To figure out risk compensation in monetary terms, multiply the odds of a bad event happening with the cost, to that person, of such a bad thing happening. In this case, the legal risk equals one-tenth (the odds of imprisonment) times \$200,000 (the amount of money needed to make Karen indifferent to spending a year in jail), or \$20,000.
5. This figure is obtained by adding \$20,000 legal risk plus \$4000 physical risk plus \$20,000 in opportunity costs.
6. This means John's nickel bags contain 1.14 grams of pot, or 13% less than a true "nickel."
7. Fifty bags at \$10 is \$500 profit per week, minus the \$300 he spends on supply per two weeks, and you have \$700 profit per two weeks, or \$350 a week.
8. This figure is from the previously mentioned one in 1,000 chance of conviction multiplied with the \$1 million in opportunity costs such a conviction would impose.
9. This figure is obtained by adding \$2,000 in legal risk plus \$500 in physical risk plus a total of \$5,000 in opportunity costs.
10. These data can be found in a study of the 1990 census data done by Pierre DiVise, Director of Demographics at the Institute for Metropolitan Affairs, a research institute associated with Chicago's Roosevelt University.

Quibble

When Will It All End?

by David Ramsay Steele

This is not the end, my naive friend.

You might suppose — but you would be wrong — that the following is the least controversial statement in *The Bell Curve*: “The factory worker seldom lives next door to the executive, and this was as true in 1900 as in the last years of the century.”

The authors evidently believe that there is a “century” which began in 1900 and is currently in its final few years. Now, since *any* consecutive 100 years *may* legitimately be called a “century,” there can be no objection to a century beginning with 1900 and finishing with 1999. But, contrary to what most people think, that century is not the twentieth of our era.

In truth, the twentieth century began with the year 1901 and will expire at the *end* of the year 2000. 1900 was precisely the *last* year of the *nineteenth* century. Yet a few months ago, in 1994, I heard a speaker address a large gathering with the words: “There are now less than six years to the end of the century.” There was no murmur of dissent from the audience, except me, so it is safe to infer that the listeners accepted the speaker’s supposition that 1999 would be the final year of the present century.

An informal poll of my acquaintances corroborates my impression that most people think the decade, the century, and the millennium end at midnight on December 31, 1999. I have even heard that some folk have already begun preparations for riotous carousing culminating at that time, as recommended by Prince

with his admonition to “party like it’s 1999.”

The present decade, the twentieth century, and the second millennium do indeed end at the same moment — but that moment is midnight on December 31, 2000, a year later than most people imagine. The first day of the new century and of the new millennium is January 1, 2001. If you don’t quite see this immediately, please pay attention.

There is no Year Zero in our calendar — the ancient Romans and Greeks, unlike the Aztecs and the Hindus, never discovered Zero, though there is no reason to suppose that they would have named a year Zero even if they had hit upon the concept, for Zero is not a counting number; counting starts with One.

The year 1 B.C. was immediately succeeded by the year A.D. 1. If the first year of our epoch (the supposed year of the birth of Christ) was year 1, then the first decade ends at the end of year 10, the first century at the end of year 100, the first millennium at the end of year 1000 . . . , and so on.

Two factors often muddle people’s thinking on this topic. The first is that they easily tend to become side-

tracked into questions of the origin of the calendar: how, when, and by whom the years were fixed, whether Christ was really born in year 1, and so forth. All this history is completely immaterial. It would make no difference if the calendar had been composed yesterday or if Jesus Christ had never existed as a historical personage (as has been argued ably and at length by G.A. Wells). What matters is how the years are calculated now, and by that reckoning the twentieth century finishes at the end of 2000 A.D.

There is, however, one interesting offshoot of that question. If Jesus actually was born on December 25, then one might expect the calendar year to begin and end on that date. Since this isn’t so, the nearest approximation would be to count the January–December year after the birth, the year 2 A.D., as the “truest” year 1. In that case, the twentieth century and second millennium of our epoch would end on December 31, 2001, and the first day of the new century and millennium would be January 1, 2002. Counting Christ’s fetal life would make the approximation to 1 A.D. more accurate, however, so some proliferers might care to use the calendar as

evidence for their position — though very few Christians would now care to defend December 25 as the historical date of Jesus's birth (according to the story, the shepherds were out on the hillside at night, which seems unlikely in mid-winter).

The other confusing factor is to think of years by analogy with a person's age. Somebody who has just passed his fortieth birthday is said to be "40 years old." The fact that the current year has the name "1995" may be thought to mean that the era is 1,995 years old, in which case it would be in its 1,996th year. Then the twentieth century would indeed conclude at the end of 1999.

The key point here is that it is merely a fortuitous aspect of our language that a person who has just had his fortieth birthday is said to be "40." He has completed 40 years, and he is in his forty-first. The language could just as easily have evolved to refer to his age as "41," because he is in year 41 of his life. Some languages, I am assured by a linguist of my acquaintance (Jim McCawley), actually do this. Dr. Samuel Johnson somewhere refers to the newfangled locution of "40 years old," as replacing the formerly prevalent "in his forty-first year."

The question, then, is: Does the year 1995 A.D. mean that the era is 1,995 years old, or does it mean that the era is in its 1,995th year? The correct answer is the latter. The designation "1995" does not mean that 1,995 years have been completed and we are now on the 1,996th. It means that 1,994 have been completed and we are now on the 1,995th. This is even suggested in the traditional Latin form: *Anno Domini*, the year of the Lord, not the rounded-down age of the Lord.

Consider a car odometer reading. When "02000" appears, then two thou-

sand miles have been completed — that's true. But during the first mile the reading was zero-point-something. If fractions of a mile were omitted, and the first mile was designated "Mile One," or 00001, then two thousand miles would be completed at the point when "02000" flipped to "02001." This is the way that calendar years are reckoned.

What can we expect as we approach the end of the year 1999, which so many people wrongheadedly believe to be the conclusion of the decade, the century, and the millennium? There will no doubt be an ideological battle between a discerning elite, who understand that the end arrives at the completion of 2000, or will soon acquire such an understanding through little communications like this one, and a benighted mass, who cling to the theory that century's end occurs at the close of 1999.

The unreflective take this position because they are easily impressed by superficial appearances. They have spent their lives denominating the years with a "19"; suddenly, there's a switch to "20." Pow! This must be the beginning of something truly momentous!

As 1999 approaches, I expect that organs of extraordinary percipience like *Liberty* will try to explain the true state of affairs, while *The National Enquirer* will take no notice, and blithely "celebrate" the beginning of something or other at the end of 1999. In between, there is a range of levels of sophistication, encompassing the *New York Times* and *Harper's*, and it's difficult to say how the battle will play itself out.

Humankind being the way it is, the end of the millennium will doubtless be heralded by chiliastic excitement among various religious and political

sects, eventuating in dotty, and occasionally atrocious, public gestures. It will be sadly fascinating to see how many of these enthusiasts get the date wrong, along with everything else.

There is one apparent loose end. *Decades* are never referred to in a way analogous to the correct usage for centuries and millennia. I have never found anyone willing to include 1930 in the Roaring Twenties, for instance, or to exclude 1920, and it doesn't seem right to recommend such a locution.

Although this may look incongruous, it is easy to reconcile with correct usage. Remember that "a decade" or "a century" or "a millennium" can begin at any time, depending on the purpose of the reference. Thus, the decade from January 1920 to December 1929 is just that — a decade. There is nothing wrong with labelling such a decade by reference to the fact that each of the years has the phonic component "twenty" in its name. It's no more a mistake than employing the expression "the teens" to refer to those years in an individual's life which have the component "teen" in their names, a fortuitous usage which could have no counterpart in most languages.

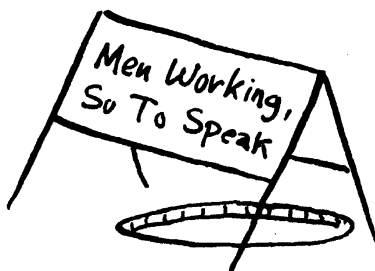
But when we talk about the *twentieth* century, we go along with the view that the century in question is twentieth in a series of centuries, and what could this mean other than that it is the twentieth century of the conventional calendar? And surely the same implication is conveyed by referring, as Herrnstein and Murray do in *The Bell Curve*, simply to "the century."

It's perfectly okay, on the other hand, to refer to the decade 1920–29 as "The Twenties." But we should bear in mind that The Twenties are not the third decade of the twentieth century — that decade began at the end of 1920, when the decade known as The Twenties was exactly one year old.

In just the same way, you may want to celebrate the end of the "nineteen hundreds" as we move from 1999 into 2000. But the tenth decade of the twentieth century, the twentieth century itself, and the second millennium will all pass into history at midnight on December 31, 2000. Against that moment, save the costliest wine, the wettest kisses, and the brightest fireworks. □



Baloo



Reviews

Conquest: Montezuma, Cortés, and the Fall of Old Mexico, by Hugh Thomas. Simon and Schuster, 1993, 834 pp., \$30.00.

I Left My Heart in Tenochtitlan

Stephen Cox

On November 8, 1519, Hernán Cortés and his Spanish expeditionary force arrived at the Aztec capital of Tenochtitlan. They were greeted by the Aztec nobility at a place on the outskirts of the city called Malcuitlapilco, which means "the end of the file of prisoners." In 1487, when the Aztecs inaugurated the Great Temple in Tenochtitlan, a line of prisoners waiting to be sacrificed on the city's pyramids had reached this point. It was two miles to the Great Temple, and there were four such lines of victims.

You can see them there, young men standing in the sunlight in the great city built on an island in the great lake of Mexico, a name that means "in the navel of the moon." The sky was blue above them, and the two lofty volcanoes, Iztaccihautl and Popocatepetl, rose in the distance. Throughout the day, the young men waited in line for the blood-caked priests of Huitzilopochtli, god of the sun and the chase, to rip their hearts out and roll their bodies down the sides of the pyramid so that they could be dismembered and eaten. At the foot of the Great Temple, a carved stone was set in the pavement; this stone was called "Huitzilopochtli's dining table."

The interest of the Aztecs can never fade; the story of their conquest by the incredible strangers who came from beyond the sea can never lose its romantic power. The highest recommendation of Hugh Thomas, author of the latest recounting of this story, is that he understands this power and communicates it vividly, never letting the main features of the story be obscured by his exhaustive research, his judicious weighing and balancing of rival interpretations, or his knowledge of how the story might be viewed from the standpoint of modern moralists.

It's not that Thomas relaxes into amorality. He leaves no doubt that both the Aztecs and their Spanish conquerors were morally vile beyond the vilest imagination. He spends no time trying to make a relativistic "case" for any of them. But he succeeds, somehow, in preserving whatever was beautiful, courageous, or simply curious about them. Even after the Emperor Montezuma had been taken into custody by the Spanish, Thomas explains, the captive

continued to seem to rule. He had his baths, his elaborate meals, the constant presence of his superior chiefs, his discreet meetings with his special women. He as usual rose at midnight to observe from the roof of the palace the North Star and the Great Bear, the Pleiades and other constellations,

and to offer his blood to them. He saw innumerable suitors, and nominated judges, taking care that "they were not drunkards, nor likely to be bribed, nor to be influenced by personal considerations, nor impassioned in their judgements." . . . Jesters continued to tell Montezuma jokes, "laugh-giving and marvellous jugglers" made logs dance on the soles of their feet, maimed dwarfs leapt and danced, while singers performed to the accompaniment of flutes, drums, rattles and bells. Sometimes Montezuma would visit his zoo, and see the jaguars, the ocelots, and the deformed humans. (pp. 310-11)

Thomas loves the Aztec poetry, which is one of the world's artistic treasures. "Ponder this, eagle and jaguar knights," wrote King Nezahualcoyotl:

Though you are carved in jade, you
will break;
Though you are made of gold, you will
crack;
Even though you are a quetzal feather,
you will wither.
We are not forever on this earth;
Only for a time are we here. (30)

The Spanish, greedy and cruel, dirty and stinking in every respect, are not nearly so picturesque as the Aztecs. But Thomas lets them live, too. He sees the Spanish both from the Aztecs' perspective and from their own, conditioned as it was by strange legends and legalisms, complex family and community relationships, odd results of Spain's recent assimilation to something called the Holy Roman Empire, memories of Spain's recent struggles against Islam. Thomas also illustrates some effects of the weird and imperfect merging of the Aztec world with the Spanish.

Tecuichpo, a daughter of the sixth Aztec emperor, married in succession the seventh and eighth emperors and three Spaniards. Of her a sarcastic poet sang,

Who are you, sitting beside the
captain-general?

Ah, it is Doña Isabel, my little niece!

Ah, it is true, the kings are captives. (542)

It is interesting to reflect on the fact that noble descendants of Montezuma ended up in Spain, where "the family of the counts of Moctezuma survived many generations" (594). In Mexico, pork became a favorite dish of the former Aztec nobility, "since it had a slight taste of human flesh" (578). Thus Thomas twitches the curtain and allows a glimpse of the conquest's strange afterlife in the two countries that before 1519 had never dreamed of each other's existence. Speculative fiction could hardly improve on history.

Even more interesting are the glimpses that Thomas provides of the history that preceded the conquest. One wishes, indeed, that he had provided more than glimpses of the formative period of the mighty yet strangely brittle Aztec empire, which was not nearly so old and venerable as one usually imagines an "empire" to be. Only as recently as 1428 had the Aztecs become independent of the Tepanecs, one of those nearly indistinguishable neighboring peoples who never achieved a rendezvous with destiny. Having won independence, the Aztecs conceived the idea, as Thomas puts it, that they were "'a chosen people,' with a mission, whose purpose was to give to all humanity the benefits of their own victory" (10). In other respects besides their cruelty, the Aztecs were not so different from the Spanish.

Chief among the benefits that the Aztecs wished to confer on humanity was the imperial religion, centering on Huitzilopochtli, "Hummingbird on the Left" (or south, where the sun is). Human sacrifices were traditional in Mexico, but mass human sacrifice seems to have been an Aztec innovation. In fact, it may have been the invention of one man, the evil genius of Aztec history, Tlacaélel, a general and member of the royal house. For five decades (c. 1430–c. 1480) Tlacaélel was the chief political force in Mexico. When a movement arose to elect him emperor, he responded contemptuously, "I am the ruler and you have regarded me as such. How can I be still more of a ruler?" One of Tlacaélel's methods of consolidating his rule was to take the Aztecs' pliable history into his own hands. He ordered the destruc-

tion of all their records, so that henceforth he could make things up to suit himself.

After the Aztecs had subjugated or terrorized almost all their neighbors, opportunities of acquiring prisoners of war to be used for sacrifice greatly diminished. With his characteristic directness, Tlacaélel therefore arranged the so-called Wars of Flowers; mock battles in which the Aztec army "fought" neighboring states for the sole purpose of taking captives to be sacrificed. This strategy had the effect of

The Spanish, greedy and cruel, dirty and stinking in every respect, are not nearly so picturesque as the Aztecs.

rationalizing what Tlacaélel pictured as a market for sacrifice, a market in which prices had ordinarily been high:

Just as men go to the market to find their warm tortillas . . . our god come[s] to market with his army, to buy sacrifices and human beings, which he can eat; our people and our armies must reach this market in order to buy with their blood, their hearts, their heads and lives the jewellery, the precious stones, and the beautiful feathers required for the service of Hummingbird on the Left the wonderful.

The Wars of Flowers made it possible for Hummingbird on the Left to get "warm food which has only just left the oven" and to get it "whenever [he] might desire to eat and to enjoy himself."

Thomas' main object, of course, is to describe what happened when the Spanish finally showed up; he hasn't space, even in this long book, to provide a full account of the Aztecs' instructive past. (In fact, the remarks of Tlacaélel that I just quoted can be found in the work of another author, Friedrich Katz, *The Ancient American Civilizations*, trans. K.M. Lois Simpson [New York: Praeger, 1972]: 175, 164, 169.) If space permitted, Thomas might also have provided more theoretical reflections about what happens when political systems collide, as they did in Mexico in 1519. But while the lack of

any particularly new or startling theory is regrettable, it will provoke few readers to paroxysms of grief. Most people are sick and tired of "theory" in the humanities; they are willing to take the facts and let the theory go. Thomas has a wealth of facts and a becomingly modest theory. He attributes the Spanish success to a number of predictable causes.

Compared to the Spanish, the Aztecs were pitifully limited in technology: no wheeled vehicles, no draught animals to pull those vehicles even if they had existed, no steel, no guns, no candles, no pulleys, no *nails*, no ships of war. (Few people realize that one of the greatest feats of the Spanish invaders was the building of ships with which to attack the Aztec capital on its lake.) Huitzilopochtli was not the God of the Machine. Another thing the Aztecs lacked was smallpox and other European diseases; Thomas claims that they had never encountered a viral disease (444). Biology exacted a terrible toll on native people.

The Aztecs were even more severely damaged by their social and intellectual system. They had difficulty escaping their belief that battles should be fought, not to kill people right away, but to take captives who could later be sacrificed. The Spanish went to work more efficiently; they meant to eliminate their enemies, and they did. They also found willing allies. The Aztecs' high-handed imperialism raised intense resentments among their neighbors, some of whom were very happy to help Cortés with the dirty work.

Cortés enjoyed certain freedoms that the Aztecs lacked. He had a way of wiggling out of the restrictions that his home government liked to impose. He and his followers were the kind of people who exercised a good deal of personal initiative, or they would never have found themselves in Mexico in the first place. Once there, they needed initiative and innovation in order to survive. But the Aztecs' addiction to traditional customs and formal and centralized authority rendered them the victims of any unprecedented event. They were used to fighting wars of only a few days, and to fighting only in the daytime. They were slow to organize a popular resistance movement when the Spanish boldly insulted their

gods, liquidated their important citizens, and kidnapped their emperor for use as a puppet. Thomas observes that although such events discredited Montezuma in the eyes of his people,

the result was that there was a vacuum of power among the Mexica. Most of the alternative leaders of the people had been killed. No one could take the initiative to find a new ruler. The tradition, in a rule-bound society, did not exist for improvisation. (397)

When the remains of the Aztec nobility finally woke up and started to reorganize, Cortés was in serious trouble. He had to fight long and hard, first to escape from the Aztec capital and then to retake it. Thomas' careful account of this struggle indicates that Cortés and all his followers might easily have wound up on Huitzilopochtli's dining table; some of them did wind up there. But the vastly outnumbered Spanish invaders would have had no chance at all of conquering the Aztec empire if the technical, intellectual, and political structure of the empire had not been terribly weak.

Many generalizations might be drawn from this fact, and many political and sociological sermons might be preached about it. Thomas is slow to generalize and has no tendency at all to preach. He indulges a few interesting speculations. He suggests, for instance, that if the Aztecs had succeeded, as they might have, in killing off the first invading force, they might have been able to adapt enough European technology to resist succeeding forces. They might have anticipated the adaptive strategies of the Meiji regime that maintained Japanese independence in the nineteenth century (601). After all, the plains Indians would later learn to use guns and horses well enough to pose a considerable problem for the U.S. Army.

It should be noted, however, that they didn't win. Effective use of technology depends on the existence of a social and political system that can give it good material support and allow it to be directed with appropriate flexibility. The best support is a free and productive political and economic system. Sixteenth-century Spain was certainly no miracle of free enterprise, but it appears to have been much more pro-

ductive and flexible than the Aztec empire.

Thomas' speculations remain provocative. For the most part, however, he sticks to his story — thus offering an example of soldierlike good conduct to his fellow historians, many of whom, oddly enough, make careers out of sneering at historical narration. They apparently believe that a concern with human action (as opposed to "theory" or social statistics) is the mark of an unscientific mind. But if you have a story as good as the Conquest, all you really need to do is to get the story right; and Thomas seems to have done that.

His book is not without its annoyances. He has not found a way of making most of Cortés' comrades seem

worth remembering as individuals. Thomas' book contains too many lists of names that remain just lists of names, and he sometimes builds up a character without providing adequate (or any) information about what finally happened to him. Thomas' prose is often colorful, sometimes eloquent, and always accessible, but it is too frequently marred by petty syntactical errors and editorial lapses. His maps offer much less help than the reader has a right to expect.

But Thomas knows what is interesting, what is important, what is magnificently worth wondering at in his central story. His book will undoubtedly be superseded one day, but that day will probably be a long time coming. □

A Second Mencken Chrestomathy, by H.L. Mencken, edited by Terry Teachout. Knopf, 1995, 491 pp., \$30.00.

The Libertarian Iconoclast

Max Schulz

Henry Louis Mencken cemented his status as a national icon in 1949 with the publication of *A Mencken Chrestomathy*, a collection of writings over the course of a half-century. The *Chrestomathy* (a fancy word for anthology Mencken insisted upon) inhabited the bestseller list for a long time, and the Sage of Baltimore, having much capital material left over, decided a sequel was in order. But the debilitating effects of a stroke he suffered in late 1948 derailed the project. When death called in 1956, H.L. Mencken went to his just reward, while his unfinished manuscript went to oblivion.

Enter journalist and scholar Terry Teachout. While working on his biography of Mencken, Teachout stumbled on

the lost manuscript. He whipped it into shape, paring here and trimming there; the result is *A Second Mencken Chrestomathy*. The publication of the book comes, ironically, just as Baltimore's *Evening Sun*, Mencken's home for four decades and our last institutional link to him, announces its plans to close.

For those too young to remember him: Mencken was a swashbuckling journalist who can legitimately lay claim to the title of America's greatest newsman. As editor of *The American Mercury* and *The Smart Set*, author of numerous books, and anchor of the *Evening Sun*, Mencken penned essays, criticisms, reports, and reviews that helped shape America's opinions throughout the first half of this century. To a large degree, they still do.

The virtue of the new book lies in the intellectual legacy it exposes to new

generations of readers. Though Mencken is known today chiefly for his acerbic wit — and there is wit aplenty in these pages, as when he dismisses the Zeppelin as “a floating sausage” — he also displays here a distinctively libertarian philosophy. The reader picking up Mencken for the first time will be amazed at the substance of his arguments, and at a facility with ideas that matches his mastery of words.

To the iconoclast — and H.L. Mencken ranks as perhaps the most effective iconoclast of the twentieth

“The only way to make a government tolerant, and hence genuinely free,” Mencken wrote, “is to keep it weak.”

century — few targets loom as large as government. Where many would have settled for merely criticizing the latest government boondoggle or misappropriation of taxpayer funds, Mencken was far more radical. “The only way to make a government tolerant, and hence genuinely free,” he wrote, “is to keep it weak.” Mencken never shied from engaging the reader in thoughtful sparring over government’s roles, responsibilities, and limits.

Mencken was against many things and many people — moralists, uplifters, proselytizers, golfers, politicians, imbeciles, socialists, and clergy, and their varied and sundry causes. But more important, and instructive, than any of his attacks is the idea in which he invested his faith. What was Mencken for?

“I believe in liberty,” he wrote. “When I say liberty I mean the thing in its widest imaginable sense — liberty up to the extreme limits of the feasible and tolerable. I am against forbidding anybody to do anything, or say anything, or think anything, so long as it is at all possible to imagine a habitable world in which he would be free to do, say and think it.”

He proudly believed in no causes, no religions, no fads, no ideas — except liberty. Few have been as eloquent in championing freedom as H.L.

Mencken. “The burden of proof, as I see it, is always on the policeman, which is to say upon the lawmaker, the theologian, the right-thinker.” Such statements are remarkable considering the period in which he wrote, the first half of a century of statism. Mencken bravely fought the collectivist nostrums of his day, adroitly pointing out the inconsistencies that tatter the fabric of socialism.

When Ludwig von Mises began writing for English-speaking audiences, following his 1940 flight from the Panzers overrunning his native Austria, he made a compelling argument about why so many people dislike capitalism. “Everybody knows full well that there are people like himself who succeeded where he himself failed,” he wrote in *The Anti-Capitalist Mentality*. “Much worse, he knows that all other people know it, too.” Writing decades earlier, Mencken sounded similar themes. “The central belief of every moron is that he is the victim of a mysterious conspiracy against his common rights and true deserts.” Elsewhere he added, “I do not pity [the poor], and do not believe in their common plaint that they are the victims of cruel and inexplicable circumstances. I have yet to meet one who did not show plain evidence that external circumstance had little, if anything, to do with his condition. The blame, so far as my experience runs, always lies within. . . . His poverty, nine times out of ten, is not due to a lack of opportunity, but to a shirking of opportunity.”

Mencken didn’t exactly presage the arrival of Austrian economics in the U.S. Many of his writings gave no hope for capitalism, and he refused to credit the free market with an ability to create and distribute wealth. His endorsement of freedom arose from his belief that liberty is something with intrinsic value, to be cherished for itself and not as the means to creating a better world.

Liberty, then, is everything and the only thing. Mencken lampooned the Comstockians and Prohibitionists who would use the state to enforce their sentiments on others. He stood fast for the notion that each person should be free to make those decisions which affect himself.

This respect for individual auton-

omy did not translate into a faith that autonomous individuals would always choose wisely. Mencken despised democracy, along with the politicians who would buy votes out of the public till. A blowhard and an incorrigible elitist, he was contemptuous of the masses and highly suspicious of man’s ability to govern himself. Americans, he felt, do not adequately appreciate their liberty. They will happily endorse actions to restrict other people’s freedoms, “especially the Liberals, who pretend — and often honestly believe — that they are hot for liberty. They never really are. . . . [They] advocate only certain narrow kinds of liberty — liberty, that is, for the persons they happen to favor. . . . The liberty to have and hold property is not one that they recognize. They believe only in the liberty to envy, hate, and loot the man who has it.”

The *Second Chrestomathy* is full of cynical wit, and not always about political matters. “One hears that ‘the women of the United States’ are up in arms about this or that,” Mencken wrote, “[but] the plain fact is that eight fat women, meeting in a hotel parlor, have decided to kick up some dust.” In an essay titled “The Commonwealth of

Mencken despised democracy, along with the politicians who would buy votes out of the public till.

Morons,” he asserts that the American stock was so low that any man who knows his trade, has read fifty good books, and isn’t afraid of ghosts ought to make a fine living.

In Mencken’s compositions, there is something for everybody — to be offended by, at least. “At Sing-Sing, forty head of Italians are waiting to be executed,” he off-handedly writes. Suspicious of U.S. attempts to horn in on World War II during the early part of 1940, he mocks FDR’s “heroic attempt to rescue England from the law of natural selection.” Sentiments like the latter drew rebuke and censorship from his editors, leading to a less-than-amicable divorce from the

Evening Sun editorial page.

Other outrages seem, on reflection, eminently reasonable. To prevent war, he wrote in 1927, let the U.S. assemble a cache of horrible armaments. "Then let it launch them against France, or some other chronic troublemaker, and proceed to give the victim a sound beating. And then let it announce that war is adjourned." I'll second that.

Presidents, artists, professors, suffragettes, police, prohibitionists — none escape the barbs of one who so despised the self-seriousness of so many. The theologian makes a mess of everything he touches, especially religion. The lawyer teaches people how to swindle without risk. The doctor prolongs the lives of people whose deaths would be a social boon. Actors and singers are merely retailers of better

men's ideas.

A nastiness, or at least a benign contempt, infects the writings of the man who saw life as a circus, populated by clowns too blind to see themselves for what they really are — third-rate hucksters, morons, and knaves. Consider the perspective Mencken brought to Steinbeck's *The Grapes of Wrath* ("a sugar-teat for the intellectually underprivileged"). The family of sharecroppers, he writes, "having afflicted the soil for years and gone further and further into debt, is finally chased off its so-called farm by its owner, who puts in tractor crews in an effort to get at least a part of his money back." With one sentence he successfully undoes the work of thousands of glassy-eyed high school lit teachers. What could be more valuable? □

Radical Surgery: What's Next for America's Health Care, by Joseph A. Califano, Jr. Times Books, 1994, 316 pp., \$25.00.

Cosmetic Surgery

Mark Rembert

Former LBJ aide Joe Califano had considerable influence on the establishment of Medicare and Medicaid, and later served as Jimmy Carter's secretary of health, education, and welfare. One might therefore expect his new book, *Radical Surgery: What's Next For America's Health Care*, to be a work full of bold and original ideas from a creative thinker. But one would be wrong.

Indeed, it is difficult to put into words just how orthodox Califano's thinking is. Few left-liberal causes go unchampioned. Cigarette companies are "sinister," gun control is a "health care concern," and "universal health insurance is an imperative of social jus-

tice." He goes so far as to suggest that the L.A. riots were caused by alcohol. And yet, like many a New Democrat of recent vintage, he is unrelenting in his calls for "personal responsibility."

It is here that Califano misses his greatest opportunity for genuinely radical thinking. His baby, Medicare, the crown jewel of the Great Society, is a superb example of the defeat of individual initiative by collectivist government. And while Califano does concede some of its faults — its arbitrary and below-market fee schedules, its byzantine rules, its stifling paperwork requirements — he ignores its most significant flaw. If anyone expected the author to pull a Robert McNamara here, I'm sorry: there is no *mea culpa*. Califano still thinks the basic concept of

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nationalizing the health insurance of the population over 65 years of age is sound. He simply cannot grasp that Medicare is structured to *destroy* individual responsibility.

The government's program undermines responsible behavior in exactly the same way the private insurance market does. Both feature low deductibles, subsidized premiums, and few incentives for patients not to seek treatment for anything. Just as Medicare patients can and do receive extremely expensive treatment in the final months of life for terminal conditions, so too are the privately insured more likely to seek expensive treatment — say, elective surgery — in a year when a deductible has been met. Just as the Medicare patient receives a premium subsidy in the form of the taxes paid by everyone else, so too does the private worker receive a similar subsidy in the form of the federal tax deduction allowed his employer. And just as Medicaid patients commonly queue up at the emergency room for runny noses and headaches, so too will a private customer with "good" insurance (low deductible, maximum discretion) self-diagnose and seek out a specialist for care that may be entirely inappropriate — something a less expensive internist could have easily determined. In each case, the disconnection of the customer from the cost of the commodity results in a perverted market.

Yet Califano sees no inconsistency in expecting a patient whose bills are paid by a third party to act as though he pays them himself. Calling his proposals a "cultural revolution" (with no discernible irony), Califano would propagate the perverse culture of insurance by mandating that all coverage, public and private, pay for primary and preventative care — with doctors, patients, and taxpayers already bearing the immense administrative costs of filings for routine treatment. And he proposes this in the name of cost containment!

As one progresses through the book, the novelty of this goofy sort of thinking fades, for Califano employs it over and over. He observes that the threat of malpractice judgments escalates costs by giving doctors an incentive to overtreat. But then, rather than suggesting steps that might mitigate

this problem, he would exacerbate it by "[t]urning the potent incentives of the malpractice system and professional decertification toward providing preventative care." In other words, "Doctors who do not provide preventative services and counseling should be held accountable for malpractice when patients get preventable diseases." Imagine a system in which a stroke victim could sue his doctor for failing to persuade him to exercise and eat less fat. Could this *possibly* restrain medical

Incorporating routine care into the insurance system has all the same efficiencies as using homeowner's insurance to pay the electric bill.

costs? Incredibly, Califano proposes this in the name of greater individual responsibility.

Califano may speak often of patients' obligation to manage their own health wisely, but he doesn't seem to trust their ability to do so. Nowhere does he advocate that routine care be shopped and paid for by the patient, thus allowing consumer choice to impose market discipline on health care. Instead, he discusses cost choices in terms of expensive care for terminal patients. Let the patients and their relatives choose the amount of aggressive treatment they wish, he argues, mindful of cost and quality of life. This is fine, as far as it goes, but in the context of our insured society, he's got it exactly backwards. What should be taking place is a return to true insurance, where only catastrophic expenses out of the normal range of expectation are covered. Incorporating routine care into the insurance system has all the same efficiencies as using homeowner's insurance to pay the electric bill.

Some Republicans have picked up on this theme, as evidenced by the recent discussion of Medical Savings Accounts, which would allow individuals to save for and purchase routine care. But far too many members of the new Congress are willing to settle for a statist system. For though the GOP has drawn fire for its proposals to rein in

Medicare costs, which opponents argue would damage the system and threaten current beneficiaries, the core of the program would remain — indeed, no politician has questioned the idea that the state should provide health insurance for the elderly. The Republicans' main change would be to save money by contracting out to HMOs. As anyone who has dealt with an HMO knows, managed care and individual choice verge on being mutually exclusive. So turning Medicare into a giant managed-care program simply means trading a system of government rules for one of HMO dictates. True, consumers would most likely be able to choose between competing HMOs, which would certainly be preferable to the single-payer arrangement that now exists, but the fundamental culture of insurance, with the state as paymaster, would remain intact.

The real shame of *Radical Surgery* is what *isn't* in it. The liberal Califano might have proposed that government require citizens to buy new health policies with a cash value, similar to whole-life insurance, so that consumers could tap into the accumulated dollars to pay for more expensive care later in life. More conservative characters might push for using the carrots and sticks of the tax code to nudge patients into so-called "whole-health" insurance, Medical Savings Accounts, lifetime HMO contracts, or a similar alternative. These are not libertarian approaches, but they would at least lead to an honest discussion about the future of the health care market and state intervention in it.

In any case, there is no hope of experiencing the increased productivity, enhanced efficiency, and cost deflation that accompanies spreading technology until the medical market is removed from government interference. This would involve nothing less than dismantling Medicaid and Medicare, privatizing the VA, and allowing individuals to buy and sell health care freely, as they do most other services. It is no real surprise that Califano considers his statist nibblings "radical," but it is a pity that, in this supposed day of profound change, so few ideas have been put forth that really would profoundly change the government's role in health care. □

Telecommunications, Mass Media, and Democracy: The Battle for the Control of U.S. Broadcasting, 1928–1935, by Robert W. McChesney. Oxford, 1993, 393 pp., \$17.95.

How the Ether Was Won

Jesse Walker

Today's cyberspace wars have a historical precedent. In the 1920s and 1930s, a similar series of battles was waged over the future of radio broadcasting. The anarchic give-and-take of the Internet, the more controlled corporate ethos of Prodigy and CompuServe and America Online, the ever-present specter of government control . . . all these had their analogs in the early days of radio. Those with hopes for a more open, less regulated electronic media would do well to study these earlier policy wars, if only to see where and how their predecessors succeeded and failed.

Unfortunately, while Robert McChesney's *Telecommunications, Mass Media, and Democracy* adds a lot to our understanding of that period, it suffers from many painful flaws. This is all the more disappointing considering the length and breadth of the author's investigations. McChesney has been diligently studying his subject since the 1980s, when it was his Ph.D. dissertation topic, and has already published many of his findings in a variety of scholarly journals. Furthermore, as a revisionist, he is especially interested in recovering fragments of this history that have escaped his colleagues' attention. Yet he takes for granted historical myths that scholars in other disciplines have exploded.

Specifically: McChesney accepts without question the traditional rationale for government regulation of broadcasting — that without federal direction, the airwaves of the 1920s were a mass of competing signals, each station interfering with another. But economist Thomas Hazlett laid this fal-

lacy to rest in 1990, with his *Journal of Law and Economics* article, "The Rationality of U.S. Regulation of the Broadcast Spectrum." There, he demonstrated that the unregulated ether was generally orderly before the secretary of commerce deliberately induced a breakdown in 1926. And in *Freedom, Technology, and the First Amendment*, Jonathan Emord, building on Hazlett's work, sketched a convincing theory of competition-fearing broadcasters and power-hungry government officials combining to create the Federal Radio Commission.

Hazlett is mentioned nowhere in McChesney's book, while Emord's volume is only briefly cited in a foot-

Reliance on government is what did the broadcast reformers in, and those fighting today's cyberspace battles are in danger of making the same error.

note; it's unclear from the context whether McChesney has actually read the book or merely knows it by reputation. Either way, he never betrays any knowledge of either writer's work on the 1920s.

All this amounts to more than just an omission; it radically alters the conclusions the author draws from the facts he has gathered. McChesney sees corporate domination of the spectrum as a necessary corollary of free markets. The "broadcast reformers" he discusses who fought the emerging system all favored some level of intervention to

protect nonprofit broadcasting, and many endorsed (though often only privately) outright nationalization of the industry. Of the reformers, only the ACLU recognized "public interest" regulation as a potential infringement of the First Amendment, and this only after lengthy public soul-searching. McChesney shies away from endorsing any particular reform plan, but he makes it clear that he cannot understand why anyone would link private property to freedom of speech. And he identifies "private property" with the American system, thus taking the networks' free-market rhetoric at face value — even though he knows the feds expropriated their competitors in 1928, hardly a propertarian policy. Indeed, he takes several commercial broadcasters to task for discovering the rhetoric of free speech and deregulation only *after* they had reaped the benefits of statism. Somehow, in his hands, this becomes an argument against deregulation itself.

This leads him to dismiss more recent arguments for less government control of the airwaves:

The contemporary deregulation movement uses history selectively to illustrate the only relationship it deems significant: the commercial broadcaster, who by definition should rule the ether to make as much money as humanly possible, and the government regulator, who, regardless of intent, can only portend evil. All other aspects of U.S. broadcasting history are relegated to the margins, which is necessary to maintain the untenable "immaculate conception" notion of the origins of commercial broadcasting. This is an extraordinary bias that provides a dubious foundation for the entire deregulation argument. (p. 259)

This is a caricature of the libertarian position. I cannot speak for everyone who advocates deregulation, of course, but none of the writers I have cited in this review hold to any immaculate-conception theories. The difference is that they see the networks' power as a consequence of their political clout, while McChesney attributes it to "capitalism." Indeed, he argues that the Radio Act of 1927 (which established the Federal Radio Commission) was relatively unimportant in birthing the

corporate system; the real culprit, he argues, was General Order 40 (the FRC's program for reorganizing the spectrum, which drove so many non-profit stations off the air). But without the Radio Act, there could have been no General Order 40!

In short, the *concept* of a top-down reorganization of the broadcasting industry seems to be all right with McChesney. It's just that a more "democratic" government could have done better.

These ideological glasses distort

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McChesney's view of contemporary media debates:

Deregulationists argue that [new communications] technologies have reduced the power of the broadcast networks over their audiences and have permitted a wave of vigorous competition to enter previously uncompetitive markets . . . rendering moot traditional concerns, like those held by the 1930s broadcast reformers, about corporate domination of communications media. . . . [But] the ability of consumers to benefit by the new communications marketplace is strictly determined by how much money they have. Hence, the market will be skewed toward providing numerous choices to those with larger incomes and neglect those who are poor. (258-259)

McChesney has it precisely backwards: it is deregulation that is allowing new technologies finally to enter the marketplace, not new technologies that are allowing deregulation. Powerful governments — even "democratic" ones — are beholden to powerful private interests. That's why regulators held up some of these "new" technologies for decades: because of political pressure from the communications industry. Under McChesney's model, AT&T and the networks would have spent this period arguing for *laissez faire*. Obviously, there's something wrong with McChesney's model.

But McChesney is willing to ignore historical evidence that does not conform to his theory. "License revocation," he writes, "has been disregarded as a legitimate policy option. . . . In effect, there has been a de facto privatization of the airwaves" (249). Does McChesney really believe this? Politically connected interest groups have always used the threat of losing one's license to ensure that broadcasters conform to their programming preferences. Take this example from 1952, as described by then-FCC Commissioner Paul Walker: "[T]he Commission surveyed the programming of some of the television stations then in operation, and found that some of them had reported no time devoted to broadcasts of a religious nature. We felt in view of this fact that regular renewal of their licenses would not be in the public interest. . . . All of these stations have since been granted renewal because we

have been assured either that they had in fact devoted time to religious broadcasts, or that they would do so in the future." Or consider any of the subsequent occasions in which politicians silenced their critics via the misnamed Fairness Doctrine.

None of this should be taken as a criticism of McChesney's always interesting (though often dry) historical narrative. His broadcast reformers were a fascinating collection of characters, from the respectable critics financed by the Payne Fund to the ever-cranky Harris K. Randall. With a few exceptions (the labor-run station WCFL, the ACLU), these activists were elitists, not populists, interested not so much in popular access to the airwaves as in ensuring properly enlightened programming. Many held up the BBC as their model.

Six decades later, a new generation of critics has resurrected the call for a democratic media. But some widely different platforms lie behind that common slogan. Some are calling for *open access* — deregulation of micro radio, talk radio, low-power television, the Internet, and every other medium that offers the little guy a voice. These critics have lost faith in the state's ability to enact meaningful reform. As Peter Franck and Alan Korn of the National Lawyers Guild recently wrote, media activists "cannot rely on the power of the state to get it right. This is because powerful institutions contain the built-in contradictions of centralization and bureaucracy." They went on to argue that this reliance on government is what did McChesney's broadcast reformers in, and that those fighting today's cyberspace battles are in danger of making the same error.

But other media democrats (e.g., Pat Aufderheide, the gang at FAIR) want a return to the Fairness Doctrine and other content controls, tighter regulation of the Internet, and a well-endowed (and more left-wing) Corporation for Public Broadcasting. They hate talk radio. They don't object to political correctness. What they advocate may, in some sense, be "democracy," but it is not freedom. (Interestingly, it is this group's stranglehold on public broadcasting in this country — and, more and more, on "community" broadcasting like the

Pacifica Network, once free of both governmental and corporate largess but now increasingly reliant on both — that has driven so many of the first group into such alternative media as

low-power pirate radio.)

Robert McChesney, alas, seems closer to the second position. But there's a lot in his book that supports the first. Does he know it's there? □

Edmund Wilson: A Biography, by Jeffrey Meyers. Houghton Mifflin, 1995, 554 pp., \$35.00

Triumph of the Image

Richard Kostelanetz

The prolific biographer Jeffrey Meyers reports in the preface to *Edmund Wilson* that, when he began the book, "a learned friend" commented on his subject's fading star: "He terrified every one [sic] and today his books are unread." While this biography is impressively thick and thus the most complete so far, what Meyers doesn't confront is the question of *why* the Wilson reputation has faded. Why are institutions like the New York Public Library forever sponsoring symposia on why Wilson had no successors?

For answers, look no further than the efforts of those who promoted Wilson, who were forever touting him as "the greatest mind," the greatest literary critic, known for his independence and interdisciplinary literacy. I'm thinking of Alfred Kazin, Irving Howe, Gore Vidal, and Wilson's loyal publishers Roger Straus and Jason Epstein, among others. What they share is a disinterest in critics younger than themselves (other than servile epigone). While they saw themselves as perpetuating Wilson, they didn't have enough respect for Wilson's example to recognize (let alone encourage) younger writers who likewise thought that example persuasive. Beware of any group of writers, whether literary or political, who do not encourage successors; they are finally showing more

respect for their own careers than for whatever models they espouse.

Given the lack of support, it is not surprising that some of these younger literary critics turned elsewhere — think of Hugh Kenner, Hugh Fox, or John Leonard. Others became self-consciously modest academics (too many to list) or retired altogether (too forgotten to enumerate). I should add that Wilson was a hero for me when I first began 30 years ago — I owned nearly all his books, and the profiles of major American artists and intellectuals that I collected in *Master Minds* reflect his biographical approach. But I soon turned to writing about music and the intermedial arts because it was hard at that time to function as an independent literary critic. (It still is.)

Wilson's enthusiasts were so eager to repackage him in the 1950s that certain radical activities were neglected. Leslie A. Fiedler pointed out long ago that the 1958 reprint called *American Earthquake* omitted several "Communist" essays from the earlier *American Jitters* (1933) on which it was based. *Night Thoughts* (1961), which collects his shorter imaginative work, omits "The Three Limperary Cripples" (1930), a piece of James Joycean prose that would undermine Wilson's image as conservative about the avant-garde. (It can be found in *Note-Books of Night*, published in San Francisco by the Colt Press in 1942.) Wilson's *Five Plays* (1954) omits an experimental ballet, "Cronkhite's

Clocks," that appeared in *Discordant Encounters* (1926). There is no acknowledgement of such deviant work in *The Portable Edmund Wilson* (1983).

Meyers' book is another of those fat literary biographies — over 550 pages in length, with photographs that are mostly familiar and footnotes that are not. I've raised this question before: Who the hell reads these grand pianos and how? My sense is that they were written to be published, within some convention of "This is the sort of book we can sell." No one expects them to be read. I find myself able to look at them only during long train/bus/plane trips (not even a day at the beach is tedious enough), always skipping ahead to parts that might be more interesting. I notice that most reviewers of such biographies focus more upon the subject than the book (as I'm doing now).

Much has been made about Wilson's failure to file tax returns between 1946 and 1955. Since I'm reviewing a biography, I must tell a personal story. I've long known an attorney specializing in tax default. Around the time Wilson's *The Cold War and the Income Tax* (1963) was published, a client with a similar problem gave my friend a copy. Unfamiliar with Wilson's name, my friend asked me if I knew him or knew about him. Only the second, I replied. "He drinks too much, doesn't he?" I've heard that, but how do you know if you've not heard of him before? "I've been in the business for a long time. Ninety-nine percent of the time when a man forgets to file several returns and honestly thinks he forgot, he drinks too much." Explaining away Wilson's book was for him that easy.

What this "unauthorized" biography succeeds in portraying is the messy life behind such neat prose — the constant moving, the infidelities, the drinking, etc. The man portrayed as highly rational and formal actually had low indulgences and unforgivable sins. Implicitly echoing a principal theme of Thomas Mann, the book finally suggests the heresy that the style might *not* be a reflection of the man, but some concoction, an artifice, that is somehow mastered and sustained in spite of all personal evidence to the contrary. This illusion, realized in collaboration with publicists, may be Wilson's principal achievement. □

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The Voluntarist — sample copy for two first-class stamps. Box 1275, Gramling, SC 29348.

Booknotes

Short Cuts — A famous libertarian once told me a story, which he swore was true. It seemed that an economist, a historian, and a philosopher were talking about Murray Rothbard, all expressing great admiration for the great libertarian. The historian said, "The breadth and genius of his work is truly mind-boggling. Except, of course, for his history, which is fraught with error."

The philosopher responded, "Surely you are mistaken. I have nearly read all of Rothbard's works, and found them invaluable — except for his philosophy, which is puerile and nugatory. But his history and his economics are simply brilliant."

They turned to the economist. "Well, I agree with both of you, up to a point. Rothbard certainly was a genius whose work is tremendously admirable. Indeed, it is hard to believe that one man could accomplish so much. But you have misidentified his Achilles heel. His philosophy and history are nothing short of brilliant. But his economics . . ."

I was reminded of this story when I read *From Here to Economy: A Shortcut to Economic Literacy* (Dutton, 1995, 259 pp., \$21.95), by Todd G. Buchholz. Although I am not a professional economist, I am reasonably well-read in the field. As I read this primer, I marveled at how concisely Buchholz explained complex economic concepts and economic history, and the liveliness of his prose. Further, he shows considerable respect for Austrian economics — a respect not often in evidence among mainline economists or their popularizers — and an admiration for the Chicago School. Surely, I thought, this is a book of great merit, making matters economic understandable to those unwilling to devote the study to the field that I have.

I was already planning to buy copies as gifts for the economically under-endowed when I encountered the following two paragraphs:

The U.S. moved to a de facto gold standard in the 1830s and adopted it formally in 1900. Tourists who visited Washington could walk up to

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the Treasury Department building on Fifteenth Street and swap their bills for gold. Every bill was inscribed with the following promise: "The United States of America Will Pay to the Bearer on Demand One Dollar in Gold."

(In the 1930s the U.S. dropped this pledge and replaced the inscription with a promise to "Pay to the Bearer on Demand One Dollar in Lawful Money." A puckish man from Cleveland who decided to test the government then mailed a ten-dollar bill to Washington asking to swap it for "lawful money." The wits at the Treasury Department mailed him back two fives!)

As it happens, this passage discusses the one aspect of economic history where my knowledge is systematic and arguably expert. And I immediately recognized several errors:

(1) The United States more or less adopted the gold standard *de facto* in 1873 and *de jure* in 1900, more or less abandoned it in 1934, and completely abandoned it in 1971. Prior to 1873, the U.S. was on a bimetallic standard; that is, the U.S. dollar was defined as a fixed

quantity of either gold or silver; in effect, there were two dollars in circulation, one .7734 troy ounces of silver, the other .04837 troy ounces of gold. Needless to say, this bi-metallic standard was an utter failure, as in the marketplace the values of both gold and silver fluctuated. Prior to the Coinage Act of 1834, the laws of the United States decreed that one ounce of gold was worth 15 ounces of silver, the market ratio that prevailed (more or less) at the time of the creation of the U.S. monetary system in the 1790s.

Unfortunately, by the early 1800s, this arbitrary valuation was out of whack with the prices of gold and silver in the market. It overvalued silver; that is to say, \$100 in silver coin had less value as metal than did \$100 in gold coin. At the time, Congress had no authority to repeal Gresham's Law, so the result was predictable: gold coins were driven from circulation.

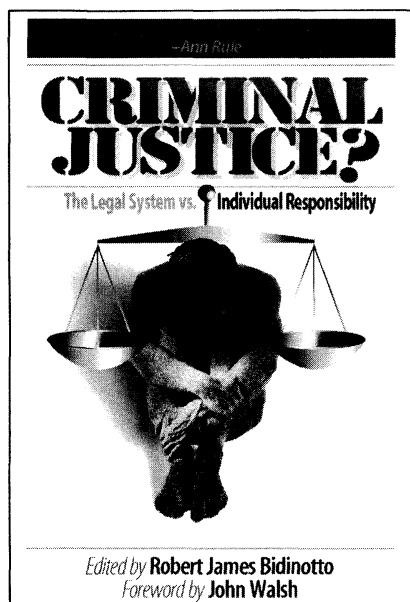
The Coinage Act of 1834 changed the gold-silver ratio to 16-to-1, which was by then, more or less, the market ratio. As before, this new ratio worked for a while, but soon the market ratio

changed, this time in favor of gold. (That is to say, the ratio soon overvalued gold.) Silver coins were driven from circulation. Between 1849 and 1873, the coinage system was an utter mess, thanks to this problem and to the paper-money inflation of the Civil War years.

In 1873, Congress repealed authorization for striking a silver dollar, in effect, reducing the status of silver coins from standard to subsidiary coinage and demonetizing silver. Finally, the U.S. was on a *de facto* gold standard.

(2) There was no government-issued paper money at all until the Demand Notes of 1862 and the Legal Tender Notes of 1863. These notes were not legally redeemable in gold or in silver and, in fact, were routinely refused by the federal government when tendered in payment of tariffs. Needless to say, they never included any language guaranteeing that they could be redeemed upon demand in gold.

(3) Between 1862 and 1933, the U.S. government issued, at one time or another, thirteen different types of paper money: Demand Notes, Legal



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These pieces of paper money had a wide variety of redemption clauses, some of which were changed from time to time. The only ones the federal government promised to redeem in gold were Gold Certificates and Federal Reserve Notes (Series 1928 only). None of these were issued in denominations of \$1.00.

The Treasury Notes (Series 1890 and 1891) promised redemption in "coin," which in fact meant the bearers choice of gold or silver coin, but this is nowhere stated on the note. The National Gold Bank Notes (co-issued by the federal government and certain federally-chartered National Gold Banks during the 1870s) promised redemption in gold, but by the

National Gold Bank, not the federal government.

So I don't know how much I ought to recommend *From Here to Economy*. Its discussion of the one area where I might be considered an expert is fraught with errors.

The frustrations of a book-reviewer!
—R.W. Bradford

Secret Agent Man — The editor of *The New York Times Book Review* once told me that the principal purpose of his medium was not acknowledging cultural excellence, or even diversity, but simply reviewing the books most visible in his readers' favorite stores. If that be true, then a principal purpose of the review pages in *Liberty* should be identifying important books that can not be found in local outlets.

Of those to come my way recently, I was most charmed by *The Whole Spy Catalog* (Intelligence Inc., 1995, 426 pp., \$44.95), a highly informative large-format compendium in the distinguished tradition of books that have the words "whole" and "catalog" in their titles. Indeed, I found it a better read than the recent *Millennium Whole Earth Catalog*, the latest effort of Stewart Brand's formula-conscious collaborators. Author Lee Lapin offers a wealth of advice about uncovering information via data banks, electronic surveillance, Internet-based services, aerial photography, and the like. In the tradition of expanding out, rather than narrowing down, this book even has capsule reviews of other books about the subjects covered here. It is better, as well as truer, than science fiction.

The author, previously unknown to me, offers only the credit of authoring *How to Get Anything on Anybody*, which is a reference of sorts. His name, which means bunny in French, is another favorable reference. The bad writing and inadequate proofreading suggest he might be an enthusiastic beginner. What gives Lapin authority, at least to this reader, are his anecdotes about such things as an international spies' convention in Bulgaria and how the Israeli Mossad had more success than our FBI in telephoning him at home "at a time I was living with a roommate, taking the normal security precautions — phone listed in someone else's name, utility bills in a fictional name, real mail

going to a mail drop that was visited only when necessary." If this book offers as much strategic advantage as I imagine, then its readers would prefer that it not be available in the local bookstore or, need I say, reviewed in the *New York Times*. —Richard Kostelanetz

Just Because You're Paranoid

... If spreading paranoia about the government becomes a crime, Clinton will have to prosecute Dean Koontz for his chilling novel *Dark Rivers of the Heart* (Knopf, 1994, 464 pp., \$24.00). In one of the book's most riveting sections, Koontz shows what it is like to be subjected to civil asset forfeiture, describing how these statutes can be used to destroy the lives of innocent people by taking their property without trial or due process. In his afterword, Koontz drives the point home: "The type of criminal behavior by government agencies depicted in this novel does not spring entirely from my imagination. Paramilitary assaults against private citizens are a reality of our time."

Dark Rivers of the Heart introduces a super-secret federal agency "with no name" and almost unlimited resources. This agency specializes in covering up the failures of other agencies — FBI, DEA, ATF, etc. — and leaves no trail. Its secrets are known to a woman whose husband programmed its central computer. Now they want her dead.

The pursuit is led by a terrifying government agent named Roy Miro. Behind his pleasant smile, Miro holds to a psychopathic form of political correctness that permits murdering people for their own good. ("Sleep, dear lady. . . . No more worrying about finances, no more working late, no more stress and strife. You were too good for this world.") Miro is the archetypal utopian statist, convinced that any atrocity can be justified if the motive is "compassion." Naturally, he hates individualists. ("Civil order was not sustainable in a society populated by rugged individualists. The dependency of the people was the source of the state's power, and if the state didn't have enormous power, progress could not be achieved or peace sustained in the streets.")

An exaggerated caricature? Maybe. But *Dark Rivers of the Heart* was written

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before the House of Representatives passed H.R. 666, before the president devised his "anti-terrorism" bill. Its conclusions may seem paranoid, but that doesn't mean they aren't true.

—George L. O'Brien

Rashomon Ridge — Alan Bock's *Ambush at Ruby Ridge* (Dickens Books, 1995, 273 pp., \$22.00) and the *Department of Justice Report on Internal Review Regarding the Ruby Ridge Hostage Situation and Shootings by Law Enforcement Personnel* (Lexis Counsel Connect, digital, available on Internet at <http://www.counsel.com/ruby/ruby1>) both summarize and try to evaluate the events at Ruby Ridge, Idaho, in August 1992, when a gun battle occurred between federal marshals and the family of Randy Weaver, resulting in the death of one marshal and Weaver's son; and the subsequent attack on the family by FBI agents, which resulted in the death of Weaver's wife.

But they are as different as night and day. Bock makes a serious attempt at sorting through the evidence and tes-

timony surrounding the case, evaluating it, and trying to figure out what happened. Bock is a libertarian, so it should not be surprising that he is often dubious about the testimony of law enforcement officers. His dubiousness is borne out by the fact that the officers' stories have changed considerably over time and often contradict one another, while the Weavers' account has never varied. Not surprisingly, Bock concludes that the lawmen acted improperly and illegally, and calls for restrictions on federal power and a reinvigoration of the American tradition of respect for individual rights.

The anonymous Justice Department chroniclers take a very different approach. They work from the assumption that the statements of law enforcement officers are truthful and accurate. This is quite an act of faith, to say the least. For example, they conclude that FBI agent Lon Horiuchi's shooting of Randy Weaver in the back from ambush without warning was justified, based on Horiuchi's statement that Weaver was a threat to a helicopter that

had been in the area for some time — despite the numerous contradictions between Horiuchi's statement and the testimony of other FBI snipers.

In light of this peculiar methodological approach, what is most interesting is that the *Report* concludes that the second shot was unconstitutional, and recommends "referral of the matter of the second shot to the appropriate component of the Department of Justice for a determination of whether federal criminal prosecutive merit exists."

There are other significant differences: Bock's book is well-written and engaging; the Justice Department tome is written in semi-readable bureaucratese. Also, the Justice Department report is missing several integral parts that were not released by the Justice Department. The most intriguing of these is the entire chapter entitled "FBI Internal Review of HRT Shots Taken on August 22, 1992." A note in the text explains that this chapter was "omitted by Department of Justice editors."

Bock's book includes some extremely helpful features: a list of

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characters, a map of the Weavers' and adjacent property at Ruby Ridge, a bibliography, and an index. It might have benefitted from a little more editing — he sometimes repeats himself, and could have pared down his lengthy introduction about the government war against Chief Joseph of the Nez Perce — but here I nitpick. It is altogether a fine piece of writing and an extraordinarily handsome book. —R.W. Bradford

The Curse of the Thick Black Ink — The new edition of Ayn Rand's *Anthem* (Penguin, 1995, 253 pp., \$21.95) appends a facsimile of the novelette's

entire first edition, with editorial changes marked in Rand's own hand. This is certainly valuable to the Rand scholar, since the first edition has long been scarce and difficult to obtain. Rand's extensive edits are interesting, of course, if only because the show the development of her craft. Unfortunately, in striking out words and passages, she sometimes obscured them so completely that the original words cannot be read.

This edition also includes a new introduction by Leonard Peikoff that is worth reading.

—R.W. Bradford

Filmnotes

Mr. Natural — Any reviewer of *Crumb* (Terry Zwigoff, dir.; 1995), the recent documentary about the cartoonist R. Crumb, is faced with two difficulties. First: which of the holy trinity should you review — the man, his work, or the film? Second: how do you avoid sounding like one of the pathetic critics interviewed in the movie?

Any cartoonist or connoisseur of cartoons will tell you that Crumb is a master of his art. In gritty tones rendered in nervous, scratchy lines he evokes images of profoundly disturbing beauty and wit. His genius as a cynic lies in his lovingly crafted use of the cartoon — the artful manipulation of visual cliché — to express his boundless contempt for most of the presumptions of our culture.

Crumb speaks of himself as a completely intuitive creator. Many lesser artists have offered this self-description as an excuse for the most appalling dreck. In Crumb's case, however, his intuition is matched with an almost clinically obsessive craftsmanship and a ruthless honesty. The result: a marvel. His art poses questions about tolerance, the limits of speech, the limits of individualism, capitalism, and the often dubious quality of the mass culture that capitalism encourages. Crumb rarely offers clearly convincing answers. He

observes and renders, and in the hatched contrasts and contradictions of his life and work we are thrown not into a jumble of confusion, but forced toward our own resolutions.

Crumb is a mesmerizing, self-hating misanthrope (and, some would say, an irredeemable racist and sexist). Director Terry Zwigoff is an old friend of Crumb's, and he knows his subject well. He treats Crumb's life as a work of art, which may seem unfair. But Crumb has invited this by speaking of the "Crumb persona" and by featuring himself as the lead character in many of his stories.

The documentary includes a couple of ludicrous episodes with men who fancy themselves connoisseurs of the arts. Crumb himself invites us to laugh at a particularly gushy art gallery patron as he stands in conversation with him, and I've yet to talk to anyone who wasn't slightly embarrassed by the pompous meanderings of art critic Robert Hughes. Still, these scenes belong in the picture, if only because they represent the very sort of pretentiousness for which R. Crumb is the antidote.

—James Gill

You and Your Batman — The first Batman movie had the real Batman, a mysterious, dark avenger who could

be vulnerable without unloading his feelings on everybody. Then director Tim Burton started listening to the critics about how Nicholson's tubby "Joker" stole the show and the movie was "too dark" (especially for kiddies, for whom every movie must be made these days, with a couple glances over the shoulder at the Political Correctness Ministry). So the villain quotient was doubled for the second movie, the plot was even more scatterbrained, and all the dark and forbidding, artistically ambitious elements were scrubbed away with a wire brush. All that was left was an army of penguins with bombs strapped to their back ("the penguins are heading south," Alfred tells Batman at one point, via bat-radio). But at least Keaton still delivered a serious, laconic Batman when he was allowed to bat land on stage.

Now, forget it. In *Batman Forever* (Joel Schumacher, dir.; 1995), Burton's sensibility has vanished — he exec-produced the thing during coffee breaks from *Ed Wood*, apparently — and the new Kilmer "Batman" directed by somebody-or-other utterly lacks the grim, driven quality of the Keaton crusader. (The new one announces that he's "driven," as if verbal articulation were the same as acting.) Plus he has to deliver cutsie unbatmanlike lines, and grin like a goof at the prospect that Bruce Wayne's love life might be in for a big improvement. Kilmer is stolid and monotonic enough in the role, and anybody would look fab in that costume, but cripes — where's *Batman*?

At least the plot is a little more intelligible than in number two. Though, once again, we have Alfred idiotically allowing somebody to slip into the Bat Cave — this time Dick Grayson.

The new movie has lots of fun in it, especially moments with Jim Carrey as the Riddler. But *Batman* was always about darkness and mystery. The original movie, I mean the one that hit theatres in 1989, is more memorable and true to the character than what is being served up now. Even the music has been sanitized in the new movie. It sounds more like the damn TV show.

Here's what I want: I want them to take one half of the money they spent on special effects this time around and spend it on *finding* an appropriate writer. Finding, not paying. The right

writer would come up with the right script even if he were being paid a paltry couple million. (Harlan Ellison could do it. Read his review of the first *Batman*, which appeared in *Fantasy & Science Fiction*.) Then they should beg Keaton to come back, like they begged Sean Connery to return to the James Bond films. Then they should rehire the guy who did the sets for the first movie. Also the guy who did the music. (I don't keep track of the credits. If it's the same composers and designers doing the latest movie that did the first one, all is lost.) —David M. Brown

Feel-Good Thriller of the Year

— Seeing *Crimson Tide* (Tony Scott, dir.; 1995) the first time is much like seeing it the second time: there is never a moment's doubt how it will end. Denzel Washington plays a brand new first officer on a U.S. submarine commanded by an eccentric captain, played with the usual aplomb by Gene Hackman. They set out to sea knowing that they may be required to fire their missiles: Russia has gone into civil war, and "right-wingers" have taken over eastern Siberia and its missiles.

A third of the way into the film, Washington and Hackman are ordered to fire on the enemy, thus ushering in a nuclear war. Immediately they encounter a Russian sub, and, amidst the fighting, a second communication gets interrupted. Since the second communication could have countermanded the first, the first officer refuses to authorize the missile launch. Conflict ensues. The captain is relieved of command. A mutiny (or putative counter-mutiny) occurs. And in the end . . .

It is never in doubt that nuclear war would be averted. I mean, how could any respectable Hollywood writer have written it any differently? I knew how the movie would end when I walked into the theater, just from seeing the trailers. The film's concern with moral responsibility in a military chain of command is tailor-made for Hollywood moralism. And that's just fine. I agree with this morality. I do not believe that soldiers (or sailors, or electric boatmen) should be automatons to authority. And I think people capable of starting a nuclear war should be extra careful. There is nothing controversial here.

But it would have been fun to see

Notes on Contributors

Bryan Alexander is a graduate student in English at the University of Michigan.

Chester Alan Arthur is *Liberty's* political correspondent.

Matt Asher is *Liberty's* editorial intern.

"Baloo" is the alter ego of cartoonist Rex F. May.

John Bergstrom is a Californian cartoonist and animator.

R.W. Bradford is editor and publisher of *Liberty*.

David M. Brown is a writer living in New York.

Stephen Cox is Professor of Literature at UC-San Diego and author of the biographical introduction to Isabel Paterson's *The God of the Machine* (Transaction).

James Gill is *Liberty's* staff artist.

J. Orlin Grabbe is author of the textbook *International Financial Markets* (Simon & Schuster), now in its third edition.

Robert Higgs' most recent book is *Hazardous to Our Health?* (Independent Institute).

Bill Kauffman is author of *America First!* (Prometheus).

Matt Kibbe is Chief of Staff for Rep.

Dan Miller (R-Flor.). The opinions expressed in his essay are his own, and are not intended to reflect the views of Rep. Miller or the U.S. Congress.

Daniel Klein is Assistant Professor of Economics at UC-Irvine.

Richard Kostelanetz has written many books, most recently *Crimes of Culture* (Autonomedia).

Wendy McElroy is author of *XXX: A Woman's Right to Pornography* (St. Martin's).

Michael Oakes has lived in Japan since 1993.

George L. O'Brien is a writer and activist in Arizona.

Randal O'Toole is editor of *Different Drummer*.

David J. Owsiany is an attorney in Columbus, Ohio.

Mark Rembert is a Tennessee-based freelance writer.

Max Schulz is managing editor of *Forbes MediaCritic*.

Clark Stooksbury is assistant publisher of *Liberty*.

Timothy Virkkala is managing editor of *Liberty*.

Jesse Walker is assistant editor of *Liberty*.

Coming in *Liberty* . . .

"What Libertarians Can Learn From Conservatives" — Jim Powell explains the tactics one movement can teach another.

"Dollar an Inch of Skin" — Bo Keeley has an adventure in Caracas, barely escaping with his life . . .

"Of No Importance" — A fable by Karen Michalson.

this thriller conclude "irresponsibly," with the end of the world. The film would not have suffered if Quentin Tarantino, who contributed the film's most amusing dialogue, had taken up the whole project. As demonstrated by Thomas Disch's novel *The Genocides* and Stanley Kubrick's film *Dr. Strangelove*,

total destruction in art sticks with you, and leaves you thinking long after. And you begin the second viewing (or reading) of such work with a whole different attitude than you started the first run through. The spine tingles. *Death is in the air*. Time and crimson tide wait for no man. —Timothy Virkkala

Terra Incognita

Washington State

The limits of property rights, explained in a notice mailed to residents of The Evergreen State:

"If you're planning any activity that requires digging down a foot or more — even on your own property — remember that Washington State law requires that you call 1-800-424-5555 at least two business days before you dig."

Washington, D.C.

The state of public opinion, as reported by the *Des Moines Register*:

A new poll shows that 76% of Americans distrust the government, but 59% approve of the job being done by the United Nations.

Tarrant County, Tex.

Respect in the modern church, reported in the *San Antonio Express-News*:

Rev. William Hoover resigned after admitting he had molested a twelve-year-old, but he retains the support of some parishioners. "He is very well-liked and very well-respected here," said Fern Bombadier, "and he has touched a great many people."

Los Angeles

"Dynamic budgeting" in action, as reported in the *San Diego Union-Tribune*:

"Facing the worst fiscal crisis in its history, the Los Angeles County Board of Supervisors passed an estimated \$11.2 billion budget late yesterday, reducing a massive layoff with unexpected revenue that has yet to materialize."

The Netherlands

The latest consumer protection legislation in this progressive European nation, as reported by the *London Times*:

Government regulations require S&M prostitutes' clients to be bound and gagged in such a way that they can work themselves free in an emergency in a maximum of 30 seconds.

Tavares, Fla.

Expanding the War on Drugs, as reported by the *Sarasota Herald-Tribune*:

Bonnie Turner was suspended from Tavares Middle School for having Tylenol in her backpack, and will not be allowed to take classes this fall until she completes a "substance-abuse awareness" course.

Jay Marshall, supervisor of student services, defended the policy. "A student is not to have any kind of medication on their person . . . because they are potentially dangerous to students that would ingest them. People commit suicide by taking Tylenol."

Virginia

Career preparation techniques in the Old Dominion, as described by *The Key Reporter*:

Andrea Ballengee was dethroned from her position as Miss Virginia after pageant officials discovered she had falsely claimed to be a member of Phi Beta Kappa and to have been graduated from high school with "highest honors," and that she misrepresented her high school "Most Outstanding Cheerleader" award as "Most Outstanding Female Athlete."

Ballengee intends to attend law school and eventually to run for Congress.

Walworth County, Wisc.

Hindering hate in the Badger State, as reported by *The New Republic*:

In drafting an anti-bigotry resolution, the Walworth County Board changed a reference to white supremacist organizations from "hate groups" to "unhappy groups."

Sonora, Calif.

The perils of visual impairment, as reported in the *Associated Press*:

A former Forest Service worker tried to escape punishment for stealing truckloads of government property, claiming that his eyesight was so bad, he couldn't see how much he'd taken.

Washington Island, Wisc.

Careful planning in the public sector, as reported by the *Milwaukee Journal-Sentinel*:

In May, federal officials proposed a \$400,000 plan to double the size of the Washington Island Coast Guard station — even though it was scheduled to be closed in September.

Italy

A social note in the *International Herald-Tribune*:

"Alessandra Mussolini, 32, the granddaughter of Benito Mussolini, is expecting her first child in July. Mussolini, a member of the Chamber of Deputies for the neofascist National Alliance Party, said she planned to keep working. 'It may slow me down some, but I really want to deal with it as if I were a man,' she said. She is married to Mauro Floriani, an officer of Italy's tax police."

Crystal Lake, Ill.

Politically correct headline in the *Crystal Lake Northwest Herald*:

"Atomic Bombers Criticize Enola Homosexual Exhibit"

(Readers are invited to forward newspaper clippings or other items for publication in *Terra Incognita*.)

Liberty Back Issues

(continued from back cover)

January 1992

- "The National Park Disgrace," by R.W. Bradford and Karl Hess, Jr.
 - "How To Think About Pollution," by David Friedman
- Plus articles and reviews by Michael Rothschild, Bill Kauffman, Henry Veatch, Jane Shaw, Richard Kostelanetz, and others. (80 pages)

March 1992

- "Albert Jay Nock: Prophet of Libertarianism?" by Stephen Cox
 - "The Ghost in the Little House," by William Holtz
- Plus articles and reviews by Karl Hess, Jane Shaw, Edward C. Krug, and others; and an interview with Pat Buchanan. (72 pages)

May 1992

- "Hong Kong: Free Markets, Full Employment," by Mark Tier
 - "Who is Richard Rorty?" by Dan Klein and David Horowitz
- Plus articles and reviews by Karl Hess, Vernon L. Smith, Kyle Rothweiler, and others; and a short story by J. Orlin Grabbe. (72 pages)

July 1992

- "Christians and Libertarians in a Hostile World," by Doug Bandow
 - "The Myth of (Heavy) Metal Illness," by Gracie & Zarkov
- Plus commentary on the L.A. Riots, and articles and reviews by David Kelley, David Brin, George H. Smith, and others. (72 pages)

Volume 6

September 1992

- "War on Drugs, War on Progress," by James Ostrowski
 - "Five Years of *Liberty*," by R.W. Bradford
- Plus articles and reviews by J. Neil Schulman, Murray Rothbard, Martin Morse Wooster, and others; and an index to back issues. (80 pages)

November 1992

- "The First Time: I Run for the Presidency," by John Hospers
 - "At the Margins of the Republican Convention," by Thomas D. Walls
- Plus articles and reviews by David Kelley, Richard Kostelanetz, Loren Lomasky, Ben Best, Gregory Johnson, and others. (80 pages)

February 1993

- "Perot's 200-Proof Populism," by Bill Kauffman
 - "How to Secede in Politics," by Scott Reid
- Plus election coverage, and articles and reviews by John Hospers, James Ostrowski, Jesse Walker, Ron Lipp, and others. (80 pages)

April 1993

- "How to Cut Your Taxes by 75%," by R.W. Bradford
 - "Clinton and the New Class," by Douglas Casey
- Plus articles and reviews by John Hospers, Mark Skousen, Stephen Cox, and others; and an interview with Roy Childs. (72 pages)

June 1993

- "Holocaust in Waco," by R.W. Bradford and Stephen Cox
 - "Understanding the State," by Albert Jay Nock
- Plus articles and reviews by Leland Yeager, Randal O'Toole, Bart Kosko, Harry Browne, C.A. Arthur, and others. (72 pages)

August 1993

- "How Do I Hate NPR? Let Me Count the Ways," by Glenn Garvin
 - "What Happened in Waco?" by Loren Lomasky and R.W. Bradford
- Plus articles and reviews by Stephen Cox, Jane Shaw, and others; poetry by Marc Ponomareff; and fiction by J. Orlin Grabbe. (72 pages)

Volume 7

October 1993

- "The Real Health Care Crisis," by R.W. Bradford
 - "White Liberals Can Jump," by William Moulton
- Plus articles and reviews by Greg Kaza, Stephen Cox, and others; aphorisms by Isabel Paterson; and an index to Volume 6. (72 pages)

January 1994

- "First They Came for the Fascists . . ." by Gerry Spence

- "My Dinner With Slick Willie," by Douglas Casey
- Plus articles and reviews by Wendy McElroy, Ross Overbeek, Jesse Walker, Todd Seavey, R.W. Bradford, and others. (72 pages)

March 1994

- "Chaos and Liberty," by J. Orlin Grabbe and Pierre Lemieux
 - "Secession as a First Amendment Right," by Robert Nelson
 - "Partial Recall: Manufacturing Child Abuse," by David Ramsay Steele
- Plus articles and reviews by Victor Niederhoffer, John Hospers, and others; and a short story by Richard Kostelanetz. (72 pages)

May 1994

- "The Aristocratic Menace," by David Brin
 - "Trafficking in Numbers: The Seat Belt Scam," by Gwynne Nettler
- Plus articles and reviews by R.W. Bradford, Jane Shaw, James Ostrowski, and others. (72 pages)

July 1994

- "Hillary's Trades, Hillary's Lies," by Victor Niederhoffer
 - "Remembering Karl Hess," by R.W. Bradford
- Plus articles and reviews by Justin Raimondo, Douglas Casey, Bruce Ramsey, Leon T. Hadar, and others. (72 pages)

September 1994

- "Diagnosis in the Therapeutic State," by Thomas Szasz
 - "The New Mythology of Rape," by Wendy McElroy
- Plus articles and reviews by Bart Kosko, Jesse Walker, Leland Yeager, Todd Seavey, Bill Kauffman, and others. (72 pages)

Volume 8

November 1994

- "Deep Ecology Meets the Market," by Gus diZerega
 - "The WTO: Trading Away Free Trade," by Fred L. Smith, Jr.
- Plus articles and reviews by Wendy McElroy, Bart Kosko, and others; a short story by Greg Jenkins; and an index to Volume 7. (72 pages)

December 1994

- "The War Against Cuban Refugees," by Grover Joseph Rees
 - "Truth and Lies in the Balkan War," by George Manolovich
- Plus articles and reviews by Seth Farber, David Ramsay Steele, Susan Rutter, Stephen Cox, Wendy McElroy, and others. (72 pages)

January 1995

- "Sliding Down the Bell Curve," by Jane Shaw and Leland Yeager
 - "Memoirs of a Soviet Dissident in Canada," by Pierre Lemieux
- Plus articles and reviews by Loren Lomasky, Brian Taylor, Phil Leggiere, and others; and an interview with Aaron Russo. (72 pages)

March 1995

- "What, Me Vote?" by John Pugsley, Bob Prechter, and Douglas Casey
 - "Welcome to the Revolution," by Durk Pearson and Sandy Shaw
- Plus articles and reviews by Brian Doherty, Bill Kauffman, R.W. Bradford, and others; and a tribute to Murray Rothbard. (72 pages)

May 1995

- "Blunder on the Right," by Paul Piccone
 - "A World Partly Free," by Bruce Ramsey
- Plus articles and reviews by Martin Morse Wooster, Caroline Baum, and others; and a short story by J. Orlin Grabbe. (72 pages)

July 1995

- "Oklahoma City and Waco," by Stephen Cox, R.W. Bradford, David Ramsay Steele, Loren Lomasky, and Jesse Walker
 - "The End of Ordinary Money," by J. Orlin Grabbe
 - "De-Inventing Government," by Ed Crane
- Plus articles and reviews by Pierre Lemieux, Sharon Presley, Richard Kostelanetz, Wendy McElroy, and others. (72 pages)

Volume 9

September 1995

- "The Myths of Schooling," by John Taylor Gatto
 - "Rand: Behind the Self-Mythology," by R.W. Bradford
- Plus articles and reviews by Randal O'Toole, Lester Hunt, John Deninger, Scott Reid, and others; and an index to Volume 8. (72 pages)

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September 1989

- "Abortion Without Absurdity," by R.W. Bradford
- "The Theology of Ecology," by Robert Formaini
- "Holocausts and Historians," by Ralph Raico

Plus articles and reviews by David Friedman, Murray Rothbard, Richard Kostelanetz, Gary North, Jeffrey Tucker, and others. (72 pages)

November 1989

- "Loathing the Fear in New York," by Murray Rothbard
- "Robert Nozick, Ex-Libertarian," by Loren Lomasky

Plus articles and reviews by Richard Kostelanetz, Tibor R. Machan, and others; and an interview with Russell Means. (72 pages)

January 1990

- "The Case for Paleolibertarianism," by Llewelyn Rockwell
- "The Greenhouse Effect: Myth or Danger?" by Patrick J. Michaels

Plus articles and reviews by Karl Hess, Murray Rothbard, David Gordon, and others; and an interview with Barbara Branden. (80 pages)

March 1990

- "H.L. Mencken: Anti-Semite?" by R.W. Bradford
- "The Case Against Isolationism," by Stephen Cox

Plus articles and reviews by Sheldon Richman, John Hospers, George Smith, Loren Lomasky, Richard Kostelanetz, and others. (80 pages)

May 1990

- "Killing as Therapy," by Thomas Szasz
- "A Population Crisis?" by Jane Shaw

Plus articles and reviews by Bill Kauffman, Richard Kostelanetz, Robert Higgs, Bart Kosko, Karl Hess, and others. (72 pages)

July 1990

- "Conversations with Ayn Rand (part 1)," by John Hospers
- "If You Believe in Dentistry, Why Should You Mind Having Your Teeth Knocked Out?" by William Moulton

Plus articles and reviews by David Friedman, Bill Kauffman, James Robbins, Mark Skousen, John Baden, and others. (72 pages)

Volume 4

September 1990

- "Conversations with Ayn Rand (part 2)," by John Hospers
- "Fighting the Draft in World War II," by Jim Bristol

Plus articles and reviews by Jane Shaw, Ron Paul, Richard Kostelanetz, and others; and a *fiction* by Harvey Segal. (72 pages)

November 1990

- "Why We Should Leave the Middle East," by Sheldon Richman
- "Searching for the Home of Truth," by R.W. Bradford

Plus articles and reviews by Richard Kostelanetz, David Friedman, and others; and an interview with Ed Crane. (80 pages)

January 1991

- "Gordon Gekko, Mike Milken, and Me," by Douglas Casey
- "Skatepunks, UFOs, and Anarchy for Fun," by Lawrence Person

Plus articles and reviews by Karl Hess, David Boaz, Loren Lomasky, Ralph Raico, and others; plus special election coverage. (80 pages)

March 1991

- "The Myth of War Prosperity," by Robert Higgs
- "The Strange Death of the McDLT," by R.W. Bradford

Plus articles and reviews by Jan Narveson, Jane Shaw, Richard Weaver, Linda Locke, William Holtz, David Friedman, and others. (72 pages)

May 1991

- "Christiania: Something Anarchical in Denmark," by Benjamin Best
- "Journalists and the Drug War," by David Boaz
- "Recall Gorbys' Peace Prize," by James Robbins

Plus writing by John Baden, Scott Reid, Richard Stroup, Leland Yeager, and others; and a short story by Lawrence Thompson. (72 pages)

July 1991

- "Say 'No' to Intolerance," by Milton Friedman
- "Ex-Nazis Say the Darndest Things," by Richard Kostelanetz

Plus articles and reviews by David Friedman, Karl Hess, and others; and Mark Skousen's interview with Robert Heilbroner. (72 pages)

Volume 5

September 1991

- "AIDS and Marijuana," by Robert O'Boyle
- "Canada Explodes," by Scott Reid and Barry Chamish

Plus articles and reviews by R.W. Bradford, Frank Fox, John Hospers, Mark Skousen, Sheldon Richman, and others. (72 pages)

November 1991

- "The Road to Nowhere," by David Horowitz
- "Thelma and Louise: Feminist Heroes," by Miles Fowler

Plus articles and reviews by Robert Higgs, Leland Yeager, Carol Moore, and others; and a short story by J. E. Goodman. (80 pages)

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