

Liberty

Guns, God, and
Gays in the
Heartland

April 2005

\$4.50

The War on Law

by John L. Martinez

Who's Your Daddy?

Authority, Asceticism & the Spread of Liberty

by Michael Acree

Sex, Wine, and Midlife Crisis

by Jo Ann Skousen

Living on the Fringe

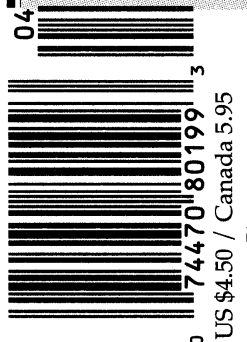
by R. W. Bradford

The Journey of Friedrich Hayek

by Bettina Bien Greaves

Also: *John Berlau* looks at the strange career of a GOP governor who legalized marijuana, *Stephen Cox* assesses Bush's inaugural address, and *Norman Darden* tells a tale of slavery and Virgin Birth . . . plus other articles, reviews, and humor.

"What more felicity can fall to creature, than to enjoy delight with Liberty." — Spenser



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Letters

Fed Up

I have read and re-read Robert Formaini's "Did the Fed Cause the Great Depression" (March), and I am still not sure what his answer is. On the one hand he seems to absolve the Fed of responsibility for the severe, prolonged economic downturn that began in 1929. That period of misery was caused more by the policies of Hoover and Roosevelt, by Smoot-Hawley, and by people's worries about the soundness of banks and paper currency than by the Fed.

But on the other hand, Formaini's primary causes of the 1929 crash seem to be the Fed's refusal to raise its discount rate to a market level, its refusal to have higher rates for stock speculation, and its policy of expanding the money supply proportionately to productive transactions.

So what is the answer? Did the Fed cause the crash but not the subsequent depression or what? Inquiring minds want to know.

Paul Thiel

Crescent Springs, Ky.

Formaini replies: As I argued in the article, the causes — note the plural — of the Great Depression were numerous and complex. No single cause theory explains all the facts of its beginning, or its long duration. The Fed, being the instrument of national monetary policy, cannot be blameless for the effects of the policies it followed that contributed to the downturn. But to suggest that the entire episode could have been easily prevented or, once started, cured by Fed policy, seems simplistic to me given all the other extremely counterproductive policies that were pursued at that time by all levels of government.

Greenspan the Taxman

You have been getting a lot of com-

ments from readers who offer opinions on "Who Owns the Fed" by William Woolsey (October 2004).

The commercial "member" banks are the titular owners. They receive a statutory dividend of 6% on their required capital investment in Fed Banks. This fact is as unimportant as the percentage of carbon dioxide (0.03% — three-hundredths of one percent) in the atmosphere.

What is important is the fact that the Federal Reserve System is an institution that produces all the base money for the U.S. economy, and much of what the rest of the world uses as well. The total amount the Fed creates currently is approximately \$25 billion per year. The U.S. government, through the Treasury Department's offices, spends this new money into existence. Since the costs of production of the money are almost zero, the net benefit to the government is near \$25 billion.

The formal name for this new money-creating process is seigniorage, and it is rightly classified as a tax on the economy. It is one big, unaccounted, unseen, and virtually unknown tax.

If privately owned banks or other firms generated this new money, the returns would go to private bankers operating banks under the constraints of free, private, competitive enterprise. Consequently, the seigniorage returns they realized would be competitive residuals, similar to the "profits" in any other industry.

Since the federal government gets all of the Fed's seigniorage, and since the president appoints the Board of Governors (one new board member every two years), and since Congress has complete control over the operations of the Federal Reserve System, the titular ownership vested in the "member" banks is inconsequential. Fed mon-

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Inside Liberty

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etary policy is government monetary policy, just as definitely as is foreign policy by the State Department.

I discuss all of these issues in my book, "Monetary Policy in the United States, an Institutional and Intellectual History" (University of Chicago Press, 1993).

Richard H. Timberlake
Athens, Ga.

Reasons to Recount

As a charter subscriber to *Liberty* and a life member of the Libertarian Party, as well as current chairman of the Libertarian Party of Northeast Ohio, I wish to respond to some of the errors in "Join the insanity?" (Reflections, February). Nobody who knows me well considers me a leftist or an idiot, but as a lifelong resident of Ohio who witnessed the vote recount in Cuyahoga County, I have serious doubts about the validity of the election.

Among other facts, our secretary of state, J. Kenneth Blackwell, who twice ruled the Libertarian Party of Ohio off the ballot for frivolous reasons which are now before a federal judge, and who is a member of the one-worlorder Council on Foreign Relations and the neocon Jewish Institute for National Security Affairs, was both the co-chair of the Bush campaign and the officer responsible for the integrity of Ohio elections.

When Michael Badnarik launched his brilliant initiative, he generated more favorable publicity for the Libertarian Party than during the entire establishment media blackout of his campaign.

The publicity only became unfavorable when the establishment media masters realized how good it was making us look. This was why they brought up the Republican red herring of expense to Ohio taxpayers, as though the state of Ohio does not squander millions of dollars every day.

Next to protecting the lives, liberty, and property of taxpayers, what function of a representative self-government is more important than insuring honest elections?

A second benefit of Badnarik's proposal was to discredit our enemy, J. Kenneth Blackwell.

A third was to weaken Bush's phony mandate.

A fourth was to reach out to dissi-

dent Democrats, Greens, and others who, despite some regrettable lapses in knowledge of economics and the proper role of government, oppose Bush's unconstitutional, lie-motivated, unnecessary, and counterproductive war in Iraq, and the growing police-state structure, as well as supporting honest elections, which was not a controversial position until quite recently.

Finally, if Kerry could have entered the White House under these circumstances, we could have been assured of gridlock for the next two or four years.

The only downside I see in Michael Badnarik's actions is the pathetically weak response, especially by the National Executive Committee which resulted in the confusion which was displayed by your article.

David Macko
Solon, Ohio

Bradford's Blunders

Would someone at *Liberty* magazine headquarters nudge R.W. Bradford awake to mention that the election is over, Badnarik lost, and that Bradford can now stop picking on him and the Libertarian Party? Thanks.

Bradford's credibility is fast approaching zero. Bradford wrote in his February reflection that Badnarik's recount would cost the state of Ohio \$1.4 million. Where did he get the figure? Was he in Ohio doing a payroll audit? Having participated as a Libertarian Party of Ohio recount observer, I can assure that no county employees were detected being overworked or on overtime. The ballot processors were unpaid volunteers.

"I can see no reasons why Libertarians should help [paranoid leftists] in their ridiculous quest," Bradford wrote, "even if all it required was Badnarik's cooperation and about \$10,000 of Libertarian money." Gold, silver, and other forms of exchange I'm aware of, but I'm stumped regarding the currency "Libertarian money." No Libertarian Party funds were provided.

Finally, from my firsthand view in Ohio, there were consistent and serious violations of voting procedures. The only voting process I will ever trust is a traceable, paper ballot — regardless of the cost.

Jim Kinard
Lancaster, Ohio

Bradford responds: Regarding Macko's

claim that the recount produced "more favorable publicity for the Libertarian Party than during the entire establishment media blackout of his campaign," I note that the news articles in the Ohio press reported almost uniform public hostility to the recount. I doubt that we'll see any measurable increase of Democrat or Green support for LP candidates as a result of the ballot challenge; time will tell. If there is any evidence that the recount weakened Bush's mandate, I'd like to see it.

Kinard wonders where I got the \$1.4 million figure. I got it from news reports in more than a dozen different Ohio newspapers. I got the figure that \$10,000 of the cost came from Libertarian Party members from Barb Goushaw, Badnarik's campaign manager.

Accounting for That 1%

I applaud R.W. Bradford's complete election analysis, particularly his analysis of Libertarian candidates in the U.S. House elections. I was such a candidate in U.S. District 2 in Arizona. I would have been pleased if I had matched the percentage of the Libertarian candidate from two years before, Ed Carlson, who received 3.4% of the vote in 2002. But I received only 2.4%.

I sat back and thought about this. Was a 1% loss significant in such a low percentage? Was it because I take unswerving positions that got me proudly labeled "an extremist" by the state's major paper, costing me the protest vote? Or was it due to a presidential campaign year where the voters were rallied and scared into voting for one of the two major party tickets, more so than in off years, by the incessant media spin about close elections?

Bradford should have considered and presented the 2000 results as well, but I realize this would be difficult since the boundaries and numbers on most districts shifted after that election.

Powell Gammill
Phoenix, Ariz.

The Original Intent of Christmas

Stephen Cox, in his March "Word Watch," states, "December 25 isn't a 'holiday' because it's in 'winter'; it's a holiday because it celebrates the birth of Jesus."

While it's certainly true that it was taken over for that purpose, in truth early legends, including the Bible, do

not state when Jesus was born, and in fact early Christians did not consider that important. What somewhat later Christians wanted was to fit in with Roman culture, and devised this "Christian" holiday to be at the solstice time that was being celebrated as the rebirth of the Sun, which was now rising higher in the sky every day after having descended day by day up to that point in the year.

Just as Kwanzaa was invented to coincide with Christmas, and the minor feast of Hanukkah was emphasized to compete with Christmas, Christmas itself was devised to emulate pagan Roman festivities.

Charles Kluepfel
Bloomfield, N.J.

Tipping the Election

In "Politics vs. Ideology" in your February issue, Stephen Cox wrote, "In 1916, the Prohibition Party achieved 1.19% of the popular vote. A little over two years later, a prohibition amendment was added to the Constitution. Obviously, A was not the cause of B." Cox is wrong. The Prohibition Party cost the Republicans the presidency in 1916, the 2nd time that a minor party had produced that outcome (the first time was 1884). Both times, the Prohibition Party ran a former Republican governor for president, and both times the Prohibition vote for president tipped the results in a single state. Each time, that single state caused a reversal in the electoral college (New York in 1884, California in 1916).

The result after the 1884 election was a Republican Party-inspired hate campaign against the Prohibition nominee. He was burned or hung in effigy in hundreds of towns in the north, and the county that had named itself after him, changed its name.

But the results after the 1916 election were much more dramatic. The prohibition amendment, which had been bottled up in Congress since 1875, passed Congress in April 1917, less than six months after the presidential election. Remember that neither party had ever even mentioned prohibition in its national platforms (the Republicans in 1892 had put in the platform a praise of temperance, but even that was removed thereafter). Remember also that southern Democrats in Congress had been in favor of it for some time, but it had no

hope of passing without massive Republican support. Republicans, having lost two presidential elections as a result of Prohibition Party campaigns, decided to end the problem.

Richard Winger
San Francisco, Calif.

Cox responds: I appreciate Mr. Winger's intelligent response. One thing is certain: it's a good idea to burn prohibitionists in effigy. I remain skeptical, however, about the Prohibition Party's influence. The Democratic margin of victory in New York in 1884 was 1,047 votes; in California in 1916 it was 3,420. That kind of margin can result from the way the nominee parts his hair. It resulted at least in part from the presence of a Greenback candidate (16,955 votes) and a Socialist candidate (3,847 votes) in those respective years and states. There's no difference between "marginal" votes and other votes; every vote counts, and political parties know that. For stronger Republican candidates, none of the minor parties would have been an issue. But the Republicans had every confidence of winning the White House in 1920, and they did so, by the largest margin in the history of U.S. presidential elections. Why jump the gun and pass a constitutional amendment, especially one also supported by many Democrats? It's worth remembering that by 1917, 26 of 48 states already had prohibition, and the war fever was creating a zest for discipline and asceticism and other awful things. Congress quickly passed "temporary" wartime prohibition, but the prohibition amendment was not cleared by Congress until December 1917. Slightly more Democrats than Republicans voted for it.

Preventing Genocide 101

Bruce Ramsey said something in his article ("Conversion of a Gun Grabber," March) which was absolutely bizarre. He stated that, "If you're a Jew in Germany in 1942, and the Gestapo is knocking at your door, it does no good to have a gun. Use it and you're dead." With the 60th anniversary of the liberation of Auschwitz just past, do you know absolutely nothing about the Holocaust, Mr. Ramsey? The fact is, with the Gestapo at your door, if you didn't have a gun, you were dead too because they weren't there to take you to a resort, but to take you a death

camp. Resisting with a gun wasn't going to make you any more dead. After all, over six million Jews were murdered and almost none of them were armed. But if every Jew had met the Gestapo with a gun and had inflicted some casualties, then maybe the Germans would have suffered enough deaths as they tried to murder the Jews that they would have stopped at some point, or they would have had to draw resources from other areas which would have led to the war ending sooner.

Or take Rwanda. Nine hundred thousand unarmed Tutsis were killed, mostly by civilian Hutus armed with machetes. If the adult Tutsis had been armed with guns, how many dead civilian Hutus would it have taken before the killing would have stopped? And even assuming the Hutus would have armed themselves too, the Hutus often went after the the Tutsis in buildings, giving the advantage to the Tutsis. And again the killers were mostly civilians who would not have been willing to accept too much risk. Armed Tutsis probably would have ended the killing early.

The fact is, all acts of genocide in the 20th century took place against unarmed populations. That's a pattern worth considering. The best way of preventing genocide is for the population to be armed.

David Husar
Arlington, Va.

The Self-Evident Right to Own a Tank

Bruce Ramsey was right about only one thing — all individuals have a right to defend themselves. He immediately followed that with the kind of arrogant, condescending statements that flow so easily and freely from the mouths of authoritarians.

"But not with any kind of weapon," "too dangerous to be allowed," "no civilized country allows them," "there can be no general right to own a weapon, but only a right to own a *certain class* of weapons."

The (Libertarian) Connection, open forum since 1968. Subscribers may insert four pages/issue free, unedited. Factsheet Five said, "Lively interchange of point, counterpoint and comments." Eight/year, \$20. Strauss, 10 Hill #22-LZ, Newark NJ 07102.

Ramsey implies that a weapon's potential uses or the policies of "civilized" countries somehow justify the curtailing of individual rights. This isn't exactly a self-evident truth.

When the law or the government or Bruce Ramsey tries to explain *why* there are limits to individual rights, they must give you the straight socialist line. There is no way within a philosophy of freedom, so eloquently and succinctly expressed in the Declaration of Independence, that one person or a million persons can find the legitimate authority to dictate the boundaries of an individual's rights. And that is the self-evident truth.

Bruce has followed the rules of the majoritarians — an individual's rights are whatever we tell them they are.

And what can you say about a fellow who would take a gift from his father and sell it?

Mike Doege
Macomb, Mich.

Underestimating the Morons

As Alexis de Toqueville observed, America is a nation of philosopher-kings. Each individual makes his or her own judgments on what is Good and Not Good, and then directs himself accordingly. Each individual is (using the analogy carefully), politically, an equal, independent nation, with all the powers and responsibilities attendant to a nation. Now, while we may politically be equal nations, realistically we are people, with all the strengths and weaknesses found throughout the entire spectrum of human nature and behavior, from the meanest, nastiest bastard to the saintliest of the saints. So the rules still apply regarding murder and mayhem between people. But in the rules between each individual and his government, between man and state, the individual is equal to all levels of government, local, state, and federal. More than equal, because government is of a temporary nature that can be changed when necessary by the people that establish, that give measured power to, their system of governing.

I thought that Bruce Ramsey might have caught this unique American value when he mentioned that America was not Hong Kong. But no, we just have "a strong desire," he writes, "not to have" our "guns taken away."

For all of this to work, Thomas

Jefferson knew that education was key; that people needed to be educated of the rights and responsibilities of philosopher-kings, and so avoid abdicating such difficult and scary things back to government power-mongers and their lackeys. That education should include the five Rs: reading, writing, arithmetic, and American rights and responsibilities.

The major fault in Ramsey's article, from this American point of view, is his assertion that too many of his fellow Americans are morons who couldn't be trusted with lethal force, particularly guns. Too many morons can't be trusted with drugs, can't be trusted to eat right, or use vitamins right, can't read advertising right, don't vote right, don't spend their money right, and just can't stop smoking.

Well, moronic *and* impertinent.

The term "Too many morons" is only vaguely quantified, so he may think maybe 2%, 50%, or 95% of his fellow Americans are morons; and the tone of his writing is such that I assume he considers himself to be in the 5% non-moron and able-and-morally-duty-bound-to-tell-those-morons-what-do category.

The problem lies in considering his fellow Americans, his fellow philosopher-kings as morons unfit to rule themselves. Morons not only should be told what to do, but need to be ordered about, and probably feel safer when following his simple orders. No difficult thinking about duties and conflicting interests, no responsibility for action, or inaction. For morons, ignorance is bliss.

His epiphany, that a gun in my hand makes me politically bold, seems to imply that government is that "ferocious beast" of the SF story, and instead of simply surviving around these voracious, ever-expanding, man-crushing beasts, such as most of the world's people do around their governments. An American would rather pick that good fight, in an attempt to exterminate, or at the least domesticate, these horrible, age-old beasts.

Wesley Rathbun
Philadelphia, Penn.

Machine Guns in Massachusetts

Bruce Ramsey notwithstanding ("no civilized country allows" machine

continued on page 22

Reflections

Flashing their piece — North Korea announced that it has a nuke. Big deal. We all suspected it. That it had to be announced makes me wonder. Most people I know who pack heat go out of their way *not* to show you their weapons. It is most often the guy with the pointed finger in the pocket of his ski jacket who has to announce that he has a gun.

I vote to let them try and use it. If North Korean technology is on par with its economic system, I doubt that it can get out of the country, and doubt even more that it can hit a target, or even detonate. — Tim Slagle

Over one trillion served — New York Times health columnist Jane Brody reports that a trillion servings later, not a single example has emerged of anyone harmed by eating biotech or genetically altered foods. So eventually, science and evidence triumph over scare-mongering. But don't worry, plenty of journalists will fall for and plenty of people will believe the next scare.

— Alan W. Bock

The customer is always wrong —

Here's the cover story of the Feb. 21, 2005 issue of Time magazine: "What Teachers HATE About Parents."

Can you imagine a Time headline "What Successful Restaurateurs HATE About Their Patrons"? Their only possible complaint would be that their customers don't eat out often enough. But, of course, teachers want fewer students per teacher, not more.

Nothing could demonstrate more clearly the complete absence of competition in modern education, and consequently the ability of producers of education to dismiss the concerns of consumers of education, than this Time cover.

— Ross Levatter

Will declare blight for cash — The article "They're Coming for Your Land" (March) was superb! Even very small towns in rural Nevada use the designation of "blight" (which can be applied to any neighborhood, blighted or not) to qualify for government grants of various types for town improvements. Fortunately for us, in

Nevada, counties with fewer than 100,000 residents cannot use eminent domain for redevelopment purposes. When our very small hometown designated the main street through town as "blighted" (nothing blighted about it) in order to get a grant, we told the town board that if they did not remove our main street property from the "blighted" area, we would sue the town for taking private property without just compensation, thereby violating the 5th Amendment. They caved after they realized we meant it, and the map of the "blighted" area has a noticeable chunk missing. Of course, this is not the sort of thing you can do to protect your property in a large or even medium-size town, which is one reason

we are here and not there.

— Durk Pearson
and Sandy Shaw



Trafficking in baseball —

The District of Columbia is stepping up parking and traffic enforcement. Got to keep the money coming in to subsidize Major League Baseball for the Team Formerly Known as the Expos. — Alan W. Bock

Three cheers for the Iraq elections

— Am I the only harsh critic of Bush's invasion

and occupation of Iraq who is actually pleased by the apparent success of the January elections in occupied Iraq? I hope I'm not, but I couldn't tell that from the critics of the Iraq war I heard on talk radio in the days after the election, and I am told by friends who troll the antiwar blogs that the elections are not being celebrated there. I cannot understand why not. The strong participation of Iraqis suggests that the prospects of the U.S. managing to get out of Iraq are better, that the horrible waste of human life and treasure will end sooner than might have been thought.

These are good things. Yes, the high turnout and relative peacefulness of the elections surprised me. I expected a worse outcome. But I am not so vain as to value my success rate as a predictor of world events higher than human life and property. And the outcome has no impact at all on my conviction that the war was a bad idea. Even if some kind of free and democratic society emerges from this mess and Bush removes the U.S. troops by year's end and doesn't feel

obliged to provide subsidies for the new democracy — all very iffy propositions — the best anyone will be able to say about the whole thing is that we brought a free democratic society to 25 million people at a cost of about \$350 billion, the lives of more than a thousand young American men and women, and the stretching of our defense forces so thin that should a real military challenge occur, our prospects for success would be cloudy at best.

If Iraq were the only dictatorship on earth, I suppose it could be plausibly argued that stamping out the last vestige of totalitarianism might be worth that price. But this is not the case: Iraq under Saddam Hussein was far from the worst or the largest or the most dangerous totalitarian state in the world. What about North Korea, which is far more dictatorial than Saddam's Iraq had ever been? What about China, with more than a billion oppressed people? (Yes, I know that China is a less oppressive state than it used to be, but this is hardly an argument for deposing totalitarian states: such progress as has been made in China did not result from invasion and occupation.)

And what about Turkmenistan? Uzbekistan? Pakistan? Zambia? Cuba? Libya? Equatorial Guinea? Burma? Sudan? Belarus? A case can be made that all these countries are ruled by dictators worse than Saddam, and several are or have been much greater threats to the United States than Saddam ever was. Obviously the U.S. government doesn't have sufficient resources to remove the current governments of all these countries and try to plant democracy and free institutions in them all. So what is the rationale for picking out one of the smaller and less threatening states for this public service? Well, at the time, it was Bush's claim that Saddam possessed weapons of mass destruction and was inclined to use them against the U.S., a claim that was as false as the American claim that a North Vietnamese ship fired on an American ship in the Gulf of Tonkin, or that Germany's sinking the *Lusitania* was a heinous and illegal

act.

The case for or against the invasion of Iraq is not made by the success or failure of the Bush administration in planting seeds of a democratic society there. But the case for leaving Iraq would surely be improved by the growth of such seeds. So if you're not inclined to celebrate any evidence of such growth — why aren't you? — R.W. Bradford

Botax — A Washington state legislator is proposing a "vanity tax" on cosmetic surgery — Botox injections and the like. Will they go after facials and massages next? Hmm. If the government is that hard up for money, maybe it should tax frivolous legislative proposals.

— Alan W. Bock

The lowest common inaugurator — Most presidential inaugural speeches are just compilations of truisms and homilies, intended to appeal to the lowest common denominator of *Boobus americanus*. Every once in a while there's a memorable line, however glib, like Kennedy's "Ask not what your country can do for you, ask what you can do for your country." Or Roosevelt's "The only thing we have to fear is fear itself." My candidate for the signature line in the Bush coronation ritual is: "The survival of liberty in our land increasingly depends on the success of liberty in other lands. The best hope for peace in our world is the expansion of freedom in all the world."

It's a good thing that few people pay any attention to these things, perhaps intuitively realizing that it's mostly just superficially appealing spin. But I found the words of our self-appointed "war president" scary, ill-informed, and just plain stupid.

Contrary to the mantra of the Bushies, what has distinguished America in the past is that liberty flourished here totally independent of what happened in other lands. Things have come to a sorry state indeed if liberty can't survive in the United States without "depending" on its success in miscellaneous hellholes. Even worse is his thought that peace apparently depends on the United States expanding "freedom" by invading places he thinks need it.

An analysis of Bush's speeches will show that, other than articles, conjunctions, pronouns, and similar parts of speech, the words he uses most are "liberty" and "freedom." He should have them purged from his vocabulary, and have his mouth washed out with a bar of soap for corrupting the English language. Bush is (and I hate to say this after the disastrous Clinton) the most destructive president we've ever had for liberty and freedom, with the possible exceptions of Lincoln, Wilson, and FDR. — Doug Casey

Nothing ventured, nothing gained — In the Social Security debate, I'm finding that arguments to allow individual accounts are being taken as arguments for ending the whole program. Is this because people sense from the arguments used that their proponents would end the program if they could? Is it that they imagine that if accounts were offered as an option that most people would take them, even though opponents think the accounts would be a rotten deal? Or are they merely responding to their fears rather than the proposal at hand? I don't know,

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but it is frustrating.

Another thing I'm finding is a deep skepticism of people's own abilities to beat the government's promised rate of return, even though for new workers that rate is about zero. People don't want any risk, and they don't want to have to think.

— Bruce Ramsey

A clear and persistent danger — Under the No Child Left Behind Act, students are supposed to have the option of leaving schools designated as "persistently dangerous." Well, the list of "persistently dangerous" schools has come out, and there are 26 of them. Did you figure there were a bunch in New York, Chicago, Detroit, Ohio, and parts of California? Sorry, not a one. There are two in South Dakota, and the rest are in New Jersey and Pennsylvania. You don't suppose schools are tinkering with the criteria so they can redefine themselves as trouble-free without actually fixing anything, do you? — Alan W. Bock

Stroll for the border — A few days ago, my husband and I were in the car half-chatting, half-listening to the Canadian Broadcasting Corporation's six o'clock news when a report caught our attention. A subsequent print version of the story stated, "Public Safety Minister Anne McLellan has ordered an investigation into security at a major border crossing in Quebec after reports of motorists speeding through without being questioned. McLellan says she has asked the Royal Canadian Mounted Police [RCMP] and Canada's Border Services Agency for a full report. . . . More than a dozen cars have barrelled through it in the past six weeks without being stopped by the RCMP. . . . Customs officers reportedly notified the RCMP, but to no avail. The offenders weren't intercepted because the Mounties eliminated patrols last fall along the Quebec-New York border."

The radio version went on to explain that RCMP officers had been needed to investigate gang activity and terrorism threats in major cities and, so, were pulled off the relatively light border patrol duty. Curiously, the news report also included a description of how to foil the border guards: you drive in a lane beside large trucks, which shield you from view, and make a dash across when you get close enough to the guard stations.

When added together with a recent report that cameras allegedly monitoring the U.S.-Canada border are largely broken or non-existent, the folly of attempting to control the longest border in the world (3,987 miles, much of it uninhabited) becomes clear.

— Wendy McElroy

Gateway to prosperity — I know it sounds ridiculous, but the mission of libertarians has usually been to rescue capitalism from the capitalists.

Here are the sentiments of Bill Gates, World's Greatest Capitalist, as reported on Jan. 29 from something called the World Economic Forum, meeting in Davos, Switzerland — a place where rich people go. It's a long way from Communist China.

But referring to Communist China, Gates opined, "It is a brand-new form of capitalism, and as a consumer [sic], it's the best thing that ever happened. . . . You know they

haven't run out of labor yet, the portion that can come out of the agriculture sector. . . . It's not like Korea, Korea got to a point where, boom, the wages went up a lot. . . . that's good, you know, they got rich and now they have to add value at a different level."

Pardon me? I'm not sure I follow that. Is this the labor theory of value? Or something even more exotic?

But Gates went on: "They're [the Koreans are] closer to the United States in that sense than they are to where China is right now."

Huh? But I guess that's actually bad, eh? It's bad to earn high wages. It's bad to work in the United States. Compared to Communist China. Really?

Well, no matter: "Gates continued by heaping praise on the current generation of Chinese leaders":

"'They're smart,' he said with emphasis. 'They have this mericratic [sic] way of picking people for these government posts where you rotate into the university and really think about state allocation of resources and the welfare of the country and then you rotate back into some bureaucratic position.'"

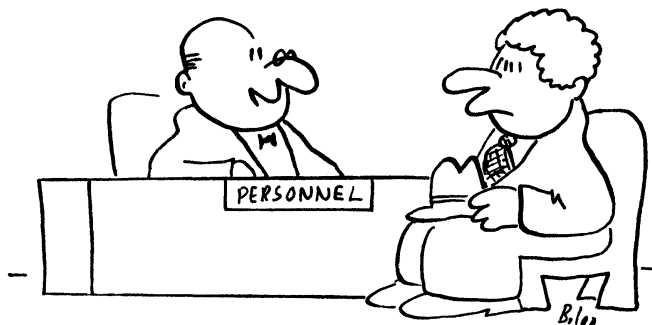
Sounds like paradise, doesn't it? Instead of having ignorant and corrupt Communist Party officials allocating resources, you combine the corrupt officials with the university professors (who, as we know, understand everything); then you add the bureaucrats (everyone's idols), and you come up with . . . Microsoft!

Perhaps you do. But perhaps it's time for Mr. Gates, since he's so intelligent, to "rotate back into some bureaucratic position." I would suggest a junior clerkship in the DMV.

— Stephen Cox

Flash! Bush administration official does something right! — Occasionally a government official does something right. So congratulations are owed to U.S. Solicitor General Paul Clement for deciding, and saying in a letter to Congress, that "the government does not have a viable argument to advance in the statute's defense and will not appeal the district court's decision."

What prompted such an unusual refusal was what is generally called the Istook Amendment, introduced into a 2004 appropriations bill. Miffed that a few reform organizations had been so bold as to buy ads criticizing marijuana prohibition on busses and other transit systems, Republican Rep. Ernest Istook of Oklahoma attached a rider denying



"Your first task will be to arrange a burial for your predecessor."

federal funds to transit systems that accepted such advertising.

After the provision went into effect, the ACLU, Drug Policy Alliance, Marijuana Policy Project, and Change the Climate, Inc. jointly developed an ad showing ordinary Americans behind bars with the caption, "Marijuana Laws Waste Billions of Taxpayer Dollars to Lock Up Non-Violent Americans," and tried to buy space for it with the Washington Metropolitan Area Transit Authority. Fearing the loss of federal dollars, the authority declined the ad and the matter went to court.

Last June, Judge Paul Friedman of the U.S. District Court for D.C. ruled the Istook provision was unconstitutional, stating "there is a clear public interest in preventing the chilling of speech on the basis of viewpoint." At first the government declared it would appeal the decision. But later, Clement conceded there was no way the government could win the case.

It's shocking that any member of Congress thought prohibiting ads was a legitimate exercise of constitutional authority, but the attempt is a reflection of how weak the case for prohibition is. Federal drug officials have for several years declined to meet qualified critics of drug laws in open debate. Was an effort to silence dissent by legislative fiat the next logical step?

— Alan W. Bock

Syrial killers? — There's something dramatic and quaint about the recall of an ambassador "for consultations." Presumably someone in the Bush White House recognized that in February when the the U.S. ambassador to Syria was brought home. This was in response to the suicide bomb assassination of Rafik Hariri, an admired former prime minister of Lebanon. The implication was that Syria, which has occupied Lebanon in whole or in part since it dispatched "peace-keepers" there in 1976, was responsible for bumping off a popular Sunni Muslim politician who opposed them.

Of course Syria is one of only a million or so entities in the Middle East that might have a motive for killing a politician. But our new secretary of state Condi Rice used the old "blame but not *blame*" routine when commenting on U.S.-Syrian relations. "We're not laying blame. But there is no doubt that the conditions created by Syria's presence there have created a destabilized situation in Lebanon."

Oh come now! You can call Lebanon a lot of things (occupied, tyrannized, vassalized, Frankified, artificially carved out of Syria in the first place, etc.), but destabilized is not one that jumps immediately to mind, in light of the

conditions that obtained there in the '70s and '80s.

What the American hissy fit is really about, I would say, is seizing upon another pretext for a future war on Syria. What other charges have been laid at Syria's door? Harboring Ba'athists from Iraq. Allowing "foreign fighters" to cross the border into Iraq. And — when no nuclear or chemical weapons were found after sifting through the ashes of Baghdad — of taking Iraq's WMDs for safekeeping. Now: allowing suicide bombers to run amok in an occupied Middle Eastern country.

Will any nation withdraw its ambassadors from the U.S.? There's little doubt the U.S. presence in Iraq is creating a destabilized situation. This parallel would be funny if it weren't for the backstory of 20,000-odd civilian deaths, and over 1,000 American deaths, in Iraq since the spring of 2003.

— Brien Bartels

Shave and suspenders, two bits —

Freshman Virginia Delegate Algie Howell Jr. hasn't let his new job keep him from cutting hair at his Norfolk barbershop — except now he's not just talking to friends, he's listening to constituents. And when they notice a social problem —

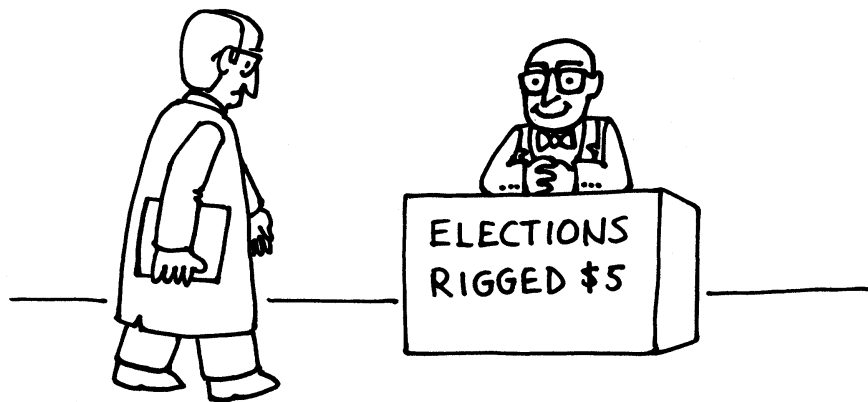
such as these kids today, and how they wear their pants around their knees and show off their underwear — you can bet he'll do something about it.

Howell has introduced a bill in the legislature that would allow police to issue a \$50 fine to anyone whose low-cut pants expose underwear in a lewd or indecent manner. Leaving aside the question of enforcement, perhaps someone should let Howell know that the only way to stop an objectionable fad among the young is for the old to adopt it themselves. If every patron of that barbershop buckled his pants low while sporting French-cut briefs or a thong, those kids would have their pants hitched up to their chests in a jiffy.

— A.J. Ferguson

Sentencing fragments — It is not difficult to criticize the circuitous way the Supreme Court went about downgrading, but not quite eliminating, the controversial sentencing "guidelines" system Congress set up in 1984, acting more like a quasi-legislative body than a court. It might have created more confusion than if it had simply declared the entire system unconstitutional and told Congress to try again — or stayed out of it and let judges handle sentencing.

On balance, however, the court got to a constructive result. The federal sentencing guidelines created confusion and injustice, and had to go. The court didn't fix the entire



SHCHAMBERS

problem, but it made a decent start.

In the 1980s, federal judges were criticized both by "tough-on-crime" advocates who condemned "bleeding heart" judges for handing out lenient sentences and by civil rights advocates who claimed African-Americans tended to get disproportionately long sentences. Some scholars dispute the scope of the disparities, but the perception was that sentencing for the same or similar crimes was wildly inconsistent from one part of the country to another.

So Congress created the U.S. Sentencing Commission, empowered to set up sentencing guidelines for various statutory crimes. The "guidelines" turned out to be more rigid than most judges preferred, setting up a mandatory "floor" for sentencing and making it difficult to revise a sentence downward based on mitigating circumstances. By 1997, a survey of federal judges found that two-thirds of them found the guidelines unnecessary, and many believed they were downright harmful to the administration of justice.

The Sentencing Commission could have been viewed as unconstitutional, since in effect it performed legislative functions with no accountability to the people or to any of the three branches of government. But the high court upheld its constitutionality in 1989.

Appellate lawyers tried a different path, and last year in *Blakely v. Washington*, the court found a state system based on the federal system unconstitutional. The reason? Sentences could be enhanced (increased) by a judge based on factors the jury hadn't considered or ruled upon. That violates the guarantee of trial by jury.

Would the same criticism apply to the federal sentencing system? Understanding the confusion the *Blakely* decision would create, the court took up two drug cases — *United States v. Booker* and *United States v. Fanfan* — that raised similar issues. It ruled 5-4 that federal judges cannot be bound by the misnamed "guidelines." Instead of eliminating the guideline system, however, a separate 5-4 majority ruled that the guidelines would henceforth be "effectively advisory," giving judges more discretion to depart from them based on individual circumstances.

The major effect will be on white-collar crimes and drug cases, which according to the Sentencing Project account for 55% of federal prisoners. In the future, drug offenders are likely to get less severe sentences, and a number of prisoners now serving time could have their sentences reviewed.

The decision does not touch the "mandatory minimum" sentences Congress enacted during a flurry of get-tough-on-drugs legislation in the late 1980s. Those laws have cost taxpayers billions while doing little or nothing to

reduce rates of drug usage or addiction.

— Alan W. Bock

Taco hawk — I have a theory that the British Empire conquered and grew because the Brits were searching for edible food. Indeed, they stopped with India because there they found really great curry. When they had to surrender India as a colony, the Brits compensated by passing a law that required an Indian restaurant at every major intersection in England.

I trust a similarly sane motive underlies what otherwise is utter madness on the part of Joseph Farah, who advocates the conquest of Mexico in the Feb. 4 edition of *WorldNetDaily*, his online publication.

He writes, "A top-ranking Mexican official last week virtually declared war on the United States. Foreign Secretary Luis Ernesto Derbez said in a radio interview that an international strategy would be used if other attempts to reverse Arizona's Proposition 200 fail. In other words, the equivalent of the U.S. Secretary of State is advocating meddling in the internal affairs not only of our country, but one of our 50 independent, sovereign states." (Prop. 200 went into effect last week. Among other things, it denies most taxpayer benefits to illegal aliens and requires those who wrongly apply for such benefits to be reported to officials.)

Farah's subsequent logic may be correct: if it is proper

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for the United States to jump an ocean to bring "democracy" to Iraq and greater security to the America, then why it is wrong to truck a few miles southward to accomplish the same goals? If you buy the premise, you've bought the package.

But the premises are drek. And the hypocritical chutzpah of his complaining about one nation bringing "international power to bear" on another is astounding.

— Wendy McElroy

This Landlord Earth — Robert H. Nelson's "Pollution Violates Individual Rights" (March) reminded us of the attempt of environmentalists to incorporate economics into their vision of the relationship of people to "ecological services" — water, air, trees and so forth. These are purported to be services provided by the planet to humankind. Serious papers have been published in which authors attempt to attach prices to these services to define a "market" in which the earth provides services and we are obliged to pay what those services are worth.

There are several problems with this approach. How do

you determine prices when there is no market? (This is akin to the problem of determining prices in a socialist economy.) It is not as though we are buying air and water from an entity named Earth. There is no such entity, and thus, the usual method for estimating the value of these services is to ask people what they would be willing to pay, not measuring what they might pay in an actual market.

Another problem is, to whom does one pay the purported value of Earth's services? To the government? But how can that be, when the government is not the Earth and, hence, cannot be providing the "ecological services"? Moreover, all these "services" (air, water, etc.) are derived from the effects of the sun, so why aren't the environmentalists calculating "sun services" and what we all owe the sun? (Probably because they would sound a mite nuts if they did.) This may all sound a little ridiculous, but the concept of "ecological services" is taken very seriously in scientific journals like *Science* and *Nature*.

— Durk Pearson and Sandy Shaw

Sending a message — Let's be clear on one non-

News You May Have Missed

God's Existence Confirmed

DARMSTADT, Germany — Scientists at the European Space Operations Center here who have examined photographs from the Huygens spacecraft after it landed on Titan, Saturn's largest moon, said that the mysterious surface of Titan, which is veiled in a dense hydrocarbon haze, seems to contain a number of things found nowhere else in the solar system. "It's kind of like the Lost and Found Department of the universe," said a jubilant Dr. Helmut Krautkopf, the center's director, while presenting the unexpected results of the seven-year space probe. Scientists who have studied the somewhat blurry photographs with a large magnifying glass have so far been able to identify not only some unique, bizarre rock formations and unheard-of minerals, but also thousands of Iraqi weapons of mass destruction, President Bush's complete National Guard records, the missing 18 minutes from the Nixon White House tapes, the clues leading to the real killers in the O.J. Simpson case, easy-to-understand income tax forms, dozens of interesting or beautiful works of postmodernist art, a good movie with Jennifer Lopez in it,

a videotape of Paris Hilton not looking like a dumb slut, and, perhaps most significantly and unexpectedly, God.

God was first reported missing in the 18th century and was widely believed to be dead after a tough-talking private investigator named Fritz Nietzsche looked into the case in the 1880s and made public his findings, though no incorporeal body was ever found and no arrests were made. The will of God has been stuck in probate ever since.

Rumors of supreme beings fitting God's description nevertheless continued to surface throughout the 20th century and into the 21st, though many of the purported sightings turned out to be Santa Claus or Elvis. In a statement made in range of the sound sensors on the spacecraft, God said he just wanted to be left alone and would appreciate no further space probe photographs. He said he had decided to come to Titus for its peace and quiet more than for its climate, which has temperatures close to -115°C and windchills believed to be much lower. "You freeze your ass off some nights, but on the other hand there aren't many tourists," he

observed. He claimed he was now out of the creative side of the universe business altogether, and would not be producing, directing, or scripting any further worlds, acknowledging that his last one had tanked, and he was no longer even listening to prayers or other potential deals and offers, no matter how urgent. He complained of the paperwork and long hours involved in a position demanding omniscience and omnipotence as well as frequent audits, and said that having to wax wroth on a daily basis got to be exhausting. "I wasn't all that goddam almighty anyway," he continued. "You think I would have allowed Donald Trump or Maury Povich or spandex shorts to prevail if I could have somehow stopped them?"

"Plus, for an all-seeing, all-knowing kind of deity, I was always completely stumped about why women have to try on like maybe 14 different outfits before getting what they wanted in the first place," he added, before joining his friends for a game of shuffleboard — most of them also retired, including Zeus, Isis, Baal, Osiris, Ubilulu, Sutekh, Odin, and Assur. — Eric Kenning

issue. The sentencing of Army Spc. Charles Graner to ten years in prison as punishment for his part in the abuse of Iraqi prisoners at Abu Ghraib prison stands on its own. The fact that Saddam Hussein's minions did much worse to Iraqi citizens — sometimes at the same prison facility — or that Iraqi and foreign terrorists have tortured and beheaded kidnap victims is irrelevant.

Your mother tried to teach you that two wrongs don't make a right. The fact that U.S. adversaries in Iraq and in the larger "war on terror" are demonstrably vicious does not justify — even if it makes it potentially understandable — vicious or over-the-line activities by U.S. service personnel.

A second question is more complicated. Does the trial and conviction of Spc. Graner amount to scapegoating lower-ranking military personnel while declining to go after higher ranking military and even civilian personnel who may also bear some culpability for the abuse or unacceptably harsh treatment of prisoners at Abu Ghraib, Guantanamo, and elsewhere?

At one level of analysis it mattered little, and should have mattered little, to the ten military jurors who convicted Spc. Graner. Whether he was acting under orders or as a result of wink-and-nod justification of torture by higher-ups, he was the one who, the jury found, beat and sexually humiliated Iraqi prisoners. It is appropriate that he face judgment as an individual for what he actually did, which went well beyond the bounds of what his training should have informed him was appropriate, even for a Military Police reservist.

The fact that Spc. Graner was put on trial — and that 26 members of the Army have been referred for trial, 75 more troops have been subjected to other disciplinary measures, and 14 U.S. Marines have been convicted of abuse in military courts — is an important signal, to U.S. military personnel, to the American people, and hopefully to the world at large, that the U.S. military does not condone such abuse and that it stands ready to punish those proven to be abusers.

As for higher-ups, the question is worth considering but difficult to answer. The highest-ranking soldier scheduled to be tried is a lieutenant accused of being one of a group that forced two Iraqis to jump from a bridge into the Tigris River (one drowned). His commanding officer, a lieutenant-colonel, has been disciplined but not subjected to trial for ordering a cover-up of the death. Should he be tried? It's hard to find a compelling argument on either side.

There is also little question that various memos have surfaced from military and civilian lawyers that defined torture narrowly and seemed to find ways to justify going right up to the edge of outrage in condoning rougher-than-usual treatment. Did they contribute to a "climate" in which underlings believed they had a free hand? Perhaps. But can their culpability be proven in a trial in which their due-process rights are respected? Hard to say.

— Alan W. Bock

Show me your non-federal identification papers, please — There has been a big push

for National ID cards ever since the planes flew into the World Trade Center. Knowing that prospect frightens most Americans, the bureaucrats have been working at a plan to get the same result with a different face. It looks like they might have figured out a way.

By setting down strict regulations on what a driver's license must include, and tying it into a big federal database, states have the appearance of controlling their own licenses, but the federal government really will be in control. The new driver's licenses will have things like digital photos and biometric identifiers mandated by the Department of Homeland Security that have nothing to do with driving ability. The licenses will also be tied to Social Security numbers — numbers that were to be used solely for access to retirement accounts, and never as an identification number — by the same governing body that promises never to abuse the database.

The sticking point was how to get the states to implement the regulations. The Real ID Act which just swept through the House of Representatives would allow federal employees to reject any ID card that doesn't comply with federal regulations. Fine, you say, I just won't drive in national parks.

Unfortunately, the TSA people who replaced baggage screeners at airports are now federal employees. They will be ordered to deny passage to any person from a state that refuses to comply. While we all laughed at those people when they put on their TSA windbreakers, none of us realized that these minimum-wage employees would be used as sentries, dictating that no one without proper papers would be allowed to go anywhere.

— Tim Slagle

Ten-gallon helmet — The government of New South Wales in Australia wants cowboys to start wearing helmets, following the death of one cowboy who fell from his horse and was trampled. Ranchers say helmets will increase accidents and the risk of sunstroke. I say some government officials obviously have too much time on their hands.

— Alan W. Bock

Why can little Juanita read? — There's some good news, for a change, coming out of the embattled California public school system. It appears that proficiency in English has been rapidly improving among non-English speaking students the last few years. From 2001 to 2004, the percentage of students scoring at the "early advanced or advanced" level has almost doubled, from 25% to 47% according to the San Francisco Chronicle. When asked for a possible explanation for this dramatic improvement, the state superintendent of public instruction attributed it to "educators' greater familiarity with English language development standards as well as professional development for teachers." As he spoke, the elephant in the room continued to grow larger until it was almost blocking the doorway; the Supe could not leave until he answered just one more question.

Back in 1998, California voters overwhelmingly approved Proposition 227, eliminating bilingual education in the school system against the bitter opposition of the teachers' union and Democratic politicians. The multicultu-

ral Left gnashed their teeth over the racism, chauvinism, and other diseases inherent in speaking English in a predominantly English-speaking country. As media reports have slowly trickled in since that time — of overall test scores improving among young Hispanic students, or of Hispanic and white students playing together in schoolyards for the first time — the obvious correlation with Prop. 227 has been largely dismissed or ignored. In this case, “asked to assess the impact of the controversial Proposition 227,” the Supe merely said he “wouldn’t venture a guess.” That’s cool, as long as the scores keep improving.

We know that the Peace Corps doesn’t send new volunteers into bilingual Swahili classes with African families; they and everyone else knows that immersion is the only effective way to learn a new language. Surely left-wing education advocates must know this, much as they know that proficiency in English leads to improved test scores and more opportunities for immigrants. However, a number of progressive opponents of 227 were Peace Corps volunteers themselves.

I thought about this as I eavesdropped on a couple of progressive Berkeley Buddhists lamenting the direction of the country, which they (following the lead of the media) blamed on the exalted political organization of the Christian Right. How might lefty Buddhists get more into direct political activism the way Christians have, they wondered? Well, the Right may have gotten better organized of late, but those on the Left can hardly complain of a shortage of activists or spokespeople. A deeper problem they seem unable to face is that one left-wing idea after another has fallen by the wayside over the last few decades. Case in point: even if the mainstream press won’t come out and say it, the sacred cow of bilingual education appears to be the latest left-wing experiment on its way to the dustbin of history.

— Michael Drew

Academic disciplines — Two current controversies might help illuminate what is meant by “academic freedom” and how it ought to be applied. Ward Churchill, former chair of the Ethnic Studies department at the University of Colorado, is under attack for things he has written outside the classroom, specifically that the victims of 9/11 were “little Eichmanns.” Hans-Hermann Hoppe, a professor of economics at the University of Nevada Las Vegas, has been under administrative pressure for a year, ever since he made remarks inside a classroom about time preference for different groups during a lecture in an economics class. Hoppe claimed that, for a variety of reasons — for example, no children to worry about — homosexuals have a higher rate of time preference discount; that is, they tend to value present satisfaction of wants or desires over satisfaction in the future.

Tenure, with its attendant academic freedom, was originally intended to protect teachers not from what they did in classrooms, but from what they did outside them. But as political advocacy has become one of the academy’s favorite pastimes in our postmodern age, it is now more generally invoked for problems arising within classrooms. As one who has done a fair share of college teaching, I am sensitive to the fact that, in today’s often poisonous academic

environment, a single slip of the tongue can cost one a job and, possibly, a great deal more. Is invoking academic freedom an all-purpose defense? Obviously not, for professors are disciplined and fired all the time for infractions of school policy, as their colleges and universities (and school districts, of course) define those policies. No teacher can claim an absolute privilege never to suffer negative consequences for saying — or writing — something that offends someone, or for classroom behavior subsequently judged to have been incorrect.

I can’t claim to know precisely what limitations academic freedom ought to have, but it seems to me that these two cases are very different. Churchill’s statements outside class and in his writings are a matter between him and the university. If CU wants to tolerate them, then its administrative process must bear whatever long-term consequences arise from having one of its professors spouting unpopular rhetoric.

In Hoppe’s case, his claim of academic freedom in the classroom needs to be taken very seriously. I wasn’t there, but by the accounts I’ve read, Hoppe’s statement was in an academic context and not some kind of gratuitous insult aimed at homosexuals. It is also a statement that can be subjected to empirical verification or falsification. The fact that the offended student chose not to speak with Hoppe or challenge him in — or outside — class, but instead chose to run directly to the school’s administration is quite telling. Even if Hoppe had been expressing an entirely personal opinion, his claim of academic freedom would still apply for several reasons: students often desire to learn their professor’s opinions on subjects other than the one they are studying; and no professor can possibly teach pure facts alone, so all professors say things that are partially or wholly non-factual at some point in their lives. When they do, should they immediately be fired? Reprimanded? Retroactively fired when evidence shows they were incorrect in some past lecture? Should teachers refuse to discuss any issue that in any way might offend even one student’s sensibilities? What are students’ obligations when confronting professors who they claim are offending them?

I don’t have the definitive answers to these questions, but unhappily, they appear to be of increasing importance. It’s enough to make one consider some field other than teaching, and that’s the real pity in all this. For every good teacher who is forced out, or reprimanded, several potentially fine teachers will divert their talents to pursue other endeavors with a “Who needs this kind of thing?” attitude. Tomorrow’s students will be the ones who ultimately pay for poorly applied policies. I say CU should let Churchill say and write whatever he wants, and UNLV owes Professor Hoppe a very overdue, and very sincere, apology.

— Robert Formaini

Step out of the gondola, please — The gondoliers of Venice are about to face spot checks with breathalyzers following some accidents police believed were caused by oaring under the influence. Can a regulation requiring seat belts be far behind? — Alan W. Bock

Robert Frost, poet libertarian? — I was

recently reading a biography of Robert Frost and was surprised to learn that the "voice of American poetry" was in many ways a libertarian. Ever since he read poetry at the Kennedy inauguration in 1961, I thought of him as the court poet of the Democrats, and I have never read anything to the contrary. Yet in fact, Robert Frost was a democrat who despised FDR and the New Deal; was fiercely anti-communist; and was opposed to our getting involved in World War II.

Frost wrote in his poem "Provide, Provide":

Better to go down dignified
With boughten friendship at your side
Than none at all. Provide, Provide!

After reading this poem, he would tell audiences: "And if you don't provide for yourself, somebody else is going to provide for you, and you might not like it."

Here are some other Frost quotations worth noting:

"I'm against an homogenized society because I want the cream to rise."

"I hold it to be the inalienable right of anybody to go to hell in his own way."

"By working eight hours a day you may eventually get to be boss and work twelve hours a day."

And finally: "I never dared to be radical when young for fear it might make me conservative when old."

— Mark Skousen

Red shift — Lew Rockwell is wrong, I hope, in his year-end article arguing that "the dramatic shift of the red-state bourgeoisie from leave-us-alone libertarianism, manifested in the Congressional elections of 1994, to almost totalitarian statist nationalism" is the "most significant socio-political shift in our time."

Certainly the Right has shifted to nationalism. It's not that it wasn't there before, but the 9/11 attacks brought it out and strengthened it, as did George W. Bush. You can see it in the personae of Cheney and Ashcroft, in the cases of Padilla and Hamdi and the prisoners at Guantanamo, in the Patriot Act, and in the war. I hear it on talk radio and notice it in words like "Islamofascist."

I tend to agree with Scott McConnell, who writes in the *American Conservative* that Rockwell overstates how libertarian the 1994 Republicans were, and maybe also how statist they are now. It is easier to do this if one concentrates on the eruptions on talk radio and FreeRepublic.com, or even on the fanatics around the president of the United States. But it is harder to make the case if one thinks of the Republicans and conservatives one knows personally.

Rockwell writes, "Whereas the conservative middle

class once cheered the circumscribing of the federal government, it now celebrates power and adores the central state, particularly its military wing." A few paragraphs later he says of this group, "It sees the state as the central organizing principle of society, views public institutions as the most essential means by which all these institutions are protected and advanced, and adores the head of state as a god-like figure."

There is some of that, I hate to say. Rockwell is not making it up. But there are still people defending their property rights, and people who are suspicious of the state's intentions regarding their guns, people who homeschool, and business people complaining of taxes and regulations, and people fighting antismoking laws, and helmet laws and all the other kindnesses of the nanny state. The "leave me alone" coalition is still there and still wants to be left alone. In the county and state where I live, the conservative side of the political spectrum is still asking for less government, and has a notable libertarian strain. It has been pro-war, but part of it has its doubts about the Iraq venture and the crusading intentions of the president's inaugural address. Only a handful "sees the state as the central organizing principle of society."

Rockwell's argument leads to his conclusion that libertarians should separate equally from Left and Right "and undertake radical intellectual action on behalf of a third way that rejects the socialism of the left and the fascism of the right." I think libertarians are still part of the Right. But it is a part that is uncomfortable, and which should be picking arguments with those closest at hand.

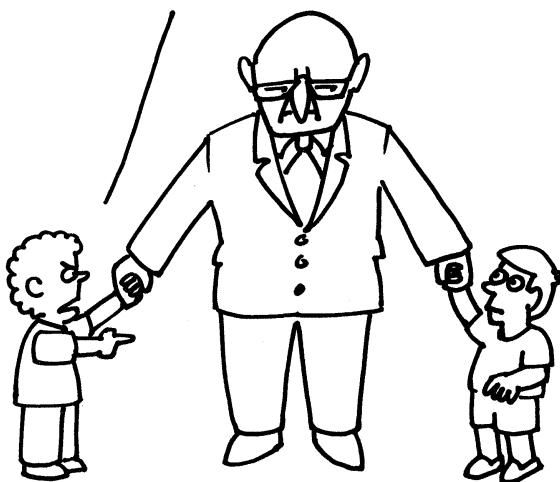
— Bruce Ramsey

Biting the invisible hand that feeds you

— What a strange enclave is the few square miles called Hollywood! A beachhead of doubters on the western shores of capitalism, thoroughly ashamed of the goose who lays their golden eggs.

They are enormously adventurous risk takers, who walk a fiscal tightrope held tight by two drunks called uncontrollable cost and public whim. In practice, they are the Olympic champs of hard-core capitalism — highwire entrepreneurs who work without a net. Yet, the producers and investors who bet on the dream machine hate the free market, the big tent in which they perform, so say their movies. They carry a monotonous and consistent label, incorporated in plot and dialogue: "This product, which has enriched everyone who had a hand in it, was produced by a

HE CALLED ME A
"PERSON OF COLOR!"



SHCHAMBERS

system that is evil and unjust." What is there about a Rolex, a Porsche, and a \$10 million mansion in Beverly Hills that drives them to condemn the system that bore such fruit?

These are cultural suicide bombers. Their explosives are their products. And how they've changed from the days when the industry was overwhelmingly controlled by Eastern European immigrants who valued acceptance in the club over profits, when Hollywood moguls saluted their adopted country and the free markets that rocketed them from pushcarts to offices fancier than the czar's throne room. Though largely lacking formal education, they didn't need any lectures on political science to compare the dull, repressive shtetls of their past to the Yankee Doodle Dandyland of mid-20th century America.

Now, the Hollywood clique throws eggs and rotten fruit at Adam Smith instead of kneeling at his shrine. The psychoanalysts help them work through their guilt. The actress, awash in awards, declares that her lavish pay for 60 minutes of mimicry should also go to the workman for his 60 minutes of sewer line installation. Only a flawed and lopsided system, she pontificates, would give the hard-working plumber a case of Bud Light instead of a Beverly Hills spread. (Not that she's offering *her* Beverly Hills spread!) They can't stop dissing the system.

It's like the old Groucho Marx joke: I won't join any club that'll have me as a member. Oh, the money — that's okay. But I prefer scripts that lecture on the inequities of the free market system. (And don't forget to put my name before the screenwriter's.)

Somehow or the other this message always finds its way into the script, even if the movie is about warfare between the 6th and 7th rings of Saturn.

There must be an exception, but it's hard to recall a recent gangster flick that doesn't mention the ludicrous comparison between Mafia capos and CEOs. These sermons began with Michael Corleone in "The Godfather," lecturing his girlfriend on the overlap in job descriptions of Mafia don, U.S. president, and U.S. Steel. Same thing, Michael said. The boys in the back room — the producers, directors, writers — glowed with social justice. Hollywood has a love affair with organized crime and a blood feud with capitalism. Why?

— Ted Roberts

Tortuous reform — According to Democratic Senate leader Harry Reid of Nevada, the bill approved by the Senate to change the venue of most class-action lawsuits "turns federalism on its head by preventing state courts from hearing state law claims." And at first glance the bill, which would shift most class-action suits from state to federal courts, does look like something of a power-grab.

However, Michael Greve, who heads the Federalism Project at the American Enterprise Institute, sees the issue differently. "We had gotten to a point where county and state judges were making decisions that affected the entire country. That's the kind of interference with interstate commerce the founders hoped to prevent." What brought about the situation Greve deplores is the practice by trial lawyers of first assembling a large "class action" of people aggrieved by some real or imagined corporate malfeasance and then forum-shopping — finding a state court system or

judge who is especially sympathetic to class-action suits, and winning huge damages from juries in localities known for such awards. Although such suits were always touted as protection for downtrodden consumers ripped off by giant corporations, they were usually assembled more to collect damages and large fees for the lawyers than to correct an injustice.

Because of forum shopping, consumers throughout the country can be affected by a ruling from a judge in a different state. Greve says the founders didn't intend that, that cases that affected interstate commerce have been heard in federal courts from early on. I'm not sure if I buy his argument in its entirety, but it's worth some consideration.

— Alan W. Bock

Lousy judges, dumb questions — I hope somebody on the New York State Matrimonial Commission said "Amen" when Judge Judy testified about "lousy judges who really have no right to rule" making "lunatic decisions." Her prescription to remedy the family courts included instituting "a substantive test" for judicial candidates.

I'd like to contribute these three questions for that test, from a litigant's point of view.

Question 1: You want your lousy judge off your case in particular and the bench in general. You chronicle your reasons. The decision on your recusal motion will be made by:

- A) The supervising judge in the Courthouse;
- B) The political party who offered this judge as the only candidate for the Civil Court;

C) Your lousy judge.

The correct answer is C.

Question 2: You can expect the decision to read:

A) Gee whiz! Did I make all those lunatic decisions? Motion granted;

B) The court is fair and intelligent; furthermore the court's experts agree that the roses should be painted red. Okay? Motion denied;

C) We are Egypt. We are not pleased. Motion — and all motions henceforth — denied.

The correct answer is B or C, depending on whether you read between the lines.

Question 3: Your next and last step is to appeal. By established case law, Appellate judges must show great deference to:

A) The Family Court judge, because she has the best vantage point for evaluating the credibility of the witnesses;

B) The litigant, because she has the best vantage point for evaluating the credibility of the judge;

C) Whoever went duck hunting with them.

The correct answer is A.

Until the answers to this test change, any test for judges misses the mark. As long as the inmates are running the institution the courts will remain lunatic asylums.

— Lauren Shapiro

Somalia on more than \$1 a day — Ever since the United States pulled out of Somalia in 1994, the country has been effectively without a central government,

a fact almost universally deplored among the chattering classes. But a recent World Bank study reported that "Somalia boasts lower rates of extreme poverty and, in some cases, better infrastructure than richer countries in Africa." Somalia has a smaller percentage of people living on less than \$1 per day, more roads per capita, and better telephone service than many other African countries. Mogadishu has numerous Internet cafes. Does this mean strong government is not the key to alleviating poverty in Africa? What a concept.

— Alan W. Bock

One less tax to rent — Michael Moore was snubbed by the Oscars. While there is speculation throughout the industry as to what that meant, I think it's pure Democrat politics. Nowhere, outside the Mafia, is failure punished as harshly as it is among Democrats. Candidates who have lost elections disappear, and are rarely heard from again. (Anybody seen Michael Dukakis lately? How many people can even name his running mate?) I think the refusal even to nominate "Fahrenheit 9/11" indicates a reluctance among Hollywood Democrats to give an award to a picture that was incapable of delivering an election.

— Tim Slagle

Tilting at turbines — It's amazing what a 1.8-cent tax credit and some state mandates for renewable energy can do. Suddenly, wind farms are being proposed for the hills of West Virginia, Maryland, and Vermont, the mountains of Colorado, and the waters off the shore of Cape Cod. Possibly aided by high natural gas prices, wind energy is all the rage.

Although wind power produces less than 1% of the nation's electrical energy, it has become highly visible. Indeed, that is its chief problem — wind turbines, which reach 160 feet in height and have blades 140 feet in diameter, are very visible. For environmentalists, who traditionally have supported wind as a "soft" source of energy, the idea of despoiling beautiful places is a shocker.

So environmentalists are splitting ranks. It started with Robert Kennedy, Jr., who imperiled his environmentalist credentials by opposing an offshore wind farm that might be seen from his family's compound on Cape Cod. "There are appropriate places for everything," he told the New York Times, and Cape Cod apparently isn't one of them. Green opponents are popping up around the country. Pleading to his fellow activists to let up, Bill McKibben wrote in the New York Times on Feb. 16, that "part of me doesn't want to gaze out from the summit of Peaked Mountain or the marsh at Thirteenth Lake [in New York State] and see an industrial project in the distance." But, he goes on, to stave off global warming he will have to.

I get some wry amusement from the activists' disarray. What shocks me, though, is the way that otherwise free-market venture capitalists have embraced a business propped up by government subsidies and regulation. An article I recently edited that criticized wind energy aroused outrage, much to my surprise. Although the criticisms included a few dubious technical arguments, at the core they argued that traditional fuel sources are subsidized, so wind should be too. This claim of heavy subsidies for other

fuels is largely wrong — on net, government hurts them more than it helps, says a Cato study — but the idea lets would-be entrepreneurs feel better about getting on the subsidy gravy train.

— Jane S. Shaw

Keepin' the faith — I recently listened to the first of three hour-long monologues presented in a 24-hour period by Harry Browne, at a meeting of the San Diego Libertarian Party. He was given cheers and a standing ovation . . . and I came away understanding why the LP is hopelessly marginalized in American political life.

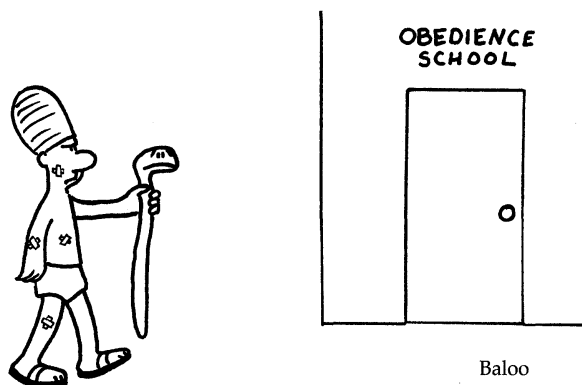
What has the party accomplished during the 40 years since William Buckley campaigned for libertarian policies and values in New York? Never since has his exposure or vote-getting been matched.

The truth? America's closest thing to a third party cannot even do to George W. Bush what Ralph Nader did to Al Gore (an accomplishment that might have done our country and the world tremendous good, even without electing a candidate.) Libertarians are not only on the fringe. We are pathetic. If the LP had pulled a Nader in just one state, the salvation and gratitude of the Union might have been overwhelming. But no, men like Browne cannot even see how we let the country down.

I had been told by organizers that Mr. Browne would debate me about pragmatism vs. idealism. Finding instead a camp meeting, featuring monologue pulpit sermons, I grew frustrated listening to calls for perfect fealty to the precise liturgy of Received Faith, reiterating that failure after failure at the ballot box need never provoke significant reflection upon the message itself.

No, we must stick to a purist party line that the American people have relentlessly rejected (in one form or another) for 70 years. No tweaking. No fresh approaches to replace stale ones. No gradualist proposals for free-market alternatives that might compete with statist solutions. No concessions to an American consensus that the best-educated people in world history have generally ratified in biannual elections for three generations. No, we must continue to rant at our neighbors that their consensus is 100% idiotic. Hallelujah.

Mr. Browne preached that we must reject incrementalism and stick to "educating" the foolish, unenlightened masses, hoping that someday, like the Berlin Wall coming



down, a sudden change of state will miraculously occur. This has all of the hallmarks of a religion, not a political agenda grounded in assumptions of individual sovereignty.

In a market, you would laugh at a businessman who kept blaming his failures on the customers. Or whimpering that the market is biased to favor big players. A competitor with a good product should be able to get past such obstacles.

Yes, there are elites out there who have biased much of the media, rigged electioneering laws and even hijacked some of the ballot process. But is it seemly to whine and blame such shenanigans for the LP's inability to capture more than one percent of the vote? Pathetic.

Mr. Browne seemed puzzled when I stood up to suggest that this entire approach was based upon an unpleasantly smug assumption — that the American people are fools. (Puzzled, but uninterested in discussion.)

Contempt is the food of ideologies. They crave it more than oxygen. All religious fanatics relish contempt for their infidel neighbors, who cannot see the Truth that they see. But this impulse is especially ironic, hypocritical — and, yes, contemptible — for libertarians to embrace, since their entire philosophy is supposed to be based upon the premise that our neighbors are not fools. Indeed, Americans are so vastly better educated than all other polities in history, combined, that they have produced far more libertarian-leaning minds! That alone should be cause to reject seductive contempt.

Blaming citizen-ignorance is the profoundly stupid and hypocritical premise of LP platonism and the root of all its failure. It must be called what it is. An emotional crutch and the core reason why a party based on adult-sovereignty relentlessly insults Americans instead of offering them pragmatic alternatives. The fault is not theirs, it is ours.

A few libertarians have been awakening to the cult mentality that prevents the movement from outgrowing its image as a band of tinfoil hat-wearing kooks. I was invited to harangue the LP National Convention about this in 2002 and the speech (transcribed at <http://www.davidbrin.com/libertarianarticle1.html>) has become an underground hit.

Elsewhere I have led a drive to recognize that the

deeper problem is not just government. Other enemies also undermine individual initiative and sovereignty. For example, no one seems to have noticed what really happened on Sept. 11, 2001: ordinary citizens swiftly and resiliently acted to assume responsibility for duties that had been taken over by the professional classes (http://www.futurist.com/portal/future_trends/david_brin_empowerment.htm).

This squelching of the "age of amateurs" is perpetrated at least as much by commercially-centered professions as it is by government-centered ones.

Are "government bureaucrats" the only threat to citizen autonomy, free markets and liberty? Anyone who fixates solely on the IRS and bureaucracy is no student of history.

And yet, that is precisely the stance of today's libertarian liturgy, which can see no threat at all in the sort of conspiratorial aristocracies that squelched freedom in every other nation, in every other era.

There are millions of Americans who might vote Libertarian if the LP stopped yammering and hectoring people about FDR and LBJ. If libertarians cheered up and stopped ranting about dismantling consensus institutions that the American people consented to for three generations, and instead began offering incremental alternatives to those institutions. Private services might first compete with paternalistic ones, and then gradually replace them, without much protest from the American people. There are many recent examples.

You will never dismantle the IRS by shrieking at it. In contrast, the gradualist "parallel services" process by which FedEx and UPS gradually and gracefully replaced Parcel Post

shows that you can use the incremental approach to make a huge difference. The people have seen that sort of thing happen. They understand it and don't fear it, the way they legitimately fear all-or-nothing fanaticism. — David Brin

DeLaying tactics — Media gossip tells us that the next Republican target of CBS will be House Majority Leader Tom DeLay who, like their last target, is from Texas. According to the Drudge Report, "House Majority Leader Tom DeLay is about to get the full 60 MINUTES treatment. CBSNEWS Lesley Stahl and her crew crashed a tsunami-relief photo op that Republican DeLay held last week. Stahl hit DeLay with questions about Ronnie Earle, the Democratic Travis County district attorney who is investi-

"WE'RE BEGINNING
OUR DESCENT.
HOLD ON
FOR DEAR LIFE."



BARE BONES AIR

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gating a Texas political action committee DeLay founded. 'This is about children,' DeLay told Stahl, trying as hard as he could to put a plug in her relentless line of questioning. Stahl hammered away. After about the third question, DeLay ended the press conference."

Stahl is being criticized for "crashing" a conference on the tsunami, but last time I checked, a journalist has the right to ask any question of general concern to a public official at a news conference; indeed, a journalist may feel an obligation to stray away from the self-flattering topics preferred by that official.

— Wendy McElroy

Cancer of the tort — Every now and then a number of forces come together that crystallize the million wrong things that emanate from the idea that a human does not have the right to his own life. Such is the case with the tests, propaganda, and hearings associated with the well

publicized side effects of the pain killers.

What's fundamentally wrong with the studies, tests, and hearings about pain killing prescription drugs like Vioxx and Celebrex is that every patient should have the right to decide for himself whether he should be taking the drug after assessing the benefits and costs.

More proximately, there is a total emphasis in the controversy about whether these drugs increase the risk of heart attacks and strokes. The studies most frequently cited by those who want the drugs taken off the market suggest that the risk of heart attack rises from 1% or 2% a year to 2% or 3% a year for people in the 50-year-old bracket. That's what they're referring to when they talk about the doubling of rates. But compare that to the benefits of taking the drugs: approximately 100% reduction in pain and approximately 50% reduction in polyps, 80% of which, scientists believe, will grow into cancers.

News You May Have Missed

World Peace Achieved

BAGHDAD — American military commanders announced yesterday that U.S.-led coalition forces in Iraq would cease all operations and withdraw from the country after a communiqué from Abu Musab al-Zarqawi and other leaders of the insurgent forces was intercepted ordering their followers to suspend car bombings, mortar, and rocket attacks, and all other acts of violence and to "shut up and go home" so that they could follow the Michael Jackson trial without any further annoying distractions or interruptions. Some 40,000 American troops have already been withdrawn from the Sunni Triangle in Iraq and transferred to areas where the terrain is more favorable to channel-surfing, like Cleveland, because reenactments of the trial on the E! channel — unavailable in Iraq — are no longer believed to pose a credible threat of totally sucking, as they had been widely expected to do.

Elsewhere, Muslim rebels in a remote, mountainous area of the Philippine province of Mindanao surrendered to government forces that had been battling them there for over two decades. In a daring raid on government military headquarters the rebels had seized the only working TV in the province in order to follow

the opening arguments in what is being called "The Trial of the Century of the Last Eleven Years or So" while also getting indispensable expert legal analysis from Jeffrey Toobin on CNN, but government troops retook the set the following day. Though they lost it again in heavy fighting two days later, they retained control of the remote, so that they were able to force the rebels to watch "Family Feud" and reruns of "Three's Company" instead of trial news until the insurgents surrendered.

In a related development, Osama bin Laden's latest videotape, aired on the Al Jazeera channel, in which he admits he has gotten into the habit of eating pork rinds and drinking Bud Light while watching news of the Jackson trial in the basement rec room of his undisclosed hideout, is said to have dealt a fatal blow to al Qaeda, already seriously weakened by bin Laden's videotaped assertion last month that Jackson is Allah's chosen prophet, not "that B-list celebrity" Muhammed, who, he points out, never went platinum even once.

Meanwhile, chronic warfare in approximately 37 former Soviet republics, in the Balkans, in the Sudan and other strife-torn African

countries, in Colombia, and in American professional basketball arenas has been suspended for the duration of the trial. Fighting has also been called off between Liza Minelli and David Gest, Paris Hilton and Western civilization, the Bonnanos and Gambinos, people hailing the same cab in Manhattan, and parents attending their kids' Little League and hockey games, and reports indicate that the consuming interest in Michael Jackson's legal problems has also put an effective end to aggressive nationalism, religious fundamentalism, globalization, resistance to globalization, and resistance to anything whatsoever.

In Washington, President Bush invited French president Jacques Chirac over to the White House to watch trial developments on Fox News, describing the formerly despised Frenchman as "my good buddy Jack" and crediting him with saving his life after he choked on a french fry. UN officials are said to be exploring ways to continue the trial forever, as are cable news executives and defense lawyers, but legal analysts scoffed at the plan as a "head-in-the-clouds utopian scheme," arguing that 13 or 14 years is a far more realistic estimate of the trial's duration.

— Eric Kenning

But that's just the first of the problems. The drugs themselves have been used for hundreds of millions of patient years. And they have been tested for efficacy and safety in double blind studies hundreds of times. They have numerous spillover benefits in all sorts of off-label uses. And indeed at the time they were pulled, hundreds of studies were going on as to their efficacy for such things as prostate, breast, colon cancer, and stroke. Of course, one of these studies with a hundred patients or a thousand patients is going to show a increased rate of disease of 1 percentage point a year. That's guaranteed to happen with randomness. (As a benchmark consider that the variability of a proportion is of the order of 2 percentage points with a study of 1,000 patients.)

Unfortunately, the issue is in the hands of the tort system. Lawyers using junk science have an industry in suing companies whose products have side effects. In a typical case, the patients get \$100 each and the lawyers get \$50 million — and politicians benefit because the tort lawyers are one of their biggest contributors.

While the litany of abuses runs deeper and deeper, all stemming from the idea that people are incompetent to make intelligent choices, the drug companies should not be absolved. The outcome of all such hearings is to preclude competition, reduce their permitted level of expenses, make it harder for other companies to bring out competitive drugs. (Think of the tobacco settlement as an example here with restriction on entry into the industry by companies that didn't participate in the settlement).

Multiply such witch hunts by 1,000-fold, and think of all the molecules that don't get invented, and all the patients that don't get treated, and the delays and restrictions in the drugs that do go through the pipeline, and you can readily estimate that the average life span of all of us would be increased enormously — five years or more — within five years of the abolition of the organization that likes to think of itself as a proper noun, with benevolent influence, FDA.

— Victor Niederhoffer

Guess they'll have to settle for Stanford

— Racial preferences in state and local government employment, education, and contracting were abolished in the state of Washington in 1998. This year there is a push in the state legislature to bring them back in higher education. There was a hearing on it, at which all the representatives of academia — and there were a lot — supported the bill, which would have allowed them to take race and ethnicity into account.

They denied that this was discrimination and said it was necessary for diversity.

None of them cited the racial statistics on the freshman class. At the state's premier university, the University of Washington in Seattle, incoming freshmen in 2004 were divided as follows: white 53.9%, Asian American 28.5%, Hispanic 4.6%, African American 3.0%. By these figures, blacks were admitted in the same proportion as in the population, whites and Hispanics less and Asians about five times more.

Furthermore, these figures had hardly changed since 1998, when preferences were abolished. The university had substituted outreach programs for preferences and was achieving the same racial percentages without preferences, except that Asians had increased a few points and foreign students had decreased. But the university's people didn't say any of that. Several speakers said instead that the ban on preferences had affected students' feelings. Students of color felt unwanted, though they were being admitted in the same numbers as before.

A black minister told the legislators the problem was not the number of students admitted, but the quality. Because we did not have preferences, our best minority students were being lured out of state.

She was seconded by a prominent Mexican-American activist, who had graduated from the University of Washington in the mid-1960s. His daughters had chosen not to go there. Instead they had gone to private law schools, one of them to Stanford. As he spoke, you could hear the father's pride in his voice. And I thought — what was his complaint again?

— Bruce Ramsey

Arthur Miller, RIP — Arthur Miller, the playwright who specialized in dramatizing the dark corners of the American dream, died recently at the age of 89. He was one of the sad cases of American literature, such as it is. He almost came to embody the characters in his plays (several of which were highly autobiographical). Success did not satisfy him, and he dwindled into a life of quiet frustration.

Miller's greatest success, the 1949 Pulitzer Prize-winning play "Death of a Salesman," came at the age of 33. Although he subsequently became something of a celebrity during his failed marriage to Marilyn Monroe, he never reproduced that success, though he wrote almost to the end of his days. America was willing to make him a millionaire for his most popular play, but it didn't take him as seriously as he thought it should, nor did it see him as a prophet or an agent of social change.

Like so many on the Left whose attitudes were shaped by the Great Depression, he never moved far beyond the Depression mentality. He didn't understand that the American dream was more about freedom than money; that freedom, not love of money, is the essence of capitalism; or that "money doesn't always bring happiness" does not constitute a condemnation of capitalism or commercial activity. Living in something of a time-warp, becoming unfashionable even on the Left for his wonky earnestness and devotion to traditional forms, he became something of a cranky anachronism, ever pining for the 1940s when "serious" plays could get produced on Broadway.

— Alan W. Bock



"Half pepperoni and half sesame seeds."

The War on Law

by John L. Martinez

Terrorism must be fought. But not at the expense of liberty and law.

To wage war on terrorism as a matter of foreign policy is one thing. To wage that war as a matter of domestic policy is another. The government cannot wage such a domestic “war” without in large part disregarding the Constitution. Domestic war and domestic law cannot possibly coexist in a constitutionally based legal framework.

An act against society, however violent and dastardly, by any individual who has submitted himself to that society’s jurisdiction can never be an act of war against that society. He may well be an enemy of the people and worthy of the most serious punishments, but there does not exist a state of war between the individual and society. His acts can and must be dealt with as crimes against society. This, of course, society is equipped to do through its legal processes. To attempt to avoid important and necessary legal processes by labeling persons terrorists does not change this imperative.

The expression “war on terrorism,” as used domestically, is as misleading as the expressions “war on poverty” and “war on drugs.” “War” can be and often is used to provoke emotion, passion, or our irrational natures. To make radical improvements in our national security, to organize ourselves to accomplish this goal, to make a greater commitment of our resources and energy to achieve this end — these are all good and necessary things. But they are not the “prosecution of war.”

To refer to them in this way is to do a major disservice to the American people by insinuating that it is quite to be expected that we must forego our liberties for the duration of “combat.” “War” is the time when constitutional protections tend to be most imperiled — even when war is being waged

for the liberties guaranteed by them. We need to be sober and critical about attempts to lead us into “war,” and never more so than at times, like the present, when the “combat” is obscure.

Let me offer some examples of areas in which vigilance is required. One has to do with proposals for new courts, whether civil or military, wherein the providers of clearly inadmissible evidence and the inadmissible evidence itself are not disclosed to defense counsel. The mere name of “court” would not save these bodies from their tyrannical nature. It would merely give them the illusion of functioning in a traditionally constitutional manner.

Another example is the idea of arresting and subsequently detaining persons for uncertain periods of time on the basis of government suspicions about their intentions. This is a radical departure from a fundamental principle of constitutional law, the principle that probable cause must be shown that some offense has been committed before government intrusion in this manner is warranted and permitted. Our true safety must ultimately depend on sound and effective law enforcement and a fair and open justice system. We cheat ourselves if we accept anything less.

The requirement that there be evidence of some offense

before arrests ensue does not mean that law enforcement officers must wait around with their hands tied before they can act on our behalf. No, the law has always provided them with the ability to thwart intended crime. Common means of doing this have included the laws of "attempt," "conspiracy" and "possession of apparatuses." When a direct but ineffec-

Our true safety must ultimately depend on sound and effective law enforcement and a fair and open justice system.

tual act is committed toward the commission of a crime, that in itself is the crime of attempt. The law does not even require that an attempt shall actually have been committed. When two or more people agree to commit a crime and one of them engages in some overt act or step in furtherance of the objective, we have the crime of conspiracy. The law can also make it illegal just to possess certain dangerous materials or criminally useful objects.

Fortunately, however, the Constitution has always been unkind to efforts to arrest Americans for what they think or desire. Applying the Constitution so liberally and loosely as to justify that type of government action is tantamount to extinguishing its very vitality. In fact, a regime that operates outside the prescribed powers delineated in its constitution, against any one person subject to its laws, is declaring war on that person and in so doing is declaring war on all the people. In this manner the war against terrorism becomes a war against the people; the government in the exercise of unfettered discretion no longer relies on constitutionally derived powers but on its own self-proclaimed powers. Self-

proclaimed power is what history has always termed tyranny.

John Locke, in his "Second Treatise on Government" — a document that exercised enormous influence on America's founding fathers — argues that government "is bound to . . . decide the rights of the subject by promulgated standing laws." To suggest, then, that a government can, at its own discretion, determine that one citizen has fewer rights than other citizens or that one person is entitled to constitutional protections and another person is not, is to sanction tyranny over constitutional governance. For the government to operate beyond the powers granted to it by the Constitution when it itself is a creature of that Constitution by using, domestically, the expression "war on terrorism" as its justification does profound damage to permanent and perpetual individual freedom. The situation only looks worse when the war itself has no boundaries or identifiable end.

More than three centuries ago Benedict de Spinoza, who is said to be the first philosopher to justify democracy systematically, wrote that "the true aim of government is liberty." We must always remember that the unique concern

A regime that operates outside the powers delineated in its constitution, against any one person subject to its laws, is declaring war on all the people.

of a democratic government is the preservation of personal liberty, and that the paramount obligation of each member of a democracy is to demand from that government nothing less. □

Letters, from page 6

guns), private ownership of machine guns is entirely legal in the United States, if you have the appropriate licenses. Indeed, here in Massachusetts, one local gun club sponsors a machine gun shoot as a way to lure in the public.

Ramsey writes, "If you're a Jew in Germany in 1942 . . . it does no good to have a gun. Use it and you're dead." Given the fate of German Jewry, it is not clear why Ramsey believes that using the gun would have made matters worse for the Jew than not using it.

George Phillies
Worcester, Mass.

Libertarian Bonafides

I have known conservatives who called themselves "libertarian" in some sense or another. When conversing with such conservatives, I've always kept as a signpost the War on Drugs. I'd be say-

ing to myself, "If you haven't figured out what the War on Drugs is about, and don't oppose it, you're not really libertarian."

Reading Ramsey's article on guns, it occurred to me there is another signpost.

Ramsey's article is proof that there are always facile (if contrived) rationalizations for state oppression — in all issues, not just gun control. He certainly came up with a lot of them. Perhaps he got them from the circles he runs in, where we all get our various prejudices and not-too-closely examined premises.

He no doubt still believes a lot of them. But somehow, from a science-fiction story no less, he managed (to his credit) to stumble on the correct answer — despite all his other misconceptions. And thus he's finally become a

libertarian.

There are two reliable signposts, or indicators, of libertarianism; and both are required. If you don't hate the War on Drugs, or are not a certified gun nut with a thousand rounds of .308 in your closet, then you are not libertarian. These are more reliable than "socially liberal, fiscally conservative."

Welcome to the club, Bruce. I'll take you out shooting some day.

Paul Bonneau
Hillsboro, Ore.

Ramsey responds: Mr. Rathbun takes me to task for not wanting to trust morons as far with guns as I trust them with vitamins, voting, etc. Unlike nutrition, vitamins, voting, personal spending, and tobacco, the moronic use of weap-

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George W. Bush and the Pageant of America

by Stephen Cox

Dead Romans, Texas annexation, God's true and righteous judgments — presidential inaugurals have seen them all. And in that context, George W. Bush did fairly well.

In 1841, on the eve of William Henry Harrison's inauguration as president, he and Daniel Webster, his designated Secretary of State, were locked in dubious battle over the speech that Harrison intended to give on the occasion.

Webster had ghosted a speech for him, but Harrison turned it down, observing (according to Peter Harvey, Webster's friend) that "everybody would know that you wrote it, and that I did not." In other words, Webster had a distinguished style, so his work could not be used. Harrison had written his own speech, and "although, of course, it is not so suitable as yours, still it is mine."

It would be hard to quarrel with that, but on reading the speech, Webster saw that it "had no more to do with the affairs of the American government and people than a chapter in the Koran." For one thing, "it entered largely into Roman history." Webster urged the president-elect to let him revise it, and Harrison "rather reluctantly consented."

When Webster returned to his lodgings that day, he seemed "fatigued and worried" and was asked what had happened. "You would think that something had happened," he said, "if you knew what I have done. I have killed seventeen Roman proconsuls as dead as smelts, every one of them." But though most of the Roman parts were omitted, the speech remained almost two hours long. Harrison was elderly, he overexerted, he caught a cold, it turned into pneumonia, and he died a month after taking office.

Inaugural addresses can be hazardous to your health.

Yet they are very interesting historical and literary documents, as I discovered when I read them in preparation for a

review of the current president's performance.

Interesting — and odd. The state of the union address has a constitutional mandate (Article 2, Section 3), but the inaugural address has none; presidents just keep giving them because their predecessors did, despite the fact that Washington, who started the custom, immediately tired of it: his Second Inaugural is only 135 words long. The inaugural address has no necessity or obvious use; it doesn't have to do anything — so it can be whatever the president wants it to be. Yet the solemnity of the occasion, which is thought to transcend all mundane interests and party politics, has made it a very challenging genre to work with.

The expectation is that the president will address the issues of the moment while providing an historical and, if possible, an eternal perspective on the whole of the American experience. Some presidents have chosen to spend a great deal of time on the issues of the moment. Before the arrival of mass media with their insistence on "the vision thing" — on literary effects that create headlines and "inspiring" moments on TV — the ordinary method was for the president to mention the solemn obligations of his oath of office, then proceed as soon as he decently could to practical matters.

Quite a number of inaugural addresses dwell on the

importance of devising “a tariff for revenue only,” yet for “judicious protection” as well. President Polk’s inaugural address works out all the logical difficulties of the annexation of Texas, which he cunningly calls its “re-annexation.” President Garfield falls foul of the Mormon church for establishing polygamy and tyranny in Utah. Lincoln’s First Inaugural marches relentlessly through the swamp of arguments about whether states have a right to secede from the union. Franklin Roosevelt’s First Inaugural proposes raising agricultural prices so that farmers will be able to buy the products of the cities, thus employing urban people, but also encouraging them to move out of the cities, thus removing “the overbalance of population in our industrial centers.”

As this curious proposal suggests, readers of inaugural addresses need to look out for the rhetorical trapdoors that presidents tend to build into them. President Hoover announces, as if it meant something, that “there would be little traffic in illegal liquor if only criminals patronized it.” In his First Inaugural, Lincoln concedes that, even as he speaks, a constitutional amendment that might prevent war with the seceding states has been passed by Congress. He claims that he hasn’t read this amendment, so he cannot discuss it. Sure. That’s why he’s taking the time to mention it and shuffle it aside. FDR, priding himself in his Second Inaugural on the progress that his administration has made in eliminating poverty, suddenly has a revelation: “I see one-third of a nation ill-housed, ill-clad, ill-nourished.” Good God! Where did all these poor people come from? But something has to be done about them, and he demands the nation’s support in doing it. By his Third Inaugural, however, the Third of a Nation has vanished, leaving only a bland reference to “undeserved poverty.”

Other presidential addresses veer away from current events, toward extremes of Vision. In Lincoln’s Second Inaugural, we have a sermon — magnificently phrased, but as strange, in its way, as anything in the genre — about God’s attitude toward slavery and the consequent Civil War:

“Fondly do we hope, fervently do we pray, that this mighty scourge of war may speedily pass away. Yet, if God wills that it continue until all the wealth piled by the bondsman’s two hundred and fifty years of unrequited toil shall

The inaugural address has no necessity or obvious use; it doesn’t have to do anything — so it can be whatever the president wants it to be.

be sunk, and until every drop of blood drawn with the lash shall be paid by another drawn with the sword, as was said three thousand years ago, so still it must be said, ‘the judgments of the Lord are true and righteous altogether.’”

If you think that President Bush was doing something unusual when he referred to sacred scripture — consisting of the Old Testament, the New Testament, and the Koran (!) — I’m sorry, you’re wrong. Most inaugural addresses go

way, way beyond the current president in expressing allegiance to God, and none farther than those delivered by the presidents whom modern liberals most revere.

Thomas Jefferson’s First Inaugural expresses his thanks that Americans are all “enlightened” by the same “benign religion,” Christianity. John Kennedy, citing Jefferson, summarizes America’s revolutionary creed as “the belief that the

There was some straining and cliché-crunching this year, too: “vital interests,” “outlaw regimes,” “America speaks anew,” etc.

rights of man come not from the generosity of the state, but from the hand of God.” He concludes by observing that “here on earth God’s work must truly be our own.”

One of the salient features of Franklin Roosevelt’s First and Second Inaugurals is his recurrence to the gospel episode in which Jesus drives the moneychangers from the temple. Roosevelt identifies the moneychangers with modern capitalists, and his audience, or himself, with Jesus. The financiers were the cause of the Great Depression, and all will be well when we “drive from the temple of our ancient faith those who had profaned it.” In the Second Inaugural, he claims to have fulfilled this religious duty.

Presidents are often more definite about the Deity than they are about anything else. The ceremonial style of an inauguration encourages abstraction, approximation, circumlocution. In Roosevelt’s Third Inaugural, the threat is no longer the financiers; it is Hitler, but the German dictator is never called by name. Even the name of “Europe” (the place that President Coolidge resolutely calls “the Old World”) goes unmentioned. It is enough, in the peculiar code of inaugural addresses, to worry about the possibility that “the spirit of America” will be “constricted in an alien world.” Similarly, President Bush’s Second Inaugural refrains from naming “Iraq” or any other foreign nation, contenting itself with a reference to “obligations that are difficult to fulfill, and would be dishonorable to abandon.”

Older inaugural addresses are high on prose and low on poetry. Even Lincoln’s speeches save their crucial imagery (“the better angels of our nature”) for crucial passages. More recently — undoubtedly the mass media are responsible for this, too — imagery has become a good deal more important than “logic.” Much of the imagery is fustian. When President Kennedy proclaimed that “the torch has been passed to a new generation of Americans,” he was visibly straining for an heroic image, only to arrive at a bombastic cliché. There was some straining and cliché-crunching this year, too: “vital interests,” “outlaw regimes,” “America speaks anew,” etc.

Most of the best writers among American presidents — John Adams, James Madison, Theodore Roosevelt, Woodrow Wilson — have produced bad or mediocre inaugural addresses, but some of the sappiest have shown an unexpected flair. Lyndon Johnson’s inaugural contains some goofy “vision” stuff — “Even now, a rocket moves toward

Mars" — but it does offer some arresting moments. Johnson claims that every disadvantaged person who succeeds in America is "like a candle added to an altar": a weird image, but it works. On a homelier level, he claims that "in a land of healing miracles, neighbors must not suffer and die unattended." This is a coded argument for Medicare, and as such, it's not very good — too many traps clapping. But strictly as rhetoric, it works very well. "Neighbors" (as opposed to the remote and frigid "citizens," "people," or "old people") is a clever turn.

(Did Johnson write his own speech? No. Modern presidents, not as proud as Harrison, happily tolerate ghost writers. But presidents like Bush and Johnson supervise these familiar spirits closely.)

Lincoln's literary gift — for such it was; he read very little and had few literary models, and those that he had (overwhelmingly, Shakespeare and the Bible) were very distant from his own genres — is the easiest to recognize and the hardest to describe. It was a gift of weight and dignity, yet of rhythm in thought and language. Above all, it was a talent for omission. Breaking with other Victorian writers, he omitted every word that wasn't necessary. What he left were the relatively few words that carried the rhythm of common speech and the impressiveness of real emotion.

Lincoln discovered (somewhat paradoxically) that if you omit all the words you don't need, you have plenty of room for anything else you want to put in. You can speculate: "Suppose you go to war, you can not fight always . . ." You can throw the argument back upon your enemies: "In *your* hands, my dissatisfied fellow-countrymen, and not in *mine*, is the momentous issue of civil war." You can even feign spontaneity. Approaching the climax of his rhetoric in the First Inaugural (from which I have been quoting), Lincoln adds, in a modest yet self-dramatizing way: "I am loath to close" — I do not want to stop before I have convinced you all. Truly, as the poet Edgar Lee Masters argued, in his slash-and-burn attack on Lincoln ("Lincoln, The Man," 1931), this was a president who owed his all to literary genius.

I'm afraid that nothing similar can be said about the current president. Nevertheless, his speech of Jan. 20 was one of the ten or twelve best specimens of the genre, and much better than the disconnected set of sermon notes he delivered four years previously. This one had a definite shape and a definite point of view. It was clever — perhaps too clever by half. It showed Bush's skill at lying in wait for his opponents and shooting them before they can get their ammo out. Heading off criticism about his tendency to proclaim faith in democracy while maintaining friendship with authoritarian regimes, he creates an image of dictators "start[ing] on [a] journey of progress and justice," while America still "walk[s]" by their "side." He also makes a cunning response to complaints about American arrogance: "Not because we consider ourselves a chosen nation; God moves and chooses as He wills."

You can see that Bush is following the presidential tradition of constructing trapdoors for the unwary reader. Elsewhere, his speech appears to be arguing the (indefensible) thesis that the United States must send troops to any country in the world in which people are struggling for

democracy, but if you read it carefully, you will see that the paratroops won't start dropping until a multitude of conditions is met. So the interventionists as well as the isolationists have ground for dissatisfaction — if they're careful readers.

There isn't anything in Bush's speech like Franklin Roosevelt's "We have nothing to fear but fear itself" (First Inaugural), or Jefferson's clever plea (in his own First Inaugural) for harmony after a particularly vigorous electoral conflict between two parties: "We are all Republicans; we are all Federalists." When Bush does try to be memorable, the result is often just inaugural slush — the unimpressive things that people say when they're yearning to be impressive. "We cannot carry the message of freedom and the baggage of bigotry at the same time." Really? Maybe if we bulked up, dude! "In the long run . . . there can be no human rights without human liberty." Huh? Oh, I guess so . . . But isn't that saying the same thing twice? Compare Franklin Roosevelt's reference to the "plain people, who sought here, early and late, to find freedom more freely."

Yet Bush's speech offers nothing so inane as his father's prayer, in his 1989 inaugural, that God will "write on our hearts these words: 'Use power to help people,'" or his assurance to listening schoolchildren that "freedom is like a beautiful kite." The current inaugural is more literate than that. It is even subtly literate. It refers, for example, to "the consequential times in which we live" — an interesting way of taking a word of restricted usage and quietly upping its ante.

There's some strained diction, but also a memorably theatrical climax, in the current President Bush's description of America's history from 1989 to 2002: "After the shipwreck of communism came years of relative quiet, years of repose, years of sabbatical [?] — and then there came a day of fire." That works. So, in a way, does the Boy Scout tone and Boy Scout imagery of his description of America's response to Sept. 11: "Our response came like a single hand over a single heart."

Slightly better, in this way, is his concluding reference to the Liberty Bell and its biblical inscription: "Proclaim liberty throughout all the land unto all the inhabitants thereof."

When Bush does try to be memorable, the result is often just inaugural slush.

Unfortunately, the effect comes from the allusion, not from what he does with it ("America, in this young century, proclaims liberty throughout all the world"), and it is followed by a standard claim that America's "greatest achievements in the history of freedom" are yet to come.

So that's that. Bush's speech was literate, fleetingly memorable, and only about three times as long as it should have been. That puts it pretty high up on the inaugural roll of honor, though not in the hall of fame. But perhaps the meaning of all that I have said, my fellow citizens, is that America's greatest achievements in the history of presidential inaugurations are *yet to come*. I hope so. □

Who's Your Daddy?

Authority, Asceticism, and the Spread of Liberty

by Michael Acree

Why are conservatives and liberals so resistant to the logic of liberty?

“Why Doesn't Libertarianism Appeal to People?” This was the wry title of an informal talk by Robert Nozick to a libertarian supper club in Cambridge shortly after the publication of “Anarchy, State, and Utopia” (Basic Books, 1974). (I'm sure Nozick would have been aware of the implied slur on libertarians.) My memory is that he saw himself as raising an important question more than offering definitive answers. The question remains as important as ever, but has attracted surprisingly little serious attention since then.

The various explanations that have been offered mostly boil down to the contention that people are jerks — consumed by envy, by needs to control others, or whatever. There is obviously some truth in these claims. The difficult point about such explanations is the implication that libertarians are not afflicted with similar character flaws — that we are more saintly or mentally healthy than the rest of the population. Anyone who has experience with libertarians in person, however, will have (or should have) trouble swallowing that conclusion. There must be more to the story.

Naturally, I do not suggest that what I say here is what Nozick would have come up with had he returned to the question. Nor do I consider this to be a definitive treatment of the question. I merely bring a few ideas which I have not seen applied to this question before.

It is obvious to everyone that political beliefs — *other people's* political beliefs — are not altogether rational. The evidence in favor of laws against, say, guns or cocaine is simply not compelling enough to support the fervor their advocates commonly exhibit. Yet political discussions are commonly conducted as though political beliefs were determined by

logic and evidence. That is why they are so frustrating. Libertarians, especially, are given to what Nozick would later* call “coercive logic”: hit them over the head with an irrefutable argument, and socialists can do nothing but capitulate to capitalism. Few among us have failed to note how seldom it works that way, even as we continue to insist that education is the key to political change.

Possibly the most profound work thus far on understanding political differences is Thomas Sowell's “A Conflict of Visions: Ideological Origins of Political Struggles” (Morrow, 1987). Sowell integrates a wealth of observations into a remarkably even-handed characterization of two “visions,” constrained and unconstrained, of human nature and society. He says little (as yet) about where these visions come from, and libertarians interestingly cut across this particular distinction. The other major work in the area, George Lakoff's “Moral Politics” (University of Chicago Press, 1996), has been more neglected by libertarians; I shall have more to say about it.

My own approach is a little more psychological than either of these. Psychological analysis of political beliefs can help us understand not just where people of all persuasions

*In “Philosophical Explanations,” Belknap Press, 1981.

are coming from — and thus more effectively how to reach them — but to understand some other phenomena that are puzzling to libertarians, such as the widespread tolerance and excuse-making for government atrocities, the asymmetrical appeal of libertarianism to left-liberals and conservatives, and the professed hostility of liberals to lowering even their own taxes.

Psychological analysis of political beliefs is a delicate task, however. The very suggestion that the beliefs being analyzed may not be fully rational understandably gives offense. At the very least it is obligatory that any such analysis be self-reflexive. Understanding why libertarianism appeals to us may help explain the limited appeal it has to some conservatives and left-liberals.

Ambivalence About Asceticism

Start with the most famously transparent case of psychological motivation for political beliefs: the obsessive campaign of conservatives against pornography, which elicits a knowing smile from everyone else. Susie Bright, noted author of erotica, says that the Report of the Meese Commission on Pornography was the best jill-off book she had ever read, the Commission having gone out of its way to procure the kinkiest stuff. Look today at the amount of coverage given by WorldNetDaily, to pick on just one popular publication, to sex scandals, child prostitution, and other titillating topics. Without their diligent reporting, many pedophiles might never have considered the opportunities in contemporary Afghanistan. Leftist intellectuals smugly infer suppressed desires from this righteous crusade, but their own positions may be vulnerable to a similar analysis.

Consider the odd resistance of left-liberals to lowering even their own taxes. The very idea is as offensive to them as relaxing laws against prostitution is to conservatives. That doesn't mean they are indifferent to money, but it is important to them to *appear* indifferent to money. Most of my liberal friends are wealthier than my conservative friends, but they would sooner die than be thought of as wealthy. They refer to themselves as "comfortable" — where "comfortable" means having a home in the Berkeley hills, an SUV and a sports car, and enough money for either private school tui-

Explanations for the lack of appeal of libertarianism mostly boil down to the contention that people are jerks, but such explanations imply that libertarians are not afflicted with similar character flaws.

tion or a condo in Aspen. But the insistent denial of concern for wealth, we may suspect, betrays an underlying obsession.

What liberals and conservatives have in common, I suggest, is having publicly subscribed to an ascetic code in which they are not wholeheartedly committed. They have simply focused on different aspects of Christian asceticism (an asceticism shared by most other religions) — money or sex. Morality, in the cynical view, was probably invented as

a system of social control: the intellectually powerful use guilt to control the physically powerful. Happy people are hard to control noncoercively. There is a limit to what we can offer them as inducements to behave differently. Guilty people, on the other hand, offer a conspicuous lever. Do as the moralists say, and your sins will be forgiven and you will experience eternal bliss. (Some gullibility is required, but not

Left-liberals are not indifferent to money, but it is important to them to appear indifferent to money.

an extraordinary amount.) The ideal moral code, from this point of view, is one that is set against human nature, that people can hardly help violating. Thus the historically successful codes, including those prevailing in Western culture, are ascetic, particularly with respect to sex and money. Tellingly, perhaps, it is rare to find prohibitions on power over other people.

As mechanisms of social control, moral codes were designed to be *accepted* but not to be *observed*. If everyone cheerfully followed them, there would be no guilt to manipulate. Guilt is an effective lever just because, as Nathaniel Branden has famously argued, perhaps the most important value we are all controlling for is a sense of ourselves as good people. Morality becomes political through a second value for which we control nearly as strongly: a sense of justice. What is intolerable is to feel as if you are paying a price for adherence to an ascetic code, and seeing other people — whether capitalist pigs or queers — flouting the rules *and getting away with it*.

Self-acceptance, or its lack, is key in both cases. Conservatives who live comfortably within the bounds of their narrow code are generally less agitated and zealous in their disapproval of transgressions. Not feeling especially deprived by their moral choices — feeling, perhaps, that their moral choices are their own, rather than imposed from without — they have no reason to envy others their greater freedom of action. Similarly with those left-liberals who are comfortable with a very modest standard of living. I think, in fact, that the range of peaceful behaviors we are comfortable with in others is a pretty good index of our own self-acceptance.

For left-liberals and conservatives alike, political beliefs derive much of their obduracy from being rooted in morality and self-concept. Conservatives can tell they are good people by the strictness of the standards they espouse, and by the zealotry of their advocacy — which generally means efforts at imposing those standards universally. Challenging conservatives' political beliefs will generally not get very far, because those beliefs are linked to conservatives' sense of what is good, and of themselves as good people. Anyone who has entered into political discussions with left-liberals has tasted the similar righteousness of their position. They believe their commitment to redistributionist policies shows them to be good people; challenges to those policies will likely be experienced as challenges to left-liberals' sense of

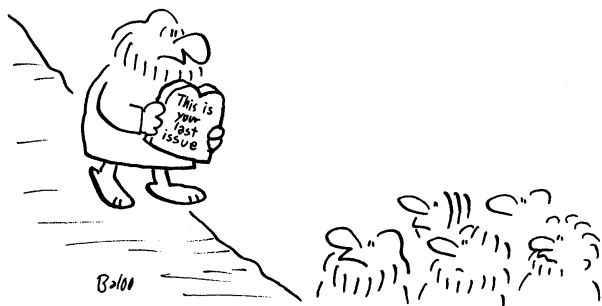
the good, and of themselves as good people.

But notice that both left-liberals and conservatives focus not so much on becoming virtuous as on forcing other people to adhere to the standard they believe they are supposed to uphold. They are quite willing to submit to coercion on issues they feel they need help with, so long as everyone else is similarly coerced. It is easy to imagine Al Gore feeling he needed some extra help (in the form of coercion) to meet his standards for charitable giving when his tax return showed a total of \$353 in charitable deductions (especially compared with the more recent figures of \$68,000 for Bush and \$330,000 for Cheney). The common conviction of liberals and conservatives that they are committed to what is good makes it easier for them to dismiss the hardships their policies impose on others. Advocating universal standards, in fact, serves importantly to relieve us of responsibility for judging whether we are generous enough, or overindulgent. Better to have someone else decide what the limits are — so long as they decide for us all.

These ascetic codes, and the efforts at social control to which they lead, are addictive: they generate their own justification. Because of them, we acquire a view of ourselves as needing external constraints on our behavior (“I don’t know if I would contribute that much to charity”), which will lead us to resist any suggestion that the constraints are not necessary. There are few psychological challenges greater than changing one’s conception of the good, given a lifetime of investment in constraints that may have been unnecessary. Perhaps the most insidious and destructive legacy of our traditional reliance on external controls, whether moral or legal, is the undermining of personal responsibility. We come to believe that, if social controls were relaxed, everyone, including ourselves, would run wild, indulging every whim. That expectation feeds the demand for ever stricter controls. And we end up confusing opposition to enforcement of moral codes with immorality.

Family Models of the State

Tacit resistance to ascetic codes is but one of several related axes of political difference, however. For those whose ascetic focus is on sex (and drugs and related sins), morality tends to be primarily a private matter, to be maintained with a rigid, disciplinary self-control (“Don’t touch yourself,” “Save yourself for marriage”). For those whose ascetic focus is on money, morality is primarily social (“Share your toys,” “Take care of the less fortunate”), and is to be supported by cultivating and nurturing a sense of public-spiritedness —



altruism and collectivism.

Here we reach the distinction George Lakoff takes as fundamental. Lakoff is a Berkeley linguist best known for his work on metaphor. The language of the state, in case anyone had failed to notice, is very much the language of the family, whether the Fatherland, Uncle Sam, or Big Brother. Patriot and father have, of course, the same root.

Lakoff opens his book “Moral Politics” with a question he believes reliably distinguishes liberals from conservatives: if your baby cries in the night, do you pick him up? A conservative may say, “No, you’re only teaching the kid to cry more. Sooner or later he has to grow up; he might as well get used to it now.” A liberal may say, “Of course. How cruel to let the child feel abandoned, as though no one cares for him.” The point is not that we need an elegant new device for classifying political beliefs, but rather that we carry these parenting styles over to the state. Conservatives hold a disciplinary parent model of the state, seeing its role as policing “undesirable” behavior; liberals hold a model of the state as nurturing parent, whose role is to ensure that everyone is taken care of, and that the bigger siblings don’t take advantage of the weaker ones.

For Lakoff, the choice is a slam-dunk: empirical research in developmental psychology shows that the nurturant approach works better, hence the liberal society is the better one. To libertarians, however, the question is beside the point: we reject any model of the state that sees citizens as children, and bureaucrats and politicians as the only adults. It is remarkable that Lakoff misses entirely the possibility of noninfantilizing social arrangements. He considers libertarianism a species of conservatism. I think he is not entirely to blame for that impression. Lakoff, a thoughtful, fair-minded scholar, did his homework, and consulted libertarian sources; and, in fact, a conservative orientation in libertarianism today is apparent in many ways, including recently the prevalence in libertarian circles of hawkish attitudes on the war on terrorism, where punishment and retribution emerge as the paramount concerns.

It might be supposed that the claim that conservatives are attached to a disciplinary-parent model of the state is refuted by their opposition to the United Nations. I think however, that conservatives really do want a dominant power in the world; they just want it to be the U.S. rather than the UN — or anybody else. A case can be made, as it was many years ago by Leopold Kohr in his book “The Breakdown of Nations” (Dutton, 1957), that peace and stability are better served by a homogeneous distribution of size and power than by an arrangement where some political entities are very much larger and more powerful than others. And the foreign policy of the Bush administration, the full effects of which are yet to be felt, would seem ample confirmation. But conservatives can be counted on to oppose moves that would diminish the hegemony of the U.S.

Lakoff generously subtitles his book “What Conservatives Know That Liberals Don’t.” He is referring to conservatives’ “knowledge” that government is inherently about morality. Perhaps it is, for better or worse; but I would say the more relevant thing conservatives know that liberals don’t is that government is inherently disciplinary. I wish Lakoff had been less modest and had acknowledged what

liberals know that conservatives don't: that legislating morality doesn't work. Enforcing public morality — nurturance by compulsion — doesn't work any better than enforcing private morality. It furthermore ceases to be experienced as nurturant either by recipients, who come to take it for granted as

As mechanisms of social control, moral codes were designed to be accepted but not to be observed.

an impersonal entitlement, or by donors, who come to resent it as a demand. If Lakoff understood what both liberals and conservatives know, he would have cut the ground entirely from under both.

The parental model of the state helps to explain the extraordinary tolerance and excuse-making exhibited by most Americans in relation to government atrocities like Waco, or their hostility toward those who question official accounts — the treatment of Robert Stinnett's "Day of Deceit" by the Wall Street Journal, for example. Think of the well-known phenomenon of children clinging to abusive parents and adults remaining with abusive spouses. There may be many factors involved here, but surely a major one is the psychological difficulty of acknowledging that the powerful figure in whom we've placed all our trust is actually corrupt or unreliable.

There is an important asymmetry between liberal and conservative models of the state, however: the nurturant-parent model is much harder to give up. It is true that, through a process that is all too familiar, children with tyrannical parents can grow up to be tyrants themselves; but the disciplinary-parent model still inherently invites resistance. Under the nurturant-parent model, on the other hand, we grow up, at least in theory, to be benevolent protectors rather than tyrants. The fact that the nurturant-parent model is thus more seductive is surely one reason why libertarianism has attracted more conservatives than liberals.

Whence the Parental Model?

The pervasiveness of the two parental models of the state raises the question of their source: why should such models be so compelling? Dorothy Dinnerstein offers one interesting potential explanation for our attraction to parental models of the state which has been largely overlooked by libertarians.

Many observers, of different orientations, have interpreted the human history of repeated subjugation to authority, plausibly, as an "escape from freedom." Dinnerstein, in her classic book *"The Mermaid and the Minotaur: Sexual Arrangements and Human Malaise"* (Harper and Row, 1976), goes a little deeper, to consider the question of why such an escape should appear to be possible. She observes that, throughout history and across cultures, child rearing (not just child bearing) has been monopolized by women. The significance of women's monopoly in child rearing lies first in the fact that all the rage and frustration of infancy, of unmet needs and the struggle for autonomy, are directed against women:

It is obvious that we all have character traits which make

us less than perfectly parental. What is not faced head-on is the fact that under present conditions woman does not share man's right to have such traits without loss of human stature, and man does not share woman's obligation to work at mastering them, at shielding others from their consequences. Woman never will have this right, nor man this obligation, until male imperfection begins to impinge on all of us when we are tiny and helpless, so that it becomes as culpable as female imperfection, as close to the original center of human grief. Only then will the harm women do be recognized as the familiar harm we all do to ourselves, not strange harm inflicted by some outside agent. And only then will men really start to take seriously the problem of curbing, taming, their own destructiveness." (p. 237–238, original in italics)

But the split in gender roles also makes it possible for us to project the different sides of a number of fundamental ambivalences onto each gender. This "solution" generally insures that one side or the other is disowned, that each is alienated from the other and hypertrophied in its expression, and that the ambivalence itself is never recognized or dealt with, as it would have to be if both sides were represented in each of us.

One of the things we feel ambivalent about is the process of growing up. Dinnerstein writes:

Few of us ever outgrow the yearning to be guided as we were when we were children, to be told what to do, for our own good, by someone powerful who knows better and will protect us. Few of us even wholeheartedly try to outgrow it. What we do try hard to outgrow, however, is our subjugation to female power: the power on which we were dependent before we could judge, or even wonder, whether or not the one who wielded it knew better and was bossing us for our own good; the power whose protectiveness — although we once clung to it with all our might, and although it was steadier and more encompassing than any we are apt to meet again — seemed at that time both oppressive and imperfectly reliable.

Having escaped that power, or at least learned how to keep it within bounds, all but a few of us have exhausted our impulse toward autonomy: the relatively limited despotism of the father is a relief to us. (188–189)

If men, however, bore equally the burden of those infantile feelings now attached to women, then subjugation to authority — male authority — would not hold the appeal that it does for us:

If a different, apparently blameless, category of person were not temptingly available as a focus for our most stubborn childhood wish — the wish to be free and at the same time to be taken care of — we would be forced at the beginning, before our spirit was broken, to outgrow that wish and face the ultimate necessity to take care of ourselves. (189, original in italics)

Regardless of whether Dinnerstein is right in her gendered interpretation, the wish for someone to be in charge remains nearly universal. Most often it is expressed as a need to control unruly others, but I've also heard many people say, in different contexts, that they didn't trust themselves to do what they were supposed to without the threat of external sanctions. On some level, they really didn't think of themselves as responsible adults. Naturally I think the source of most of that distrust is the unrealistic, ascetic codes by which they are judging what they are supposed to do. If all the fruit weren't forbidden, they wouldn't have acquired an image of themselves as so vulnerable to temptation to

engage in illicit behavior. But in any case, if people don't trust themselves, they certainly aren't willing to trust others to do better.

If I have made it sound as though social order can be achieved simply through members of society trusting one another, many readers will be eager to insist that I'm making a crucial but obviously false assumption: that adults are adults. Indeed, the media are full of reports every day to remind us, with respect to both private individuals and public officials, of the falsity of that assumption. However, it is just because chronological adulthood doesn't entail maturity or responsibility that we should oppose investing any person or group with too much power over all others.

But it is important to appreciate the role of ascetic codes in bringing about this state of affairs. I've already suggested that a state of chronic deprivation leads us to expect that everybody is about to explode into narcissistic self-indulgence, and consequently that strict external controls are necessary. We might well expect some movement in that direction if existing controls were suddenly removed; on the other hand, our fears might well be exaggerated. I'm sure there were many parties the night Prohibition was repealed, but if there was a prolonged national orgy of drunkenness, I've never heard about it.

Authoritarianism vs. the Market in Epistemology

Phenomenological method advises us to test any analysis in a neighboring domain, and it is indeed illuminating to consider the epistemological implications of ascetic codes and parental models. The impact of asceticism in knowledge and science is evident in the automatic dismissal of personal experience that standard conceptions of the scientific method demand: the discounting of self-reports, the disparagement of subjectivism — indeed, the loss of the distinction between "subjective" and "merely subjective." The prevailing scientific norm of epistemological altruism sets us up for epistemological authoritarianism: having cognitively disenfranchised ourselves, we need someone or something to tell us what to think.

We have celebrated as progress in both epistemology and politics the depersonalization of authority — the shift from investing authority in a particular political or religious figure to investing authority in a set of impersonal rules governing

It is intolerable to feel as if you are paying a price for adherence to an ascetic code, and seeing other people — whether capitalist pigs or queers — flouting the rules and getting away with it.

behavior and thought. In politics, the concept of authoritarianism applies to bureaucracy, however, no less than to monarchy; either, as anyone with any experience of the IRS knows, can be despotic. Similarly, epistemological authoritarianism pertains as much to impersonal systems as to personal or spiritual authorities.

The alignment of the disciplinary-parent model with a

moral and epistemological authoritarianism is perhaps clear. The social orientation of liberalism, on the other hand, leads philosophically to a commitment to openness to other points of view, to an emphasis on the social construction of language and thought, and to philosophies like relativism and postmodernism. (It hardly needs to be added that the com-

Both left-liberals and conservatives focus not so much on becoming virtuous as on forcing other people to adhere to the standard they believe they are supposed to uphold.

mitment, like the commitment to material ascetic codes, is often *merely* philosophical. As liberals are not necessarily more generous than conservatives, so they are not necessarily more open-minded. They can be every bit as rigid and intolerant — for instance, of smokers or gun owners — as conservatives, and even more annoying thereby.) So it is hardly surprising that some philosophers have embraced a more libertarian perspective here than have libertarians themselves. Paul Feyerabend, in his book "Against Method: Outline of an Anarchistic Theory of Knowledge" (Verso, 1976), argued that scientific progress has often come, not from following, but from *breaking* rules, and that the only rule that wouldn't inhibit the growth of knowledge is "Anything goes." Simple-minded critics have taken his claim as implying that anyone's opinion is necessarily as good as any other, but epistemological anarchism actually places *more* responsibility on individual knowers than does a philosophy which conceives of knowledge production as a matter of mechanically following defined rules. There are no rules to hide behind, to shift responsibility onto, no substitute for our own judgment.

Epistemological anarchism does not entail the rejection of logic or any particular methodological rules. It merely recognizes their inadequacy as arbiters of dispute and governing authorities of thought. How often do we say: "Oh, you're right — I see now that I had an undistributed middle term"? Knowledge and understanding, like the conduct of our lives, call for more sophistication than that — or perhaps more courage.

Libertarians

The analysis of libertarianism is complicated by the fact that the label, as is well known, really comprises two groups. The majority, who are responsible for the perception, by Lakoff and many others, of libertarianism as a species of conservatism, want a disciplinary-parent state which will somehow constrain itself to observe specified rules. Emotional vestiges of right-libertarians' attachment to both parental models and ascetic codes are apparent in the wistfulness often discernible in their attitude toward government — the feeling, for example, that it is *too bad* that drug prohibition doesn't work; it would be nice if we could force people to do what we want. Those, on the other hand, who want to abolish the state altogether might well be considered true libertarians.

Very many of the “classic core” of the modern libertarian movement grew up on Ayn Rand, and thus are unusual in this culture in rejecting both forms of asceticism. Lacking these two sources of envy and attendant complications in our interactions with others ought to give us an advantage, making social relationships more rewarding. Unfortunately, rejection of ascetic codes can also be crassly interpreted as justifying insensitivity and indifference to others, as though religion (on the Right) or redistributionism (on the Left) were the only possible bases of caring. That is part of what has given libertarians a bad name. Some years ago I met a distant relative at a family funeral, who expressed surprise at seeing a Clark for President bumper sticker on my car: “At last I’ve met a nice Libertarian.” I’m sorry to say I knew what she meant. The one political philosophy based on respect for others ironically attracts some of the least respectful people (perhaps taking Rand as a personal model), who make correspondingly ineffectual advocates. It is remarkable how seldom it occurs to many libertarians to be nice even instrumentally: the idea that it might actually be helpful to the movement if libertarians were popularly perceived as friendly, cooperative, and generous.

Good conduct, like good science, is not a matter of following rules. But rejecting the rules doesn’t mean that it makes no difference what we do! Reliance on formalized, ascetic codes has obscured the need for all of us to cultivate attitudes and skills of sensitivity and respect, and of integrity and responsibility toward the animate and inanimate world. The good life is a more interesting challenge than we have made it seem.

As we might have expected rejection of ascetic codes to confer a psychological advantage, so we might also expect rejection of family models of the state to signal the achievement of a high degree of autonomy and responsibility. Once again, however, we need to be mindful of the occupants of the tub as we are dumping the bathwater. Jennifer Roback Morse has written a whole book (“Love and Economics: Why the Laissez-Faire Family Doesn’t Work,” Spence, 2001) lamenting that many libertarians have rejected the family model of the *family*. Russell Means might agree. Following his defeat for the presidential nomination of the Libertarian Party in 1987, a core group of about 30 of his supporters met to form an organization to try to ensure that the values they emphasized — community, the environment, and other left-libertarian issues — weren’t lost to Libertarians focusing more exclusively on economics. As we were drawing up a statement of principles (essential in any libertarian undertaking!), Russell insisted on only one point: including reference to “family values,” by which he meant things like being responsible for ourselves and taking care of our own. The reaction, among his strongest supporters, was nuclear. One fragile-looking young woman appeared to be speaking for most of those present as she gathered her courage to say, “The family is just the first tyranny we have to escape.” I was wishing her family had been more nurturant than it evidently had been.

Morse appears to be coming from a conservative position, focusing as much on the need for discipline as for nurturance. But she is right, in any case, in picking up a peculiar lack of connection — as though, for many libertari-

ans as for Sartre, hell is other people. A familiar species of libertarian, in fact, appears to exhibit (I won’t say “suffer from”) a disorder of autonomy: every concession to the wishes of others — the ordinary gestures of social lubrication, like showing up for meetings on time, complying with requests regarding smoking, attire, or noise — is experienced as a violation of autonomy and integrity, to be resisted as a matter of principle. The Libertarian Party is at least a natural draw for those who experienced their family of origin as intrusive. If the ease with which many core libertarians reject family models of the state derives from their having rejected family ties in general (supported, again, by the model and rationale of Rand), that unfortunate circumstance does not necessarily confer a psychological or moral advantage. A civil society isn’t formed by people backing into each other as they withdraw from others, or structuring every interaction as a contest of wills.

A major factor in understanding libertarianism as a movement is the simple fact that, in our cultural context, self-identifying as libertarian entails a willingness to be perceived as deviant. There are undoubtedly many people who would join the Libertarian Party if most of the people they knew belonged. The importance to most people of not being perceived as deviant is apparent in the obsession of very many LP members — especially those coming from the Right — with “mainstream acceptability” (where “mainstream” refers to the conservative heartland), and with downplaying or even eliminating planks on issues like gay marriage or the War on Drugs. Experience with another dimension of deviance doesn’t necessarily help: Very many lesbian, bisexual, gay, or transgendered people are quite capable of recognizing that, compared to Michael Badnarik, John Kerry is no champion of gay rights, but are unwilling to relinquish the support of the one community — about 99% Democratic — where they feel at home. Those of us, on the other hand, who have a higher tolerance for being perceived as deviant, and have consequently formed much of the core of the Libertarian Party from the beginning, thus tend to be social isolates. Rand would indeed have author-

The parental model of the state helps to explain the extraordinary tolerance and excuse-making exhibited by most Americans in relation to government atrocities like Waco.

ized us to wear our social deviance as a badge of honor. Important as such pioneers are in getting a new movement going, they may not be its most effective ambassadors later on. And if the movement grows, social deviance will recede as a distinguishing characteristic of libertarians.

Whether the movement becomes more libertarian or conservative, however, depends on a more fundamental, enduring attitude among the members it attracts. That orientation is usefully revealed in our view of knowledge. We have already noticed among leftists a horizontal *décalage* between

their authoritarianism in the political sphere and their libertarianism or anarchism in epistemology. That *décalage* is important to recognize because it offers a potential lever for influence, especially since most leftists would strongly resist being labeled “authoritarian.” Brute force just happens to be the unavoidable means of implementing their egalitarian

Very many of the “classic core” of the modern libertarian movement grew up on Ayn Rand, and thus are unusual in this culture in rejecting both forms of asceticism.

social goals, but the use of guns is something to be masked, to be left implicit, at the level of threat rather than murder. Leftists bridle at the arrogance of fundamentalists, especially at righteous attempts to impose their values on the whole society, yet remain blind to the equal arrogance of their own political authoritarianism. There are thus grounds for an appeal to consistency, to bringing the attitude of humility from epistemology around to displace their arrogance in the political realm. One might expect, for example, Nozick’s model of utopia as a “framework for utopias” to hold some appeal to leftists, as the political equivalent of postmodernism.

Now, the position of libertarians, curiously enough, tends to be the mirror image of that *décalage* exhibited by leftists. Libertarians, again under the obvious influence of Rand, have characteristically been rabid fundamentalists in epistemology, vesting their security in deductive systems. It goes without saying that they would resist the label “authoritarian” as fiercely as their counterparts on the Left, but the arrogance of libertarians, especially Objectivists, in asserting the infallibility of their deductive systems is a match for the arrogance they denounce in efforts at socialist planning. Where socialists ironically tend more to trust the market with respect to ideas, in a more dynamic vision of knowledge and science, libertarians are more inclined to appeal to fixed notions of objective, universal, timeless truths. They are particularly inclined to insist on the importance of “objective,” well-defined rules in the legal realm: it is essential for everyone to be able to know in advance whether a given action is legal or not; the potential and actual evils of discretion, in the hands of a powerful judge, are all too obvious.

The problem, however, is that judgment is *always* required in the application of any rule, and a great deal of mischief can be perpetrated by pretending otherwise, by claiming that decisions are given automatically by the rules, without human involvement. If the ambiguities and pitfalls of inference weren’t apparent from ordinary discourse, we have a library of textbook examples to remind us. The following *modus tollens*, due to Ernest Adams, prompts us, for example, to reflect on how much we assume about what the meaning of “if” is:

If it rained, it did not rain hard.
It did rain hard.

Therefore it did not rain.

Even in a structured domain as uncomplicated as horse-racing, it is difficult to specify all the rules unambiguously. As Michael Polanyi noted in “Personal Knowledge” (University of Chicago Press, 1962, p. 20n), the photo-finish camera was believed to have obviated human judgment there, until a photo was taken where “one horse’s nose is seen a fraction of an inch ahead of another’s, but the second horse’s nose extends forward by six inches or so well ahead of that of its rival by virtue of the projection of a thick thread of saliva.” For every horror story involving discretion on the part of a judge, there is another involving the attempt to impose a simple rule blindly, without regard to context or circumstances. Philip Howard has amassed a collection of those in his book “The Death of Common Sense: How Law Is Suffocating America” (Warner Books, 1994).

The source of this dilemma, of course, is the investment in someone of arbitrary power — in other words, a monopolistic justice system. Arbitration agencies in a free market are obliged to reach decisions that will be perceived as fair by all parties. An agency which was perceived as favoring wealthy clients, for example, could attract business only from disputants who perceived themselves approximately equal in wealth — a rather specialized market niche. The “marketplace of ideas,” in epistemology or law, doesn’t privilege one authority over another, and that works better than the assumption that there is one fixed rule or correct answer, and that we — or the government — know it and are applying it.

Summary

Returning, in any event, to Nozick’s question, I think one reason why (a thoroughgoing) libertarianism doesn’t appeal even to many who call themselves libertarian, is that it doesn’t leave anyone in charge — to keep ourselves and others forcibly in line with ascetic codes we still believe are necessary. More and more Americans in the last century have been willing to abandon the idea of Someone up in the sky who is in charge of everything — so long as there is somebody running everything from Washington. Everyone, not just libertarians, will resist the hell out of authority wherever it asserts itself — but, like adolescents, we still want it there to rebel against.

People have a harder time reaching libertarianism from the Left, just because they are giving up on a model of the state as a good, nurturing parent. But once they do,

It seldom occurs to many libertarians to be nice even instrumentally — to help the movement by causing libertarians to be perceived as friendly, cooperative, and generous.

they appear more likely than those coming from the Right to go all the way to anarchism. Conservative libertarians retain the family model of the state; they are merely looking for a *better* parent. But that is not the same thing as growing up. □

Not Your Father's Republican

by John Berlau

As governor of Maryland, Robert Ehrlich fought off trial lawyers, teachers' unions, and a Kennedy — and signed a bill legalizing medical marijuana. What will he do next? Run for president?

In early 2003, the Democrat-controlled House and Senate of the Maryland General Assembly passed a bill to sharply reduce penalties for use of marijuana by the terminally ill, and national GOP drug warriors were in a panic. Nine states, some of which were heavily Republican, like Arizona, had already passed similar medical marijuana laws, mostly through voter initiatives.

But Maryland was different. It was home to the inside-the-Beltway suburbs and some of the D.C. drug warriors' literal backyards. Commuting to a state with this law on the books would be a constant reminder that, no matter how much they linked pot to terrorism on national TV, the American people just weren't as enthusiastic about the drug war as they once were.

But the GOP drug warriors, beginning with Bush administration drug czar John P. Walters, thought they could count on Robert L. Ehrlich, Maryland's newly elected Republican governor. After all, Ehrlich, coming off a surprising victory in 2002 in which he defeated the lieutenant governor, a Kennedy, was also winning battles with the Democratic legislature by refusing to raise taxes to solve the state's budget crisis. He was a rising star of the GOP, touring the country with President Bush, so Walters and others made a full-court press to sway him to veto the bill, which would reduce the maximum penalty for medicinal pot use from a \$1,000 fine and a year in prison to \$100 and no jail time. Even though Ehrlich had cosponsored one of the first bills introduced to allow medical marijuana while he was representing Maryland in the U.S. House of Representatives, Ehrlich had never been very vocal on the issue as a Congressman. In fact

he was something of a loner, and never seen as a leader on anything. It was reasonable for Walters and others to assume he could be swayed fairly easily.

"I hope anybody who can help explain the legalities here and the dangers of this bill will contact the governor," Walters said in an April 2003 speech at a Baltimore substance abuse conference. The Baltimore Sun paraphrased Walters, saying that his office was "making an unprecedented push to persuade Ehrlich to veto" the bill. Warning Ehrlich not to be "conned," Walters concluded, "It is an outrage that, in this state, the legalizers would come here to try to put additional people in harm's way." Former Drug Czar Bill Bennett, a resident of the Beltway suburb Chevy Chase, Md., also got into the act. He wrote letters and placed phone calls to Ehrlich and told the Sun, "This is softening the public's image of marijuana." When Ehrlich visited Capitol Hill, several of his former GOP colleagues asked him, "Are you really going to sign a marijuana bill?"

The answer was yes. And not in the dead of night, but in a very public way in May of that year. He talked about his support for Bush, but said that he respectfully disagreed with him on this issue. He talked about how he was influenced by his brother-in-law who had died of cancer two

years earlier after prolonged suffering. He then explained a central tenet of his governing philosophy in a statement printed in the *Washington Post*: "If you look at my views over the years, there are clearly two wings of the [Republican] party on social issues. One is more conservative, and one is more libertarian. I belong to the latter, and I always have."

A year later, when I interviewed him in his office on the second floor of the historic statehouse in Annapolis, Ehrlich, stressed what he saw as the unity of the two wings. He was in a reflective mood. A few days earlier he had been in Normandy commemorating the 60th anniversary of D-Day with Bush, when he heard the news of the death of former President Ronald Reagan, one of his political heroes.

After I gave him a copy of a 1975 interview of Ronald Reagan from *Reason* magazine, in which Reagan called conservatism a misnomer for limited government advocates, Ehrlich said he agreed. "Jeffersonian liberals are today's conservatives," he said. Conservatives and libertarians "are cou-

sins, but at times they're fighting cousins. They share a common baseline and common philosophical foundation, and in the real world of politics they share almost identical views with regard to defense and economic issues. Clearly, however they diverge on some social issues. . . . Clearly, I'm libertarian-influenced on a variety of these issues [including] medical marijuana."

And Ehrlich has pushed even further on drug reform. Last year, Ehrlich signed a bill that moves toward treatment instead of prison for first-time, non-violent drug offenders. Bill Piper, director of national policy for the Drug Policy Alliance, calls Ehrlich "probably the most reformist on drug policy of all governors, Democrat or Republican. He's signed things into law, but he's also been proactive" on sentencing and juvenile justice reform.

Ehrlich also received praise in February from hip-hop mogul and activist Russell Simmons, who credits Ehrlich's reforms for paving the way for the repeal of New York's 30-year-old Rockefeller drug laws that set harsh penalties for petty drug crimes. "I don't know if we could have done what we did in New York if we hadn't seen Maryland move first," Simmons told the *Washington Times*. He proclaimed that Ehrlich "raised the whole party up" and "makes every Republican open for discussion" among black voters.

But while cooperating with the Democrats on drug law reform, Ehrlich was also in contentious battles with the Democrat-controlled chambers. He stopped their proposed tax hikes, a "living wage" provision, and a ban on so-called "assault weapons" (he also lifted a 50-year-old regulation that banned bear hunts). And he can point to an accomplishment that most conservative GOP governors cannot — he has actually made the state government smaller, if ever so slightly, than it was when he took office. Maryland's government spending was cut by \$700 million during Ehrlich's first year. According to his budget director, James C. "Chip" DiPaula, about \$1.4 billion in current spending and anticipated growth, 14% of the state's budget, will be cut by June 2005. About 8,000 state jobs have been cut by eliminating some positions and leaving others vacant. Costly programs from land acquisition to transit expansion have been terminated.

Ehrlich is no libertarian purist, but in a time when conservative pundit David Brooks is proclaiming in the *New York Times Magazine* that "the era of small government is over," Ehrlich is showing that a reformist program based on reducing government can still attract voters. His stance on drug-law reform

The legislative sump pump — A few hundred feet from the statehouse in Annapolis is my alma mater, St. John's College. It's a Great Books school, where students read and discuss Plato, Aristotle, Hobbes, Locke, de Tocqueville, and many other political theorists. Given the amount of time spent discussing the ideal governance of society, it didn't take long to figure out that Maryland under Parris Glendening was far from that ideal.

It's commonly said that the Democratic Party is run by unions and trial lawyers, but Glendening actually took orders from them. Whenever private citizens banded together in Baltimore to clean up trash or patrol the streets, union heads knew they could rely on Glendening to issue cease-and-desist orders, to save them the embarrassment of admitting that their employees were unable or unwilling to do jobs at union wages that volunteers did for free. Whenever Baltimore Orioles owner Peter Angelos (probably the most powerful trial lawyer in the country) needed a cap on tort damages obliterated, he knew he could call his buddy Parris to make sure the bill got shoved through committee and into the code.

But even Glendening, as despicable a politician as can be found outside Third World juntas, was just a slightly wider than usual conduit for the geyser of corruption that gushed through the State House year after year. I recall nights when House staffers would rent out St. John's basketball court to get some exercise. While I worked out in the weight room, I could hear them discussing bills up for vote, making quid pro quos to guarantee passage of their bosses' pet projects. And it's not as if they needed our gym to make deals: so many of the power brokers in Maryland are related to each other that they can haggle during Sunday dinner; for instance, the state attorney general is the father of a Baltimore district court judge, who is in turn married to the mayor of Baltimore, who is running for governor in 2006.

Lieutenant governor Kathleen Kennedy Townsend should easily have been selected to be the new nozzle on the sewage pipe. But her campaign was so inept, and Glendening so despised, that the state of Maryland somehow ended up electing a Republican — the first in the state since Spiro Agnew, who was considerably more left-wing. Still, with the Democrats firmly ensconced in the legislature, and a reliably activist judiciary, Governor Ehrlich's time in office promised to be short and ineffectual. That he has accomplished anything at all with so many obstacles in his way speaks very highly of him. There's a lot left to do: Maryland's stable hasn't been mucked out for decades. But Ehrlich might well prove himself the Hercules that the Old Line State needs.

— A.J. Ferguson

allows him to look less like a traditional right-winger to swing voters, making the budget cuts easier to accomplish. Conversely, his fiscal stances and his attacks on gun control have made many conservative Republicans willing to overlook libertarian policies they may disagree with. While last year's Republican convention showcased "moderate" governors such as Arnold Schwarzenegger and George Pataki, observers say Ehrlich may be showing the best way to win over swing voters while retaining the base. And if he wins reelection in Maryland in 2006, he may very well be a contender for the presidency in 2008.

"He's governed from the right," says John Gizzi, long-time political editor of the conservative weekly newspaper *Human Events*. By contrast, Gizzi notes, Maryland's last GOP governor, Spiro Agnew, who was elected in 1966 and served until 1969, when he became Richard Nixon's vice president, was a domestic liberal. "Governor Agnew clearly was elected from the left and governed from the left. He signed into law a tax increase, plumped for stronger environmental legislation, and very much expanded the power of government. Ehrlich, by contrast, has gotten the state through two years without a tax increase."

Gizzi calls Ehrlich's 2002 victory against eight-year Lt. Gov. Kathleen Kennedy Townsend, daughter of slain senator Robert Kennedy, "earth-shattering," an upset on par with Reagan's taking of the California governorship from Edmund G. "Pat" Brown in 1966. "He overcame an illustrious name, someone who had won statewide, and Maryland history, to be elected. I call his victory nothing short of breathtaking," Gizzi says.

The son of a car salesman who worked on commission, Ehrlich grew up in the working-class Baltimore suburb of Arbutus. He received an athletic scholarship to an elite private high school and then moved on to Princeton, where he was captain of the football team. After receiving his law degree from Wake Forest in 1982, Ehrlich returned home to practice law and then, influenced by Reagan and Jack Kemp, ran successfully for state legislature and the U.S. House. The district that Ehrlich represented in Congress, consisted of the

When the Maryland General Assembly passed a bill to sharply reduce penalties for use of marijuana by the terminally ill, the national GOP drug warriors went into a panic.

Baltimore suburbs plus some rural areas, a fairly conservative district — for Maryland, at least. Maryland politics are dominated by Baltimore and the Washington suburbs, which have many residents who work for the federal government and are solid Democrats. In 2000, Al Gore won the state over Bush, 57–40%.

Going into the 2002 elections, Ehrlich had the political advantages of a young family, athletic good looks, and a friendly, optimistic personality. But he likely never would have won had there not been splits in the Democratic Party that grew out of personal and financial scandals from the

administration of his predecessor, Parris Glendening. After his narrow 51–48% victory on election day, he still had to contend with a Democratic majority in both houses large enough to override his vetoes.

To top it off, soon after he was elected, the debt the state had amassed from Glendening's spending turned out to be far greater than previously revealed — projections showed

Several of Ehrlich's former GOP colleagues asked him, "Are you really going to sign a marijuana bill?" The answer was yes. And not in the dead of night, but in a very public way.

the state would be \$1.8 billion dollars in the hole over the next 18 months. Ehrlich knew if he were to keep his promise not to raise taxes, he would have to make some substantial spending cuts, even if he were able to legalize slot machines to bring in revenue. Watching the Republicans get outfoxed by Clinton on the budget in the mid-'90s, he had had a preview of what the state budget battle would be like. Democrats had already tried to tie him to former House Speaker Newt Gingrich during the hard-fought gubernatorial election.

But he had some things that worked in his favor to show swing voters he was on their side: his support of drug law reform, his opposition to intrusive traffic cameras, and his push to legalize slot machines at private race tracks — all libertarian policies. Says Gizzi, "He taps on the 'he's on your side against government' sentiment. [GOP] Gov. Gary Johnson of New Mexico was that way and so was [Democratic California Gov.] Jerry Brown. Populist is more the term I'd use."

Slots moved front and center during the budget crisis as a way to bring in revenue for the state. Ehrlich argued for allowing 10,000 slot machines at racetracks throughout the state. Revenue was the main selling point, but Ehrlich was able to argue convincingly for it and answer critics' objections, in large part because he never viewed the issue as being about revenue alone. To him, it was about many things, not the least of which was personal freedom. "My advocacy of slots predates slots as a fiscal issue," Ehrlich told me. "It's been about horse racing, and horse farms and the horse industry and open space. I represented horse-oriented districts in the state legislature and in the Congress. The horse industry is an important industry in our state. When this came about . . . it was a horse racing-centered debate; it was not a fiscal issue. When this debate began to gather momentum in the 1990s, we had a surplus situation in the state, so it was not necessarily viewed as a dollar issue at all. It became more a dollar issue when in March 2000 spending continued despite recessionary downward pressures on our budget."

And to counter his opponents who have moral objections to gambling, Ehrlich is quick to point out that Maryland crossed that threshold 30 years ago with the creation of the state lottery: "During the campaign, my opponent, Kathleen

Townsend, was talking about the evils of gambling, and my response in the debate was, 'Gotta Play to Win,' which is the Maryland Lottery's motto," Ehrlich recalled. "Of course, her administration funded that advertising campaign, because her administration depended on in excess of \$400 million a year in lottery proceeds for the general fund. So it was a silly argument. You could make arguments against slots that are intellectually defensible arguments, but to talk about the evils of gaming when you're asking people to 'play to win' twice a day — Pick 3, Pick 4, Scratch-off, Lotto, Big Game, everything else — is pretty much a joke."

When the legislative session began, many liberal Democrats sounded like moralistic conservatives on the issue. House Speaker Michael Busch talked about his father who was addicted to gambling and left the family to live in Las Vegas. As an alternative, Busch proposed \$1 billion in corporate, personal, and sales tax hikes to solve the fiscal crisis. Ehrlich went around the state and on talk radio, saying this would send businesses packing to neighboring states like Virginia. Even many liberal Marylanders did not want that big a hit to their wallets. Ehrlich also proposed \$851 million in spending cuts. Maryland voters are "very liberal on many social issues but have a surprising conservative streak," says Barry Rascovar, former Baltimore Sun reporter and author of "The Great Game of Maryland Politics." "Maryland is more conservative than you would guess looking at the presidential election returns, or the outcome of who is elected to Congress. When you get down to state and local issues, suddenly a lot of that liberalism flies out the door when it butts up against reality."

Ehrlich won over Senate President Mike Miller, whose chamber has twice passed Ehrlich's plans for slots. Busch made several overtures to Ehrlich, suggesting compromises. Yes, he would back slots — if Ehrlich approved this tax increase, or if they were only on government property and not at private racetracks, which curiously amounted to outright state sponsorship of this "vice." Ehrlich would not accept these deals, and Busch has held up the slots bills in both legislative sessions.

But observers, including some Democrats, say the legislative defeats may turn into electoral victories for Ehrlich and the GOP. This is because Busch, through his maneuvers and compromises, yielded the moral high ground on gambling, and made it look like all he wanted was to get his hands on more of the voters' money through tax hikes. Busch "has frustrated his moral allies on the issue, such as the ministers and

the newspapers," says Blair Lee, a Democratic campaigner and columnist for The Gazette, a Maryland statewide newspaper. "He's against slots, but he's all over the lot as to why."

In the meantime, using the shortfall as his strong hand, Ehrlich cut spending by nearly \$700 million his first year and has been not-so-subtly threatening to cut more if slots aren't passed. Budget Secretary DiPaula announced in late 2003 that public education and Medicaid would be the only two state programs out of 54 in the operating budget that would grow in 2004.

Ehrlich doesn't focus exclusively on slashing government spending. He also talks about things such as the new roads he is going to build. The exceptions to his rule on taxes so far have been increases in property taxes, raises in vehicle registration "fees" for building new roads, and sewer "fees" for cleaning up the Chesapeake Bay. Ehrlich's distinction between taxes and fees is rather slippery, as Democrats don't hesitate to point out. When former Virginia GOP Gov. Jim Gilmore campaigned against the vehicle registration fees in the late '90s, he called them a "car tax." While Ehrlich makes the argument that a fee is for a specific service rendered, he overlooks the fact that government is the monopoly provider for that service, and also that the "fees" could be lower if there were deeper spending cuts. In our interview, however, he said he is open to the idea of having private roads.

Ehrlich was also rather vague about tax reductions. "After we get to balance [the budget], we'll be looking at tax cuts," he said. Ehrlich's "fees" and his lack of new tax cut proposals are two of the factors that kept his impressive "B" from being an "A" on The Cato Institute's 2004 Governors' Report Card, says Cato budget analyst Steve Slivinski. Still, Slivinski and Maryland conservatives and libertarians praise him for generally keeping his promise not to raise taxes, and for balancing the budget through spending cuts, which is more than many self-described conservative GOP governors, such as Sonny Perdue of Georgia, have done. And Slivinski adds that Ehrlich's grade is also lower because of the "hostile legislature," noting that he is a big improvement over Glendening, who received a "D" in 2002.

The specific area where Ehrlich most needs improvement is elementary education. While he made cuts to higher education, he largely ignored the legislature's big-spending Thornton state-aid plan for primary education, a Robin Hood scheme passed by the legislature that transfers money to poor districts with hardly any measure for accountability or parental decision-making. Although Ehrlich was able to get a watered-down version of charter school legislation passed in 2003, Washington Times editorial writer Joel Himelfarb faults him for not pressing harder for education reform proposals such as vouchers. Still, Himelfarb, a Maryland resident, praises Ehrlich for deftly using the gambling issue to fight tax increases and get other spending cuts, and for not being suckered into doing the Democrats' dirty work for them. "He made his peace with Thornton, which is really a big-government boondoggle," Himelfarb says. "But he said, 'Look, I don't want to have tax increases for this, but if people want to voluntarily go to the racetrack and play slots, I'm amenable to this.' That doesn't strike people as being a terribly unreasonable, dogmatic, feet-in-cement kind of position."

"Great Game" author Rascovar, a self-described "Rockefeller Republican," says Ehrlich may have maneu-

Acme Cloning Labs



Baloo

"Try this formula, Blumenkraft — It'll make a new man of you."

vered the Democrats into a no-win situation. If they give him slots, he gets a victory. But even if they don't, Rascovar argues, voters will blame them for causing the "gridlock" that results in more spending cuts or tax hikes (assuming Ehrlich sticks to his pledge and they override Ehrlich's vetoes, as they recently did on a watered-down malpractice liability reform bill that contained tax increases on HMO premiums). Either

Conservatives and libertarians, Ehrlich says, "are cousins, but at times they're fighting cousins."

scenario would likely translate into a triumphant reelection for Ehrlich and possibly a substantial number of Republican allies being elected to the legislature.

To prevent this from happening, Ehrlich's liberal Democratic opponents have been desperately trying to shift the blame by portraying him as a heartless Gingrich-clone. School kids from urban Baltimore were bussed in to protest the governor's refusal to raise taxes — even though, so far, the spending cuts have not affected elementary schools. As for higher education, both houses sent Ehrlich a bill that would raise the corporate income tax two percentage points in return for a tuition freeze. Ehrlich vetoed the bill and successfully prevented an override.

According to the polls, Ehrlich remains popular with Maryland voters. A January survey by the Annapolis-based polling firm Gonzales Research & Marketing Strategies showed 55% of Maryland voters approved of the job Ehrlich is doing. By contrast, in a poll taken last June by the same firm, just 39% of state voters approved of President Bush's job performance. How does Ehrlich continue to draw the support of the swing voter, even while cutting spending? His personality explains some of this appeal, but another reason is provided by a bill that he chose to veto upon first taking office.

In 2003, Maryland legislators passed a bill to set up a network of cameras to catch speeders throughout the state. Ehrlich shocked the sensibilities of the nanny-state liberals in the legislature and the press when he met that bill with a veto. In a preachy editorial entitled "Safety Last in Maryland," the Washington Post lambasted him for refusing to "protect children from lead-footed motorists." Bringing up his opposition to gun control, the editorial accused Ehrlich of giving "a lot of assists to the lobbyists who put safety last" and concluded, "You have to wonder if Maryland Gov. Robert L. Ehrlich Jr. (R) has a thing about safety."

But if Ehrlich had a "thing" with the cameras, Ehrlich didn't believe that the issue was about "safety," it was about privacy and due process for those caught by the cameras, as he made clear in his veto message to the legislature. "Although speeding is an issue that we must address, I am troubled by the intrusive nature of this type of technology and its use by government," he wrote. The influential Privacy Group of the free-market National Consumer Coalition gave Ehrlich its "Privacy Hero of the Month" award for "putting a stop to the Big Brother madness bubbling up from the state legislature."

Former House Majority Leader Dick Arme (R-Texas)

says that the camera issue has the potential to bring Ehrlich support from voters who don't consistently cast their ballots for the GOP. Arme says that, since he took up the issue in the House, "I have a lot of people even to this day when I walk around the streets of Washington — and they're clearly not my kind of right-wing people — stop me on the street and say, 'Boy, I really appreciated the work you did on that camera thing.' I think it's got a lot of breadth to it as well as a lot of appeal to the non-traditional voter and activist." Because they are set up to raise revenue as much as catch offenders, Arme has called traffic cameras a "hidden tax" on motorists. Other observers say that, as a savvy politician, Ehrlich knows that the Maryland commuters to Washington are bothered by the district's camera system. Even Washington Times conservative Himmelfarb, who opposes Ehrlich's efforts on medical marijuana, says, "On the cameras, God bless him."

Arme recalls that in Congress, Ehrlich "had good friendships, but he wasn't a fellow that sort of joined in with a movement group." To hear Ehrlich, elected in the GOP takeover year of 1994, tell it, "I had my own wing . . . I felt that there was no group for me." There were two main factions: The Conservative Action Team, or CATs as they called themselves, and the Lunch Bunch, which consisted of a dwindling crowd of moderate and liberal Republicans. "The CATs brought a more religious conservatism with them on social issues, and that obviously does not comport with my views."

But he didn't feel entirely comfortable with the so-called moderates either. For one thing, he was pro-gun, and many of the "Lunch Bunch" members also fought the GOP leadership on environmental issues. There, Ehrlich voted with the GOP leadership in attempts to reduce burdensome regulations by requiring agencies to give greater weight to the costs and look at cost-benefit analysis and scientific research. And because of his blue-collar background, there was probably some added tension around many of the "country club Republicans" in the moderate camp.

Ehrlich is pro-choice, but stands against state funding and partial-birth abortion. Given Maryland politics, this was enough for most of state's social conservative activists to back him. He also favors allowing federal dollars to be spent on embryonic stem cell research, but supported a ban on cloning. He now stands firmly against gay marriage and takes a position that seems to preclude civil unions as well. "Do I think that two men or two women, or a man and a woman

Ehrlich says he is open to the idea of having private roads.

who don't want to get married, can have a relationship, and the state should generally get out of their way? Yes, absolutely, that's really none of the state's business," he says. "But the state's business is in the support of traditional marriage, not the least of which is for children." He adds, however, that his staff was "studying" the question of whether there are "rights that should attach as the result of non-blood friendships and relationships in life that would give rise to specific legal rights in specific contexts," such as hospital visitation

and advancing medical directives.

In his new book "Armeys Axioms," Armeys writes that the trick to leaving Washington an idealist is to not "fit in too well." But a "maverick," or even an "independent thinker," in media jargon, is a slippery concept. Sometimes the media-anointed mavericks just seem to like the media spotlight for dissenting within their party. But a genuinely independent

"During the campaign, my opponent, Kathleen Townsend, was talking about the evils of gambling," Ehrlich recalls. "Of course, her administration funded that advertising campaign. To talk about the evils of gaming when you're asking people to 'play to win' twice a day is pretty much a joke."

thinker, Armeys says, realizes that "ideas are bigger than the maverick," and Ehrlich fits into that category. "I wouldn't use the term 'maverick,' as it's generally understood, for Governor Ehrlich," Armeys says. "I think Bob Ehrlich is a guy who says, 'These are serious matters. It's not about me. If it gets to be about me, I'm standing on the wrong ground.' . . . He came to Washington as an idealist, and he left as an idealist."

One of the ideas that Ehrlich took seriously in Congress was federalism. He broke with the Contract With America pledge on tort reform, which he calls the "federalization of state tort law," and he didn't like GOP incursions on traditional state matters such as crime. "I saw these conservatives and Tenth Amendment guys, who were very articulate people and smart people, willing to run over the Tenth Amendment when it suited their purposes," Ehrlich recalls. "Two examples that come to mind are running over traditional areas of jurisdiction concerning state tort law and juvenile justice, which has always been [under] state jurisdiction until we got there. These were areas of particular concern I had during my tenure in the Congress." On tort reform, some grumbled that Ehrlich didn't want to buck Maryland's powerful trial lawyer lobby. No one is saying that now, because, as governor, Ehrlich has aggressively pushed for caps in malpractice cases and other tort reform action at the state level.

Another example of Ehrlich's independent but principled thinking is land acquisition. He took flak from environmental groups for ending Glendening's policy of buying "open space" throughout the state to protect it from the alleged dangers of development. Ehrlich put an immediate stop to this practice, saying the state would only buy land for parks or near the Chesapeake Bay. "The era of secondary land purchases, given other pressures, is over," Ehrlich announced at a 2003 state Board of Public Works meeting. But while pointing to budget pressure, Ehrlich made clear his belief that this type of spending was beyond the scope of limited government and was not going to resume when times were better. "This is a fundamentally different administration, and even if we had a billion-dollar surplus, the philosophical approaches

expressed by me . . . [are] the new law in town."

However, buying "open space" was not just a policy pursued by Glendening. Republican governors in the '90s, from New Jersey's Christie Whitman to Pennsylvania's Tom Ridge, also embarked on ambitious land-buying programs. Even Mark Sanford, a free-market oriented, former congressman from Ehrlich's freshman class of '94, elected governor of South Carolina in 2002, has expanded his state's Conservation Bank Act in order to buy random parcels of land.

"Open space" purchases, like prescription drug entitlements and other new spending, are ways consultants tell Republicans and conservatives they can appear more compassionate. David Brooks suggests in his essay that the national GOP support early childhood education, wage subsidies, national service, and energy research funding to "stave off the harsh aura of Gingrichism." Ehrlich, however, has found ways to be seen as compassionate and on the voters' side while reducing state spending. One of the ways he has done this is by personalizing certain libertarian policies, like his stand against traffic surveillance.

And what could be more compassionate than allowing a cancer patient to smoke a joint for relief in peace, or freeing a first-time, non-violent drug offender from a draconian prison sentence? Although he rejects comparisons with former New Mexico Gov. Gary Johnson, who favors complete decriminalization, he says that "for hand-to-hand sales, the traditional addict, and the non-violent offender, we could not begin to build prisons to house that population in this state or any other. Particularly for first-time offenders, everybody deserves a mistake, particularly if you have an addiction. What has also driven my view is that so many addicts do their time and come out as addicted as they were when they went into the system." Ehrlich, who can also talk tough on crime and strongly backs the death penalty, says alternatives for non-violent drug offenders would make room in the prisons for truly violent criminals.

In looking at Ehrlich's successes, circumstances and Maryland's unique political climate have played a big role. But there are certainly lessons other Republicans and conservatives can learn from him about how to hold on to the base while attracting swing voters. In several elections in Western states over the past few years, the Libertarian Party candi-

Ehrlich's liberal Democratic opponents have been desperately trying to shift the blame by portraying him as a heartless Gingrich-clone.

date's vote was bigger than the margin of victory for the Democratic candidate. If the GOP had gotten these voters, Democratic senators such as Harry Reid of Nevada and Maria Cantwell of Washington would not be in that body today. Conservative pundits wring their hands and ask what Libertarian voters were thinking, accusing them of taking an "all-or-nothing" approach. Perhaps they were simply waiting for Republican candidates who express common-sense libertarian views, like those of Maryland's Bob Ehrlich. □

Pierre Sunshine

by Norman Darden

*God didn't
permit him to
be perfect for
no reason.
How often has
a baby, black
or white, been
born this per-
fect in Saint
Domingue?*

Some conversation these three privileged slave women were having! Lively and intelligent, enlightening, entertaining, it was sometimes spiced by a trenchant remark. It didn't seem like an hour had passed since they'd begun airing the best secrets of L'Artibonite (one of the nicest plantations) and of Saint Domingue (the notorious Caribbean, French slave colony) as they rode uncomfortably in their crude cart to the church where they were taking their Pierre for his baptism today. Their bright chatter made time go by and their discomfort bearable. The three "mothers," know-it-all Tonette, not-so-bad-herself Zenobe and sometimes contributor-of-a-surprise Ursule knew how to make their conversation sparkle. They, as the favorite L'Artibonite house slaves, had a store of knowledge of the master Jean Berard and of the most powerful planter "lords" of Saint Domingue (who'd been guests at the "big house"), and were using the knowledge creatively to make the conversation the best.

The trip was near its end. "Just one more bend to make and we're there," Ursule said, who was keeping watch, and her eye on Pierre, who was miraculously quiet in her arms as she talked. It didn't matter to long-winded Tonette that the trip was ending. She had one more thing to air, and was determined to do it or bust.

"Let me tell you this," Tonette said, preparing to stun Zenobe and Ursule with a "shock" she preferred to call a "revelation."

"Our 'little man,'" she said, "Do you know what I think?" She was referring to Pierre (her great grandson). "I think I know his true identity, and you're in for a big surprise." Her tone was that it was the best secret in Saint Domingue, that would make all they'd said about Berard and the planters pale.

"You've got to tell us quickly, grandma," Ursule said. "Do you see what I see over there, a half mile away? — the church." Of course she saw it. She was not going to rush her "revelation."

"Remember that big party back in June master had and ole man Breda was

there? He's so funny, his little fat self," Tonette said (who wasn't planning to watch the time). "The way he stuffed his mouth with food that his pink cheeks bulged. I just found it so cute. I'm so sorry that slave of his, that wild, bow-legged Toussaint 'L'Ouverture' — that what they call him. He has ugly gaps between his teeth. Master Breda's heart was broken by him when he became his enemy. I heard he's preparing to descend upon all of the planters to destroy them. Imagine, that ugly thing overwhelming the planters!"

"When did you get to see 'L'Ouverture,' mother?" Zenobe asked. She'd heard about him.

"That's what I heard that he's ugly — a crime!" Tonette replied. "I also heard that little slave girls in the colony, some of them pretty, pull up their dresses for him because he's famous! That's what that trashy field slave crowd does!"

"Grandma, I'm not going to pull up my dress for him," Ursule said. "So, go on and tell us about that party at the 'big house' master Breda attended, and somehow Pierre became important. You've only got a minute!"

"I have to tell the story as it has to be told, in full," Tonette retorted. "As I was saying, master Breda said he noticed something big happening in Saint Domingue. It started in June, he said, which was six months ago. He said there was a sudden upswing in sale of colony goods. France couldn't get enough. The French merchants were begging, and he said he had to buy 50 more slaves! I'm listening to him talking excitedly with his packed mouth. I'm filling up my head with this news, but I tried not to look like I was eavesdropping. Master Breda predicted that by the end of the year, 1,600 ships will have left here to take back to France what they'd produced. It's now December, and he was right. Many ships have been here and left loaded. And then he said surprisingly, 'We have to thank the Lord for sending us so much sunshine and good rain. We couldn't have done this without such help from God!' This struck me. He acknowledged they weren't supermen but that God had a hand in their success!"

"So, mother, where does Pierre fit in this?" Zenobe asked disinterestedly. "Is he the 'sunshine and good rain'? I know the way you think."

"You're rushing me, but you're right — have never been cleverer," Tonette responded. "That's what I'm saying. Pierre's the 'sunshine and good rain' of Saint Domingue. Would you believe it?" They didn't (not according to the way they rolled their eyes and creased their brows). It didn't matter. "I came to this conclusion after reflecting on Pierre and after what master Breda said, who got me to thinking. God has looked favorably upon Saint Domingue as the richest man in the colony said. And you know what, I began to praise God every time I held Pierre. The Almighty has looked favorably upon him too: I said to myself, 'Look at him: perfect birth, no defects, brilliant health, perfect body. I said this when he was born, when Ursule pushed his head out of her womb and I pulled the rest of him out. I saw what I saw. God didn't permit him to be perfect for no reason. How often has a baby, black or white, been born this perfect in Saint Domingue?"

He's the healthiest baby in the colony — why? Then the party and two months later, I started to put things together. Pierre was born in June. Saint Domingue began to have its best year ever — in June, 1766, according to master Breda. Was this a coincidence?"

Tonette admitted she had to do more thinking to make Pierre important because of his birthday. She needed something more to make it believable that God had looked favorably upon their "little man." She was dying to say that they had treasure too — and to say that Pierre was the jewel of Saint Domingue.

"Mother, you've been thinking, I see," Zenobe said, "but people would say it's nonsense what you're telling me and would laugh at you."

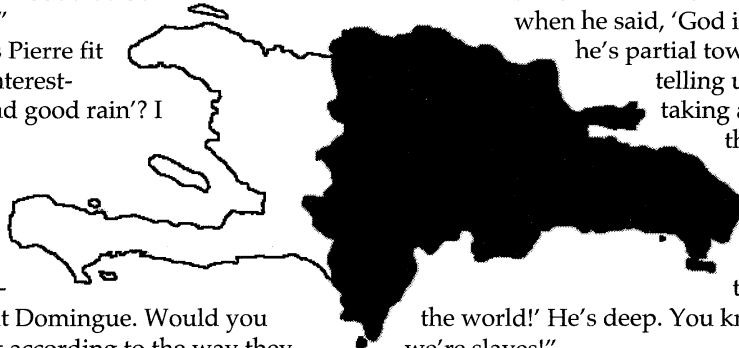
Tonette sat up ramrod straight in her seat, and said, "I know I'm right, and I will convince you before we leave this cart!" Now Tonette played her trump. "Last year, Father LeClerq gave a Christmas Mass homily that was magnificent." She was impressed. The priest had two great qualities: he was a good theologian and homilist, and he was young, good looking, and popular. He held her attention. At this Christmas Mass, he preached a great Catholic Christmas sermon, which affected her deeply, and which later found to be most useful for her reflections on Pierre. "Do you remember any of it, Zenobe?" She really wanted to impress her. The homily was almost a year ago, and had faded in Zenobe's mind. She didn't remember a word. "I choose to mention the homily now because it's relevant to what master Breda said and to what I now believe Pierre to be, the 'sunshine and good rain' of Saint Domingue." Tonette got specific about the homily.

"The Virgin Birth, the Baby in the manger born to transform the world' — You don't remember Father LeClerq preaching about this?" Tonette asked. "Was his homily memorable, a great message! And how he delivered it!" Tonette exclaimed. "Remember the way he looked at us, so tenderly, when he said, 'God is not only mindful of the poor, he's partial towards them!' I cried. He was telling us something — and was also taking a swipe at the planters. And the next thing he said:

"It's impossible to homilize at a Christmas Mass and forget the virtues of the poor and the importance of their grace for the welfare of

the world! He's deep. You know, we're not cursed because we're slaves!"

Zenobe and Ursule couldn't disagree. The three of them were Jean Berard's darling house slaves more privileged than any of the slaves or servants at his L'Artibonite sugar plantation. They knew how nice it was to be a pet. They had no problem with what Tonette just said. Zenobe had a strong curiosity about Virgin Birth, and so she asked Tonette, "What about the Virgin Birth? What did he say about that?" She wasn't poised to poke it but just wanted to hear more about this famous contradiction of natural law. She knew Virgin Birth to be Church dogma that couldn't be questioned. She also wanted to hear how Tonette would link this mystery to Pierre's "gift." She knew she was going to



attempt to make a link.

"This was the next thing I was going to tell you," Tonette said, "how Father LeClerq addressed the Virgin Birth, which you can imagine is a very difficult subject. It was so interesting what he said. I doubt if I have it right. You know he's a scholar. This made me nervous. I paid close attention to him with all my strength. His opening words, 'The Virgin Birth — how can I begin?' Such modesty! I knew he was going to impress me:

"The Church has reflected on these two words for centuries," he continued. "I can hardly be cavalier about these two words, and the three extraordinary references: The Virgin, The Birth, and Christmas — God's three magnificent gifts to the world, to all mankind."

"He meant for us to feel included. We are baptized daughters of the Church. He had to have been addressing us too. There was one thing he said about the Virgin that really hit me. She didn't know her full identity until the angel told her.

"Oh, God, let me get it right! He said: 'The Archangel Gabriel told The Virgin at the Annunciation the glorious news we know from Saint Luke, who captured it so beautifully in his Christmas Gospel — she'd found favor with God, and would give Virgin Birth to the Christ-Child: her singular privilege because of her unique role in God's salvific plan for mankind.' I think I got it right," Tonette said.

"The next thing I remember, 'The Church teaches that The Virgin was created for Virgin Motherhood and declares her the Mother of God because she bore God's Son; and so she's honored for all ages as the highest honor of the human race.' I believe Father LeClerq said it." Profound truths. Tonette felt they were and said them like they were, as solemn pronouncements of the Church. She failed to impress Zenobe and Ursule, which wasn't her fault. The priest had reflected upon the highest of Church thought. It would've taken him too far from his Christmas homily to get into Mariology for a clearer explanation. Actually, it was implied in his recital of Mary's titles what Virgin Birth meant, that God, Lord of nature, suspended natural law to permit his perfect creature to bear her Creator in time — Him who always existed (the way Father LeClerq would've said it).

There was no need for the priest to overwhelm the parishioners' Christmas with "technicalese." Tonette remembered as best she could the brilliant portion of his homily that was a song to The Virgin's singular titles that made it possible for her to make her case for Pierre stronger — for Pierre, it will turn out to be more than Saint Domingue's "sunshine and good rain."

Father LeClerq also implied from what he said that God sometimes allows a people to have good fortune because he loves one of its sons very much. If Tonette had known this she would've jumped for joy. She'd made her case for Pierre on her awareness of his exceptional body and physical health she thought had great meaning. God had a mission for Pierre? She made all she'd said about Virgin Birth to say this,

that Pierre was unique in the colony. She still had another portion of the homily she wanted to use for her conclusion.

But "Mother, we're here, and you're still talking and not getting ready to go into the church," Zenobe said in frustration. Clearly she wasn't that interested in what Tonette had said the priest said about Virgin Birth. To think, these two words were the lifelong ponderance of some of the greatest minds of the Church. Zenobe had been worrying these last minutes about Tonette not showing any visible signs she'd taken notice of their having pulled into the driveway and that they were now at the door of the church, and worse, that she didn't care about her telling them both when they started out on the trip, that they couldn't be late for the baptism.

"There's one more thing, honey," Tonette said, who didn't care about the disgust in

Zenobe's face. "I have to tell you what Father said about the Baby in the manger, and how it sheds more light on Virgin Birth and how much it really strengthens my case — you'll agree. He said, 'The Baby chose the dirty and smelly cave for his Incarnation and the animal trough in it for his bed — to ennoble poverty and to make it the desire of all who sincerely want to love him.' Don't you want to cry?"

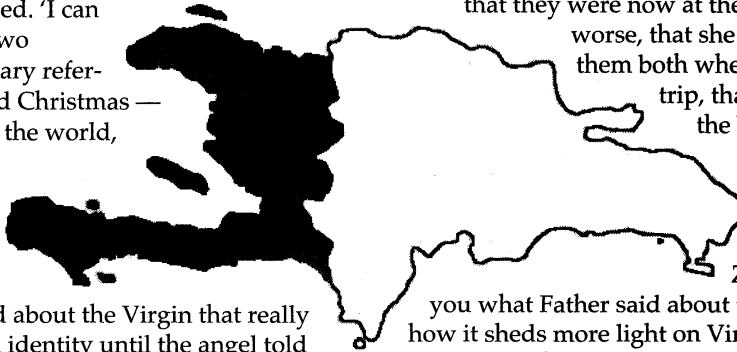
Tonette was feeling good now, like she was really succeeding. "And then he said 'By choosing poverty for himself, the Newborn King of the Jews formally declared worldly wealth, power, pleasure, and their prince, Satan, false. The Baby in the manger was born to transform the world — to show what's true and what isn't. The meaning of Christmas! The Announcement to the world how to conquer!' A tingle went down my spine!

"So I say, why can't Pierre be the 'sunshine and good rain' of Saint Domingue since he's a slave but is the healthiest baby in the colony that began to boom when he was born? This can't make sense? How many signs does God have to give to convince us Pierre is special here?" Know-it-all Tonette!

She triumphed! Ursule gave Pierre to her mother to hold so that she could work on Tonette. "Grandma, let me tidy you up before we go into the church." Tonette had to be freed of crumbs and dust before she got out of the cart. They had to wait in their seats anyway until the young, handsome driver returned from the bushes where he ran to relieve himself.

How exciting was the conversation on this trip! If Pierre was the "sunshine and good rain" of Saint Domingue, he was that for France too. The planters' success was so great that their exported goods to their marketers in mother France were enough to provide jobs for a fifth of France's population of 20 million, and for Louis XV to have money to fight his many wars. The smiling, courteous driver helped the women down from the cart. "What's his name?" Ursule asked Zenobe in a whisper (she liked him).

"Master hasn't given him one yet." Zenobe replied in not a whisper. The "mothers" with Pierre disappeared behind the church doors as the young driver drove off.



Letters, from page 22

ons can be immediately lethal to innocent people, including me. It seems like there could be some reasonable rules on the ownership of weaponry that would not be needed for cash, vitamins, or cigarettes.

Regarding my comment that a gun wouldn't have been any use for a Jew in Germany in 1942, Mr. Husar suggests that by 1942 it wouldn't have made things any worse for them. Probably not. But that's not much of an argument for shooting cops.

Mr. Bonneau suggests that if you're not "a certified gun nut with a thousand rounds of .308 in your closet" you're not a libertarian. How many rounds for my 12-gauge shotgun? Please, not a thousand . . .

Now that's a Bottleneck

Jane S. Shaw, in her reflection "Yielding to Design" (February), quotes Francis Crick as proposing the idea of "directed panspermia" as a hypothesis to explain the evidence that "at some stage life had evolved through a small population bottleneck." Well yes, life most assuredly *did* evolve through a very, very small "bottleneck." The first cell that developed the full 20-amino-acid genetic code was almost certainly the product of asexual reproduction. That means that it was descended from a lineage containing only one single ancestor in each generation, all the way back to the beginning of life. "Bottlenecks" don't get any narrower than that. Should we be surprised that organisms having a 19-amino-acid genetic code were all displaced by organisms with the greater flexibility of the 20-amino-acid code? Or that they were all displaced before a different 20-amino-acid code happened to arise? A "population bottleneck" simply has no real meaning outside species that combine DNA from more than one

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member of that population, such as by sexual reproduction or bacterial conjugation.

Bill Bunn
Soledad, Calif.

Duly Noted

I am writing to you to clear any confusion as to what kind of article I, as a subscriber, want to see in Liberty. "Outsource Me, Please!" (March) is an excellent example of the kind of article I do not want to read. Please make a note of this.

The author may get his wish, in that many more IT jobs will be outsourced, but the article's tone of exultation at what can only be viewed as an extremely disruptive process for Americans is callous and in poor taste. I embrace a market-based economic system not because it's soft and cuddly, but because I can contrive nothing better. I understand that economic dislocations will occur as markets shift and change, but what kind of a person celebrates these disruptions? Screw Anonymous. If Anonymous thinks America is nothing more than a collection of ideas, then the sooner we outsource him or her, the better.

Glen Dickey
Huntington Beach, Calif.

The New Face of Fascism

I was appalled by Tim Slagle's review of Ann Coulter's new book, "How to Talk to a Liberal," ("The New Face of Conservatism," February) and I have to question why it was published in a libertarian journal. This is the woman who said: "I am often asked if I still think we should invade their countries, kill their leaders, and convert them to Christianity. The answer is: Now more than ever." This sentiment is the polar opposite of what libertarianism stands for. In fact, it is such a revolting and extreme expression of neo-conservatism, that it should be called for what it really is: Fascism.

Is Slagle also aware that she is an ardent defender of Sen. Joe McCarthy, who slandered, lied, and destroyed the careers of so many in the name of fighting Communism? Well, I guess that makes it okay, then. Perhaps Slagle and Coulter believe just ends excuse unjust means.

Yes, I will agree that Coulter is very attractive, and it appears that has perhaps clouded Slagle's judgment concerning her politics. And I was pleased to learn that she has written in defense of the Confederate battle flag. Even Ann Coulter can get it right once in a while.

But that small virtue notwithstanding, it's time that libertarians and even libertarian-leaning conservatives see this woman for what she is: an intolerant, snarling, war-mongering, shrill, fascist, and very unfunny idiot. The last thing we need to do is sing her praises in the pages of Liberty.

Lance Lamberton
Austell, Ga.

The Economics of Happiness

In "Life, Liberty, and the Treadmill" (February), David Ramsay Steele introduces us to the factual observation that "very low-income people are on average decidedly less happy than people of modest income or above, but high-income people are not tremendously happier than middle-income people. The very rich are indeed happier than the average for the population, but only by a small margin." He speculates on several possible explanations for this fact, but leaves the subject with the hope that "empirical work may soon provide a definitive answer."

It so happens that "soon" is 30 years ago, courtesy of Professor S. S. Stevens (1906–1973) of Harvard University, in his book, "Psychophysics" (1975, John Wiley & Sons, Inc.). Professor Stevens was first a professor of psychology, then a professor of psychophysics, and was known throughout the scientific community for his theoretical studies of measurement and operationism, and for his experimental research in the fields of sensation and perception.

Stevens' key discovery is that the human nervous system obeys a "psychophysical law" relating perceived response to objective stimulus — and that this response law is logarithmic instead of linear. Sometimes this law is expressed as a power law, where the response is proportional to some

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Reviews

"What's the Matter with Kansas?" by Thomas Frank. Metropolitan Press, 2004, 306 pages.

Guns, God, and Gays in the Heartland

Bruce Ramsey

"What's the Matter with Kansas?" is the hot book for progressives. Its author, Thomas Frank, grew up in the entrepreneurial culture of a Kansas City suburb in the 1970s, imbibing "laissez-faire thought." But at the state university he was confronted with the "oozing insincerity" of the College Republicans and "finally learned about social class." He escaped to Chicago, founded *The Baffler* and wrote a book called "One Market Under God."

Say this for him: he is a fine writer. He has done his legwork, knows what he wants to say, and says it clearly. And he is not nasty to his opponents.

In this book he revisits Kansas and finds it "burning on a free-market pyre," its farmlands depopulated, its Main Streets sacked by Wal-Mart, its politics infected with radicalism. This radicalism is as religious as that of William Jennings Bryan, but completely inverted. In the 1890s when people were angry, they went left; now they go right.

Frank can't fathom their logic. The farmers and the lower middle class ought to be supporting unions, liberals, intellectuals, and the government, he believes, because these are their

friends. Instead, their political fascinations are abortion, guns, and gays, none of which they can do anything about by changing state or local government. But they have swept new people into power, people with an economic agenda to cut taxes. In sum, Frank writes, "Cultural anger is marshaled to achieve economic ends."

There are some exaggerations here. First, Frank exaggerates how many fetters have been removed from today's capitalism, and blames deregulation for everything from outsourcing to Wal-Mart. He writes as if the decline of unions is mainly the result of attacks by employers rather than a 50-year shrinkage of unionized companies. He says the welfare state has been "smashed," which is surely an exaggeration in a country in which food stamps are packaged as debit cards and a large percentage of births are paid for by Medicaid.

I don't know Kansas. I live in the state of Washington, and many of the same things have happened here. In 2003 I drove through the town of Colfax, a once-important center of the eastern Washington wheat country. There was a storefront on the main street offering a used PC for \$100, and a place next door occupied by the Department of Social and Health

Services. Towns like Colfax have not prospered in the market. But the proportion of Americans working on farms has been shrinking for 150 years. What would government do about it? Subsidize it more? Europe has done that, and not with happy results. Its farm policy is a heavy burden on taxpayers, and irritates its foreign relations.

As with similar towns in Kansas, Colfax used to support Democrats: it was in Rep. Tom Foley's district. Foley was the Democratic Speaker of the House who lost his seat in 1994. Now, though Washington is a "blue" state, its eastern part is "red," and the two congressional seats east of the Cascades are in the safe hands of conservatives. The Republicans have become the rural party, and the Democrats the urban party — which has made the Democrats impregnable in King County (Seattle), with the state's highest per-capita incomes, and has wiped them out in the poor counties.

As in Kansas, many of the Republican voters in my state care more about social issues of the sort the state can do little about, and vote for candidates who, once in office, cut taxes. Is there a disconnect? I wouldn't deny it. But surely there is as much on

the other side. Every two years in my left-wing district, candidates say they're saving abortion rights from imminent destruction. They apply a "pro-choice" litmus test to candidates for governor, state legislator, county council, and even the commissioner of public lands, an official whose main concern is forestry. In the 2004 election the progressives leaped onto the issue of stem cells. They might not have known a stem cell from a paramecium, but they got the politics of it instantly: it was a way to show Republicans as rubes.

In my state, the Democrats captured the legislature and (after a hand recount) the governor's office. And what are they itching to do? Save abor-

Someone could write a mirror-opposite book called, "What's Wrong with Seattle?" If people in Kansas should be leftists, people in Seattle should be free-marketeers — and they're not.

tion? Why, no. Save government programs by raising taxes.

"Cultural anger is marshaled to achieve economic ends." Frank's description applies to both sides. Someone could write a mirror-opposite book called, "What's Wrong with Seattle?" — a city that has achieved so much in the free market, and is the home of Microsoft, Starbucks, and Amazon.com, yet elects a congressman who supports socialized medical insurance. If people in Kansas should be leftists, people in Seattle should be free-marketeers — and they're not.

And yet Frank's portrait of Kansas conservatives is often brilliant. One of the high points of the book is his interview of Tim Golba, the organizer of Kansans for Life. Frank is impressed that this man of power is a mere line worker in a soda-pop plant. Frank visits him in his little house, unscreened by trees, baking in the prairie sun, far from the leafy neighborhoods of the bourgeoisie. Apparently Golba is not conducting his crusade out of an economic interest. "Ignoring one's eco-

nomie self-interest may seem like a suicidal move to you and me, but viewed in a different way it is an act of noble self-denial," Frank writes. "This is a man who has turned his back on the comforts of our civilization — who defies the men in great palaces. He smites their candidates; he wastes their money; he ends their careers."

Later he interviews Kay O'Connor, a state senator from Olathe, who champions tax relief and says, "Robin Hood was a thief." The woman is not rich; her husband is a monitor technician at a hospital.

Frank writes as if the disconnect between money and politics is weird, but it's not. Strong politics is about belief. The socialist-progressive movement in America, which Frank wishes would return, had a hard core of belief. So does Frank.

Many on the Left assume that while they are motivated by a belief in fairness and justice, the Right is motivated by money. The economic beliefs of the Right are such obvious horse manure — all this stuff about the "free market"

— that the real motivation has to be something else. Obviously, it's greed. Frank, to his credit, does not use the word, but he keeps expecting to find the reality. He thinks of the business-

Frank writes as if the disconnect between money and politics is weird, but it's not. Strong politics is about belief.

men who are in favor of low taxes (because they don't want to pay them) as the real Right, the Right that knows what it is doing. But people in politics have many other motives than money-making; to say of Kay O'Connor that "her thoughts on the issues seem all to have been drawn from the playbook of the nineteenth-century Vanderbilts and Fricks" misses the point, and thus loses any chance of tracing the real connection between robber-baron capitalists in the big city and congressional housewives in Topeka. □

"Rancho Costa Nada: The Dirt Cheap Desert Homestead," by Phil Garlington. Loompanics, 2003, 122 pages.

Living on the Fringe

R.W. Bradford

The first time I visited the Mojave Desert, I came upon a small abandoned town, found a bit of shade, stopped my car, and started to make a sandwich. It was an edifying experience: by the time I had slapped my food together, the bread had dried to the point where the thing was only marginally edible.

I had read about how hot and dry the Mojave is. During my childhood in Michigan I had experienced occasional summer temperatures as hot as the Mojave was that day. But I hadn't imagined just how dry it is. Nor, for that matter, had I really appreciated just how hellishly brilliant the Mojave can be wherever the shade gives out. And there isn't much shade: except in the lee of an occasional abandoned build-

ing, there's practically no vegetation and what little exists is small.

There's little wonder that practically no one lives in the scorching ultra-dry southern Californian desert except in tiny artificial oases like Blythe and Needles, where water and electricity are available. But some people *do* live elsewhere in that immense and wonderful and terrifying place, and if you look closely, you'll see signs of them: tire tracks heading off the roads which, if you follow, lead to weird-looking shacks showing signs of habitation.

Of course, most of us don't see these signs. We simply cross the desert on modern expressways, and in a few hours, we're through it, unless we get adventurous and take an occasional side road, or, feeling especially adventurous, venture a ways off road in our air-conditioned SUVs.

The same is true of the less scorching deserts of Nevada and Oregon, where wild temperature swings and extreme cold make conditions for human life as inhospitable as they are in the Mojave and Colorado deserts to the south.

While I've probably seen more than most "normal" folk of the very marginal lives of people clinging to the fringes of civilization, I realize that I really know virtually nothing about them. I've driven the desert tracks and seen their shacks in the distance. But I have never approached them or their habitations. I respect their privacy, I tell myself. And besides, I am a little afraid of them: there's a good chance they came out here because they found it difficult to function in ordinary society and, well, they might just take a shot at me. That, at least, is what I imagine.

So when a copy of "Rancho Costa Nada: The Dirt Cheap Desert Homestead" crossed my path, I was interested. Its cover features a photograph of one of those desert shacks, up close and personal. Constructed, it appears, of salvaged scrap wood, it has a hand-lettered sign warning "Occupied Home: Careful Pard." It looks a lot like how I imagined the shacks I had seen only at a distance must look up close. The actual image was intense.

Here, I thought, is a book that will

give me an idea of how people live in roasting land that no one wants, without the benefit of such trivial conveniences as electricity, plumbing and water, at least in the sense that we know them. And I was right.

"Rancho Costa Nada" is about equal parts memoir and handbook. Its author, Phil Garlington, is one of those people who have trouble getting along with others. He moved to the desert after being fired from a long series of jobs ("My department irks employers. I guess it's a kind of hauteur. Kind of cocky, supercilious, cheek, insolence, or an overweening and querulous hubris.") A few years earlier, while working as a reporter for the Orange County Register, he had attended a public auction of land whose owners failed to pay taxes. On a lark, he bought himself ten acres of "alluvial wash dotted with smoke tree, Palo Verde, barrel cactus and scrub" in the Colorado desert. The price was \$325. "My deed says ten acres. It might well be 1,000. I have no cheek-by-jowl neighbors, and three miles to the nearest. [I live] in a lonely, out-of-the-way valley surrounded by hundreds of square miles of bone-dry landscape. The inhabitants are a handful of seldom-seen desert rats and homesteaders, their presence only revealed by a faraway triangular column of dust thrown up by their rattle-trap pickups."

After locating his estate with a cheap GPS device, Garlington and his buddies pitched their tents and used the land for "drinking, shooting, and rocketry." They quickly discovered that tents were not a practical shelter in a place with so much wind. So they built a long table for bench shooting and a shade shack, closed to the wind and sun on three sides. To this he added a "bum box" for sleeping: "a plywood box 8' long by 4' high, raised on stilts, open on the eastern side . . . It had a curtain like a berth in a Pullman . . . Snakes and scorpions couldn't get you, and the bum box offered protection against the desert gusts."

So when Garlington lost his job, he decided to move to his desert property, which by now was "basically a shooting gallery, empty brass glittering in the sun, with a couple of rude sheds for shade. Not promising, perhaps, but

it was my land, bought and paid for."

There he set about living by his own "rock-bound principles": "Find a stretch of the world filled with worthless desert. Pay a rock-bottom price for a piece of it. Then build a tight little nature-proof and comfortable homestead that's cheap, simple, and easy, in a couple of weeks or a month. Plant the proud banner of personal independence, and uncup a beer."

"Rancho Costa Nada" is an account of how Garlington implemented these principles. He tells how he constructed a more elaborate hogan from salvaged and improvised materials, how he dealt with the problems of water and power, and how he dealt with the problem of his outhouse blowing down in a storm. (The solution involved taking a walk in the desert away from his hogan and kicking a hole in the ground.) Living on the fringe of civilization requires earning a few hundred dollars a year for incidentals like food and water, so he tells how he found occasional casual labor to fill his need for cash.

Because "Rancho" is billed as a "how-to" book, Garlington provides a lot of specific information, including

Some people do live elsewhere in that immense and wonderful and terrifying place, and if you look closely, you'll see signs of them.

detailed advice regarding technologies he considers inappropriate (e.g. trailers), too complicated for him to attempt, or attempted with only limited success, like making a swamp cooler from salvaged auto parts.

How did he deal with building permits and codes? "I'm in denial on code," he writes. "I don't believe for one second that a building inspector —

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a sleek, pampered bureaucrat working for the county — will put himself to the bother of driving 17 miles on back-breaking washboard to see what some

I am a little afraid of them: there's a good chance they came out here because they found it difficult to function in ordinary society and, well, they might just take a shot at me.

disgruntled, and perhaps demented and heavily-armed hermit is doing out in the middle of God-forsaken nowhere." This approach seems to have worked.

Unlike Garlington, who spends his summers in public campgrounds in the Pacific Northwest, his neighbors ("the Hobo, the Demented Vet, Baby Huey, Mystery Woman, and Alba the Dog

Lady") live in the desert year-round. They are colorful, to say the least. In some ways, they adapted better than Garlington, but they seem a little crazier, too — a fact that might not be unrelated to their year-round tenure.

"Rancho" is addressed to people who harbor fantasies about going to the desert and living as a hermit, fantasies that many libertarians latch onto at some point in their lives. For the reader who has no such daydreams, or has outgrown them, it offers a colorful memoir of someone who found a way to live on that eerie planet that we call "desert" and a vivid portrait of other humans who have found themselves still more at home on *terra extraterrestris*.

Garlington concludes with a chapter that puts forward perhaps his most sage advice: "Don't Do It," in which he reminds those with fantasies about getting away from civilization and living an isolated, nearly self-sufficient, life that they just may "start sounding like the Demented Vet." □

"Sideways," directed by Alexander Payne. Fox Searchlight Pictures, 2004, 123 minutes.

Sex, Wine, and Midlife Crisis

Jo Ann Skousen

"Sideways," the latest of director Alexander Payne's films in which no one is a good guy and just about everyone is disgusting ("Election," "About Schmidt," "Citizen Ruth," portions of Playboy's video series, "Inside Out"), is the most over-hyped movie since "Titanic," receiving unwarranted "Best Picture" accolades from critics, awards nominators, and even rottentomatoes.com (normally a fairly reliable

source) since it opened a couple of months ago. The film, based on an unpublished novel of the same name by Rex Pickett, follows two former college roommates on a week-long bachelor trip through the wine country of central coastal California. Miles (Paul Giamatti) is a middle-school English teacher and would-be novelist who fancies himself a wine connoisseur; Jack (Thomas Haden Church) is a washed-up actor known for his stint as a doctor on a soap opera and his com-

mercials for cold products. Neither has an ounce of integrity. Jack has only one goal: to get laid as many times as possible before his wedding on Saturday (now there's a sure way to demonstrate one's love and fidelity). Miles finances this bachelor adventure by stealing hundreds of dollars from his mother's lingerie drawer. The premise sounds promising, I suppose, but the execution is over-the-top debauchery. Why would anyone care whether these two despicable losers find love or happiness in L.A.? Please tell me these audiences don't seriously think they have anything in common with them!

I suppose critics are drawn to the highbrow aesthetics of an extended metaphor permeating the film, but it's so heavy-handed and trite I wanted to throw a bottle at the screen. Miles, the self-proclaimed wine connoisseur, has wasted his life just sipping and tasting and spitting it out; even when he does glut himself midway through the film, he does so by drinking from the spittoon filled with the tastings spat out by others. He owns a very expensive bottle of wine that he is saving for a special occasion, vintage 1961 (the year of Payne's birth and probably Miles' as well — could the metaphor be a little more obvious please? We might not get it.) His date for the evening, a waitress at a wine-tasting bar, is impressed with the vintage but then warns him, "Wine improves until it peaks and then it begins to go bad. Yours might already have peaked." Uh-oh, middle aged angst is about to set in!

The film's title comes from Miles' explanation of the best way to pour a fine wine — by tilting the goblet side-

The second most disgusting aspect of this film is the ugliness of the sex-making (there is no lovemaking).

ways and letting the wine expand and breathe as it enters the glass. Gosh, do you think anyone else ever noticed the phallic implications of the shape of a wine bottle and the shape of a goblet? That Rex Pickett is so darned clever! (Fatty Arbuckle doesn't count, I guess;

metaphors have to be implied, not applied.)

The second most disgusting aspect of this film (the most disgusting is the fact that I sat through it all the way to the end — just so you wouldn't have to) is the ugliness of the sex-making (there is no lovemaking). Alexander Payne got his start in the soft porn industry, and he seems to be stuck in the genre. Fat, old, and wallowing, it's about as erotic as watching the seals mating at the Bronx Zoo. Or Kathy Bates dropping her robe on her way into the hot tub in Payne's "About Schmidt." Wait, I take that back. At

least the seals seem to like each other.

I just don't get it. Maybe most people really are like this. (One friend said the Jack character reminded him of his college days.) Or maybe in Hollywood they are. But I don't need to watch them wallowing in degradation, and I don't understand rewarding them with Golden Globes and Oscars. Give me a film about someone overcoming the odds, discovering a truth that I can relate to, one that is genuinely witty or engrossing and not just gross.

Despite the accolades, this emperor has no clothes — and it's not a pretty sight. □

"Hayek's Journey: The Mind of Friedrich Hayek," by Alan Ebenstein. Palgrave Macmillan, 2004, 283 pages.

Hayek the Enigma

Bettina Bien Greaves

Friedrich A. Hayek was born in the old Austro-Hungarian Empire in 1899. Over the years he became a soldier in World War I, student, professor, scholar, author, economist, and social philosopher. He died in 1992 after having lived almost a full century. In this book, Alan Ebenstein, author also of "Friedrich Hayek: A Biography" (2001), describes Hayek's lifelong intellectual journey in the pursuit of knowledge and his ideological journey from Fabian socialism to libertarianism.

Hayek was a European of the old school, cultivated, dignified, self-confident, and courtly, with an aristocratic bearing and a gracious manner. As a naive young man, more at home in the world of books than in a soldier's uniform, he served in the Austro-Hungarian army during World War I. At war's end, when he embarked on his intellectual journey,

he was a mild Fabian. At the University of Vienna he began to encounter the men and ideas that would shape his intellectual development.

Hayek was a prolific reader. He read the works of Hume, Locke, Smith, Darwin, Spencer, Marx, Mill, Hegel, Kant, Mach, Freud, and Wittgenstein, among others. He absorbed what he found compatible and ignored the rest. He said later that he considered it "very curious" that after reading a book, he was "hardly capable of restating the ideas of another person. . . . [giving] an account of its arguments." He could "perhaps say what [he had] learnt from it," but he would pass over "that part of the argument which [was] not sympathetic to [him]" (p. 3).

"Hayek possessed a towering intellect. . . . His virtue was to be a highly evocative writer, whose words call forth in the minds of readers new ways of looking at the world and new ways

of understanding" (210). "While his writing is, stylistically, difficult, it is also exceptionally profound, and its value lies in its profundity. . . . The idea that it is possible to write better than one thinks is truly paradoxical. What is meant by it, in this case, is that Hayek's thought was not as profound or stimulating as the writing based on it. Hayek's writings create ideas in the minds of others that were not necessarily in his own" (118–119).

Hayek came from a family of natural scientists. His father was a medical doctor and a part-time botany professor. His father's father was a biologist. Hayek developed an early interest in psychology and came to believe that Darwin conceived of biological evolution as expressed in the works of Hume, Smith, and especially Spencer. Austrian economist Carl Menger's description of social institutions as having developed from human actions but not from human design led Hayek to his thesis of social evolution in the field of ethics, and of the survival of the fittest (where "fitness" is defined as social utility). Hayek later developed this idea still further to explain the development of human practices, outlooks, attitudes, social conventions, even of laws and morals.

"Hayek was a social evolutionist through group selection. He thought that the difference between an organization and a spontaneous order is fundamental. Organizations are deliberately planned, while spontaneous orders grow or evolve. . . . He thought that the division of labor is one historical outcropping of the Great Society. This division occurs not just within but among societies as they practice free trade. He further stated, though — and it was here that his contribution lies — that much less stress has been placed on 'the fragmentation of knowledge, on the fact that each member of society can have only a small fraction of the knowledge possessed by all, and that each is therefore ignorant of most of the facts on which the working of society rests'" (191).

Two professors at the University of Vienna — Friedrich von Wieser and Ludwig von Mises — deeply influenced Hayek's thinking. Hayek considered Wieser his mentor. Through

Wieser's own works and those of his brother-in-law and fellow Austrian Carl Menger, Wieser introduced Hayek to basic economics, subjective value theory, and marginal utility. Hayek worked for Mises while attending the University of Vienna, but never actually studied with him. Mises' "Socialism" (1922), in which he argued against socialism and for free markets, private property, and individual freedom, had a profound effect on Hayek, and he rejected Fabian socialism. Hayek later joined Mises' private economics seminar and became one of the seminar's most active participants.

In the early 1920s, Hayek spent a year in the United States where he studied for a time at Columbia University with Wesley Clair Mitchell, noted statistician of business cycles. As a result Hayek developed an interest in money, inflation, the trade cycle, and the role of prices. He recognized that "the seed for serious economic disruptions and business crises" seemed to lie in "the organization of the monetary system" (57). But he felt that the statisticians neglected two important factors: time and the effect of the introduction of money on relative prices. Upon Hayek's return to Vienna, he wrote Mitchell that while his "theoretical predilections have remained unchanged," he considered it essential to "pay sufficient regard to time" (63). Money, Hayek said, injects uncertainty into a national economy (61). "Monetary theory has by no means finished its work when it has explained the absolute level of prices . . . ; its far more important task is to

explain the changes in the relative height of particular prices which are conditioned by the introduction of money" (60).

Back in Vienna, Hayek became a *Privatdozent*, a private, unpaid lecturer at the university. And he continued his study of economics. One paper he wrote at that time attracted the attention of Lionel Robbins of the London School of Economics, and Robbins invited Hayek to England to give a series of lectures (published as "Prices and Production"). Then Hayek was offered a full-time teaching position at the London School. He accepted.

While teaching in England, Hayek continued his interest in money and wrote a book on the Austrian theory of the trade cycle: "Monetary Theory and the Trade Cycle." Hayek described "the cycle" as a multistage affair. Interest rates are reduced, then the quantity of money is increased, and then prices and production of goods are affected. First, "goods of higher order" are affected. These are goods used in the production of consumer goods. Later, the consumer goods are affected. But as Ebenstein writes, "Hayek never established that changes in interest rates primarily and predominantly influence capital production of goods of higher order and their prices" (75). He did not see, as Mises had pointed out in 1912 when he developed the Austrian theory of the trade cycle in the first German-language edition of his "Theory of Money and Credit," that the expansion of credit due to the artificial reduction in interest rates increases the quantity of

money in circulation and that this monetary increase inevitably reduces the subjective value of each monetary unit in the eyes of market participants. As a result, they are willing to pay more money for goods than before. The producers of production goods usually borrow large sums of money to carry out their enterprises. Consequently they are among the first to respond to lower inter-

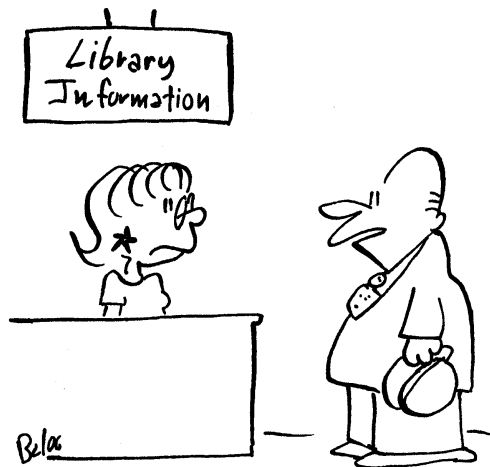
est rates and they are among the first to anticipate that the resulting credit expansion will lead to an increase in the quantity of money and therefore to a loss in the value of each unit of money. Thus, the producers of production goods are among the first to be willing to pay higher prices for the things they need in their enterprises. Although Hayek didn't explain why

Hayek was a European of the old school, cultivated, dignified, self-confident, and courtly, with an aristocratic bearing and a gracious manner.

the first stage of production to be affected by the increase in the quantity of money was the production of producers' goods, he recognized that this was the case. Hayek's presentation of the Austrian theory of the business cycle in 1931 was the first to appear in the English language; thus it attracted considerable attention and enhanced Hayek's reputation as an economist.

Although Hayek recognized in his 1937 analysis of monetary policy that monetary expansion exerted "destabilizing effects" (69) on the economy, he was not opposed to monetary manipulation. "Optimal monetary policy," he said, called for a restrictive monetary policy when the economy was heating up, "not to prevent inflation but to ensure that the productive capacities of the economy do not become mismatched with the real demand for production and real savings," and a more expansive monetary policy when the economy was contracting (69).

Hayek remained in England throughout World War II. He lectured regularly at the London School of Economics and wrote several more books on economics. He and John Maynard Keynes, whose star was then rising, became friends, despite their sharply opposed ideas about economics. Keynes considered 19th-century laissez-faire conditions "dead," while Hayek held that "[t]he guiding principle, that a policy of freedom for the



"I can't find the books on information retrieval."

individual is the only truly progressive policy, remains as true to-day as it was in the nineteenth century" (78). Moreover, when Keynes' "Treatise on Money" appeared, Hayek criticized it harshly. "Suffice it to say that, from a policy perspective, Keynes favored expansive monetary and fiscal policies, and Hayek did not" (85).

In "Socialism," which had exercised such a powerful influence on Hayek, Mises argued that in a socialist society with no private property, there would be no market transactions and hence no prices. Without prices, central planners would be unable to decide what to produce, how much to produce, or where and when to produce. Thus, Mises concluded that socialism was "impossible." Hayek had been interested in prices and pricing ever since his years at the University in Vienna. His further studies had led him to recognize the special importance of free-market, competitively determined prices for the transmission of knowledge. High prices for a commodity indicated scarcity, lower prices relative abundance. Hayek applied this insight to the situation in a socialist society and thus elaborated upon and reinforced Mises' thesis. In the absence of free-market prices, Hayek explained,

Hayek came to believe that Darwin conceived of biological evolution from the idea of societal evolution as expressed in the works of Hume, Smith, and especially Spencer.

the central planners in a socialist commonwealth would lack the very knowledge they would need to make plans.

After the publication in "Collectivist Economic Planning" (1935) of Hayek's paper on the importance of free-market prices in transmitting knowledge, together with Mises' 1920 paper on economic calculation, as well as several others on the subject, some socialists claimed that newer, more rapid, and more efficient calculating machines would be able to furnish central planners with the knowledge they

needed to plan. Ebenstein revives this view by suggesting that "through the Internet and other improvements in communication technology, it is possible to centralize knowledge and decision making as never before. To the extent that Hayek's arguments for free-market order rest on the inability to centralize knowledge and decision making, circumstances are likely to change — perhaps dramatically — in the years ahead" (239). This view, however, is precisely what Hayek rejected; he had explained that although a price is expressed in terms of money, many nonmaterial factors are incorporated in it: the subjective valuations of those who offer and bid for goods and services, the speculations and future anticipations of others who are bidding and offering goods and services, and also widely scattered intrinsic or nonverbal knowledge which is unknowable and unavailable. "The idea of unarticulated or nonverbal knowledge is that individuals can have knowledge of which they are not aware, in the sense that they cannot express it in words. . . . [T]he concept of nonverbal knowledge is so important in part because it undercuts the notion of central planning" (176).

With the rise of Nazism on the Continent and of socialist ideas in England, Hayek turned his attention to the economic and political issues of the day. In "The Road to Serfdom" (1944), which became his most popular book, he warned England against following the same path toward socialism as Nazi Germany had. Hayek described the economics of government control and planning, who benefits, and who suffers. In his chapter, "How the Worst Get on Top," he explains why evil men become dictators. He also discussed the importance of the rule of law. "Nothing distinguishes more clearly conditions in a free country from those in a country under arbitrary government than the observance in the former of the great principles known as the Rule of Law. . . . [U]nder the Rule of Law the government is prevented from stultifying individual efforts by ad hoc action. Within the known rules of the game the individual is free to pursue his personal ends and desires" (119).

In the course of rubbing shoulders with relatively mainstream economists

in England and the United States, Hayek had become "considerably more integrated with the rest of economic academia, at least with respect to practical policy and personal com-

Mises' "Socialism" had a profound effect on Hayek. He joined Mises' private economics seminar and became one of the seminar's most active participants.

ity. . . . While he did not backtrack from his fundamental analyses, he countenanced and even advocated that activist monetary policies could be appropriate policy and that even public works might have a role to play in evening out the vagaries of the business cycle" (70). In "The Road to Serfdom," he even advocated "a comprehensive system of social insurance." When Leonard Read, president of the Foundation for Economic Education, questioned him about this, Hayek's response was, as relayed to me by Read: "I didn't want to be thought a complete kook." The phrasing was undoubtedly Read's; Hayek's language was more formal.

Hayek's years in Chicago were extremely productive. "The Counter-Revolution of Science" (1952), which Mises considered Hayek's best book (Mises did not live to see Hayek's three-volume work, "Law, Legislation and Liberty"), was a serious critique of the predecessors of modern socialism who tried to apply the methods of the physical sciences to the social sciences. Hayek told the history of the abuse and decline of reason in modern times. Hayek had respect for reason as "man's most precious possession" (199). But he realized reason had limits; it was incapable of creating a society or social institutions which evolve

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without conscious planning. “[B]y tracing the combined effects of individual actions, we discover that many of the institutions on which human achievements rest have arisen and are functioning without a designing and directing mind . . . and that the spontaneous collaboration of free men often creates things which are greater than their individual minds can ever fully comprehend” (Ebenstein p. 113, quoted from “Individual and Economic Order,” p. 6). It was Hayek’s thesis that no single mind can create what many individual minds create in “spontaneous collaboration” (113).

During his years in Chicago, Hayek also wrote the book he considered “his magnum opus on human freedom” (143), “The Constitution of Liberty” (1960). Its central message was “the primacy of the rule of law to liberty.” Hayek held that “[w]ithout law, freedom has apparently not been possible. Law allows humanity to live at peace with one another and to interact effectively. Law is not the nullity of freedom — law creates freedom” (147).

In the introduction Hayek wrote:

“We are concerned in this book with that condition of men in which coercion of some by others is reduced as much as is possible in society” (145). And more explicitly: “In the societal context, freedom means solely the greatest limitation of coercion possible” (148). He considered private property “an essential condition for the prevention of coercion” (149). Yet in the first two parts of his book where Hayek presented his positive case for freedom, he called for “a significant positive” role for government; he called for government to provide many services which inevitably require coercion and which violate the right of individuals to private property, not only directly but also through the taxes exacted to pay their costs. For instance, he thought it proper for government to provide sanitation facilities and roads, care for the disabled and infirm, most health services, a reliable and efficient monetary system, the enforcement of safety regulations in buildings, eminent domain, some occupational licensing, and even support for, if not also the organization of, some kind of

education (151).

According to Ebenstein, Hayek “did not really enunciate a principle for government interference. Rather he articulated the form that government interference should take, together with the preference that there be less gov-

Ebenstein discusses Hayek’s social and political philosophy — his epistemology, psychology, and methodology, his association with Karl Popper, and his views of Marx, Mill, and Freud.

ernment rather than more.” From a libertarian perspective, therefore, “his heart was in the right place with respect to government activities, [but] his intellect was less so” (152). Thus by default, so to speak, Hayek became an advocate of substantial government intervention.

In reviewing “The Constitution of Liberty,” Hayek’s friend and mentor, Ludwig von Mises, praised Hayek for his “brilliant exposition of the meaning of liberty and the creative powers of a free civilization. . . . as the rule of laws and not of men. . . . [H]e analyzes the constitutional and legal foundations of a commonwealth of free citizens. . . . Unfortunately, the third part of Professor Hayek’s book is rather disappointing. Here the author tries to distinguish between socialism and the Welfare State [H]e thinks that the Welfare State is under certain conditions compatible with liberty. . . . Professor Hayek has misjudged the character of the Welfare State.” (See Mises’ review in “Economic Freedom and Interventionism,” pp. 151–152, quoted in part in Ebenstein, p. 195).

When Hayek arrived at the University of Chicago in 1950, one of the most influential persons there was Milton Friedman: charismatic, popular, and a remarkable communicator. Hayek’s position was with the Committee on Social Thought, outside the university proper, so Friedman and Hayek were not direct academic associates. However, they cooperated in seminars (139) and worked together,

Calling All Jews!

Jolie, Barbra, even Sammy, Leo, and Liz

“Almost every Jew in America owes his life to laissez faire capitalism. It was relatively laissez faire America that welcomed Jews in unlimited numbers and progressive, New Deal America that turned them away by the boatload, and back to Auschwitz... For Jews especially: God Bless America should be God Bless laissez faire capitalism.”

For *The Jewish Debt to the Right*, the New Mises Seminars, an Open Forum of the Right, and new ideas that the old libertarians don’t want you to know about
see [Intellectually Incorrect](http://Intellectually Incorrect at intinc.org) at intinc.org

notably with the Intercollegiate Society of Individualists and the publication of the *New Individualist Review* (1961–1968), produced by the university's graduate and undergraduate students (167). The *Review* became an important outlet for articles, not only by the students themselves, but also by economists, philosophers, historians, and others interested in ideas.

As a professor of economics at the university, Friedman exercised considerable influence through his workshop on money and banking. Hayek and Friedman respected each other and became friends, even though they were to discover they had some profound differences of opinion. It was their views on money and banking that separated the two men. Both agreed, in effect, that “money matters,” that is, that the quantity of money affects prices. “Hayek agreed with Friedman in decrying Keynesians, who disputed that ‘an inflationary or deflationary movement [i]s normally caused or necessarily accompanied’ by ‘changes in the quantity of money and velocity of its circulation.’ It is hard to remember now that as recently as a quarter of a century ago, the majority of professional economists and the mainstream of the academic profession disputed the most basic postulates of monetary theory” (208).

“Where Hayek disagreed with Friedman was not in this appraisal of Keynesianism, nor in the overarching truth of the monetarist perspective, but in the failure of the macroeconomic monetarist perspective to consider the microeconomic effects of injections of money on the economic system. The ‘chief defect’ of Friedman’s monetarism, [Hayek] held, is that by ‘its stress on the effects of changes in the quantity of money on the general level of prices it . . . disregards the even more important and harmful effects of the injections and withdrawals of amounts of money . . . on the structure of relative prices and the consequent misallocation of resources and particularly the misdirection of investments which it causes’” (209).

Hayek pointed out that the fundamental problem arises because of where and when money is injected into, or withdrawn from, the economy. Because changes in the quantity of

money cause some uncertainty, they affect relative prices and the structure of production over time. They also distort the information prices would otherwise convey, and thus lead to misallocation of resources and misdirection of investments from the point of view of consumers. Hayek criticized the monetarists for their emphasis on the effect of monetary changes on the general level of prices. Hayek’s position stemmed from the teachings of the Austrian school, as taught by Mises in Vienna. When the quantity of money is changed, it is individuals, each acting and making choices, who are responsi-

In his late work, Hayek the classical liberal became Hayek the libertarian.

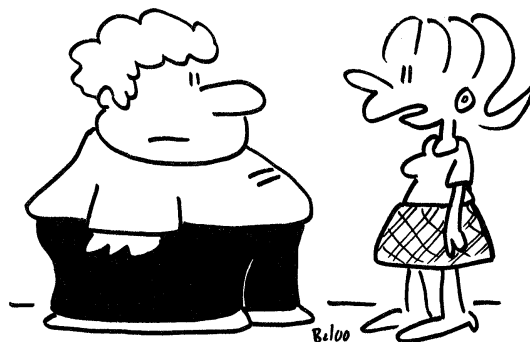
ble for causing prices to rise or fall. People are not automatons; they think and respond to changes. If the quantity of money is increased or decreased, they revalue the monetary unit in their minds and revise their plans for buying and selling. Because many individuals are responding to essentially the same monetary increase or decrease at essentially the same time, their revaluations trend in the same direction. Many follow the lead of those who respond first to a change. Thus, many make similar choices in buying and selling. Precisely because “money matters” to each and every one of them, they bid some prices up, others down, some sooner, others later. Individual prices go up, or down, but prices do not rise or fall in unison to a general level.

By 1962, when Hayek left Chicago and returned to Europe, his primary interest had turned away from economics proper to social and political philosophy. Ebenstein discusses this aspect of Hayek’s intellectual “journey” — his epistemology, psychology, and methodology, his association with Karl Popper, his views of Marx, Mill, and Freud, and his later works on money and

inflation, “Choice of Currency” (Feb. 1976) and “Denationalization of Money” (Oct. 1976). However, in the eyes of the world, Hayek’s ultimate success was as a social philosopher and, upon receiving the Nobel Prize in economics in 1974, as an economist.

Hayek devoted the rest of his life primarily to writing what may be his most important work, “*Law, Legislation and Liberty*” (three volumes: 1973, 1976, 1979) and “*The Fatal Conceit*” (1988). “‘*Law, Legislation and Liberty*’ was one of the greatest works in political philosophy of the twentieth century,” Ebenstein writes. “Its greatness stemmed, however, . . . from its conception of the tie between liberty and law, emphasis on the description of spontaneous order, and inspiring ideal of a ‘universal order of peace.’ All of these themes were found in Hayek’s earlier work, but in ‘*Law, Legislation and Liberty*,’ they found their greatest expression” (187).

“Hayek thought that the state is necessary, though, because, like and following John Locke, he thought that there must be a body — government — in society that possesses the monopoly of coercive power; otherwise the condition of men and women would be barbarous. The critical goal, in both Locke’s and Hayek’s minds, therefore became how to control the power of government. . . . Both Hayek and Locke thought that this is best achieved by limiting government’s potential actions and restricting these potential actions to known general rules applicable to all. Both sought a government of rules rather than commands, the latter of which, by their nature, are not known in advance and



“No other man could ever take your place in my life, Randy . . . A hippopotamus, maybe, but no other man.”

may be arbitrary — not applicable to all. Hayek's goal was the society of law" (114).

"Hayek's goal for society was a 'permanent legal framework which enables the individual to plan with a degree of confidence and which reduces human uncertainty as much

as possible.' He criticized views that posit that a society without coercive government is possible or desirable and was emphatic throughout most of his work — until the last pages of 'Law, Legislation and Liberty' — that there is an extensive role for government to play in providing social wel-

fare services and other programs" (146).

Admittedly, it is not the role of value-free economists or of neutral social philosophers to say what government should or should not do. However, it is well within their jurisdiction to point out whether or not specific government interventions hamper or foster peaceful social cooperation. As author Ebenstein put it: "There is a criterion for appropriate government involvement in the affairs of others to which Hayek did not give adequate attention. This criterion is to prevent physical harm to others" (150). Ebenstein calls this "[t]he true libertarian principle . . . that government involvement is justified in one circumstance and one circumstance only: to prevent harm to others" (152). Ebenstein holds that Hayek failed in this respect — until the end of the third volume of "Law, Legislation and Liberty." There Hayek wrote:

"Any governmental agency allowed to use its taxing power to finance such services ought to be required to refund any taxes raised for these purposes to all those who prefer to get the services in some other way. This applies without exception to all those services of which today government possesses or aspires to a legal monopoly, with the only exception of maintaining and enforcing the law and maintaining for this purpose (including defence against external enemies) an armed force, i.e., all those from education to transport and communications, including post, telegraph, telephone and broadcasting services, all the so-called 'public utilities,' the various 'social' insurances and above all, the issue of money." (204)

Ebenstein points out that this "was a significantly more libertarian position than he [Hayek] took earlier. . . . In his late work, Hayek the classical liberal became Hayek the libertarian" (204).

"There are at least two primary purposes of social life: the highest material standard of living and the greatest individual development. Both require, Hayek believed, political liberty. Without liberty, economic productivity is not possible. More important, without liberty, personal development is impossible. Individual

Notes on Contributors

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moral development requires the ability to make choices. When the state or government attempts to make choices for individuals, it takes away what makes people most human. Much of the argument for democracy is, Hayek argued in accord with other liberal writers such as Mill and Alexis de Tocqueville, educational" (193).

"In the long run," Hayek wrote, "it is ideas and therefore the men who give currency to new ideas that govern evolution. . . . So far as direct influence on current affairs is concerned, the influence of the political

philosopher may be negligible. But when his ideas have become common property, through the work of historians and publicists, teachers and writers, and intellectuals generally, they effectively guide developments" ("Constitution of Liberty" p. 113, quoted in Ebenstein p. 143).

Hayek did not write for his fellow academics; he sought throughout his professional career "to make politically possible what was thought to be politically impossible" (71). As historians, publicists, teachers, writers, and

other intellectuals make Hayek's teachings about the importance of the Rule of Law and the inability of governments to plan into "common property," they will cause a change in the climate of opinion. What may now seem "politically impossible" — a shift toward freedom — may become "politically possible." Alan Ebenstein has written a discerning and informative book about the intellectual and ideological journeys of one remarkable political philosopher whose ideas can help turn the tide toward greater freedom. □

Letters, from page 42

exponential power of the stimulus. The net result is that it takes increasing multiples of stimulus to create uniform steps of perceived response (e.g., sound pressure level versus perceived loudness, or light intensity level versus perceived brightness).

In his book, Stevens explains the data that substantiate the application of this law to a broad range of social stimuli (e.g., preference for wrist-watches, esthetic value of handwriting, importance of Swedish monarchs, pleasantness of odors, political dissatisfaction, prestige of occupations). One of these studies, directly applicable to the happiness problem, measured estimated social status against annual income. Out of a sample of nearly a thousand people, the estimated social status corresponding to a stated income figure was found to obey the psychophysical law of a logarithmic relationship between the status and the income. Income levels varied from \$500 to \$500,000, and the scalar social status rating varied (on an arbitrary scale) between 10 and 1,000. One might easily surmise that the happiness attached to one's social status would vary according to the same or a similar law.

If this is the case, the situation reported by Steele becomes an obvious instance of this law: relatively significant gains in happiness occur with initial linear accumulation of wealth, but the gain for each fixed increment of wealth tends to get smaller and smaller as wealth accumulates. This

implies that to improve one's happiness by some perceived fixed increment, one's wealth would have to multiply by a characteristic factor. But, as we all know, the modern economic environment imposes, if not an actual ceiling, then a kind of highly viscous inversion layer over our endeavors, due to the impedance of taxes and regulations. We can become wealthy up to a point with straightforward application of our intelligence and effort, but after that point, we are faced with a progressive rate of taxation and increasing government hindrance to our activities. The derailment of our economic growth notwithstanding, one might also suppose that our happiness is degraded by the immediate, personal frustration of this opposition and interference.

Michael J. Dunn
Federal Way, Wash.

Constitutional Minarchism

Here's my take on the anarchy debate ("Does Freedom Mean Anarchy?" December 2004): While people have sidestepped the content of the Constitution to bestow more power to the Congress, the president, and the courts, than the Constitution had outlined for them, they haven't really sidestepped the procedures outlined in the Constitution by which power is allocated. I think it's easier for people to see when the Constitution isn't being followed procedurally, than when it is overstepping its bounds. Therefore, to main-

tain the minimalist state, I think it would be productive to limit power through procedure.

Do this: Keep a strict, limited constitution, but change the requirement for the Congress to enact a law, such that a two-thirds vote is required for a law to be passed, and a majority vote is required to repeal a law. The laws passed in such a society would be much more limited in number and scope, since it would be harder to pass a law, and mistakes would be easier to rectify through repeal of laws.

If such a large proportion of Congressmen support a bill, then it would be hard to deny such a body the ability to pass it into law. If a large enough body of people in society want to take some action, then it's not likely they can be stopped by the system of government they have in place. One other requirement that would help protect the rights of the people would be a constitutionally imposed five-year limit on all laws passed. This would require Congress to continually review *all* laws on its books and make it less likely that a bad law would remain on the books. Note, also, that for a law to be renewed, another two-thirds vote must be obtained in support of the law.

Considering that so few variations on democracy have been tried, attempting to limit power through procedure may be a powerful mechanism worthy of exploration.

Craig Haynie
Houston, Texas

Tacoma, Wash.

Curious advance in public education, from the *Seattle Times*:

A Tacoma elementary school teaching aide served dog food to pre-schoolers. "She thought she was being creative," a Tacoma School District spokeswoman said.

Sacramento, Calif.

Curious working conditions in the Fire Department of the Golden State's capital, from a dispatch of the *Sacramento Bee*:

Sacramento Fire Chief Julius "Joe" Cherry launched an investigation into charges that four firefighters — three men and a woman — had engaged in group sex in their Hollywood Park station house. In recent months, the Fire Department has been rocked by disclosures that firefighters have been drinking on duty, cruising bars, and giving joy rides to women in fire vehicles. "We will not tolerate inappropriate behavior," the chief said.

Oklahoma City

Further steps toward the ethical treatment of animals, from *The Oklahoman*:

A state senator has a plan for saving Oklahoma's game-fowl industry after voters outlawed cockfighting in a referendum.

State Sen. Frank Shurden proposed that fighting cocks be required to wear protective vests and tiny boxing gloves, rather than razor sharp spurs. "Who's going to object to chickens fighting like humans do? Everybody wins," Sen. Frank Shurden said.

Animal rights activists oppose the measure on grounds that the cocks might hurt themselves anyway.

Olympia, Wash.

Making government accessible to people of all cultures, deciphered by the *Seattle Times*:

Washington residents who speak Chinese who tried to view the Secretary of State's web site in their native language found the translation a bit murky. A statement about Secretary of State Sam Reed proposing "state-wide mandates to restore public trust" was translated as "Swampy weed suggests whole state order recover open trust."

The Secretary of State's Office pays a California company, Systran, about \$6,000 a year for the use of translation software. Systran President Denis Gachot dismissed the criticism of the translation, saying that people who are "perfectly bilingual" tend to focus on the software's shortcomings.

Wellington, United Kingdom

Curious marketing ploy in the hinterlands of Great Britain, from *The Mail on Sunday*:

A devout Baptist couple who bought a Doris Day DVD from a supermarket were surprised at what they got. "Some topless young women appeared and started talking in Italian," Alan Leigh-Browne said. "It's not what you expect from a Doris Day film. It was a pretty raunchy, explicit film, it certainly pulled no punches. My wife and I were very shocked but we watched it until the end because we couldn't believe what we were seeing."

Berlin

A possible problem in efforts to avoid charges of discrimination in Germany, from a dispatch of the *Telegraph*:

A 25-year-old waitress who turned down a job providing "sexual services" at a brothel in Berlin faces possible cuts to her unemployment benefit under laws introduced this year.

Under Germany's welfare reforms, any woman under 55 who has been out of work for more than a year can be forced to take an available job — including in the sex industry — or lose her unemployment benefit.

The government had considered making brothels an exception on moral grounds, but decided that it would be too difficult to distinguish them from bars.

Woodinville, Wash.

Protecting those who advance public safety, from a dispatch in the *Seattle Times*:

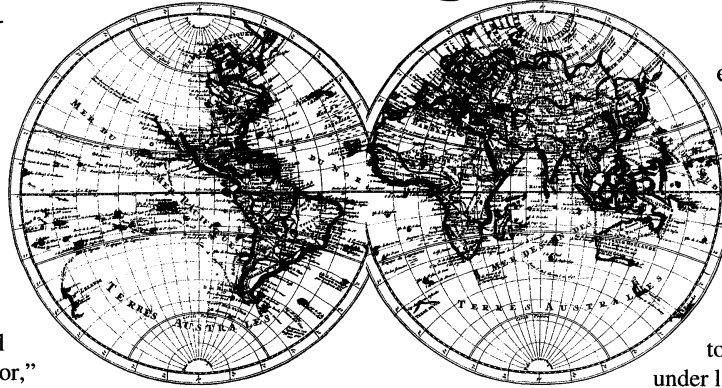
Lawmakers will be presented with "Brock's Bill," a policy forbidding the State Patrol from investigating serious crashes involving its officers, said state Rep. Toby Nixon, R-Kirkland. He is introducing the bill in response to Trooper Jason Crandall, whose car hit and killed Brock Loshbaugh while the 22-year-old Mill Creek man was jaywalking on Feb. 19, 2002. Between November 2001 and June 2003 Crandall was involved in six crashes. Crandall still works as a trooper, said State Patrol Capt. Jeff DeVere, and remains assigned to road duty in King County.

Lubbock, Texas

Further evidence that people who live in glass houses shouldn't throw stones, from a report in the *Denton Record-Chronicle*:

Rick Roach, a prominent prosecutor and anti-drug crusader in the Texas Panhandle, was charged Wednesday on four federal counts accusing him of methamphetamine and cocaine possession.

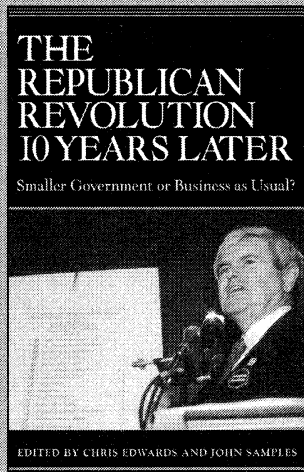
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(Readers are invited to forward news clippings or other items for publication in *Terra Incognita*, or email to terraincognita@libertyunbound.com.)

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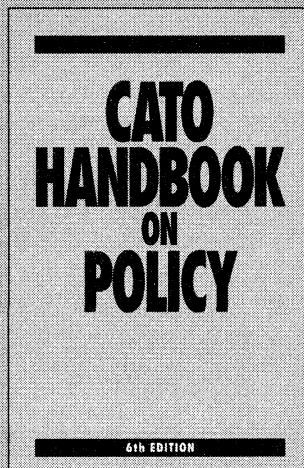
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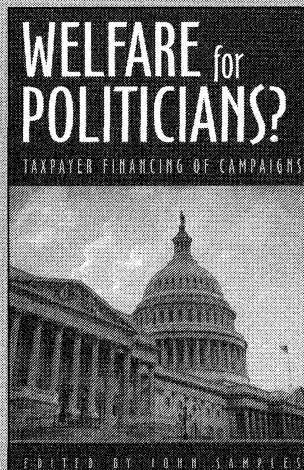
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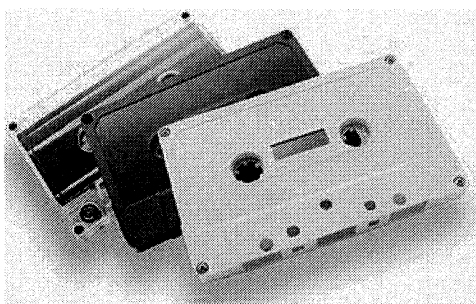
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