Liberty

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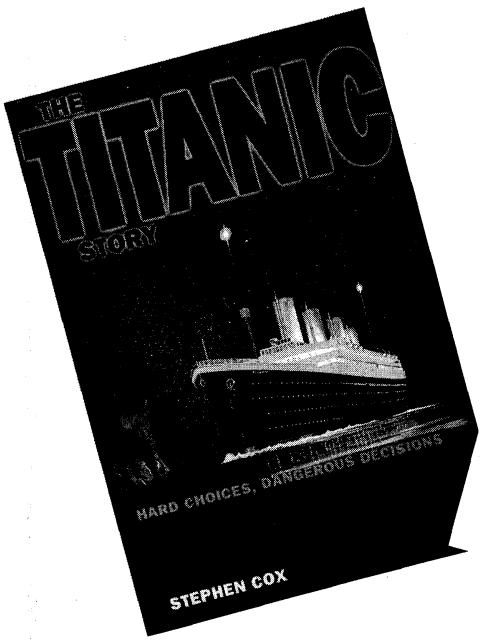

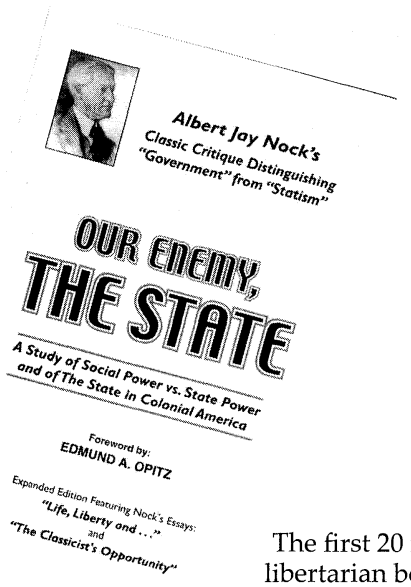

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April 2009
Volume 23, Number 3

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Reviews

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Letters

Voting No to Getting Along

In "Confessions of a Government Planner" (Jan.–Feb.), Warren Gibson writes: "It would be silly to get on a planning commission and then cast every vote on High Libertarian Principle — crossing your arms and declaring that the very notion of city planning is illegitimate, for example. You have to take the zoning laws and building codes as given and then hope you can find enough latitude to do the right thing." Why bother?

When I vote for a Libertarian candidate, I do so with the assumption that he will uphold libertarian principles, primarily the principle of smaller, less intrusive government. Otherwise, there's no point to voting Libertarian. When you abandon your principles under the guise of "getting along," you do nothing to further the cause of liberty. We don't manage to elect many Libertarians. Those who are elected need to do whatever is necessary to further libertarian ideals and principles.

This past summer, in order to garner more mainstream media coverage, the Libertarian Party totally abandoned its principles by nominating that idiot Bob Barr as its presidential candidate. Bob Barr has no libertarian ideals and his campaign quickly faded into obscurity. My advice to Mr. Gibson is to run as a Democrat or a Republican next time he runs for office and save the Libertarian spot for someone who is actually a libertarian.

Danny Gray
Birmingham, AL

Gibson replies: The Planning Commission is not a policymaking body. I was appointed by the City Council, not elected, with the understanding that I would work within the provisions of the Municipal Code. I thought I might do some good within that constraint. Whether I did or not is for others to decide.

On another occasion I did run for office as a Libertarian, for the local "Health Care District," on a pledge to abolish the district. Had I won, I would have done everything in my power to do just that. But I likely wouldn't have succeeded right away, and as a board member might have had to vote for some bad program to avoid an even worse one. That's the sort dilemma libertarian politicians inevitably face.

And on yet another occasion I led the opposition to a ballot measure restricting development rights and have the scars to show for that effort.

I now focus my efforts on teaching sound economics, and while I do not openly advocate for libertarian ideas in my classes, I often lead students to conclusions that leave only a small remaining step to libertarian policies.

In short, I am proud of the efforts I have made for liberty, modest and imperfect as they may have been.

Unswallowed Principle

In the December 2008 Reflections, Leland Yeager said with regard to solving the economic crisis that "the U.S. government is the only institution with enough immediate clout to undertake

Letters to the editor

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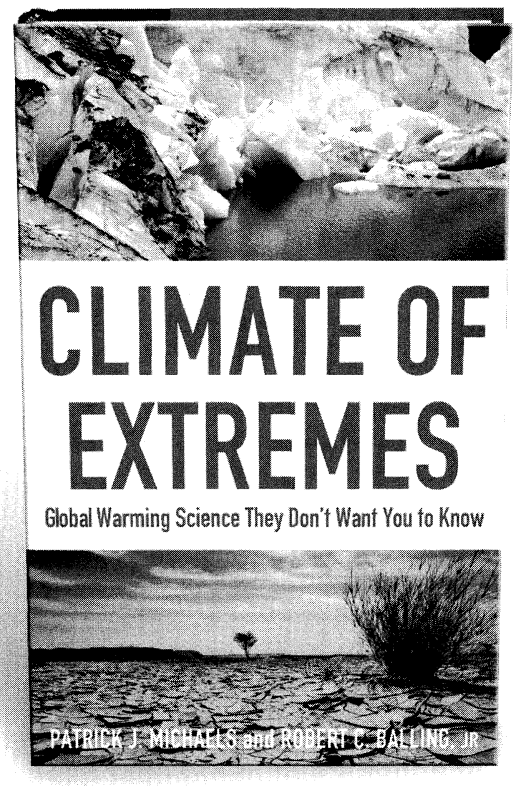

How did the conversation about climate change become so apocalyptic? When it comes to global warming, dire predictions seem to be all that are being reported. The authors thoroughly demonstrate how the impact of global warming is far less severe than is generally believed. However, because that perspective is not infused with horrific predictions, it is largely ignored.

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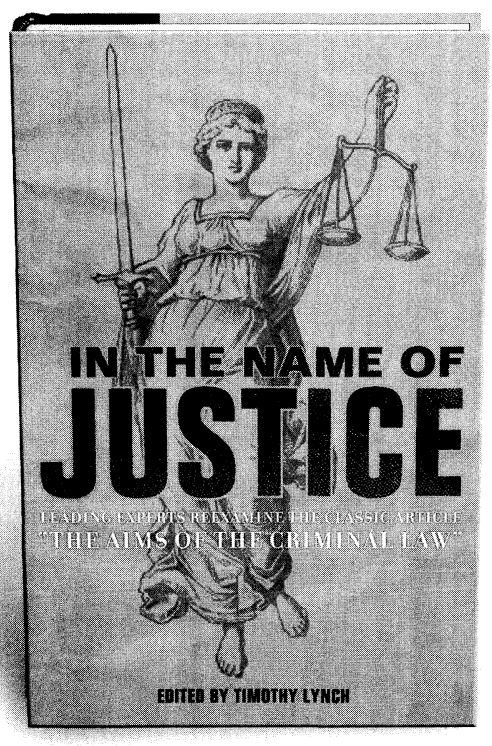

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the operation." I would ask that we remember the old saying "Never in the history of the world has there been a situation so bad that the government can't make it worse."

Just as Hoover and FDR turned a recession which should have been short-lived into a depression that lasted about a decade, so too Bush and Obama can cause real harm to our wellbeing with the interference by the politicians and bureaucrats in Washington, DC.

In the same section Bruce Ramsey said, "If there is a way to use public credit to keep the system from seizing up in a panic and having financial institutions around the world go down in a heap, then I swallow hard and consider supporting it, still not liking it."

Mr. Ramsey gives us a false choice. Giving $700 billion at a cost of $850 billion (that is $150 billion in pure pork) to Treasury Secretary Henry Paulson to spend as he sees fit is insane. The secretary said at the time that he did not know if his program would work!

Some might suggest that the secretary wanted to use the money to reward his friends and punish his enemies. Bailouts for Freddie and Fannie, you know, that is where ex-political activists with juice go to get very, very rich, and they use the taxpayer's money to lobby their cronies in Congress to maintain and improve their deal. Bailouts for AIG whose people go to luxury hotels to "work"; bailouts for Goldman Sachs where Paulson used to work. People Paulson used to work against, i.e., Lehman Brothers, get no bailout (not that they deserve it). Maybe I'm just paranoid?

I shall not swallow hard. I shall not support stealing or the promise to steal from the taxpayers. I shall use what proper powers I have to persuade those who will voluntarily listen: the politicians and bureaucrats in Washington, DC caused this problem! If there is a true lack of credit, it will respond to the laws of supply and demand.

The politicians and bureaucrats in Washington have been supporting the

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From the Editor

I'm not sure that you're going to believe me, but let me tell you what happened in my condo complex the other night.

The electricity went off. Several of us went down to the basement to see what had happened, and we soon found out. At least we found out where it had happened. It was someplace in that black box, over there, the one that was flashing and crackling. We made an emergency call to the electric company. One of their agents showed up and told us that a "bolt" was shot. Not your normal bolt; this one cost us $2,600 to replace, the next day.

Anyhow, the emergency guy shut off the offending circuit and bade us good night. We were congratulating ourselves on what libertarians call the principle of spontaneous order — the way we all voluntarily gathered together to investigate our problem and make an intelligent decision in our own interest — when two of our residents started another kind of conversation.

One was complaining that because his power was off, he couldn't watch TV. The other said — I swear to God, this is what he said — "Well, why don't you just watch a DVD?"

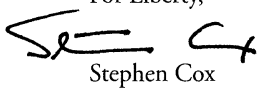
The first one was quiet for about 30 seconds. Then he said, "I don't think that'll work. The power is off."

"Oh," the other one said. I'm not sure he was convinced.

When I heard that conversation, I thought it was funny. Then I realized that this guy is nothing compared to the people who have been trying to run the government these past God knows how many years. When the lights go out, their advice is: don't worry. Just keep doing what you've done before. Vote for us.

That's not Liberty's idea. We're down in the power room, finding out how to fix the problem. And we won't charge you $2,600. $29.50 a year is all we need.

For Liberty,



Stephen Cox

Reflections

Profiles in privilege — Obama has ordered the temperature fired up at the White House because he doesn't like the cold. So much for shared sacrifice and green alternatives. He, of course, follows in a long tradition of presidential double standards.

The story of Kennedy and his cigars is a classic example. Before he signed the trade embargo in 1962, banning Cuban cigars, he had his press secretary, Pierre Salinger, get him 1,000 of them. Salinger secured 1,100. Then the president said: "Now that I have enough cigars to last awhile, I can sign this."

Martha Stewart went to jail for far less than this, but it seems that presidents, including those known to preach about "public service" and "sacrifice," are exempt from the moral codes that apply to the rest of us. — David T. Beito

The Ponz — With the arrest of Bernie Madoff for the second largest Ponzi scheme in America, my focus turns to the largest Ponzi scheme ever concocted: Social Security. Why are so many people still wedded to this financial debacle, now in its eighth decade? Apparently Ponzi schemes are not illegal; it is just that the Social Security Administration has been granted a government protected monopoly. Just like money printers and nuclear weapons, only the Fed gets to run a Ponzi. — Tim Slagle

Googles per gallon — Do we need to tax the internet to save the planet? A new study concludes that Google's computers emit 7 grams of carbon dioxide for every Google search. Since burning a gallon of gasoline releases 8,880 grams of CO2, you can calculate your car's Google-equivalent by dividing your miles per gallon by 1,269 (8,880 divided by 7).

My 22-year-old car still gets 33 mpg, and I do about 40 Google searches a day, equal to driving about a mile. Of course, I visit dozens of web sites for every Google search. If each of those web servers generates as much CO2 as Google, my internet usage is equal to driving about 20–30 miles a day. — Randal O'Toole

Warning: content — Watching some movie trailers on iTunes recently, I noticed for the first time that the R and PG-13 ratings have become more detailed and explicit. Parents are being informed of the dangers their children face in watching movies.

For example, an upcoming movie involving people with superpowers (called "Push") is rated PG-13 (Parents Strongly Cautioned). Why? "For Intense Sequences of Violence and Action, Brief Strong Language, Smoking and a Scene of Teen Drinking."

Sadly, the ratings system does not yet inform as to scenes where children eat meals high in saturated fats and not fully balanced as regards the food pyramid. — Ross Levatter

Rakish angle — Today my Gmail box offered me, not a news link or an ad, but a "Recycling Tip": "You can make a lovely hat out of previously-used aluminum foil."

And I thought, "That just may be the least stupid thing I've ever been told about recycling." — Andrew Ferguson

What, me invest? — We're in the worst recession-downturn-crisis in 30 years. Yet my husband can't find a parking spot at our nearest upscale shopping center — it's too full of shoppers. In fact, earlier in January, the manager of Harris-Teeter (a grocery store in that shopping center) said he was having the busiest day ever. True, Raleigh, NC was expecting a snowstorm, but he also said he simply hadn't seen a downturn in his business.

What's the explanation?

Some of those shoppers may be browsing rather than buying. But a lot of people are like us. We'd rather spend our dollars on consumption goods than invest them in risky ventures that will repay us, if at all, in increasingly worthless dollars. — Jane S. Shaw

State of the union — On January 30, President Obama continued his blitzkrieg against the free enterprise system by giving Big Labor three more treats.

He signed three executive orders reversing earlier Bush policies. The first order requires all federal contractors with contracts above $100,000 to post a "balanced notice of their employees' rights" under the National Labor Relations Act. The second requires that when a federal agency switches contractors, the new contractor must offer jobs to all the old contractor's nonsupervisory employees. The third prohibits federal contractors from being reimbursed for money spent to "support or deter" unionization.

What is troubling about all this is that it was presented in a televised celebration of Vice President Biden's being given his major role in the Obama administration: Official Protector of the Middle Class. Biden's whole pitch was that the middle class was a product of Big Labor. Translation: to "protect" the middle class, the feds will shove unionization down the throats of every business in America. January 30 was just a taste. — Gary Jason

Ancien regime — Readers of Liberty may recall that I recently pointed out some parallels between present day America and pre-revolutionary France ("Henri Antoinette," Reflections, Jan–Feb). Since then fresh evidence has surfaced to support my thesis.

In late January, John Thain "resigned" as CEO of Merrill Lynch. Thain, who succeeded the egregious E. Stanley O'Neal in 2007, did little to mend Merrill's foolish subprime ways. However, he did manage to sell the company to Bank of America in September 2008, avoiding bankruptcy and thereby saving his shareholders from being completely wiped out.

In early 2008, with Merrill in a downward spiral and Thain preparing to slash costs and lay off thousands of employees, he decided to redecorate his office. We're not talking a fresh coat of paint here. Thain hired celebrity decorator Michael Smith to do the job. The bill for improving Thain's surroundings came to $1.2 million. Included in the price tag were an $87,000 area rug, a $35,000 commode, and a $1,400 wastebasket.

At the time, there was no such thing as the TARP, so the bill for Thain's megalomania was paid by Merrill's shareholders. Thems the breaks in free market capitalism; it's up to boards of directors and shareholders to police this sort of nonsense. And on Jan. 26, Thain apologized for his self-indulgence, say-

Word Watch

by Stephen Cox

"Behold my servant," says the prophet, "mine elect, in whom my soul delighteth . . . He shall not cry, nor lift up, nor cause his voice to be heard in the street" (Isaiah 42:1-2). I wish this prophecy would be fulfilled, right now. I wish that all people — God's servants or otherwise — would lower their voices so as not *to be heard in the street* — or by me.

Unfortunately, this concept is as foreign to contemporary Americans as it used to be to workmen in boiler factories. Never have people insisted more on everyone's right of privacy, and never have people done more to destroy privacy by ranting, bleating, blabbing, yammering, and simply blasting the insipid stories of their mediocre lives into other people's ears. It's a gross violation of liberty. There's no reason for it. It's getting worse all the time. It's got to stop. And I haven't the faintest idea of how to stop it.

The odd thing is that privacy-obsessed Americans have no compunction about violating their own privacy as well as everyone else's, by shouting their personal business into everyone's ears. This wasn't always so common in the English-speaking world.

In the 18th century, when politeness was considered the mark of a real person, Lord Chesterfield complained about the loud yappings of some of his friends — aristocrats who, because of their loudness, didn't deserve to be considered aristocrats. He told them to lower their voices, so that "the passengers in the street" wouldn't hear what they were discussing in private. But that was a no-brainer, either for him or for the many people who read what he wrote on the subject.

In the 17th century, decorum wasn't yet a craze west of Paris. Nevertheless, King James II was derided for violating his own privacy. "His Majesty," as Macaulay says, "could not keep any secret from anybody."

But today, after centuries of education (much of it public education, admittedly, but you take it where you can get it), no one has any compunction about acting like the monarch who got kicked off his throne for being, among other things, a blowhard. Today, no one hesitates for a second before broadcasting his or her financial standing, religious views, family relations, and political prejudices to anyone within the range of, say, a city block.

When you sit down in a hash house and order a cuppa joe, you have no reason to complain if you're forced to listen to the conversation of the other guys who are squatting at the counter. But when you're in one of the most expensive restaurants in an expensive town, and you can't focus on the menu because of a "conversation" that is proceeding 60 feet away, and you ask to move to the bar, and after doing so you can still hear every syllable of the distant strangers' discourse *through the wall*, then you know we've got a serious cultural problem here. (A true story, and I can vouch for it. In Whitman's words, I am the man, I suffered, I was there.) When, in the same kind of venue, you're conversing quietly with your friend, and the elegant waiter walks up, cuts off your conversation in mid-sentence, points at your plate, and screams, "*So — you still workin' on that?*", you know there is some essential concept that our fellow countrymen have forgotten. Again, it's a true and common story — and I know that you can vouch for this one. When is the last time someone interrupted you and said, "Excuse me"?

So what's the forgotten concept? Freedom from other people's noise? Respect for the privacy of everyone? Yes, that's right. But there's a third concept. I think it's the idea that other people have a real existence.

I mean it. The attitude that the screamers and screechers — the people now in control of our streets and stores, restaurants and offices — adopt toward other human beings is the same that a 16-year-old sagger adopts toward the wall where he's bouncing his basketball. For him, the wall isn't really there. It isn't an independent entity. It's only a background for what *he's* doing. And neither are you an independent entity, from his point of view. If you open your window and ask him to stop making so much noise, he'll stare back at you, as if you were a wall. Then he'll return to bouncing his ball.

Try an experiment. The next time your waitperson comes over and yells at you, without so much as an "excuse me" or a "may I interrupt?", try continuing your conversation in spite of him. You'll find that your effort has no effect. He'll just keep talking. And the next time your life is made miserable by the blowhard on the other side of the doctor's waiting room — the guy who's busy telling his wife, who's found a comfortable chair about 30 feet away from him, what exactly is the matter with his prostate — try showing him that you're listening intently to his words, and that you're not amused. He'll just stare back at you, as if, again, you were a wall.

How many times have you stood in a supermarket aisle, trying to decide which brand to buy — how many times have you stood in such a former asylum of decorum as a bookstore or library, making your choice of reading — when a strange voice shrieks in your ear: "Don't do that! *I said, don't do that!!!*" What?!

ing he would reimburse Merrill for the redecorating.

But it seems to me that this mea culpa came rather late in the day. And Merrill's acquisition by Bank of America was subsidized by billions of taxpayer dollars. After Thain sold Merrill to BofA, he lobbied (unsuccessfully) for a $30 million bonus for himself. He secretly paid out millions in bonuses to his subordinates in the last days before the deal became official on Jan. 1. That's our money he was playing with.

Once the BofA-Merrill entity took public dollars, its officers had a responsibility to act with the utmost probity and circumspection. Thain, however, continued to behave like a degenerate noble of the ancien régime. Now, I don't advocate bringing back the guillotine, but it seems to me a good old tar-and-feathering would be in order. — Jon Harrison

Object lesson — Price of the Communist Manifesto in the Apple iPhone app store: 99 cents. Price of the complete works of Shakespeare in same: free. — Andrew Ferguson

Ferry tale —When U.S. Airways flight 1549 landed in the Hudson in early January, most of the passengers and crew were rescued by 14 boats from the NY Waterway ferry fleet. Not many people know that this system of ferries between New Jersey and Manhattan is almost completely unsubsidized.

Supporters of America's socialized transit systems love to

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you ask. Is this Homeland Security, about to make a bust? Is it the book police, warning you against "The Charterhouse of Parma"? Is it the Jolly Green Giant, insisting that you boycott his competitors' peas? You whirl, ready to fly or fight — only to discover that the sound was emitted by a tanned, svelte, twice-face-lifted little soccer mom, standing six inches behind you and screaming into her cellphone about her daughter's plan to visit the girl next door.

Well, does she notice your alarm? Does she notice your *existence*? Why ask? She notices you no more than she notices the fact that a cellphone will easily convey one's remarks to the other party, if one will only speak in a normal tone of voice. Both these things would be news to her, if she were interested in news about anything but herself.

Some people, I know, have better voices than others. They're just naturally better at projecting. I wish I had a voice like that. But some people are taller than others, too. They just naturally take up more space. That doesn't mean they can't learn to let other people have some room on the sofa. In the same way, people who are blessed with carrying voices have the capacity to learn that they don't *need* to force others to listen to them. They can *lower* their voices. (That's right — try it. Speak to the person who's right in front of you, not to the person who's a block away. Go on, try. I know you can do it.) If that obvious thought has never occurred to them, it's a good sign that neither their privacy nor that of other people matters to them in the least.

This isn't a good thing for the Republic.

Not long ago, I was sitting in my office at the university when a loud voice began declaiming words in my ear, lines from some modern play. (Yes, I knew it was modern, because it wasn't any good.) At first I took this as proof that dementia had finally caught up with me, but on the faint chance that there was another cause, I leaped up and slammed my door. The voice continued, undiminished. Look, *you* try writing an article for Liberty with *#!@&% like that going on in your ear. Desperate, I ran to the end of the hall, slammed the outer door, and went back to my office. *The voice continued.* God in heaven, I thought; Dante was onto something.

Finally I left the office, left the hallway, and entered the large concourse that connects my hallway to other people's offices and classrooms. There, in the middle of the concourse, at a great distance from my point of origin, sat a young woman, reciting the lines of a play she was apparently trying to memorize.

Oh, I thought; I know how to deal with this. After all, I am a college professor; she is obviously a student; this is a good opportunity to teach an important lesson, but to teach it in a kind, courteous, and actually complimentary way. I can inculcate a measure of civility, while enabling the student to feel good about herself. It's all a matter of *modeling* the *role* of the courteous person, the libertarian person who respects other people's rights.

So I walked up to her and said, "Excuse me" (a valuable part of the lesson, no doubt), and continued in this manner: "I wanted to tell you that you have a great voice. Great projection. You know, I can hear you in my office, way down there, on the other side of that door." (Gesture toward a distant object.) "But, you know, I was wondering whether you could possibly lower your voice a bit, or maybe find another place to practice, because, well, it's hard for me to work while I'm listening to your play, and as you know, there are a lot of other offices here, and classrooms, too, and maybe other people who have the same problem. I'd really appreciate it. Thanks." Smile.

I felt good. I appreciated my own performance. But the actress did not. For a moment, I thought she hadn't heard what I said. She gave me the same blank stare that I mentioned above, the stare you see on the face of everyone who's orating, apparently to himself, while he stands in public, talking into a hands-free cell. The stare of a cow, standing in a vacuum.

Then, suddenly, she got it. She noticed my existence. She comprehended the situation. Here was someone, a stranger, perhaps another human being, who was requesting to be *left alone.*

"This isn't your hallway!" she said, projecting perfectly. "Leave me alone!"

It was a new take on the Garbo idea. Garbo wanted to be left alone, but she was perfectly willing to leave other people alone as well. It's a basic libertarian concept, one that has many implications, most of them more important than anything I'm implying here. Yet liberty does depend on cultural and social assumptions, not simply political ones. If you assume you have the right to play your radio so loudly that I have to hear it, you are not a good candidate for a libertarian society. If you assume you have the right to intervene in other people's quiet conversations, even when those people are paying you to serve them and be respectful of their privacy, you are not a good candidate for a libertarian society. If you are so unmindful of other people that you don't care whether you not only are sharing your private conversations with them but are actually forcing them to listen, you are one horrible freakin' candidate for a libertarian society. But that's what many of our dear fellow citizens are. They want to be *left alone* so they can *drive you crazy.*

It doesn't look good, comrades. And the worst thing is, one almost never hears anything interesting about these people's not-so-private lives. If they were really dishing the dirt about themselves, I might have occasion to moderate my view. But awful to say, they're not even scandalous. They're just loud and dull.

say that all public transit is subsidized, in order to justify their insatiable hunger for more tax dollars. NY Waterway proves them wrong. Though New York and New Jersey have numerous government transit agencies, none of them thought of starting ferry services across the Hudson.

That idea was developed by Arthur Imperatore, a trucking company owner who had acquired some land on the New Jersey waterfront. To promote developments on that land, he decided in 1986 to start running ferries between the developments and midtown Manhattan. The developments never went very far, but the ferry service took off, and today his ferries earn nearly $12 million in profits each year.

The only subsidies he ever received were some loans and grants after 9/11 to start running ferries to downtown Manhattan in order to replace the Port Authority subway whose World Trade Center station was destroyed in the attack. When rail service was restored in 2004, he sold those ferry routes to another entrepreneur who also operates without subsidies.

NY Waterway shows that, if government-subsidized transit disappeared, it would be quickly replaced by private transit that would probably be more efficient and more innovative. Anyone who assumes that transit requires subsidies both lacks faith in entrepreneurs and has too much faith in the altruism of government bureaucrats. — Randal O'Toole

Into the void of ideas — Much has been written in these early days of the Obama administration about the GOP's lack of effective leadership in opposition. In truth, the lack seems to be a more general void of substantive political ideas in American discourse. Into this void, Rush Limbaugh has waddled happily.

As we've noted previously in this space, opposition is good for media ratings. The surprise is that Obama would recognize Limbaugh, by name, as a voice (if not *the* voice) of the other side, and reprove his influence. It seems an odd choice for an elected leader to elevate an entertainer in such a way.

Some nervous people on the GOP's side are quick to remind anyone who will listen that Limbaugh played a useful role in the Republicans' "Contract with America" bid for congressional control in the mid-1990s. But there are some critical differences between then and now. Most important: In the 1990s, the Republican Party, led by Newt Gingrich, had a coherent (this doesn't mean good, just coherent) ideological platform to present to voters as a check on President Clinton's statist overreach. For all his admitted personal (and less-admitted philosophical) failings, Gingrich was a good political tactician. Today, none such stands in his place.

Back then, Limbaugh was merely the loudest of many media talkers who supported the "Contract with America." It was already a dumbed-down document; they dumbed it down even more and repeated it frequently. Radio talk show hosts are good for doing this; they aren't so good at generating ideas.

Why is there a dearth of ideas in the Republican Party? In part, because its rank-and-file members remain focused on false issues such as gay marriage and stem-cell research. Principled limited-government advocates may not be ready to fill the GOP's ideological void; but some are trying. Remnants of Ron Paul's presidential campaign exist at the local and state levels in many parts of the GOP; and such groups as the Campaign for Liberty are trying to expand their influence. But even if they are ultimately successful, their ascent will take time. It will be years before the Republicans emerge from their evangelical hangover.

Limbaugh isn't the only media figure who has flirted with stepping into the void. Fox Channel buffoon Sean Hannity considered — apparently seriously, but who can tell? — a bid for governor of New York. And of course it's not just the GOP whose lack of substance has drawn celebrity poseurs. MSNBC buffoon Chris Matthews considered running for U.S. senator in Pennsylvania (Democratic); and what can be said of Caroline Kennedy's bizarre bid for appointment to the U.S. Senate (also Democratic), other than that it proves the depth of the void of ideas in politics right now? — Jim Walsh

No, we can't — "Change" and "hope" were the mantras that got Obama elected, but he appears to be offering us the same old gruel: perpetual war and futile Wilsonianism in foreign policy. Richard Holbrooke, Obama's envoy to Pakistan and Afghanistan, predicts that the Afghan War (now in its eighth year) will outlast the longest war in American history (Vietnam, 14 years).

There are some problems that can't be solved by shouting "yes we can," even if we back up the shout with more U.S. blood and treasure. This is one of them. — David T. Beito

At the summit — The opening day of the World Economic Forum in Davos, Switzerland, illustrates the fact that the world superpower leaders have now reached unity.

Mr. Putin, unrepentant Soviet KGB agent that he is, wasted no time in blaming the economic mess in his own country on the United States. Putin railed that excessive reliance on one currency (ours!) is dangerous for the global economy, and gloated that "today, investment banks, the pride of Wall Street, have virtually ceased to exist."

His triumphalism was shared by China's premier Wen Jiabao, whose country has experienced a slowdown as well. Wen, no closet communist, blamed the world recession on "some economies" (ours!) that are buying too much and saving too little, and on financial institutions in "blind pursuit of profit." Rather cheeky comments, from a leader of a country whose rise in prosperity has been facilitated by our purchases of its goods.

In short, Russia and China are not in trouble because of their rigidly state-controlled systems, but because of — Wall Street! Of course, this is precisely what our own dear leader has been saying for months. The U.S. recession has nothing to do with the government, Dear Leader has proven. It resulted from vicious, unregulated greed on Wall Street. And he'll soon end that.

We now have worldwide agreement on the cause of the economic distress. The cause is capitalism. Loose money from the Fed, the lowering of commercial standards by the Barney Franks of Washington — they had nothing to do with it.

Putin has expressed admiration for Stalin, and Obama for FDR. Wen no doubt has pinups of Mao in his bedroom. I can see them all gathered together in a summit meeting, just as in the Golden Age when Stalin and FDR brought peace and prosperity to the world. Perhaps they might meet at Yalta — awfully pretty, this time of year. — Gary Jason

Sitting bull — In the halls of the modern-day Congress, political grandstanding and partisan rhetoric leave little room for the United States Constitution. Nothing illustrates this more clearly than Senate Majority Leader Harry Reid's repeated assertion of a nonexistent constitutional authority to deny Roland Burris the Senate seat to which Illinois Governor Rod Blagojevich appointed him. Although Sen. Reid eventually capitulated to political pressure and Burris was sworn in as the junior senator from Illinois, it is nonetheless important to examine Reid's constitutional argument, as it provides a revealing insight into our leading senator's creative interpretation of this country's most important document.

Reid's antics took center stage in a recent interview on "Meet the Press" when, challenged on the constitutional grounds of his assertion, he responded, "We determine who sits in the Senate, and the House determines who sits in the House. So there's clearly legal authority for us to do whatever we want to. This goes back for generations." Reid apparently derives this authority from Article I, Section 5 of the Constitution, whose first clause states, "Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members." The second clause permits each house to "punish its Members for disorderly Behavior, and, with the Concurrence of two-thirds, expel a Member."

It is unclear where, in either passage, the right to bar entry of a sitting governor's senatorial appointee is enumerated. Surely he could not have been referring to the Senate's right to judge the "qualifications" of its members. After all, these qualifications are clearly articulated in Article I, Section 3: "No person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen." By these criteria, Mr. Burris is fully qualified for office. There are no stipulations concerning the appointer's ethical repugnance or the political "cloud" surrounding his appointment. The dirtiest politician in the land — which Gov. Blagojevich may very well be — is still permitted to make the appointment.

If Reid is not convinced by the actual text of the Constitution, he can at least examine the "legal precedents" to which he alludes in this very interview, which supposedly validate his own interpretation of the document. Unfortunately for the senator, these precedents do no such thing. In *Powell v. McCormack* (1969), the Supreme Court ruled that New York Congressman Adam Clayton Powell, reelected amidst corruption charges, could not be denied his seat in the House. The Court held that expulsion from Congress (in the form of impeachment) is perfectly legal, but that outright exclusion is not.

The Senate made a brief effort to make good on the majority leader's threat. In his first attempt to officially claim the seat, Burris was turned away from the Senate chamber after being told that his credentials "were not in order" because Illinois's secretary of state had refused to sign his certificate of appointment, an excuse that clearly fails to pass constitutional muster. Were the Senate truly adamant about keeping Burris out of Washington and committed to do so in a way that abides by legal precedent, Burris would have to be impeached — but only after he is seated.

In the end, it did not come to that: Blagojevich won the dispute and Burris had his seat. Still, it's a shame that such a historic turning point in American government began with a display of political showmanship at the expense of the document that each senator has sworn to "support and defend." With Reid at the helm of a significant Democratic majority, it is likely a sign of things to come. — Matt Varvaro

Roll call — Let's look at Obama's choices for the big cabinet posts — State, Defense, Justice, Treasury, and Health and Human Services — and see what they tell us about the new administration and its prospects.

It's Hillary at State. Why, beyond the fact that she's a political "star," should she be America's top diplomat? Obama gave her the job so that she'd be "inside the tent, pissing out," rather than the opposite. Of course, she may make a mess inside the tent. But for Obama, it neutralizes his only real rival within the Democratic Party. That he chose her for this reason, and not for her geopolitical skills, is evident in the creation of special envoys for the critical Middle East and South Asia hotspots — George Mitchell for the Israeli-Palestinian dispute, Richard Holbrooke for Afghanistan-Pakistan-India, and someone (but not, one hopes, Dennis Ross) for Iran. There's good reason to believe that these guys (or at least Mitchell) will have negotiating power independent of Hillary, and that they will have a direct line to the president. Let's give Barack a C on the Hillary appointment. It may be a smart move politically, but what matters is how it works out from the foreign policy perspective. Time will tell on that.

At Defense, Robert Gates will remain in place, at least for a year and possibly longer. This is undoubtedly Obama's best appointment. Gates prevented the worst from happening in the last two years of the Bush administration. He's smart and not an ideologue. He has the support of both Democrats and Republicans. The military trusts him. He is the indispensable man when it comes to winding down the Iraq war. Give Obama an A for this one.

Eric Holder is Obama's attorney general. There's one big problem with this appointment, and its name is Marc Rich. Rich, a fugitive from justice who had traded with Iran while the Iranians were holding Americans hostage, was given a twilight pardon by Bill Clinton in 2001. (Rich's chief advocate, by the way, was Scooter Libby.) Clinton's motive was obvious: Rich's family had given lots of money to the Democrats and the Clinton Library. Deputy Attorney General Holder's reason for signing off on the pardon was equally obvious: he wanted to keep advancing in Democratic Party politics. His sights, no doubt, have always been set on the attorney generalship. An ignoble business, made worse by Obama's promise to "change the way Washington works." I give Barack a D for choosing Holder.

Does Secretary of the Treasury Tim Geithner scare you? He probably should. The former president of the New York Federal Reserve bank has a strange look about the eyes. Worse, he has a terrible record — I don't care what Paul Volcker says. This fellow played a key role in the Bear Stearns and AIG bailouts. He was then heavily involved in the decision not to bail out Lehman Brothers. Consistency, it would seem, is not his strong point. In a time of major economic uncertainly, an older, wiser head would seem preferable. And there's that problem with his taxes. Geithner neglected to pay

$35,000 in self-employment taxes from 2001 to 2004, when he was working for the International Monetary Fund. Without going into the details, it stretches credulity to think that he made an honest mistake. After being audited by the IRS in 2006, he paid the money for 2003 and 2004. Because the statute of limitations had run out, he didn't have to pay for 2001 and 2002, and he didn't. I don't blame him for that; I wouldn't have paid the money to the government either. But after he was nominated for Treasury, he did pay for those years. He actually claimed that his failure to do so before he was nominated was an oversight. That's the biggest whopper told in Washington since Clarence Thomas claimed he'd never had a serious conversation with anyone about abortion. Is Geithner incompetent, or a liar? Perhaps he's both. A resounding F for this appointment.

As I write this, Tom Daschle's nomination as secretary of Health and Human Services is hanging fire. Seems Tommy Boy neglected to pay a whopping $128,000 in taxes he owed on a car and driver provided to him by a private equity firm (run by Democratic fundraiser Leo Hindery Jr.) for which he worked. Leaving aside the question of whether anyone's use of a car and driver ought to generate $128,000 in taxes, Daschle's "oversight" cannot but raise eyebrows. Since his defeat for reelection to the Senate in 2004, Daschle has followed the typical path paved with gold. He joined Alston and Bird, a law firm heavily involved in lobbying (its D.C. office is on K Street). He claims that he was not a lobbyist, but one can be excused for thinking that in this matter he is being economical with the truth. His compensation for not being a lobbyist came to $2.1 million. He received another $2 million from the aforementioned private-equity firm, and over $300,000 from health care-related concerns that he would regulate as HHS secretary. Daschle plans to steer health care toward a single-payer system. The merits of that, of course, are hotly disputed. In any case, you can feel certain that his former corporate clients will come out just fine. The entire business smells. This appointment too deserves an F.

The more things change, the more they stay the same, at least in Washington, D.C. — Jon Harrison

Never apologize, never refrain — Portland, Oregon, had the nation's first woman mayor. Now it is the nation's largest city to have an openly gay mayor. Moreover, it is the first city to have a scandal in which its openly gay mayor allegedly had an affair with a 17-year-old.

In September 2007, Portland city commissioner Sam Adams was getting ready to run for mayor. One of his platforms was a promise that no new single-family homes would be built in the city of Portland. Instead, all new housing would be in high-density, mixed-use developments along one of Portland's light-rail or streetcar lines.

But Adams's campaign hit a snag even before he announced his candidacy: another potential candidate spread rumors suggesting that Adams, who is gay, had recently had an affair with a 17-year-old legislative intern.

Adams immediately went on the attack, claiming only to be a "mentor" to the intern and smearing his opponent (who is also gay). The opponent quickly dropped out of the race, which Adams easily won.

Now, just a few weeks after being sworn in as mayor, Adams has admitted that he did, indeed, have a sexual relationship with the young man — but that he waited until he turned 18. Adams refuses to apologize to the candidate whom he smeared and, despite calls for him to resign, has decided to remain in office.

Personally, I think Portland can be proud of having elected a gay mayor, just as the United States can be proud of having elected a black president. But, just as I question Obama's economic policies, I question Adams' land-use policies.

The main market for high-density, mixed-use developments is singles and gays. It is no more appropriate for a gay mayor to try to impose gay lifestyles on the rest of Portlanders than it would be for Obama to try to impose African-American lifestyles on the rest of the country. It is too bad that it takes sex scandals like this one for Portlanders to question the city's inane land-use and transportation policies. — Randal O'Toole

Musical chairs — My enjoyment of the spectacle of Tom Daschle being forced to give up the minor Cabinet seat he so obviously coveted — he'd even drawn up a bunch of cute charts and everything, showing how he was going to fix the nation's health care problems (which are, of course, "made more urgent by the recession") — was tempered when I remembered the precedent for a Democrat president twice being embarrassed by his cabinet appointees failing to clear the low congressional bar.

Back in the vaunted period of his "first hundred days" (notice how Obama's handlers have so far managed to keep that phrase off media lips?), Bill Clinton lost first Zoe Baird and then Kimba Wood to allegations of hiring illegal immigrants as nannies. The upshot was that the nation got as its attorney general a woman who would have no problems in her past whatsoever with nannies, Janet Reno.

Longtime Liberty readers will remember, perhaps to the very words of R.W. Bradford and Alan Bock, exactly how well that worked out. And so I worry: with Daschle out of the picture, will Obama's new secretary manage to do for American health care what Reno did for American justice? — Andrew Ferguson

Californication — Three recent articles on California made me reflect again upon the parlous position of my home state, and what it portends for other states.

The first and most comprehensive is a piece by eminent writer and social observer Joel Kotkin in the American (Nov. 12, 2008). Kotkin notes that California once led the nation economically and in population growth, but over the last generation that began to change, and the change has now accelerated. He points out that since 2000, job growth in California has been nearly 20% less than the national average. There has been rapid outmigration, especially of the middle class, hitting 260,000 in 2007.

The flight of the middle class has hurt the already reeling housing market. In 2008, four out of the six housing markets with the steepest price drops were in California (Los Angeles, Riverside, Sacramento, and San Diego). Several Central Valley towns (Merced, Modesto, and Stockton) have the highest foreclosure rates in the country.

Kotkin also notes that, while California led the nation in per capita income right after World War II, it now is below the national average, and has the 15th highest poverty rate in the country.

An article by Devin Nunes in The Wall Street Journal (January 10) adds some other information. It observes that California is facing a budget deficit of over $40 billion, even though it has the sixth highest tax rate in the country. California now has an unemployment rate of over 9%, while the nearby states of Idaho, Utah, and Wyoming have unemployment rates of only 5%.

The third article, an AP report by Michael Blood (January 12), chimes in with more bad news. California had a record 236,000 foreclosures in 2008, and commercial property vacancy rates in L.A., San Diego, and San Jose are way above the national average. While median housing prices are down by a third from their peak in 2006, homes are still far beyond what middle class workers can afford. And the state lost 100,000 jobs in 2008.

Blood doesn't offer any suggestions about how California might handle its crisis. Nunes does. These include passing a law that requires the state to adopt the governor's proposed budget if it contains no tax hikes and the state legislature can't pass one on time, capping spending increases to just the rate of inflation, and refunding any future budget surpluses to the taxpayers.

None of this is likely to happen. A few years ago, California's feckless governor tried to pass an initiative capping spending increases, and failed miserably.

The real problem is one identified by Kotkin. Since the regime of Gov. Jerry Brown, the public employee unions and the environmentalist lobby have gained the power to siphon off more and more resources. Brown, an arch-Green who allowed public employees to unionize, was rightly tagged with the moniker Governor Moonbeam. Unlike previous governors, such as his father Pat Brown and Ronald Reagan, Governor Moonbeam refused to build any new freeways, dooming present drivers to endless gridlock. Amazingly, he now seems likely to become the state's next governor.

What I find equally amazing is how the outmigration of people from California and New York affects other states. Essentially, it screws the states into which the refugees flee. As a longtime resident of Colorado put it to me recently, "You Californians vote in the big-spending Democrats, and when they fuck up your state, you move here and vote the same way!" Let's coin a phrase for this: Californication, to mean what happens when people from a blue state massively migrate to a red state, and ruin that one, too. Colorado and Florida are just two of the most recent victims.

The question is, where will people move when the whole country has been Californicated? — Gary Jason

Throwing stones — December not only brought a cold snap to the Chicago area — unprecedented since Global Warming became a catchphrase — it marked the debut of one of our most beloved politicians, Rod Blagojevich, on the national stage. For the first time in his political career, the wacky governor with the pretty hair saw his difficult-to-pronounce Serbian moniker become a household name. But it must be hard for someone with his national aspirations to hear it in this context: Patrick Fitzgerald, the U.S. attorney who put Illinois' last governor in jail, caught Blagojevich demanding political favors (including cash) in exchange for the U.S. Senate appointment that rested in his hands.

Around these parts, Blagojevich (or the more popular contraction "Blago") has been a convenient punchline for quite some time. Political legend around Chicago is that Rod Blagojevich has his own version of the presidential football (the case containing the nuclear codes) — a gubenatorial briefcase, carried by a state policeman, that has to be within arm's reach at all times. However in Blagojevich's case, his "football" contains hairspray, several brushes of differing diameters, and a blow dryer.

He refused to move down to Springfield and live in the governor's mansion, because his wife felt Springfield is a hick town. (She's right, of course. Springfield is more representative of Illinois' agricultural roots.) Since she prefered their Chicago bungalow, he spent hundreds of thousands of dollars, courtesy of the Illinois taxpayers, commuting for all state business by private jet.

Blagojevich's arrest didn't stop the patronage either. Barack Obama recently named Superintendant of Chicago Schools Arnie Duncan to head the Department of Education. He publicly stated that Arnie "could signal a whole new day for America's students and schools." Yeah right. The Chicago public school system is one of the most violent in America, with dozens of shootings reported every year. It also has one of the highest rates of failure, with half its student population never coming close to graduation. Only in politics could the head of such a failed institution be promoted so far. What are his qualifications? He played basketball with Barack Obama.

In Mecca during the Hajj, followers are asked to throw 21 stones at a pillar that is supposed to represent Satan. And although most Muslims are good and decent people, a lot of terrorists — men who were ready to strap on explosives and ball bearings and walk into an elementary school — are also out there throwing pebbles at a pillar, claiming to denounce Satan. I think for most politicians today, Rod Blagojevich is the political Satan Pillar — set up for them to throw stones at while they carry on doing exactly what they claim to detest.

— Tim Slagle

A is A — Or has government found an exception? Recently Treasury Secretary Timothy Geithner, echoing an old complaint of American politicians, blamed the Chinese for manipulating the exchange rate. That means keeping the yuan weak against the dollar, a practice that keeps Chinese goods cheap for Americans and swells our trade deficit. Now, how do the Chinese keep the yuan weak? Their central bank buys dollars, specifically U.S. Treasury securities, incidentally helping to finance our government's budget deficit.

Does Geithner really want the Chinese (and a few other central banks) to stop these purchases and stop supporting the dollar? Or does he want them, with similar effect, to "stimulate" their own economy, inflating yuan prices and cutting back their saving, which had been helping finance America's trade and budget deficits?

I dread the consequences if foreign purchases of our Treasury securities should suddenly stop, and the even worse panic that would result if foreigners actually began unloading them. Our government would be tempted to print money to cover its debts and deficit, inflation would loom, the dollar would collapse on the foreign-exchange markets, and interest rates would soar. Thus the Chinese have a

powerful threat with which to control American foreign policy, if they should ever decide to use it. Years of profligacy by the American government and people, together with the shortsightedness of politicians, have landed us in this precarious position.

Does Geithner really expect the Chinese to both continue and not continue buying dollar securities? — Leland Yeager

Requiem for a dream — My favorite senator left office in January. Chuck Hagel, who embodied the virtues of the old Republican Party — before W, Cheney, and Rush turned it into a 21st century version of the Know-Nothings — has retired from elective office.

Although a pariah to the Republican establishment, Hagel has been on the right side of every major issue since 2000. He did not run for president in 2008 at least in part because it appeared the party base would reject his anti-Bush, antiwar stance. In retrospect, however, it seems that voter dissatisfaction was strong enough to propel a true conservative "maverick" to victory in the Republican primaries. And it is virtually certain that Hagel would have defeated his friend Barack Obama in the general election.

In a sense, I'm pleased it didn't happen. I'm almost convinced that, given the political realities of today, no leader or administration can solve the enormous problems confronting America at home and abroad. With the unwillingness of America's ruling class (and, indeed, the great mass of the citizenry) even to contemplate the radical changes needed in both domestic and foreign policy, any president is hamstrung from the start. Hagel's well out of it, I think.

Good luck, Chuck. I'll miss you. — Jon Harrison

Stop the presses! — As we muddle through a recession, the concept of legacy costs keeps coming to my mind.

An example: recently, a group of smart businesspeople I know learned that their local daily newspaper might be for sale. The corporate owner was interested in getting rid of some of its peripheral papers in order to raise cash to sustain its larger ones.

Most readers know about the troubles that newspapers have had in the past few years. Journalism scandals have eroded the public's trust in so-called "traditional media." But, more importantly from a business perspective, newspapers have been losing advertising dollars, especially classified ad dollars, to the internet. The result has been a troubling cycle of budget cuts and revenue drops.

So, the group of would-be Hearsts contacted the corporate newspaper chain and expressed some interest in the local paper. The corporation played it cool but was interested in discussing a sale. Both sides signed the usual nondisclosure agreements and the corporation sent financials for the locals to review.

The paper had annual revenues of about $3 million. Against the trend in the newspaper business, that number had held steady in recent years. But the paper wasn't making money; it had alternated between narrow losses and wafer-thin profits for more than a decade.

The locals didn't know the newspaper business; but they knew business. They drilled down into the paper's financials and saw that the corporate parent had been charging various overhead costs and sly "allocations" that meant the publication was probably more profitable than it seemed. They concluded that they could put out the paper with fewer employees.

And there were other ways to save money. The paper owned its own presses (which seemed to be losing resale value by the hour) and its own building (a little less so). The building was probably more space than the operation needed; the potential buyers figured they could lease out some of it or sell it altogether.

More promising, on the upside: the locals thought the newspaper's website could be developed and expanded to generate more clicks and ad revenue. Its region didn't qualify (yet) for a page on craigslist.com or other well-known classified ad web sites; so there was still time for the local paper to claim that space.

After they'd done their due diligence and teleconferenced with corporate managers several times, the locals put together what they thought was a good offer: a total purchase price of around $1 million, with a third paid immediately in cash, a third paid in installments over three years, and a third (whose final amount would be subject to several performance standards) offered in a balloon payment at the end of three years.

The corporate parent turned down the offer immediately and indignantly; the locals' main contacts made dismissive comments about the offer being "unserious." Through all the bluster, the corporate parent never indicated, and may not have known, what price it was seeking. One of the locals figured it probably wanted something like $1.5 million, and all in cash. "Which just isn't rational."

The corporation was mired in the legacy cost structures of its newspaper assets. Decades of annual reports, profit-and-loss statements, and shareholder meetings were based on valuations that aren't rational any more. The firm resisted realizing that change.

After the talks broke down, it replaced the newspaper's longtime publisher with a young ad sales whiz from another part of its empire. The locals concluded that the corporation's plan was to squeeze as many monthly "allocation" payments as it could from the paper, then close it down or sell it at a liquidation price. They were content to wait for that time to come around.

For the time being, the corporation can cling to its legacy valuations. Laying off employees and selling assets will postpone the reckoning for a quarter or a year. But the realization is coming. Maybe this recession will hasten that. — Jim Walsh

Bum-rush — The media and others have shamelessly taken out of context Rush Limbaugh's statement that he wants Obama to fail. Rush may be a defender of perpetual war and an enemy of civil liberties, but on this issue he is right.

Here is what Limbaugh said: "I hope he fails. [What Obama is] talking about is the absorption of as much of the private sector by the U.S. government as possible, from the banking business to the mortgage industry, the automobile business, to health care. I do not want the government in charge of all of these things. I don't want this to work."

Limbaugh's essential point was that he hopes Obama will fail in his policy goal of expanding governmental control over the economy. To interpret this, as some have done, as claiming that Limbaugh wants the "country" to fail, bears no relationship to the facts. — David T. Beito

Stimulate the sycophants — The stimulus package looks more like a Democratic reelection package. A huge portion goes for K–12 education (read: increased teacher salaries). Another big chunk goes for "saving public sector jobs." It sounds as if the package is a thank-you note from Obama to the unions that supported him.

I have my doubts that any government stimulus can hasten economic recovery. But this kind of stimulus — payoffs to people who already have jobs — certainly won't. Instead, if we have to spend a few hundred billion, I would like to see low-interest loans to state and local governments, big corporations, and small businesses to make investments that can be repaid out of the revenues earned on those investments. Nearly all "infrastructure" should be financed by user fees anyway, while flat-out grants are just another payoff to the politically powerful. — Randal O'Toole

Separation anxiety — One libertarian truth is that social problems consigned to the state can instead by resolved by the free market. Since I've previously advocated that divorce be made illegal, so tacky and unnecessary is government intervention in the termination of relationships, may I take pleasure in noting that the current decline in personal assets discourages divorce? People sharing a house don't want to be forced to sell in a soft market, and it's hard to claim alimony from someone who is unemployed. On Bloomberg Radio here in New York, I heard one matrimonial attorney complain that his biz was down a whopping 50%. Good-bye, with good riddance.

When a contractual marriage ends, may I repeat, simply move out and move on. Most, if not all, resulting problems can be resolved by the participants talking to each other, sometimes with the help of a disinterested third party. "The children" are no excuse for government intervention in a problem that can, instead, be resolved economically.

— Richard Kostelanetz

Digging a hole — Remember back, well, two or so months ago, when the stimulus package was to be for $700 billion of "shovel ready" public works? Well, it turns out that it's not so easy to get big public capital projects ready in contemporary America.

So, where will the money now go? It is becoming evident that the stimulus package is a "bail out the states" package, with perhaps most money, excluding tax cuts, going to states for existing services.

The federal government is, from an economic perspective, merely assisting state governments in their wasteful ways rather than encouraging genuine reform. Obama's slogan, "Change you can believe in," is quickly morphing into preservation of the status quo. — Lanny Ebenstein

Let the show begin — As I predicted back in November, the Senate race in Minnesota is still in question. Since a horse race is always more fun when you have some money involved, I have decided to endorse Al Franken. Norm Coleman is more an opportunist than a Republican: he was a Democrat until 1996. And his record as a Republican has been closer to Nixon than Goldwater. So, if it's going to be another big government politician in the Senate, I'd rather have an incompetent one.

Franken is an idiot, and too arrogant to realize it. The next six years are going to be a lot of fun. Meanwhile, Minnesotans who had their vote stolen from them aren't going to look on his ascendancy very kindly. There is already a huge rift between urban and rural Minnesota; this will only deepen it.

— Tim Slagle

Small towns, here and there — The president skated nimbly away from his one-time political ally, the disgraced former governor of Illinois. With ham fists, his critics tried to tag Obama with Blagojevich's venal vulgarity. Hasn't worked.

Of course, the story isn't over. Blago still faces criminal corruption charges; and he could build his defense around incriminating (or merely threatening to incriminate) the president. Despite all the fun that people make over his hair, the former governor has the ruthlessness and shamelessness that seem bred into typical, unfunny Chicago pols.

Why did the fast-rising Obama deign to have any connection with a character like Blagojevich? Well, Chicago is a small town.

Let's move on. At a higher level of statecraft, Obama says he will open lines of communication with the inept thugs of Hamas, the half-wit princeling who runs Syria by hereditary claim, and other mischief-makers in the Middle East. Few people with political capital want to spend it criticizing this approach. After all, the president said all along that this would be his Middle East policy; and it's hard to argue with an open-minded willingness to listen to all sides.

But Obama's open-mindedness may cause unintended consequences in the months and years ahead. The Middle East is too kaleidoscopic in its perversity for any mortal to predict just what the consequences will be. But here's one guess: it won't take long for his listening to convince the Israelis to grab their guns and veer right. Binyamin Netanyahu seems to be a man who'd like to be prime minister again. And one who'd take action while Obama listened.

It's hard to defend the odd, collectivist state that is Israel. But, compared to its neighbors, the place is a Jeffersonian democracy. And just because the Israelis are paranoid doesn't mean Hamas and Syria and Iran aren't out to get them.

If a right turn in Israel further enflames Middle East tensions, we may look back in a few years and wonder what Obama hoped to gain by entertaining the region's villains.

And we'll conclude that the Middle East, like Chicago, is a small town. — Jim Walsh

This land is our land — The recipients of the current stimulus package include the Park Service, Forest Service, and other federal land agencies. These agencies already cost federal taxpayers $7 billion a year to manage resources and lands (630 million acres) whose capital value is something like $1 to $2 trillion. Each year, Congress appropriates about $8 billion to the agencies, which also collect about $5 billion a year in user fees from miners, loggers, ranchers, and recreationists. They keep $4 billion of that, returning less than $1 billion to the Treasury.

Here is the real kicker: 80% of the $5 billion in revenues comes from coal mines and oil wells on less than 0.1% of the land. Thanks to various congressional laws giving resources away to loggers, ranchers, recreationists, and other special

interest groups, the other 99.9% of the federal lands are just a black hole sucking in tax dollars. — Randal O'Toole

Still to come — The conventional wisdom has quickly settled on an early opinion of Obama as surprisingly moderate, not the extremist radical some right-wingers had feared. But in this as in so many other areas, conventional wisdom is wrong.

Now, I'm not sure what some on the right feared — perhaps that Obama was a closet Marxist. I certainly never thought that. I took him to be the most liberal member of the Senate, who if elected would move the country to the left farther and faster than any other president since his hero FDR. Now that he has appointed his cabinet and started to govern, I see nothing that allays my fears, and already some confirmation of them.

Let's be clear on the difference between Marxists, say, and extreme modern liberals. First, Marxists want to eliminate private enterprise. Even extreme liberals don't. Liberals want to control private enterprise, usually to their benefit. They view businesses in the way vampire bats view cattle, as something to live off of, not to kill entirely.

Second, Marxists loathe the use of the American military. Liberals don't. FDR, JFK, LBJ, and Clinton all used the military freely. Liberals tend to use it for internationalist purposes (such as bombing the Serbs to stop "ethnic cleansing"), but use it they do.

So viewing Obama as an extreme liberal rather than a Marxist, I never figured that he would live up to the fantasies of many leftists (and some libertarians) that he would immediately pull out of Iraq and end the war on terror. He might even expand the latter. As I pointed out in an earlier reflection, he has spoken about going after bin Laden in Pakistan if need be.

And I never figured Obama would try to end our capitalist system, any more than FDR did. No, he will try to "fix" it by dramatically increasing regulation, taxation, and unionization, as did FDR, and do so far more quickly and extremely than did, say, Clinton. Remember, he has a huge majority in Congress to help him. He views himself as a "transformational" president, and what he wants to transform us into is France, minus its nuclear power.

Obama is moving quickly. He has already approved the plan of the Democrats in Congress to freeze the estate tax at this year's level, instead of letting it disappear as it is currently slated to do in 2010.

Even more depressing is the bill just passed by Congress and signed into law by an eager Obama. Called the Lilly Ledbetter Fair Pay Act, it is a double liberal payoff: it hands Big Labor and the trial lawyers, vampire bats all of them, a huge victory.

This law will massively expand the number of gender discrimination lawsuits and will be a nightmare for business. Under present law, any employee who feels that she was discriminated against in compensation has to file her claim within six months of the first alleged discriminatory act. Under the new law, the employee only has to file within six months of receiving her most recent paycheck, even if the alleged discrimination occurred much earlier. So employers will now face lawsuits by people claiming discrimination at the hands of managers who may no longer be with the company — indeed, may even be dead. You can imagine how much of an edge this will give the tort attorneys, who can sue companies knowing that they may not be able to get the witnesses or find the records of the incident.

Worse yet, the new law will allow suits by individuals "affected by" the alleged discrimination (such as family members). You can imagine how liberal judges will interpret that phrase.

This is only the beginning of a tsunami of increased regulation. The unions spent $450 million in cash and donated roughly the equivalent of that in time to elect Obama and his gang, and they have a long list of what they want in return. They are especially focused on eliminating secret ballots in votes on unionization. And considering that Obama picked Rep. Hilda Solis, who cosponsored the "card check" bill in Congress, as his Secretary of Labor, pretty clearly that will be signed into law, too.

In addition to expanding regulations to please organized labor and trial lawyers, Obama will work to expand them on behalf of environmental activists. He clearly aims at "greening" the economy. Expect cap-and-trade to begin with. Additionally, he will get to appoint a record number of federal judges — and they will be as leftist as he can find.

I suspect that those soi-disant libertarians who voted for Obama, hoping to trade a free economy for a dovish foreign policy, are going to get neither. — Gary Jason

First blackberry president — In late January at the Davos, Switzerland, World Economic Forum, Maria Bartiromo interviewed the Chief Technology Officer (CTO) of Hewlett-Packard. Her first question involved the likelihood that the technology business would be big in the next few years because Barack Obama is our "first technology President," which is to say someone who knows how to use and can't bear to part with his Blackberry.

The CTO responded in the affirmative. There was no discussion about the face that Barack Obama is but one consumer among billions. The subtext that a business sector will take off simply because the leader of a state is a fan was not questioned, despite the fact this is an assumption more appropriate to Kim Jong-il than Thomas Jefferson.

I guess if someone controlling the distribution of upwards of a trillion dollars in bailout money likes tech, then tech is a good place to be. Too bad Apple's Steve Jobs spent more time cozying up to Al Gore and less to our first technology president. Inventing the internet, it seems, is old hat.

— Ross Levatter

Dress for success — I can't help being struck by the difference in the ways in which the mainstream media (MSM) treats what women in politics wear.

When it was revealed that — horrors! — the GOP invested something like $150,000 for Sarah Palin's wardrobe so she would look her best in her campaign for VP, the MSM had a field day. Oh, how outrageous it was for a woman to spend that much money for clothes when millions of American babies starve to death every moment of every day!

But when the noticeably well-dressed and notoriously filthy rich Caroline Kennedy briefly ran (or stumbled) for the Senate seat vacated by Hillary Clinton (who is also rich and

also persnickety about clothes), reporters never once asked her how much she spent on her wardrobe. No, that was her own business.

The hypocrisy is now reaching Olympian heights in regard to Madame Obama. In the $170 million dollar extravaganza that was the inauguration, the coronation — nay, the ascension — celebration, much talk was excited by her dress. It was an ab fab yellow wool lace shift (with matching overcoat, natch) by designer Isabel Toledo. Plebe chicks can eventually buy an imitation version at Barney's for a mere $1,500. The dress was accessorized by green movin'-on-up pumps, with diamond brooch and studs. Some catty remarks were made to the effect that Michelle glam-slammed the conservatively dressed Laura Bush and showed that style change was coming.

Curiously, no mention was made of the starving babies who could be saved with the money that Ms. Kennedy and Ms. Obama spend on their clothes. No, such commentary is reserved for Ms. Palin. Could there be a reason?

Personally — maybe it's a guy thing, who knows — it doesn't matter to me what any of these women wear. Let all of them dress in the way they feel is most flattering. As long as it is their money (or that of some private person or organization, such as the RNC, DNC, Steve flippin' Spielberg or whomever), God love them, let them wear whatever. If it isn't my tax dollars, baby, I just don't care.

But I really get tired of the double standard, under which Dems can spend to the hilt on luxuries, and nothing is said, but when anyone else does it, we are subjected to lectures on conspicuous consumption. — Gary Jason

Collectivism and infantilism — Recently, the Weyerhaeuser Co. closed the last of several timber mills and associated facilities it had run in and around Aberdeen, Washington, since the mid-1950s. The closings meant 200 layoffs and, for all practical purposes, the end of the timber business in the town where I live. This was a bad beat for an already battered economy. Over the last four years, the small town has lost more than 1,000 timber industry jobs.

When Weyerhaeuser consolidated its operations here in 1955, Aberdeen was one of the busiest mill towns in the Pacific Northwest. There was a lot of money to be made in the tree business. Able-bodied kids could and did stumble out of the local high schools and earn middle-class wages cutting trees and milling logs into lumber. It could be dangerous work, to be sure; one bad decision could cost a man his fingers — or his life. So Aberdeen was a union town.

Around the turn of the century, the Industrial Workers of the World — the Wobblies — had organized nearby; and their extreme beliefs still influenced local labor. But there was so much money to be made that the timber companies didn't mind the politics or the extra costs. The unions focused their efforts on improving safety metrics back in the hills and down in the mills. Safety has remained the unions' reason for existence.

It's hard to say exactly when profit margins shrank and the situation began to turn. Most locals peg the change on enforcement of the Endangered Species Act. (But, incongruously, they keep voting for the statists who shanked the area with that rotten law.) People who know the timber business say the problems started before then. Non-union plants farther south on the coast and some Canadian operations father north had economic advantages over Aberdeen.

Those other plants were more productive and more profitable. They attracted capital for improvements, automation, and expansion, which led to other advantages as well. Year after year, Aberdeen's union shops fell farther behind the state of the art. They could boast steadily improving safety records, but those boasts sounded childish in the context of lower output and thinner profit margins.

Childishness was most pronounced several years ago, during an earlier round of plant closings. At that time, upset mill workers filled the local newspaper with remarks that betrayed their insulation from economic reality. One woman complained that, since some of the Weyerhaeuser plants were marginally profitable, the company should be prohibited by law from closing them. A union official asked, without a trace of irony, where kids without high school diplomas could expect to make $50,000 a year if the plants closed.

In the wake of the recent closings, there was less atavistic outrage. All the unions could manage were some mumbled mentions of how the plants' safety records had gotten better every year.

To soften the effects of the mill closings, our local Mother Courage, Gov. Christine Gregoire, has promised to locate a major Department of Transportation project for building bridge components in this area. If the project comes, it may do some of that. But the shop stewards complain that the jobs generated by building bridge parts don't pay as well, and some environmentally-minded locals are worried about the pollution that might result.

A few local curmudgeons make a similar complaint in a different way. They say that the state DOT contract is just busy work, little better than welfare. This complaint bumps up against the hard truth that the main option, for many affected workers, is to go on state aid. Local offices of the state government eagerly sell their services, helping displaced workers apply for unemployment benefits and qualify for a maze of training and education benefits.

Mid-career education is the right response to a changing economy. But it seems evident that such interim benefits as unemployment "insurance" simply train people to be comfortable on the dole.

A poisoned progression emerges. The local labor pool was infantilized by a booming timber business in which profit margins weren't so important. This begat cost structures that couldn't be sustained. When the reckoning finally came, the childish could shift to government busy-work or state aid. Once-proud mill workers cling to the trappings of middle-class life — new trucks and consumer electronics — but they lose their houses and move into apartments.

There are some rays of hope. A couple of months ago, I had a long talk with the father of a girl on one of my daughter's fast-pitch softball teams. He and his brother, people whose family has been in the timber business for three generations, were buying parcels of land, harvesting the wood on it, and driving it south to mills. All by themselves. He said, "It's kind of on the QT. I mean, I don't think we're breaking any laws. But, you know, we're not exactly asking anyone's permission." To harvest trees on his own land.

Lots of people are on the dole. But that guy and his brother will survive the current troubles — and keep their kids in gloves and cleats. — Jim Walsh

Atlas slipped — Does "Atlas Shrugged" still carry weight with young readers?

I don't know how many copies AS still sells per year, but I hear it is still in the six figures — not bad for a book over 50 years old.

But does it still lure adolescents in search of a unifying view of the world? Does its mystery still compel? Does the action draw people who grew up after Reagan was in office?

Why wouldn't it? Because the book was written to be timeless, but it can't be timeless.

"Atlas" is set in the near but indefinite future. At the time it was written, it was an exciting future, a future in which masters of industry all knew how to fly planes as well as run major companies.

But neither the planes nor the cars in "Atlas" have built-in GPS systems. No one uses cellphones, or computers. What is now known as the Rust Belt is falling apart, because of a mysterious force that the book pushes us to understand. But the Rust Belt fell apart years ago, and not in the near but indefinite future.

The female protagonist of "Atlas" is a young woman who runs a railroad. But few people travel by rail today. She is depicted as an autonomous and independent woman, and Rand plays her as sexually provocative, as an advocate of Rand's radical views on female sexuality. She is free of guilt and hungry for passion. She doesn't justify her choices to society. She is an unmarried woman who sleeps with three men over the course of 20 or more years. But I'm not sure this impresses the latest college women as overly courageous.

The male protagonist is an inventor who created an energy machine that defies the second law of thermodynamics. But he never talks about black holes, string theory, or other major topics of physics developed in the last 50 years. We are 50 years farther along a scientific road that makes the undoing of the second law seem more and more farfetched. It is harder and harder to believe that someone like Rand's Quentin Daniels would have a road to Damascus moment on seeing Galt's equation.

All of the book's heroes smoke. They even make it a philosophical good. But is describing a two-pack-a-day habit as holding fire in one's hand, as if one were Apollo, really a satisfying view of the world for today's youth?

Philosophy is timeless, perhaps, but Rand's goal was to develop a story that drew out and explained her philosophy, and that story is in part technological. The technology is 50 years out of date, and to a degree, therefore, harder to take seriously. Can one stretch an author's creative license enough to say that none of this matters? I don't know. But I'd be very interested to find out what the sales of "Atlas" have been doing in the past decade, and especially whether or not it is still read on college campuses. — Ross Levatter

Losing the plot — McCain's decisive loss to Obama resulted from numerous factors, some obvious, some less than obvious.

Certainly, McCain was up against tall odds. Start with money. Obama, reneging on his promise to stay within the voluntary campaign finance reform rules that both he and McCain had said they favored, was able to outspend McCain by a huge margin. Obama spent over $600 million, an all-time high. Here, McCain fell victim to his own silly law — he had cooperated with the Dems, and they used it to their advantage. He "reached across the aisle" to them, and they screwed him. So much for bipartisanship.

McCain's lack of communicative skills, recognized all along as a problem, certainly hurt him. Obama is a slick speaker. He is able to lie with breathtaking coolness. He makes Bill Clinton look like an amateur, no doubt part of the reason Clinton so obviously dislikes him.

Then there was the unprecedentedly blatant media bias in favor of Obama. It is easy to lie or rapidly change your professed views when the media won't call you on it. NBC in particular went crazy, spending more time examining Joe the Plumber's record than Obama the next president. When the independent investigator looking into Palin's firing of an appointee issued a report exonerating her — only 12 hours before the election! — the media outlets said virtually nothing. And they said virtually nothing about the numerous misstatements and gaffes made by both Biden and Obama.

And while McCain had to struggle to shore up his base (deeply divided over immigration), Obama had a base eager to support him.

But in the final analysis, McCain failed because his populist instincts rendered him unable to control the final narrative in the race.

By "the narrative" I mean the public understanding of the past causes of a given crisis and one's proposed solution to it, going forward (which is much more important to the public than one's past position on the issues). As Orwell put it, whoever controls the past controls the future.

There were three major issues in this long campaign, issues that drove both races and that needed "big picture" explaining: first Iraq, then the oil crisis, and finally the financial market meltdown. McCain managed to turn the narrative his way on the first two but failed miserably on the third, a failure that will allow the leftists in the Democratic party greatly to increase the power and reach of government.

On Iraq, the conventional wisdom was that since the majority of Americans had come to regret the invasion (which they had originally favored), Obama would win on that alone. It certainly won him his primary victory. But McCain, who had pushed for the surge, benefited from the Iraq issue in the end. As violence dropped and the political situation in Iraq firmed up, McCain pulled even in the polls. He got the narrative right: while the public viewed the war as not being worth its costs, this did not mean the public felt our country was evil for fighting it, much less that losing it would be a good thing, an appropriate punishment for our wickedness (which is precisely what many on the Left felt). By the last debate, Obama was backpedaling on pulling out on the short, fixed timetable he had earlier advocated.

The second issue was the sudden energy crisis, with oil prices rising to nearly $150 a barrel, and gasoline prices shooting through the roof. The Democrat Congress did the predictable thing: it blamed Evil Big Oil and held hearings on oil profits, with at least one member speaking openly of socializing the industry. McCain dropped in the polls again,

as people initially blamed the party in power. But McCain, a populist who himself had earlier bashed oil companies and opposed offshore drilling, did a quick turnaround and began pushing the "drill here, drill now" agenda articulated by Newt Gingrich and others. (It helped that Sarah Palin winked at the voters in her debate, while she told them that she was working on McCain to come around to favoring opening ANWR).

Very rapidly, the public rallied behind the radical idea of relying more on our own oil, and that the blame for the crisis lay in great measure with the environmentalist wing of the Democratic party, which has blocked domestic oil, natural gas, and coal extraction, along with nuclear power. Obama's response was the stock enviro position that we can just build windmills and lay out carpets of solar panels. McCain got the narrative right again, and surged in the polls, catching up with Obama. In the end, Congress was forced to let the federal offshore oil drilling ban expire, and the wily Obama began to say he was open to offshore drilling and even nuclear power.

But the issue that undid McCain was the crisis in the financial markets. The Dems put out the narrative that this was "the worst economic crisis since the Great Depression," a mantra repeated endlessly by Obama in ads and speeches. Yet the crisis was another problem that originated with the Democratic Party itself. It had pushed the lowering of loan standards to allow people who had bad credit to obtain loans; it pushed the expansion of Freddie Mac and Fannie Mae to buy the dicey paper. The result was classic moral hazard: the government enabled mortgage brokers to push as many loans as they could, even the dicey no money down, stated income, and adjustable rate loans that are so risky. It enabled banks to buy bundles of this risky paper and sell it off. And it enabled buyers to become speculators, buying properties they really couldn't afford, hoping to become rich. Yes, Wall Street was greedy — but so was Main Street. And their greed was empowered by liberal government. The fundamental cause was the federal government, whose actions will go down in history as the most egregious, deliberate encouragement of moral hazard ever committed.

But here McCain's populist instincts cost him. He began to mimic the Dems, bashing the greed of Wall Street and giving a pass to the greed of Main Street and especially the greed and stupidity of the federal government. He floundered around, looking for some kind of solution to a problem he couldn't publicly explain, and he dropped in the polls like a stone. Only in the last week or so did he finally bring himself to mention the real culprits, including most notoriously Democratic congressman Barney Frank, who five years ago repeatedly shut down attempts to reign in Freddie and Fannie and restore some semblance of standards in home loans. But it was too little, too late. The Dem narrative stuck.

This failure cost McCain the election. But the real problem is what it will cost us in the future. The Dems have won the White House and increased their majorities in the Congress, all on a narrative about the need for big government to come to the rescue and save us from the greed of evil business, by jacking regulations up through the roof. The damage to our future prosperity will be incalculable. — Gary Jason

Grave misunderstanding — In death, we are all equals.

But I lost this consolation, too — lost it on the grounds of Cimetière du Père-Lachaise on a spooky, wind-swept Paris afternoon.

H.L. Mencken defined a cynic as "a man who, when he smells flowers, looks around for a funeral." But I swear there was something infinitely more cynical in the movements of this wandering tourist who, in desperate search for a funeral, began to look around for flowers.

My cemetery map had proven useless, you understand, so I quickly realized that I had no other recourse but to find my favorite graves by their flowers. That is how I found Chopin and Molière. That is how I all-too-quickly found Jim Morrison of The Doors, who lay under a pile of grandiose red roses.

Balzac, Proust, and Wilde were much less decorated — and more elusive.

Oh, but Wilde — the poorest of them all! Only a few defeated tulips lay by his gravestone. The inscription had all but faded, along with its meaning. I read out loud: "And alien tears will fill for him / Pity's long broken urn / For his mourners will be outcast men / And outcasts always mourn." These outcasts, they should mourn with flowers, I thought.

Hours I spent in the cemetery, and afternoon swelled into evening, but I felt so unfulfilled by my visit, so disappointed and humiliated by the flowers game.

I attempted to dissolve my humiliation in a cup of coffee at the historic Hôtel des Beaux Arts. I sat on a sofa next to a bookshelf and admired the old volumes of literature assembled there. Then I noticed the two framed photographs. The first was of a middle-aged Oscar Wilde; he had died at this hotel in 1900. The second was of a young Argentine boy who would grow to be Jorge Luis Borges, the great man of myths and letters whose imagination these very alcoves had once unleashed.

Two women sitting nearby noticed my interest in the photographs.

"Are you a writer?" the brunette asked in English.

I looked at her for the first time and noticed she was young and beautiful and, by the look of the few strings that were her clothes, wasn't trying to deny it.

"Yes," I said.

"How nice," said the blonde, equally beautiful. "We are here with a writer, too."

"Who?" I asked.

"He's very famous here," the blonde said.

"What does he write?" I asked, wondering if they were going to sleep with him.

"Trash," the brunette said, laughing mischievously.

"Cocaine and parties," the blonde clarified — meaning, probably, yes.

And in walked the tall, bearded man of maybe 40, sat down, yelled out for drinks, and turned his attention onto me.

"Thank you for entertaining the girls," he said sincerely. "Ahh, women. Beautiful and painful. Don't you agree?"

"I agree," I said, "but you must find more beauty than pain."

"Now they are beautiful; later they will be painful," he said, and I told him those were wonderful words and that I would like to use them.

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Seizing the Initiative

by Bruce Ramsey

A way for people to keep their elected officials in line? Can't have that, now, can we?

Paul Jacob has won his battle against the state of Oklahoma. At issue was the right of a person to circulate petitions in a state where he does not live. On Dec. 18. 2008, the U.S. Court of Appeals for the Tenth Circuit, in Denver, ruled that Oklahoma's ban on out-of-state signature gatherers was an unconstitutional violation of the First Amendment, which protects the right "to petition the government for a redress of grievances," and of the citizens of any state to have the "privileges and immunities" of the United States.

Jacob himself had not brought the civil case at the Tenth Circuit. He and two others were in the crosshairs of a criminal case brought by Oklahoma in its own courts. The criminal case could have sent the three of them to prison for conspiracy to violate the ban on out-of-state signature collectors. But because the civil case led to a ruling overturning the ban, and the refusal on Jan. 21, 2009, of the full panel of Tenth Circuit judges to rehear that case, Oklahoma's attorney general dropped the criminal charges against the "Oklahoma three."

Jacob, 48, is a longtime libertarian activist. In 1980, when Jimmy Carter brought back draft registration, Jacob, then 20, refused to register; and in 1985 he was convicted at trial. "Ron Paul testified at my trial," he recalls. Jacob also recalls the penalty. "I have the dubious distinction," he says, "of serving the most prison time of anyone post-Vietnam for failure to register: five and a half months." After he got out of prison, Jacob worked on Rep. Paul's Libertarian presidential campaign in 1988. In the 1990s, Jacob was a leader in the term-limits movement. Currently he lives in Virginia and is president of the Citizens in Charge Foundation, which works to defend the rights of initiative and referendum.

Jacob's fight with Oklahoma began in 2005, when he signed on as an adviser to Oklahomans in Action, a group pushing a Taxpayers Bill of Rights. It was a ballot measure to limit state spending.

Oklahoma is one of the tougher initiative-and-referendum states. Qualifying a measure for the ballot takes as many signatures of registered voters as 15% of the vote in the most recent general election for the statewide position in which the most people voted. All signatures have to be collected in 90 days. Meeting these requirements almost always requires professional signature gatherers, who are paid per signature. In a small state, that usually means out-of-state people.

Oklahoma's law made it a crime for out-of-state people to ask for signatures from Oklahoma citizens. It also said the signatures collected by such people couldn't be counted, even if the signatures themselves were all right. But there was a loophole, Jacob says: Oklahoma's law did not say what to do to become a resident. In 2002 there had been a ballot measure against cockfighting. Out-of-state people had come to Oklahoma, declared themselves to be residents, and gone to work on the measure, unmolested. Oklahomans in Action asked two different state offices dealing with petitions if they could do the same thing, and were told it was okay.

Tim Eyman passed a measure to cap the property tax in Washington state, and the politicians hate him. They use his name as a political smear. One called him a terrorist.

"We should have got it in writing," Jacob said.

Probably that would not have satisfied Oklahoma's Democratic attorney general, Drew Edmondson. A limit on state spending was directly threatening to Democratic politicians and those who live off state programs, in a way that a ban on cockfighting was not.

State employee unions mobilized to keep the measure off the ballot. They hired someone who had run keep-it-off-the-ballot campaigns before — ironically, a woman from Oregon. Their campaign was to harass signature gatherers by blocking them and shouting at them.

Even so, Oklahomans in Action collected 300,000 signatures. But the state refused to count signatures if their collectors had come from out of state, and the measure never got on the ballot. A case about it went to the Oklahoma Supreme Court, which ruled for the state.

Two years after the election in which the state spending limit was not on the ballot, Attorney General Edmondson brought a felony indictment against Jacob, Rick Carpenter of Oklahomans in Action, and Susan Johnson of National Voter Outreach. They were ordered to appear on Oct. 2, 2007.

Jacob was at home in Virginia. "I had to fly in, on my own nickel — they don't give you any notice — and be taken into custody, handcuffed and led through cameras," he said. "Nobody was any too pleased about that."

After the show for the press, the three were shackled together in leg irons and taken to jail. That was the worst.

"It was not something they had to do," Jacob said. "Their goal in doing that was to slap at a national group that was lending support to Oklahomans. I think they also wanted to scare Oklahomans from doing a new Taxpayer Bill of Rights drive."

The maximum penalty was ten years and $25,000. In January 2008, while out on bail, Jacob said, "I haven't given the $25,000 a thought, but 10 years in prison is a very chilling prospect."

Jacob had advantages that most people don't: as a long-time activist, he had financial supporters who would pay his legal bills, and friends in the mainstream media. The Wall Street Journal editorialized on his behalf. Forbes magazine denounced "Oklahoma's Soviet-minded political establishment." The media in Oklahoma didn't say much about it, but enough of the national media did to make a difference. A campaign in the blogosphere helped. Oklahoma government was put in a bad light.

Meanwhile a civil case was testing the constitutionality of Oklahoma's underlying law. That case, *Yes on Term Limits* v. *Savage*, was brought by another activist group, Yes on Term Limits Inc., by its leader, Robert Murphy, and by out-of-state signature gatherers Sherri Ferrell and Eric Dondero Rittberg. It attracted *amicus curiae* briefs from the Center for Individual Rights and the Seattle office of the Institute for Justice.

The state of Oklahoma argued that it had compelling interests — two of them — to narrow the petitioner's rights. The first was more easily to police the elections process in order to protect it from fraud. The second was an interest in "restricting the process of self-government to members of [Oklahoma's] own political community."

The circuit court ignored the second claim and accepted the first. One of the key pieces of evidence was the history of Eric Dondero Rittberg, who had gotten in trouble as a petition circulator in Missouri, Colorado, and Montana. In the last state, according to the appeals court ruling, he had been accused of telling citizens they had to sign one petition in three places while the other two places were really on unrelated petitions.

Rittberg, known in libertarian circles as Eric Dondero, is a former employee of Rep. Ron Paul who was either fired by Paul or quit, depending on who tells the story. Dondero broke with Paul over the Iraq war and championed the war policy of George W. Bush. At one point he briefly announced his intention of challenging Paul in his Texas district, then backed out. He has been a figure of controversy on blogs, and a lot of libertarians dislike him. The lower court relied heavily on stories about Dondero in its ruling for the state of Oklahoma.

This was the ruling overturned in December. The Tenth Circuit did not question the tales about "plaintiff Rittberg," but said the state could not make its case about all out-of-state signature gatherers by citing "allegedly fraudulent or uncooperative practices of a handful." Furthermore, the lower court had ignored evidence that professionally gathered signatures are more likely to be valid than signatures gathered by amateurs. Therefore, the appeals court said, Oklahoma had not made its case, and its ban on out-of-state signature gatherers had to end.

And so it was a victory—for Murphy, Ferrell, and Dondero; also for Carpenter, Johnson, and Jacob, and for the initiative process generally.

Some libertarians dismiss that process because it is based on voting, and they have given up on voting, or because they believe in constitutionalism rather than direct democracy. And in an ideal world they might be right. In this world voter initiatives are useful because they can be used to check government.

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The Great Man Speaks

by Stephen Cox

To say that President Obama's inaugural address followed tradition is, at best, a backhanded compliment.

On January 20, 2009, Barack Obama took the presidential oath of office. Following the custom established by Washington at his first inaugural, he then delivered an address. Two days beforehand, the AFP news service was already calling it "the historic speech." Was it? And was it any good? What was its place in the long tradition of inaugural orations?

Few inaugural addresses have been the least bit historic, in the sense that they made anything happen or even made anyone remember them, at least in a good way. Very few have had any literary merit.

Among those that can be called real literary works, Lincoln's two speeches are preeminent — not simply for their overtly poetic passages about the "mystic chords of memory" and the "just and lasting peace" but also for their passages of peculiar directness and simplicity:

> I am loth to close. We are not enemies, but friends. We must not be enemies. (First inaugural).
>
> All thoughts were anxiously directed to an impending civil war. All dreaded it; all sought to avert it. . . . And the war came. (Second inaugural).

Next in literary value is Jefferson's first inaugural, which repays the closest study from a political as well as a literary point of view. It is a handbook of republican and libertarian principles, composed by a master rhetorician. Kennedy's inaugural address is a thousand times more familiar to contemporary Americans than Jefferson's, and this is unfortunate, since its political tenor is quite different. But compared to most other inaugurals, it is actually a good speech. True, it is burdened with a quantity of hackneyed, inane, or positively repulsive remarks: "the torch has been passed . . . abolish all forms of human poverty . . . ask not what your country can do for you, ask what you can do for your country." But it is simultaneously vigorous and solemn, making good use of traditional rhetorical devices. It is exactly the right length. And although its rhythm is often too heavy, it does have rhythm.

Two of the closest literary analogues of Kennedy's address, with its firm and concise phrasing, heightened antitheses, and other forms of self-conscious rhetoric, are the inaugurals of President Truman and the much maligned President Pierce. Neither of these gentlemen was famous for literary attainments, but each was able to produce a speech of some interest, a speech that is more than adequate to its purposes. But imitations of the Kennedy speech, such as President Nixon's two inaugural addresses, always fall flat, and never so flat as when they most clearly betray the source they are imitating. "In our own lives," Nixon says in his second inaugural, "let

each of us ask — not just what will government do for me, but what can I do for myself?" It's a fine thought, but how did "in our own lives, let each of us" get into it? President Reagan did better in his workmanlike first inaugural, which does not read like a Kennedy imitation: "In this present [economic] crisis, government is not the solution to our problem. Government is the problem."

Franklin Roosevelt's first inaugural is memorable — and these days, inescapable — because of its declaration that "the only thing we have to fear is fear itself. " But anyone who reads the rest of his speech will be astonished by its hatemongering ("money changers" are anti-Christs), its bizarrely militaristic imagery, and its weird economics and sociology. Among the important duties of his administration Roosevelt includes an effort to "redistribute" the "overbalance" of the urban population, which sounds as if he wants to "redistribute" the excess populace of Queens across the steppes of North Dakota.

Roosevelt's first address was bad enough, but after that his inaugurals went speedily downhill. The third and fourth set the pattern for a number of his successors, who assumed that an inaugural address should be written as a series of sound bites. That was the idea behind Clinton's first inaugural, which is full of bites that appear less and less significant, the more you look at them. "There is nothing wrong with America," Clinton announces, "that cannot be cured by what is right with America." Now where do we go with that thought? Carter's inaugural also seems to have been written as a tissue of "memorable" statements, none of which anyone remembered for longer than 30 seconds — perhaps because the speech was produced without any recourse to critical thought. It is as close to a random assemblage of phrases as any public discourse could possibly be. Carter says, "We know that if we despise our own government *we have no future.*" No one reading the first part of that sentence could imagine that the second part was coming — although both parts are about what everyone is supposed to *know*.

This is preternaturally bad writing, but inaugural addresses have usually brought out the worst in people. John Adams, one of America's great writers, produced an address that is turgid almost beyond belief. It offers a list of Adams' qualifications for office, in a sentence that is sufficient to disqualify anyone for anything: the sentence is 727 words long. Theodore Roosevelt devoted only 987 words to his whole speech. Yet Roosevelt, who was far from a contemptible writer on other occasions, still managed to surround himself with enough abstractions to annoy even Dante Alighieri.

Woodrow Wilson could also be a good writer, technically speaking, but how many people will consent to accompany him through the swamps of his first inaugural? "Some old things," he says, "with which we had grown familiar, and which had begun to creep [!] into the very habit of our thought and of our lives, have altered their aspect as we have latterly looked critically upon them, with fresh, awakened eyes; have dropped their disguises and shown themselves alien and sinister. Some new things, as we look frankly upon them, willing to comprehend their real character, have come to assume the aspect of things long believed in and familiar, stuff of our own convictions. We have been refreshed by a new insight into our own life."

What?!

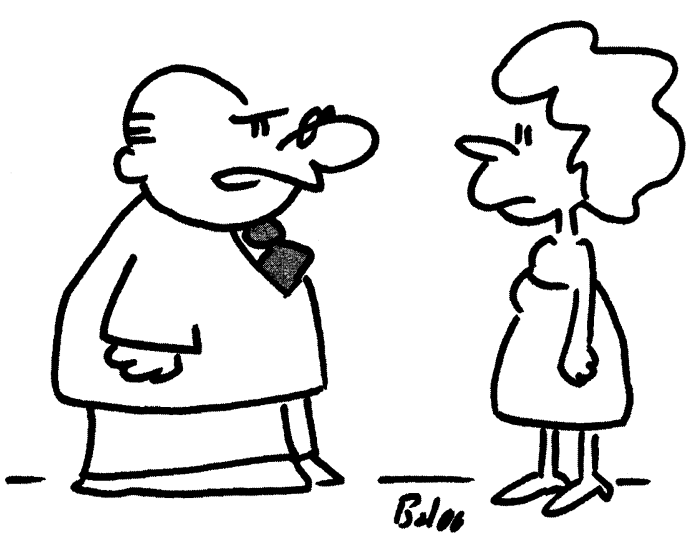
No other president has ever sounded the depths of Wilsonian mysticism, but some have gone pretty far. There is a fair approximation in Eisenhower's first inaugural, which is overshadowed by meditations about an atomic Armageddon, and in Lyndon Johnson's kitschy speech: "They came here, the exile and the stranger, brave but frightened; to find a place where a man could be his own man. They made a covenant with this land. Conceived in justice, written in liberty, bound in union, it was meant one day to inspire the hopes of all mankind; and it binds us still." No, wait a minute — *who* made that covenant? And *what* did it say?

Then there are the Barney the Dinosaur parts of Johnson's address: "Think of our world as it looks from the rocket that is heading toward Mars. It is like a child's globe, hanging in space, the continents stuck to its side like colored maps. We are all fellow passengers on a dot of earth. And each of us, in the span of time, has really only a moment among our companions. How incredible it is that in this fragile existence, we should hate and destroy one another."

Yes. Damned near incredible.

If you want a treasury of jejune phrases, mercilessly subordinated clauses, goofy disquisitions about "soil and climate," odd reflections on world history, mysterious proverbs, and utterances that can be comprehended only by a kind of verbal algebra, America's inaugural addresses are waiting to make you rich. It's not a surprise that these speeches contain only one reference to literary "beauty." It appears in the address of William Henry Harrison — an oration that, nevertheless, is fully typical of inaugural ugliness. The speech is loaded with sentences that *dare* you not to fall asleep: "Unpleasant and even dangerous as collisions may sometimes be between the constituted authorities of the citizens of our country in relation to the lines which separate their respective jurisdictions, the results can be of no vital injury to our institutions if that ardent patriotism, that devoted attachment to liberty, that spirit of moderation and forbearance for which our countrymen were once distinguished, continue to be cherished."

Faced with sentences like that, one leaps with joy over the homely phrasing of President Grant in his first inaugural,



"Do you think it's *easy* being a pompous ass?"

where he discusses repayment of the nation's debts: "Why, it looks as though Providence had bestowed upon us a strongbox in the precious metals locked up in the sterile mountains of the far West." Even Grant's mystical speculations are plainly expressed. Try this, from his second inaugural: "I believe that our Great Maker is preparing the world, in His own good time, to become one nation, speaking one language, and when armies and navies will be no longer required." I'm not sure that I agree with Grant, and his syntax is a little uncertain, but at least I can understand him, and I didn't fall asleep.

So what did President Obama's speech contribute to the strange and often ridiculous history of the inaugural address?

From the beginning, Obama showed that he understood the conventions of the genre. Like every other president (except Washington, in his 135-word second inaugural), Obama warmly invoked the deity. Like many of his predecessors, he emphasized the astonishing fact that he *had* predecessors, at the same time illustrating, as almost all of them had illustrated, a fervent love for cliches — single, double, and even quadruple cliches: "Forty-four *Americans* [as opposed to Martians] have now taken the presidential oath. The words have been spoken during *rising tides* of prosperity and the *still waters* of peace. Yet, every so often the oath is taken amidst *gathering clouds* and *raging storms*."

Anyone who worried that Obama might still be a radical "community organizer" was soon reassured by the fact that his thoughts on public policy could easily be expressed by the emptiest of cliches: "Today [not yesterday] I say to you that the challenges we face are real [not imaginary]. They are serious [not funny] and they are many [not just one!]. They will not be met easily or in a short span of time [can't do without that 'span of']. But know this, America — they will be met [what a relief!]."

There were livelier passages. Yielding to his flair for poetry, or words that he mistakes for poetry, Obama showed that he could give his predecessors some strong competition in the field of awkward images. He referred to "a network of violence and hatred" (al Qaeda, presumably). He insisted that "petty grievances," "false promises," "worn-out dogmas," and "recriminations" (what, no adjective?) "for far too long have *strangled* our politics." And he made promises about the weather: "We'll work tirelessly to lessen the nuclear threat, and roll back the specter of a warming planet."

Picture a specter, a ghost. Now picture a planet having a ghost. Now picture people *rolling back* this ghost. I submit to you that forming such a picture is a greater *challenge* than designing a new economic program for the United States. It's a challenge that no one is up to. You can't *meet* this challenge. You can't picture this thing — unless, as a number of people have speculated, trying to find some explanation for Obama's apparently nonsensical image, he doesn't really believe in global warming. In that case, his sentence might make some kind of sense: the *idea* of "a warming planet" would be a delusive "specter," and people *could* (in a way, sort of) "roll back" this idea. And perhaps this is the correct interpretation, though one cannot prove it. After all, most of Obama's inaugural address seemed calculated to be interpreted in one way by rightists and in another way by leftists.

That, I suppose, is "moderation." But Obama might have shown still more of this valuable quality. He might have declined to discuss any specific political proposals. Other presidents have done so. Washington, in his first inaugural, refused to make any recommendations to Congress, spending most of his speech confessing his incapacity and unwillingness to assume the office and urging his countrymen "to acknowledge and adore the Invisible Hand which conducts the affairs of men." John Adams provided a disquisition on America's "amiable and interesting system of government," as did Jefferson, in his first inaugural. Contemporary political issues became a besetting concern only in Jefferson's second inaugural, which defends the conduct of his administration, and in Madison's first, which is preoccupied with the danger of foreign war — without, however, getting specific about what Madison intends to do about it. His second inaugural discusses the war into which he has entered. Again, however, there are few specific proposals for the country's future.

Anyone who reads the rest of FDR's first inaugural will be astonished by its hatemongering, its bizarrely militaristic imagery, and its weird economics and sociology.

It is in President Monroe's first inaugural, with its proposals for the construction of roads and canals, the "systematic and fostering care of the Government" for manufacturers, and the removal of the federal debt by the sale of public lands, that the inaugural address becomes the outline of a political program. Monroe's second inaugural contains many specifics about how to deal with issues foreign and domestic, including "the present depression of prices." President Van Buren resisted the temptation to go into details, saying that such an attempt "would be as obtrusive as it is probably unexpected." This observation, unhappily, went unheeded by most of his successors.

In 1881 we find President Garfield discoursing about bimetallism and declaiming against the practices and influence of the Mormon church. In 1901 President McKinley devotes the (long) climax of his speech to a discussion of the insurrection in the Philippines. In President Taft's inaugural, eight years later, there is no apparent principle of exclusion. Everything goes in, from a critique of laissez-faire economics to an admonition to lessen the "fire in the rear of [our] agents" in Panama. What he meant by that, I'm not sure.

President Obama chose the middle of the road: he talked about specific issues, but in the vaguest and most general words he could find. Some would call these weasel words. There was some stuff about putting "a watchful eye" on "the market," so it doesn't "spin out of control," and a remarkably inane comment about how "a nation cannot prosper long when it favors only the prosperous." Figure that one out. In foreign policy, there was a good deal of interventionist rhetoric: "Know that America is a friend of each nation and every man, woman, and child who seeks a future of peace and

dignity, and that we are ready to lead once more." Virtually everything about foreign policy, however, took the form of generalities and bromides. "Forge a hard-earned peace in Afghanistan" probably meant fighting harder in Afghanistan; "we will begin to responsibly leave Iraq to its people" probably meant that Obama believes he has a plan to end the war but won't promise any results.

Obama made a clearer, and certainly more compelling, announcement to professional haters of America: "We will not apologize for our way of life, nor will we waver in its defense. . . . You cannot outlast us, and we will defeat you."

Carter's inaugural is as close to a random assemblage of phrases as any public discourse could possibly be.

He created a memorable image in his offer to foreign "leaders" who "blame their society's ills on the West," and to other bad guys: "We will extend a hand if you are willing to unclench your fist." That was a good line, perhaps the best literary moment in the speech. But what the handshake might entail, in material terms, was left undefined — along with almost everything about the president's domestic program. Here descended a great cloud of promises about things that the government ("we") will do, which were invariably things that private individuals are doing now, or would do if the government managed to leave them alone: building "digital lines," "wield[ing] technology's wonders," "harness[ing] the sun and the winds," "transform[ing] our schools and colleges."

What Obama meant was "pork," but direct language is not this president's friend. His way of discussing his $825,000,000,000 economic stimulus program was simply to mention "some who question the scale of our ambitions — who suggest that our system cannot tolerate too many big plans." That's as clear as he got about that.

In Franklin Roosevelt's first inaugural, there is a strange, inverted reflection of Barack Obama's *big plans*. Amid a mishmash of his own proposals, Roosevelt denounces bankers: "Faced by failure of credit they have proposed only the lending of more money. Stripped of the lure of profit by which to induce our people to follow their false leadership, they have resorted to exhortations, pleading tearfully for restored confidence." This is exactly what President Obama now urges — stimulation of credit by the lending of more money — and this is what he now does, attempting to create confidence by *exhorting* people to have it.

Obama studied Roosevelt's address while writing his own, but he failed to see its ironic portrait of himself. He would have done well to study some other addresses that were written in times of financial insecurity. President Hayes' inaugural (1877) notes that a great depression has been continuing for three years, and suggests that the antidote is a sound currency, based on precious metals. President Cleveland's second inaugural (1893) takes up the same theme, reminding the nation that "we will be wise if we temper our confidence and faith in our national strength and resources with the frank concession that even these will not permit us to defy with impunity the inexorable laws of finance and trade." Such humility would have been becoming in the current president — as would Cleveland's consciousness of the evils of economic "paternalism," "bounties and subsidies," and "wild and reckless pension expenditure," the very things that are bankrupting the republic now.

Obama likes to cast himself in the role of the deep political thinker, but we have heard his philosophy advocated before, by countless other figures of this and the last century, and it's not much of a philosophy. "The question we ask today," he says in one of his attempts at aphorism, "is not whether our government is too big or too small, but whether it works." Yes, but suppose someone asks whether big government or small government is more likely to *work*? Obama doesn't entertain that question — although he does try to answer the one that obviously comes next: how can you tell whether a government *works*? He responds in the narrowest way possible: "Whether it helps families find jobs at a decent wage, care they can afford, a retirement that is dignified." By that standard, many authoritarian governments have been said to "work."

Yet that was his standard for action, in so far as he provided one: "Where the answer is yes, we intend to move forward. Where the answer is no, programs will end." Then followed the good-government boilerplate that is characteristic of political pragmatists: "Those of us who manage the public's dollars will be held to account to spend wisely, reform bad habits, and do our business in the light of day, because only then can we restore the vital trust between a people and their government." For Obama, the paramount issue is apparently whether people trust the government, and trust it "vitally."

Of course, every politician wants to be trusted; but as political thought, this is completely, though elaborately, empty. It's like that Escher engraving in which a staircase goes up and around and then comes back to the place where it started. Why do I trust the government? Because it does things "wisely." What's the result of its doing things "wisely"? I trust the government. Don't bother to ask what is "wise," or what the usefulness of "trust" may be.

President Obama chose the middle of the road: he talked about specific issues, but in the vaguest and most general words he could find. Some would call these weasel words.

In its dealings with current events, Obama's speech resembled that odd pair, Franklin Roosevelt's first inaugural and James Buchanan's only one. Roosevelt jumped right into the issues of the Great Depression; Buchanan jumped

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Teaching to the Lowest Common Denominator

by Don Crawford

One of the most powerful reasons to support school choice has seldom been articulated.

As a longtime educator, I have spent my career working — and training others to work — with students who are "hard to teach," both in special education classes and in high-poverty minority schools. I am passionate about ensuring that these students be taught effectively. In this setting, gains are hard won, and nothing happens serendipitously; but we know that all children can learn, if we work smart and don't weaken. Yet every once in a while, I look up from the grindstone and realize that it isn't fair to keep abler students waiting while we work intensively with students who find learning quite challenging. And I wonder what the abler students would be capable of doing if we pushed them as hard as we are pushing our lowest performers.

So here is, arguably, the most potent rationale for school choice, for breaking up the K–12 school monopoly. Because the learning potential of our children varies, we need many different kinds of schools, with different expectations and outcomes. Large differences in mental capacity mean that children learn at very different rates. These different rates of learning imply that to make the most of our investment in education, we ought to allow parents and children to choose from a variety of schools, with a variety of different expectations.

What I am saying is pretty much the opposite of the ideas and policies implicit in the No Child Left Behind Act, advocated by President Bush and passed by Congress in 2001. The act mandates uniform statewide skills tests for schoolchildren, so that the "accountability" of their schools can be measured and, in return, federal money can be given to the states.

And by the way, I am not buying into the popular "learning styles" misconception that some children are kinesthetic learners and therefore must learn everything through movement, while others are auditory learners and must hear everything they learn. I know that, while there is no scientific support or basis in fact for the learning styles notion, there will continue to be people who believe it makes a good rationale for different kinds of schools. Instead I'm pointing out the inconvenient truth that some children are smarter than others, and sometimes a lot smarter.

Don't get me wrong. I am not an elitist. I have devoted my career to working with the least able students. In fact, I've never had the opportunity to work with large groups of highly motivated, gifted children. And I'm very proud of the fact that Americans are a fiercely egalitarian people. When traveling in

Europe I've enjoyed the fact that Americans stand out because we are always so self-sufficient. We Americans would prefer doing things for ourselves, even if some person has the job of serving us. And not to avoid tips — but because we hate the implication that we think we are above doing something menial, such as carrying our own bags. But that commendable egalitarian spirit is exaggerated in our K–12 school system, which interprets the phrase "created equal" as meaning that everyone is the same. You lower your voice and whisper if you speak about intellectual differences in educational circles.

The recent publication of Charles Murray's "Real Education: Four Simple Truths for Bringing American Schools Back to Reality" (2008) emboldened me to write about how recognizing that there are differences in mental abilities heightens the need for school choice. Murray survived an onslaught of criticism for his earlier work "The Bell Curve" (1994), which acknowledged differences in IQ. As a result he is one of the few people in America who has built up sufficient immunity to be able speak out on the issue of intellectual differences.

Most people in this country really don't seem to have a clue about how much we are missing by operating on the assumption that all students are "equal enough" in ability to have the same academic expectations up through grade 12. I am reminded of a (probably mythical) story of Indian students in the early years of the infamous Native American Boarding Schools. Staff tried to get their students to run races. Yet Native American culture had taught them to be careful of everyone's feelings and not try to outdistance others. As a result, there was no race. The children all jogged together at a pace slow enough so that the littlest could easily keep up. This is an image of how we are running our government monopoly school systems. I suspect we are paying a terrible price.

My encouragement to speak about this comes from the first two of Murray's "four truths," the ones most associated with K–12 education. At first glance, these "truths" may not seem especially controversial. The first is that all ability, and specifically academic-intellectual ability, varies. The second is closely related: half of all children are below the average in ability (gasp!).

We really don't seem to have a clue how much we are missing by operating on the assumption that all students are "equal enough."

This idea is neither shocking nor discreditable to the children. True, it is hard for many people to accept — when it appears in discussions of academic ability. But as Murray shows, we ordinarily accept it in areas in which our collective determination to ignore the fact of variation is not so well ingrained. After we acknowledge that many of us are below average in musical, athletic, and other abilities, we have to admit that half the population must also be below average in purely academic ability.

While our minds are open to the possibility that intellectual ability varies, Murray shows us what this means. He gives examples of items from the tests used for school accountability. These test questions have been causing no end of frustration for educators like me, who are working with populations with less-than-desirable test scores. We are frustrated because we teach and teach and then a small quirk in the wording causes our students to answer a question wrong. Here's an example that Murray gives:

> There were 90 employees in a company last year. This year, the number of employees increased by 10%. How many employees are in the company this year?
>
> (A) 9 (B) 81 (C) 91 (D) 99 (E) 100

As Murray points out, the arithmetic skills involved in solving this problem correctly are quite elementary (pun intended). But nationally, 62% of eighth grade students chose something other than the correct answer (D), not because they hadn't been taught how to do the math, but because they were low-average to below-average in mathematical reasoning and so didn't set the problem up correctly in their minds.

After looking at this problem, I took it as a personal challenge. I devised a teaching method that, when carefully used, would enable most students to set up and then solve such problems correctly. I taught my new method to a student who had previously been missing questions having to do with percentage increase or decrease. The method worked. I watched my student come to a point where he could reliably solve these problems correctly.

This is an example of what is called Direct Instruction (DI) — innovative instructional structure combined with careful, explicit teaching. DI is the instructional methodology I studied for my doctorate, although the educational establishment disdains its accomplishments, claiming that to teach rote methods of problem solving doesn't make students into mathematical thinkers. But this is exactly the kind of curriculum one must have in order to teach lower performing students who would not "get it" any other way. Ironically, the carefully thought out, highly structured DI approach is very efficient in helping higher performers too. But the critics of DI aren't at all impressed by the efficiency with which DI teaches a specific skill. They are concerned, instead, about whether students can puzzle out new kinds of problems for themselves.

The critics of DI may have a point, because admittedly, as soon as my below-average student moves on to another type of problem he is dependent upon me to devise a new problem-solving structure and to teach it to him. The height of educational fashion today would be for a teacher simply to pose this problem to a group of students and leave them to figure it out for themselves. Students who do so are better mathematical thinkers than my student, but is their thinking a result of the process, or of being above average to begin with?

Almost everyone would agree that students who have figured out how to solve the problem without instruction have "something more" than those who had to be taught how to find the answer. That "something more" is very valuable. We want our school system to produce more graduates with

that "something more." But there may be a problem with that goal, because, as Murray points out, the "something more" is greater intellectual ability. And that's something students bring with them to school, rather than value added by the teacher. It is really intellectual ability that is valued, and rightly so; but that is not an effect of the schooling; it is rather the cause of the school's success.

This fact has a jarring implication. Our educational system and our society both value intellectual ability, or untaught knowledge, more than hard-won specific skills, or knowledge that is taught. And this implies that our efforts at bringing below-average students up closer to average may not be as important as getting higher performing students to exercise their potential to the fullest.

Murray provides other examples of test questions that show the meaning of cognitive differences, including items from tests that look at "reading." Someone unfamiliar with the way in which accountability tests are constructed may ask, What could be clearer than what it means to be "proficient in reading?" It means you can read all the words correctly, and as long as not too many of the words are above your grade level you'll understand what the text literally means. But these high stakes reading tests do not limit themselves to literal questions. Instead they ask students to infer the feelings or relationships of the characters, or the author's purpose in writing the passage, or the rationale for a given word choice. Almost none of the questions are literally answered in the passage. They require students to make less than obvious inferences.

Murray observes that what is required to be "proficient" in reading on these tests has more to do with intellectual ability than with skills that can be imparted by a reading teacher.

> Put yourself once again in the position of the teacher. How does one teach a child to make inferential leaps? Drilling in vocabulary will not help. Diagramming sentences will not help. The skills that the child must master do not involve learning words or the mechanics of reading, but putting two and two together in novel settings. . . . Many of the wrong answers reflect nothing more complicated than low academic ability.

Having recently looked over the shoulders of students taking our state's high-stakes test, I can attest to the truth of that statement. I was in classrooms where rigorous, intensive instruction had been provided to students who had mastered exactly the same curricular objectives. The school and the teachers were diligent about ensuring that all students achieved mastery before leaving each lesson. So I knew that the students had learned the same things. But as I walked around, I saw many fall victim to slight variations in wording or nuance that made the obvious choices incorrect. Their brighter classmates would catch the detail, see the implication, and get the answer correct. With the same teacher and the same instruction, some of the students would get the items right, and many would get fooled into making the wrong choice.

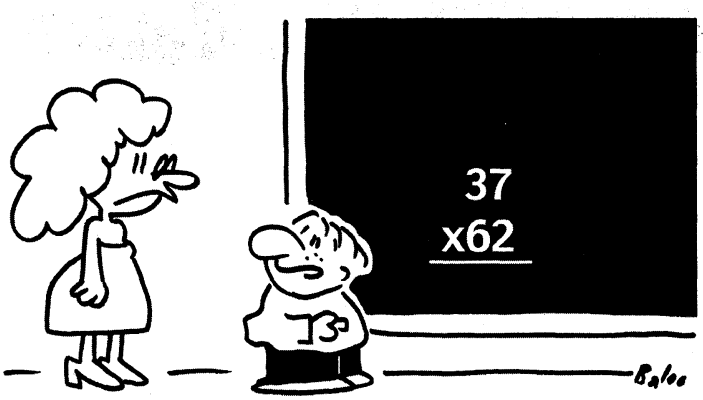
The fact that brighter students do better on academic tests is hardly a disturbing fact. Why did it frustrate me? Because test scores are being used to evaluate the school, not the student. The school is considered a success or failure because of the percentage of students who get a certain number of test questions right — enough to be classified as "proficient." But what is being tested is in large measure the academic ability students bring to the school, rather than any skills that the school and the teacher can take responsibility to be sure to impart.

The problem is somewhat analogous to that of judging the worth of a car wash by the shininess of the cars coming out of it. In one neighborhood the cars leaving Car Wash A are gleaming, recent models of expensive luxury cars. In another neighborhood the cars leaving Car Wash B are equally clean but older vehicles with oxidized paint jobs. Unless one is careful to factor out everything but the "cleanliness" it would be easy to conclude that Car Wash A is superior to Car Wash B. But the shininess difference is one that was there before the cars entered the car wash, and therefore cannot be rightly attributed to the quality of the car wash.

Murray leads us to realize that the reading and math tests we value so highly are largely a measure of students' underlying intellectual ability. The stunning implication of this fundamental fact is that the primary measure of the worth of K–12 schools is wrong. Test scores of students' reading and math cannot be the main way we judge schools. Murray says it quite bluntly to advocates of school choice: "Stop focusing on math and reading test scores to make your case. They are the measures of educational achievement that are most closely tied to the child's underlying academic ability."

But using math and reading test scores to evaluate schools is part of the bedrock of the educational profession. For a half a century we have been evaluating our schools based on academic achievement of the students, as measured by test scores in reading and math. (For half a century we have also been relatively unsuccessful.) The whole of No Child Left Behind is based on the assumption that we can improve the test scores of all students, in all basic subjects, up to the level of proficiency. Yet as Murray shows, this is sheer educational romanticism.

When the NCLB Act was first passed, I was encouraged. At last, here was government support for solid results. I hoped it would force a change to more effective instructional practices, especially in beginning reading instruction, where so many children waste so much time trying to break an easily taught code. Then I began to see that the tests we are using for accountability are not like the curriculum-based measures we use to monitor progress within our schools. Our curriculum-based measures are designed very carefully to test only the



"Maybe this is a question that should be left to the philosophers."

specific things we have taught, without anything new or any tricks for the unwary. While such tests are good at telling us whether we taught specific skills to mastery, they don't measure what's most important to society as a whole. So tests for accountability will probably always measure student ability — because the ability to think on one's feet and not be fooled by changes in test items is what we value most. So test scores will always tell us how smart the students are, rather than how much they have learned in class.

Murray's second simple truth, that half of all children are below average, is not well received in our fiercely egalitarian society. We laugh nervously, but the thought evaporates before we can really take it in. Somehow we think everyone should be at worst, average. Certainly if someone is below average, something must be wrong — something that we can fix, and ought to fix, if it is something as important as intellectual ability.

If we aren't socially comfortable with the idea, it should come as no surprise that our government bureaucracy has not accounted for the fact. We need to realize that half of our students are below average — and the other half are above average. All our governmental efforts at accountability have ignored this basic truth. We have built an edifice of accountability on a foundation of reading and math test scores, which largely reflect children's native ability rather than their teacher's efficacy.

Ignoring the fact of unavoidable discrepancies in intellectual endowment has two complementary results. On the one hand we have given credit to schools that don't deserve it. Schools that enroll students with high ability and therefore high test scores are applauded for things their students brought with them. They are routinely credited with doing a great job at instruction, when in fact they may be coasting. Meanwhile, other schools are unfairly condemned. A single-minded evaluation of schools, based on measures of the students' academic ability, denies the possibility that schools which enroll a majority of students with below-average ability, and therefore low test scores, could possibly be doing a good job. While the latter is a personal challenge for me, the former has disastrous consequences for our society as a whole.

Children with above-average ability are not being adequately challenged in our system. I remember this from my own elementary school years. And I see the same thing in my daughter's schooling. Even in schools where bright students are being given enough homework, they aren't learning as much as they could. They can't move at the right pace because they are in class with students who can't learn as fast as they do. It is much like having a uniform speed limit in a skating rink. The least able skaters (like me!) would be forced to go dangerously fast, while the pace would be unbearably slow for experienced skaters.

What happens to bright children in this one-speed-fits-all academic system? They revisit topics they learned fully in previous years. They mark time and wait, listening to material they've already mastered being repeated again and again. They ace tests without ever having to study. They don't acquire a work ethic because it is all too easy for them. But the school looks fine because these bright students score well on tests. The scores don't tell us whether schools that enroll above-average students could really be doing a better job than they are.

As for the personal challenge for me, I work in inner-city charter schools filled with hardworking students, many of whom evince below-average academic ability. I know we work a lot harder than people do in my daughter's school. The way things stand now, NCLB and the state government think they ought to revoke the charter of any schools that continue to have too many students with below-average test scores. The laws say the charters should be revoked even if parents continue to enroll their children in large numbers. But closing schools like ours simply on the basis of test scores would be a terrible shame.

Well, if we can't use test scores to evaluate schools, how can the states hold schools accountable for good results? Murray doesn't answer that question, because he doesn't look to the state to make a prescription for all schools to fit. Instead, he supports the idea of school choice in all its various forms. As do I. The school choice model says that the individual customers, parents in this case, should be free to make their own evaluation of what makes a good school. Somewhat like Obi-Wan, advising Luke to "Trust the force," the school choice movement says, "Trust the parents."

Most of my educator friends tell me we can't trust parents to make good educational decisions because they are not trained as educators. In reply, I tell them that I can choose a good car brand even though I'm not an engineer. I don't know how to make a car better, but I can recognize a brand that runs better and lasts longer than others. And if I care more about safety, or more about gas mileage, I can choose on that basis — without knowing how it is achieved.

And here I can testify from my own experience in inner city charter schools that when parents have the opportunity to choose schools, they intuitively understand the relative importance of test scores. Safety, for one, is far more important than scores. Given a choice, parents take their children out of dangerous schools and put them where they are safe — even if the safe school doesn't have any higher test scores. Duh! It takes someone like Murray to point out to the rest of us that there might be more to a school than the test scores of its students. Parents, like all other consumers, are out ahead of government officials in deciding what they want.

The inner city charter schools I've been lucky enough to work with have all had rigorous curricula, disciplined classrooms, hardworking teachers, and at the same time below-average test scores. Even so, the schools are full or have waiting lists. Unlike distant state officials, parents come into the school and see what is going on. They can tell these are not failing schools. These are safe, orderly, down-to-business schools, doing everything right. Regardless of test scores, the parents know their children will flourish if they attend these schools.

Perhaps we can move toward a system that trusts the parents instead of relying on government accountability measures based solely on test scores. Parents can tell when their children are being challenged in school and are learning. Their assessment is far wiser than that of educators and politicians who expect test scores to prove that, like the populace of Lake Woebegone, all children will be above average in every important way. Parents understand the simple truths. ❑

What's Left of the American Left

by Jacques Delacroix

Capitalism seems to shower an inordinate amount of bounty on the people who hate the free market.

My wife and I are driving down a small section of Florida's Gulf Coast, exploring. I have always wanted to grow old where I could swim in warm water every day. I mean wild water, not a swimming pool I would have to share with old ladies and little boys I don't really trust, when it comes right down to it. The vulture motive is not lacking either. This part of Florida suffered one of its periodic devastating hurricanes a few months back. Secretly, we count on real estate prices being depressed: sell in pricey California where we live; buy a twice larger house in Florida for half the price, with feet in the Gulf of Mexico. Easy!

It turns out the real estate market does not work that way. House prices are hot and getting hotter by the minute, it seems. Yet, the trip is not a waste of time because it allows me (and my wife) to clarify my relationship to the Left of the American Left. I mean the Marxist Left of my youth, not the pale Green Social-Democratic Left of today

Through miles of commercial highway, between Tampa and Fort Myers, we keep tuning the car radio, searching for any kind of real music. It sounds like six out of ten stations play Jesus music — not black Gospel music, chicken-breast-white Jesus music. The remainder plays "pop country." When we stop for coffee, unless we chance on a Cuban shop, rare in that part of Florida, the brew is awful, the way coffee used to be in the '80s all over the country, including California. Traveling along a commercial artery, the way we must if we are going to catch real estate offices, we eat in chain restaurants. It's hard to believe, but the food is worse than the food at Denny's in California. The service is uniformly horrible, with uncleared tables forming the main decor.

One evening, walking toward an upscale restaurant to relieve the blahs, we browse through a still-open bookstore. It contains no foreign periodicals, no literary ones, and no books, just current bestsellers. It's almost a print-free bookstore. Worse, from my standpoint, is the fact that in most places the Gulf of Mexico and the Inland Waterway are miles away by car, even if you are staring right at them 20 yards across a fence.

The nadir of our voyage of discovery occurs in pretty, seaside Venice. We look at two houses near the beach.

One is plywood-thin and cluttered with faux-crystal chandeliers. There is assembly-line pseudo-art on every wall. It is thickly carpeted, Wisconsin-style. The other house is small but pleasantly furnished for the tropics and fully tiled. It has a Hemingway-in-Key-West feel to it and a small, promising

yard with banana trees. It's one block from the beach and within our price range.

Our hopes are up and we begin to inquire about the town itself.

It has the full complement of shopping centers, utilitarian and chi-chi. Florida being what it is, demographically, health establishments, large and sumptuous, dominate the urban scenery. (We don't care about schools because we have no minor children.)

Then, we find that Venice, population 22,000, does not have a single operating movie theater. "But we have a very active amateur theater company," declares the real-estate lady. We visualize a chorus line of varicose-veined legs emerging from pink tutus. Hello! End of Florida project.

"So what does this have to do with the American Left?" you might ask, your patience thoroughly tried.

Here it is:

In my town of Santa Cruz, California (population c. 50,000), there are six or seven coffee shops. Some serve very good coffee, others merely good coffee but in good company, in pleasant surroundings. All offer an exotic choice of beans. (It does not bother me that most of it is "fair trade" coffee. I believe your money is your money. You can do whatever you want with it; give it away, or even throw it away for all I care.)

One coffee shop harbors daily more creative people than all the Left Bank cafes of Paris in their heyday (in my uncredentialed historical estimation). There are four permanent movie theaters, one showing nothing but esoteric and foreign movies (including generous helpings of French art films that no one ever comprehends).

The music scene is so rich that for a year you could go out every night of the week to a different venue, without a single repeat experience. Locally produced and syndicated radio fare is so varied that even retired people can't take it all in.

Most restaurants are mediocre, but both good sashimi and okay French-style food can be had without much of a struggle. And, except for the occasional dropped-out, zonked-out surfer, the help keeps to middle-class standards of deportment (as well it should, since it's made up of the college professors of tomorrow).

It sounds like six out of ten stations play Jesus music — not black Gospel music, chicken-breast-white Jesus music.

There are three large bookstores and several minor ones. All actually sell books. All stock some foreign periodicals. Of course, the beaches are beautiful, varied, clean, open to everyone, and of easy access. We just can't move away. That's it!

To what do we owe this cultural cornucopia, this superabundance of small pleasures, this quality of life that makes you feel rich — even if you are not? The uncomfortable but incontrovertible answer is: to that time warp, the University of California at Santa Cruz, where girls are LUGs (lesbian until graduation) and guys sublimate their sexual energy into saving the (wholly unthreatened) natural environment.

Santa Cruz, gown and town, is one of the Covenant Arks of the American Left. Angela Davis, the beautiful black Communist fugitive of the '60s, she of the big Afro, is a (full) Professor of the "History of Consciousness" (no shit, and bless her heart!).

At UC Santa Cruz, history professors with endowed chairs continue imperturbably to teach the hope that capitalism will ultimately collapse "under its own inner contradictions." They keep recording their lectures about the increasingly impoverished ("immiserated") working class, even as they get run over by giant SUVs, blaring rap music from expensive sound systems, and driven by overfed members of that same working class. (Incidentally, the drivers look more and more like their SUVs.) In the meantime, the temporarily radicalized undergraduates keep electing "progressive" city council*people*, all of them prosperous store owners. The city council does a great job of keeping the town spick-and-span and functioning, even attractive. It has passed regulations making it illegal to sleep in public (the target is the large and vehemently incoherent homeless population, but rich people who would attempt to sleep in the street would be treated with the same impartial severity).

Professors with endowed chairs imperturbably teach the hope that capitalism will ultimately collapse.

The students cheaply staff all kinds of lifestyle enterprises. Their very presence in large numbers keeps the labor unions at bay. Hardly anyone earns more than $9 an hour. The same students (and their parents' money in some, or in many, cases) and a significant legion of professors patronize these establishments. Life is good.

After our Florida epiphany, it would be ungracious for us not to admit our debt: the university gives us both leftism and the good life. Leftists take an active part in creating and supporting the good life.

In my youth, I was a leftist — both because of my youth and because I failed to understand the magic of markets until embarrassingly long after I got a Ph.D. Also, I thought a little intellectual dishonesty helped to get me laid. (It was superfluous help, I realized later.) My wife was a high-born yet poor Hindu lady with no interest in politics. Today, we are both registered Republicans, of the libertarian wing of the party. We are also patriotic immigrants (patriotic *because* we are immigrants), practically Bushite neocons.

Nevertheless, after Florida, we are appreciative of the gifts from the Left; we have to be. I, personally, am fully reconciled with the American Left, because it has gone in 30 years from a force to wreak havoc on the world to a cultural institution in charge of the foo-foo factor. It's accomplishing its mission fabulously, and all is going better than ever in this great country of ours. ❑

Freedom vs. Fairness

by Charles Barr

Libertarians have the best product in the world: individual freedom. Why can't they sell it to others?

Libertarian political activists support candidates and policies that uphold the ideal of individual liberty. However, the overwhelming majority of voters consistently elect candidates whose policies are destructive of a free society. Certain libertarian positions, such as opposition to foreign entanglements, opposition to the activist, regulatory state, support for free trade, and support for freedom of personal expression, resonate strongly with large segments of the voting population. Still, a "values gap" between libertarians and the mainstream public severely limits the political influence of the libertarian philosophy as a whole.

A loosely defined sense of "fairness," rather than freedom, appears to form the core of most people's ethical and political values. If this is the case, it helps explain why the bedrock principle endorsed by most libertarians, and embedded in the Libertarian Party oath — noninitiation of force to achieve political or social goals — frequently promotes policies that fail to attract broad public support.

Here is the oath one must take to join the party. "To validate my membership, I certify that I do not advocate the initiation of force to achieve political or social goals." Remember this; I will return to it. For now, the important point is this: as the oath implies, a person's political values typically arise from his or her ethical principles. But for the majority of people lacking a well-defined philosophy, such principles exist as "rules of thumb" rather than clearly defined concepts, and are likely to be centered on emblems of fairness such as the "golden rule," rather than on narrowly focused abstractions such as noninitiation of force.

Advocates of expanded government power take advantage of the public's ethical priorities by framing arguments for "fairness" in a manner that is difficult for libertarians to counter. This is because the noninitiation-of-force principle does not fully address numerous issues that are encountered in everyday life and resonate with voters. Many situations arise that enable one person or group to obtain an advantage over others, without directly or indirectly initiating force. The prevention of such occurrences is used as a pretext for the intrusion by government into the marketplace, through passage of laws regulating or prohibiting such behavior.

Consumer-protection laws are an example. These statutes deal with perceived inequities in trade between people with varying access to information, mental capacities, and economic power. Another example is military conscription. For

decades, the draft enjoyed strong public support, not because it promoted individual freedom (it did precisely the opposite) but because it appeared "fair" in its attempt to distribute the risks and hardships of military life without regard to wealth, social status, or political connections.

Proponents of activist government manipulate the average voter's concept of fairness to generate support for redistributive programs such as welfare, government schools, and progressive taxation. These programs are perceived to be fair because the public sees them as compensating for inequities resulting from accidents of birth, physical or mental incapacities, and random misfortunes. It is no accident that Social Security, Medicare, and many other forms of wealth transfer are known as entitlements. That designation is crucial to creating an appearance of fairness, implying that recipients in some way have deserved or earned their benefits and are therefore entitled to them.

Libertarians tend to draw a hard and fast distinction between the earned and the unearned. But to the general public, these distinctions are less absolute. Most people acknowledge that ingenuity and hard work are important components of success. But random factors such as inherited wealth or "being at the right place at the right time" are also thought to play a role. Thus, partial transfers of property from those who "earned it" to those who "did not earn it" are justified in many voters' minds as a means of compensating for outcomes resulting from such variables.

An implicit fairness principle can even outweigh economic self-interest, if the two are perceived to conflict. An example from game theory, pointed out by Sandy Shaw in a recent issue of Liberty ("Libertarians Like Me," July 2008), shows two persons splitting an offered sum of money, with one of the recipients deciding how the money will be split. The other can accept or reject the offered share, but if he or she rejects it, neither person will receive anything. If an offer is perceived to be grossly unfair — for example, $20 out of a $1,000 total sum — the second recipient will usually reject the offer, punishing the perceived offender by denying him or her the other $980, even though it costs $20 to do so.

"This is a lot of trouble! — Why can't I sign up online?"

Let's examine this hypothetical decision through the lens of libertarian ethics. According to this set of ideas, a person has the right to pursue his or her own values, but may not infringe on the rights of others to do the same. In the above example, the person making the offer has not initiated force or otherwise prevented the other person from pursuing his or her values. The second recipient's decision constitutes an explicit value judgment, in which narrow economic self-interest collides with a sense of being treated unfairly. Which is the higher value, receiving $20 or denying the other person $980 as punishment for the unfair offer?

It is no accident that many forms of wealth transfer are known as entitlements. That designation is crucial to creating an appearance of fairness.

This is not a trivial academic exercise. Examples of this type of conflict abound in the real world, from splitting an inheritance to determining executive compensation, and its underlying dynamic goes to the heart of what most individuals perceive as fair. In the example above, the more powerful person is seen as abusing this power to take advantage of the other person, attempting to keep as much as possible while relinquishing as little as possible. In negotiations between equals, behavior like this is considered to be a legitimate aspect of bargaining, but in other instances it can create a strong perception of unfairness that generates an intense emotional response. Such a response can even be triggered over a seemingly minor breach of fairness, such as an attempt to cut into a line.

A major fairness issue dividing libertarians from the majority of voters concerns the limits of responsibility. Libertarians and most others agree that people should be responsible for the consequences of their actions, but to what extent should they be responsible for their immediate situation? People can find themselves in desperate circumstances for reasons that range from factors that are entirely their own fault to factors that are entirely beyond their control. Most of the time, of course, it is a mixture of the two. Nevertheless, the standard libertarian response is that such personal crises (if not caused by the criminal activity or negligence of someone else) should be addressed by the affected people's own resources, or by private charity. Most voters, however, see this as a less than ideal solution, given that in many circumstances, people can fall between the cracks when they lack resources, and private aid is not available. Voter behavior indicates a preference to live in a society that provides a government safety net, at least as a last resort.

It is easy to construct realistic scenarios of bad luck in which the victim is clearly not at fault, and in which private means of assistance may be unavailable or inadequate. A 5-year-old child is badly injured in an automobile accident that kills

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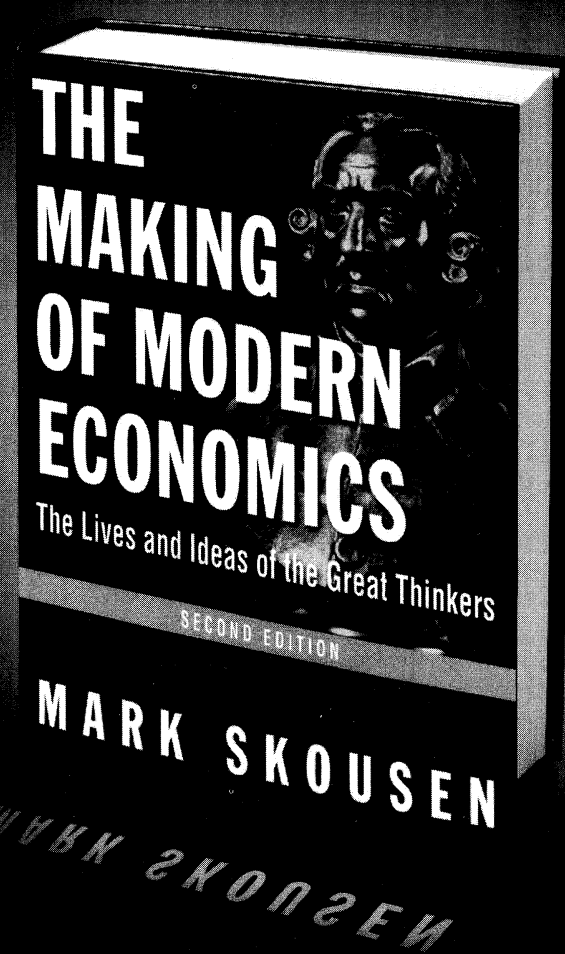

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her destitute parents. According to the most restrictive interpretation of libertarian ethics, no one has a moral obligation to come to the aid of the child. Although not all libertarians share this opinion, the Libertarian Party oath is clearly consistent with this viewpoint in terms of public policy — even a minimal tax-supported safety net is not permitted, because

Recent polls indicate that the majority of voters oppose bailouts. But it will take more than a discourse on efficient markets to inspire them to join the libertarian movement.

that would be an initiation of force, taking taxpayers' money for social-welfare purposes. So do we make exceptions, such as government-financed medical care, for extreme cases such as this? If so, where do we draw the line? If not, how can our moral code compete effectively in the political arena?

Individuals form hierarchies of personal values, subordinating their lower values to their higher ones. They likewise form hierarchies of ethical and political values, reflected in the political and legal systems that they are willing to support. If most voters consider absolute property rights to be a lower value than saving an orphaned child's life, then property rights will lose out whenever these two values appear to conflict.

Yet this does not mean that private property rights are considered unimportant. It means only that such rights exist as part of the voting public's hierarchy of political values, and do not necessarily occupy the top position within that hierarchy.

While the example of the injured child is extreme, it is representative of the dilemma that faces libertarians when we attempt to promote our positions on mainstream issues such as the minimum wage, access to healthcare, and "free" public education. Libertarian arguments regarding these issues generally focus on individual rights, with an emphasis on property rights. Government interventionists' arguments focus on protection from exploitation and promotion of equal opportunity and a level playing field. Both sets of arguments are value-laden, with the libertarian arguments invoking freedom and the pro-government arguments appealing to fairness. Given the priorities of the average voter, the fairness arguments are generally more persuasive.

Under these circumstances, an inflexible application of the noninitiation-of-force principle is an invitation to permanent political irrelevance. We cannot realistically expect to attract a majority of voters to a moral and political standard that conflicts with their general sense of fairness. By presenting prospective converts with what appear to be draconian applications of libertarian ethical priorities, we cede much of the fairness landscape to proponents of activist government, making their jobs immeasurably easier.

A possible response to this dilemma is to recognize that most people (and most voters) value both freedom and fairness, but generally assign a higher value to fairness. Libertarian efforts best succeed when they incorporate strong components of both, as was recently shown in the favorable public response to the libertarian position on eminent domain. When eminent domain was pushed to an extreme by local governments and was fought all the way to the U.S. Supreme Court (courtesy of the libertarian-minded Institute for Justice), an almost universal public revulsion against government power took place — very much along the lines of traditional libertarian positions and principles. People thought it unfair that government should be able to seize people's houses and lands, to do with according to its pleasure, simply because it was more powerful than they.

With this example in mind, our best opportunity may be to begin promoting our own issues from a fairness perspective. This would involve a shift in marketing strategy rather than a change in policy. For instance, voter attention is currently focused on the rapidly worsening economy and the government's attempts to rescue it through an escalating series of bailouts. The response on the Libertarian Party's website has been low-key, conveying little sense of urgency or moral outrage. It describes the government's approach as well intentioned but mistaken, and it analyzes both the bailout of the domestic auto industry and Obama's upcoming public works programs from the perspective of economic efficiency. In most respects the Libertarian Party's analysis is no different from what one would find on a fiscally conservative Republican website. The issue of fairness is given little or no attention.

Yet much of the public opposition to the bailouts is fueled by a strong conviction that it is unfair to reward politically connected financial, manufacturing, and real estate interests while refusing to help less favored businesses and employees who face an equally dire future. This perception drives much of the heated "Wall Street vs. Main Street" rhetoric. Many recent polls indicate that a majority of voters are on our side in opposing any and all bailouts. But it will take more than a discourse on efficient markets to inspire them to join our movement. On this issue as on many others, it will take imaginative marketing of our views and recommendations, in a manner that appeals to people's sense of fairness as well as their desire for freedom.

Admittedly there are limits to fairness marketing. It cannot be employed in all situations. Invariably, government misconduct will lead to problems for which no free and fair solutions are possible. For example, there is no way to achieve an immigration policy based on libertarian values in a welfare state with a shrinking economy. For issues such as this, the best strategy may be simply to increase public awareness of government policies that make free and fair solutions impossible.

Scarce libertarian resources can be directed toward promoting political goals that are, simultaneously, consistent with our principles and appeal strongly to voters' fairness values. This will increase our political effectiveness and enhance our reputation. If fairness rates more highly than freedom as a motivation for voters, then the long-term success of the libertarian movement will depend upon the term "libertarian" being identified in voters' minds with fairness as well as freedom. ❑

Peak and Trough

by Fred E. Foldvary

It isn't a mysterious cycle that keeps ruining the American economy — it's our government.

Economists call the periodic fluctuations of the economy the "business cycle." A few decades ago they called it the "trade cycle." Some economists believe there is no regularly repeating cycle, but only random fluctuations in response to economic shocks. Either way, the terms "business cycle" and "economic fluctuations" make it seem as if the market economy were inherently unstable and subject to booms and busts. The implication is that we need government intervention to smooth out the peaks and troughs and provide economic stability.

That idea is false, as I will show.

The reason there has not been a consensus on the "business" cycle is that there are several types of fluctuations that run concurrently, making the ups and downs look random, but if we separate out the major and the minor patterns, we can see a regularly occurring major cycle that has gone on for 200 years. An analysis of major cycles shows that the cause of booms and subsequent downturns is government intervention. A pure free market is not inherently unstable. The major booms and recessions should more accurately be called "the interventionist cycle" or "the economic distortion cycle."

The Austrian school of economics — the school of Carl Menger, Ludwig von Mises, and others, whose work is especially familiar to libertarians — offers a theory of the business cycle in which money, interest rates, and capital goods play key roles. To make the theory more complete, however, we need to include the roles of land and of fiscal (tax and spend) policy. When we apply this expanded theory to the actual economy and to economic history, we can see that the enhanced Austrian cycle theory provides a powerful explanation of how government interventions cause the booms and busts.

The saga of the interventionist cycle begins during a depression. A "recession" means a significant fall in output; then, when the economy bottoms out, it is "depressed" relative to its long-run trend. But output recovers naturally; prices have fallen, bad debts have been liquidated (written off), and new investments are now profitable.

But past expansions have not occurred naturally, since governments seek to speed up recovery with interventions. When the economy is depressed, the monetary authority usually intervenes to increase the expansion of the money supply in an attempt to stimulate a faster recovery. During

2008, Congress and the Federal Reserve sought to stimulate the economy, at first to prevent or lessen the impact of a feared recession, and then to bail out financial firms and real estate interests when the recession became more severe.

Another example is what followed the 2001 recession, when the Fed reduced its interest-rate target way down to 1%, to some extent accommodating an inflow of funds from abroad. (When it manipulates the money supply, the Fed targets the "federal funds rate," the interest rate that banks charge for loans to other banks. That rate then influences other interest rates, such as the "prime rate" for loans to businesses.) During 2002–2004, billions of dollars of foreign savings poured into the United States. This, aside from the actions of the Fed, drove down interest rates.

Federal and state governments are seeking bailouts and other interventions to deal with symptoms, not the causes of the crash.

But such global movements of money and their effects are also outcomes of interventions. The fundamental monetary intervention is the worldwide use of fiat money — money, such as paper dollars, that is established by law rather than being based on a commodity, such as gold, that became money by means of market dynamics. The quantities of fiat money are controlled by governments and their central banks. Some governments (for instance, that of China) also control the exchange rates of their currencies. These manipulations of money, interest rates, and currency exchange rates distort the signals of economies throughout the world.

To understand the economic distortions, we need to analyze the economic function of the interest rate. It is the job of the free-market interest rate to equalize savings and borrowing. If more people save, the interest rate falls, increasing borrowing to match the greater savings.

People borrow either for consumption or for investment. Suppose George saves $1,000, while Susan borrows $200 for consumption and Lucy borrows $800 for an economic investment. In economics, "investment" means the production of capital goods such as tools, buildings, and inventory. George has foregone consumption by saving $1,000, but Susan offsets this by her $200 consumption. So the net amount of savings available for investment is $800. If we net out borrowing for consumption, the rest of the borrowing is for investment. Net savings equals investment.

Investment is paid from savings, but savings and investment are not automatically balanced. The natural rate of interest adjusts so that net savings equal investment. If folks save more, they are consuming less, and the lower interest rate increases investment by the amount of reduced consumption. So the economic job of the interest rate is not just to equalize borrowing and savings, and savings and investment, but in so doing to ensure that all production gets spent on consumption and investment. If intervention pushes the interest rate away from its natural free-market rate, this creates trouble with a capital T. The economic distortions include inflation, excess inventories, recession, and "malinvestments," the term that Austrian-school economists use for investments that turn out to be unprofitable, and thus not only a waste of resources but also a cause of instability.

Foreign trade and financial flows are complicated by currency fluctuations. A truly free global market would converge into a common global currency, as gold was prior to World War I, so there would be a worldwide free market in which political boundary lines would be irrelevant. Global savings would be in balance with global investments, and savings that flowed into the United States from China would have as little significance as today's savings from New York that flow into California. There would be a global natural rate of interest that would have the job of balancing total savings with total investment.

Capital goods also play an important role in the interventionist cycle. Menger, the founder of the Austrian school, recognized that some capital goods, such as inventory, turn over quickly and are therefore not sensitive to the interest rate. But investments in capital goods that have a long duration are strongly influenced by the rate of interest. Consider trees that take 50 years until they mature and get chopped down for lumber. If the trees grow in value at 3% a year, they are worth planting if bonds pay only 2%, but they are not worth planting if bonds yield 4%.

Now we can see the effect of pushing interest rates below the natural free-market level. A great expansion of money makes banks reduce interest rates in order to loan out the new money. The low interest rates induce excessive investment, especially in capital goods of long duration. The most important type of capital goods affected is buildings.

Easy money stimulates the purchase and construction of residential and commercial real estate, not to mention such associated durable goods as furniture, office equipment, and appliances. Real estate also employs brokers and much of the financial and insurance industry. Investment leads the economic expansion, and real estate is the locomotive of the investment train.

Government has very direct means of intervening in real estate. To the extent that governmental goods and services are beneficial, they can make real estate more profitable. Public works get "capitalized" into higher land values. Even if streets, highways, parks, security, fire protection, education, public transit, and even courts of law would be more effectively provided by private enterprise, these government works provide wanted benefits. The greater productivity and attractiveness provided by these works increase the demand for real estate located in the areas that are comparatively well served. This drives up land rent and site values.

In a pure free market, there would be private communities with privately provided civic works. For example, the streets would be financed by a residential association whose members would pay assessments or dues to the association. Streets raise site values in either case; the problem is that financing by private owners, based on their property holdings, reduces their net gain. The gain is higher if the real estate owner gets a subsidy from the government, if the street is paid for by somebody else, whom the government taxes to finance it.

Such is the case today. Most taxation falls on wages, business profits, buildings, and the sale of goods. Consumers, workers, and entrepreneurs pay higher rents in order to benefit from civic goods; then they get taxed to pay for these goods. A worker-tenant gets double-billed, while the landowner gets an implicit subsidy in the form of higher rent and site value. And the subsidy to landowners is even greater, because they enjoy special tax reductions. Owners of real estate can deduct mortgage interest and property taxes from their taxable income. The sale of real estate is mostly free of capital gains taxes. Owners of investment property enjoy the legal fiction of depreciation deductions, even when there is little true economic depreciation.

Other government interventions consist of various loan guarantees and requirements that banks make riskier loans in lower-income neighborhoods. Low interest rates, tax reductions, loan guarantees, and so on and so on — the countless means of government intervention — all increase the demand to buy real estate, boosting both construction and land values. As the economy expands, vacancies decrease, and rents and real estate prices rise. Then speculators jump in to buy properties, because huge profits can be made with leverage. A speculator puts down 10–20% and borrows the rest. As his property rises in value, he can realize huge gains, using his borrowing of easy money as the leverage. Real estate investment trusts (REITs) and real estate mutual funds allow many people to invest without having to deal with bad tenants and broken toilets.

In a pure free market, there is no problem with speculation. If real estate owners had to pay free-market rates of interest on borrowing, and if they had to pay for infrastructure, security, and other civic services, then real estate investment would respond to the demand for use, and land values would usually rise only modestly. But in the intervention-distorted real estate market, speculation exploits easy money and implicit subsidies.

Changes in investment drive the business cycle. Speculation carries real estate prices to levels based on expected future demand rather than actual present-day demand. One thinks of the winner's curse in auctions: the most optimistic speculators win the real estate bids, but eventually real estate becomes unaffordable for actual use. The rise in real estate becomes unsustainable, as folks can no longer afford to buy property. Easy money runs out. Rising interest rates and rising real estate prices make investment too expensive. Costs rise faster than demand. As profit expectations fall, investment slows, and a recession follows.

We can see this pattern in U.S. history:

Peak in land value	Peak of construction	Start of Recession
1818		1819
1836	1836	1837
1854	1856	1857
1872	1871	1873
1890	1892	1893
1907	1909	1918
1925	1925	1929
1973	1972	1973
1979	1978	1980
1989	1986	1990
2006	2006	2008

Peaks in land values and construction had an average period of 18 years and occurred with remarkable regularity until the Great Depression. The number of years (18) may be coincidental, or it may respond to some set of phenomena typical of the ways in which Americans invest and expect government to assist their investments. In any event, every peak in real estate was followed by a major recession and depression. Likewise, every major depression was preceded by a real estate boom.

The next real estate boom after the 1920s would have occurred during the 1940s, but World War II interrupted the real estate cycle. With millions of Americans overseas and with production shifted to military goods, there was no boom in home construction or land values, and thus there was no post-war depression. But the real estate cycle came back during the 1950s, culminating in an apartment boom in the late 1960s and early 1970s, after which there was a severe recession in 1973.

The next peak came at the end of the 1970s because of the high inflation during that decade. All tangible goods went up in value — gold, silver, coins, stamps, gems, and land. The Fed hit the monetary brakes in 1980, and the economy fell into recession. The real estate boom of the 1980s was followed by a recession in 1990, 17 years after the recession of 1973.

The recession of 2001 was not related to real estate; indeed a continuing real estate boom helped to pull the economy out of the slump of that year. But the 18-year cycle pattern came right on schedule in 2008, as residential real estate prices fell by 20% and in some places by 50%. Everybody now knows that mortgage defaults can create large losses for brokerage firms, banks, and hedge funds. A crash in real estate brings down the financial industry, which in turn reduces credit for households and business.

This time, however, the real estate problem was exacerbated by yet another intervention, the government-sponsored enterprises popularly called Fannie Mae and Freddie Mac. These firms buy mortgages from banks and then package them into securities to sell to financial companies. In our time, that practice spread the risk and the mortgage loan losses worldwide. The stocks of many companies rode on top of the mortgage and real estate values, then fell when the underlying loans and real estate values fell.

Federal and state governments are now seeking further bailouts and other interventions to deal with the effects of the real estate crash. But these treat the symptoms; they do not address the fundamental causes. The interventions that cause the boom-bust cycle are deeply embedded in government's monetary and fiscal policies. To eliminate the cycle, we need to eliminate its source. The monetary intervention of central banking has to be replaced by free-market banking ("free banking") so that the interest rate can be allowed to do its economic job of equilibrating or making equal savings and investment.

The fiscal interventions involved in taxing labor, goods, and enterprise, and implicitly subsidizing real estate, can be eliminated by privatizing community governance. Let proprietary communities — shopping centers, hotels, apartments, and office buildings — provide or contract for civic infrastructure offered by private enterprise. Let residential associations, condominiums, and housing cooperatives

provide civic services. Networks of private communities could offer services now offered by government. Contractual payments for services received would replace both the taxation that stifles enterprise and the subsidies that artificially inflate land values. Free markets are efficient not only because prices reflect scarcity and value, but because they can discover the real extent of ever-changing scarcity and values, and point the way to sound investments.

Elimination of the monetary and fiscal interventions that create the interventionist cycle would be a radical policy change. It is not likely to come soon. However, it is important for the public to understand that the boom-bust cycle is not caused by business or the market, operating by themselves. If economists and the public can realize that this is a cycle of economic distortion, then we will have learned the right lessons from the current real estate crash. ❑

The Great Man Speaks, *from page 26*

right into the controversy over slavery. Both spoke with high confidence, proposing simple solutions to mighty problems. Both were utterly mistaken — Roosevelt, in launching the feckless New Deal; Buchanan, in declaring that no political "question" about slavery "remain[ed] for adjustment." Sadly, I believe that a similar judgment must be passed on Obama. His address was a feckless attempt to grapple with the problems it tried to dramatize.

But Obama did get one good idea from a predecessor — the idea that America, the real, free, and productive America, remains in existence, despite the economic storms that periodically sweep across it.

Here is Franklin Roosevelt, in his first inaugural:

> Our distress comes from no failure of substance. We are stricken by no plague of locusts. Compared with the perils which our forefathers conquered because they believed and were not afraid, we have still much to be thankful for. Nature still offers her bounty and human efforts have multiplied it. Plenty is at our doorstep, but a generous use of it languishes in the very sight of the supply.

And here is Obama:

> We remain the most prosperous, powerful nation on Earth. Our workers are no less productive than when this crisis began. Our minds are no less inventive, our goods and services no less needed than they were last week or last month or last year. Our capacity remains undiminished.

Neither passage is good literature. Roosevelt's, which isn't especially grammatical ("perils" compared with "we"), gets whatever force it has from its allusion to the book of Exodus (the plague of locusts). Obama's has no literary force at all. But what they say is true. America can survive even its presidents. It can survive even their inaugural addresses. ❑

Seizing the Initiative, *from page 22*

"I'm a libertarian," says Jacob. (His sister, Kathleen Nelson, used to run Laissez Faire Books.) "I've voted for only one person in my life who's won, and I still regret it. I'm not thinking I'm going to somehow enact my agenda through the initiative process, but it's a great check on entrenched power."

So it is. Though a century ago the initiative was created, mostly in the Western states, by the progressive Left, it is being used by the populist and libertarian Right to limit the terms of politicians, cut taxes and state spending, limit the use of eminent domain, and limit racial preferences. Those are things politicians are not likely to do on their own.

Some states have seen the rise of initiative entrepreneurs — in my part of the country, the Pacific Northwest, Tim Eyman in Washington and Bill Sizemore in Oregon. In my home state, Eyman was responsible for rolling back the annual cost of car tabs, which reduced the tax on a Saab I owned from $600 to $80. Eyman passed a measure to cap the property tax, and at this moment is circulating petitions to cut taxes in another way. Washington is a Democratic state, and most of the politicians around here hate him. They use his name as a political smear. One called him a terrorist — which only proves Jacob's point. Says Jacob on the value of initiatives: "Exhibit A is the reaction of all politicians to petitioning."

Every year politicians try to restrict it. In Washington state there have been bills to require signature gatherers to sign each petition on the back, to provide photo IDs, to disclose their home addresses, to wear a badge, and to get a state license; there have also been bills raising the number of required signatures. The ostensible reason for these things is to clean up the system and get it out of the hands of "special interests." The effect is to reserve it to some interests — big ones with ties to elected politicians — and not others.

A major battle has been over how signature gatherers can be paid. Years ago Colorado banned payment altogether, but in 1988 its law was unanimously struck down by the U.S. Supreme Court in *Meyer* v. *Grant*. More recently, Alaska limited payment per signature to one dollar, and Oregon banned payment per signature altogether. In the following election cycle Oregon's law more than tripled the cost of getting a measure on the ballot, from $150,000 to $475,000.

In Oregon, opponents sued the state and lost. Jacob said they sued too soon, before they had the evidence that the law had limited ballot access without improving the quality of signatures.

The fight to use the voter initiative — and to keep it available for that use — is ongoing, state by state. It pits initiative entrepreneurs against public employee unions and very often also against chambers of commerce. Republicans are sometimes the enemy, and Democrats almost always so. But sometimes allies can be found on the Left. Ralph Nader has been a supporter.

"There are a lot of folks on the Left who are about things like stopping torture," Jacob says. "Those are folks I like a whole lot."

Jacob says he is not optimistic about preserving liberty by electing liberty-friendly politicians. As our interview comes to a close, I asked him who was the one politician he voted for who won — and it is the one question he refused to put on the record. It is a matter of deep embarrassment.

"Change is going to have to come from the people, not the politicians," Jacob says. "As much as I love term limits, my true love is the initiative process. At Citizens in Charge, our mission is to stop politicians from undermining and wrecking that process." ❑

Get Your Hands Off My Urine!

by Wesley J. Harris, M.D.

"It's for the children," runs the common refrain — but just what, exactly, will prenatal drug testing do to help them?

As the head of obstetrical services at our hospital, I was sitting in a meeting one day when the idea was broached that local obstetricians should routinely perform drug screening on the urine of all pregnant women. We were told that at a community hospital such as ours, 15–20% of women would test positive for illicit drugs. At present, the obstetrical service at our institution identifies drug use in only about 5% of our patient population. Therefore, we must be missing quite a few cases that could be identified by routine maternal drug screening. Furthermore, the hospital down the road was preparing to initiate such a plan. We must, after all, keep up with the competition.

At this point in the meeting, the role of government was introduced. It was suggested that an even better plan would be for our state (Tennessee) to mandate routine maternal drug screening. This, naturally, would mean one more state-sponsored loss of dignity for all expectant mothers. And for some, the effects would be more far reaching. Once women were identified by a positive urine drug screen, the results would go to the appropriate state social service agency. Big Brother, or rather Big Sister, would then come knocking on the door for the euphemistically named "home visit." The mother would be encouraged to mend her ways. Of course, if she did not mend her ways in a manner satisfactory to the state, her children could be removed and sent to foster care.

Maternal drug use in pregnancy creates many problems for both the infant and mother. In relation to expectant mothers, such terms as "drug problem," "drug addiction," and "drug abuse" have much more serious meanings than they may have for other people. Maternal cocaine use in particular results in a wide range of morbidities — low birth weight infants (infants weighing less than 2,500 grams or five and a half pounds), infants admitted to intensive care units, and infant mortality. Amphetamine is probably the next worst drug for expectant mothers, causing many of the same types of problems as cocaine, though on a somewhat reduced scale. Maternal opioid use is most commonly associated with infant withdrawal syndrome. While it is rarely lethal, it is emotionally troubling to those who witness an infant coping with this unjust inheritance. Marijuana, while not as damaging as the other drugs, has been shown to result in smaller infants with smaller head circumferences.

It might be surprising to learn that the majority of infants born to drug-using mothers actually do fairly well. One of the best determinates of neonatal health is whether the newly born infant is admitted to the neonatal intensive care unit (NICU) instead of the regular well-baby nursery. A study from the

Minneapolis-St. Paul area looked at the number of NICU admissions among women who tested positive for illicit drugs (cocaine, opioids, and marijuana). This number was then compared to the remainder of mothers, who had negative tests. The results were a 20.7% NICU admission rate for mothers who were drug-test positive versus a 12.3% NICU admission rate for mothers who tested negative. One can argue whether this glass is half full or half empty. Maternal drug use resulted in a 69.7% increase in admissions to the intensive care unit. However, 79.3% of infants born to women who used drugs were admitted to the regular well-baby nursery. Perhaps the best way to look at the data is to say that maternal drug use conferred an additional 8.4% risk of bad outcomes beyond the baseline rate. In considering this drug-induced penalty, one should also note that many babies who are initially admitted to the NICU eventually have a good outcome.

Reduction of the 8.4% increase in infant morbidity among drug-exposed children is a worthy goal. Since drug-abusing mothers often lie about their habit, routine universal drug screening has been increasingly advocated. Routine urine drug screening is often touted as highly accurate and inexpensive. Once women are identified as users of illicit drugs, they can be directed towards comprehensive programs. These programs, which concentrate on drug abstinence counseling and obstetrical care, have shown progress in lessening infant morbidity. While this certainly sounds good, it can be shown that each of the premises is highly problematic.

First, maternal drug testing is not the only way to identify substance abuse. While it is true that over 50% of women who abuse drugs will not admit to doing so, there are other ways of identifying most drug-abusing women. Think of it as a type of profiling.

Several studies have shown that carefully designed questionnaires identify the majority of drug-abusing mothers. In one study from the University of California, Davis, 93% of women whose urine tested positive for drugs had one of the following three characteristics: actual admission of drug use, poor or no prenatal care, and cigarette smoking. By asking the right questions and noting salient patient characteristics, one could identify the women most likely to be using drugs.

Secondly, routine drug screening is neither straightforward nor cheap. Abstaining from cocaine and opioids for a 72-hour period prior to testing often leads to a negative drug test; consequently there is ample opportunity to beat the system. In addition, some drugs, such as amphetamines, have a high false-positive rate; i.e., the urine tests positive even when no amphetamines have been taken. Confirmatory testing with gas and liquid chromaphotography is necessary to confirm a positive drug screen. This sounds expensive, and it is. As an example, the average charge to our office for routine prenatal blood work is $77. The charge for urine drug screening is $19. But adding a confirmatory test for a positive drug screen costs another $70. By this measurement, the cost of drug screening plus confirmation exceeds the cost of routine prenatal lab work.

Since drug-abusing mothers often lie about their habit, routine universal drug screening has been increasingly advocated.

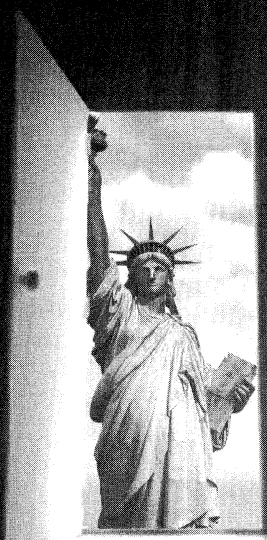
The most problematic idea, however, is the notion that once drug-using mothers are identified, they can be counseled, supported, and nurtured to the betterment of themselves and their infants. Several studies have been undertaken of this noble cause. The best one, perhaps, is from Brown University, and was published in 2000. This study also showed the most encouraging results. Eighty-seven women were recruited over a three and a half year period. They received extensive support from Project Link, an organization that offers patients individualized therapy, including group and individual psychotherapy, nutritional advice, home visits, and transportation services. The 87-member study group was compared to a control group of 87 substance-abusing women who received the same care but after delivery. Compared to the control group, the study group showed a reduction in the number of premature infants, low birth weight infants, and infant admissions to the intensive care unit.

This appears to provide encouragement, but a closer look at the numbers is more sobering. The obstetrical service involved in the study was delivering approximately 9,000 babies per year. If we assume a 15% rate of maternal substance abuse, the 87 women enrolled in this study represent less than 2% of the substance-abusing women delivering at the hospital. The authors also stated that each of the women in the study group self-reported their addiction and volunteered for the program. This is clearly an unusually dedicated group of women who wanted to do the best for their infants. Unfortunately, it is also a small group of women. The vast majority of substance-abusing mothers would not comply with such a program. The noncompliant mothers were aware that their behavior was harmful to their babies, yet their addiction to the drug was just too strong. Inchoately, they know what the apostle Paul knew: "I do not understand what I do. For what I want to do I do not do, but what I hate I do" (Romans 7:15). No matter how good the intentions of large hospital systems and state government, these entities cannot loosen the grip that addicting drugs have on a mother.

Of course, there is one option for drug-abusing mothers that might prove successful. In a study done through the

"I hope the Court will take into account the fact that my client has been smoke-free for almost three months now!"

IMAGINE



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North Carolina state penal system, pregnant inmates were followed closely throughout their gestations. Their prison-based pregnancies were compared to their other pregnancies. Specifically, infants who were delivered when their mothers were in prison were compared to their siblings, delivered when their mothers were not in prison. Pregnancies that came to term in prison resulted in the birth of larger infants with fewer premature deliveries. It was speculated that the women received more regular prenatal care and better nutrition while in prison. Also, they presumably had forced abstinence from drugs. Still, the authors of this study concluded that the benefits of slightly larger babies were overridden by problems inherent to incarceration, such as familial separation and maternal anxiety. Mercifully, there are no serious voices suggesting this level of governmental intervention.

A final argument is that routine drug screening in pregnant women might keep them from seeking prenatal care. In researching this paper, I identified no studies that quantitated the effect that routine maternal drug screening would have on attendance for prenatal care. It is a well-accepted fact that under the current system, where drug testing is usually not mandated, drug-abusing women show up less often and more sporadically for prenatal care. There is reasonable concern that mandatory drug testing, and the resultant governmental demands for drug abstinence, would still further decrease attendance at obstetrical clinics.

Some drugs, such as amphetamines, have a high false-positive rate; i.e., the urine tests positive even when no drugs have been taken.

There is, to be sure, a fairly sizable group of women who will not commit to drug abstinence but still show up for prenatal care. Many of these women attend methadone clinics. Methadone can best be viewed as opiate-lite. It should not be viewed as a treatment for all drug-abusing women as it is only prescribed for women with opiate addictions. (Opiates include such well-known drugs as heroin, morphine, oxycodone and hydrocodone.) As an example, methadone would have little benefit for a woman with a crack cocaine problem. In general, however, methadone does seem to have three distinctive advantages over illicitly obtained opiates. First, there seems to be less morbidity for the newborn infant. Second, a user of methadone is less likely to need escalating doses of the medication to get the desired calming effect. Third, withdrawal from methadone is somewhat easier than with other opiates.

But probably the greatest good derived from methadone prescription is that it tends to keep pregnant women within the prenatal care system. There is much evidence to show that women who both receive methadone in a controlled manner and also receive enhanced prenatal care have superior outcomes to women who get their opiates off the street. The prenatal care focuses on fetal growth, which can be followed fairly reliably with ultrasound measurements. It is a general truth that babies who grow well in the womb do well in the nursery. For fetuses who do not grow well, enhanced fetal surveillance is performed. This sometimes allows the delivery of infants prior to the development of fetal compromise.

In my opinion, the way in which we care for mothers who receive methadone should be a model for how we should treat all women at high risk for drug abuse. Pregnant women should be carefully questioned at the beginning of their prenatal care. Women deemed to be at high risk for drug abuse should receive the same type of prenatal care as pregnant women who are taking methadone. The growth of their fetuses should be monitored closely with ultrasound measurements. For infants who do not grow well, more intensive testing and occasionally early delivery should be offered.

This article has outlined two basic arguments against routine maternal drug screening. One is based on human nature. The other is more pragmatic. From a practical standpoint, a positive drug screen is not a secret between a patient and her physician. The test results are routinely reported to hospital social service workers who in turn report them to the appropriate state agency. The more intrusive the state becomes in monitoring drug-using women, the more each allegation of drug use will be challenged. Routine drug testing would invariably result in expensive retesting and confirmatory testing; it would therefore lead to thousands of bitter and costly legal contests. It would also lead many women who need prenatal care to decide not to get it, for fear of the tests and consequent legal involvements.

A drug-abusing woman who discovers that she is pregnant is heavily conflicted. There is the desire to do what is the best for her baby, but there is also the pull of a strong addiction. Only a few, highly motivated, strong-willed individuals are likely to benefit from comprehensive drug abstinence programs. Such women are not waiting to be notified by a hospital or state agency that they have a problem and need help. They sign up without such prompting. But for women who are either untruthful about their drug use or unwilling to commit to drug abstinence, it is unlikely that being notified of a positive drug test will materially change their behavior, unless they are in fact imprisoned.

A positive drug screen is not a secret between a patient and her physician. The results are routinely reported to a state agency.

As mentioned previously, there is an 8.4% increase in intensive-care admissions for infants born to drug-abusing mothers (20.7% versus 12.3%, for women who are not involved with drugs). While this number is not high enough to warrant extraordinary measures (e.g., incarceration) in order to protect the fetus, it is high enough to make some recommendations for closer concern and careful medical monitoring — not for a large, new extension of state power, fraught with its own possibilities of abuse. ❑

Reviews

"The Reluctant Communist: My Desertion, Court-Martial, and Forty-Year Imprisonment in North Korea," by Charles Robert Jenkins (with Jim Frederick). University of California Press, 2008, 192 pages.

Sex Slaves and Rationing

Paul Karl Lukacs

Not even North Korea can control everything.

Within the world's most totalitarian state — a prison society in which jobs and homes are assigned or revoked at the whim of the government — pockets of freedom still exist.

To the few Western tourists who visit North Korea, control is omnipresent and liberty unthinkable. From the time you board an Air Koryo jet in Beijing (as I did in 2007) you are in the presence of North Korean minders. The first stop in the capital city of Pyongyang is an obligatory session of bowing before a massive outdoor statue of the late strongman Kim Il-sung, and every day of the tour is scripted by the government from 8 a.m. to 10 p.m. Tourists are usually housed at the Yanggakdo Hotel which sits on a guarded island in the Taedong River, making it impossible to wander off and explore the city.

Yet clandestine capitalism occurs even in the Democratic People's Republic of Korea or "DPRK," as it likes to call itself. People surreptitiously exchange North Korean won for euros, yen, or other hard currencies, with middlemen taking a cut. Those with access to land grow vegetables and other foodstuffs for resale. The privileged minority who live in Pyongyang can walk around the city relatively unimpeded (although only Party functionaries have access to cars, and the city's trolley system is as balky as the power supply on which it relies).

Charles Robert Jenkins is one of a tiny number of U.S. citizens — fewer than 2,000 since the 1953 Korean War ceasefire — who have witnessed life in the DPRK. But Jenkins is not a traveler, diplomat, or journalist; he is, as far as the United States government is concerned, a criminal.

On the night of January 4, 1965, Jenkins, a U.S. Army sergeant commanding a patrol along the South Korean DMZ, fortified himself with ten cans of beer and defected to North Korea by walking across the line. At the time, Jenkins' plan was to avoid distasteful and dangerous day patrol duty and a possible reassignment to South Vietnam by temporarily deserting. He expected the North Koreans to hand him over to the Soviets, who would ultimately transfer him back to U.S. custody. Instead, the North Koreans forced Jenkins to remain in their country for almost 40 years.

"Obviously, it didn't turn out at all the way that I intended," Jenkins writes in his autobiography "The Reluctant Communist," the English-language version of which has been released by the University of California Press. "I did not understand at the time that North Korea was not particularly close diplomatically to the Soviet Union. It certainly did not see the Soviet Union (or even China, for that matter) as its big brother and wasn't going to be handing anybody over to anyone" (p. 20).

"The Reluctant Communist" is a unique primary document, a first-person account by a Westerner of four decades in an isolated dictatorship, a life without the most basic freedoms. Jenkins, like everyone in the DPRK,

was ordered to perform various tasks. Officially classified as an office worker for the Peaceful Unification Committee, Jenkins initially had to devote his days to memorizing the philosophies of Kim Il-sung. Later, he would teach English to military cadets, act in propaganda films, and translate foreign radio broadcasts (which kept him informed of current events).

Solicitous of Jenkins' sexual needs, his handlers assigned him a series of "cooks," infertile North Korean divorcees who were to act as wives in all but name. But the women were reassigned without notice, regardless of the emotional impact of the transfer. The government viewed sex as just another staple that it could ration and regulate.

Or kidnap. In 1978, DPRK commandos abducted 19-year-old Hitomi Soga from her home on Sado Island, Japan, one of an unknown number of abductees who were to be used as breeding stock in a demented scheme to create a corps of Eurasian spies. Soga was assigned to live with Jenkins, and the two quickly married. (Jenkins believes, without much evidence, that the spy program was not created until after Soga and other Japanese citizens were abducted.)

Although Jenkins was presumably a high-value captive, daily life in the DPRK's almost preindustrial society was a hardscrabble existence. Many of his assigned homes — he could be told to pack and move in as little as a day — had no indoor plumbing. Rations were distributed once every two weeks. Electricity rarely worked, so Jenkins and his wife made candles from paraffin. The family was constantly cold, despite wearing four or five layers of clothes.

Soga and Jenkins had two daughters, and it was a given that the schools would be stronger on anti-American indoctrination than on math or Korean literature. Schools also doubled as requisition centers. A school would demand that all students' families contribute, say, one kilo of lead or two kilos of brass, and the families were required to do so. Students were then ordered to stand guard at the school to prevent army personnel from stealing the supplies.

Yet, in the face of this smothering totalitarianism, individual initiative and capitalism existed in chilly, dimly lit corners. Jenkins and his wife grew vegetables for barter. Corn for moonshine was a popular trade. Currency exchange skills became critical after the government began paying the family in Western currency in the early 1990s. An old-fashioned sense of Farmer's Almanac ingenuity is what helped Jenkins survive until, in 2004, the Japanese government secured his and his family's release. After pleading guilty to desertion and aiding the enemy, he was sentenced by a U.S. military court to 30 days in prison and a dishonorable discharge.

We can't choose history's messengers, and Jenkins is an imperfect diarist. His recollections are uneven; he remembers every step needed to create fishing nets from nylon and pig's blood, but he has little to say about Kim Jong-il or the famine of the 1990s. His account is like looking through a keyhole: you see glimpses of what life was like for ordinary North Koreans, as well as random, tantalizing encounters with members of Pyongyang's ghostly expat community, but you know you're missing most of the picture.

Still, of the handful of U.S. servicemen who have defected to North Korea, Jenkins is the only one who has written a book. Its lesson appears to be that not even the most repressive regime on earth has total control of its citizens. ❑

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"Three Cups of Tea," by Greg Mortenson and David Oliver Relin. Penguin, 2006, 331 pages.

Another Summit

Jo Ann Skousen

Greg Mortenson was just hours away from reaching the summit of K2, the second highest peak in the world, when a fellow climber suffering from severe altitude sickness had to be carried down. With a long yearning glance backward, Mortenson volunteered to help carry the man to safety, giving up his own dream of mastering the mountain. That's the kind of man Mortenson is. A nurse by training, he will stop at nothing to help someone in need.

Exhausted after the grueling rescue, Mortenson rested at base camp and then lagged behind his group as it headed down the mountain, ending up lost and disoriented. By luck he stumbled into the small village of Korphe, where he was welcomed, warmed, fed, and befriended. Spending several weeks with the villagers as he recuperated, he came to respect and appreciate his Pakistani hosts. When he saw that their children gathered in circles with sticks to draw multiplication tables in the mud, he vowed to return and build them a school.

Many mountaineers vow to return and "do something" about the poverty in the villages where their Sherpas live; to the surprise of the Korpheans, Mortenson actually did. The Korphe villagers told him, "Here we drink three cups of tea to do business; the first you are a stranger, the second you become a friend, and the third, you join our family. And for our family we are prepared to do anything — even die."

Mortenson has drunk those three cups of tea with the Pakistanis. In the past 15 years he has risked his life to help them build over a hundred schools in remote villages, raising the funds and doing much of the work himself. It is a remarkable achievement.

What makes his school-building campaign even more remarkable is that Mortenson was in Pakistan while al-Qaeda terrorists were preparing their attacks on New York and Washington. He describes the disgruntled Islamic fundamentalists who were slipping across the border from Pakistan to training camps in Afghanistan where they formed the Taliban. He was there in September 2001, when the planes hit the Towers and the Pentagon.

In the days after the attacks, he sat near the journalists holed up in the safety of the Marriott Hotel, far away from the actual conflict, writing their stories based on hearsay and rumors that filtered up from outlying villages. Meanwhile, he met personally with leaders of the various groups, speaking their language and respecting their culture as he deftly convinced them not to shut down his schools. He offers a unique, firsthand report of the complex situation.

One of the reasons for Mortenson's success is that he stays focused on education. Twice he has been the subject of a fatwa, condemned by zealous tribal leaders who believe he has the ulterior motive of teaching Christianity in his schools. Each time he has been vindicated by Islamic leaders who recognize his sincerity in simply wanting Pakistani children, both boys and girls, to be educated. "Dr. Greg," as they call him, has become a quiet hero throughout Pakistan and Afghanistan.

"Three Cups of Tea" is, in the words of Tom Brokaw, "thrilling . . . proof that one ordinary person, with the right combination of character and determination, really can change the world." The book details the problems of sending humanitarian aid to developing countries, where graft, corruption, and Mafia-like protection rackets prevent money from arriving at its intended destinations. Mortenson often met teachers in the government schools who had not been paid their meager $40 a month in a year or more. Mortenson would pay them out of his own funds. When village women came to Mortenson asking for vocational training so they could earn a living, Mortenson added technical wings to his primary schools, using something similar to the microloans popularized by Nobel Peace Prize winner Mohammed Yunus of the Grameen Bank. Mortenson also set up training sessions for the Sherpas.

Greg Mortenson has been making friends and building schools in Pakistan, and now in Afghanistan, during the war in Iraq and the entire War on Terror. I think he has found a better way to solve the problem. As one of his contacts, Brigadier General Bashir Baz, told him, "You have to attack the source of your enemy's strength. In America's case, that's not Osama or Saddam or anyone else. The enemy is ignorance. The only way to defeat it is to build relationships with these people, to draw them into the modern world with education and business. Otherwise the fighting will go on forever."

Building relationships is precisely what Mortenson has been doing for the past 15 years, one village and one school at a time. He has overcome tribal barriers and aggression by appealing to the desire of all people: to provide a better life for their children. He is living proof that Muslims and "infidels" can be friends when they work together for a common cause, drinking "three cups of tea" to seal the bond. ❑

" 'Are Economists Basically Immoral?' and Other Essays on Economics, Ethics and Religion," by Paul Heyne. Edited by Geoffrey Brennan and A.M.C. Waterman. Liberty Fund, 2008, 483 pages.

The Graceful Science

Bruce Ramsey

I should have known Paul Heyne better. For 24 years he taught economics in Seattle, my hometown, at the University of Washington. He was an evangelist of the market; I was a business columnist on the morning daily paper. I called Heyne a few times on economics things, but the one time I interviewed him over lunch, to discuss the trade deficit, I ended up not quoting him because I thought he was too theoretical. He told me the trade deficit wasn't a problem: if you counted everything it all balanced out and there could never be any deficit to worry about. I shook my head. It wasn't a problem that could be solved by redefining categories, I thought. But I liked Paul Heyne. He was a good man.

I saw him one more time, in 1999, a few weeks before the trade ministers of the World Trade Organization came to Seattle and faced a leftist insurrection. Heyne was in a debate with a leftist at Seattle Central Community College. The debate was about the Multilateral Agreement on Investment, a proposed treaty I had never heard of and that had already been sunk. To the Left — and that's who the audience was — the debate was about an onrushing pact for global rule by corporations. Heyne was ostensibly there to support the agreement, except that what he supported instead was the idea of investment, and why investment is necessary for a commercial society and what conditions it needs to thrive.

The lefties wanted a demo, and he was giving them Econ 101, with kindness. That time I thought Heyne was right, but not many in the audience did.

The next year he got cancer and was gone.

Several years later I ran across an article of his on the webpage of the Federal Reserve Bank of Minneapolis: "Moral Misunderstanding and the Justification for Markets." It was an essay not so much on economics as on social philosophy. In it, Heyne rejected the idea that economics is value-free, which the Chicago folks had claimed and the Marxists had denied. In Heyne's view the Marxists were right. "Economic theory," he wrote, "is in large part an elaborate justification of commercial society."

That statement stuck in my mind. There was another one. In confronting the claim of selfishness, Heyne did not define selfishness as a benign concern with one's own interest, as Ayn Rand had done, and defend it. He took the common definition of "selfish" — greedy, deficient in consideration for others — and denied that it was necessary for economics. Gordon Gekko, the "Wall Street" movie character who famously declared, "Greed is good," was not illustrating an axiom of economic theory. "Economic theory," wrote Heyne, "assumes only that people pursue the projects that interest them."

And I thought: that's a way to look at it. Most of the people I know are trying to make money — though not all of them. But all of them might be said to be pursuing the projects that interest them.

Readers who have not heard of Heyne might look up this essay, which is still posted on the website of the Minneapolis Fed. If they like it, they will like Heyne's posthumous collection, "Are Economists Basically Immoral?"

The 483-page collection contains 26 essays. They are reprinted from such periodicals as Policy, Cultural Dynamics, This World, The Journal of Private Enterprise and Research in Law and Economics; and such books as "Belief and Ethics"; "Religion, Economics and Social Thought," "Morality of the Market," and "Morality and Work." One was a Cato Institute paper. Several were papers presented at conferences of the Liberty Fund, the collection's publisher. Some were unpublished typescripts. All are written in clear English, and not one of them has a chart, an equation, or even one letter of the Greek alphabet.

Heyne was not interested in mathematics, the ignition key for a full professorship in economics. He did not have tenure and never sought it. At the University of Washington he was a lecturer only — and was, I heard from several sources, loved by his students. He wrote a very successful introductory textbook called "The Economic Way of Thinking," and several of his essays here are about that. He taught economics by telling stories, as Henry Hazlitt had in "Economics in One Lesson."

"I think storytelling is a legitimate form of science," Heyne writes. "But if those who guard the citadel of Science decide that it's not, then I will let them have their Science and I'll stick to storytelling."

Heyne was a Christian who had begun his higher education in the 1950s at a Lutheran seminary. The book's introduction by Geoffrey Brennan and A.M.C. Waterman says that Heyne was tried by the Lutherans for heresy and said he won on a technicality. It does not say what the heresy was — and more's

the pity. Heyne, who later became an Episcopalian, said he had had left-wing views, and had "wandered into economics." He became, he said, "like a Christian biologist whose thought has been so thoroughly penetrated by the theory of evolution that he simply cannot read the Book of Genesis in a way that rules this theory out."

Much of the current book, including the title essay, concerns economics and Christianity. Heyne allows that the two don't look like pieces of the same puzzle. "The New Testament," he says in one essay, "advocates a degree of recklessness with regard to consequences that is sometimes hard to reconcile with the calculating perspective of Homo economicus." Heyne, however, has his differences with Homo economicus. He is interested more in the whole man.

Heyne also argues that economics and theology are about different things. Theology is ancient; economics is new, having started in 1776 with Adam Smith. Theology is about the soul, the individual, a way of life in which people know each other. Economics, said Heyne, is a way of thinking about exchange and markets. It is about how markets coordinate "the initially incompatible projects of diverse individuals." It is an explanation of commercial society.

Many of these ideas come from other places. Heyne was well read, and liberally quotes F.A. Hayek, Lionel Robbins, Frank Knight, Milton Friedman, George Stigler, Philip Wicksteed, Karl Polanyi, and theologians whom many libertarians will never have heard of. Most of all he quotes Adam Smith in "The Wealth of Nations" and "The Theory of Moral Sentiments." Smith, Heyne says, did not have the concept of "the economy," which arose about 1800. Smith was writing about society. In a sense, that is what Heyne is doing here. This is a collection of essays in social philosophy.

Heyne wrestles with some of capitalism's opponents, and occasionally concedes a point. The Marxists, he writes, "have long complained that conventional economic analysis takes for granted the existing system of property rights." He admits it. He goes on to argue, quoting Robert Nozick, that the same assumption underlies the distinction between acts that are voluntary and acts that are coerced. If I grab a book out of your hand and intend to keep it, and it's your book, it's coercion. If it's my book, it's not.

This book is not a unified whole, but a collection with overlaps and some repetition. A few times Heyne seems to contradict himself. In one essay he says, "I'm not really sure what greed is, especially not in people other than myself," and in another he writes, "Greed or selfishness, by contrast, is a matter of claiming for the self more than is due." Heyne is sometimes too theoretical for my taste, as he was in the lunch we had. He is, however, unfailingly thoughtful and never nasty. He must have been an extraordinary teacher. ❑

"The Rest Is Noise: Listening to the Twentieth Century," by Alex Ross. Farrar, Straus, and Giroux, 2008, 638 pages.

How Does Music Mean?

John Hospers

There are books about composers, musicians, and performers both instrumental and vocal. If you are interested in biographies, or accounts of the period in which the works were written, there should be no problem locating the books or articles that contain such information. "But I want the music itself," one may say. What, however, is the precise subject of this inquiry? One may examine a musical score and count the measures or the combination of sharps and flats the score contains, or the number of pianissimos and fortissimos. But what does this tell us about the music itself?

One of the first questions one tends to ask here is what is music about? What is its subject matter? Edward Gibbon's six-volume history is about the decline and fall of the Roman Empire. Michelangelo's statue "David" is about David, the David depicted in the Bible, and this would be so even if this David were wholly a creature of the sculptor's imagination. Would the sculpture still be about David even if there were no resemblance at all between the David depicted in the Old Testament and the David in the sculpture? Some would say there has to be some resemblance; others would say there need be no resemblance at all: all that is required is that the sculpture has been given this name by the artist; the alleged subject may not exist in the world outside the work of art.

What then of music? Do works of music have a subject — are they about anything? Vocal music, such as songs and operas, has a subject because it contains words. But what of purely instrumental music — can it also have a subject?

Many would say yes, there is "program music" — musical works with a title (usually provided by the composer) that depict objects or actions. Richard Strauss' tone-poem "Don Quixote" contains no words but has a title indicating a depiction-subject. Most people would not guess it from the title, but once that title is known, some listeners can "see a connection" between Don Quixote and certain aspects of the music, as in the Don's tilting at windmills.

Many listeners, however, would question any connection between the two, and can do their listening quite well without any such "program." A work of music, they would say, is a series of notes — or rather, a series of tones and rests. After all, music is an auditory art; music is something you hear; the notes are merely sets of instructions as to what tones to play.

Musical sounds without accompanying words are, unlike a novel or a drama, not about anything at all. A Beethoven string quartet has no subject; it has an opus number.

I will return to these matters — after introducing the work that is the subject of this review.

Alex Ross' book is about (has as its subject matter) the history of classical music during most of the 20th century. That is what the book — not the music — is about. The book provides us with many things: the lives of the composers, a discussion of the composers and compositions that influenced them, and a history of the periods in which their own compositions were written, such as the history of Europe between the two world wars. Separate chapters are devoted to Strauss, Mahler, Stravinsky, Britten, Sibelius, Prokofiev, Messaien, Gershwin, Copland, and many others whose works are more briefly characterized.

Ross' book contains a lot of history, including a history of the Soviet Union under Stalin. There are, for example, many pages on the overlapping careers of the Soviet composers Prokofiev and Shostakovich. The two accounts are fascinatingly intermingled, describing many events in the life of one of them that influenced the life and work of the other. Both were creators with enormous talent — Prokofiev for his many symphonies and concertos, ballets such as "Romeo and Juliet," and operas such as "War and Peace," and Shostakovich for his 15 symphonies and a series of acclaimed string quartets. I had virtually memorized the First Symphony, written at age 19, before he completed the most popular one, the Fifth; a Fifth was also the most performed symphony by Prokofiev. Both these composers were aware that Stalin himself sometimes attended performances of their works (seated behind a curtain) and that the life or death of each of them, as well as other Soviet composers, depended on his continued tolerance. Composers who did not please Stalin often paid for his tastes with their lives. The "Testimony" of Shostakovich describes how he lived in constant fear of a phone call from Stalin that might seal his doom. In the end it was only the popularity of his film scores that saved him.

It is significant that during the 1960s, a friendship arose between Shostakovich and his Finnish counterpart, Jan Sibelius. Sibelius, says Ross, was a lonely, troubled man. "The two composers formed a lasting bond. What they had in common was the ability to write elusive emotions across the surface of their music" (p. 413).

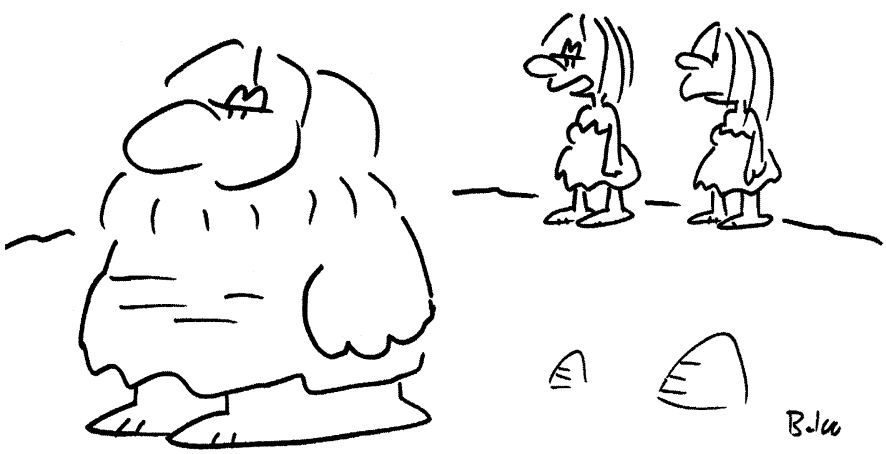
Ross describes in some detail the late string quartets of Shostakovich, written largely to escape the eye of Stalin (who didn't pay much attention to chamber music) — especially the eighth quartet, "one of the most extraordinary autobiographical pieces in musical history." It was written following a visit to Dresden, the scene of the heavy Allied bombings of February 1945; in Ross' account, it is tragic, disquieting, apprehensive, and pessimistic (257).

Now, this having been said, what if anything is the connection between such adjectives and the qualities of the music? Some passages of music are referred to as "restless" — staccato, quavers, rapid accelerandos and crescendos, and wide jumps in pitch, reflecting in some way the characteristics of restless people. Music referred to as "sad" is usually slow, downward-turning in pitch, with no great tonal leaps. As philosopher O.K. Bouwsma writes, "Sad music has some of the features of people who are sad: it will be slow, not tripping, and low, not tinkling; people who are sad move slowly and when they speak they speak softly and low." It's not that the music is about these feelings, but that the music and the feelings have certain (quite objective) qualities in common.

All this can be seen vividly in the work of Olivier Messaien. Messaien was in a German prisoner of war camp in 1942 when he wrote his "Quartet to the End of Time." After the war came his sensuous "Turangalila" symphony, based on passages of music from India and including many rare instruments with exotic sound effects. He devised a "chord of resonance" (C, G, B flat, D, E sharp, G sharp), powerfully dissonant, used earlier by Mahler in his posthumously performed Tenth Symphony. Messaien's most acclaimed work is "From the Canyons to the Stars," based on his experience of the scenic wonders of Bryce Canyon, Cedar Breaks, and Zion National Park. It includes some of the composer's favorite bird songs — "to glorify God in the beauty of His creation."

Does the fact that it was inspired by these Utah canyons make it a programmatic work? Well, a musical composition, as well as a performance, could be inspired by practically anything. This does not cause the music to be "about" canyons or give it a high degree of aesthetic value. In aesthetic experience we enjoy sounds, words, and colors for their own sake, not for what they might be alleged to be about, nor what the experience leads to in later life, or where it comes from, or in whose mind it had its origin.

Ross' book naturally cannot convey these experiences. It does tell us much about the conditions, cultural and biographical, in which they can be enjoyed. ❑



"He gets credit for inventing language, but he was just belching."

"Gran Torino," directed by Clint Eastwood. Double Nickel Entertainment, 2008, 116 minutes.

Into the Sunset?

Jo Ann Skousen

As "Gran Torino" begins, Walt Kowalski (Clint Eastwood) is standing at the front of a church, watching the mourners file in for his wife's funeral, and growling at them — yes, growling like a cur — because he doesn't approve of his grandchildren's clothing. Granted, it is entirely inappropriate to wear sweats or an exposed belly button ring to one's grandmother's funeral, but surveying the mourners is a bit much, too. Shouldn't he be seated with his back to the congregation?

Eastwood continues to glare and growl with disapproval at his family, at his neighbors, even at the priest, taking his trademark sneer to a whole new height. It's hysterical, and deliberate, a wink at his fans without ever breaking character. He gives us permission to laugh, and laugh we do, throughout the film, despite the pathos of the story. For a film being touted as Eastwood's last (at least as an actor) it is a masterly salute to the past. No one could ask for a better wake.

But back to our story. Kowalski is a Korean War veteran and retired Ford worker who just wants to be left alone. He takes care of his house, mows his lawn, polishes his beloved 1972 Gran Torino, chain smokes, and chugs beer. He misses his wife. "Crusty curmudgeon" doesn't begin to describe this guy. He's downright mean and bigoted.

His neighborhood has gradually been taken over by Asian immigrants, mostly Hmong, although he calls them all "gooks." When Thao (Bee Vang), the neighbor boy, is beaten up by an Asian gang he has refused to join, Eastwood breaks it up. He just wants them to get off his lawn, but the family next door interprets his actions as heroic. Suddenly they are bringing him gifts of food, flowers, and service. "Get off my lawn!" he barks. "Leave me alone."

But, as can be expected, Kowalski's bigotry begins to thaw as he takes an interest in the boy, his sister Sue (Ahney Her), and their family. (The Hmong actors were selected through open casting calls, by the way, and only one, Doua Moua, who plays the gang leader, had any previous acting experience. Unfortunately, it shows — especially in Sue.) When Thao and Sue are threatened with violence, Kowalski protects them with violence of his own, backed up by his Korean war rifles. The action is classic Eastwood: coolheaded threats, a loaded gun, a couple of fistfights, and that trademark sneer. Also, as expected, the tension keeps rising.

Kowalski could have become a predictable caricature, a final-season Archie Bunker, crusty on the outside but warmhearted on the inside. In fact, the initial growl is disconcerting, so cartoonish and over the top that one fears a return to the 1970s Eastwood with Sondra Locke and that blasted orangutan.

But Eastwood infuses this character with a believability that harks back to Dirty Harry and the Man with No Name. He's a man haunted by a past that won't let go of his present, making the film's Christmas release date ironically appropriate. Kowalski is haunted by his experiences in Korea, haunted by his memories of shooting people he didn't even know. He says he hates his "gook" neighbors, but what he really hates are the memories.

Into the mix comes a young, pink-cheeked parish priest (Christopher Carley) who is determined to keep a deathbed promise he made to Kowalski's wife, who asked him to hear Walt's confession. Walt isn't having it. "I'm not confessing to a 27-year-old virgin priest fresh out of seminary," he taunts, his lip upturned in that trademark snarl.

The priest won't give up, and eventually Walt does come to confession. But he doesn't broach the big stuff, the problem that has been eating him for more than 50 years. "I wish I had developed a better relationship with my kids," he confesses.

"Is that it?" the priest queries.

"Yep," Walt responds.

"Say ten Hail Marys and five Our Fathers," the priest tells him.

"Is that it?" we wonder.

The value of going to confession is not just in receiving absolution from the priest but in being able to forgive oneself. Walt needs more than a few "Our Fathers" to receive absolution for what he considers his war crimes. He's doing some good works — he's helping Thao learn marketable skills, he's watching over Sue, he's learning to love his neighbors — but for the kind of sin he has committed, blood atonement is required.

Eastwood has explored the theme of faith and redemption in numerous previous films, the ones that marked his rise from simple movie idol to legendary filmmaker. The list includes "Million Dollar Baby," "Unforgiven," and "Pale Rider." In a way, this film's ending seems to be Eastwood's way of atoning for the gratuitous violence of his earliest films and the ease with which his characters pulled the trigger. If this is indeed his final film as an actor, the denouement is a fitting and masterly ending to an outstanding career. Clint, thanks for the memories. ❑

"Transsiberian," directed by Brad Anderson. Filmax Group, 2008, 111 minutes.

Old Genre, New Treat

Gary Jason

One of the film genres that has been enduringly popular from the beginning of cinema is the mystery flick. In the hands of directors such as Alfred Hitchcock and John Huston, mystery films have achieved the highest levels of artistic and commercial success. A recent mystery movie, "Transsiberian," released in art houses some months back and now available for rental, is no exception. It is a rare treat.

While this movie is a fresh and unusual mystery story, it does draw on some classic devices. Like so many Hitchcock movies, it involves ordinary people who unwittingly get caught up in the machinations of criminals, with the mystery being to discover which characters are involved in the criminal activities, which aren't, and what exactly those activities are.

In addition, this movie takes place in a confined setting — a train. This brings to mind a number of good movies in which mysteries occur during train trips, such as "Murder on the Orient Express," "Strangers on a Train," and the neglected gem "Silver Streak." I suspect that the reason this plot device — forcing the characters to interact in a confined setting — heightens the tension is that it robs the characters of the option that we commonly use in real life when confronted with strange people or dangerous situations; namely, the option of simply fleeing.

The story opens with Ilya Grinko (Ben Kingsley), a Russian narcotics cop investigating the scene of a murder of drug dealers in a Russian city. The scene then switches to Beijing, where we meet an American married couple, Roy (Woody Harrelson) and Jessie (Emily Mortimer), who have just finished a tour as missionaries doing charitable work in China. At the urging of Roy, whose lifelong passion is trains, they decide to return home by train across Manchuria on the legendary Trans-Siberian Express from Beijing to Moscow.

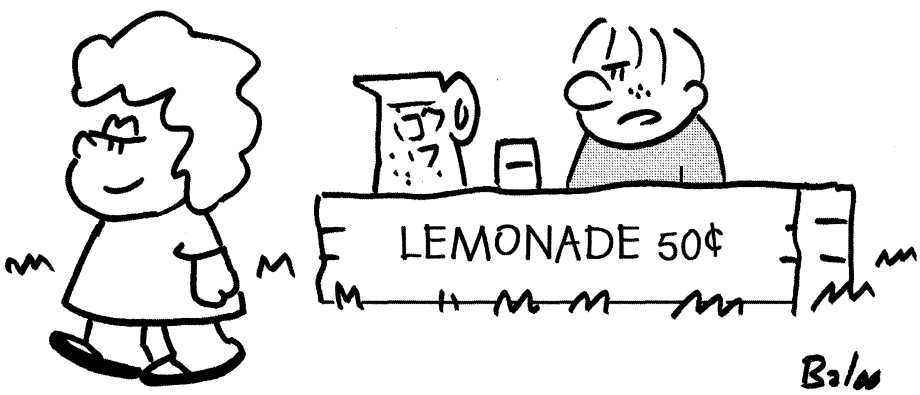
As the story shifts to the train in Siberia, Roy seems to be a big, outgoing and uncomplicated fellow, while his wife Jessie is more subdued, her apparent passion being photography. As they settle into their compartment, Roy befriends a Spaniard, Carlos (Eduardo Noriega), and his American girlfriend Abby (Kate Mara). There is an immediate tension between Jessie (whose reserved demeanor belies her past) and Carlos, who shows Jessie a set of matryoshka dolls he is carrying. He claims they are expensive, and she (along with us) begins to suspect he is into something illegal.

When Roy misses the train in Irkutsk, Jessie decides to get off at the next town and wait for him. Abby and Carlos get off as well, staying at a hotel until Roy can join them the following evening. In the morning, Carlos shows up in Jessie's room, claiming the shower in his room isn't working. We see that the tension between them is partly sexual. Carlos convinces her to accompany him to an old church just outside of town to take photographs, setting up the major turning point of the plot, as the innocent tourists become ensnared in a drug-running scheme gone awry.

Director Brad Anderson does a fine job of keeping us in suspense throughout the film. Are Roy, Jessie, and Abby all as innocent as they seem? Are the Russian narcotics police to be trusted? You will find yourself in suspense to the very end.

Woody Harrelson is fine as the open, earnest Roy, as are Eduardo Noriega as the officious, ominous Carlos and Kate Mara as the enigmatic, naive Abby. But I think the best performances are given by Emily Mortimer and Ben Kingsley. Mortimer portrays Jessie as a woman with tremendous pent-up emotions and fears. And the always outstanding Kingsley portrays Ilya Grinko as a tough, threatening man with a fierce focus.

All this adds up to a mystery flick so well done that it will be enjoyed even by those who aren't normally into such movies, and is not to be missed by mystery buffs. ❑



"Of all the lemonade joints in all the world . . ."

"Paul Blart: Mall Cop," directed by Steve Carr. Columbia Pictures, 2009, 91 minutes.

Mall Crap

Mehmet Karayel

Paul Blart (Kevin James) is a mall security guard entirely devoted to his self-sworn duty of upholding mall safety and protecting shoppers. At the same time, he is trying desperately to improve his unfortunate personal life. When an organized band of criminals tries to hijack the mall, Blart must draw upon his professionalism, coolheadedness, and adeptness at maneuvering a Segway in order to thwart this menace and save the ones he loves.

This movie would appear to have very good potential as an action-comedy. But viewers beware! Anyone trying to make sense of the plot would be wasting his time.

It is not enough to haphazardly replace the corporate moguls and multinational crime syndicates of "Die Hard" with hapless mall vendors and a gang of X-Games rejects. The story loses its credibility when these highly skilled criminals decide to stage their heist in a New Jersey mall, exercise the poorest judgment in their choice of hostages (in front of whom they have no problems discussing the details of their plan), then inexplicably manage to be foiled at every turn by a bumbling mall cop.

Blart's love interest, Amy (Jayma Mays), does very little in the way of communicating emotion or demonstrating genuine human qualities. All the other characters fall neatly into two general categories: they are either heartless jerks or helpless fools. Not one of the hostages is interesting or likable enough to justify the screen time wasted on Blart's bumbling attempts to save them. The supporting cast is so weak and lackluster that by the end of the movie the audience should be fantasizing about creative ways to wrap up the exhausting hostage situation and bring everyone's agony to an early close.

But is it fair to hold a satire to the standards of cinema seria? The answer is no, so long as the movie adequately spoofs the mainstays of its subject genre. I am a person who is naturally drawn to movies that poke fun at other movies. In these films, I expect that a cohesive story line will be tabled in favor of a run of jokes aimed at Hollywood cliches or the mismatch between characters and their situations. But "Mall Cop" comes up shamefully short in this department. Seeing the same slapstick gags continually recycled becomes tiring.

Blart's misguided dedication to the line of duty is funny in the beginning, when he tries to issue a speeding ticket to a senior citizen on a motorized scooter, or when his attempts to subdue an unsatisfied customer backfire and he gets the worst of the exchange. But seeing him stealthily walking and crawling, nay, bumbling and sliding all around the mall in order to conduct covert reconnaissance is an overreach and becomes simply irritating. So much of the movie relies on watching Blart flipping, fumbling, and colliding with things that the motions become routine and predictable, not funny.

The group of crazy criminals and the gung-ho FBI agents who arrive on the scene fashionably late would easily lend themselves to spoofs and parody. But nothing is done to make fun of their formulaic appearances. The comedic undertakings are left entirely to Kevin James. While he may have all the luck and dedication necessary to protect his mall and thwart the bad guys, the burden of singlehandedly trying to save a movie is something that even he is not cut out for. Making sense of the plot holes would require viewers to do more than suspend their disbelief; it would require them to suspend rational thought altogether.

On the other hand, a person who's just looking for a few good laughs would find the jokes too weak and widely dispersed to be of any value. It is sad to see how little is done to take advantage of the natural parody fodder scattered throughout the movie, shameful to watch these chances for easy laughs fly harmlessly on, then off, the screen. The only thing a viewer should expect to take away from this film is moviegoer's remorse. ❑

Filmnotes

Unlikely romance — In Joel Hopkins' "Last Chance Harvey" (2008), Dustin Hoffman is Harvey Shine, a middle-aged musician desperately trying to hang onto his job writing background music for television commercials. It is a job that he hates, but it is the only job he has. On a quick trip to London for his daughter's wedding, he spends most of his time calling the office and is treated more as a guest than a father. Somehow, while Harvey was busy earning a living, he forgot how to live. When Harvey's boss tells him that an important meeting on Monday morning is his "last chance," it isn't just his last chance for the job; it is his last chance to find happiness.

Meanwhile, Kate Walker (Emma Thompson) is a public opinion surveyor at Heathrow Airport who spends all her time taking care of her mother. She watches people traveling to and from faraway places, she reads about adventure in romance novels, but her own life is going nowhere. Neither of these characters is happy, but neither will admit it. Both have accepted the idea that it is too late to follow their dreams, so they cling tenaciously to what they have, afraid of losing what little it is.

A chance meeting at the airport changes all that. Kate puts down her novel and begins to sparkle. Harvey follows Kate around London like a lost puppy, eventually convincing her to attend his daughter's wedding reception with him. Both are middle-aged and rumpled, but their smiles light the screen when they look at each other.

"Last Chance Harvey" is a charming film about taking risks, following dreams, and finding friendship. It's also about letting go — letting go of the security of a dead-end job, and letting go of the defense mechanisms we use to protect our emotions. Janis Joplin said it well when she sang, "Freedom's just another word for nothing left to lose." Sometimes we have to let go of what we have in order to embrace the things we truly want. As "Last Chance Harvey" reveals, opportunity often knocks loudest when everything seems lost.

— Jo Ann Skousen

Letters, *from page 6*

war. Not only does the war kill and injure people and break things, it also costs a lot of money, and I mean a *lot* of money. Add all the other contemptible and destructive government programs and they are spending an obscene amount of money. They pay by stealing (taxes), counterfeiting (inflation), and borrowing. The amount of borrowing done by the politicians and bureaucrats in Washington has left little room for the rest of us. Therein, the shortage. The solution: cut spending by the politicians and bureaucrats in Washington, DC. The solution: uphold the Constitution.

We do have a real choice.

We may have rich and powerful politicians and bureaucrats in Washington, or we may have rich and powerful people. We may have wars, poverty, and tyranny, or we may have peace, prosperity, and progress.

Libertarianism and the Constitution, if followed, can remove the obstacles of the politicians and bureaucrats in Washington and allow the peace, prosperity, and progress that human liberty brings.

No more bailouts, loans, subsidies, grants, loan guarantees, stock purchases, no more other special privileges — or theft and larceny of the taxpayer's money. Stopping these activities should be of major concern to libertarians.

We should abolish legal tender laws and the Federal Reserve System. Laws against fraud should be enforced and all currency of the federal government should be backed by silver or gold.

We will not achieve libertarianism by swallowing our principles, nor should we consider supporting those policies or politicians who would steal our money and our liberty.

Jim Burns
North Las Vegas, NV

Reflections, *from page 20*

We spoke of Camus and swimming pools and all sorts of things (except cabbages and kings), and we scribbled our identities in notepads, and promised to read each other.

I was in a softer mood now and, outside, so were the winds. I walked down toward St. Germain, past the cozy cafes where Sartre once sat, and past the brasserie where once Hemingway had a serving of some very inspirational potato salad. I was happier with Paris now.

I expressed my happiness that night to my Parisian friend. I sat at his kitchen table and told him about my day and the flowers and the kind, quick-witted man I met at the Hôtel des Beaux Arts.

"What was his name?" my friend asked.

I pulled out my notepad, flipped it to the 73rd page, and handed it over.

My friend drew a grand smile.

He shouted: "You met F---!"

"I did?" I said. "But who is he?"

"He's very, very famous," my friend said. "He's a novelist. He's been in movies." My friend drew another smile. This time there was a trace of envy. I smiled, too, marveling in my unexpected literary moment, until my friend continued to speak.

"But I hate him," my friend announced.

"Why?" I asked, almost defensively.

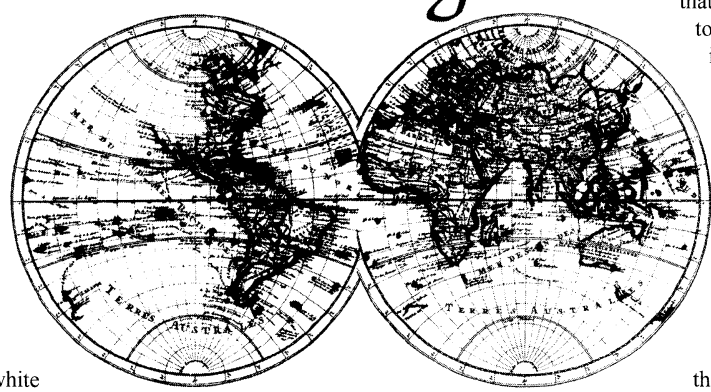
And here my friend fell back into form and went on and on, pretending he had never smiled, saying how that man F--- was a shallow, womanizing fraud, a pretender, a bourgeois-bohème, and how that line about women and beauty and pain, it wasn't even his; F--- had stolen it!

"From whom?" I asked sorrowfully.

"Baudelaire, of course!" my friend said, smiling again.

"Right," I said, and I began to wonder how many flowers Baudelaire had on his grave. — Garin Hovannisian

Terra Incognita



Boston

Heartening display of holiday cheer, from the *Boston Herald*:

Before Christmas, Boston Police Capt. Christine M. Michalosky spent hours rooting through the shelves and racks at TJ Maxx for the perfect presents — not for herself or her family, but for the needy children at Bromley-Heath, a public housing project in the district she commands. All told, she filled six shopping carts with toys and clothes for kids.

Days later, a dozen police cruisers and the Metro SWAT team converged on her Braintree home after a report that she had barricaded herself inside. Her quiet street became a cordoned-off spectacle. Neighbors were barred from re-entering their homes. Those already inside were ordered to stay clear of the windows.

In an age when the bottled-up stress of cops too often turns tragic, BPD was concerned about her being potentially depressed — and they wanted to be sure Michalosky's recent spending wasn't a sign of imbalance.

Ottawa

Search for affirmative action in epidemiology, in the *Ottawa Citizen*:

The Carleton University Students' Association has voted to drop a cystic fibrosis charity as the beneficiary of its annual Shinearama fundraiser, supporting a motion that argued the disease is not "inclusive" enough.

Cystic fibrosis "has been recently revealed to only affect white people, and primarily men" said the motion read to student councilors, who voted almost unanimously in favor of it.

CF is diagnosed just as often among girls as boys, although the health of girls deteriorates more rapidly. It is commonly considered an illness that affects "Caucasians," but that includes people from the Middle East, South America, North Africa and the Indian subcontinent.

Tampa, Fla.

Justice unhooded, in the *Tampa Tribune*:

Batman has had a slew of enemies over the years — The Joker, The Riddler, Catwoman — but in Ybor City last year, he added a new nemesis: Tampa police.

Ybor City's version of the Caped Crusader — his real name is Walsh Ian Nichols — was sitting on a curb eating when an officer arrested him for wearing a mask on a public street. "They actually didn't let me finish my sushi," Nichols said.

The law under which Nichols was arrested was created in 1951, and aimed at combating hooded Ku Klux Klan members.

United States

Modern-day update on Barry White and satin sheets, from a report by MSNBC:

The Obamas represent a welcome change as an openly affectionate and romantic couple for many Americans. Some experts say that the new first couple embodies the ideal healthy relationship, and that they can stir up love around the country. Some even predicted a baby boom attributed to election night friskiness inspired by the Obamas.

Tokyo

Romance in the modern age, from the Japanese bureau of the AFP:

A Japanese man has enlisted hundreds of people in a campaign to allow marriages between humans and cartoon characters, saying he feels more at ease in the "two-dimensional world."

Taichi Takashita launched an online petition aiming for 1 million signatures to present to the government to establish a law on marriages with cartoon characters. Within a week he has gathered more than 1,000 signatures through the internet.

Wrote one, "For a long time I have only been able to fall in love with two-dimensional people and currently I have someone I really love. Even if she is fictional, it is still loving someone. I would like to have legal approval for this system at any cost."

Washington, D.C.

Insults to Old Glory, passed on by the *Washington Post*:

Chief Justice John Roberts said that Congress should be as generous to judges as it already has been to itself, by approving an inflation-related increase in their pay.

His report takes account of the economic downturn and evokes the Smithsonian Institution's recent repair and preservation of the American flag that flew over Fort McHenry during an attack by the British in 1814. The flag was the inspiration for the national anthem.

"The flag bears scars from the pitched battle, but it also shows blemishes, regrettably, from later neglect," said Roberts, who also is the Smithsonian's chancellor. Likewise, he wrote, "the judiciary's needs cannot be postponed indefinitely without damaging its fabric."

Rio de Janeiro, Brazil

Mayhap she doth protest too much, from the redoubtable *U.K. Daily Mail*:

Feminists around the world have reacted with horror to a new line of lingerie that comes equipped with a GPS tracking system.

Lingerie maker Lucia Lorio of Brazil says her design targets the "modern, techno-savvy woman." The lingerie combination set consists of lace bodice, bikini bottom and faux pearl collar, with the GPS device nestled in the see-through part of the bodice next to the waist.

The range of underwear has been described as a modern-day, high-tech chastity belt. "It is outrageous to think that men can buy this, program it and give it to their partners and then monitor them," said Claudia Burghart, leader of a Berlin feminist group.

California

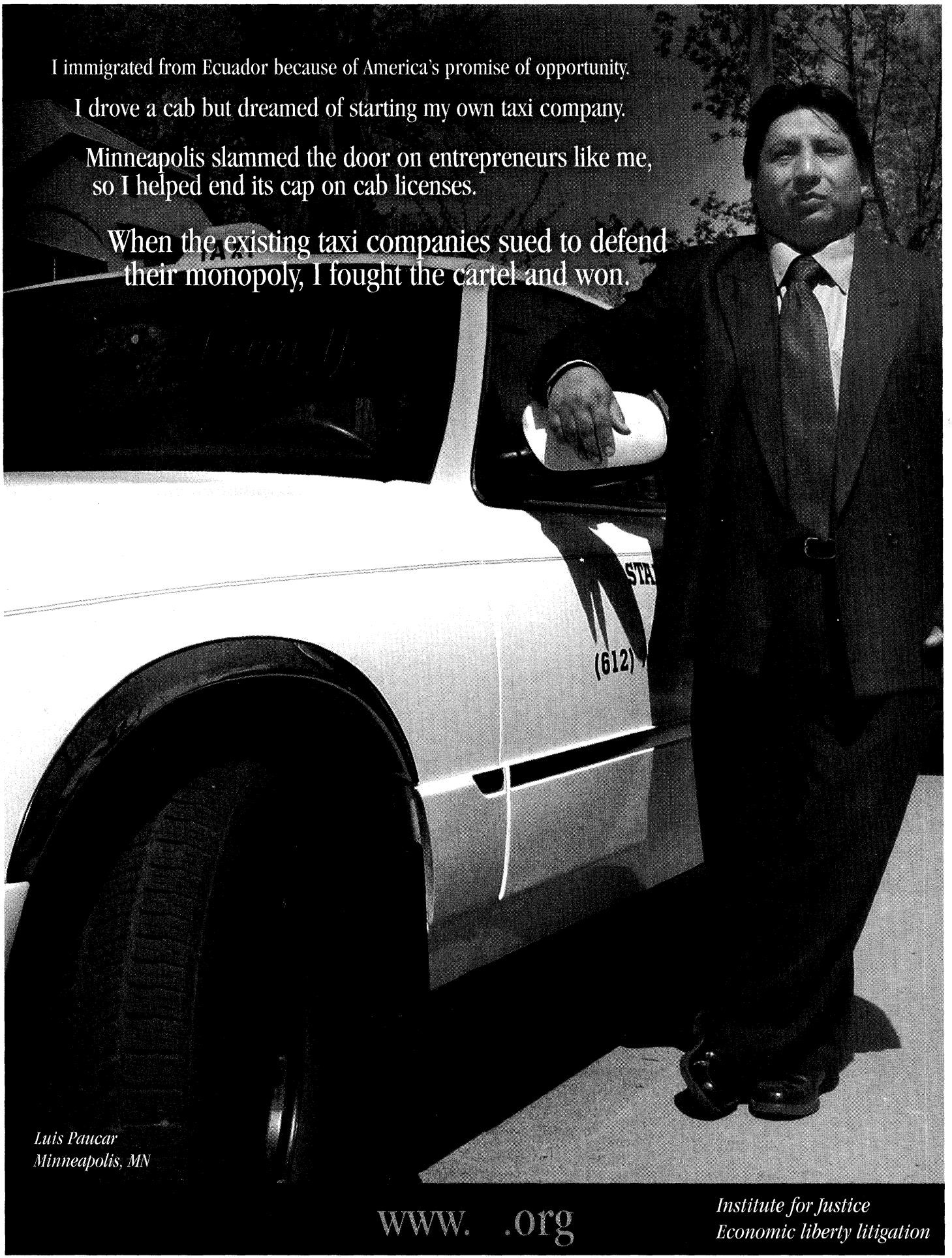
Difficulties in restitution, reported in the *San Francisco Chronicle*:

A homeless man has been ordered to pay more than $101 million for starting two fires, including one that burned more than 163,000 acres in California two years ago.

Fifty-year-old Steven Emory Butcher was convicted in February of starting blazes in the Los Padres National Forest in 2002 and 2006.

Special thanks to Russell Garrard and Tom Isenberg for contributions to Terra Incognita.

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


I immigrated from Ecuador because of America's promise of opportunity.
I drove a cab but dreamed of starting my own taxi company.
Minneapolis slammed the door on entrepreneurs like me, so I helped end its cap on cab licenses.
When the existing taxi companies sued to defend their monopoly, I fought the cartel and won.
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