

Liberty

Obama's
High-Speed
Flail

April 2010

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Massachusetts Says "Enough!"

by Stephen Cox

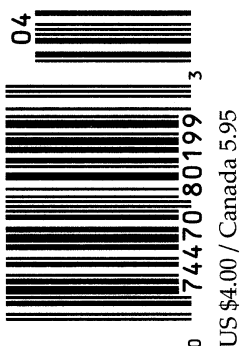
Castro's CIA Connections

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by David Ramsay Steele

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Letters

Robbing Peter to Pay GM

Edmund Contoski's "Crash and Burn" (Jan.–Feb.) confirms that the Cash for Clunkers program was just a street hustle. First, taxpayers bail out failing auto manufacturers with tens of billions of dollars. Next, Uncle Sam offers \$4,500 rebates to generate sales for the companies the taxpayers just bailed out. A billion dollars proved insufficient, so Congress authorized and appropriated another \$2 billion. Add \$3 billion more to a record \$1.7 trillion deficit this year.

At the end of the day, Uncle Sam took money out of one taxpayer's pocket and put it in another. Now the used-car market is suffering from the destruction of all those older but still roadworthy cars. College students, single parents, working- and middle-class Americans looking for a used car to get to school or work have fewer, more expensive used cars to select from. And the air quality benefits of replacing older with newer cars seem to have had little effect on the environment in most of the country.

We can only hope that, come the 2010 elections, taxpayers "trade in" their current Congress member for a fresh new model who is more efficient at not wasting our hard-earned money.

Larry Penner
Great Neck, NY

Difficult, Not Impossible

Carl S. Milsted, Jr.'s December 2009 article, "Bridging the Two Libertarianisms," while no doubt well-intentioned, contains numerous

straw-man arguments, half-truths, untruths, and sweeping conclusions unsupported by the facts. To take several egregious examples packed into two short sentences, Milsted says: "The Zero Aggression Principle demands *immediate* elimination of all taxation, and perhaps monopoly government in general. Yet eliminating these things would result in tribalism, warfare, and eventually dictatorship — that is, increases in aggression." Where to begin?

First, every libertarian I know refers to the Non-Initiation of Force (NIOF) principle, not the misleadingly named "Zero Aggression Principle." While there are a few complete pacifists out there, the overwhelming majority of libertarians believe they have the right to aggressively defend themselves against at least some initiations of force, such as attempts to kill them.

Second, note that Milsted emphasizes via italics the word "immediate" when talking about elimination of all taxation, and elsewhere in the article implies that this means ending taxation today, or perhaps within a week or so. Well, no. It has taken well over 200 years of incremental growth in government to get us to the 37% of income or so taxed away by all levels of government (more than that if you count inflation as a tax, but that's a rant for another day). I think that all but the most radical of anarchocapitalists would be delighted if getting down to 0% coerced taxation took an entire 4 years of a presidential term. It simply takes time to sweep away such an ingrained legacy of theft

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and coercion, and fire millions of unproductive bureaucrats, even if done as quickly as possible.

Third, the NIOF principle only implies that involuntary taxes are a form of theft, not voluntary taxes. It would not be immoral or an initiation of force if all the revenue generated by the government came from taxes that were voluntary subscriptions for government services that one could decline to enroll in. For example, one could keep the current Social Security system intact and unaltered, except for allowing everyone the right to permanently opt out of the system and the associated taxes, and instead choose private sources of investment to cover the expenses of retirement. That would completely remove the coercion and initiation of force — everyone enrolled in Social Security would then have chosen to participate and pay the taxes to support it, and all the dissenters would be free to manage their own retirement. Unlike Milsted, I think most reasonable people would

confidently predict that making Social Security voluntary would not “result in tribalism, warfare, and eventually dictatorship.”

Given more space, I could explain how it is feasible to eliminate monopoly government, and give each citizen a choice of competing governments to choose from, the same way they can choose which grocery store or car dealership or whatnot to purchase needed goods. Suffice it to say that this liberty-enhancing change is merely difficult, not impossible.

Jim Henshaw
Kailua, HI

Real Reality

To mix metaphors and paraphrase pundits, I must say that while reading Carl S. Milsted, Jr.'s article, I have never before envisioned “so many pinheads dancing on the head of a pin!” It seems to me that it ain't that hard.

I consider myself to be a libertarian of “broad stripe,” an anarcho-laissez-

From the Editor

“People will believe almost anything that isn't so,” said Isabel Paterson.

That thought has occurred to most of us — about *other* people, of course. It's the secular version of original sin: there's just something about the beings who inhabit this planet that makes them want to believe in the weirdest kind of nonsense.

They want to believe that nations can make themselves prosperous by borrowing more than they know how to pay back.

They want to believe that economic inefficiencies can be remedied by the creation of immense bureaucracies.

They want to believe that monopolies are bad, except when held by the government — which is commonly conceded to be “out of control.”

They want to believe that if there's a problem, either the president or the Congress can fix it.

They want to believe that maintaining freedom demands the continuous passage of laws.

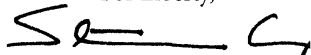
They want to believe that every individual has inalienable rights — except when there's some public purpose for abridging them.

I don't need to go on. You can fill out the list yourself. What I'd like to know is this: why would anyone *want* to believe such things? That's a mystery. Yet people must have a pretty strong will to believe, just as Paterson said — because without it, everyone would be laughing his head off at the bizarre ideas I've just cited.

But sometimes, enough is enough. Suddenly there comes a moment when people stop, take a breath, and start to wonder. Some of them even start to laugh. Then there's reason to doubt whether Paterson's comment was entirely correct. It's a moment she herself would have enjoyed.

We appear to have arrived at such a moment. And *Liberty* is here to watch what happens.

For *Liberty*,



Stephen Cox

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faire-capitalist, and an aspiring student in the Austrian School of Economics. I also think I am a realist who lives in the real world of reality. I fully accept the principle of self-ownership and all its implications as fully set forth in Rothbard's "Ethics of Liberty" and I commend the book to Milsted, since he seems to have avoided it. He seems oh so ready to embrace governmental taxation for his favored causes and emotional whims.

I think no one has the right, duty, or justification of impulse to initiate unprovoked, violent, physical aggression against another. (Please note the word *unprovoked* and all its implications.) This clearly allows me to defend myself against physical attack. If government does exist, it should be limited strictly to protecting the lives, liberty, and property of every individual citizen within its "jurisdiction." Government's sole legitimate function in a truly free society is to seek out and punish those who commit fraud, misrepresentation, theft, and initiation of unprovoked, violent, physical aggression against others.

Since taxation (and all its implications for those who ignore or attempt to evade it) is actually unprovoked, violent, physical aggression, all "government services" should be provided and paid for only under freely and willingly executed contracts. Of course, this would permit other "governments" (none with the ability to tax) to compete in the "government-services market."

Milsted seems to make a big thing out of "empathy." My Webster's says it is the action of an individual, not a collective organism. Webster's also leads me to believe that Milsted might actually mean "sympathy." Anyway, I will not gladly pay an empathy — or sympathy — tax. I pick and choose upon whom I spend my meager resources. I much prefer to care for my own loved ones and not every poor, miserable, unknown soul across the face of the earth. Those who wish to do otherwise are free to do so.

Milsted may call himself a libertarian. I shall not initiate unprovoked, violent, physical aggression against him for doing so. But he should not initiate unprovoked, violent, physical aggression against me for saying that he appears to me to be not a libertarian, but a firm statist with slight, conve-

nient, libertarian leanings. I thoroughly realize that my dreams of a truly free society will not come about during my lifetime. However, I try to live up to my principles in the interstices of freedom that occur from time to time in the midst of overweening government.

David Michael Myers
Martinsburg, WV

Too Big a Tent

I believe in a big tent and all that, but here we have someone calling himself libertarian who claims the moral right to steal from rich people ("tax billionaires") to support his pet projects (avoiding "letting poor people starve"). He also derides the pledge against "initiation of force to achieve political or social goals" (and he's not meaning self-defense against the armed enforcers of the state). This is a libertarian?

Mind you, Carl Milsted also thinks the Ron Paul campaign "failed because he promised to do bad things" (giving as an example his comment that he abolish the income tax, maintain stable money, and bring the troops home).

After reading the December Liberty, I realize I can't be a libertarian. Why, I must be an anarchist.

Adrian Day
Annapolis, MD

Milsted responds: Jim Henshaw complains of my straw-man arguments and launches one of his own. I clearly defined The Zero Aggression Principle as "a mandate that one should never initiate force or advocate the initiation of force." I fully recognize that ZAP allows for vigorous self-defense and retaliation. It does not, however, provide for adequate national defense. Modern militaries use complex integrated weapons systems. Frontline troops use satellites to locate enemies and call down bombs dropped from aircraft whose home bases are thousands of miles away. Militias armed with personal weapons are no match for a modern integrated military.

Those who adhere to ZAP ignore such unpleasant realities and prescribe policies suitable for the 1700s. We "moderate" libertarians who merely wish to reduce or minimize overall aggression are free to take into account present realities and prescribe accordingly. In practice, we moderates call for more liberty than the high-minded

ZAP advocates. Liberty is not advanced by allowing the People's Republic of China to colonize the United States.

Henshaw displays a further disconnect with reality when he suggests that Social Security could be privatized now with no further tax funding. The Social Security trust fund has no assets other than government debt — which would be worth little should the government lose its taxing authority. No one in their right mind would contribute to a bankrupt privatized Social Security Administration, so those receiving Social Security payments would retroactively lose their retirement benefits and be left to beg on the streets.

I wish to express partial agreement with Mr. Myers' idea that government could collect taxes more as fees for services vs. assessments based on ability to pay. Protection of property should be funded by taxes on said property instead of income taxes, and so forth. That said, some of those services, like national defense, deed registration, and dispute resolution where no contract exists, are natural monopolies not easily put up for bid. For such services a consumer co-op — i.e., democratic representation — makes sense.

Myers echoes Henshaw's straw-man argument about ZAP and expresses confusion about my discussion of the existence of empathy. I freely admit the latter is an arcane subject, "so many pinheads dancing on the head of a pin," as it were. But it is an incredibly important subject, for it lies at the heart of a pernicious meme which renders many libertarians truculent, delusional, and ineffectual.

If libertarianism is the love and pursuit of liberty, it is indeed a call for reducing or minimizing aggression. Any program to minimize aggression requires some metric of same. Does assessing a tax to defend the nation against invasion increase or decrease net aggression? To answer this question requires comparing IRS audits to enemy bombings. Murray Rothbard claimed such comparisons are invalid, that we cannot weigh the tradeoffs, say, between high tariffs or Negro servitude. Since we cannot weigh such tradeoffs, the only measurable minimum is The Minimum: the state of zero aggression.

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Reflections

Morality tale — Firestorms erupted throughout the unbiased media when Pat Robertson claimed that Haiti's problems (with poverty, not the earthquake, as was incorrectly reported) were the result of a pact with Satan that voodoo priests made long ago. Yet there was little response when actor Danny Glover blamed the earthquake on Gaia being angry with world leaders for not reaching a climate treaty in Copenhagen. Ditto for Hugo Chavez, who blamed it on the U.S. military trying out its new earthquake bombs.

I fully expect to see Glover and Chavez reprimanded for their remarks with an Oscar and a Nobel Peace Prize, though competition for the latter will be fierce now that Osama bin Laden has taken to blaming global warming on American prosperity.

— Tim Slagle

Join the club — In early February, G7 officials met in Canada. Specifically, they gathered in Iqaluit, the Arctic capital of Nunavut, with a population of about 7,000, many of whom are Inuit — or natives. The Inuit hosts decided to “educate” the Europeans about their native culture, which involves hunting seals for meat and pelts. The EU is in the process of banning the seal trade. So what was served for dinner? Seal meat. During the conference in the Nunavut legislative assembly, what did people sit on? Sealskin-upholstered chairs. And, as a parting gift, they received sealskin mittens and vests that may have been illegal for them to take home. What are the odds that Canada will be asked to host another meeting any time soon?

— Wendy McElroy

In the pocket — After the Supreme Court decision about corporate contributions in electoral campaigns, many bloggers are speculating that corporations have now been freed to “eliminate the middleman,” if you will, and run for office directly.

In this dystopian fantasy, corporations will be able to win federal office, giving a whole new meaning to phrases like “the Senator from Boeing.”

One commenter on Volokh.com said, “I hope corporations do run and win,” though he added that he didn't see how they could serve if elected.

Frankly, I think that's the best part.

— Ted Levy

Permafrost — Since President Obama appears to be committed to spending as much as it takes — on “jobs” bills, investments in “green industries,” and pork of every kind — to get himself and his party reelected, I wish there were some constitutional method by which we could just agree to vote for them now, so they wouldn't have to keep buying people's

votes. I could even put up with a permanent Nancy Pelosi, so long as she didn't spend any more of our money. Well, almost.

— Stephen Cox

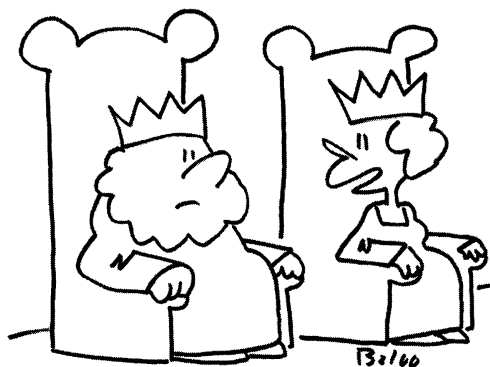
Bank on it — President Obama responded to media outrage over the resumption of Wall Street bonuses by proposing a series of ambitious new regulations of the American banking system. The gist of the scheme was to prohibit banks from running their own trading desks and “owning, investing in or sponsoring” hedge funds and private-equity investment groups. During a photo op for the announcement, Obama intoned: “Never again will the American taxpayer be held hostage by a bank that is too big to fail.”

His metaphor was screwed up — as, with increasing frequency, his metaphors are. Banks don't take hostages, Barack. Bank robbers do. And your passel of new regs is the biggest Tommy gun in the room.

— Jim Walsh

Broken windows — Isn't it great that Toyota's recalling millions of cars? Think of the repairman jobs!

— David Boaz



“That's just a figure of speech, you know — you actually already *do* have a desk job.”

Doddering — It is always nice to find something to celebrate about the new year. So I can't help but mention the announcement by Sen. Chris Dodd (D-CT) that he is not going to run for reelection.

I have written before about this solon. Suffice it to say that he served a very long time in the Senate, and he did a lot of damage. He is complicit — along with his counterpart in the House of Representatives, Barney Frank (D-MA) — in allowing Freddie Mac and Fannie Mae to become the Twin Towers of Loser Loans, the loans that brought our economy to its knees.

And, along the way, Dodd acquired quite a reputation for questionable real-estate deals.

What made him resign? No doubt here: polls showed that his numerous scandals had made him disgusting even to the highly liberal electorate that customarily reelected him. Surveys showed him trailing the likely GOP nominee.

And a particularly despicable scandal was coming to light at a particularly uncomfortable time. The Washington Examiner reported (Dec. 28) that earlier in 2008 Dodd had proposed an amendment to a bill that would have taken \$4.5 million away from the funding of airport screening and use it to fund firefighter grants. It turns out that among Dodd's greatest supporters are firefighters' unions. This naked act of rent-seeking became a scandal because the week in which it was reported just happened to be the week after an Islamist

terrorist from Nigeria nearly killed 300 passengers on a flight from Amsterdam.

One suspects that the Democrat party leadership — Majority Leader Reid in particular — must have offered some significant inducement to get Dodd to announce he would not run again. After all, this makes it possible for the Dems to field a candidate with a good chance of winning the seat. Just what that deal was, we'll probably never know. But at least this especially vile toad will be gone. Thank heaven for small favors.

— Gary Jason

Test first, study never — While helping with some outdoor work at my house, my neighbor's 16-year-old son told me that he would be taking his driver's test in two days. Two days later he returned to help with more outdoor work and told me that he had failed the test. He thought the strategy he used to prepare would work. It didn't. He did not like failing the test; it was something he did not want to repeat.

When helping out at my house after he took the test a second time, he told me that he had passed. His first approach obviously didn't work, so he went with a tried and true approach — memorization. That did work.

Obama and the Democrats remain hellbent on spending America out of recession — with recent mutterings involv-

ing a second TARP. Government intervention into the economy does not yield favorable results, let alone fix a recession. Recovery follows government's reducing its role in the economy. Yet Democrats still believe that the government can spend us out of the current recession.

It's amazing that they cannot learn from repeated failure — while a normal American teenager can learn from just one failed test.

— Marlane White

Freeing speech — The Supreme Court found that laws preventing unions and corporations from political advertising were unconstitutional. Reaction was furious. The Economist's blogger wrote, "For over a century, Congress has passed laws which fine citizens or associations for engaging in political speech in certain ways and at certain times." Thus he expressed his disgust at the Supreme Court ruling.

But how does getting it wrong for a hundred years provide an excuse to continue? Why should government be able to select those whose speech it finds disagreeable?

Corporations and unions would not care to contribute to attempts to influence government if the state were small and constrained, and couldn't screw these real economic players.

The answer is not to constrain speech, but to constrain government.

— Erwin Haas

Word Watch

by Stephen Cox

There was a time when most prominent American politicians had a good grasp of grammar and usage. They might be purveying silly, banal, or destructive ideas, and they usually were. But they knew something about the structure of a sentence. They knew something about the logic of word choice. They knew that there *was* a logic. Go read Woodrow Wilson and Theodore Roosevelt, or even Calvin Coolidge — not to mention Lincoln, Douglas, Jefferson, Clay, and Webster — and you'll see what I mean.

This wasn't because they were drilled in the classics. Many of them were, but many others had little formal education. Some of them had trouble getting to the end of books; they were too anxious, depressed, indolent, or fidgety. Lincoln and Patrick Henry are good examples. Yet they had no trouble with the rules of grammar, they had a large vocabulary, and they had a genuine interest in the words they chose. They never confused "thus" with "and," or believed that there is such a thing as "thusly"; and they could see when a metaphor might not make sense.

When you read a metropolitan newspaper from 1910 — or 1950, for that matter — you see the same thing. The editorials may be fatuous, badly informed, or just plain stupid, but you don't find a lot of gross, childish errors. Or take a look at religious writers: they weren't all J. Gresham Machen (a great theologian, a great libertarian, and a great writer of prose), but most of them could finish a sentence or two without some amazing blunder. I can't say as much for college professors; they were a lot less pompous in the early 20th century, but their syntax was still pretty poor.

Well, who cares about them anyway? Here's the issue: why can't the people currently prancing on the national stage choose words at least as accurately as my grandmother chose them — she

who never graduated from high school?

I know that Obama's an easy target, but here he is, addressing the problems of Haiti in a speech on January 13: "This is a time when we are reminded of a common humanity that we all share." A "common humanity that we all share" — as opposed, I guess, to a common humanity that we don't all share. Obama is commonly redundant, but he finds a special pleasure in triple redundancy ("common . . . all . . . share").

Notice that I haven't commented on the abject triteness of his phrasing: "this is a time," "we are reminded," "common humanity," "all share" — not a phrase that hasn't been around since the decline of the Roman empire. I like to picture the alleged intellectuals and literati, the people who acclaim Obama as a literary genius, sitting in their studies, meditating on these locutions — hunting out new meanings, marveling at distinctive metaphors and metonyms, tracing the growth of the author's literary powers from his two callow memoirs to his current peak of rhetorical perfection. Thus far, however, I've seen no objective literary analysis, only announcements of Obama's literary greatness. Yet I'm sure that someone will meet the challenge.

Now, back to basics. "Each of us as individuals should try to stretch out of our comfort zones" (Barack Obama on January 18, remarking on the significance of the Martin Luther King holiday). Unusually for the president, this passage presents no obvious grammatical problems (though the change from "each" [singular] to "individuals" [plural] and then to "our" [plural] could benefit from some duct tape). The passage does testify, however, to his gift for the pointless phrase. Is there any universe in which "each of us" would *not* function as an "individual"? Has anyone suggested that "each of us" should try "stretching" as a group? But wherever there's a possibility of saying something that

Chinese puzzle — Two recent stories have made me wonder whether the Chinese just might be getting worried about the rise of India as a global economic power.

The first is a report in *The Financial Times* of London (Jan. 19) that there is a craze sweeping China: English lessons! There are now upwards of 30,000 companies and organizations that teach English, outside the official school system (in which English is taught by government policy). An estimated 20 million Chinese become new English speakers each year, and a recent report suggests that China may now have more speakers of English than India.

If that is so, one of India's major advantages in world trade, the prevalence of people proficient in the international language of business, may be surpassed by China.

The second story is a report in the *Washington Post* (Dec. 12) that China is rethinking its notorious "one-child" policy, which has been in place for over 30 years.

That policy, ruthlessly enforced, has lowered the birthrate to 1.8 children per couple. The result is a population that is rapidly aging. It is on course to be as top-heavy in elderly people as the European countries and Japan are slated to be. It has also resulted in a population with an unnaturally high percentage of males, since many Chinese couples chose to abort

their female fetuses.

Now, over the past few years the Chinese government has begun to pull back. It began to allow certain exceptions (such as cases in which both parents are only children), and toned down some of its aggressive forms of advertising the policy. But now, Shanghai has started pushing for larger families. It has replaced posters directing couples to have only one child with posters encouraging them to have two, and it has offered financial help for couples who choose to do so.

Again, the Chinese may be awakening to an Indian advantage. India's population, unlike that of other Asian nations such as China and Japan, and the European nations, is young and in no danger of aging anytime soon. Since innovation drives economic growth, and since innovation comes disproportionately from the young, countries with aging populations face slower growth.

— Gary Jason

Bite the bullet — To me, one of the most horrible features of the disaster in Haiti was the frequent complaint of doctors and nurses that they did not have anesthetic, even while conducting amputations! The awful scenes of the Napoleonic wars repeated themselves in the 21st century. It tore my heart to see, on broadcasts from Haiti, girls and boys waiting to have their limbs cut off, with nothing to end their pain.

need not be said, you can trust the president to say it.

On to the metaphor: "stretch out of our comfort zones." By itself, it presents no problems of grammar; it's just trashy and insulting to its inspiration, Martin Luther King. Try this direct form of the sentiment: "Dr. King was important because he stretched out of his comfort zone." You see what I mean.

The president's formal vocabulary consists largely of self-conscious contrivances (dropping the final "g"), pomposities ("audacity of hope"), and New Age clichés ("comfort zones"). Lately, the last two have predominated. But in 2010, an election year, we will encounter much more of the first, and it may actually be worse for our ears and noses.

But enough of Obama. Let's look at his late ally, Martha Coakley, unsuccessful candidate for the Senate from the state of Massachusetts. Every sentence of her concession speech was an affront to common sense. I have five examples.

First: "I want to say an incredibly sincere thank you." "Incredibly" means "unworthy of credence or belief." It's not a nice thing to say about oneself, particularly when one is talking about one's sincerity. But maybe it's accurate after all; Coakley wasn't the warmest, fuzziest, most straightforward candidate who ever rode into Dodge.

Second: Coakley saluted "those of you who are still working" (for her). When she said that, the polls had been closed for several hours. What were those workers doing — stuffing ballot boxes? If so, they didn't stuff enough. Maybe they were distracted by her speech.

Third: "There are two dogs who are very happy about these results, because we are going to be back with them." Coakley had told the press that one of her hobbies was walking her dogs. An absorbing intellectual avocation, eh? But how did she know that the dogs would be happy to see her back? And who was this "we" she mentioned? Did she have a frog in her pocket?

Fourth: in thanking her supporters, Coakley called them "an extended dysfunctional family, but that's OK." Why is it OK?

Fifth: quoting Teddy Kennedy (actually, his speechwriter), Coakley proclaimed: "The dream lives on!" What was that dream, exactly? She never said. I'm not sure that Kennedy ever said. I suppose it was a moving target, like the healthcare bill. But this is a serious verbal problem. It may also be a serious intellectual and political problem.

Alas, Coakley's opponent, Scott Brown, was just as challenged by words as Coakley was. In his victory speech, he came out with an amazing number of execrable sentences, but this one took the cake: "It all started with me, my truck, and a very few number of dedicated volunteers." First tell me what a "few number" is; then we can figure out what "a very few number" would be. Many people mix up "number" and "amount"; but fusing "number" with "few" is a real accomplishment. It should be noted that Brown is a person who, like Coakley and Obama, was educated at an elite private university.

Not to be outdone by Brown's verbal stupidity, the president's chief adviser, plump, hairy little David Axelrod, coughed up some rhetorical pretzels. Reviewing the results of an election in which Brown, a dedicated foe of the administration's legislative program, had triumphed over one of its dedicated supporters, Axelrod reached the surprising conclusion that "we need to move forward aggressively, continuing on job creation, and on financial regulatory reform."

Could you translate that into English, please?

I mean, when was the last time you said, "I need to continue on," followed by a noun? When was the last time you said, "I need to continue on investment," or "I need to move forward aggressively, continuing on my marriage"? The answer is, never. But David Axelrod is different from normal people. He's a pompous fool, and like all pompous fools, he is never far from his elevator shoes. His assumption is, you can't add too much junk to anything you say. Move forward aggressively on that.

And yes, he moved forward. Discussing his plan to bull the healthcare bill through Congress, no matter what the voters

Why did this happen? Aren't painkilling drugs easier to transport than food and tents?

This is just a speculation, but I wonder if our government's insane drug regulations are responsible for the hideous affront to humanity that resulted from the short supply of painkilling medicine. I also wonder whether there will be a serious investigation into this monstrosity. — Stephen Cox

Just the facts — We libertarians are always looking for a thread we could pull to unravel a bit of the statist mess we're in. One possibility would be to attack popular fictions that obfuscate important public issues. My first nominee of a fiction that ought to be exposed is the idea that we all have some kind of personal Social Security account. (Wasn't it Al Gore who went on and on about the "lock box" of Social Security funds?)

I get things in the mail describing my account and projections of my future retirement income from this account based on information from my previous earnings. Now, it is one thing for government bureaucrats to spout some soothing if not rigorously honest platitudes when I'm face to face with them. They've been trained to make these placating statements so as not to enrage the people with whom they deal. It is quite another level of mendacity to go to the trouble of creating and mailing to me, unsolicited, a document providing details of this nonexistent account.

Without arguing for or against any reform policies, wouldn't it be refreshing for libertarians to call for an end to this fiction? Just call it what it is. We take money from people who are working now and give it to people who are retired, so they don't have to work. It is an income transfer, plain and simple. People who collect Social Security checks are taking that money out of the paychecks of people who are currently working. Retired people are not collecting the money that they put into Social Security, because their money was not "saved" anywhere. When they put in money while they were working, their payroll taxes were simply being sent to the people who were retired back then.

My guess is that a couple of years of honest talk about what we are really doing, exposing FDR's initial lie about Social Security, would make a big difference. People would be

able to see that it makes no sense for able-bodied older folks making top-of-their-game salaries to be taking money from younger workers who make much less than they do.

My other nominees for fictions to be exposed include notions such as these: calling any lowering of taxes "a cost to the government," calling tax-funded subsidies "government investment," calling expensive government-run schools "free public education," calling expensive government-run health-care "free patient services," calling the occupation and control of foreign countries "wars of liberation," calling nearly unused trains and buses "mass transit." — Don Crawford

Tumescient state — Heady from Scott Brown's taking of Ted Kennedy's (sorry, "the people's") seat in Congress, some are already calling for Brown to run for president.

I can imagine the Cosmo nude photo to be used in the ad campaign if he calls for transparency in government. Sadly, it cannot be used to call for shrinking government. — Ted Levy

Spending freeze — Ottawa is the second coldest capital city in the world. Winter brings ferocious downfalls of knee-deep snow. Being raised in the Ottawa area, I was accustomed to having the federal government close down for a day or two in winter because of "bad weather." Later on, as an anarchist, I used to joke about achieving anarchism through climate manipulation. Imagine my surprise when I found out that the federal offices in the District of Columbia were closed on February 8 by a heavy snowfall. Clearly, what we need is global cooling. — Wendy McElroy

Declare the pennies on your eyes — January 1 in the United Kingdom saw the value-added tax (VAT) increase from 15% to 17.5% — one of the legacies of the disastrous administration of Labour PM Gordon Brown.

For those unfamiliar with the tax (and in this case, ignorance is bliss): VAT is essentially a sales tax, but drawn out over the process of production. So instead of the end-user paying the entirety of the tax up front, everybody pays a little chunk of tax along the way — the manufacturer, the wholesaler, and so on — as they add "value" to the product. The specific goal of this Byzantine process is to prevent the formation of black markets: while endpoint sales taxes can't be raised

might think, he added this view of their susceptibility to bribery: "It is not just getting the achievement under the belt. I think there are tangible benefits that people will accrue across this country as soon as this bill is signed. They will have more leverage, have more prescription drug coverage, Medicare is going to be extended by a decade."

"Under the belt"? Besides trying to compete with his master in the field of dull clichés, Axelrod suddenly appeared in the robes of Cardinal Wolsey: fat, self-indulgent, self-satisfied, ready to do anything to promote his own consumption of things that end up *under the belt*. But there's a serious tonal problem with using metaphors about political midrifts to refer to *priceless and indispensable legislation to ensure the people's health*. And since when was "accrue" a transitive verb, with "people" as its subject? Ordinary usage would be "benefits accrued by the people." As for "across this country," that's just elevator-shoe pomposity.

Look again at the logic of Axelrod's last sentence. "Leverage"? What the hell does that mean? And shouldn't there be a conjunction in that sentence, someplace? As well as an honest

indication that the president's confidant knows what everybody else knows, that extension of Medicare wasn't an issue to begin with? No Congress was going to fail to extend Medicare. But if you remedied all the problems in that sentence, there wouldn't be much of it left, would there?

Nancy Pelosi wanted to go along with Axelrod's suggestion of forcing the healthcare bill through. She wanted to pass the whole enormous thing, right now, despite the extreme unpopularity of most of its salient features. But she had a sad "dilemma," as a news report explained:

"I don't think anybody disagrees with 'Let's pass the popular part of the bill,'" she told reporters. 'But some of the popular parts of the bill is the engine that drives some of the rest of it,' which is far less popular, she said."

Here the credit for ineptitude must be divided between Pelosi and her journalistic scribe. It's the reporter who put in that perilously connected "which is far less popular." Logically, "which" should refer to "it," but "it" is "the bill" — so does that mean that the bill is far less popular than its parts? Oh, no; that's not what

much higher than 10% before even the most civic-minded citizens start looking for ways around them, with a gradual tax they can get away with 15%, 20%, or even more.

Of course, as everyone acknowledges, the entire burden of the VAT is still borne by the consumer. So it was heartening to see a number of businesses here, from department stores to furniture outlets to cafes, announce that they would keep their prices the same as they were on December 31, thus absorbing the extra 2.5%: a sign on one sandwich shop boldly proclaimed they were “saying ‘No!’ to Gordon Brown.”

Shrewd, too, as saying “No” to Brown is what most voters are expected to do when elections are called later this year. Unfortunately, the PM-in-waiting David Cameron has refused to rule out a further hike in the VAT, up to the European-average 20% — a move that will strain budgets across the tax-laden UK, and test the resolve of businesses trying to square the desires of their customers with the demands of the treasury.

— Andrew Ferguson

Nice work if you can get it — There is more happy news about the ever widening California public employee pension nightmare.

Some of the news relates to the California State Teachers’ Retirement System (CalSTRS), one of the biggest public employee pension funds in the world. The Los Angeles Times reported on January 29 that CalSTRS is \$43 billion short of covering its liabilities. As of last year, CalSTRS could cover only 77% of its total pension fund, and in fact could be broke within 35 years.

The other huge California pension program (the California Public Employees Retirement System, or CalPERS), the behemoth agency that handles the pension funds of the California state employees, is also underfunded. It has only 86% of the assets required to cover its liabilities. But unlike CalPERS, CalSTRS cannot just require more contributions from its members or employers (school districts). It has to get a bill through the legislature to increase contributions. Given the immense fiscal woes that California faces, that is not likely.

But speaking of CalPERS, an article in The Wall Street Journal (Jan. 15) reports that there is something of a tradition at CalPERS of top officials leaving it for greener pastures. The

story reports that one noble fellow, William Crist, departed from CalPERS after being president and chairman of its board and took a job at a U.K. firm, Governance for Owners. Crist later convinced CalPERS (in 2006) to invest \$300 million in a Governance for Owners fund and pocketed a \$913,000 commission for doing so. The value of the CalPERS investment fell to only \$192 million — a loss of over a third.

In 2008, the enterprising Mr. Crist also persuaded CalSTRS to invest \$350 million in that selfsame excellently performing fund, and he will pocket a fee even bigger than his earlier commission.

The article mentions other former CalPERS officials who left it to work in private investment firms that were then able to sell securities to CalPERS for tidy commissions.

Yes, there is no corruption to see here. Keep moving, keep moving . . .

— Gary Jason

The power of capital — In the wake of the massive earthquake that hit Haiti on January 12, we saw capitalism at its best. Within hours of the quake, doctors, nurses, and rescue workers were voluntarily making their way to the devastated island, most of them at their own expense, to give immediate assistance. Yes, the Red Cross was there too, offering food, blankets, water, and medical care. The Red Cross, pooling private donations, raised over \$3 million the very first day, just by setting up a method for people to text a \$10 donation through their privately financed and operated phone plans. Brilliant. But for many victims, it was the makeshift triage centers set up by volunteer health professionals in residential backyards that made the difference between life and death.

Why didn’t everyone go down there to help? Because most of us didn’t have the capital to do so. We could donate a few bucks, and maybe set up walkathons and fundraisers to donate even more. But these volunteer angels were fueled by capital.

Contrary to public opinion, capitalism is not a system by which big corporations exploit the masses (although there are certainly some capitalists who take advantage of their workers). Capital is simply the difference between what we have and what we spend. Capitalists use those savings to expand a business, fix up a piece of real estate, invest in education, or

Pelosi meant to say. So maybe “which” refers to “rest.” Or “some.” Or maybe . . . ?

In any event, the congresswoman herself has plenty to answer for. First there’s the typically Pelosian *assertion* of a proposition that’s under debate — that is, in fact, discredited. Nobody disagrees with the idea of passing the “popular part of the bill”? Of course people disagree; otherwise it wouldn’t be just “popular” (which it isn’t); it would already have become law. So which “part” is she referring to? Presumably it’s the part she most wants to pass, whatever its name happens to be, right now.

But I wasn’t intending to elaborate on the content of Pelosi’s remarks. What’s the point? There isn’t any. Let’s just focus on grammar. She said, “Some of the popular parts of the bill is the engine that drives . . .” That’s right: the speaker of the house can’t even achieve clear subject-verb agreement, not when as many as three syllables (“of the bill”) insist on cluttering up the landscape.

The union of pomposity and ineptitude is always funny, and always liberating, because it dissolves the faked legitimacy

of those who want to rule by claiming a nonexistent intellectual superiority. Even funnier, on occasion, can be the union of ineptitude and folksiness.

A true folk idiom isn’t inept; it’s a phrase that’s been polished by long years of intelligent use. “There ain’t no such thing as a free lunch” is a profound thought, expressed in dynamic words. But consider a folksy saying of that would-be dictator of the American economy, Sen. Christopher Dodd, delivered as he mourned the probable loss of the healthcare legislation sponsored by his dead drinking buddy, Edward Moore Kennedy.

According to Dodd, when this legislation oozed from the Senate on Christmas Eve, 2009, he made a pilgrimage to Kennedy’s grave and congratulated the shade of the departed leader. But in January 2010, with the healthcare bill apparently doomed by Scott Brown’s election, he confessed that he’d be cautious about repeating his visit to the great man’s plot: “I’m afraid he might pop out at me.”

Picture Kennedy’s corpse *popping out* of the grave. That’s a vision that would turn almost anybody into a Republican.

extend a loan to someone else. And it's more than just money. Capital includes time, talent, and labor.

It took capital for doctors to amass the quantities of medical supplies they would need to treat their patients, and more capital to transport those supplies to Haiti. It took capital for rescue workers to be able to take time off from their jobs, dig through rubble for days or weeks, and still be able to pay their bills back home. It took capital for nurses to pay their tuition and learn the skills to become healthcare professionals who could save lives.

Back in the States, many people who lack the necessary skills or time to help directly with relief operations organized fundraisers to help pay for food, water, and supplies to be sent to the victims. Perhaps the most notable was "Help for Haiti Now," a star-studded entertainment extravaganza organized by George Clooney with telethon phone banks manned by some of the biggest names in Hollywood. For a hundred bucks you could talk to Julia Roberts and make a difference at the same time.

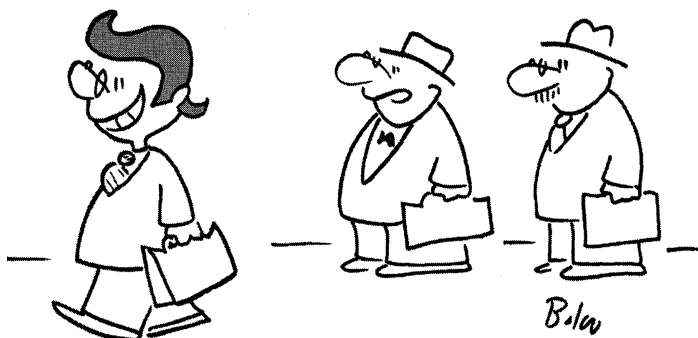
Although its organizers would probably reject the moniker vigorously, this telethon was also an example of capitalism at its best. The entertainers generously donated their time and talent, but it took capital for them to develop those talents. It also took capital to hire the studio, pay the sound engineers, install the phones, and buy the air time. It took capital to pay for transportation, hotels, and food for those working on the project. And when Clooney, Roberts, and others donated upwards of a million dollars each to the cause, that was capital too — the difference between what they earned in the capitalist system and what they needed to pay their bills.

The government did its part as well, but in many ways it was a day late and a dollar short. First it had to set up a taskforce, decide who would serve on the committee, discuss what to do and how to do it. A budget had to be proposed and approved. Personnel had to be notified and deployed. As a result, official relief efforts did not get underway for several days.

Meanwhile, voluntary capitalists of their own free will and choice were already in Haiti, using their own funds and their own skills to make a difference. Let's hear a cheer for the private, capitalist, individual.

— Jo Ann Skousen

CONGRESS



"Actually, his hair is the most genuine part of him."

Hair of the dog — The latest John Edwards sex scandal is proving what most of us should have learned after Rod Blagojevich tried to sell an Illinois Senate seat: never trust a politician with pretty hair. — Tim Slagle

Shouting fire — The details of the Intergovernmental Panel on Climate Change "global warming" fraud get worse. They seem less like reality than something from a satirical novel.

The IPCC engaged in many dubious practices in its meta-analysis of academic climate researchers' original data. Perhaps the most egregious was emphasizing a projection that a group of Himalayan glaciers would melt by the year 2035. The actual projection, made in a 1996 report by a UK scientist, was that the glaciers might melt by the year 2350; the date seems to have been transposed in a typographical error by an inattentive graduate student. The IPCC went with the graduate student's error rather than the actual data. Which were readily available.

And the IPCC engaged in some cruder tricks. Beginning in the early 1990s, it removed data from weather stations at high elevations, higher latitudes, and rural areas (all likely to report cooler temperatures) in order to gin up a "warming trend" in its published reports.

The weakness and sleaziness of these tricks explain why the IPCC and global warming "activists" shout down skeptical questions with rhetoric about "broad consensus" and "settled science." The scientific method is a way of discovering observable truths about the world around us. A scientist's data has to be reproducible; hiding data and discouraging others from questioning it is — in terms of the scientific method — unethical. Yet proponents of anthropogenic global warming and various statist responses have behaved in these ways. Their commitment to statist agendas trumps their commitment to science.

The novelist Michael Crichton (also a medical doctor) summed up the criticism of this junky rhetoric in an oft-quoted 2003 speech at Cal Tech:

I regard consensus science as an extremely pernicious development that ought to be stopped cold in its tracks. Historically, the claim of consensus has been the first refuge of scoundrels; it is a way to avoid debate by claiming that the matter is already settled. Whenever you hear the consensus of scientists agrees on something or other, reach for your wallet, because you're being had. Let's be clear: the work of science has nothing whatever to do with consensus. Consensus is the business of politics. Science, on the contrary, requires only one investigator who happens to be right, which means that he or she has results that are verifiable by reference to the real world. In science consensus is irrelevant. What is relevant is reproducible results. The greatest scientists in history are great precisely because they broke with the consensus. There is no such thing as consensus science. If it's consensus, it isn't science. If it's science, it isn't consensus. Period.

I've never been a huge fan of Crichton's novels. But that speech (available in full at <http://tinyurl.com/5gbeh4>) is a great read.

— Jim Walsh

Taxed out — Most of the government's receipts come from taxes. Of these, the largest source of revenue is the personal income tax. And our progressive tax system results in Americans who earn the top 50% of income paying about 97%

of income taxes. Add in compliance costs, the complexity, number, and length of the income tax forms, the redistribution of wealth by means of refundable tax credits, the abuses of the IRS, the use of the tax code for social engineering, and the intrusive nature of the whole rotten scheme — and you have a system ripe for reform.

The tax reform idea that has been around the longest is the flat tax. Under a flat tax, there are no tax brackets — every taxpayer's income is theoretically taxed at the same rate — and there are generally no deductions. First proposed by Milton Friedman in 1962, the flat tax entered the mainstream through a 1981 Wall Street Journal article by Hoover Institution economists Robert Hall and Alvin Rabushka. This article was expanded into a book called simply "The Flat Tax" (1985). A second edition was published in 1995, and an "updated revised edition" in 2007. After the Republicans gained control of Congress in the election of 1994, House Majority Leader Dick Armey (R-TX) pushed the idea of a flat tax. The man most identified with it, however, is former Republican presidential candidate (1996 and 2000) and overseer of the Forbes publishing empire Steve Forbes. His 2005 book is called "Flat Tax Revolution."

Forbes is once again in the news, touting the benefits of a flat tax. In an interview with Reason magazine he remarked that the Democrats in California are considering a flat tax because they're beginning to realize that "a highly progressive system doesn't produce the revenue they need for their progressive programs."

Although I certainly believe that our tax code is too complicated, too progressive, and too intrusive, there are two problems I have with flat tax proposals, though not necessarily with the concept of a flat tax itself.

First and foremost, the last thing the U.S. government needs is more money. It wasn't very long ago that the amount of the current deficit was the amount of the actual budget. Americans have to work past April 15 each year just to earn enough to pay their taxes. Clearly, Congress needs to cut spending drastically. Simplifying the income tax is a great idea, but not because it provides Congress with more money to spend.

Second, "flat taxes," as proposed, are still progressive taxes, demanding a higher percentage from people with higher incomes. Although Forbes calls for a flat tax of 17%, and Hall and Rabushka favor a rate of 19%, neither proposal is a true flat tax like the Medicare tax. Under either flat tax plan, no one actually pays the stated rate, and not everyone pays the same percentage, because of such things as refundable tax credits and exemptions for lower income people. Wasn't it Marx who stated that one of the conditions for a transition from a capitalist to a communist society was "a heavy progressive or graduated income tax"?

The problem with most tax reform plans is that they focus on simplifying the tax code, or on some arbitrary concept of fairness, rather than making the code less progressive. Even worse, they don't even hint at lowering Americans' overall tax burden.

— Laurence M. Vance

Power play — An end-of-year report in The New York Times gives us some interesting insight into environmentalist thinking. It concerns the introduction of legislation by Sen.

Dianne Feinstein (D-CA) that would permanently seal off a million acres of the Mojave Desert from solar plants and wind farms. Since Feinstein is chair of the Senate subcommittee that controls the Interior Department's budget, her wish will be its command.

Now, this is amazing. California is headed by an environmentalist governor who signed into law a requirement (passed by a very environmentalist legislature) that by 2020 one third of all electricity produced in the state must be from "renewable sources," of which solar and wind power are the most often touted. And the Mojave Desert is the best location in California for both solar plants (since the sunshine is very reliable) and wind farms (since the wind is fairly strong). Plans were made for 13 large wind farms and solar plants, which would have gone a long way toward meeting the requirements of the law.

But Feinstein, herself a *soi disant* environmentalist, has blocked those plans. She thus put herself in conflict with another environmentalist, Robert F. Kennedy, Jr., who grumbled, "This is arguably the best solar land in the world, and Sen. Feinstein shouldn't be allowed to take this land off the table without a proper and scientific environmental review."

Of course, we should note that Kennedy (like Al Gore) is heavily invested in "green" energy. The venture capital firm of which Kennedy is a partner funded a company aiming to open a solar plant in the area. For years, however, the Kennedy family has fought plans to build wind turbines off the coast of Cape Cod, since their family mansion is in that area.

Still, Kennedy has a point: if you believe that solar and wind power are the best ways to obtain electricity, why lock away the best locations to exploit them?

Feinstein's concern is that these wind farms and solar plants will be large and ugly and spoil the view from the freeway that runs across the Mojave. But this raises a key question. Why is the view from some damn freeway sacrosanct, whereas building such plants elsewhere in the state is okay? If they are too big and ugly to put in the uninhabited desert, why should we put them any place where people actually live?

Of course, one ordinary nuclear plant the size of a football field can reliably supply the electricity that solar plants and wind farms covering many square miles do unreliably. But Feinstein hates nukes, too.

All of this illustrates what is already clear: environmentalists are simply not serious about energy production. Really, most of them long for the majority of humans to live in conditions of abject poverty, and many of them long for the majority of humans to just die off.

— Gary Jason

Worse than the disease — A list of proposed amendments to the U.S. Constitution popped into my email account from some conservatives I had never heard of. There was an "Unborn Child Amendment" and a "Traditional Marriage Amendment," and I didn't read those. My eye was drawn to the "Truth in the Media Amendment." It says:

Section 1. It is the right of every citizen to receive from any and all Media sources information that is not intentionally false or intentionally misleading . . .

I am in the media. I know, of course, that this is about media bias — and media bias does exist. Mainly it is the herd

behavior of people looking at a thing from one perspective rather than another, or the choice to look at some things and not others. But the person who wrote this amendment thinks media bias is simply about lying. And he thinks that it can be policed by the government:

Section 6. Congress shall have the power to enforce by appropriate legislation, the provisions of the Article.

Our budding Hamilton has not stopped there. He also offers a "Truth in Education Amendment," guaranteeing every American "accurate accounts of America's history," and, just in case that amendment doesn't cut the mustard, a "Constitutional History Amendment":

It is hereby prohibited for any institution or individual to intentionally teach misleading, false or otherwise distorted accounts of America's Constitutional history.

Starting, no doubt, with the First Amendment.

— Bruce Ramsey

As stupid does — I think economists can forget about rational ignorance and rational irrationality and just focus on rational stupidity.

Pursuing intelligence has a cost. In many areas of life, there is no cost associated with saying something stupid; therefore people rationally choose to do so.

— Ted Levy

Shouting fire — Candidates in the Democratic Party appear poised for defeats this November at all levels — local, state, and federal. The defeat of Democrat Martha Coakley by Republican Scott Brown in the special election to replace Edward Kennedy in Massachusetts was as consequential as it was unanticipated. Obama defeated McCain by 26 percentage points in Massachusetts. Brown defeated Coakley by 5 points. That's a turnaround of 31 points.

Significant and comprehensive healthcare change now appears unlikely. Some measure may be cobbled together that wins passage, but it will not be the package that was considered probable before Brown's victory. Neither is it likely that substantial legislation will materialize in the areas of immigration or the environment.

The economy is likely to experience a weak recovery or even double-dip recession. Unemployment will likely remain in the vicinity of 9 to 11% for the foreseeable future. Many states, including California and Michigan, will likely have unemployment of about 12% or higher for the foreseeable future.

To be clear, the world may be undergoing a historic shift of power and economic activity from the United States to China, the rest of Asia, and other parts of the formerly developing world. This is not a necessary outcome of these policies, but possible. It is for this reason so vital that current policies change.

At the state and local levels of government, contemporary liberalism has evolved into a bizarre philosophy that can be described as advocacy of public-employee-union kleptocracy. Virtually every state and local government in America is broke or in financial straits. Expanded inflated pay and benefits for government workers — particularly retirement benefits — are bankrupting states and municipalities.

If, in this environment, the Democratic Party did not sustain substantial losses, it is hard to know in what situation it

would. The Republican Party should gain, almost by default, dozens of seats in the House of Representatives and perhaps half a dozen Senate seats.

A few weeks are a long time in politics. But circumstances now appear propitious for a major change of power in Washington and elsewhere this November. It may well be the case that, in retrospect, the election of a Democrat as president in 2008 was not to the party's advantage. — Lanny Ebenstein

Blowback — Two recent news reports illustrate anew the limited future of wind power. The first is an article from USA Today (Jan. 11). As it notes, wind power furnishes only 0.5% of the nation's energy. And it is highly unlikely to furnish much more than that. For one thing, as the article explores, there is NIMBY, the "not in my backyard" sentiment. Even people who profess belief in "green" sources of energy don't want to look at hundreds of acres filled with industrial windmills (very ugly ones, nothing like the charming old windmills in the Netherlands).

The USA Today story is about the long-stalled project called Cape Wind, a 130-wind-turbine project that would be placed in 25 square miles of the shallow water of Nantucket Sound. It would provide 75% of the electricity demands of the Cape Cod region, a very solidly blue (i.e., politically leftist) region. But local residents have used every legal trick in the book to block it, citing concerns about everything from fishing to the rights of Native Americans (presumably including a hitherto unknown natural right to an unobstructed ocean view). They have managed to block the project for nearly a decade.

The article suggests that the project may finally be given the go-ahead by the dithering Obama administration, but we shall see. Remember, Cape Cod is the Kennedy clan's turf.

The second article is from Ed Morrissey's blog HotAir.com (Jan. 10), which reports encouraging news from Minnesota. Several years ago, the state spent — oops! I forgot that Democrats call it "investing!" — \$3.3 million on eleven wind turbines. But it has just announced a fascinating discovery: the machines don't work when it's very cold (which it often is in Minnesota).

Yes, the hydraulic fluid that is supposed to provide lubrication for the turbines freezes in cold weather, even though the manufacturer warranted that they were designed to withstand the cold. As Morrissey notes, it never seems to have occurred to the legislators of Minnesota that they should buy one turbine and test it.

The only fix is to heat the hydraulic fluid so that it won't freeze. That means that each turbine will have to be warmed by either natural gas or electricity, either of which is likely to be generated by fossil fuels. It is unclear whether the wind turbines will replace much if any fossil fuel.

What neither article mentions is the fact that wind power is much costlier than nuclear power, and even costlier than fossil fuels. Ugly, unreliable, and costly: wind power is a triple threat.

— Gary Jason

Viva Las Vegas! — In a recent "town hall" meeting in New Hampshire, Barack Obama put in another dig against Las Vegas. Some Las Vegas residents, particularly the city's mayor, took umbrage at his words. That's understandable — Las Vegas has been hit especially hard by the economic down-

turn. The last thing it needs is to be kicked while it's down.

But given the country's obvious increasing disenchantment with Obama and his administration, his unfavorable sentiment about Las Vegas may work in the city's favor. Enterprising Vegas hotel, club, and restaurant owners could generate their own economic stimulus by offering Obama-disapproval specials, discounts, and packages. "Enjoy spending your money in Las Vegas, before Obama and Congress spend it for you!"

I'm sure that Liberty readers, many of whom will be in Las Vegas this July for FreedomFest, would be happy to take advantage of such discounts and specials. And if the Las Vegas tourist industry fails to come to this idea by itself, and should the mayor attend FreedomFest as he did last year, I will be sure to share this little suggestion for his city's economic recovery. I think he'll like it. — Marla White

Government cloaca — Discussion of bipartisan-ship always puts me in mind of sewage and the Grand River in west Michigan.

For many years, storm water drain pipes in Grand Rapids were routed through the city's sewage treatment plant, and every time it rained heavily millions of gallons of sewage would overflow into the Grand River. A few hours later, the good burghers of Ottawa County, 30 miles downstream, surveyed floating bits of red, white, and blue, mostly toilet paper and candy flavored condoms.

The Democratic politicians in Grand Rapids had long since spent all of the city's money hiring an extra thousand of their supporters whom private industry would not hire, so they couldn't pay to fix the problem. The Republicans in Ottawa County were especially infuriated when it was proposed that they should spend their money to fix the problems of their upstream tormentor. During really heavy rains, the problem still occurs.

Here bipartisanship provides a solution. The Democrats in Grand Rapids should pass a law forbidding the flushing of toilets during rain storms. And the politicians in Grand Haven should convince their citizens that the floating red, white, and blue in the river are post-it notes warning against swimming.

— Erwin Haas

Looking up — In a speech, President Obama mentioned that fewer people lost their jobs last month than in any month since 2008. He also predicts that once everybody in America is out of work, there will be no further job losses.

— Tim Slagle

Keep it simple — The nation is experiencing a rare moment of political vacuum. Scott Brown's election in Massachusetts has killed the healthcare monstrosity that was barreling toward passage. Pelosi, Reid, and Obama are in a state of shock and momentary uncertainty. But it won't last long.

Republicans and their free-market allies should step into the breach with a simple, easy-to-understand healthcare plan that not only embarrasses the Democrats but actually offers a way to increase Americans' freedom of choice.

But where is the plan?

The one proposed by Tom Coburn and other Republicans in Congress is the cowering offspring of the era just past.

Better to look for something from Heritage and Cato. But mostly I see principles and approaches, not plans. "Health insurance should be personal and portable . . . we also need to rethink medical licensing laws to encourage greater competition among providers," says Cato.

And Heritage: "The cornerstone of any serious health care reform proposal must address the tax treatment of health insurance. . . . Congress should embrace a federal-state partnership that would preserve diversity . . ."

Rethink, address, embrace. But what we need is a series of clear, discrete proposals that can be adopted, or at least debated, one by one.

The best I have seen is the list offered by Whole Foods' John Mackey in *The Wall Street Journal* (Aug. 11, 2009). He recommends removing legal obstacles to health savings accounts, equalizing tax treatment of individual and employer-supplied health insurance, letting insurance companies compete across state lines, and repealing government mandates on insurance coverage. He has some additional ideas that are less transparent and more debatable, such as tort reform.

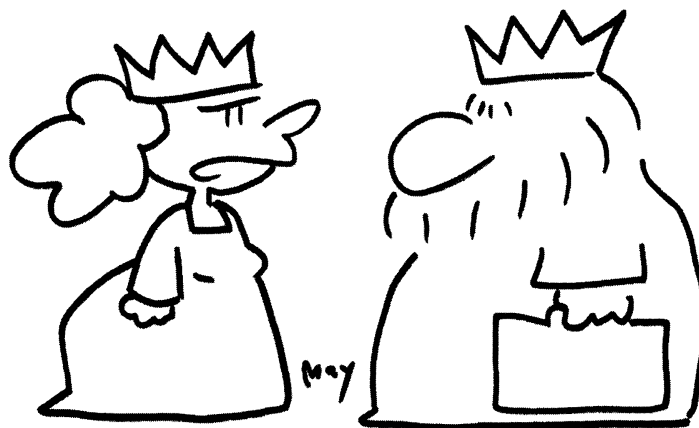
But this is enough to get started with. Try a few out. Any of them would be an improvement. Judging by the election and the Tea Party movement, Americans are ready to push for more freedom — but the message has to be clear and the program easy to grasp. Let's go!

— Jane S. Shaw

Oncoming train — With the Obama gang set for a 2010 deficit of \$1.6 trillion, the public has become accustomed to seeing the usual corrupt losers — Fannie Mae, Freddie Mac, GM, Chrysler, and the like — sucking the taxpayer's tit for all its worth. But there are two more massive bailouts looming that have so far escaped public notice.

The first is pointed out by Allan Sloan on *CNNMoney.com* (Feb. 4). He notes that the Social Security system this year will be paying out in benefits more than it collects in taxes. This has not been announced by the Social Security Administration because the negative cash flow is hidden by an accounting gimmick.

As Sloan found when he looked at the actual numbers in the updated budget, just put out by the CBO, there appears a modest Social Security surplus of \$92 billion. But Social Security gets that figure by adding in \$120 billion "interest



"You can get into enough trouble just in Geneva — no way you're going to a summit conference in Las Vegas!"

income" from its so-called "trust fund." That fund is an accounting fiction; it is just the accumulated amount of past surpluses that the government spent for various things. So the interest is just an accounting gimmick, too: it is money that the government will have to pay out to cover ongoing Social Security outlays.

In short, Social Security is facing a deficit of \$28 billion, going negative much earlier than officially predicted. This is the first time there has been a deficit since the early 1980s, when Congress was forced to lower benefits and raise both eligibility ages and payroll taxes.

Looking at the CBO estimates, Sloan notes that the deficit will shrink to almost break-even (unless the economy dips into recession again) during the next few years, before it really starts to grow because of the mass retirement of the baby boomers.

He concludes, "This year's Social Security cash shortfall is a watershed event. Until this year, Social Security was a problem for the future. Now it's a problem for the present."

We turn next to a little-discussed federal agency that (like Freddy Mac and Fannie Mae) was set up by the government to facilitate home purchases: the Federal Housing Administration. As an article in *The Wall Street Journal* (Jan. 19) details, the FHA is headed down the same sewer that Freddie and Fannie disappeared into.

The FHA was set up in 1934 to help first-time home buyers. While it doesn't give loans or buy them, it backs them up; it insures them against default, and charges the lending companies a fee.

For many years, it represented a small part of the housing market, hitting a low of 2% in 2006. Then the subprime mortgage meltdown hit, and in the face of plummeting housing values and a dry credit market, politicians started putting the screws to the agency to loosen its standards. The agency quickly complied.

The FHA started to refinance high-risk borrowers, putting them in fixed-rate mortgages. In 2008, Congress "temporarily" allowed the maximum loan amount the FHA could guarantee to rise from \$362,790 to an astonishing \$729,750 — over double! The main driving force behind this increase is the same buffoon, Rep. Barney Frank (D-MA), who shielded Freddie and Fannie from any scrutiny until they exploded. (He actually pushed for the limit to be \$800,000!)

Understand, the FHA only requires a laughable 3.5% down to begin with. But it started allowing "nonprofit groups" (funded by homebuilders, among others) to give the down payments to borrowers who couldn't even manage that 3.5%.

The resulting growth was predictable. By the third quarter of 2008, the FHA was insuring 25% of all mortgages. In the areas most affected by the housing slump, it is insuring half of all new loans. It now explicitly backs — with taxpayer money — over \$685 billion in loans, many written under the dicey new standards.

Also predictable was the looming tidal wave of bad loans that the FHA will have to cover. At the 30 biggest FHA backed lenders, 12% of the loans are already in default only two years after being written; that's double the national rate. And an independent audit shows that the agency is rapidly nearing the point at which it won't have enough cash reserves to cover its losses. The FHA says it has enough reserves to cover losses,

but not if housing prices take another tumble.

People in the housing industry see what's happening quite clearly. One industry consultant told a congressional panel, "FHA is, at best, running on empty, and probably is facing a negative capital situation." Robert Toll, CEO of the huge development firm Toll Brothers, Inc., was blunter: he described the FHA as "a definite train wreck," saying that it will be the next subprime mess.

The recently appointed head of the FHA, David Stevens, was outraged at Toll's remarks, calling them "ludicrous." But one has a right to be skeptical. Stevens' position in the industry is that of the biggest seller of adjustable rate mortgages for World Savings back in the 1980s, before moving on to hold a top job at — Freddie Mac!

— Gary Jason

Deaf and dumb — When Air America announced its plans to shut down operations, most people were shocked, as they didn't realize Air America was still broadcasting. The network that opened in 2004 with great fanfare closed its doors in 2010 with a whimper.

Air America was a great example of why leftists prefer working in the government and at nonprofit corporations. Whether by design or ineptitude, most on the Left are opposed to turning a profit.

Those of us on the supply side know that a successful business plan starts with creating a product that customers will enjoy. Instead, Air America's crew forced themselves on the market. They took over radio stations — many of them foreign language stations serving minority listeners in urban areas — the same people that leftists claim to represent.

And like all totalitarians, they assumed once they had the stations that people would have to listen. They didn't focus on programming, they just shoved their message out onto the airwaves for anyone who might care to listen. As you can imagine, few people did.

When that plan failed, they actually took money from a Boys Club to continue paying Al Franken's exorbitant salary. When that failed, they started asking listeners to send them money. Absent a government payout, the network was competing with NPR for money, on an unlevel playing field, and the network ceased broadcasting on January 21.

I'm beginning to think that leftists hate corporations for the same reason that fat girls think all the pretty ones are anorexic. People of lesser spirits always come to loathe what they can never attain.

— Tim Slagle

Your papers, please — The legislature in South Carolina has passed a "Subversive Activities Registration Act," the upshot of which is that any "member of a subversive organization . . . who advocates, teaches, advises or practices the duty, necessity or propriety of controlling, conducting, seizing or overthrowing the government of the United States . . . shall register with the Secretary of State on the forms and at the times prescribed by him." And there is a form! Remarkably short by government standards, it requires only your name and address, the name of your subversive organization, a statement of your beliefs, and the names and locations of any fellow conspirators. The form is to be sent in duplicate, accompanied by a \$5 processing fee, to the SC Secretary of State's office. Failure to file the form is punishable by fines of up to \$25,000 and ten years in prison.

Now while this is on its face silly, it is a logical outgrowth of a variety of state and federal legislation designed at evading the constitutional prohibition against double jeopardy. Any number of states have laws on the books requiring drug dealers to declare their illicit income (a holdover from Prohibition), or to preemptively buy “stamps” to place on their products certifying the drugs as properly taxed.

The expectation, obviously, is not that any dealers or terrorists will work through the state-approved channels, but that when they are caught, the penalties for tax evasion or failure to file will be added onto whatever fines or prison terms the criminal justice system prescribes — in essence, trying the accused first in court, and then in the hell of bureaucracy, where guilt is presumed and the verdict almost always predetermined.

More worrying here, though, is the vagueness of the statute and its potential chilling of speech. Certainly it is aimed at Islamic or other religious extremist terrorists, but what about secessionists, or militia members? Could a political blogger get rung up for making an off-hand remark about overthrowing the government in Columbia? Clarification is in order, but I’m not holding my breath for any: laws such at this are written to blur the boundary between legal and illegal. The more obscure they get, and the more expansive, the better the chances that you’re a criminal, and can be put away whenever the state decides.

— Andrew Ferguson

Hysteria and recall — Toyota is in the midst of a huge recall, aimed at correcting an accelerator pedal defect. So far, there has been a total of 2,000 complaints of accelerator pedals sticking out of 20 million Toyotas on the road. Now, I don’t want to trivialize the problem; four people died in an accident apparently caused by the defective pedal. And Toyota is a large Japanese company, meaning that it is the quintessence of hierarchical bureaucracy. So it took a while for it to come to grips with the problem.

But the reaction among American politicians has been nothing short of hysterical. For instance, Ray LaHood, Obama’s Transportation Secretary, testified before a congressional committee that Toyota owners should stop driving their vehicles at once. And members of Congress started baying for legislative hearings to commence.

This hysteria is as unwarranted as it is predictable.

It is unwarranted, first, because Toyota has had a long and distinguished history of producing vehicles that are ever-higher in quality. Compared with the large number of recalls faced by GM and Chrysler in particular, Toyota’s record is quite strong. Second, Toyota owned up to the problem (with the CEO Akiyo Toyoda offering his apologies on TV), found a fix, stopped selling new cars until they were retrofitted, and is busily retrofitting the cars already on the road. Finally, Toyota has gone out of its way to be respectful to the United States, its major customer center. For example, the company has built plants here, including, it would seem, the one that made the defective part.

But the hysteria is perfectly predictable. Two of Toyota’s main competitors, GM and Chrysler, are owned by the federal government and the United Auto Workers (UAW). And the UAW clearly owns the federal government.

The federal government will likely use this opportunity

to try to destroy a competitor to its own socialist industry. All the competitors to GM and Chrysler — Honda, Toyota, Ford, Nissan, Porsche, and so on — face a nasty situation: the entity that is supposed to be their regulator is also now their biggest competitor.

— Gary Jason

Stuck with the tab — In high school our honor society took educational trips to the San Francisco Bay area. We visited universities and went to museums. One year about a dozen of us went to dinner at a famous and relatively expensive restaurant. When the time came to pay the check (we didn’t realize we could have asked for separate checks), we found that none of us had figured in tips, tax or beverages, so we came up seriously short. We started passing an emptied bread basket around and around the table trying to raise enough money. As the passing became more desperate, my friend Bruce predicted, “We are going to have to do dishes all night!”

Our buddy Mary wisely suggested that to solve the problem, we ought to get individual checks — next time. So far, so good. But now imagine if Mary had said, “I have a great solution. Anyone who promises to pay for his own check next year doesn’t have to put any more money into the basket now.” If she had said such a dumb thing we would have stuck her with the bill and walked out, and rightly so. Her “solution” would have made matters worse. But Mary wouldn’t have said such a thing, because she was smart. She would never have confused a strategy for avoiding a problem in the future with a solution to an immediate crisis.

There is a similar crisis on the national level. Social Security and Medicare for us baby boomers are going to cost more than the United States is collecting in FICA taxes. We won’t have enough money to pay the bill. Yet libertarians continually argue, and President Bush went along with it, for a “solution” that is exactly like that hypothetical solution to the problem of the restaurant tab. We go out and say, “Let’s solve the entitlement funding crisis by letting people opt out of Social Security and Medicare taxes and put their money into their own retirement savings.”

Of course, letting people provide for their own retirement and medical insurance could have *prevented* the problem if we had started doing it 50 or 60 years ago. But for the past 30 years or so we’ve been solving the entitlement funding problem by bringing *more* people into the system so we will have enough income to pay the bills. Every person we now allow to opt out of the paying-in part of the system will make the problem worse. That should be obvious to everyone. The more we rant and rave about the huge unfunded mandates we face in the coming decades, the stupider our “solution” sounds to the average person.

Solving the entitlement funding crisis is very much like solving the problem of too much personal debt. When people have been spending more than they are taking in they have to cut back on their spending and live within their means. That’s hard, and no one likes doing it. But then they realize that to solve their problems, they have to cut back even further, in order to start paying off their debt. That’s a double dose of hard news, but it is unavoidable.

We should begin with a campaign of truth-telling. Social Security is *not* an account that you build up by working. Your

Social Security account is pure fiction. Social Security is simply welfare — taking money out of the paychecks of today's workers and giving it to older people. Once the reality is understood, we can begin promoting strategies to lower the burden on workers, such as means testing or delaying retirement to older ages, that would cut the costs of the Social Security and Medicare programs and get the funding into the black. Then we should offer further cuts to enable us to begin allowing the youngest earners to opt out of the program. The more we can cut costs, the more young people won't be trapped into dependency by putting their money into the Social Security and Medicare system.

What better reason to get us baby boomers to accept means testing and delays in Social Security entitlement, than to enable our grandchildren to be free of the burden of supporting us? I would gladly work a few years longer and postpone my Social Security entitlement if I thought it would let my grandchildren put 12.4% of their salary into their own retirement.

— Don Crawford

Chile and Chi-town — Ryan Streeter, on the Enterprise Blog (Jan. 12), makes an interesting observation. On January 11, an amazing event occurred, and went completely unnoticed in the mainstream media. Chile was admitted to the Organization for Economic Cooperation and Development (OECD). The OECD is an exclusive club of the world's 30 most developed economies, and Chile is the first Latin American country to be accepted.

Chile owes its success to a group of economists who were all trained by Milton Friedman at the University of Chicago. These economists, dubbed "The Chicago Boys," worked in the 1970s and '80s to help Chile recover from many decades of statist economics, a statist history culminating in the short but disastrous reign of the Marxist Salvador Allende.

The Chicago Boys privatized the bankrupt social security system, dramatically lowered trade barriers, and deregulated and depoliticized the economic system. This they were able to do because the military dictator Augusto Pinochet (who ousted Allende) allowed them free rein to deal with the economic disaster wrought by Allende. Because they worked under the Pinochet government, they were pilloried as collaborators with a dictatorship.

But the result of their policies was a burst of economic freedom and consequent prosperity. Chile is the highest rated large Latin American country on the "prosperity index" put out by the Legatum Institute. It is also ranked at the highest level on the index of civil and political liberties put out by Freedom House.

In the decades since Pinochet surrendered power, Chile has been governed by center-left governments, in lingering response to the harsh Pinochet regime. But Chile has kept its fundamental economic reforms in place, and has received its just rewards.

Perhaps this helps to explain the surprising victory of Sebastián Piñera in Chile's presidential race in January. Piñera, a center-rightist, is a highly successful economist and entrepreneur — indeed, a billionaire investor. He was an award-winning student as an undergraduate, and got his Ph.D. in economics from Harvard. He became a professor of economics at the top Chilean universities. He made his money

in shrewd investments, including television and airlines.

What accounts for Chile's shift to the political right? In recent years, the economy has slowed, and Piñera favored removing regulations that stifle small business, and reshaping capital markets to enable businesses to get funding more easily. It didn't hurt that Piñera's older brother, José, successfully privatized the social security system in 1981, becoming the most famous Chicago Boy of all.

It appears that there is some measure of appreciation for the Chicago Boys in Chile today.

— Gary Jason

Word hoard — What is it with Democrats, and the privilege of language that they assume? They say things that would never be allowed if uttered by an opponent. Chief of Staff Rahm Emanuel called progressive Democrats "retarded." All over the nation, retarded Americans were insulted by the comparison.

This isn't the first time the Democrats have insulted the mentally challenged. Remember, Barack Obama compared his bowling to the "Special Olympics" and Al Gore called Oliver North supporters "the extra-chromosome Right."

Meanwhile Harry Reid continues to receive little criticism for mentioning Barack Obama's "Negro" dialect. He was however corrected by Vice President Joe Biden, who pointed out that the politically correct term is "clean and articulate."

— Tim Slagle

Union label — The Wall Street Journal recently uncovered a sneaky, unannounced reward for Big Labor provided by Comrade Obama, ever the unions' tool.

The National Mediation Board is the agency that oversees labor relations for the airline and railroad companies. It has three appointees, two made by Obama, one by Bush. One of the Obama appointees (Harry Hoglander) is a past president of a pilots' union; the other (Linda Puchala) is a past president of a flight attendants' union. So you can guess how neutral these union apparatchiks are. Can you spell "regulatory capture," boys and girls?

Recently, the AFL-CIO requested that the board adopt a new standard for unions trying to get certification in employee elections. For the past 75 years, a union had to get a majority of the workers in a given company to vote for a union before it could be certified as representing the company's workers. To the contrary, said the AFL-CIO, unions should be certified if they get only the majority of the votes *cast*, even if (say) only 2% of the workers bother to vote. The idea is to game the system to make unionization of companies a breeze.

The Journal piece didn't mention it, but the buzz on the internet was that the AFL-CIO was animated by the desire to deal with Delta's acquisition of Northwest Airlines — Northwest being unionized, Delta nonunionized.

The Obama appointees immediately complied, over the objection of the Bush appointee (Liz Dougherty). They immediately wrote up the new rule behind closed doors, and published it in the Federal Register, with no notice given or feedback invited, natch. Two months now having gone by, they can inflict the rule on the businesses unfortunately subject to their power.

Score another victory for Big Labor, and another screwing of the American consumer.

— Gary Jason

A Libertarian Among the Republicans

by Bruce Ramsey

Gary Johnson holds many positions in
common with libertarian voters — but can
he get elected?

I am in a group phone interview with Gary Johnson, the former construction-company owner and libertarian-leaning Republican who was governor of New Mexico for two terms, from 1995 to 2003. Under the banner “You Say You Want a Revolution?” Johnson has set up the web page, OurAmericaInitiative.com, to test the waters and raise money. Under IRS rule 501(c)(4), he says, “I cannot comment on my desire to run for any federal office,” but it is understood that we are talking of a possible run for president in 2012 on the Republican ticket.

In 2008, Johnson supported Rep. Ron Paul, the libertarian Republican from Texas — a commitment few prominent Republicans dared to make. Johnson is like Paul in many of the positions he takes, but he is less socially conservative. Johnson hails from a less conservative place than the Texas coast: New Mexico voter registrations are 2-to-1 Democrat. And Johnson was a state governor, a position much less suited to the lone dissenter role that Paul plays as one among 435 Representatives.

Johnson has the advantage of being 18 years younger than Paul. He will turn 59 in 2012; Paul will turn 77, and if he runs again for president, it will be for a term that will end when he is 81. Johnson’s political positions also make him less obviously unelectable than Paul.

In this group phone interview, which has been set up by the Republican Liberty Caucus, several of the interviewers are libertarians trying to gauge how hardcore Johnson is. He is careful, sometimes saying he “understands” a certain view without saying he agrees with it, or that he would sign a bill on a certain issue if Congress sent it to him, without saying he would push that view.

His reminder that a president is the leader of only one branch of government is a way of saying to his base: *be realistic*. If he is to be a serious candidate he can’t be *too* radical.

Johnson is most known for one idea, his advocacy of legalizing marijuana. It was a radical idea when he offered it a decade ago, and if it is closer to realization now — my city, Seattle, has stopped prosecuting for marijuana possession — it is still *pretty* radical. In our interview Johnson does not step away from this. He immediately adds that he’s not for any leniency toward people who do anything harmful to

others while stoned, but that if they are adults and just want to smoke it, the government should leave them alone. Marijuana, he says, is “the only drug I’m advocating legalizing.” For the others, he is for “harm reduction strategies,” meaning they would remain illegal, but use would be treated as “a health problem” rather than a crime problem.

This is not as hardcore as many libertarians would like, but within the Republican Party it is a bold position, so bold that he will have to work to establish his bona fides with many Republicans. His major theme will be a much safer one: to “stop the spending.”

“The bottom line is, Republicans are penny pinchers,” he says, talking about Republican voters, if not the crew they elected under George W. Bush. Republican voters, he says, “really care about spending. They really care about smaller government.” Johnson promises to be different from the Bush Republicans, and he has a record to back it up. In eight years as governor of New Mexico he vetoed 750 bills and excised a great deal of spending by using the line-item veto. Listen to his critics: they slam him for being cheap, never for bloating the government.

Even President Obama now admits that spending needs an application of brakes, so there is little risk in criticizing spending. But with money, what matters is *how much*. And you get an idea of a candidate’s seriousness by asking about other things the government does.

On spending, Johnson is a serious guy. When asked about two of the most expensive federal programs, Medicare and Medicaid, he says, “The federal government should just get out, and return it to the states.”

“Return it to the states” can be either a strategy for radical change, as in Johnson’s comment on Medicare and Medicaid, or a formula for conservative politicians to paper over a split in their base, or both. Abortion, for example. Ron Paul thinks

“I understand,” says Johnson, “that since 1913 the Federal Reserve has reduced the dollar to a nickel, and I fully expect it to take it to a penny.”

abortion is murder. He has talked about overturning *Roe v. Wade* — which legalized abortion for the whole country — so that individual states can ban abortion if they wish. That is a strategy for radical change, and also a concession to voters in states like mine, which are pro-abortion.

Johnson says he is for the right of abortion “to the point of viability,” and then against it. But he also says this is a matter for each state to decide. This sounds to me more like papering over a crack.

A questioner asked Johnson whether he was for overturning *Roe v. Wade*. The clear implication of his position is that he is. If the abortion question is to revert to the states, *Roe v. Wade* falls. But in American politics if you say you want to overturn it, you are labeled as “against abortion rights,” and Johnson doesn’t want that label.

The president’s power over that issue lies in appointing justices to the Supreme Court. Johnson says he favors judges who follow original intent. In conservative land, that is code for “overturn *Roe*” (and a reminder that the president cannot do it alone). But the questioner is not satisfied with code. He asks the question again.

Johnson replies with a classic paper-over-the-crack answer: “If you believe the original intent was to outlaw abortion, then my appointment to the Court should end up doing that.”

Which is code for saying, *don’t push me on this*.

Johnson says he is against gay marriage but for gay civil unions, which legally amount to the same thing but avoid that electric word, “marriage.” A questioner asks whether he would repeal the military’s “don’t ask, don’t tell” policy on gays, and he says, “Yes. I support this being more open.”

On immigration, Johnson takes a softer line than Paul, who wants to end citizenship for babies of illegal parents and supported construction of a border fence. Johnson says he is generally pro-immigration. In New Mexico, he says, immigrants “are an asset.” He doesn’t come out for free immigration, which some libertarians support — and which would destroy his chances in the Republican Party.

Foreign policy is another area in which Johnson defines himself carefully. He says, “I don’t think our security is threatened in Iraq or Afghanistan.” He says he would bring U.S. soldiers home.

Several questioners push for more specifics. Eric Carter in Los Angeles wants to know, regarding nuclear weapons in Iran, whether Johnson would use a military strike as a last resort.

“As a last resort, yes,” he says.

Stephen Bone of Decatur, Illinois, asks whether this means that Johnson supports preemptive war. “No, absolutely no,” Johnson says. “I’m not for a notion of first strike.”

An American in Nigeria asks whether Johnson accepts military interventions. “I need to be convinced that we should be intervening anywhere,” Johnson says. “I come at it skeptically.”

Carter jumps in again. What are Johnson’s “general thoughts regarding nuclear proliferation?” Is bombing Iran acceptable as a last resort?

“If the U.S. is going to be *attacked* with nuclear weapons — this is the example I thought you were offering,” Johnson says. “Yeah, then we need to act.”

What if they just *have* the weapons?

Johnson points out that Pakistan, India, and North Korea have the weapons, implying that possession is not enough to justify a strike. He says: “I am not going to shy away at all from responsibility for protecting the country. But we don’t want to be an interventionist, imperialistic country.”

He is asked about the U.S. commitment to Israel — another bullet in Republican politics. He dodges it. “I understand our support of Israel,” he says. He turns it into a question about foreign aid generally, which he says “needs to be examined, given that we’re paying for all this with money we don’t have.”

He talks about several free-market issues and is in favor of more market forces in medicine, joking about the prospect of

continued on page 37

Battle of the Books

by Jim Walsh

When an author meets an author, comin'
through the rye.

Jerome David ("J.D.") Salinger wrote what may be the most influential American novel of the 20th century, *"The Catcher in the Rye"* (1951). *"Catcher"* is also Salinger's *only* novel. He's better known for the gemlike short stories he published in *The New Yorker* during its literary heyday.

It's tempting to use the past tense when writing about Salinger's work. But he's still alive.* At 90 years old, he remains a singular character in American letters. He hasn't published anything since the 1960s; and, perhaps more notably, he has pursued a life of what might be called aggressive reclusiveness — living in rural New Hampshire, refusing interview requests, rejecting overtures from film and television producers, suing anyone he believes has infringed his copyrights, and meeting visitors to his farm with shotgun in hand.

Salinger's latest legal action is a suit to stop publication in North America of a novel called *"Sixty Years Later."* This new book, written by Fredrik Colting, a Swedish publisher of books on popular culture, is an "examination of the relationship between J.D. Salinger and his most famous character," Holden Caulfield, the narrator and antihero of *"Catcher in the Rye."* Using familiar elements of metafiction and postmodern literary criticism, *"Sixty Years Later"* tells how Caulfield,

now in his late 70s, escapes from a nursing home to confront Salinger. The new book reiterates some of the dramatic structure of Salinger's novel but adds a fictional version of Salinger, whom it portrays as a brooding obsessive who wants to kill the elderly Caulfield: "I made him once. I cast him in my own blood. In a way he is my son, my property. I won't mourn him when he's gone. . . . I intend to be fast and swift. My time is running out, and I will leave nothing to chance."

Salinger's lawyers call Colting's book "a rip-off pure and simple." Colting's lawyers insist that it's a work of parody and irreverent literary criticism and therefore constitutes a fair use of Salinger's work. Salinger won the first round of the legal fight. A federal judge in New York ruled in his favor and banned publication of *"Sixty Years Later."* Colting's lawyers are determined to appeal the case. The dispute may proceed all the way to the Supreme Court. Along the way, it may redefine some elements of the bizarre legal contraption that has become U.S. copyright law.

* See the epilogue (page 38).

Aaron Silverman runs SCB Distributors from a large warehouse in the smoggy suburbs south of Los Angeles. SCB distributes books in the United States for Nicotext, Fredrik Colting's Swedish publishing company. Most of Nicotext's titles are snarky treatments of celebrities and popular culture — fluffy, but witty and well-produced. Colting, who's in his 30s but comes off as ten years younger, seems every bit the university-bred pop culture and pop art enthusiast. He blends bits and pieces of culture into new, postmodern works of art. Nicotext's mission statement reflects these enthusiasms: "While thumbing our collective nose at the literati, we have found our niche amongst the useless, the trivial and the potentially offensive."

In the shrinking world of bookselling, SCB has been a growing force. It handles a diverse list of art books and other quirky fare. Nicotext's titles fit well in the mix. (Disclosure: SCB also distributes most of my books — which are *not* art titles — and Silverman has been a personal friend for more than a decade.) While not obviously political in any party sense, Silverman has a businessman's preference for clarity and logic. And he's a hunter. He's worked in the publishing industry in various capacities since he got out of college some 30 years ago; he knows the practical details of the business and always has an eye out for promising projects.

About two years ago, Colting told Silverman that he'd published his own first novel, "Sixty Years Later." Colting was already selling the book in Sweden and the UK under the pseudonym "John David California." He wanted to know whether Silverman thought the book might work in the United States. Silverman asked for a copy; he read it and asked his wife to read it, for a second opinion. They both thought it was brilliant. Silverman met with Colting at the London International Book Fair and agreed to give "Sixty Years Later" a big launch in the United States. While technically Colting's distributor, Silverman and SCB would be acting, effectively, as publisher, since the author planned to remain in Sweden.

Silverman started seeding publicity for the book at the London Fair. Getting interest in the project wasn't difficult.

Media people were interested in anything related to Holden Caulfield. It was about this time that Salinger's attorneys in New York got wind of the new book.

The sales cycle in book publishing turns slowly. Late in 2008, Silverman announced "Sixty Years Later" to SCB's sales representatives and made preparations for a spring 2009 publication date. Last April, he was served notice at his warehouse office that he was being sued. The law firm was Davis Wright Tremaine out of New York; the plaintiffs were J.D. Salinger and the J.D. Salinger Literary Trust.

Salinger has developed a reputation for litigiousness that rivals his reputation as an author. Upon learning in 1986 that the British writer Ian Hamilton intended to publish a biography that included letters Salinger had written to various friends (the friends had given Hamilton permission to use the letters), Salinger sued to stop the book's publication. A New York court ruled that Hamilton's extensive quotations and paraphrases from the letters went beyond the limits of fair use and that "the author of letters is entitled to a copyright in the letters, as with any other work of literary authorship."

Hamilton's book was eventually published, with the letters lightly paraphrased and alluded to. It was pretty thin stuff. But one consequence of the lawsuit was that some details of Salinger's private life, including the news that he had spent 20 years writing a novel he didn't intend to publish, became public. A few excerpts from the disputed letters also became public — most famously, an imaginary scene in the life of Oona O'Neill, whom he had once dated, and her husband Charlie Chaplin: "I can see them at home evenings. Chaplin squatting grey and nude, atop his chiffonier, swinging his thyroid around his head by his bamboo cane, like a dead rat. Oona in an aquamarine gown, applauding madly from the bathroom."

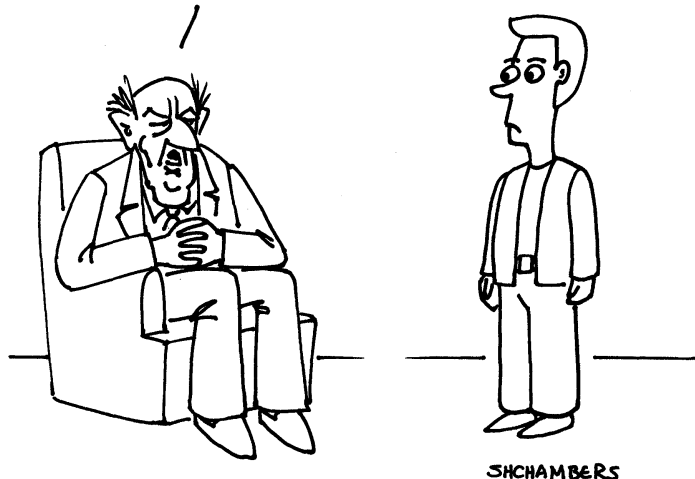
In 1998, the writer and cultural oddity Joyce Maynard released a wide-ranging memoir of her own life. What interested others was principally the affair that she had had with Salinger, 25 years before. Familiar with the outcome of the Hamilton case, Maynard was coy about the letters that Salinger had written her. She implied that she would include them . . . but remained vague about how much of them. She wanted to avoid a lawsuit from Salinger that would prevent her book from being published.

Maynard has built a minor literary career on multiple memoirs and egocentric journalism. It's curious that Salinger, so protective of his privacy, got involved with a fundamentally indiscreet woman.

In the end, Maynard didn't publish the complete texts of Salinger's old mash notes. But her book did include personal details, such as the practically obligatory ones about sex. More relevant to Salinger's notion of creative control; she remembered him telling her, "When they start in on your characters — and they do — it's murder." This passage may have given Fredrik Colting the idea of his "Salinger" trying to murder the elderly version of Holden Caulfield.

While Maynard didn't publish Salinger's love letters, she did come up with a cagey way of using them. The letters themselves, the physical *things*, belonged to her. So, in a move designed to help the promotion of her book, she put 25 of the letters up for auction. Software magnate Peter Norton bought them and announced his intention to return them to Salinger.

PEOPLE WHO NEED PEOPLE
ALSO NEED MONEY, JEREMY.



Of the matter, Norton said: "I share the widely expressed opinion that the work should be bought by someone sympathetic to Mr. Salinger's desire for privacy."

This is an interesting point. What Salinger appears to seek in his aggressive use of copyright law is really something different from the "Science and useful Arts" that the Constitution describes. It's privacy, which readers of *Liberty* (and careful

One consequence of the lawsuit was that details of Salinger's private life, including the news that he had spent 20 years writing a novel he didn't intend to publish, became public.

readers of the Constitution) know is a much subtler proposition. His lawyers would later use privacy as a foundation of their notion of copyright: "There are three underpinnings of the copyright law. There is to foster the creation of works, there is to provide economic incentives for authors, and there is the right to privacy. The right to privacy rests in the right of first publication and it rests in the right to control derivatives."

This is an interesting theoretical argument, but it's not one that holds up well to practical application. Or rigorous legal analysis. Lawyers and judges like to link privacy to such abstruse legal concepts as "penumbras" and "underpinnings," but such shady foundations don't support the conclusion reached consistently by American courts: copyright law can't be manipulated into a tool for making privacy claims. The 1988 district court decision *New Era Publications v. Henry Holt & Co.* made this point plainly: "It is universally recognized . . . that the protection of privacy is not the function of our copyright law."

When word got out that Colting, Silverman, and SCB had been sued by Salinger, intellectual property lawyers from all parts of the country called, offering to mount a defense. Silverman ultimately made an entrepreneurial deal with Edward Rosenthal of the New York law firm Frankfurt Kurnit Klein & Selz. In exchange for a much-reduced retainer and a percentage of any future sales of "Sixty Years Later," Frankfurt Kurnit agreed to press the book's case all the way to the Supreme Court, if necessary.

Rosenthal and his firm are well-known in the intellectual property bar. They defended the author and publisher of "The Wind Done Gone," a book that ingeniously retold the story of "Gone with the Wind" from the perspective of a slave. The heirs of Margaret Mitchell sued to block publication of that book. Rosenthal helped defeat their arguments and see the book into print.

Most IP lawyers — like most lawyers of any specialty — spend the bulk of their days reviewing transactions and trudging through contracts. They look forward to cases that involve live issues. *Salinger v. Colting et al.* involved live issues.

The trial was set for June 17, 2009. With Colting remaining in Sweden, Silverman and his wife flew to New York so they could be in the courtroom to watch the proceedings firsthand.

If their side prevailed, "Sixty Years Later" would go into print immediately; if it didn't, it would join "Ulysses" and "Tropic of Cancer" on the list of books that have been banned in the United States.

On the morning of the 17th, the lawyers took their places in the federal courthouse in Manhattan. (Salinger, following his standard practice, didn't attend.) Rosenthal represented Colting, Silverman, and "Sixty Years Later." Marcia Paul of David Wright Tremaine represented Salinger. There was no jury; a judge would decide the case. That judge was Deborah A. Batts, a Clinton appointee, a Harvard Law School graduate, and — according to a biography published on the website of the National Black Justice Coalition — "the first openly lesbian African-American federal judge."

Silverman hoped that Batts would be sympathetic to a scrappy, small press' case against a literary giant. Indeed, one of the theories offered in defense of affirmative action programs is that outsiders (say, black lesbians who get through Harvard Law) given access to society's citadels of power will bring fresh perspectives and heterodox beliefs to staid institutions. The truth, however, is more often the opposite: the outsiders often become the most orthodox and narrow-minded purveyors of institutional pabulum. And that pretty well describes the legal reasoning that Deborah Batts would use.

Salinger's lawyers made two separate claims for copyright infringement: one of the book "The Catcher in the Rye" and another of the character Holden Caulfield. Colting's lawyers acknowledged a legitimate copyright claim in the book, but doubted that the character qualified. To this doubt, Salinger's lawyers replied: "We go back to Judge Hand in the *Sheldon* case, back in the '40s, saying that a fully delineated character

One defense of affirmative action is that outsiders given access to society's citadels of power will bring fresh perspectives to staid institutions. The truth is more often the opposite.

can be protected under copyright law. . . . despite the fact that [Colting's lawyers] admit he is an iconic character, despite the fact that their fair use depends upon Mr. Holden Caulfield existing *qua* Holden Caulfield, they argue that he is not sufficiently delineated to be entitled to copyright protection."

This argument brought up an important point, though perhaps not the one intended. Copyright lawyers still cling to precedent decisions from 70 years ago (attorney Paul was wrong about the date of the *Sheldon* decision; it was from 1936) to discuss intellectual property issues today.

Learned Hand was a genuine, profound thinker. Knowledgeable people say he was the smartest American judge who never made it to the Supreme Court. (Robert Bork and Richard Posner may disagree.) He was certainly one of the best writers ever to sit on a court bench in this country. His decisions are coherent, intellectually dense, and literary without being flashy. His often-cited decision in *Sheldon v.*

Metro-Goldwyn Pictures dealt with a movie based on a popular play, which was itself based on a novel taken from actual events. The movie producers (including the esteemed Irving Thalberg) didn't pay Sheldon, the playwright, because they argued that no one could copyright the facts of the story. The trial court agreed with the movie people.

In his appeals decision, Hand ably retells the various versions of the story. He also coins a not-as-good-as-it-is-famous metaphor about a lesser poet inadvertently rewriting John Keats's "Ode on a Grecian Urn." These days, the Keats reference gets most of the attention from lawyers desperate to seem literary; but there's better writing in other parts of the decision:

Speech is only a small part of a dramatist's means of expression; he draws on all the arts and compounds his play from words and gestures and scenery and costume and from the very looks of the actors themselves. . . . [A] nod, a movement of the hand, a pause, may tell the audience more than words could tell. . . . True, much of the picture owes nothing to the play [but] it is enough that substantial parts were lifted; no plagiarist can excuse the wrong by showing how much of his work he did *not* pirate.

Hand sided with the playwright and overturned the trial court's ruling. The Supreme Court looked at the case and agreed with his conclusion. In *Sheldon* — and another copyright decision from about the same time, involving a different stage play — Hand recommended comparing the similarities between two works as a "series of abstractions" of increasing generality. If the similarities pass beyond the point of mere ideas and into the "realm of expression," there is infringement.

This standard is still used by judges today. And that's a problem. The "series of abstractions" test assumes that written works are static things. Electronic media are more fluid; and, in an electronic age, even printed pages are subject to revision, correction, and update in a manner inconceivable to Learned Hand — and that doesn't even get to the fanfiction

This 70-year-old standard is still used by judges today. And that's a problem. The test assumes that written works are static. Electronic media are more fluid.

and metanarratives that have become standard media structures. Marcia Paul and Salinger's other lawyers were using 70-year-old legal tools to make backward-looking arguments.

Colting's lawyers focused on the "fair use" defense of "Sixty Years Later." Their case included a declaration by Martha Woodmansee, a professor of English at Case Western Reserve University, who argued that "Sixty Years Later" was a work of "meta-commentary" that broke apart the elements of an existing work and reassembled them into a "more complex" work of literary criticism.

Judge Batts didn't agree with this argument (though she insisted she hadn't read Woodmansee's declaration) and proceeded to interrupt Rosenthal with a series of adversarial statements masquerading as questions. The effect was something like a TV or movie melodrama (think of the slightly crooked judge in the great Paul Newman-Sidney Lumet movie "The Verdict"):

Rosenthal: [T]he constitutional underpinnings of the copyright law say that it is to promote the progress of science and the arts and then securing for limited times to authors and inventors the exclusive right to their respective writings. So there is this element of promoting the arts and sciences.

Batts: But it is not stealing them.

Rosenthal: I strongly disagree that there is any stealing here. [Colting's book] is designed as a critical commentary on the relationship between J.D. Salinger and the character he created.

Batts: How is it criticism?

Rosenthal: How is it criticism? . . . [W]e have an author, J.D. Salinger, who has become famous for being reclusive, and there is much discussion that . . . he's never been able to write anything else, maybe because he feels he can never live up to his original creative ability, maybe because he is afraid of criticism. This book goes through and analyzes that relationship between the author and the character he created.

Batts: But I thought that the critical commentary has to be on the work, not the author.

Rosenthal: It is on the work, it is on the author, it is on the character. It is on all of those things. . . .

Batts: But do people need [Colting's] version in order to view the story differently?

This is one of the reasons why Oliver Wendell Holmes warned that it's a "dangerous undertaking" for judges in copyright cases to play at art criticism. Batts' low opinion of "Sixty Years Later" shouldn't have entered her reasoning. American courts have ruled — consistently, over many years — that fair use shouldn't depend on a judge's perception of a work's merits. One example was decided in Batts' own courthouse. The 1992 Manhattan district court decision *Yankee Publishing v. News America Publishing* held: "First Amendment protections do not apply only to those who speak clearly, whose jokes are funny, and whose parodies succeed."

Exceptional thinkers like Learned Hand can sort through literary abstractions; petty bureaucrats like Deborah Batts can't. The literal, insistent intelligence of the law clerk, which works in the classroom or in reviewing contracts, doesn't see deeply into intellectual properties.

While Colting's lawyer and the judge bickered over the nature of literary criticism, Salinger's lawyer was poking holes in her own argument:

Let's talk about what it means to be transformative. Transformative means . . . in the words of the Supreme Court: To take an original work and to somehow imbue it with new meaning, message, or purpose; to provide something more for the public. . . . Speaking in fair-use terms, the first question is, is this transformative of the original, as the court said, either of the character or of the work. Mr. Salinger is not a character in "Catcher in the Rye." The fact that they injected Mr. Salinger into this novel does have some transformative value. Some. Limited.

According to the body of precedent decisions, if there's *any* transformative value in a critical work, that part of the case for fair use of the underlying work is made. Rosenthal pointed this out, noting that Salinger's attorneys had admitted "a colorable fair-use argument" and that, therefore, Batts shouldn't ban the book. To do so would constitute prior restraint, a judicial abuse that would raise "very serious First Amendment issues."

But Batts wasn't about to be swayed by logic or the law. A week later, proving herself little more than a clerk with a Harvard degree, she issued an injunction preventing "Sixty Years Later" from being published within the United States — her arrogance rendered ridiculous by the ease with which anyone in the United States could buy a copy of the book. The British edition is readily available on a Kindle ebook reader and can be obtained with only modest effort from any number of online booksellers. Courts aren't as able to ban books as they used to be, and that's a good thing.

Batts may have expected cheers from the establishment media, but she didn't get them. In a June 25 op-ed piece, the Los Angeles Times concluded: "Salinger's protectiveness of his work isn't just stand-up, it veers into the paranoid, mercurial and even delusional. . . . [T]he 'Sixty Years Later' suit, while not surprising, seems somehow sadder than the previous legal actions. There's a sense that Salinger might not have a grasp on exactly what he's objecting to and why. . . . Maybe Salinger is holding on to Holden a little too tightly."

Several media outlets noted that Stanford University law professor Lawrence Lessig has argued that, unless copyright law is reformed, it will end up, ironically, by stifling creativity, particularly in an age of digital art and metacommentary. Lessig's arguments for a broad definition of "fair use" and copyrights limited in both scope and duration, considered anarchic a few years ago, are gaining currency. Colting's lawyers appealed. And the 2nd Circuit Court of Appeals agreed to an expedited review of the decision.

Copyright law is an interesting test of libertarian principles because it involves conflicting values, both of which are dear to lovers of liberty: the property rights of creative people and the free market in ideas and expression. Generally, copyrights protect intellectual property rights. This protection is a public good, specifically described by the Constitution's Copyright Clause, which charges Congress "to promote the Progress of science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."

A clear system of copyright provides precisely the kind of order that makes a social contract worthwhile. Anarchy stifles commerce, especially commerce based on innovation and expression. If you can't bring your goods to market with some level of reliability and safety, you'll stay at home. By extension, if an artist can't maintain some control over the work he brings to market, he'll keep it to himself (as, apparently, Salinger has done with his writing over the last few decades).

But artistic works aren't products like other products. Literary characters aren't apples or better mousetraps. They have value beyond their immediate application. In the cases of characters like James Bond or Harry Potter, they have cultural and commercial value far greater than the sales of a particular book. In a media-saturated society, literary icons have

real economic value. For example, if the maker of a premium vodka created advertisements in which a suave man claiming to be James Bond said he drank that brand, it might very well sell more product. But the estate of Ian Fleming would have a claim for unauthorized use of its intellectual property. Less hypothetically, J.K. Rowling's lawyers have sued numerous authors and publishers for producing unauthorized dictionaries and encyclopedias based on the Harry Potter stories.

This is the reason why some European countries — most notably, France — have codified so-called "moral rights" in creative works. These special rights give artists and creators

Anarchy stifles commerce. If an artist can't maintain some control over his work, he'll keep it to himself.

of intellectual property far-reaching control over how their works are used, even after the works of art or specific rights to reproduce the works have been legitimately sold, licensed, or transferred to others.

Although they talk about "privacy" and "characters," Salinger and his lawyers are essentially trying to bend existing (and, compared with the Europeans, humbler) U.S. copyright laws to support a "moral rights" argument. This argument may seem merely theoretical, but it runs directly into Lessig's practical case for reform of copyright law to allow more "fair use" and metacommentary.

And the effects aren't just theoretical. The markets for intellectual property have changed dramatically during the past 20 years. Record companies have become less important to the distribution of music; today, many popular musicians make more money licensing their songs for use in the "Guitar Hero" video games than they do from selling CDs or tapes. Film studios are terrified of losing their control over how movies are distributed and have been key supporters of the steady extension of standard copyright periods. (Specifically, the Walt Disney Co. has fought hard — and effectively — to maintain its control over Mickey Mouse, Donald Duck, and their iconic fellows.) The economic model of book publishing is strange and getting stranger as ebooks gradually replace paper and ink. Increasingly, books exist as a kind of test market for television and film projects.

Three recent series of bestselling books — Dan Brown's conspiracy-laden Robert Langdon thrillers, J.K. Rowling's Harry Potter boy-wizard fantasies, and Stephanie Meyer's "Twilight" vampire romances — share traits that reflect the chaotic nature of literary properties. All three started as unlikely hits that incorporated familiar dramatic structures and tropes. All three have been made into popular films. And all three have been charged with lifting plotlines and characters from other, less commercially successful, books.

Critics are split on this derivative work. Some embrace artistic borrowing that arises out of developments in post-modern literary theory or practice as "literary rewriting." These works knowingly draw on famous characters, plots,

scenes, and even words. Highbrow examples include Jean Rhys' "Wide Saragasso Sea," a novel that rewrites "Jane Eyre" from the perspective of Rochester's mad wife, and Tom Stoppard's "Rosencrantz and Guildenstern are Dead," an absurdist play that appropriates both characters and lines from Shakespeare's "Hamlet."

Others point to Dan Brown's bestsellers and the money-grubbing lawsuits surrounding them as the logical result of a postmodern, metanarrative world. "New" stories are derivative rehashes of existing plots and characters. Hollywood, which has never placed a high value on originality, nefariously influences all literary pursuits. And the literary world is a dumbed-down version of its former self.

But there may not be as much *modern* in all this postmodernism as intellectuals think. As early as 1845, Justice Joseph Story, riding (literally, on his horse) as a circuit justice in the copyright infringement case *Emerson v. Davies*, wrote: "In truth, in literature, in science and in art, there are, and can be, few, if any, things, which, in an abstract sense, are strictly new and original throughout. Every book in literature, science and art, borrows, and must necessarily borrow, and use much which was well known and used before."

So, we arrive again at the matter of fair use. In legal terms, this kind of use prevents narrow copyright claims from overwhelming First Amendment principles of free expression. It gives special preference to transformative works that enrich the marketplace of ideas by modifying existing works so as to generate new aesthetics and new insights.

In an amicus brief filed in support of Colting's appeal, a group of book-related organizations led by the American Library Association (ALA) argued:

In enjoining the publication of "Sixty Years Later," the District Court committed serious errors with a profound impact on free speech rights. . . . Courts must be especially wary of issuing injunctions against expressive works as to which there may be, after a full hearing, a viable fair use defense. In its rush to enjoin [Colting's book], the District Court ignored the free speech interests of the author and the public. . . . Prior restraints on speech are strongly disfavored precisely because they have the potential to cause grave damage to free speech rights.

The matter of "prior restraint" is one of special importance to libertarians, and for more than just its chilling effect on First Amendment free speech. It is a sign of judicial excess. Small-minded judges take a peasant's pride in their ability to grind through the minutiae of specific legal disputes. But the marketplace of ideas is more important than any single copyright claim. The First Amendment protects more than just the right to speak freely; it also protects the right to *receive* information. This right is rooted in the fundamental public interest in a free and open exchange of ideas and information.

There's strong legal precedence for this. According to the 1945 Supreme Court decision *Associated Press v. United States*, the First Amendment "rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public." Following this logic, some works — even when they appear to infringe on others — should still be allowed into the marketplace of ideas. In its 1994 decision *Campbell v. Acuff-Rose Music, Inc.* (involving the rap music act 2 Live Crew's unauthorized

remake of rocker Roy Orbison's song "Pretty Woman"), the Supreme Court stated that caution is necessary in granting injunctive relief in cases "involving parodies or other critical works."

On this point, the ALA group hammered Batts' evident inadequacies as a legal thinker and literary critic: "The district court's error was to confuse Colting's act of literary rewriting — which involves conjuring the memory of Holden in the reader's memory to achieve a literary effect — with the lifting of actual expression, as in the case of plagiarism or piracy. Under copyright's idea-expression distinction, only the expression receives protection, not the shared cultural memory."

The "idea-expression distinction" is an important balance in the copyright system. Providing legal protection to artistic works encourages creativity by assuring an artist the exclusive benefit of whatever commercial success his or her work enjoys during some period of time. But if authors fear their creations will too readily be found substantially similar to preexisting works, they will be less likely to create new works. Courts can adjust the tension between these competing effects of copyright protection. By framing the legal questions of the case around Salinger's interest in leaving his artistic vision untouched, Judge Batts injected loosely defined, French-style moral rights into fair use law — even though such rights are not part of U.S. copyright law.

Separate from the ALA group, the left-leaning legal advocacy group Public Citizen, Inc. filed an amicus brief in support of Colting and SCB. Public Citizen's arguments focused on the mechanical matter of whether literary characters can be protected by copyright:

The district court's conclusion that Salinger holds a copyright in Holden Caulfield wholly apart from the fixed expression of the novel itself — a general right to prevent others from conjuring up readers' memories of his iconic character — not only runs afoul of the purposes and constitutional limits on copyright but is foreclosed by the Copyright Act itself.

Groups like Public Citizen don't start out intending to make libertarian arguments when they file these amicus briefs on major legal issues. They end up sounding like libertarians because, in cases like this one, they make logical arguments based on evident points of law. (If only they made logical arguments all the time.) Under the 1909 Copyright Act, a fictional character might arguably have achieved copyright protection as a "component part" of a work. But, in the revised 1976 Copyright Act, Congress did away with separate copyright protection for components of works. Under current law, copyright protection extends only to "original works of authorship" that are "fixed" in a "tangible medium of expression."

Graphically-depicted characters qualify separately under the Act's inclusion of "pictorial, graphic, and sculptural works" (a careful reader can detect in this language the influence of the film industry) in the definition of "protectable works of authorship." Purely literary characters, however, are not "protectable."

Salinger's actions worked against his own sense of privacy.

continued on page 38

The Threshold Effect

by Stephen Cox

What libertarians ought to learn from
the Massachusetts election — and about the
nature of politics in America.

On January 20, the first news day after the Massachusetts election, the headline in my local paper, the San Diego Union-Tribune, was this: “Patient Access Rules in Place.” I swear to God, I’m not making that up.

The headline introduced a story about a state agency that was prepared to announce new regulations on HMOs. The regulators had been working on the scheme for seven years, although they conceded that they had not yet estimated its costs.

The article reported all this, but it wasn’t sarcastic. It was generally favorable to the regulators and their notions. And that wasn’t surprising, given the degree of curiosity about the effects of regulation that is ordinarily apparent in American journalism. The surprising thing was that this was the headline, and this was the leading article, on the first news day after the Massachusetts senatorial election, one of the most important elections in American history — and an election fought largely on the issue of healthcare legislation.

For me, the front page of the Union, with its single-minded focus on microscopic local issues, was a *reductio ad absurdum* of that bit of wisdom that pundits are always dishing out: “All politics is local.” That’s not true. It’s never been

true. And in the age of nearly instantaneous news and comment, it should be obvious that every election is potentially an arena of national politics. The Massachusetts election was fully “nationalized” in this way, turned into a test of national opinion by Republican activists who knew how to contact the non-print media.

Furthermore, the Senate seat in question had been nationalized for a long, long time. It was held for 46 years by Edward Moore Kennedy, a man who repeatedly attempted to become president of the United States in order to effect broad national “reforms.” The election in January hinged on the national healthcare initiative for which Kennedy wanted to be remembered. It became a contest between the Obama administration, which fanatically supported that initiative, and the American people, who firmly rejected it — even, it turned out, in Democratic Massachusetts.

By winning Kennedy’s former seat, Republican candidate Scott Brown precipitated the greatest crisis of confidence

that an American ruling party has suffered since President Clinton's repudiation in the election of 1994. Brown also did something that libertarians have always wished to do: win an important local election on national and ideological grounds.

I have something to say about the message that Brown's victory should send to libertarians. But first, it's interesting to look at the ways in which the Democratic disaster has been explained by others.

The Democrats started by blaming their own candidate, Martha Coakley, for her gross ineptitude. It's true, Coakley ran a hilariously stupid campaign. She even insulted the millions of Bay Staters who worship the local baseball team. Curt Schilling is a hero of the Boston Red Sox, but Coakley appeared to have no idea who he was, except that he was somebody supporting her opponent. She tried to get at him by insisting that he was a Yankee fan. This was an amazing performance.

No less amazing was her sarcastic announcement that she had no intention of shaking hands with voters outside Fenway Park, and her claim that President Obama made a last-minute trip to Massachusetts to speak on her behalf "because he knows we're gonna win." When she said that, she was smiling, as if certain that her audience was stupid enough to believe such a thing. She was always smiling like that.

Well, far from being certain that Coakley would win, the White House was already providing an excuse for her loss. The excuse was Coakley herself. But her mental disabilities weren't enough to explain what happened. Horrible candidates had run in Massachusetts before. Teddy Kennedy was a horrible candidate. Fat, drunken, debauched, guilty of every sin from college cheating to manslaughter, he was elected nine times and was reputedly the idol of the people.

That was the fantasy of the political parasites who fed for five decades on the corpse of Teddy's brother John. The fantasy was finally dispelled when Brown, challenged to say why he aspired to "the Kennedy seat" in the Senate, replied that it wasn't a Kennedy seat; it was "the people's seat." That was the remark that ignited his campaign. A new generation now inhabited Massachusetts, a generation for whom the Irish Catholic nationalism that assured the Kennedys' local success was no longer important.

After the election, Teddy Kennedy's niece, Kathleen Kennedy Townsend, attacked Coakley for not inviting Teddy's widow to assist her campaign. But the idea of not inviting her

Coakley's mental disabilities weren't enough to explain what happened. Horrible candidates had run in Massachusetts before.

seems to have occurred in one of Coakley's few lucid intervals. When, prompted by the White House, the widow finally held a press conference and dropped the Kennedy mantle on Coakley's shrinking shoulders, surveys indicated that she lost Coakley twice as much support as she gained. Yet (again, after the election) Townsend rattled off a list of Kennedys who, she

thought, could easily have won the race — this, from a person who is noted only for her failure to be elected governor of Maryland, a Democratic state that, before she came along, hadn't elected a Republican governor in four decades.

It ought to be remembered that when Edward Moore Kennedy died in August, legislators and anchorpersons proclaimed that the great healthcare reform act of 2009 would be called the Ted Kennedy Act. That lasted a few days. Then it died. Even in 2009, it wasn't a ploy that worked.

But it has to be said that in a normal year, a Kennedy — or a Coakley — would have won a state that had 12 Democratic representatives in Congress, and zero Republicans. Coakley was the attorney general of Massachusetts. She had won that office with 73% of the vote. She had won the senatorial primary by crushing three opponents. At the start of her race for Senate she was 30 points ahead of her Republican rival, an obscure state legislator who had to battle some really violent attacks by the Coakley forces. Among other things, they sent out mailers screaming: "1,736 Women Were Raped In Massachusetts in 2008; Scott Brown Wants Hospitals To Turn Them All Away." The Democratic establishment, both state and national, desperately wanted Coakley's grotesque campaign to succeed, and it did a lot more for her than it had ever supposed it needed to do in the deep blue state of Massachusetts.

Yet while the White House blamed Coakley, her friends blamed the White House. Their leading complaint had to do with the president's late intervention on her behalf: Obama showed up in Boston on the weekend before the vote. The real problem, however, was that when he did show up, he proved a feckless campaigner. Feckless, and worse than feckless: he delivered one of the most disastrous remarks in recent electoral history. Alluding to Brown's trademark use of an old truck as a campaign vehicle, the president sneered, "Everybody can buy a truck." Brown immediately pointed out that, in this economy, *not* everybody can buy a truck.

Still, Obama's sorry performance didn't lose the election. The poll numbers didn't change much after he went to Massachusetts to support his candidate, and he may have inspired a lot of Democrats to get out of the house and vote on a cold, snowy day. Coakley got a decent turnout from the core Democratic constituency. It just wasn't enough. The Republicans and especially the independents turned out too, and they voted overwhelmingly against her policies, and his — which is what they had been intending to do.

Rather than admit this, Obama and his advisers tried other explanations for the defeat, none of them having to do with the unpopularity of his healthcare program. And, early on the morning after the election, members of the president's inner circle — such people as David Axelrod and Rahm Emanuel — suggested that the important thing wasn't the vote in Massachusetts, or what had gone wrong with it. The important thing was to get healthcare passed right away, no matter what the people thought or what the vote had been, because once it was passed, it too could be "explained," and the people would adjust themselves to it and begin to like it.

Then, after a few scary hours of waiting to see whether that kind of bullying would work, they heard reports from Democratic members of Congress, and the reports weren't pleasant, not pleasant at all. No way was Congress going to bull

through on healthcare — not after the vote in Massachusetts. A day later, Nancy Pelosi announced that the current healthcare bill wasn't going anyplace. Democrats in the House, many of them facing elections this year in districts that are much, much less Democratic than Massachusetts, were strangely unwilling to walk the plank for healthcare legislation.

How comical it is that only 14 months before, these Democrats were running for office, demanding that such legislation be passed. Only days before, they were publicly certain that it was ready to be passed. Sure, each of them wanted

Teddy Kennedy was a horrible candidate. Fat, drunken, debauched, he was elected nine times and was reputedly the idol of the people.

his own little reward — putting abortion in or taking abortion out, giving this deal or that deal to friendly constituents. But the healthcare bill was about to become law, and they were advertising their connection with it. Then, suddenly, they were running away.

The healthcare bill was the most significant thing in the Massachusetts election. Brown said he would do his best to kill it; Coakley was committed to saving it. So it was healthcare that killed *her*, right?

Well, not entirely. Brown won by five points, 52 to 47. That's a pretty good margin in an American election. It's close to the margin (53 to 46) by which Obama won the presidency in 2008. Most polls, both of people in Massachusetts and of people nationwide, indicate that they dislike healthcare reform by a much greater margin than this. So it wasn't a straight-up referendum. But then, few things in American politics ever are.

So let's try another explanation. The day after the election, both President Obama and Tim Kaine, chairman of the Democratic National Committee, insisted that Brown was swept into office by the same tide that had swept Obama in, a tsunami whipped up by disappointment with the Bush regime.

That was almost incredibly stupid, and it was received as such by everyone except a few Eastern media types. But it went the rounds. Howard Dean, Robert Gibbs, David Plouffe (pronounced, somehow, "Pluff") — there was hardly a Democratic honcho who didn't bring it up. Here's Gibbs on the Sunday after the election, maintaining that voters hadn't *really* endorsed Brown's loud opposition to healthcare "reform": "That may be what he campaigned on, but that's not why the voters of Massachusetts sent him to Washington."

This stuff was almost as funny as Coakley's campaign. Even Chris Matthews made fun of it when he interviewed Dean. He couldn't get over the fact that Dean was saying these things, and with a straight face, too.

To be fair, Kaine had a second explanation — but it was almost as dumb. He admitted that the Democratic Party had failed in the election. But lest anyone think he was lunging toward true self-criticism, he refused to assign specific blame

or propose specific remedies — with one exception. He called for "crisper sound bites." For lack of crisp sound bites, the election had been lost. No, I'm not making that up, either.

But here's the truth. Neither Kaine nor Plouffe, neither Dean nor Axelrod, neither Obama nor Coakley identified *the real cause* of the Democrats' defeat. That mysterious entity can be found in the place where all serious explanations converge, whether these emphasize the candidate, the campaign, the White House, or the raw and bleeding issues. The voters weren't objecting just to Coakley or just to Obama or just to Obama's healthcare program. They were objecting to being managed — to being handled like objects, to being loaded with "benefits" that they do not want, to being herded into the Shrine of Ted, to being treated like patients stuck in a waiting room with a surly nurse. They objected to conceding, with a grateful bow, that there are big people in this world, and small people, and that they are the small people, while Coakley, Obama, Pelosi, Reid, and the numberless persons descended from Old Joe Kennedy are the big people who deserve to be obeyed.

In "The Great Gatsby," we hear that a brewer built a mansion on Long Island — "a factual imitation of some Hotel de Ville in Normandy" — and "agreed to pay five years' taxes on all the neighboring cottages if the owners would have their roofs thatched with straw." The neighbors refused. "Americans," Fitzgerald explains, "while occasionally willing to be serfs, have always been obstinate about being peasantry."

The observation has some relevance to the nation's current mood. In January 2010, Americans weren't told that they had to grab their pikes and go fight the lord of some other demesne, as they were in 1917 or 1965. Then, they consented

Alluding to Brown's use of an old truck as a campaign vehicle, President Obama sneered "Everybody can buy a truck." Brown pointed out that in this economy, that's not true.

to behave like serfs. But in 2009 they were told something else. They were told that the government was going to build a pretty new healthcare system, just like in Europe, and it wouldn't cost anything to anyone, except the insurance companies and other false and evil barons; and all the peasants had to do was let their life-or-death decisions be made by the courtiers in Washington.

That's the attitude that lost the Democrats the election — and, very probably, the guts of their healthcare program, and what is more important, their legitimacy as the tribunes of the people.

What enraged people about Coakley was that she thought she could say anything she wanted, vote for anything she wanted, whether the people of Massachusetts wanted it or vehemently rejected it — so long as she rewarded them with the superior smile of the lady of the manor.

What enraged people about the Democratic establishment was its constant assumption that ignorance and stupidity are deserving of reward — so long as they're the establishment's ignorance and stupidity. To put this in biblical terms: Who is Coakley, that she should be judge over us? And who, indeed, was Teddy Kennedy?

One sample of the modern liberals' aggressive arrogance was the series of pro-Coakley statements bestowed upon the media by Congressman Patrick Kennedy, Teddy's son. This particular creature of a surname has been called "America's Dumbest Congressman," and that's saying something. But

Revolutions don't start simply because the government makes some really bad decisions. If they did, we'd have a revolution every week.

Patrick Kennedy was not abashed. He had no qualms about vouchsafing his opinion that the republic would crumble without the aid of "Marcia" Coakley. That was wrong, but he just kept saying it. As a result, one of the most popular signs at Brown rallies was "Marcia, Marcia, Marcia." Obviously, Patrick didn't think it important to discover the real name of The People's Choice, and neither did his handlers. The people would just have to support whomever he anointed.

Similarly, what enraged people about the Democrats' healthcare program wasn't that it promised to give them something for nothing — certainly not. It was the fact that the goofier it became, the more the Democratic congressional leadership blandly insisted that it made perfect sense — as if the peasants lacked the capacity to notice so blatant an act of political corruption as the payoff-in-perpetuity obtained by Sen. Nelson for his home state, which was not Massachusetts.

But what was it that made the people of Massachusetts so angry about Obama, the president for whom they had voted, 62 to 36% barely 14 months before? One thing is certain: it wasn't that he'd failed to get his message out. That was the sin he confessed to George Stephanopoulos in an interview immediately following the election. But no: the maddening thing wasn't that he kept his own counsel; it was that he kept talking, talking, talking about his bizarre proposals, expecting the people to keep listening respectfully, no matter what he said.

Americans don't like naked arrogance. If they did, there would be no hope for liberty, or libertarianism, in this country. The rebellion of Massachusetts, of all places, shows that libertarians are right when we claim that American culture is inherently opposed to government management of our lives, that Americans resent the power gradient that separates them from people like Coakley and Obama, and that sometimes, often unpredictably, Americans decide that they have had enough.

"Had enough?" was the Republican slogan during their come-back from the Roosevelt era. The idea it expresses has always been important for libertarians. And it was a crucial

factor in the great election of January 2010. But libertarians tend to think that people have *always* had enough, and that's not true. "Enough" isn't what you say every day. It's something you say when you notice that you've crossed a line. It's a threshold effect.

And it's nothing mysterious. You know how it works. You've seen it with an arrogant boss. The people who work for him spend a lot of time wondering whether it's just them — whether they've got him wrong when they label him a vain, self-regarding, sanctimonious, mouthy little man-on-stilts. Maybe he's not responsible for how he's perceived. Maybe he means well. Maybe his ideas will work out after all. That's what people want to think. But the more he talks, the more they're convinced that they were right in the first place. And besides his arrogance, he's incompetent. He doesn't seem to know how to run the business.

So now they're seething with anger — but they won't complain unless they believe that something they say has a good chance of changing things. If they see there's such a chance, they'll take it. Then, suddenly, they all start saying what they think. That generally means the boss is on his way out.

In politics, this is called a revolution.

Revolutions don't start simply because the government makes some really bad decisions. If they did, we'd have revolution once a week. And they don't start simply because the government takes a wrong course and arrogantly refuses to admit it — although arrogance is pretty much required, to get people to rebel. Revolutions start because people perceive that rebellion can actually succeed — not eventually, but now. That's the threshold. And people don't see that threshold every day.

It wasn't till two weeks before the Massachusetts election that the voters realized Scott Brown had a good chance of winning. Why did they think that? It wasn't because Coakley was so horrible, although she was. It was because Brown had significant support; he was getting money; he was acting as if he was going to win; and he was attracting attention outside the state (see "getting money," above).

Anyone who tuned into Fox News — and most voters in Massachusetts, like most voters elsewhere, did so — awakened to the fact that other people wanted to know what the voters would do on January 19. Few people go to the polls for special elections, even fewer than those who go for regular elections. That's what Coakley was banking on. But now the voters had a reason to vote. They knew that the rest of America cared, and that things might change in a big way if they themselves cast a ballot.

As I write these words, I realize how contrary they are to normal libertarian ways of viewing political action. I regard myself as a normal libertarian, and I think you'll recognize the type. I can't imagine staying home from an election. If I were a citizen of Massachusetts, and I knew with Platonic certainty that "Marcia" Coakley was going to win, and I knew that I was the only person who wanted to vote against her, and I knew that the worst snowstorm of the century was likely to bury me if I left my house, I wouldn't think twice. I'd go to the polls and vote my principles.

Further, like most libertarians, I like to think that other people do the same thing. I know better, but that's the way I like to think. I picture them reading the voter's booklet and

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meditating carefully on every item discussed therein. As for candidates: I like to think that if somebody makes a good, thoughtful argument, he or she can win the votes of millions. Why not? Rational argument is all that matters, isn't it?

This means that I never think about the threshold effect. I never consider that people need some reason to believe their vote can make a difference, before they start researching how to vote.

Yet that's what they need. The threshold principle helps to explain when they follow normal electoral behavior — stay at home, or vote their hereditary political allegiance — and when a crucial segment of the populace abandons all custom. And it helps to explain why the American political system possesses both stability and volatility.

Stability? Yes, *enormous* stability. The great majority of America's electoral districts are dependably, thoughtlessly, and (as it seems, before the magic threshold is crossed) imperceptibly either Republican or Democratic. This is partly because the districts are gerrymandered (a process to which very few voters press any objections); it's partly because the local communities that are the subjects of gerrymandering tend to retain their political identities until some great realization shakes them loose. These are powerful sources of stability.

But there's one other element in the mix. Each of the two great parties is able to maintain its hold on approximately 50% of the electorate because neither of them has any inherent or essential ideology. Each is free to vacuum up any votes that aren't glued down. There's no doubt in my mind that, given five or six years, the Republican Party can figure out a way to increase its percentage of the gay vote from the current, oh, maybe 30% to something like a majority, or that the Democratic Party can find a way to restore its former hold on the evangelical vote, if it concludes that evangelical Christians are necessary to its survival.

Ideas come and go; American political parties survive. It's like Coke versus Pepsi or Protestants versus Catholics: a stable conflict. For this reason, as I've argued before in these pages ("Politics vs. Ideology: How Elections are Won," February

2005), a *huge* showing in a presidential or senatorial election isn't getting 75% of the vote; it's getting 55%.

That's a pretty narrow margin. And Brown got less. If his *enormous* victory hadn't been achieved in a one-party Democratic state, it wouldn't have been historically significant. It was remarkable only because party allegiances, in Massachusetts as in most other places in the country, are remarkably stable. Even "independents" have stable party allegiances — and the best evidence is Massachusetts, which has huge numbers of "independent" voters who always vote Democratic.

Like every other state, of course, it also has huge numbers of people who don't turn out to vote. Why? One reason is that they don't think voting makes any difference. These "disaffected" and "independent" voters are the great inflaters of libertarian hopes. Libertarians (again, like me) want to believe that if they could just get these people to vote, a revolution would be produced. And it's true that impressive numbers

When you refuse to support the lesser of the two evils, you support the greater of the two evils.

of Americans hold libertarian opinions about most things. Those opinions don't go away, just because Clinton or Bush or Obama chances to be president. American political ideas, as well as American party identifications, have great stability.

It's an odd fact, however, that very few disaffected voters, or even self-identified libertarian voters, show any interest in the Libertarian Party. It does no good to tell them that if they all got together and voted LP, the country would be transformed. They see no sign that other people are about to vote for the LP, so they don't, either. They vote for the lesser of the two evils among the major parties, or they stay at home. Social scientists and applied logicians have technical names for this behavior. I'll keep calling it the threshold effect.

Nevertheless, every coin has another side. Political patterns can and do change. They change because new candidates and causes challenge the status quo and, despite the opposition, appear to have a chance of winning. "I don't intend to vote," people say. "Why should I bother?" But if a candidate emerges who appears to be thinking their way, and who appears to have a chance of winning . . . well then, they think they may just walk down to the polls. That's the way Scott Brown got elected. He passed the threshold of possibility.

Is Brown a libertarian? No, he's some kind of moderately center-right conservative. He started his campaign that way, and he never changed. What changed was the odds that he might win. Looking at those odds, I would have voted for Brown, not the libertarian candidate in the election (who was running as an independent). Both wanted to thwart Obama's policies; Brown had a chance to do so.

But let's talk for a moment about the libertarian. His name is Joseph Kennedy — no relation to those other Kennedys. He started with a small but significant showing in the polls — a



sign of protest against the House of Kennedy and also, probably, against the House of Bush. But as people discovered that Brown might actually win, Kennedy's numbers slid, almost to the vanishing point. He ended with 1% of the vote.

At this juncture, I could say, "Q.E.D. I've proved my case. If people don't think you can win, they'll see no reason to vote for you, and you *won't* win." But I don't want to do that. It smacks too much of the arrogance I've been denouncing. After all, there's a human drama here. Joe Kennedy took leave from his job as an IT executive, organized some dedicated volunteers, and went to work opposing an arrogant political system. His assertion of libertarian ideas was a source of pride.

I feel that pride. The problem is: I don't want to live in a peasant society. I don't want to live in a world in which self-appointed lords and ladies control important parts of my life — in which they control even the decisions about whether my life will continue. (And make no mistake — that's what government healthcare is ultimately about.) It was Brown, not Kennedy, who posed a serious threat to Washington's campaign to make me a peasant. I was therefore a strong supporter of Brown.

Because Brown had a chance to win, he received millions of dollars of campaign donations, much of them from out of state. He succeeded in nationalizing the election. When you went to Kennedy's website, you saw that the libertarian was bravely attempting to raise \$100,000. No independent libertarian or LP candidate for an important job has ever been able to create the impression that he or she might win. When libertarians have created that impression, it was because they were running as Democrats or Republicans (witness Ron Paul), and the wins were in local elections. It's simple but tremendously important: if you want to cross the threshold, you must run in one of the two major parties. Period.

But let's go beyond that. How do you distinguish yourself as the kind of candidate who might have a chance to win, regardless of your party affiliation or lack thereof?

Right from the start, you need money. Ordinarily, that means you need some contacts with rich people. But contributions result from interest and commitment, as well as mere contacts. So what did Kennedy do to elicit these things?

To find out, I went back to his website. I saw that Kennedy, like a typical libertarian intellectual (take me, for example), had carefully laid out his positions on 16 major issues. I didn't agree with everything he said; I didn't expect to. (And I didn't much care. I'm amazed that many libertarians refuse to vote for anyone who disagrees substantially with their own ideas, believing that voting is an act of moral commitment to everything somebody else happens to say. It's a startling idea, when you think about it.) Nevertheless, I could see that Kennedy's positions were carefully thought out. They were much more rational and coherent than Brown's package of opinions. What struck me, however, was that Kennedy's website listed healthcare as Number 16 in its list of 16 issues.

Undoubtedly there was a rational reason for that. Kennedy thought the voters deserved to see a comprehensive program, developed in some kind of logical order. But come on. St. George confronts the dragon and describes his program as: (1) feed the horse, (2) check the weather, (3) pay that pesky Visa bill, . . . and finally (16), defeat the dragon. The comprehensive approach makes sense; it's just a senseless approach

to politics. Libertarians have never learned that.

Well, perhaps they shouldn't. In most jurisdictions, at most times, there's no reason why libertarians shouldn't run a merely educational campaign, so long as it doesn't cost very much, and the people who participate wouldn't be doing anything else instead, such as using their talents to promote a candidate who actually had a chance to win.

The irony is that libertarian ideas are the historic principles of this country, and they agree with the best traditions of modern economics and political philosophy — but when they're presented as a package, in the electoral arena, they are immediately marginalized, ignored, and forgotten. Meanwhile, sometimes for lack of intelligent libertarian support for the better of the two major party candidates, the worst candidate wins. When you refuse to support the lesser of the two evils, you support the greater of the two evils.

It's essential that purely libertarian groups continue to exist. It's essential that the seeds of change be preserved in their purest form. Perhaps the most damaging thing that ever happened to the Libertarian Party was the adoption of many of its specific ideas by the two major parties. The Republicans and Democrats have assimilated very different parts of the LP platform, ignoring the intellectual integrity and coherence of the platform as a whole. Given this tendency to assimilation, it's important that we continue to assert libertarian ideas in their true shape and connection. Yet in the political field, I would rather have privatization, sex rights, lower taxes, freedom of speech, and decriminalization of drugs, even at the sacrifice of intellectual coherence, than not to have them at all.

Joe Kennedy claimed that his presence in the Senate race helped Scott Brown, by giving another choice to disaffected Democrats who wouldn't vote for Brown because of party antipathy. In an interview with a local paper, he also complained about Brown partisans yelling at him to withdraw, and about Brown's never asking him in person. Of course, if Brown had done that, Coakley would have accused him of

As we've seen in Massachusetts, the basic libertarian idea that there's something wrong with being managed by government can make a tremendous difference now.

intimidating one of his opponents, or trying to reach a corrupt bargain with him; and Brown might have lost much more than Kennedy's 1% of the vote. So Brown didn't do it, and Kennedy stayed in the race.

But now suppose, as was originally speculated, Kennedy had a good chance of throwing the election to Coakley. In that case, his candidacy would have cost his country approximately one trillion dollars of enacted Obama policies, and God knows how many deaths. Regarded in this way, libertarian moral courage begins to look like self-expression at a decisive cost of moral responsibility. In 2008, we saw something

similar in Minnesota, where the candidate of the Independence Party received 15% of the vote, probably throwing the election to the ineffable Al Franken, who proceeded to become the 60th vote for Obamacare and every other threat to American liberties that could imaginably issue from the current Congress.

So here's another irony: sometimes, the more you refuse to compromise your political principles for mere electoral considerations, the more likely you may be to produce a world in which your principles lose, and stay lost. Plenty of libertarians contributed to Scott Brown's campaign, and these people served libertarian ideas a good deal better than Joe Kennedy did. It's not that Kennedy wasn't trying. It's just that he exemplified the stability of American politics — its reluctance to abandon its ordinary assumptions — rather than its volatility, its willingness to change when it perceives a threshold.

In American history, there is only one instance of a minor party becoming a major party. That happened 150 years ago, when the Republican Party arose and gathered together disaffected "free soil" Democrats and the remains of the Whig Party, which was in the process of dissolution. Yet changes in the two-party system occur all the time, as a result of both parties' attempts to mobilize marginal voters, a process that requires them to assimilate all sorts of ideas they didn't have before.

It's been going on forever. In the late 19th century, progressivism asserted itself in the Republican Party. In the 1930s, social democrats took over the national Democratic Party. In the '60s and '70s, New Age leftism swept the Democratic Party and institutionalized itself there. In the '80s, libertarian conservatism colonized the Republican Party.

In every case, party mechanisms survived. That is an aspect of stability. But in every case a party was changed by the influence of some preexisting movement that wouldn't go away, some cause that kept emitting articles and books and activists. The movement may have been "progressive" or modern liberal or conservative or libertarian. Whatever it was, it acknowledged stability, but it took advantage of volatility. That happened before; it will happen again.

The Democratic Party and the Republican Party are not going to die: that's the principle of stability. But they are going to change, as they have always changed: that's the principle of volatility. In the past two years, volatility has greatly

Even the Libertarian Party has a role to play. I don't expect it to win any important elections, but I do expect that the ideas it radiates can have dramatic influence.

increased. Both major parties have been discredited at the polls — the Republicans in 2008 and the Democrats in 2010. Both will certainly be influenced by new ideas or, more likely, old ideas that have hung on, institutionalized themselves, acquired a stable following. They are most likely to be influenced by ideas that have a chance of winning at the polls. As

we've seen in Massachusetts, the basic libertarian idea that there's something wrong with being managed by government can make a tremendous difference now, together with all the ideas that extend it and back it up.

That's why it's important that libertarian intellectuals, libertarian activists, libertarian thinktanks, and plain old libertarians with money to spend keep right on doing what they're

Volatility happens under two conditions. First, current political ideas aren't working. Second, the conviction grows that alternative ideas may actually be successful at the polls.

doing now. Even the Libertarian Party has a role to play. I don't expect it to win any important elections, but I do expect that the ideas it radiates can have dramatic influence in times of nationwide political volatility.

Volatility happens under two conditions. First, current political ideas aren't working, and people know they aren't. Second, the conviction grows that alternative ideas may actually be successful at the polls. Once this happens, politics can change very rapidly, even within the framework of the two-party system.

That occurred when Ronald Reagan came to power. His victories, first in the Republican primaries and then in the general election of 1980, were viewed by his opponents as just as unlikely, just as preposterous, as the victory of Scott Brown this January. Yet the policies of Reagan's opponents were obviously not working, and at some point it became evident that he had a chance to win. After that, it was a landslide.

That's volatility. Yet Reagan's ideas weren't things he suddenly dreamed up. He'd been preaching them for a quarter century. He got them from conservatives and libertarians who had been preaching them for much longer than that. That's stability. The ideas, and the activists, were ready when the time of volatility arrived. To quote Scott Fitzgerald again — this time from "Tender Is the Night" — Reagan had waited "like [General] Grant, lolling in his general store in Galena . . . ready to be called to an intricate destiny." Finally, that destiny came. And Reagan would never have won without his libertarian, as well as his conservative, ideas.

This Grant-in-Galena image is a good one for the libertarian movement. It's an image of stability, waiting for volatility — and waiting with confidence, because libertarians know that the ideas of our opponents can't possibly work. We need to maintain our own institutions, propagate our own ideas, maintain and extend the intellectual influence we already have — which is very considerable, despite our occasional "lolling." And we should never neglect our vital connections with the political movements, Republican or Democratic, that in times of change can bring our ideas to the fore. Andrew Jackson said it all, in his undespairing last words: "Strive to be ready when the change comes." □

High-Speed Folly

by Randal O'Toole

The president bewails the budget deficit
but consoles himself with giant subsidies to
a failed enterprise.

President Obama's decision to travel to Florida to announce federal grants to the states for high-speed trains on the day after his State of the Union address is laden with irony. He claims that high-speed rail is good for the environment, but he apparently failed to read the 2005 environmental impact statement for Florida's high-speed rail, which concluded that the environmental costs of building it are greater than the benefits.

This conclusion (plus the outrageously high cost) convinced Florida not to build it. But when Obama offered to have federal taxpayers cover half the cost, Florida's Republican governor said, "to heck with the environment — take the money!" Or maybe he never read the environmental impact statement either; in any case, he strongarmed a special session of the legislature to approve matching funds.

Autos can be more efficient than trains because even lightweight trains like the French TGV typically weigh three times as much per passenger as a typical automobile. Accelerating that extra weight to high speeds requires tremendous amounts of energy, which can generate tremendous amounts of pollution. Considering anticipated improvements in fuel economies, by 2025 the average car on the road will use less energy and emit less pollution per passenger mile than high-speed trains.

The second irony is that Obama announced the high-speed rail grants a day after proposing a spending freeze to reduce federal deficits. The more than \$8 billion in stimulus funds for high-speed rail is hardly a spending freeze, as it will mainly stimulate a high-speed rail lobby to promote a national rail network.

Lyndon Johnson once said he couldn't get members of Congress to swallow an entire bottle of whiskey, but he could get them to take a sip, and then another sip, and pretty soon the bottle would be gone. That is President Obama's approach to high-speed rail: the \$8 billion is the first sip of a bottle that could cost taxpayers a hundred times more.

Before the states submitted their grant applications, I estimated that Obama's 8,500-mile plan, including 7,500 miles of moderate-speed (110-mph) trains plus 1,000 miles of high-speed (150–220-mph) trains in California and Florida, would cost about \$90 billion. Running true high-speed trains on all

routes in Obama's plan, plus a few obvious routes that had been left off, would cost an estimated \$550 billion.

My estimates, however, seem to be low, since the preliminary grant applications — which did not cover all the routes in the Obama plan — totaled nearly \$105 billion. Meanwhile, Burlington Northern Santa Fe CEO Matt Rose testified to Congress that a national system of true high-speed rail would ultimately cost \$1 trillion. He probably included more miles than were in the Obama plan and possibly also counted cost overruns, which typically run about 40% for government rail projects.

Most recently, Oregon Rep. Peter DeFazio, chair of the House Transit and Highways Subcommittee, offered an estimate of \$700 billion for a national system of true high-speed rail. While he called this "unimaginably expensive," he added that it was "the same amount of money that Congress gave in one day to Wall Street." Trying to make it sound affordable, he hopes you won't remember that Congress never gave Wall Street anything; it was almost all loans, and most, if not all, will be repaid.

There is further irony in Obama's claims that he wants to protect the middle class and soak the rich. Middle-class taxpayers will get to pay for high-speed rail, yet few of them will ever use it.

The week before Obama's announcement, I made a trip from New York to Washington. When I purchased my ticket, the fare on Amtrak's high-speed Acela was \$155. I choose instead to take Megabus, which charged only \$15.50. Megabus and other bus companies offer free WiFi; Amtrak has NoFi. To be fair, Amtrak fares start at \$133 with enough of an advance purchase, but Megabus fares start at \$1 (yes, \$1). Few members of the middle class who have to pay for their own tickets will part with more than \$100 to save 90 minutes on the high-speed train.

The final irony is that Obama's rail announcement came the day after Steve Jobs presented Apple's iPad to the public amid a wave of almost hysterical publicity. Apple thrives on producing innovative products that do things few had thought of doing. Obama's high-speed trains are essentially a 1930s technology that will contribute little to American mobility. Also, if you don't want an iPad, you don't have to pay for it.



"This is going to be tough to spin."

So what states got how much money?

- \$2.344 billion to California, partly to improve the LA-San Diego corridor from 90-mph to 110-mph, increase frequencies in the Oakland-Bakersfield corridor, and relocate a little track in Sacramento and Davis. Any money left over after these projects are funded can go to California's 220-mph dream train.
- \$1.25 billion to Florida for the only true high-speed rail in the program outside of California, a 168-mph route all the way from Orlando to Tampa, about 84 miles.
- \$1.191 billion (\$706 million of which comes from Amtrak stimulus funds) to make various improvements in the Northeast: Philadelphia-Pittsburgh, Boston-Portland, New Haven-Springfield, Buffalo-Albany, Boston-Washington, and a few other minor routes, none of which will significantly increase speeds or frequencies.
- \$1.133 billion for Chicago-St. Louis — about a third of what Illinois requested — to increase frequencies from 5 to 8 trips a day and increase average speeds from 52 to 68 mph.
- \$823 million to establish passenger service between Milwaukee and Madison at top speeds of 79 mph.
- \$598 million to Washington state to increase frequencies between Seattle and Portland from 5 to 8 trains and increase speeds by about 5%.
- \$620 million to boost speeds in the Charlotte-Raleigh corridor to 90 mph and increase frequencies from 2 to 8 trains.
- \$400 million for three 79-mph trains a day from Cleveland to Cincinnati.
- \$244 million for improvements in the Chicago-Detroit corridor, mainly aimed at improving reliability and reducing rail congestion.
- \$17 million for "power crossovers" in Iowa.
- \$4 million for grade crossing improvements between Austin and Ft. Worth.

The good news is that, except in Florida and California, the money will not build much in the way of new rail lines and therefore will not impose long-term obligations on taxpayers to maintain and operate those lines. The main new obligations outside of Florida are in Illinois, North Carolina, and Washington, where the grants include funds for new trains for more frequent service; and in Wisconsin, for new service to Madison (at conventional speeds).

The states will have to shoulder much of the cost of operating those new trains, which may temper the future demand for capital funds. And Florida's high-speed line, if it ever gets completed, is likely to be a flop: few will trade the flexibility of having their own car to save a few minutes on an 84-mile trip.

The big question is what this means for California's ambitious 220-mph rail plan. The state has always assumed that the feds would cover half the costs, which means at least \$23 billion and more likely \$30 billion or more. The \$2.344 billion is thus barely 10% of what the state hopes for, and the fact that

much of the money is dedicated to improvements of existing lines, not building a new line, means the state may have to rethink its plans.

The bad news is that the Federal Railroad Administration's most recent map of planned high-speed rail routes added lots of new lines, including Cheyenne-El Paso, Phoenix-Tucson, Chicago-Omaha, Kansas City-Oklahoma City, Louisville-Atlanta, Memphis-Little Rock, Orlando-Jacksonville, Austin-Houston, and Albany-Montreal. This pushes the total to almost 13,000 miles and encourages more states to pressure for funds for their own raildoggles. Curiously, there is still no route from Houston to Dallas, a result of lobbying from Southwest Airlines, which operates 28 roundtrips a day in that corridor.

Despite these new routes, it is still hard to call the plan a national network. Rail advocates believe that high-speed rail is most competitive in densely populated 100- to 600-mile corridors (though "competitive" is used advisedly when Amtrak's Acela carries little more than 10% of the common-carrier passenger traffic in the nation's densest corridor). So the FRA's rail plan is really just a series of corridors with increasingly marginal value. For some reason, Albuquerque to El Paso and Kansas City to Oklahoma City are considered viable corridors, but Buffalo or Pittsburgh to Cleveland and Omaha to Denver are not, so there is no through high-speed route from New York to Chicago or Chicago to the West Coast.

Politically, of course, the economic value is irrelevant. I've always said that high-speed rail would reach the height of absurdity when people started talking about a high-speed rail route from Fargo to Missoula. We're almost there: a day after Obama's announcement, Montana Senator Jon Tester sent Obama a letter reminding him of the need to "expand rail services in rural states like Montana."

The really bad news is that much of the \$8 billion is likely to end up in the hands of lobbyists who will work hard to gain more billions for future projects. As DeFazio notes, the states that got the biggest grants were the ones that had finished their environmental reports — whatever they said. So states that got smaller (or no) grants are likely to hire consulting and engineering firms to write more such reports, and those companies in turn will create websites and front groups to lobby for more federal construction money.

Obama says that we need to catch up with countries whose trains are faster than ours. If French horses and buggies were faster than ours, would he want to spend billions of dollars on a buggy-whip technology race? We already have a technology twice as fast as the fastest high-speed trains: it is called the jet airliner.

Unlike high-speed rail, the airlines don't require huge subsidies. While subsidies to high-speed train riders will exceed 30 cents per passenger mile, federal, state, and local subsidies to air travelers average around a penny per passenger mile — and much of that goes to out-of-the-way airports where local officials fleece taxpayers in usually ill-fated efforts to promote economic development.

Rail advocates point out that high-speed trains can compete with airlines in downtown-to-downtown service. But central-city downtowns host fewer than 8% of American workers — mainly bankers, lawyers, and government bureaucrats. These people, whose incomes tend to be higher than average, hardly need a high-speed subsidy at everyone else's expense.

Obama has touted high-speed rail as the next Interstate Highway System. But the interstates paid for themselves out of gas taxes and other user fees; subsidies to other highways total less than a penny per passenger mile. The average American travels 4,000 miles and ships 2,000 ton-miles per year over the interstates, vastly more than the use we will ever put to high-speed rail.

The interstates have succeeded because they enable people to go where they want to go, when they want to go there. High-speed rail will reach far fewer destinations and will only go when some government agency decides to run the trains.

Finally, Obama emphasized the jobs that rail construction will create. But considering how much engineering work is needed before construction can actually begin on any of these rail lines, most of those jobs will arrive too late to stimulate the economy out of the current recession. And considering how few people will ride the trains, he might as well spend tax dollars on digging holes and filling them up.

At a time of rising deficits, America can't afford to dedicate tens or hundreds of billions of dollars to an obsolete technology that is good for neither the environment nor personal mobility. Congress should put an immediate freeze on any further spending on high-speed rail. □

A Libertarian Among the Republicans, *from page 20*

a "Gall Bladders 'R' Us." He is for tort reform. In the public schools, he would support a "full voucher system." But the questioners are libertarians, and are more interested in the frontier of his beliefs.

I ask him about Ron Paul's more exotic positions — abolishing the Federal Reserve, reinstating the gold standard, and warnings against a North American Union. About the purported NAU, Johnson says, "I don't have an opinion on his statement regarding that." He adds that he is for "building bridges" to Mexico, but that he does not want "to dilute our sovereignty in any way whatever." (These are totally safe answers. Even Obama would have agreed with the last one.)

On to the Fed. The campaign against the Fed is a big deal for much of the Paul constituency, and it marks them as non-mainstream.

Here is how Johnson tackles it: "I think the Federal Reserve should be audited." (Paul has an audit-the-Fed bill that has garnered wide support.) "I am not advocating the abolishment of the Federal Reserve." Nor is he for making the Fed an arm of Congress: "I don't want to see Barney Frank controlling the Federal Reserve," he says.

He goes on, saying, "I understand that since 1913 the Federal Reserve has reduced the dollar to a nickel, and I fully expect it to take it to a penny." He says, "I understand the arguments" for a gold-backed currency, and if Congress passed a bill for a gold-backed dollar, "it's something I would probably ink." But he is not advocating it now. He notes that 99% of economists are against it, and he is not going to push it. But if you imagine a paper-dollar spectrum, running from the Swiss franc to the Zimbabwe dollar, Johnson is at the "hard"

end: "The government should be pursuing a strong dollar policy, not weak dollar policies."

A man from New Mexico asks him whether he's for "free banking or state banks in competition with the Federal Reserve." This is *very* exotic stuff, and Johnson appears not to see it. He takes the question to mean competition in general and says, "I guess I'm completely in favor of that notion."

Janet Rose of Raleigh, NC asks him what books have influenced him. This is a dangerous question, because if Johnson praises an author, it will be taken as an endorsement of the most outré thing that author says. He knows enough to dodge it. "I wouldn't point at any one," he says.

George Hudson, a Ron Paul supporter from Roseville, CA, asks Johnson to define the proper role of government. "I'm for national defense," Johnson says. "I'm for freedom and liberty, not entitlements, and for not spending more money than what we have."

Hudson is opposed on principle to welfare, and asks if

Johnson is. Johnson neither affirms nor denies this, but says he is opposed to "borrowing dollars to pay entitlements."

James Ostrowski of Buffalo, NY, a contributor to LewRockwell.com, asks Johnson if he would get rid of the FDA and the departments of Agriculture, Energy, and Education.

"Potentially there are agencies that could be eliminated," Johnson says. "I understand the arguments. If the legislation were presented to me, yeah, these are areas that need to be cut or eliminated." But he added, "In New Mexico I proposed abolishing agencies. None of these proposals went anywhere in the legislature."

Which was a way of saying: *don't expect anything too radical*. I think Johnson wants to get elected.

I ask him what views would take the most salesmanship to convince his fellow Republicans. He replies, "I believe that a majority of Republicans hold these views."

That is optimistic. Very optimistic. But then, in his business, an optimist is what you have to be. □

The Battle of the Books, *from page 26*

If he had licensed a film version of *his* Holden Caulfield, he might have had more control of how the character was portrayed.

Aaron Silverman is the point man in the dispute with Salinger. And he's the human face of the case. Fredrik Colting remains in Sweden, and Salinger nurses his legally-dubious sense of privacy in rural New Hampshire. So, Silverman ends up as the only party to the lawsuit who actually shows at the hearings. He'll be there for the appeals court hearing. And for the Supreme Court hearing, if there is one.

And there probably will be. The appeals decision, whether it favors Colting or Salinger, is likely to be an interim step. Both sides are determined to push the case to the Supreme Court. And the high court will want to hear the case; some consistency needs to be established among the 1976 Copyright Act, its several modifications, and apposite laws like the Digital Millennium Copyright Act. Congress' efforts to refine U.S. copyright law have only created more confusion.

Unlike a lot of legal mumbo-jumbo that we hear about in courtrooms today, copyrights are described explicitly in the Constitution. Yet they conflict with the broader values implicit in the First Amendment. To adjust tensions between narrow copyrights and broader First Amendment rights, courts use tools that include fair use and the idea-expression dichotomy. But sometimes even these tools aren't enough.

When copyright legislation was first passed in the United States in 1790, the term of copyright lasted for 14 years, with

the option of renewal for another 14. The law's primary function was to ensure that authors could profit from the sales of their own work, not control other authors' reactions for decades on end.

Today, a work is under copyright for the author's lifetime plus 70 years (or 120 years for works of corporate authorship). These are standards that favor big corporations and institutional hacks. An elegant solution would be to return to the original 14 years, plus optional 14-year renewal.

Yale University law professor Jed Rubenfeld has put a finer point on why books like Colting's should be allowed into print: "We don't suppress books in this country. Courts have no authority to suppress a book on the ground that its exercise of imagination is harmful and unauthorized. To do so violates the First Amendment — period."

Fredrik Colting believes that "Sixty Years Later" is a legitimate, postmodern criticism of "Catcher in the Rye," its main character, and its creator. Aaron Silverman agrees that the book has an important message . . . and that it will sell well, once published. J.D. Salinger wanted to stop them from starting in on his characters. And he wanted the courts to support his brand of privacy. But one anonymous online commenter made the free-market argument against Salinger's position: "Salinger should've let this book die a natural death, stemming from poor sales, rather than generating tons of free publicity for it." He might even have seen Colting's book as good advertising for his own. □

Epilogue: I expected that any epilogue to this story would involve some higher-court ruling on the case. Instead, the litigious plaintiff passed away. Salinger died of natural causes in late January at his farm in New Hampshire. He was 91. His obituaries were many and passionate.

How this will affect publication of "Sixty Years Later" remains to be seen. Under current copyright law, Salinger's literary estate will be able to control the rights to Holden Caulfield and other Salinger characters for most of this century.

But it's hard to imagine that other people — even his widow or others near and dear to him — will pursue the stubborn legal strategies and notions of "privacy" that meant so much to the man.

A final testament to Salinger the litigant might be that, although his notions of privacy were eccentric, his several lawsuits clamping down on biographies, memoirs, and satires contributed to the warping of copyright law (and other forms of intellectual property) into the mess that it is today. Now that he's gone, it may be a little easier to restore copyrights to something more like the pro-commerce mechanism that the Constitution envisions.

Letters, from page 6

Rothbard's theorem is about as useful as stating that we could eliminate air pollution if only we used perpetual motion devices to generate electricity. Zero aggression is impossible without fundamentally altering human nature. Zero official aggression, which Rothbard actually advocates, is not equivalent to zero overall aggression; conflating the two is intellectually dishonest. Zero official aggression can lead to greater overall aggression — at least as measured by those of us who employ common sense.

Adrian Day wonders at my critique of Ron Paul's early glib promises. I would suggest that he run the numbers himself. How can the government stay solvent when the real interest rate on the enormous national debt increases by the amount of inflation abolished by going to a gold standard? What happens to already struggling homeowners when their real mortgage rates are increased retroactively? How is the government to honor its existing commitments when the income tax is replaced with nothing? Do the math!

I must agree heartily though with Day's final statement. Those who would abolish taxes and core government functions willy-nilly without regard to transition issues are indeed anarchists more than they are libertarians.

Firing Blanks

Gary Jason in "Clinton casualties" (Reflections, March) states that orders issued by President Clinton in 1993 "effectively disarmed soldiers on their bases," thus setting the stage for Major Nidal Hasan to carry out his attack at Fort Hood.

I'm not familiar with the orders Jason refers to; however, I can say from personal experience that the state of disarmament and hence vulnerability on military bases that Jason finds "absurd" was the norm in the late 1970s when I was an infantry officer on active duty. The only time I ever had live ammunition in a military weapon was either on a range or when I had duty as a pay officer. In a typical training setting our weapons would have nothing more than blanks. With the exception of special high-security areas under armed guard, the only military personnel on

a post (stateside or in Germany) who would normally have loaded weapons with them were the Military Police. If the Baader-Meinhof Group had attacked the commissary at Baumholder FRG during the late 1970s, everyone would have been sitting ducks, just as they were at Fort Hood.

While I'm not a fan of Clinton, I don't think trying to blame him for the typically disarmed state of military posts is entirely fair. Military bases were models of gun control long before Bill Clinton.

Dale Graham
Phoenix, AZ

Unilateral Disarmament

Gary Jason's assertion that President Clinton is in some way responsible for the attack on Fort Hood understates the scope of the problem. As long as I have been on active duty in the Army (1985–1992 and 2000 to the present) soldiers have been prohibited from carrying firearms unless they were going to a firing range or to the war zone. Soldiers living in Army barracks have also been prohibited from keeping privately owned weapons in their rooms, and soldiers have always been prohibited from carrying a concealed weapon (unless in some sort of official capacity). These policies make soldiers sitting ducks. It's not just President Clinton's orders that make soldiers less safe in a garrison environment, it's longstanding Army policy.

Sgt Dave M. Davis
Colorado Springs, CO

Jason responds: It is simply a fact that Clinton issued a directive in March 1993 which (as noted in the Washington Times, Nov. 12, 2009) forbade military personnel from carrying firearms and made it virtually impossible for commanders to issue firearms to soldiers for their own protection. But a number of blog entries from ex-servicemen who served prior to 1993 reported that they were (like Mr. Graham and Sgt. Davis) also prohibited from carrying guns.

But others say that in the past it *was* permitted, with restrictions. It appears to have been left to the discretion of the base commander whether at least some soldiers could keep guns at home or carry them on base. Whether possession of guns on base by at least some

personnel was at one point commonly permitted, and then became rare (and if so, why), are questions to which I simply haven't found answers. But issue the directive Clinton did, and I doubt he would have bothered to do so if it was already explicit military policy. To that extent I think it is perfectly fair to point the finger of blame towards him. Sorry.

Regarding the future, I would argue for the proposition that the president should issue a directive *requiring* officers, NCOs, and such enlisted personnel as the base commander deems proper to carry sidearms on base. My reasons, in brief, are these:

1. It is certainly true that in the 1960s and '70s, with the all-draft army in upheaval and general racial and social problems in the military (mirroring those in society at large), having personnel carrying weapons might have posed risks of drunken fights escalating into gunshots. (Then again, maybe it wouldn't have). But today's military is an all-volunteer, broadly well-educated, and very stable organization. Times change.

2. Speaking of times changing, the terrorist attack at Fort Hood was not an isolated incident (as was, say, the Timothy McVeigh terrorist attack years ago). We are facing something new, and quite clearly growing: homegrown Islamist terror. Over the last few years, we have seen an increasing number of Americans join the ranks of the terrorists, and plan or attempt attacks here or abroad.

Consider last year alone. In it, we saw David Healey (born Daood Sayed Gilani) busted for planning to attack a Danish newspaper. We saw the arrest of Naibullah Zazi (a legal resident) for planning to bomb various targets in New York. We saw Betin Kaziu (a naturalized citizen born in Kosovo) nabbed for planning to go abroad to support terrorists and assassinate people. We saw Pakistani Special Forces snag five American-born and raised Muslim men (from the Washington DC area) for trying to join al Qaeda in Afghanistan. We saw an African-American convert to Islam who killed a young Army recruiter in Arkansas. We saw the arrest of four men by the Joint Terrorism Task

Force who were trying to shoot down aircraft at a National Guard base in Newburgh, NY, as well as bomb synagogues in the Bronx.

And we saw Fort Hood.

Of course — to those of you addled by political correctness — I am not in the least saying that these incidents indicate some general sympathy for terrorism among Muslim Americans. We are talking about fewer than ten cases, and there are millions of Muslims in America. But I also do not want to bury my head in the sand as Janet Napolitano did, when the first statement she issued after the Fort Hood massacre was a warning to us racist Americans not to target Muslims.

Nor am I saying that allowing select military personnel to go packing will stop all terrorist attacks, of course. But it will stop some. In short, it would be a modest but prudent step forward.

There is naturally no chance that Obama, the most left-wing president ever elected, will ever even think of issuing such a directive. But someday soon he will no longer be president, Insha'Allah.

Bringing in the Sheaves

David Puller correctly refutes Obama's claim of Biblical support for his socialist agenda ("Is Scripture Statist?", Jan.-Feb.). I can likewise refute Puller's claim of Old Testament support for standard libertarian notions of private property and voluntary charity. He would have been better off sticking to St. Paul's counter-economics of 1 Corinthians 5 and 6, a clear delineation between church and secular law. Then again, libertarians could profit greatly from careful and open-minded study of what Old Testament Law actually says.

Israel during the time of the Judges approximated anarchocapitalism, and did so while surrounded by other nations. Unlike Medieval Ireland and Iceland, ancient Israel was not an island. Ancient Israel had many libertarian features: no jails, no police, no standing armies, legal drugs, and legal prostitution under limited circumstances. But in other respects their laws were also socially conservative: homosexual sex and giving psychic readings were death-penalty offenses. Yet ancient Israel was also economically leftist,

with legal requirements to provide for the poor and disperse the riches of the wealthy. Ancient Israel was a conservative welfare anarchy.

God's exemplary welfare system was subtle and elegant, with serious study revealing sometimes surprising implications of provisions that Puller ignores or downplays: laws on glean- ing, usury, inheritance, and the often overlooked real estate rules of Leviticus 25 (see my website, holisticpolitics.org for details).

Leviticus 25 and the gleaning laws point to a broader set of natural rights than defended by most libertarians. Biblical natural rights included not only self-ownership, but also a right to a share of the planet. The Old Testament Law is thus closer to Henry George's single-tax ideas than to modern liberalism, conservatism, or libertarianism. (That said, George's ground rent distribution has moral hazards not found in Leviticus 25.)

Carl Milsted, Jr.
Kenly, NC

The Eye of a Needle

I have to confess, I was a bit amazed at David Puller's article. The Bible states repeatedly that material possessions are pretty much irrelevant; in fact, there aren't even literal words in heaven, but only the word of love, God's word. That said without love is not of God. Yet Puller wastes time in his article worrying about material possessions, as if that's "of God."

In fact, Jesus taught wealth redistribution directly when he said, "Take all that you own, sell it, and give the money to the poor." Was Jesus Christ, then, the world's first well-known communist? Yes. But God preferred socialism, so I am a bit confused: "And the multitude believed they were of one heart and one soul: neither said any of them that ought of the things he possessed was his own; but they had all things common. . . . Neither was there any among them that lacked . . . distribution was made unto every man according to his need" (Acts 4:32-35).

Yet Puller persists with his narrow view simply because that's what he wants to think, and wants everyone else to think like he does about it, instead of following the Bible. Taken in context, God is a spiritual being who does not

see material things the same as we do. He may prefer a loving thief over a hateful person honest in material affairs. In fact he most certainly does.

Jon Bluit
Madison, WI

Puller responds: Mr. Milsted properly offers the gleaning laws as an Old Testament example of the limitations upon property rights. The inheritance laws of Deuteronomy 21 can likewise serve as something of a reduction of an absolute right to bequeath ones property as one wishes. The laws against usury, although relevant to Milsted's lengthy treatment of a potential Old Testament social welfare system, are not really relevant to the subject of property rights. Finally, to suggest that I "ignore or downplay" Leviticus 25 is to itself ignore the three paragraphs of my article devoted exclusively to that passage.

I thought that I had placed sufficient qualifiers throughout my article to express that the Bible is not libertarian. For example:

I would like to be able to report that the Bible argues firmly for an absolutist view of property rights. I would like to be able to write that the Bible is a strictly libertarian document. It is not. Yet in the balance and taken as a whole, the Bible support the individual's right to own property and hold onto it.

If Milsted wishes to attribute to me absolutist propertarian views, then he is attacking a straw man. Indeed, having read his linked material, I see that we have reached many similar interpretations (albeit very different applications).

Mr. Bluit is correct that Jesus advocated the redistribution of wealth — but only on a voluntary, rather than government-coerced, basis. This is a critical distinction.

Bluit's suggestion (if I understand him correctly) that the material world has nothing to do with God is interesting. It is a view embraced by various strands of gnosticism, particularly doctetism, in early Christian history. He is welcome to advocate for this counter-orthodox position, but he should be aware that he is at odds with the dominant voices of Christian thought throughout the history of the Church.

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Reviews

"Fidel y Raúl Mis Hermanos: La Historia Secreta" ["My Brothers Fidel and Raúl: The Secret History"]" by Juanita Castro, as told to Maria Antonieta Collins. Santillana USA Publishing, 2009, 429 pages.

Inside the Castro Family

Robert H. Miller

Family ties weave an intricate net, tattered and gaping in places, strong and tight in others. Attempts to explain the psychology of Fidel Castro usually begin with Freudian premises about his parents and childhood. Ironically, both supporters and critics of *el Máximo Líder* have relied on the same distortions to reach similar conclusions for entirely different ends. Juanita Castro, Fidel's younger sister and, to date, the closest intimate to join the fray, wrote her memoirs to set her family's record straight. Along the way, anecdote by anecdote, she builds contrasting character sketches of her two infamous brothers, Fidel and Raúl, and drops a couple of bombshells of her own.

Angel Castro Argiz had nine children, in descending order; two of them (Lidia and Pedro Emilio) from his first marriage; seven (Angelita, Ramón, Fidel, Raúl, Juanita, Enma and Agustina) from Lina Ruz, his second wife. Castro *pere* has been depicted as a cold, avaricious exploiter of the peasantry and

a distant father who barely acknowledged the mother of his children and the children themselves. This characterization served the twin purposes of explaining, to his enemies, Fidel's megalomania and doctrinaire ideology; to his admirers, his sense of social justice. Juanita reclaims her father's trampled reputation and demolishes the pop psychology.

Angel Castro was ambitious. He wanted to escape rural Spain and move up in the world. At the age of 24 he volunteered — in exchange for a hefty fee, a perfectly legal arrangement at the time — to replace a wealthier drafted recruit for the Spanish-American War. It was a shrewd move. By the time he arrived in Cuba, the war was over and his fee became the downpayment for his dream, owning his own ranch. He got a job with the United Fruit Company while on the side raising fighting cocks, a lucrative venture in a very popular pastime at that time and place. He was making enough money to help out his family in Spain, finance his land acquisitions in Cuba, and start his own fam-

ily at home in Birán in the eastern part of the country. Along the way he even managed to establish a general merchandise store, Almacenes Castro, and to win Cuba's biggest lottery prize *twice*. The Castros were wealthy but lived modestly.

Although ambitious, Angel Castro was also generous. During seasonal layoffs at the United Fruit Company sugar refinery, he'd hire workers at four times the going rate and at Christmas he'd give his employees generous bonuses, often additionally canceling their debts at Almacenes Castro. A taciturn workaholic who demanded respect, he nonetheless delegated discipline of the children to his wife, Lina. Yet he always delighted in the company of his rambunctious brood, and spoiled them. Ambitious too for his legacy, he paid for their higher education in Havana and gave Fidel a \$10,000 gift at his marriage — big money in 1948.

Lina Ruz, Fidel's mother, was a devout woman who managed the household with equanimity and an earthy sense of humor. War, prison,

revolution, atheism, and communism strained family ties but never rent them until after her death. One day in March 1963, Fidel admonished his family to watch him on television. That night they dutifully gathered but were soon bored with the typically long-winded harangue, which lasted until midnight. Juanita picks up the story:

From the television studio he came to my house where we were playing dominos with mom and some friends.

He arrived and greeted everyone, "Did you see me? What did you think?"

There was silence.

"What with the game and all we forgot to tune in!" someone piped up.

Very disturbed, he suddenly changed the subject and asked our mother, "How many head of livestock do you have at the ranch?"

"I can't remember exactly," she responded puzzled.

"You're going to have to sell all the beeves because today I announced the second round of the Agrarian Reform that will soon be put into effect, and if you don't sell them, they're going to take them away."

"Well," answered mom, "when the time comes, I'll see what's going to happen and what I have to do."

Two months later, just before her death and after the Revolution's failures had become all too apparent, she was asked at a family reunion how she was faring. "How do you think I'm faring?" she responded. "When the entire world says they shit on the mother of Fidel!"

Juanita Castro shared her father's entrepreneurial bent, listing, among the many reasons for her break with her brother, a desire to run her own enterprise — "*for profit*" (emphasis in the original). At 15, she dropped out of school to work on the family ranch and, on the side, bought pigs to fatten up and sell. Then she opened Birán's first theater, the Cine Juanita. For 15 years it presented whatever films the Havana distributor deigned to send to distant Birán, along with whatever acts she could garner a commission from, including clowns, hypnotists, and magicians.

But when the revolution's deception hit home, she had her Howard Roark moment. Just before the *cine* was due to be confiscated, she gathered the local residents and made them an offer they

couldn't refuse: dismantle the building and take whatever spoils they could use. "Just as one day it arrived with me," she declared, "so too one day it left with me."

Seven years separated Juanita from Fidel, but only two from Raúl. She was never close to Fidel, thinking him self-centered, humorless, arrogant, and incapable of empathy: "Fidel was always a whiner, especially so because as a child he was never disciplined, and he exaggerated things to get his way." She preferred the warmth, loyalty, and sentimentality of the impish "Muso," as she called Raúl. At each of their parents' deaths, Raúl wept inconsolably. Fidel showed no emotion, declaring that there were more important challenges to be faced.

Juanita emigrated to the United States when she felt her services were no longer beneficial to the anti-Castro resistance. Then she went into business, opening up the Mini-Price Pharmacy in Miami, which she ran until the publication of her memoirs last October.

Maria Antonieta Collins, a Mexican journalist and the as-told-to coauthor of this book, smelled a scoop and decided to get her prescriptions filled at the Mini-Price. It took years of flu and migraine consultations, and the exchange of much gossip, to gain Juanita's confidence. One day in 1997, Collins arrived with a common friend, Angelica, who always kidded around with Juanita. They sensed something was wrong. As Collins recounts, Angelica joked,

Ay Juanita, it's Fidel's fault that I have to come buy contraceptives . . . this *balsero* [a reference to the Cuban refugees who escape on homemade rafts] I married refuses to use condoms because he didn't use them in Cuba . . . And *that too* is Fidel's fault!

To our surprise, Juanita didn't crack a smile and remained serious. "What's wrong?" we asked.

"Today I read the latest book about Fidel, and honestly, it's defamatory and unjust because it speaks horrors about innocent people like my parents and grandparents who had no responsibility for anything that's happened in Cuba."

"Write a book and tell your story," I proposed.

"No," she responded immediately.

On two subsequent occasions, Collins was rebuffed. But finally, in

1999, she received a call: "I've decided to write my memoirs . . . we start next Monday."

For a year they collaborated. At the end Juanita's catharsis was so sharp that she decided not to publish and held on to the manuscript indefinitely. As a friend, Collins took the news in stride; as a journalist, she watched the biggest scoop of her life slip through her fingers. Then, after ten years, in January 2009, Juanita changed her mind again and decided to publish. For eight more months they revised the manuscript. After all, much had changed in the intervening years.

Juanita's memoirs came out in October 2009, and have not yet been translated into English. Fortunately, the prose is not Mexican-newspaperesque, a dense and idiosyncratic style that is difficult to read. It retains much of Juanita's straightforward Cuban phrasing, though with a minimum of its picturesque vocabulary. The memoirs are hard to put down and, in spite of their 400+ pages, are a quick read if you want to use your high school Spanish. I only wish they were longer.

As the only firsthand, personal account of Fidel Castro's family and childhood, the book is invaluable. In one fell, convincing swoop, it sweeps away the volumes of speculation and hearsay that have passed for Castro family history. Juanita sticks close to what she herself experienced, making this a memoir in the truest sense of the word. But what she directly experienced as part of the Castro inner circle is a hidden treasure. Parsimonious yet convincing, her reflections and analyses are spot on.

After setting her family's early record straight, her memoir proceeds chronologically through Fidel's university years, his political involvements, and his ideological evolution. She describes his falling in love, his marriage to Mirta Diaz-Balart, a Batista family intimate, his children and extramarital affairs — building a character sketch that grows subtly and expertly with each anecdote and observation.

On July 26, 1953, Fidel and Raúl stepped into history with their failed assault on the Moncada Army Barracks. Juanita recounts the family's incredulity at finding that their sons and brothers not only were involved but had actually

led the operation; the uncertainty and anguish they experienced as bits and pieces of breaking news reached Birán; and how they mobilized every contact and advantage to save their family members' lives.

The efforts continued through the trial and incarceration on the Isle of Pines. Fidel was sentenced to 26 years, Raúl to 13. Though Fidel's marriage had foundered and would soon end in divorce, Mirta made conjugal visits and even used her close contacts with President Batista to urge clemency. On May 12, 1955, Batista declared a general amnesty for political prisoners. Fidel, Raúl, and their followers were free, but they had to leave the country.

Juanita is particularly illuminating on the Castro brothers' Mexican exile, an important interlude glossed over in many accounts; and their transition from exiled failures to triumphant revolutionaries. While Fidel and Raúl attracted recruits (including the T-shirt icon Ernesto "Che" Guevara), gathered guns, and acquired a boat, the *Granma*; she and her sisters organized all the domestic arrangements — lodging, food, transportation, meetings, and so forth — for their large entourage, helped raise money for the cause, and spent much time in Mexico City planning logistical details. Enma Castro even married a Mexican, Victor Lomeli, and became a citizen of Mexico.

At one point the Castros set up a fundraising meeting across the border in McAllen, Texas, with Cuba's ex-president, Carlos Prío Socarras, whom Batista had overthrown. There was only one problem: Fidel's U.S. tourist visa had been revoked because he insisted on publicly boasting that he was going to invade Cuba. So Fidel "wet backed" across the Rio Grande to Texas, where accomplices provided a change of dry clothes and a car. He walked back with \$50,000 in an envelope.

The invasion of Cuba was a disaster. Angel Castro had just died, throwing the entire Castro family into a deep depression. The invasion force arrived at the Mexican point of embarkation by public bus, so as not to arouse suspicion. Overloaded with 82 men, an incompetent captain who failed to detect a faulty engine and brought no navigational aids other than the fixed compass, the *Granma* set out at the end

of the 1956 hurricane season. Rough seas, poor visibility, and dead reckoning made Jamaica as likely a landfall as Cuba; no one was sure until the Cuban air force strafed the landing, thanks to a tip from a turncoat. Only 12 men survived.

News bulletins declared that all had been killed, and the Castro family in Birán plunged into total despair. Hope returned when army units surrounded the Castro ranch — it meant one or both brothers were still alive. But although Fidel was hiding out in the same province, no one in the family attempted contact; the risk was too high. Juanita spent much of the time fundraising in the United States. When she returned to Cuba, she was, understandably, threatened with arrest. So she holed up in the Brazilian embassy, requesting political asylum. She knew the ambassador and his wife, Virginia Leitao da Cunha — both avid supporters of the revolution.

Then, one day, Fidel arrived at the ranch and declared Birán "liberated Cuban territory." The final pincer movement up the island had begun and, by January 1, 1959, all of Cuba was "liberated" territory.

With the triumph of the revolution came disillusionment. It came from the most unexpected corners and faster than Juanita could have imagined. On January 10, her help was sought by a high school friend whose brother had been detained because of ties with the pre-

vious government. His life was in danger. Would Juanita, as "sister of Fidel," resolve the matter? Juanita helped; and from that moment on, her full-time job became saving people from incarceration or summary execution simply for having been associated with the previous regime. She made it a point to nurture contacts at all the prisons, but she hit a brick wall at La Cabaña, where Che Guevara ran a Cheka-style execution assembly line. Guevara not only made her wait; when he finally saw her he told her not to come around pleading for anyone's life.

When Juanita complained to Fidel, he told her to be patient; the revolution was in transition and mistakes were inevitable. He assured her that all would soon improve. Like most people, she believed him. So she got into the spirit of things and applied her entrepreneurial bent to building a free rural hospital in Oriente, funded with donations. Even there, arrests and confiscations continued to take place around her, and she was disturbed by Fidel's recommendation that Guevara inaugurate the clinic. She was named a Ministry of Health Delegate, but her public interests waned and she bought a small radio station in Havana. As part of the media, it was soon confiscated.

Meanwhile, she continued her rescue activities. One afternoon in 1960 she got a desperate call from her older sister Angelita. She'd been



"Don't be so self-righteous — you started out as a terrorist!"

arrested. Immediately Juanita rang the Minister of Justice, Augusto Martínez Sánchez, who responded sarcastically that Angelita wasn't under arrest; she was just detained because she was "attempting to liberate a counter-revolutionary of his problems." Juanita hung up on him, drove to the prison, and insisted on her sister's release. The warden reluctantly complied, but later complained to Fidel who, in turn, gave Juanita a dressing-down in front of their mother, accusing her of acting as if she were "above the Revolution." All she could think was, "If this happens to the Castro family, what must it be like for other Cubans?"

Angelita wasn't the only family member in trouble. Enma, Castro's favorite sister, having recently accepted Victor Lomeli's marriage proposal, planned a big wedding in Havana's central cathedral and asked Fidel to give her away. A family war exploded, with mother and sisters on one side and Raúl — along with Fidel, who pretended to be above the fray — on the other. The brothers were beginning to distance the regime from religion, aggressively, and thought it would be the ultimate in bad form for *el máximo líder* to participate in a major religious ceremony. Guevara ranted rhetorically, "How was it possible that Fidel's sister would disobey him and get married like a bourgeois? . . . Imagine the consequences for the Revolution!" If the ceremony wasn't moved from the cathedral, Fidel threatened, he would not show up. The women reluctantly held their ground. Halfway through the ceremony, Fidel and his olive-green-uniformed entourage showed up.

By April of 1960, when this reviewer's family left Cuba, emigrating had become no simple matter. The regime imposed restrictions on travel, bank accounts, foreign exchange, and the transfer of property. Juanita's efforts now took a turn from saving people from death and prison, to helping dissidents, the threatened, and the persecuted to escape abroad. For this she required a cover and a safe house, so she bought a boarding house in Vedado, a Havana suburb. The arrangement soon turned into a dangerous cat-and-mouse game with the G2, Cuba's KGB, and also with various members of her family. Her mother, paying a visit,

pretended not to notice what was going on. There were many close calls, but Juanita's cover survived — just barely.

At dawn on April 17 of 1961, the day of the Bay of Pigs fiasco, Juanita went into overdrive. She received a call from a G2 double agent saying that a big roundup was under way. The prisons were filling and the overflow was being warehoused at the National Palace of Sports, the Cerro Baseball Stadium, and the giant Blanquita Theater. Her best friend and collaborator, Ely Esteva, was missing. She rescued as many people as she could by using the magic of her surname — walking in, rounding up the detainees she knew, and brazenly walking out with them.

Shortly afterward, she was approached by her friend, the wife of the Brazilian ambassador, who wanted to arrange a secret meeting in Mexico with a new "friend." Thus began Juanita's involvement with the CIA. She demanded only two things: she wanted no salary (she didn't want to be "in the pay of the CIA"), and she wanted no part in attempts on her brothers' lives.

She was naive. She still wanted to aid what she believed were the revolution's true ideals. Ignorant of the CIA's numerous attempts to assassinate her brother, she became CIA operative "Donna," a distant and unwitting abettor of that effort, though now with greater resources and contacts for saving lives. The arrangement became part of the CIA's "Operation Mangosta," a.k.a. "Project Cuba," and messages were conveyed by means of a secret short-wave radio installed for the purpose at the boarding house.

Did she experience any remorse about betraying her brother? "No, for a very simple reason: I did not betray him. He's the one who betrayed me . . . along with the thousands who suffered and fought for the [promises of the] Revolution."

It's incredible that she avoided full detection for nearly three years, until her departure from Cuba in June 1964. But perhaps she didn't. One afternoon, when she was acutely sick from all the stress, she received a call from "Muso": "I'm coming to see you because we have to talk very seriously." She speculates that seeing his favorite sister ailing in bed probably softened Raúl's attitude about what he was about to confront

her with. Then she recounts:

After kissing me, he plopped an enormous folder on the bed: "Aren't you going to ask what it is?"

Looking him straight in the eyes, I responded simply, "No."

We both understood each other without words; we'd been that way since we were kids.

"It's a summary of your activities against the Revolution — just in the past few months. This is crazy. I prefer to close my eyes and not read this and to believe, as Ramón, Enma, Agustina, and Angelita say, that you're just a half-wacky girl with loose lips and nothing more. Otherwise, if the things said about you were true, our attitude would be different."

I couldn't respond . . .

Carlos Alberto Montaner, a writer and journalist who contributed the book's prologue, elaborates:

In 1964 the Cuban secret services had punctually informed Raúl Castro about . . . his sister's activities. . . . Raúl was Minister of Defense. He went to see her and, in a tone that alternated between menace and affection, he explained that such behavior had to cease immediately. Juanita understood that she had to leave the country. . . . She was about to be incarcerated. That she wasn't, and that she was allowed to leave for Mexico, was only because he loved her, because his fraternal affection tempered his responsibilities as military chief of the country. . . . Fidel would have acted differently. Fidel certainly didn't know everything Raúl knew.

But no one knows for certain what Raúl knew. He at least knew something about the smuggling of people and assets out of the country. By not putting an immediate stop to it, he in effect aided Juanita's efforts, something his brother would never have tolerated. Juanita avers that, "In hundreds of cases in which my mother and I saved people, it was thanks to his intervention — direct or indirect." If he knew about the CIA contact and chose to ignore it, he became a tacit CIA collaborator. For all her initial naivete, I think Juanita Castro understands this, and that it became an important factor in timing the publication of her memoirs.

She closes the book with an open and affectionate appeal to Raúl for a democratic transition in Cuba so as to secure for himself an honorable place in history. She pointedly ignores Fidel.

Juanita Castro does not speculate as to what the future holds for a post-Fidel Cuba, other than expressing a desire for a peaceful transition to democracy. Plainly, she has given up on Fidel but retains great hopes for his little brother Raúl, a more sympathetic and flexible pragmatist (albeit with a weakness for alcohol), without whose cooperation "Donna" would have failed in her life saving efforts. But Raúl's hands remain tied so long as Fidel remains alive, hovering over his shoulder.

Montaner, in a separate publication titled "Loss and Restoration of the Republic: Cuba at the Doors of the End of Communism," details what is known about a post-Fidel transition. Raúl, as head of the armed forces, engineered and remains in charge of the extensive foreign tourism joint ventures that provide the lion's share of Cuba's foreign exchange. He wants to remain in power, maintaining control of the armed forces, police, legislature, communications, and primary means of production, and normalize relations with the United States by making the peso convertible and opening up the entire island to tourism. He figures that if China can remain nominally communist and still retain normal relations with the United States, so can he.

In a show of good faith, Raúl has already taken the first steps by enthusiastically cooperating with the U.S. wars on drugs and terrorism. No U.S.-bound drug shipments pass through Cuba, and Cuba has enhanced the perimeter security of Guantanamo. In return he expects the United States to control the Cuban exile community by not allowing it to invade Cuba — either militarily or in a giant reverse exodus — once Fidel is gone and Raúl has the chance to implement modest reforms. However, unlike China, Raúl has no plans to free the economy substantially.

Montaner has made many trips to Cuba and interviewed dozens of mid-to high-level bureaucrats. He reports that when in private, secure that no one is eavesdropping, these people exhibit high levels of demoralization, cynicism, depression, and selfish concern for themselves and their families. When asked what they will do if and when "things change," they universally respond that they would "change with them." Ideology has morphed into

expediency.

Juanita Castro received a mixed welcome in exile. The Cuban exile community was divided into three groups: Batista backers, who hated her for being a Castro; disillusioned Castro backers, many of whom also hated her; and spies and fellow-travelers of the regime. There were many attempts on her life. Still, she dedicated all her energies and assets to the anti-Castro resistance — until the Nixon-Brezhnev detente, when "the company" insisted

that she tone down her message. So she quit the CIA, opened a pharmacy, and continues her fight for liberty on her own terms.

An interesting closing chapter is entitled "The New Castros." It lists all the Castro descendants (and there are many), telling where they now live and whether they're for Fidel or against Fidel, or simply reconciled to reality. How that reality will change, as the ruling Castros pass from the scene, will also be very interesting to follow. □

"The Myth of Natural Rights and Other Essays," by L.A. Rollins. Nine-Banded Books, 2008, 304 pages.

Right Makes Might

David Ramsay Steele

Lou Rollins' attack on natural rights was published as a pamphlet 26 years ago, and sparked a lot of heated discussion among libertarians. It's now reprinted, together with his responses to various critics, as part of a larger collection of his writings. All the pieces in this new book are caustic, unpretentious, and stimulating polemics, though thin-skinned readers will no doubt be exasperated beyond the limits of their tolerance.

Rollins' argument involves a kind of misdirection. He seems to be criticizing and denouncing the theory of natural rights, and even just one tiny subspecies of natural rights: the Ayn Rand/Murray Rothbard variety. But really, he condemns all moral judgments, whether applied to politics or anything else, and whether the moral-

ity appealed to derives from natural rights, utilitarianism, divine authority, the social contract, or simple compassion. He frankly declares himself an "amoralist" (47, 95).

So reading Rollins on natural rights is like listening to someone declaim against the existence of Big Foot or the Loch Ness Monster, and suddenly realizing that the speaker also denies the existence of all animal life on this planet. Evaluating Rollins' argument requires thinking about morality, as an impetus to libertarianism, on the broadest and most basic level.

Acting on Values

If people share certain value judgments, these judgments, along with an assessment of the factual situation, can serve as a basis for common action. If I say "We'd better get out of this building because it's on fire," I'm assuming

that those who hear me would prefer not to be asphyxiated or roasted to death. I assume this because I expect that they, like me, want to stay alive and avoid excruciating pain. If I said (around 1980), "We ought to combat communism because it leads to impoverishment, mass killing, mass imprisonment, and mass torture," I can similarly assume that people will share my preference that these horrible things be reduced wherever feasible.

Someone might not share these values. A person in the burning building might be looking forward to an imminent death by asphyxiation, or alternatively, might not care one way or the other. A person listening to my argument for opposing communism might view death, misery, and stunted lives as delightful outcomes that ought to be encouraged. Alternatively, he might not care one way or the other (or might not care enough to lift a finger). While these are entirely possible responses, and while the standpoints of these outliers cannot be refuted, they are of no practical relevance, because individuals who dissent from the most commonplace value judgments are exceedingly rare.

Of course, I might be challenged on the facts. Maybe the building's not really on fire. Maybe communism doesn't lead to those consequences, or maybe it leads to those consequences but all the alternatives are even worse. Rollins has no objection to purely factual arguments: he engages in them with gusto. What he seems to dislike are moral arguments. Unless I have misunderstood him (and if I have, it's not my fault), he refuses on principle ever to take the position that "X is evil and so we ought to curtail it" or "Y is good and so we ought to promote it."

Would he also object to the recommendation that we leave the burning building? Probably not, because he seems to like self-interest, and he might consider this an appeal to self-interest. However, my making the recommendation may not be motivated by my self-interest. It may even be opposed to my self-interest, if people leaving the building block up the exits and delay my own departure. In that case, Rollins might consider me a mug for making the recommendation; but still, if he's one of those in the building at the time,

he'd be glad I was mug enough to have made it.

My recommendation to combat communism is clearly not a matter of self-interest. Looking ahead from 1980, I will be long gone before communism, if it continues to expand, reaches Chicago, where I live. And if Russian and Chinese communism are replaced with something more efficient, the gains to world output, and therefore to American real incomes, will take a few decades to make themselves felt. So again, I won't be around to reap any personal benefit. And even if I lived to

see a major portion of the benefits materialize, any gains I could capture from the difference I can personally make in speeding up communism's collapse will probably be less than the costs to me of the effort I would put into the anticommunist cause.

On grounds of pure self-interest, then, I should do nothing to oppose communism or any other vile political system. From a self-interested point of view, such opposition does not pay. My opposition to communism (or socialism, or fascism, or an Islamic republic, or the welfare state) has to be motivated

Notes on Contributors

Baloo is a *nom de plume* of Rex F. May.

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not primarily by self-interest but by a general concern for the wellbeing of other people, mainly people who will be alive after I have died.

The question then arises why, as Rollins seems to assume, self-interest should be privileged over other motives. People are generally self-interested, but they are also generally (though less powerfully) motivated to consider the welfare of others. If convinced of the purely factual claim that communism leads to poverty, mass killing, mass imprisonment, and mass torture, most people would consider this a good enough reason to oppose communism with at least a very modest expenditure of resources. Rollins seems to suppose that in reasoning like this they are making some kind of mistake, whereas in preferring some outcome on grounds of pure self-interest they are not making any mistake. I don't see that this position is defensible, and Rollins gives us no defense of it.

I would completely understand it if Rollins said that he, personally, doesn't care. Perhaps he is to humanitarian motivation as the young Dexter Morgan is to personal relationships. A few million people killed by a communist government far away — why should that concern Lou? I have a lot of sympathy for this position. As far as popular collective emotions go, I am a bit of a cold fish myself. But why then would Rollins object to other people caring, and doing something about it? And why would he think that in behaving like this they are guilty of some kind of error? He has, after all, written all this stuff attacking their positions, so he obviously thinks they are intellectually at fault in some way, and that exposing their intellectual mistakes is an urgent matter.

There's also the odd fact that when he inveighs against moral arguments, Rollins plainly exhibits an emotional tone that sounds very much like *righteous indignation*. Is this inconsistent? I think Rollins' position here might be defended. He might say, for example, that witnessing people making moral appeals offends him aesthetically, and he is self-interestedly expressing his disgust, let's say because he gets a buzz out of a few other discerning people applauding his aesthetic judgments. But this is just a guess, as Rollins doesn't tell us.

Where Rollins Goes Wrong

At one point Rollins attempts to clarify his position, but only manages to make it more obscure (92–93). He states that nothing is morally wrong (and presumably, then, nothing is morally right), and that no action can be morally justified. He asserts that one needs no moral justification for saying that what the state does is morally wrong (even though this is something he himself refuses to say). A little later he writes, "While the amoralist may not condemn the Nazi regime or think it 'evil' for killing six million Jews, the amoralist would not assert that others 'should not' do so [condemn the Nazi regime]. The amoralist is also an individualist and believes 'to each his own'" (95).

Really? If nothing's morally wrong, then it's a mistake to say that what the National Socialist government did was morally wrong. Why take the natural rights people to task (as Rollins repeatedly does) for making mistakes in reasoning, while not blaming others for their alleged mistake in judging that what the Nazi regime did was wrong? Further, amorality does not imply individualism or "to each his own." These are distinct from amorality, and since they are moral principles, they contradict amorality. You abandon amorality as soon as you adopt the principle "to each his own."

Although Rollins responds to some of his critics, he doesn't reply to my published criticisms of his position (Free Life 4.4; Liberty, July 1988), so I will not dilate here on the fact that I agree entirely with most of his criticisms of the Rand-Rothbard type of natural rights argument. This specific kind of argument has much less support among libertarians than it did 26 years ago. That is an improvement, and Rollins can probably take some credit for it. But I will concentrate here on where I think he goes wrong.

Rollins repeatedly asseverates that natural rights, or moral rules in general, are totally ineffective and are therefore pure fictions. Typical of many of his comments is this: "A bullet-proof vest may protect a person against being shot, but a natural right has never stopped a single slug" (96). This is quite true in precisely the same sense that standards of public hygiene have not saved a single life, or that the laws

of mechanics have never built a single machine. Standards of public hygiene have to be learned and implemented by individuals before they save lives. Laws of mechanics and electronics have to be understood by engineers and acted upon before they lead to the construction of mechanical gadgets.

The fact that standards of hygiene have been formulated makes it possible that people might act upon them. And it is because many people have acted upon them that Rollins has not died of cholera or scarlet fever, or contracted leprosy or smallpox. The fact that theories of mechanics and electronics have been formulated, and that many people have taken them as guides, means that Rollins can have useful gadgets in his home. The fact that people have theorized about rights and have then influenced legal thinking means that Rollins is less likely to be shot in the street in the United States than he would be in Rwanda. The fact that a particular type of natural rights argument became persuasive in 17th-century England means that if the police pick Rollins up tomorrow, they have to prove he's guilty, unlike in Italy or France, where he would have to prove his innocence.

It's unfortunate that writers like Rothbard sometimes carelessly give the impression that merely because natural rights "exist," whether people know about them or not, they can protect us against attacks by the state. A few writers, such as Sam Konkin, quoted by Rollins, seem actually to have believed this. Rollins is quite correct to dismiss it as absurd.

But with that out of the way, the real discussion can begin. As far as I can tell, natural rights proponents as varied as Robert Nozick, Hillel Steiner, Douglas Rasmussen, and Tibor Machan think of natural rights as concepts that can be identified by theorists and disseminated among intellectuals, and then can influence (perhaps over centuries) the drafting of laws enforced by courts and police, as well as by custom and general opinion. Most natural rights proponents would agree that natural rights do no good unless people are persuaded to make their positive legal systems conform to natural rights. If we look at natural rights in this way, we see that Rollins' claim that "a natural right has never stopped a single slug" is false.

Rollins agrees that positive rights — rights embodied in existing law and custom — can be effective (35). He apparently accepts the idea that positive rights can stop slugs. But the positive rights prevailing at any time may often owe something to moral theories, including theories of natural rights, which have influenced jurists in the past. So natural rights might stop slugs, by influencing the judicial system. Anglo-American common law would hardly be recognizable if we removed from it all elements that have derived from natural rights doctrines.

Rollins' only counter to this is his claim that moral rules that influence the law are promoted by individuals purely in pursuit of their self-interest: "In my view, natural law and natural rights are human *inventions* . . . intended to further the interests of the inventors" (35–36). But again, this is factually inaccurate. Moral ideas independent of people's own interests have had considerable influence in the formation of laws. Hundreds of examples could be cited, but I will mention just one.

In 1807 the British government abolished the slave trade throughout its empire — about a third of the earth's land area. In 1833 Westminster went on to outlaw slavery itself in most of the empire. These enactments were the result of a sustained campaign, lasting many years, by antislavery propagandists such as Thomas Clarkson and William Wilberforce, who were not motivated by self-interest but by a belief that blacks were entitled to the same legal rights as whites, and that the actual practice of slavery involved unacceptable atrocities. The fate of slavery in England itself had already been sealed, in a court decision (*Somerset's Case*, 1772) in which the judge's ruling stated that slavery was "odious" and that this fact overrode the matter of "inconvenience." Neither the judge (Lord Mansfield) nor the antislavery activists who had been bringing test cases like *Somerset's* benefited personally from the ending of slavery in England. The only people whose personal self-interest was affected (apart from the slaves) were those who had acquired slaves in the colonies and brought them to England: much to their annoyance, their property could now walk away. Insofar as personal self-

interest was involved (aside from that of the slaves, who didn't have much clout), it was defeated by the superior power of moral conviction.

All societies include some system of positive rights, and we can look at different hypothetical systems of rights and decide which one we most prefer. The point of doing this, of course, is to act so as to move actual law, positive law, into conformity with our preferred system. We could call the most preferred system of rights "natural rights," though "optimal rights" would be simpler. I have generally found that natural-rights libertarians won't accept this line of argument as a genuine example of natural-rights theory. They want something they can spin out from ruminations on human nature and then impose on the judicial system, regardless of the actual consequences for human welfare. In this sense, I agree with Rollins that the libertarian natural rights enterprise, in the style of Rand, Rothbard, or Hans-Hermann Hoppe, is an intellectual fiasco.

Entertaining Aphorisms

Rollins' collection includes a couple of short pieces, an "Open Letter to Allah" and an "Ode to Emperor Bush." Unfortunately neither of these rises far above the puerile. The volume includes many entries to "Lucifer's Lexicon," an ongoing series of aphorisms in the form of dictionary definitions, after the model of Ambrose Bierce's "Devil's Dictionary," and owing something to Thomas Szasz's "The Untamed Tongue."

Like all such efforts, Rollins' aphorisms vary in quality, but on the whole they make entertaining reading. Some are genuinely witty (America: "the Great Santa"). Some are quite subtle (Egalitarian: "a morally superior person"). Many are weak (Liberation Theology: "the gospel according to St. Marx"). Some have merely fleeting comic value (Draft: "an ill wind from which many a young man has caught his death"). A few have actually been around for a while (Lincoln "freed the slaves and enslaved the free"). And a few are real gems (Neoconservative: "One who believes that democratic nations should start wars to spread democracy, because democratic nations don't start wars").

Revising the Revisers

Rollins spent many years in the camp of Holocaust revisionism, but he became disenchanted with the revisionists as well as with the standard historical account. In the essays reprinted here, he attacks both revisionist and conventional accounts of the Holocaust with approximately equal ferocity. He finds serious errors in some of the revisionist and some of the conventional historical accounts. One essay listing a number of fairly crass errors of fact in revisionist works is followed by another essay itemizing what appear to be similarly egregious mistakes in "Denying History," the popular critique of revisionism by Michael Shermer and Alex Grobman. It is *de rigueur* among revisionists, as well as professional revisionist-bashers, to call the opposite side's mistakes "lies," but it's cooler to abstain from such childish vituperation.

With some of these issues I don't know enough to determine who's right or wrong, but where I do know enough, Rollins is usually accurate. One notable exception is where he quotes a passage from the diary of Joseph Goebbels to the effect that 60% of the Jews in central Poland will be liquidated and 40% used for forced labor (135). Rollins cites this as evidence *against* a Nazi policy aiming for total extermination. But if precisely those Jews who can't be currently used for forced labor are to be killed as a matter of state policy, in wartime conditions when the state's demand for slave labor is urgent, this rather suggests to me the opposite conclusion. What do we suppose might happen to the 40% when they become unable to work?

Rollins draws the conclusion that both the revisionist point of view (that there were no gas chambers) and the conventional account (that between 4 and 7 million Jews were deliberately exterminated, well over a million of them in gas chambers) are full of holes. "As of now," he says, "I am a skeptic regarding both the Holocaust and Holocaust revisionism" (160). He reiterates this even-handed skepticism in different words several times.

Yet what Rollins has done here is to find errors in the most notable revisionist works and in one rather scappily compiled piece of antirevisionist popularization — and even in the latter case, he seems to acknowledge that

Shermer and Grobman, along with the factual errors he identifies, also offer other and weightier arguments. So he's comparing the best that revisionism has to offer with the weakest parts of one lightweight antirevisionist screed. Oddly enough, there is a deep similarity between Rollins' writings on morality in politics and his writings on the Holocaust: he attacks both natural rights and the standard Holocaust account at their feeblest, and virtually ignores the much stronger presentations available.

It would be a more daunting task for him to pick apart the main body of Holocaust historiography that has emerged over the past 30 years or so. He seems to accept this when he names Pierre Vidal-Naquet, Jean-Claude Pressac, and Robert Jan van Pelt as people whose arguments would not be so easy to dispose of (204). The political background to the planned extermination of most of Europe's Jews has been uncovered in well-researched and meticulously argued works by, among others, Christopher Browning and Ian Kershaw (to name the two whose books in English can easily be consulted in any American public library).

Public knowledge of the nuts and bolts of extermination — how gas chambers came to be built (and modified) and how they operated — underwent a revolution with the momentous work of Pressac (the complete text of his study is available online at www.holocaust-history.org/auschwitz/pressac/technique-and-operation). He began his researches into Auschwitz inclined to revisionism, but changed his mind as he examined the documentary, chemical, and engineering evidence. Much of the evidence for the reality of the Holocaust was drawn together by van Pelt, in his work on the David Irving libel suit. Van Pelt's detailed argument (including his dissection of the revisionist Leuchter Report) is available online at www.hdot.org/en/trial/defense/van. If Rollins were to compose a critique of van Pelt, he would be picking on someone nearer his own size.

This accumulation of historical work has two implications for Holocaust revisionism. First, we now have a coherent and quite detailed account of what happened, an account in which elements that once looked peculiar (such as the absence of a written order from the

Fuehrer) fall into place quite naturally. Second, a close acquaintance with this material means that many of the stock revisionist objections can't get started. To take a simple example: revisionists have often claimed that the use of hydrogen cyanide for mass killing of humans would be impracticable, because of hazards to the people doing the gassing (Rollins, 140–41, refers to this, though without indicating that it convinces him). Some have even claimed there would be a risk of explosion from the gas igniting. This objection evaporates once we realize that far lower concentrations are needed to kill humans than to kill lice, especially if you're not terribly anxious to make the human deaths mercifully quick, and that hydrogen cyanide was in fact routinely used to kill lice, without any reported explosions. Smaller amounts of hydrogen cyanide, for briefer periods, also help to explain why detectable traces of chemical derivatives of hydrogen cyanide are much smaller in the walls of the gas chambers than in the walls of delousing facilities, a favorite revisionist objection to the standard Holocaust account.

Even David Irving, the clever historical writer who was won over to

the revisionist position (mainly by his too-ready acceptance of the Leuchter Report), now finds that the available evidence compels him to acknowledge that gas chambers really were used as instruments of state policy in the mass killing of Jews and others — though Irving currently maintains the theory, rejected by nearly all other historians, that the extermination program was a secret project mounted by SS boss Heinrich Himmler, who managed to keep all knowledge of it from Hitler.

Holocaust revisionism has similarities with Kennedy assassination conspiracy theory and the "9/11 Truth Movement." All are able to find puzzles or discrepancies in the standard accounts, but they do not offer a worked-out alternative hypothesis for equally searching scrutiny. Generally, though admittedly not always, their objections vanish on closer acquaintance with the material. They frequently evince the "Murder, She Wrote" mindset: crime scenes must be perfectly tidy, so a single anomaly or loose end is sufficient to overthrow an entire body of quite well-corroborated theory. One must develop a sense of perspective: there are often little details of real-world crimes that

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remain not fully explicable.

The questions the dissenters raise deserve to be pursued, and the questioners should not be abused or maligned, much less prosecuted or fired from their jobs. These deviants reject conventional stories because they think for themselves, instead of swallowing uncritically whatever the authorities tell them. While those who dissent will sometimes be right (for example, those who in early 2003 pointed to the clear evidence that Saddam Hussein had no weapons of mass destruction), very often they will be seriously in error, because they will have jumped into areas where they are unfamiliar with the complexities of the evidence. Explaining why the dissidents are mistaken, about the Holocaust, about the Kennedy assassination, about 9/11, and for that matter, about Intelligent Design, should be seen as wonderful opportunities for popular education. Unfortunately, defenders of the conventional accounts often discredit themselves by displaying anger and maligning the motives and charac-

ter of the questioners.

As we look at the evolution of the Holocaust story over the last 30 years, we see that some elements that revisionists used to find problematic have been discarded by mainstream historians. No historian now maintains that German industry manufactured soap or lampshades from corpses, that it can be proved that Dachau or Belsen had operational gas chambers (though thousands were murdered at both camps by other methods), or that the gas chambers at Auschwitz were operating at maximum capacity every day. Instead of seeing this kind of adjustment as a victory for revisionism, as Robert Faurisson did, we should see it as evidence that conventional academic history is not as rigidly dogmatic as revisionists have supposed, and that it is capable of adapting to new evidence and new analysis. In the meantime, and while some of the details remain puzzling, the balance of evidence for the fact of the Holocaust ought to be regarded as overwhelming. □

"The Book of Eli," directed by Albert and Allen Hughes. Alcon Entertainment, 2010, 118 minutes.

Power in the Word

Jo Ann Skousen

"The Book of Eli" will seem familiar to those who saw "The Road," another postapocalyptic film ("After Armageddon," March). Both movies are photographed with a brown sepia wash that emphasizes the bleakness of a landscape destroyed by bombs and ozone depletion. Both are populated by gritty people transporting their worldly goods in backpacks and shopping carts as they scavenge for food and blankets.

Both show marauding bands of thugs patrolling what is left of the highway (probably Interstate 70 in each version), raping, pillaging, and cannibalizing those who are weaker and unarmed.

"The Road" follows a man and his son as they make their way toward the east coast; "The Book of Eli" follows a man traveling alone to the west coast. But Eli (Denzel Washington) isn't entirely alone; he carries with him a Bible, perhaps the last one in existence, and he is guided by the voice of God, so in that sense one could say that a father

and son are also traveling together in this film.

The biggest difference between the two is that in "The Book of Eli" people have begun to reestablish towns similar to those in the Old West, where he who controls guns and water controls the community. Carnegie (Gary Oldman) is one of those men. He knows where a natural spring percolates fresh water, and he trades that water for whatever people are willing to barter. No one argues about fairness or price controls. The price is whatever two people agree upon, enforced by a gun.

Carnegie commands a posse of tough guys who scavenge the countryside, armed with weapons and transported by motorcycles and armored cars. (The film does not explain the source of their gasoline.) He has the power that comes from force and property, but he is looking for a specific book that will give him even more power. Eventually we learn that the book he seeks is the Bible. He seems to think of it as a book of charms that will teach him how to perform miracles. He also says that if he owns the book, dimwitted people who believe in religion will be in his power. In short, the filmmakers seemed unable to decide whether their Book of Eli would be truly powerful or merely an opiate of the people. This indecision mars the film.

When Jesus talked to the Jews in the 1st century A.D., they wondered whether the Old Testament prophet Elijah had come again, as some believed had been prophesied. Could this mysterious traveler be that "Eli"? Eli does seem to receive power from the book he has carried for 30 years (it's a long trek west!). He is protected from danger, even bullets, and possesses incredible skills as a fighter. Viewers who complained that "The Road" had no climax and no action will be well satisfied by the martial arts displayed in this film, as Eli skillfully and forcefully defends himself and the book he carries. (Washington was trained for the role by Bruce Lee's protegee, Dan Inosanto, and performed all his own stunts.) I had some problems at first with accepting the idea of a monklike character being also a killing machine, but Armageddon is a war, after all; someone has to do the killing, and it might as well be the good guy in hand-to-hand combat.

In the town Eli meets a young girl, Solara (Mila Kunis), whom Carnegie tries to use as bait for gaining control of the book. When Eli isn't interested in a roll in the hay and insists that he has to continue his journey, Solara begs him to take her with him, saying, "I hate it here." Eli responds, "Then change it." When Carnegie tells Eli he has no choice but to give up the book, Eli responds, "There is always a choice," as he rolls into fighting stance. Lines like these give the film some substance and a clear connection to ideas of liberty.

But the film is not as profound as it tries to be, or as it could have been. The book of Ezra in the Old Testament shows the power that a book had in an earlier post-war setting, after the Jews had been captured and carried away into Babylon, and their land had been destroyed. Isaiah had prophesied that a king named Cyrus would help to rebuild the Jewish temple. Cyrus evidently felt the power of the prophecy and encouraged the Jews to return to their homeland. He even provided 5,000 vessels of gold and silver for the project. After the city walls were rebuilt, the Jews (50,000

of them!) stood in the streets and listened with joy as Ezra read to them from the scriptures for the first time in many years. That's power.

Seeing Carnegie change as significantly as King Cyrus did would have made "The Book of Eli" far more satisfying. Instead, the filmmakers rely for their climax on a twist at the end of the story — the kind that makes you want to view the film one more time, just to see whether it works, like the surprise ending in "The Sixth Sense." But in that film, the twist was essential to understanding the story. In "The Book of Eli," the twist is surprising, but unnecessary. Focusing on the surprise and its improbable implications, rather than on the book and its promised importance, keeps "Eli" from being a better film.

The film's tagline says, "Some will kill to have it. Others will kill to protect it." I want to know more about a book with that kind of significance! But in the end, if it merely sits on a shelf, what good is it? Although the film is well made and packed with action, it loses faith in its own premise, and fails as a result. □

"The Young Victoria," directed by Jean-Marc Vallée. GK Films, 2009, 104 minutes.

The Breeding of an Empire

Gary Jason

Queen Victoria (1819–1901) was certainly a figure of major historical interest. She reigned for nearly 64 years, longer than any other British monarch, or any female monarch anywhere. During her reign, Britain reached the height of its economic, military, and political power, with its empire spanning the globe. But in the beginning Victoria was simply a

sheltered teenager who needed to learn how to rule.

"The Young Victoria" focuses on the period from Victoria's late teenage years through her marriage. The history is accurately portrayed, especially her various struggles with those around her who wanted to control her, and her relationship with Prince Albert of Saxe-Coburg whom she met when she was 17, one of many suitors being put forward as a potential political match.

The acting is very well done across the board. Most remarkable is Emily Blunt's performance as the adult Victoria (Michaela Brooks and Grace Smith play Victoria at ages 11 and 5, respectively). Blunt's previous films have been fairly lightweight, so it was surprising to see what she can do when given a meatier role. She plays Victoria as a young woman who knows early on that she is destined to be queen, and has the intelligence and fierce independence of will to do it her way.

The film opens with the controversy over what to do if King William IV (Jim Broadbent) dies before Princess Victoria, the only surviving legitimate heir, reaches the age of 18. Parliament has already passed a Regency Act under which her mother, the Duchess of Kent (Miranda Richardson), would act as Regent, but the act doesn't spell out limitations on the regent's powers. The duchess and her comptroller, Sir John Conroy (Mark Strong), want Victoria to sign over additional powers that would extend beyond her 18th birthday, and Victoria resists vigorously.

Life as a princess isn't all fun and games. In fact, it's no fun and games at all. Victoria is raised under the "Kensington system," a restrictive environment in which she is not allowed to play with other children, has to be escorted up and down stairs to prevent falls, and has to sleep with her mother. The goal of this is not merely to protect Victoria, but to keep her weak and under the control of the duchess and Conroy (widely assumed to be the duchess' lover). As a feisty teenager, Victoria fights this attempt at domination, refusing to let Conroy become her personal secretary.

As it turns out, no regent is needed. Motivated, perhaps, by his strong dislike for Victoria's mother and his concern that she might become regent, King William manages to hang on, dying one month after Victoria's 18th birthday. Victoria becomes queen and is crowned, after which she moves her mother and Conroy to a remote part of the palace. She declares her sovereignty by walking up and down stairs unaccompanied by a protective escort.

The political machinations of court life are well portrayed in the film. Although Victoria is strong-willed, she allows herself to be advised (some

would say manipulated) by the Whig prime minister, Lord Melbourne (Paul Bettany). Melbourne selects all of Victoria's ladies-in-waiting from among the wives and daughters of his Whig supporters, ignoring the tradition of including ladies from both parties. He directs her correspondence, tells her whom to trust, and gently controls the court. When Melbourne is replaced by the Tory Sir Robert Peel, Victoria refuses to change her ladies-in-waiting to reflect the new party in power, arguing simply, "I am the queen. I will choose whom I want." She had spent too many years under the Kensington system to let others tell her what to do.

She quickly learns, however, that a queen rules at the will of the people. When she continues to flaunt her friendship with Melbourne after the Tories come to power, public opinion turns against her. She wisely backs down.

Against this political backdrop is a lovely story of the romance between Victoria and Prince Albert (Rupert Friend). Initially Albert is sent by his ambitious Uncle Leopold (Thomas Kretschmann) to woo his young cousin to maintain favorable relations between England and Belgium. Albert is coached in how to impress Victoria, but she has seen it all before with a long line of suitors, and she teases him mercilessly. The scenes between the two are charming, and reveal a genuine love story that transcends political expediency.

Albert is not just a loving husband; he rapidly becomes Victoria's main adviser, eventually displacing Melbourne. He also convinces her to remove Baroness Lehzen, Victoria's governess, from running the household; it is time for Victoria to grow up and transfer her loyalty to her husband.

Victoria and Albert remained devoted to each other until his death in 1861. They had nine children, a brood that married into royal houses all over the continent, so that she became known as "the grandmother of Europe." There were periods when her popularity waned, but she was through most of her reign a highly popular monarch, not least because she lived a life of propriety and dignity. This film demonstrates a more playful side of the queen after whom the phrase "Victorian morality" is named.

As an historical piece, "The Young

Victoria" is informative — with some exceptions, such as the disconcerting substitution of Blenheim Palace for Buckingham Palace — and as a period drama, it is first-rate. The cinematography is beautifully done. Jean-Marc

Vallée's direction moves the film along at a reasonable pace, while portraying the most important historical background in full detail.

This is altogether an enjoyable film, well worth viewing. □

"The Blind Side," directed by John Lee Hancock. Alcon Entertainment, 2009, 128 minutes.

Forget the Oscar

Jo Ann Skousen

According to "The Blind Side," Baltimore Ravens offensive tackle Michael Oher was a homeless 17-year-old, sleeping in the school gym, washing his one extra set of clothes in a laundry-room sink, and eating popcorn left behind by basketball fans, when he was rescued by Leigh Anne Touhy, whose children attended the private school where Michael had a scholarship. The Touhy family brought "Big Mike" into their home, gave him a bed, bought him a car, taught him to play football, hired him a tutor, and made him a part of their family.

Let me say at the outset that I cheer anyone who helps a destitute individual, no matter what the motive. A good thing, even if done for the wrong reasons, is still a good thing.

As the film opens, however, the Touhys' motives are being challenged by the NCAA's enforcement division. It is illegal to pay a student athlete or offer any material recruitment benefits, and the Touhys' altruism could be perceived as unfair influence. Were they simply helping an underprivileged young man, or were they groom-

ing an outstanding offensive tackle for their alma mater, Ole Miss? Of course, we're supposed to be outraged by this suggestion of impropriety. The Touhys demonstrated throughout the film that they are genuine, wonderful people.

Nevertheless, I wasn't that impressed with the film when I saw it. Despite all the feel-good things I was hearing about it, I was put off by the poor acting and just a little bit cynical about how the family chose this particular boy. Here's why.

For a while my children attended a private Southern Christian school much like the one in the movie, and I knew a lot of women like Leigh Anne Touhy. They wore the right clothes, had lunch in the right restaurants, invited the right friends to all the right parties, ran the right volunteer organizations, and made sure the right children were invited to the right birthday parties. They ran the parent organizations and often ran over the coaches. They made big donations, and the board members knew not to get in their way.

In the film, when Leigh Anne turns up her nose at the wide-striped rugby shirts that Michael chooses when she takes him shopping, it put me right

back at our private school, where a student once said about my son, "He's nice and everything, but look at the clothes he wears!" My son often wore wide-striped rugby shirts back then. In fact, so did I. We shopped at the Gap.

Even more disturbing about the private school my children attended was their good ol' boy attitude about who earned "academic" scholarships. It was surprising — no, *disturbing* — how well-rounded these "academically gifted" scholarship recipients always turned out to be: every one of them ended up on the basketball team or the football team. Or both. Meanwhile, those of us who were paying full tuition often found our sons sitting on the bench, watching the scholarship kids play the game. I understood the motive: teams with winning records lead to enthusiastic boosters who donate big bucks to the school. Still, it seemed unfair to me.

So, realizing I was just a little bit biased when I saw "The Blind Side" the first time, I decided to give it another look after it was nominated for Best Picture and Best Actress. Maybe there was something I'd missed.

After seeing the film a second time, my opinion has not changed. It is a heartwarming story, with many moving moments that tug at the tear ducts. The sight of Michael carefully gathering abandoned popcorn bags at the end of a basketball game, his confession that he has never before slept in a bed or eaten at a dining room table, his chance meeting with a brother he hasn't seen since he was a little child — all these remind us of how much we take for granted: food, shelter, family. They cause us to admire a family who would provide these basic needs for an underprivileged boy.

However, the production values of the film are simply too uneven to warrant an Oscar nomination. While veterans Sandra Bullock and Kathy Bates put in fine performances, the rest of the cast is mediocre at best. Few of the supporting actors have impressive credits; most of them have acted only in television, and many of the rest have virtually no film experience. One senses that they are always aware of the camera, always thinking about how they are going to look on screen. Cinematographers call it "shining" for the camera, and these actors shine their hearts out. It's as

though they thought "action" meant "say cheese."

Quinton Aaron as Michael Oher is probably the most troubling. This is his first role as more than an extra, and his lack of experience shows. His Big Mike is a sweet sad sack, passive to the point of seeming dimwitted. He rocks rhythmically and rubs his palms on his thighs to show he is nervous, actions often demonstrated by those who have mental problems or learning disabilities. By contrast, the real Michael Oher, shown accepting his Ravens jersey and conversing with sports figures near the end of the film, is bright-eyed, confident, and normal. He has expressed displeasure over the way he is portrayed.

At the other end of the spectrum, Jae Head, who plays the Touhys' young son S.J., exudes over-the-top pep and cuteness. If the other actors shine, Jae glows with radioactivity. Yes, he's adorable and enthusiastic, but he isn't natural. In fact, during a couple of particularly lengthy and precocious monologues, he appears to be reading from a script or

teleprompter. He's cute, but come on — let's cut back on the sugar and caffeine.

Sandra Bullock (Leigh Anne Touhy) is one exception. Although I don't like the kind of woman she portrays, I have to admit that Bullock plays her to perfection. She bullies children and grown-ups alike with sweet-talking Southern charm. As an interior designer she orders \$40,000 carpets and \$10,000 sofas the way I order a cheeseburger and fries. She takes no nonsense from suppliers, clients, football coaches, or even a threatening drug dealer. As her husband (country singer Tim McGraw) says, "She always gets her way."

"The Blind Side" probably inspired many viewers to say, "I ought to do something like that." Its theatrical release between Thanksgiving and Christmas could not have been better timed. The dialogue is often clever and believable, even if it is poorly delivered. But Best Picture? I don't think so. If this film deserves an Oscar nomination at all, it is for the screenplay and perhaps for Bullock — but *not* Best Picture. □

Filmnotes

Breaking the Shackles —

"The year was 2081, and everybody was finally equal. They weren't only equal before God and the law. They were equal every which way. Nobody was smarter than anybody else. Nobody was better looking than anybody else. Nobody was stronger or quicker than anybody else. All this equality was due to the 211th, 212th, and 213th Amendments to the Constitution, and to the unceasing vigilance of agents of the United States Handicapper General."

So begins the satirical science fiction short story classic by Kurt Vonnegut, "Harrison Bergeron," published in 1961. This story has gained almost cult-like admiration, and is freely available online.

This great little story has been made into a superb film short — called "2081" — by Chandler Tuttle, who wrote the screenplay and directed the

flick (Moving Picture Institute, 2009, 25 minutes). The story concerns an act of rebellion by Harrison Bergeron (Armie Hammer). In a society where the strong are forced to wear weights, the beautiful to wear masks, and the bright to wear headsets that emit noises to disrupt their thoughts, Bergeron — with his great strength, handsomeness, and intellect — is forced to wear all three. He escapes from prison and takes over a concert hall, disrupting a televised ballet performance in which the dancers are weighed down by chains to equalize them with the masses. Bergeron breaks off his handicaps and convinces one of the ballerinas to discard hers as well. He then performs a dance of exquisite beauty. While this is going on, the Handicap General's stormtroopers frantically try to close in.

We see all this mainly through the eyes of Bergeron's parents, Hazel and George. They are watching it on TV, but

how much do they — and the audience — really comprehend? It's a question that means a lot for lovers of liberty.

The film is excellently narrated by Patricia Clarkson. Julie Hagerty (of "Airplane!" fame) gives a great performance as the mother of limited intelligence (no noise-emitting earpiece necessary for her!). And James Cosmo is also good as the world-weary father. Armie Hammer (who has done considerable TV work) is quite interesting as the rebel Harrison. And there is a nice cameo by political commentator and talk show host Tammy Bruce, who plays the implacable Handicapper General, Diana Moon-Glumpers.

"2081" is now available through Amazon and can be bought for a modest price. It's a fascinating little gem. The Motion Picture Institute deserves great praise for producing it.

— Gary Jason

Fear and Whiskey — In "Crazy Heart" (directed by Scott Cooper, Butcher's Run Films, 2010, 112 minutes), Bad Black (Jeff Bridges) is a country singer whose albums once topped the charts. Now he performs in bowling alleys and country bars, using local pick-up bands as his back-up musicians and staying in seedy motels. He's a chain-smoking alcoholic who drives himself to one-night-stands in his 1978 Silverado, relieving himself in a milk jug because he's too lazy to pull over and find a bathroom. "I ain't never missed a show," he tells the anxious leader of the latest band as he arrives just before showtime, pukes in the garbage can, and enters the stage door. His fans applaud appreciatively as he walks onstage, and for good reason: his talent is still there, and his music is still strong.

Bad Black is a "functioning alcoholic" who is able to drive, communi-

cate, and perform even when he has been drinking all day. This functionality places him in denial about his alcoholism and what it is doing to his body, his relationships, and his career. He recognizes that his career is waning, but he blames the unfair rise to stardom of his former protege, Tommy Sweet (Colin Farrell) and Tommy's unwillingness to record a duet album that would put Bad back on the charts.

This attitude begins to change when Bad meets Jean Craddock (Maggie Gyllenhaal), a music journalist who asks to interview him. For some reason, perhaps because she sees him through the lens of his past glory, she is able to look past the craggy beard, stringy hair, stinky breath, and squalid surroundings to fall for him. Bad is also charmed by Jean and by her darling 4-year-old boy, Buddy (Jack Nation). She makes him want to be better.

But Bad's an alcoholic, and alcoholics have only one true relationship: with the bottle. After a frightening experience involving little Buddy (one has to wonder what kind of mother would be foolish enough to leave her son with an alcoholic . . . but women in love often do foolish things), Bad hits rock bottom and gains the courage to say, for himself, "I want to get sober." "Crazy Heart" never implies that getting sober is easy, only that it's worth it. This is a tale of redemption, not of squalor, and it is told with honesty.

This familiar storyline could have made the film hokey, sentimental, and predictable. But "Crazy Heart" never falls short of wonderful, largely because of the brilliant performance of Jeff Bridges. One simply forgets that he is an actor playing a part. Anyone who has had the misfortune of dealing with a chronic alcoholic will recognize the perfection of his portrayal — the swag-

ger that hides the drunken walk, the deep-cheeked draw on the cigarette, the protective manner in which he carries a glass of whiskey. Watch for the way he balances a drink nonchalantly on his chest while he talks with Jean on his motel bed, then deftly moves it to the night stand with a quick underhanded twist of his wrist that keeps the glass completely level, not risking a drop. For an alcoholic, the whiskey glass and the cigarette are permanent, sentient appendages.

Production values of the film are top quality. Cinematographer Barry Markowitz takes full advantage of the New Mexico landscape, with its rising red mesas, wide skies, and soothing sunsets. The supporting cast provide rich characterizations, including Robert Duvall as Bad's longtime friend Wayne. But these performances are mere similes to Bridges' metaphor; the others act their parts well, but Jeff Bridges *is* Bad Black.

The quality of the musical score is also something special. Bad Black is a songwriter, not just a singer, so a believable soundtrack was essential to the film. Grammy winner T. Bone Burnett ("O Brother, Where Art Thou?") provides a dozen original songs that more than justify the film's premise that Bad Black's tarnished star is worth polishing. If I have one complaint, it is that the film cuts away from the songs too soon. This is a soundtrack worth owning.

Scott Cooper wrote, directed, and produced this film. His family members are listed in the acknowledgements. When I see this kind of dedication to a project in the credits, I know the filmmaker is driven by an overwhelming belief in what he is trying to do. Cooper has heart, crazy heart, and it shows throughout this excellent film.

— Jo Ann Skousen

Letters, from page 40

Book Learnin'

I have read the first issue of my subscription with delight. There is much to comment on, but briefly I wanted to recommend a book to Stephen Cox and all Liberty readers, prompted by the following passage in his review "The Muslim Myth" (Jan.-Feb.):

Islamic scholars avoided the philo-

sophical and "merely literary" ones, and went for the mathematical and medical works. They wanted practice, not theory; and thus scorned the kind of theories . . . that can lead to a new and better practice of life.

One such "new and better practice of life" was the Italian (and European) Renaissance, which according to L.D. Reynolds and N.G. Wilson, the authors of "Scribes & Scholars: A Guide

to the Transmission of Greek and Latin Literature," owed its overall inspiration to the reading of classical literature. Without such pioneering study by 14th- and 15th-century scholars and laymen, we would not have the culture of philosophical and political freedom we have today, however flawed and dangerously hostile to liberty it is becoming.

Doug Milam
Bellingham, WA

Lane County, Ore.

Local government at its finest, headlined in the *Eugene Register-Guard*:

County to pay \$250,000 to advertise lack of funds.

Paris

Etymology by committee, in *The Wall Street Journal*:

To translate the English term for computing resources that can be accessed on demand on the internet (“cloud computing”), a group of French experts spent 18 months coming up with “informatique en nuage,” which literally means “computing in cloud.”

France’s General Commission of Terminology and Neology — a group of professors, linguists, scientists and a former ambassador — was gathered to evaluate the term. The 17 members of the commission were quickly confused. “What? This means nothing to me. I put a ‘cloud’ of milk in my tea!” exclaimed Jean Saint-Geours, a French writer. “Send it back and start again,” ordered Etienne Guyon, a physics professor.

England

The perils of unorthodox bowling methods, reported in the *Daily Mail*:

After two years and £250,000, a team of health and safety experts found that ten-pin bowling alleys up and down the country could be a ‘very dangerous’ environment for families.

They concluded that it was too easy for children or teenagers to run down lanes and get trapped in machinery that sets up the pins — even though there was no record of any such accident having happened.

The Health and Safety Executive report found that members of the public would be at risk if they walked along the 60-foot lanes to knock over pins by hand.

Tangipahoa Parish, La.

New take on equal treatment, in the *Hammond (La.) Daily Star*:

A justice of the peace said he refused to issue a marriage license to an interracial couple because of concern for the children who might be born of that relationship.

Keith Bardwell, justice of the peace for Tangipahoa Parish’s 8th Ward, also said it is his experience that most interracial marriages do not last long. “I’m not a racist,” Bardwell said. “I do ceremonies for black couples right here in my house.” But, he said, if he does an interracial marriage for one couple, he must do the same for all. “I try to treat everyone equally.”

Washington, D.C.

Safety as priority number one, in the *Washington Post*:

A team of independent safety inspectors was nearly hit by a Metro train that appeared to be traveling at full speed and making no attempt to slow, as required by agency rules.

The inspectors “experienced a near-miss situation” and “were forced to quickly scramble out of the way to avoid being struck,” according to a report released by the Tri-State Oversight Committee, which monitors safety at Metro. No one was injured.

The near-miss near Alexandria’s Braddock Road Station was one of numerous safety violations identified in the report.

Chicago

A former president shows his sensitive side, in the blog of the *Chicago Sun-Times*:

In a scheduled appearance in Chicago, former President Bill Clinton mentioned the shootings at Fort Hood, Texas, and tried to tie it into a broader discussion about people of the world respecting each other’s differences as he says he sees in Chicago.

“You have people from more than 150 different ethnic and racial groups,” he said. Looking out over the diverse crowd, Clinton said it was different than a crowd of white men that might be seen on the TV show “Mad Men.” “You ever watch that TV series ‘Mad Men’? If I keep watching this program, will I ever find a happy person? Great television. Good drama. But . . . the way women were treated is appalling, and only occasionally funny to me.”

Okeana, Ohio

Innovative police search technique, recorded in the *Dayton Daily News*:

Okeana resident Robert James is suing Deputy Daron Rhoads, wildlife officer James Tunnell, and a third unknown officer in federal court. The suit says Rhoads pulled James over on a traffic stop, and took him into custody after finding two unsecured firearms in the cab of his truck.

Tunnell was then dispatched and began an investigation into illegal hunting activities, which led to a search of James’ home. While James was handcuffed in the cruiser, the complaint says the officers spent roughly

four hours searching the home.

While there, the suit claims the officers seized James’ girlfriend’s sex toys, turned them on and left them in plain sight “for James to see that they had found them,” and did the same with pornographic video tapes they found. The suit claims the officers “placed a hat, Christmas lights and goggles on deer antlers that were affixed to James’ wall.”

Poole, Dorset, England

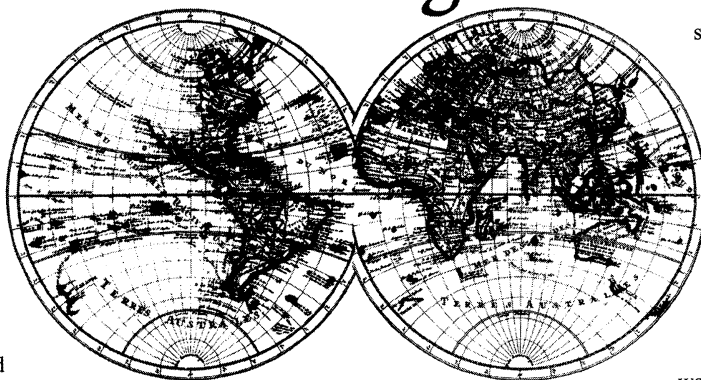
Protecting shoppers from Christmas, from the *London Times*:

Shoppers stared in bemusement at the mysterious object that landed in a shopping precinct in Poole in early December. Some compared it to a giant traffic cone, a witch’s hat or a cheap special effect from an early episode of Doctor Who. The 33-ft. structure turned out to be their Christmas tree, designed according to 2009 principles of health and safety.

Thus it has no trunk so it won’t blow over, no branches to break off and land on someone’s head, no pine needles to poke a passer-by in the eye, no decorations for drunken teenagers to steal and no angel, presumably because it would need a dangerously long ladder to place it at the top.

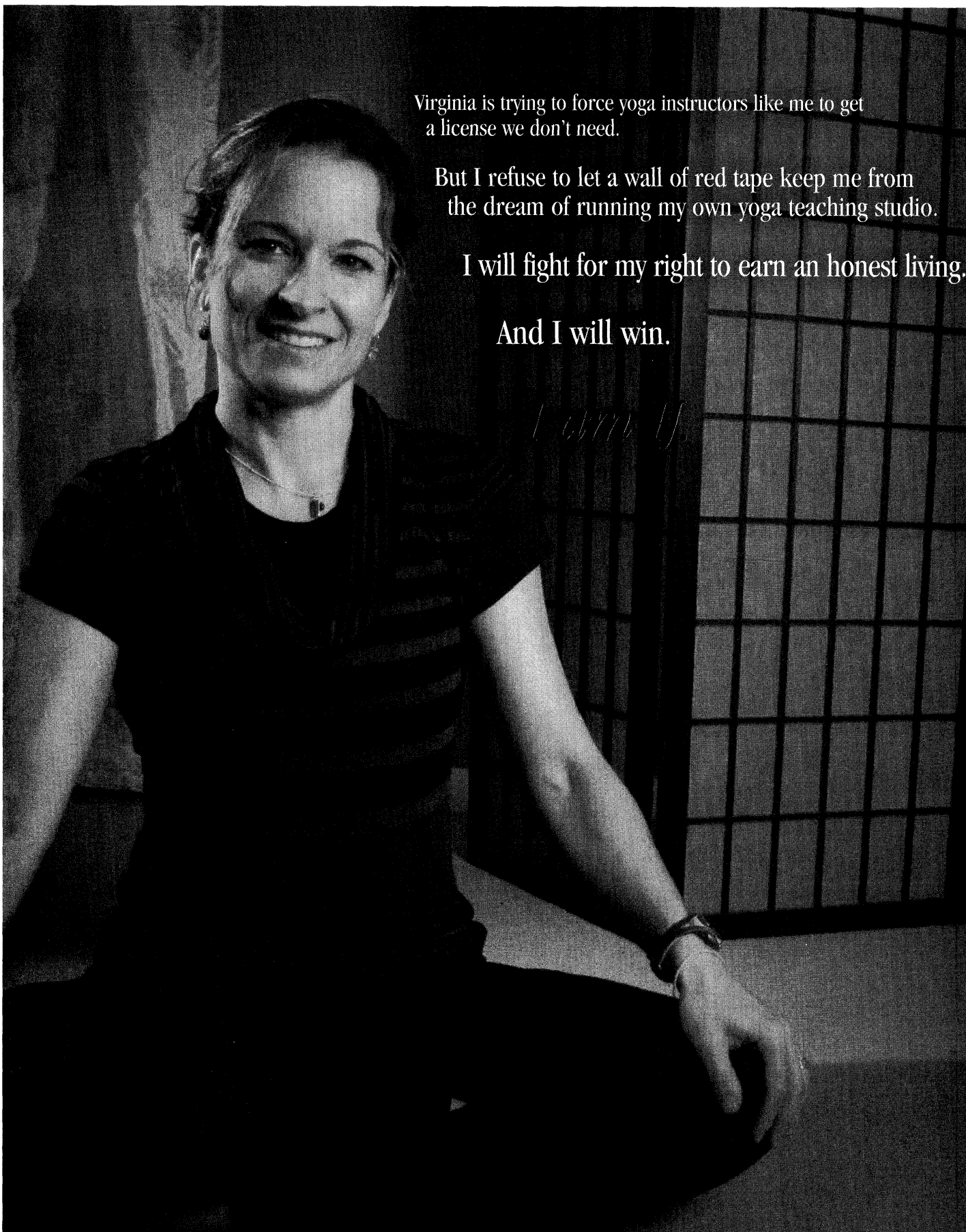
Last year Poole boasted a Norwegian fir draped with strings of coloured lights that cost £500. The replacement, which is constructed on a metal frame overlaid with what appears to be artificial grass, cost £14,000 and comes with built-in fairy lights and hidden speakers to play Christmas tunes that will put shoppers in the festive mood.

Terra Incognita



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



Virginia is trying to force yoga instructors like me to get
a license we don't need.

But I refuse to let a wall of red tape keep me from
the dream of running my own yoga teaching studio.

I will fight for my right to earn an honest living.

And I will win.

*Julia Kalish
Leesburg, Virginia*

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