

Liberty

August 1999

\$4.00

Is Internet
Privacy
Overrated?

Why Bomb Yugoslavia? Clinton's Secret Agenda

by David Ramsay Steele

A Belgrade Spring

by Stephen Browne

Monster in the White House

by Clark Stooksbury

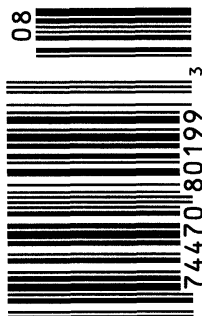
The Revised Life of Ayn Rand

by Bryan Register

Confessions of a Tax Collector

by Fritz Berggren

Also: *Gene Healy* challenges the 14th Amendment, *Jane S. Shaw* retraces the strange odyssey of communist-turned-conservative David Horowitz, *David Kopel* looks at gun control in ancient Greece . . . plus other articles, reviews & humor



US \$4.00 / Canada \$5.95

"True Liberty is not a mere scrap of paper called constitution."—Emma Goldman

Twice the Liberty, Half the Price, No Hassle!

Ever since we launched *Liberty*, readers have told us that they wanted more . . . more of *Liberty's* hard-hitting analysis, more scathing commentary, more writing from the libertarian movement's leaders. Every reader survey has said the same thing.

You asked, we listened.

Starting with the January issue, a new *Liberty* has come your way each month! With *Liberty* going to press twice as often, we're able to provide timely news analysis twice as often. And twice as many of our hard-hitting features, twice as many of our dynamic book reviews . . . twice as much of the wisest, wittiest, brightest, and most informative libertarian writing.

And we've decided to make it more than twice as good a deal for you!

As our special reward to you, our loyal subscriber, we offer a special price of just \$2.00 per issue!

That's a savings of 22% off our regular subscription price, and a whopping 50% off our cover price!

Save Money! Save Hassles! Never miss another issue! Sign up for our EasyPay Plan today. Here's how it works: fill out the coupon below and

mail it together with a blank personal check, marked "void" on the signature line. When your subscription is about to expire, we'll charge your account again and renew your subscription automatically. (Note: this special price is good only with this EasyPay offer, under the terms specified here.)

Two guarantees: (1) if ever we disappoint you, we'll refund the full cost of all unmailed issues; and (2) as long as you are enrolled in our EasyPay Plan, we'll automatically renew your subscription at the absolute lowest price we offer anyone.

So act today! Lock in long-term savings, save yourself the hassle of renewal, make sure you never miss another copy of *Liberty*. And help *Liberty* by saving us the cost and chore of mailing renewal notices.

Just return the form below with your check. We'll do the rest!

Automate your subscription!

Just fill out the coupon below to renew your subscription to *Liberty*, automatically each year, at our special price in this offer!

Yes!

 Please sign me up for EasyPay!

\$2.00 per issue, \$24.00 per year, withdrawn from your checking account once per year for as long as you love *Liberty*!

Please return this
portion with a VOIDED
blank check.

Mail to:

Liberty

Circulation Department

1018 Water Street #201

Port Townsend, WA 98368

Name _____ Date _____

Address _____ Apt. _____

City _____ State _____ Zip _____

Evening Phone _____ Daytime Phone _____

Signature _____ Signature _____

SIGNATURE REQUIRED. BOTH SIGNATURES REQUIRED FOR JOINT ACCOUNT.

I authorize Liberty Foundation to establish the EasyPay Plan to pay for my *Liberty* magazine subscription. I also authorize my financial institution to deduct from my checking account the price of my subscription once per year. Enclosed is my voided blank check. This authorization is to remain in effect until my financial institution receives written notification from me or Liberty Foundation to terminate my agreement. Notice of cancellation must be received in time to afford Liberty Foundation and my financial institution a reasonable opportunity to act on it. Liberty Foundation guarantees the lowest price subscription available every year, but reserves the right to change the rate, upon giving 30 days notice.

Liberty

R.W. Bradford
editor & publisher

Timothy Virkkala
executive editor

Stephen Cox
John Hospers
Jane S. Shaw
senior editors

Brien Bartels
David Boaz
Alan Bock

Douglas Casey
Eric D. Dixon

Brian Doherty
David Friedman

J. Orlin Grabbe
Bettina Bien Greaves

Leon T. Hadar

Robert Higgs

Bill Kauffman

Bart Kosko

Richard Kostelanetz

Pierre Lemieux

Loren E. Lomasky

Sarah McCarthy

Wendy McElroy

Robert H. Nelson

Randal O'Toole

Ross Overbeek

Durk Pearson

Dyanne Petersen

Ralph Raico

Bruce Ramsey

Scott J. Reid

Sheldon Richman

James S. Robbins

Sandy Shaw

Fred L. Smith, Jr.

Thomas S. Szasz

Leland B. Yeager

contributing editors

Kathleen Bradford
copy editor

S.H. Chambers

Rex F. May
cartoonists/illustrators

Jonathan Ellis

Martin Solomon

Clark Stooksbury
assistant editors

Jon Kalb

Jim Switz
computer consultants

Inside Liberty

August 1999

Volume 13, Number 8

4 Letters Our readers write.

5 Reflections *Liberty's* editors take shots at Bomber Bill, slay the whales, examine the "progress" of the presidential living wage, and point out that even Scientologists are no match for Ayn Rand.

Features

13 The Most Dangerous Amendment *Gene Healy* challenges the common libertarian view that the 14th Amendment is a tool for liberty.

18 Why Did Clinton Bomb Yugoslavia? *David Ramsay Steele* exposes the dangerous precedent set by a dangerous president.

25 A Belgrade Spring *Stephen Browne* remembers Belgrade's romantic evenings, massive protests, and gypsies strolling with bears before the bombs fell.

28 Arms and the Greeks The right to bear arms is a lot older than the Bill of Rights, explains *David Kopel*.

31 A Kinder, Gentler, "Judgment Day" *Bryan Register* compares what Nathaniel Branden said about his life with Ayn Rand in 1989 with what he says today.

35 Is Internet Privacy Overrated? *Declan McCullagh* reports from the front lines of the cyberwar over privacy.

37 I Was a Small-Town Regulator *Charles Platt* moves to Jerome, Arizona, and tries to help out with the local government.

39 Confessions of a Tax Collector Meet *Fritz Berggren*, a man who takes from you and gives to the government.

41 Judicial Nullification If it's dangerous for jurors to nullify the law, wonders *Eric Longley*, then why should judges?

Reviews

45 Monster in the White House The Clintons portray their critics as right-wing nuts. *Clark Stooksbury* reviews the case of one Clinton hater who is not part of the right-wing conspiracy.

46 From Marx to Hayek *Jane Shaw* retraces the strange odyssey of David Horowitz.

48 The First Libertarian *Chris Sciabarra* argues that much maligned "Social Darwinist" Herbert Spencer was a remarkable dialectician.



52 Classified Ads Stuff. And you can buy it.

53 Notes on Contributors Who we are and what we do.

54 Terra Incognita Reality rears its ugly head.

About Your Subscription

Q: When does my subscription expire?

A: Please look to the right of your name on your mailing label. There you will find (unless you are getting a renewal notice) the number of issues left in your subscription, followed by the word "left," as in "3 LEFT."

Q: I've moved. Where do I send my change of address information?

A: Liberty, P.O. Box 1181, Port Townsend, WA 98368. Please include your previous address (it's best to send us your label from your magazine) and telephone number. Allow us six weeks to receive and process your address notification.

Q: I'm receiving duplicate copies; what should I do?

A: Take a look at both mailing labels, clip 'em out and send 'em to us. We'll make sure that you receive all the issues you've paid for.

Q: I think you've charged my credit card incorrectly; what can I do?

A: Call us at 800-854-6991 (during normal business hours on the West Coast) or email us at

circulation@libertysoft.com

We'll take down your information and then try to solve your problem as soon as possible.

Q: Can I change my address on your toll-free number, too?

A: No. We must get your address corrections in writing, either by U.S. mail or by email.

Q: Can I communicate with your fulfillment department by email?

A: Yes; send your communications and queries to us at

circulation@libertysoft.com

We'll try to get back to you as soon as possible.

The editorial offices can be reached at 360-379-0242.

Our sales and subscription fulfillment office can be reached at 800-854-6991 (foreign callers call 360/379-8421).

Letters

From on High

If Bruce Ramsey ("Privacy Unbound?" July) is what passes for a libertarian, then what would be a statist? The common good is not a slippery concept but a non-existent anti-concept. Nor are we "citizens of the state." We are not *of* the state, period. The only rationale for any government is to protect individual rights, not supervise the "public safety, health or welfare" which if attempted would mean the state would run everything. The mother has committed no crime or act of aggression by contracting a disease. The baby's rights do not supersede the mother's. If we take Ramsey's rationale seriously, we would have to forbid pregnant women from smoking or drinking or any number of activities which could adversely affect the baby's future health. But since neither the mother nor the baby belongs to the state, the state has no right to force any such conditions upon anybody.

On the case of released criminals, once they have served their time in these Medieval horror chambers we call prisons, then their rights should be fully restored. No one convicted of a crime should be deprived of his or her rights once they paid the penalty for the crime. If they haven't paid the penalty, then why are they released? (Not that I for a second advocate prisons, but just to keep the argument within currently accepted assumptions, then when they are free they should be *free*. Otherwise if we accept the premises of "preventive" arguments, then the sky's the limit. No doubt all crimes could be prevented by locking up everyone all the time.)

The ID card thing is simple: no one in a free society should be forced to carry any papers to "prove" himself to some state official. Switzerland is a heavily regimented Germanic-style society wherein the police can even force people to clean their own cars! It's a milder European Singapore. I guess Singapore, too, ranks high among the "economic" freedom kooks even though it is a total fascist police

state. I've noticed that when "libertarians" talk about "freedom" it usually means freedom for corporations, landlords, etc. Ramsey is wrong that countries don't creep into totalitarianism, we have been creeping there for a century or more.

I can see why Ayn Rand kicked all of you right-wing "libertarian" freaks into the garbage can. You defend mass murdering fascists like Pinochet and Milosevic (I too oppose Clinton's mass murder in Yugoslavia), you try to delink your "libertarian" anti-philosophy from natural rights, and you trumpet standard analytic hacks like John Hospers as the "authorities" on Objectivism or natural rights.

I am proud to have been disassociated from your going nowhere "movement" for many, many years.

Michael P. Hardesty
Oakland, Calif.

Bring on the Babes

I disagree with Fred Bluestone, who wrote in his letter to the editor (July) that he didn't want to see any more articles of the type written by Dyanne Petersen ("Behind Bars," May).

Well, I enjoyed her article. I found it an interesting travelogue, through the eyes of one inmate insider, of her trip through the federal prison system. Contrary to Mr. Bluestone's "Buxom Babe," and "women-in-chains" labelling, the author gave us no clue as to her physical appearance or sexuality.

She seemed to have no particular request for sympathy for her particular crime of drug smuggling. She did explain very briefly what she was arrested for, but it seemed she stayed away from her actual crime so as not to detract from the major thrust of her story. For Mr. Bluestone to accuse the author of inciting readers over federal drug laws, is simply to misunderstand the purpose of the article.

Bill Udy
Tigard, Ore.

What Season Is It?

Like Stephen Cox, I am also disturbed
continued on page 12

Liberty (ISSN 0894-1408) is a libertarian and classical liberal review of thought, culture, and politics, published monthly by the Liberty Foundation, 1018 Water Street, Suite 201, Port Townsend, WA 98368. Periodicals Postage Paid at Port Townsend, WA 98368, and at additional mailing offices.

POSTMASTER: Send address changes to Liberty, P.O. Box 1181, Port Townsend, WA 98368.

Subscriptions are \$29.50 for twelve issues. Foreign subscriptions are \$34.50 for twelve issues. Manuscripts are welcome, but will be returned only if accompanied by a self-addressed, stamped envelope (SASE). A writer's introduction is available: send request and an SASE.

Opinions expressed in *Liberty* are those of the authors and not necessarily those of the Liberty Foundation. Copyright © 1999 Liberty Foundation. All rights reserved.

Reflections

A dispatch from Reuters — "Conyers, Ga. (May 20) — A 15-year-old described as a Boy Scout with a broken heart wounded six students at his Georgia high school Thursday in the latest of a spate of U.S. school shootings."

This would be a good time for Clinton to get a pliant Republican Congress to ban the Boy Scouts. Perhaps he could banish hearts, too, or at least try — in the words of the Wizard of Oz — to make them practicable by ensuring their unbreakability. —SC

Slay the whales — The Makah Indian tribe of Washington's Olympic Peninsula managed to bag a grey whale last month with a ceremonious thrust from a harpoon and two .50 caliber shells through the brainbox. Opposition to the hunt, which culminated with death threats to both tribal members and the Coast Guard (which protected their right to hunt, guaranteed by treaty), was made respectable by the rationalization that if a bunch of Indians can take whales for what are essentially reasons of self-esteem, then the Japanese and Norwegians will start to hunt whales again. And, as we know, that could end civilization. Men hunting and killing mammals for food and science . . . is there no end to the depravity? —BB

Why not detention? — Music, guns, videogames, and violent movies have all been blamed for the Tragedy of Columbine; even though entertainment tastes, and choice of weapons varied from incident to incident. One overlooked common denominator: every single tragedy happened in a public school. Chubby Ammo-phobe, Rosie O'Donnell, suggested locking all gun-owners in prison as a solution to incidents like Columbine. Would she be willing to do the same to every public school principal? —TS

Clinton's learning curve — One of the things that irked me about media coverage of the Kosovo bombing was the refusal of the mainstream press to even allude to the ironic contrast between Bill Clinton, youthful war resister, and President Bill Clinton, enthusiastic bomb-dropper. It might have embarrassed the great man had they acknowledged that the Balkans are a quagmire just like Vietnam or suggested that NATO was bombing Yugoslavia "into the stone age" or that we were "destroying villages in order to save them," although these all seem to be true. Even carefully worded and tempered criticism by Robert McNamara, the architect of the Vietnam War, drew little comment.

Rather, the press (except of course some of the "right-wing") meekly followed Clinton's lead as he described the war as if it resembled World War II and compared Slobodan Milosevic to Hitler. *The New Yorker*, for example, discussed Bill Clinton's "learning curve" in the business of waging war without ever mentioning his early years. The writer, David Remnick, cheered Clinton's gradual awareness of the

need for "morality" in foreign policy and contrasted it with Henry Kissinger's "Metternichian disdain for liberal humanism." (Didn't Metternich bring Europe nearly a century of relative peace? Oh well, nobody remembers that far back.)

Although Bill Clinton is responsible for huge numbers of deaths now, he did learn a little from Vietnam. During that decade-long disaster, people used to say, "Why don't we just declare victory and go home?" Well, after two-and-a-half months of bombing, Clinton has declared victory. But now he is sending in the troops. —JSS

The Omdurman parallels — And so, the Twentieth Century is about to end on a depressing note, with NATO's "victory" in the Balkans. To find a parallel to the NATO war one must look back to the final days of the last century, to the British war against Sudan, which culminated in the battle of Omdurman on Sept 2, 1898. On that day, an Anglo-Egyptian force of 26,000 soldiers, armed with the latest and most technologically advanced weapons, faced a Sudanese force numbering perhaps 45,000 men.

Sudanese muskets and spears were no match for British machine guns. "The [British] infantry fired steadily and stolidly, without hurry or excitement, for the enemy were far away and the officers careful," wrote Winston Churchill, who witnessed the battle. "But presently the mere physical act became tedious. . . . And all the time out on the plain on the other side bullets were shearing through flesh, smashing and splintering bone; blood spouted from terrible wounds; valiant men were struggling on though a hell of whistling metal, exploding shells, and spurting dust — suffering, despairing, dying."

When it was over, 10,000 Sudanese soldiers lay dead, 10,000 more were wounded, and another 5,000 captured by the British. A total of 40 British and Egyptian soldiers were killed; perhaps another 500 were wounded. It was more a slaughter than a battle.

But even that horrible war pales in comparison to the war in Yugoslavia. For one thing, that war was fought against a military force; the Yugoslavian war was fought mostly against civilians. For another, the Sudan war was fought in retaliation for what could arguably be considered an act of hostility against Britain (the murders at a British garrison, led by religious lunatic Major Charles "Chinese" Gordon, in Khartoum); the Balkan war was fought against a government that had committed no acts of aggression against NATO or the U.S.

And that war was far less lopsided. The British force killed 250 Sudanese for each fatality it suffered. NATO conducted its war in such a fashion that it lost not a man, while the Serbs suffered thousands of casualties. American pilots got up in the morning in their ranch homes in the midwest, went to their bases, flew halfway around the world, and indiscriminately dropped bombs on Yugoslavia from their planes flying miles above the ground, safely out of range of any weapon the Yugoslavians had for their own defense.

The pundits tell us that this was the first war in history won solely by air power. They are right, of course. But that is not the most important lesson of the war.

The Yugoslavia war demonstrated what had been learned in the Gulf War a decade ago: Americans will support (or at least tolerate) a war, no matter how unjust, no matter how expensive, provided that the lives of no American boys are lost. This it turns out was the real lesson of Vietnam. And it illustrates the real meaning of the "New World Order": the United States can bomb anyone into submission that it wants to, provided it minimizes (or, better still, eliminates) American casualties.

There were those who thought the horrible slaughter at Omdurman would usher in a new era, with the nations of the west possessing such superior military technology that resistance from the rest of the world would be so insanely foolhardy that no one would dare undertake it. The new century, they believed, would be an unprecedented era of peace, and without the destruction of war, of tremendous prosperity.

They were wrong, of course. Instead, the 20th century was one of nearly unprecedented war, genocide and destruction, in which hundreds of millions were killed in wars both civil and international. It would see the rise of two great engines of death and destruction: nationalism and socialism. Through a fortuitous chain of events, socialism ran its course and nationalism was restrained, and by its end, peace was breaking out all over — at least it was until Clinton decided to instigate his reign of terror in Yugoslavia.

What will the 21st century bring? Today's politicians envision a New World Order of peace and prosperity, growing out of the supremacy of massive air bombardment, just as those a century ago foresaw an era of peace and prosperity under the aegis of the Maxim gun.

It pains me to say that they are likely no more correct than were the politicians at the end of the last century. —RWB

Wise heads and tails — The pundits have spoken concerning the meaning of the awful events at Littleton. And spoken, and spoken. The root of the problem lies in America's easy way with guns. Or it is a pathology of hyper-violent movies and video games. Perhaps the underlying cause of the massacre motive is damage inflicted on fragile adolescent egos by the impersonal high schools in which they are penned and from which, some commentators portentously add, God has been exiled. And of course there's parental neglect, a culture of narcissism, economic inequality, the firearm as phallus, eclipse of traditional values, and the all-around decadence of late capitalism.

That the pundits have spoken is no surprise; speaking is their business, in many cases their only business. Take away their words and they wither. What those words might be hardly matters so long as they display some connection with what's in the headlines and fill the requisite number of column inches. The transformation of a posh suburban school into a free-fire zone demands comment from those who can endure anything but silence, yet the paucity of hard data and superabundance of alternative theories leaves this welter of words more conjectural than convincing.

But one theory stands apart from the rest. When the mal-adjusted, maladroitness Georgia teen attempted to prove that southern boys can blow away their classmates too, what he instead demonstrated is that among the causes of school shootings are press reports of prior shootings. Monkey see, monkey do, and anyone who ever attended a high school knows them for the monkey houses they are. If we don't want kids to engage in murderous behavior, then we had better keep reports of murder out of the media. Yet to the best of my knowledge, none of the learned commentators has advocated restraint of press coverage. Perhaps it's not accidental that doing so would hit closer to home than gun or video game bans.

The foregoing remark was something of a cheap shot. Not that the targets don't deserve it: precious little is known about why the two teens ran bloodily amok, and publicly to feign otherwise is misleading at best. Yet a more general moral may also be drawn. The pundits are quite correct to omit press restrictions from their lists of ways to avoid future Columbine Highs. That isn't simply because a free and responsible press well, make that free press, is necessary for the health of our social institutions, although that surely is relevant. Rather, it is because classroom carnage is exceedingly rare. The vast majority of students do not gun down their fellows. It is simply unreasonable to contemplate allowing the benefits of a free press to be vitiated by the hope that doing so might render anomalous cases marginally rarer.

But just that sort of sloppy thinking stands behind knee-jerk cries to restrict firearm availability or to clamp down on offensive videos or music lyrics so as to prevent future Columbines. It is to commit what I believe to be perhaps the most damaging error in the domain of policy analysis: the fallacy of the tail. More fully, this is the fallacy of attempting to address some problem way out on the frontiers of the probability distribution (for the statistically minded, two, three or more standard deviations distant) while forgetting that whatever effects may be enjoyed out there will be altogether swamped by those costs that redound closer to the middle of the bell curve. So, for example, legislators profess to safeguard kiddies from being corrupted by internet porn sites, yet in the process they erect roadblocks to everyone's surfing. In the attempt to sell their health care fix the Clintons had themselves filmed with half the families in America who had been rendered destitute by catastrophic illness, but most people realized that it was they who would most often be caught up in the tentacles of the Clintoncare octopus. To avert the specter of another thalidomide that might hideously disfigure dozens of babies, the FDA keeps off the market drugs and medical devices that would extend the lives of hundreds of thousands of people. I could cite numerous additional examples with regard to Social Security, welfare, the War on Drugs, and throughout the policy jungle.

To view one's fellows in distress naturally prompts a desire to tender aid. That speaks well for one's humanity, yet no sentiment contributes more to the itch to legislate. Subsequent scratching is perilous because a focus on the distressed few is likely to blur one's vision of the many. The fallacy of the

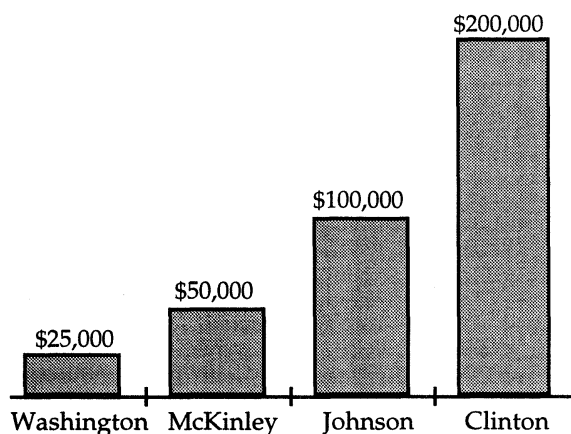
Who's Who

BB	Brien Bartels
BR	Bruce Ramsey
DB	David Boaz
DP	Dyanne Petersen
JS	Jim Switz
JSS	Jane S. Shaw
LBY	Leland B. Yeager
LEL	Loren E. Lomasky
MMS	Martin M. Solomon
RWB	R.W. Bradford
SC	Stephen Cox
TS	Tim Slagle
TWV	Timothy Virkkala

tail is committed when one insists in the face of a social problem "We must do *something!*" although the predictable consequence is that whichever nostrum is selected will turn out to be both not enough (for the intended beneficiaries) and too much (for the majority who reap the policy's collateral damage). Perhaps when the wise men have exhausted their analyses of the deep meaning of Columbine High they can turn to the dilemma of how we might better avoid the wagging of the fallacious tail.

—LEL

Paying the man — Congress is pushing to raise the salary of the president. (Hint: guess whose salaries can't be raised until the president's salary is raised.) The graph shows what presidents have been paid in the past.



Yeah, we need to double the president's salary again to keep that progress going.

—DB

Do we owe Kosovo? — What should the West have done about Milosevic and Kosovo? The forthright moralistic interventionism of Margaret Thatcher and Liberal Democrat leader Paddy Ashdown (and of Luis Dopic, writing in *Liberty's* June issue) makes sense, if not *conclusive* sense. So does the legalistic and standard libertarian stance against intervention. Facing the choice, the Clinton administration and NATO presumably had military and political information not publicly available, including information about the likely costs and side effects of a successful war for a clear objective. What does not make sense is the incoherent middle position actually adopted: seeking a cheap apparent victory in an almost risk-free way. Among other things, such indecisiveness lacks the persuasive force that a clear and credible commitment might have had. It is a prime example of what Stephen Cox, writing in a different context in the July *Liberty*, diagnoses as merely symbolic policy.

Now the symbolic bombing has boomeranged. Innocent civilians throughout Serbia have suffered, as from mistargeted bombs and from interruption of power and water supplies, causing health hazards. Neighboring countries have suffered, as from swarms of refugees and from disruption of Danube River traffic by the rubble of destroyed bridges. Especially the supposed beneficiaries of the U.S./NATO rescue operation have been made much worse off than before.

Clinton and NATO have incurred heavy

responsibilities and cannot now honorably just wash their hands of the whole business. Yet pretty much that is brewing, I fear. It will be disguised as a diplomatic breakthrough and honorable settlement. On paper, verbally, the Kosovars will be allowed to return to their homes in safety. In time their fate will be forgotten, or so the shirkers of responsibility can hope.

The dishonesty involved would be classic Clinton. Yet like it or not, the United States is morally committed to following through with its purported rescue operation and to making amends for the misery that its incoherent policy has already caused. Unfortunately, at times a country can indeed be committed by its top officials. The American people even bear some active responsibility for electing and reelecting Clinton and tolerating his demonstrated dishonesty.

Perhaps, though I doubt it, it will prove militarily impossible to occupy Kosovo and install and maintain a regime that would guarantee the safety of persons and property. Or perhaps this result would require imposing excessive and uncompensatable costs on innocent third parties. If such realities do eventually, or even now, force us to wash our hands of the situation after all, we should at least be honest. We should not compound our offenses by trying to disguise treachery as a diplomatic triumph.

If we abandon what we have started, we should at least make amends to our victims in some other way. For example, we might offer transportation to the United States and residence permits to all Kosovars who so desire.

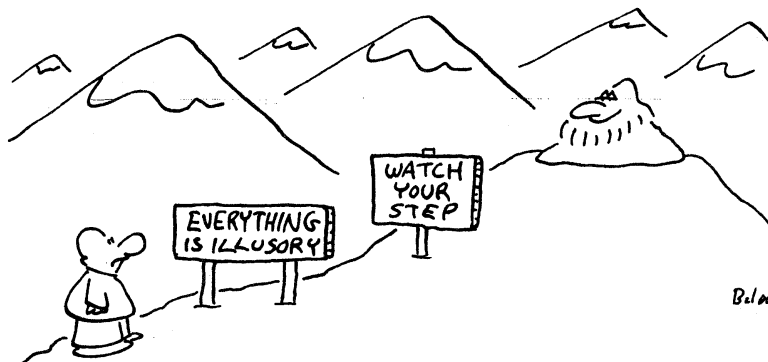
—LBY

The pen is mightier — Since the start of the war in Kosovo, the editorial page of *The Wall Street Journal* has issued a series of blunt directives masquerading as headlines. "Take Belgrade." "Declare War." "Appoint a War Cabinet." They also printed at least two letters suggesting that war against the Serbs be handled as a mercenary affair, with contract armies on the ground and the old publicly-owned air forces covering them. All of which makes me wish that the editorial board of the *Journal* was running this thing. Trade Max Boot and Dorothy Rabinowitz for Wes Clark and Maddie Albright? It couldn't make things any worse.

—BB

Indict 'em all and let God sort 'em out —

We may, eventually, find out a lot of discreditable things about Slobodan Milosevic. We are certain to hear a lot more discreditable things about him, as American "peacekeepers" fan out over Yugoslavia digging up cemeteries, quizzing Albanian partisans, and doing everything else they can think of to make good on the Clinton administration's precipitate



You are invited to the most
rewarding vacation you will ever take . . .

“Liberty in the Next Millennium”

The 1999 Liberty Editors' Conference Sept. 17-19

This is it! The century's — nay, the millennium's — final blast of cutting-edge libertarianism . . .

The 1999 *Liberty* Editors' Conference will bring our readers together with some of the world's leading libertarian thinkers for a look toward the future, the future of liberty in the next millennium.

What are the trends and attitudes of today that will affect the liberty of tomorrow? What will the world look like in ten years? In a hundred? These are just some of the questions our editors and readers will thrash out at the conference.

But the conference is more than just a look ahead. Before leaping into the future, our editors will take a look at the ground we traversed. What were the major events that affected liberty? Who were the heroes of liberty, and who were the villains?

In line with our look to the past, we plan to honor liberty's heroes. During our gala banquet we will announce our editors' choice as “Libertarian of the Century.” Is it Milton Friedman? F.A. Hayek? Ludwig von Mises? Murray Rothbard? Ayn Rand? You'll find out!

You'll find out, that is, only if you sign up now for the vacation of a lifetime.

The conference takes place in Port Townsend, the beautiful Victorian-era seaport nestled in the shadow of the snow-capped Olympic Mountains on the shores of Puget Sound. Port Townsend is centrally located to the treasures of the Pacific Northwest: explore the Puget Sound on a sea kayaking trip to the San Juan Islands or a whale-watching adventure; hike the Olympic Mountains or drive the magnificent coast of Washington.

All of it — the seminars and talks with prominent li-



Downtown Port Townsend

bertarians, the parties, the banquet, and the natural and man-made beauty — is yours only if you act today.

If you've attended a *Liberty* Editors' Conference in the past, you know what to expect: stimulating conversations, camaraderie, good food and drink, valuable information and just plain fun. If you've cheated yourself out of these remarkable conferences in the past, don't let this terrible fate befall you again this year!

The conference fee of \$225 includes all the seminars, parties, meals and our gala banquet Saturday evening, at which “The Libertarian of the Century” will be announced.

Act Today! Accommodations in Port Townsend are limited. As always, we are committed to keeping our conference at a size where genuine intellectual and social interchange among all participants is possible — so not all late-comers can be accommodated.

And dozens of *Liberty* readers have already registered, so don't let yourself miss out on your ride to the future, and reflection on the past.

To reserve your participation, send us the completed coupon with a deposit of \$75.00 per person attending. We require receipt of the remaining \$150.00 by August 2 (deposit refundable until August 15).

Or, to reserve your spot now by MasterCard or VISA, call 1-800-854-6991. You'll be glad you did!

Responses to *Liberty's* past conferences have ranged from extremely positive to wildly enthusiastic:

"Fascinating — and fun!"

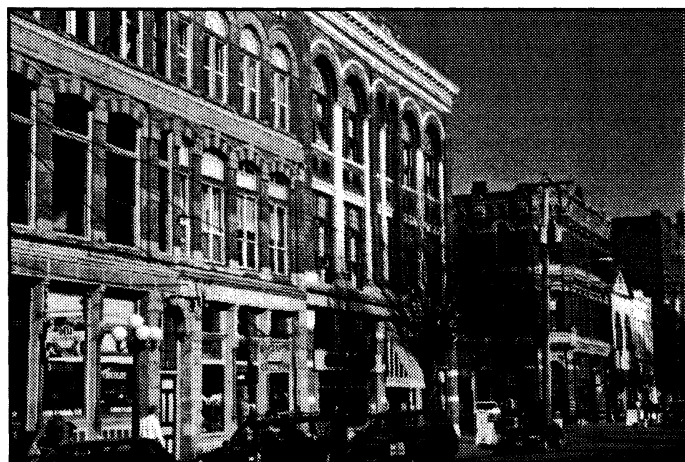
"The best conference I've ever attended — libertarian or otherwise."

"Port Townsend is one of the most beautiful places in the world, and your seaside conference center is wonderful!"

"Great speakers, good company — even my fellow attendees were above average."

"An intellectual adrenalin rush!"

"Simply amazing. A fine hotel. Terrific parties. And excellent speakers, of course."



Liberty's offices on Water Street in downtown Port Townsend

Speakers Include:

David Friedman — economist, philosopher, leading anarcho-capitalist theorist, author of *The Machinery of Freedom*.

Ron Paul — The fiercest defender of liberty in Congress, Libertarian Party's 1988 presidential candidate.

R.W. Bradford — editor and publisher of *Liberty*

Sandy Shaw and Durk Pearson — life extension scientists, bestselling authors, and fearless opponents of government regulators.

Fred L. Smith, Jr. — president of the Competitive Enterprise Institute, and field marshal in the war of ideas.

Stephen Cox — Literary critic, intellectual historian, and author of *The Titanic Story*

Pierre Lemieux — Quebecois economist, anarchist pamphleteer, personal armament rights advocate, defender of freedom.

Douglas Casey — world traveler, brutalizer of smarmy public officials, best-selling investment writer.

Richard Stroup — innovative free-market environmentalist, Reagan-administration economist.

Jane Shaw — journalist, former *Business Week* editor, expert on protecting environmental integrity through private property.

Randal O'Toole — forestry economist, thorn in the side of the U.S. Forest Service, and feared opponent of city planners everywhere.

Timothy Virkkala — *Liberty's* Executive Editor.

... and other speakers to be named later!

Join Us!

Yes! I wish to attend the 1999 Liberty Editors' Conference. I enclose my deposit of \$75.00 per person.

— my check or money order is enclosed (payable to **Liberty**)
— charge my: — VISA — MasterCard Expires _____

How many people will be in your party? _____

Account # _____

Signature _____

Name _____

Address _____

City/State/Zip _____ Phone _____

Liberty, 1018 Water St. #201, Port Townsend, WA 98368

claims of "genocide."

At the beginning of America's epic struggle with the purported Butcher of the Balkans, Clinton lost no time before making comparisons between Milosevic and Hitler. It was Clinton's best chance to get Americans to intervene in an ugly civil war. His administration went so far as to leak "intelligence" reports about alleged Yugoslavian atrocities to a United Nations prosecutor, who used the evidence to procure the indictment of Milosevic for "crimes against humanity." This disinterested and objective procedure, a wartime prosecution impelled by the accusations of one set of armed combatants against another, obviously lacks all moral credibility.

Its venerable precedent, of course, is the Nuremberg trials. In that case, most (possibly all) of the defendants had indeed committed "crimes against humanity," and most of them were hanged. That was the agreeable feature of the affair. But there were some disagreeable features, too. Murder on a grand scale is murder nonetheless, and the idea that the only way to punish murder is to create a new offense ("crimes against humanity") that can only be judged by a new, specially empowered, international court tends to undermine traditional notions of justice. Especially repulsive in the Nuremberg affair was the presence among prosecutors and judges of the servants of Joseph Stalin, the only man in the world who could beat the National Socialist defendants in the pursuit of crime.

In succeeding decades, the world witnessed the extraterritorial prosecution of another Nazi, Adolf Eichmann, by the state of Israel, which did not exist when Eichmann's crimes were committed; the extraterritorial prosecution of Manuel Noriega, a Panamanian dictator who made himself politically obnoxious to the President of the United States and was thereupon kidnapped to the United States, convicted of violating the drug laws of the United States, and sentenced to 40 years in prison; and the current attempted extraterritorial prosecution of Augusto Pinochet, a Chilean statesman apprehended in Great Britain for allegedly violating the laws of Spain by his actions in certain Chilean political disputes, many years before.

The latest event on this front is a rumor that the United Nations prosecutor of Milosevic is collecting information about atrocities allegedly committed by the sublimely self-righteous NATO warriors-against-Milosevic. It would be grimly amusing if she wound up indicting everyone.

But no matter who is on the receiving end of such investigations and prosecutions, their effect is to discountenance the idea of real laws and to advance the spurious claims of "international" law.

Strictly speaking, there is no international law, because there is no regularly or traditionally constituted international community that could enact such law. Laws are enacted by local communities and sovereign states; kangaroo courts are erected by chance assemblages like the United Nations. The only authority that such outfits possess is the authority that is given them by the self-interested maneuvers of specific sovereign states, and those are never the states in which the alleged legal offences were committed; if they were, the states in question would try the defendants themselves.

Is the idea of international "justice" merely world government's latest attempt to weasel its way into office? Or is it

really just old-fashioned power politics, the politics of the Conference of Berlin and the other grand conclaves of nineteenth-century imperialism, where "legality" always happened to be on the side of the big battalions?

Whatever! But look at the bright side. If it's legal to prosecute people outside their country for crimes allegedly committed inside it, maybe there's still a chance of bringing O.J. Simpson to justice. Summon him to The Hague!

And if it's legal to prosecute people for crimes committed under international law, why shouldn't it be just as legal to prosecute them for crimes committed under *intertemporal* law? If this principle is accepted, the South will at last have its chance to avenge itself on General Sherman. —SC

Query — A hundred years from now, will the Park Service make people wait in a really long line, or will there be an extra charge to piss on Clinton's grave? —JS

Hootsie Tootsie — Clinton's policy on foreign civil wars is isolationist, unless there is evidence of a hate crime. The conflict between India and Pakistan, both with nuclear arsenals, is just a geographical dispute. We won't intervene in the Chiapas insurrection in Mexico, as that was a war of economics. The Rwanda conflict is just about politics, and it isn't genocide when both sides are African-American (oops, I mean African-African). Besides, I don't think even a talented public speaker like President Clinton is capable of saying, "The Tutsi Hutu War" without snickering a little. It's hard to drum up public support when you're worried you might accidentally say, "Hootsie Tutu," and bust out laughing. —TS

War and trade — China was on the verge of signing an agreement to further open its markets and abide by the rules of the World Trade Organization when the U.S. Air Force put five missiles into the Chinese embassy in Belgrade. Some clerk in the Pentagon had been using old maps. So the story went. We who know our government well put it down as "close enough for Government work." The Chinese, who see America as enormously sophisticated, put it down to a deep and wicked anti-Chinese strategy. When that was followed by the Cox report on Chinese spying, the man-in-the-street in Beijing took that as proof that the U.S. government was out to skewer his country.

Kosovo is not crucial to America's security or national interest. But China is; our interest is to keep China's economy liberalizing. Zhu Rongji, the Chinese leader who came to the United States in April, is China's leading spokesman for the economic liberalization — not, unfortunately, political liberalization, but you take what you can get. Zhu came despite his government's opposition to NATO "hegemonism" in the Balkans. He hoped to sign a WTO deal, but Clinton backed away at the last minute, leaving him empty-handed. U.S. business howled, and Clinton sent a negotiator to Beijing to resurrect the offer. Then came the embassy bombing.

There may still be a deal. But the war has made it much more difficult. It may be that Chinese membership in the WTO, and the continued de-socialization that it implies, is part of the collateral damage of this unconstitutional war. —BR

Ein Reich, ein volk, ein school board — Libertarian Party presidential explorer Jacob "Bumper"

Hornberger's speech at the Washington Libertarian Party convention on June 12 started out in his usual rousing style, with a call for the "widest ambit of human choice." But then it took a turn unusual for a campaign speech. He announced that due to an unexpected conflict of interest between his duties to his Future of Freedom Foundation, and the needs of a presidential campaign, he was dropping out of the race.

Oh sure, there was a certain volume of grumbling at Bumper's un-announcement on this particular night, on the theory it lowered the fundraising gross. (Well, isn't there always some damned thing lowering the gross?)

I wasn't as disappointed as were some. The fact is I don't like being called a Nazi.

During his talk, Bumper argued that libertarians should only contest elections for positions with the power to make and repeal law. Running for and election to regulatory agencies, like planning and zoning boards, school boards, and water commissions, may be more likely to bring victory, but doing so identifies us to the public as "better regulators."

Well, I've invested some energy into helping a candidate contest a school board seat, and I think there are good reasons for libertarians to seek election to such positions. Serving in such positions creates the visibility and experience needed for election as future legislators. And freedom is increased when libertarians in such positions advocate free markets and defend individual rights.

Nor do I think this a merely theoretical argument. Bruce Coe, an LP activist in Kittitas County, actually sits on his county planning commission, and has used his position to influence a number of his county's central institutions. In fact, he has become the mouthpiece, through a local newspaper column, of the county commissioners. Commissioners, I might add, of a county under constant threat from the federal and state government's heavy hand, in the form of growth management and endangered species rehabilitation, which they have fought vigorously. This man is tremendously well-positioned, and abundantly talented, to give the general public an example of the right kind of public servant.

I mentioned this to Bumper that evening. I approached him after the dinner wound down. Bumper, who was stroking his chin and smirking throughout my earnest presentation, looked off into the middle distance and said, "Well I suppose some of the Germans who worked to make concentration camps run better thought they were doing the right thing too . . ."

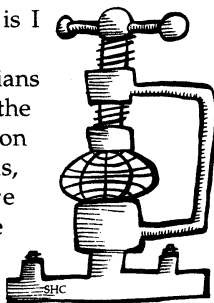
There you have the gospel according to Bumper: libertarians like Bruce Coe are no better than Nazis.

I didn't say anything for a long moment, and admit my memory failed me at that point. I had been stupid. What other response should I have expected from a man whose sole livelihood is obtained through stirring up libertarians in order to shake them down for his foundation? —BB

I'm pro-choice and I can count — For feminists, choice only seems to apply to the region north of the cervix, as most modern feminists oppose legalized prostitution. The woman owns her uterus, but the vagina belongs to the State. As long as the head of the fetus stays inside the cervix you can suck its brain out; once it is on the other, you

will go to jail if you spank it too hard. I myself am pro-choice up to the 57th trimester. I don't believe a fetus is human until he has a job and his own apartment. Imagine how well-behaved teenagers would be, if you could threaten them with a drive to Planned Parenthood. —TS

Invideos comparisons — As America tries to wrap up its hypertechno war against a technologically backward people, the temptation is to compare it to the "Star Wars" prequel, *The Phantom Menace*, in which some sort of federation (a "trade" federation, actually; not exactly NATO) aggresses against the gentle people of the planet of Naboo. But, aside from its technical flash, the film is so poorly made that any such comparison disappoints as much as the movie itself.



Ordinarily George Lucas produces better entertainment than Ted Turner, but not this time around: any day of CNN outshines *The Phantom Menace*. The film's problem is one of simple storytelling. It is well-nigh impossible to identify with any of the characters, in part because the writing gives the actors so little to work with, but mostly because the focus is on the wrong characters. And

though there is a fair amount of decadent politics in the film, the perspective is by no means obvious, or even very coherent, and the motivation for the players is mostly simple-minded, despite the hint that Senator Palpatine is really Darth Sidious, the future evil emperor of the *Star Wars* trilogy.

Contrast this with the motivations and machinations of another current film, *Election*. Reese Witherspoon portrays a go-getter senior high school girl out to win the student body presidency, and Matthew Broderick plays a high school teacher of high repute who nevertheless "crosses the line" of morality. Throw in a lesbian little sister (adopted), a philandering coach (disgraced), a vulnerable divorcée (boinked), a power-mad principal (unprincipled), and an intellectually under-endowed ex-jock (as nice as all get-out) — and a school assembly to end all school assemblies — and you have the best American satire in years.

If one wants to contemplate the characters in America's ongoing tragicomedy, and needs the assistance of popular art, forget *The Phantom Menace* and watch the twisted reality of *Election*, a film that manages to reveal the ambition, vengeance, and desperation at the heart of politics, in high school and after.

And it is more fun to watch than any CNN presentation of Darth Clinton. —TWV

Voting wars — Maybe you missed this: *The Economist* (May 1, 1999) published lists of "this century's greatest" which included Top Ten U.S. News Events and Top Ten Films, with the usual suspects on both lists. Much more interesting are the judges' list and readers' list of the Top Ten Novels of the 20th century: all of Ayn Rand's novels appear, earning four of the ten readers' list slots — the number one and two positions are for *Atlas Shrugged* and *The Fountainhead*, seven and eight for *Anthem* and *We the Living* respectively — but not one Rand title made *The Modern Library's* judges' list of "the best novels (those we should read)."

The same publishers polled readers to produce "a start-

lingly different list. Ayn Rand, incidentally, also figured prominently on a counter-list of the country's silliest books put out on *Slate*, Microsoft's on-line magazine," reports *The Economist*.

More startling to me than Rand's lead was the second-place winner with three novels among the top ten — sit down for this one — L. Ron Hubbard. (You can close your mouth now.) If you've been keeping score, we have only three places for non-Rand, non-Hubbard novels written by all the other authors, living and dead, of this closing century. And the winners are: J. R. R. Tolkien's *The Lord of the Rings* (#4); Harper Lee's *To Kill a Mockingbird* (#5); and George Orwell's *1984* (#6).

I'm usually pleased when Rand ranks high on a "best of" list but the presence, not once but three times, of Hubbard discounts the value of Rand's multiple placements in this particular competition. I guess I should be relieved that this list is limited to works of fiction, because I'd become apologetic if I were to see *Dianetics* rate higher than or even appear on the same list with *The Virtue of Selfishness*.

Who are these readers? What readers' list could The Modern Library folks use to poll for these results? If it reflects an increased affection for science fiction, can fans really prefer Hubbard's to, say, Robert Heinlein's?

Then I discovered that the poll was taken online. Apparently, diehard Objectivists and Scientologists apparently have way, way too much time on their hands. —DP

Mises on Kosovo — In his classic *Liberalism*, Ludwig von Mises defended the right of self-determination for the same reason he defended democracy and limited government: it tends to reduce conflict, which destroys life and property and interferes with the division of labor that allows civilization to progress. Mises argued that four considerations were relevant when considering issues of self-determination.

1. General. "[W]henver the inhabitants of a particular territory, whether it be a single village, a whole district, or a series of adjacent districts, make it known, by a freely conducted plebiscite, that they no longer wish to remain united to the state to which they belong at the time, but wish either

to form an independent state or to attach themselves to some other state, their wishes are to be respected and complied with. This is the only feasible and effective way of preventing revolutions and civil and international wars" (109).

2. Size and Rights Owners "[T]he right of self-determination of which we speak is not the right of self-determination of nations, but rather the right of self-determination of the inhabitants of every territory large enough to form an independent administrative unit" (109).

3. Nationality. "So far as the right of self-determination was given effect at all, and wherever it would have been permitted to take effect, in the nineteenth and twentieth centuries, it led or would have led to the formation of states comprised of a single nationality (i.e., people speaking the same language) and to the dissolution of states composed of several nationalities . . ." (110)

4. Statism. "If a *democratic republic* finds that its existing boundaries, as shaped by the course of history *before the transition to liberalism*, no longer correspond to the political wishes of the people, they must be peacefully changed to conform to the results of a plebiscite expressing the people's will" (108, emphasis added).

So what would Mises say about Kosovo? If people in Kosovo of Albanian descent, who now live (or lived in the recent past) in "a series of adjacent districts," express a wish to attach themselves to Albania by a fair plebiscite, they ought to be allowed to do so. Of course, Serbian Kosovars would have the same right in their districts to remain attached to Yugoslavia. The result could be a checkerboard of Albanian and Yugoslavian areas, some consisting entirely of one ethnic group and some still mixed.

Mises realized that self-determination alone will not end strife if the nationalities involved were illiberal. Tariffs and other barriers would have to be removed if the region were to be economically viable, and the whole problem of land titles would have to be dealt with in a reasonable and just manner. None of this is very likely. From Mises' perspective, the prognosis for peace and prosperity isn't good. —MMS

Victory in Kosovo — "Thus saith the Lord, Hast thou killed, and also taken possession?" (1 Kings 21:19) —SC

Letters, continued from page 4

by the efforts to turn the Colorado shooting into a symbol of America's problems ("Symbols for the Masses," July). Gun control advocates search the hardest for symbolism because they have the biggest ax to grind. The governor of Colorado noted that the killers violated a number of state gun laws when they obtained their weapons. They combined the sociopath's disregard for life with the teenager's natural resourcefulness in skirting adult rules. If they were cunning enough to fool their probation officers, they were certainly capable of dodging an extra gun law or two. But Cox is right: symbolism trumps logic in this debate.

What distinguishes this latest gun control push from those that have come before? The magic words "for the children." Invoke those words on any subject, and reason goes out the window. The school shootings allow lawmakers, the media, and gun control advocates to fight a war on two fronts, since

children are both victims and perpetrators. Nationally televising the funerals confirms the righteousness of the cause and spurs on the crusaders.

This irrational approach to society's problems poses a great risk to liberty. Remember what the last great drive "for the children" brought us: the ritual-abuse scare. During that era, crusaders filled with hysteria and good intentions wrecked hundreds of lives and imprisoned innocent people. Today, hysteria over the school shootings has created a climate in which history could repeat itself. There is good reason to fear that the real "lesson of Littleton" may actually be a very old lesson: that witch-hunting season is always open.

Felecia Barbaro
Brooklyn, N.Y.

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

Send letters to: Liberty, 1018 Water St. Suite 201, Port Townsend, WA 98368. Or use the internet: letterstoeditor@libertysoft.com.

Liberty, States' Rights, and the Most Dangerous Amendment

by Gene Healy

SEC. 1. [N]o State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

—14th Amendment to the U.S. Constitution

Political decentralization and individual liberty: the two are intertwined, but the former doesn't guarantee the latter. As Americans discover every day, the government that's closest to you is often in the best position to put the screws to you. How should libertarian political theory deal with the problem of oppression by local sovereigns? In the American context, this question translates to: What should libertarians think of the Fourteenth Amendment?

It's a question without an easy answer. Classical liberals of good faith have found themselves on either side of the issue. Thus, Lord Acton, following the Confederacy's defeat, wrote to Robert E. Lee: "I saw in States' Rights the only availing check upon the absolutism of the sovereign will . . . Therefore I deemed that you were fighting the battles of our liberty, our progress, and our civilization." But by the late 20th century, libertarians have come full circle on the question of states' rights and the Fourteenth Amendment. Today, the libertarian orthodoxy holds that the Fourteenth Amendment perfected the Framers' design, fulfilling the promise of the Declaration of Independence. Further, the promoters of the new orthodoxy urge that the amendment be given robust application against the states, in order to secure our natural rights to life, liberty and property.

On this question, no one is more orthodox than Roger Pilon, Director of the Cato Institute's Center for Constitutional Studies. In him, Cato has an able advocate,

one who provides a valuable counterweight to a New Right jurisprudence that overvalues majoritarianism and views the judicial branch as the gravest threat to our liberties. Unfortunately, Pilon's case for the Fourteenth Amendment is deeply flawed. His case for the political legitimacy of the amendment requires him to ignore the circumstances of its inception; and his case for the amendment's efficacy as a means of securing individual liberty depends on a Panglossian view of judges and federal supremacy. The defects in Pilon's arguments should prompt libertarians to reexamine the new orthodoxy on the Fourteenth Amendment.

Ratification "at the Point of the Bayonet"

Throughout Roger Pilon's published work, the watchword is "consent." We come out of the state of nature, so the myth runs, the better to secure our natural rights. The government we institute derives its just powers from the consent of the governed. "That, and only that, is the source of their legitimacy," Pilon tells us in *Economic Liberties and the Judiciary*. Though Pilon concedes that unanimous consent is a fiction, he suggests that the Framers did a tolerably good job in requiring broad consent for the adoption of our Constitution and in the procedures for its amendment. In a recent Cato Institute Policy Analysis, "Reviving the Privileges or Immunities Clause," Pilon and coauthor Kimberly C. Shankman write: "the supermajoritarian consent that was required for constitutional ratification and amendment . . . served, as far as practically possible, to legitimately institute government, authorize its powers, and

change those powers." Quite properly, given his emphasis on consent and legitimacy, Pilon has repeatedly excoriated the political branches for arrogating to themselves powers that the people never delegated originally or through Article V's amendment process.

In their *Cato* paper, Pilon and Shankman apply similar scorn to the judicial branch for misinterpreting the Fourteenth Amendment. They recount the story of the 1873 *Slaughterhouse* cases, which "effectively eviscerated" that amendment's Privileges or Immunities Clause. The authors spare no venom in decrying "judicial resistance to popular

The government that's closest to you is often in the best position to put the screws to you.

will," which thwarted "the course that . . . the American people had meant the Court to follow."

But somewhere along the way, the history of the Fourteenth Amendment's adoption has disappeared down a memory hole. When one reviews how it was adopted, it becomes clear why Pilon and Shankman prefer to discuss the amendment in the abstract, antiseptic terms of social contract theory. An "immaculate conception" account of ratification suits their argument better: the real story's a little too dirty for the kids.

We return to 1865. As the legally reconstituted Southern states were busy ratifying the anti-slavery Thirteenth Amendment, the Republican-dominated Congress refused to seat Southern representatives and senators. This allowed the remaining, rump Congress to propose the Fourteenth Amendment, consistent with Article V's requirement of a two-thirds majority for sending a proposed amendment to the states. Never mind that Congress also clearly violated that Article's provision that "no State, without its Consent, shall be deprived of its equal suffrage in the Senate."

Though the Northern states ratified the Fourteenth Amendment, it was decisively rejected by the Southern and border states, failing to secure the vote of three-fourths of the states necessary for ratification under Article V. The Radical Republicans responded with the Reconstruction Act of 1867, which virtually expelled the Southern states from the Union and placed them under martial law. To end military rule, the Southern states were required to ratify the Fourteenth Amendment. As one Republican described the situation: "the people of the South have rejected the constitutional amendment and therefore we will march upon them and force them to adopt it at the point of the bayonet."

President Andrew Johnson saw the Reconstruction Act as "absolute despotism," a "bill of attainder against 9,000,000 people." In his veto message he stated that "such a power ha[d] not been wielded by any Monarch in England for more than five hundred years." Sounding for all the world like Roger Pilon, Johnson asked, "Have we the power to establish and carry into execution a measure like this?" and answered, "Certainly not, if we derive our authority from the Constitution and if we are bound by the limitations which it imposes."

The rump Republican Congress overrode Johnson's veto and enacted statutes that shrank both the Supreme Court's appellate jurisdiction and the Court itself — just in case the judicial branch got any funny ideas of its own about constitutionalism. With a gun to its head, the South ratified, but not before New Jersey and Ohio, aghast at Republican tyranny, rescinded their previous ratifications of the amendment. Even with the fictional consent of the Southern states, the Republicans needed New Jersey and Ohio to put the amendment over the top. No matter; by joint resolution, Congress declared the amendment valid. Thus it — you'll excuse the phrasing — "passed into law."

The squalid history of the Fourteenth Amendment poses serious problems for Roger Pilon. Pilon's critique of the New Deal has always included withering scorn for FDR's extra-constitutional thuggery, exemplified by the infamous court-packing scheme. As Pilon tells the story, FDR muscled the court into approving radical constitutional changes that could be effected only by means of Article V's amendment process. The people never delegated to the federal government the powers it took for itself during the New Deal. But neither did they delegate to the federal government the powers it seized in 1868. Any New Deal aficionado who knows his history is entitled to wonder about Pilon's selective indignation. Does he invoke the principles of consent and legitimacy only against constitutional changes he dislikes?

Practical Effects of the Fourteenth Amendment

Ancient history, you say. The Fourteenth Amendment is in everybody's Pocket Constitution, and it's not going anywhere. Fair enough, but the above account shows that the amendment cannot be justified with a bedtime story about Lockean first principles. If libertarians are to embrace the Fourteenth Amendment, they'll have to look for pragmatic reasons to do so. The argument must be that the amendment has been, and will continue to be, an effective weapon in the struggle for individual liberty. But even here, the case is not nearly as strong as Roger Pilon believes it to be.

What is strong is Pilon's account of the original understanding of the Fourteenth Amendment, and particularly the amendment's "Privileges or Immunities" clause. As he recounts in the *Cato Handbook for the 106th Congress* and elsewhere, the Civil Rights Act of 1866, which the amendment was designed to constitutionalize, gives us a good idea of the kind of privileges and immunities the drafters wanted to secure. The rights that act protected from state infringement were "basic common law rights," such as "the right to make and enforce contracts . . . to purchase, lease, sell, hold, and convey real personal property." As Pilon has it, the clause protects a substantive core of natural rights from state infringement. Thus, *Lochner v. New York*, the much-maligned 1905 case in which the Supreme Court struck down a New York statute setting maximum hours for bakery workers, was closer to the original understanding of the Fourteenth Amendment than much that has come since.*

Properly understood, then, the amendment doesn't give

* Though with the "Privileges or Immunities" clause "effectively eviscerated" the *Lochner* court was forced to rest its decision on the amendment's due process clause, which, as Pilon notes, provided a weaker foundation.

judges "power"; rather, it enlarges the sphere of the judicial "veto," allowing judges to strike down state and local laws that infringe on natural rights. The *Slaughterhouse* majority warned that a broad interpretation of the amendment would make the judiciary "a perpetual censor upon all legislation of the States." To which a good libertarian can answer, "So what?" One could ruffle through most state and municipal codes, tearing out hundreds of pages at random, and leave the law in better shape than one found it. As Pilon argues in a 1993 *Notre Dame Law Review* article, it is the Court's job to be a "perpetual censor," to ensure that legislative enactments "both proceed from the authority granted them and are consistent with rights restraining them." The Fourteenth Amendment merely provides "an additional layer of protection" for rights.

Threats From the Least Dangerous Branch

In practice, the Fourteenth Amendment has often operated as a grant of legislative and executive power to judges. And that power has been used to violate the very rights it was meant to secure.

This is nowhere clearer than in the line of cases thought to represent the Fourteenth Amendment's finest hour: *Brown v. Board of Education* and its progeny. Brown has iconic status on the Left and much of the Right, because many commentators see it as ending *de jure* segregation and furthering the first Justice Harlan's noble ideal of a "color-blind" Constitution.

But this is only part of *Brown's* story. Equality before the law shifted effortlessly into forced equality of outcome in the space of a few short years. State resistance, massive or otherwise, was useless. In *North Carolina Board of Education v. Swann*, the Court struck down a state statute providing that no student would be compelled to attend any school for the purpose of improving racial balance in the schools. In

The people never delegated to the federal government the powers it took for itself during the New Deal. But neither did they delegate to the federal government the powers it seized in 1868.

Washington v. Seattle School District, the Court did the same with a statewide voter initiative preventing mandatory busing for purposes of integration. In *U.S. v. Yonkers*, a federal judge held the Yonkers city government in contempt, ordering it to integrate its schools by building scattersite public housing in predominantly white areas. This line of cases reached its coercive nadir in *Missouri v. Jenkins*, when the Supreme Court held that, to further integration, a federal judge could order a local government to increase property taxes, even though the increase was barred by the state constitution.

"Well, it serves you right for setting up government schools in the first place," say we libertarians. But wait. Faced with a desegregation order in the early '60s, Prince Edward County, Virginia, refused to assess school taxes and instead shut down its public education system. In 1964's

Griffin v. County School Board, the Court ordered Prince Edward County to levy the taxes and reopen its schools. In 1996, when the Court ended male-only admissions at the Virginia Military Institute, one of the obstacles to VMI's privatization was the possibility of a *Griffin*-based challenge from the Justice Department.

Thus, in the wake of *Brown*, federal courts enforcing the Fourteenth Amendment have seized vast coercive powers, state resistance to taxation and social engineering notwithstanding. To what benefit? None, actually. As the editors of a leading — and, it should go without saying,

Any New Deal aficionado who knows his history is entitled to question whether Pilon invokes the principles of consent and legitimacy only against constitutional changes he dislikes.

leftist — constitutional law text admit, there is "no proof . . . that [integration] has aided blacks in any demonstrable fashion." (Stone, Seidman, Sunstein, and Tushnet; *Constitutional Law*, Second Edition; Little, Brown and Co.; 1991, pp. 530–31).

It's true that in recent years, the federal courts have cooled somewhat to desegregation lawsuits. Yet it's also true that, thanks to *Missouri v. Jenkins*, we're no longer protected from taxation by unelected, life-tenured federal judges. The precedent remains on the books, waiting for the next egalitarian *jihad*. In its 1868 Resolution deratifying the Fourteenth Amendment, New Jersey charged that the amendment would work a radical "enlarge[ment] of the judicial power." In fact, New Jersey suspected that the amendment itself was "made vague for the purpose of facilitating encroachment on the lives, liberties, and property of the people." Maybe the Garden State was onto something.

If You Liked the Commerce Power . . .

In addition to the *de facto* grant of legislative and executive power to judges, the Fourteenth Amendment includes a *de jure* grant of power to Congress. Section Five of the amendment reads: "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article." Roger Pilon argues that Congress should routinely invoke Section Five to strike down state violations of individual rights. In the *Cato Handbook for the 105th Congress*, he declares that Congress has "often failed in its responsibility under the Fourteenth Amendment to police the states. Here is an area where federal regulation has been, if anything, too restrained."

It's unlikely that Pilon fully recognizes the implications of this position. In the passage immediately preceding the above, he rails against burgeoning federalization of crimes, which has taken place because of willful misinterpretation of Congress's authority to regulate interstate commerce. But if Congress can step in under the Fourteenth Amendment to secure basic individual rights when states "fail to secure them against private violations," as Pilon assures us

Congress can, then Pilon has opened the door to a vast federal power. Say goodbye to the tentative restriction of federal authority provided when the Court struck down the Gun Free School Zones Act in *U.S. v. Lopez*. Does carjacking violate our rights to liberty and property? There's your authority for the Federal Carjacking Statute. Do outlier states provide women with insufficient protection against domestic abuse? Quite possibly, so make way for the Violence Against Women Act.* If you like the "substantial effects" test for invocation of the Commerce Power, then wait until you see what Congress can do with matters that "substantially affect" liberty.

I've spent the past three years in law school surrounded by future federal judges. Here Roger Pilon's favored notion of natural rights has the intellectual status of phrenology and creation science.

In the midst of the recent furor over black church burnings, Congress passed the Church Arson Prevention Act. In his *Cato Handbook* chapter and a 1996 *Washington Post* op-ed, Pilon chides Congress for relying on the Commerce Clause in enacting the anti-arson statute. Instead, he tells us, Congress should have invoked its authority under Section Five of the Fourteenth Amendment. "If the facts had warranted it," he writes, Congress would have had "ample authority" under Section Five to pass the Church Arson Prevention Act.

Reading between the lines, I surmise that he doubts that the facts warranted it. Indeed, there's every reason to believe that they didn't, as research by Michael Fumento and others later suggested. But we operate with a real-world Congress, susceptible to political pressure, and a real-world judiciary reluctant to make what it sees as political judgments. If the only check against federalization of crime is to be found in the judiciary's willingness to overturn congressional findings of fact, then that's no check at all.

To go before Congress and the readership of the *Washington Post* and offer up an underused federal power is to stride onto enemy turf and proclaim, "Forget about the pipe you've been beating us with. Try this chain." The logic of public choice applies to Section Five as well as it does to any other enumerated power. The constituency for common law liberties is broad and diffuse; the constituencies for federal coercion are discrete, insular, and concentrated. They'll win the fight.

They're already winning. Consider what Congress actually does with Section Five of the Fourteenth Amendment.

* In fact, the Violence Against Women Act (VAWA) is based in part on just such a theory of Congress's power under Section Five. Several district courts have upheld the statute. But on March 5, the Fourth Circuit Court of Appeals emphatically rejected VAWA, and with it the theory that Congress can use the Fourteenth Amendment to federalize crimes when, as Pilon puts it, "state measures prove inadequate." See *Brzonkala v. Virginia Polytechnic*, 1999 WL 111891, pages 40-55.

That provision is most often invoked in the service of modern notions of equality, providing private rights of action against discrimination. Among the statutes upheld under Section Five are the speech-restrictive Freedom of Access to (Abortion) Clinic Entrances Act, the Americans with Disabilities Act, the sex discrimination provisions of Title IX of the Civil Rights Act, and the Age Discrimination in Employment Act. With regard to the latter three, Section Five allows Congress to abrogate state governments' Eleventh Amendment immunity from suit in federal courts. Congress and the courts have used Section Five to allow extortionate lawsuits against state governments, agencies, and schools.

It's true that Congress generally does not invoke Section Five when it regulates private individuals. This is the case for two reasons:

- 1) Congress already has the power to do almost anything it wants under current Commerce Clause jurisprudence; and
- 2) current Section Five jurisprudence limits Congress to regulating "state action."

But this can change. The "state action" doctrine has proved a rather porous barrier to Congress's power to regulate private actors. The first Justice Harlan, whom Pilon and Shankman view as some kind of Lockean fellow traveller, opposed the doctrine as an unreasonable limitation on Congress's power to regulate businesspeople; so too did six members of the Warren Court at one point in the 1960s. Though the state action doctrine has remained nominally intact, the Court has found "state action" in situations such as enforcement of private, racially restrictive covenants; enforcement of racially neutral trespass statutes against lunch counter sit-ins; and racial discrimination by private businessmen leasing property from the state. The doctrine is

Pilon sounds positively Lennonist: "Imagine all the judges / Applyin' Higher Law . . ."

eminently capable of giving way to a general regulatory power. If the Supreme Court gets serious about restraining congressional abuses of the Commerce Power, look for Congress to use Section Five to reenact and extend modern antidiscrimination laws. And look for the Court to cave.

Pilon recognizes that the Fourteenth Amendment carries with it a potential for abuse; but his solution to abuses is profoundly unsatisfying. In recent Congressional testimony, he stated that "the Fourteenth Amendment has itself been misused, both by Congress and by the courts. But that is no reason to ignore it. Rather, it is a reason to correct the misuses." According to Pilon, the answer to bad judging is better judges and better judging. To get where we want to go, we need to appoint judges who understand the Constitution and "the classical theory of rights" that stands behind it. Judges need to get in touch with the "Higher Law background" of American constitutionalism.

Well, I've spent the past three years in law school surrounded by future federal judges. Here a passion for leveling infects the classroom discussion, and the idea of natural

rights has the intellectual status of phrenology and creation science. Students see in the Fourteenth Amendment an irresistible engine for reshaping society along egalitarian lines. They do not care what the amendment actually means. In this context, Pilon's solution sounds positively Lennonist: "Imagine all the judges/Applyin' Higher Law. . ."

Dreams and Nightmares

I may say that Roger Pilon's a dreamer, but I don't have a more practical answer. Nor have I been entirely fair to the Fourteenth Amendment. In the areas of free speech and criminal procedure, for example, the amendment has been the source of some of the Court's proudest moments, some of the greatest vindications of liberty in American constitutional law. Given a regime of federal supremacy, perhaps the Fourteenth Amendment can help us check local tyranny in some areas.

But libertarians, of all people, should recognize that a Congress and a Court powerful enough to give us everything we want are powerful enough to take it all away. Individual liberty competes with the mirage of social justice in the hearts and minds of the governing elite. The Fourteenth Amendment can further the forcible enactment of either vision.

Libertarians are reluctant to embrace "states' rights," an admittedly unfortunate term. But the independence of the states once served as a check on coercive social experimentation. From this perspective, Justice Brandeis's rationale for federalism, that individual states can serve as "laboratories of democracy," gets it precisely backwards. The point of

decentralization is that the smaller the laboratory, the easier it is for us rats to escape the Skinner Box.

That battle was perhaps lost at Appomattox, in what Roger Pilon grotesquely mischaracterizes as a "war to secure liberty." I don't expect Pilon to consign himself to irrelevancy by advocating the dissolution of the Union. But I would like him to temper his fervor for the Fourteenth Amendment with a recognition of the difficulties posed by federal supremacy. And I'd like libertarian followers of the new orthodoxy to consider whether Pilon's idea, that Congress and the Court can serve as guarantors of our liberty, amounts to the fond hope that the wolf at our door can be housebroken.

Our common goal is the night watchman state. If ever again we approach that ideal, will it be with the help of a federal government that is the benevolent master of all it surveys? Or will we get there by way of radical decentralization with little or no federal oversight? These may be loaded questions, but they ought at least to be seriously considered. It's my view that if we can ever rid ourselves of federal supremacy — of what Lord Acton called "the absolutism of the sovereign will" — losing the Fourteenth Amendment will be no sacrifice at all.

If the dream of independent states seems absurdly unrealistic, then consider a nightmare. Consider Professor Catharine A. MacKinnon's Fourteenth Amendment. In her book *Only Words*, MacKinnon tells us that the First and the Fourteenth Amendments conflict. She writes that "the Reconstruction Amendments . . . move[d] the ground under

continued on page 24

TWO REVOLUTIONARY NEW NOVELS FROM TWO AWARD-WINNING AUTHORS

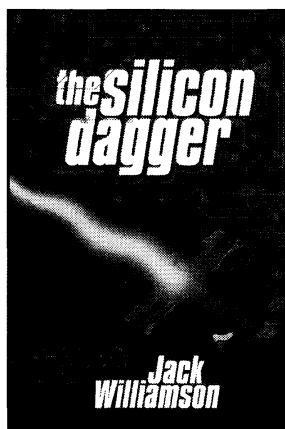
IN 150 YEARS, NO ONE HAS
ATTEMPTED TO DECLARE
SOVEREIGNTY FROM THE
UNITED STATES, BUT NOW A
SMALL AMERICAN TOWN DOES
THE UNTHINKABLE . . .

THE SILICON DAGGER

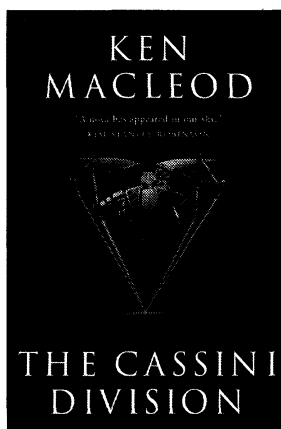
JACK WILLIAMSON

"I have no hesitation in placing
Jack Williamson on a plane
with two other American
giants, Isaac Asimov and
Robert Heinlein."

—Arthur C. Clarke



**THE SILICON
DAGGER**



**THE CASSINI
DIVISION**

TWO-TIME PROMETHEUS
AWARD-WINNING AUTHOR KEN
MACLEOD MAKES HIS FIRST U.S.
LITERARY APPEARANCE WITH THE
HIGHLY ACCLAIMED NOVEL . . .

THE CASSINI DIVISION

KEN MACLEOD

"A brilliant novel of ideas, frequently
funny, always ingenious.
Ken MacLeod brings dramatic
life to some of the core issues of
technology and humanity."

—Vernor Vinge



Now available in hardcover from Tor Books

Visit us at www.tor.com

Why Clinton Bombed Yugoslavia

by David Ramsay Steele

If any town should engage in Rebellion or Mutiny, fall into violent Factions, or refuse to pay the usual Tribute; the King hath two Methods of reducing them to Obedience. The first and the mildest Course is by keeping the Island hovering over such a Town, and the Lands about it; whereby he can deprive them of the Benefit of the Sun and the Rain, and consequently afflict the inhabitants with Death and Diseases. And if the Crime deserve it, they are at the same time pelted from above with great Stones, against which they have no Defence, but by creeping into Cellars or Caves, while the Roofs of their Houses are beaten to Pieces. But if they still continue obstinate, or offer to raise Insurrections; he proceeds to the last Remedy, by letting the Island drop directly upon their Heads, which makes a universal Destruction both of Houses and Men.

Jonathan Swift, "The Flying Island of Laputa," *Gulliver's Travels*, Voyage III

Since you're, like, the President and stuff, can you, like, set a country on fire, . . . and then, fly over in a helicopter and say, "I am the President of the most powerful nation on earth. You must bow down before me"? Uh-huh-huh, uh-huh-huh, uh-huh-huh, uh-huh-huh . . .

Butt-Head, in *Beavis and Butt-Head*

On March 24th, 1999, the NATO alliance, led by the United States, began bombing Yugoslavia. They bombed every day, with steadily increasing numbers of planes and escalating destructive power of bombs. The bombing was finally halted after 78 days, with an agreement for withdrawal of Yugoslav troops from Kosovo, to be replaced by a mixed force of NATO and Russian troops under UN auspices.

The bombing of Yugoslavia was, overwhelmingly, of specifically civilian targets: homes, roads, farms, factories, hospitals, bridges, churches, monasteries, columns of refugees, TV stations, office buildings. The bombing was not intended to maximize civilian deaths, but neither was it intended to minimize them. The aim of the bombing was to destroy civilian installations on which people's lives and comfort depended, killing a few thousand random civilians for good measure, and thus weakening the will of the population to resist, so that they would submit to NATO occupation.

On paper, at least, NATO failed to achieve its precise objectives, and had to settle for what it could have achieved without bombing. At Rambouillet, NATO had insisted upon NATO occupation of the whole of Yugoslavia. This has not been obtained, and seems to be off the table for the moment.

NATO had demanded occupation of Kosovo, followed by a referendum after three years. Given other provisions encouraging the racist Albanians in the KLA to terrorize the rest of the population of Kosovo (Serbs, Gypsies, Turks, Muslim Slavs, and non-racist Albanians), this was, as everyone acknowledged, tantamount to guaranteeing the separation of Kosovo from Serbia after three years.

Presumably then there would have been a two-fronted war, with the KLA, armed and funded by NATO, subjugating a reluctant population of Kosovo Albanians (recently given the

picturesque name of "Kosovars" by NATO), and also fighting the government of Albania, in order to unify Kosovo with Albania under KLA control. Whether NATO would have followed through with this, or whether they would then have turned upon the Albanians as the new Balkan bogeymen is a matter for speculation. NATO has dropped the three-year timetable for Kosovo's separation from Yugoslavia.

NATO bombed Yugoslavia, in contravention of its own charter, to set the seal on its "new strategic concept": that NATO can bomb any country which is doing bad things domestically, even though it has neither attacked nor threatened any NATO member, and that NATO can decide what to do entirely on its own, without consulting the UN. The Yugoslavs had always agreed to a UN force in Kosovo, but had said no to NATO.

While the Yugoslavs gave in by accepting an occupation force with a large NATO element, NATO agreed to submit its occupation of Kosovo to UN approval. By giving that approval, the UN did appear to accept the legality of bombing civilians in a country which had attacked no one. But the hoped-for precedent for a completely unprovoked NATO attack upon a country without any UN involvement was not set. This is a small matter, but no doubt one that irritates the NATO leadership, which had planned to demonstrate the total obsolescence of the UN, announcing itself as the new government of the world.

The Media War

The mainstream media loyally supported NATO's war at almost every turn. From the *New York Times* to CNN, they repeated NATO's stories, even when the most cursory attempt to check them out would have raised serious questions.

Following the bombing of Kosovo by NATO, hundreds of thousands of refugees fled Kosovo for Albania, Macedonia, Montenegro, Bosnia, and the rest of Serbia. The refugees who fled north within Serbia, including the many thousands of ethnic Albanians who arrived in Belgrade, were simply ignored. The ordinary U.S. TV viewer was never told about them, or about the refugees arriving in Bosnia. Those who fled to Montenegro were mentioned once or twice. Only Albanians who fled to Albania or Macedonia were covered. (Serbian refugees were turned away at the Macedonian border, while other non-Albanians like the Gypsies were liable to be brutalized by Albanians in the camps.) As if determined to insult the intelligence of their readers and viewers, the journalists purveyed the theory that none of the ethnic Albanian refugees had left because of the NATO bombardment or because of the war on the ground between the KLA and the Yugoslavs, but solely because of a campaign of "ethnic cleansing" ordered by the Yugoslavian government.

Coincidentally, as the bombing of Yugoslavia drew to a close, there was comparatively low-level warfare between Indians and Pakistanis in Kashmir. The press reported that large areas had been depopulated because local people had fled from the fighting. In this case there was no need to conjure up ethnic cleansing to explain why people would flee a war zone. As in a Keanu Reeves sci-fi movie, there was an almost imperceptible little click, and the world reverted to

that parallel universe in which people do leave their homes when armies are shooting at each other, or bombs falling, nearby. The wide-awake reader instantly knows what to make of this uncanny phenomenon: NATO has no immediate plans to bomb India.

The Fantasy World

M. L. Rantala first pointed out that the explosive growth of TV coverage of criminal cases has not provided jobs for criminalists or other forensics experts: they are almost never represented on the TV "true crime" talk shows, which are almost entirely reserved for lawyers, who often don't under-

NATO bombed Yugoslavia to set the seal on its "new strategic concept": that NATO can bomb any country which is doing bad things domestically, even though it has neither attacked nor threatened any NATO member, and that NATO can decide what to do entirely on its own, without consulting the UN.

stand the evidence, but do understand what can be made to play before a jury.

In similar fashion, Balkans experts were all but entirely absent from TV and even newspaper coverage of Clinton's War. Complete ignorance of Balkan affairs was almost a qualification for being heard, starting with Clinton himself, who had kicked off the whole show by patiently explaining that Danzig, where World War II had started, was in the Balkans.

There are hundreds of academics in the NATO countries who devote their lives to studying the Balkans. They were conspicuous by their almost total absence. The one notable exception was Robert Hayden. Presumably he was picked out for privileged treatment because of his close links with Milan Panic, the most pro-Western and anti-Milosevic of recent leading Yugoslav political figures. Someone must have considered him safe.

In the early weeks of the war, Hayden made many TV appearances, and every time he effectively shot NATO's case full of holes. He knew something about the facts. Then, someone at the networks realized the damage he was doing to the war effort, and he stopped being invited.

A completely fabricated fairyland was depicted for viewers and readers, a fantasy construction in which "Kosovars" were "ethnically cleansed" by the "dictator" and "war criminal" Milosevic in something called "Operation Horseshoe." And when those "Kosovars" who tried to get back home were bombed by NATO, this was presented as an "accident."

The Outcome

Undeniably, the U.S. achieved a kind of victory in Yugoslavia. Whether the cost was too high depends upon precisely whose interests are consulted. Kosovo has been occupied by NATO, thus guaranteeing a daily trickle of new

"Serb atrocities" (this is the Clinton signature, which may become a universal feature of all politics: governing is always subordinate to campaigning, and campaigning never stops). It is too early to say whether the Russian presence in Kosovo is a trivial diversion, the entree to World War III, or something in between (such as a forerunner of partition).

The NATO victory was a victory for ethnic cleansing. This is true in at least two different senses:

1. The Albanians gained Kosovo because they practiced ethnic cleansing, and the Yugoslavs lost Kosovo because they did not practice ethnic cleansing (or if it turns out that they did, because it was "far too little, far too late"). For a

The aim of the bombing was to destroy civilian installations on which people's lives and comfort depended, killing a few thousand random civilians for good measure, and thus weakening the will of the population to resist, so that they would submit to NATO occupation.

hundred years, Albanians have been moving into Kosovo, and encouraging non-Albanians to move out. Under the Tito regime the Albanians were given extraordinary privileges in Kosovo, and used their grip on political power to persecute the non-Albanians. Even under Milosevic, who worked to amend the Yugoslav constitution and have those privileges revoked, the Albanians in Kosovo continued to expand and to oust the non-Albanians.

To a Serbian nationalist, it may appear that Milosevic failed to rectify the ethnic balance in Kosovo because of his fatal commitment to the vision of a multi-ethnic Yugoslavia with equitable treatment for all ethnic groups. At any rate, the actual ethnic cleansing of non-Albanians by Albanians set the stage for the bombing, which would complete the ethnic cleansing by eliminating all non-Albanians, along with all Albanians who might stand up to the KLA.

2. People all over the world were watching, and they could reasonably conclude that, although NATO's motives in bombing the civilians of any country are capricious and whimsical, there is one way to make oneself a less inviting target for bombing: do not permit the continued existence of any minority ethnic group, or at least, not one which forms a regional majority. You can be sure that the Russians are revising their plans to deal with Chechens and the Chinese their plans to deal with Tibetans: at the first sign of insurrection, these groups will be completely crushed in a matter of days, with considerable collateral damage. There will be no drawn-out campaigns which would invite the attentions of "the international community," the grandiose name given to themselves by the rulers of those countries who represent ten percent of the world's population and possess 90 percent of the world's killing power.

Clinton's War will be a tremendous boost to armaments and war preparations all over the world. Everyone can see that this war, although devastating for the Yugoslavs, took longer than Clinton expected and did not achieve quite what

he had intended. The lesson is that mighty NATO, even with its present, historically ephemeral, overwhelming dominance, can be resisted. And if it can be resisted, with appreciable costs imposed upon the aggressor, its murderous attacks can in some measure be deterred.

Clinton's War will stimulate the formation of international defense alliances against NATO. At first there will be some trepidation, as the first moves to make such alliances could easily lead to their initiators' being bombed. But the long-term logic will prove irresistible. Great powers like the present United States usually pick on small countries whom they judge can be cheaply subdued. If from the beginning there had been a Russian garrison in Kosovo, Clinton might have decided it would have been more prudent to work up a war in Madagascar or Bhutan, or intervene in some existing conflict such as those in Sierra Leone or Kashmir.

It's true, of course, that the U.S. possesses the technological means to simply exterminate the entire population of any country. Clinton, Albright, and Blair clearly wanted to move somewhat more in that direction, and would certainly have done so, except for the astonishing lack of public support for Clinton's War in the U.S. and Europe. Just recall that it took eight years of fighting in Vietnam before the polls showed a majority not supporting the war. But instead of starting at 80 or 90 percent approval, Clinton's War started at around 60 percent, and steadily eroded, so that another month or two would have seen a clear majority for unconditional pulling out. Even more remarkably, as we go to press, "victory" has not greatly perked up the pro-war polling numbers. Dare we even hope that, as the NATO occupation of Kosovo unfolds,

Clinton's War will be a tremendous boost to armaments and war preparations all over the world.

those who believe the war to have been a crime, a blunder, or both, will continue to gain ground?

Some of the opposition to Clinton's War arose because it was plainly a bombing campaign against civilian targets, so that more widespread slaughter of civilians would presumably have hastened the erosion of public support for the war.

Here, one of those delightful unintended consequences of human action came into play. According to Steven Erlanger, *New York Times* reporter in Kosovo, some Yugoslav government official approved the expulsion of all those journalists hailing from the countries participating in the bombing. But some of these journalists' cars ran out of gas. So some other Yugoslav bureaucrat, refusing to authorize the precious gasoline, determined that these journalists would have to stay. Every day their dispatches, especially those of Paul Watson for the *Los Angeles Times*, refuted NATO lies.

The upshot is that, given information coming out of the victim country, given the effectiveness of the victim country's army, and given the poll-driven quality of politics in the NATO countries, the U.S. President is somewhat constrained in his mass-murdering spree. (Since the U.S. is still regularly bombing civilian targets in Iraq, with scarcely a

murmur in the U.S. media, one of the shrewdest moves the Iraqi government could make would be to facilitate the admission of foreign journalists.)

As long as there are a sizeable number of people in the U.S. who disapprove of the slaughter of innocent civilians, the total extermination option will in most cases be ruled out, and not even closely approached. In that case, the fighting capability of an army will be of enormous importance even in the case of a tiny country like Yugoslavia.

As the Yugoslav army withdrew from Kosovo in June, it became apparent what those of us following the situation had been saying all along: the Yugoslav military has barely been scratched, even in Kosovo. The NATO bombardment was almost entirely directed against civilian targets, partly because military targets could not be found. NATO did not dare to invade Yugoslavia or even to fly low over Yugoslavia; it could only "degrade" the lives of the civilian population by bombing from a great height. NATO's true *métier* is to kill children from a distance, and avoid any fighting. That is NATO's strength, but also something of a constraint upon the exercise of that strength.

The Usual Reasons Don't Apply

Why did the United States do this? It certainly was a United States decision, made by President Clinton. Some NATO countries were more enthusiastic than others, some were dragged along reluctantly, some refused to participate at all. If most NATO countries had been solidly against it, they could no doubt have stopped it, but only Clinton could have ordered this operation.

The customarily-proffered reasons for going to war did not apply. The country attacked was not in any way even marginally a threat to America's "national interest." Yugoslavia is a small, poor country of ten million people. (Yugoslavia today is smaller than Cuba, both in population and in land area.) Yugoslavia had not attacked any other country, nor threatened to do so. Yugoslavia had, in fact, recently lost about half of its territory to secessionist movements, and in return for accepting the exclusion of Bosnian Serb territory from Yugoslavia, had been solemnly guaranteed by the U.S. that no further secessions would be countenanced. Yugoslavia under Milosevic has been punctiliously attentive to all international commitments, and hung slavishly upon U.S. desires, as when Yugoslav troops were pulled out of Kosovo in October 1998, because of the threat of U.S. bombing.

Even if all NATO's allegations about treatment of Albanians in Kosovo prior to March 24th were correct, this would, sadly, have been a mild example of ethnic persecution, less severe than dozens of cases around the world, and far less severe, for example, than the repression of Kurds by NATO member Turkey. Kosovo Albanians had their own radio and TV stations, their own newspapers, their own schools. They could say what they wanted and organize freely. The border with Albania was virtually open, and a high percentage of Kosovo residents were illegal immigrants from Albania, refugees from the extreme poverty and social breakdown in that country. What the Kurds in Turkey would give for the conditions of the Kosovo Albanians before March 24th, 1999!

Many critics of NATO pointed out that far worse cases of ethnic persecution prevailed in dozens of countries. The NATO answer was that just because ten murderers get away with it, that's no reason why one murderer should not be apprehended. Whatever the merits of that argument as *justifying* Clinton's War, it does not *explain* it. Clinton knew perfectly well that he was attacking a democratic country with (in recent years) a comparatively good human rights record.

The Actual Reasons

Putting aside all sentiment and value judgments, what were the actual reasons for Clinton's War? Why did Clinton do it?

I have provisionally arrived at an eclectic, composite view. My view allows for both "personal" and "strategic" reasons, "improvised" and "conspiratorial" causes. Mark

NATO's true métier is to kill children from a distance, and avoid any fighting. That is NATO's strength, but also something of a constraint upon the exercise of that strength.

Rothschild has made out a very plausible case for Clinton's War as the implementation of NATO's new strategic concept. While Rothschild's argument gives an important part of the truth, I think it is too rigidly determinist.

For example, his insistence that the bombing of the Chinese embassy must have been a deliberate part of the implementation of the strategic concept outruns the evidence. I don't rule out the possibility that this bombing was indeed deliberate, and a formidable case has been made for this by Jared Israel. But when all is said and done, what this amounts to is (1) that, as a "blunder," the embassy bombing was too outrageously stupid to be believable (in case you're wondering, any "old maps" would have shown this location to be open land with no buildings), and (2) the embassy bombing can be neatly fitted into the pursuit of the NATO strategic concept.

I maintain, however, that (1) the most extraordinary blunders do indeed occur, and are statistically inevitable in such a complex and messy operation as "Allied Force"; and (2) many imaginable events, most of which did not happen, could just as easily be neatly fitted into this or some other grand design. Furthermore, it was necessary to maintain some degree of popular support in the U.S. and Europe for the war, and the embassy bombing seriously risked undermining that important NATO goal.

History Is Filled With Blunders

As we look back at history, especially after all the documents have been declassified and the memoirs published, we find miscalculation, misconception, miscommunication, intrusion of personal idiosyncracies, ineptitude, and bad guesses.

Since that is what we find in the past, we now confront three possibilities: (1) The "grand design" was, in earlier periods, so deeply concealed that it can't be discerned amid

the apparent mistakes, even in hindsight; (2) International relations used to be full of mistakes, but just recently have been utterly transformed, and are now effectively subordinated to a grand design; (3) Now, as then, international politics is replete with mistakes. To me, the first two possibilities each appear implausible. Furthermore, many quite recent events, such as the U.S. intervention in Somalia, are very difficult to make sense of, except as comprising a large element of incompetence and bungling.

The arguments of the strategic determinists rather mirror those of the Clinton defenders, after Clinton had bombed a pharmaceuticals factory in Khartoum. The defenders said

Having lost its Soviet enemy, NATO had to justify its continuation by inventing a new strategic concept. This concept is, implicitly, a new world empire, with a new world religion.

that this couldn't be a case of "wag the dog," since the Secretary of Defense and other respected politicians had endorsed Clinton's decision. The common assumption is the notion that the U.S. president is constrained to a single unique choice. But surely the U.S. president generally has a number of options, any one of which would receive the support of said respected politicians.

Like any executive, the president is hired to make decisions. Naturally, some decisions would be considered so outrageous they would lead to embarrassing resignations, or worse. But the president always has a range of options. Without lengthy preparations, Clinton would have found it harder to make a case to bomb, say, New Zealand. Milosevic and the Serbs have been demonized remorselessly since 1991 and even earlier. But Clinton did have a choice: he did not have to choose to bomb, and he chose to bomb.

The war decision was made earlier than March of 1999. The U.S. presented Yugoslavia with an ultimatum that the Yugoslavs could only reject. This was presumably deliberate on the part of the U.S. negotiating team. Far from this being anything to do with Slobodan Milosevic, if Milosevic had accepted Rambouillet, he would have swiftly been replaced, and the U.S. negotiators at Rambouillet must have known this. Whatever they may say in public, they are actually acquainted with the fact that Yugoslavia is a democratic state, and that no leader could survive the giving away of Kosovo, much less the whole of Yugoslavia, without a fight.

Either Clinton was behind this aggressive approach from the beginning, or he capitalized on it. His unusually corrupt presidency was endangered by the Chinese espionage/Democratic fund-raising scandal, and he needed something to take that scandal off the front pages. The only possibility was a war, particularly appropriate because the espionage scandal was all about the weakening of America's military. And it worked. This is conjecture, but so is any alternative, and this one seems the most reasonable. Quite possibly, Clinton would not have started the bombing on March 24th if he could have foreseen how things would look one month later. But, from the standpoint of the Arkansas Rapist, all's

well that ends well.

I don't know whether Clinton all along intended to produce hundreds of thousands of refugees by his bombing, a "humanitarian crisis" which could then be blamed on "Serb atrocities," or whether he stumbled into the humanitarian crisis, along with the military defeat of the KLA by the Yugoslavs, and then hit upon this expedient excuse for the humanitarian crisis he had created. I'm inclined to the latter view, for who would be confident in advance that enough people would be so gullible as to swallow such a preposterous piece of nonsense?

In making his decision, Clinton must have consulted public opinion and policy wonk opinion. Both Balkans experts and military leaders were overwhelmingly against the bombing, but a powerful movement of anti-Serbian bigotry had been developed in wonk and journalistic circles.

To some extent, key advisors in NATO may have believed some of their own propaganda. Just as anti-Semites may spread stories they know to be false, because they genuinely believe Jews to be evil, so anti-Serbians do the same thing. The faked atrocity at Racak was originally intended as NATO's justification for bombing. When this "atrocity" was called into question too soon, all mention of Racak was dropped by the Clinton administration. But probably the cumulative effect of bigoted anti-Serbian propaganda did convince some people whose wholehearted support Clinton could count on, thereby making his decision to bomb more likely.

The Strategic Background

Clinton had his own motives for bombing the civilians of Yugoslavia, and presumably other responsible agents, like

The new world religion is the belief-system of politically correct social workers. It is essentially ignorant, irrational, and vindictive. People must behave nicely or they will be bombed.

Madeleine Albright, had similar motives of personal advantage or prejudice for facilitating this decision. The fact remains that Clinton bombed Yugoslavia, not New Zealand. A climate of opinion did exist, in both policy wonk and journalistic circles, favoring a war against Yugoslavia. In his 1992 presidential campaign, Clinton berated George Bush for being too soft on Milosevic and too reluctant to intervene in the Balkans. Margaret Thatcher used to talk like this, too, which is sufficient to account for Blair's bellicosity.

Any war requires two kinds of preparation: both general public opinion and the opinion of Washington policy wonks have to be cultivated. Neither of these is very difficult, but the latter is more important and takes more time. Whereas the general public need a bad guy, the wonks need a strategic perspective.

When the Soviet Union fell, and began to dismantle its military might, there was one remaining superpower. NATO had been the way in which the U.S. guaranteed Europe against being overrun by Soviet Russia. This had the incident-

Have you seen what people are saying about this book at Amazon.com?

“This novel...is a fresh and exciting look at what a philosophically grounded libertarian society might look like. Gulbraa thoroughly fleshes out the cultural and artistic life of this civilization, to a depth that no other libertarian novelist has ever done, and in so doing, transcends that genre and vaults into the canon of Romantic literature. The culture of the Mall Masters is a highly evolved and robust example of what is possible to humanity, full of exalted celebration, of mind-swelling passion, and fantastic prosperity. If you stepped into the world of *Atlas Shrugged* and zoomed forward a century or two, it might approximate Gulbraa’s creation.”

—Joe Duarte

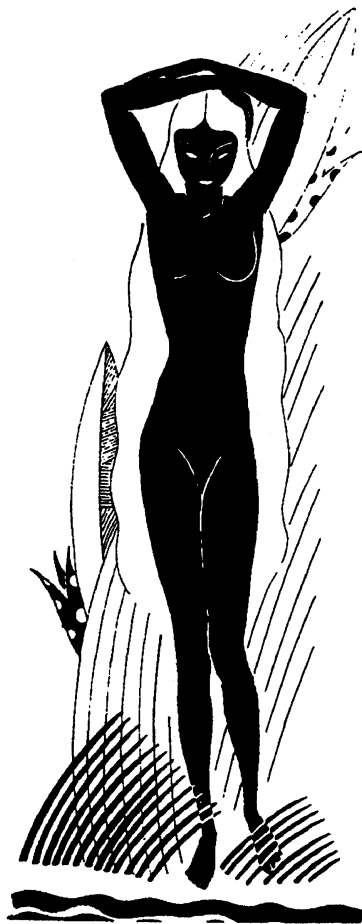
Readers all over the country are discovering the stylized and idealized world David Gulbraa has created. Here is reason and freedom unleashed to create a culture of man-worship. Find out what all the excitement is about! Find it at Amazon.com!

ISBN 1891021028, \$29.95, 6 X 9 trade paperback, 419 pages.

Direct orders, add \$4 shipping, plus 8.25% CA sales tax. Send orders to:

Radical Romantic Press
PO Box 66693
Los Angeles CA 90066

TALES OF THE MALL MASTERS



A novel by
David Gulbraa

tal advantage for Europe that the European countries could pursue political integration and military co-operation without being concerned about the military dominance of the bigger European nations, especially Germany.

According to Rothschild, the transition is now slowly being made to a European military force independent of the U.S., and NATO's bombing of Yugoslavia is part of the concomitant strategic game. Britain's posture becomes explicable as a reluctance to acknowledge that it is an outpost of the new German empire. This reading of the situation does explain a lot, but it leaves me puzzled as to why the continental European powers did not simply veto Clinton's war, forcing it to be called off or to become a more risky non-NATO, U.S.-British enterprise. The Germans must know that they do not need to fear a renewed Russian expansion for many years at least, and by the time that contingency arises, Germany, not the U.S., will have the decisive say in controlling Europe's armed forces.

A New Empire and a New Religion

When there are two countervailing military superpowers holding each other in check, and one of these disappears, what will the survivor do? It can essentially scale back, disarm, and release a "peace dividend," or it can move forward into the power vacuum, to construct a world empire.

Once the question is posed in these simple terms, there is a kind of quasi-inevitability about the second option. Government agencies do not recommend their own reduction, much less dissolution. An entire bureaucracy does not readily countenance its own redundancy. The interests of these people make them amenable to the notion of finding a new role, a new strategic concept, to replace the older one which now has no relevance.

When Rome began to conquer the surrounding cities of Italy, the Romans presumably did not foresee that their descendants would rule everything from Britain to Egypt. But this outcome was in a sense implicit in their situation and in their characteristic response to their neighbors. There can be a "logic of the situation," which exists whether anyone recognizes it or not. There is a similar thrust in NATO's

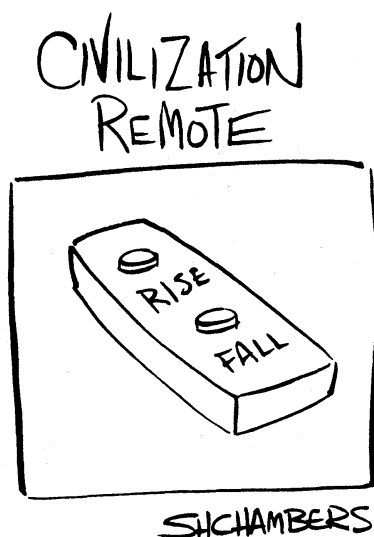
pursuit of a new world order, with the U.S. President as the ultimate arbiter of right and wrong, able to bomb any country with impunity.

Having lost its Soviet enemy, NATO had to justify its continuation by inventing a new strategic concept. This concept is, implicitly, a new world empire, with a new world religion. The new religion is involuntary therapy. The War on Drugs, a domestic war to modify people's behavior, a metaphor derived from international conflict, becomes in its turn the metaphor for future international conflicts. Perhaps in time the metaphors will converge, and the reasons for bombing will themselves be drug-related.

Just as domestic wars on drugs, gambling, racketeering, pornography, satanic ritual abuse, and religious "cults" lead to the overthrow of the rule of law, with its protections for the rights of individuals, so the new NATO strategic concept dispenses with such outmoded concepts as "sovereignty," "defense," and "aggression." It is enough to bomb a country's civilian population if its leader is considered a bad man, for example. The fact that the leader of NATO is in sober truth a perjurer, a rapist, a psychopath, and a mass murderer, is of no consequence, since in bombing people whose governments are doing bad things, his intentions are good, and he therefore becomes, in sacramental terms, a consecrated vessel of righteousness.

The new world religion is the belief-system of politically correct social workers. It is essentially ignorant, irrational, and vindictive. People must behave nicely or they will be bombed. What constitutes nice behavior changes with the winds of politically correct fashion, and whether people are behaving nicely is not, as a factual matter, determined with any great exactitude, as can be seen from the thirst to accept allegations of "Serb atrocities" on the flimsiest of evidence. Behind a smokescreen of therapeutic cant, there is the vicious demonization of human populations classified as legitimate targets for bombing: today the Yugoslavian people, tomorrow the Albanians, and after that, the Greeks, the Russians, the Chinese, and the Indians.

The innocent civilians are out there, a world full of them, millions upon millions, all just waiting to be bombed, as NATO crosses the bridge into the twenty-first century. □



Healy, "Liberty, States' Rights, and the Most Dangerous Amendment," *continued from page 17*

expressive freedom, setting new limits and mandating new extensions, perhaps even demanding reconstruction of the speech right itself." When this is properly understood, the state will be able to censor the speech of "dominant" classes, and forcibly reconstruct society to ensure "equal access to speech." Indeed, "the state will have as great a role in providing relief from injury to equality through speech and in giving equal access to speech as it now has in disciplining its power to intervene in that speech that manages to get itself expressed." Those who consider MacKinnon's words the irrelevant mus-

ings of a tenured law professor are unfamiliar with her successes in the area of sexual harassment law, and unfamiliar with the cachet her ideas have in the legal academy.

Given federal supremacy and the vast powers the Fourteenth Amendment confers on Congress and the courts, it matters little whether Roger Pilon is right about the amendment's original meaning. In the fight between Pilon and MacKinnon, on the battleground of American legal culture, I root for Pilon. But as a betting man, I would place my chips on MacKinnon. □

A Belgrade Spring

by Stephen Browne

Before the bombs fell, Belgrade was a city of romantic evenings, massive protests, and Gypsies strolling with bears.

I arrived in Belgrade early in 1997, when the demonstrations had been going on for only about a month. I came because I heard Slobodan Milosevic's secret police were leaning on a dissident friend, Tomas K. The theory was that if I were around, he would be safer: the police wouldn't want to murder him in front of a foreign witness.

Tomas met me at the train station and found me a cheap hotel. We went out that first night to survey the evening's demonstration at Republic Square, where virtually every citizen of Belgrade, unarmed, faced Slobodan Milosevic's armed thugs for three months. After we said good night, I hung around a corner in Old Town during "pandemonium half-hour." This was the time when the official government news broadcast came on. During that half hour, every night, the citizens of Belgrade made as much noise as they possibly could, with an ingenious variety of noisemakers, some home-made and some produced by a local cottage industry, to show their opinion of the government's version of the news.

On that corner I saw a group of students making a thunderous racket with drums, trumpets, and soda bottles with coins inside. A middle-aged gentleman banged away on a brass mortar with a pestle. A lady dressed in elegant fur walked up, pulled a hammer out of her handbag, and started walloping the side of a dumpster. Then an old hunched-over Babushka tottered up to the crowd beating on a metal soup bowl with a spoon.

After the half-hour was up and the crowd began to disperse, I decided to test their anti-American sentiments. A dog had come up to me to make friends, so I patted him on the head and said, loudly enough to be overheard, "Good boy, nice dog." As the people walked away, a slender and pretty young lady waved shyly and said, in English, "Good night."

Life in Belgrade, I could tell, was going to be interesting.

Settling In

In the following days Tomas helped me find a room to rent and introduced me to two schools that hired me to teach English. He also introduced me to members of the dissident

community — the people who were to become my friends in the coming months.

I worked at a private school in New Belgrade and at the old and prestigious Institute for Foreign Languages in the Old Town. Before I could settle in to my new life, however, I needed to obtain the necessary permits.

Tomas took me to the local police station to register my residence (a requirement in all European countries — not just Communist ones). He warned me that it would probably be a time-consuming process, but to our relief it only took about ten minutes. As we walked outside Tomas explained, "That's Yugoslav tribalism for you. The police sergeant had the same rural accent as I do, so he hurried it through."

Getting a work permit was a little more difficult, and required several grueling visits to the central police station, in which I tried hard not to think about what goes on in the basement. With Tomas in tow, visits to the central police station were a little bizarre: the police officers who arrested him on a fairly regular basis assumed the attitude of an old acquaintance when he'd walk through the door. "Oh, hi Tomas," they would say. "How's the wife? How's the kids? Oh, he's going to teach at the Institute? Good, my son studies there."

It finally took the assistance of the Institute's lawyer, a striking woman who bore — with reasonably good humor — the name of Biljana Dracula, for me to get the necessary permits for my teaching jobs.

Money was another problem. My landlady specifically wanted Deutschemarks, which were hard to obtain, as Milosevic's regime had seized all foreign currency bank accounts to pay for its paramilitaries. Officially, you could

change money only in government banks, but they never had foreign currency available. When I told my colleague Mila, a raven-haired beauty who spoke English like a Brit, that I was worried about paying the rent, she laughed at me and said, "Oh Steve, nobody uses banks to change money." She took me to a shoe shop the size of a postage stamp for a little street education, Belgrade style. I had passed that little hovel every day wondering how it could possibly stay in business. With Mila in the lead, I found that shoe selling was

Belgrade had an estimated 40,000 armed men on the streets every night, but it also had a thriving free press and opposition radio station.

merely a front for a thriving underground foreign currency exchange. My rent problem was solved.

Thus began my education in how to get by in a city that was simultaneously a police state and a lively center of dissident culture.

Dissidents in a Police State

Belgrade had an estimated 40,000 armed men on the streets every night, but it also had a thriving free press and opposition radio station. This was the paradox of Belgrade.

People openly expressed their disgust with the regime and didn't bother to lower their voices or look around to see who was listening. Milosevic had all the guns but was completely impotent to stifle dissent in his own capital. The best he could do was control the streets, which meant keeping the major traffic arteries open.

And he was never completely successful even at this. During the nightly demonstrations, paramilitaries recruited mostly from Bosnian Serb refugees of Croatian "ethnic cleansing" — men who could be counted on to have little sympathy for the city's dissidents — lined the edges of the streets to keep the crowds on the sidewalks. But they couldn't prevent people driving cars from honking their horns in solidarity with the crowds.

One night, I got on my regular trolleybus at a busy intersection in Old Town. The bus driver pulled into the intersection, stopped the bus diagonally across the streets, pulled the keys out of the dashboard, opened the doors and walked away! A second bus, and then a third did the same. It was a long walk home, but I was chuckling the whole way.

While the demonstrators generally had the run of Belgrade on those evenings, the threat of full-scale violence was never far. One night I found a line of paramilitaries blocking me from getting home. "Uh-oh," I thought. "Is this the night it happens?" I turned around and walked the other way, only to find it blocked off as well. I felt so threatened by the armed goons that I entertained wild thoughts of smashing a shop window and making a break for a roof. I finally decided to try my luck on a side street guarded by only a few of the infamous "blue beret" paramilitaries. They let me through, but their heavy eyes followed me home.

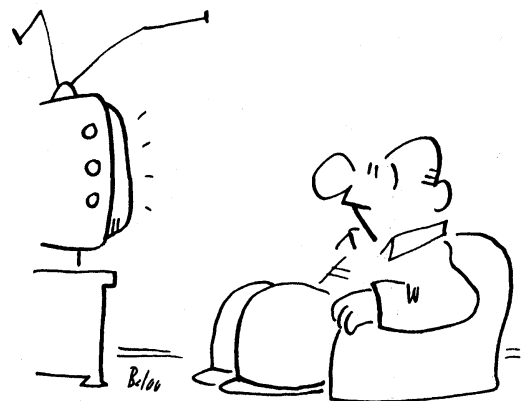
Aside from paramilitaries, the people I met in shops, restaurants and bars were always friendly. I picked up enough

Serbian to get by. It helped that I spoke fair Polish and knew a few phrases of Bulgarian as well. The Slavic languages are quite a close family; Serbs, Bulgarians, Croats, Macedonians and Slovenians usually understand each other, with some difficulty depending on which dialect they use and on how linguistically sophisticated the speakers are. Nowadays the various nationalistic governments are deliberately trying to make the languages less understandable by combing the dialects for words that are unique to that place, and promoting them as the "official" words.

I very much regretted not speaking fluent Serbian. It would have come in handy when my students took me to cultural events, such as art exhibits. On one occasion a young artist even took me to a speakeasy. We walked to an interior courtyard in Old Town, knocked on a door and identified ourselves to a discreetly placed security camera. The converted apartment had its windows painted black. Inside were two rooms, a bar and a room with backgammon and chess sets at every table. It was a center for free and open discourse and I was incredibly frustrated that I couldn't fully participate in the Serbian tongue.

But one didn't need to seek out a speakeasy to find Belgrade's opposition movement. The openness with which Belgrade's opposition operated was shocking. I was interviewed by every opposition newspaper and by opposition station Radio B, mostly in connection with promoting the translations of two books by Ken Schoolland and Mary Ruwart written to explain the principles of freedom and free markets. Of course, my interviewers were curious as to exactly what an American was doing in Belgrade when he could have been in America.

At a press conferences arranged by the Classical Liberal wing of the opposition, held in an art gallery on a charming cobblestone street lined with nice restaurants, a lovely young journalist with perfect English asked me that precise question. I explained to her why the political and cultural processes of the transition to freedom in the ex-communist world fascinated me. I was pursuing a hunch, I told her, that the really interesting approaches to the eternal problem of how people are to live together in civilized society would come from one of the world's "trouble spots" where the situation seems hopeless. I told her that in the West, there is no incentive to experiment with radical approaches to organizing communities because things there work well enough.



"... And now for that great new neurotic game show, 'Justify Your Existence'!..."

While explaining this, I speculated on what might happen when Milosevic's regime fell. The young lady then asked me when I thought the regime would fall. Suddenly, the absurdity of the interview struck me, and I replied, "I can't believe we're having this conversation! Aren't we supposed to be doing this in whispers in a dark basement around a glittering candle?"

Later, a white-haired gentleman, a former diplomat, started asking me hostile questions about the New World Order, literally raving about how America was worse than Hitler and that if we destroyed his country they would take us with them. In the middle of this rant, his face almost scarlet, he abruptly calmed down and said apologetically, "Of course, I don't mean you personally."

After the press conference, we went out for a beer together. He turned out to be quite knowledgeable about American history and fluent in English. "I told James Baker to tell Franjo Tudjman, to wait! Five years, a hundred years, but not to secede now! When Croatian forces surrounded Yugoslav military bases and demanded their surrender, how else should they have reacted? How did Lincoln react to the attack on Fort Sumter?" he asked.

My impression was that, like many others, he was a passionate Yugoslavophile. In his childhood his parents had to hide him from the Croatian Ustashi, who were on a mission to wipe out Serbs and Jews. Like many, he came to see a unified Yugoslav state as a guard against inter-ethnic war, and saw its collapse as the collapse of his world.

One of my students was a prominent journalist on the dissident scene. (I won't describe him more closely; there have been reports of murders of dissident journalists there. I put a lot of effort into my teaching, and it pisses me off when people shoot my students.) He came to me for English lessons whenever his schedule permitted and we had a wonderful time going over texts from Thomas Jefferson. Once he quoted a colleague, who had said, "We don't need a better-organized opposition. We need one man with a rifle." We mulled that one over awhile, but eventually agreed that while violence against Milosevic was an attractive idea, experience shows that worse tyrants are usually waiting in the wings.

Not a Warlike People

My students and colleagues were not warlike in any real sense. One piece of wall graffiti read, in English, "If you lose your temper, you lose the argument. Non-violence Forever!" My favorite poster was of Arnold Schwarzenegger as the Terminator sitting on a Harley and holding up a red card. The legend read, "Hasta la vista, Comunista!"

Yet, if there is anything you learn by living in Eastern Europe, it's how different the city is from the country. Communism purported to promote equality and solidarity. In fact, under Communism class and ethnic distinctions deepened tremendously at the same time they were becoming weaker in the capitalist West. When the State is the primary agency of the distribution of resources, people must organize to seize control of the sources of wealth. The most logical way to organize is along lines of kinship and ethnicity. In a country that consists mostly of mountain tribal societies, this put resources of terrible destructive potential into the hands of tribal chieftains whose mental horizons are as

bounded as the visual horizons of the mountains they came from.

I gave two presentations at the Belgrade Ethnographic Museum on the subject of "Weapons, Technology, and Culture", subtitled "Is the world becoming the Balkans?" I was invited back the following week to expand on my remarks. I stated that I had lived in Eastern Europe since 1991 with limited access to Western media and was quite prepared to make up my own mind about the situation in the Balkans. A professor there looked very sad and asked, "When you find out, will you please let us know?"

On another occasion, while walking home with a colleague, she asked me if I could give her some advice. The

I found that shoe selling was merely a front for a thriving underground foreign currency exchange.

first thing I said was, "Tamara, how can I advise you? I'm not from here."

"Yes, Steve, but I trust your judgment. I'm working part time with an international bank and I have an immigrant visa to Canada. I'm thinking about asking them to wait a year so I can get enough experience to transfer to a branch in Canada. What do you think?"

"Tamara," I said, "I think you should do exactly that."

"I thought so Steve. I don't want to raise my children for the next war."

Tamara, wherever you are, I hope you didn't wait too long.

I remember my students, some of the best I've ever had. There was Alexandra, who quoted me in an essay, "As my teacher says, 'It's too late for elections and too soon for the revolution.'" She had been a government agricultural chemist who quit because she refused to label contaminated grain as fit for sale. I remember how she started a business with her last ten Deutschmarks. I had hoped to see it grow in a free economy.

I also remember how important it seemed to my colleagues that I understand what Communism had done to their country and their lives, and how they prayed for the fall of this last communist state in Europe. In the time I was there, they also became my friends. I remember how the assistant director of the Institute said, as I was leaving, "Please come back, Steve, but please don't marry that Polish girl." At the Galindo school they also invited me back, but they all thought I should marry that Polish girl.

I remember the life on the Sava and Danube rivers, the floating bars, cafes and restaurants. When my girl came from Poland to be with me for my book publication, I couldn't wait to take her to my favorite place, Vezba Raj the Willow Paradise. It is a small house trailer on a barge which served a delicious fish soup cooked in a huge cauldron over a fire on shore. You could sit at a table on deck on a summer afternoon and watch the Danube flow by.

I remember a party at the British Consul Library for the publication of my book for English students. Many of my

continued on page 30

Arms and the Greeks

by David Kopel

The founders didn't conjure up the right to bear arms out of thin air. They learned its value from the founders of Western civilization.

The creators of America's republican form of government did not make everything up as they went along. American political philosophy — including the right to keep and bear arms — was firmly grounded in historical experience and in the great works of philosophy from ancient Greece through 18th-century Britain.

The Declaration of Independence was derived from what Thomas Jefferson called, "the elementary books of public right, as Aristotle, Cicero, Locke, Sidney, etc." What did Aristotle — the most influential philosopher of Western civilization — say about the right to arms? Quite a lot that still rings true today.

Aristotle was a student of Plato, and studied at Plato's Academy outside Athens.

The Founders of the American Republic were intimately familiar with the writings of both Plato and Aristotle. And while Plato and Aristotle disagreed about many things, they agreed on the importance of arms-bearing to a society's political structure: whoever controlled the arms would control the government.

Plato's greatest work of political philosophy is *The Republic*, written in the first part of the fourth century, BCE. In *The Republic*, Plato explains his theory for why societies always progress from oligarchy (rule by a small group of elite rich) to democracy (rule by the people) to despotism (rule by a single man). At each step, the control of arms is essential.

In an oligarchy, "They next proceed to make a law which fixes a sum of money as the qualification of citizenship; the sum is higher in one place and lower in another, as the oligarchy is more or less exclusive; and they allow no one whose property falls below the amount fixed to have any share in the government. These changes in the constitution they effect by force of arms, if intimidation has not already done their work" (*The Republic*, Book VIII — "Four Forms of Government," Benjamin Jowett transl.).

Plato points out one of the disadvantages of oligarchy: "Another discreditable feature is, that, for a like reason, they are incapable of carrying on any war. Either they arm the multitude, and then they are more afraid of them than of the enemy; or, if they do not call them out in the hour of battle, they are oligarchs indeed, few to fight as they are few to rule."

Eventually, the oligarchy is supplanted by democracy, "whether the revolution has been effected by arms, or whether fear has caused the opposite party to withdraw." In other words, either armed revolution or the credible threat of armed revolution causes the oligarchy to lose its power. But after a while, the people succumb to demagoguery, and a tyrant arises. The tyrant does not begin his worst abuses until after he has disarmed his victims. In *The Republic*, which is a series of teacher-student dialogues, the teacher explains: "Then the parent (the people) will discover what a monster he has been fostering in his bosom; and, when he wants to drive him out, he will find that he is weak and his son (the tyrant) strong."

Student: "Why, you do not mean to say that the tyrant will use violence? What! Beat his father if he opposes him?" Teacher: "Yes, he will, having first disarmed him."

In Plato's ideal state, the one-man rule of a tyrant is replaced by the one-man rule of a philosopher-king. The king uses a professional military/police class — the Guardians — to keep everyone else in line. Like the people of the former Soviet Union, the common people of Plato's ideal state would be trained periodically (once a month) in use of arms, but would have no right to arms, and arms

would be centrally stored in state armories (Plato, *Laws*).

In Plato's utopia, "no one, man or woman, must ever be left without someone in charge of him; nobody must get into the habit of acting independently in either sham fighting or the real thing, and in peace and war alike we must give our constant attention and obedience to our leader. . ." (*Laws*).

The country most in harmony with Plato's theory of government is modern Singapore: tightly regulated, with a subject's entire life carefully controlled by a "benign" state.

Plato's most important philosophic descendent is the German Georg Wilhelm Friedrich Hegel (1770–1831). Hegel provided the intellectual foundation for fascism, seeing the state as sacred, and the individual as absolutely subservient to the state. (Hegel and Plato differed on many other issues, such as the basis of perception, but their politics were essentially similar.)

Like Plato, Aristotle considered arms a fundamental source of political power, but unlike Plato, Aristotle wanted ordinary people to possess this power. In Aristotle's book *Politics*, he argues that each citizen should work to earn his own living, should participate in political or legislative affairs, and should bear arms.

Aristotle criticized the theory of another philosopher (Hippodamus), who wanted a strict division of roles between skilled labor, agriculture, and defense: "But the husbandmen have no arms, and the artisans neither arms nor land, and therefore they become all but slaves of the warrior class" (Aristotle, *Politics*, translated by Benjamin Jowett).

Aristotle considered the possession of arms synonymous with possession of political power: "when the citizens at large administer the state for the common interest, the government is called by the generic name — a constitution . . . in

enumerate the functions of a state, and we shall easily elicit what we want. . . . thirdly, there must be arms, for the members of a community have need of them, and in their own hands, too, in order to maintain authority both against disobedient subjects and against external assailants" (Book 7, ch. VIII). It was hardly surprising that dictators always disarmed their subjects: "As of oligarchy so of tyranny . . . Both mistrust the people, and therefore deprive them of their arms" (Book 5, ch X).

Sometimes the disarmament was not accomplished directly, but instead by encouraging people to neglect arms training. "The devices by which oligarchies deceive the peo-

The discussion of the right to arms has followed the lines laid down by Plato and Aristotle; one side in favor of an unaccountable central government having all the arms and all the power; and the other side favoring rule by citizens who maintain their right to arms.

ple . . . relate to . . . (4) the use of arms; (5) gymnastic exercises. . . . Concerning (4) the possession of arms, and (5) gymnastic exercises, they legislate in a similar spirit [trying to keep the poor from participating]. For the poor are not obliged to have arms, but the rich are fined for not having them; and in like manner no penalty is inflicted on the poor for non-attendance at the gymnasium, and consequently, having nothing to fear, they do not attend, whereas the rich are liable to a fine, and therefore they take care to attend."

Theorizing the people who bear the burdens of government should be the ones who run the government, Aristotle wrote that "The government should be confined to those who carry arms." The early American Republic essentially reflected this scheme; the group of people liable for militia duty was roughly the same as the group of people eligible to vote.

In *The Athenian Constitution*, written about 350 BCE, Aristotle gives a political history of the city-state of Athens. Rediscovered in the late 19th century, *The Athenian Constitution* provides historical evidence for Aristotle's theory that tyrants aim to disarm the people. Although *The Athenian Constitution* was not available to the American Founders, many of the political events described in the book were known to the founders through other sources.

In the sixth century BCE, a tyrant named Pisistratus took over Athens. Aristotle explained how the tyrant obtained absolute power by disarming the people of every city he controlled:

After his victory in the battle at Pallene he captured Athens, and when he had disarmed the people he at last had his tyranny securely established, and was able to take Naxos (a Greek island) and set up Lygdamis as ruler there. He effected the disarmament of the people in the following manner. He ordered a parade in full armour in the Theseum (a temple), and began to make a speech to the people. He spoke for a short time, until the people called out that they

The early American Republic essentially reflected Aristotle's scheme; the group of people liable for militia duty was roughly the same as the group of people eligible to vote.

a constitutional government the fighting-men have the supreme power, and those who possess arms are the citizens" (Book 3, ch VII).

Aristotle linked the development of democracy (rule by the people) with military innovations making foot soldiers relevant: "But when cities increased and the heavy armed (as opposed to the cavalry) grew in strength, more had a share in the government; and this is the reason why the states which we call constitutional governments have been hitherto called democracies" (all of the above quotations from Book 4, ch. XIII).

It was inevitable that control of arms would lead to control of the state: "since it is an impossible thing that those who are able to use or to resist force should be willing to remain always in subjection . . . those who carry arms can always determine the fate of the constitution" (Book 7, ch. IX).

Arms are essential to any good government: "Let us then

could not hear him, whereupon he bade them come up to the entrance of the Acropolis, in order that his voice might be better heard. Then, while he continued to speak to them at great length, men whom he had appointed for the purpose collected the arms and locked them up in the chambers of the Theseum hard by, and came and made a signal to him that it was done. Pisistratus accordingly, when he had finished the rest of what he had to say, told the people also what had happened to their arms; adding that they were not to be surprised or alarmed, but go home and attend to their private affairs, while he would himself for the future manage all the business of the state. (Aristotle, *The Athenian Constitution*, ch. 15, translated by Sir Frederic G. Kenyon)

Incidentally, Pisistratus maintained a peaceful foreign policy, "probably because he dared not allow the Athenian citizenry to bear arms in a major war," according to the *Encyclopedia Britannica*. Pisistratus was succeeded by his son Hippias. Hippias's younger brother Hipparchus was assassinated. "At first the government could find no clue to the conspiracy; for the current story, that Hippias made all who were taking part in the procession leave their arms, and then detected those who were carrying secret daggers, cannot be true, since at that time they did not bear arms in the processions, this being a custom instituted at a later period by the democracy" (*The Athenian Constitution*, ch. 18). In other words, carrying arms during a parade was an activity of free-men in a democracy, not of the subjects of a tyrant.

After Athens's defeat by Sparta in the Peloponnesian War, Sparta appointed the Thirty Tyrants to rule Athens in 404 BCE. Among this group of 30 was a long-time Athenian politician Theramenes, who had negotiated the peace with Sparta, but who opposed the more extreme measures of the Thirty. Aristotle explained how the Thirty Tyrants consolidated power, and how disarmament prepared the way for direct military rule:

Thereupon the Thirty decided to disarm the bulk of the population and to get rid of Theramenes; which they did in the following way. They introduced two laws into the Council, which they commanded it to pass; the first of them gave the Thirty absolute power to put to death any citizen who was not included in the list of the Three Thousand, while the second disqualified all persons from participation in the franchise who should have assisted in the demolition of the fort of Eetioneia, or have acted in any way against the Four Hundred who had organized the previous oligarchy (which had ruled in 411 BCE). Theramenes had done both, and accordingly, when these laws were ratified, he became excluded from the franchise and the Thirty had full power to put him to death. Theramenes having been thus removed, they disarmed all the people except the Three Thousand, and in every respect showed a great advance in cruelty and crime. They also sent ambassadors to Lacedaemonian (Sparta) to blacken the character of Theramenes and to ask for help; and the Lacedaemonians, in answer to their appeal, sent Callibius as military governor with about seven hundred troops, who came and occupied the Acropolis. (ch. 37)

According to the *Encyclopedia Britannica*, "Aristotle, more than any other thinker, determined the orientation and the content of Western intellectual history." The discussion of the right to arms in the next 24 centuries has followed the lines laid down by Plato and Aristotle; one side in favor of an unaccountable central government having all the arms and all the power; and the other side favoring rule by citizens who maintain their right to arms. Whatever the issue *du jour* of the contemporary gun control debate (e.g., gun registration in Canada; gun locks in the United States; handgun confiscation in the United Kingdom), friends of civil liberty should never forget the ultimate issue that drives the gun control movement: the determination to make armed citizens into disarmed subjects of a powerful, sometimes benign, collection of people who call themselves the government. □

Browne, "A Belgrade Spring," continued from page 27

students and colleagues came, as well as a number of journalists. One young lady asked for my impressions of Belgrade. I told her, "This city is exasperating, and it can make you crazy. It's a lot of things, many of them contradictory. The one thing it isn't is dull."

Hey, where else can you take your girl for a walk across the Brotherhood and Unity Bridge and meet a Gypsy family out walking their bear?

NATO Destroys the Opposition

As I write these words, safely away from Yugoslavia and my friends there, I see Belgrade bombed on the evening news. To think that my friends could be killed by American bombs is horrifying. I know that something should be done about the horror story in the Balkans — what it is, I don't know. I don't have the answers, and the people who think they do scare me. I do know that the people who marched every night past armed men, while we waited to see if the order to fire on the crowds would be given, aren't easy to intimidate.

And I do know this: Bombing the heart of the resistance to Milosevic's regime is not the answer. Clinton has single-handedly done what Milosevic couldn't do — destroy the

opposition and rally the people around him.

Make no mistake about it — I want to see Milosevic arrested, given a fair trial, and then hanged, right alongside his wife Mira, the "Red Queen," and his friends and accomplices. The only thing I'd enjoy better would be to hunt them with hounds.

But is it really necessary to bomb the innocent to get the guilty? I have often wondered in these past weeks how an overland invasion would have been received if there had been plenty of propaganda in advance, with the announced intention of coming in to arrest the tyrant and a solemn pledge to get out once it was accomplished. A warning, like: "Stand aside and let justice be done or stand in the way and get hurt." Casualties? For sure, maybe lots of them, but military casualties, not civilian. Is it possible they might have been welcomed in the city as liberators? We'll never know.

I am frustrated because the work of the brave men and women of the opposition has been destroyed by NATO. Those who remain will probably want to give up and emigrate.

Today, CNN reports that an opposition editor has been gunned down. I wonder if it is one of my students, one of my friends. □

Comparison

A Kinder, Gentler, “Judgment Day”

by Bryan Register

Ten years can make a big difference.

Nathaniel Branden met Ayn Rand after writing her a fan letter in 1949. He quickly became the famous writer’s student, friend, and lover. Their relationship ended suddenly in 1968. In 1989, Branden told the story in a memoir called *Judgment Day*.

Now he has published a revised edition of the memoir, with a new title, *My Years With Ayn Rand*, and people are bound to wonder how New Branden differs from Old Branden.

In some respects, the new is plainly better than the old. Branden has deleted irrelevant material, rewritten some passages to enhance clarity, added an index, and made many minor changes to improve readability. But the new title hints at other, more interesting, alterations. Branden gives his colleagues and lovers a new trial, and the new verdict is gentler. Branden remains the main character, but his kinder and gentler treatment of his friends makes him seem more responsible and honest.

Let’s examine some specific changes.*

Some of them involve the omission of unfavorable commentary on former close associates, such as psychotherapist Allan Blumenthal, Nathaniel’s cousin, and Allan’s wife Joan, both longtime associates of Rand. In *Judgment Day*, Allan plays a larger part than he does in *My Years With Ayn Rand*. Many passages that portray him as a conformist have gone, along with a passage in which Branden reported that in the mid-1960s

Allan and Joan had their own private sphere where, I heard, they . . . reign[ed] like king and queen. . . . The central focus in this circle was the arts. Barbara and I wondered about the fact that so many of the men in the group were homosexual. A member of the circle subsequently told me, “We got the

message that Joan was supposed to represent well-realized femininity, and through her we might learn to understand women better.”

Since I had sponsored him, I was happy when people communicated to me that Allan had significantly helped them. On the other hand, I was uneasy about a joke that began to circulate, to the effect that if [Rand’s novelistic hero, individualist] Howard Roark had gone to Allan Blumenthal for advice, Allan would have told him not to be so pretentious and to give more serious thought to being practical and earning a living. . . . (298/260)

But there is another passage, retained in the new edition, which suggests that Nathaniel’s attitude toward Allan hasn’t changed all that much. It seems that after Nathaniel told Rand, in 1968, that he would no longer have an affair with her, but before their final break, she made him consult with Allan as a psychologist:

I began by telling Allan the story of my relationship with [Branden’s wife] Barbara, because that was where it all began, and I spoke of the years of loneliness and sexual frustration, both before and after the romance with Ayn. “The trouble with you, Nathan,” Allan informed me, “is that you attach too much importance to sex.”

Why am I telling this eunuch anything? I thought in revulsion. (381/338)

Allan still seems pretty low on Nathaniel’s scale — but not as low as Leonard Peikoff, the last man left standing in Rand’s inner circle, from which so many people were expelled. Peikoff is Rand’s “intellectual heir” and the inheritor of her estate. As an intransigent true believer, he provides

* Parenthetical citations of page references from the two memoirs list page numbers from *Judgment Day: My Years With Ayn Rand* (Houghton Mifflin, 1989) first, followed by page numbers from *My Years With Ayn Rand* (Jossey-Bass, 1999).

a rather easier target than the other members of the original circle.

Branden does let up on him a bit. We lose, for instance, Branden's impressions on first meeting Peikoff — "a nervous, high-strung boy, gloomy and in doubt about virtually every aspect of himself" (36/29), though the first time he appears in the new edition he is still seen as "high-strung [and] chronically anxious" (71/60).

At one point, Branden removes an invidious comparison of Peikoff to Joan Blumenthal. According to Branden, both of them presented a problem in the understanding of people's psychological interactions with others and with Rand's phi-

In the '89 memoir, Branden took credit for defending people against Rand's angry denunciations. This is now tempered with an admission: "On the other hand, there were times when I was fully as guilty as Ayn of such tantrums. Was I not her alter ego?"

losophy, Objectivism. In '89, Peikoff "represented a far greater challenge to my understanding [than Joan] because I considered his a better mind" (128/110). "Because I considered his a better mind" disappears in the '99 memoir. The first book includes a piece of dialogue (184-185/158) in which Branden says, "Sure, but Leonard is very intelligent," and Rand replies "Yes, he is. That's why I can't understand why he doesn't seem to be able to hang on to his own knowledge." The second memoir removes this exchange.

Branden also deletes this paragraph:

It was difficult not to become impatient with Leonard, and sometimes Rand became so angry that Leonard would pale with terror. "What's the matter with you?" she would thunder. "Can't you hold any context whatsoever? Can't you see that you've been conned by a lousy equivocation, plus a whole series of unjustified assumptions? I thought we cleared all this up months ago!" Seeing the expression of misery and desperately conscientious attentiveness on Leonard's face, I could feel only sympathy for him. Poor Leonard, I thought, and tried to inject a calming note into the discussion. I could understand Ayn's frustration better than her rage, which seemed vaguely anxious, as if she was afraid she would lose Leonard to "the irrational." (185/159)

No threat of that. As this now-excised passage shows, Peikoff was the most excited of the inner circle about the effects of Randian rationalism:

Everyone was optimistic about the impact of [Rand's philosophical novel] *Atlas Shrugged* . . . on our culture, but Leonard's projections were so extravagantly wild that they bordered on hysteria. He spoke of the conversion of the country to laissez-faire capitalism and the ideals of individualism "within a year of the publication of the novel." . . . "I feel sympathy for Leonard," Ayn once said to me, "because there's a part of me that *wants* life to be as simple as Leonard thinks it is." (186/159)

Leonard's overexuberance — and some of Branden's — dissipates in '99. Gone is this passage regarding one of the

inner circle's criticism sessions:

I recall an evening, for example, when the person facing charges was not a member of our circle but a girlfriend of Leonard's, a young, aspiring actress, who professed to be a passionate admirer of Objectivism and who had somehow wronged Leonard. . . . I became an avenging angel. . . . Leonard looked righteous and wounded . . . and Ayn listened eagerly, clapping her hands in appreciation of my theatrically lucid formulations. (264/235)

Certain new passages, however, put Peikoff in a distinctly bad light. Discussing the 1968 break, Branden inserts into the '99 memoir the following paragraph about the rewriting of history:

Years later, as the new "leader" of the Objectivist movement, Leonard Peikoff would do everything possible to make Ayn's admirers forget that Nathaniel Branden Institute [which Branden formed to propagate Rand's ideas] — or Nathaniel Branden — had ever existed or had any significance in Ayn's life. (396/354)

Branden may be referring specifically to the Peikoff-approved, Academy-Award nominated documentary *Ayn Rand: A Sense of Life* and its accompanying book. In the book, Nathaniel and the NBI are mentioned on exactly two pages, and this reflects the amount of time that the film spends on this part of Rand's life.

Another new passage responds to Peikoff's approval of some portions of Rand's journals for edited publication. "In later years," Branden says,

Leonard would be anointed Ayn's "intellectual heir," as well as financial heir, and would surround himself with a group of true believers. They would rise to new heights of ruthlessness and hysteria in excommunicating deviationists and people who asked threatening questions. In converting the Rand legacy into personal cash, Leonard would display an imaginativeness that few people would have anticipated. For example, he published highly personal notes of Ayn's, taken from her journals, that were never meant to be shared with the world. The impression conveyed was that, after years of obsequious self-abnegation in Ayn's service, it was payback time for Leonard. He felt entitled. (409/364)

Here irony seems lost on Branden, who condemns Peikoff for publishing Rand's notes, but who himself wrote an account of having sex with her.

One of the most interesting relationships in Rand's circle was that between Nathaniel and his wife Barbara, a relation-

Did Branden's arrogance and influence lead to the formation of a "Rand cult"?

ship that has been described not only by him but also by her, in her important 1986 biography, *The Passion of Ayn Rand*, Nathaniel's first memoir depicts Barbara as an unmotivated woman who was thoroughly dependent on him. In the second memoir, she is more autonomous and more important to his professional success and personal happiness. The treatment is more sensitive and sympathetic.

In this connection, the new wording of the Author's

Note is interesting:

With regard to correcting factual errors and eliminating some unintended and misleading implications, I especially want to thank Barbara Branden for her input. She invested considerable time and energy in this effort, and it is much appreciated. This acknowledgment, however, carries no implication that she would agree with all the viewpoints expressed in this book; she would not. (x/viii)

There has to be an interesting story about the two of them dealing with one another in the course of revision.

Be that as it may, let's look at some of the revisions. Branden removes this passage from the first page devoted to their relationship: "I somehow gathered that she had had more experience with men than I had had with women . . ." (30/24) Now he writes that Barbara "had given me an exaggerated idea of what her experiences had been. Wilfred, for one, had never actually been her lover" (35/29). Other passages that discussed Barbara's fictitious experiences are removed, such as this one:

The fact that she had had a few affairs was not the problem. What was hardest for me, and ultimately most damaging, was not her "promiscuity" but the guilt that lay behind it. (36/29)

It is odd that Nathaniel would have made factual errors such as these. Didn't he ever ask Barbara what was the truth?

He does move, however, toward accepting greater responsibility for the poor quality of their relationship. He inserts this paragraph:

I had it in me to be insensitive and critical at times without knowing it. Although I no longer remember my words, I am sure I said some things to Barbara that were unkind and inappropriately judgmental, reflecting my own fears about the instability of our relationship. (34/28)

He also changes a sentence about Rand's commitment to helping the Brandens' relationship — "Later, I would wonder why Ayn was so intent on saving my relationship with Barbara, given the nature of Barbara's problems" — so that it concludes with the words, "Barbara's and my problems." (102/87) Barbara becomes much less of a fanatical confessor of problems, and Nathaniel makes his own confessions:

I felt at times that Ayn and I were placing Barbara in a humiliating position to which no one should be subjected. Yet, under the circumstances, I could not envision an alternative. It is easy enough now to see that the kindest and most rational thing I could have done was to wish Barbara well and suggest that we go our separate ways. How much suffering I would have spared us both!

There were occasions when I grilled her unmercifully about past activities, driven by my own terror of losing her to "an alien world." We were two hurt and damaged people, hurting and damaging each other, and not knowing what to do about it. We looked to Ayn for a miracle. (115/96)

Such insertions, of which there are several, make the book itself more responsible. Thinking over the affair that he conducted with Rand, Nathaniel inserts this sentence about the way they treated their spouses: "In retrospect, I am horrified by our irresponsible unconsciousness" (160/138).

Nathaniel's changes in his portrayal of Barbara extend to his description of her eyes, which were hazel in his 1989

account, but green now (118/100). More importantly, Barbara becomes a more substantial person in this memoir. In the '89 edition, Nathaniel and Barbara have a talk about her inability to begin to write a novel. The problem is chalked up to her tragic sense of life. That passage is now removed and replaced with this:

Actually, Barbara was working such long hours on her job that writing a novel would have been challenging under even more benign circumstances. However, apart from that, today I can see how extraordinarily difficult it would be for any young person just starting out to write a novel in the environment in which we lived, given Ayn's repressive judgment and intimidating personality. As Barbara would observe to me in later years, it was not an environment in which to discover one's own voice. (209–210/180–181)

Nathaniel wrote in '89 that after a final attempt by Nathaniel and Barbara to solve their marital problems, he thought,

Nathaniel's first memoir depicts Barbara as a thoroughly unmotivated and dependent woman. In the second memoir, she is autonomous and important to his professional success.

"Are you not the man who teaches that all roads lead to self-esteem? [Barbara's] was tied, in part, to what I brought to our bed — even if, as a woman, she wants a different kind of man" (361/321). This passage is deleted, allowing Barbara's self-esteem not to be dependent on sex with Nathaniel.

Now we learn that it was Barbara who thought to advertise the Nathaniel Branden Institute in *The New York Times* (237/206), and it was she who kept the copy of the NBI mailing list after the break with Rand (408/365). Nathaniel used that list to form his psychology practice when he moved to California. Very significantly, Barbara is given credit for the concept of "psychoepistemology" (237/208, 367/326), ("237 and 367/208 and 326), an innovation that previously had been noted only in a footnote on page 98 of Nathaniel's first independent book, *The Psychology of Self-Esteem*.

The Brandens' early book *Who Is Ayn Rand?* contains a biographical essay by Barbara. Nathaniel says that he proposed that Barbara write that essay, but he removes the self-aggrandizing phrase "I saw a way to launch Barbara as a writer." When discussing the talks that they had with Rand to record material for the essay, he adds that "Barbara asked the majority of the questions, because this was her project" (282/249).

Barbara now comes across as a kinder and better-tempered person than the other members of the inner circle. Nathaniel says that "Barbara often tempered her severity with some measure of warmth . . ." (242/213). When Nathaniel reports to Barbara on his successful friendship with the woman who would become his second wife, Barbara "projected nothing but happiness for me, total and absolute benevolence" (321/283).

In the new memoir, Barbara is sexually trustworthy. When an old flame of hers joins the NBI staff, Nathaniel writes: "I knew that they would not have an affair in secret,

without my knowledge and consent" (319/281). She compares well with Nathaniel, who was at this time beginning his affair with Patrecia in secret. He does, of course, give reasons for his secrecy.

In the '89 memoir, when Barbara tries to persuade Nathaniel not to tell Ayn that he is no longer interested in her sexually, Nathaniel says,

I nodded in exhausted acquiescence; but my survivor-self contemplated Barbara as from a great distance, thinking: So. Well, well, well. We are all operators, it seems. (374/331)

This accusation is now deleted, allowing for the possibility that Barbara had sincere motivations.

When the inevitable break did happen, Barbara came to Nathaniel with Rand's (unreasonable) terms for disengagement. In the '89 memoir, Nathaniel suggested that these terms were something that Barbara was happy with; now, he says, "At that moment I did not know the extent to which Barbara did not want any of it, either" (390/347). One of the terms, perhaps the most unreasonable, involved Nathaniel's signing over to Rand his ownership of half of *The Objectivist*, their monthly journal. With that ownership went the copyrights to his papers, which he had written to form the bulk of his book *The Psychology of Self-Esteem*. Barbara helped persuade Nathaniel that Rand would respect his rights to his articles, but Rand did not, and Nathaniel eventually had to work through the law to get the rights back. In '89, Nathaniel wrote, "When I told Barbara and Wilfred [who had helped Barbara persuade him] the news, I waited for one of them to acknowledge some regret for their role on the night I signed over to Ayn my interest in the magazine. Neither of them said a word, not then or at any time since" (400-1/357). Perhaps, in the interim, they have finally spoken.

In a section giving more depth to Nathaniel's and Barbara's relationship after the break, Nathaniel tells us that Barbara spent a great deal of time helping to defend him against Rand's false charges made in front of Objectivist groups (412/368). Barbara takes care of the arrangements when Nathaniel's second wife, Patrecia, passes away (428/387). Reference to a rather embarrassing alimony fight is removed (416/372).

But what about Ayn Rand, the center of the circle? She is the least changed major figure in the book. But some interesting changes are made. For instance, this paragraph is removed from a passage about sexual relations:

At one point I lay still, leaving all action and initiative to her, then suddenly rolled over and immobilized her, reversing the flow of energy, moving in a way that answered the greed in each of us — knowing that this was precisely what she wanted. I was in exquisite alignment with her and with the deepest meaning of sex as I perceived it. (162/140)

To me and probably to other members of the very youngest generation of libertarians, that scene (the most explicit in the book) is like hearing about one's grandmother's sex life; I am relieved that it is gone.

On one hand, there are new allegations that Rand supported Nathaniel's and Barbara's marriage as a trick:

And yet Ayn seemed keenly interested in seeing my marriage to Barbara preserved, in spite of the negative observations Ayn made from time to time. It did not enter my mind that she would see Barbara as safe, as no conceivable threat

to her, whereas a more happily passionate marriage would change Ayn's place in my life. Only years after the break with Ayn did I suspect that my relationship with Barbara had been convenient for Ayn. Barbara was manageable. (286/250)

On the other hand, there are new attempts to understand and excuse Rand's conduct. In '89, Nathaniel says, "If Ayn is 'insane,' I told myself, I have contributed to it." In '99, he says, "If Ayn is becoming more and more agitated and irrational, I told myself, I have contributed to it" (372/329).

Any literary attempt to recreate the past is fallible, and occasionally one wonders how fallible Branden's effort to recreate Ayn Rand really is. Consider the following episode. While Rand was writing *Atlas* and she and Branden were having their affair, he hit one day on his notion of self-esteem as the combination of a sense of efficacy and worth. He describes himself as running to Rand's apartment to tell her about it, only to discover that she has written about the same thing in the Galt's Speech section of the novel. She says to him: "Look how rational minds arrive at the same point. Are we or are we not brain mates?" In the new version, Branden adds: "Wasn't our romance inevitable?" (175/149) This raises an interesting question about the quotations in the book. It would be very odd for Branden's memory to improve over the past ten years. Why, then, does this line not appear in the '89 edition? To be sure, he does say that the quotations are not to be taken as gospel; they are his best recollection and he guarantees that they fit only with the spirit of a person's utterances.

But the most important issue is Branden's attempts at evaluation of Rand, and of himself. He now deletes from his memoir the following assessment of Rand: "Today I would say that she had attained a superlatively high degree of individuation" (212/184). He may be wise in believing this no longer. Clearly, Rand was psychologically damaged by her childhood experiences as an overbright, unattractive girl who didn't fit well with her parents' expectations and didn't get along well with people in general. Better perhaps to say that she did her best with what she had than to say that she was superlatively individuated.

For several years, a ten-page segment that was not printed in the '89 memoir has been available on Branden's web page. That segment, which details several encounters, very late in Rand's life, between her and Branden's third and current wife Devers, is part of the Epilogue of the '99 memoir. The Epilogue introduces an assessment of Rand that appears in neither the '89 memoir nor the web document:

Here is what I believe: Ayn was a great thinker and a great woman. She was also a struggling human being, as we all are. If one cannot understand her in her humanity, shortcomings included, one cannot fully appreciate her greatness; one cannot know Ayn Rand. (433/402)

One would like to be able to say that this should be taken very seriously, because Branden knew Rand better than anyone else and the assessment comes at a moment when bitterness has been dropped. But the same assessment holds of every important figure; it tells us nothing we didn't already know. An opportunity for deeper insight has been lost.

Let us turn to Branden's new takes on his own earlier self. In '89, he printed a great many things that people had

continued on page 44

Is Internet Privacy Overrated?

by Declan McCullagh

Set your browsers on stun.

Robert Pitofsky says he wants to help your children. "Protecting kids who surf the Internet has been a top priority," says the antitrust lawyer-turned-chairman of the Federal Trade Commission.

Last month he and the other FTC commissioners laid out a painstakingly detailed 55-page plan that lets the government regulate Web sites in the name of protecting the public.

One odd result: The scheme robs us of our own privacy in the name of preserving our children's. Parents must hand over personal info like their names and addresses — the idea is to get an adult's OK — before kids can enter Web sites like Jelly Belly's jellybeans online.

Wacky? Sure. Incoherent? Definitely. Is shielding kids from jelly bean cartoons a good use of the FTC's time? Probably not. But more extreme proposals to regulate the Internet make even Pitofsky's look sensible.

Take Rep. Bruce Vento, (D-MN). His Consumer Internet Privacy Protection Act last month was referred to a House Commerce subcommittee. The legislation says Web sites may no longer share "personally identifiable information" about their visitors without prior "written consent."

Written consent? We're talking about demanding a paper letter and an envelope and a signature here, folks — a scheme that makes about as much sense as insisting you sign your John Hancock with a quill pen. And, yes, Vento's chronologically-backward bill applies even to Net-savvy adults itching to sign up to physical or electronic mailing lists to receive news, sports scores, or discount offers at their local hardware store. Suffice it to say that the measure is not exactly a boon to electronic commerce.

Privacy Debates Heat Up in Washington

Whether Vento's plan will succeed or not is an open question. But one thing that is certain is that privacy has

emerged as one of the hottest topics in Washington, causing legislators to stumble over each other in a bull-headed stampede to do something, anything, without considering the long-term consequences.

Public opinion is spurring politicians along. Over a quarter million irate Americans complained about federal bank snooping rules, and new government DNA databases are causing more jitters than a case of Jolt Cola.

Polls showing Americans fret about their privacy seem to echo this concern. One survey found that 81% of Net users are concerned about threats to privacy online. In another, 72.2% of Americans polled said there should be new "Internet privacy laws."

One problem with these polls, though, is that talking abstractly about privacy is a pointless exercise. If you ask would-be car buyers if they value low prices, you'll get general agreement. But if you broaden your query to include safety, fuel efficiency, performance and reliability, you will likely hear that those options easily justify a higher sticker price.

So it is with privacy. The polls do not explain the downside of regulations. Imposing draconian new rules on marketing and information sharing would raise costs to consumers, particularly the less affluent who rely more on free or low-cost services supported by advertising. By hurting startups that would otherwise rent mailing lists, regulation hands established firms an unfair advantage.

Don't get me wrong. It is natural to be a little nervous about privacy. But nobody — except the government — can

force you against your will to hand over your personal information online. If you do not feel comfortable giving information to a Web site, you have got plenty of other options. Do not type it in. Do not go there anymore. Sign up with a service like anonymizer.com. Or lie.

The Economics of Privacy

In a free society, government regulation should be a last resort. Economists generally agree that the government should step in only when the free market has a glaringly obvious problem.

But when it comes to privacy, so-called market failures generally occur when federal bureaucrats and privacy advocates disagree with choices consumers have made. By and large, the bulk of consumers do not care as much about

If you do not feel comfortable giving information to a Web site, you have got plenty of other options. Do not type it in. Do not go there anymore. Sign up with a service like anonymizer.com. Or lie.

online privacy as they claim in polls. Web sites without privacy policies have received thousands of e-mail addresses typed in by people hoping to get daily or weekly updates on topics they care about.

But most large companies do tell you what they will do with information you provide. It should be obvious that the goals of Internet entrepreneurs are pretty simple: To make money, to burnish their firm's reputation, to boost its market valuation. Anything that helps them lure consumers to Web sites and keep them there will help — and entrepreneurs are smart enough to puzzle out if privacy policies and limits on reselling personal information will be attractive or not. In the Internet economy, stock prices are valued with an eye to future visits and future traffic — and there is no single better way to prevent that from happening than losing your customers' confidence by misusing their personal data.

In other words, more than most businesses, Web sites are unusually subject to the supremacy of consumers. Every day, companies are forced to adjust their content and business model so visitors will find their Web sites alluring. As Austrian economist Ludwig von Mises wrote: "If they fail in these endeavors, they suffer losses and must, if they do not succeed in amending their methods, go out of business." Or at least watch their stock price plummet as a flood of e-mail from angry investors arrives.

Why Privacy Is Overrated

European-style regulations of information collection would have a tremendous negative economic impact. It is no accident that the Internet has flourished the most in the U.S., a country with limited regulation compared to European states, and certainly nothing as invasive as the European Data Directive. European regulators have barred American Airlines, for instance, from transferring customer informa-

tion from Sweden to its SABRE reservation system in the U.S.

Arguments for intervention aren't supported by either theory or experience. The much-reviled "privacy intrusions" by corporations generally are far from the enemy of the consumer. In many cases, they are essential to providing the zero-cost content Internet users have come to expect. Compiling personal information lets businesses become more efficient and produce only products that people want. It reduces waste — who wants to get tons of glossy catalogs featuring products they care nothing about? It also helps in customization, as anyone who uses my.yahoo.com knows.

Don Boudreaux, president of the Foundation for Economic Education, likens customization to a good tailor. "Wealthy people get custom shirts, custom-made shoes, and a lot of custom-made items. They take your measurements and keep your name on file," he says. "What this new technology is doing is making it easier for merchants to give the same benefits of customization that were only available to the wealthy before."

It makes sense, of course, to be suspicious of government collection of information. When the Feds step in, consumers don't have a choice — they get a one-size-fits-all rule. Government plans like the creation of an air traveler profiling system announced last week, and the recent trend toward larger and larger government databases, should give any thoughtful person cause for concern.

But far too often, government databases you're unwillingly entered into are equated with databases of private-sector companies to which you give information voluntarily. Not helping matters is the fact that the privacy debate has been dominated by an alphabet soup of liberal groups like the ACLU, Electronic Privacy Information Center, Computer Professionals for Social Responsibility, Center for Democracy and Technology, Privacy International, and Electronic Freedom Foundation, all of which have busied themselves for the last decade demanding increased government regulation of businesses. Even prominent Republicans have joined the chorus. At the Computers, Freedom and Privacy conference last month in Washington, Rep. Bob Barr (R-Georgia) said information collection by businesses needed to be regulated. High-tech firms have been unwilling to stand up for their First Amendment rights to gather and share information, rights that privacy regulations often conflict with.

"Nobody has a vested emotional interest in debunking these arguments," says Eugene Volokh, a UCLA law professor specializing in the Internet. "Businesses care about the bottom line, not politics."

Many privacy advocates also are instinctively hostile to high-tech firms. Like early 20th century socialists, they claim the institutions of a market economy can be easily abused by corporate overlords. Recently in an article about Amazon.com's purchase of Alexa Internet, Evan Hendricks, editor of *Privacy Times*, compared the online bookseller to Big Brother. "They are putting their customers under surveillance," Hendricks said. "Amazon.com customers will be at the mercy of Amazon."

Not quite. Hendricks doesn't seem to have heard about BarnesandNoble.com. □

I Was a Small-Town Regulator

by Charles Platt

What happens when a jaded cosmopolite moves to Jerome, Arizona?

After living in New York City for 27 years, I was ready for a radical change, and my significant other was willing to humor me. On a whim we bought a house in Jerome, Arizona — a former mining town now populated largely by artists and ex-hippies who offer their wares to tourists passing through.

The realtor who sold us our new home also turned out to serve as the local mayor, and was happy to discuss his role in microgovernment. “I decided to run for office,” he told me, “because in a place as small as this, you really can make a difference.”

I thought about that. In New York, my dealings with its corrupt, unresponsive, incompetent bureaucracy had triggered emotions ranging from inarticulate frustration to impotent fury. But in Jerome, where the total population was less than 500, how bad could government be? Surely the minuscule tax base would minimize waste, while councillors would be constrained by their close proximity to the electorate. Any time they introduced an agenda item or cast a vote, they’d know they would have to justify their actions to their neighbors the next day.

In fact, the political process here might be so benign, I could actually participate in it without feeling unclean. If our mayor/realtor was correct, and one person really could make a difference — didn’t I have an ethical obligation to push in a libertarian direction?

I assumed I would have to spend a few years settling in and getting to know the place before I could become actively involved. But this turned out to be untrue; a craftsman renovating our house told me I could apply right away for a seat that was currently available on the Design Review Board. The town was so eager for volunteers, that if I had some background in design and an interest in architecture (which I did), my newcomer status wouldn’t matter.

I checked the history of “DRB” and discovered it had been established about 20 years ago, around the time Jerome

was designated a National Historic Landmark. DRB’s mission was to protect the town’s historic status by interpreting and enforcing ordinances discouraging metal-framed windows, garish colors, neon signs, and other modernities. Even if historic materials were used, DRB could still disallow anything that was “visually incompatible.”

This worried me. Interfering with the rights of property owners was bad enough; attempting to legislate aesthetics sounded worse. On the other hand — hadn’t I moved here partly because I loved the old buildings? Didn’t I want to see them preserved? When I learned that DRB operated in a low-key fashion, nudging people to cooperate on the honor system rather than flexing the strong arm of the law, I wondered if my libertarian ideals were simply not relevant in a community as small as this.

There was only one way to find out. I volunteered, and my application was approved.

I Propose Reforms

At the next DRB meeting I joined five other board members on a low plywood dais behind a homemade plywood desk, facing a dozen folding metal chairs where members of the public sat to seek permission for renovation and construction projects. After a lifetime of viewing government with deep distrust, I felt weird participating in its processes (albeit at the lowest possible level). I wondered if my new position of petty authority might uncover unsuspected character flaws. If I had to deal with people I didn’t like, would I find myself saying “no” to them out of spite? Would I feel

tempted to give them a hard time?

As I leafed through the design proposals, I experienced none of these temptations. Just the opposite: I felt embarrassed to be part of a system which inflicted a ritual of aesthetic nitpicking on hapless applicants. My gut reflex was to ignore the ordinances and approve absolutely everything.

On the other hand, I did want to preserve the look of the town. Also, I had promised to enforce the ordinances, and I don't make a habit of breaking promises. But I wasn't very enthusiastic about keeping a promise to victimize innocent landowners.

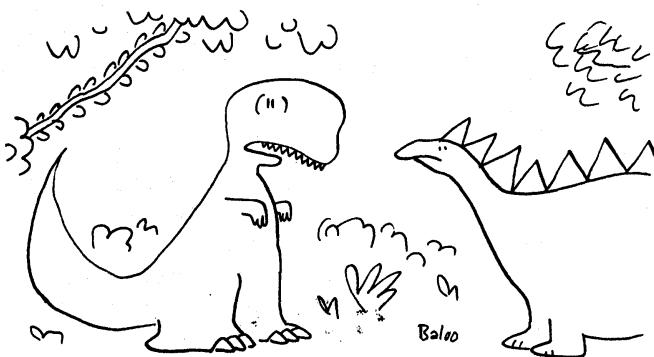
Fortunately, in Jerome, most citizens who approach DRB know the rules and don't surrender their \$75 filing fee unless they're confident of receiving approval. At my first DRB

In Jerome, where the total population was less than 500, how bad could government be?

meeting, every proposal conformed with regulations and was easily acceptable. The same turned out to be true at the next meeting, and the one after that. With relief I found that I could say "yes" to everything without violating the law, my pledge to uphold it, or my convictions.

The process itself, though, still bothered me. Many applicants clearly resented DRB's intrusion into their lives, and as I got to know more Jerome residents, I found that a lot of them despised the "elitists" who had the power to approve or disapprove anything from picket fences to entire houses.

This adversarial relationship was bad for the community. Jerome would benefit if its heritage could be protected, somehow, without resorting to legislation. I wondered if tort law could be substituted for ordinances. The town's historic appearance does have monetary value, since it attracts tourists whose spending sustains the community. Therefore, I imagined that if the architecture were degraded, the town and its business owners would suffer a loss for which they could claim compensation. But this was hopelessly theoretical; there was no practical way to compute such a loss or prove its source.



"Talk about weird! — I just got an overwhelming urge to chirp!"

By coincidence, though, another town body — the Planning and Zoning Commission — had begun discussing revisions to an ordinance limiting building height. Here I saw an opportunity for innovation.

Jerome is situated halfway up a mountain from which it enjoys fabulous views across a wide, flat valley to the red rocks of Sedona 25 miles away. Conversely, when visitors approach Jerome, they often stop to admire its historic houses crowded together on the mountainside. Both of these views, outgoing and incoming, had been protected, to some extent, by the town's old height ordinance; but as I listened to various proposals for revising it, I realized it was a legislative nightmare. Some lots in Jerome slope so steeply that a building may be twenty feet higher at the front than at the rear, creating complex measurement issues. In some locations a new building can conform with height regulations yet still block a neighbor's view, triggering anger and resentment while reducing property value. Most embarrassingly, some historic buildings actually exceed the maximum height allowed for new buildings.

I wondered if it would make better sense to sidestep the height issue and consider the view itself. After all, that was what residents in Jerome seemed to value most, and it could be measured easily enough. A photographer could visit each home and take a picture from a window chosen by the home owner, using a wide-angle lens, ideally on a digital camera. Image-editing software could outline the unobstructed view area in the photograph, at which point a simple Visual

Interfering with the rights of property owners was bad enough; attempting to legislate aesthetics sounded worse.

BASIC program could count pixels (the dots in the image). If the town would pass a new ordinance to establish a relatively high value — say, \$500 — for each unobstructed pixel, the total monetary worth of each person's view could be assessed and recorded. Subsequently, if a view was blocked, the injured party could bring a civil suit to recover damages.

I wasn't certain about the legalities, because I lack a formal legal education. In principle, though, my concept offered several advantages. First, after the scheme was in place, the town would be uninvolved, thus reducing its adversarial relationship with citizens. Second, the scheme would be self-enforcing, because no one would want to block anyone's view for fear of getting sued. Third, we could radically simplify the height ordinance instead of trying to fine-tune it with provisos and exceptions to cover every conceivable case. Fourth, people would be encouraged to start thinking in terms of protecting Jerome's historical heritage themselves instead of having the town do it.

Alas, this was far too radical. When I described it to a few people associated with DRB or Planning and Zoning, they responded with polite interest while giving me a look which told me, from their perspective, I was an oddball newcomer

continued on page 51

'Cause I'm the Taxman

by Fritz Berggren

There is nothing certain but . . .

I'm a tax collector. You probably think I work for the government, but I do not. I have no badge, I'm really not a bad guy. I don't even like Big Government. I mean, who does, right? I have a wife and children and drive a four-door sedan. I'm pretty boring, actually.

But I control your life.

I exist because the government has blackmailed my employer into hiring me. You see, I have a special skill: I quickly and efficiently extract money from you and turn it over to the Feds. My employer pays me because I'm cheaper than paying the government. It's a cost of doing business, and if it isn't coming out of their pocket, why should they care?

In the long run, you pay my salary.

Here's how it works. The government passes a law that says "you will extract a percentage of money from your employee's paychecks and turn it over to us." And, "you'll pitch in some more funds on top of that. If you don't, then you will turn over twice as much money from your company to us, and your executives will go to jail." Corporate officers don't want to go to jail. Corporate officers like their bonuses every year. So, they hire someone like me to make sure Big Brother gets what he wants, so they can get what they want. It's all about money and muscle.

Tax collecting in the old days was a lot simpler. Thugs showed up at your door, usually at night, demanded the payment of a flat fee, and then went away until next year. As long as you paid them, you were OK. Not too many records, and the tax was fairly low. We've come a long way since then. This job can't be done by the average thug these days — it takes a real pro.

The seemingly "simple" task of paying a worker for his work has turned into an entire "off the books" government sub-industry. It's a covert operation — since the government "isn't really" taking the money away from you, they have

plausible deniability and the local goon takes the publicity hit. That's me, in case you didn't know it. Who do you call and scream at when your paycheck has too much in taxes withheld? Certainly not your local congressman. That would be too reasonable (they're the ones who passed the tax laws, you know). You call your payroll department and yell at one of the poor ladies who processed your check. And when she can't help you, you ask to speak to her manager. Me. I'm the manager. I'm the tax collector. Without me, my entire company would grind to a halt. Not only do I pay you, I pay the government. And I turn over all kinds of juicy little information to them anytime they want it.

You don't believe me? Listen bubba, you have no idea. Let me give you a little background here. First of all, you won't even get paid a dime unless the U.S. government has a dossier on you. You've got to be categorized, stamped, proofed and approved before you get a job. It's not that working is illegal, it's paying someone to work that's illegal — if you're not pre-approved by the Feds. What do I mean? How about the I-9? That's a teensy little one-page form which requires government-approved documents to be presented before you are hired. Not just any documents, either — try a passport. Or a birth certificate and a social security card. Or a current state driver's license with a photo AND a social security card.

In other words, unless you can prove to the Feds that you are in their database, you're not going to get any money. And just in case you think any old fake document will work,

think again. The Feds have blackmailed my employers by insisting that we (me, that is) have no suspicions at all about the legitimacy of the documents potential workers show to us. The burden is on me to demonstrate to the Feds that the documents really were "real." Nice, ain't it?

Sure, you can always work in the "black market," but it's risky. You could get deported or imprisoned (especially if you are making a decent living), and most likely will live on the fringes of American prosperity. If you're really poor, the government can't take much from you, and if you don't cost them anything like welfare or food stamps or, God forbid, child care, then nobody really cares.

But then again, hey, maybe you're a macho flag-waving red-blooded made-in-the-U.S.A. truck driver and don't give

I have a wife and children and drive a four-door sedan. I'm pretty boring actually. But I control your life.

a flying hoot about whether or not the government has you in its database. You're proud to be an American. You want to stand up and be counted. You registered for the draft, pay your taxes, and vote in every election.

Okay trucker, how many children have you fathered along the road? None of my business? You're going to rip my head off and shove it where? Hey, let's not take this personally, buddy — I'm only doing my job.

I have three full-time people employed just to keep tabs on horny truck drivers and they can barely keep up with the job. Seems like there's an awful lot of hanky panky out there these days and, well, babies are getting produced as a byproduct. Someone has to pay for them. It always comes back to money. When babies get produced, something very important happens: momma wants some money. And if there is no responsible male around, moms have been taught to turn to the government. It's gotten to be such an epidemic that the government said, "hold on a minute, here — charity is one thing if I have a few extra coins to toss in the bucket, but this is starting to really cost me." For a few million bucks, politicians bought off the conscience of the nation by convincing people that the government was helping the poor. Who cares when it's someone else's money, right? Well, once the word got out, those few millions turned into billions and the politicians had a problem.

The politicians' options were limited. They could say "enough, no more money for single moms — time to get a job." But they are too compassionate, and those single moms have a lot of votes. God forbid that they cut spending elsewhere — pork barrel spending keeps their re-election bank accounts full from "interested" third parties. Or, they could say "raise taxes" and keep doling out the funds.

So, "Deadbeat Dads" became the hottest political target in America, right up there with Saddam Hussein and the War on Drugs. That's where I come in.

Every state in the union has established a law requiring employers to report everyone they hire to the government. In fact, this crusade was so overwhelmingly popular that the

federal government endorsed and standardized it and has made it even easier for me. I only have to send a list of new hires to the state and it tells all the other 49 states who just got hired. See, the government makes it easier for me to update your dossier.

So when Billy Bob visits Suzy in Salem on a run from Seattle to Sausalito, and Billy Jr. shows up, Suzy asks the state for money. The state then comes to me and asks for money. Since I don't want to pay Suzy the money either (the Feds and I agree on some things), I simply take it from your paycheck and give it to the government. I work in a big building with security guards, so it's hard for you to come and wring my little neck for taking your money and not minding my own business. Anyway, it's really not my fault — I was blackmailed. If I don't take your money away from you and give it to the state, they take the money directly from my company and then I'll get fired and my kids won't eat.

So, you quit your job. Truck driving gigs are a dime a dozen and you sign up with our competitor. That'll teach us, right? Well, your new company has a tax collector too. Within two weeks of getting hired, your name, address, and social security number are wired to the state and they'll track you down like a bloodhound. You can't escape the Feds in a wired society — at least not under our current laws.

My job would be impossible without computers. You really have no idea how complex payroll departments are. The government requires reams of detailed documentation about personal life, income, and whereabouts. I mean, if your paycheck isn't personal, then what is?

Take direct deposit, for example. All direct deposits go through "federally approved" banking institutions. Feder-

I personally keep records of every nickel you've earned for the last seven years. Once a year I give that data to the Feds.

ally approved means they cooperate with the Feds. It's blackmail again — "play by my rules and we'll let you play bank and make some money."

But you don't have anything to hide, do you? Not that it matters. I personally keep records of every nickel you've earned for the last seven years. Once a year I give that data to the Feds.

Did I tell you that some of my colleagues keep track of how you spend your money? While I keep track of every cent you make, and where you work, my colleagues keep track of almost every cent you spend, and where you spent it, and when. Didn't you ever wonder why you can't buy a home or car in America without a "credit record?" And you can't get a "credit record" without a credit card. Every time you use a credit card you document your life for a few large credit agencies and some "federally approved" banks. You log your exact location, the time and date, the amount spent, and the products or services you are purchasing. It's all there with credit cards. And if you use checks, the bank has

continued on page 53

Judicial Nullification

by Eric Longley

What's sauce for the judge is sauce for the jury.

The idea of jury nullification mortifies most courts. For one thing, juries evaluating the law for themselves are liable to be inconsistent, leaving litigants without any recourse to settle their disputes in a rational manner. "If the jury were at liberty to settle the law for themselves," wrote Judge Joseph Story in 1985, "the effect would be, not only that the law would be most uncertain, from the different views, which different juries might take of it; but in case of error, there would be no remedy or redress by the injured party; for the court would not have the right to review the law as it had been settled by the jury."

Jury may consist of the proverbial "twelve men, good and true," but they are likely to be incompetent. "It is . . . contrary to reason and fitness, in withdrawing the interpretation of laws from those who make it the business and study of their lives to understand them, and committing it to a class of men who, being drawn from non-professional life for occasional and temporary service only, possess no such qualifications, and whose decisions would be conflicting in all doubtful cases, and would therefore lead to endless confusion and perpetual uncertainty."

Consequently, courts go to great lengths to keep potential jurors from learning about jury nullification. When the survivors of the Waco massacre were put on trial, members of the Fully Informed Jury Association (FIJA) contacted potential jury members and sent them a "Jury Power Information Kit" to inform them of their rights as jurors. The judge in the case told the potential jurors that they were not to open the packages that they received from FIJA, but instead to bring them to him.

Curiously, while judges paint jury nullification as the end of civilization as we know it, they virtually never speak of judicial nullification — the practice of *judges* nullifying the law. Judicial nullification is rarely heard of, but it is surprisingly common.

In Michigan traffic cases, judges can be lenient on motorists. Each judge takes the case under advisement — which usually means holding on to some matter until the court reaches a decision. The judge will review the case after a few months, and if the driver doesn't have any new tickets, the judge will dismiss the old one. The practical effect is that the driver has been found not guilty.

A judge who handled traffic cases, himself the ex-president of a statewide association for District Court judges, told the *Detroit News* in 1996 that judges were abusing this practice of taking cases under advisement. A driver could have several tickets pending before different judges, under advisement at the same time. Since having a ticket under advisement doesn't count in computing convictions, the driver still has a clean record, and could get all the tickets dismissed for that reason.

Despite its occasional abuse, the use of this device in traffic cases seems to have merit. First-time traffic offenders have a way to avoid conviction and the consequent increase in insurance rates. Judges have a way of showing clemency by acting outside the motor vehicle code.

In addition to showing defendants lenience under the traffic laws, some Michigan judges use similar methods to get around the juvenile code. That code provides the option of "youthful trainee" status — up to three years in juvenile hall — for certain offenders aged 17 to 21. Judges, however, often accept plea bargains in which the court takes the case

under advisement, dismissing the charge after the youth completes what amounts to probation. The youthful trainee law doesn't mention this procedure — judges appear to have developed it in response to perceived needs.

Again, the practical effect is that a guilty defendant is converted, by the court's dismissal of the charge, into an innocent person — just as with jury nullification.

In New York, through a device known as Adjournment in Contemplation of Dismissal (ACD), the charges can be put on ice, with a view to ultimate dismissal. The court can initiate the process, with the consent of both sides, or it can accept an ACD as part of a plea-bargain. An ACD can be unconditional, or the judge can impose parole-style conditions, the violation of which will lead to the resumption of

Curiously, while judges paint jury nullification as the end of civilization as we know it, they virtually never speak of judicial nullification — the practice of judges nullifying the law.

the defendant's trial. Once the charge is dismissed under this procedure, "the arrest and prosecution shall be deemed a nullity and the defendant shall be restored, in contemplation of law, to the status he occupied before his arrest and prosecution."

The creative ways in which a New York judge can use an ACD to dismiss charges are illustrated by a recent case in which the defendant killed a companion in a snowmobile accident. The state charged the defendant with misdemeanor negligence. In the middle of the trial (technically after the period in which an ACD could be sought), the judge, the prosecutor, the defense attorney and relatives of the victim consulted and agreed on an ACD. The court would dismiss the charges in six months if the defendant remained law-abiding and performed community service. The prosecutor explained to the court his reason for supporting this procedure: "There is a good chance of acquittal. I feel [the] public interest would not be served by an acquittal."

In cases involving marijuana offences New York judges can grant an ACD over the prosecutor's objection. A first-time marijuana offender can receive an ACD or an immediate dismissal. There are two important differences between this procedure and the ACD procedures in other cases. First, the judge must assign probation-like conditions in exchange for an ACD (the details are up to him). He still has the option of giving an unconditional dismissal, without anything resembling probation, if he thinks this is "in furtherance of justice." In other words, he can pick the charge up by the seat of the pants and throw it bodily out of court, even if the defendant is guilty.

The other distinction of marijuana cases is that if a defendant has a clean record, the judge can grant an ACD or a dismissal even if the prosecutor objects. As mentioned above, in non-marijuana cases the prosecutor has to sign off on any adjournment in contemplation of dismissal.

One judge, through his interpretation of the use of the

ACD, has intimated that this method creates a *de facto* exception to the marijuana laws. In April, 1996, Johann Moore, the head of the Medical Marijuana Buyers' Club, was on trial. The group tries to provide marijuana to seriously ill patients, and Moore was caught passing out bags of pot to members of the Buyers' Club.

The prosecution offered an ACD, which was accepted by the court and the defense. The judge commented, "The fact that they are offering you an adjournment in contemplation of dismissal seems to me, although obviously I cannot speak for the thinking of the New York district attorney's office — Lord knows that — that that indicates a recognition on their part that this case is different, that your position has some degree of merit."

After a defendant with an otherwise clean record has his pot charge dismissed, either unconditionally or in exchange for fulfilling the court's probation-type conditions, "the arrest and prosecution shall be deemed a nullity and the defendant shall be restored, in contemplation of law, to the status he occupied before his arrest and prosecution."

Answered Prayers

The Prayer for Judgment Continued (PJC), or Continued Prayer for Judgment, is used by North Carolina judges after the defendant is convicted or pleads guilty. Technically, use of this method means the sentence is postponed. Generally, the court has discretion in these cases to postpone the sentence forever, or use postponement as a form of probation.

When the legislature has required that a formal sentence be pronounced, the PJC is not available, at least if probation-style conditions are attached. In DWI cases, a judge must

In cases involving marijuana offenses New York judges can grant an ACD over the prosecutor's objection.

impose a judgment and sentence after conviction. In other cases, the judge still has discretion to use the PJC. If it is given with probation-style conditions, this amounts to an official judgment of conviction. If the PJC is given without conditions (except paying costs), the defendant hasn't been convicted.

In 1989, a Greensboro, N.C., woman was found guilty of killing her husband. At a hearing before the judge, testimony indicated that the woman's husband had terrorized her repeatedly over several years. On the day of the fatal shooting, her husband had beaten her and threatened to kill them both. A police detective who investigated the case said that "At the time, maybe [shooting her husband] was the only option [the woman] had." The officer added, "[s]he's gone through hell." The judge granted a Prayer for Judgment Continued, apparently from the conviction that the prison term contemplated by the letter of the law would be too harsh in the defendant's circumstances.

A less dramatic instance in which a North Carolina judge used a PJC to help get around the rigors of the law took place in Raleigh in 1996. The defendant had confronted a

Do Rights Come from the Constitution?

by Jacob G. Hornberger



It is commonly believed that the rights of the American people come from the Constitution. Nothing could be further from the truth.

Throughout history, the standard belief was that people were unconditionally subject to the commands of their government. If the king ordered a person to leave his family to fight in a war thousands of miles away, that person would have to obey. The king could control and regulate both lives and property because he was sovereign and supreme, and the citizens, as subjects, were subordinate and inferior. When the king commanded, people obeyed.

Gradually, people began questioning the notion of the king's having unrestricted control over their lives and fortunes. For example, in 1215, with Magna Carta, the king was forced to admit that his powers over the citizenry were limited.

It was in 1776, however, with the publication of the Declaration of Independence, that the historical concept of

sovereignty got turned upside down. Government wasn't sovereign and supreme, Jefferson declared to the world. Individuals are. And government officials are subordinate and inferior to the citizenry.

The Declaration emphasized that men have been endowed with certain fundamental and inherent rights that pre-exist government. In other words, man's rights don't come from the king or from any other government official. Rights such as life, liberty, property, and the pursuit of happiness exist independently of government, not because of government.

It also emphasized that the reason people call government into existence is to protect the exercise of these rights. That is, in the absence of government, antisocial people such as murderers, rapists, and thieves would make life quite miserable for everyone else. Therefore, government is needed to arrest, prosecute, and punish these types of people.

What happens when government transgresses its rightful duty of protection and becomes more destructive than what would be the case in the absence of government? The Declaration tells us that it is the right of the people to alter or abolish that government and to implement a new government that is designed to protect, not destroy, the exercise of man's natural or God-given rights.

The quandary, of course,

that our Founders faced was whether it was possible to bring a government into existence that would remain limited to an inferior and subordinate role rather than attempt to assume the more traditional sovereign and supreme role.

In 1787, the Founders attempted to solve the problem by writing a Constitution that called the federal government into existence. The result was historically significant: The Constitution made it clear that this government, unlike others in history, would not be one of unlimited powers. Instead, by the express terms of the Constitution itself, the federal government would be one of limited, enumerated powers. For example, the powers of Congress are limited to those enumerated in Article 1, Section 8 of the Constitution.

Thus the correct question is not "What rights does the Constitution give to the American people?" but rather "What powers does the Constitution grant to the government?" If a certain power is not enumerated, the government is not permitted to exercise it.

Not trusting government officials, however — even democratically elected ones — the American people ensured the passage of the first 10 amendments to the Constitution. These should more appropriately have been called the "Bill of Prohibitions" than the Bill of Rights. Why? Because a

careful examination reveals that they are express restrictions on government powers rather than a grant of rights to the citizenry.

Some people argued that a Bill of Rights was unnecessary because government's powers were already limited to those enumerated in the Constitution itself. Since the government has not been given the power to regulate speech, for example, there was no reason to have an express prohibition against the regulation of speech.

Fearful, however, of the propensity of government to move toward dominance and control, the people felt safer with express restrictions on the power to interfere with rights that they believed were of the utmost importance. Playing it safe, they included the Ninth Amendment: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

So the next time someone refers to your "constitutional rights," remind him that people's rights don't come from the Constitution. And if you really want to stimulate thinking, ask him whether he believes that today the federal government is destructive of the very rights it was designed to protect.

Mr. Hornberger is founder and president of The Future of Freedom Foundation.

THE FUTURE OF FREEDOM FOUNDATION

11350 Random Hills Road, Suite 800
Fairfax, VA 22030
Phone: (703) 934-6101 • Fax: (703) 352-8678
E-mail: FFFVA@compuserve.com
<http://www.fff.org>



We Don't Compromise.

Order:

**FFF E-mail update
at no charge.**

Editorials, media appearances,
speeches, and activities

(Send "subscribe" to FFFVA@compuserve.com)

and

Order:

**One-year (12 months)
subscription
to Freedom Daily**

(FFF's monthly journal of libertarian essays)

at \$18.

Send to FFF

11350 Random Hills Road, Suite 800
Fairfax, VA 22030

neighbor's children over a fight in which the defendant's children were also involved. The judge believed that the defendant assaulted the children, apparently in an attempt at discipline or restraint. However, the judge entered a PJC rather than a formal conviction against the defendant. In the judge's view, the parents of the other children shared some of the blame, and should never have brought the case to court: "The mores of our society are such today that we need all the help we can get rearing our children. A few years ago, parents would have been appreciative of another parent correcting their children . . ."

The PJC technique was used in Raleigh in another case involving an alleged assault on a child. A judge found a Salvation Army worker — with an otherwise exemplary record of dealing with children — guilty of getting angry at a child and throwing him to the floor. The judge said of the

defendant, "[h]e's spent his career, apparently a flawless career, helping children, and I don't want to damage his profession." A conviction would have stopped the defendant from returning to work with the Salvation Army, but the PJC allowed him continued eligibility in his profession.

The Fallout

Now that I've let the cat out of the bag about judicial nullification, I suppose ominous warnings will appear in publications aimed at trial judges, warning them against the temptation of nullifying the law. Solemn newspaper commentators will inform readers of the grave danger to the rule of law posed by judges with nullification power.

At least, that is what will happen if the opponents of "jury nullification" are as distrustful of judges as they are of jurors. □

Register, "A Kinder, Gentler 'Judgment Day,'" *continued from page 34*

said about how smart and clever and good-looking he was. Some of these have been cut, such as Ayn's declaration that he was "a genius" (131/111) when he came up with the idea of "social metaphysics." Further, he says that the notion was not so hot:

Today, I would never suggest to anyone that he or she was a "social metaphysician" because, in the words of my friend the late child psychologist Haim Ginott, "labeling is disabling." It is far more helpful to focus on "growing in autonomy and self-trust." (131/111)

He also admits to having evaded his knowledge of the consequences of the affair that he had with Rand. After telling Barbara that it couldn't last because Rand was so much older than he, he adds, in the '99 version, "The phrase wasn't used back then, but today one would say I was totally 'in denial'" (144/123).

In '89, Branden wrote, concerning a moment when the inner circle was meeting and reading *Atlas*:

Sometimes I would ask myself: if all of Ayn's writings disappeared, and if Ayn and I were dead, was there anyone in our circle who could reliably reconstruct and re-create all her philosophical work? I doubted that even Barbara could do that. This thought evoked a faint sadness in me. (182/157)

Perhaps as a way of crediting Barbara with greater understanding, this passage is removed in '99.

In the '89 memoir, Branden took credit for defending people against Rand's angry denunciations. This is now tempered with an admission: "On the other hand, there were times when I was fully as guilty as Ayn of such tantrums. Was I not her alter ego?" (199/171) He still wants us to know that he was reflecting Rand's vices, but he now acknowledges his complicity more deeply.

He allows, too, that he wasn't quite as grand as everybody said he was. Answering a reporter's question about what it means for Branden to be her "intellectual heir," Rand is reported as saying that the label "means Mr. Branden is the most consistent embodiment of what I write about." In '89, Branden remembered of the occasion: "I felt myself standing in the spotlight of history" (227/197). In '99, he

remembers somewhat differently: "It was not particularly easy to look poised and nonchalant at that moment; the truth is, I felt foolish" (227/197).

Perhaps the most self-revelatory change occurs in a passage that describes Branden's lecturing on Objectivism. The '89 account reads: "At the height of my arrogance I had not imagined I was John Galt, but by the end of 1964, every time I mounted the NBI lecture platform, I felt less like Nathaniel Branden." In '99, after the word "arrogance," Branden inserts: "and I have been guilty of arrogance for many years" (346/305). He is saying that he is still guilty of arrogance, that it was not merely a youthful error or something engendered only by Rand's influence.

Did the arrogance and the influence lead to the formation of a "Rand cult," as many people, including many people quite sympathetic to Objectivism, have charged? On this issue, Branden seems to have mixed views. About the assumption that Rand would always have good reasons for her decisions, he comments in the new memoir, "Today I recognize that it is of such attitudes that cults are made" (136/116). And he inserts the word "perhaps" at the beginning of the following sentence: "We were not a cult in the literal, dictionary sense of the word, but there was certainly a cultish aspect to our world. . . ." (256/227). Yet is "perhaps" simply a rhetorical flourish?

My Years With Ayn Rand tells its story more readably than *Judgment Day*. The members of Rand's inner circle are not quite the passive bores we saw before, and Barbara Branden gets more credit for her autonomy and accomplishments. Rand is treated somewhat more sensitively; Branden himself is humbler and takes more responsibility for his hand in things.

I noted about four hundred changes between the earlier memoir and the current one that struck me as substantial. Four hundred is also the approximate number of pages in the book: the '89 memoir was 436 pages long, the '99 is 405. A lot of the changes are relatively minor; the tenor of the book is not radically different; yet four hundred changes make four hundred interesting differences in a truly fascinating story. □

Reviews

No One Left To Lie To: The Triangulations of William Jefferson Clinton, by Christopher Hitchens. Verso, 1999, 122 pages.

Monster in the White House

Clark Stooksbury

One of the strange features of the era of Bill Clinton has been the willingness of so many left-liberals to degrade and make fools of themselves in defense of a man so obviously illiberal.

In future years, someone may pen a comprehensive history of this phenomenon, replete with details about quibbling feminist distinctions between Clarence Thomas's alleged references to pubic hair before the delicate Anita Hill and Bill Clinton's supposed pants-dropping in the face of Paula Jones; the blather regarding the "Sexual McCarthyism" of Slick Willie's being caught by a law allowing the plaintiff in a sexual harassment case to snoop around the defendant's sexual past (a provision that Clinton himself signed into law); the proclamation of Bill as our first "Black President" by Toni Morrison; and the uncomfortable silence after Juanita Broaddrick publicly (and credibly) accused the president of having raped her in 1978. Until such time, we will have to make due with Christopher Hitchens's *No One Left To Lie To*.

Christopher Hitchens is a columnist for *The Nation* and *Vanity Fair*. The casual observer who believes that twits

like Eleanor Clift are the best critics the left can come up with will get a burst of fresh air from Hitchens, who never bought Bill Clinton's lip-biting, "I feel your pain" act. *No One Left To Lie To* is an extended essay reiterating a variety of complaints of one of the few left-liberals not to have been rendered supine from basking in the glory of executive power.

Hitchens accurately portrays the president, not as the radical leftist that the Limbaugh crowd conjures up, but as a sort of neo-conservative lightweight, often with sometime Jesse Helms advisor Dick Morris devilishly whispering in his ear. An early example of Clinton's treachery to the left occurred just before the 1992 New Hampshire primary, when he returned to his state in high profile fashion to oversee an execution. During a debate in the 1988 campaign, Michael Dukakis — pockets bulging with his ACLU membership card, the furlough papers of Willie Horton, and other liberal ephemera — was asked, if his wife were raped and murdered, whether he'd execute the rapist. He expressed reluctance to do so, thereby rendering himself impotent against George Bush. Mindful of this, Clinton of the Sunbelt South and the moderate Democratic Leadership Council, took an opportunity to defuse a hot cultural issue by

carrying out the execution of a convicted cop-killer, who by that time had the intelligence of a small child, having lobotomized himself in a suicide attempt. This might have presented a problem to a man more squeamish than Clinton. Other people, including the warden and a police department witness, found the execution troubling. The prison chaplain, who resigned shortly after, called it a "horrible crime." But none of these men were on the ballot in New Hampshire.

It would be difficult to overestimate the importance of the execution to the stalwart left-wing anti-Clintonites. In their mythology it is equivalent to Clinton's draft-dodging and womanizing, as seen from the right. Hitchens draws heavily on an account published in *The New Yorker* in 1993. He includes

Clinton has taken the granola lefty slogan, "Think Globally, Act Locally" and stood it on its head. The President thinks locally in the extreme — concentrating almost exclusively on his immediate needs — and acts globally, killing helpless people in the Third World to meet those needs.

details about the condemned man's wish to save the pecan pie that was included in his last meal "for later" and about his cooperation with the personnel who were searching for a vein in which to inject the deadly poison. He apparently believed that they were trying to help him. They certainly did help Clinton. The execution was timed fortuitously for him. It coincided not only with the run-up to the New Hampshire primary but with the revelations by Jennifer Flowers of their long-term

affair. It would not be the last time, Hitchens remarks, when "Clinton would deliberately opt for death as a means of distraction from sex."

Hitchens is one of those suspicious types who question the timing of cruise missile strikes that coincided with Monica Lewinsky's grand jury testimony in August 1998, and the House impeachment vote in December. He points out that Clinton has taken the granola lefty slogan, "Think Globally, Act Locally" and stood it on its head. The President thinks locally in the extreme — concentrating almost exclusively on his immediate needs — and acts globally, killing helpless people in the Third World to meet those needs. In a chapter called "Clinton's War Crimes," originally published last year in *Vanity Fair*, Hitchens demolishes any case for the "anti-terrorist" bombing of the factory in El Shifa, Sudan. As Hitchens demonstrates, the rationale for bombing the factory is as porous as a sieve.

Although Clinton's presidency has been marked by a distinct center to center-right tilt, he has, as Hitchens observes, covered his "retreat from egalitarian or even from 'progressive' positions" with a "bodyguard of political correctness." This bodyguard has served him well; he has remained relatively safe, while leaving "progressive" corpses in his wake and confusing opponents on the right. Hitchens briefly ruminates on the question of why conservatives hate a president who has advanced much of their agenda and given them the thrill of seeing "Bomber Bill carrying a large Bible from prayer breakfast to prayer breakfast while ordering the downtrodden to shape up, and the war planes to discipline the wogs, and the military production lines to restart."

Unfortunately, Hitchens's brief discussion of this topic is unsatisfying — just as he's getting into it, he moves on to other things. Indeed, the major complaint to be made about this book is that it covers so much ground in so little space that it leaves one wanting to read more. The chapter on Clinton's war crimes and the discussion of the Arkansas execution are fairly detailed, but Hitchens breezes through a multitude of other topics without satisfactory discussion or conclusions. And one giant Clinton administration crime

— the Waco massacre — inexplicably goes unmentioned here.

No One Left To Lie To cries out for an expanded second edition that will go into detail on subjects that this edition hurries past. A second edition could also correct some factual errors. Hitchens places Dick Morris's direction of the reelection of Jesse Helms in 1994 instead of 1990, when it really happened. He has Jackie Robinson breaking Major League Baseball's color barrier in the 1950s, when Clinton was

six; he actually did it in 1947, when Clinton was an infant. He lists General George McClellan as Lincoln's Republican opponent, not his Democratic opponent in the general election of 1864.

But there may be little occasion to correct these faults. As Clinton's administration comes to an end, interest in Clinton-bashing books such as this will likely fade. And then, truly, there will be no one left for Clinton to lie to. □

***The Politics of Bad Faith: The Radical Assault on America's Future*, by David Horowitz. The Free Press, 1998, 214 pages.**

From Marx to Hayek

Jane S. Shaw

For those who have followed the ideological metamorphosis of David Horowitz, the message of *The Politics of Bad Faith* may already be familiar. Two of the most cogent essays in this book — a letter to a former friend and another to a former mentor — have been published before, and other books have chronicled his change in attitude. For those who haven't followed Horowitz's life in any depth, however — me, for instance — this is an eye-opener.

I believe that *The Politics of Bad Faith* is important for three reasons:

1) Horowitz explains better than anyone I have read, including Paul Johnson in *Modern Times*, why the Stalinist experience in the Soviet Union and similar totalitarian regimes around the world are the inevitable result of Marxism. They are inherent in the Marxist idea, he contends, not an aberration or misdirection or something brought about by unusual historical circumstance.

2) Horowitz argues that members of today's left, even outside the academy, have not repudiated or disavowed Marxism. They have been forced to retreat but they are in a state of denial, still hanging onto the belief that socialism can and should triumph. I don't know for sure if he is right about this, but the argument should be heard.

3) Horowitz tells us why he is a conservative and what kind of a conservative he is: a Hayekian. This is what makes the book especially compelling to me. *The Politics of Bad Faith* is an amalgam of Horowitz's personal history, his analysis of Marxism — including why it attracted many Jews — and a commentary on what remains of today's New Left. In no small part because of Horowitz's vivid prose, it makes fascinating reading.

David Horowitz was born in 1939 in New York City. His father, son of a Jewish immigrant, was an English teacher who in the McCarthy era was fired from his job on the grounds that he was a Communist, which he was. Following partially in his father's footsteps, David was a radical throughout

the 1960s, a leader of the New Left. He is probably best known as editor (with Peter Collier) of the magazine *Ramparts*,

Horowitz argues that members of today's left have not repudiated or disavowed Marxism. They have been forced to retreat but they are in a state of denial, still hanging onto the belief that socialism can and should triumph.

which had as a major goal ending the Vietnam War.

Much of Horowitz's adult life has been spent on a slow journey away from his radical roots. In 1968 he wrote a book, *Empire and Revolution*, that tried to get socialism back on a moral track after the evils of Stalinism became widely known. His book had no impact, he says. "The willful ignorance of New Left activists had by then become an unshakable faith that had long since ceased to be innocent" (62-3). His disenchantment with the left began then, although he smothered his doubts in order to oppose the Vietnam War. When it was over, his transformation began in earnest.

As he recounts in an utterly engrossing letter to a former friend, Horowitz began formally to question the gurus of socialism in the 1970s. He organized a conference on "Is Socialism a Viable Idea?" and he expressed his doubts to his mentor, Ralph Miliband. He was still hoping to retrieve the original vision of socialism, hoping that the idea could survive in spite of the horrors of the Stalinist age. But Miliband told him that with such "priorities," he should get out of the movement. "What my old teacher had told me was that the Left was really a community of faith and that I was no longer part of it," Horowitz decided (72).*

Having been there and seen it all, Horowitz speaks with authority and

doesn't mince words. He is harsh, very harsh, on his former colleagues. Unlike most writers today, he's not afraid to call people Communists, nor is he afraid to paint the remaining members of the New Left as deliberately ignoring reality in order to maintain their hope for socialism. He names names.

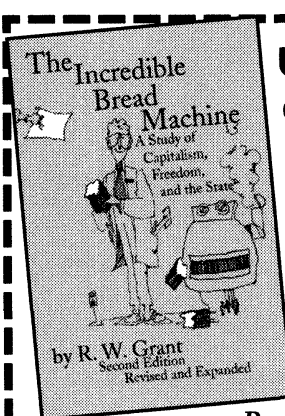
Horowitz views the American left as the latest generation in a two-hundred year-old "radical project." It started, he explains, with Rousseau, who famously decried private property saying, "you are lost, if you forget that the fruits of the earth belong equally to us all, and the earth itself to nobody!" The French revolution ripened the project, and Marx and Marxism extended it, engendering Stalinism and other totalitarian dictatorships.

This "radical project" endorsed reshaping mankind through revolution. "The ownership of private property," says Horowitz, "became a secular version of Original Sin. Through property, society reimposed on every generation of human innocence the travails of inequality and injustice" (78). The solution to this problem has been to destroy whatever was traditional, including the freedoms protected by

the U.S. Constitution. The "revolutionary vision," says Horowitz, demands that "all the unjust institutions of *class* [italics in original] history that had distorted, divided and oppressed mankind would be abolished and human innocence reborn" (79). In the pursuit of equality and social justice, totalitarianism was justified.

The process continues, Horowitz contends. He devotes a grim chapter to the AIDS epidemic, arguing that radicals chose to let the epidemic rage on, refusing to let it be handled as a public health emergency, with notification of contacts, closing of bathhouses and other steps that would stem its spread. Why? He says that the glorification of a gay lifestyle was part of the radical project — the goal was to overcome the restraints not simply of society but of nature itself. Rather than accept homosexuality as natural but atypical, radicals wanted to make promiscuous gay sexual behavior acceptable, because that was part of their efforts to subvert oppressive traditional norms. The result was the tragic AIDS epidemic.

Today, Horowitz calls himself a conservative. For him, conservatism is



Underground super-seller on economic liberty

Richard Grant's *The Incredible Bread Machine* became legendary in libertarian circles three decades ago, an underground classic about how laws backfire and how free people achieve extraordinary things. Now Grant has updated & expanded his work in some wonderful ways.

Reason's Robert Poole says, "This is one of the all-time classics of liberty. How wonderful to see it back in print. The new, revised edition is even better than the original."



THE INCREDIBLE BREAD MACHINE (2nd Edition) by R. W. Grant

LI7939 (paperback) 297p. \$14.95* postpaid
LI7938 (autographed hardcover) \$24.95* postpaid



Order toll-free: **1-800-326-0996**, Dept. IBM4

Or order through our website— <http://laissezfaire.org>

*Calif. residents, add sales tax

LAISSEZ FAIRE BOOKS

938 Howard St., #202 • San Francisco, CA 94103
World's largest selection of books on liberty

We ship within 24 hrs. • Satisfaction guaranteed or your money back

* This letter was originally published in *Liberty*, November 1991, as "The Road to Nowhere."

"respect for the ordinary realities of human lives; distrust of optimism based on human reason; caution in the face of tragedies past" (72). This respect is reflected in the work of Hayek, whom Horowitz quotes liberally. (Hayek distinguished himself from conservatives who merely wish to oppose change. He, like Horowitz, saw his role as that of a reformer, not a reactionary.)

Gradually, Horowitz became aware of the role of tradition, of roots, and of religion. He now sees that his father and many other Jews were drawn to the radical project because it overcame an underlying feeling that they were in exile. Yet, ironically, by secretly becoming part of the Communist Party, his father and his small band of comrades remained exiled from the sources that might have sustained them — notably, their neighborhood in Sunnyside, Queens, and their religion. The most poignant passage in the book is about his father's funeral, when he realizes that the small group of his father's comrades (who even at this funeral do not admit that they were Communists, or that his father was) remained in exile because the radical idea they adhered to could not give them a true home.

With this book, Horowitz is preaching to the choir. And it is a small choir, not the larger audience that needs to heed his message. Now that his journey seems to be over, I hope that he will figure out a way to go beyond the choir, to communicate to those left-liberals (however many they are) who never were Communists, never supported Stalinism, who really didn't know what they meant when they said they admired socialism. They do exist, although Horowitz may not think so.

The chief project for his future should be to carry on Hayek's messages, the key ones being the importance of markets and prices and the role of local roots and tradition in capturing knowledge that is rarely articulated. I hope that Horowitz will help others recognize the daily "marvel" (Hayek's word) that we all experience because we are a part of a vast extended order of relationships, sustained by free markets but fostered by the ordinary experience that accepts people as they are and does not try radically to alter them by coercive means.

For those who already see the world this way, this book is provocative and rewarding. But many have not even

heard this message. Could David Horowitz be the one to take it to the audience it deserves? □

The author of *The Man Versus the State* transcended simple-minded anti-statism to achieve the first major statement of libertarianism.

The First Libertarian

Chris Matthew Sciabarra

In his short review of *The Political Philosophy of Herbert Spencer*, Timothy Virkkala (May 1999) praises Tim S. Gray's discussion of the great classical liberal's methodology as a synthesis of "individualist" and "holist" approaches to social theory. But Virkkala remarks:

This method — I'm tempted to call it "dialectical," but Spencer's prose and position seem so far from Hegel's that the term is almost indecent — confuses many readers. But it is surely his strength. Gray is one of the few Spencer scholars to see this method as fundamental, and to present sophisticated *analyses* of Spencer's *syntheses*.

It is unfortunate that Virkkala refuses to give into his temptation, because crucially significant aspects of Herbert Spencer's work are, indeed, dialectical.

Some will say: "Ah, there goes Sciabarra. He thinks *everyone* is dialectical!" The truth is, of course, that though a genuine dialectical mindset is rare, not a few of the major classical liberal and libertarian thinkers have had a strong dialectical sensibility — and the neglect of this dialectical streak has been something I've tried to remedy for many years. The project encompasses a trilogy of works that began with *Marx*,

Hayek, and Utopia (SUNY, 1995), where I argued that Hayek's critique of "constructivism" is essentially dialectical because it views utopianism as a revolt against the broad conditions within which freedom is born and nourished. *Ayn Rand: The Russian Radical* (Penn State, 1995) is the second part. There I argue that Rand was a master at tracing the relationships among disparate factors within a dynamic context; her emphasis on the epistemic, psychological, ethical, and cultural requirements of freedom was simultaneously a vision of an integrated human existence that triumphed over conventional dichotomies — mind versus body, fact versus value, theory versus practice, etc. My forthcoming book, *Total Freedom*, completes the trilogy by tracing the history and meaning of the concept of dialectic from the pre-Socratics to Murray Rothbard, focusing on its relevance to our defense of liberty.

Dialectics is a methodological orientation toward contextual analysis of dynamic, structured systems. Dialectical techniques have been championed by Hegel, Marx, and those on the left, but they are as old as Western philosophy. They originated in the argumentative arts. A two-person dialogue constituted a dialectic of sorts, a means of contextualizing a problem by looking at it from different vantage points. While Plato gave expression to the Socratic form in his many dia-

logues, Aristotle was the first theoretician, the father, of the enterprise. His *Topics* and *Sophistical Refutations* were the first textbooks of dialectic. He articulated its principles and was probably its teacher in Plato's Academy.

In the evolution of dialectics, it was inevitable, perhaps, that it would be applied to objects and phenomena far beyond the confines of discourse. As long as an object of study can be treated as a structured totality — as a specific kind of whole constituted by dynamic relations — dialectical analysis becomes possible. There are many distinct phenomena — a language, a philosophy, a culture, an economy, a political organization, a social system, and even the relations among these — that can be analyzed as structured totalities. Because none of us can achieve a godlike vantage point on the whole, because the desire for omniscience is what Hayek called a "synoptic delusion," dialectics requires that we grasp

For years, Marxists derided liberals as thoroughly "undialectical." But the history of liberalism is replete with rich, textured, context-sensitive thinking.

any given object in its multiple dimensions by successive shifts in our perspective.

For years, Marxists derided liberals as thoroughly "undialectical" because their allegedly "atomistic" approach reduced social analysis to an abstract mental gymnastic on the life and times of Robinson Crusoe. But the history of liberalism is replete with rich, textured, context-sensitive thinking. In this regard, Herbert Spencer was one of the most important classical liberal thinkers to pioneer an alternative "dialectical libertarianism." His contributions to this project have yet to be fully appreciated, although his contributions to general systems theory in sociology are well known.

Hayek tells us too that Spencer's work had an impact on some of the early Austrian economic thinkers, including Friedrich von Wieser. But as

Tibor Machan argues, Spencer was also among the first to provide "a full-blown scientific justification" for the liberal worldview, just as Marx had done for communism (in Spencer [1879–93] 1978, 9). His evolutionary approach shared much with that of Darwin and provided inspiration for Collingwood, Kuhn, and Toulmin. It displayed all the "architectonic instinct[s]" and "propensit[ies] for synthesis" that we have come to expect from bona fide dialectical modes of inquiry (Copleston [1966] 1985, 145).

Spencer ([1879–93] 1978) admits into his conception a genuine appreciation for reciprocal relations among factors within a wider totality. It was Aristotle who first explored the mutual implications of "correlatives," such as "master" and "slave." Hegel stressed the same notion in his analysis of the relationship between "lord" and "bondsman." Like Aristotle and Hegel, Spencer explains "that correlatives imply one another," as surely as a father requires a child, and a child requires a father:

"The most exciting, new intellectual journal in many years!" — WILLIAM NISKANEN
Chairman, Cato Institute

Transcending the all-too-common politicization and superficiality of public policy research and debate, *The INDEPENDENT REVIEW* is the interdisciplinary, quarterly journal devoted to individual liberty and the critical analysis of government policy. Edited by Robert Higgs, *The INDEPENDENT REVIEW* is superbly written, provocative, and based on solid scholarship.

Ranging across economics, political science, law, history, philosophy, sociology, and related fields, *The INDEPENDENT REVIEW* boldly challenges the politicization and bureaucratization of our world, featuring in-depth examinations of current policy questions by many of the world's outstanding scholars and policy experts. Undaunted and uncompromising, this is *the* journal that is pioneering future debate!

"It is a welcome relief to have *The Independent Review's* comprehensive, unique and powerful analysis of current affairs."

— HARRY BROWNE, bestselling author
How I Found Freedom in an Unfree World

"*The Independent Review* is of great interest."

— C. VANN WOODWARD, Pulitzer Prize-Winner, Yale U.

"*The Independent Review* is distinctive in badly needed ways."

— LELAND YEAGER, Professor of Economics, Auburn U.

"*The Independent Review* is excellent in format and content, and is a most important undertaking for the cause of liberty."

— RALPH RAICO, Prof. of History, S.U.N.Y., Buffalo

"*The Independent Review* is very interesting and enjoyable."

— DAVID FRUM, Contributing Editor, *Weekly Standard*

In Recent and Forthcoming Issues:

The Origins of the War on Drugs, 1984-1989

— BRUCE L. BENSON AND DAVID W. RASMUSSEN
Medicare's Progeny: The 1996 Health Care Legislation

— CHARLOTTE TWIGHT
Population Growth: Disaster or Blessing?

— PETER T. BAUER
On the Nature of Civil Society

— CHARLES K. ROWLEY
The End of Welfare and the Contradiction of Compassion

— STEPHEN T. ZILIAK
Is Microsoft a Monopolist?

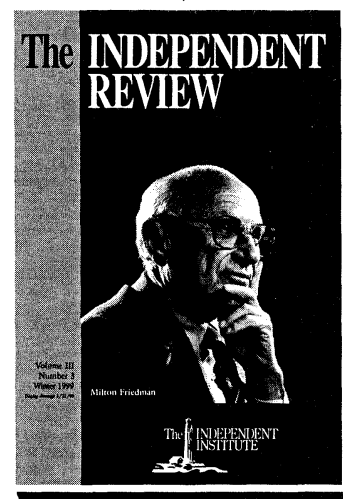
— RICHARD B. MCKENZIE AND WILLIAM F. SHUGHART III
Crime Control Through Private Enterprise

— BRUCE L. BENSON
Market-Based Environmentalism and the Free Market

— ROY E. CORDATO AND PETER J. HILL
Why the Great Depression Lasted So Long and Why It Ended

— ROBERT HIGGS
The Case Against Psychiatric Coercion

— THOMAS S. SZASZ



- ◆ Feature Articles
- ◆ Book Reviews
- ◆ Special Features
- ◆ Figures and Tables
- ◆ 160 Pages per Issue
- ◆ March, June, Sept. & Dec.
- ◆ Annual Index
- ◆ Plus more . . .

Individual Subscriptions:

\$27.95/1 year, \$52.95/2 year

Institutional Subscriptions:

\$83.95/1 year, \$158.95/2 year

International orders:

Add \$28/subscription shipping

Order Toll-Free (U.S.)

800-927-8733

Phone: 510-632-1366

Fax: 510-568-6040

review@independent.org

http://www.independent.org



100 Swan Way, Dept. 9V
Oakland, CA 94621-1428

Look for *The INDEPENDENT REVIEW* on better newsstands and in bookstores!

Beyond the primary truth that no idea of a whole can be framed without a nascent idea of parts constituting it, and that no idea of a part can be framed without a nascent idea of some whole to which it belongs, there is the secondary truth that there can be no correct idea of a part without a correct idea of the correlative whole. There are several ways in which inadequate knowledge of the one involves inadequate knowledge of the other. (37)

An examination of the part of a whole must not reify that part as "an independent entity," or it will risk the misapprehension of "its relations to existence in general . . ." (37) And the

To focus solely on rolling back the state, while not paying attention to the complexities of social psychology, ethics, and culture, is a sure prescription for failure.

relations must not be viewed "statically," says Spencer, but "dynamically" and "organic[ally]" (38). Spencer absorbs the organic metaphor from Aristotle in much the same way as Hegel did. In *Parts of Animals*, Aristotle examines the connections of parts that derive their essence from their constitution of the living organism as a whole. A hand disconnected from the body to which it belongs is a hand in name only, for "it will be unable to perform its function" (1.1.640b34-641a10). Spencer ([1879-93] 1978) argues likewise that "a detached arm" is one in name only and that it must be integrally understood as part of the organic whole to which it belongs. The moon's orbit cannot be understood apart from the movements of the larger solar system; the loading of a gun is "meaningless" outside the context of the "subsequent actions" performed; the "fragment[s] of a sentence" are "unintelligible" when disconnected from "the remainder"; and moral conduct "is an organic whole . . . of interdependent actions," in which each action is "inextricably bound up with the rest" (38-39).

This dialectic is extended to the

whole network of social intercourse. Long predating Hayek, Spencer ([1884] 1981) views society as a spontaneous "growth and not a manufacture." His focus on the "mutual dependence of parts" within a society and on the analytical "integrity of the whole" does not lead him to embrace the organic collectivism of traditional holistic approaches. He maintains that society lacks a collective brain, a "corporate consciousness," and since each person within the community retains an individual consciousness, the "corporate life must here be subservient to the lives of the parts, instead of the lives of the parts being subservient to the corporate life." As a society becomes more and more integrated, there is a greater need for heterogeneity and differentiation among the individuals who compose it (392-93).

This individualist insight does not prevent Spencer ([1850] 1970) from suggesting that the "body-politic" requires the freedom of each of its members in order to achieve freedom-in-general (405). In Spencer's conception of the social world, "whatever produces a diseased state in one part of the community must inevitably inflict injury upon all other parts." It is a "salutary truth" of the ideal community "that no one can be perfectly free till all are free; no one can be perfectly moral till all are moral; no one can be perfectly happy till all are happy" (409).

Eric Mack has recognized that this kind of utopian vision is "implausible and doctrinally corrosive" to the individualism that Spencer espouses (xvii). In the first place, it is virtually impossible to measure interpersonally people's level of morality and happiness. And if the human community requires such "perfect" freedom across the globe, freedom is likely to remain a chimera for a long time to come. But despite these problems in Spencer's work, we can still appreciate how he integrates the theoretical lessons of conservatism and radicalism, moving back and forth between adaptation "to old conditions of existence" and "becoming adapted to new ones" (Spencer [1850] 1970, 420).

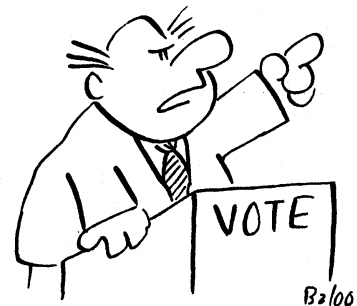
What makes his contribution so important is his penchant for tracing the

connections among social relations as manifested across different organizational structures and institutions. He sees an organic unity between the increasingly bureaucratic domestic state and its militarism abroad, between the interventionist dynamic and social disintegration. These ties are endemic to the statist system as a whole, as it evolves and influences each of its parts. Each part becomes a microcosm of the wider injustices, Spencer declares, even as all the parts reproduce injustice on a macroscopic scale.

The lesson is one that contemporary libertarians should heed. Those who advocate a single change in one part of society, namely government, will not sustain their revolution. To focus solely on rolling back the state, while not paying attention to the complexities of social psychology, ethics, and culture, is a sure prescription for failure. As Spencer might say, to disconnect a single aspect from its broad context is to achieve partial, one-sided, "inadequate knowledge" of all that is necessary to achieve fundamental change. That Spencer was among the first "dialectical libertarians" to grasp this principle remains an enduring legacy of his work. □

References

- Copleston, Frederick. [1966] 1985. *A History of Philosophy, Book Three Volume VIII: Bentham to Russell*. Garden City, N.Y.: Image Books.
- Gray, Tim S. 1996. *The Political Philosophy of Herbert Spencer*. Avebury.
- Spencer, Herbert. [1879-93] 1978. *The Principles of Ethics*, 2 vols. Introduction by Tibor R. Machan. Indianapolis: Liberty Classics.
- . [1884] 1981. *The Man versus the State, with Six Essays on Government, Society, and Freedom*. Foreword by Eric Mack. Introduction by Albert Jay Nock. Indianapolis: Liberty Classics.
- . [1850] 1970. *Social Statics: The Conditions Essential to Human Happiness Specified, and the First of Them Developed*. New York: Robert Schalkenbach Foundation.
- Virkkala, Timothy. 1999. Booknotes: "The Synthetic Man." *Liberty* 13, no. 5 (May): 59-60.



"Political corruption is a disease like any other!"

Platt, "I Was a Small-Town Regulator," continued from page 38

with a totally nutty idea. They agreed that many of the old ordinances might be imperfect — but if so, they felt the answer was to pass new ordinances.

Libertarian theory had run aground on the bedrock of orthodoxy.

Ethical Dilemmas Arrive

Meanwhile I encountered my first ethical dilemma as a DRB member. A Jerome resident wanted to erect an out-building which, to me, looked ugly, tasteless, and hopelessly unhistoric. I expected my fellow board members to object to this clearly noncomplying proposal, but as they started discussing it I realized that none of them felt any qualms — perhaps because the applicant had lived in the town for many years and was well liked.

The Chairman of DRB called the question. "All those in favor?" The others said "aye" — but I couldn't bring myself to join them. "All those against?" My reflexes kicked in; I couldn't vote "nay," either. By default, I followed the most cowardly path. I abstained.

As I walked home from the meeting that night, I realized that serving on DRB hadn't helped to resolve my concerns about the ethics of preservationism. I felt more conflicted than ever.

Maybe I was over-intellectualizing the problem. I remembered the native-born Arizonans I had met, people who possessed bedrock common sense coupled with a sense of humor that always delighted me. A retired rancher in a souvenir store near Tombstone told me that he wore two handguns, not because he needed them but because "it pisses off the liberals." A local judge remarked to me that "only two people could have saved America in the 1960s. One was Jesus Christ; the other was Barry Goldwater — and both of them were crucified." Then there was a bar owner who eyed me in a stern but amiable style and said, "I don't mind you people moving here, but why can't you leave all those rules and regulations back where you came from?"

These were the people I had hoped to find in Arizona. So what was I doing on DRB, associating with a crew of liberal elitists who had "discovered" Jerome after drifting in from the east and west coasts and were trying to con-

trol its appearance with a maze of picayune legalities?

The Arizona natives cared a lot about historical preservation — in their own way. The bar owner, for instance, had been active in the Jerome Historical Society, which had bought and restored many local buildings. If he disliked some new construction, he'd sure as hell tell you about it; but I couldn't see him trying to legislate it out of existence. He seemed to feel that anyone should have the right to do whatever he wanted with his property, even if he turned out to be a damned fool.

The more I thought about it, the more I had to conclude that DRB was a well-intentioned but bad idea. There was only one right thing to do: give the power back to property owners, and let them make their own choices. If they created an ugly mess, and the town lost its Historic National Landmark status, and I became so disgusted that I didn't want to live there anymore — well, that's the risk you take when you allow people liberty.

My breaking point came when DRB was approached by a restaurant owner wanting to erect three signs outside his business instead of the usual maximum of two. Like *Oliver Twist*, he was asking for "more," in a town where many low-income artists disdain the materialist mindset. A debate ensued about the precise meaning and intent of the sign ordinances, but I wasn't sure I trusted DRB to interpret the ordinances fairly and objectively. I suspected that some members might be looking for an excuse, consciously or unconsciously, to penalize a businessman who was too highly motivated and successful for their liking.

Shortly after they rejected his application, I quit the DRB.

Microgovernments and Microscopes

Back in the 1980s I remember hearing an extemporaneous speech by Ken Livingstone, the renegade member of British Parliament. He said, "Government really is like your worst

Liber-Tees

www.Liber-Tees.com

Save America



Item #T101



Item #T119

Life, Liberty, and the Pursuit of Happiness

THE LIBERTARIAN PARTY

The Party of Freedom

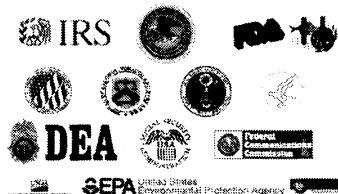
Item #T123



www.215Now.com

Item #T142

Please sign the online petition at 215Now.com. We will donate \$3 to the Libertarian Party of California's 215Now website for every 215Now t-shirt sold.



Warning: Government agencies are hazardous to your health and may cause poverty, imprisonment or a slow, painful death.

Item #T110

Summer Special - Any 3 t-shirts only \$25 + S&H

Each add'l only \$8. 1-2 for \$9/ea

Liber-Tees

P.O. Box 1330

Redlands, CA 92373

All t-shirts are 100% cotton Hanes BEEFY-Ts

30 day money back guarantee

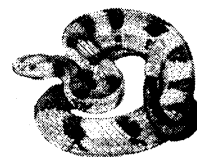
Sizes: MED, LG, XL (XXL add \$2/ea)

Colors: White and Natural

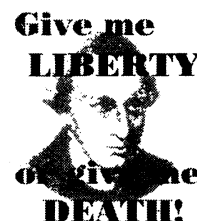
S&H: \$3.20 1st shirt, 50 cents ea. add'l

Free catalog available upon request

Check/M.O./Visa/MC/AMEX/Disc accepted



Item #138



Patrick Henry

Item #T122

Classified Ads

Education

Greg Cunningham is leading the way in the Christian Libertarian movement. Check out the home for Christian Libertarians at: <http://www.libertywon.com>.

Employment

HELP WANTED I own two small companies, 1998 \$7 mil, and I'm seeking full time personnel in the areas of CAD drafting, sales management, & general management. One company is a General Contractor specializing in industrial roofing & siding and operating within a 200-mile radius of Pittsburgh, PA. The other is a manufacturer of high strength industrial windows and skylights, sold nationally. Some of our products are patented. We are financially secure. We don't need your money, but we do need your talent and hard work. Good people are hard to find and so are good companies. We are good companies with exceptional potential. In addition to salary & benefits, some future ownership possibilities exist. Check us out at www.EXTECH-VOEGELE.com and/or send your resume to VOEGELEEX@aol.com or mail to Bill Voegele at VOEGELE CO., Inc. P.O. Box 9543, Pittsburgh, PA 15223.

Liberty magazine offers full-time, paid internships at all times of the year. We seek intelligent, highly motivated individuals who want to learn more about writing and editing. Responsibilities are flexible according to demonstrated abilities and interests. For more information, write: R.W. Bradford, Editor, *Liberty*, P.O. Box 1181, Port Townsend, WA 98368.

Attention Advertisers:

Liberty's readers are a special lot. No other American journal reaches such a targeted, undiluted libertarian audience. Reader demographics include:

- a mean individual income of \$82,461
- 97% attended college; 73% hold a bachelor's degree; 21% hold a doctoral degree
- a mean annual purchase of 10.2 magazine subscriptions
- a mean annual purchase of 28.2 books
- 80% make charitable contributions to libertarian causes; 71% to humanitarian causes.

contact:

Advertising Manager
Liberty
PO Box 1181
Port Townsend, WA 98368

Literature

The Letters of Centinel by Samuel Bryan. Described by James Madison as "Very bold and menacing language," this contribution to the debate over the U.S. Constitution demands comparison with *The Federalist Papers*. Available through virtual and actual booksellers or direct, for \$19.99 postpaid, from: Fifth Season Press, PO Box 204, Ardmore, PA 19003.

Ayn Rand and Her Movement — an interview with Barbara Branden. Ayn Rand's close friend discusses the inner circle of the Objectivist movement. Learn what it was like to be a companion of the woman who thought of herself as "the world's greatest political philosopher." Send \$4 to Liberty Publishing, 1018 Water St. #201, Port Townsend, WA 98368

LAISSEZ FAIRE BOOKS

World's largest selection of books on liberty. U.S. and Canada, call toll-free for our latest issue 1-800-326-0996. Check out our web page at <http://laissezfaire.org>.

Classified Advertising is available for 50¢ per word, ten words minimum. E-mail addresses, telephone numbers, URLs are charged at 7 cents per character. Ask us about adding your logo to your ad. 10% discount for six or more insertions. Payment must accompany order (check or money order only). Suggest classification. Deadline for next issue: July 6, 1999.

Merchandise

I.R.S. Toilet Paper! Visit the graffiti wall. www.irstp.com

Personals

Domination! Fetish! TV! Intelligent support, camaraderie, conversation, LOVE . . . FREE INQUIRY: (908) 284-8424; (773) 604-1700. www.peplove.com Love Nancy Ava Miller, M.Ed.

THE LOST SONNETS OF CYRANO DE BERGERAC a poetic fiction

by James L. Carcioppolo

send check: \$13.95

Lost Sonnet Publishing
P.O. Box 1606
Benicia, CA 94510

members.tripod.com/~LostSonnetPublishing

nightmare, and the people who are naturally attracted to concentrations of power are precisely the ones who should be kept as far from it as possible."

I still believe that small government is far more benign than the national-scale government that Livingstone was talking about. In Jerome's design review and planning and zoning processes, a few public officials may be drawn to positions of power because they like telling other people what to do; but the Town Council itself is humane, accessible, and responsive, and councillors seem genuinely motivated to carry out the wishes of the electorate. I think they are constrained by their close proximity to citizens, just as I imagined they would be.

Still, there is a downside, because the inverse is also true: citizens are constrained by their close proximity to government.

Most of us can remain unobtrusive in a nation approaching 300 million in population, but in a town of 500 people, it's a very different story. The tele-screens of Orwell's 1984 become unnecessary, because the small-town equivalent of Big Brother knows what you're doing merely by listening to gossip and looking out his window.

This has a chilling effect on free expression. If the Zoning Administrator drives past your house every day, your chances of evading her scrutiny are nil, and you feel an incentive to be diplomatic when you talk to her — or about her. Likewise, if the Mayor or the Marshal may be sitting at a table behind you at the local restaurant, you get into the habit of thinking twice before speaking frankly on controversial issues. Even a casual chat with a barber during a haircut can become politically charged, and a chance remark can circulate through the entire community within a day. Even with a watchman local government, *this would be true*.

Consequently, while microgovernment is kinder, gentler, and weaker, it is also omnipresent. In a community so small that it functions more like a tribe than a town, privacy barely exists. I may have been more correct than I realized when I wondered if my libertarian ideals were simply "not appropriate" here. □

records of those as well.

You use cash? Bubba, you must be dirt poor. How many stores have you walked into lately that have signs reading "No bills larger than \$20.00 accepted?" Forget the fact that our money reads "Legal tender for all debts public and private." I guess that's one law the Feds don't want to enforce. Cash is anonymous, and Big Government can't document your life if you use cash.

The feds take all the data, dump it into their voracious computer system, count you, audit you, tax you, measure you, document you and test you. If you measure up (if you've turned over enough money to the Feds) they let you go for another year, and then we start all over again. But, if you don't pay enough money, the Feds come to their agent, me — the Tax Collector. And I extract even more money from your paycheck and turn it over to the government.

What? You file "exempt" every year on your taxes? Bad move. You are better off claiming married with ten dependents because I send a list to the United States Government of every one of my employees who claims "exempt" or more than ten deductions on their W4. You get special attention, and if one of my colleagues in the IRS decides that you're really not exempt they call me up and tell me to extract even more money from your paycheck and turn it over to them.

OK, OK, you've heard enough. You don't play the hanky panky. You don't claim exempt. You really believe in the government. I'm glad you do. If enough of you rejected the government's right to document your life, I'd be out of a job!

But I'm not sweating it. You pay your taxes and willingly turn over every shred of data about your personal life to the Feds so that you can get your turn at the trough.

That's what America is all about: when our money says "In God we trust," it means that money is our God — at least that's what anthropologists a thousand years from now are likely to deduce when studying our culture. Besides, who wants Liberty or God when you can have money? □

Notes on Contributors

Baloo is the alter ego of Rex F. May.

Brien Bartels is a journalist and editor living in central Washington (the state).

Fritz Berggren is a management consultant in Miami, where he is completing his Ph.D. in history at the University of Miami.

David Boaz is executive vice president of the Cato Institute and author of *Libertarianism: A Primer*.

R.W. Bradford is editor of *Liberty*.

Stephen Browne is a teacher currently living in Saudi Arabia.

Scott Chambers is a cartoonist living in Arizona.

Stephen Cox is professor of literature at UC-San Diego and the author of a just-released book on the *Titanic*.

Gene Healy is a student at the University of Chicago School of Law.

David Kopel is an adjunct professor of law at New York University School of Law, and Research Director of the Independence Institute in Colorado.

Loren E. Lomasky is author of *Persons, Rights and the Moral Community*.

Eric Longley is a writer living in North Carolina.

Declan McCullagh is a reporter working in Washington, D.C. He also runs y2kculture.com.

Dyanne Petersen is a long time libertarian activist and writer, currently a resident of Federal Prison Camp in Dublin, California.

Charles Platt is a contributing editor to *Wired* magazine and the author of *The Silicon Man*, *Anarchy Online*, and other books.

Bruce Ramsey is a reporter for the *Seattle Post-Intelligencer*.

Bryan Register is a graduate student in the Continental Philosophy program at the University of Texas at Austin.

Chris Sciabarra is author of *Ayn Rand and Feminism*.

Jane S. Shaw is a staff member of the Political Economy Research Center.

Tim Slagle is a stand-up comedian living in Chicago.

Martin M. Solomon is an assistant editor of *Liberty*.

David Ramsay Steele is author of *From Marx to Mises: Post-Capitalist Society and the Challenge to Economic Calculation*.

Clark Stooksbury is an assistant editor of *Liberty*.

Jim Switz is a computer consultant for *Liberty*.

Timothy Virkkala is executive editor of *Liberty*.

Leland B. Yeager is Ludwig von Mises Distinguished Professor Emeritus at Auburn University.

In the next Liberty

Nathaniel Branden Answers the Tough Questions

Why did he criticize Ayn Rand's heir for publishing her "highly personal" journals, yet publish an account of his love affair with her? Did he include anything in his memoir that violated the confidences of his therapy sessions with other members of Rand's inner circle? What about all the changes he made in the new edition of his memoir about Rand? Why does the new edition retreat from his earlier claim that Rand's inner circle was not a cult?

And what about the claim that he got his degree from an unaccredited school barely better than a diploma mill? What about the run-ins he's had with medical licensing boards? Why did he write in 1989 that Rand's praise made him feel as if the spotlight of history was on him and in 1999 that her praise made him feel foolish?

Also:

"The Best Way to Stand Up to the State," by Gary Alexander

"The Real Meaning of the Jefferson-Hemings Affair," by Timothy Sandefur

"Inside the Russian Libertarian Movement," by Jen Tracy

"A New Strategy for the Libertarian Party," by James Bennett

Look for the September *Liberty* on newsstands or in your mailbox by Aug 1.

Terra Incognita

Afghanistan

Evidence of an Islamic revival, as reported by Reuters:

The Department for Promoting Virtue and Preventing Vice has announced that it will apprehend and punish any male resident of Kabul who does not attend the five daily prayers.

Salem, Ore.

Innovative measure in the humane treatment of animals, reported by the Associated Press:

A proposed law would authorize authorities to implant micro-chips in dogs, to facilitate apprehension of canine harassers of livestock.

California

Reinventing Government in the Golden State, from a report in the *Los Angeles Times*:

A program aimed at helping poor people fix their cars to pass smog tests cost state taxpayers \$62 million in 1998. Only 25 motorists were actually assisted.

Japan

Technological advance in the Land of the Rising Sun, noted by *Investor's Business Daily*:

An electronic alarm to wake kids before they wet their beds has been developed in Japan. It measures brain waves and monitors the bladder.

Los Angeles

Government grows more efficient in the City of Angels, reported by *The New York Times*:

A subway extension that is scheduled to open through the Hollywood Hills to Universal Studios and North Hollywood next spring will cost about \$4.5 billion, with some stretches costing \$500 million a mile.

Orlando, Fla.

Specimen from the frontiers of litigation, reported by the Associated Press:

The family of a woman who was killed in a car accident has sued Dollar Rent-A-Car, claiming the company should have known the driver was likely to drink because of his Irish heritage. "Anyone who has studied Ireland (knows) it's just a fact," said the family's attorney, John Stemberger. To the Irish, drinking and driving is "not a big deal," he said.

Davenport, Iowa

Interesting job opportunity in America's Heartland, from a classifieds advertisement in *Editor and Publisher*:

CHILD WELFARE REPORTER: Are you interested in one of the best beats on the best paper in Iowa? The *Quad-City Times* is seeking a child welfare reporter.

Hartford, Conn.

Setback in public health, from a dispatch in the *Hartford Courant*:

Anti-tobacco activists have attacked Connecticut Gov. John Rowland's decision to attend a "cigar-dinner" fund-raiser for Hartford's Mark Twain House as "sending the wrong signals" about smoking. Rowland, who smokes cigars occasionally, said that he is not attending the dinner to smoke, but to raise money for the Twain House. The event has no official sponsorship from the cigar industry, and is called a "cigar dinner" simply because of Mark Twain's famous fondness for cigars.

London

Success story in the noble crusade to break the gender barrier, from *The Times* (London):

A new force in British investigative journalism dubbed "Hall's angels" consists of physically beautiful women between the ages of 24 and 26. The group, working for Phil Hall, editor of *News of the World*, investigates the sexual peccadillos and drug habits of "celebrity sinners." Hall says he targeted beautiful young women as recruits to "redress the balance in an office which is male-dominated," and because, "The best cover on an investigative story can sometimes be a couple. You cannot send two blokes to an orgy."

Michigan

Proposed amendment to the Declaration of Independence, from the Hon. Spencer Abraham, member, United States Senate, quoted in the *Detroit News*:

"The government has the right to protect children's unique sensitivities and it may do so by regulating material on the airwaves. It is imperative that we give parents as many tools as possible to deal with the negative images and messages emanating from our media."

Great Britain

Affordable health care in the United Kingdom, where medicine was socialized a half century ago, reported by *The Times* (London):

Hospital waiting lists rose by nearly 20,000 in April, and doctors were angered by suggestions that they were to blame for taking time off at Easter. Health Secretary Frank Dobson announced that the total number of people waiting for treatment had risen to 1,092,594.

New Zealand

The wages of antipodal crime, from a dispatch in *The New Zealand Herald*:

A former member of the notorious Mongrel Mob who informed on his partners for money, is now suing police claiming that he wasn't paid what he was promised. The informant's lawyer says that police promised to set the informant up for life, but then only paid him NZ\$6,000. The informant is seeking NZ\$220,000.

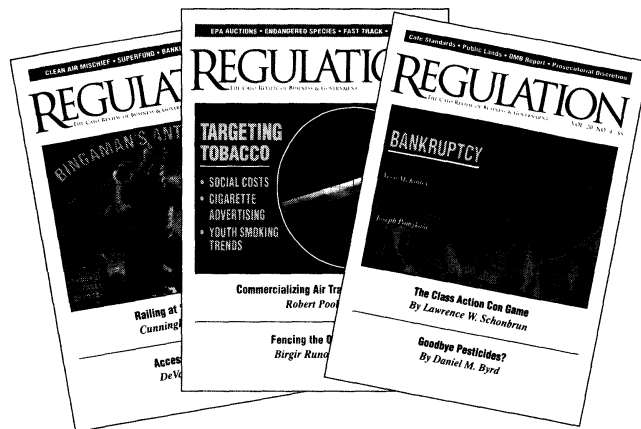
REGULATION

THE CATO REVIEW OF BUSINESS & GOVERNMENT

“We need *Regulation* magazine: solid analysis, current relevance, and new knowledge.”

—James M. Buchanan

Regulation is quite simply the preeminent journal dealing with regulatory policy issues, ranging from environmental law, banking, and trade to antitrust, labor, and telecommunications. Recent contributors include W. Kip Viscusi, Cassandra Moore, Robert Tollison, Richard E. Wagner, Sheldon Richman, Robert W. Crandall, Robert Poole, D. T. Armentano, Richard Lindzen, Murray Weidenbaum, Alfred Kahn, Vernon Smith, Joseph Kalt, Thomas Hazlett, and Thomas Gale Moore.



Four times a year, *Regulation*'s leading policy experts analyze the twists and turns of regulations, how regulations work and don't work, and their economic impact. You can get your own subscription for only \$18 per year. **Subscribe now and receive a free copy of *Going Digital!*** a new book by Robert E. Litan and William A. Niskanen that argues that information-age technology requires a fundamental change in the way government regulates economic activity. The authors conclude that, for the most part, government should stay out of the way.

YES! I need the best analysis of regulatory policy. Please send me my free copy of *Going Digital!*

☐ 1 year (4 issues) \$18 ☐ 2 years (8 issues) \$30 ☐ 3 years (12 issues) \$42

☐ Check enclosed (payable to Cato Institute)

Charge my: ☐ Visa ☐ MasterCard ☐ Amex

Account # _____ Exp. Date _____

Signature _____

Name _____

Address _____

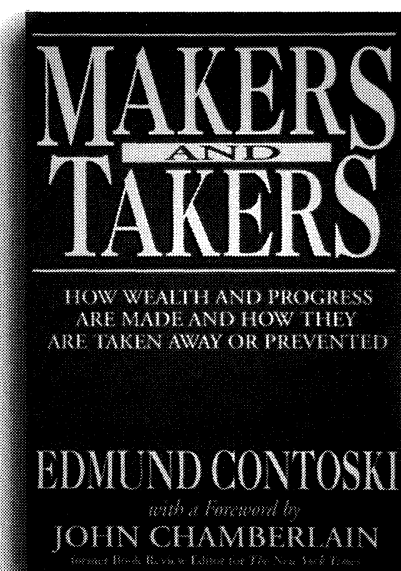
City _____ State _____ Zip _____

Cato Institute • 1000 Massachusetts Avenue, N.W. • Washington, D.C. 20001

Please mail or fax to: 202-842-3490

"The most powerful libertarian book in many years"

—John Hospers, Ph.D., the Libertarian Party's first presidential nominee, author of the Party's *Statement of Principles*, author of nine books, and the head of the Philosophy Dept. at the University of Southern California for 20 years.



480 pages, 6 by 9 inches, softcover: \$24.95

MAKERS AND TAKERS shows the general reader how the free market works to create prosperity and progress—and how government intervention interferes. The book examines various forms of economic intervention (taxation, regulation, monetary policy) and their effects on consumer products, our lives and health, and the nation's economic well-being. It also examines government's role on environmental issues such as acid rain, pollution, and global warming—and some surprising facts discredit government policies. Finally, the author shows how the original American system fostered the nation's success and how that system has been transformed into one of increased government control.



Published by
American Liberty Publishers
Box 18296
Minneapolis, MN 55418
PHONE: (612) 789-3908
FAX: (612) 788-7282

For more reviews visit our website at:
www.webcom.com/amilpub

"I cannot heap enough praise on a superb book by Edmund Contoski, *Makers and Takers*. It will astonish you with its detailed, documented approach to the shocking costs in human lives, the impact on the nation's economy, and so much more that has resulted from government policies which, increasingly, millions of Americans find troubling and even oppressive."—Alan Caruba in *Bookviews*

"His economic research is awesome, and his analysis is sharp....Contoski speaks perennial truths that are currently unfashionable in these politically correct times: about capitalism, the environment, about the world's resources, schools, about child training, and the burden of bureaucracy.... *Makers and Takers* will become a classic of erudition in the struggle for true individual freedom." —*The Book Reader*

"Ludwig von Mises has made the classic case against government interventionism. He did it in terms of logic. But never till now in Edmund Contoski's *Makers and Takers* has there been a book to document the Mises points with examples that span the entire gamut of State interference as it has affected the energies of creative individuals." —John Chamberlain, co-founder of *The Freeman* and its long-time book review editor.

"I want you to know that, including Mises, Adam Smith, Hayek, and other individual thinkers, I have never read a more significant, cogent, enlightening, and motivational book than this one." —G. K. Ealy, Coeur d'Alene, ID

"Written in non-technical style and easy-to-understand format.... You will be riveted to each and every chapter.... You won't be able to put *Makers and Takers* down.... *Makers and Takers* is a real page turner! Enjoy!" —A. Heath Jarrett, editor, *Jarrett's Journal*

"In my opinion the kind of intellectual treasure that finds its way into print during few generations." —Mr. Sherrill Edwards, President, The Fisher Institute

"*Makers and Takers* makes the theoretical, moral, and practical arguments for free markets in such a clear, convincing, integrated, and, above all *readable* way, that any advocate of government intervention in the economy who consents to even browse through its well-documented pages cannot escape with his former views intact." —Chuck Ullery, former chairman, LPMN

"Very interesting and most clearly and capably written....really a stunning job of analysis..." —Scott Meredith, president of the world's largest literary agency

"*Makers and Takers* is an important contribution to today's national political dialogue" —*Midwest Book Review*

"A superb book....it demonstrates in irresistible detail not only that the free market has always done a better job of handling problems, but that expensive, totalitarian solutions generally do more harm than good." —*Las Vegas Review Journal*

"Contoski argues in the intellectual spirit of Ayn Rand....a fascinating and compelling case for individual liberty....written in such a clear and straightforward manner....well reasoned and thoroughly researched....I regard *Makers and Takers* as a more principled and consistent case for limiting the power of government than *What It Means To Be a Libertarian* and *Why Government Doesn't Work*, among other recent libertarian books." —Reviewer Scott Van Bergen

Recommended in
American Library Association's
BOOKLIST!

Call 1-800-205-8254 to order copies.

Have credit card ready. Price: \$24.95 plus \$2.95 shipping and handling. (If you prefer, send check to publisher.)

All books ordered through our toll-free 800 number (or by check to publisher) will be autographed!

All books will be shipped in 24 hours.