

# Liberty

August 2001

\$4.00

Diana,  
Princess  
of Wails

## Just Say No to "Privatization"

*by Ari Armstrong*

## Ruby Ridge: Justice, at Last?

*by William E. Merritt*

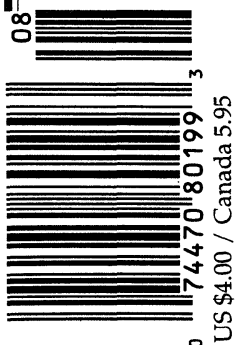
## Crisis in a Small Party

*by R. W. Bradford*

## How the Democrats Could Take Over, and Why They Won't

*by Christopher Chantrill*

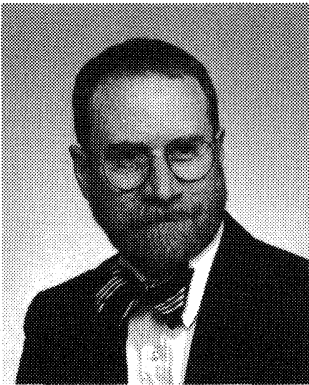
**Also:** *Rick Esenberg* speaks out for those silenced in the workplace by harassment laws, *Michael Christian & Coleman Cooney* celebrate the oldest x-treme sport, and *Tim Sandefur* indicts the Supreme Court for failing to call for *real* equality ... plus other articles, reviews, and humor.



"Dear is Country, but Liberty is dearer still." — Latin Proverb

# Free Markets Aren't Conservative

## by Sheldon Richman



One of the great myths of the Industrial Age is that businessmen generally like free markets. That myth has deep implications and consequences.

For example, someone who buys into it will tend to believe that proposals to deregulate markets are simply favors for special interests and inimical to the interests of most people. Advocates of deregulation are typically dismissed as flaks for corporate interests.

But that conclusion crumbles when we realize that businessmen historically have opposed laissez faire. The same is true today. Stephen Labaton, writing in the *New York Times*, vividly pointed this out in a discussion of regulatory policy in the Bush administration.

The *Times* noted, for instance, that Microsoft, which did everything it could to defeat the antitrust suit brought by the Clinton administration,

nevertheless favors restrictions on AOL in its merger with Time Warner. Microsoft — Microsoft! — has complained to the government that AOL is trying to monopolize instant messaging on the Internet. Such positions make it hard to interpret as a matter of principle Microsoft's opposition to the antitrust suit.

As the *Times* article pointed out, "There are broad areas of the marketplace in which the government will remain active, not least because of demands from American business itself." Preston Padden, Disney's top lobbyist, was quoted saying, "Sometimes a highly regulated administration is helpful and sometimes it is not helpful. What I would really like is the Gore administration to be regulating my competitors and the Bush administration to be regulating me."

Padden is unusually blunt, but his position is par for the course. Businessmen, going back at least to the era of mercantilism 400 years ago, have typically embraced government as an effective tool to protect themselves from competitors. The word "protectionism" is usually restricted to business-supported barriers to cheap imports. But the term has far wider applications. Business interests have long favored all kinds of regulations and taxes to hamper existing and potential competition.

Taxes that make it difficult to accumulate capital to expand or set up businesses clearly favor established business leaders even if they have to pay the same taxes. The same is true for regulations. Older and bigger firms can more easily contend with such burdens than newer, smaller ones can. IBM and AT&T have bigger legal and accounting departments than a nascent garage operation. Many ideas for new businesses never get off the ground because of the regulatory and tax barriers.

What the critics of capitalism have never realized is that there is nothing conservative about capitalism. Even most conservatives don't realize it. Capitalism — the *self*-regulating market economy — respects no established interests.

Why is that so? Because the driving force of capitalism is the consumer. For a business to do well, it must please consumers. Businessmen understand that. But there is a problem: we consumers are a fickle bunch. A business can be "riding high in April, shot down in May," as the old Frank Sinatra song said. Look what consumers did to Toys R Us, Boston Market, and an untold number of companies that were once hot properties and even dominant in their fields. We consumers don't care how good a business was yesterday. What's it done for us late-

ly? You often hear it said that Wal-Mart, the model low-cost retailer, puts other stores out of business.

Nonsense! Wal-Mart never put a single store out of business. It's consumers who put stores out of business. True, Wal-Mart makes it attractive to shop there. But I've yet to hear of Wal-Mart's forcing even one person into the store.

On the other hand, I've many times heard of businessmen asking government, in effect, to force other companies to stop serving customers as well as they would like to. Businessmen know their fate is in the consumers' hands. They know there is no safe harbor in the free market — which is why so many companies try to get government to adopt anti-market — that is, anti-consumer — regulations and taxes. It's the only way to prevent consumers from switching to a competitor they like better.

Once we understand that capitalism is not pro-business but pro-consumer, we will understand that it is time to dump the regulatory state we have labored under for so long.

*Sheldon Richman is senior fellow at The Future of Freedom Foundation ([www.fff.org](http://www.fff.org)) in Fairfax, Va., and editor of Ideas on Liberty magazine.*

### THE FUTURE OF FREEDOM FOUNDATION

11350 Random Hills Road, Suite 800  
Fairfax, VA 22030  
Phone: (703) 934-6101 • Fax: (703) 352-8678  
Email: [fff@fff.org](mailto:fff@fff.org)  
[www.fff.org](http://www.fff.org)



## We Don't Compromise.

**Visit our website:**  
**[www.fff.org](http://www.fff.org)**

- ◆ More than 900 essays!
- ◆ Interactive Debate Forum!
- ◆ Free email update!
- ◆ Plus much MORE!

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

# Liberty

R.W. Bradford  
*editor & publisher*

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

John Haywood

Gene Healy

Robert Higgs

Bill Kauffman

Dave Kopel

Bart Kosko

Richard Kostelanetz

Loren E. Lomasky

Sarah McCarthy

Wendy McElroy

William E. Merritt

Robert H. Nelson

Randal O'Toole

Ross Overbeek

Durk Pearson

Dyanne Petersen

Bruce Ramsey

Jeff Riggenbach

Scott J. Reid

Sheldon Richman

Timothy Sandefur

Sandy Shaw

Tim Slagle

Fred L. Smith Jr.

Martin M. Solomon

Clark Stooksbury

Thomas S. Szasz

Martin Morse Wooster

Leland B. Yeager

*contributing editors*

Kathleen Bradford

*managing editor*

Andrew Chamberlain

Elizabeth Merritt

*assistant editors*

John Bergstrom

S. H. Chambers

Rex F. May

*cartoonists/illustrators*

Jon Kalb

Jim Switz

*computer consultants*

Eric Raetz

*editorial assistant*

Caroline Evanger

*assistant publisher*

# Inside Liberty

August 2001  
Volume 15, Number 8

**4 Letters** From you, with love.

**7 Reflections** We lose our heads over New York rent controls, chug vodka sours with the Bush twins, find love in an 8-by-10 cell, get teed-off at the court, get snobby about literature, and prepare for the coming California famines.

## Features

**21 The Deafening Silence** Two days after Perry Willis admitted that he had disobeyed his party's conflict of interest rules to help Harry Browne win the Libertarian Party presidential nomination, Browne tersely confessed his own involvement, which his supporters are reluctant to believe. Since then, *R. W. Bradford* reports, all those involved have refused to answer questions.

**25 Justice, at Last, for Vicki Weaver?** For over 100 years, federal agents have been virtually immune from prosecution for homicides they commit while on the job. But a federal court decision on June 5 may change all that, as *William E. Merritt* explains.

**28 Silence Is the Best Policy** As *Rick Esenberg* explains, work these days is a place where a casual conversation can cost you your job, where lawyers are always eavesdropping, and where the easily offended set the rules.

**31 How the Democrats Could Take Over, and Why They Won't** After Al Gore lost by moving to the left, Britain's Tony Blair copied Bill Clinton's politics of triangulation and was re-elected in a landslide. *Christopher Chantrell* wonders, will Democrats learn anything from this?

**33 Just Say No to "Privatization"** When it comes to Social Security reform, advocates of free markets have abandoned basic principles in favor of a pragmatic approach. *Ari Armstrong* reports.

**35 In Defense of Bullfighting** In the U.S., intellectuals mock bullfighting as an unsophisticated and cruel tourist show. Elsewhere, as *Coleman Cooney* and *Michael Christian* explain, it's an artistic and commercial success.

**38 Education of an Intellectual** An Ivy League education isn't what a high school counselor or college catalog might lead one to expect. *Richard Kostelanetz* recalls what he really learned in college, and how he really learned it.

## Reviews

**43 Diana, Princess of Wails** When a private secretary to Diana, Princess of Wales, writes a book about his former employer, get ready for politeness galore and not enough juicy bits. *Stephen Cox* explains.

**46 Rights, Sociology, and Equality** To the left, *Brown v. Board of Education* is a legal icon. *Timothy Sandefur* pulls it off its pedestal.

**49 Style, Not Substance** If you can't find useful work, you can always become a specialist of "rhetorical analysis." *Edward Feser* explains.



**47 Notes on Contributors** Naming names.

**54 Terra Incognita** Be careful out there.

# Letters

## Closeting Virtue

I am a gay man and a libertarian. My life would probably seem quite boring to Edward Feser ("In Defense of Virtue," June) if he observed me on a typical day. I eat a breakfast pretty much as most Americans do, take off in my mortgaged auto from my mortgaged home, put in at least an eight-hour day, and most times am too tired to even watch TV when I get home. I pay my taxes, though I do admit to filing an extension now and again. I'm 41 years old, and I only wish I were as dangerous as Feser thinks I am.

When I was younger, I was promiscuous, as were most of the young people I hung around with; but I did not have time for the non-stop hanky-panky that Feser has discovered among us homosexuals. Promiscuity seems to peter out (so to speak) around age 38, as it probably does for most single men, regardless of their sexual orientation.

In the end, it is the "normalizing of homosexuality," as Feser candidly admits, that is most irritating to many straight men. They simply don't want the issue in front of them.

In my earlier years practicing law, I represented some gay men in divorce proceedings who had gotten married in the 1950s, hid it from their wives and kids (as thousands of men did), and then had to finally get out because they could not stomach the hypocrisy any longer. These men had tythed to a culture and a cultural norm, but had lost their self-respect and certainly the respect of their former wives. After all, what woman wants to be lied to to make men like Feser more comfortable?

Would Professor Feser agree, at least, that virtue is a very complicated thing?

Bill Crowe  
Newport News, Va.

## Paternalism vs. Diversity

In his defenses of conservative morality, Edward Feser makes a curiously collectivist argument for disapproving of homosexuality and other sexual "vices." As I understand it, Feser contends that people should disapprove of sexual behavior traditionally considered "immoral" even if it is engaged in intelligently, responsibly and peacefully,

on the theory that bad consequences might ensue if other people engage in the same behavior in an irresponsible way.

As a libertarian from a family of limousine leftists, (say that five times fast!), I am all too familiar with this line of argument. Many times I have heard relatives say that, yes, of course, *we* would be better off without the welfare-regulatory state. But what about all those poor schmucks who would screw up their lives if not for benevolent government intervention? Why, society would fall apart if we let them all screw up! We can't have that, can we? This arrogant paternalism becomes no more intellectually valid when you replace government intervention with moral stricture, as Feser does.

Nor can appeals to "human nature" justify the argument. Humans are not monolithic in nature, as leftists and moralist conservatives would have us believe; we differ enormously in every way that matters. That's precisely why a libertarian ethic is so important: it enables us to pursue the demands of our widely differing natures as we see fit, and recognizes that no one can know what is good for all of us — not economic planners, and not conservative intellectuals.

Nicholas Weininger  
Somerset, N.J.

## Explain Me This, Feser!

I have three questions for Professor Feser:

1. Precisely what kind of "tactful discouragement" would you employ to counter the genetic underpinnings of sexuality?

2. How on earth would any discouragement, tactful or otherwise, serve to enhance the life, liberty, or happiness of those persons whose alleged "dysfunction" leads them to live neither well nor happily?

3. How is it that your idealized family norm and your sex-only-for-deep-

interpersonal-commitment norm are so easily threatened or undermined by homosexuality? Of what are you and your vast, breeding majority really so fearful?

Rick Stenhouse  
Trenton, N.J.

## "Valid" Human Beings

Jan Narveson makes some compelling arguments in "The Trouble with Tradition" (June) until he begins to contradict the very fundamentals of libertarianism in discussing the topic of abortion. He conceitedly argues that because unborn and infants cannot "take comfort," i.e., feel the same type of physical and mental sensations he does, they cannot be considered true human beings privy to the same rights under law that he is. This is scary.

Although I am certainly welcome to my own moral opinions, as a human being I cannot possibly say with absolute certainty what qualifies as true human life. It would be wrong for me to allow my own opinions on what constitutes human life to determine how the law should be applied to different "types" of people.

In our country today, the liberty of the unborn, the mentally and physically impaired, the elderly and infirm, and even the average American will be gravely threatened if we start allowing Narveson and those like him to determine who and what constitutes a "valid human being."

John Bush  
Virginia Beach, Va.

## Happiness, Morality, and Nature

The reason that many people would not consider sexual orientation to be a moral issue, contrary to Feser's suggestion in "In Defense of Virtue," is that it is not something that anyone can control. If "virtue must be freely chosen if it is truly to count as virtue," as Feser claims, then homosexuality cannot be a vice any more than heterosexuality can be construed as a virtue. No one in this world can consciously choose to whom they will be sexually attracted.

Feser's claim that homosexuals are not capable of happiness in the same way that heterosexuals are is question-

*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 a request and an SASE.

Opinions expressed in *Liberty* are those of the authors and not necessarily those of Liberty Foundation. Copyright © 2001 Liberty Foundation. All rights reserved.



# For \$199 per year, you can have regular access to the thinking of America's most provocative, intelligent, and discerning investment advisor.

Get investment strategies you won't find on CNBC — from *Doug Casey's International Speculator Investment Advisory!*

The only serious libertarian investment advisory, edited by veteran speculator, best-selling author and contributing *Liberty* editor Douglas R. Casey.

Intelligent advice for investors who understand the economy and how free markets operate. Spiced up with ascerbic commentary on today's public figures — political and otherwise.

Casey on:

- Reno — What's the best thing about Janet Reno? Her looks.
- Bush — I think he's genuinely thoughtless and actually a little stupid.
- Soros — Idiot savant.
- Perot — Yoda's evil and stupid twin.

*Doug Casey's International Speculator*, now in its 23rd year of publication, provides readers with actionable investment advice, valuable insight on finance and specific investment recommendations, ranging from exotic real estate to penny stocks.

"The Internet will be the savior of the common man in many ways, but Internet stocks will be the graveyard for his capital. If you have the nerve, now's a good time to get short, since the trend has clearly turned."

"... and what you're seeing in the Internet stocks is the same euphoria, on a vastly greater scale. Almost every one on the Internet stocks is a burning match, just like almost all of the mining stocks. And they'll meet the same fate — a 95%+ meltdown among the survivors, with many disappearing totally." —Doug Casey, 11/99

The stocks below were our Internet short portfolio, initiated on 11/2/99, with the percentages they've fallen

since.

AMTD	78%	AMZN	85%
AOL	71%	CMGI	94%
KOOP	99%	MPPP	95%
PCLN	96%	YHOO	87%

Being short the Internet and tech stocks in '99 was certainly as bold as it was profitable. At that time it was widely believed that such "new economy" stocks were going ever higher. However, even in a bear market, long positions are the bread and butter of a successful portfolio:

Doug's subscribers were long these Internet and drug stocks at the same time. These are their percentage appreciation figures from the time when first recommended:

VCAT	850%	IVAN	2,000%
DRUG	600%	SNMM	946%

So what's next?

"My bottom line is that we're headed for one of the most devastating bear markets in history, which will

and the mass murder of millions, among other things, world GDP still advanced at a real compound rate of 1.8%. Not bad. And most people managed to live pleasant and productive lives throughout, unless they just happened to be in the wrong place at the wrong time."

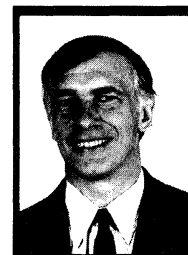
One the specialties of *Doug Casey's International Speculator* is resource stocks. In the coming months and years we expect to experience the most explosive bull market in resource stocks and gold in history. The returns on these stocks may dwarf even those of the late, lamented Internet stocks on their way up. More importantly, investors positioned in these securities will capture these tremendous gains as most in the market are literally hemorrhaging cash. It could truly be a once in a lifetime opportunity.

### Our No-Risk Guarantee

If you're not completely satisfied, we'll refund 100% of your payment within the first 90 days, pro-rata thereafter. No questions asked.

One year (12 issues): \$199

Two year (24 issues): \$299



Doug Casey

*"I've known Doug Casey since the mid-70's or so. In my opinion, he is one of the few original thinkers in the entire investment world."*

—Harry Browne

probably be accompanied by a massive depression, severe monetary turmoil, domestic political repression, and war.

Sounds pretty grim, at least if you take life seriously — which is a mistake. When you look at the 20th century, you can see it was full of those things. But even during its darkest years, 1914-1947, which included the institutionalization of the income tax and central banking around the world, two world wars, the Great Depression,

## Yes!

Please begin my subscription to *Doug Casey's International Speculator*. I understand that if I'm not completely satisfied after I receive my first issue, you'll refund 100% of my payment.

Enclosed you'll find my payment for:

\_\_\_ 1 year, 12 issues of *International Speculator* . . . \$199

\_\_\_ 2 years, 24 issues of *International Speculator* . . . \$299

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Call 406-443-0565 or fax 406-443-0742

e-mail: [info@dougcasey.com](mailto:info@dougcasey.com)

*International Speculator*, PO Box 5195, Helena, MT 59604

[www.dougcasey.com](http://www.dougcasey.com)

ble, to say the least. Anyone who has been thwarted in love is likely to be unhappy, even if temporarily. And if, as Feser suggests, homosexuals tend to be more unhappy as a whole than heterosexuals, perhaps he should consider the possibility that this is the result of living in a society that is hostile toward them.

Brooke Mullins  
Norman, Okla.

## God, Government and Mr. Sandefur

Before Timothy Sandefur discourses again about religion in American history (*Reflections*, July), he should try to get his facts straight.

Sandefur tries to ground his particular argument for separation of church and state on opinions and practices in the early republic. Along the way, he cites the Northwest Ordinance, passed by Congress in 1787. The Ordinance famously stipulates: "Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."

Here's where the fun begins. In an excess of fairness, Sandefur interprets this sentence in a way directly contrary to his own argument, reading it as "a clause sending government-paid religious teachers to the new states in the West." In reality, of course, the sentence says nothing about government-paid teachers of any kind. The Ordinance had nothing to do with states, only with territories, and its only other references to religion merely call for "religious liberty." Sandefur compounds his mistake by blaming it on others, asserting that conservatives "often cite" the particular "fact" about the Ordinance that he appears to have dreamed up.

Sandefur then makes a big deal out of the (real) fact that "In God We Trust" took a long time to appear on U.S. money. If you look at the back of a dollar bill, however, you'll see an important commentary on the role of religious symbolism in the early republic. The bill depicts the Great Seal of the United

States, adopted in 1782. The seal shows a pyramid in a desert, with the eye of God at the apex of the pyramid and above it the Latin motto "Annuit Coeptis," meaning, "He has favored the undertaking." The designer of the seal said that the eye over the pyramid "and the motto allude to the many signal interpositions of providence in favor of the American cause." But Sandefur believes that "the American founders" would never have regarded references to God in state mottos as "acceptable."

The truth is that religious symbolism was sanctioned by the republic from the first, together with good wishes for religion as a psychic foundation for republican government. Yet there was no desire to restrict "religious liberty." Is this too much to grasp?

Sandefur's shoddy scholarship is matched by shoddy aesthetics. His flip-pant references to state mottos show that he lacks sufficient sensitivity to be roused by California's "Eureka," inspired by Alabama's "Audemus Jura Nostra Defendere" ("We Dare Defend Our Rights"), chastened by North Carolina's "Esse Quam Videri" ("Be Rather than Seem"), or amused by Michigan's "Si Quæris Peninsulam Amoenam, Circumspice" ("If You Seek a Pleasant Peninsula, Look About You").

The best thing for Sandefur would be to reflect only on subjects that he can see clearly in the first place.

Terry Alvarez  
Los Angeles, Calif.

## Intended Consequences

Shannon Seibert writes (*Drug Paranoia: America's Leading Export*, July): Eradication efforts typically result in a temporary decrease in the amount of illegal crops in the targeted area, with increased production in regions that are not under attack.

In view of South America's important petroleum resources and the U.S. desire to "control" the entire hemisphere, it doesn't take a conspiracy theorist to suspect that the spread of drug crops is exactly what is intended by the U.S. national-security-and-intelligence apparatus. With the drug hysteria that has over the years been unleashed by these same high-level government mavens, what could be a more effective cover story for hemispheric takeover — by wars and invasions if necessary — than the "drug threat"? As your writer

notes, it surely beats Communism as an excuse, whose only remaining ardent proponents are down-and-out John Birchers. Today you can get a great many more drug paranoia participants than the best of the McCarthyites mustered for their cause in the "better dead than red" days of yesteryear. "Better dead than doped" seems to be the current attitude.

Peter Webster  
Auvare, France

## Another Look at the Numbers

The figure of \$420K that you cite as having been paid to Perry Willis & Co. through various channels is meaningless in and of itself. How much of that went to pay for printing, postage, airfare, etc.? Can this be ascertained easily? And the portion that actually wound up in the pockets of Perry (and his friends and relations) has meaning only if we know how many man-months of salary it represents. If the relevant figure is \$300K (for example) that's not a lot if it was doled out to half a dozen people over five years — i.e., an average of \$10K/person/year. I don't know what the true figures are, but it would be nice to have something more than a grand total of \$420K to gawk at.

On to Browne's showing in 2000 vs. 1996. I really don't know, but I'd bet that while the Brownies raised (and spent) 75% more this last time than in '96, the amount they spent as a percentage of the total dollars spent by all presidential candidates, from start to finish (i.e., including the primaries), was lower than in '96. Bush spent something like \$3 million in the South Carolina primary alone! To put it another way, I'm pretty sure that the amount spent by Bush, Gore, McCain, Nader, et. al. to create name awareness and a favorable image went up by more than 75% as compared to '96. So in terms of "share of propaganda dollars," Browne probably actually lost ground. I'm not out to defend Harry's performance — or belittle it — just trying to establish a meaningful context for comparison.

David Nolan  
Mission Viejo, Calif.

*Bradford responds:* It's always a pleasure to hear from the LP's founder, especially when he asks such provocative questions.

According to the reports the Browne campaign made to the Federal Elections

*Continued on page 27*

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, P.O. Box 1181, Port Townsend, WA 98368. Or use the Internet: letterstoeditor@libertysoft.com.

# Reflections

**Available on every street corner** — The controversy over the nomination of a new drug czar (beware the coming pogroms) has helped me to understand that there is no greater mind-altering substance than . . . ink!

— Sheldon Richman

**Innovation.porn** — Anyone who's surfed the Web knows that sex sells — and (on the Internet, at least) very little else does. But even if you aren't a fan of pornography, you may be getting some benefits from it. "Adult" sites have pushed Internet technology to become far more useful and innovative. Sex plays a role even in matters economic. Graphics were, of course, pioneered by such sites, as were Web page displays (those horny little fingers are all too quick to move on if scintillation is not immediately forthcoming). And, of course, selective filters were first developed to reassure parents and to fend off censorship.

Banner ads and other revenue-raising mechanisms saw much of their development on adult sites. And the difficulty of recovering adequate revenue via such indirect means encouraged "secure" and "private" over-the-net purchase procedures. Even more importantly, adult sites were forced to develop the privacy reassurances essential to making such payment schemes viable. And these reassurances seem to work — adult sites are among the few areas where Internet users seem willing to put their money where their . . . well, you get the idea.

Shouldn't the path to the future involve higher-order values? Well, perhaps, but let's take progress where we can. And we really shouldn't be surprised. Evolution suggests that sex was "invented" to accelerate progress.

— Fred L. Smith Jr.

**20/20 Smackdown** — Would somebody please tell Barbara Walters that nobody cares whether she "disagrees" with John Stossel?

On a recent episode of *20/20*, after Stossel carefully dumbed down an explanation of the minimum wage to a level where even Barbara could understand its inherent flaws, she immediately launched in to explain that government has to "help" people. How sweet of her, to help people right out of their jobs. Stossel simply stared straight into the

desk, mentally transporting himself to New Zealand. Stossel deserves a special Emmy for being patient with her week after week. But I'm not that patient. I for one would like to suggest that next time he stand up and throttle her.

— Timothy Sandefur

**Love at first lockdown** — At a press conference, California's attorney general Bill Lockyer had this to say about Enron Corp. chairman Kenneth Lay: "I would love to personally escort Lay to an 8-by-10 cell that he could share with a tattooed dude who says, 'Hi, my name is Spike, honey.'"

Seldom has an advocate of unbridled state power spoken so candidly. Not only is he saying that he would like to imprison a businessperson who has not even been charged with wrongdoing, but that he would like his punishment to include rape.

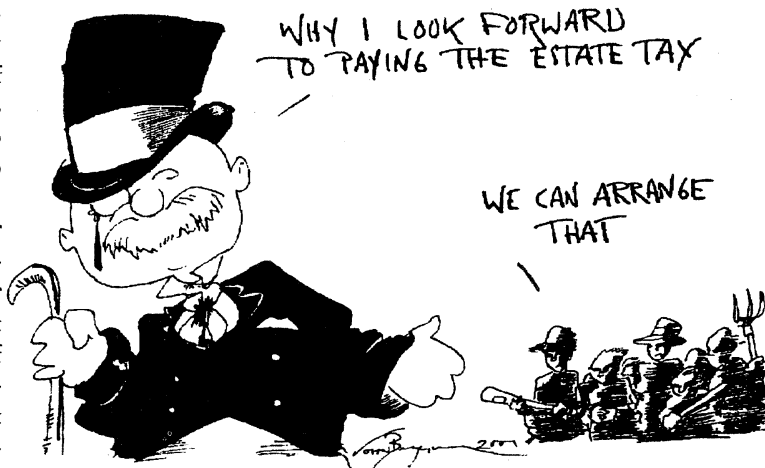
The famous "vast right-wing conspiracy" that went after Bill Clinton never called for anything like that, for anyone, even though Clinton had actually committed a crime — perjury — and admitted doing so.

Lockyer also admits responsible for tolerate inmate rape, but that he is willing to use rape as punishment for people he especially dislikes.

So far as I can tell, the worst one can say of Kenneth Lay is that the firm he heads has made a lot of money selling electricity in California in compliance with the rules established by the state of California. If those rules are unwise, it would seem that people — like Atty. Gen. Lockyer? — who had a hand in writing them ought to be the objects of opprobrium.

As a patriotic American and a decent human being, I would love to personally escort Lockyer to the state capitol, where he could share a hearing room with legislators who say, "Hi, you are impeached, honey." — R.W. Bradford

**Schools of thought** — I'm beginning to think that Mrs. O'Connor was on to something when she wrote *Fairness Doctrine for Education*. She proposed that a version of the "equal time" standard of radio should be instituted by universities. Well, what better time than this, the Age of Diversity? Let students and teachers identify themselves by checking a box from a preselected set of ideological categories — the same way they do now with racial categories. This



data will then be used to ensure a "more diverse" faculty and student body. Who could object? What *would* the objection be — that diversity of pigment is more important than diversity of thought? Man, if there's any reform that the anti-PC crowd on campus should propose with a straight face, this is it.

— Barry Loberfeld

**Hole in one's head** — If you haven't read Justice Scalia's dissent to the Supreme Court's decision to require that the Professional Golf Association allow a golfer to compete without walking the course, you've missed a treat. My favorite part: "It has been rendered the solemn duty of the Supreme Court of the United States, laid upon it by Congress in pursuance of the Federal Government's power '[t]o regulate Commerce with foreign Nations, and among the several States,' to decide What Is Golf. I am sure that the Framers of the Constitution, aware of the 1457 edict of King James II of Scotland prohibiting golf because it interfered with the practice of archery, fully expected that sooner or later the paths of golf and government, the law and the links, would once again cross, and that the judges of this august Court would some day have to wrestle with that age-old jurisprudential question, for which their years of study in the law have so well prepared them: Is someone riding around a golf course from shot to shot really a golfer? The answer, we learn, is yes. The Court ultimately concludes, and it will henceforth be the Law of the Land, that walking is not a 'fundamental' aspect of golf."

— Timothy Sandefur

**The utility of euphoria** — There is a question that new drug czar John P. Walters does not ask: how much harmless euphoria has the average citizen passed up because we lack access to safe recreational drugs? President Bush himself knows that even drugs such as cocaine have benefits as well as costs.

The puritanical streak in our culture gives far less weight to pleasure than to pain. But there is no basis in logic for that distinction. The calculus of what economists call "utility" counts both pains and pleasures on the same scale of value. Pains get negative scores while pleasures get positive

# You are invited to the most rewarding "Speaking of

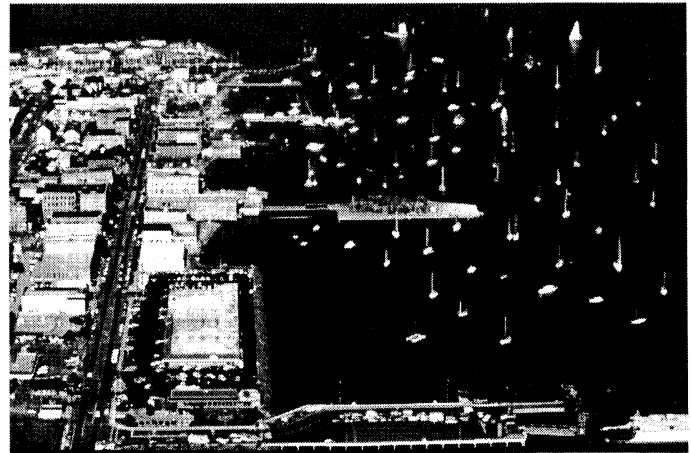
## The 2001 Liberty Editors'

The 2001 *Liberty* Editors' Conference promises to be the most exciting, intellectually stimulating gathering of libertarian thinkers brought together under one roof!

The 2001 *Liberty* Editors' Conference will bring our readers together with the world's leading libertarian writers, theorists, journalists, economists, historians, scientists, entrepreneurs, and financial experts for fascinating talks and seminars on topics of special interest to libertarians.

Where has libertarianism been in the last several years? Where will it go in the future? What do libertarian thought and perspectives have to contribute to society and how can we speed up the process? From past glories to future possibilities, your favorite libertarian celebrities will discuss all this and more at the 2001 *Liberty* Editors' Conference.

The conference will be held at the seaside Port Hudson conference center in Port Townsend, Wash., the beautiful Victorian seaport nestled in the shadow of the snow-capped Olympic Mountains. So after a few days of challenging intellectual discussion you can do anything from hike in the Olympics to take a sea kayaking trip in the San Juan Islands. Or if you prefer something less rigorous you can simply soak up the atmosphere of Port Townsend's carefree attitude, exquisite restaurants, and unique activities.



Water Street in downtown Port Townsend

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. So don't miss out!

The conference fee of \$225 (\$125 for students with ID) includes all seminars, receptions, breakfasts, a gala banquet, a Sunday afternoon picnic, and a party every evening!

### Act Today!

But this opportunity won't wait around. Accommodations in Port Townsend are limited, and many *Liberty* readers have already registered. So don't let yourself miss out on the hottest exchange of libertarian theory and thought this year!

To reserve a place simply complete the coupon and send it to us with your \$75 deposit for each person in your party. We require receipt of the remaining amount of \$150 (or \$50 for students with ID) by August 3rd (deposit refundable by August 1st). Come July you'll get plenty of informa



vacation you'll ever take . . .

# Liberty"

Conference Sept. 21-23

tion regarding lodging, travel arrangements, scheduling, and local attractions.

Or just get out your Visa or Mastercard and 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:

"An intellectual adrenalin rush!"

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

"Fascinating — and fun!"

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

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

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



*Liberty's* offices on Water Street in downtown Port Townsend

## Speakers Include:

**Thomas Szasz** — professor, philosopher, author of numerous books including *Ceremonial Chemistry* and *The Meaning of Mind*, and the leading critic of psychiatric coercion

**David Friedman** — economist, author of *The Machinery of Freedom* and *Law's Order*, and leading anarcho-capitalist theorist

**Douglas Casey** — world traveler, brutalizer of public officials, and best-selling investment writer

**Randal O'Toole** — opponent of city planners, environmentalist, and author of *The Vanishing Automobile and Other Urban Myths*

**Victor Niederhoffer** — legendary investor and best-selling author

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

**Robert Higgs** — economist, author of *Crisis and Leviathan* and developer of ratchet theory of government growth

**Fred Smith** — president of the Competitive Enterprise Institute, field marshall in the war of ideas

**Justice Richard Sanders** — member of the Washington State Supreme Court

**Bruce Ramsey** — writer and editor for *The Seattle Times*

**Mark Skousen** — economist and best-selling author

**Durk Pearson & Sandy Shaw** — life extension scientists, best-selling authors, and fearless opponents of government regulators

**Tim Slagle** — stand-up comedian and expounder of libertarian ideals

**Alan Bock** — writer for the *Orange County Register* and best-selling author

**Ron Paul** — the fiercest defender of liberty in Congress and the Libertarian Party's 1988 presidential candidate

**Dyanne Petersen** — freelance writer and recently freed prisoner of America's War on Drugs

**Otto Guevarra** — member of the Costa Rican Parliament and presidential candidate

**Jeff Rigenbach** — award-winning writer and author of *In Praise of Decadence*

**William Merritt** — senior fellow at the Burr Institute and author of *Where the Rivers Ran Backwards*

## Join Us!

**Yes!**

My interest is piqued! I'm ready to attend the 2001 *Liberty* Editor's Conference in beautiful seaside Port Townsend!

- My check or money order (payable to **Liberty**) is enclosed.
- Please charge my:
  - Visa
  - Mastercard

How many people are in your party? \_\_\_\_\_

Account # \_\_\_\_\_ Exp. Date \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Phone # \_\_\_\_\_

**Liberty**, PO Box 1181, Port Townsend, WA 98368  
or call 1-800-854-6991

scores. And what the Declaration of Independence calls our right to the pursuit of happiness plainly includes not just the uptake of harmless pleasures but also the uptake of harmful ones if they harm no one but the user. The free-market price of wine or beer lets the modern drinker compute a dollar estimate of the pleasures she would have foregone in the days of alcohol prohibition — back when the federal government still had to amend the Constitution to prohibit a drug.

The hidden policy issue is the unseen cost that the \$20-billion-a-year drug war imposes on market innovation and scientific discovery. Drug prohibition has not just produced a chilling effect on the search for painkillers and pleasure givers. It has banned its very infrastructure. Venture capital is at near record levels in the United States: it has grown more than tenfold in the last decade to over \$100 billion last year alone. Yet drug laws let none of it flow to the biotech start-up firms that might otherwise patent or pursue genetically modified cannabis, coca, or poppies — or pursue the harmless euphoria effects of new breakthroughs in chemistry and neuroscience. Entrepreneurs do not write business plans to capture the pro-pleasure benefits from these breakthroughs in neural engineering.

But they should. A free market in brain enhancers would likely produce benefits that far surpass those of the herbs and pills of the past. Sense enhancers would help the brain process neural signals. They might give us a shark-like hyperfine sense of smell and thus of taste. They might let us see in the dark and see in much wider bands of the electromagnetic spectrum than we can see in today. They might let us hear faint sounds at large distances or overcome our deafness to subsonic and supersonic signals.

The first users of these true “smart” drugs might use them simply to improve the taste of a bland meal or watch the stars or eavesdrop on a neighbor. But professionals would soon come to use these sense enhancers. Chefs might

---

*The federal government uses its coercive power to promote high-tech innovation through 19th-century antitrust laws while it bans drug or “controlled substance” innovation through sweeping prohibition.*

---

use them to create new dishes or to detect the first traces of spoilage. Lifeguards might use them to watch more of the light-reflecting ocean. Surgeons might use them to heighten their sense of touch during surgery. And brain-based cognitive enhancers could boost memory or concentration. Think if you could drink or inhale a substance and a half-hour later find it easier to retain what you read or to learn calculus or a new language.

But conflicting policies stifle such innovation. The federal government uses its coercive power to promote high-tech innovation through 19th-century antitrust laws (remember Microsoft?) while it bans drug or “controlled substance” innovation through sweeping prohibition. Nothing restricts competition and limits research and consumer choice like the

threat of prison.

The facts are in: the United States has spent on the order of a trillion dollars to create not just the biggest black market in history but the only one on a global scale. This massive police action has imprisoned millions of human beings and stripped them of many of their civil rights. It has transferred hundreds of billions of dollars from taxpayers to drug dealers and to corrupt police around the world. It has restricted consumer choice to only dangerous black-market drugs that can cause as much or more harm as bathtub gin did during the old war on alcohol. And this massive police action has imposed huge and needless innovations costs: the drug war has channeled precious creativity from research innovation to criminal organization.

The United States enforces this global black market with an iron fist. Bush would clearly use all our international power to punish any country that freed its drug market and thus that “legalized” drugs and drug research. That is why the United States itself must be the first to right this staggering wrong — and free science and markets to work their magic.

— Bart Kosko

*Nice place you’ve got here . . .* — In May, two Manhattan men were charged with killing two people so they could “move into their apartments.” Police found 20-year-olds Bernard Perez and Rahman Williams — along with one victim’s severed head — in one of the victim’s apartments. According to reports, the rest of the unidentified man’s body was scattered around the neighborhood. The two apartment nabbers also killed 44-year-old Doris Drakeford in the same apartment building, tossing her body into the Harlem River.

In many ways this is just an extension of what has become a common practice in Manhattan: using bribes, inflated résumés, and fake bank accounts to impress landlords and hold on to cheap, rent-controlled apartments. While an extreme case, this kind of competition is what economists call “rent seeking” — unproductive competition that reduces everyone’s wealth rather than adding to it. Rent seeking is bound to happen whenever market mechanisms are replaced with state-administered ones. After all, when people can’t compete using dollars, they’ll compete along more unsavory lines — like bribery, theft, and, yes, gruesome murder. It’s just too bad two New Yorkers had to die to teach this simple lesson to authorities.

How many more innocent people will die because of rent control?

— Andrew Chamberlain

*Wait a minute, didn’t he write The Federalist Papers?* — According to an article in *The New York Times*, liberal lawyers are nervous that the Bush administration’s recent slap at the American Bar Association was the work of the Federalist Society, which they characterize as a dangerous, highly organized underground army. So they have decided to start their own club: the “Madison Society for Public Policy.”

I found two things about this to be particularly amusing. The first is the way the lawyers immediately stumbled over their own attempt to wrest Madison (who has long been the Federalist Society’s mascot) away from the political camp in which he belongs. “Madison, a Virginian,” the *Times* sol-

emply observed, "was also a slaveholder, a fact that group members acknowledge is a problem." Georgetown Professor Peter Rubin reassured the *Times* readers, "That's not a part of the legacy we embrace." Well . . . that's certainly good to know.

The second amusing thing was a statement by David Halperin, a former Clinton speech writer, who told the reporter that "Conservative thought now dominates the law, from classrooms to courtrooms, and in terms of judicial nominees." That would come as a surprise to Federalist Society members who remain extremely disappointed by the Bush administration's announcement — circulated in the past few months at Federalist Society events — that it will not seek to appoint well-known conservative or libertarian judges.

— Timothy Sandefur

**Sacrifice to the state** — The eager acolytes at CNN and most of the major networks did their best to make the killing of Timothy McVeigh a solemn, virtually religious celebration of the power of the state and its never-ending, endlessly compassionate attempts to bring "closure" to innocent victims by killing other people.

I don't think it worked. I suspect most Americans were so sick of hearing every detail that they shut out the propaganda and maybe even wondered why other mass murderers (including the perpetrators at Waco) didn't get such lavish attention as one who bombed a Temple of the State.

— Alan Bock

**Once there was a place called Camelittle** — Every time I turn on the television, pick up a magazine, or turn to the movie listings in the paper, I seem to find yet more evidence of the Fifties Cliché, or, to put a little alliteration into the thing, the Fifties Phenomenon — the idea that life in America during the 1950s was a nightmare of conformity and repression, or at least of hideous naivete. The corollary to this idea, I guess, is that the fifties were so *subtly* and *attractively* horrible that even today, no effort at exposing the awful truth could possibly be misplaced.

When a journalist has nothing else to say, he can always lament "the Cold War" and its "mentality" or analyze the failures of "the fifties nuclear family." When *Saturday Night Live* runs out of ideas, it can always satirize the stupidity of the *Father Knows Best* approach to life. When movie directors want to make a profound statement, they can always just remake *Rebel Without a Cause*.

Of course, this is nothing more than bashing and stereotyping. The fifties were the best of times for a lot of Americans, and the worst of times for very few besides Alger Hiss. But to me the most interesting thing about the Fifties Phenomenon is where it stops. It stops abruptly at the gates

of Camelot.

The Kennedy regime prided itself on its supposed embodiment of every tendency of the fifties that is now so much derided. The only difference was that the embodiment turned out to be either false or catastrophic.

The Kennedys billed themselves as the ultimate nuclear family, the Platonic form of togetherness. Well, ask Marilyn Monroe about that. Anti-communism? Bobby Kennedy won his spurs by working with Joe McCarthy; his brother Jack's inaugural address promised that the nation would "pay any price, bear any burden" to oppose the nation's ideological enemies. Militarism? Jack won the presidency by falsely charging that the Republicans had allowed U.S. military preparedness to fall behind that of the Soviet Union; his administration soon became responsible for involving America in the Vietnam War. When that war started being conducted by non-Kennedys, however, surviving members of the regime

jumped ship, running as far to the left as they could and still remain electable. Phallogocentrism? A real man, according to the Kennedy administration, was a Fella who was Fit for a Fifty-Mile Hike. Jack, at the time, was a chronic sufferer from a life-threatening disease who sought to palliate its effects with a constant diet of drugs and broads.

Well now, don't you think that this record of failure and phoniness would provide at least as much inspiration for satire and hostile analysis as the alleged ridiculousness of the 1950s? But when was the last time you saw, heard, or even heard of a satire of the Kennedy

— Stephen Cox

Kult? Think now. Think.

**Reality vs. TV** — I enjoyed Steve Cox's reflection about the 1950s. I'd been thinking of doing something on that subject myself, after seeing most of the series on the '50s on The History Channel, which gave the impression that surviving the '50s was akin to surviving the Holocaust.

My recollections of the '50s are a little vague by now, but mostly I remember playing football in the fall, "speedball" (a kind of soccer played in snow in which tackling opponents is legal) in the winter, shoveling off the playground in March to play basketball, and best of all playing baseball all summer long, with time out to do a lot of swimming and read an awful lot of books from my local library. I have hardly a single unpleasant memory. The things The History Channel portrayed as horrors — McCarthyism, racism, fear of nuclear war, corporate conformity — were very remote from me.

McCarthyism occurred when I was too young to have heard of it — I was seven years old when McCarthy was censured. If I'd been a bit older, I might have been troubled by it. But I am not sure. By the time I was twelve, I'd read enough about communism to know it was a horrible threat



to civilization, and McCarthy was ostensibly fighting against it. I've read a fair amount about McCarthy since, and to this day I don't know whether he was a publicity-grabbing witch-hunter or was honestly trying to uncover communist agents within the government, though I suspect it was the former.

I heard plenty about racism in the '50s. I distinctly remember quite a bit about President Eisenhower sending in the National Guard to integrate the schools of Little Rock. But progress was being made so this didn't upset me much.

Nuclear war? Well, it wasn't any scarier to me than the threat of Armageddon was to earlier children, reared in more religious families than mine. And, somehow, it never seemed very likely to me that a nuclear bomb would fall on Traverse City, Mich.

Corporate conformism? C'mon. Even I could figure out that this was only a problem for people who wanted to climb the corporate ladder, something I never wanted to do. And neither, apparently, did any parents of my friends. They were mostly worried, so far as I could tell, about making their lawns and gardens nicer and being able to take better vacations and buy bigger cars.

About the only bad thing I remember about the '50s was the dreadful dramatic programs on television. The Golden Age of Television Drama, as it is now remembered, consisted of dreary stories, full of self-torturing people unable to get the slightest pleasure out of life. These dramas were far more frightening than the horror movies my parents didn't want me to watch. Fortunately for me, most of those were on too late at night for me to see them; my parents enforced a strict bedtime until I reached my teens and the 1960s.

I worried a little bit about the prospect of being drafted into the army, but when I was 13, I began an ice cream stand where I met a worldly 22-year-old who told me that the worst thing about being drafted was the boredom of sitting around with nothing to do in the peacetime army. By the time I was old enough to be drafted, boredom wasn't much of a problem in the army; the problem was getting shipped to Vietnam and having your ass shot off. But, by then, it was the '60s.

In retrospect, I suspect that the '50s were a nightmare only for a small number of hard-core leftists, people who loathed McCarthy because they saw him as a threat to their revolutionary agenda, who saw racism as something they could exploit to advance their cause, who counseled fear of

nuclear warfare in order to push unilateral disarmament by the U.S. so that Russia could spread communism even faster, and who scorned corporate conformism because it rewarded its victims far better than the groupthink they engaged in. The major problem with the '50s, I think, is that the people who harbored these attitudes finally managed to install them as today's ruling cultural assumptions. — R.W. Bradford

**Oh, such a cute little tax cut** — Am I the only one to have noticed that the "massive" \$1.35 trillion Bush tax cut, described by CNN as "the first major tax cut in 20 years," is a hoax?

I don't deny, of course, that the law provides for tax refunds later this year. The running dogs in the media have hardly stopped yapping about those refunds for weeks now. I worked out the math. My refund will come to a little more than one-half of one percent of the taxes I paid on income earned in 2000. Whoop-de-do! As soon as my check arrives, I'll take myself on one helluva shopping spree; I might just restore the ailing economy to health and vitality all by myself.

After that, however, the pickings will get mighty thin. True, the top four income tax rates are to come down by half a percentage point in 2002, and the estate tax exemption is to rise to \$1 million. Starting in 2006, the IRS will even begin to give me back those disallowed personal exemptions and deductions that have effected "stealth" increases in my effective tax rate in recent years. By 2010, I will have recovered all of them.

We should all live so long, or be so moronic as to expect this pie-in-the-sky package of picayune, piecemeal tax reductions to become effective as promised during the next decade — before it all explodes in 2011, when the whole thing is slated to disappear and the tax law to revert to the status quo ante. You can forget about the \$1.35 trillion.

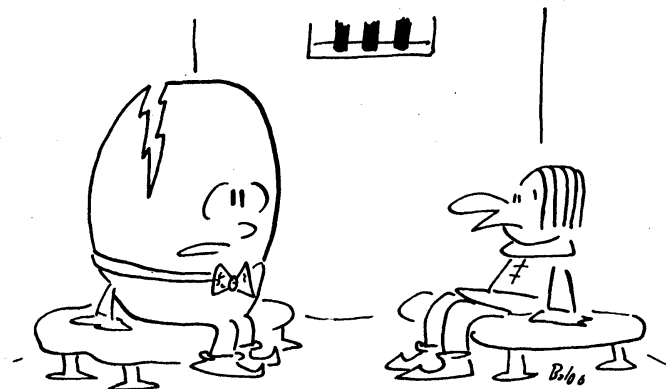
Indeed, you might as well forget about what's promised for next year, too, because the Democrats, having just finagled their way back into control of the Senate, smell blood in the water, and they vow to waste no time in overturning even the piddling, phony-baloney relief promised by the Bush scheme.

As the Lincolnian aphorism reminds us, you can fool some of the people all of the time, but why anybody would be fooled by this shamelessly blatant make-believe tax cut beats the hell out of me. — Robert Higgs

**Snob story** — Snob attacks on G.W. Bush continue to reach new heights of ridiculousness. The latest is the *big news* reported by my local paper under the heading, "Eliot Quote Another Faux Pas for Bush." Apparently Bush gave a speech in which he cited the importance of "healthy marriages" for the well-being of children and quoted (dare I say it?) George Eliot's novel *Adam Bede* (1859). Imagine quoting trash like that, when the Victorian author — as the very *latest* research reveals — had an extramarital sex affair!

Didn't Bush *know*? Can't he *read*? How could a *grown man* quote moral wisdom from an author who was *patently* immoral?

A non-issue, of course. But it does confirm the age-old truth that snobs are the last people to have anything to be snobbish about. The enforcers of political correctness who



"... then all the king's horses and all the king's men showed up and arrested me for not wearing a seat belt."



are making such an issue out of the Bush citation of Eliot betray no knowledge of the fact that her novels are known, by anyone who has the slightest acquaintance with literature, as some of the most determinedly moral in the English language. And God forbid that Bush should happen to quote the Bible. These people might find out about King David's relationship with Bathsheba.

— Stephen Cox

**Small change, big difference** — Though sour-grape conservatives insist that Vermont maverick Jim Jeffords voted as a Kennedy liberal, so who needs him anyway, the National Federation of Independent Business believes otherwise. The NFIB, which is generally a strong voice for free markets, gives Jeffords an 83% positive voting record.

The new Senate majority gives control of Senate committees to Democrats. The panel Jeffords chaired, the Committee on Health, Education, Labor, and Pensions, will now be chaired by Sen. Edward Kennedy, who votes with small business only eight percent of the time.

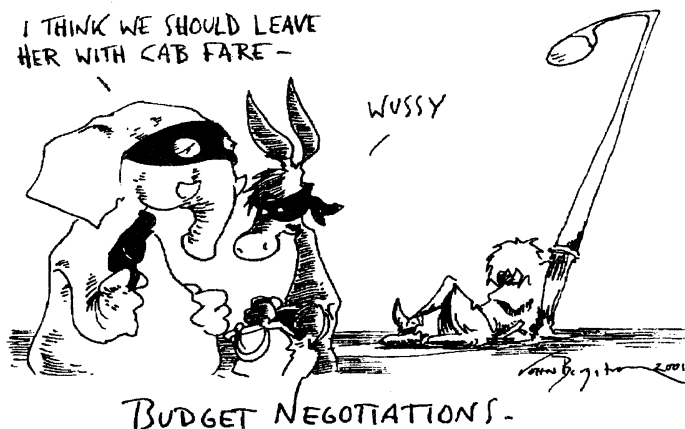
— Sarah J. McCarthy

### When property rights lead to socialism

— Economists have long been ecstatic about the growing enthusiasm of the greenies for the market. At last, economists chortle, our expertise will play a positive role. No longer the dismal science — now we'll be the dismal swamp science. Pollution taxes, emission rights, tradable credits for CO<sub>2</sub> reduction! Wow. Government will set the goals — market mechanisms will efficiently get us there. After all, regulations are costly — let's at least make sure that we're as efficient as possible in implementing them.

But, before buying into this fantasy, one should consider carefully the risks that such policies entail. For one thing, they will make government reform more difficult. Consider the New York City taxicab system. New York politicians decided, in their wisdom, that the city would benefit from fewer cabs, capped the number allowed, and granted each owner a number of medallions to cover their existing cab fleets (the "grandfathering" policy). To ensure "efficiency" the medallions were tradable — want to drive a cab? Buy a \$100,000 medallion, throw in a little extra for the cab and gas and you're ready to abuse tourists anywhere in New York.

This is the traditional role of government: first create scarcity and then misallocate it. But the right to buy and sell such medallions creates something far more pernicious. In effect, we've securitized the government monopoly privilege — and thus made it far more desirable to medallion holders. Making medallions tradable ensures that they will always have value, giving owners a powerful incentive to lobby fiercely to ensure that nothing is done to dilute their "property right" to exploit consumers. A tradable rights system is much more difficult to reform.



Slavery is another example. Had the slavery system not included the "right" to buy and sell, it might well have died out much earlier. Slaves in the older coastal states would have been freed as economic conditions made them locally less useful. Using a market mechanism, however, allowed a more "liquid" market in human flesh and ensured that slavery flourished until the Civil War.

Tradable emission rights are only another variation on this theme. If CO<sub>2</sub> suppression becomes a national policy via a "cap and trade" system, then we'll all find energy costing a little more and becoming less affordable; all of us will become (in part) energy serfs. And the magnitude of the rights created in this area will not be small — recent studies estimate that the proposed minimal level of CO<sub>2</sub> reductions would lead to "CO<sub>2</sub> emission rights" worth over \$2 trillion.

If you thought an affordable energy policy was hard with just big green opposition, imagine the problems when they're joined by big business.

— Fred L. Smith Jr.

### Little something extra for big steel

— Are you paying enough for steel? Next time you buy steel, why not throw in a couple extra bucks on top of the price. After all, the economy exists to create jobs, not to produce goods and services. That, at least, is what the steel industry and its unions think. Of course, they never put it in such terms. They say that "foreign steel" is being "dumped on the market" at "unfairly low rates." Back in my day, they used to call that a "sale." But the White House seems to be listening: they've set up an "investigation" of these unfair trade practices. That's the federal government: spending your money, so you don't have to.

— Timothy Sandefur

### The Wealth of Pigs: An Inquiry into the Nature and Causes of Pork Barrel Spending

— Again we hear calls for more government spending on research into non-standard sources of energy — making electricity from sunlight, wind, tides and waves, hot rocks underground, and biomass and methane from garbage as boiler fuel. Conservation schemes abound. Have the people who make such proposals forgotten the failures of the 1970s?

I'm beginning to understand the pitfalls. Politicians and bureaucrats display their alertness to problems and to technological fixes (and sometimes to chances at pork) by proposing more money for research. Agencies entrusted with the money cast about for plausible ways to spend it. They farm much of the work out to contractors, for whom sheer plausibility becomes a major consideration in turn.

I recall working on a university research project in the summer of 1952, between receiving my Ph.D. and taking up a teaching job. My particular assignment concerned possibili-

ties of reconverting other manufacturing plants in the United States to producing boilers and steam-turbine generators for electric-power stations. (Or maybe the conversion was to be the other way around; my point remains unaffected.) The economics professor heading the project believed, or pretended to believe, that economic theory, especially general-equilibrium theory, was the key to the question of reconversion and that I, holding a fresh doctorate in economics, was ideally equipped for the research. But, of course, the question involved engineering much more than economics. I tried to do my best, but I have no illusions about the value of my contribution, or of the project's overall report. Who cared? The report was unlikely to be read or taken seriously by anyone in a position to act on its findings. And money would have been plausibly spent.

In 1975, while a visiting professor on the west coast, and in the following year, I was commissioned to study exotic energy sources and conservation opportunities in general, with attention to the economic aspect where possible. The work was sort of fun, acquainting me (superficially) with a wide range of bright if often far-fetched ideas.

But again, the key issues concerned technology and engineering at least as much as economics. I doubt that my report was of use to anybody, but even then I still failed to realize that making a plausible expenditure had probably been a main objective.

I had finally begun to understand what goes on a few years later (probably in 1980 or 1981) when the possibility arose at the University of Virginia of a major and well-funded interdisciplinary research project on energy sources and energy policy. Each academic department was supposed to identify aspects of the research that would enlist its particular expertise. Within the Department of Economics, its share of the project would be subdivided among the various professors according to their own specializations. As a supposed specialist in international economics, I was to investigate likely impacts on the balance of payments of the United States.

Fortunately, the entire project fell through. I am probably flattering myself, but I like to think that my skepticism had some effect. The project smelled of boondoggle. Each professor could better spend his research effort on topics that he thought important and interesting and manageable than on topics that would conjecturably seem plausible to some remote bureaucrat.

My own experiences were less closely related to actual

energy production than much research presumably is. Still, some insights apply widely (and in a fuller survey, the pursuit of research grants and contracts, and also of subsidies, would enter the story). The main point is an old one. Money and resources and human abilities are less likely to be wasted when decisions are made by people risking their own wealth or people disciplined by responsibility to stockholders than when made by politicians and bureaucrats wrapping themselves in the cloak of plausibility.

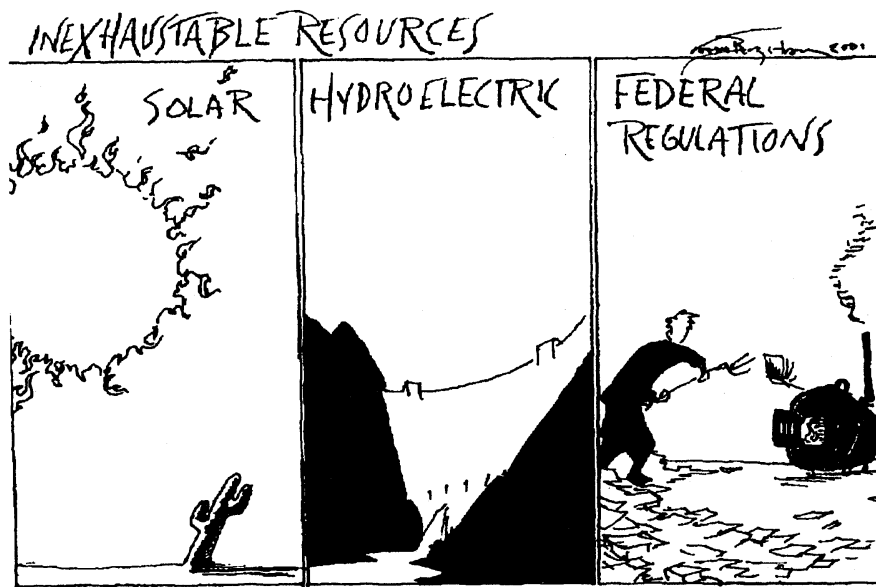
— Leland B. Yeager

**Dream the impossible scheme** — The Bush administration came out of the box on the energy issue with a reasonably positive mix of supply-side strategies — they are even willing to redeem nuclear power. (True, they also advocate the typical mix of R & D subsidies along with incentives for Condor Cuisinarts and Green Power.) But the administration's emphasis on making more power more affordable to more Americans — not a bad idea — is on a head-on collision course with a renewed effort to "do some-

thing" about global warming. So while one foot of government will be pushing hard on the gas, coal, and oil pedals — another will be babbling on about creative ways to suppress CO<sub>2</sub> ("caps and trade," "market mechanism," "voluntary" — all terms that should lead one to reach for his revolver) while pushing down as hard as possible on the brake pedal. It seems our only solu-

tion is to burn lots more fossil fuel but change the chemistry so it doesn't lead to more CO<sub>2</sub> — and they say Republicans aren't optimists!

— Fred L. Smith Jr.



**The upside of J. Lo** — Lately, women in the acting profession are asking to be called "actors" rather than the gender-specific "actresses." Strange that the politically correct tag never applies when the award shows roll around. I have never seen a feminist refuse her Academy Award nomination because it was for Best Actress. When the awards come out, apparently, separate is equal.

That these award shows exist should make it obvious why there are not a lot of libertarians in Hollywood. If I were earning \$10 million for about six-months work on a picture, I would most certainly consider that adequate compensation for services performed. That actors, whether male or female, demand awards on top of their huge cash compensation underlines the insecurity of the performing class. Just like children want to see gold stars stuck to their book reports, adults who earn their living playing make-believe want one

on Hollywood Boulevard.

In the motion-picture business, however, your worth is in direct proportion to what the public wants to see. Cindy Crawford makes more money annually than all male models combined, but nobody seems to think that is sexism. How many men complain about the glass ceiling in the modeling industry? You would think people so affected by supply and demand would understand a little more about economics. Jennifer Lopez can demand \$5 million per movie because the supply of Jennifer Lopez is limited to exactly one.

— Tim Slagle

**For the love of gridlock** — Rep. Earl Blumenauer, the congressman from Portland who is one of the nation's leading champions of smart growth, has finally gone off the deep end. In an Op-Ed in the *Portland Oregonian*, he proposes to eliminate a portion of Interstate 5 that runs east of downtown Portland, replacing it with ordinary streets.

That stretch of I-5 carries 135,000 autos per day. By comparison, the eight lanes of city streets that parallel the freeway carry less than half that number of cars and at far slower speeds. Blumenauer's plan would hugely increase congestion. But hey — this is from the man who told NPR that "congestion is exciting."

— Randal O'Toole

**The cult of WWII** — In a column published on Memorial Day, Cal Thomas complained of the decline in patriotism since the 1940s. He waxed nostalgic for the war totalitarianism of FDR: gasoline was cheap, when you could get it; tires were less than plentiful because rubber went to the "war effort"; but Dad "knew that all of our armed forces were opposing evil." Thomas lamented that "such notions today are considered politically incorrect."

Where has Thomas been for the last few years? If anything, the Second World War is treated as a religious event and it is unthinkable to raise any questions about our role in it. Remember the attacks on Pat Buchanan after he suggested that we could have avoided the war?

Baby boomers, members of what Cal Thomas calls the "whining generation" (he gets a few things right), have been falling over themselves to honor and memorialize the war. Bill Clinton signed legislation in 1993 authorizing a World War II Memorial. Tom Hanks used his *Saving Private Ryan* fame to campaign for it. Tom Brokaw's *Greatest Generation* has metamorphosed into a mini-industry that is no doubt soon to be synergized with some other publishing phenomenon (*Chicken Soup for the Greatest Generation's Soul*; *Grunts Are From Mars*, *WACs Are From Venus*). *Pearl Harbor* is taking in millions at the box office despite the fact that it is a lousy movie.

I've been a fan of WWII since I was a kid. In my middle-school years, I watched *Baa Baa Black Sheep* and *Hogan's Heroes* reruns while doing school reports on the exploits of the Flying Tigers and building models of P-51s. Even after service in the Marine Corps Reserve left me much more cynical about the military and U.S. interventionism, I enjoy films such as *The Longest Day* and *Twelve O'Clock High* and have read from the unsentimental accounts of the war from participants such as Paul Fussell and Eugene B. Sledge.

The real war — the one that the United States was

dragged into by FDR's treachery, the one in which a desire to end the Holocaust played no part, the one in which our Soviet ally played the dominant role in defeating Germany, the one fueled by anti-Japanese racism — is not very pretty. It is, however, a critical event in American history and worth remembering.

Instead we are commemorating a fairy-tale version in which the greatest generation rolled up its collective sleeves and went to work defeating tyranny and racism.

The best way to honor this fantasy war is to erect a sculpture of Tom Brokaw wading ashore — à la Douglas MacArthur — accompanied by his publicist and ghostwriter.

— Clark Stooksbury

**Good politics, bad medicine** — Stephen Cox's piece in last month's *Liberty* about drugs makes an important point: freedom does not solve all problems, and may make some of them worse.

These trade-offs seem to be different with different drugs. Marijuana is ambition-impairing but neither physically addictive nor lethal. Heroin is addictive, but one can be an addict and still maintain. Some drugs can be used recreationally by a reasonable person, and some can't.

It is not enough to oppose jailing people for recreational self-medication. As a practical matter, if we legalized certain drugs, I think civil society would have to campaign against them, and would have to approve of employers and landlords "discriminating" against users, as Charles Murray has said. There is a parallel here to family issues: dismantling the welfare state (and the nanny state and drug-czar state) will require strong families. The conservatives are absolutely right about that. We cannot get to a weak state by encouraging a libertine ethic.

Cox's piece got me thinking about the most difficult issue for libertarians: medical care, particularly treatment of big, expensive diseases that are not the victim's fault. Scientists have developed wonderful life-saving treatments, nearly all of them expensive. When a life is at stake, the treatments *will* be used. People are not willing to declare, "You have no money. Please leave the hospital." Even the biotech research-

## Learn at Liberty!

Are you interested in working as a journalist?

*Liberty* offers full-time, paid internships at all times of the year. Interns at *Liberty* work closely with the editors. Responsibilities generally include fact-checking, researching, circulation and advertising work.

*Liberty* interns have gone on to become editors at *Liberty*, *Reason* and *Regulation*, authors of articles in major magazines and newspapers, researchers at important think tanks, and to win major fellowships and scholarships.

For information, write: R.W. Bradford, Editor, *Liberty*

P.O. Box 1181, Port Townsend, WA 98368

email: [rwbradford@bigfoot.com](mailto:rwbradford@bigfoot.com)

# At last. A scholarly journal dedicated to the study of Ayn Rand's thought and influence.

*The Journal of Ayn Rand Studies* is the first scholarly publication to examine Ayn Rand: her life, her work, her times. Welcoming essays from every discipline, *JARS* is not aligned with any advocacy group, institute, or person. It welcomes scholarly writing from different traditions and different perspectives, facilitating respectful exchange of ideas on the legacy of one of the world's most enduring and controversial philosophers.

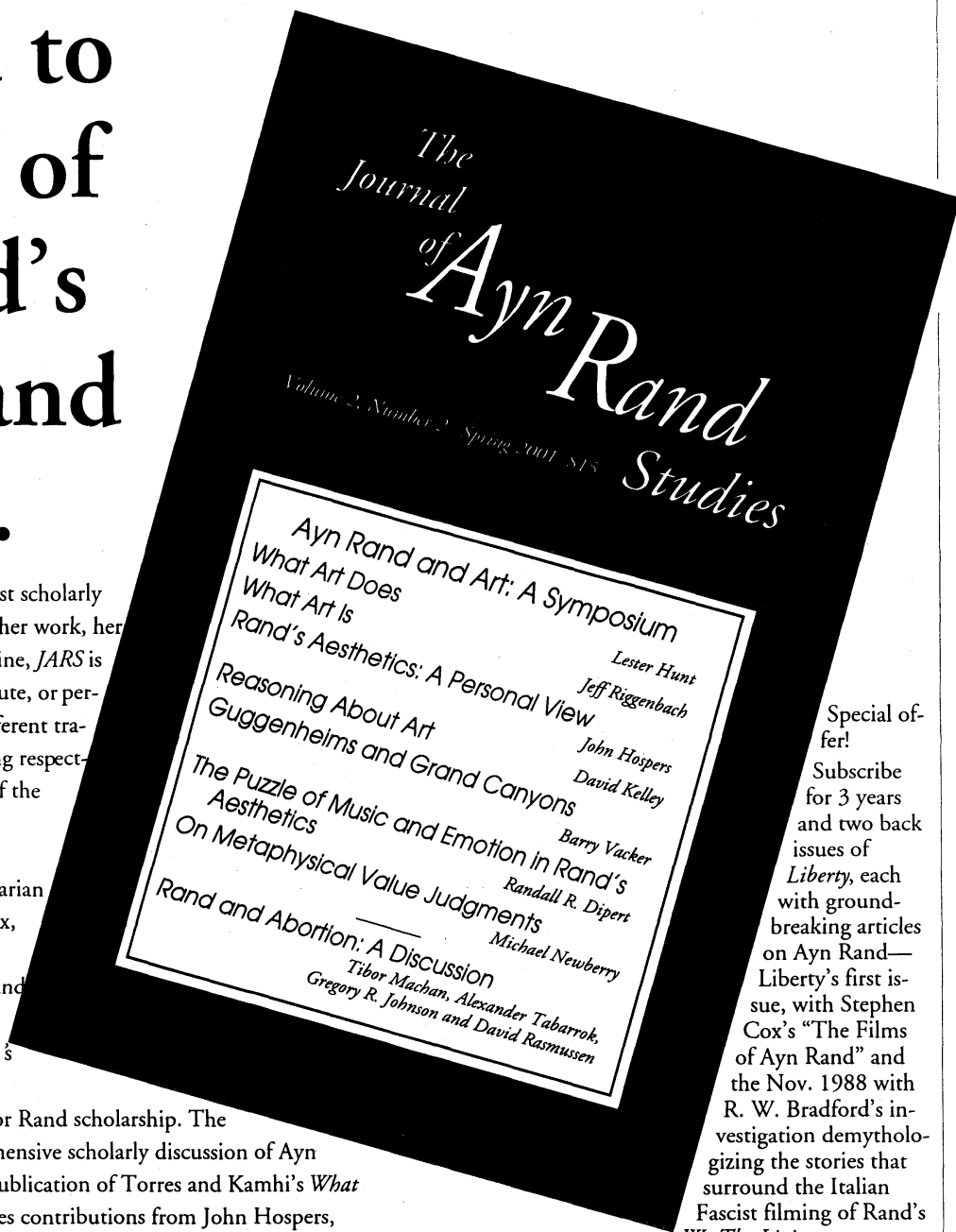
*JARS* is edited by R. W. Bradford, libertarian writer and publisher of *Liberty*; Stephen Cox, author of many books and articles on Ayn Rand, Isabel Paterson, and libertarianism; and Chris Matthew Sciabarra, characterized by *The Chronicle of Higher Education* as "Rand's most vocal champion in academe."

Our first three issues were a milestone for Rand scholarship. The Spring 2001 issue features the first comprehensive scholarly discussion of Ayn Rand's philosophy of art. Inspired by the publication of Torres and Kamhi's *What Art Is*, "The Aesthetics Symposium" includes contributions from John Hospers, Lester Hunt, Gene Bell-Villada, David Kelley, Randall R. Dipert, Barry Vacker, Jeff Riggerbach, Roger Bissell, John Enright, and Michael Newberry.

Plus — Roderick T. Long reviews Chris Matthew Sciabarra's *Total Freedom: Toward a Dialectical Libertarianism*. And Tibor Machan, Alexander Tabarrok, Gregory R. Johnson, and David Rasmussen discuss abortion . . .

Annual subscription: \$25 individuals, \$40 institutions  
Two year Subscription: \$45 individuals, \$75 institutions  
Three year subscription: \$65 individual, \$100 institutions

**Charter subscriptions still available!**



Special offer!  
Subscribe for 3 years and two back issues of *Liberty*, each with groundbreaking articles on Ayn Rand—*Liberty's* first issue, with Stephen Cox's "The Films of Ayn Rand" and the Nov. 1988 with R. W. Bradford's investigation demythologizing the stories that surround the Italian Fascist filming of Rand's *We The Living*.

**Yes!** Please enter my subscription to the *Journal of Ayn Rand Studies*. I enclose my check in full payment.

- One Year: individuals \$25, institutions \$40
- Two Years: individuals \$45, institutions \$70
- Three Years: individuals \$65, institutions \$100 with the free special of
  - Aug. 1987 *Liberty*: The Films of Ayn Rand
  - Nov. 1988 *Liberty*: We The Living
- I want a Charter Subscription with both free *Libertys*. Start my subscription with Vol 1., No. 1.

name \_\_\_\_\_  
address \_\_\_\_\_  
city \_\_\_\_\_ state \_\_\_\_\_ zip \_\_\_\_\_

Send to:  
Journal of Ayn Rand Studies  
1018 Water Street, Port Townsend,  
WA 98368



ers developing medicines that cost \$1,000 per month, and who know *why* they cost that much, are virtually unanimous in saying that everyone ought to have "access" to them.

In the old days, doctors and hospitals would absorb the cost of medicine for the poor and tack it on to the bills of everyone else. But the old system was monopolistic and inefficient enough to allow for that. Medicine has now become a business; hospitals, whether for-profit or not, are run by MBAs, and payment is by insurers rather than by the customer. Insurers earning pennies on a dollar will not tolerate 10–20% leakage to charity medicine. The company that allowed it would not survive.

All this makes medicine a really tough issue for libertarians. Social Security is not so tough, because the amount people need in old age is fairly predictable and they have a long time to plan for it. They can solve the problem by investing at a young age. But a medical disaster can be any size, any time. Everyone is at risk. Risk faces even the person who has saved a prudent amount of money. A responsible person simply *must* have medical insurance; and if he is irresponsible and waits until he is sick, he may not find a carrier that offers it, or it may be too expensive. Therefore, the argument goes, why not make it compulsory — and if it is compulsory, and many people cannot pay for it, then have the state give it to them.

Another problem: private medical insurance is based on pooled risk. With employer-provided pools the risks are acceptable and the costs reasonable. But we have employer-provided insurance only because of historical reasons. During World War II, regulations prohibited wage increases, so when labor shortages developed, employers sought to attract workers with health benefits. This was, of course, a way of disguising a wage increase, and would thus violate the wage controls. But management and labor lobbied to have health insurance treated as if it were not compensation so it would not run afoul of wage controls, and the precedent was set that made health-care benefits not taxable as income. As a result, most health insurance in the United States is provided by employers in the form of inflexible health insurance.

Get rid of this setup, free marketeers advocate, let every family buy insurance on the market. The insurers then would be defining and assembling their own risk pools. That is nothing they haven't done before, except that new technology allows a finer measurement of medical risk. We have some genetic tests now, and will have more. The upshot is that even if we all bought insurance, those of us revealed by tests to be bad risks would be charged much more. Insurance would become less egalitarian and more reflective of our inherited strengths and weaknesses. I am willing to accept that, but I'm not so sure other people are. They tolerate inequality of incomes and wealth because they know people's working and spending habits are unequal. There is a certain fairness in such inequality. There is some of that same fairness when a person gets lung cancer from smoking. But many others come as "acts of God."

We cannot solve this problem by forbidding insurance companies from using genetic tests, because individuals could still use them. And how fair would it be to allow people to test themselves and load up on coverage from a company that's not allowed to know?

Medicine is not the same as it was when people paid for it out-of-pocket. Whatever solution libertarians offer has to be more than consistent. It has to work, and provide a world that people want. The libertarian solution seems to require an extraordinary amount of self-responsibility. Either that or charity.

Perhaps the conservatives are right about charity, too.

— Bruce Ramsey

**Naming names** — FBI technicians at Quantico named their e-mail sniffer "Carnivore" — supposedly because the search software can "find the meat" in e-mail messages. Last fall we learned from FBI documents released under the Freedom of Information Act that Carnivore's original name was "Omnivore." Now the FBI has changed the beast's name again. The new name is DCS1000. The FBI says that "DCS" stands for "Digital Collection System." Any other suggestions for what "DCS" means? — Bart Kosko

**Caveat venditor** — The madness that is America's power crisis continues. Now, both the California and New York legislatures are considering increasingly punitive measures to stop what they consider "price gouging" by utilities — defined as charging prices above historical levels.

The obvious fact that we are in the midst of an energy shortage and prices *ought* to be above "historical levels" escapes them. In complete defiance of the laws of supply and demand, Democratic lawmakers in California have proposed to make "price gouging" by utilities a felony offense punishable by jail time and heavy fines. Similarly, New York has opted to boost financial penalties for "market manipulation," while attempting to embarrass naughty utilities by publicly disclosing the names of firms that "exploit" the constricted energy market by raising prices when there is a shortage.

At least ten major investigations into utilities' behavior are being conducted by state, federal and local investigators, court officers, financial experts, and special investigators. As politicians search for scapegoats, this "price gouging" witch-hunt is burning off millions of taxpayer dollars. More importantly, it's overwhelming utilities with requests for documents like meeting transcripts and e-mails, disrupting their day-to-day business and prolonging the shortage.

Apparently, the push by states toward criminalization of otherwise normal price changes comes in response to the Federal Energy Regulatory Commission's refusal to control prices. Unlike FERC, state legislatures have not to yet internalized the one fact that economists everywhere know best: price controls turn temporary shortages into permanent disasters.



"You wouldn't think a king's job would involve so much heavy lifting."

When politicians judge the fairness of prices, they tend to focus on historical costs of production, asking, "How many man-hours and tons of coal went into generating this power?" When they total up these costs, they invariably leave out opportunity costs — the value of what's given up by selling power in one place rather than another. If Enron sells power in California rather than Washington, the money it could've made in Washington must be added in as a real economic cost, even if it is hard to quantify. And when it is added, the whole notion of "price gouging" disappears.

By criminalizing the sale of power at prices reflecting opportunity costs, law makers in California and New York virtually guarantee a continued shortage, as utilities will avoid selling power in markets subject to the new penalties. From coast to coast, get ready for a long, dark summer.

— Andrew Chamberlain

**Absolut brilliance** — Vladimir Zhirinovsky, the radical nationalist Russian wacko, and the only Russian politician to ever pose for *Playboy*, has written a letter to the Bush twins, expressing his concern about their drinking habits. According to an article in the *Moscow Times*, Zhirinovsky was avuncular. "Think of my advice as that of an uncle to his nieces," he wrote. "I earnestly ask you not to use alcohol. . . . [Your father] holds a very high post. Therefore, you must behave, so that no negative information about your activities can worry him."

In a related story, a new Russian tax system has broken down, resulting in a possible collapse of the vodka market. The new system requires that vodka bottles receive a tax stamp before being exported, but the stamps have not yet been printed. As a result, many vodka producers — including Kristall, the leading brand — shut down and sent employees home on June 1. This has Russian politicians more than a little nervous. Easily accessible vodka, is, after all, a vital ingredient for Russian political survival.

— Timothy Sandefur

**Drop that paper clip!** — Lindsay Brown, a student at a Florida high school, found herself suspended for five days and barred from attending her class graduation ceremony after a steak knife was found in her car on May 21. She said it had fallen out of a box placed in her car when she was moving and that she didn't know that it was there. School officials didn't budge, and U.S. District Judge John Steele turned down her appeal to federal court.



SHCHAMBERS

"Please, hit person."

But what caught my eye was a single sentence in the story that said that schools had also considered rubber bands to be weapons. Of course, almost anything can be a weapon, but I think this opens up a new path for the enforcement of zero-tolerance policies — against school teachers and administrators. If rubber bands are weapons, so are plenty of other office supplies. Paper clips, pens, pieces of chalk, and erasers (particularly cunning as they don't leave marks) certainly make as good a weapon as any rubber band. And who can deny that underneath the prosaic surface of the everyday stapler lurks a device of calculated mechanical efficiency that cares not whether it closes on a discrete mathematics test or a human hand?

I submit that every office supply that could possibly be used as a weapon should be banned. Every day our children walk into war zones of heavily armed teachers. Sure, teachers and administrators will callously suggest that these petty devices make their lives "easier" and "more convenient" — I'm sure Machine-Gun Kelly felt the same way. And these people are adults, so they have no excuse for not knowing better.

— Eric Raetz

**Burning with love** — While America puts its worst act of domestic terrorism behind it with Tim McVeigh's execution, many turn a blind eye to another form of domestic terrorism that's on the rise nationwide: eco-terrorism.

Foes of genetically modified (GM) food have grown violent in recent years, abandoning intellectual debate in favor of "direct action" — a euphemism for property damage, theft, and street protesting. While sabotage of GM crops, research facilities, and related property has been common in Europe since the late 1990s, it has only recently migrated to the United States.

And it may be here to stay. With May's dual arsons at the University of Washington's Center for Urban Horticulture and an Oregon tree farm, anti-biotech activists made national headlines. Both locations conducted research on poplar trees that were genetically enhanced to be more commercially productive. For that, activists burned both sites to the ground, scrawling anti-GM graffiti in their wake.

The underground Earth Liberation Front (ELF) based in Portland, Ore., claimed responsibility for the arsons, saying, "Our message remains clear, we are determined to stop genetic engineering." Craig Rosebraugh, who runs ELF's "press office," openly defended the attacks in interviews. "If you have someone who may be destroying the planet," he told reporters, "it's only sensible to go in and burn the place down." One of his ELF colleagues chimed in, "[The arsonists] see that the environment is being destroyed . . . and it's so dangerous that they don't have time to lobby Congress, even if they thought that would be effective, which they don't." Taking this ends-justifies-the-means approach to its extreme, a representative of Genetix Snowball — another group of guerrilla tree-huggers — claimed that "the public has made it clear they don't want [GM] crops, and if the government isn't going to get involved, then it's up to us."

But the "public" hasn't exactly given an ideological mandate to these groups. In fact, even mainstream environmental groups like the Sierra Club and Greenpeace have denounced the attacks. Aside from the issue of them being violent terror-

ists, groups like ELF face another public-relations hurdle — they're idiots. The burned University of Washington facility wasn't some haven of perverse commercial genetic engineering at all. Much of the work done there was to save threatened plant species and to research how ecosystems naturally recover from disasters. During the fire, activists inadvertently burned one-fourth of the world's population of showy stickseed plants, an endangered species native to the Cascade Mountains. These "collateral damages" are becoming common in attacks, and the groups don't seem to mind. Their goal is to generate maximum publicity, and inflict heavy punishment on anyone involved in genetic research or marketing.

As these eco-terrorist attacks grow, it's becoming clear that the real costs are scientific, not economic. Scared researchers are abandoning academic work for fear of being targeted by terrorists. Oregon State University geneticist Steve Strauss, whose lab was destroyed in March, expressed fear for the future of the new and promising field of genetic science: "If we can't protect our academic institutions to do the kind of work that scientists think make sense, do we do what's dictated by these terrorists? That's a really scary prospect."

But it may be a reality. Since his lab was attacked earlier this year, Dr. Strauss has dropped his research on GM crops.

— Andrew Chamberlain

### ***The LP waves its mighty fist*** —

Now that the U.S. Senate has flopped over to the Democrats, those who voted Libertarian should take their applause. In November 2000, Maria Cantwell, a Clinton Democrat, beat Sen. Slade Gorton, R-Wash., an idiosyncratic conservative, by only 2,228 votes. Jeff Jared, the Libertarian candidate, got 64,734 votes. By the rule of thumb that Libertarians take two votes from Republicans for every one vote from Democrats, Jared threw the election to Cantwell.

Libertarian voters will say, of course, that they were not the only factor — and, of course, they were not. Gorton lost because he was old, and also because the Seattle greens have hated him for years, most recently because of his "midnight rider" on behalf of a proposed open-pit gold mine in rural Okanogan County. Cantwell won because she was associated with the new economy, and could contrast that with Gorton's support of miners, fishermen, and farmers, and because she poured \$10 million of RealNetworks stock into her own campaign. All true. But when the vote is that close, everything is decisive. And one of those decisive forces was the Libertarian vote in Washington state, which has resulted in Democratic control of the U.S. Senate.

Washington is under court order to throw out its "blanket" primary, and may now adopt the "Cajun primary," in

which only the top two candidates advance to the November ballot. Under that system — sponsored by a Republican — the Libertarians could never do that again. — Bruce Ramsey

### ***Drugs don't cause crime, drug laws do***

— *The New York Times* on May 19 made the classic error of indiscriminating drug-war sympathizers in a story headlined: "Violent Crimes Undercut Marijuana's Mellow Image" with the subhead: "An Ounce Can Cost More Than Gold, Police Say." What followed was a story of increasing violence in the drug trade, centered around the murder of a woman who lived above the Carnegie Deli. She and two friends were shot, allegedly by a man who came to rob her of the allegedly substantial profits she had made dealing in high-end, high-potency marijuana.

Besides the usual journalistic sin of accepting almost unquestioningly police stories (sometimes backed by a shred of truth, sometimes without even a shred) about super-potent marijuana with super-high prices, the story shows no awareness at all of the real reason for the violence. The violence didn't occur because the pot was potent. It occurred

because the drug war has made it enormously expensive and kept those in the trade from having any method other than violence to resolve disputes — unless there has been a rash of people going to small-claims court to claim that their drug dealer ripped them off and I just missed the stories.

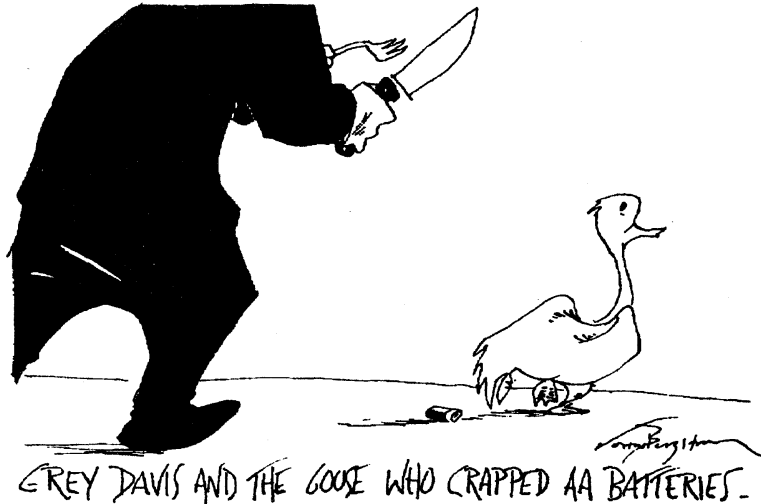
The police make statements like the one in the story from deputy police commissioner Joseph P. Dunn — "The marijuana

trade in New York City is controlled and run through the use of violence" — as if they were shocking revelations that justify ever harsher enforcement activities. In fact, having a trade controlled by violence is the natural result of prohibition. When will the mainstream media understand that what are commonly called "drug-related" crimes are almost always "drug-war-caused" crimes? — Alan Bock

***All hail Dow Jones*** — The stock market is often denigrated by friends of liberty as an engine of destruction and evil, but it is the greatest force for wealth building and improving material happiness in the world, as Carl Snyder pointed out so ably in his classic book *Capitalism the Creator*.

A good way to see this is by reading any of the studies of random selection of baskets of stocks. A random selection of stocks bought in 1900, for example, that was sold at the end of the century would have returned a profit of some 10 million percent.

In his book *How to Buy Stocks*, Lewis Engel takes a hard look at the data, and concludes that "when the investment horizon extends at least ten years, the returns are such that of



GREY DAVIS AND THE GOOSE WHO CRAPPED AA BATTERIES.

the more than 2000 different ten-year periods of investment from 1926 to the present, more than 96% show an annual compound return above 9.1%, in 3 out of 4 the annual return from random selections (which can readily be duplicated with any basket of 15 stocks) the return topped 15%."

In all fairness, my point about the wildly bullish returns should be modified by a point my colleague, Leonard Kreikas, makes: a century ago, there were many markets outside the United States that might have been magnets for funds. To gain an accurate perspective about this, one should take the return from random investments in all markets, including England, where investors fared poorly, and Russia, where investors were wiped out.

This being the case, I think an adjustment of minus one percent per year to the returns I cite above is in order. But my point remains: beware of old-hearted gold bugs and Midwestern sages.

— Victor Niederhoffer

**Northern sophistry** — The caribou are back. Now that plans are afoot to explore for oil in the Arctic National Wildlife Refuge, environmental organizations are sending out the alarm. The National Audubon Society Web site says that "no suitable alternative habitat exists for the Porcupine Caribou Herd if they are driven from their calving grounds by oil development." In a caustic tirade Maureen Dowd of *The New York Times* condemns Americans: "We will drill for oil whenever and wherever we please. . . . We don't care about caribou."

But the caribou aren't the allies they once were. The reason is simple: the caribou that migrate through the Prudhoe Bay oil field are thriving. In 1972, there were about 5,000 animals in the Central Arctic herd. Today, there are at least 25,000. Photographs frequently show the caribou comfortably walking along the pipeline.

They have been studied for 30 years. A few studies suggest that female caribou (but not males) may avoid oil facilities when they are calving, and this could signal a problem. But the authors of one such study admit that this may be misleading since the males lose their tagging collars, and the females don't.

So what is an environmentalist to do? Shift gears. Mention other wild denizens of northern Alaska such as snow geese, wolverines, and musk oxen (ignoring, of course, the flies and mosquitos). And polar bears. Now I learn from Audubon that the coastal plain is the polar bears' "most significant area for on-shore denning in the United States." I don't remember much talk about polar bears the last time around. Well, there's always the chance. . . . — Jane S. Shaw

**A talent for satire** — Anyone who thinks that libertarians lack the wit required to produce first-rate satire should read Justin Raimondo's delightful "Libertarians & China," published by antiwar.com. Raimondo's jape is so well-executed that a few of *Liberty's* readers have taken it seriously, sending me, its intended target, notes of sympathy about his "attack." As Paul Krassner once observed, really good satire can be identified by the fact that some of its readers are not even aware that it is, in fact, intended to be satire. It is a measure of Raimondo's skill that it passed the Krassnerian test.

Raimondo begins what purports to be a criticism of my

"China: The 'Crisis' and the Facts" article (June) with a lengthy analysis of me personally. Lest anyone take it seriously, he fills it with "information" that is obviously false. He claims, for instance, that since *Liberty* began publishing monthly in 1999 it has been so short of material that I've been "reduced" to writing more and more of it myself, to the point of using a nom de plume of Chester Alan Arthur to obscure the fact that I am writing so much. In fact, since *Liberty* began publishing monthly in 1999, I have found myself writing less and less of it, and I've practically retired my nom de plume: I've not been Chester Alan Arthur at all for a year and a half, although I was he and he was I in practically every issue of *Liberty's* first decade. Raimondo adds the amusing nonsense that I get "most of my information from science fiction novels," a clever reference to my notorious lack of interest in a genre that seems to interest everyone else (I've read fewer than a dozen s.f. novels in my life, and none in the last 30 years.) As if that weren't enough he advises his readers that he "always knew R. W. Bradford was a sellout" — a hilarious claim from someone who has written for *Liberty* and even applied for a job as an editor here.

Just in case any reader hasn't yet caught on to his satire, Justin turns to denouncing other people who have written in *Liberty*, a journal that, he claims, "no self-respecting professional will write for." It's a sly reference to people like Milton Friedman, Murray Rothbard (Justin's hero), and all the other notables, including Justin himself, whose writing has graced our pages.

Eventually, Justin gets around to the argument that I presented in my article about China. He still maintains his wonderful satiric touch. Rather than engage the argument, he goes into flights of interpretive fancy, including one particularly delightful one about my "sheer evil" for "saying that [Justin's friend Llewellyn] Rockwell is a . . . traitor to his country, and we all know what the penalty for treason is." Of course, no author for *Liberty* ever said that, but what's important is Justin's invented persona — the fractious, resentful, deeply unhappy libertarian zealot, the man who cannot understand anyone else's position but who is irresistibly moved to lash out against the positions that he imagines others are taking. It's silly, I know, but it's fun, and it's also instructive — because there really are libertarians like that.

Nothing in Raimondo's past — as, for instance, his biography of Rothbard or his book on the "Old Right" — suggested flair for this particular kind of satire. It's welcome, all the same. Talent is always good to see, even when it develops late.

— R.W. Bradford

**Available at stores you haven't smashed up near you** — Those who just couldn't get enough of the excitement at the original WTO riots will soon be able to purchase the video game "State of Emergency," whose creators confess draws heavily on the Seattle riots.

Now you too can experience the raw thrill of putting bricks through store windows and egging on fellow rioters in the war against "late-stage capitalism"! Feeling more frisky? Turn over a few cars and attack some bystanders and police officers! Naturally, there are some differences between the video game and the real riot — in the game, you're helping to destabilize the American Trade Organization. — Eric Raetz



# The Deafening Silence

by R. W. Bradford

On May 11, Perry Willis confessed that he had disobeyed his party's conflict of interest rules for employees in order to help Harry Browne win the Libertarian Party presidential nomination. In the five weeks since, investigators from the party and press have been asking Browne campaign officials about their involvement. Browne himself issued a terse confession, which his supporters are reluctant to believe. Others have refused to say anything at all.

As is usual at meetings of the Libertarian Party's National Committee, a variety of papers were distributed at its April 21 meeting. Two of them were from John Famularo, former secretary of the party. The first was a memo addressed to the committee members; the second a copy of an invoice. They looked innocuous. No one at the meeting paid much attention to them.

But they were not innocuous. They blew open what party chairman Jim Lark describes as a case that has "been festering since 1995," when it first became known that Perry Willis, the party's national director, was working on behalf of Harry Browne, who was then seeking the party's presidential nomination. Willis' activity was prohibited by the party's long-established "conflict of interest" policy, which specifies that "Neither the National director nor any other employee shall endorse, support or contribute any money . . . in any campaign for office, or nomination, within the Party or any State Party."

The party's national committee called Willis on the carpet and reiterated its policy. Willis responded that since he was being paid for the work, he was not actually "endorsing, supporting or contributing" to the Browne campaign. The LNC responded that the policy meant what it said, and that Willis must agree to do no further work on behalf of Browne, until such time as Browne might win the party's nomination. The alternative was for Willis to lose his job with the party. Willis agreed that he would do no further work for Browne.

Famularo's memo concerned a pending decision about whether the party should enter into a new business relationship with Willis. Famularo noted that in 1995 Willis had explicitly agreed to do no further work for Browne, but that "there is evidence" that Willis had in fact continued to work for Browne and through a subterfuge concealed the fact from all but a tiny handful of people. Famularo attached an invoice from Willis to Dean Spears & Co., a firm owned by Browne

---

Internet specialist Jack Dean, for services that Willis had performed on behalf of the Browne campaign in February 1996, during the period when Willis was claiming he was doing no work for zxx. It also said, "There is other evidence available."

Apparently, however, no one on the committee took note of the memo and attached invoice. It was "well after the meeting had adjourned," LNC member Steve Givot explains, that he "first become aware of the memo." According to Givot, some other LNC members didn't notice the memo until after the meeting had ended. Others were new to the LNC and were not aware of the memo's significance. In any event, no action was taken.

Famularo distributed copies of his memo and the attached invoice to various activists and others. Eventually, LNC members also read Famularo's memo and its attached document and drew the obvious conclusion: if the invoice was genuine, then Willis had deceived the LNC and the party itself; for a period of more than five years, he had conspired to hide the fact that he had violated his explicit agreement to refrain from further pre-nomination work for Browne.

Realizing that the invoice was authentic, and obviously concerned about the "other evidence" Famularo claimed to have, Willis began to work on a statement minimizing the damage to himself and to Browne. After going over his 20-page literary production with Browne, he sent it to LNC members and published it on Browne's Web site ([harry-browne.org](http://harry-browne.org)) on May 11. In it he confessed to Famularo's charges, and offered a lengthy justification of having violated

his contract and deceived his employer. Basically, he explained that the Libertarian Party could not survive unless he were allowed to continue as national director and work on the Browne campaign in violation of the party's rules.

Willis' confession settled the question of whether he had conspired to disobey the party's rules for its employees, but it raised another, equally important question: with whom did he conspire? The Browne campaign had paid him for his work, laundering the funds through a contractor closely associated with the campaign. Surely someone within the campaign had authorized paying Willis for his work. Someone had received the work from Willis. And someone had come up with the idea of concealing the payment by laundering it through Jack Dean. Just who else was a party to this?

Speculation immediately centered on Browne himself, as well as campaign manager Sharon Ayres, who also acted as

---

*Willis' confession settled the question of whether he had conspired to disobey the party's rules for its employees, but it raised another question: with whom did he conspire?*

---

treasurer and actually signed the checks and prepared the reports to the FEC. People also wondered about involvement by David Bergland, Ayres' husband, co-chair of the campaign, who was elected party chair with strong support from Browne in 1998; Michael Cloud, who had been managing the campaign's direct-mail fundraising with Willis' assistance; Steve Dasbach, party chair at the time, who took over Willis' job as national director in 1998; Stuart Reges, who had supervised preparation of the campaign's FEC reports; and Douglas Casey, the other co-chair of the campaign.

Two days later, Browne responded to the e-mail discussion of the scandal, which was apparently going in a direction he had not anticipated. He sent the following e-mail to the party's national committee, to five senior employees of the party, and to selected activists:

A lot of people are quite distressed over Perry's message. I understand that. I don't expect the distress to be abated in the near future. However, I would like to make one suggestion, if I may.

It would be well for people to wait before speaking in order to give as much thought to their reactions as Perry gave to his statement before he released it. Shooting from the hip merely puts you in a position of later having to stand by statements and positions that you may come to realize you may not have thought through. Perry spent several days on his statement. I went over it with him. I think it might be prudent for you, too, to think over the consequences of your statements before releasing them.

I will issue a statement in a few days, after emotions have relaxed a little. Just as I've suggested for you, I want to be sure that I don't say anything too quickly that I might regret.

By this time, people were asking Browne about the Willis memo. I called him myself to inquire. "I've got a couple of questions," I began. "I'm not going to answer them, Bill," he responded. "Do you have any reason for not answering?" I

asked. But Browne hung up without answering. He has since refused to answer questions we've e-mailed to him, and to say anything at all on the subject in a second attempt at a telephone interview.

But he did answer one question from one person. On May 13, former national chair Mary Gingell e-mailed him as follows:

Is the fact that this memo can be found on the harr-browne.org Web site an indication that you concur with Perry's opinion that violating the LP conflict of interest rules in 1996 in order to help the Browne for President campaign is justifiable?

Browne answered by e-mail:

I'll be issuing a statement in the next couple of days. . . . In the meantime, you should know that I was aware of Perry's actions and agreed to them.

Gingell showed the message to her husband, Joe Dehn, a member of the LNC and the party's executive committee. He apparently concluded that this was enough for the executive committee to take action.

At a meeting of the committee on May 23, he introduced a resolution recommending that the party not participate in "the lawsuit against the FEC proposed by Browne and Willis [which challenges the limits on campaign contributions], or any other project proposed or managed by them, until all related questions have been considered by the full LNC" and directing "the national staff, until such time as the matter can be addressed by the full LNC, to not enter into any business relationships, including but not limited to rentals of the LP mailing list or advertising in LP News, with Browne or Willis or any entity of which either of them is an officer, director, or employee without prior approval of the Executive Committee." The resolution also expressed its "appreciation to those individuals (i.e., John Famularo) who have been willing to assist the LNC by bringing forward information about this matter."

The party's vice chairman Dan Fylstra, a Browne loyalist, moved to strike any mention of Browne in the resolution, on the grounds that there was "no evidence to support this claim and that it appears to be a statement which finds guilt by association."\* Dehn revealed the e-mail exchange between his wife and Browne, and Fylstra withdrew his amendment.

Party chair Jim Lark noted "that there could be other, though less likely, meanings to Browne's words." Presumably, he meant that perhaps the "actions" that Browne had admitted "he knew about and approved" were not the same as the "actions" that he had been asked about — namely "violating the LP conflict of interest rules in 1996 in order to help the Browne for President campaign" — but were some other actions. (Lark volunteered to me in an interview, "The most reasonable interpretation is that Mr. Browne knew that Mr. Willis continued to work for the Browne campaign after the August 1995 meeting [of the party's national committee].") Some minor changes in the language were approved and the resolution was passed unanimously, with Chairman Lark, as was his custom, abstaining.

A week later, at Fylstra's instigation, the EC met again to consider changes in its resolution. Proceeding on Lark's the-

---

\*This and subsequent quotations about events at the Executive Committee meeting are taken from the draft minutes of the meeting (EC meetings are not open to the public or the press).

ory that perhaps Browne was answering some question other than the one he had been asked, Fylstra proposed that the previous resolution be "clarified" to include a statement that the EC "recognizes that . . . it is presently unclear to what extent he [Browne] or others were involved in Willis' actions or decisions" and a "request" that "Harry Browne provide a public statement to the LNC to clarify the circumstances surrounding Willis' actions."

Dehn argued against the resolution, energetically objecting to the idea that the extent of Browne's involvement is "presently unclear." After declaring that Browne had not yet "spoken directly" with any member of the EC, the resolution was split into two parts to be voted on separately. The main portion passed unanimously. The provision claiming that Browne's involvement is "presently unclear" passed by a 3-2 vote.

Almost immediately, LP activists and others who had been following the story characterized the second as "back-tracking" from the first. Some of Browne's critics even began to use the word "cover-up."

But how have rank-and-file Libertarian Party members responded to this story? It's difficult to get a definitive answer to that question. For one thing, relatively few party members even know what happened. To date, it has been reported only in the pages of *Liberty* and by one Web site, orvetti.com. As *Liberty* goes to press, 68 days have passed since John Famularo released the evidence at the LNC meeting, but the monthly *LP News* has yet to say a single word on the subject. It's easy to see why: whatever the *LP News* says is liable to seem suspect, if only because its editor Bill Winter was deeply involved in the original events. He had done work on behalf of Browne before Browne's nomination and

---

*Proceeding on Lark's theory that perhaps Browne was answering some question other than the one he had been asked, the Executive Committee "clarified" its earlier resolution by adding a statement that it "recognizes that . . . it is presently unclear to what extent Browne was involved."*

---

like Willis was told in no uncertain terms by the LNC to stop working for Browne or lose his job. There's no evidence that Winter secretly continued to work for Browne, but even so, it's easy to see why he'd be reluctant to write about the controversy.

I've called or e-mailed a dozen LP members to see what they think. None had heard about it until they heard it from me. Party chair Jim Lark, who much prefers working with state and local parties to investigating charges against libertarian VIPs, told me that he has had better luck gauging rank-and-file reaction than I have. In an interview on May 26, he told me that there is a strong sentiment among members to find out who else among party employees and Browne campaign staffers may have been involved, and to stop doing any business with them — if they are employees of the party, to

fire them. He's conducting his investigation by mail. As we go to press, only John Famularo has responded to his questions.

*Liberty* has attempted to contact all the people involved. Among those involved in Browne's campaign, only campaign co-chair Douglas Casey answered. He told me he had "no idea" it was happening. "I'm not surprised," he added. "I've never been impressed with the partyarchs. By and large, they're a bunch of limpicks, crybabies, and losers. I am, however, surprised to find they're just as venal as the Republicrats." When I asked him whether he thought others within the Browne campaign were involved, he said, "Well,

---

*LP Vice Chair Dan Fylstra argues that the party should consider those implicated to be "innocent until proven guilty," that the only "conclusive evidence would be a confession," and that those investigated have "a right to refuse to answer."*

---

checks don't write themselves. Someone had to authorize paying the money to Jack Dean's company to be passed on to Willis."

I also spoke with Steve Dasbach, then the party's national chair, now its national director, and a person Browne's harsher critics have long suspected was in on whatever conspiracy was going on. Dasbach told me that he learned of Willis' deception on May 11, when Willis made his confession.

Alone among Browne campaign staffers, Stuart Reges has entered into the ongoing e-mail discussion of what happened. He denies any knowledge of the actions of Willis and those within the Browne campaign who conspired with Willis, but puts most of his energy into defending other aspects of the Browne campaign:

I've told Perry Willis that what makes me most angry about his lie from 1996 is that now people will assume that [Jacob] Hornberger [one of the Browne campaign's fiercest critics] was right about a lot of things. I can't and won't defend what Perry did. He has explained his reasons for violating LNC policy in 1996 and I accept his claim that he thought he was doing what was best for the party. I don't approve, but I accept his explanation that his motives were good. I am more upset that he lied about it and allowed the lie to continue for years . . .

Of course, party leaders are well-informed about the Willis-Browne affair. *Liberty* attempted to contact every LNC member by phone to ask what should be done, and with one exception every answer we got supported a strong investigation of all those who might be involved. Several of Browne's most loyal supporters felt a sense of betrayal. Barb Goushaw is an alternate LNC member from Michigan who defended Browne so vigorously in her home state that when I attended the state party's recent convention, two people confided in me that they believed she was "on Browne's payroll." Barb now told me that she believed she had been "betrayed by someone [she] trusted, defended, looked up to, and believed in." She said she felt as Donna Shalala, who defended

Clinton against perjury charges after his personal assurances of innocence, must have felt when Monica Lewinsky's "semen-stained dress" was discovered. Barb also sent a formal apology to her "friends" in Michigan, "acknowledging that I was wrong about Perry Willis and apologizing to all those that I may have offended by my strident defense of his character."

Another Browne supporter on the LNC, Ken Bisson, wrote an open letter to Willis, expressing his personal outrage:

I regret that you made the decision to lie to the National Chair. I disagree with you that you "did the right thing." I am saddened that you chose to defend lying to the National Chair (and the LNC) by using an "ends justify the means" argument. . . .

Perhaps I am naive, but I can't accept an "ends justifies the means" argument. It makes no sense to me whether presented by a statist or a Libertarian. . . .

In the eyes of many party faithful, your dishonesty, now revealed, taints everyone who defended you as an honest person. Those of us who believed you for the past five years (and risked our reputations to do so) are now correctly found to have failed in our judgment of your character. Our ability to be respected and trusted is now degraded by your lie. You compounded that damage every time you accepted, even encouraged our defense of you.

Perhaps I am mistaken, but I consider the justification that lying was doing "the right thing" to be unacceptable. I will listen and carefully watch how others respond. I trust the current leadership of the LP will consider honesty to be a necessary condition for participation in the activities of the LP.

The only party leader to whom I've spoken who seems reluctant to regard the charges against Willis and Browne as particularly serious is Vice Chair Dan Fylstra. He argues that the party should limit action to a motion censuring Willis and "focus our energies on the future and not on, you know, not just going round and round on things that happened in 1996." He also believes that the party should consider those implicated as "innocent until proven guilty," that the only "conclusive evidence would be a confession," and that those investigated have "a right to refuse to answer."

Meanwhile, Chairman Lark, who rejects the extremely tough standard Fylstra has called for, continues his investigation. He hopes to complete his work by mid-August. It may not be easy: "I fear some people won't cooperate."

*In the next Liberty:*

## Audit of the 2000 Browne Campaign

Liberty's audit of the 1996 Browne campaign found some startling surprises — for example: huge payments to campaign staffers, only \$8,840.50 spent on advertising — that contradicted the campaign's report to its supporters.

For nearly two months, Liberty's editors have been examining Browne 2000 Campaign's reports to the Federal Election Commission. Our report will answer questions like:

- How much did the campaign spend on advertising this time?
- Did the Browne campaign deliberately mislead the FEC in its expense filings, as it did in 1996?
- Why were so many campaign checks sent to people living at one address — the home of campaign manager Perry Willis?

*The September Liberty will be on the newsstands by August 1.*

Plainly, this is a job Lark doesn't relish but believes he has to do. He says that the party should refuse to do business with any people involved in the scandal.

Except for Stuart Reges, those involved with the Browne campaign remain silent, while Browne's critics are vociferous. The Internet is buzzing with e-mail messages discussing the merits of suing Willis for recovery of the salary he received while violating his contract and for damages done to the party, worries about possible criminal prosecutions, and concerns about the risks of either whitewashing the case or washing the party's dirty linen in public.

The official "Harry Browne 2000" Web site still displays Perry Willis' "final campaign report," which includes a 1,000

---

*"Our party leaders sold our honor and integrity, and all we got was a lousy 380,000 votes."*

---

word explanation of how "imagined conflicts of interest" stymied his efforts to get a million votes. And Jim Babka, Browne's press secretary, says that he doesn't know whether Browne will say anything further. He added, "I hope he doesn't. I don't want him to be dragged into this case" — as if he weren't already at the center of this case.

When and where will all this end? The first answer is easy: it will probably end at the LNC meeting on August 25. But no one can say how it will end. Perhaps Fylstra's approach will prevail: Willis will merely be censured and his co-conspirators will remain unidentified. But I suspect it will end with the party's refusing to collaborate in future with anyone dirtied by the Willis-Browne campaign fraud.

It is now 33 days since Browne promised to answer questions more completely than in his brief acknowledgement that he "was aware of Perry's actions and agreed to them." Numerous party members as well as *Liberty* and the party's chairman have asked for answers. No one is talking. The silence is deafening.

I conclude with a personal note. This has been an extraordinarily difficult article to write. I know almost all the people involved in this story. Most are old friends. It's no fun to be deceived or stonewalled by friends. Even worse is having to produce a chronicle that contains such bad news for my party.

But the cause of liberty is best served by discovering and telling the truth. Libertarians have long found solace in the fact that while we may not be very good at getting votes, we always tell the truth, keep our word, and maintain our integrity. It now appears that significant elements of the party's leadership abandoned these commitments in a vain attempt to get more votes. To paraphrase a remark attributed to Sir Thomas More, "Our party leaders sold our honor and integrity, and all we got was a lousy 380,000 votes."

Maybe I'm wrong. Maybe those who conspired with Willis will come clean, apologize for their perfidy, go quietly into the night, and maybe eventually come to realize the harm they've done. Maybe the party will regain its honor. I hope it does. I hope that no one ever has to write a chronicle of this kind again. □

# Justice, at Last, for Vicki Weaver?

*by William E. Merritt*

For over 100 years, federal agents have been virtually immune from prosecution for homicides they commit while on the job. That may be changing.

To everybody's astonishment, the 9th U.S. Circuit Court of Appeals ruled on June 5 that the state of Idaho has the power to try FBI Special Agent Lon Horiuchi for killing Vicki Weaver during the standoff at Ruby Ridge. The opinion was written by Judge Alex Kozinski, whom many libertarians consider one of the great champions of freedom now sitting on the federal bench.

As many libertarians know, Judge Kozinski immigrated to America as a child from a village that began World War II in Poland and, after the shooting was over, found itself in Ukraine. In a span of five years, that part of the world survived life under Stalin, then Hitler, then Stalin, again — while Judge Kozinski's father spent his war years in concentration camps. A family tradition like that would make even Hillary Clinton suspicious of government, and may well be the reason Judge Kozinski developed such a clear-eyed view of what it means to have people in uniform being careless about whom they shoot.

A lot of big guns were hauled out for this case. The solicitor general of the United States filed a friend-of-the-court brief for the feds, while special prosecutors for Venice, Calif., and New York City carried the ball for Idaho. To anybody who remembers the '60s and the stupefying statism of the Johnson administration, the New York City special prosecutor was the most astonishing person in the courtroom. The idea of somebody like Ramsey Clark, LBJ's attorney general, making the case against an intrusive federal presence is as strange as anything you are likely to find in American jurisprudence.

What happened on Ruby Ridge in the fourth week in August 1992, isn't much in dispute. Randy Weaver was holed up in a cabin, along with his wife, Vicki; their son, Samuel; daughters, Sara and Rachel; baby, Elisheba; Samuel's dog, Striker; and Randy's buddy, Kevin Harris. In the early morning hours of Aug. 21, six deputy United States

---

marshals, all tricked out for combat in camouflage gear, using night-vision equipment, and with no visible law-enforcement identification, conducted a reconnaissance of the cabin in preparation for serving an arrest warrant.

At 10:20 a.m., Randy and Samuel Weaver, and Kevin Harris, left the cabin with their dog running ahead. As they neared the hidden agents, the dog began to bark and an agent shot it. Harris and Samuel Weaver fired back into the woods and Marshal Larry Cooper shot 14-year-old Samuel in the arm. When Samuel turned around, Cooper finished him off with a bullet to the back. Weaver and Harris retreated to the cabin. Later, Randy and Vicki Weaver retrieved Samuel's body and put it in a building they called the "birthing shed."

The next morning, Special Agent Horiuchi arrived on the scene along with the FBI's Hostage Rescue Team, and rules of engagement that let them gun down any armed adult male. Firing into the cabin was off limits because of the children inside. Agent Horiuchi, armed with a high-powered rifle and scope, took up a position about 200 yards from the cabin.

About 6:00 p.m., Randy, Harris, and 16-year-old Sara walked over to the birthing shed where Samuel's body was located. Horiuchi opened fire, hitting Weaver in the shoulder. The three took cover, then dashed back to the cabin. The door opened outward, blocking Horiuchi's line of sight. When Harris, the last of the three, disappeared behind the door, Horiuchi fired through the door — and hit Vicki Weaver in the head. She died instantly with her infant

daughter in her arms.

This whole business of federal marshals shooting people is nothing new. It gained legitimacy from a pair of famous cases in the 19th century. The first arose in a month-long evidentiary hearing in Tombstone, Ariz., in which the Earp brothers and J.H. "Doc" Holliday, were acquitted of charges arising out of certain events at the OK Corral, on the grounds that, in view of "the threats made, the character and position of the parties . . . with all the surrounding influences . . . the defendants were fully justified in committing these homicides . . ."

The second came from 1890 and included, of all people, the great Supreme Court Justice, Stephen Johnson Field. Field had been assigned a federal marshal to protect him

*When Idaho prosecuted, Agent Horiuchi had the case removed to federal court, where a judge dismissed the charges on the grounds that states can't prosecute federal employees.*

from a man who had threatened his life. Justice Field had the bad luck to run into that very man in the dining car of a train. The man had the worse luck of reaching into his pocket, as if going for a knife, and the marshal shot him. When the question reached the Supreme Court, it turned out that the marshal — surprise of surprises — was protected from state prosecution by the supremacy clause.

Before reaching the 9th Circuit, the Horiuchi case showed the same dreary lack of success Americans have come to expect from attempts to bring federal officers to justice. Despite the fact that gunning down Mrs. Weaver not only violated the FBI's own rules of engagement, but long-established constitutional protections, the Department of Justice declined to bring charges. When Idaho prosecuted, Agent Horiuchi had the case removed to federal court, then asked to have the charges dismissed on the grounds that, under the supremacy clause of the Constitution, states can't prosecute federal employees for what the employees do during the course of their employment. The judge agreed, and dismissed the case.

Idaho appealed to the 9th Circuit, where arguments were heard by a three-judge panel. On a 2-to-1 vote, the panel upheld the district court and left the case dismissed. Then the entire 9th Circuit took the relatively unusual step of meeting *en banc* to rehear the arguments and Judge Kozinski, who had been the lone dissenter on the three-judge panel, had the pleasure of finding himself in the majority and writing the one opinion from this whole matter that still counts.

The big question that leaps out of all this is, where do federal employees come off writing rules of engagement that let them gun down American citizens without a trial? Luckily for all of us, things haven't reached the point where the 9th Circuit was called upon to answer this question. Everybody involved; prosecutors, defendants, government officials — everybody — agrees the FBI had no business doing something like that, although, as Judge Kozinski pointed out, nobody questioned the rules of engagement at the time. And, afterwards, nobody owned up to writing them.

The issue the 9th Circuit was called upon to decide was, regardless of whatever rules Agent Horiuchi may have thought he was operating under, was he protected from prosecution in state court?

Whom is an agent allowed to shoot? The answer to this question doesn't have anything to do with who turns out to be standing behind the cabin door. And it certainly doesn't depend on some kind of "rules of engagement" drawn up by a bunch of federal bureaucrats. It depends upon complying with the Fourth Amendment to the United States Constitution. Specifically, in the words of one of the cases Judge Kozinski quoted as the basis of the 9th Circuit opinion:

Law enforcement agents may use deadly force only if they reasonably believe that killing a suspect is necessary to prevent him from causing immediate physical harm to the agents or others, or to keep him from escaping to an area where he is likely to cause physical harm in the future. Even then, deadly force may not be deployed until the suspect has been given a warning and an opportunity to surrender.

Horiuchi didn't do any of these things. After it was all over, he claimed he had to take out Randy Weaver because he heard sounds of a helicopter and saw Weaver glance upward, as if he might be thinking about shooting at the chopper. Horiuchi claimed this, even though he had testified at Weaver and Harris' trial that when he shot Weaver, Weaver was facing away from both him and the helicopter and that Weaver and Harris were carrying their guns in the "port arms" position, from which it is impossible to fire a weapon. Horiuchi had also ridden that very chopper earlier in the day and was aware of the military tactics of the pilot, popping up over a hill for a quick look, then back down again.

Again, it was very hard to see how Horiuchi could have reasonably shot Vicki Weaver. He just fired blindly through

*The feds are in a bind on this one. If they don't appeal, they let a very unfavorable ruling stand, restricting future actions of their agents in nine western states. But if they do appeal, they want to make damn sure they win.*

a door. Or, worse, he did see her and shot anyway. Senate investigators discovered a sketch made by Horiuchi after the fact that showed what appeared to be a woman holding an infant in her arms as seen through the window in the door. Horiuchi himself testified at Weaver and Harris' trial that Harris "was trying to hold the door open or moving someone out of the way," as he ran into the house. Both Randy and Sara Weaver testified that the curtain on the door was pulled back, so Vicki was clearly visible through the glass.

And, finally, even if there were some theoretical danger of the fugitives escaping through some secret exit, they were out in the woods. No matter where they went, they weren't going to hightail it into some crowded, urban neighborhood and take hostages.

The way things were handled, the first notice anybody in the cabin received that somebody was even in the woods



that second morning was when Randy Weaver was shot. No demand was made to surrender. It's not even clear that the Weavers and Harris knew they had the option of surrendering. Or, even, that they were dealing with federal agents, and not just a bunch of hooligans.

What the 9th Circuit ruling comes down to is that, if an agent wants to claim immunity from state prosecution, he has to show he complied with the Fourth Amendment. In other words, it's his burden to establish that he reasonably believed the killing was necessary to prevent immediate, physical harm, or to keep the person shot from fleeing to a place where he was likely to cause harm in the future, and that the person was warned and given a chance to surrender. You can see why this is an important ruling. The 9th Circuit didn't have to draw the line here. Certainly Agent Horiuchi, the solicitor general of the United States, and all those government agents scattered around the country, didn't want it drawn there. What they wanted was permission to shoot up pretty much anybody they felt like, then make the state prove there was absolutely no connection between the person they shot and the job they were sent out to do. But if the agent has to show he complied with the Constitution before icing an American citizen, or risk prosecution in a state court, then the whole procedure could have "a chilling effect" upon

shooting anybody at all. And that's not what federal law enforcement is about.

They still have the right to appeal to the United States Supreme Court, and they may. It's hard to tell. They are in a bind on this one. If they don't appeal, they let a very unfavorable ruling stand, both against their own future actions — and against one of their own. But if they do appeal, they want to make damn sure they win. And, they might not.

In the glacial way our legal system operates, the revival of states' rights over the past few years has been one of the most dramatic changes of direction in memory. The Supreme Court seems almost to be reaching out for cases to show that states do, in fact, have rights against the feds. And what happened at Ruby Ridge is such an affront to our whole notion of how we want our government to run, the Supreme Court might find it easy to see things the way Judge Kozinski sees them.

And, if something like that happens, it's going to be a new ball game for the whole country, not just the 9th Circuit — and, especially, for a lot of flesh-and-blood agents who might know some details about things that happened at places like Waco that haven't quite made it into the public record, yet. So, the feds might just walk away and leave the last word to Judge Kozinski on this one. □

---

## Letters, from page 6

---

Commission, none of the payments to Willis or to Optopia (his company) were for printing, postage, or airfare.

An unspecified portion of the \$88,404.34 paid to Optopia was used to pay for "phone, travel, insurance, and supplies." The entire \$165,267.28 paid to Willis himself was compensation. It is impossible from the FEC records to determine exactly how long he worked for the campaign, but it appears he worked in that capacity from January 1998 to December 2000, for an average salary of a little over \$55,000 per year, in addition to whatever he earned from the campaign via Optopia. In addition, between his resignation from his LP post to accept the position with the Browne campaign and the end of 1999, the LP paid Willis \$78,766.67. (These figures provided by LP national director Steve Dasbach.) In all, during the 39 month period in question, Willis received a total of \$333,438.29, less whatever out-of-pocket expenses Optopia had. That averages \$8,546.70 per month, or \$102,596.39 per year.

The remaining \$165,267.98 were payments to family/household members.

I cited the figure not for gawking, but because I thought it relevant to Willis' claim that he suffered financially by working for Browne; as I said in my article, "it isn't as if he took an oath of poverty."

Your second question is more intriguing. It turns out you'd lose your bet. According to the Center for Responsive Politics, total spending on the 2000 race was \$529.9 million, up 24.5% from the \$425.7 million spent on the 1996 race.

In 1996, HB spent 0.366% of total spending in the race. In 2000, he spent .489%. His share of total spending increased by 33.6%. So while his vote share declined by about 22%, his share of spending increased by more than 33%.

### A Good Question

"Fraud in the Browne Campaign" (July) was informative, but answer me this: would the Libertarian Party be better off *without* Perry Willis and Harry Browne?

Jeff Kradin  
Delray Beach, Fla.

### We Don't Need No Stinkin' Evidence!

R.W. Bradford's analysis of the 2000 Libertarian Party vote total ("Why Waste Your Vote," July) doesn't take into consideration the fact that all third party vote totals dropped, with the exception of the Green and Socialist Workers parties. We certainly can't blame Harry Browne for the drop-off in the votes for the Reform, Natural Law, Socialist, Workers World, and Prohibition parties. In fact, in Nevada even the numbers for

"None of the Above" dropped.

I don't know enough about the Socialist Workers' Party campaign to speculate in their case, but in the case of Ralph Nader it's easy enough to attribute the Green Party success to the fact that Nader was on far more ballots, raised and spent far more money and benefited from quite a bit of media attention. But how can we account for the dismal performances of all the others? Three answers suggest themselves:

1. All those parties and their candidates ran awful campaigns last year.
2. The voters were satisfied choosing between Bush and Gore and felt far less need to seek an alternative.
3. The wasted vote syndrome did kick in, and virtually across the board.

As for the statistical analysis presented, the math is far beyond me. Perhaps it's simply that the numbers are statistically insignificant, that is, too small to serve as meaningful data.

I can offer a suggestive anecdote from New Jersey, a state that was considered by most voters to be safely in the Gore column. A reporter for a major daily — who certainly should have understood how the electoral college worked — nonetheless voted for Gore because she feared Bush was a threat to

*Continued on page 34*

# Silence Is the Best Policy

by Rick Esenberg

Work these days is a place where a casual conversation can cost you your job, where lawyers are always evesdropping, and where the easily offended set the rules.

In the course of debate over the Civil Rights Act of 1964, congressional opponents suggested that its prohibitions of discrimination in employment might be interpreted to require, not merely equal opportunity, but equal results, resulting in racial quotas in the workplace. In a now famous response, one of the bill's sponsors, Senator Hubert Humphrey, promised to eat the pages of the bill if anyone could show him how it might require an employer to hire a certain percentage of minorities.

As far as I know, Senator Humphrey passed from this vale of tears before eating those words. But within ten years of his professed astonishment that a law prohibiting discrimination could be interpreted to require it, the Supreme Court had ruled that racial quotas are a laudable means of fulfilling the statute's purpose and crafted rules that made it very unwise for employers to not take "affirmative action" to move toward a "racially balanced" work force.

This is no anomaly. No one should discount the rule of unintended consequences. This humble admonition may have special salience for lawyers. The unexpected consequences of developments in medicine and engineering are truly unintended. But the dogged tendency of the law to lead to results that we don't expect — and may not want — is often the product of lawyers' sustained and creative efforts to adorn laws with counterintuitive meanings. If you don't believe me, pick up any issue of the *American Bar Association Journal*. As Sarah McCarthy observed in these pages, "When the final tyranny comes to America, it will come in the form of a well argued lawsuit."

Notwithstanding, or, perhaps in keeping with, the politics of triangulation, contemporary politicians seem unable to resist the lure of trying to legislate into being what Thomas Sowell has called "cosmic justice." Not only do they wish for a world that matches their notions of what is fair and just, they increasingly believe that they can create one.

---

They may still believe that "life's a bitch and then you die," but they'll be damned if they won't make misfortunes illegal. Few injustices are thought to be beyond the law's scope. As retired Senator Daniel Patrick Moynihan has observed, soon we can expect to see a new federal initiative addressing the tragedy of diaper rash.

Of course, mandating paradise is not easy. Sometimes, our lawmakers can do little more than point us in the right direction, saying, "let there be . . . equality . . . or health care . . . or more time to deal with your overbearing mother-in-law," and leave it to the trial lawyers to do the heavy lifting. Regulation of private behavior is increasingly the work, not of legislators chosen by the public, but of lawyers' interpretations of vague and ambiguous laws.

Often the courts find these laws applicable to cases that no legislature would have explicitly endorsed. For example, when President Bush signed the Americans with Disabilities Act, surrounded by the blind, deaf, and wheelchair-bound, no one guessed that it would prevent hospitals from asking physicians applying for privileges about past drug or alcohol use and require college professors to relax examination requirements for students suffering from ill-defined "learning disabilities."

We are all familiar with the impact of sexual harassment laws. Not even the Oval Office has remained untouched. But there is no federal statute that prohibits "harassment." Rather, Title VII prohibits discrimination on the basis of race, sex, or national origin. The laws against harassment are neth-

ing but judicial gloss. Judges have concluded that if an employee would not have been treated a certain way were it not for her sex, then the law has been violated. If a boss wouldn't make sexual advances on his male secretary but he hits on a woman employee, he has violated sexual harassment laws. A boss who mistreats all his employees equally has violated no law.

Of course, most regard the notion that a woman should not be fired for refusing to submit to her boss' advances as a small and reasonable extension of the statutory language. Perhaps. But the process of extending the law hasn't stopped there. Further litigation has determined that there are forms of harassment aside from quid pro quo (i.e., "sleep with me or I'll fire you"). There is also "environmental" harassment:

---

*Regulation of private behavior is increasingly the work, not of legislators chosen by the public, but of lawyers' interpretations of vague and ambiguous laws.*

---

exposing an employee to speech that is unpleasant to her or him for reasons related to her or his membership in one or another protected class. According to our courts, it's not just sticks and stones that can break your bones: names *can* also hurt you.

This concept was further expanded by adoption of the "reasonable woman" standard. If a reasonable woman would object to conduct that a reasonable man would not find unacceptable, then that behavior is nevertheless discriminatory. In practice, application of this standard comes close to imposing a rule of absolute liability on anyone who comes close to the line. In this context, it is easy to see the development of sexual harassment law as an attempt to construct a legal replacement for the now-abandoned cultural restrictions on overt expressions of male sexuality. But law is a poor replacement for social scorn. It is both less effective and more oppressive. And there is no agreed-to standard of acceptable behavior; as one harassment consultant has put it, "behavior is harassment if the victim says that it is." Sexual harassment is the perfect postmodern tort.

Not only may the harasser be found liable to an offended woman, but so may his employer who fails to stop him — notwithstanding that employer's complete lack of interest in or benefit from the harassing behavior. Judicial construction of Title VII has mandated that an employer is responsible for harassment unless he has taken undefined "reasonable" steps to prevent it. Even if he has taken such steps, an employer may still be liable if the offended employee's failure to take advantage of preventive mechanisms was not itself unreasonable.

The implications of these rules for relationships between the sexes on the job is well trodden ground. Do not say or do anything that you wouldn't want your dear old mother to hear. Do not tell any sexual jokes or display any art that someone might consider sexually provocative. Consultants tell employers that any comment that may have a sexual connotation — whether welcome or not — should be avoided. Lawyers generally advise their employer-clients to adopt

policies against workplace romance and of zero-tolerance toward potential suggestive speech. Telling dumb blonde jokes or talking about the Clinton-Lewinsky affair is a no-no, as is discussion of personal affairs and relationships. A "sensitivity trainer" recently told ABC's John Stossel that she advises employees not to give co-workers "sexual attention of any kind, whether you think they want it, or not." Employers place such severe restrictions on workplace behavior, not necessarily because the law requires it (who can tell?), but because there is no advantage in permitting it. An office romance or a vague suggestive remark is a potential lawsuit.

But sex is but one "protected class" against which discrimination is unlawful — a list that, depending on jurisdiction, may include national origin, religion, sexual preference, marital status, age, veteran status, political ideology, source of income, prior psychiatric treatment, place of residence, arrest or conviction record, personal appearance, and even something called "matriculation status."

If the expression of crude or "sexist" attitudes can create a hostile environment, then why not the expression of hurtful points of view that are some members of protected classes find offensive? The Equal Employment Opportunity Commission has brought actions against employers for failure to remove or prevent racially derogatory graffiti on portable toilets at a construction site and has decreed that an employer must "eradicate" e-mail circulation of "Ebonics" jokes. Courts have enjoined employers from permitting remarks "contrary to a fellow employee's religious beliefs" and "any and all offensive conduct and speech implicating considerations of race."

Although the expression at issue in these cases has mostly been infantile and offensive to most people, nothing in harassment law limits its applications to such "easy" cases. A state court has found that it is unlawful harassment for an employer to permit religious articles in a company newsletter and Christian-themed verses on paychecks. A federal court has held that an employer might be liable for failure to stop employees from religious proselytizing. In another case, the EEOC relied, in part, on a company's ad campaign, which featured images of samurai, kabuki, and sumo wrestling, to find its employees subject to an ethnically "hostile environment." Another court has suggested that an employee who posted in her cubicle pictures of the Ayatollah Khomeini and an Iranian crowd burning an American flag had engaged in "national origin" harassment of an Iranian co-worker.\*

Employers have reacted predictably and, as they moved to restrict workplace relationships, many now ban any expression of potentially controversial views. In the company for which I serve as general legal officer, a number of executives have filled their offices with paraphernalia asking, "What Would Jesus Do?" What will I do when an employee complains that this creates an intimidating atmosphere for non-Christians? Another executive has a photograph in his office of himself with Louis Farrakhan, who is famously associated with anti-Semitism. Does this harass

---

\*Professor Eugene Volokh of the UCLA Law School maintains an excellent Web site collecting much of the law in that area and I have drawn extensively on his research.

Jews?

A number of advocacy groups argue that homage to slaveholders George Washington and Thomas Jefferson is racist and insulting to African-Americans. I guess patriotism and the workplace don't mix either.

Why does anyone need to express his views about Thomas Jefferson or the Ayatollah Khomeini in the workplace? A better question may be why the government should require employers to restrict our freedom of speech. After all, the owner of a business is in the best position to know what restrictions do and do not serve the needs of the enterprise. Perhaps, Joe Dotcom thinks it's okay — maybe even good for morale — if his programmers are allowed to keep religious artifacts in their cubicles. Why should the government intervene? On the other hand, if such material is genuinely offensive, if it actually upsets other employees to the extent that their job performance is hurt, what reason do we have to believe that the owner of the business will not restrict it without threats from the government? Most of us spend about a third of our waking hours at work, and a good deal of our social interaction occurs there. Do we really need government regulation of what we say there?

Of course, harassment law applies not only to the workplace. It also applies to education, housing, and public accommodations, a category that is broad enough to include the operation of virtually any business to which the general public, or some significant portion of it, is invited. Application of harassment law in the realm of public accommodations threatens to homogenize our public places. A Boston-area bar was recently under investigation by the Massachusetts Commission Against Discrimination for displaying stuffed monkeys in supposed mockery of Black History Month. Courts have held, or suggested, that business owners are liable for the bigoted statements of employees or for the sale of T-shirts and other items displaying

---

*Defenders of state-sponsored speech police have sought refuge in just about every ill-advised exception to the First Amendment.*

---

ethnic jokes. Others have suggested that a proprietor's failure to prohibit offensive remarks made by his customers may subject him to liability. In my home state of Wisconsin, the state equal-rights agency has held that black patrons who overheard a racial epithet were subjected to a racially hostile environment. Other courts have suggested that the display of Confederate flags — once, at least, a staple of NASCAR events — constitutes racial harassment.

In the United Kingdom, equal-rights gendarmes have gone undercover, looking for citizens "denigrating" equal rights in public places. We may not be far behind. Nothing in the law limits the use of "testers" (persons posing as patrons) to search for discriminatory treatment. We may all have to think twice before telling the wrong type of joke at the local diner.

One commentator has suggested that any statement that "discourages or devalues" feminist theories constitutes

harassment. A recent student note in the *Harvard Law Review* called for the imposition of civil-rights liability on professional sports teams with nicknames that are offensive to some Native Americans, such as the Washington Redskins or the Kansas City Chiefs. While not addressing the issue of liability, the U.S. Commission on Civil Rights recently called for the elimination of Native American nicknames and mascots. The use of such names, and the fan activity that accompanies them is said to create an "intimidating" and unwelcoming atmosphere for Native Americans. Could the same argument be made to impose liability on the Atlanta baseball team — I shudder to call it the "Braves," another ethnic slur — for continuing to pitch John Rocker after his comments about the face of diversity on the No. 7 train? Might not the presence of such a player contribute to an "intimidating" and "unwelcoming" atmosphere?

Crazy, you say? The Board of Trustees of Daley College in Chicago filed a complaint with the City of Chicago Commission on Human Rights claiming that the faculty union had violated laws prohibiting discrimination in public

---

*Most of us spend about a third of our waking hours at work, and a good deal of our social interaction occurs there. Do we really need government regulation of what we say there?*

---

accommodations when it published a column by Prof. James Bell that mocked affirmative action. The commission rejected the claim, not on First Amendment grounds, but on the narrower ground that the college is not a public accommodation.

After a controversy surrounding the recruitment and academic treatment of basketball players at the University of Minnesota, a local paper ran an editorial cartoon suggesting a parallel between slavery and the alleged exploitation of ballplayers who are, for the most part, African-American. Some blacks were offended and the St. Paul Department of Human Rights filed a complaint. It ultimately backed off, but nothing in the law precluded it from pursuing its case.

Not all of the Comstocks of political correctness have been such shortball hitters. In a recent case in Pennsylvania, Roy Frankhouser stalked and used intemperate language to criticize a local fair-housing official. Neither the local police nor the Department of Justice took action, citing Frankhouser's right of free speech.

But HUD Secretary Andrew Cuomo was not so concerned about the First Amendment. He sued Frankhouser for violating the fair-housing laws. Knowing that even if he won, he would be short years of his life and all of his money and reputation, Frankhouser settled. Some of the agreement is unexceptional; he must stop stalking, etc. But the rest is an extraordinary restraint of Frankhouser's speech. Frankhouser must display a fair-housing poster outside of his house, make HUD-supplied fair-housing announcements on his public-access cable show, and refrain from making

*Continued on page 37*

# How the Democrats Could Take Over, and Why They Won't

*by Christopher Chantrell*

After Al Gore lost by moving to the left, Britain's Tony Blair copied Bill Clinton's politics of triangulation and was re-elected in a landslide. Will Democrats learn anything from this?

In the British general election on Thursday, June 7, 2001, British Prime Minister Blair routed a confused Conservative opposition to win a second term for his "New" Labour Party. In the new parliament, Labour will enjoy a huge majority: it will hold 413 seats, against the Conservatives' 166 and the Liberal Democrats' 52. Tony Blair has now led his party to two successive landslides without precedent in British politics. Never before in its 100-year history has the British Labour Party enjoyed two back to back landslides that gave it a mandate to govern without a coalition.

The pundits have, of course, been out in force blaming the whole debacle on Tory leader William Hague — according to the usual well-placed civil servant, he'd make a good management consultant but is hopeless at political strategy. No doubt the pundits are right. Hague lost, and he ought to take the blame. But it's hardly surprising that the Tories lost. Their Thatcherite program of growth and enterprise has been stolen, fair and square, by Labour. No political party could have expected to recover from such a shock in four years.

So who cares? The Tories have always sounded an uncertain trumpet for liberty, a residue of their past as the paternalistic party of the knights of the shire and ancient wealth in land. Their support of enterprise has always been equivocal, as shown by their unease with Margaret Thatcher: the grocer's daughter and scholarship girl that wasn't really out of the top drawer. But today's Conservative Party supporters are similar to Republican Party supporters: middle-class traditionalists and enterprisers opposed to Labour's alliance of workers, welfare-state beneficiaries, and intellectuals.

If New Labour's Tony Blair can confound the Tories so easily, couldn't it happen here? Suppose the Democrats abandoned the Gore program of fighting for the people against the powerful, couldn't they wipe out the Republican Party in a similar political blitzkrieg by grabbing the center with a program of market-driven growth and abandoning their traditional faith in government subsidy and benefits for

---

their favored constituencies?

There is, however, an important difference between the political situations in Britain and the United States. The Labour Party in 1997 was desperate for power. It had lost four successive general elections — in 1979, 1983, and 1987 to the feisty Margaret Thatcher, and in 1992 to the gray John Major. For 19 years its MPs had squirmed on the opposition benches in the House of Commons while Thatcher changed the face of Britain. How could they persuade the voters to give them another chance? The Labour Party was set in British memory as a Dad's Army of economic bunglers. The 1945 Atlee government brought Britain to its knees, the 1964 Wilson government devalued the pound twice, and the 1974 Callaghan government saw Britain humiliated by Arthur Scargill's miners and the loony left.

To win in 1997, Blair had to change this deeply held perception. He did so by amending the famous Clause IV in Labour's constitution that committed the party to nationalization of the means of production and by declaring in the Labour Party manifesto: "I want a country in which people get on, do well, make a success of their lives. I have no time for the politics of envy. We need more successful entrepreneurs, not fewer of them." He promised not to increase the income tax, and promised not to increase spending for two years.

Naturally, the skeptics assumed that New Labour was just a front, and that as soon as Blair became prime minister, the old Labour Party would resume its left-wing follies.

The skeptics were wrong. As soon as he took power, Blair chose the most dramatic way possible of demonstrating that

New Labour really was different. He freed the Bank of England from direct control by the United Kingdom Treasury. The job of the central bank was now to establish sound money, not to bail the government out of its messes with *coups de whisky*. The new policy meant that the new government would abandon the socialist chimera that political activists know better how to create wealth than do businessmen, bankers, and workers. The first act of Bill Clinton, in contrast, was an attempt to pay off his supporters with the gays-in-the-military fiasco.

In 1997, New Labour was desperate: it had to show it was different. In 2001, the Democratic Party is not. Indeed, at the present moment, after the Jeffords coup, it even feels a little

---

*In 1997, Labour was desperate: it had to show it was different. In 2001, the Democrats are not. Indeed, they even feel a little cocky.*

---

cocky. Al Gore's class-warfare platform garnered the party a plurality of votes, and Democrats probably believe that just one more big push ought to be enough for them to regain control of Congress and the presidency. The last thing that any Democrat imagines is that it might be twelve or 16 years before his party can regain control of the federal government. In 2001 the Democratic base would never vote for a candidate who demanded the slaughter of its sacred cows as the only way back to power. That's why Democrat politicians feel confident opposing Social Security reform, Medicare reform, tax reform, and school reform. For now, the Republicans are safe from a Blair-style mugging.

Meanwhile the Tories find themselves out-thought, out-spun, and out-campaigned. They have yet to find a platform to counter the Blair combination of economic growth and investment in the welfare state. The Tory manifesto weakly talks about setting people free and returning to common sense, throwing out a Labour Party that "does not understand our country." But the problem for the Tories is that Blair understands the country only too well. His politics of opportunity and improving public services is exactly what the British seem to want. If the Tories believe in lower taxes, a smaller state, and individual freedom they are going to have to develop policies that start moving their country toward that goal. They need to follow the example of George W. Bush, whose campaign in 2000 was a carefully balanced

platform to move America in the direction of freedom and choice by pushing against the received wisdom of the mainstream media culture on taxes, Social Security reform, and school choice.

It wasn't easy

for Bush. In the spring of 2000, during the hiatus between the primaries and the convention, George W. Bush was tested in the Temptation of Dubya. He was taken up to a high mountain and shown the polls by the editorial board of *The New York Times*. He didn't really mean to enact his evil Republican tax cut, did he, murmured Satan, expecting an immediate cave-in. Yes, he did, Bush replied. But the polls show that the country didn't really want a tax cut, whispered Satan. Then I'll have to move the country, said Bush. Again, he was taken up a mountain by *The Washington Post*. He didn't really want a tax cut, did he? Yes, replied Bush, he really did.

In the early campaign, Gore ridiculed any tax cut as a "risky scheme." By fall, Gore was pushing his own "targeted" tax cut. In the spring, Democrats ridiculed Bush's policy of grasping the third rail of American politics by proposing a partial privatization of Social Security. Wait till we turn on the current, they jeered. By fall, Gore had cobbled together a hastily conceived plan of his own as polls showed that voters were receptive to Bush's policy. Even on the issue of school choice, Gore wobbled, admitting that in certain cases, he might be for it. Throughout the campaign, Bush doggedly stuck to his platform, and succeeded in moving the nation toward his vision of the future.

In Britain, the Tories look like dead meat. A week before the British election, more in sorrow than anger, the London magazine *The Economist* announced that it was voting for Labour, complaining that Hague had failed to make the case

---

*In 2001 the Democratic base would never allow the slaughter of its sacred cows. That's why Democrats feel confident opposing Social Security reform, Medicare reform, tax reform, and school reform.*

---

for "lower taxes, a smaller state, individual freedoms." *The Times* and *The Financial Times* also endorsed Blair.

Meanwhile, in the United States, Bush is mapping out the road to the future of Conservative and Republican politics. It lies in step-by-step privatization of the welfare state, slowly drawing in the fangs of the tax-eating monsters: government pensions, government health-care, government schools, and government child-welfare; slowly moving public opinion from statism to freedom not by showy manifestos and declarations of principle but with concrete, sensible policies that ordinary people can understand.

While the Conservatives were getting hopelessly tangled in immigration issues and absurdly promising to save the pound, a store of value that has lost 98% of its value in the last century, President George W. Bush has already begun to define the future with his tax cut, his Social Security privatization, and his Medicare reform, though he does wobble on school choice. While the Tories bite the dust, Bush has mapped out a cautious strategy with specific policies that begin the long march towards a smaller state and a freer society. □



"So what if I am an honest man — what's in it for me?"



---

## Warning

# Just Say No to “Privatization”

*by Ari Armstrong*

When it comes to Social Security reform, advocates of free markets have abandoned basic principles in favor of a pragmatic approach.

I recently testified at Colorado’s state capitol in favor of a bill to repeal mandatory minimum sentences for drug offenses. Another provision of the bill called for the halt of “private” prisons. A Republican senator on the committee argued that “private” prisons are operated more efficiently than are state-run prisons. (Perhaps coincidentally, the senator’s district benefits from prison dollars.)

I explained to the legislative committee, “An industry that is wholly funded and regulated by the state is not ‘private.’ These are not ‘private’ prisons; a better term might be ‘contract prisons.’ However, I do not want contract prisons any more than I want contract IRS agents.”

The Democrats in the audience loved the line.

I wish I’d also said, “Market socialism is still socialism, Senator.” I think the Republicans would have loved it.

That’s a point that seems lost on many conservative reformers. Dubya Bush is making waves with his attempts to “privatize” elements of welfare by diverting tax funds to hitherto private charity groups.

Wade Dokken, president of American Skandia and a typical proponent of “privatizing” Social Security, accuses opponents of trying “to use short-term fluctuations in the equity markets as justification for opposing President Bush’s proposal to allow Americans to invest part of their Social Security taxes through personal accounts.” This criticism is simply bogus: if people were “allowed” to spend their Social Security dollars at their discretion, couldn’t each individual decide whether to use the money to buy stuff, pay off debts, invest, or save? If Bush’s plan were really what Dokken says it is, anyone could choose to avoid the short-term risk of the stock market if he or she so desired.

But Dokken is not advocating free choice. When he says “allow,” what he really means is “require.” Here’s the basic plan for Social Security “privatization,” as explained by the Cato Institute’s Michael Tanner: instead of paying the full

---

15% of wages into Social Security tax (I’m rounding off for simplicity), a worker will be “allowed” to pay 13% into Social Security and the other two percent into a personal account, which he can invest in the stock market. Upon retiring, he will receive lower Social Security benefits because he “contributed” less. But his benefit loss will be offset (probably more than offset) by the personal account. The beauty of the system, from Cato’s perspective, is that it is incremental: if two percent is good, then surely four percent is better, and so on until all 15% is paid into personal accounts. Voila! Social Security is privatized.

The main problem with the plan is that it is based on a lie. Under the plan, the worker is being duped. She is forced to pay two percent into a personal account, but her tax burden is not thereby decreased.

Social Security is a direct wealth transfer scheme. Current workers pay those who have already retired. Excesses in revenue are “borrowed” to fund other government programs. If a worker’s Social Security tax is reduced from 15% to 13%, that has no impact on the amount that pays current recipients and goes to pay for other government programs. The money has to come from somewhere: from an increase in Social Security tax or other taxes or from borrowing more money.

Two other plans have been proposed that would fully privatize Social Security — eliminate it completely and allow people to spend their money as they choose.

One plan was touted by Libertarian Party candidate

Harry Browne in his election campaign: he would pay off all current Social Security recipients by selling off government assets and then simply abolish the system.

The other plan is proposed by George Reisman, author of the gargantuan book *Capitalism*. His plan is simply to raise the age of payout slowly until the system is phased out. Reisman's plan is multi-staged, but a simplified version of it might simply increase the retirement age by one year every three years. For example, if the current age of collecting payouts is 65, in 2004 the age would be raised to 66, in 2007 to 67, and so on until nobody is alive to qualify. Those currently taking benefits would be unaffected.

The plans of both Browne and Reisman would totally abolish the Social Security system and leave people free to

---

*Taken to its final conclusion, Cato's plan forces workers to contribute 15% of their earnings to investment accounts controlled by Washington politicians.*

---

spend their money as they see fit. Both plans unambiguously reduce the role of government in the economy. An arguable advantage of Reisman's plan is that it does not require any other policy change.

It's not clear to me how Cato's plan to replace the Social Security system with mandatory savings accounts would be an advantage, in terms of reducing the role of government in people's lives. True, the mandatory accounts would be owned by the individual workers. But the accounts would also be subject to government mandates and restrictions. There's a word that aptly describes an economic system in which nominally private property is controlled by the state, and that word is not "privatized." As Dokken has said, "The bottom line, as Bush himself recently noted, is that 'the plan is not going to be [to] invest in the lottery mutual fund or [to] take it to the track and hope to hit it right. It's going to be in relatively safe investments.'"

---

## Letters, from page 27

---

abortion rights and had to be stopped. And I also personally know libertarians (small- and big-L) who also defected even after they were reminded how the system works.

Voting, like sex and religion, is an emotional act. No matter what his reason tells him, a voter usually reacts with his gut, not his head.

Pat Bontempo  
Asbury Park, N.J.

*Bradford responds:* Bontempo asserts that if most fringe party vote totals dropped, there must be a single explanation for them dropping, lists three such explanations, and concludes that one of the three (the "why-waste-your-vote") is the correct explanation on the basis of what appears to be a single conversation with a single voter and his personal knowledge of a few libertarians who voted for Bush.

The idea that there must be a single explanation when most fringe party vote totals drop seems extremely dubious to

Who gets to determine which investments are sufficiently safe? Politicians, of course. The same politicians who never, ever make decisions based on personal power or prejudice.

Taken to its final conclusion, Cato's plan forces workers to contribute 15% of their earnings to investment accounts controlled by Washington politicians. The level of new power this would give to politicians to influence the stock market and thus the face of corporate America is startling. If government is charged with forcing people to save for retirement, its agents will surely find every pretext to meddle in the name of saving people from their own investment folly.

Why, then, isn't Reisman's plan more popular among free-market policy wonks? Put simply, Reisman's plan assumes government has absolutely no legitimate role in managing people's retirement plans. The plan calls bluntly for the abolition of Social Security. The Cato plan, on the other hand, implies the government is responsible for retirement planning. From this point of view, the debate only revolves around which plan the government should force people to adopt.

No, Cato analysts don't really want a system in which politicians and bureaucrats take direct control of a big portion of the stock market. They hope that, once people find a property right in their investments, they will recognize the folly of government intervention and demand full privatization. In other words, the Cato plan hopes to trick people into acting on their belief that the government should plan for retirement, in order to adopt a system in which the eventual full privatization of retirement may occur.

Indeed, Cato's plan brings with it the risk that the new mandated personal accounts will foster more socialism, not more freedom. Once government officials get their hands firmly in the stock market, they may fight like mad to increase their control. Would personal accounts with just a few government controls be better than what we have now? "There can be no compromise between freedom and government controls," Reisman's mentor Ayn Rand once observed. "To accept 'just a few controls' is to surrender the principle of inalienable rights and to substitute for it the principle of the government's unlimited, arbitrary power, thus delivering oneself into gradual enslavement." □

me. There were five fringe parties that waged serious campaigns (i.e., attempted to get on the ballot of enough states so that they could possibly win the election). Three of these parties had huge changes in their vote share, and all these changes had different explanations: the Green Party ran an active campaign in 2000 but not in 1996; the Reform Party was transformed from being the personal party of eccentric billionaire reformer H. Ross Perot to being a hard right-wing vehicle of Pat Buchanan; and the U.S. Taxpayers' Party changed its name to the Constitution Party.

Further, the only fringe party generally targeted with the "why-waste-your-vote" argument was the Green Party, which was widely and repeatedly charged with trying to "steal" the election from Al Gore. Yet its vote share more than tripled. While there is little doubt that its huge increase in vote share was mostly the product of running an active campaign, this

*Continued on page 37*

# In Defense of Bullfighting

by Coleman Cooney and Michael Christian

Intellectuals mock bullfighting as an unsophisticated, cruel and anachronistic tourist show. So how come it's become a bustling commercial success across the globe?

People have been playing with dangerous bulls for a long time. Around the Mediterranean, bull games of some description have been going on for millennia. From the cave paintings in southwestern France to the spectacular murals of Knossos, the archaeological record includes much evidence that the people of Neolithic and classical societies recognized the bull's strength, admired its vitality, and revered its bravery.

The Romans loved arena games, including those involving bulls. Wherever the Roman empire conquered, it brought Mediterranean culture and bull games with it. There are many examples of important ideas and practices being disseminated through Rome and the countries that succeeded its fall. Rome didn't usually invent these things, but it organized and communicated them. Bullfighting may be a descendant of Roman arena games, although that conceit is much debated in the taurine community. But wherever we got it, the bullfight has ancient antecedents in southern Europe, and it seems to be practiced only in the Romans' old Mediterranean stomping grounds and in the former colonies of those countries.

Most Americans see bullfighting as the archaic remnant of barbarous religious and ritual practices, kept alive by cruel Spaniards for tourists. That is an uninformed perspective. Within cultures that practice and appreciate this spectacle, the bullfight is a thriving, modern entertainment. Big crowds from the middle and upper classes pay for tickets as expensive as those for opera and wait years for season tickets. And bullfighting is the persistent subject of highbrow musings by cultured critics and fat tomes by academics.

Bullfighting is a very competitive art form, and its practitioners strive to outdo each other in bravery and artistry, but bullfight audiences have usually been very conservative. The modern Spanish bullfight has changed very little since it was refined in the 18th century by a collaboration between artists and entrepreneurs propelled by the disposable income of consumers with leisure and wealth. Unlike the patronage-

---

based Roman *ludii*, the bullfight was a bankable spectacle, predicated on consumer enthusiasm. It has been ever since; popularity and economic viability define modern bullfighting.

The Spanish bullfight is conservative but not folkloric or old-fashioned. It is big business. Significant infrastructure is needed to produce a bullfight. When the ranching, tourism, and satellite television industries are taken into account, bullfighting is one of Spain's biggest industries. It is also important to the economies of Portugal, Mexico, France, Colombia, Venezuela, and Peru.

The bullfight in Spain and in the south of France is in rude good health. More events are produced, more tickets sold, and more money made than ever before. Magazines, Web sites, and television channels document the every move and utterance of a new generation of bullfighting stars. There are young crossover artists who are both bull-killers and pop-music makers. They dominate the gossip rags and marry into some of Europe's oldest aristocratic houses.

Academia has for a long time misunderstood the bullfight. Even in Spain it has often been treated as an embarrassment. It has been cursed and blessed as an impediment to Spain's Europeanization. It has served as the intellectual aquifer for intensely personal and poetical explorations by artists like Lorca and Alberti. Adrian Schubert's excellent book *Death and Money in the Afternoon* documents the divided mind of the Spanish intelligentsia and offhandedly demonstrates the turning of the screw among our own scholars; suddenly the bullfight is a proper target for scholarly

examination in the United States. This has even crossed over to popular literature and letters where we find the fashionable Scottish writer A.L. Kennedy casting a contrarian and (to the confusion of her politically correct fans) sympathetic eye on the bullfight. Hollywood can be heard taking notes.

Right now, we are probably in the middle of a golden age of bullfighting. The quality, quantity, and price of the spectacle has increased greatly over the past 20 years. It attracts ambitious young men. It rewards success with fame and wealth. It fills hundreds of rings with millions of fans every year. By some accounts it is the second most attended event in the world, behind only professional soccer in number of tickets sold annually.

### Something Illegal

In most places, bullfighting is illegal, but depending on how well a culture knows bullfighting, attitudes and laws about it vary considerably.

In places where the ignorant masses oppose bullfighting, there is always an informed elite that wants to enjoy it. This is certainly true all over the United States where every major city has one or several clubs of aficionados. In such places, the freedom of the enlightened few to watch or participate in bullfighting is restricted.

Around the line of demarcation between the ignorant and the informed, a battle rages. Today, the most lively fronts in the war for freedom to enjoy bullfighting are in France and California.

In northern France, most people don't know squat about bullfighting and oppose it. Bullfighting is illegal in northern France. In much of southern France, people know bullfighting fairly well and support it. Bullfighting is legal in much of southern France. The law of France explicitly codifies the demarcation line, stating that bullfighting is legal only where it has been practiced without interruption for many years. Of

---

*The humane society in California occupies an unusual niche in law enforcement. A private unincorporated association, it has considerable police powers and puts its "officers" in impressive uniforms onto which they strap 9mm pistols.*

---

course, like any rule, the French law is open to interpretation. In Toulouse, where the city bullring was destroyed decades ago, bullfighting was recently restored after its proponents won a court battle.

In California, bullfighting is generally illegal, but the state is ripe for change. California shares climate, topography, history, and a lot of culture with Mexico and with the heartland of modern bullfighting, Spain. California is America's Mediterranean, its Andalusia, and its Provence. Small minority groups with knowledge of and passion for bullfighting already enjoy a peculiar, partial exemption from the general prohibition against bullfighting; by patient lobbying the Portuguese community of the San Joaquin valley won a legislative dispensation for their own brand of bloodless

bullfights.

In May of 1997, in San Diego, one of the authors of this article founded the first school of instruction for bullfighting ever to exist in the United States. The California Academy of Tauromaquia's intention was to bring the pleasures of the *aficionado práctico* (amateur bullfighter) to bored thrill-seekers in the culture at large. North of the Mexican border, the academy's courses consist of *toreo de salón*, literally "drawing room bullfighting," where the equipment is real, but the bull is imaginary. In Mexico, students of the academy graduate in front of live animals.

The media covered the story like a cheap *peto*.\* The first to write on the new fad was the The Associated Press, which produced an article that ran in hundreds of papers across the

---

*Although most Americans see bullfighting as the archaic remnant of barbarous religious and ritual practices kept alive for tourists, in the Hispanic world, it is the persistent subject of highbrow musings by cultured critics and fat tomes by academics.*

---

nation. That spry local paper, the *San Diego Union Tribune*, was not going to be caught napping. It put the academy on the front page of its local news section. The paper's colorful photograph of a student practicing sword thrusts on an apparatus designed for that purpose caught the attention of a local school board. So did the location of the training site: a local middle school. The school board promptly prohibited all bullfighting classes. The academy was and apparently had been for some time in violation of a zero-tolerance policy forbidding any kind of swordplay on campus.

The academy then relocated to a variety of other training sites. Wherever it went, a continuous stream of interviews and pieces for the local television stations followed. *Toreo de salón* is the training regime practiced by all bullfighters. It doesn't require a lot of space, just pleasant outdoor surroundings and a level field. No animals are involved. Travelers to Spain and Latin America can encounter *toreo de salón* in public parks like the lovely Casa del Campo in Madrid. *Toreo de salón* looks like a kind of taurine t'ai chi, hypnotically slow and exacting, practiced with great attention to detail. For those who fall under its spell it soon replaces the stationary bike and the weight room.

Observing the academy teaching *toreo de salón* was enough for the San Diego Humane Society. In June of 1997, it announced that it would ask the district attorney's office to prosecute the academy under California penal code statute 597m. Yes, they thought that imaginary bullfighting was a crime.

There was a tempestuous hearing in the local media. Letters to the editor sarcastically lamented the fate of the imaginary bulls. Finally, the district attorney's office

---

\* A heavy, quilted blanket that protects the picadors' horses from the bulls' horns.

declined to prosecute the bullfighting school.

The humane society in California occupies an unusual niche in law enforcement. A private unincorporated association, it has considerable police powers and puts its "officers" in impressive uniforms onto which they strap 9mm pistols. In this curious fashion they attempt to enforce a whole body of law dealing with animal welfare. Among these statutes, 597m is perhaps the most unusual.

Written with the Portuguese community in mind, 597m prohibits most bullfights but allows for bloodless bullfighting when associated in some way with a religious observance. The language of the statute is impossibly vague, allowing for a reading that could condone a bullfight accompanied by a muttered prayer and a stick of incense, or forbid one built around the most formal high holy mass.

Despite a militant (and somewhat military) humane society, California seems to be creeping towards liberalization. At least half of the 40 or so bloodless bullfights held in California yearly completely lack any pretense of religious observance. They are commercial endeavors designed to provide entertainment, make money, and display the breeding qualities of the bulls. The taurine impresarios continuously

tinker with the very definition of the bullfight to extend the scope of the exemption.

A law enforcement official who is very familiar with the legal aspects of the bullfight in California believes the question of its legality will be settled by the results of the 2010 census. He sees the bullfight moving from its enclave in the Central Valley and into the predominantly Latino urban centers, especially in Southern California. The combination of demographics and cultural assertiveness of the state's emerging ethnic majority is a good one for bullfighting. And with all of this unfolding on the doorstep of the world's biggest (and hungriest) entertainment machine, can a Cirque-de-Soleil-style act with fighting bulls be far behind?

Today, despite the state's reputation for extreme political correctness, you can pay to see bloodless bullfights in California. You can train as an amateur bullfighter and visit ranches that raise pedigreed fighting bulls two hours from Los Angeles. When you get there you can cape them, you can *torear*. Every element is in place to support a vibrant bullfighting industry. We expect that a substantive debate will soon mark the beginning of broader legalization of bullfighting in California. □

---

### Silence, from page 30

any comments "that would tend to disparage fair-housingrights." HUD has not only stopped him from stalking; they have shut him up.

Frankhouser claims an affinity with the Ku Klux Klan, but fair-housing advocates regard much more than explicit racial hostility as "disparaging" of fair-housing rights. Both HUD and fair-housing organizations have repeatedly accused persons who oppose group shelters and other homes for "protected" classes of violating the fair-housing laws. The potential for mischief is limitless. Malcolm X said some hateful things about white people. Is the current celebration of him by many public schools actionable harassment of white children? The NAACP has run a series of campaign ads likening Republicans to racist terrorists. Should the owner of your corner bar require patrons to remove their "Bush-Cheney" buttons before they settle in for a beer? In a restaurant that I frequent filled with Italian kitsch, one can sit at a table with a life-size model of the

pope. Will the state require it to be removed if Roman Catholics complain?

Of course, one would not think that such claims would get past the First Amendment. Indeed, a federal appellate court in Pennsylvania recently struck down a school district speech code. But judges have been generally unconcerned about the tension between harassment laws and free speech. Defenders of state-sponsored speech police have sought refuge in just about every ill-advised exception to the First Amendment — "secondary effects," "fighting words," "commercial speech," "compelling state interest."

While we haven't yet seen widespread application of harassment law to silence unwelcome opinions, the seeds are there. In Illinois, a teacher seeking to have a student expelled for posting hostile comments about her on a Web site complained that "words are like bullets." They are not. Many have lost touch with the wisdom of the childhood adage about sticks and stones and we may all be the worse for it. □

---

### Letters, from page 34

certainly doesn't support the "why-waste-your-vote" hypothesis.

Of course people vote for emotional reasons. But if we want to claim that one particular factor was a major "cause" of people voting one way or another, we'd better have empirical evidence that goes beyond the anecdotal. Neither Harry Browne — who posited the "why-waste-your-vote" explanation of his support dropping 27% despite spending 75% more on his campaign — nor Bontempo have offered any empirical evidence. My article did examine empirical evidence that could support or undermine the "why-waste-your-vote" hypothesis. And it turned out that it undermined that thesis.

### Flash This!

I was sadly amused by Thomas Sipos' "In Defense of the Macho-Flash" (May). I see little value in scaring the crap out of Joe and Josephine Voter by coming out in favor of crack-

cocaine vending machines in day-care centers and private ownership of nuclear weapons. I wish to be taken seriously as an articulate proponent of libertarian solutions to social problems. I cannot get invited to the discussion table, let alone influence the discussion of issues, if I have been dismissed as a political kook or philosophical gadfly because I engage in "macho-flashing."

Benjamin Cyrus Jr.  
Jacksonville, Fla.

### A Good Question

"Fraud in the Browne Campaign" (July) was informative, but answer me this: would the Libertarian Party be better off *without* Perry Willis and Harry Browne?

Jeff Kradin  
Delray Beach, Fla.

# The Education of an Intellectual

by Richard Kostelanetz

An Ivy League education isn't what a high school counselor or college catalog might lead one to expect. Richard Kostelanetz recalls what he really learned in college, and how he really learned it.

It was nearly 40 years ago that I graduated from one of the lesser Ivy League colleges that, we should not forget, had a quota upon admitting people like me (Jews) when I entered. I went to Brown in 1958 because a fellow three years ahead of me in high school said, simply, that if my application were not accepted at Harvard, it was as good a "second choice" as any. One favor he did for me, after I was accepted, was to take the catalog of course offerings and underline certain names twice and other names once. Thanks to his considered advice, I soon established strong relationships with some of the better professors who at Brown, unlike many other places, were available to undergraduates.

Although my upper-class suburban high school billed itself as "one of the best public schools in the country," it hardly equipped us for a rigorous regime of research papers and exams. At the time I noticed that the few 18-year-olds who were adequately prepared, who knew how to write 30-page papers and take written exams, had gone to one of only six institutions — Andover, Exeter, Bronx Science, Stuyvesant, Hunter, and Boston Latin — which were at the time the only high schools where students were really pushed. The parents back in my suburbia wouldn't have allowed the teachers' giving us students too much work, especially at a time, in the 1950s, when "conformity" and the organization-man mentality were the commonly thought ideal. (Curiously, my father had gone to a New York City high school comparable to the select six in the 1920s, when, as he recalls, the teachers wouldn't have been intimidated by the parents because most of them "didn't speak well enough English.") By the end of freshman year, some of us disadvantaged high-school graduates had caught up.

Since Brown lacked financial resources commensurate with its ambitions, it was forever concocting "experimental

---

programs" that would appeal to various funding agencies. In order to justify subsequent appeals for funding, it had to persuade the better teachers and the best students to participate in the new program. A while before I entered, Brown received a grant to replace introductory survey lecture courses with "IC" seminars devoted to the intensive study of purportedly classic texts. Not unlike other bright students, I was conned into taking several of these seminars, some of them taught by professors who already had two lines under their names. While I largely enjoyed these courses and their teachers, I also realized, especially when I got to graduate school and compared experiences with those who had gone to Harvard or Columbia, that I had learned not about the great tradition of sociology, say, but about Émile Durkheim's *Suicide*, Robert Redfield's *The Primitive World and Its Transformations*, Harrison Brown's *The Challenge of Man's Future*, David Riesman's *The Lonely Crowd*, and C. Wright Mills' *White Collar*. Instead of surveys of modern poetry and fiction, I had a single semester devoted to the complete works of T.S. Eliot and then another semester devoted exclusively to William Faulkner. When I did graduate work in American literature, it was embarrassing to know little about Robert Frost or Gertrude Stein. Since Brown was as comparatively expensive then as it is now, I wondered if my parents weren't gypped. Needless to say, when the grant expired, these courses disappeared from Brown's curriculum, no doubt to be replaced by seductive alternatives funded in



other ways.

Once I got to Brown, I discovered that most of the brighter students, beginning with those who became my closest friends, had likewise been rejected by Harvard or, in a few cases, Yale or Princeton. This created among us an aura of inferiority, if not self-hate, that, while it seems ridiculous in any ultimate scheme of value, certainly had an impact then. (And later, as we shall see.) It is said that African-Americans haven't succeeded as well as others in America not just because of discrimination against them but because they lacked respect for one another, typically, say, preferring a white physician over a black. Thus, ambitious blacks capable of becoming physicians did something else. Perhaps a similar syndrome accounts for the lack of Brown alumni in the cultural professions.

Whereas Harvard and Columbia and, to a lesser extent, Yale are in cities that offer corrective reality, Brown resides atop a steep hill that opens to a suburb so distant from the city, not only physically but psychologically, that undergraduates rarely went "downtown" except to take public transportation home. We began to realize that much that was peculiar about the university depended upon the isolation, not only from the city but from any larger cultural world. It seems incredible to me now that the University Christian Association, as I think it was called, dominated extracurricular intellectual life. Whenever a particularly puzzling film arrived at the local movie house (such as the Ingmar Bergman films popular then), the UCA would be the first to sponsor a symposium to discuss its meanings. When Fulton Lewis Jr. (or maybe III) came to show the film *Operation Abolition* (about 1960 protests against the House Un-American Activities Committee), it was the campus Protestant minister who debated him. Not that I objected to Christianity, even at a time of Jewish quotas, but at no other Ivy League university at that time, to my knowledge (not even Princeton), did avowedly Christian organizations have such presence.

Some of the more disingenuous professors likewise depended upon the isolation. I remember one who taught a "university" course open to only selected upperclassmen that pretended to teach the truth, in contrast to those courses that had a disciplinary subject. What he was actually doing was preaching a cultural conservatism based upon the "humanistic need for unity" in a purportedly nihilistic world. In order to keep his illusion of truth-teaching alive, he had to choose students who lacked enough outside contacts or outside knowledge to dispute his ideology. Although he spoke of wanting to take his program elsewhere, he probably knew it wouldn't survive in a university with a stronger reality-corrective. Another professor billed himself as a major emerging poet, but you had only to learn a little about contemporary poetry in general, or speak to contemporaries studying poetry elsewhere, to discover how inconsequential he was (and still is).

Like the other lesser Ivy League schools, Brown had a reputation for "play," which at that time meant drinking. Especially on weekends, guys, and sometimes women from our sister school, drank to get drunk, especially in the fraternity houses. Just as disagreeable as the drunks who hung around the fraternities was the open truck full of stinky bottles and cans that was invariably parked just outside the

campus lunchroom every Monday. So revolting was this bacchanalia that not until I left college was I able to consume beer amicably.

Campus life was so difficult that I knew by my sophomore year that I would go elsewhere unless I could live off-campus for the rest of my time there. Fortunately, the dean acceded to my wish. By my junior year I had entered the honors program, as it was called, whose seminars met in the afternoons. That meant that for the remainder of my undergraduate career I scarcely saw students whose classes were in the mornings. (When I saw a 25th class reunion booklet, I noticed that few names were familiar to me, compared, say, to high school classmates, no doubt because most of the strangers were "morning people.")

I entered Brown wanting to be a writer and so during my freshman year took a creative writing course in which an academic novelist, now better known than before, told me I had no talent for prose, which was probably true in the narrow sense of having no talent for the kind of prose he and his favored students wrote. Although I contributed short pieces to both the undergraduate newspaper and literary magazine, I decided to avoid the college's writing program as well as

---

*Once I got to Brown, I discovered that most of the brighter students had likewise been rejected by Harvard, Yale, or Princeton.*

---

its English department, which both I and my wife-to-be (presently a professor of English at a state university) thought inferior. Whereas she majored in philosophy, I went into American studies. (In the last class reunion flier I noticed that most of the classmates whom I remember as majoring in creative writing are now high-school teachers, which, if you think about it skeptically, is what that program best prepared them to be.) In my sophomore year I had a friend a year ahead of me, who had gone to Exeter, whose literacy and taste seemed superior to mine, who persisted in a writing major even though he knew the limitations of those running the program. Buried in the catalog was a course in "verse writing" taught by an "emeritus" professor whose name, S. Foster Damon, was unfamiliar to me, even though there was a single line under his name in my hand-annotated course catalog. My friend took "verse writing" initially to get away from the other writing professors. Coming to lunch after his first class, my friend told me of "an old guy [then in his middle 60s] who had gone to college with E.E. Cummings and Dos Passos" and was authentically literary.

I signed up for Damon's course, even though I had no intention at the time of writing poetry; and though I didn't do particularly well at the exercises of imitating verse forms from *Beowulf* to the present, I got to know a literary professional who, unlike the emerging stars, was generous and sympathetic toward a beginner. Damon regularly invited me to his house for dinner; before long, I brought friends both male and female. In conversation and by his example, he taught me how to be a professional, how to do distinctive

work, rather than how to write — the two are not the same. In retrospect, I think it was through knowing Damon that I began to publish prose in national magazines immediately upon graduating from college. Within a few years, my first book of poems appeared, fittingly dedicated to him.

Comparing my university to others of its class and size, I would say remarkably few of my college contemporaries (graduating between 1958 and 1965) became professional artists: one writer of children's books, three playwrights (including my high-school friend), two poets other than myself (neither of whom graduated), two sculptors who were more visible 20 years ago than now, two painters who continue to exhibit in spite of scant recognition, two composers, one of whom was more visible 30 years ago (the other more visible now), one conductor of early music who has had more success abroad, one filmmaker and one video artist, both of whom have become university professors who have not shown new work in years. One thing we share, I've noticed, is our having majored in fields other than art. (My hypothesis here is that Ivy League art departments are not as strong as the mainstream subjects upon whose superiority the university's reputation depends. That is why many Ivy League art majors became high-school teachers.)

One reason for this comparative scarcity is that Brown alumni in the arts rarely support one another. Of the hundreds of editors, publishers, lecture sponsors, gallery directors, etc., who have underwritten my work over the past three decades (and without whom I couldn't have survived professionally), only four are Brown alumni; and of those four, only two were connected to institutions that paid me money, each once (one as an editor at a slick magazine, the other as an executive of a summertime arts fair). I checked with some of the other professional artists, all of whom told me that none (that's none) of the people ever supporting their work were Brown alumni, leaving me more fortunate

---

*Most of the classmates who majored in creative writing are now high school teachers.*

---

than the others. My hypothesis is that the inferiority complex described at the beginning of this memoir makes us think that since Brown was a university full of rejects none of us can be any good. (I'll admit that I've felt similarly toward other Brown artist-alumni before I saw their work.) On the other hand, I can think of a dozen alumni at cultural institutions, some of them older than I, others younger, who could have supported my activities. If my father believed that sending me to a lesser Ivy League school would economically benefit my professional career, he was ripped off.

The trouble, in short, is that Brown doesn't have much respect for Brown. Any literate Princeton boy can recall that F. Scott Fitzgerald and Edmund Wilson attended his school, but few Brown boys know that Nathanael West and S.J. Perelman attended theirs. Few can name veteran alumni filmmakers. (Try starting with Richard Fleischer.) Some uni-

versities acknowledge composers who are alumni, often with festivals devoted exclusively to their work, but Brown never has. Whereas Harvard paid a handsome sum to acquire the literary papers of the poet Robert Lowell, who attended but did not graduate, the Brown University Library's Harris Collections lack comparable archives of its more distinguished literary graduates, beginning with West and Perelman. And it can't recognize them simply because it isn't in the same league as first-rank universities, disingenuous prattle to the contrary notwithstanding. Similarly, when the library sponsored an exhibition of "Visual Poetry," it didn't acknowledge that two of the most prominent living practitioners were alumni. Nor was either invited to do anything special in connection with the show. "That's not a Brown sort of thing to do," one was told. Given an opportunity to show respect for itself, given the opportunity to appear better than second-rate, Brown invariably flunks. (Few moves are more pathetic than the political ineptitude of spokesmen who think themselves

---

*In conversation and by his example, he taught me how to be a professional, how to do distinctive work, rather than how to write — the two are not the same.*

---

"smart.") In the "cross-index" in the back of the last, purportedly comprehensive *Brown University Alumni Directory 1994*, there are no categories for "writer," "author," "composer," or "musician"; though "visual arts" and "telecommunications" appear, along with "financial planning" and "homemaker." It is apparently impossible for Brown and its directory publisher to conceive of an alumnus doing what I do. At a university with greater self-respect, needless to say, this directory would have been publicly trashed and its publisher dismissed as uncouth.

Need I add that even though I'm one of only two Brown alumni with an individual entry in a standard encyclopedia of living poets, the only actively publishing alumnus with an individual entry in a standard encyclopedia of living fiction writers, and one of only two alumni in *A Reader's Guide to Twentieth-Century Writers*, Brown has invited me back only twice, more than 20 years apart, each time to give a single lecture to a class. From time to time, I look at the list of people invited to give "president's lectures" and invariably notice that none are Brown alumni. At a university with more respect for itself, the trustees would have dismissed, or at least warned, its top employee for being so uncouth. Nonetheless, the sense that this neglect couldn't happen at a first-rank institution indicates any "new Brown" to be a myth — once a "nigger school," it is no less of a "nigger school" now.

While an unformed high-school student became a professional writer after four years there, thanks no doubt to the courses he took and the teachers he had, few others did. Many aspired, and a few began, only to disappear professionally; and perhaps my recollections about a university

that lacks respect for itself account less for my survival than for the failure of others.

### The Power Plant: Columbia's Graduate School

Most of the people I know who attended the liberal arts graduate school at Columbia University four decades ago, as I did, hated the place. Those who completed their doctorates remain no less angry about the experience than those who quit, their years and money wasted. I remember an editor at a large publishing house telling me three decades ago that when his firm announced it would establish a fellowship for graduate students at Columbia, the proposal was hooted down by editors who spontaneously remembered their negative experiences there. Another friend, who had completed his doctorate in the 1950s and since then had a distinguished academic career, told me in the '60s that whenever he emerged from the subway exit in the center of Broadway he felt nausea. (The exit was since replaced by standard egresses on the sidewalks.) My own opinion of Columbia is mixed, though I understand the causes of their distaste.

The initial problem was that there were too many supplicants. As I recall, 120 students entered the history department along with me in the fall of 1962; perhaps a thousand were on the rolls working toward a graduate degree. The figures in the English department were roughly the same. Whereas those studying an esoteric historical subject (e.g., Turkish history) might have gotten individual attention, those of us in such mainstream areas as American history felt that professors were scarce.

My suspicion is that the authorities in the Columbia graduate school knew about this problem. Thus, the first peculiarity of that program then was this: while a graduate student had to pay for 15 courses to get his M.A., he or she actually didn't need to write a research paper or take an exam for eight of them. For only seven of them were we required to produce work; for the others we would get a passing grade, even if we didn't show up, as long as we paid for them. The rationale appeared to be that the fewer papers and exams the professors had to correct, the better off they would be.

Of those seven, one course was the historiography lecture that everyone had to take; two were the year-long "seminar" in which the only work was writing our M.A. theses. By deduction, we worked as we did as undergraduates for only four courses. To earn a doctorate, we had to pay for 15 more courses, though none of them required papers and exams; to pass proficiency exams in two languages; to take a "comprehensive" written exam from which one could be easily excused (as I was); to pass an orals; to write a doctoral thesis; and to defend it. At the time, I called this big-hurdle education, in contrast to all the little hurdles required of graduate students at other universities.

My thought at the time was that this big-hurdle system benefited two kinds of graduate students — those like my wife at the time, who knew early what her doctoral thesis would be and located a sympathetic senior professor to support her activity; and those like myself, who needed a draft exemption to evade the military while pursuing my writing. Fortunately, we both earned fellowships to pay for tuition. Otherwise, given Columbia's neglect of its graduate students, we might have been ripped off and angrier in retrospect. Those graduate students who required personal

guidance in choosing courses, let alone a thesis topic that could be completed, felt lost. If I had needed to work as a teaching assistant or take an outside job to pay for Columbia, I might have hated the place more; as it happened, we survived modestly by living in a low-rent city housing project, my possible animosity "bought off," so to speak.

The professors simply were physically unavailable — their office hours were jammed, few stayed near campus any longer than necessary, they barely knew who we were. A contemporary, now a City University professor, laments "the absence of any serious professional training. I need[ed] detailed practical work in archives and recondite libraries, in how to take notes efficiently and organizing them effectively, in formulating salient historical generalizations out of the material at hand, etc. I wanted to be a historian, and they didn't help me become one." He continued, "The best experience I had at Columbia was the defense, when five faculty members, sitting together at the same table, paid attention to my views when they weren't trying to impress each other."

A prominent young art critic and magazine editor who had taken his M.A. at Columbia a dozen years before me said that he doubted whether any Columbia faculty remembered him from 1950, though they might know his name now. My nightmare was that if I died some secretary would mention my name at the next department meeting. "A big guy with red hair?" one professor would ask. "No, a little

---

*The trouble is that Brown doesn't have much respect for Brown.*

---

guy with glasses." They would grunt with disinterest and pass onto more pressing matters.

I became aware of the truth that graduate school was more about power than undergraduate education. To get a B.A., you needed merely to pass enough courses. To get a doctorate, you needed a senior professor to carry you through — not just to advise but to push. That professor had to like you or your work, perhaps because it contributed to his work or scholarly orientation and thus that he thought your success would help his reputation in the future. Given how many students were clamoring for attention, it was easy for the professors to be selective, picking a few for their support while ignoring the rest. Nonetheless, recalling the negative response in a publishing firm mentioned before or the critic-editor's report of neglect, the Columbia professors apparently missed many whom, strictly as investments, they should have supported.

My own experience was more problematic. Thanks to my publishing, I received a Guggenheim fellowship a year after completing my M.A. and moving downtown to be an independent writer. Befriending the most prominent American historian in the department at the time, I heard him say that I ought to go for a doctorate. So I returned in September 1968 for a "pre-orals." As I recall, he asked me about the War of 1812, the War of 1898, constitutional history, and perhaps Andrew Jackson and the Bank, all of which were reasonable questions to ask of a doctoral student in American history.

The trouble was that I had begun to concentrate on the

history of the arts in America, all the arts, as a subdivision of intellectual history, and thus barely remembered political history. Perhaps I knew this stuff once, I thought to myself; but I don't know it now. Sufficiently cocky, I replied, "Why don't you ask me something I know about — say, open form as a characteristic of American cultural produce with respect to a composer, a choreographer, a poet, and a philosopher." We could have then talked about Charles Ives, Loie Fuller, Walt Whitman, and Charles S. Pierce, among other figures who interested me more than politicians and generals. "About them I can talk forever." Richard Hofstadter's reply was, as I recall, "I'm doing this to see if I can take to my colleagues. None of my colleagues could think of that question if they tried." Concurring with his assessment, I retired from graduate school again to continue writing. Fortunately, this trip back to Columbia didn't cost me anything, as I had, a few years before, won enough fellowships to pay for the 15 additional courses in which, needless to say perhaps, I did no work.

Later I wondered if Hofstadter might have escorted me to the orals, nonetheless, and begun the interrogation with the rich question I'd given him, intimidating his colleagues into silence as I babbled intensely and authoritatively about American individuals they knew little about. When I told this anecdote to a Columbia literature professor I later dated, she responded that the others on the orals committee would have asked the mainstream questions. But didn't Hofstadter have enough prestige and hadn't I already established myself as a professional? So much of one's fortunes in Columbia's graduate school depended upon how much sup-

---

*I remember an editor at a large publishing house telling me that when his firm announced it would establish a fellowship for graduate students at Columbia, the proposal was hooted down by editors who remembered their experiences there.*

---

port a senior professor wanted to give you and, quite simply, Richard Hofstadter must have had other options. (The fall of 1968 was also an anxious time, in the wake of student protests the previous spring.)

I told this story recently to my colleague Edward Foster, now a professor of American studies at Stevens Institute and the editor and publisher of the distinguished poetry journal *Talisman*. He recalled a comparable situation in his 1970 orals where some of his professors knew that his knowledge of British literature was deficient because Foster had on his own focused on 19th-century feminist writers and American landscape gardening. What his supporters feared was that a Shakespeare professor appointed to the orals committee might ask an English lit question too hazardous for Foster. As he recalls now, his supporters simply prevented the possible antagonist from talking. So Foster, who now says he "hated Columbia," got his doctorate. Since I became a dec-

ade later a visiting full professor of American studies at the University of Texas and have published books in my chosen field, can it be said that the Columbia history department missed the chance to invest its imprimatur in my name? Was its discretionary power used most effectively?

While I understand how Columbia's neglectfulness hurt graduate students less motivated, I think there were benefits. Quite simply, for me graduate "education" had minimal deleterious effects. We weren't taught anything disagreeable mostly because we weren't taught much at all. I had no teachers I would now consider as influential as those I had at Brown. On our own mostly, we were, instead, given a high-obstacle course that could be traversed only if we figured how. And we would emerge pretty much as we arrived.

Consider this contrast. As far as I can tell, the fellow graduate students whom I remember became professionally what they were as supplicants, which is to say, a guy who knew

---

*For me graduate "education" had minimal deleterious effects. I wasn't taught anything disagreeable mostly because I wasn't taught much at all.*

---

one thing very well but not much else published a book about his enthusiasm and then nothing else; the fellow who took ten years to complete his dissertation took ten years to write a second book and then ten more for a third. The fellow who could write well but had few ideas has helped his colleagues complete their books. Columbia kept the guy who looked good but didn't publish much, and he still looks good while not publishing much. I remember hearing about Eric Foner as a wiz student destined for an academic career, but never met him, though we both did M.A. theses in African-American history around the same year; decades later, he assumed Richard Hofstadter's chair. As for me, I think the others knew I would do scholarly work outside of academia, and I have.

By contrast, consider that the best student in the composition classes at nearby Juilliard during those years was Peter Schickele, who created the fictitious P.D.Q. Bach. The second best was Albert M. Fine, who became a minor conceptual artist before dying young. The third best became a California professor whose compositions are rarely heard. Near the bottom of the class was Phillip Glass, who became the most influential composer of the bunch; another figure later influential, Steve Reich, had dropped out of the Juilliard program. Since these guys didn't become what they were as graduate students, one can identify minimal correspondence between schooling and professional life. Perhaps the reasons for the discrepancy were that the program had fewer students and the Juilliard teachers were not so neglectful.

My feelings about the power plant that was Columbia's graduate school remain mixed. Had I paid my own money to be neglected, I might have felt ripped off and angry; but since I didn't, perhaps my atypical experience gives me a certain objectivity. □

# Reviews

*Shadows of a Princess: Diana, Princess of Wales*, by P.D. Jephson. HarperCollins, 2000, 462 pages.

## Diana, Princess of Wails

Stephen Cox

On Sept. 6, 1997, the world paused to honor the life and achievements of Diana, Princess of Wales. Her funeral attracted the largest audience ever to witness such an occasion. Everywhere a television could be found, people from all walks of life gathered to remember her empathy, her compassion, her humanitarianism. Among the crowds besieging Westminster Abbey, thousands became hysterical with grief; thousands more grew livid with hate for the villains who, as the newspapers hinted and the masses believed, bore responsibility for the death of the beautiful woman who called herself "the Queen of Hearts."

Who were those villains? Some admirers of the Princess blamed the "paparazzi," the photographers who had allegedly chased her into the tunnel where the fatal accident occurred. Others — many others — blamed the British royal family, cold-blooded snobs who envied Diana's rapport with ordinary people and drove her to bulimia, attempted suicide, and the series of sexual affairs that culminated in her last, wild ride with Dodi Fayed. At the Abbey, special preparations were made in case the mourners rioted, and went for the Queen.

A phenomenon like this calls for investigation. The place to start is the epicenter. Who precisely was Diana, Princess of Wales? What special qualities did she possess that allowed her to

influence the world as she did?

Most of the immediate post-mortem investigations were favorable in the extreme. World media assumed that if the Princess was praised for "reaching out to people," she must actually have reached out to people; if she had done compassionate things, she must actually have been compassionate. The logic seemed simple; and, after all, there was money to be made from extolling the Princess, and only a brick through the window to be gained by taking a more skeptical approach. Even fervent supporters of the royal family held a moratorium on critiques.

But four years have now passed, and four years is a long, long time when it comes to people like the Princess. During that time, much has emerged to challenge her claim to heroic martyrdom. Exhaustive police investigations have shown that she was killed, not by paparazzi, but by her boyfriend's intoxicated chauffeur. Some people have even begun to wonder what exactly the Queen and the Queen Mother (women who have spent a mere 114 years uncomplainingly performing much harder jobs than the Princess ever attempted) could possibly have *done* to lure her into the arms of Dodi. *Shadows of a Princess* is the most substantial contribution yet made to the reconsideration of Diana's career. Its author, Patrick Jephson, served her for eight years (1988–1996), first as her equerry, then as her private secretary. He was prob-

ably closer to her than any of her other paid advisors and confidants, and he was with her for a much longer time than most. The Princess liked to get rid of employees, once they got wise to her. If they didn't get wise to her, she naturally assumed that they had, so she got rid of them anyway.

That's not exactly the way Jephson puts it. Media accounts of his book have represented it as an anti-Di screed, but that is very far from the truth. Confronted with a number of ways of saying something, Jephson almost always chooses the kindest possible way. He seldom says anything in plain, brutal language. So I will.

I never liked Princess Diana. She always gave me the creeps. The vomit of grief that followed her death was profoundly shocking to me. It was like discovering that 50% of the world's population actually enjoys hearing somebody scrape his fingernails slowly across a blackboard.

My uncomfortable sensation didn't result entirely from a failure to understand why Diana was more worthy of recognition than a competent waitress at the local IHOP. What rankled most was the public's inability to recognize the essential falsehood of her position in life. The world is full of beautiful women who know how to use a makeup kit; that's one of the charming things about the world. The only thing that made Diana, Princess of Wales, stand out from the crowd was her status as Princess of Wales.

Her fame, her glamor, her opportunities to display "compassion," the whatever-it-was that she called her "work" — all of it depended on her position in the royal family.

It was a job she was hired to do. The contract was implicit but perfectly clear. She would perform as a member of the royal family; in return, she would be given glamor and fame. But the contractual arrangement from which she benefited so greatly — she who was no one before that contract was made — simply wasn't good

enough for her. Her idea was to violate the contract and build glamor and fame on the violation itself.

When she discovered (as hundreds of millions of other people have discovered) that marriage can be a disappointment, and that life with one's in-laws can be a bore, she (like hundreds of millions of other people) could have continued doing her work in the family, or she could have quietly withdrawn from the family and surrendered the flashier aspects of her glamor and fame. This she declined to

---

*The world is full of beautiful women who know how to use a makeup kit; that's one of the charming things about the world. The only thing that made Diana stand out from the crowd was her status as Princess of Wales.*

---

do. She decided instead to assert her existential *entitlement* to those rewards. When the other royals and their friends proved resistant to her claims, she used the status that they had given her to mount an attack on their *rigidity* and *hypocrisy*.

Why were they "rigid"? Because they perversely refused to see that hers was the only right way of life.

Why were they hypocrites? Because they pretended to have "compassion" but failed to have the right degree of "compassion" for her. Get it?

If anyone deserves compassion simply for being a miserable person, then Diana, Princess of Wales, assuredly deserved compassion. Jephson gives her as much of it as anyone intimately associated with her could be expected to give. He gives more, in fact. He shares her touchy sensitivity to the charge that she was nothing but a clotheshorse and a publicity hound, and he finds ways to put a favorable spin on most of the hateful things she did. Recalling her connivance in the publication of a popular book exposing her husband's weaknesses, he bristles with anger — not against her but against the people who criticized her

sneak attack: "It was as if the means of transmission rather than the message itself was all that mattered" (p. 293). Well, in the case of royalty, the means *are* all that matter.

Jephson gives his former boss the benefit of the doubt, even to a baffling degree. He suggests that she always retained respect and liking for the Queen (as well she might, considering the fact that her mother-in-law remained rigidly impartial during the warfare between Diana and her son), even while he chronicles Diana's shotgun attacks on the people she was pleased to call "this f----g family" (261, 287, 306). He suggests that Diana's compassion for the poor and sick was deep and genuine, while describing her consistent refusal to involve herself in any humanitarian efforts requiring a commitment to more than a series of photo-ops in hospital wards. He describes her as intelligent and witty, while providing such samples of wit as her remark about the wealthy donors of her charities: "They'd put their money in a dustbin if I asked them to." (220)

As for intelligence, consider her visit to the White House during the Kuwait crisis. President Bush turned to her and asked "what the British public's attitude was to the prospect of war in the Middle East."

For a horrible moment it was obvious that the Princess's mind had gone blank. I felt the Ambassador stiffen next to me, but she was beyond our reach. "Um," she said. Then, "I think it's all very worrying." . . . There was an uncomfortable pause. (222)

I'll bet there was.

By Jephson's account, even people like Barbara Walters were liable to be bored by *repeated* luncheons with the Princess; just one visit was "a significant expenditure from her limited reserves of intellectual capital" (429). That's putting it nicely, and Jephson spends a lot of time being the nicest of all possible private secretaries. His response to the problem of limited intellectual reserves is to suggest that "access" to the Princess should have been given only "in pursuit of a specific strategy. The investment in credibility that these meetings represented should be directed toward a particular, measurable purpose." Diana should

not have indulged her "short-term desire for media gratification" (429).

Over the course of 462 pages, that bureaucratic style can wear pretty thin. On page 289, Jephson refers offhandedly to "the astonishing confidences she shared with me." I would like to have heard a few more of those confidences; Jephson conveys practically none of them. He briefly surveys two or three of her sexual alliances, assuming, I presume, that everyone already knows about them. If you hadn't guessed that Princess Di, so far from being a victim of the tabloids and photographers, had been lobbying them and tipping them off for years, this book will clue you in. Her mean, vindictive treatment of her staff is pursued in more detail, but mostly it's just the kind of private behavior that one expects from public humanitarians. Jephson's most sickening revelation is the Princess' reaction to a meeting with Bill Clinton: "'He's terribly *sexy*,' she confided to me rather breathily" (403). Nothing could have prepared me for that. At least she didn't sleep with him.

Jephson's book is short on pungent detail and long on sober summary, which means that it's far too long. We do get careful accounts of how the staff of British royalty arranges official visits to Middle Eastern countries, if you think that matters; and we also get the occasional reflection on the political context of a royal progress. We learn, for instance, that when Diana visited America in autumn 1994, "she was able to rub shoulders with many of the leading political figures in Washington, particularly from the Democratic Party, which was preparing itself for office" (412). But oops! I guess we don't learn that, after all. In autumn 1994 the Democrats had already been in office for two years and were about to lose a landslide congressional election.

Well, whatever, dude; it doesn't matter. None of this matters. And that's sort of the point, isn't it? Yet as we follow the Princess' perpetual motorcade-to-nowhere, we do see some memorable sights.

The Princess describing the production of the notorious television interview, so tearfully adored in America, in which she confessed to adultery and simultaneously questioned her adulter-



ous husband's fitness for the throne: "It's terribly moving. Some of the men who watched were moved to tears." (435)

The Princess' advisors watching the broadcast: "Groans and exasperated laughter rose like nausea to our lips. . . . Finally we watched in silence until we could stand it no more. Anne switched off the TV. . . . I emerged wearily from behind the sofa where I had taken refuge." (437)

The Princess and her private secretary nearing the end of their long professional collaboration: "The Jaguar purred on. Other cars full of happy people leading uncomplicated lives drifted silently by. She sat back in her seat, fiddling with the door catch. My God, was she going to jump out? How much did I mind if she did?" (435)

The irreverent cutout that appeared in British newspapers "like a kidney donor card," reading, "In the event of accident I do not wish to be visited by the Princess of Wales." (121)

The President of Indonesia and his wife, who tried to plan a royal visit to their country and who ended up asking, "Why does Her Highness wish to see so many sick people? It is very sad for her. Surely she would rather enjoy a visit to a fashion show and cultural theme park?" (142)

The Princess insisting that someone had just cut her brake lines, that someone had just tried to shoot her in Hyde Park, that someone had just planted microphones in her rooms: "She knelt and pulled up a stretch of carpet. Putting a finger to her lips, she motioned me to look at the floorboards. They had been recently disturbed. She pointed silently at the sawdust and nodded significantly. . . . 'Ma'am, you know that's just where they've been rewiring?' She did not seem to hear me." (444)

The Princess trying to get rid of a nanny by implying that the devoted servant had been fornicating with her husband: "The patron of Birthright, Barnardo's, and dozens of children's charities, the icon of maternal devotion and embodiment of feminine virtues, crept up behind her children's nanny at the combined office Christmas lunch party in 1995 and whispered, 'so sorry about the baby.'" (446)

The Princess anticipating the resig-

nation of her private secretary by telling her friends at the tabloids that he was about to be dismissed for incompetence and by leaving him an anonymous message: "The Boss knows about your disloyalty and your affair." (448)

This is the same private secretary who now writes of the Boss' public performance, "She invariably did more good than harm, whatever complicated inner script she was following at the time" (301). When I first read that, I thought, What was "complicated"? It all seems perfectly straightforward to me. A silly, vain, self-entitled person automatically reacts to the world as Princess Di did, if she's true to herself; and Diana was always fanatically true to herself.

But did she do more good than harm? It depends, of course, on how you define the "good." If you think that it's good to give people the idea that silliness is freedom and vanity is glamor, if you think that it's good for them to believe that they are entitled to whatever they want and are therefore entitled to ruin whoever keeps them

from getting it, then Diana, Princess of Wales, did a lot of good. You could see this good at work in the crowds of bile-

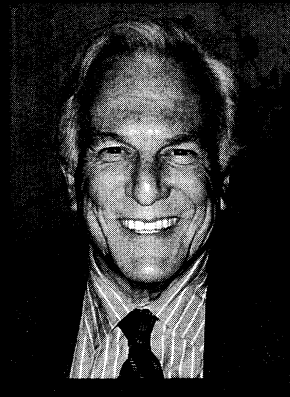
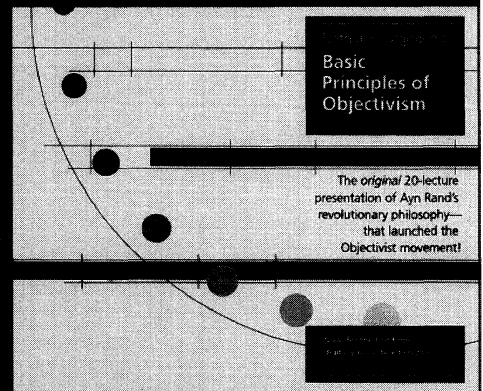
*Princess Diana always gave me the creeps. The vomit of grief that followed her death was profoundly shocking to me. It was like discovering that 50% of the world's population actually enjoys hearing somebody scrape his fingernails slowly across a blackboard.*

choked humanoids who flocked to Diana's funeral.

Yet, did they really need Diana to make them the way they are? Perhaps not — and if not, then truly she was nothing. □

## Experience Ayn Rand's Revolutionary Philosophy for Yourself!

Now, for the first time, Nathaniel Branden's **original** 20-lecture presentation of the *Basic Principles of Objectivism*, digitally remastered on 28 CDs. Here are the lectures that launched the philosophical movement that made Objectivism famous!



Now available from  
**Principal Source**  
 LAPSA-OA032 (24 hrs.) \$225  
 1-800-374-1776

*Brown v. Board of Education: A Civil Rights Milestone and Its Legacy*, by James T. Patterson. Oxford University Press, 2001, 285 pages.

## Rights, Sociology, and Equality

Timothy Sandefur

The chiasm of 1960s left-liberals has left its constituents high and dry, yet they persist in scratching their heads and wondering why people just don't seem to "care" anymore — and then blame "the system" rather than seeking the causes of their own failures.

Consider, for example, James Patterson's assessment of Clarence Thomas' objections to the most important Supreme Court decision of the past half-century, *Brown v. Board of Education*. Thomas, according to Patterson, is "cool to integration," and has "long been critical to many arguments on behalf of *Brown*." That's true, but Patterson does not take the time to explain Thomas' objection to *Brown*, even in a footnote.

*Brown v. Board of Education* is one of the most misrepresented cases in legal history. It did not reverse *Plessy v. Ferguson*, or the doctrine of "separate but equal," on the basis of our natural equality under law. Instead, it relied on questionable scientific research suggesting that black children were being harmed psychologically by their segregation from white children. It did not embrace the principles of John Harlan's dissent in *Plessy* — which argued that "our Constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful. The law regards man as man, and takes no account of his surroundings or of his color when his

civil rights as guaranteed by the supreme law of the land are involved." *Brown* left open the door to future racist government actions in cases in which no similar psychological "research" was available to show segregation's damaging effects. Under *Brown*, legal racism could be perpetuated under the pretense of "benevolence" toward "underprivileged minority groups."

The result has been a half-century of affirmative action programs which, as Thomas Sowell and others have shown, result not only in greater resentment and conflict between the races — and assumptions by whites that blacks "couldn't cut it" without government aid — but also in greater rates of poverty and school dropouts among blacks themselves. A court decision based on fashionable liberal sociology, instead of on what Lincoln called the "timeless truth, applicable to all men and all times" that all men are created equal, brought about a half-century of codified racism.

It was Clarence Thomas, not any member of the Warren court, who wrote that:

under our Constitution, the government may not make distinctions on the basis of race. . . . There can be no doubt that the paternalism that appears to lie at the heart of [affirmative action] is at war with the principle of inherent equality that underlies and infuses our Constitution. See Declaration of Independence ("We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the

pursuit of Happiness").

And, for that, he has received no end of abuse.

And so Patterson calls decisions like the 1996 *Hopwood* case — which banned discriminatory admissions policies at the University of Texas Law School — "unsettling" and "troubling" (though always through some quoted authority, in order to preserve his image of narrative objectivity). The passage of California's Proposition 209 — which said only that government may not discriminate either for or against persons on the basis of race — demonstrated, according to Patterson, that the "civil rights movement" is "weak and fragmented" today. Fair-minded, benevolent liberals, Patterson says, are "especially troubled" that "federal court decisions" are "closing the door to virtually all strategies aimed at elevating the value of racial balance in the schools." He does not address how such "advocates of desegregated education" (a euphemism if there ever was one!) can justify imposing the cost of their "strategies" on the dreams of Cheryl Hopwood, the woman who was denied admission to the University of Texas law school because she is white — or Randy Pech, who lost his highway contracting job because of his race, and whose lawsuit (*Adarand Constructors v. Pena*) is now headed to the Supreme Court for a third time, after more than a decade of legal delays.

But Patterson is fairer than other left-liberal commentators on *Brown*. He doesn't go so far as to explicitly call Justice Thomas or his supporters racists. He doesn't have to. In today's political scene the slightest suggestion that Jesse Jackson or Al Sharpton have gone a bit too far — or that Proposition 209 is entirely consistent with Martin Luther King's dream that we ought all to be judged by the content of our character, not the color of our skin — is worse than heresy, it's downright political suicide. So by not explaining Justice Thomas' reasons for criticizing *Brown*, Patterson can perpetuate the "Uncle Tom" image that the left has fashioned for Thomas. In the same way, Patterson portrays "conservatives" as hijacking the language of equality for their own cruel and selfish ends. Proposition 209, he says — or rather, carefully quotes others as say-

ing — is a sneaky trick by the right wing to dupe the “civil rights movement” with its own language of equality.

I lose patience especially with Patterson’s calling the left “the civil rights movement.” If that phrase has any meaning, it is to denote everything that the left is not. Barely hinted at in Patterson’s book, for example, is the subject of school vouchers: he whispers in one paragraph that blacks (whom he portrays as despondent, thinking that civil rights litigation is “no longer worth the effort”) are “with varying degrees of resignation, resentment, and rage,” willing to pacify themselves with “a major hand in running their own schools.”

This is a characteristic slight to what is surely the leading civil rights

---

*Brown v. Board of Education did not reverse the doctrine of “separate but equal” on the basis of our natural equality under law. Instead, it relied on questionable scientific research suggesting that segregation harmed black children.*

---

issue of the decade: educational choice. *Brown* didn’t improve education for blacks because segregation was only one symptom of the real problem in public education: government control, and the lack of parental choice. As Howard Fuller of Marquette University put it last year, “For African-Americans, the stakes are huge. If opponents of providing low-income, mostly African-American parents with more educational power prevail, historical obstacles to advancement will be even more entrenched. *This current struggle is one we cannot lose.*” Yet despite the fact that minorities overwhelmingly support school vouchers — to *really* get their kids into better schools — the left has employed a variety of tactics, including patronizing glosses about black “rage and resignation,” to ignore the nearly unanimous voice of black parents that every day shouts more loudly, “let my children

go!”

Patterson is likewise silent about the place of economic liberty in the drive for a real and substantive improvement in the standard of living for blacks. If a government official really wanted to improve the station of blacks and other minorities in America, he could do nothing better than to repeal some economic regulations, picked at random from the state or federal business codes.

Consider the case of Leroy Jones, a black man who sold hot dogs at a Denver stadium for a living. He wanted to start his own taxicab company, but state regulations prohibited him from doing so without a license. Of course, licenses are granted by a

government committee made up of representatives from the local taxi industry, and they don’t want the competition. As a result, they haven’t issued a new permit for 50 years. Jones, represented by the Institute for Justice, sued. But under the liberal “rational relationship” test for economic regulations, the law was upheld, and Jones lost in court. (The publicity later convinced the legislature to change the law, but similar laws remain in force in major cities throughout America.)

Taxi driving is not a job that upper-class white guys take. It is a job that the poor, the illiterate, the immigrant, the inner-city resident, takes, trying to earn an honest living for himself and

## Notes on Contributors

*Ari Armstrong* serves as Publications Director for the Libertarian Party of Colorado and edits [www.co-freedom.com](http://www.co-freedom.com).

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

*John Bergstrom* is a cartoonist and illustrator who lives in southern California.

*Alan Bock* is a senior columnist for the *Orange County Register*.

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

*Andrew Chamberlain* is an assistant editor at *Liberty*.

*Scott Chambers* is a cartoonist living in Arizona.

*Christopher Chantrill* is a writer living in Seattle. He is writing *The Road to the Middle Class*.

*Michael Christian* is a recovering lawyer living in San Diego.

*Coleman Cooney* is the founder of the only school for bullfighting in the United States.

*Stephen Cox* is the author of *The Titanic Story*.

*Rick Esenberg* is an attorney and adjunct professor of Political Science at the University of Wisconsin-Milwaukee.

*Edward Feser* teaches philosophy at Loyola Marymount University in Los Angeles.

*Robert Higgs* is an economist and editor of *Independent Review*.

*Bart Kosko* is a professor of electrical engineering at USC and author of *Heaven in a Chip*.

*Richard Kostelanetz* has published many books of poetry, fiction, experimental writing, and cultural criticism.

*Barry Loberfeld* is the president of the Long Island chapter of the Freeman Discussion Society.

*Sarah J. McCarthy* is co-author of *Mom and Pop vs. the Dreambusters*.

*William E. Merritt* is a senior fellow at the Burr Institute and lives in Portland, Ore.

*Victor Niederhoffer* is a legendary investor and author of *The Education of a Speculator*.

*Randal O’Toole* is editor of *Different Drummer*.

*Eric Raetz* is an editorial assistant at *Liberty*.

*Bruce Ramsey* is a journalist in Seattle.

*Sheldon Richman* is editor of *Ideas on Liberty*.

*Timothy Sandefur* is a law student at Chapman University in Orange, Calif.

*Jane S. Shaw* is a senior associate at the Political Economy Research Center.

*Tim Slagle* is a stand-up comedian living in Chicago whose Web site is [www.timslagle.com](http://www.timslagle.com).

*Fred L. Smith Jr.* is president of the Competitive Enterprise Institute.

*Clark Stooksbury* is a freelance writer living in Knoxville, Tenn.

*Leland Yeager* is Ludwig von Mises Distinguished Professor Emeritus of Economics at Auburn University.

his family through hard and often dangerous work. But leftist economic regulations continue to make it easier to get a welfare check than a respectable job — and all in the name of the benevolence of the so-called “civil rights movement.” An entrepreneur wanting to start a business today must jump through so many bureaucratic hoops, kowtow to so many politicians, woo so many zoning boards and wink at so many “redevelopment agencies,” that

the Jim Crow literacy tests and poll taxes of ages past seem like nothing in comparison. Every year leftists demand an increase in the minimum wage even though each time it rises, it pushes more and more minorities into unemployment. That’s why Milton Friedman has called the minimum wage “the most anti-black law on the books.”

But not a word about these obstacles to real progress can be found in

Patterson’s book on the so-called “civil rights movement” — just as not a trace of it is to be found in the minds of paternalistic white liberals. And then Patterson paints those who defend economic liberty — or oppose racial classifications and quotas — as parochial, or reactionary, motivated only by “anger” or lack of “faith”; by “backlash[es] against the perceived excesses of American liberalism,” or by “resistance[ce] to further activism on behalf of civil rights.”

Perhaps when the left calls for a cut in the regulations, the taxation, and the constant government meddling that keeps people like Leroy Jones and his neighbors — or Cheryl Hopwood and Randy Pech — from realizing the chance to compete fairly for an honest living, and pursue happiness equally, they can pat themselves on the back for “activism on behalf of civil rights.” Until then, let them read a little Frederick Douglass:

In regard to the colored people, there is always more that is benevolent, I perceive, than just, manifested toward us. What I ask for the Negro is not benevolence, not pity, not sympathy, but simply justice. . . . Everybody has asked the question, ‘What shall we do with the Negro?’ I have had but one answer from the beginning. Do nothing with us! Your doing with us has already played the mischief with us. Do nothing with us! If the apples will not remain on the tree of their own strength, if they are worm-eaten at the core, if they are early ripe and disposed to fall, let them fall! I am not for tying or fastening them on the tree in any way, except by nature’s plan, and if they will not stay there, let them fall. And if the Negro can not stand on his own two legs, let him fall also! All I ask is, give him a chance to stand on his own legs! Let him alone! If you see him on his way to school, let him alone — don’t disturb him! If you see him going into a workshop, just let him alone — your interference is doing him a positive injury. Let him fall if he cannot stand alone! If the Negro cannot live by the line of eternal justice . . . the fault will not be yours; it will be His who made the Negro, and established that line for his government. Let him live or die by that. If you will only untie his hands, and give him a chance, I think he will live. □

## Classified Ads

### Business

Best Web application for managing time, expenses, and billing on projects. [www.ProProject.com](http://www.ProProject.com)

### Employment

*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.

### Literature

SINergy: Imagine Freedom from Governments and Churches. [www.stormy.org](http://www.stormy.org)

*The Titanic Story* by Stephen Cox. Truth is more fascinating than myth. This readable and entertaining new book cuts through the myth of the “arrogance” of capitalism and modern technology and gets to the real story — the drama of individuals coping with the risks of human life. Send \$9.95 to Liberty Book Club at P.O. Box 1181, Port Townsend, WA 98368.

**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, P.O. Box 1181, Port Townsend, WA 98368.

**Check Out the New Liberty Marketplace Catalog** — *Liberty*’s entire collection of audio and video tapes, books, and back issues is now available! Send catalog requests to: *Liberty*, P.O. Box 1181, Port Townsend, WA 98368.

Classified Advertising is available for 50¢ per word, ten words minimum. E-mail addresses, telephone numbers and URLs are charged as 7 cents PER CHARACTER. Ask us for requirements on adding your logo to your ad. 10% discount for six or more insertions. Payment must accompany order (check or money order only). Please suggest classification. Deadline for next issue: July 8, 2001.

**ABORTION AND RIGHTS: APPLYING LIBERTARIAN PRINCIPLES CORRECTLY** — explaining prenatal personhood and the libertarian foundation of parental obligation. Online: [www.L4L.org](http://www.L4L.org). Paper: \$3.00. Libertarians for Life, 13424 Hathaway Drive #B, Wheaton, MD 20906, [libertarian@erols.com](mailto:libertarian@erols.com)

**The Sociology of the Ayn Rand Cult** by Murray N. Rothbard. Published in 1987, this essay is one of the most important scholarly works on Ayn Rand’s inner circle. Rothbard was there, and what he offers is an unflinching, critical look at a cult that “promoted slavish dependence on the guru in the name of independence.” Send \$4 to Liberty Publishing, P.O. Box 1181, Port Townsend, WA 98368.

**War of the Werewolf** by Gary Greenberg and Jerome Tuccille. A political thriller about moral conflicts. Read an excerpt at <http://ggreenberg.tripod.com/werewolf/>

## SunriseView.com

**Inspired by Thomas Paine**, this unusual polemic, *The Return of Common Sense* by Eric Szuter, reveals a surprising solution to the statist chokehold. Visit our Web-site or call (504) 734-1795

### Personals

Gay libertarian man, 40, seeks romantic relationship. You: 21-50, nonsmoker, not overweight, HIV negative. POB 190315, San Francisco, CA 94119-0315. E-mail: [mdf1960@yahoo.com](mailto:mdf1960@yahoo.com). Photo essential.

### Web Sites

**The source for Liberty on the WWW** — Check out back issues of *Liberty* online at [www.libertysoft.com/liberty](http://www.libertysoft.com/liberty)

---

*Selling the Free Market: The Rhetoric of Economic Correctness*, by James Arnt Aune. Guilford Press, 2001, 217 pages.

---

# Style, Not Substance

---

Edward Feser

---

Plato famously portrayed the Sophists — itinerant teachers of rhetoric — as charlatans more interested in publicly winning an argument, by means fair or unfair, than in arriving at the truth. Plato held the latter aim to be that of the true philosopher, exemplified by his master Socrates. The term “sophistry” has, ever since, denoted the disreputable practice of attempting to persuade an audience by means of logical fallacies and rhetorical tricks rather than honest argumentation.

Whether Plato’s characterization of the Sophists was entirely fair is a matter of dispute, but it goes without saying that the current mania for inverting traditional categories of historical “heroes” and “villains,” together with the postmodernist denial of any genuine distinctions between reason and rhetoric or truth and usefulness, was bound to generate a movement to rehabilitate the Sophists and the methods with which they have conventionally been associated. Rhetoric, advocates of this rehabilitation insist, is every bit as important a study as philosophy or science. Indeed, it is more important, the more radical among these advocates seem to think, for in their view the study of rhetoric reveals to us the only means by which anyone ever really convinces anyone of anything. “Rhetorical analysis,” it is claimed, shows that the very methods of persuasion derided by philosophers and scientists as fallacies and tricks are in fact the methods that their own anti-rhetorical position ultimately rests on.

Such analysis also — and surely we could see this coming a mile away — reveals that the notions of “objective truth” and “disinterested rationality” are nothing but self-interested delusions. Unsurprisingly, this position has given rise to a new scholarly industry, the “rhetoric of science,” which, as its only apparent virtue (if virtue it is), has the capacity to open new avenues for young and mediocre academics to get published. They need only restate the already-rehashed-to-death relativist theses of historians, philosophers, and sociologists (Kuhn, Feyerabend, Latour et al.) in yet another specialized jargon.

Of course, the problem with this approach is the same one that plagues all varieties of relativism — namely, its self-undermining character: if everything is just rhetoric rather than objective rational argument, then so is the position of the rhetorical relativist, in which case his view is no more defensible than any other. And no attempt by a consistent relativist to put on a brave face and shrug off this fatal difficulty amounts to much more than the “shit-eating grin” (as philosopher David Stove has put it) of the con artist whose subterfuge has been uncovered. But such grinning is apparently enough for producers and consumers of this sort of literature. The relativist industry shows no signs of abating, and can only be reinforced by the advent of the “rhetoric of science” as a new discipline.

The “rhetoric of economics” could not be far behind, if only because the leftism that predominates among academics virtually demanded it in an age in which capitalism seems everywhere

triumphant. In *Selling the Free Market*, James Arnt Aune puts the tools of the newly minted relativist field of “rhetorical analysis” at the service of the left, aiming to expose the battery of hollow rhetorical ploys that, he alleges, comprise almost the entire arsenal of the free-market defenders.

Whether Aune himself buys into the worst crudities of relativism is not entirely clear. He hardly needs them, for he has ample crudities of his own. For starters, there is the predictable use of ugly and needless jargon — “rhetoricity,” “textuality,” “metacommunicating,” and the like, deployed as clumsily as in any piece of turgid and trendy “cultural criticism.” This could be forgiven if, hidden within his verbiage, he had anything new or interesting to say. But *Selling the Free Market* offers little more than a mishmash of potted and often inaccurate accounts of the arguments of free-market economists, philosophers, and politicians, even briefer summaries (with no new twists added) of well-known counter-arguments of anti-market theorists, and some unsystematic remarks of Aune’s own on the rhetorical devices used (or allegedly used) by free-marketers. To be fair, Aune seemingly wants to avoid merely countering capitalist rhetoric with its socialist counterpart — he believes there are rational arguments for his position that are objectively superior to those of his opponents, and he claims to give them. But the intricacies of the issues in economics and political philosophy that are relevant here are simply beyond his competence, so that what he says about them is brief, amateurish, and unconvincing. The bulk of his case rests on rhetorical analysis and, worse, on analysis that exemplifies the very offenses of which he accuses his opponents.

Now, I do not deny that rhetorical analysis has its place. There are, after all, non-rational elements in the situation of any argument, and it is important to be able to recognize and understand them so that their influence on one’s evaluation of an argument can be detected and neutralized. Moreover, such analysis helps explain why certain blatantly fallacious arguments are so convincing — as Stove has shown in *Anything Goes: Origins of the Cult of Scientific Irrationalism*, a

study of the rhetorical tricks that underlay many of the arguments for relativistic philosophies of science. But precisely because rhetorical analysis deals only with the tangential issue of why a bad argument seems to be convincing, and not at all with the chief issue of whether an argument is in fact good or bad from the point of view of logic and evidence, such analysis can never form the bulk of a case for or against anything. That the proponents

---

*Aune puts the tools of "rhetorical analysis" at the service of the left, aiming to expose the battery of hollow rhetorical ploys that comprise almost the entire arsenal of the free-market defenders.*

---

of a certain position sometimes appeal to this or that fallacy or rhetorical device is not evidence that their position is false. Anyone assuming otherwise commits the fallacy of *argumentum ad ignorantiam* or appeal to ignorance, the assumption that because an opponent has failed to prove a certain proposition, it follows that the proposition has been refuted. Because Aune's book is an attempt to refute the free-market position through rhetorical analysis alone, it is one giant *argumentum ad ignorantiam*, an argument capable of proving nothing about free-market economies even if everything he had to say were logical and relevant.



"Give me the checkbook — I'm off to redistribute the wealth."

Appeal to ignorance is not the only fallacy that Aune commits. He has a special fondness for the ad hominem. Again and again he tells us that such and such an argument is suspect because one of its defenders was "funded" (or "subsidized" or "financed") by this or that right-wing think tank or foundation. Aune seems especially proud to have discovered that the work of free-market scholars is sometimes funded by free-market organizations — a discovery presumably made possible only by the path-breaking methods and keen analysis of pioneering "rhetoricians of economics" like himself. Aune ought not hold his breath waiting for his hard-earned Nobel prize, of course, for this is no discovery at all. It is just one more playing of the most worn-out card in the leftist deck (unless the gratuitous accusation of "racism" is; and — again, no surprise — Aune's book makes heavy use of that tired gambit as well). More to the point, it is simply immaterial to the issues at hand; for as every beginning student of logic knows, but it seems every "rhetorical analyst" must constantly be reminded, an arguer's source of "funding," and any hidden or disagreeable motives or vested interests an arguer may have, are utterly irrelevant to his argument's cogency. (Beginning students of logic can move on to the next paragraph; rhetorical analysts should read over that last sentence a few times before proceeding.)

One might expect Stove's "shit-eating grin" to be Aune's only possible recourse on being caught in so contemptible a maneuver. But in considering the objection that his analysis largely rests on a simple fallacy (which he labels "motivism"), and finding it hard to smile when caught with so unpleasant a mouthful, he rashly tries to wash it down with a defense that is even more appalling. "It would be nice if the whole world were like a good graduate seminar," he says, "But the real world of controversy is not like that . . . As long as people make arguments, their motives will be questioned" (179). In other words: "Hey, everyone does it."

Only slightly less offensive is Aune's utterly unpersuasive attempt to undermine the work of free-market theorists by isolating what he alleges

are to be several dubious rhetorical strategies they typically employ:

Strategy 1: Define any object, person, or relationship as a commodity that can be bought and sold.

Strategy 2: Rely heavily on quasi-logical and quasi-statistical argument to enhance credibility and a disinterested sense of objectivity.

Strategy 3: Appeal to the reader's sense of irony by pointing out the inevitable perversity of well-intentioned social programs.

Strategy 4: Appeal to the reader's sense of moral indignation, equating failure to promote economic growth with condemning the poor to starve.

Strategy 5: Avoid responding to opposing arguments, because to do so would call into question the scientific character of your own argument.

Strategy 6: Leave empirical investigation to the sociologists or historians. (36–37)

In a chapter on the work of Richard Posner, he also isolates a strategy he calls the "realist style," the tendency of free-marketers to represent themselves as hardheaded and practical and their opponents as starry-eyed idealists oblivious to economic reality. Aune's evidence that the first six strategies are endemic to free-market theorizing is his analysis of three "case studies,"

---

*Aune seems especially proud to have discovered that the work of free-market scholars is sometimes funded by free-market organizations.*

---

namely three topics (the minimum wage, the "farm crisis," and labor unions) dealt with in a handful of articles and books Aune has chosen, seemingly at random — a single chapter from Milton Friedman's *Free to Choose*, an essay by University of Illinois economist Lee Alston from an anthology on economic history, snippets from obscure articles in restaurant industry magazines (!) and so forth.

What immediately struck me on reading it is the essential arbitrariness of it all: why isolate just these odd examples as somehow representative of all free-market economics? Why not



discuss instead Friedman's more systematic and scholarly work, or Hayek's, or any one of the many well-known treatments of economics by Henry Hazlitt and Thomas Sowell? Perhaps because a more systematic and thorough survey — one which included, for instance, Friedman's famous work on the monetary history of the United States, or the work of Murray Rothbard on the causes of the Great Depression or of Charles Murray on the history of American social welfare policy — would reveal the absurdity of attributing "Strategy 6" to Aune's opponents.

But Aune's chief arbitrariness is the way he formulates and attributes his rhetorical strategies. Take "Strategy 5": one does not need to read very far into the free-market literature, including Aune's own examples, to know that it is plainly false to say that its authors do not attempt to deal with opposing arguments; indeed, many free-market writings are nothing but attempts to refute arguments against capitalism. So how does Aune support this strange charge? Well, it turns out that two of the short pieces he took as "case studies" failed to address every possible objection, including a few objections made in sources that appeared years after the works Aune criticizes were published; ergo, free-market theorists in general avoid dealing with criticism.

It is hard to imagine an "analysis" more preposterous. To be sure, every market theorist fails to deal with some criticism or other. So what? No writer, whatever his point of view, can possibly deal with all potential objections, if only because authors who waited around until they had thought up every possible response that anyone might make to their work would never get anything written. So to claim, on this basis, that free-marketers (or members of any other school of thought) pursue a general "rhetorical strategy" of avoiding criticism is just silly. I should have thought this obvious; but the obvious isn't something Aune has a remarkable grasp of.

In any case, what matters is whether there is some telling objection to this or that particular claim about the market, not whether the defender of the claim has some "strategy" of avoiding objections. Whether there is some such objection has nothing to do

with "rhetorical analysis," but can only be determined by a careful examination of the relevant arguments in economics and political philosophy.

Something similar can be said of all the strategies Aune detects: ultimately, all that matters is whether this or that policy really does have perverse consequences, stifle economic growth, have bad effects on the poor, etc., topics about which the student of rhetoric has nothing to say. So why waste a whole book focusing obsessively on the "rhet-

oric," rather than the substance, of the debate? Possibly, one suspects, because it's so much easier to do "rhetorical analysis" than economics, political philosophy, history, and the like. Certainly Aune makes it look like a piece of cake. Apparently one need only note that an author takes a certain position; formulate the bold and exciting hypothesis that his arguments for that position constitute "rhetorical strategies" (if he gives a statistical argument, hypothesize that he's using

**"The Independent Review is excellent."**

— GARY S. BECKER, Nobel Laureate in Economics

**T**ranscending the all-too-common superficiality of public policy research and debate, *The INDEPENDENT REVIEW* is the widely acclaimed quarterly journal devoted to individual liberty and excellence in the critical analysis of government policy. Edited by Robert Higgs, *The INDEPENDENT REVIEW* is superbly written, provocative, and based on solid peer-reviewed scholarship.

Probing the most difficult and pressing of social and economic questions, *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. Unique, undaunted and uncompromising, this is the journal that is pioneering future debate!

*"The Independent Review is the most exciting new journal in many years and one of the few with a profound commitment to liberty."*

— WILLIAM A. NISKANEN, Chairman, Cato Institute

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

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

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

— RALPH RAICO, Professor of History, SUNY Buffalo

*"The best thing about The Independent Review is that it is by a wide margin the most intellectually interesting, libertarian, scholarly journal around today."*

— R. W. BRADFORD, Editor and Publisher, Liberty Magazine

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

— LELAND YEAGER, Professor of Economics, Auburn Univ.

#### In Recent Issues:

*The Therapeutic State: The Tyranny of Pharmacocracy*

— THOMAS S. SZASZ

*A Free Market in Kidneys: Efficient and Equitable*

— WILLIAM BARNETT, MICHAEL SALIBA AND DEBORAH WALKER

*Taxation, Forced Labor, and Theft*

— EDWARD FESER

*Libertarianism Against Economism*

— BRYAN CAPLAN

*Just War? Moral Soldiers?*

— LAURIE CALHOUN

*Eco-Industrial Parks: The Case for Private Planning*

— PIERRE DESROCHERS

*Watching You: Federal Surveillance of Ordinary Americans*

— CHARLOTTE TWIGHT

*Liberty and Feminism*

— RICHARD A. EPSTEIN

*The Agony of Public Education*

— JAMES L. PAYNE



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

#### Individual Subscriptions:

\$28.95/1 year, \$54.95/2 year

#### Institutional Subscriptions:

\$84.95/1 year, \$159.95/2 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. A31  
Oakland, CA 94621-1428 USA

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

# 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](mailto: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](mailto: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).

a "statistical strategy" to impress readers who find statistical arguments impressive; if he argues that a certain policy leads to poverty, attribute to him a "strategy of trying to convince readers who are concerned about policies that lead to poverty"); and, most importantly, find out who funds the author's research, and harp on that incessantly. The fact that anyone can play this stupid game underlines its arbitrariness. Certainly it is easy and plausible enough to attribute parallel "strategies" to Aune and his fellow socialists:

**Strategy 1:** Play on your reader's emotions by reiterating oversimplifying clichés, such as the notion that free-market advocates treat all persons, objects, and relationships as commodities to be bought and sold.

**Strategy 2:** Prefix "quasi-" to words like "statistical" or "logical" which are commonly used to describe the arguments of free-market advocates; this will subtly undermine the reader's inclination to take such arguments on their merits.

**Strategy 3:** Frequently engage in ad hominem attacks, especially by accusing free-marketers of having ulterior (probably racist) motives and of being in thrall to the foundations that subsidize them; you will, of course, be committing an obvious fallacy in doing so, but what the hell, everyone does it.

**Strategy 4:** Appeal to the reader's sense of moral indignation by casually making sweeping and unsupported accusations, e.g., that free-market policies have had a "destructive impact on the lives of millions of working people and families" (to quote the book's dust jacket).

**Strategy 5:** Take advantage of imprecise language to play off of the muddle-headedness of most readers: use "democratic" when you mean "government-controlled"; use "working people" when you mean "people whose work doesn't pay as well as that of some other people who work"; use jargon such as "rhetoricity" and "meta-communicating" to make banal observations appear profound.

**Strategy 6:** Leave the substantial issues to economists and political philosophers.

Not that I think attributing these strategies to Aune is entirely arbitrary: *Selling the Free Market* is little more

than a shameless and single-minded application of them. But of course I wouldn't pretend that that by itself shows that his (socialist) convictions are false (as opposed to poorly defended); only a detailed economic and philosophical analysis could do that. Spending 217 pages almost exclusively on the "rhetoric" of his position would be a waste of time if what one wanted to do was refute socialism — as he purportedly wants to, and not just to analyze rhetorically the arguments for the free-market position.

Then again, I must admit that what I'm calling "Strategy 6" isn't entirely followed by Aune, though perhaps it should have been, since his peripheral and haphazard attempts to delve into matters economical and philosophical merely reveal that he would have been better off sticking exclusively to "rhetorical analysis," if only to have some face left to save. For though his non-rhetorical arguments mostly consist of brief and simplistic summaries of points made by other left-wing authors, quickly tacked on at the end of his own "original" points about rhetoric — hardly enough to justify a claim to have made a substantial anti-free-market case — occasionally Aune forays into some new argumentation of his own, and the results are often painfully embarrassing.

Consider his discussion of libertarian philosopher Robert Nozick's well-known "Wilt Chamberlain" argument, wherein Nozick imagines the basketball player living in a society in which the distribution of wealth is determined according to some pattern (an equal distribution, say, or distribution according to merit or need) and in which one million people voluntarily give up some small portion of their wealth in order to pay to watch Chamberlain play basketball — thus disrupting the pattern. Aune writes:

The next move by Nozick is predictable: any set of holdings realizing a particular pattern may be transformed by voluntary exchanges or gifts into another set of holdings that does not fit that pattern. In other words, private charity can solve the problems of the less advantaged. (90)

He goes on to assert that the historical evidence doesn't support this claim. He doesn't actually cite any historical studies, it must be noted,

though plenty exist, including historian David Beito's recent *From Mutual Aid to the Welfare State*, which deftly refutes Aune's glib assertion. Nevertheless, Aune proceeds in good scholarly fashion to lump Nozick in with the dreaded National Rifle Association, "right-wing militias," etc. All that is bad enough, but the real offense comes with the "In other words . . ." wherein Aune demonstrates his inability to understand an

---

*What matters is whether there is some telling objection to this or that particular claim about the market, not whether the defender of the claim has some "strategy" of avoiding objections.*

---

academic philosophical argument, or even plain English. For Nozick's argument — one of the most famous in recent political philosophy — has nothing whatever to do with the empirical issue of whether private charity can best help the poor. It has to do instead with the conceptual issue of whether the justice of a distribution of wealth has anything to do with that distribution's fitting a certain pattern — as socialists often suppose it does by, for instance, taking the fact of inequality as such to be unjust. (Briefly: since we can always go from any sort of patterned distribution via voluntary, and hence just, transactions to a distribution that breaks the pattern but is nevertheless also just — because it was arrived at voluntarily — Nozick concludes that justice has nothing to do with patterns.) In what purports to be a work of serious scholarship, such a misreading is scandalously inept, comparable to that of the college freshman who thinks Einstein's general theory of relativity proves that "there's no objective right or wrong."

Aune is also keen on uncovering hidden "presumptions" in an argument, including what he takes to be the hidden "state of nature" theory presumption behind Nozick's question "Why should there be a state at all?"

(81), and writes as if the mere uncovering of presumptions constitutes a unique contribution to be made by rhetorical analysis. He seems unaware that political philosophers, economists, and the like uncover hidden presumptions all the time; it is a major part of what their dissection of each other's arguments involves. What makes this important, though, is that they then go on to try to determine whether the presumptions are true or not. They do not rest, as Aune does, with the mere "uncovering," as if that, all by itself, were significant. Since such heavy lifting is, as we've seen, beyond Aune's competence anyway, it was probably wise of him not to attempt it.

Of course, two can play his game, and the defender of the free market can easily point out any number of hidden assumptions that Aune and other leftists unreflectively make. Nozick's point, after all, was that leftists and others often just presume the state to be natural and limitations on it to require justification, when it might be that it is the state itself and its actions that require justification. Aune, like other socialists, complains that "market ideology relies on a radical dissociation between 'government' and 'people'" (169), but pro-market theorists would retort that it is leftists who often unconsciously conflate "the people" with "government," and so forth. But not only does Aune not try to show hidden leftist "presumptions" to be more plausible than their opposites, he writes as if his side doesn't even make such presumptions. Once again we see that while Aune's attacks on his opponents are ineffectual because they avoid dealing with anything of substance, a consistent application of his "method" would hoist him on his own petard.

I could go on cataloguing the innumerable deficiencies of this absurd book, but the place for that would not be a book review, but a critical thinking course. *Selling the Free Market* has only a single merit: its usefulness to students of logic as an agglomeration of old-fashioned sophistry. It would be interesting to know who "funded" Aune's work — not because this would add anything to a critique, but because those unseen parties really should be notified that they have made a poor investment.

## How to Subscribe to

# Liberty

**Liberty takes individual freedom seriously . . . and the status quo with more than one grain of salt!**

Every issue of *Liberty* brings you news you can't miss, opinions you won't find anywhere else, and the best libertarian writing in the world.

*You won't want to miss a single issue!*

## Act Today!

*Liberty* offers you the best in individualist thinking and writing. So don't hesitate. You have nothing to lose, and the fruits of *Liberty* to gain!

Use the coupon below or call:

### 1-800-854-6991

Please enter my subscription to *Liberty* immediately!

- 12 issues (One Full Year) \$29.50  
 24 issues (Two Full Years) \$56.00  
Add \$5 per year for foreign subscriptions.

name \_\_\_\_\_

address \_\_\_\_\_

city \_\_\_\_\_

state zip \_\_\_\_\_

- I enclose my check (payable to Liberty)  
 Charge my  VISA  MasterCard

signature \_\_\_\_\_

account # \_\_\_\_\_

expires \_\_\_\_\_

Send to: Liberty, Dept. L96,  
P.O. Box 1181, Port Townsend, WA 98368

# Terra Incognita

## *Milwaukee, Wis.*

It takes more than a village to raise a child, from a dispatch to the *Milwaukee Journal Sentinel*:

An audit of a child welfare program revealed that it had paid \$690 to take six children to a Chuck E. Cheese's.

## *New Orleans, La.*

Inventive methods of salesmanship, reported in *The Wall Street Journal*:

The efforts of drug companies to inform doctors about their new products have led to a number of techniques. Doctors have been given meals, "Christmas trees . . . Valentine's Day flowers, books, CDs, manicures, pedicures, car washes, bottles of wine, and cash," and been invited to "gas 'n' go" events, at which doctors can pull up and listen to a recorded advertisement for a drug while having their car's gas tanks filled up for free.

## *Toppenish, Wash.*

Advance in hydro-power generation, discovered in the *Seattle Post-Intelligencer*:

The Yakama Indian Nation recently sent a bill to the Bonneville Power Administration for \$32,000 for "two traditional ceremonies designed to bring rain to the parched Northwest."

## *United States*

Innovation in the world's second oldest profession, from a listing in the *Harper's* classifieds:

"Philosophical Counseling by Telephone . . . Certified Philosophical Counselor. Ethical, theological, existential issues, addictions, relationships, cult deprogramming."

## *Moscow*

An advance in collecting the dues we pay for civilized society, from a dispatch in *The Observer*:

To fight widespread tax evasion, Russia has established a school to train tax police. Children as young as ten are trained in the tax regulations, economics, law, firearms handling, and general military discipline. Said one cadet: "I think you need to frighten people into paying tax. It's going to be fun as well because you get to kick doors down."

## *Milwaukee, Wis.*

Extending a helping hand to those who need it, from a dispatch in the *Milwaukee Journal Sentinel*:

Two women defrauded the state welfare system of \$43,000 by setting up two bogus accounts that claimed that a total of two women and 15 children were receiving benefits. One of the women was a former "public aid caseworker" who established the accounts, processed the applications, and engaged in "confirming" benefits during supposed case reviews."

## *Seattle, Wash.*

Progressive measure to bring the dispossessed into the body politic, from a report in *The Seattle Times*:

After publication of a newspaper report that homeless people residing in a shelter that was damaged by the Nisqually earthquake had received government earthquake relief checks of \$1,200 each, "a flood of last-minute phone calls for earthquake assistance . . . pushed back the deadline to file damage claims."

## *Arizona*

The state of moral rectitude in the southwest, from a letter to the *Arizona Republic*:

By signing a measure to repeal hundreds of archaic sex laws: "Gov Jane Hull ignores thousands of constituents and signs a bill that the people of Arizona don't want. Her cowardly explanation is that 'the government does not belong in our private lives.' That is the typically absurd logic we hear from politicians with no moral fiber."

## *Milwaukee, Wis.*

Ending the scourge of child abuse, from the *Milwaukee Journal Sentinel*:

Child welfare workers listed as a child abuser a teacher in a religious school who gave a fourth-grade girl a swat with a wooden paddle.

## *Minneapolis, Minn.*

Library science changes with the times, reported by the *Milwaukee Journal Sentinel*:

The Minneapolis Public Library has recently enacted a ban on chess playing. The ban is a response to several incidents of "unruly fan behavior" such as "hurling abusive language in the direction of security guards."

## *Valencia, Spain*

Extension of the methods of the Moral Majority to the care of captive animals, from a report on *ananova.com*:

A local zoo is allowing its chimpanzees to watch television for educational and entertainment purposes. Researchers believe that the television can be used to improve the chimps' sex life, but will not show the sexually-oriented material to the children of the mating pair.

## *Milwaukee, Wis.*

Evidence of a resurgence of intellectual curiosity in America's urban Middle West, from the estimable *Journal Sentinel*:

A 17-year-old high school truant passed himself off for a week as a college-student volunteer at his own school's middle school. The charade ended when he shoplifted a sandwich while taking a group of children to the university's student union.

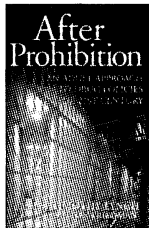
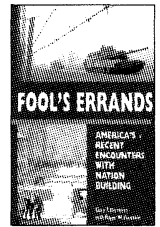
Thanks to Ivan Santana, Russell Garrard, and Wes Hopper for contributions to *Terra Incognita*.

(Readers are invited to forward news clippings or other items for publication in *Terra Incognita*, or e-mail to [terraincognita@libertysoft.com](mailto:terraincognita@libertysoft.com).)

# Recent Books from the Cato Institute

## ***Fool's Errands: America's Recent Encounters with Nation Building*** by Gary T. Dempsey with Roger W. Fontaine

In the decade following the end of the Cold War the United States undertook several nation-building missions around the globe. Those efforts, however, have largely failed. We said we'd bring order to Somalia, but we left chaos. We went to Haiti to restore democracy, but left tyranny. We intervened in Bosnia and Kosovo to create multi-ethnic democracies, but we now preside over militarized protectorates. This book cuts through the excuses and uncovers the causes of Washington's pattern of failure. • June 2001/220 pages/\$10.95 paper ISBN 1-930865-07-4/\$19.95 cloth ISBN 1-930865-06-6

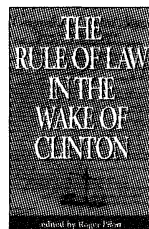
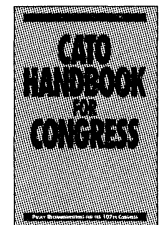


## ***After Prohibition: An Adult Approach to Drug Policies in the 21st Century*** edited by Timothy Lynch with a foreword by Milton Friedman

More than 10 years ago, federal officials boldly claimed that they would create a "drug-free America by 1995." To reach that goal, Congress spent billions of dollars to disrupt the drug trade, but in spite of that, America is no more drug free than it was a decade ago. Drug prohibition has proven to be a costly failure, and the distinguished contributors to this book explain why. • 2000/193 pages/\$9.95 paper ISBN 1-882577-94-9/\$18.95 cloth ISBN 1-882577-93-0

## ***Cato Handbook for Congress: Policy Recommendations for the 107th Congress*** edited by Edward H. Crane and David Boaz

This fourth edition of the *Cato Handbook for Congress* will once again set the standard in Washington for real cuts in spending and taxes. The 64 chapters in this volume contain hundreds of recommendations for radically reducing the size and scope of the federal government and returning it to the limits prescribed in the Constitution. • January 2001/ 680 pages/\$18.95 ISBN 1-930865-00-7

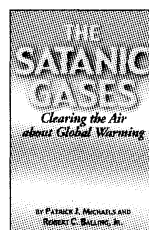
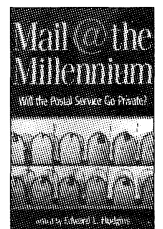


## ***The Rule of Law in the Wake of Clinton*** edited by Roger Pilon

In ways large and small, in matters political and personal, in legislation, executive orders, executive branch actions, court briefs, and conduct in office, President Clinton seriously undermined the cornerstone of American democracy — the rule of law. This book contains 15 essays by scholars, lawyers, lawmakers, and cultural critics that chronicle the Clinton administration's systematic abuse of the Constitution, common law, statutes, and legal institutions. • 2000/240 pages/\$9.95 paper ISBN 1-930865-03-1

## ***Mail @ the Millennium: Will the Postal Service Go Private?*** edited by Edward L. Hudgins

The rise of the Internet and the flourishing of private package-delivery services have brought the U.S. Postal Service to a crossroads. Containing 16 essays by economists, scholars, lawyers, and business leaders, the book chronicles the changing face of the package-delivery and communications market and presses the case for market-based reform of the Postal Service. • 2000/233 pages/\$10.95 paper ISBN 1-930865-02-3/\$19.95 cloth ISBN 1-930865-01-5

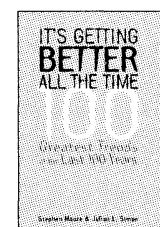


## ***The Satanic Gases: Clearing the Air about Global Warming*** by Patrick J. Michaels and Robert C. Balling Jr.

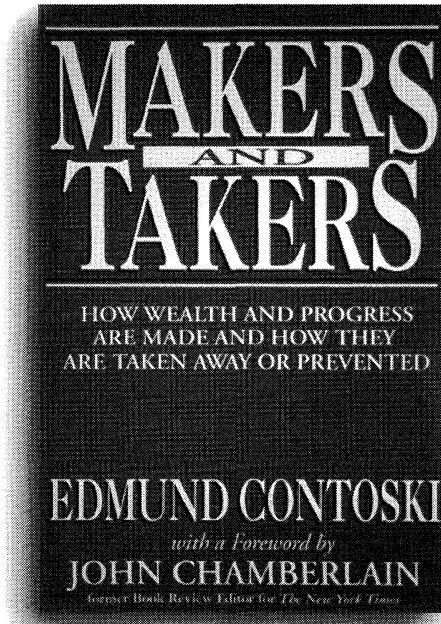
Two of America's foremost climatologists argue that almost everything we "know" about global warming isn't true. They lay out the scientific facts about the hype and hysteria and expose the wild exaggerations and even outright lies of many global warming extremists. The authors also examine how government scientists and academics often get corrupted by government money. • 2000/224 pages/\$10.95 paper ISBN 1-882577-92-29

## ***It's Getting Better All the Time: 100 Greatest Trends of the Last 100 Years*** by Stephen Moore and Julian Simon

There was more material progress in the United States in the 20th century than in the entire world in all previous centuries combined. Almost every measure of health, wealth, safety, nutrition, environmental quality, and social conditions indicates rapid improvement. With over 150 four-color graphs and tables, this book shatters the frequent message of doom and gloom we hear from the media and academia. • 2000/294 pages/\$14.95 paper ISBN 1-882577-97-3/\$29.95 cloth ISBN 1-882577-96-5



"Makers and Takers is an important contribution to today's national political dialogue." —Midwest Book Review



480 pages, 6 by 9 inches, softcover: \$24.95  
ISBN 0-9655007-4-8

"This is an excellent book!"  
—Bettina Bien Greaves, long-time Resident Scholar,  
The Foundation for Economic Education

*MAKERS AND TAKERS* shows the general reader how the free market works to create prosperity and progress—and how government interferes—regarding consumer products, our lives and health, the nation's economy, and even environmental issues. The book also shows how the original American system, which fostered the nation's success, has been transformed into one of increased government control.

"If you buy one book this year, if you read only one book this year, this is the one. It is meticulously researched. It is beautifully written. It is fantastic! It is *Makers and Takers* by Edmund Contoski."  
—Ed Flynn, host of *Talk of the Town* radio program

"In my opinion the kind of intellectual treasure that finds its way into print during few generations."  
—Mr. Sherrill Edwards, President, The Fisher Institute

Please send me:	Total
_____ copy (copies) of <i>MAKERS AND TAKERS</i> @ \$24.95	_____
Check or money order enclosed for \$ _____	
Name _____	
Address _____	
City _____ State _____ Zip _____	

"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*

"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.

"I am simply astounded at the clarity and reason displayed in the book. It is the most compelling case for private property, free markets, and individual liberty I have ever come across."  
—John F. Sampson, M.D.

"I read *Makers and Takers* and loved it. It is a book I will give to friends who need to understand why and how freedom works"  
—Eric Johnson, The Henry Hazlitt Foundation

"His economic research is awesome, and his analysis is sharp....*Makers and Takers* will become a classic of erudition in the struggle for true individual freedom." —*The Book Reader*

"I am reading Edmund Contoski's *Makers and Takers* and 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

"Very interesting and most clearly and capably written...really a stunning job of analysis."  
—Scott Meredith, president of the world's largest literary agency

"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*

Recommended in  
American Library Association's  
**BOOKLIST!**

Available from bookstores—or  
order direct and get an autographed copy!  
We pay shipping!

 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/amlipub](http://www.webcom.com/amlipub)