

Liberty

December 2008

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by the Editors & Contributors

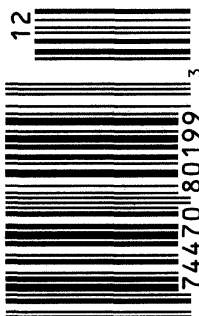
Schools Still at Risk

by Gary Jason

How "Reform" Cripples Our Economy

by Jim Walsh

Also: *Bruce Ramsey* analyzes Ron Paul's problems, *Stephen Cox* revisits the days when Hollywood was anti-communist, *Gary Jason* considers the prospects for libertarian thinktanks . . . plus other articles, reviews & humor.

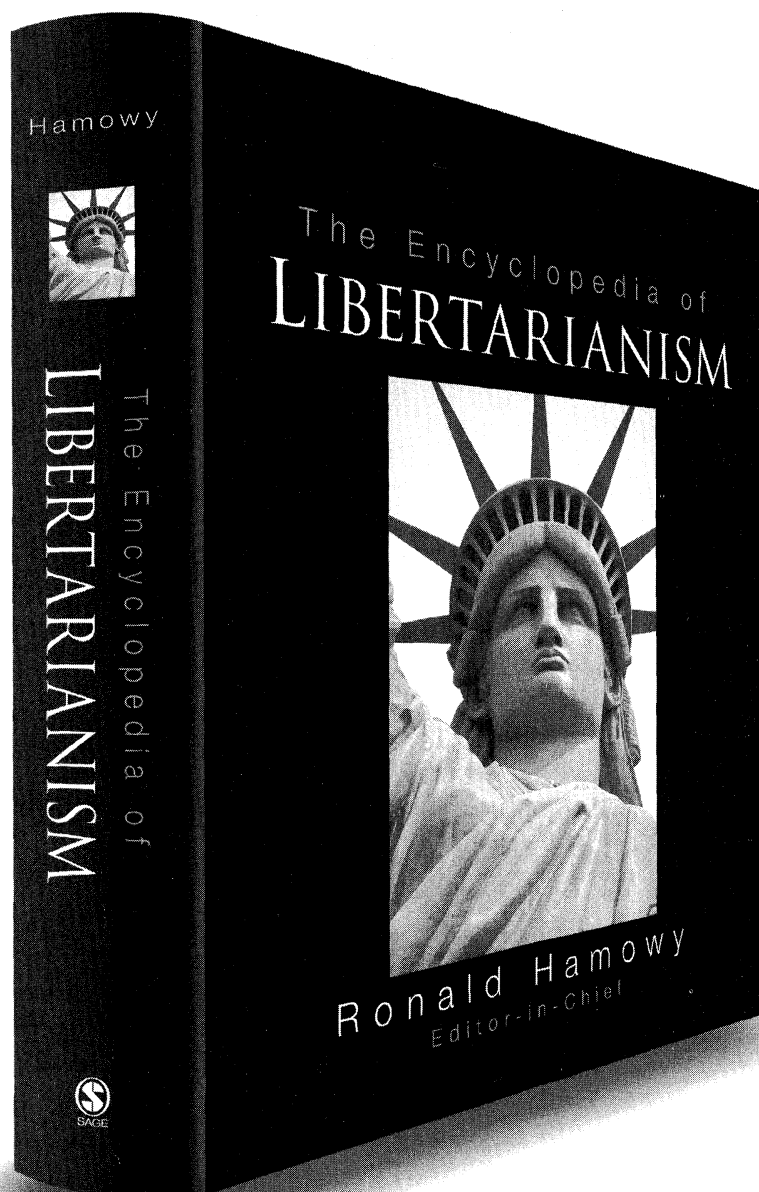


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Letters

Let Them Compete

Please tell me I missed Leland Yeager's humor (*Reflections*, October) and that he didn't seriously suggest that Special Olympians would derive a healthier measure of self-esteem by engaging in their "self-chosen niches" than by diverting their energies to competitive sports where they "suffer disadvantages" and which "promote unnecessary interpersonal rivalries."

Most Special Olympians suffer disadvantages in almost every aspect of their lives, including their "self-chosen niches," by virtue of some mental impairment that qualifies them as Special Olympians in the first place. The Olympics serve as a rare social event for many. It's an opportunity to exercise, to experience a sense of camaraderie and yes, Mr. Yeager, to compete — even if, in truth, there is little emphasis on winning. The games usually begin with the "athletes" reciting the Special Olympics motto: "Let me win, but if I cannot win, let me be brave in the attempt." What I find profoundly perverse is Yeager's attempt to string together the reporting on sporting events, the Olympics, the Special Olympics, and the Paralympics in a half-baked intellectual critique of the psychological and economic makings of a healthy society. I suspect somebody still feels the sting of being the last pick for dodgeball.

Mike Rex
Royal Oak, MI

Swedish Message

"Global Warming, Global Myth" by Edmund Contoski (September) was educational and interesting. I noticed past global warming during my lifetime (I'm 75); I have been aware of a warming trend here in the north-eastern United States. Some signs of this have been the northward movement of termite infestations (Eastern Subterranean Termites) and changes of species here in Ulster County, NY, such as the more southern living gray squirrels replacing red squirrels. (These are my observations. I haven't found other data to back it up.) Also I did a little survey of some city temperature histories online. The coldest years in New York City, Chicago, Minneapolis-St. Paul and Los Angeles were 1888, 1948, 1843, and 1875 respectively, and their warmest years were 1990–91, 1980, 1931, and 1921. This seems to indicate that there was warming taking place here in the United States in the past.

Al Gore's "An Inconvenient Truth" tries to tie this warming to the growth of CO₂ in the atmosphere. When Gore went to Sweden to publicize his movie, there was at the same time a technical meeting on climate change that concluded that climate change turned around in 1998, the same as in the Contoski article. Though the Swedish media virtually ignored the meeting, many Swedes have, like me, observed the slow warming of their country apart from manmade

Letters to the editor

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considerations. Sweden, where my ancestors mostly came from, has been warming for thousands of years, even when carbon dioxide in the atmosphere was lower.

In conclusion I want to make this observation. Until global temperatures cool sufficiently the polar caps will continue to melt but at a slower rate before coming back. I'm sure as long as they're melting the media will still see this as continued global warming.

Jan-Erik Janson
Highland, NY

In the Air Tonight

In his response to Gaylord Olsen (Letters, November), Edmund Contoski writes that "S. Fred Singer, in a paper in 2000, noted that since 1979 conventional thermometers have shown a rise of about 0.1 to 0.2 degrees C per decade but 'satellite data, as well as independent data from balloon-borne radiosondes, show no warming trend between 1979

and 1997 in the lower troposphere, and could even indicate a slight cooling (if one ignores the unusual warming of 1998 by El Nino).'"

Contoski's evidence is out-of-date. In the Aug. 11, 2005 issue of Science, three papers were published which reconciled temperature data from ground stations, radiosondes, and satellite data. Carl Mears and Frank Wentz of Remote Sensing Systems, in "The effect of diurnal correction on satellite-derived lower tropospheric temperature," identified an error by previous researchers at the University of Alabama at Huntsville (UAH), which when corrected brought satellite measurements in line with ground-based measurements. Roy Spencer at UAH acknowledged the error and noted that UAH provided their own set of corrections to their method, which produced comparable results. A second paper by Steven Sherwood of Yale University, "Radiosonde daytime

From the Editor

As this issue of Liberty goes to press, there is absolute certainty about two things: the nation's finances will remain in shambles, and the next president of the United States will be someone who never saw the crisis coming.

Now, with all appropriate modesty, I have to mention the fact that Liberty's writers and readers did see it coming. Even I saw it coming.

No magic was involved. We didn't study Nostradamus. We didn't use a Ouija board. We didn't visit the witch of Endor. We didn't haruspicate or scry. But somehow we — and millions of other people — managed to know all those important things that the wizards of government and commerce now proclaim they did not know, and could never have even guessed.

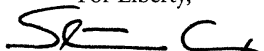
We knew that the housing market was a bubble, that bubbles burst, and that people who keep investing in bubbles lose their money. We didn't know exactly when that would happen to them, but we knew it would happen soon, and the effects would be enormous.

We knew, in addition, that the bubble was the joint product of Democratic and Republican politicians — some of them eager to gain money or influence for themselves and friends, some of them eager to help poor people own what they couldn't afford, and all of them eager to buy votes with easy money. There was a strange kind of sincerity about them; they seem really to have cherished the belief that debts never have to be paid, so long as you can get more and more individuals and institutions to contract them. A quaint idea! And mainstream thinkers call libertarians unrealistic.

This journal is especially unrealistic. It continues giving its advice, even when its advice is scorned. The advice has been: freedom and prosperity have a price, which is the responsibility to use your head; and the beneficence of government has a price, which may well be the loss of everything you own.

You might give these maxims a try, if you want to rebuild the country. Meanwhile . . . we'll still be here, giving our advice.

For Liberty,


Stephen Cox

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biases and late 20th century warming," showed that construction artifacts in radiosonde instruments resulted in higher daytime temperatures on older measurements, which, when corrected for, also showed a warming trend consistent with ground measurements. A third paper by Ben Santer of Lawrence Livermore National Laboratory, "Amplification of surface temperature trends and variability in the tropical atmosphere," examined the theory about how temperatures in the troposphere should relate to surface temperatures.

Roy Spencer of UAH, writing a critical response to these three papers, offered some critical questions but concluded that "at least some portion of the disagreement between satellite and thermometer estimates of global temperature trends has now been removed. This helps to further shift the global warming debate out of the realm of 'is warming happening?' to 'how much has it warmed, and how much will it warm in the future?'. (Equally valid questions to debate are 'how much of the warmth is man-made?', 'is warming necessarily a bad thing?', and 'what can we do about it anyway?'). And that is where the debate should be." (See <http://tinyurl.com/3g6ysf> and <http://tinyurl.com/dwvu8>.)

It was these Science papers that changed Reason science writer Ron Bailey's mind about global warming in 2005, when he wrote "We're All Global

Warmers Now: Reconciling temperature trends that are all over the place."

It looks like Contoski — and Liberty — hasn't caught up yet.

Jim Lippard
Phoenix, AZ

Contoski replies: The three papers in 2005 cited by Lippard have not, as he claims, "reconciled temperature data from ground stations, [weather balloon] radiosondes, and satellite data." Roy Spencer and John Christy of UAH conceded they had made a mistake but said it was within the margin of error of their work. They said their revised calculations still produce a warming rate too small to be a concern. "Our view hasn't changed," Christy said. "We still have this modest warming."

In August 2007 Singer declared the claim "that the mismatch between surface and troposphere warming has now been resolved . . . is not supported by actual observations. According to the authoritative CCSP (Climate Change Science Program) issued by NOAA (National Oceanic and Atmospheric Administration) in April 2006 there is considerable disparity between the two warming trends. Greenhouse models (GH) indicate that the tropics should provide the most sensitive location for validation; trends there should increase by 200–300% with altitude, peaking around 10 kilometers — a characteristic for GH warming. However, data from

weather balloons (and satellites) show the *opposite* result — no increasing trend with altitude and a *lower* trend than at the surface." (Italics by Singer.)

In 2008 Singer noted, "The Executive Summary of the CCSP report inexplicably claims agreement between observed and calculated patterns, the opposite of what the report itself documents. . . . Unfortunately, many people do not read beyond the summary and have therefore been misled to believe the CCSP supports anthropogenic warming. It does not."

Halfway and Retreating

I no longer care for, or agree with, your magazine. I'm pretty libertarian, but I think many of our problems can be traced to government giving the corporations everything they want. I want more regulation of big corporate donors.

I think the repeal of regulations of banking/financial businesses caused the current financial meltdown.

I also want more money to be spent on programs for the poor, and an end to the war on some drugs.

J. Abelmar
Ewing, NJ

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Reflections

Radio wave — Since 2001, I have found it almost impossible to listen for more than five minutes to the likes of Limbaugh, Beck, and Levin. Their zealous cheerleading for war, overflowing xenophobia, and constant shilling for the GOP does not take long to grate on the nerves. During the bailout crisis, however, rightwing talk radio performed admirably. Without the pressure it exerted, the House would never have rejected the bailout on the first vote.

The contrast between rightwing talk radio and mainstream media outlets on the bailout issue is striking. I made the the mistake of listening to "All Things Considered" (formerly sponsored by Fannie Mae and Freddie Mac) and heard a litany of pro-bailout voices. For all its vices, talk radio provided a needed counterweight to the MSM's attempt to manufacture a consensus on this issue.

— David Beito

Fight dumb with dumb — As both a history buff and a hoity-toity know it all, I have, with great pleasure, recently dived into the classic book "Democracy in America," by French writer Alexis de Tocqueville. Anybody who has read extensively on American history has doubtless seen him quoted many times.

Tocqueville offers perhaps the best theoretical foundation for the concept of the "tyranny of the majority." In a nutshell: in a time of equality, the opinion of the majority is so prized that it seems sensible to enforce that opinion, by state action if necessary.

It seems he was right. Just let your mind span across all the laws that have sprung out of common consensus. Want to go without a seat belt in your own car? What, are you suicidal?

Everyone knows that's a bad idea. Think that, simply because you're an adult, you should be free to smoke marijuana or marry whom you wish? Fat chance, hippie. Take a bath and reconsider.

But the problem may also be the solution. We simply have to convince the general public that messing with personal liberty is a bad idea. Then just wait for the public outcry for a law that protects us from intrusive laws. It's jurisprudence in the form of ju-jitsu. So educate those around you, compete in the market place of ideas, give free reign to your impulse to be an opinionated jerk, and if people don't take kindly to it, just tell them the French are on board with the idea.

— Bill Shepherd

Hazy accounting — Throughout the recent discussion of the poor state of the American economy and the justifications for bailing out some banks, public figures have talked about the particular hardships put on businesses that count on borrowing to make payroll. Politicians lament for these businesses. So do pundits. Showing their uselessness, so do some economists.

A relatively few seasonal businesses rationally draw on lines of credit to keep their staffs working during their slow months. But, generally speaking, a business that has to borrow to make payroll is a business that was in trouble before the credit troubles started. It needs to lay some people off.

Of course, statist politicians would have little sense of this basic business truth. They borrow all the time to make their bloated government payrolls.

— Jim Walsh

Whispered to the conservatives — Bush's eagerness to bail out the economy by government acquisition and management amounts to nothing less than state socialism. It goes far beyond anything imposed on us by Franklin Roosevelt or Lyndon Johnson.

Bush early on adopted a Wilsonian, interventionist foreign policy (after campaigning against nation building). His restrictions on civil liberties are the most severe since Wilson's administration — or should I say the Alien and Sedition Acts?

Two years ago I called the man a modern liberal. I was wrong. He's something even worse — a corporatist. Mussolini with a Texas twang.

This is the end product of conservatism? How is it that that well-reasoned and indeed noble tradition has fallen into such

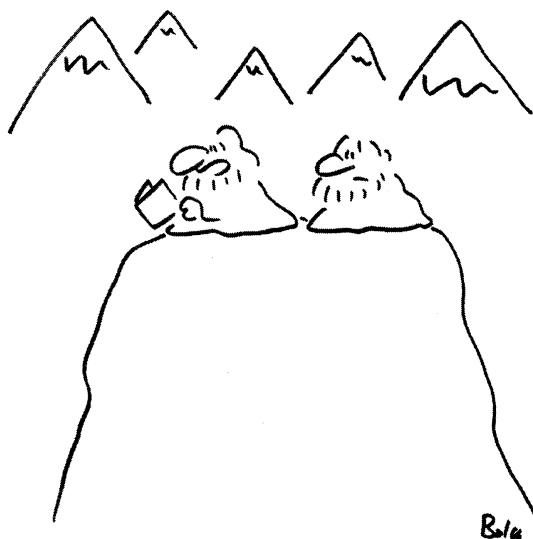
intellectual and moral bankruptcy? What in God's name do you people have to say for yourselves?

— Jon Harrison

Can't do that — Congress' temporary rejection of a \$700 billion bailout package was no reason for optimism. The blowhards in DC, faced with a problem — any problem — can either 1) throw your tax dollars into someone's screaming maw, or 2) admit they've got no clue, and do nothing. The latter option is invariably true and more appropriate, and is never tried.

— Mark Rand

Getting our groove back — People laughed at John McCain for saying the economy is fundamentally strong.



“Faith can move mountains?”
— That’s actually a little *disturbing*.”

Surprisingly, however, he was right. Unemployment is lower than the average of either the 1970s or 1980s. Inflation is low, and our email in-boxes are still filled with offers for low-interest loans.

The financial meltdown is not a failure of fundamentals, it is a crisis of confidence. Our entire economy is based on a near-universal faith that pieces of paper with no intrinsic value other than black printing on one side and green on the other are worth something. Once that faith disappears, we are back to tending goats and bartering for survival.

It is surprising yet true that confidence can dwindle when

the fundamentals remain strong, which was exactly the point McCain was trying to make. Of course his statement, like so many others on both sides, was taken out of context. Whether the \$700 billion bailout will work or not I cannot say, but its sole purpose is to restore confidence, not to deal with fundamentals like employment, inflation, or productivity.

— Randal O'Toole

A radical base — As I write this, Liberty is caught in the dead zone that all political magazines navigate around elections. The presidential vote hasn't yet occurred — but the outcome will be known when you read this. The standard

Word Watch

by Stephen Cox

This column objects to clichés. It particularly objects to clichés that are delivered with an unctuous sense of superiority, as if to say, “Hah! I’ll bet you couldn’t think up an *original* phrase like *this!*” Well, I could, and so could everybody else; and none of us would have to think very hard. We could just turn to the next TV channel and hear exactly the same kind of expression from exactly the same kind of fool.

Election years are always infested with egregious clichés. Clichés come naturally to politicians, because the American electorate is almost evenly divided about almost everything, and the pols don’t want to offend any marginal person who might conceivably side with them, just by making some untried, untested remark. A cliché has at least been weighed in the balance and found inoffensive. That’s what the politicians think. And the media analysts, who criticize everything else, never, ever criticize a cliché. Rightly so. Without clichés, neither they nor the politicians would have anything whatever to say.

So here’s a list of political clichés that have made themselves objectionable to this department. In the words of a humble cliché of a past era: *Read ’em and weep.*

“At the end of the day.” Many readers have commented on this phrase. These people are already at the *end* — the end of their wits. Why, they wonder, couldn’t somebody — anybody — say simply, “Vice presidential candidates may not matter much to people when they actually vote,” instead of launching into, “At the end of the day, I believe we’ll find that the specific choice of a vice presidential candidate, by either of the two major parties, may have only a minimal effect.” Children of a future age, reading this indignant page, will know that this is the way that 21st-century “intellectuals” actually talked.

“Backs,” as in “on the backs of.” A leftwing cliché: leftists are always objecting to “balancing the budget on the backs of the poor,” and other picturesque activities. Now comes Sen. Obama: “We should not be bailing out banks on the backs of American taxpayers.” Simultaneously, Sen. Obama was supporting plans to do exactly that. But no matter. Imagine a bank. Now imagine a bunch of guys bailing it out, presumably with pumps and buckets. Finally, imagine all this happening on top of millions of human backs. Wild, man.

“Broken.” A church in my neighborhood solicits my business by sending me an election-oriented postcard: “Election years remind us that there is broken leadership on both sides of the

political aisle. Join us as we study the book of 1 Samuel, which looks at broken leadership . . .” It’s true; 1 Samuel, the world’s first book of serious political analysis, happens to be a study of bad leadership. But as for “leadership” being “broken” . . . this is not a picture that one can visualize. Leadership isn’t a beer mug; it isn’t even a “relationship” — the kind of thing that, as we know, gets *broken* all the time. But because everyone in our society has been trained for the past 30 years to think in metaphors of “relationship,” everything in our society is now said to be *broken*. “Leadership.” “The middle class.” “Capitalism.” “The political system.” *All broken.* All needing to be *fixed*, by some *fixer*. And that’s not a nice word.

“Gate.” As soon as there was a whiff of scandal about Palin’s alleged meddling with the Alaska constabulary, the Democrats came out with “Troopergate.” Look. Watergate was a place where a political crime took place, over 30 years ago. What’s the statute of limitations on this silly suffix? Have we all been sentenced to clichés without parole? Shall we call every questionable homicide a “Lizzie,” after Lizzie Borden? Or every children’s fantasy a “pooh,” after that bearlike thing in the old books?

“In history.” This little dog started barking a long time ago — at approximately the time when people started writing articles calling somebody “the greatest drummer” or “greatest singer” or “greatest guitarist” in “all of rock ’n’ roll history.” Today, “history” is as all-pervasive as Mary Baker Eddy’s God. Every blip in the polls is the greatest blip in *history*. And “history” has a near relation: “historic.” America is the only country in the world in which buildings from the 1970s are targets of “historic” preservation. So it’s natural that all American political candidates should proclaim that “we have a historic opportunity” to do thus and so (including, of course, obliterating real history; consider Biden’s absurd remarks about Roosevelt defeating the Great Depression by lecturing the public on TV). It’s natural that McCain’s choice of Sarah Palin should have been insta-labeled as “historic”; it’s natural that Obama’s big speech in Denver, which was watched by fewer people than Palin’s big speech in St. Paul, should have been considered even more “historic”; it’s natural that the pundits should have pre-approved the whole election of 2008 as “historic.” Sure: just as historic as the election of 1908 (I hope).

“Initiative.” Politicians have *initiatives* like Lassie has worms. If they didn’t have them, political journalists would have little to write about, for many days at a time. They’re dependent on the

operating procedure is to avoid mention of the elections. But I have an observation about Barack Obama that may be useful whether he's the president-elect or the angriest lefty prig in the U.S. Senate.

Win or lose, Obama may be the first major American governmental figure who is a product of government. Other politicians have been beholden to groups of government employees; but Obama has been essentially created by them. Like the robots created by the self-aware computer system in the Terminator movies.

From the first days of his political life, Obama was shaped

by two government-focused labor unions — the Service Employees International Union (SEIU) and the Illinois Education Association (IEA, his home-state version of the National Education Association).

The IEA has 125,000 members drawn exclusively from public elementary and high schools. Like its national parent, the IEA twists itself into logical knots to oppose any form of school choice.

The SEIU claims some 2 million members and, while it's cagey about exactly how many are government employees, its website indicates that more than half are — most of these

candidates for most of their copy. What would happen if the two major-party candidates couldn't get headlines by *unveiling* a new *healthcare initiative*? What would happen if neither of them ever *seized the initiative on foreign policy*? A lot of good things, I imagine. But politicians just can't help themselves; they've gotta *seize* stuff, in the same way that a drunk's gotta seize his next Johnny Walker (red label). You're lucky when they don't seize your wallet. Nevertheless "seize the initiative" is nothing more than a cliché to substitute for "deliver a silly speech."

"In the tank." Conservative commentators (are you listening, Sean?) have convinced themselves that saying a journalist is "in the tank for Obama" means something much, much more important than saying that he or she is an advocate for Obama. I don't like these Obama guys either, but for God's sake, they're not the lobsters in the lobby. Maybe I wish they were. Maybe I wish that a hand would come down and take every partisan news "reporter" off to the cooking pot. Still, I hope I would use fresher terminology to describe the event.

"Out of touch." During the campaign, we heard a lot about McCain's being out of touch because he's old, and Obama's being out of touch because he's a latte liberal. But what *out of touch* really means, as my colleague Bruce Ramsey notes, is "He doesn't agree with us!" Bruce says it's a "herd word" — now *that's* a good phrase! Granted: all libertarians are by mainstream definitions *out of touch*, because we don't agree with any of the nonsense noted above. But we shouldn't have to listen to commentary from people who think that no one knows anything unless he's *touching* every item in the store.

"Proactive." I've noticed this cliché before, but despite my best efforts (and those of my friend Barbara Branden), it's becoming steadily more frequent. "Proactive" is a monster, seeking whom it may devour. Recently it devoured Obama, whose "proactive stand" (on something or nothing) was lauded by his captive press. It's bad enough to rush around and be proactive, but how can you be proactive when you're *standing* someplace?

"Somehow." This is a candidate- and partisan-analyst word. It is never used in situations in which there is any actual ambiguity about the subject under discussion. People never say, "I don't know how my political party is going to deal with healthcare, but *somehow* we'll come up with something." People always use *somehow* for things that are perfectly clear, but appertain to the other party: "My opponent believes that somehow his proposals will end the economic crisis." Mainly, *somehow* is a Democratic word, expressing the Democrats' favorite tone of snotty but baffled intellectual superiority: "The Republicans are somehow suggesting that Sen. Obama is a candidate of the Left!"; "The Republicans believe that Sen. Obama somehow valued the ideas of the Rev-

erend Wright!"; and so on. Well, the Republicans suggest those things, because they're true — *somehow*. But because the snotty speaker has said the word "somehow," the audience is supposed to laugh at such *preposterous* ideas. I have a modern liberal friend who refers to the "ridiculous conception" that *somehow* capitalism made America the most prosperous nation the world has ever seen. He thinks it was labor unions that done it. Or maybe it was something in the water, *somehow*.

"When the fat lady sings," "The fat lady hasn't sung as yet," "We're all waiting till the fat lady sings," "I think the fat lady may already have sung," and other invocations of overweight opera singers. Listen. The fat lady has been singing, by means of this cliché, for more than three decades. Beg her to stop.

"You know what?," "It turns out," "But hey!," and other *hip and clever* ways of injecting *flair* into news reports. We've heard enough people saying, "While Sen. Obama was two points ahead on Monday, it turns out that he's only one point ahead on Wednesday," and, "I'm Vickie Smith, reporting from Lansing, where Sen. McCain says, you know what, I'm gonna win the great state of Michigan. Well, only time will tell. But hey! This is election year!" Right. And indeed, time will tell. Hey!

But you know what, there was once a time when clichés came close to realities. At least one of them did. Up through 1920, it was generally regarded as demeaning for presidential candidates to run around the country giving speeches. Instead, they remained at home — on their *front porch* — and let other people *stump* for them. In the election of 1920, Warren Harding conducted such a *front porch campaign*. He stayed at his house in Ohio, and when delegations of supporters got off the train and walked over to his place, he came out on the porch, gave them a little speech, and walked back inside. Because so many delegations arrived, he added onto the front porch. It's a very nice porch, and his campaign was as near as you can imagine to the homey cliché about porches.

No one had to hear about Harding contesting "battleground states" or "invading" Michigan. No one had to watch him "criss-crossing America." He stayed at home, nursing his native clichés. He had been a newspaper editor, after all; so in his inaugural address, he invoked the grand cliché of Jefferson in his first inaugural. Harding said that he wanted no *entangling alliances*: "Confident of our ability to work out our own destiny, and jealously guarding our right to do so, we seek no part in directing the destinies of the Old World. We do not mean to be entangled."

Not bad. If you want to use a cliché, use one from Jefferson, and use one that makes sense. But Harding is the person whom our modern cliché-spouters call "our worst president." Clearly, the quality of clichés is deteriorating.

coming from non-teaching employees of public schools and people working in facility management for government buildings. It is, by common reckoning, the most radical and collectivist union in America today. Also, the fastest-growing.

When Obama was an unlikely candidate for the U.S. Senate, the IEA and SEIU were his first and loudest supporters. They pushed him through his presidential-primary battles with Hillary Clinton. It's common to see scores of IEA, NEA, or SEIU T-shirts behind Obama when he speaks in public. He hasn't merely aligned with these unions along his way to the front of American politics; they are his political base.

— Jim Walsh

Yo quiero bailout — Who sounds more farblund-jet? Veteran politicians talking about the financial crisis, or sometime investment bankers talking about how government intervention can resolve it? There's a chihuahua race.

— Richard Kostelanetz

Market returns — Here's the reason why a private insurance program will always be a better option than Social Security: there was a slump in the market this week, but it will recover. Almost all the value it had will come back in time. On the other hand, everything you have ever paid into Social Security has been spent. It's gone. Social Security is completely bankrupt, and trillions of dollars in debt. If it were a private corporation, its administrators would all be in jail.

So if you had your choice, whether to put 15% of your income into Social Security, or the stock market, where would you put it? And in a free country, shouldn't you be entitled to make that choice?

— Tim Slagle

Billionaires behaving badly — In *The Wall Street Journal* (Sept. 11), Edgar Gartner made a nice observation about T. Boone Pickens' much touted plan to move America to energy independence. As you probably know, Pickens, a man who has made billions in the oil business, has run commercials suggesting that the solution to the energy crisis is wind power.

Gartner reports an interesting fact about Europe's experience with wind power. Spain and Germany have extensive experience with wind power. Indeed, Spain gets about 8.7% of its power from wind. But wind power (like solar power) is unreliable: during times of the year when the winds are calm, wind farms produce little if any energy. So wind farming needs to be supplemented by a more reliable power source.

This backing is invariably fossil-fuel plants. Since coal plants that are capable of generating large amounts of power on short notice have a costly "standby" mode, the preferred backup plant is gas-turbine powered. The result is that both Spain and Germany have been building gas-turbine plants just as quickly as wind plants. As Gartner notes in his fascinating article, perhaps this is why most oil and gas companies are pushing "renewable" energy projects: it is "just a very clever business strategy."

But the growing use of natural gas — ironically increased rather than decreased by wind power — is putting Spain and Germany under the thumb of the major gas producers, especially Russia. Eighty-three percent of Germany's natural gas and 99% of Spain's is imported.

In America, we see billionaire Pickens, along with Shell,

BP, and Chevron, pushing for wind power. With Gartner, I suspect this is a ploy to add value to their enormous natural gas assets. In this regard, Pickens is similar to George Soros, the billionaire pushing ethanol (not to mention Obama). It turns out that Soros has immense interests in the Brazilian ethanol industry.

Beware of wolves in Green clothing.

— Gary Jason

Eight-ball says "punt" — The "Emergency Economic Stabilization Act of 2008" covers many things with great specificity. It details which cars qualify for which tax breaks, it establishes commissions to study alternative energy sources, it spells out that certain toys will be exempt from excise taxes, and mandates that insurance companies pay for twelve-step and rehab programs.

But although Congress fancies that it knows enough about the economy to decree in this act that "to protect home values, college funds, retirement accounts, and life savings," it is vital to tweak the "rum excise tax to Puerto Rico and the Virgin Islands," and extend the "development credit for American Samoa," the act is remarkably vague about the specifics of the bailout itself. In effect, the act simply gives the Secretary of the Treasury a supply of blank checks to be used as he sees fit. The only restrictions are 1) checks larger than \$250 billion must be counter-signed, 2) if he buys something that's not mortgage-related, he must first proclaim that it's necessary, and 3) there's only \$700 billion in the account (for now).

If you really expected better, please, please . . . don't vote.

— Mark Rand

Commons tragedy — Hugh Morton, who died in 2006, was the owner of North Carolina's most famous scenic site, Grandfather Mountain, the highest peak in the Blue Ridge mountain range. Under his management, the area was open to tourists but preserved under an agreement with the Nature Conservancy. Morton is a legend because of his successful battles to protect the mountain from intrusion by state and federal highways.

This September, less than two and a half years after his death, Morton's family announced the sale of the mountain to the state of North Carolina. They announced it with chatter about how the stunning acreage will be "protected for good."

My thoughts: first, it had been preserved, just fine, privately. Second, both the roads that Morton kept off the mountaintop were government roads, one of them proposed by the state of North Carolina, now the owner. Third, the history of government protection of parks is less impressive than most people think.

One of the earliest articles I wrote for *The Wall Street Journal* (jointly with Terry Anderson) was about Ravenna Park in Seattle, Washington. In the late 1800s, Ravenna Park was filled with Douglas fir trees, at least one of which was as high as 400 feet. Privately owned, the park was carefully protected and it drew (according to press reports) thousands of tourists a day.

Because of Seattle's growth and worries that private owners could not preserve such a place for long, the city of Seattle began condemnation proceedings to take over the park. In 1911 it forced the owners, Mr. and Mrs. W.W. Beck, to sell it to the city.

By 1925, all the giant trees were gone, cut down by people (probably city employees) who were seeking firewood. By the early 1970s the park had become a hangout for drug users.

Government ownership is no guarantee — of anything good.
— Jane S. Shaw

They're coming to your town — I don't know about you, but the following sentences scare me almost (almost!) beyond words: "The 3rd Infantry Division's 1st Brigade Combat Team has spent 35 of the last 60 months in Iraq patrolling in full battle rattle, helping restore essential services and escorting supply convoys. Now they're training for the same mission — with a twist — at home."

The words are from an article posted Sept. 30 on ArmyTimes.com, "Your online resource for everything Army." The piece is puff, or as puff as the military gets least-aways — happy stateside stays for our hardworking boys and girls, out there defending freedom — but there is a hard, hard question beneath the fuzzy feeling of finally getting some of our troops out of the godforsaken desert: how the hell did we allow our country to get to the point that we are allowing our own military to patrol our own country?

"After 1st BCT finishes its dwell-time mission," the article continues, "expectations are that another, as yet unnamed, active-duty brigade will take over and that the mission will be a permanent one." A permanent deployment upon ourselves — surely the skills developed for combat and counterinsurgency scenarios outside our borders are not suited for stateside deployment? Not to fear: "The 1st BCT's soldiers also will learn how to use 'the first ever nonlethal package [i.e., armaments] that the Army has fielded' . . . The package includes equipment to stand up a hasty road block; spike strips for slowing, stopping or controlling traffic; shields and batons; and, beanbag bullets."

With the addition of Tasers (mentioned next in the article), this is the same "nonlethal" array available to our police forces, meaning the deployment marks the complete eradication of any line between the two functions. An undated correction appended to the article indicates that this nonlethal "package" (and how much more swaggering, how much more engorged with crotch-bulging machismo can jargon get?) is only to be deployed in war zones — but first, what's to say that in the event of a domestic emergency, the military, or the commander-in-chief, can no longer declare war zones on domestic soil; and second, if they aren't armed with nonlethal gear, are they then armed with lethal force, or unarmed? If the former, our junta is complete; if the latter, why the hell are they being used for theaters in which the National Guard — under control of the state governments, rather than the federal — is already waiting to perform?

Either way it's happening, right now, in the sweet land of liberty. The military term for all of this, incidentally, is "homeland mission": a euphemism winking at empire. Remember, these troops are being redeployed — taken out of brigades so starved for manpower that they had to be subjected to stop-loss restrictions, to what are effectively violations of 14th-Amendment rights — not to Afghanistan or any other trouble spot, not to Korea or any other of the 130-odd countries in which we presently garrison troops, but in America itself. If there is an upside, it might be in the rediscovery of

our rarely exercised 3rd Amendment rights; in the meantime, I hope you'll pardon me for asking again: how the hell have we allowed this to happen?
— Andrew Ferguson

Over easy — For years the Fed and the banks have devised innovative, creative, and ingenious ways to make money "easy," to make dollars plentiful. They have declared paper dollars to be "legal tender." They have reduced reserve requirements, and substituted commercial paper and government bonds for gold reserves. They have furnished loans to borrowers at lower interest rates than private savers were willing to offer. In order to make still more loans they have expanded credit on the basis of bundled and "securitized" questionable assets, including failed mortgages and loans to deadbeat college students. They have loaned money at bargain interest rates, thus flooding the market with new dollars and credits. When over-extended borrowers fail to pay — on time or in full — the assets held by the lenders as security "go south," and the lenders are "up a creek without a paddle"; they are broke and have no more funds to lend. In effect, this is the cause of the present crisis.

The Fed, the banks, and the monetary experts did it to themselves. It is the system that is at fault. It is based on a dangerous idea — that the quantity of money should be flexible, "easy." When money is made "easy," people are misled by the availability of dollars. When loans are offered to borrowers at interest rates below what private savers would provide, would-be borrowers are tempted to borrow more than they can afford, and funds find their way into the hands of non-credit-worthy borrowers. Investors dare to embark on riskier ventures than they otherwise would. The result is economic waste.

The monetary officials know full well that if they make money too easy for too long a catastrophic decline in the value of the dollar will ensue. Therefore they have followed a stop-go policy — expanding until they think prices are rising too high and too fast, and then raising interest rates bit by bit to halt the expansion. The result of the Fed's stop-go monetary manipulations has been intermittent expansion, together with mal-investment (Silicon Valley, real estate, etc.), and one crisis after another.

The crisis is traceable directly to a monetary expansion that surpassed anything our ancestors could have anticipated. New techniques of monetary expansion were developed, and the expansion got ahead of even the money managers' expectations. Hence the crises at Merrill Lynch, Countrywide, and Lehman, and the bailouts of Bear Stearns, Fannie Mae, and so on. The proposed scheme for a new agency to bail out and rescue more failing banks and investment houses worldwide will undoubtedly lead to more of the same: more over-borrowing, more over-lending, more mal-investment. Insofar as the costs are paid through taxes or the creation of more dollars (inflation) and continued credit expansion, everyone will be forced to pay.

There is no way to turn back the clock, to undo the mal-investments and to make the losers whole. Compensating one loser for his loss only shifts the cost to another. Contracting the quantity of money to that which existed at some earlier time is no answer; it would only compound the problem. The only way to end the continuous boom-bust cycle is to stop the

expansion and to stop bailing out failed businesses. Once the expansion is halted, once everyone — savers, investors, producers, entrepreneurs — is assured that the increase in the quantity of money and credit is really at an end, once people have confidence that the monetary manipulation will actually stop, that it will not disrupt their calculations, entrepreneurs will begin to feel confident to embark on new enterprises and start rehiring workers. Step by step, one by one, they will begin once more to undertake production, trading, and investment. Then, and only then, will the economy start to recover.

The great economist Ludwig von Mises explained the boom-bust cycle in this way in his book on money, published in 1912 — even before the establishment of the Federal Reserve system. He developed his explanation of the boom-bust cycle further in his works on economic crises published in 1928 at the height of the 1920s boom, and also in a work published in 1931 when the depression was in full swing. He continued to explain and amplify this explanation of the boom-bust cycle in his later works. But so far the financial authorities haven't recognized the logic of his presentation and its application to the real world. Today everyone, including all the monetary experts, are imbued with the belief that the quantity of money must be flexible and be kept "easy" to maintain economic "prosperity." No one except Mises' fellow economists of the "Austrian" school even consider the possibility that the quantity of money should not be manipulated by statistical economists or government bureaucrats to meet "the needs of business."

The Misesians point out that only a commodity money could hope to prevent governments from expanding the quantity of money as they see fit. Therefore, they advocate market or gold money. Even today, and *especially* today when the economy is in crisis, they urge the re-introduction of gold money as the way to help the economy to recover and prosper. Defenders of the Fed and advocates of monetary expansion argue that there wouldn't be enough gold to handle today's tremendously increased volume of production and trade of goods and services. But the Austrians explain that that is not the case. If the ratio of gold were set at a realistic ratio to the dollar, any quantity of gold would suffice.

Let us assume that people once again began to buy and sell in terms of gold. The new demand for gold would produce increased exploration for gold, increased production of gold, and the conversion of gold from other uses — industrial, jewelry, dentistry, etc. As buyers and sellers of gold competed with one another to acquire goods and services, the ratio of gold to goods and services would rise until its purchasing power tended to equal the amount of goods and services offered on the market. No one can even begin to guess what the ratio of gold to paper dollars could be — perhaps one thousand or more paper dollars to an ounce of gold — but trade would continue as the prices of all goods tended to reflect their value in gold.

Once gold was the world's money again, producers would have a relatively stable monetary unit in which to calculate costs and plan production, and savers would no longer fear the erosion of their savings as a result of the evaporation of the dollar's value because of government-induced and government-fostered inflation.

— Bettina Bien Greaves

Read to Reed — Good news for libertarians: Larry Reed, founder of the Mackinac Center, the highly successful Michigan thinktank, is the new president of the oldest libertarian thinktank, the Foundation for Economic Education (FEE). He should do wonders to resurrect it. In fact, many of us like to think that Larry Reed is the reincarnation of Leonard Read, the founder.

The first Read was a promoter par excellence of the freedom philosophy, and made FEE and its standard-bearer journal *The Freeman* familiar to conservatives and libertarians. Ronald Reagan used to read *The Freeman* religiously. Larry has a lot in common with Leonard. He enjoys the same initials as the founder, and like him, he has a pet dog. More importantly, he is a great speaker, writer, and campaigner for libertarian causes, and has traveled the world (69 countries so far) preaching the gospel of free markets. My wife Jo Ann and I, along with our two oldest children, spent an unforgettable week with Larry in the Soviet Union before its demise. And the FEE board is happy to have a seasoned fundraiser.

I met with him at the old FEE mansion in Irvington-on-Hudson, NY, and he looked enthusiastic and up to the task. As longtime Liberty readers know, FEE has had a tempestuous history since Read died in 1983. The board has struggled mightily to find the right person to run the foundation; meanwhile, FEE has been surpassed in popularity by numerous other free-market organizations, such as Cato, Reason, Heritage, Fraser, IHS, and ISI. There has been a succession of FEE presidents, including Hans Sennholz, Don Boudreaux, Richard Ebeling — and me. Larry takes the place of Ebeling, who after five years as president is moving on to teach economics at nearby Trinity College in Connecticut.

Larry told me that he has a mandate to expand FEE, including the option of selling the 35-room mansion and holding FEE seminars for students outside New York. I've thought for some time that the mansion should be converted to the Leonard E. Read Museum of Free-Market Economics. Maybe that will happen some day. But in today's weak real-estate market, the sale of the property might have to be postponed. Meanwhile, Larry told me he will divide his time between New York, Michigan (still his home), and traveling to speak and meet FEE supporters. For years, I've been trying to get him to speak at the annual FreedomFest in Las Vegas, and now that he's heading up a national organization, he's agreed to come.

I always thought that FEE should be a household name. Now, under the new LR initials, that just might happen.

— Mark Skousen

When in doubt — I don't know about this bailout package. I find it really hard to believe that the credit markets would have remained frozen had the bailout not passed. There is a lot of money sitting around (especially now with everyone pulling it out of the market) and it's relatively worthless if it's not being invested somewhere (inflation makes uninvested capital evaporate). Eventually interest rates would rise high enough to make lending attractive again.

Laissez-faire is my default setting, and I always rush back there, when I don't quite understand an issue. While there is a chance that government intervention could soften a crash, there is as much an opportunity for the government to make

it worse. And the historic propensity of Congress towards the latter option does not reassure me. The additional \$150 billion that got tacked on right before it passed seems to support my suspicion.

I also don't like the precedent this sets. Even cracking the Constitution just a little bit leaves a scar that future infections can enter through. Were it not for the Chrysler bailout, Fannie Mae and AIG would never have been considered. I can only imagine the financial behemoths awaiting future Congresses, since a trillion dollars is no longer a large number.

Finally, it scares me a little. As a former conspiracy nut, this whole thing reeks of a New World Order. With the banking industry nationalized, how much room is there for capitalism to breathe? Is it possible that this was the final key that needed to be turned for the central planners to lock this nation in serfdom?

— Tim Slagle

Reinflating the bubble — From Warren Buffet to economist Tyler Cowen, many reputable people are suggesting that, since the financial crisis resulted from declining home prices, there must be a housing surplus. Cowen's "modest proposal," only slightly tongue-in-cheek, is for the federal government to buy foreclosed houses and destroy them to raise the price of the remaining homes.

This is a dangerously wrong view of recent events. In fact, paradoxically, the reason why home prices are declining is that there is a shortage of homes. Bubbles don't happen to goods that are abundant; bubbles require shortages. Such shortages not only cause prices to rise, they make them more volatile: that is, they rise and then fall.

Recent housing shortages, mostly attributable to government planners, are no exception. Home builders did not exuberantly overbuild in response to credit-driven demand. Instead, in the dozen or so states that suffered bubbles, they were denied the opportunity to meet ordinary demand for housing. This led to a run-up in prices, which led in turn to congressional demands that lenders provide risky loans to people who would have been able to afford a house were it not for the planning-induced shortages. Any efforts to shrink housing supply will simply make the next bubble worse.

— Randal O'Toole

Can't make an omelet . . . — To revise Dickens' phrase: for libertarians it is the worst of times, it is the most horrendous of times. Nothing we've tried seems to work. Ludwig von Mises' concern that regulations lead to problems that in turn lead to further regulations is increasingly confirmed. Robert Higgs' concept of the ratchet effect, with government increasing its power at every crisis, is less theory and more history.

Libertarians have tried libertarian candidates. But most libertarians make bad candidates, and most people that are credible as candidates are not strong libertarians.

Libertarians have tried term limits, on the theory that the more time one spends in Washington, the less libertarian one votes. There is an excellent Cato policy analysis from several years ago demonstrating that fact quantitatively. But term limits at the federal level, where they count, have been found unconstitutional. And there's zero evidence that the court decision will be revisited any time soon.

Libertarians have tried establishing their own political

party, and after a quarter century of running mostly buffoons, they actually have a credible candidate in Bob Barr. But Barr is raising very little money and getting limited coverage. While I certainly hope he surpasses the 1980 Clark vote of just shy of one million votes, I doubt he'll play a significant role. Somehow, the media always finds the race tightening to a "dead heat" in the week before the election, pushing many would-be third-party voters into holding their noses and voting for the lesser of the two evils.

So here's a suggestion, based on the following observations:

- In 1994, the Republicans were successful in "nationalizing" what are typically local races by having Republican congressional candidates pledge a Contract with America.

- Both freshmen conservatives and freshmen liberals have better libertarian (i.e., less pro-government) voting records than more established, incumbent congressmen from either major party.

- Fundraising for non-partisan issues may be easier than fundraising for partisan campaigns, if only because you can appeal to all voters, not simply those of one party or another.

Given that, imagine a simple national effort, bipartisan, with a few major spokespeople from both Republican and Democratic parties, dedicated to one and only one proposition: *vote against all incumbents!*

It is a quickly, easily understood principle.

Insanity is defined as continuing to do the same thing, while expecting different results. Vote out *all* incumbents.

There is a cognitive dissonance suggested by a less than 10% approval rating for Congress and a majority approval rating for most congressmen in their own districts. Vote out *all* incumbents.

Don't let them continue to get away with this. Vote out *all* incumbents.

If you really want change in Washington, Vote out *all* incumbents.

The political class will of course attack this idea with vehemence. That will make it more popular. The political pundits will say that it takes years of experience for people to work well in Washington. The campaign will respond with a long and growing list of the corruption scandals and special-interest deals for which incumbents are known.

We might lose libertarian-oriented congressmen like Ron Paul (R-TX) and Jeff Flake (R-AZ). But that's the price of applying a simple rule that is easily marketed and implemented.

Do you want to change Congress? Then you have to give up your congressman, even if you love him. That's what it takes. Your district is the only one you can affect. But know that throughout the country other people just like you will be voting down congressmen whom they like but whom you see as the problem, just as they see yours as the problem. Washington tells us that Americans must make sacrifices. Washington tells us that we must give up things we love for the sake of the common good. Okay, let's give them up, for the common good. Let's sacrifice the current members of Congress. All of them.

Obviously, many races are viewed as noncompetitive, and some would argue that a national campaign of this sort will not make them competitive. But I seem to recall some very powerful incumbents being unexpectedly swept out of office

in 1994, and again in 2006. I don't think the mood of the country is better now, and I doubt very much if it will be better in 2010.

The political class, as I noted, will predict doomsday if "professional" politicians are turned out en masse. That actually can play to our advantage. If we are successful just once, in the ensuing two years the lie will become evident to all, at which point it will become easier and less expensive to urge the electorate to "do it again."

Those concerned about the effect of completely recycling Congress every two years needn't worry. There is no reason to expect, even if this idea is wildly successful, that it will be 100% effective. So there will be guiding hands for the freshmen — though relatively few, one hopes, and much less secure in their sinecure.

The late William Buckley said something to the effect that he preferred being governed by the first 100 names in the Boston phone book to being governed by the faculty of Harvard. And I would prefer being governed by 435 random congressional freshmen, without reference to their political philosophies, to being governed by a Congress filled 98+% by incumbents.

To put this plan into action requires money and coordination. I offer it not with assurance that it will work, but with confidence that, from a libertarian perspective, nothing else has.

— Ross Levatter

The (very) bright side — In China, it was reported that "53,000 babies were poisoned" (though only four actually died) by tainted milk supplies. Many commentators offered this as proof that China's experiments in liberalization are going sour.

While the death of one baby is an unimaginable tragedy, it should be pointed out that, 20 years ago, before the economic boom, thousands of babies would starve to death every month because there wasn't enough milk to go around.

Of course, those deaths went unreported because the state-controlled media never found it newsworthy — so not only is the lowering infant mortality rate a sign of a better China, but the fact that we know about the tragedy is an even brighter sign.

— Tim Slagle

Which "South Park" mascot? — Over the next few weeks, I expect to hear frequent explanations that despite Obama's sizable lead in the polls, the "Bradley effect" will push McCain to electoral victory. In brief, the Bradley effect posits that a significant minority of whites will tell pollsters they plan to vote for Obama when they actually plan to vote for McCain.

Don't believe it. The original evidence for the Bradley effect (the 1982 California gubernatorial election) was hardly conclusive. More to the point, the past quarter-century has not seen any major elections that clearly fit the Bradley pattern, and it's seen plenty that defy the pattern.

Barring a major scandal in Obama's camp before the election, he's going to be our next president.

— Mark Rand

Outrunning pork — Explanations of the credit crisis mention such difficult matters as subprime mortgages; their multiple securitization into tiers of bonds built on other bonds, with various tranches supposedly made secure by the

large numbers of underlying assets; special-purpose vehicles to hold dubious loans off banks' balance sheets; various derivatives, including insurance against default by issuers of bonds; reliance on credit-rating agencies operating in unfamiliar territory; marking to market of assets (an accounting practice recently insisted on); deficient familiarity with the complex new financial innovations on the part of market operators and regulators — and still more.

Let's go at it in another way. In a complex web of interconnections, banks and other financial institutions do two types of things: they borrow (as from depositors) to make personal and business loans, and they buy government and corporate and even mortgage-backed bonds.

Financial specialization, traditionally drawing on banks' knowledge about borrowers' projects and creditworthiness, promotes economic efficiency and development; it helps channel even short-run savings into capital construction. And ordinarily, borrowing and buying are interdependent. But on rare occasions (such as now), matters start to unravel.

Institutions that have invested heavily in dubious loans and investments incur the danger of going bankrupt, and institutions that have lent to them become reluctant to extend their loans. The market for interbank loans shrinks. Worry extends to depositors and investors in banks and money-market mutual funds; and if these suffer withdrawals, they become less able to make loans (as by buying commercial paper) and even to honor preestablished lines of credit. Businesses that have relied routinely, and prudently, on short-term credit are then drawn into the downward spiral. Credit freezes up. Even quite innocent firms, together with their employees and stockholders, suffer.

Bad business news and stock-market plunges intensify actual fear and contagion (although to say so is pop psychology, not strictly economics). Some rescue operation — almost anything plausible that would contain the fear — becomes an urgent concern. To the regret of us libertarians, the U.S. government is the only institution with enough immediate clout to undertake the operation. Amidst the spreading panic, and despite much insistence on taking enough time to get the proposed legislation right, speed becomes a key aspect of being right.

Speed should limit opportunities to decorate a rescue bill with all sorts of bright ideas and sweet plums for local and special interests, including, as the slogan goes, something for Main Street as well as Wall Street. Speed should also, arguably, hold down the total cost of the rescue operation. For these reasons, the Sept. 29 defeat of the proposed rescue bill, imperfect as it was, shook me.

It is true that a rescue would worsen the already serious problem of "moral hazard," further encouraging people to take undue risks, as of building in flood-prone and hurricane-prone areas. Perhaps penalties could be devised to discourage irresponsible people from requiring rescues in the future. But the purpose of the Sept. 29 bailout was not to protect wealthy financiers; it was to save millions of innocent victims from further contagion.

Arguably, furthermore, the government has a moral obligation to help clean up a mess that is largely of its own making (if the government may legitimately be personified). Such government agencies as the Federal Home Loan Banks

encouraged even dubious mortgage loans by standing ready to buy them from the original lenders. This was massively true of Fannie Mae and Freddie Mac, government-sponsored companies enjoying special privileges maintained by intense lobbying, especially the privilege of borrowing cheaply with the support of an implicit government guarantee of their bonds (a guarantee recently made explicit). The Community Reinvestment Act pressured banks to make mortgage loans even in sections of a city where a prudent person would be afraid to walk; the Federal Reserve banks helped administer the pressure.

As for the Federal Reserve, it had been practicing what hindsight now identifies as too loose a monetary policy. Low interest rates and abundant funds tempted investors to seek higher yields on risky loans and speculations. Chairman Greenspan and then Chairman Bernanke, echoed by President Bush, tried to blame low interest rates on a world savings glut. But what prompted the heavy flow of capital into the United States?

Government was largely responsible. One factor was heavy borrowing to cover the government's chronic deficit. Another was the ongoing accumulation of U.S. government bonds by the central banks of China and other countries. This accumulation traces largely to foreign authorities' anxiety to keep their currencies from rising much against the dollar. Their interventions on the foreign-exchange markets, along with U.S. government deficit spending and loose monetary policy, count as government interventions.

Ironically, it is common to blame the current crisis on deregulation, on a free-market ideology. Yet our trouble traces in large part to perverse regulation, as illustrated above, and to regulation by regulators who didn't quite understand what they were doing.

I am not an anarchist. I don't deny that some regulation can be useful, especially to reinforce ordinary ethical strictures against force and fraud and trading on other people's innocent ignorance. But what would more regulation consist of? And where would all the required new regulators come from — equipped with the necessary intelligence, honesty, resistance to political pressure, and intimate knowledge of the evolving financial scene?

Another familiar strand of blame points to "greed." Condemning it sounds noble but betrays superficiality. The slogan suggests something evil about self-interest, meaning concern for oneself, family, associates, and favorite projects and causes. Money is a means to those ends; and striving for it, as such, is admirable and has generally healthy effects (think of Adam Smith's invisible hand). The greed that warrants condemnation is pursuing those ends by lying, cheating, stealing, or deception. The methods are what deserve condemnation.

Alternatively, "greed" means a personal character defect: so extreme an obsession with narrow, material self-interest as to blot out broader aspects of a good life. That is mainly the greedy person's own problem, although he might benefit from being lectured at. Still, all kinds of (honest) people can contribute to the gains that accrue from specialization and trade and that help to produce a good society. Even people pathologically obsessed with material wealth can contribute, provided they do not employ illegitimate methods, such as

deception, coercion, and intimidation. Ranting about "greed" contributes nothing to explaining the credit crisis.

Politicians, like other people, are self-interested. They have scant personal incentive to consider the possible long-run consequences of the measures they so blithely enact. They do have a personal incentive to conduct appeals to "rationally ignorant" voters, many of whom have antimarket, antiforeign, and make-work biases. The recent economic news, and its interventionist background, are more arguments in favor of limited government, if only it could be achieved.

— Leland Yeager

Risk, uncertainty, and profit — The libertarian thought about bailouts is to be against them. Investors ought to absorb the losses from their bad decisions. That is what the ideology says, and in most times there is no question about it. It is a good principle.

Then there are emergencies. They come perhaps once in a lifetime, and they raise the price of the principle very high. Here is a typical view: "I made no bad decisions. But my home value and retirement account are being wiped out. I'll be damned if I'm gonna watch my entire net worth disappear just to save a theory."

You can argue that this individual did make bad decisions — he bought the house and retirement investments that now irritate him — but it is a tautological argument, a kind of ontological argument. It has no fuel.

The emergency broke in September. Fannie Mae and Freddie Mac collapsed, Lehman Brothers collapsed, American International Group collapsed, Washington Mutual collapsed, and Wachovia essentially did. Silent runs drained Morgan Stanley, Goldman Sachs, and the money market funds, and a Putnam institutional fund briefly fell to 97 cents a share, scarring the Federal Reserve into guaranteeing all money-market funds.

Across the Atlantic, European governments bailed out the largest bank in Belgium, the second-largest property lender in Germany, the third-largest bank in Iceland, and a mortgage company in Britain. Ireland led the way in guaranteeing all bank deposits.

Big institutions were being shunned by other institutions afraid to touch them — ostracized, unofficially quarantined. A market system may do that — there is freedom of association among corporations — but in this case if Fan and Fred and AIG and WaMu and all these European lenders fell, then their securities would become infected as well, and bring disease to the healthy.

This was not an ordinary economic sickness. It was a financial Ebola, a plague of fear that could infect and kill a century-old institution within 48 hours. A theoretician might apply the normal rule: "Let the chips fall where they may." But they were not chips and the people with actual responsibility were not going to do that. The one big place where they did it — Lehman — convinced them not to do it again. Lehman had helped drag down AIG, as well as the Hypo bank in Germany.

The question for libertarians was: if panic could be stopped through government application of public credit, why not do it? Would you watch your entire net worth disappear, just to save a theory?

On Sept. 25, Reason magazine asked ten economic thinkers, at George Mason, Harvard, Duke, NYU, libertarian institutes, and in the press and blogosphere, the same set of questions, starting with "How bad is the current market situation?"

Five said it was bad, very bad, "standing on a knife's edge." The others said in various ways that it was not so obviously bad. Two said they didn't know. Chris Dillow, economic writer at Investor's Chronicle, said, referring to the late Chicago economist Frank Knight: "No one knows! Our problem is one of Knightian uncertainty; we just don't know (and banks themselves don't know) what those illiquid mortgage derivatives are worth."

Dillow's answer was about balance sheets — about how much certain mortgage-backed securities will really pay. It was a risk question, about the future, and maybe no one knew. Reason's question was different. It was about market conditions, such as whether you can put certain mortgage-backed securities for sale and get any bids on them. It was a sentiment question, about the present. There you could know, and it did seem that things were on a knife-edge. The collapses said so. Henry Paulson's behavior said so.

Now, to the "bailout."

It is a loaded word. A bailout has come to mean a government act to make good the losses of big institutions. It is, on its face, an unfair thing, because some are bailed out and others pay for the bailout. It is the socialization of loss.

Do nothing, then? That was the libertarian consensus. But the supposed do-nothing option is not without government. When Lehman Brothers was allowed to fail, what happened? Lehman filed for protection under the federal bankruptcy law, which puts a judge in charge of it. That is government involvement. It is not the same kind as a taxpayer bailout, and is generally preferable, but it is not the absence of government.

If putting big financial companies in bankruptcy causes unacceptable losses to third parties, maybe there is something wrong with bankruptcy as applied to big financial companies. The law is a human construct. It can be changed. When Treasury Secretary Paulson talked about a "conservancy" for Fan and Fred, with them growing for a time and then radically shrinking, it sounded like a variant of bankruptcy, not a bailout as such. Fan and Fred were taken over. So was AIG. Selling off the assets of AIG in an orderly manner also sounded like a bankruptcy.

What is not available under ordinary bankruptcy, of course, is public credit. That is what the FDIC had when it seized Washington Mutual and sold off its branch network and portfolio to JP Morgan Chase. WaMu's funders (including depositors) were protected, but not its shareholders. The stock, which had been above \$41 two years earlier, plunged to 11 cents. In none of the big failures were the shareholders any more than minimally "bailed out," though bondholders did better.

The Treasury's \$700 billion fund for buying "toxic assets" is troublesome. Opponents made it sound very much like free day at the dump — bring in your old mattresses and computer monitors and give 'em to us — but it, too, might be more reasonable than that. The Treasury could pay what these securities would fetch in a normal market. Not cost. Not a puffed-up value, but a kind of objective value, an estimated normal-market value as distinguished from value during a panic. The

Treasury would hold the securities until the market calmed down, and then collect on their real value. The net cost to the public would likely be far less than \$700 billion. The public liability — and the state power — would be temporary.

That's what the Treasury's sales pitch sounded like. Whether they'll do it that way is another matter. And it is not the only possible rescue. Given that the financial problem is an impairment of capital, another rescue would be an injection of new capital, as the European governments had done, perhaps also with a "haircut" for creditors.

I don't know what's best: there are hazards in not acting and hazards in acting. The hazards identified by libertarian opponents include some very real ones. But if there is a way to use public credit to keep the system from seizing up in a panic and having financial institutions around the world go down in a heap, then I swallow hard and consider supporting it, still not liking it. I don't want all my savings wiped out for a theory.

I note that this was all happening six weeks before a presidential election in which the frontrunner was an admirer of Franklin Roosevelt. That raises another concern. I don't want capitalism in ruins in the first hundred days of a president who wants to redo the New Deal. One of those was enough.

— Bruce Ramsey

Opportunity doesn't knock, runs well —

Last week, someone called me about a motorcycle I'm selling. It's in good condition and has very few miles, but it's almost 30 years old, so I'm asking only a pittance for it. The potential buyer — I'll call him Bob — asked if I would let him pay in installments, and added that he's lived in this town for decades.

Bob doesn't have a few hundred dollars on hand, and apparently none of the people he's known for the past few decades will trust him with a small loan, and neither will his bank. So Bob thought that I, a complete stranger, might carry the note. Ridiculous? You may think so. But to a banking regulator, it's a great solution.

For decades, government regulations have pressed banks — sometimes directly, more often indirectly — to give loans to individuals whose credit is, well, subprime. Banks which kept those loans on their books were required to maintain substantial capital reserves as a precautionary measure. But when the loans were bundled together and sold, regulators decided they became less risky (not in the bundling, but in the selling!), and relaxed the capitalization requirements.

Let's say that Bob's friends give him a 50% chance of paying off a loan. Based on that, the regulators will conclude he's almost certain to pay me. If this strikes you as logical, please call; you can help Bob purchase a bike.

— Mark Rand

You've got Sarah's mail — In mid-September, a computer hacker (or group of hackers) accessed a Yahoo.com email account that GOP vice presidential candidate Sarah Palin had used for personal and state business as governor of Alaska. The hacker(s) posted Palin's email password on a site popular with internet pranksters and some hardcore online criminals. Readers of the site rooted through Palin's account without her knowledge; copies of her correspondence, contact lists, and family pictures popped up all over the internet. Finally, someone reset Palin's password — triggering a

standard Yahoo.com security measure that alerted Palin to the breach. She (or her handlers) quickly cancelled the account.

While the McCain-Palin campaign ginned up outrage over the hack, the mainstream media wondered why the governor was using a rather public email service in the first place. The Associated Press sniffed:

The disclosure . . . raises new questions about the propriety of the Palin administration's use of nongovernment e-mail accounts to conduct state business.

Palin's critics argued that she was following a duplicitous tactic developed by GOP schemer Karl Rove, who used so-called "off-site" email addresses to confound investigations of his activities while a member of the W. Bush administration. These critics hinted ominously that Palin may have discussed secure state matters over insecure lines.

What rubbish. Very few state matters need to be kept so secret that they can't be discussed in a public forum — which electronic mail, no matter how secure the server, surely is. The outrage of the Palin email hack wasn't that Alaskan state secrets might be revealed . . . or even that her political opponents might have been up to some dirty tricks. It's that anyone would expect an email account, even a government-run email account, to be secure.

For my part, I'd be content if all politicians had to use Yahoo, Hotmail, or Gmail. And post their email correspondence for public review. This would provide some useful transparency.

— Jim Walsh

Letter from France — "We have to point the finger at ourselves," said Number 6, and Number 4 clapped so hard and so long that he almost convinced Number 5, who was seated next to him, that these were truly unprecedented words. So when the microphone lit up for Number 5, he decided that he, too, would speak his heart. "This assembly must do something, as opposed to nothing," he said. "A hard act to follow," Number 22 appeared to be thinking; but he avidly agreed, except that he stressed even more strongly the council's "principles and moral authority." Both of those, incidentally, were well represented in the words of Number 1, a severe woman, who announced, to great applause, that "we must have the guts to show what the Council of Europe stands for."

As she spoke, the men looked tenderly on, especially Number 5, who was, by the victorious but forgiving look of him, thinking that she had lifted his phrase. "The Council of Europe is about values," Number 5 had said, and now said Number 1, in very much the same words, from her desk at the Council of Europe's headquarters.

In Strasbourg, a charming cobblestone city just shy of France's border with Germany, hundreds of European parliamentarians had arrived in late September to discuss Georgian-Russian relations and to find out, in the process, whether or not Europe actually had any values to its name. The problem in this case was that the council's discussions could not be held in black and white, but were condemned to the shades of gray. This was, anyway, the observation of Terry Davis, who was no number, but rather the slick secretary general, with hair remarkably smooth, abundant, and at least three shades of gray. Davis keeps a mansion in Strasbourg, which may explain why a stately lady MP, who had been knitting at her

desk toward the back, put her instruments down and turned on her earphone.

The real story began after the meeting, as it usually does with these things, when the parliamentarians descended on the town in unlikely groups. The Georgian shook hands with the Russian, the young Turk kissed the Armenian three times, while the communist and the conservative compared climates over schnitzels and croissants. "How wonderful these post-political friendships!" a passerby would've thought — and he did, along with many others. But the more he observed the pleasantries, the more he came to believe that, oddly enough, the parliamentarians were being more honest when their badges were on — when state interests "compelled" them to be sharp — than when they were off.

Literally, the badges never came off, even after the sessions. That's the remarkable thing about it. The blue ribbon kept hanging on everyone's neck. Only the name tags were self-consciously hidden. Some were pushed behind ties. Others were slid into coat pockets. Still others were turned around. But the blue ribbons never came off! And so, for a whole week of evenings in Strasbourg, the windy streets were filled with men and women wearing blue ribbons around their necks. Blue ribbons, but no name tags. All of which meant, by the locals' interpretation: "I'm really trying really hard not to be better than you."

In the end, it wasn't clear what the badges meant. Almost certainly, they meant nothing. But for me they helped show that Europe still doesn't know how to wear its democratic badge. Europe has identity complexes. It awkwardly avoids owning up to its values — as it did in delivering light spankings to Georgia and Russia and calling for a "new unity" — but it alludes to them. Democracy. Human rights. Freedom. Of course it doesn't practice them.

That Europe is so hypocritical, so awkward, so vain in appearance is, by all logic, not a good sign. But Europe's moral stutters were, for me, the best indication that the continent still has hope, that it knows the names of its values and is too polite to disown them — that it has not forgotten the language of liberty.

Of course I should've known this from the very beginning, when I checked into room 328 of the Maison Rouge Hotel of Strasbourg and opened my closet. I just hadn't read the sign carefully at first: "For the safety of your values, a safe is at your disposal at the bottom of the cupboard." — Garin Hovannisian

Arnold's trainset — With his state facing a \$15 billion budget deficit, California Governor Arnold Schwarzenegger signed legislation putting a measure on the November ballot to sell \$10 billion worth of bonds to start building high-speed rail. This would add at least \$650 million to the state's annual deficit for the next 30 years (and probably much more, as \$10 billion is only a downpayment on the project, whose total cost would likely be north of \$60 billion).

The day after the U.S. Senate passed the \$700 billion bailout bill, Schwarzenegger sent a letter to Treasury Secretary Paulson warning that California may needs its own bailout of as much as \$7 billion. Can you say moral hazard?

Incidentally, if you don't live in California, don't think the state's vote on high-speed rail won't affect you. If California voters approve the measure, Congress will almost certainly

match state funding for rail construction. That will lead members of Congress from other states to demand federal funding for high-speed rail in the rest of the country, including a line from Albuquerque to Casper, the crucial Fargo-to-Missoula route, and (if Senator Byrd is still alive) a return of the legendary turbotrains to West Virginia.

I estimate the total cost of a national high-speed rail system would be at least \$430 billion, at least half of which would be paid for by federal taxpayers. This is about the same as the inflation-adjusted cost of the Interstate Highway System. Yet interstates paid for themselves out of gas taxes, and they move at least four times as many people, and thousands of times more freight, than a high-speed rail system can ever hope to carry. The main effect of a subsidized high-speed rail system would be to put unsubsidized short-haul air service out of business.

— Randal O'Toole

Continuing education follies — Two recent newspaper articles illustrate again the need for fundamental reform in our educational system, beginning with (though not limited to) expanding free choice.

The first is an AP report (Sept. 3) reporting that the infamous Belmont Learning Center in Los Angeles has finally opened. Now christened the Edward R. Roybal Learning Center (after some ancient hack Democratic politician), it embodies all that is wrong with the public school bureaucracy. As Los Angeles DA Steve Cooley put it some years back, it is “a public works disaster of biblical proportions.”

The school took well over a decade to build, at a cost of \$350 million. That's right — over a third of a billion taxpayer bucks. First there were environmental problems (when it was discovered that the school site had been a toxic waste dump), then legal problems (when it was discovered that it was built on a seismic fault). The result was a school with some big buildings (including a gym that seats 3,000, a dance studio with cushioned hardwood floors, and underground parking for nearly 500 vehicles), but also a “toxic gas mitigation system” that costs a quarter million dollars a year to run. All this to accommodate a mere 2,400 students.

The second article appeared in *The Wall Street Journal* (August 27). It reported the latest data on the national SAT scores, and the news was not comforting. The average scores in 2008 were identical to those in 2007, on all three SAT component tests (critical reading, math, and writing). The reading score thus remains the lowest in over a decade, and the math score the lowest in almost a decade.

African-American students have a 15% lower average on the reading and math tests than the general population. Asian-Americans score higher than the general population in math, and outperform in reading and writing. Girls score higher than boys on the writing test, and are almost even on the critical reading test, but they score lower in math — as they have for a decade.

The ACT scores for 2008 also showed no improvement.

The *Journal* article just touches on a big question. The No Child Left Behind Act greatly expanded federal funding for K-12 education and mandated that schools show steady improvement. Many state tests have indicated improvement, but in light of the frozen SAT and ACT scores — neutral tests administered by private companies, not public school bureau-

cracies — it would appear that those gains were faked.

Early on, the No Child Act was stripped of its voucher (i.e., school choice) requirement by Ted Kennedy and his fellow Democrats. Bush should have just killed it then. He didn't, and the result looks like more money poured down the public school rathole.

— Gary Jason

Pudgy carbon footprints — Energy crisis? Baloney! How can there be an energy crisis when those big eight-wheeled enchiladas, stuffed with our flabby-legged kids, dominate the morning streets?

My city, like most, has left its budget in the rear-view mirror. Yet the streets in early morning and mid afternoon are plugged up by yellow buses that move like mononucleotic squirrels. School buses — like all vehicles — pollute, impede, collide, and worst of all expend city money, preventing little legs from strengthening themselves. But noble-hearted municipal planners have the best of intentions. Leave no child behind, plodding along sidewalks.

How bizarre. How shocking, given the fitness neurosis of our society. We deny youngsters the very exercise that we compulsively continue to shove down the throat of the more mature consumer. Whole government agencies are devoted to the mission of counting, correcting, and reprimanding the lardy kids in our population. You can hardly pick up a magazine without an article on the benefits of exercise. Yet school buses roam far and wide. So, instead of carrying oneself to school on one's own flabby legs, our fragile student sits on a bus bench and pulls the hair of the little girl in front of him. Not nearly as exercising as ambling to school down urban pathways.

I say pile 'em in a heap and burn 'em. (The buses, not the flabby kids.)

Again note this anomaly: popular culture preaches physical fitness but neurotically carts kids to school by motorized transport.

Now don't misunderstand. For young or old, I think a game of tennis or a daily 30-minute walk or bike ride is all to the good and extends your vertical time on earth. That's why kids should walk instead of ride (with a few exceptions imposed by distance or physical handicap). Sinews and tendons and muscles are much more vulnerable in adults than kids. A kid's two-mile walk to school strengthens the bondage of knee caps and calf muscles. An adult's feverish pedaling on a \$500 machine may cost him his ambulatory status.

I pass an exercise emporium on my way to work. It has a huge glass wall to advertise its wares. It's mobbed by people literally working their hindquarters off. You'd think you'd stepped back into the Industrial Age. They're generating enough power with their pedaling and pushing to air condition and light the building for a month.

Just a thought. If it's so healthy for these people to sweat buckets, why is it salubrious for our kids to be couch potatoes on the school bus? And shockingly, those health addicts pay for the privilege of regressing to the middle ages. Several decades ago, toiling in farm or factory, they would have received a weekly paycheck. Where did we go wrong?

Why do American parents, obsessed with conditioning, feel that kids with young, healthy legs have a right to iPods, acne medicine, jury trials, and credit cards, crowned with a

ride to and from school? Wouldn't it be healthier to walk? What's sauce for the goose and gander should be sauce for the gosling.

— Ted Roberts

Change must come from within — During the Ron Paul campaign I wrote that after the Republican convention, of course Paul would have to endorse John McCain. Not enthusiastically, but at least he would have to say he preferred McCain to Barack Obama. My reasoning was that Paul was leading a movement within the Republican Party — a movement that was being dismissed as not really Republican. That is what party people were doing when they identified Paul as the 1988 Libertarian candidate.

Liberty magazine ran some letters by readers who thought my suggestion outrageous, and I guess Paul did, too, because he did not endorse McCain. Probably that was why he was not invited to the Republican convention in St. Paul, though the other losers, Mitt Romney and Mike Huckabee, were invited.

Paul formed his Campaign for Liberty and drew 10,000 supporters to his own convention, billed as an alternative to the Republican one. No doubt it was fun, but it also sent a message of separatism. Then, in mid-September, Paul had a Left-Right press conference with the third-party presidential candidates Ralph Nader (Independent), Cynthia McKinney (Green), and Chuck Baldwin (Constitution). Bob Barr, the Libertarian nominee, was invited but didn't show up. He didn't want to share the stage.

The three minor candidates presented a short list of things on which they agreed, starting with a quick end to the U.S. occupation of Iraq. It was an unusual thing, coming together like that, and for organizing it Paul got some national press. But again, the message was pro-third party. Then, two weeks later, Paul said he was endorsing Baldwin, a preacher and nominee of the Constitution Party. That party agrees with libertarians on some things — it opposes conscription, a hegemonic foreign policy, and the welfare state — but is also part of the Christian Right, being against abortion, pornography, and any state recognition of homosexual unions.

None of which is important, because the party is not important. Baldwin is not important. But Paul was.

He had a movement, an enthusiastic, sign-posting, money-contributing following. Baldwin doesn't. Barr doesn't, really. Paul did, and still does.

Crucial to the significance of Paul's movement was that he was a Republican, going for major-party nomination. He was also attempting to bring a new set of ideas into the party, and a new set of people. He was attempting to change a major party. He never had enough support to do it, but he did have enough for a faction that would have to be accommodated. But in order to capture that status, the Paul people had to stay inside the tent. And Paul led them out with his separatist convention, his confab with third-party candidates, and, particularly, his endorsement of the nominee of a party that doesn't matter, except that it could siphon some votes away from the Republicans and cause their nominee to lose.

I will say it again, and attract the abuse of Paultards: Paul should have stayed loyal to the Republicans. He should have endorsed McCain — quickly, rhetorically holding his nose, and with an immediate statement of disagreement over the war and civil liberties, and later on, over the Wall Street rescue.

Paul would not have had to change his political line, but an endorsement of McCain would have said: "I am a Republican. My Campaign for Liberty is within the party — and you guys will to have to make room for us."

Now they are under far less pressure to make room for him. He has cast himself out.

— Bruce Ramsey

The best disinfectant — After wreaking havoc on the residents of his city and leading a scandal-plagued administration for more than five years, Detroit Mayor Kwame Kilpatrick has resigned his high office. The charismatic 38-year-old son of a congresswoman, who led a life more akin to that of a Hollywood celebrity than that of a Midwestern city official, had attempted to cover up an affair with his chief of staff by firing the deputy chief of police who was investigating alleged illicit activity in the mayor's office. What had begun as a shielding of private marital infidelity (both parties were married to other people at the time) became abuse of taxpayers and the public trust.

Kilpatrick spent more than \$8.3 million in taxpayer funds to conceal the personally motivated firing, which was the subject of a whistle-blower lawsuit by the deputy police chief and another police officer. The mayor alleged under oath that no affair had happened. And his settlement of the case would have been kept secret, had a local newspaper not submitted a Public Records Act request to discover it. Once evidence of the affair and the settlement became public knowledge, Kilpatrick was charged with perjuring himself. Perjury merely added to his long list of notorious acts in office, including spending more than \$210,000 in government credit card debt on personal luxury goods and services, and using taxpayer funds to lease a Lincoln Navigator for his family.

Facing ten felony counts, Kilpatrick pled guilty to two counts of obstruction of justice, and no contest to assaulting a police officer who had attempted to serve a subpoena on Kilpatrick's friend. Kilpatrick now faces up to four years in prison, five years on probation, and the payment of restitution in the amount of \$1 million.

Though Detroit's city hall soap opera may be over for now, Kilpatrick's raucous time in office brings perspective to the importance of watchdog laws in local government. Michigan's state constitution, which decrees that all government financial records be public, opened the details of the whistle-blower settlement. Certainly, Kilpatrick is not the only elected leader of Detroit who has been embroiled in controversy, nor is he the only mayor in America to have crossed the law in office. A quick search finds that in just the past five years, seven mayors of the 15 largest cities in the United States have been implicated in financial or ethical scandals. But stronger open government laws can protect citizens from self-indulgent politicians who would exploit them to secure their own personal futures. Making all financial transactions and intergovernmental communications public would be a step in the right direction. Unless cities want antics like Kwame's, they should demand greater citizen oversight of those they empower to protect the public interest.

— Vince Vasquez

Good for gander, poison for goose? — In a prior reflection, I noted that the pragmatist philosopher Charles Peirce held that logic is a species of ethics — the ethics of belief, to be precise. Just as you ought to act as you would

have others act, so you should reason as you would have others reason. An article published earlier this year brought this to mind; indeed, I haven't been able to stop thinking about it.

The article was a sniveling column in *Time* called "Affirmative Action for Boys" (April 3). Its author, Nancy Gibbs, bemoaned the fact that in the face of a widening gender gap in college enrollments, admissions committees are apparently using affirmative action to close that gap. Well, nothing new here, right? For over three decades, governments and other organizations have taken racial or gender gaps as automatic proof of discrimination, to be remedied by reverse discrimination, in the form of quotas, set asides, and other preference programs.

Ah, but what caused Gibbs to pen her lamentation is that the gender gap now has men (whom she condescendingly calls "boys") at the lower end, and the affirmative action is now allegedly being done in their favor.

Oh, the horror!

After 30 straight flippin' years of aggressive affirmative action in their favor, undergrad women now outnumber men on American campuses by 58% to 42%, probably soon to hit 60% to 40%. Now, when men outnumber women in some field, feminists instantly infer that this is because of insidious discrimination against women, and they demand that the government use any means necessary to compel equal results. Witness the furious push to use affirmative action to achieve equal gender numbers in such fields as natural science, engineering, and mathematics.

In response to the "shortage" of men on campuses, some vacuous administrators have been — at least according to Gibbs — discriminating against women. But if a statistical disparity in favor of men has for decades been taken as proof positive of discrimination against women, shouldn't an identical disparity in favor of women be considered proof positive of discrimination against men?

Not by Ms. Gibbs. She and the college deans she has talked to conclude that the gap is due to the general educational or developmental inferiority of "boys." Perhaps the "boys" are inferior, but if so, this raises two interesting questions.

First, if the "boys" are so horribly inferior to the high-achieving women, can we at least end all the massive reverse discrimination that continues to benefit women? That is, if Ms. Gibbs and her friends are so twitter-pated about affirmative action favoring men at colleges, and want it ended, would they be willing to see it ended for everyone across the board? Including the push for making women equal numerically in the natural sciences?

Second, if men are now generally so developmentally and educationally inferior to women, might that not be caused in part by the gender jihad, the massive governmental affirmative action movement that has targeted men for decades? The attacks on all-boys schools and men's sporting programs, the discrimination against men in hiring, must have exacted some price. Perhaps triumphal feminists such as Ms. Gibbs might consider that. Or perhaps they don't care — now that they are out front, they just want to keep it that way, and men can go to hell.

— Gary Jason

Plank in eye — This past weekend, while I was waiting for Congress to "do something" about the ongoing finan-

cial crisis, I happened to rent and watch the old Clark Gable movie "Command Decision." This movie tells the story of a WW2 Air Corps Wing Commander, Clark Gable, who is faced with the dilemma of knowing that a decision to send his B-17s deep into German territory to bomb the production facilities of a new and very powerful fighter jet, is the right decision in the long run because it will shorten the war but a difficult decision in the short run because it will mean the death of many crew members and will incur the wrath of Congress. When he decides to make the right long-term decision he is relieved of command and replaced by a general who is known to be more "compliant" and "politically astute." The conclusion of the movie, happily, shows the newly assigned general accepting his grave responsibility and making the right "Command Decision."

Unfortunately for the American taxpayers and their children and grandchildren, neither Clark Gable nor Barry Goldwater nor Ronald Reagan was in the bailout negotiations. The "politically sensitive" group that was there decided to do the expedient thing and go for the short-term solution, that is, more government intervention in the financial markets, precisely the action that caused the problem in the first place. Unlike the result depicted in the movie, those entrusted to make the "Command Decision" for the country failed us and, if their recommendations are accepted, the losses down the road will be horrendous. Those losses, however, will occur long after the current group of "deciders" is gone. It is a sad day for the cause of liberty.

The next time Hugo Chavez or Vladimir Putin decides to nationalize a company, we will now have to be much less critical.

— Roy Miller

Head east — We live in a country where nationalization of an entire sector of the economy can occur with little protest, and virtually overnight.

We live in a country where rules and principles are deemed valid only when there is no emergency, but where emergencies are perpetual.

We live in a country where no problem is too great for the government to solve, and no problem too small for the government to identify as a problem.

We live in a country where inequality is suspect, unless achieved by celebrity or stark political power.

We live in a country where voting is the essence of political morality, but knowledge is deemed elitist.

A Shining City on a Hill? I think they were talking about Hong Kong.

— Ross Levatter

A few good men? — I always hesitate before I criticize the U.S. military. Many of my ancestors fought in America's wars. Our armed forces today face huge challenges — multiple wars to fight, with limited human and material resources.

That said, the military has displayed a serious problem with truth-telling. It has produced some real whoppers — sometimes for propaganda purposes, and sometimes just to protect its cammie-covered ass.

Remember Jessica Lynch emptying the last clip in her rifle before the Iraqis captured her? Great story; didn't happen. Remember Pat Tillman's heroic death in a hail of Taliban

continued on page 32

To Judge or Not to Judge

by Robert A. Levy and William Mellor

The Founders were uncharacteristically vague about the role the judiciary should play. Little surprise that the scope of judicial review has been hotly contested.

“The courts of justice,” wrote Alexander Hamilton in Federalist 78, “are to be considered as the bulwarks of a limited Constitution against legislative encroachments.” That role was significantly expanded with the ratification of the 14th Amendment after the Civil War. Until then, the Constitution constrained only the federal government. Americans discovered, however, that states more than occasionally violated the rights of their citizens — slavery being the obvious example. And so a second generation of Framers revisited the federalist model and added a new power for the national government — above and beyond the powers enumerated in the original Constitution: Whenever any state “shall abridge the privileges or immunities of citizens . . . [or] deprive any person of life, liberty, or property, without due process . . . [or] deny to any person . . . the equal protection of the laws,” the federal government is authorized to intervene and stop the offending state acts.

Both the Congress and the federal courts are empowered by the 14th Amendment to prevent state and local governments from misbehaving. Regrettably, the courts have been derelict in their duty. They have acquiesced in a vast enlargement of state power and a corresponding diminution in individual rights. That, in major part, is why we wrote “The Dirty Dozen,” which catalogs the twelve worst Supreme Court cases of the modern era.

In his review of our book (“Supreme Injustice,” October 2008), J.H. Huebert applauds our “genuine concern for per-

sonal and economic liberty” and acknowledges that the “Supreme Court has done a lot of damage to liberty, interpreting government powers broadly and many constitutionally protected rights narrowly.” But he nonetheless disparages our thesis that judges must be more vigorously engaged in securing those rights. Huebert’s critique is threefold: first, judges have abused their 14th Amendment powers to find “various positive ‘rights’ that they like even more than libertarian rights.” Second, judicial engagement is “doomed to failure” because “federal courts, after all, are the government.” Third, “the important work to be done is in the realm of education. . . . When people understand and want liberty’s benefits, they’ll cast off their government entirely, or at least elect representatives who will respect their rights.”

We examine each of those arguments in turn.

The Abuse of Judicial Engagement

For starters, Huebert protests that we “unquestioningly embrace the idea that the 14th Amendment allows federal courts to strike down laws that don’t comport with

liberty." Guilty as charged. Like it or not, the 14th Amendment is part of the Constitution. It unambiguously declares that no state can abridge privileges or immunities, or deny due process or equal protection. Unless the text of the amendment is ignored or the institution of judicial review is discarded, federal courts can and should "strike down laws that don't comport with liberty."

That said, we agree with Huebert's warning against merely giving federal judges more power. When guarantees of equal protection and due process are misused to restrict private rather than state conduct (*Shelley v. Kraemer*, 1948), or discover a constitutionally sheltered property interest in expected welfare receipts (*Goldberg v. Kelly*, 1970), the anti-liberty implications are obvious. But abuse of the 5th and 14th Amendments — by both Congress and the courts — is no reason to pretend that the amendments do not exist.

The answer to bad judging is good judging. That means we need to appoint judges who have a theory of rights and an understanding of the Constitution grounded in the principles that animated the Framers: federalism, separation of powers, individual rights, and limited government. "The Dirty Dozen" is dedicated to that goal — not so much as a teaching device for misguided judges, who may be irredeemable, but rather as a means to influence politicians who select judges, and voters who select politicians.

Notably, if judges overreach, our system of checks and balances provides numerous remedies — including Senate confirmation and impeachment, restrictions on the Supreme Court's appellate jurisdiction, re-passed legislation that satisfies the Court's objections, discretion in enforcement, and constitutional amendments.

Moreover, the 14th Amendment is not an open-ended invitation for Congress to make mischief that the courts must undo. The amendment confers on Congress a preventive or remedial power, not a power to create law from whole cloth. First, Congress must find evidence that states have systemically violated constitutionally secured rights. Only then may

the federal legislature intrude on the states' traditional police power to regulate health, safety, and welfare. And if Congress does intrude, its remedy must be congruent with and proportional to the observed violation. (See *City of Boerne v. Flores*, 1997.) Those safeguards are no guarantee against abuse of our federalist scheme, but they do suggest that the Supreme Court is conscious of the potential for federal meddling.

The Futility of Judicial Engagement

Having reminded us that judicial engagement can be abused, Huebert goes a step further: He contends that even responsible engagement by the federal courts will prove to be an exercise in futility. Huebert cautions that restoring liberty is not just "a matter of overturning a handful of bad court

Unless the 14th Amendment is ignored, federal courts can and should "strike down laws that don't comport with liberty."

precedents." Indeed, he notes, presidents will not "choose a judge who will severely limit that president's own power." And senators will not "confirm a judge who won't just let them do whatever they want." A judge is "employed by the very federal government he's expected to restrain"; he's part of a "rigged game."

That assessment is far too cynical. In the real world, for the foreseeable future, federal judges will continue to work for the government: the president will nominate them and legislators will confirm them. Federal judges are, however, substantially insulated from the political process by lifetime tenure. And no one, to our knowledge, has suggested a better structure that would immunize government employer and judicial employee from possible conflicts. Nor has anyone suggested that blanket deference to the executive and legislative branches would neutralize, rather than exacerbate, undue influence from politicians. The cure for judicial abuse is most certainly not legislative and executive abuse. If we've learned anything in more than two centuries, it's that input from multiple branches inhibits excesses.

To illustrate his futility hypothesis, Huebert points to several cases. First, he claims that *Raich v. Gonzales* (the 2005 Commerce Clause case involving medical marijuana) "failed, creating terrible anti-liberty precedents." But *Raich* relied almost entirely on *Wickard v. Filburn*, another Commerce Clause case from 1942 that is one of "The Dirty Dozen." That precedent is 66 years old, not newly created. Second, Huebert points to *Kelo v. City of New London* (2005), in which eminent domain was utilized (unconstitutionally) to take private property for private use. Huebert facetiously dismisses the public outcry that *Kelo* prompted — asserting that post-decision events merely prove that state courts would have been a better venue than federal courts. Nonsense. State-level reforms in 43 states, including a unanimous opinion from the Ohio Supreme Court, could never have happened were it not for the Supreme Court's outrageous decision in *Kelo*.

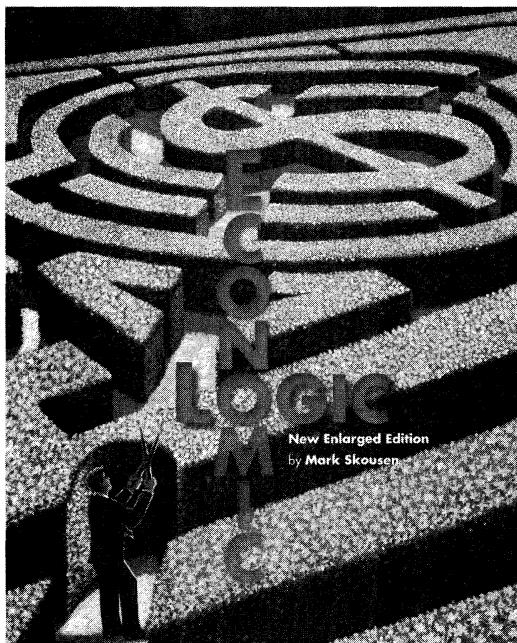


"We'll need a supreme court or something to *interpret* these."

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Mark Skousen, Ph.D., has the unique background of teaching at a major institution (Columbia University), working for the government (CIA), running a non-profit organization (Foundation for Economic Education), and operating several successful multi-million dollar businesses (Skousen Publishing Co., FreedomFest). He is the editor of *Forecasts & Strategies*, a popular award-winning investment newsletter (www.markskousen.com), has written for *Forbes* and *Wall Street Journal*, and is a regular contributor to CNBC's Kudlow & Co. His bestsellers include *The Making of Modern Economics*, *Investing in One Lesson*, and *EconoPower*. In honor of his work in economics, finance and management, Grantham University renamed its business school, "The Mark Skousen School of Business."



For his third example of futile judicial engagement, Huebert strangely targets *District of Columbia v. Heller*, this year's blockbuster Second Amendment case invalidating Washington, DC's gun ban. *Heller*, insists Huebert, "is likely to be a very limited victory" because restrictions other than a ban on certain types of weapons "probably will pass muster." Hmm. *Heller* challenged three provisions of the D.C. code — the most extreme provisions — and sought no relief beyond a declaration that those three provisions were unconstitutional.

The alternative is business as usual and the continued upward ratchet of government powers and erosion of personal liberty.

The Supreme Court granted *Heller* 100% of the relief that he requested. Not bad for a limited victory. Before *Heller*, federal appeals courts covering 47 out of 50 states had ruled that litigants have no redress under the Second Amendment if their right to keep and bear arms is violated by state law. Now, after *Heller* — and after incorporation, which is imminent — litigants in every state will have redress under the Second Amendment if their rights are violated. That means Chicago's gun ban will fall; many of San Francisco's laws will fall; parts of New York's regulations will fall. If that's an example of futile judicial engagement, we embrace it.

Finally, Huebert mentions *United States v. Lopez*, the 1995 case that temporarily limited Congress's power under the Commerce Clause to regulate the possession of guns near schools. After the Supreme Court did its job, Congress circumvented the Court's decision by reenacting a nearly identical law requiring that the weapon must first have traveled in interstate commerce. Judicial engagement yielded the right result, until the legislative branch contemptuously undid the Court's handiwork.

That single example of judicial engagement turned sour must be weighed against multiple examples of constructive actions by the Supreme Court ameliorating the pernicious effects of several cases in "The Dirty Dozen." Consider the Court's recent decisions in the areas of campaign finance reform (*Wisconsin Right to Life v. Federal Election Commission*, 2006; *Davis v. Federal Election Commission*, 2008), racial preferences (*Parents Involved in Community Schools v. Seattle School District No. 1*, 2007; *Meredith v. Jefferson County Board of Education*, 2007), and civil liberties (*Hamdan v. Rumsfeld*, 2006; *Boumediene v. Bush*, 2008). The past three years have demonstrated that judicial engagement can work.

Education as an Alternative Approach

According to Huebert, it is "silly . . . to think you can make the government want liberty before many or most of the people want it." His solution: education. Forget about litigation as a means to promote liberty. Reject the "naive view . . . that government officials are really reasonable, serious people who are just waiting to have the right ideas put in front of

them." Instead, advises Huebert, teach the masses to appreciate a free society and they will bind the politicians with the chains of the Constitution.

If you're seeking real naivete, here's the Huebert manifesto: advocates for liberty should educate the public, wait until the newly-educated public reaches voting age, rely on the voters to elect pro-liberty politicians, assume the democratic process will yield pro-liberty outcomes (despite gerrymandering, special interests, and public choice theory), and set aside efforts to engage the judiciary in the fight for limited government and individual rights. In return, the anti-liberty forces will fold their tents, ditch their own brand of education, and happily abandon the judicial battle that has enlarged the power of government and invented rights nowhere secured by the Constitution. If that's the Huebert program, it's a recipe for failure.

Education can play an important role, of course, but not the exclusive role. First, a quantum change in the educational climate could take a generation or two to implement. Second, statists will press vigorously for their opposing views. Third, books like "The Dirty Dozen" are essentially educational — directed at nonlawyers, not only the community of legal scholars. Fourth, if the public can be educated to elect politicians who respect liberty, those politicians can be expected to appoint judges who are philosophically sympathetic. Much is gained, and nothing is lost, by interpositioning one more set of hurdles, in the form of judicial review, between the citizenry and the laws to which we must conform.

When it comes to law and public policy, education is not a self-fulfilling end. There must be an objective. If our Constitution is to be restored to its rightful place as the guardian of our freedoms, some corrective process must be put in place. We have urged constitutional amendment as the most principled route — presumably where effective education must lead — with judicial engagement as a fallback alternative. The third route is business as usual with its continued upward ratchet of government powers and erosion of personal liberty.

It is indeed alluring to depend on the voters rather than the courts. Yet we have experienced the destructive downside of that process, which pits majoritarian rule against inalienable rights. In *The Tempting of America*, Judge Robert Bork characterized the clash as the Madisonian Dilemma: "In wide areas of life majorities are entitled to rule, if they wish, simply because they are majorities. . . . [T]here are nonetheless some things majorities must not do to minorities, some areas of life in which the individual must be free of majority rule." The vindication of inalienable rights, which are often counter-majoritarian, is what constitutions and courts are all about.

Yet Judge Bork understates the problem and reverses the priorities. The Framers plan — limited government with delegated and enumerated powers — preserved liberty in "wide areas" while constitutionalizing majority rule over "some areas," not the opposite. Since 1789, the Supreme Court has overturned 150 acts of Congress and roughly 1,200 state and municipal laws. We haven't looked at each of those cases, but we're confident that libertarians who believe in tightly constrained federal and state government powers, coupled with expansive individual liberty, have been well-served by the Court's invalidation of (mostly) oppressive laws. □

From Reform to Crisis

by Jim Walsh

If there's one thing the government is good at
stimulating, it's economic distress.

An old college friend of mine is just about the perfect rational economic actor. Backed by some family resources, he did well in business early in his adulthood. Now, in his 40s, he doesn't have to work in a conventional sense. He isn't married and doesn't have children, so he's not tied to a certain place. He owns houses in desirable locations and travels a lot. He invests, in both the stock market and directly in small businesses. The most remarkable thing about him is that he has few pretensions, personal or professional. He says that his investments, regardless of the legal forms they take, are basically loans. And here's what he says about lending money:

I've followed a sort of bell curve. At first, I wasn't comfortable about being a lender. So, I avoided lending to people for that reason. Especially to family and friends. Then, I started getting used to it. So, I loosened up a little. It went okay, mostly; I never got completely "burned," so to speak. But, lately, I've moved back again from the family and friends part. Lending to people isn't good for personal relationships. [Lending] is an inherently unequitable activity. No matter how professional you make it, the lender will always be skeptical and the borrower will always be resentful. It's human nature.

The United States is a debtor nation. As the country's "family and friends," American citizens should pay attention to that rational decision-maker. As the country plunges into a recession, it is asking us to lend it money. Again. We're making the loan; but our relationship is going to change.

My rational friend has been spending a lot of time in the last few years outside of the United States.

"Reform" and "crisis" are words that no politician can resist. They can make a dim-witted hack seem a visionary leader. But, in practical terms, they mean very little.

The details of the economic "crisis" of late September and early October aren't exactly simple, but they follow a fairly predictable narrative. (That's part of the reason it's hard to use the word "crisis" seriously in regard to these downward economic turns.) And they follow from statist reforms.

In the second half of 2007, after more than a decade of coaxing and prolonging a boom in the U.S. real estate market, the statist sausage-makers at the Federal Reserve and the Treasury Department ran out of ways to keep the party going.

The Feds had been using various accountancy tricks and monetary manipulations to extend the boom. And they'd done a pretty effective job through the 2000s. The bubbling housing market had lifted many boats. Private-sector real

estate lenders had followed the Feds' tricks — and pressed them far beyond anything the Feds envisioned. The resulting loose credit drove up residential real estate prices and allowed debt-based consumer spending to create the impression of financial expansion. Americans borrowed against the rising value of their homes to buy lots of stuff.

Some statisticians say that the current economic problems are the result of deregulation. That's false. They're the result of a disorienting cycle of crisis and reform.

The recent real estate bubble began in the late 1970s, when Jimmy Carter signed the Community Redevelopment Act (CRA) into law. The CRA was designed to encourage private home ownership in poor neighborhoods — a noble goal. It did this by loosening some of the credit standards applied to applicants for mortgages that would be guaranteed or subsidized by existing government housing programs. The bankers doing business under the CRA euphemistically called the resulting loans "subprime" and tried to keep them a small part of their portfolios.

It's an under-realized fact that Carter signed several "deregulation" bills into law. (In fact, the Carter-era measures shared a common theme of partially deregulating industries and markets. And partial deregulation is often worse than no deregulation at all.) The peanut farmer from Georgia rightly considered deregulation a reform of cronyism and other institutionally-corrupt government practices. The part he got wrong was overestimating the power of his good intentions and underestimating the unintended consequences of his partial measures.

During the Reagan and the first Bush administrations, many of the deregulation programs that had begun under Jimmy Carter were substantially expanded. New deregulation plans were enacted; and Reagan, especially, made deregulation a prime directive. All the while, the CRA languished as an obscure program in a field that Reaganites didn't care for much. Of course, in Washington, even obscure laws have a way of lingering.

When Bill Clinton moved into the White House in the early 1990s, he saw potential in the CRA as a tool for his brand of aggressive statism. He expanded and strengthened the law, setting it up as a tool for social engineering. The once-obscure law would channel money into inner-city and racial

smaller Federal Home Mortgage Corp. (Freddie Mac).

The GSEs weren't government agencies; they were private companies created and maintained by special laws. They were designed to buy high-quality mortgages from banks, combine the loans into geographically and demographically diverse pools and then sell interest in the pools to private investors as "mortgage-backed securities." The process was called "securitization" or "repackaging." It allowed banks to remove loans from their own balance sheets and reallocate the capital elsewhere — usually into making more loans.

Investors who bought Fannie Mae and Freddie Mac securities (usually bonds) received regular dividends or distributions based on the monthly mortgage payments that flowed into the mortgage pools. Fairly basic stuff.

But the combination of the lax underwriting standards of the CRA loans and the securitization of the GSEs' mortgage pools changed the home loan industry fundamentally. Banks making subprime loans under CRA didn't have to worry about keeping the loans on their books. The reason most banks had written only a few subprime mortgages was that the things had a higher default risk than the "conforming" mortgages that could be repackaged through Fannie Mae and Freddie Mac. No bank wanted to keep a lot of that risk; and the state regulators who examined the bank's books didn't like to see a lot of subprime loans there.

When banks could move subprime loans off of their books and into GSE loan pools, they didn't have to worry about the default risk anymore. They didn't even need to have loan portfolios in the traditional sense anymore; they could write as many subprime loans as they wanted and sell the things through the GSEs or a group of Wall Street firms that offered similar services. The higher application and processing fees that banks charged subprime borrowers stopped looking like a sign of trouble and started looking like a feature. Word spread and the business boomed. The party was in full swing.

Between 1996 and 1998, the Clinton administration relaxed the GSEs' loan requirements for down payments on conforming loans and made other changes that allowed more creative securities based on mortgages (or based on other securities based on mortgages). Clinton said these reforms would help America's lower classes get into home ownership.

These may have seemed like small steps to the Clinton administration. In fact, they were a major signal to the mortgage marketplace. The government was supporting looser credit standards.

Once the mortgage industry realized it could unload subprime loans on the market for mortgage-backed securities, it wanted more. The fat origination and underwriting fees that subprime loans generated were irresistible. Wall Street investment banks smelled this opportunity, too. They offered to provide the same securitization services that Fannie Mae and Freddie Mac did — but with even fewer underwriting guidelines or restrictions.

The GSEs ended up in a statist version of the innovator's dilemma. Private investment banks were taking away market share for the securitization business that Fannie Mae and Freddie Mac had invented. The GSEs were seen as being too conservative, their loan guidelines too strict. A principled limited government would have let Wall Street have the go-go securitization market. But Bill Clinton wasn't running a

The peanut farmer from Georgia considered deregulation a reform of cronyism and other institutionally corrupt government practices.

minority communities. Using the rhetoric of "reform," the Clinton administration advised banks that they would either make loans through the CRA or face regulatory scrutiny and punishment.

Clinton also built up the connections between banks making CRA loans and the so-called "government-sponsored enterprises" (GSEs), the larger Federal National Mortgage Association (known commonly as Fannie Mae) and the

principled limited government. His Treasury Secretary, former Goldman Sachs head Robert Rubin, knew that the Wall Street firms didn't care about social justice; they were creating capacity for subprime loans to anyone. The Clinton administration could earn political points on the Left by focusing the GSEs on the social justice elements of loosening mortgage credit.

In 1999, Clinton named his friend and long-time political operative Franklin Raines chairman of Fannie Mae. Raines quickly adapted the rhetoric of reform and social justice. In the process, he allowed the inference that the government's legal guarantee of the GSEs was a guarantee of the whole subprime mortgage market. This was a fundamentally fraudulent proposition — and it led to various, smaller fraudulent activities that took place during Raines' six-year tenure at Fannie Mae.

Soon after Raines' arrival, Fannie Mae launched a "pilot program" that it promoted as something that would — in the credulous words of *The New York Times* — "help increase home ownership rates among minorities and low-income consumers." The program actively encouraged banks to extend home mortgages to individuals whose credit was not good enough to qualify for conventional loans. Raines pitched the deal as follows:

Fannie Mae has expanded home ownership for millions of families in the 1990s by reducing down payment requirements. . . . Yet there remain too many borrowers whose credit is just a notch below what our underwriting has required who have been relegated to paying significantly higher mortgage rates in the so-called subprime market.

He said that Fannie Mae hoped to take the program nationwide by the spring of 2000.

Of course, getting into the subprime market exposed Fannie Mae to default risks that it had traditionally worked hard to avoid. Amidst its breathless words of support, the *Times* noted, presciently:

In moving, even tentatively, into this new area of lending, Fannie Mae is taking on significantly more risk which may not pose any difficulties during flush economic times. But the government subsidized corporation may run into trouble in an economic downturn, prompting a government rescue similar to that of the savings and loan industry in the 1980s.

So, the crisis was predictable — and predicted — a decade before it took place.

In the meantime, Raines made a lot of money; he paid himself nearly \$100 million during his reign.

In 2000, Sen. Phil Gramm coauthored the Commodity Futures Modernization Act. The CFMA expanded the scope of futures trading and removed several types of investment from direct federal regulation. Gramm called the CFMA a necessary reform of patchwork futures trading rules.

Among the investments that the CFMA sheltered from regulatory scrutiny was something called the "credit default swap" (CDS). This was a kind of insurance one bank could exchange with another, making it safer for banks to make riskier loans. By removing government regulatory control of CDSs, the CFMA gave the sharp guys from Harvard and Wharton a tool for obscuring credit risks. They picked up this tool quickly.

There were a number of errors and bad assumptions that affected how the Wall Street whizzes priced CDSs and related derivatives. The biggest was their focus on cash flow rather than underlying asset value.

Also, most of the investment banks that created and traded CDSs seemed not to understand fully the concept of "duration" as it applies to mortgages. Duration is a calculation that takes into account the prepayment rates for pools of mortgages. These rates include voluntary prepayments (usually the result of a house being sold) and involuntary prepay-

Once the industry realized it could unload subprime loans on the market for mortgage-backed securities, it wanted more.

ments (usually foreclosures — but also things like insurance payoffs after natural disasters). The investment banks focused their analysis on voluntary prepayments and ignored involuntary ones. This, on a very mechanical level, reflected the assumption that the bubble would last forever.

W. Bush's administration saw problems looming for the GSEs. In 2003, it proposed some reforms that would have pulled Fannie Mae and Freddie Mac out of the subprime securitization market. But congressional leaders (most vocally, Massachusetts Rep. Barney Frank), still clinging to the social justice justification, resisted. In 2003, Frank said:

These two entities — Fannie Mae and Freddie Mac — are not facing any kind of financial crisis. The more people exaggerate these problems, the more pressure there is on these companies, the less we will see in terms of affordable housing.

The younger Bush decided that the GSE reform wasn't a hill worth dying for. Loose credit was as important to the continuing real estate boom as the low interest rates maintained by the Federal Reserve under chairman Alan Greenspan and his successor Ben Bernanke.

So, W.'s administration backed away from the reform proposals that might have dampened the effects of Clinton's earlier reforms.

The U.S. real estate market was still booming. And it would keep booming through 2004 and 2005. Pushing through the pinhole created by the CRA, subprime mortgages quickly flooded the home loan industry. Their easy credit terms created a debt version of Gresham's law: subprime loans chased out conforming loans. A creditworthy homebuyer who wanted to keep a standard, fixed-rate loan had to bid against breathless competitors pre-approved for no-documentation, 100% loan-to-value adjustable rate mortgages (ARMs). The creditworthy bidder couldn't keep up. If he really wanted a particular house, he'd have to offer a price that only a shady loan could cover.

In some areas, houses would be listed for sale and have dozens of offers within hours. Speculators and "house flippers" talked about making money on properties that they sold

the day after they'd received title. Realtors, mortgage brokers, and bank lending officers had so much business they could afford to turn new clients away.

On Wall Street, the market for mortgage-backed securities was also booming. The smart guys who worked for investment banks and stock brokerages were creating, in addition to CDSs, all kinds of new investments based on mortgages and other loans. And they had lots of willing buyers.

The Sarbanes-Oxley Act of 2002, a financial reporting reform passed into law after the Enron and Tyco accounting crises became big news, substantially raised compliance

Actuaries calculate risks and make sure that insurers keep enough money on hand to pay expected losses. In the Wall Street version, no one was making such informed analysis.

costs for publicly-traded companies. Unintended consequences followed. The higher compliance costs chased money — and people — into the privately-held investment vehicles known as hedge funds. Free from the most stringent reporting requirements, hedge funds could act decisively, compete ruthlessly, and didn't care so much about transparency in their dealings.

Many hedge funds bought MBSs and CDSs based on subprime loans; many of these also bought even more complex derivative securities that focused investment on certain levels of risk within subprime risks. One east coast hedge fund trader says that between 2004 and 2006 he

must have listened to a hundred pitches that all said the same thing. "Americans are borrowing more and their credit is getting worse. But they're hooked and are going to keep on borrowing. Here's a derivative security we've cooked up that gives you the prime cut of these fat interest spreads." At first, it was just one or two investment banks pitching this shit. But, pretty soon, it was all of them. Sharp guys from Harvard and Wharton selling glorified payday loans. They knew [this] was really bad.

The derivative securities that worked like bets on the various outcomes of the subprime mortgage market went by various names: credit default swaps, structured investment vehicles (SIVs), collateralized mortgage obligations (CMOs), and collateralized debt obligations (CDOs) — to name some of the most popular. Basically, these derivatives divided and reassembled pools of mortgaged-backed securities in various ways. SIVs and CMOs were pools of standard MBSs sliced up (often into 64 equal parts) and reassembled according to their riskiness, geographic concentration or other standards. In some cases, Wall Street whiz kids would break a 30 year mortgage into individual securities based on each of 360 monthly payments; then they would bundle thousands of the one-month payments into larger securities offerings.

Finally, CDOs were pools of CDSs sliced up and reassembled to reflect default risks more precisely. The important thing to keep in mind about these insurance-like investments

was that the Wall Street whizzes needed rich and patient clients to buy them. Entities (called "counterparties") that bought CDOs and CDSs received regular income and saw their investments appreciate as long as the party kept going but, when and if it ever stopped, the investments would lose value. Perhaps completely.

The sharp guys from Harvard and Wharton needed to sell the CDOs and CDSs, so that they could convince investors — and bank regulators and credit rating agencies — that mortgage-backed securities were "hedged" or "insured" or "guaranteed." Most were ready and willing to be convinced.

So, CDSs and CDOs were a kind of investment insurance. But, despite their claims, Wall Street firms have never been good at risk assessment. They are dominated by the trader's mentality, which values the adrenaline rush of doing deals over the cautious work of actuarial analysis.

When you write insurance, you get a lot of people to pay you a little more than their share of what it could cost if a bad thing happened to one of them. Then, if the bad thing happens, you pay the injured person back. You need to have money available to pay people who have been injured. Or there will be trouble.

What happened with the CDSs is that traders and investors made bad (that is, favorable to them) assumptions. They jumped at the cash flow that the investments offered and ignored the potential losses that would result if the mortgages underlying the derivatives actually defaulted.

An insurance company succeeds if its premiums are lower than its competitors' but still higher than its actual cost of claims. When it comes to structuring health, home, and car coverages, actuaries calculate the relevant risks and make sure that insurers keep enough money on hand to pay expected losses. In the Wall Street version of insurance, no one was making such informed analysis. Why not? Because the "insurance" wasn't covering actual mortgages or even simple mortgage-based securities; an actuary could analyze the default risks of those, based on relevant local market data, loan-to-value ratios, etc. Instead, the "insurance" was covering the default risk of derivatives like SIVs and CMOs — that had been designed to obscure risk factors.

How did the Wall Street whizzes calculate the value and dividend payments on derivatives that were insuring other derivatives? They based everything on cash flow, not actual

The people trading these derivatives didn't understand them. But there was so much excitement in the trades that they didn't hesitate to join the party.

risk. This is like pricing a person's car insurance premium based on his income, not on the value of his car or his driving record.

Through the go-go years of the early- and mid-2000s, CDSs and CDOs were traded like stocks or other simple investments. They changed hands dozens or scores of times,

growing in value with each trade. Some of the firms that traded swaps — effectively insuring billions (or tens of billions) of dollars in subprime loans — only kept a few million dollars (or less) in cash on hand to cover any losses.

Similar things had happened in insurance circles before. In the 1990s, Lloyd's of London suffered what its executives would come to call a "risk spiral." The combination of insured losses related to storm damage to some offshore oil rigs in the North Sea and asbestos liability lawsuits in the United States had much-worse-than-expected effects on Lloyd's investors. These investors — called "names" in Lloyd's jargon — functioned just like the counterparties to CDO and CDS contracts. They bought into "syndicates" which essentially paid them to be standing by with checkbooks ready in case of major losses.

Some of the "names" had been making money this way for so long that they'd forgotten about the potential liability. They expected to keep getting distribution payments . . . forever. When the losses mounted and they had to pay money into the syndicates, many weren't prepared. The resulting shortfalls almost wiped out Lloyd's of London.

Lloyd's survived. But it had to turn to the British government for financial aid. And it had to restructure its syndicates, demanding more formal capital investment and clearly-written liability agreements with its "names."

Who was buying CDOs and CDSs? Some domestic hedge funds — but, more often, quasi-governmental banks in Asia. The Asian banks saw buying complex derivatives as a way to keep the U.S. debt party going, keep their goods flowing into American markets, and make some investment profit along the way.

You shouldn't be embarrassed to admit that you don't understand these derivatives. The people who traded them didn't understand what they were. But there was so much excitement in the trades that they didn't hesitate to join the party.

Roger Altman, a former executive at the Wall Street investment bank Lehman Brothers and a deputy Treasury Secretary under Bill Clinton, has written:

The lack of transparency was stunning. Many big lenders did not disclose off-balance-sheet risks. In some cases, they did not understand these risks themselves. More fundamentally, we allowed a second, huge financial system to develop outside the normal banking network. It consisted of investment banks, mortgage finance companies and the like. It was unregulated, not transparent and way too leveraged. But with nine separate and mostly ineffective financial regulators, these risks were ignored. That is, until this second system crashed.

Why did the second system crash? Because all markets have cycles of boom and bust. By 2006, at least some of the sharp guys from Harvard and Wharton had realized the party couldn't go on forever. They started trying to get the potential liabilities off of their banks' books. But risk transfer is a zero-sum game. In order to get the toxic waste off of their books, the smart guys had to find someone willing to take it on.

The fact that no one seemed to know what any of the derivatives were really worth made deals difficult. In economics jargon, the complexity of the derivatives meant that price discovery was nearly impossible.

Price is the mechanism that balances differences in supply and demand. Price discovery is the process by which markets clear — that is, assign efficient values to goods or services. For mortgage-based securities, the price should be the net present value of expected future cash flows. But the real market prices bid for the securities didn't always match that formula. Why? Again, unintended consequences.

Throughout the 1990s and early 2000s, federal banking rules required financial institutions to follow so-called "mark-to-market" pricing models when reporting the value of their

The Bush administration encouraged Fannie Mae and Freddie Mac to purchase troubled securities to prop up the market.

investments. These models — justified as reforms that would prevent Enron-like accounting abuses — required banks and other financial institutions to report the current market value of any securities they owned at the end of every trading day. And adjust their balance sheets accordingly.

Transparent, no?

Yes. But this transparency made MBSs and more complex derivatives attractive to financial firms (including Fannie Mae and Freddie Mac) precisely because they defied clear reporting and simple analysis. The MBSs were backed by blocks of thousands of mortgages. Even as the mortgage market turned bad, most of the loans underlying any particular MBS were still good, a smaller segment might be good with some minor adjustments, and only a small segment — perhaps 10% or 15% — were foreclosures. The challenge was that identifying specific loans in each category was designed to be difficult. The slicing and dicing that Wall Street firms had done meant that payments from a single 30-year mortgage might go into one MBS pool for the first five years, another for the second five years, a third for the third five years . . . and so on.

Even more complex: some of the derivative securities sliced and diced risk "tranches" within various pools or mortgages so that — effectively — part (say, \$1,000 of \$1,500) of a specific mortgage's monthly payment went in to one investment's cash flow and the rest (say, the remaining \$500) went into another's cash flow.

So, these SIVs and CMOs were designed to defy transparency requirements. On this count, they were extremely successful. Very few people understood how they worked. As long as real estate prices continued to rise, no one cared to know.

In May 2006, the Office of Federal Housing Enterprise Oversight (OFHEO), released an investigation report that described a culture of corruption at Fannie Mae that rivaled the worst of Enron or Tyco.

The OFHEO investigation covered the years 1998 to 2004, which included most of Franklin Raines' tenure as chairman. According to the report, during that period, Raines and his senior management team grossly overstated Fannie Mae's

earnings — by approximately \$10.6 billion — for the purpose of paying themselves big bonuses.

The report stated:

By deliberately and intentionally manipulating accounting to hit earnings targets, senior management maximized the bonuses and other executive compensation they received, at the expense of shareholders. . . . Fannie Mae reported extremely smooth profit growth and hit announced targets for earnings per share precisely each quarter. Those achievements were illusions deliberately and systematically created by senior management with the aid of inappropriate accounting and improper earnings management.

In other words, Raines cooked the books.

This had sent another signal to the mortgage marketplace: that even congressionally-chartered companies, designed to serve the public good and achieve utopian “social justice” ends, were gaming the system.

As billionaire investor Warren Buffet said, the 2000s were like a beach where lots of people had waded into the water at high tide. As long as the tide stayed high, everything was fine. But, when the tide went out, everyone would find out who was wearing a bathing suit and who wasn't.

By early 2007, the tide was going out. The loose lending standards and low interest rates were starting to lose their effect. Home prices in some regions (like San Diego, which many real estate experts consider a leading indicator of national trends — either up or down) were plateauing and even dipping.

In February 2007, California-based New Century Financial — a major player in subprime mortgage origination — announced that it was having trouble selling its loans and was going to have restate several years of financial reports. The sharp guys from Harvard and Wharton were starting to realize that the party was over. They started backing away from MBSs, CDSs and the various other derivatives. Loose credit started to tighten up.

About that time, the Bush administration made a 180-degree turn from its earlier position and encouraged Fannie Mae and Freddie Mac to buy up some of the most troubled mortgage-backed securities in an effort to prop up the market that was just beginning to crash. The GSEs did — and hastened their

The sharp guys were starting to realize that the party was over. They started backing away from the various derivatives.

own insolvency. Just like the “no money down” home buyers whose mortgages they were supporting and the lazy Lloyd's of London “names” who thought losses would never come, the GSEs didn't have enough cash to withstand the collapse in the mortgage derivatives market when housing started to slump.

On Sept. 7, 2008, U.S. Treasury Secretary Henry Paulson (another ex-Goldman Sachs head) announced that Fannie

Mae and Freddie Mac were both being taken over by the government and placed in a specially-designed receivership.

The GSEs had always been in an impossibly conflicted position. They competed against aggressive capitalists — the investment banks — for securitization services; but they were quasi-state agencies that were supposed to support altruistic ends. It was an impossible mix.

The fact that Chinese state-owned banks owned billions of dollars of Fannie Mae and Freddie Mac bonds made it impossible to let the GSEs fail without incurring disastrous international repercussions. It would be a crisis.

Soon after its takeover, Paulson's Treasury Department authorized Fannie Mae and Freddie Mac to increase the size of their loan portfolios, allowing them to buy more mortgages. The plan was that, as the GSEs bought more mortgages, new cash would be freed up to lend to new home buyers. But shifting more troubled loans to the GSEs would also increase the strain on their finances, increasing the risk that taxpayers would lose more money when loans went bad.

About ten days later, the Federal Reserve bought nearly 80% of the American International Group (AIG), in exchange for an \$85 billion loan. A giant company in the insurance field, AIG had operations all over the world. Most of its business was sound, conventional insurance underwriting and finance. But a small part of the company had been a big market-maker in and trader of CDSs and other mortgage-related derivatives. (Paulson would later describe AIG as a group of insurance companies with a hedge fund on top.) That one division exposed the entire company to tens of billions of dollars in financial liabilities, which made other companies and traders hesitant to do business with AIG.

That hesitation took concrete form when several major credit rating agencies — Standard & Poor's, Fitch, and Moody's Investors Service — had cut AIG's rating a few days before the government takeover. The lower rating triggered larger capital requirements under some of AIG's operating capital agreements; immediately, the insurer had to raise over \$14 billion in cash to honor its contracts. And more demands were coming.

In Washington, D.C., the conventional wisdom among statist experts was that the blooming “crisis” was going to require broader reform. The ad hoc bailouts from Treasury and the Federal Reserve wouldn't do.

In one day (September 16), the London interbank offered rate (LIBOR) — which financial institutions charge each other to borrow — more than doubled, to 6.44%. The rate had been as low as 2.07% one day earlier. This was a troubling sign, because many subprime ARMs used LIBOR as the basis for their adjustable rates. So, the interest rates on many loans were set to jump dramatically.

In a manner reminiscent of W. Bush's urgent advocacy of the USA PATRIOT Act after the 9/11 terrorist attacks, Paulson made public pronouncements demanding quick congressional approval of a \$700 billion bailout of the financial services industry at large.

The “crisis” was a hangover. And the statist's first impulse was to take some of the hair o' the dog.

According to Paulson's plan, after the government jump-started the real estate market with massive purchases of the riskiest mortgage-related derivatives, private investors (read:

the Asian banks) would follow back in.

On Sept. 21, 2008, Paulson appeared on the TV news show *Meet the Press* to scare up support for his plan:

This is an urgent matter, and we need to move quickly. [The estimate of \$700 billion] is not an expenditure . . . The cost won't be anything like the cost of buying up these assets [because] these costs will come back. . . . Here, we're preventing failure. Once we get this stabilized, there's a lot we can talk about in reform. There have been excesses for a long time . . . irresponsible practices. It's terrible, inexcusable, and we need to deal with it.

There was an element of self-fulfilling prophecy in the plan. By buying up distressed MBSs and derivatives, the Feds would establish a market value for them. Even if this value was low (say, 20 cents on the dollar of face value), it would give investors and, ultimately, lenders the clarity they needed to get back to business.

But some legislators rightly questioned the kingly powers that Paulson's plan gave the Treasury Secretary. His actions in allocating the billions from the Big Bailout were essentially unsupervised. They weren't even reviewable. He could not be questioned, stopped, or sued by any party — private or governmental.

Some of these kingly prerogatives were reined in by congressional modifications to the original plan's language.

Another problem with the plan: Paulson had to keep a careful balance in how much he paid for the distressed derivatives. If he paid too little, the buyout wouldn't help financial institutions much (they'd still have to account for the losses somehow); if he paid too much, the government would subsidize the selling banks and probably lose money when, sometime later, it sold the derivatives back into a recovered marketplace.

One proposal for keeping the balance was to use a "reverse auction" whereby banks that wanted to get rid of distressed derivatives would secretly offer the lowest price they'd accept for the things. The government would then rank the bids and buy the securities, starting with the cheapest offers and working up the list.

Reverse auctions had been used with some success by alternative investment banks, usually far from Wall Street, for initial public offerings of corporate stock. But some sharp guys from Harvard and Wharton argued that there were issues with reverse auctions. They might solve one problem — setting a market value for the derivatives — but they would not recapitalize specific distressed banks. Exchanging one asset (a bunch of shady derivatives) for another (cash from the government) does nothing to improve a bank's asset-to-capital ratio, unless the derivatives are sold for more than they are worth.

But these criticisms were warped by a statist bias toward using blunt tools to achieve specific ends. A nearly trillion-dollar government bailout shouldn't occur at all. But, if it must, it should be directed at preserving the system — in this case, keeping the credit markets from collapse — and not at helping any one institution.

And, again, a recurring flaw in the proposed state action is that the assets being priced and purchased aren't analyzed on their fundamentals; they are valued on the basis of how much the sellers are willing to accept.

Nevertheless, Paulson (with some mealy-mouthed assistance from Fed chairman Bernanke) convinced Congress that "something" needed to be done.

Paulson reserved the right to bail out individual homeowners by buying up their loans. This proposal created some political problems, though. There was widespread opposition to bailing out homeowners who'd borrowed more than

If Paulson paid too little for the distressed derivatives, the buyout wouldn't help financial institutions much; if he paid too much, the government would lose money.

they could afford to buy big, fancy houses. Free-market advocates argued that people who'd made bad choices should suffer the consequences — and, more importantly, people who were prudent shouldn't have to pick up the tab. Otherwise, the Feds would be creating moral hazard — the encouragement of destructive behavior.

An alternative proposal to buying mortgages was to use bankruptcy courts to implement forced renegotiations of the terms of specific subprime loans. The Bush White House and some Republican legislators argued (rightly, in this narrow context) that forcing lenders and investors to accept these "cramdowns" would only make matters worse. Lenders would be wary of extending any new credit if borrowers could go to court to have terms changed.

The beauty (from the statist's perspective) of the real estate bubble plan was that the blow-up would be so widely distributed among common folk that no plan to work out individual cases could possibly be devised.

Who was responsible for the subprime bubble? As with any bubble, there is no satisfying answer to this question. Bubbles aren't the result of one party's bad actions; they result from various parties manipulating and/or misunderstanding pricing signals. In the U.S. real estate boom of the 2000s, these parties included:

- government agencies that loosened regulatory standards to achieve social policy ends;
- borrowers who bought houses they couldn't afford or refinanced houses so they could afford to buy cars, electronics, jewelry, or vacations they couldn't afford;
- mortgage brokers who pressed appraisers for high valuations and pocketed big commissions on loans or refi's they knew were unsustainable;
- Wall Street banks that obscured critical information about unsustainable loans with intentionally confounding derivative securities and ersatz "insurance";
- investors who didn't bother to check carefully what they were buying;
- rating agencies that tacitly (and, sometimes, actively) approved of the confounding derivatives and the balance sheets that included opaque assets.

This last member of the rogue's gallery — the rating agencies — was a critical enabler of the bubble. The swaps and other derivatives were important (and profitable for Wall Street firms) because investors looked to the rating agencies for coverage in what they bought. The Wall Street firms convinced the rating agencies that CDSs and other mortgage-related derivatives were a viable form of insurance. So, until the last stages of the bubble, banks and hedge funds that owned a lot of derivatives were rewarded with higher credit ratings, despite their significant exposures to loss.

Watch the credit rating agencies. Influenced by the sharp guys from Harvard and Wharton, they have enabled some

Once the Feds got involved in the mortgage market with implied guarantees of subprime mortgages and social justice policies, the Big Bailout was inevitable.

very bad choices by banks and insurance companies. To their credit, the rating agencies . . . eventually . . . caught on to the problems of the worthless credit derivatives and "insurance." The question is: will the rating agencies be more cautious going forward or will they be seduced by the next fashion trend in financial jimcrackery?

That next trend may be hamfisted regulation of the banking, financial services and insurance industries. Self-regulation or "counterparty supervision" might have been effective in these markets, if not for the warping effect of an implied taxpayer guarantee of home loans (even subprime loans). Once the Feds got involved in the mortgage market with implied guarantees of subprime mortgages and social justice policies, the Big Bailout was inevitable.

Given enough time, any system of government regulation will become obsolete. It's best for an economy to accept this fact and remove sources of moral hazard wherever they occur.

The state's proper role in relation to capital markets is not pushing social justice policies or trying to engineer particular outcomes for specific parties. It's not a utopian quest for zero risk. Some businesses, and some investments, will always fail.

Reflections, from page 20

bullets? Oops, it was actually his own comrades who killed him, whereupon the Pentagon lied to everyone about it. Recently, the military was claiming that an August 22 air strike in Afghanistan killed only five to seven civilians in addition to 30 to 35 Taliban militants. Afghan claims that 90 or 95 civilians, about 75 of them women and children, were killed, were met with firm denials. Then cell phone footage and other evidence revealed that the Afghan reports were true. U.S. forces killed scores of civilians, then persisted in lying about it. They'd still be lying today if irrefutable evi-

Instead, a principled limited government should encourage multiple sources of information and analysis; it should discourage vehicles or practices designed to obscure information. It should develop and maintain robust programs to wind down the inevitable failures.

Campbell Harvey, a professor of finance at Duke University, told BusinessWeek magazine:

In years to come, the real story will not be the subprime crisis or some housing bubble. It will be the spectacular failure of risk-management systems in our so-called leading financial institutions.

There's another way to phrase this. The Federal Reserve, the Treasury Department, and the federal government in general have engaged in reckless monetary policy. They've been doing this for more than 60 years — but the pace and degree of the recklessness has sped up in the last 10 or 15. Multibillion dollar government bailouts aren't good government; they are a sign of statism in excess.

Politicians and central bankers can create money out of thin air . . . but this creation rarely ends well.

There's plenty of real money in the world. If it seems as if money's tight here in the States, that's because America has transferred much of its wealth to Asia through years of steady trade deficits. The Asians are buying up some marquee banks and financial services firms at the end of this housing bubble. But they're in no rush to get (any more deeply) involved in shady mortgage-related derivatives. They'll let American taxpayers take on the risk of dealing with those — and buy the relatively safe bonds that the U.S. Treasury will issue to finance the bailout.

What else is coming? Very likely, more bad government policies — focusing on statist shibboleths like "CEO pay" and "predatory lenders."

According to the always useful Atlantic Monthly online columnist Megan McArdle:

This was not some criminal activity that the Bush administration should have been investigating more thoroughly; it was a thorough, massive, systemic mispricing of the risk attendant on lending to people with bad credit.

And there's a reason the banks got it so wrong — the federal government had used regulatory incentives to blur lenders' judgment about borrowers with poor FICO scores.

Once judgment has been blurred, it's hard to regain. America is a debtor nation. Everyone's credit will keep getting worse until the nation changes its profligate ways. Or until the Asians stop buying Treasury bonds. □

dence hadn't turned up.

It's important to note that the air strike was launched because of a false tip provided by an Afghan informant who held a grudge against some of the victims. The attack was a terrible mistake, not a deliberate criminal act. But the lying afterwards was deliberate.

Granted, all organizations lie about their mistakes. But the military, to whom we grant the power to kill, is supposed

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A Nation Still at Risk

by Gary Jason

The public education bureaucracy continues to resist school vouchers — and choice, generally. Why? What can be done?

The notion that there is a crisis in American public education is nothing new. Indeed, this year is the 25th anniversary of the 1983 national report, “A Nation at Risk,” which caused a furor at the time, and initiated the school reform movement.

There is little doubt that the crisis continues. Some current statistics make this fact as clear as it is depressing. Only 17% of low-income fourth graders are at grade level in reading, and only 15% are so in math. Only 14% of African-American and 17% of Hispanic fourth graders are at grade level in reading. In math the figures drop to 11% and 15%.¹ And Hispanics are among the fastest growing segments of our population.

Two reports, about which I have written elsewhere,² highlight the crisis. The first was the report issued by the nonpartisan America’s Promise alliance on graduation rates in the major cities. These school systems educate 12% of America’s students, but produce 25% of its dropouts.

Graduation percentages in public school districts such as Atlantic City, Dallas, Denver, Los Angeles, Milwaukee, and New York are in the mid-40s. In Baltimore, Cleveland, and Indianapolis, they are in the mid to low 30s; in Detroit, they are 25%.³ And while suburban school districts typically produce markedly higher graduation rates (usually 25% higher), they are still nothing of which to be proud. The costs to society are enormous. Around 22% of white students, 45% of African-

American students, and 47% of Hispanic students drop out.

Let’s begin with the economic costs. In terms of earning power, male dropouts earn about \$22,125 per year, compared to \$31,715 for males with a high school diploma, and \$55,446 for males with a bachelor’s degree. The figures for women show a similar disparity: \$13,255 for dropouts, \$20,650 for those with a high school diploma, and \$36,875 for those with a bachelor’s degree. The Alliance for Excellent Education⁴ estimates that the collective lifetime cost in lower wages for the 1.2 million dropouts in 2007 alone is \$329 billion.

Next consider the social costs: 75% of state prisoners and 59% of federal prisoners are high-school dropouts.⁵ The most recent figures are shocking⁶: more than 1% of all adult Americans are in jail. That is 2.3 million people. The prison costs alone amount to \$55 billion a year (state and federal combined). In both percentage of population and absolute numbers, we incarcerate more people than any other country, China included. America has 5% of the world’s population but 25% of all the world’s prisoners.⁷ Among African-Americans,

the figures are especially worrisome. Quoting directly from the U.S. Department of Justice/Bureau of Justice Statistics website, "At midyear 2007 there were 4,618 black male sentenced prisoners per 100,000 black males in the United States, compared to 1,747 Hispanic male sentenced prisoners per 100,000 Hispanic males and 773 white male sentenced prisoners per 100,000 white males."⁸ That figure doesn't include those awaiting trial, ex-prisoners, or those on probation.

The second report explores the costs of our mediocre educational system in a different way. A team of economists headed by Eric Hanushek set out to measure a bad education's cost to a nation's wealth.⁹ The team looked at international student test scores, this being a more reliable indicator of actual educational level than, say, years in school. It found that American students placed 14th during the 1960s and 1970s, then dropped to 19th in the 1980s, then down to 21st in the 1990s. They have slipped even lower — to 24th — in this decade. The team calculated that had America scored at the top in science and math in 2000, by 2015 it would have resulted in a 4.5% higher GDP, which ironically is about what government at all levels spends in total on K-12 education now.

It might be asked, if 25 years ago the mediocrity of the American elementary and secondary school system was a "crisis," and the nation survived, why is it a bigger deal now? I would suggest several reasons why the crisis is now a threat.

Let's begin with the change in our global competitors. Twenty-five years ago, the economic disadvantage of our bad educational system was more than counterbalanced by the advantage of our relatively free economy. In competitive terms, we were lucky that half the world was communist. That is no longer the case.

Another reason our K-12 schools pose a more acute danger now is the increasing global shift from an industrial economy to an epistemic one. The relative number of high-paying blue-collar manufacturing jobs is diminishing, not just in America, but worldwide. Even China has been shedding manufacturing jobs.

Finally, there is an unprecedented national demographic shift underway. The aging Boomer generation — roughly 27% of the population — comprises a higher proportion of

The rate of job satisfaction among charter school teachers is more than three times higher than among regular public school teachers.

whites than the younger population, and the minorities that are the fastest growing segments of the population are disproportionately stuck in failing public schools. We are living off stored educational capital, which will decline rapidly over the next decade or so.

The Case for Vouchers

To keep the discussion manageable, let me identify my tar-

get audience. I am addressing fellow minarchists (advocates of small government) rather than anarchists (advocates of no government). Government funded vouchers are, of course, indefensible from the anarchist perspective. Yet explaining why I am not an anarchist is for another time, another place.

But even if we agreed that government is legitimate for the common defense, the court system, policing, and so on, why should that include public support of schools? Granted, public support of education has usually been considered a legitimate function of government by classical liberals, but why shouldn't schools be left entirely private? As one of my readers pungently asked me, why should I be responsible for the spawn of others?

Here again, space is limited, so I will be brief. As it happens, many, possibly most, of today's parents could pay for adequate schooling. But a large minority could not. Do we want a society in which many poor children could not be schooled? We can expect that charity would step in to some degree, but experience suggests it would not get the job done fully. Hence many children, through no fault of their own, would be consigned to the bottom, permanently.

Public education is at least justifiable from every moral perspective I can think of, including the utilitarian, Kantian, natural rights, and virtue ethics perspectives. Perhaps the only one that doesn't obviously suggest guaranteeing every willing child an access to elementary and secondary education is the egoist one, but even there, I would argue that it does upon reflection.

Why should I pay to help that poor man's spawn? Because if I don't, the spawn will probably be less productive and more likely to wind up in criminal enterprise, which in turn may have a serious impact on me.

The interesting argument about vouchers takes place among those who accept the legitimacy of government support of education. And it is interesting, because from the premise that government should support education, it does not follow that government should either own or even run any schools.

Schooling can be government funded but privately run. Some small towns in Vermont and Maine have had a program like this since the mid-1800s. It's called "township tuitioning." The towns are too small to have public schools, so they just give checks to the parents to select a local private school or a public school in another town.

Between this option and the monopoly state-run school lie various forms and levels of school choice: charter schools, tuition tax credits, voucher systems. Charter schools are public schools, supported by money from the public school system, but set up by independent groups with the intention that they be run in significantly different ways from the standard public schools. Because they are part of the public system, some charter schools are just "more of the same." But many of them are able to maintain their special character.

Tax credit schemes vary. Tax credit scholarship programs allow individuals and sometimes corporations to earn a full or partial tax credit for donations made to private charities that offer scholarships at private schools. Personal tax credits and deductions allow parents to deduct some or all of the cost of their children's private schooling.

Vouchers are, in effect, government checks given to par-

ents for use at private or public schools. They can be full or partial, meaning they can give the child an amount of funding equal to the average spent per child in the public schools of that district, or only some fraction. They can be universal or limited in some way, say, to special-education or disadvantaged children.

My ideal would be a completely privatized system — give all students in a district an equal share voucher, and nothing but private schools from which to choose. But I regard that as a bridge too far, for my own lifetime. So my preference, here and now, is for vouchers within public school systems. Vouchers have the merit of being possible (though difficult) to achieve.

This is not to say I don't cheerfully support weaker forms of school choice. If the choice is between (say) allowing the deductibility of private school tuition and not allowing it, of course I will work hard for the former. It liberates some more children. When it comes to freedom, I'll take whatever I can get now, and fight for more in the future. That having been said, I'll focus my remarks on vouchers, though the merits of voucher systems often apply to lesser forms of school choice.

The best known arguments for vouchers are familiar. They give parents the right to choose where to send their children. From the perspective of natural rights, that seems good in itself. Vouchers tend to liberate children from dysfunctional public schools; they also encourage bad public schools to become better, to keep from losing their client base.

These arguments are broadly confirmed by experience. Voucher programs have been implemented in over 20 places in America, not to mention other countries. At the college level, they have been around for decades, in the form of Pell Grants and the GI Bill of Rights. As Jay Greene documents in his book "Education Myths,"¹⁰ all the random-assignment studies of the American voucher programs indicate that vouchers work as the standard arguments suggest.

But I have other reasons to offer, besides those standard arguments.

One argument — an ironic one — is this. Despite the desperate opposition of the teachers' unions to all forms of school choice, especially vouchers, there is cause to believe that it benefits teachers, and helps in the recruitment and retention of good teachers. As Vicki Murray has noted,¹¹ teacher retention remains a major problem, regardless of all the state and federal programs designed to improve it. The average national public school teacher turnover rate, not due to retirement, is 14% per year. Teachers earn reasonably good money, but they quit in droves.

Murray notes that in California, the majority of regular public school teachers who quit cite job dissatisfaction as the reason. The most common complaints are excessive bureaucracy, lack of collegiality, inadequate support from administration, and lack of influence on management. By contrast, she adds, the rate of job satisfaction among charter school teachers is more than three times higher than that among regular public school teachers. Indeed, nationwide, more than 25% of charter school teachers say they would quit if they could not teach in their charter school. Seventy-five percent of former teachers say they would be open to returning to teaching if job conditions were better.

Murray's conclusion is that district-run public schools are

increasingly unattractive models — really, just dinosaurs — and that we need to move toward diversified systems with schools founded and run by educators rather than by bureaucrats. This is intuitively obvious and empirically well established. I would add that her conclusion is just as relevant to

Vouchers foster the creation of markedly different schools, in the same way that choice in restaurants leads to greater variety among them, as each aims at a different niche.

voucher schools as to charter schools. And as I have pointed out elsewhere,¹² Sweden's experience, when it adopted vouchers nationwide, was that teachers were more satisfied with their jobs — to the surprise of the Swedish teachers' unions, which had initially opposed the system.

This argument suggests another. As I suggested earlier, in my discussion of dropout rates, we face a crisis not only of teacher retention but also of student retention. Vouchers can help reduce those rates, for several reasons.

To begin with the most obvious, when parents and children are "condemned to be free," that is, forced to choose which schools the children will attend, they become (in the parlance of psychologists) entrenched. They become committed to their school, because they have chosen it. Moreover, as I have explained elsewhere,¹³ vouchers foster the creation of markedly different schools, in the same way that choice in restaurants leads to greater variety among them, as each aims at a different niche. Being able to choose a school specific to their interests will increase the likelihood of children staying and graduating.

You already see glimmers of this in charter schools. My daughter attended the Orange County High School of the Arts (OCHSA), which is, if I am not mistaken, the largest charter school in the nation. OCHSA has no football, basketball, or track teams, much less cheerleaders — but it offers first rate training in various performing arts, along with a fairly solid academic curriculum. Because kids compete for admission, it is no surprise that the dropout rate is low, and it is easier for the staff to maintain discipline. Another famous example is the Bronx High School of Science, a public school that has produced seven Nobel Prize and six Pulitzer Prize winners. Although these results can hardly be expected universally, vouchers allow the cultivation of many school types, promoting military, prep, religious, science, arts, sports, vocational, business, and healthcare specialties. Vouchers mean variety, and variety stimulates interest.

This brings up yet another argument for vouchers. Many secularists are repelled by the idea of religious schools being supported by state money. But while I am as secular as they come, I think public funding of religious schools is fine. My interest in my money funding your child's education begins and ends with the common good: if your kid learns to read, write, and understand the basics of math, history, and

science, the general economy stands to gain. Whether he or she also learns to worship God is irrelevant — which is why most other countries that have adopted vouchers allow them to be used to fund religious schools. In the U.S., the Supreme Court has ruled that as long as the vouchers go directly to the parents, as opposed to the schools, it is legal for them to be used at religious schools.

I ought at least to mention here the valuable contribution made by Catholic schools for many decades, in educating inner city kids. As a recent piece in *The Wall Street Journal* noted,¹⁴ “One University of Chicago researcher found that

While I am as secular as they come, I think public funding of religious schools is fine — most countries that have adopted vouchers allow them to be used at religious schools.

minority students at Catholic Schools are 42% likelier to complete high school than their public school counterparts — and two-and-a-half times more likely to earn a college degree. In difficult circumstances, and for an increasingly non-Catholic student body, these schools are doing heroic work.” Amen to that. But equally allowed under my preferred form of vouchers would be schools of an atheistic orientation — say, the Madalyn Murray O’Hair School of Atheism and Numismatics — not to mention schools of Buddhist, Muslim, or some other religious variety.

Religious schools, or antireligious schools, may be controversial, but two enormous disputes about public schools can actually be resolved by adopting vouchers.¹⁵ Consider first the never-ending dispute about sex education, whether contraception-based or abstinence-based. Advocates of abstinence-based sex ed have often been successful in getting their approach adopted in public schools, irking many secularists and others. Contraception-based approaches have been adopted by many others, irking many religious folks and others. Neither side can convince the other of the rightness of its approach. But with vouchers, the problem disappears. Send your kid to whatever school teaches the program you support, if it is so important to you.

Again, the endless debate over teaching Intelligent Design shows no sign of ending. With vouchers, it disappears. Send your kid to the kind of school that teaches, or doesn’t teach, ID.

Of course, the free market has consequences. If you send your kid to Creation Science High, don’t be surprised if he can’t get into a biology program at a good college. You get to choose, but you also suffer the consequences.

Statist Objections

As compelling as the case is for vouchers (and school choice generally), not everyone buys it. The main and most powerful PSSIGs (pronounced “piss-ig”: public school special interest groups) are the teachers’ unions. They are the storm troopers of the public school education monopoly. But there are other

PSSIGs as well: public school administration bureaucracies; education and “labor studies” departments at colleges; liberal thinktanks; even K-12 textbook publishers.

There are four arguments that these people commonly use against vouchers. I call them the Money Drain, the Brain Drain, the No Place to Go, and the Incompetent Parent arguments.

The Money Drain argument is that vouchers will starve public school systems of the money needed to educate students remaining in them.

But even under a strictly pro rata system, where a student gets a voucher in the full amount of the average spent per pupil in that system, the Money Drain argument is silly. If half the students used the vouchers to move to private schools, yes, the district would lose half its revenues, but it would also lose half its expenses. And most voucher programs are only partial — they don’t give the students who leave a pro rata share, but only a fraction of it. So under such schemes, as students leave, the amount left on a per student basis actually grows.

The Money Drain argument only works on someone who never learned basic math — such as many public school students. The PSSIGs who offer this sophistry are almost always being disingenuous. You can see this by remembering that teachers’ unions went after the Utah voucher plan, spending \$3 million to defeat it, even though the voucher funding came from a separate fund from the public school system funds!

The Brain Drain argument is that vouchers will “skim the cream” from the public school system, with the brightest and most ambitious young people fleeing, making the public schools mere holding cells for the less than bright.

This argument assumes that the only kinds of voucher schools that will arise will be elite prep schools catering to the college bound. But the natural course of business, as I argued earlier, is specialization. With vouchers, you will see all kinds of specialty schools, many aimed at the non-academically inclined — vo/tech, sports, military, performing arts, Montessori, and so on.

Nothing stops people from starting voucher schools for dyslexic and other special needs students. Georgia recently enacted a voucher program for such students — the Special Needs Scholarship Program, which has proven a hit with parents. Both Arizona and Florida have voucher systems for dis-

Of course, if you send your kid to Creation Science High, don’t be surprised if he can’t get into a biology program at a good college.

abled students. But please note that the PSSIGs who push the Brain Drain argument do so (again) in bad faith, for they have fought special needs vouchers just as viciously as they have fought every other form of school choice.

The third common argument against vouchers is the No Place to Go argument, which holds that if we offer vouchers to all public school system kids, so many will leave the school system that they will have no place to go.

This is almost too dumb to discuss. The argument overlooks the economic dynamics: even if not all students who want to move to a private school can do so instantly, more private schools will soon open to serve the new voucher-enabled customers. In the meantime, children waiting in the public schools will be no worse off than they are now. Most important, experience (both in the United States and in Sweden) confirms what economic logic predicts, that the mere threat of losing students to their competition will motivate the public schools to improve their service.

Nevertheless, if the argument were even slightly plausible, it would make the case for vouchers, because it concedes that so many parents are currently unhappy with the monopolistic public school system that they would want to leave it immediately.

The fourth contention, the Incompetent Parent argument, is rarely trumpeted by voucher opponents, but it is never far from their minds. It is that parents, especially minority single mothers, are simply incompetent to choose a school for their own children; they are simply too stupid to figure out which schools are any good.

When you put this argument bluntly, its asininity stares you in the face. If the public school administrators are such soaring intellects, why is the school system they have devised so full of failing schools? And children of incompetent parents would be no worse off than they are now — they would remain at their local schools.

Moreover, a parent doesn't have to have an Ed.D. to figure out with a reasonable degree of probability which local schools work. He or she can talk to other parents, look at graduation rates, look at SAT scores, and check police records online at the local library to get the needed information. It doesn't take long. Free market thinktanks could help. When the Fraser Institute of Canada started collecting school performance data, newspapers and magazines competed to publish them. In Quebec, this was followed by a 30% increase in private schools.¹⁶

In any event, it is bizarre to suggest that while a woman has the competence to raise her child, she is not to be trusted to choose where to send the child to school. And what does observation tell us? Far from being uninterested in their children's schools, whenever voucher and charter schools become available in a district, so many of the supposedly incompetent inner-city parents apply for the openings that lotteries have to be held. A recent report on Minneapolis schools showed that African-Americans are rapidly fleeing the public schools for charter schools.¹⁷ This is hardly evidence of parental incompetence. It is the same parents whom the PSSIGs ask to vote against vouchers. But if a single mom is too dumb to choose a school for her own child, why is she able to vote on the right school system for her child and everyone else's?

Conservative Objections

The arguments I've reviewed are to be expected from left-liberals who hate school choice, and hate free markets generally. What is surprising is the arguments now coming from the Right.

Let's start with a conservative (or perhaps neoconservative) critique. I call this the No Panacea argument. It has been articulated by Sol Stern¹⁸ and echoed by Daniel Casse.¹⁹ Stern

is a longtime fighter for school reform — if they gave combat medals for that fight, he'd be a Medal of Honor winner. In his recent influential article, he begins by noting that voucher initiatives have lost in five straight elections. And he notes that many Catholic schools — preferred by parents with partial vouchers — are closing at an increasing rate. He asserts that despite the fact that vouchers have forced improvement in the public schools, the gains have stalled. No "transformation" of the public schools has happened.

Stern then points out that the school reform movement, as symbolized by the Koret Task Force — formed in 1999 and including the movement's major stars — has split into the "incentivist" camp, which focuses on markets and choice, and the "instructionist" camp, which focuses on curriculum and instruction. (In truth, these "camps" go back to the start of the

The public school special interest groups have fought special needs vouchers, just as they have fought every other form of school choice.

school reform movement in the '80s, with school choice advocates pushing their views, and "Back to Basics" and "cultural literacy" proponents pushing theirs.) Stern says that while he started with the incentivist camp, he is now in the instructionist camp. Several things convinced him. One was the failure of choice to improve Milwaukee's public school system. Another was the failure of the free market to improve the nation's 1,500 ed schools. Students are free to choose whatever ed school they want, but this market choice hasn't resulted in ed schools improving their quality; they are still swamps of mediocrity and zany progressive nonsense (fuzzy math, new math, whole language reading methods, and so on). He says that Massachusetts schools have improved more than most other states over the last 15 years, although the state has very little school choice, and certainly no vouchers. The improvement was the work of the instructionists (especially John Silber, Sandra Stotsky, and Abigail Thernstrom), who forced a rigorous curriculum and tests at all levels.

Yet I find the No Panacea argument unpersuasive. Stern concedes that the students receiving vouchers and other forms of school choice have seen their educations dramatically improve. I should think that that alone would make a good case for vouchers. And in fairness to Stern, he says he still believes in them — but that fact has been lost in some of the commentary on his article. Further, Stern's key claim — that voucher systems don't force the rest of the public schools to improve — seems quite debatable. Greene, who reviewed all random-assignment studies on vouchers, says the data support the hypothesis that public schools do respond to competitive pressure to improve. Jason Riley²⁰ concurs, citing four studies of Milwaukee's voucher program and four of Florida's A+ voucher program, which show that public schools do respond to competitive pressure by improving their quality.

Stern doesn't note the obvious point about Milwaukee's voucher program. It is limited to a small number of students, and they are given small partial vouchers — only enough to get into a Catholic school, typically, not an exclusive prep school. That such a small voucher program has improved the massive public school system as much as it has is remarkable.

But how are you going to get curriculum reform without the force of consumer pressure? The case of Massachusetts is hardly as compelling as Stern makes it, because in 1993 Massachusetts (under the Education Reform Act) did introduce charter schools. And as Stern himself notes, in the ensuing 15 years the system has improved. As Riley puts the point,

In Mr. Stern's view, education reformers would do better to de-emphasize choice and focus instead on improving curriculums and teacher quality. The reality is that the former fuels the latter. Researchers at the Urban Institute, by no means a bastion of conservatives, recently collected information on how public schools respond to competitive pressure. It turns out that one response is to put in place instructional reforms, including more rigorous standards. In other words, instructional reform is a product of competitive pressure and is less likely to occur in the absence of school choice.²¹

The point that ed schools are bastions of mediocrity is one that I agree with entirely.²² But the idea that they prove that free markets don't work is fallacious. The problem is that anyone wanting to be a public school teacher is forced to go to

The argument that if we offer vouchers to all public school system kids, so many will leave the school system that they will have no place to go is almost too dumb to discuss.

them to get a teaching credential as a condition of employment. If we have vouchers, and more schools are free to hire teachers without an ed school certificate, then the ed schools will be forced to compete.

In reality, the No Panacea argument is a false dilemma. Few school choice supporters hold that choice is all you need for all students to succeed. Most advocates of school choice are also big supporters of rigorous curricula and meaningful testing. For example, Jay Greene says that there are four school reforms that have been shown to be effective: accountability programs (including testing), school choice (including vouchers), early intervention for kids having difficulties, and the teaching of specific skills and factual knowledge (aka basic education).

As I have written elsewhere,²³ schools and kids fail for all kinds of reasons: lousy curricula, bad teachers, lack of discipline or standards, toxic parents, toxic peer groups, and so on. I doubt that one medicine can cure all these problems. But a free market allows parents to access different solutions for different problems.

Libertarian Objections

The idea of vouchers, though first devised by a libertarian thinker of impeccable credentials, Milton Friedman, has met resistance from libertarians who view themselves, I think, as more ideologically pure than everyone else. Their major weapon is what we might call the Trojan Horse argument.

Perhaps the classic expression of this doubt goes back nearly a quarter of a century; it's by Dwight Lee.²⁴ Using Public Choice Theory (PCT), Lee argued that a voucher system — which he lumped together with tuition tax credits — will be gamed to hurt existing private schools. In particular, the public school lobby would use vouchers to extend their control to private schools.

Vouchers or no vouchers, as long as education is financed publicly, control over education will be exerted through political power, not through consumer choice. Educational vouchers may, for a time, give the appearance that consumers are exercising genuine choice. But consumer choice can, and will, be circumscribed by restrictions on the vouchers; restrictions that will reflect the interests of the politically organized public school lobby, not the interests of the politically unorganized public.²⁵

I find this argument weak for a variety of reasons, reasons based upon common sense, observation, and careful consideration of the PCT.

First, note that the government doesn't need vouchers to pass laws applying to children in private schools. In some countries in Europe, private schools are highly regulated, with curricula and other matters dictated by the Ministry of Education. The government can do the same here at any time. Just recently in California, a Court of Appeal judge, H. Walter Croskey, ruled that parents without teaching credentials cannot homeschool their children. Parents who disobey his order face jail and having their children taken away by the state.²⁶

Moreover, even though states don't routinely impose curricula on private schools, they do impose a welter of anti-discrimination laws, building codes, and health and safety regulations, as well as educational regulations such as mandatory minimum numbers of school days. The government can add to these at any time, vouchers or no.

Common sense suggests that not all requirements that might be built into vouchers would be bad in themselves, or something that private schools would find burdensome. It also suggests that even if a voucher system were enacted with Trojan Horse provisions in it, that wouldn't mean it would take over the existing private schools. The vigilance of the parents would be a deterrent. Let's say that my public school system goes voucher, and the existing private school that my kids attend — Chastity Prep — sees a number of applications for the admission of students from public schools who now have vouchers to cover the tuition. Suppose Chastity Prep has up to now set great store on teaching abstinence-based sex ed (under a program called "Don't Even Think About It!"). But the crafty PSSIGs have made a Trojan Horse: the voucher plan includes a requirement mandating that any school accepting vouchers must teach contraception-based sex ed (under a program called "Do It Till You're Satisfied, So Long as You Use a Condom!").

Faced with this threat, the parents of the current students could simply tell the school that if it accepts any voucher

students, they will take their kids elsewhere. Likely the school will cave to the parents. If it doesn't, they are free to resort to a similar school ("Virgin Prep") or start one up.

That is not to deny that whenever voucher laws have been enacted by state legislatures, the public school interest groups haven't tried to twist the legislation closer to their hearts' desire. But typically the effort is to limit the number of students who can avail themselves of the vouchers, not to build in specific curricula, hiring standards, or whatever. Really, the interest groups just don't want to lose any of their captive clientele.

And why, if vouchers will dramatically enhance the power of the PSSIGs to control education, sucking private school students back into their control, are the interest groups so uniformly and bitterly opposed to vouchers? Are we to suppose that when teachers' unions devote tens of millions of dollars to stopping voucher programs (and charter schools, and tuition tax deductions, and even home schooling, for that matter), they either don't understand what they are doing, or else they desire less control of the educational system than they already have? This is absurd. Obviously, the PSSIGs oppose vouchers and all other types of school choice precisely because school choice empowers parents, as opposed to bureaucrats and union leaders, and causes a permanent change in that shift of power.

Next, consider what observation teaches. In the decades since Lee put forward his prediction, the experience of vouchers has not been that teachers' unions have been able to use them to take over private schools by regulation. In America, they have used our flawed legal system to conduct endless suits to overturn the voucher systems (and charters, and home schooling). Nor do you see unions co-opting vouchers in other countries, where lawsuits are more difficult. Indeed, charter schools — which, remember, are part of the public school system and so are directly open to control by public school bureaucratic and union control — have been typically able to maintain their different standards and characters. And with vouchers, that independence is amplified enormously.

Again, remember that we already have many decades of experience with vouchers in higher education — Pell Grants and the G.I. Bill of Rights, programs in which federal support for college students follows them to whatever colleges, including religious colleges, they attend, without stipulating anything about curricula, hiring, grading standards, or much else. Neither program has forced, say, Notre Dame to abandon its religious orientation.

But let's turn to what underlies the Trojan Horse argument. We need to be clear on what Public Choice Theory says and does not say. To put it crudely, PCT holds that the people directly involved in government, including voters, bureaucrats, and special interest groups, are motivated primarily by self interest. Voters usually have little incentive to follow specific legislation, because they are usually not greatly affected by it (nor can they greatly affect it), whereas special interests do, because they are (and can). The voters are "rationally ignorant" in the sense that it is not worth their time to study the details. So legislators typically write laws that benefit the special interests.

But this theory does not suggest that it is always rational for me to be ignorant. There is a limit: when the price paid

by voters gets high enough, they notice it, and ignorance is no longer "rational." Let's call this the public choice tipping point, the point at which the price that a politician must pay for carrying out the agenda of a special interest group exceeds the benefits he gains from that group's support.

So I would argue that PCT doesn't spell doom for consumers; it predicts that special interests will rip them off in ways small enough to escape easy detection — but at some point the situation tips. When that happens in the field of education, voucher programs will be easier to get through, because the public will be aroused. After vouchers pass, the special interests' ability to pervert the systems will be greatly diminished. A school choice program creates a countervailing special interest group, a pool of parents with a vested interest in their free school or tax credits. This group will now pressure legislators to keep the freedom it has won, and even to increase it.

This is why, once a narrow school choice initiative succeeds, broader measures often follow. In 2007 Georgia passed a special education voucher scheme that proved popular; in 2008 it passed a universal tax credit program that gives a matching credit on state taxes for donations made by individuals and businesses for scholarships for students to attend private schools.

When I look at the weakly grounded resistance of some libertarians to what is clearly a major step toward free markets in education, I cannot help thinking that people sometimes seek ideological purity for its own sake, rather than trying to improve things as much as they can in a given time and place. With friends like that, liberty has no pressing need for enemies. Indeed, she'd best watch her back and start packin' heat.

Robert Enlow expresses my view exactly, when he says,²⁷ "In most cases, having a school choice program is better than not having one. More freedom is better than less and we

If the public school administrators are such soaring intellects, why is the school system they have devised so full of failing schools?

understand that, while we should strive for the gold standard, we don't want the perfect to be the enemy of the good." Or as I would put it, if it is only in my power to free 10% of the slaves held in bondage, I will, and hope that later it will be in someone else's power to free the other 90%.

I would add one last point. It is better to fight on offense than defense. If you give up on school choice and retreat to your closed private school or home school, don't think that the PSSIGs will just go away. No, they will then attempt to close those "loopholes" as well — witness Justice Croskey's ruling against homeschooling.

The Real Causes of Defeat

As a philosopher, I am by nature focused on the arguments for and against a given issue. As a realist, however, I

understand that often reasons are not causes. Often they are rationalizations for decisions that were made on other grounds, for other motives — typically, self-interest or tribal feeling. This, I believe, is especially true in the case of opposition to vouchers. The arguments against vouchers are transparently flimsy, yet they are often put forward by intelligent people, as rationalizations for such real motives as rent-seeking; misplaced coalition politics; and suburban complacency.

Virtually all political opposition to vouchers has come from the army of PSSIGs. There is no doubt what the real motive is when public teachers fight vouchers so fiercely. It is

Another contention is rarely trumpeted by voucher opponents, but it is never far from their minds. It is that parents are simply too stupid to figure out which schools are any good.

pure rent-seeking. The unions freely use the immense financial resources obtained from compulsory dues to defeat school choice of any kind because they fear that their members' jobs or working conditions might be threatened if students were free to go elsewhere. (Think of that \$3 million used to defeat vouchers in Utah, a huge amount for a small state).

If the unions really worried about what sort of educational system would benefit the students, they would do what medical investigators do when they worry about what benefits the sick: they would allow large-scale clinical trials of alternative systems. But the teachers' unions oppose all trials of any form of school choice. In many places, upwards of half the public school teachers send their own children to private schools. Yet their unions do their best to keep others from following their example.

Next we have to look at one of the great voting anomalies of all times. African-Americans and Latinos support school choice overwhelmingly (many polls show support in the 70+ percent range), but they vote en masse for the political party that opposes choice, the PSSIG party in all its forms. Until that coalition breaks down, school choice will continue to be hard to enact.

Many suburban white parents oppose vouchers, and for a variety of reasons, but the least of their motivations is any kind of libertarian squeamishness about the taint of government support. Their main motive seems to be a fear that if the inner city (read: Latino and African-American) students are given vouchers, they will try to attend suburban schools. Amid the liberal gloating over the Utah voucher defeat, and the conservative and libertarian clucking, few have mentioned this factor directly. One of the few was William McGurn,²⁸ who noted that "suburban voters of both parties are not enthusiastic about school choice. Many of these voters see increasing options for inner city kids as enabling blacks and Latinos to find their way into their children's schools."

There is a morally legitimate concern that one's own chil-

dren may be crowded out of the schools they already attend and like. Also legitimate is the desire to preserve the existing cultural environment of those schools. (I have noted elsewhere that parental concern for the peer groups to which their kids belong is justified by recent psychological work.²⁹) Less morally legitimate is a complacent "I've got mine, Jack!" attitude, which leads people with reasonably good schools not to care whether students elsewhere are trapped in failing schools. Even less legitimate is an exaggerated competitiveness that makes some parents happy to see other kids trapped in failing schools, because it means that their kids have less competition for good colleges and careers. And downright despicable are racist feelings towards children of other groups.

Of course, this suburban fear of seeing schools swamped by a flood of inner-city kids — with smiles on their faces and vouchers in their hands — is overwrought. Few inner-city parents want to see their kids bused to faraway schools. No, they want good local schools, and school choice is what they need to get them.

Prospects

Although special interests have great power to squelch free choice in education, the school choice movement has been able to succeed to a surprising degree. Over the past 20 years, the number of voucher systems in the United States has grown from only two to 21, with the majority of the new programs coming in the last eight years. Something like 190,000 students now use vouchers to attend private schools. Internationally, vouchers are finding favor too. Various sorts of voucher systems have been adopted in Belgium, Chile, Colombia, Denmark, Japan, The Netherlands, New Zealand, and Sweden.

Charter school enrollment has grown from essentially nothing to 1.1 million students, with over 4,000 charter schools nationwide. One-third of Washington DC schools are now charter, as are most of New Orleans schools. Many charters have distinguished themselves. In 2007, the Harlem Success Academy moved 6-year-olds, only 11% of whom were at grade level in math at the beginning of the year, to a point where 86% achieved grade level by the end.³⁰ The Knowledge is Power Program is a chain of 57 charter schools, most located in inner cities. They are focused on basic education. Eighty percent of the students who attend KIPP schools in grades 1 through 8 wind up in college.³¹

Tuition tax credit and tax deduction schemes are now fairly widespread. The parents of almost 650,000 students receive tax credits. In addition, the number of homeschooled students has now hit over 2,000,000, with the homeschooling rate increasing by nearly 30% between 1999 and 2003. We should note that on standardized tests, homeschooled kids outscore kids who attend traditional schools. In 2006, for example, homeschooled students averaged a 22.4 composite ACT score, compared to the national average of 21.1.

The pace is quickening. Three-fourths of the states introduced new or expanded school choice legislation in 2006–2007. As Chester Finn, a long time school reform advocate and education scholar, recently noted,³²

We're . . . far more open to charter schools, vouchers, virtual schools, home schooling. And we no longer suppose kids must attend the campus nearest home. A majority of U.S. students now study either in bona fide "schools

of choice," or in the neighborhood schools their parents chose with a realtor's help.

You can detect a sea change by looking at the number of Democrats now favoring school choice — despite the fact that the Democratic party is the home of teachers' unions. And African-Americans are voting with their feet whenever they have the chance.

It's true, the smackdown of the Utah universal voucher plan has taken the tuck out of some school choice advocates, such as the aforementioned Sol Stern. But I believe they are overreacting. Despite the loss, prospects for school choice remain good. It seems to me, in fact, that we are reaching the public choice tipping point in education. It took losing the Vietnam War to get an all-volunteer military. It is taking a severe energy crisis to get overly restrictive environmentalist regulations on domestic oil production put aside. It will take the prospect of losing our high-tech industry to the Indians and Chinese to get people finally to accept the need for school choice.

While I support continuing to push for tax credits, charter schools, home schooling, and so on, we should still continue to aim at full voucher proposals. I am responding here to a suggestion by Adam Schaeffer of the Cato Institute,³³ who argued after the Utah defeat that the voucher program is dead, so school choice advocates should just push for tax credits, which have more bipartisan support. He claimed that many Utahans feared more government control, whereas with tax credits, that wouldn't be the case.

But while some libertarians may fear that vouchers run the risk of greater government involvement in the schools, it is very unlikely that this is the reason Utahans voted against vouchers. Anyway, tax credits are not much easier to pass. Half-measures don't placate the rent-seeking opposition. Teachers' unions have opposed even the ridiculously small vouchers, such as Milwaukee's. They opposed Utah's plan, which separately funded the vouchers; if a student left the public school system to go to a private school, the public school didn't lose one damn nickel in funding. The PSSIGs have attacked charter schools, trying to cut their funding, cap their numbers, or even close them down, in such states as California, Ohio, Nevada, and New York. There is a move in Congress to end the charter school experiment in the District of Columbia. The PSSIGs attack tax credits too.

Recommendations

Let me offer some suggestions to those who want to continue the fight for vouchers.

First, and most importantly, you should always be aware that enacting significant policy changes in governance requires a brutal political fight, not a polite philosophic debate. You don't win by merely making an intellectual case. You have to do the political work. This means fundraising, to create campaigns of anything like the size of those that the unions mount. It means running effective ads, and being astute about politics in general.

For instance, voucher initiatives need to go on a general election ballot, especially a presidential election ballot. This is just Public Choice Theory 101: rationally ignorant voters tend to skip minor or special elections, but the union Myrmidons do not. In the Utah vote, only a small minority of eligible vot-

ers showed up, giving members of the PSSIGs a much larger influence than justified by their numbers. Additionally, you have to gear your political campaign to address the real motives that people have for opposing vouchers, instead of merely offering arguments for them and refuting the rationalizations put forward by the opponents.

Start with the rent-seekers. Here we can borrow from our leftist opponents (remember Saul Alinsky's "rules for radicals"?): make the political personal. Show the unions for the rent-seekers they are; show that they are people who profit by denying freedom and equality to downtrodden children. Mindful of the fact that members of teachers' unions oppose freedom of choice, but often avail themselves of that freedom for their own kids, run TV ads that show teachers dropping their children off at private schools, and then show poor kids walking to crappy public schools where those same union members teach.

Mindful of the political oddity of overwhelming support for vouchers among a group that votes solidly Democratic, show African-American students filing into lousy schools, while a voiceover recites the names of the local Democrats who oppose vouchers. Run testimonials by African-American parents describing how well their kids are doing since choosing their new schools. And make it personal. Run ads asking Obama why he opposes vouchers, even though his own children attend private schools (as did he).

But while holding the PSSIGs' feet to the fire, we should avoid demonizing public school teachers. Most teachers are just trying to do their jobs, and many are outstanding. A personal disclosure: I left parochial school in the third grade, in a cloud of disgrace, and spent the rest of my academic career — through graduate school — in public schools. Many of the wisest and most wonderful people I have met have been public school teachers. We oppose the system, but not the teachers who are doing their best.

Also, work hard to develop coalitions — with religious groups, minority advocacy groups, and so on. Voucher proponents (who are often libertarians) need to work hard to

Enacting significant policy changes in governance requires a brutal political fight, not a polite philosophic debate. You don't win by merely making an intellectual case.

help home-school proponents (who are often religious conservatives). They also need to court the support of more Democratic politicians, especially by running ads praising prominent Democrats who are willing to speak out. We don't care which party supports school choice — we simply support those who do.

It is vital, in any new voucher campaign, to address suburban parental resistance. To address the legitimate concern of parents who are happy with their public school and fear their kids will be "bumped" by newcomers, design your

legislation so that preference is given to people who live closest to the voucher school, and guarantee that existing students aren't bumped. Hammer home the economic costs to everyone of America's huge numbers of poorly educated people. What will it profit your kids to have a better shot at college if the price is that he or she will wind up paying massive taxes to support the unemployable and the incarcerated? You need to remind people of the difference between enlightened and unenlightened egoism.

Consider running ads reminding complacent suburban parents that the high-quality education their kids are supposedly getting in their nice local schools may be an illusion. At many schools, an A average merely indicates that a student hasn't succeeded in killing anyone yet. Radio and TV ads featuring Eric Hanushek reviewing the rapid decline of our students' international ranking in academic achievement might help here.

Fight fire with fire. Whenever a group of legislators is working on school choice legislation, the various pro-choice organizations should join forces to hire trained lobbyists to counter the opposition lobbyists. It would help if those of us who favor school choice supported the pro-choice organizations financially. I refer to such groups as the Alliance for School Choice and the Friedman Foundation for Educational Choice.

There are many reasons for vouchers: don't neglect any of them. Vouchers are justifiable on ethical egoist and utilitarian grounds, but also on the essential grounds of freedom and autonomy.

To advance these arguments, you need a network of articulate scholars, especially economists, from free-market think-tanks ready to speak on behalf of any proposed school choice initiative, and ready to counter any new propaganda the rent-seekers dream up.

An illustration of where this would have been useful comes from the last major attempt to allow freedom of choice in California's notoriously bad public school system a few years back. Initial polls showed strong support for the voucher initiative, especially in minority school districts. But literally a few days before the election, some PSSIG professor suddenly published a study "showing" that if the voucher system were enacted, so many kids would instantly leave the public schools that they would overwhelm the private ones (the No Place to Go argument). This was trumpeted by the teachers' unions. The proponents were taken off guard, and the rent-seekers won. Had a group of scholars been ready to contact the media with the obvious rebuttals, this might never have happened. (Progress is being made: the Friedman Foundation has set up a School Choice Speakers Bureau — a useful step forward.)

Another suggestion is that voucher supporters need to support other measures as well. The power of unions to stop or slow free choice in education comes from their ability to misuse their members' dues, in defiance of the members' rights under the Supreme Court's *Beck* ruling (which held, in essence, that workers cannot be compelled to pay dues to support political activities with which they disagree). Several states have passed initiatives requiring a union to get written permission from its members before it uses dues for political activity; in each case, union dues for politicking plummeted.

So if you want vouchers in your state, work also to enact paycheck protection bills. Similarly, I recently argued that America should adopt a "loser-pay" system to cut down on the huge number of frivolous lawsuits we have to endure.³⁴ Such a system would help deter unions from their relentless lawsuits against school choice.

While fighting for related causes, however, we must make sure to keep our own proposals well focused. Part of the reason the Utah initiative failed was that it brought in a mandate for testing, not just for vouchers. Standardized testing makes sense, but school choice needs to be the focus. Don't worry — as schools compete for students, they will automatically have to consider how well their students do on tests.

But if you'll permit me to make a final suggestion . . . I believe it's high time that I and everyone else came up with a better name. Instead of talking about "vouchers," we should talk about "Freedom of Education." □

Notes

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3. See Greg Toppo, "'Crisis' Graduation Gap Found Between Cities, Suburbs," *USA Today* (April 1, 2008).
4. Alliance for Excellent Education, "The High Cost of High School Dropouts: What the Nation Pays for Inadequate High Schools," Issue Brief (October 2007), available for download from the Alliance website.
5. These statistics are again from the Alliance for School Choice.
6. N. C. Aizenman, "New High in U.S. Prison Numbers," *Washington Post* (February 29, 2008).
7. Liptak, Adam "U.S. Prison Population Dwarfs that of Other Nations," in the *International Herald Tribune*, April 23, 2008.
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11. Vicki Murray, "Why So Many Teachers Are Quitting," *Orange County Register* (September 12, 2007).
12. Gary Jason, "'Voucher' is Swedish for Success," *Orange County Register* (December 8, 2006).
13. Gary Jason, "Free to Choose," *Liberty* (October 2006) 16.
14. William McGurn, "McCain's School Choice Opportunity," *Wall Street Journal* (April 29, 2008).
15. See Gary Jason, "Declare a Truce in the War Over Sex Ed," *Orange County Register* (April 18, 2006); and "Solving the Evolution vs. ID Dilemma," *Orange County Register* (March 22, 2006).
16. Dyble, Colleen (ed.) *Taming Leviathan*, London: Profile Books, 2008, p. 62.
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21. *Ibid.*
22. See Gary Jason, "Ed Schools Flunk Again," *LewRockwell.com* (October 10, 2006).
23. Gary Jason, "The Chauvinism Gap," *Liberty* (June 2008) 11–12.
24. Dwight R. Lee, "The Political Economy of Education Vouchers," *The Freeman* 36.7 (July 1986).
25. *Ibid.*
26. "Home-schooling in the Cross Hairs," *Orange County Register*, March 9, 2008.
27. Enlow 6.
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30. "Six Books a Week," *The Economist* (May 8, 2008).
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32. Chester E. Finn, "Twenty-Five Years Later, A Nation Still At Risk," *Wall Street Journal*, April 26, 2008.
33. Adam Schaeffer, "A Voucher Defeat in Utah," *Wall Street Journal*, November 8, 2007.
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Reviews

"Reluctant Witness: Robert Taylor, Hollywood, and Communism," by Linda J. Alexander. Tease Publishing, LLC, 2008, 361 pages.

The Big Man of American Politics

Stephen Cox

In 1944, MGM released a film called "Song of Russia." The picture was written largely by communists. Its technical advisor was Anna Louise Strong, one of America's most famous communists. Both the Soviet embassy and the American government provided generous and genial advice. The result, not surprisingly, was a film that made life in the U.S.S.R. look like life in Nebraska, or in the Wonderful Land of Oz. Later, defenders of MGM, defenders of the New Deal, and defenders of communist stooges wherever they may be found dismissed the effort as nothing more than a "pat on the back for our then ally, Russia" (to quote the words of MGM's exalted leader, Louis B. Mayer). Well, but that was the problem, wasn't it?

At about the same time there was formed in Hollywood an organization called the Motion Picture Alliance for the Preservation of American Ideals. Like "Song of Russia," this entity was largely the product of people at MGM, but it was devoted to exposing the

prevalence of communist influence in the film industry. First clutched to the bosom of big-name Hollywood, then slowly strangled by its disapproval of critical publicity, the Alliance managed to do very little. Practically nothing, in fact.

More was done, in its way, by the House of Representatives Committee on Un-American Activities (HUAC), which had already begun investigating reds in Hollywood and, in 1947, held a series of showboat hearings in Washington. Writers and other functionaries who were known to be communists were summoned to the capital, where they either refused to give testimony or used their moment under the lights to abuse anticommunists as "stool pigeons, neurotics, publicity-seeking clowns, Gestapo agents, paid informers, and a few ignorant and frightened Hollywood artists." Among the anticommunist witnesses was the star of "Song of Russia," Robert Taylor (1911–69), the subject of the book now under review.

This work is one more in the interesting stream of books and articles that challenge the simpleminded idea,

now almost universally taught and believed, that a few "liberal" denizens of Hollywood were just sitting there, faithfully doing their under-remunerated work for American culture, when suddenly they were attacked by The Great Witch-Hunt, a political inquisition perpetrated by — well, by the kind of people that the communist just quoted said they were. His name was John Lawson, a writer, who alleged that he himself was dedicated to the "free-exchange of ideas." The result of his devotion to freedom appears in the fact that all who dared to challenge his ideas are currently viewed as exactly what he slanderously accused them of being: stool pigeons, informers, etc.

But tell me: how can you be a stool pigeon or informer, if there aren't any offenses to inform about? Suppose you knew that a person of public influence was actually a Nazi ("Gestapo agent"). Would you be a "stool pigeon" if you mentioned it? Maybe you shouldn't tell Congress; you should just tell the L.A. Times (if they'll listen). All right. As a libertarian, I don't believe that Congress has the right to investigate the beliefs of private citizens, as if

beliefs were crimes, or Congress had any jurisdiction in regard to them. But communists and fellow travelers aren't precisely libertarians. If they had their way, there wouldn't have been any liberty for Congress to violate. So they had no cause to object. And "stool pigeon" implies that, yes, there were crimes, all right, but you have to censor yourself—you can't say anything about them. Why? Because we say so, that's why. We can call you anything we want, but you can't call us anything — even what we are.

Robert Taylor wasn't any of the things that Lawson mentioned. He was an unassuming, unpretentious man who came, like the more assuming, more pretentious Anna Louise Strong, from Nebraska. He loved the ladies, many of them — too many to let him stay married to a serious and accomplished woman, the great Barbara Stanwyck. But when he discovered a lady he really loved, he became a devoted family man. He also loved the outdoors and outdoor sports; he loved to fly his plane; he loved the feeling you get when you work hard and pay your bills. In 1944, and for decades afterward, he was a big star. In the 1940s he was considered the prettiest man in Hollywood. He was at least a decent actor. And he was, according to Linda Alexander's book, "rabidly anti-Communist" and "ultra-conservative."

Unlike other people who routinely use those terms, she is not being critical. She is an enthusiastic admirer of Robert Taylor. She devoted long and energetic research to his days and works. She wanted to bring him to life as a talented, likeable, many-sided individual. She succeeded. Unfortunately, however, she did not conduct a detailed analysis of his political ideas. "Rabid" and "ultra" are mere clichés, used casually, without animus, and without any attempt to identify the particular concepts that might distinguish a traditionalist conservative from an ideological conservative, a libertarian conservative from a nationalist conservative, or even a "moderate" from a "radical" or "ultra" conservative.

Certainly the fact that Taylor was a *reluctant* witness at HUAC's hearings in Washington hardly indicates that he was "rabid." His testimony was brief, yet not particularly coherent. It showed that he hated communism, as

he hated fascism; it also showed that he was reluctant to identify Hollywood colleagues as communists. Though he had a sharp wit and understood the tactics of communists who were trying to take over the Hollywood unions — as, for instance, by coming to a meeting and pretending that they didn't understand the motions on the floor, so that speeches and explanations and points of order would keep things going until everyone else had gone home, and the communists could vote their own program — he didn't get a chance to say much that was worth the effort. Alexander's evidence indicates that he thought the committee was obnoxious and incompetent.

So much for HUAC. Let's look at the Motion Picture Alliance. Taylor was an important figure in the organiza-

tion, joining it when few other real stars were willing to do so. We may assume that he subscribed to its ideas. Here they are, as quoted by Alexander, from its Statement of Principles:

We believe in, and like, the American way of life: the liberty and freedom which generations before us have fought to create and preserve; the freedom to speak, to think, to live, to worship, to work, and to govern ourselves as individuals, as free men; the right to succeed or fail as free men, according to the measure of our ability and our strength. Believing in these things, we find ourselves in sharp revolt against a rising tide of communism, fascism, and kindred beliefs, that seek by subversive means to undermine and change this way of life; groups that have forfeited their right to exist in this country of ours, because they seek to

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achieve their change by means other than the vested procedure of the ballot and to deny the right of the majority opinion of the people to rule.

The first sentence would be acceptable to any libertarian, any conservative, and almost any modern liberal ("the right to succeed *or fail*" notwithstanding). The second sentence expresses the view of most conservatives and modern liberals of the time: the Communist Party was the agent of a foreign power, bent on subverting and, if possible, overthrowing the U.S. government; as such, it should be outlawed. This idea, whatever libertarians may think of it, stops short of demanding that all the fools, dupes, and stooges, or even all the plotters, agitprop leaders, and would-be dictators then extant in Hollywood be arrested, or even fired from their jobs writing plays like "Song of Russia." (In any case, there wouldn't have been enough jail cells to hold them all.)

Taylor said that he would refuse to work with anyone he thought to be a communist, that he wanted studio heads to fire all such people (while recognizing that Hollywood's captains of industry might have their own reasons not to follow through on this), and that he thought the federal government might help, through "some sort of national legislation or an attitude on the part of Government as such which would provide them with the weapons for getting rid of those people." He seems to have been looking for a means of preventing the studios from getting sued if they fired the communists, but that's not clear. Alexander says that Taylor was best friends with Ronald Reagan, but he apparently did not share Reagan's detailed and often wily thoughts on government.

Alexander records no process of development of Taylor's political ideas, and no event that precipitated his becoming, in a small way, a political activist — unless it was his performance as the hero in "Song of Russia." He didn't want the role. He didn't want to play the part of an American symphony conductor who visits Russia and finds nothing whatever that isn't beautiful, true, and heroic. But he was persuaded by Mr. Mayer and a government agent that he needed to make the film. It is probable that he was moved by the threat that otherwise he would

be kept from active service in the Navy, and that he regretted and was confused by his decision.

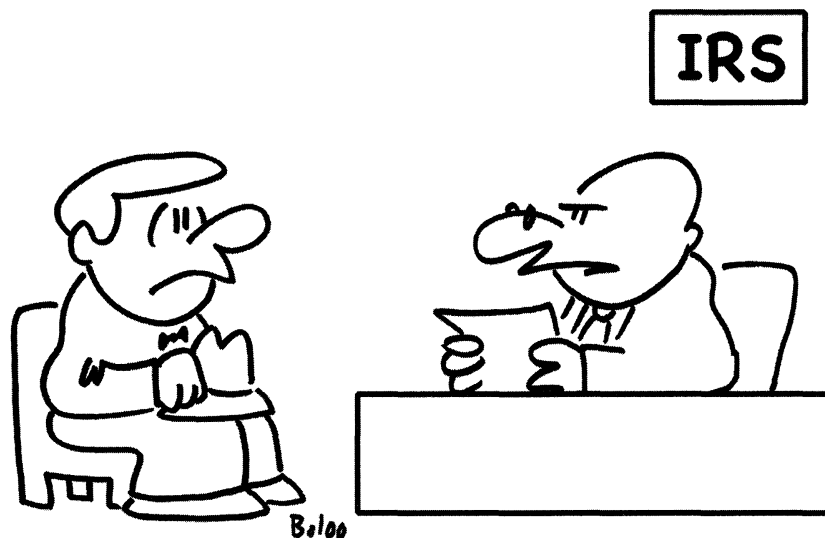
Yet Taylor is an interesting person, politically. He is the type and symbol of a potent — perhaps the most potent — figure in American politics, the average intelligent voter. Let's call this figure the Robert Taylor American.

The Robert Taylor American is that enormous, instinctively conservative part of our populace that supports and rejects ideas it doesn't think necessary to define, yet adheres to its ideas, once chosen, with a virtuous and lifelong tenacity. Ideologues (including libertarian ideologues) never understand him. Pundits and college professors never succeed in measuring his stature. Yet the Robert Taylor American is, in many ways, much more interesting than the people who study, or fail to study, him. They never stop talking about who they are and what they think; their talking points never cease to advertise themselves; their political lives are lived on the surface, for all to see. Robert Taylor Americans are harder to get at.

At one moment, they may look like ideologues, flying off the handle and signing onto the program of some political action group. They raise money; they give interviews; they go to seminars; they may even be elected officers of some group (Taylor served a term as head of the Motion Picture Alliance), or run for some public office (Ronald Reagan, George Murphy, and Clint Eastwood come to mind; Taylor at least

joked about running for governor of California.) At another moment, they're willing to go along with the crowd, go along with their spouse, go along with their boss (as Taylor went along with Mayer in agreeing to film "Song of Russia"), or go along with the government, and hope that it will all turn out right, despite their curious sense that what they are advised to do by these authorities is subversive of their own ideas. They'll put up with a lot; they're the kind that joins the Navy and makes sure to pay its taxes.

But there's a limit to what they'll put up with. They're the kind that gaily, though privately, violates the laws of society and the state, while insisting, sometimes for good reasons, that public revolt must be avoided. Taylor's public performance before HUAC was extorted by subpoena. He didn't mind denouncing communism, though he wasn't very good at doing it; still, he thought there was something unseemly about showing off before a committee. The Robert Taylor Americans won't always be obedient, even in public, to the social and political proprieties. You can't predict when they'll rebel — they aren't pundits or college professors, so they don't worry a lot about the appearance of consistency. They revolt when they feel good and ready to revolt. But meanwhile, there may be a consistency in their thoughts and actions that other people cannot see, simply because the Taylor folk aren't chiefly interested in advertising themselves, even if they



"You filed your tax return two days late — Why do you hate America?"

happen to be movie stars. They think they *know* things about America, and about themselves, and they're prepared to *act* on these things, in their own good time. Each of them has an instinctive affinity with others who share this hidden (though to them, obvious and necessary) knowledge of America. So when a Taylor American does revolt, the revolt is likely to happen all over the continent.

Of what do these people's ideas consist? Not, certainly, of a worship of authority. Authority is something they often seek to qualify, or overtly disobey. And not, certainly, of the ignoble bigotries of which statesmen from Woodrow Wilson to Barack Obama have accused them. These normal Americans have a maddening ability to hang out with gays, write episodes of "South Park," or become experts on rap, animal rights, or the plight of indigenous peoples. In social practice, they are probably the most liberal group in the country. They're willing to take you as you are, make the necessary allowances for your difference in "background," and take

you fishing with them, if they think you can keep quiet enough for the fish to come.

Because political ideologies often are, as the communists insist, the back-formations of social customs, the Robert Taylor Americans are unlikely to confuse what they regard as knowledge and experience with the arcane lore of a new ideological movement. (Let the failure of the John Birch Society stand in witness here.) Their own customs are not those of the editorial office or the debating society. The meaning of America seems clear to them. They need no ideology to define it.

As far as I'm concerned, the ideas of the Robert Taylor Americans are inadequate, but they are by no means contemptible. And when you come right down to it, every ideologist solicits the support, or at least the forbearance, of these people, whenever ideas are contested in the marketplace or at the ballot box. That's when the Robert Taylor Americans appear, and ask you quietly what you've got to show. If you mention liberty, they may be interested. □

"Taming Leviathan: Waging a War of Ideas Around the World," edited by Colleen Dyble. Profile Books, 2008, 178 pages.

Tanks for the Memories

Gary Jason

The Institute of Economic Affairs, based in London, has just brought out this valuable collection of essays by people who have started free market thinktanks in countries with traditionally statist economies. The volume that is a useful guide to anyone wanting to start a new thinktank, as well as anyone who wants to understand why such

organizations are useful, and why they succeed as well as they do.

The essays take up 13 cases, which together offer a worldwide view.

Greg Lindsay, current president of the Mont Pelerin Society, reviews his evolution from math teacher to think-tank founder. His organization, the Center for Independent Studies (CIS), is Australia's oldest free market think-tank. It was crucial in helping Australia reform its economy after a disastrous

period of economic stagnation and inflation in the 1970s. It became a key player during the 1980s, when both Labour and Conservative governments committed themselves to opening up free trade, reducing regulations, and privatizing industries. Lindsay finishes his piece with a cautious observation that all the gains that have been made in Australia (and I would add, elsewhere) can be reversed at any time, so the need for continuing the fight is still there.

Margaret Tse discusses the founding of the Instituto Liberdade in Brazil. She points out that the legacy of Portuguese colonial rule — which included a huge slave trade, patrimonialism (a system in which the ruler treats the government as a personal affair to be run for his own and his family's benefit), and corruption — made infertile ground for free market economics. Brazilian universities and other cultural institutions harbored a statist mindset, derived from the positivism of August Comte (which favored a "scientific" approach to government) and the Marxism of Antonio Gramsci (which turned social and educational institutions into instruments of propaganda and state control). Against this formidable opposition, the Instituto Liberdade has worked to change public opinion and policy.

Michael Walker, economist and lawyer, tells the story of the Fraser Institute, a Canadian organization that he cofounded with Sally Pipes and John Raybould. The Institute has done much to influence policy discussions in Canada, especially with its reports on long waiting times for surgeries under the national health care system and on the poor performance of public schools. Both those reports have gotten great play in the Canadian press.

Christian Larroulet, dean of the economics faculty at the Universidad de Desarrollo and a Mont Pelerin Society member, discusses the history of Chile's only private free market think-tank, Libertad y Desarrollo, founded nearly 20 years ago. It now has the most visited website in Latin America and has played a major role in preventing a rollback of the free market reforms instituted decades back after the fall of Allende. It has helped Chile rise from 14th (in 1995) to 8th (in 2008) in the Heritage Foundation-Wall Street Journal Index of Economic Freedom. It

has monitored the Chilean government budget and helped increase the World Bank's fiscal transparency rating from 63% in 1998 to 87.5% in 2006. It has worked tirelessly (and successfully) to liberalize Chile's international trade. But there have been areas (such as education) where Chile has retrogressed. Admitting this, Larroulet draws the same conclusion Lindsay drew, that the battle for classical economics is a never ending one.

Giancarlo Ibarguen, another Mont Pelerin Society member, describes how a thinktank in Guatemala — the Center for Economic and Social Studies (CEES) — took the next logical step of founding a university to counter the socialist domination of the existing ones. The Universidad Francisco Marroquin (UFM) was founded in 1971. The UFM is run like a for-profit business: it doesn't offer tenure, has real business people on its board, and forces department chairs to balance their books. While it offers its students a variety of majors, it requires all of them to get a basic education in classical economics, taught in four semester-long classes based on the major works of Hayek and Mises.

The UFM looks for top students, and offers needy ones a free education. And it has produced scholars who have started another free market think-tank, along with public policy pressure groups and a public choice center — not to mention its production of talk show hosts and op-ed writers. One big success of UFM's graduates was pushing through the privatization of the telecom industry.

Parth Shah, who holds a doctorate in economics and is also a member of the Mont Pelerin Society, recounts his return to his native country of India in 1997 to set up a thinktank. The thinktank he founded was intended to combat the stifling statist policies of the Indian economic system. Shah felt from the outset that Indian culture does not accept freedom from the state as a norm. He called his organization the Center for Civil Society (CCS), choosing the language of civil society to frame the debate.

The CCS has done all the sorts of things that thinktanks elsewhere have done: conducting research, publishing policy papers and studies, lobbying policy makers, conducting seminars, and running campaigns for such poli-

cies as school choice. But it has been special in focusing on the causes of the very poor — street vendors, rickshaw drivers, small farmers.

Daniel Doron, economist and sociologist, reviews his role in setting up the Israeli Center for Social and Economic Progress (ICSEP). Israel, like India, is a political democracy with a cultural legacy of statist economics. That legacy permitted public toleration of economic inefficiency that Doron felt was as much a long-term threat to the survival of the nation as attacks from its neighbors.

The ICSEP has focused on free market reforms of small business regulation, financial markets, the tax system, housing, and government structure. One of its major reforms was opening up the banking system to more companies. It has also fought the Marxist domination of the universities. Many of its policy prescriptions in the '90s were adopted by Prime Minister Netanyahu during his time in office. Besides the usual mechanisms for disseminating research, the ICSEP has conducted workshops for immigrants. Since the early 1990s, it has helped thousands of people from the former Soviet Union learn the basics of classic economics.

Alberto Mingardi, political scientist and journalist, recounts the story of the Istituto Bruno Leoni (IBL) in Italy. While that nation has produced notable free market economists (such as Vilfredo Pareto), it evolved in a statist direction, with the government now consuming roughly half the nation's GDP. Mingardi discusses the history of classical economics in Italy in the late 20th century, with the 1990s seeing a rise in interest, and an attendant wave of privatizations. But Italy had to wait until 2003 for its thinktank, the IBL. It has concentrated on the publication of articles by free market thinkers, both well known and up and coming.

Masaru Uchigama weighs in with his story of the founding of Japanese for Tax Reform (JTR), an organization that is less a thinktank than an advocacy group (influenced by Grover Norquist's Americans for Tax Reform).

Elena Leontjeva, former State Councilor on economic reform in Lithuania, describes how her youth in the former Soviet Union led to an understanding of the need for classical economics. When Lithuania achieved

independence in 1990, she helped found the Lithuanian Free Market Institute (LFMI). This organization helped structure the commercial banking industry, struggling against the central bank, which resented upstarts getting such attention. The LFMI was also helpful in moving Lithuania more rapidly to privatization than many of the other for-

Reform in the Philippines was blocked and even reversed by a well-organized coalition of leftist groups.

mer Soviet colonies. It fought the central bank to make sure that Lithuania's currency was backed by gold and foreign reserves. It then helped enact massive deregulation, and a flat income tax. Unfortunately, it was only able to push through a partial reform of social security, and is currently fighting the resurgent statism imposed by the European Union.

Alexander Magno, professor of Political Science and a director of the development bank of the Philippines, describes the economic milieu in the country in the mid-1990s. Short-sighted government policies such as subsidies for oil and protection of the domestic rice farmers led to a stagnating economy. Reform was blocked and even reversed by a well-organized coalition of leftist groups. Magno — ironically, himself a former leftist — realized that a free market advocacy organization was needed. The Foundation for Economic Freedom (FEF) was founded in 1996.

FEF began by pushing for deregulation of the oil industry, which eventually happened, resulting in the end of subsidies. It also pushed for breaking up the Philippine telecom industry, again, a battle that was eventually won. It went on to help achieve tax reform, as well as the privatization of the state energy industries. It fought with the organized left over liberalizing the retail sector, and it again won. It is currently fighting to open up the airline industry.

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Finally, Leon Louw, journalist and member of the Mont Pelerin Society, discusses the creation of the Free Market Foundation of Southern Africa (FMF). The FMF started struggling for free markets before apartheid had ended, when it worked to make the Ciskei a free market enclave, with zero corporate income taxes, a flat 15% income tax, and exemption from regulation for small businesses. The FMF then worked with the South African government to liberalize its economy when it ended apartheid, and to adopt a constitution that protected personal liberty.

Looking at these many and various stories, one can see why thinktanks are important for pushing forward the freedom agenda.

For one thing, they provide a stable home for “dissident” scholars. In virtually all countries, even the most relatively free ones, the dominant voices in the cultural and educational institutions are leftist. Scholars supportive of classical economics are often discriminated against in hiring, promotion, tenure, and the awarding of grants. It is vital that such people have a place where they can do their work and earn a living. For young scholars, thinktanks serve as mentoring centers. Many contributors to this volume emphasize the crucial role that meeting famous free market advocates played in their own intellectual development.

Thinktanks serve as centers for public education as well. They not only support original research, but they promulgate it to the public at large by putting out books, newsletters, magazines, articles, and op-eds. They make scholars available for talks and interviews, and they have become especially adept at maintaining useful websites and otherwise working with the “new media.”

Obviously, thinktanks serve as policy prescription generators, exploring and crafting market-based solutions to policy issues. They make public policy ideas available for politicians to advocate in election debates or interviews with journalists, ideas that then may find their way into legislation. They are idea and argument generators for journalists as well. Many an influential article has been produced by a scribbler who has read a thinktank policy piece. (I confess that I speak from experience.) Thinktanks serve as “go to” sources

for journalists needing relevant factual information. If a journalist wants a reasonably accurate estimate of the amount of money lost to the proverbial waste, fraud, and abuse in a particular government program, he is more apt to get it from a thinktank than from that government agency.

Free market thinktanks are international arenas for the exchange of ideas and approaches. Learning from experience is great, but learning from the experience of others is even better. Defending the idea of, say, moving to a flat tax is easier if you can point to other nations (now over 20, as it happens) that have done so already, and successfully. This is creative cultural diffusion — the

spread of good ideas across national boundaries. You can observe another culture try an innovation, see that it works, and adopt the same practice.

Finally, free market thinktanks often force government programs to increase their efficiencies. For example, by publishing “report cards” on public schools, the Fraser Institute has forced public schools to scramble, because parents have shown that they follow those reports closely.

All this having been said, I think it is worth emphasizing that thinktanks alone are not going to reform statist societies to their cores. There is no substitute for other organizations, specifically designed for political action. □

“All My Sons,” directed by Simon McBurney. Play by Arthur Miller. Schoenfeld Theater, New York.

Better Miller

Jo Ann Skousen

“All My Sons,” Arthur Miller’s powerful play about family ties, corruption, and lies, set just after World War II, opens with a massive wind storm that knocks over a large tree while a woman stands watching, transfixed. She makes her way through a screen door that marks the house, and the storm dies down. But the real storm is just beginning.

The rest of the barnlike stage is nearly bare — just a patio table, a chair, a door, another large tree, and the entire back wall painted with bricks to

indicate a gigantic gray house looming over the scene. The wings of the stage are uncurtained, revealing the offstage cast sitting formally in the dark, hands in their laps, as they wait their turns to enter the scene. Their silent presence suggests a jury of our peers, witnessing the action and casting judgment not only upon the characters onstage but also, perhaps, upon the audience as well. This is, after all, Arthur Miller. No man stands alone.

We quickly learn that the tree was a memorial, planted when son Larry was reported missing and presumed shot down in the South Pacific more

than three years earlier. Brother Chris (Patrick Wilson) and father Joe (John Lithgow) have accepted Larry's death, and Chris has invited Larry's former girlfriend Ann (Katie Holmes) to their house for the weekend with the intent of asking her to marry him. But mother Kate (Dianne Wiest) has refused to accept Larry's death and still expects him to return from the war, even though it ended long ago. Her fragile mental state makes it difficult for the family to move forward.

Added to this conflict is a slowly unfolding who-done-it about Ann's father, who had been in business with Joe Keller until he was convicted of selling faulty parts to the Air Force. Ann and her brother have not been back to town since their father's conviction, and they have refused to speak to him because of the shame he brought to their family.

These two themes — the relationship between fathers and sons and the corrupting nature of capitalism — are recurrent in Miller's plays and a reason they don't generally appeal to libertarians. They are traditionally directed with a heavy dose of cynicism and bitterness,

and business bashing is de rigueur. But recent directors have infused Miller's characters with a greater complexity, allowing the fathers to reveal an inner struggle and a softer emotion that humanizes them, even if it doesn't quite acquit them.

Lithgow's Joe Keller is a charming "good old Joe" as he chats with quirky friends from next door, banters with a little neighborhood boy, and warmly welcomes Ann. The neighbors who live on either side of their house are funny and disarming, infusing the first act with an unexpected lightheartedness. Birds chirp and a radio plays happy dance tunes. Ann flits around the stage like a bird herself, first alighting in front of one character and then behind another's chair, swirling and twittering about the stage. This is a friendly, happy neighborhood, willing and ready to let bygones be bygones. It seems.

But Kate's neurotic refusal to accept Larry's death (and thus Chris' engagement to Ann) casts a deepening pall on the happy scene. Chris is just a little too perfect, Ann just a little too cheerful, Joe just a little too forgiving, Kate just a little too sure that her dead son will return

to them alive. I think it's significant that the father is named Joe and his son is named Chris, providing a postmodernist, irreverent twist on the iconic Christ figure that subtly adds gravity to the story.

What carries this play (and will carry it all the way to the Tonys in June, despite its limited fall run) is the powerful performance of the actors. Every one of them is spot on, from the bubbly goofiness of the next door neighbors to the powerful intensity of the parents and their pain. Wiest's unvoiced howl of despair as she curls into herself in the final scene is bloodcurdling in its silence. Wilson brings a natural movement and inflection to his performance, and Lithgow is — well, he's just magnificent. At times feeble with age, at times powerfully physical, he simply fills the massive stage.

Katie Holmes is good in her Broadway debut. She is lovely, charming, and sprightly in Act I as she flits from character to character, smiling brightly at everyone. I found McBurney's frequent staging with Ann's back to the audience disarming as well — rather like the depth Giotto

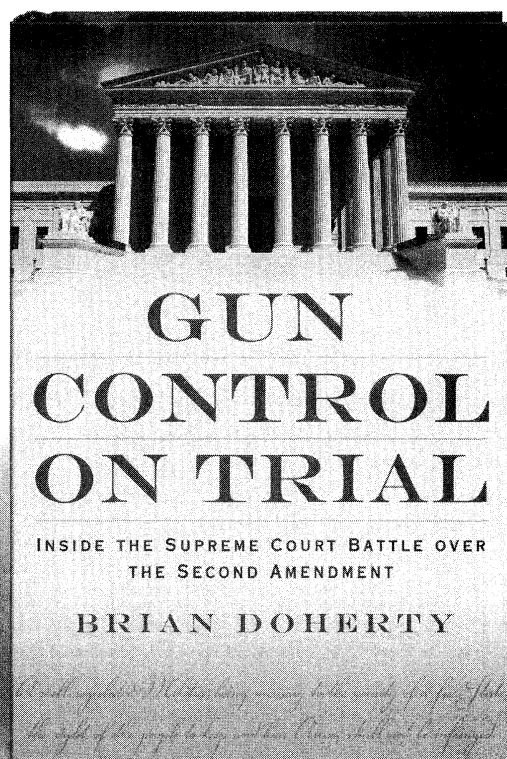
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created in his paintings by having some characters face into the painting rather than out. But Holmes has not yet learned how to reach the rafters without shouting, and it is especially apparent when she is onstage with these veteran actors. Emotions that should be raw and hesitant in the second act become angry and harsh instead. She seems more suited for screen than for stage at this point. One hopes she will learn to use her diaphragm before she loses her voice.

As for the business bashing — well, it's Arthur Miller. Of course it's there. But it seems less universal in this production, which focuses more on the flaw in an individual than on corruption in the business system. Joe blames the system, but he has become an unreliable voice, so we don't have to take his word for it.

The true evil in this production stems from self-deception, from trying to cover up a mistake instead of accepting responsibility and correcting it — a tragic weakness that many of us have experienced. It happens to a businessman in this play, but it doesn't have to happen to every businessman. As a member of my party said while we were leaving the theater, "There are corrupt people in every walk of life — doctors, plumbers, politicians, bankers. But the free market provides the surest way for identifying and eliminating them."

Don't let Miller's left-wing reputation keep you from attending this production of "All My Sons." This is theater at its best, with a thought-provoking script and a top-notch cast. If you are in New York this fall, it should be at the top of your list. □

"Bottle Shock," directed by Randall Miller. Intellectual Properties Worldwide, 2008, 110 minutes.

A Good Vintage

Gary Jason

For some of us, wine is a serious subject, indeed. Well, fellow oenophiles, there is a small movie out in limited release that will intoxicate you: "Bottle Shock."

"Bottle Shock" is a fine little comedy/drama based on true events. It tells the story of the characters behind the history-making 1976 blind wine tasting that took place in Paris. As the story opens, we meet Steven Spurrier (Alan Rickman), a British wine merchant in Paris, struggling to find some way to make his wine shop unique. So he

decides to travel to the wine-growing county of Napa, California, to see for himself if the stories were true about California producing world-class wines — which then meant as good as French wines. His intention was to run them in a blind taste test against French wines.

We then shift to the Napa region, and meet the other main characters. Jim Barrett (Bill Pullman) is a struggling vintner with a somewhat troubled relationship with his long-haired, apparently lazy son Bo (Chris Pine), and his top hand Gustavo Brambia (Freddy Rodriguez). They are joined by a gorgeous intern Sam (Rachael Taylor), who wants to learn the winemaking trade.

She quickly manages to get both young men to fall for her.

Much of the town's social life is centered in Joe's Bar, run by another lovely girl, Joe (Eliza Dushku). (It's odd that both the female leads have men's names.) Napa Valley in the 1970s was still Hicksville — not the Yuppie haven it is today. We learn that Gustavo is an expert wine judge, with a major secret that will inevitably strain his relationship with Jim.

Much of the great comedy comes from the culture clash that ensues when Spurrier, the supercilious Brit, meets the locals while trying to select wines to take home for the contest. The look on his face as he tries Kentucky Fried Chicken, guacamole, and other "authentic" American dishes is hilarious.

The story builds nicely as the American wine makers get behind the project, and select Bo to represent them in Paris. At the airport, Spurrier finds that he can't carry all the bottles with him (there is a two-bottle limit for carry-ons) — which means that the wine would have to be put in the cargo bay, subjecting them to "bottle shock" (hence the movie's title). In a nice scene, with Bo's prompting, the other passengers help out. One can't help but think of the calmer, gentler nation we were, before we were considered potential terrorists if we carried more than three ounces of liquid onto a plane.

The acting in this gentle gem never disappoints. Bill Pullman plays Jim Barrett to earnest effect, and Chris Pine conveys convincingly a young man formerly devoted to partying as he grows into a man of serious commitment to what is, it seems, his destiny. Freddy Rodriguez as the decent but ambitious Gustavo and Dennis Farina as Spurrier's somewhat moochy friend Maurice are especially good in supporting roles.

But extremely effective is Alan Rickman as Spurrier. Rickman is a superb actor who plays any role well, but in playing a supercilious snob he truly excels. His line (which I hope I am quoting correctly), "I know you think I'm an asshole. But I'm not really. It's just that I'm British and you are not." comically captured a lot of truth.

The final scenes of the movie were richly rewarding. Pop the cork on this treat and savor this interesting, entertaining, and well-crafted little film. □

"The Women," directed by George Cukor. MGM, 1939, 133 minutes.

"The Women," directed by Diane English. Picturehouse Entertainment, 2008, 114 minutes.

Two Women

Jo Ann Skousen

Directed by George Cukor, with a screenplay by Anita Loos and Jane Murnin, based on a play by Clare Boothe Luce, the original version of *"The Women"* is a nearly perfect movie, one of the masterpieces of 1939, the Golden Year of movie making. Populated entirely by women (reportedly even the dogs and horses in the film were female), it presents a witty, sophisticated, and stylish view of the catty and competitive world of Manhattan's high society matrons.

The story centers on Mary Haines (Norma Shearer), seemingly the most grounded member of a diverse group of friends whose most common denominator is that they have time to shop and do lunch. She is happy, intelligent, kind, and dignified, enjoying a successful partnership in which her husband manages the business while she manages the home. But the partners spend little time together, as the film's all-woman cast and all-female settings subtly point out.

When two of her friends discover that Mary's husband is having an affair with a perfume-counter girl, Crystal (Joan Crawford), they contrive a way for Mary to find out. Then they sit back to watch what she will do. They don't care about her; they just want to watch the cat fight and have a great story to share at the next dinner party.

Mary's instinct is to look the other way. If she doesn't know about his infidelity, he just might get over it, and it

won't have to affect their marriage. Othello reacts the same way (at one point, anyhow) when Iago suggests that his wife, Desdemona has been unfaithful:

I swear 'tis better to be much abused
Than but to know't a little. . . .

What sense had I of her stol'n hours
of lust?

I saw't not, thought it not, it harmed
not me;

I slept the next night well, fed well,
was free and merry . . .

He that is robbed, not wanting what
is stol'n,

Let him not know't, and he's not
robbed at all . . .

I had been happy if the general camp,
Pioneers and all, had tasted her sweet
body,

So I had nothing known.

This "ignorance is bliss" approach is, in fact, the advice Mary receives from her mother, who confesses that she has been there and done that, and kept her own marriage intact. "Go away for a few days," she recommends. "There's nothing like a good dose of being left alone to make a man appreciate his wife." Indeed, the tactic seems to be working; in a one-sided phone conversation at the perfume counter, Crystal has to wheedle and connive to convince the cooling Stephen Haines to see her.

But Mary's catty, gossipy friends can't let it drop. Led by her best friend, Sylvia Fowler (Rosalind Russell), they manipulate a humiliating confrontation between Mary and Crystal (one of the most delicious scenes ever filmed) while both are trying on negligees at a fash-

ionable boutique. Publicly devastated, Mary now has to act. Like Othello, she is pushed into a decision she does not want. Urged by her friends to place her reputation above her happiness, she travels to Reno and obtains a divorce.

Her husband now has no excuse but to marry the other woman, who begins looking for greener pastures even while she is the new Mrs. Stephen Haines. He, too, is miserable, or so says Little Mary, their daughter, to her sad but stoic mother. Most divorced women would delight in this outcome as the ultimate revenge. But not our Mary. She misses her husband.

Armed with the knowledge that he misses her too, she confidently manipulates a confrontation of her own in an even more delicious scene in one of the sumptuous ladies' lounges of the 1930s night clubs. As Mary heads out of the lounge to rekindle her marriage, Sylvia demands, "Have you no pride?" With the glow of love shining from her eyes, Mary responds, "No pride at all. That's a luxury a woman in love can't afford!"

The film's ending has been much debated in recent years. Doesn't she sell out to conventional mores? Shouldn't she assert herself? Establish a career? Is she just too weak to imagine a life by herself? The answer is more in Norma Shearer's face than in the words or action of the script. That glow is unmistakable — she is not selling out. She is, indeed, asserting herself by going after the one thing she wants: her marriage. It's one of my all-time favorite scenes.

Deciding to remake such a time-honored classic as *"The Women"* would be risky even in the hands of a talented and seasoned director. Why would a first-time director even bother? Perhaps Meg Ryan, Annette Bening, Eva Mendes, Debra Messing, Jada Pinkett Smith, Candice Bergen, and Cloris Leachman consider themselves on a par with Norma Shearer, Rosalind Russell, Joan Crawford, Paulette Goddard, Joan Fontaine, and Marjorie Main. If so, they are sadly mistaken — and they have made their mistake abundantly clear. The only cast member who could possibly qualify is Bette Midler, and she is woefully underused.

As expected, the remake of *"The Women"* is a mere caricature of the original, more sitcom than film presence. And no wonder — director Diane

English's career has been in television, mostly writing episodes of "Murphy Brown" and "The Mystery Files of Shelby Woo." She doesn't seem capable of eliciting nuanced performances or complex emotion. Every character is a stereotype, every movement and expression an overaction.

Moreover, the film doesn't transfer well to the 21st century. Developing a stage play and then a film with an all-woman cast was far from gimmicky in the 1930s, when husbands and wives often lived parallel lives in separate universes. The all-woman scenes take place naturally in the beauty salon, health spa, kitchen, fitting rooms, and perfume counters — all strictly off limits to the 1930s male. Not seen but implied is a similarly one-sided environment in which men spent time only with other men. These two mutually exclusive environments, Luce implied, were damaging to marriage.

But while she made an excellent point about the power of peer pressure, even among adults, the all-woman strategy feels utterly contrived and unnatural today. Men and women now show up side by side — getting hair cuts, running the tread mill, shopping for groceries, caring for children, running the board room. In the 2008 version of the story, having an all-woman cast makes no particular point; it just seems jarring and odd. Even the one woman (Debra Messing) who seems happily married (judging by the fact that she has four

young children and another on the way) announces that her husband is living in an apartment downstairs. Say what?

The most ridiculous scene of all takes place as the nanny delivers a blow-by-blow report to the housekeeper about Mary and Stephen's fight over Crystal. Why don't we just go into the bedroom and see it for ourselves? The implication in the original is that Mary and Stephen probably didn't have a confrontation at all. She was more likely to have quietly packed her bags and left him a dignified note, because that's what convention and her wounded pride would have dictated. In a modern film not letting us see the husband makes no point whatever.

English seems to recognize this flaw, so while she goes ahead with the all-woman cast, she resorts to bodily fluids to make her point about the difference between men and women. Her characters continually refer to sex, peeing, breast milk, menstruation, collagen injections, and amniotic fluid, and there's a raunchy reference to saliva, a nail, and a board that I'd rather not repeat. If bodily fluids are indeed the only remaining distinctions between women and men, then maybe there was no need for this remake.

What's really missing from this new film is class. I miss the cool, subtle, imperious delivery of Clare Boothe Luce's catty zingers, the kind that, followed by a sweet smile, can make the recipient almost feel guilty for taking offense,

while causing the audience to gasp with shocked delight. I miss Joan Crawford's natural sexiness as she admires herself in the mirror — her Crystal did not see herself as a slut, nor did Crawford play it that way. By contrast, all Eva Mendes needs is a pole — she has the chair and the garter belt.

I also miss the acknowledgement that a woman can find joy and satisfaction in being married to a man — or even having a conversation with one. Luce takes some well-deserved punches at the dangerous peer pressure of the women's club, landing a few knock-outs in the process. But English seems honor bound to celebrate '70s-style sisterhood throughout her film. At one point Sylvia says to Mary, "We'll be each other's wives." Fine, if that's what you both want, but Mary wants to be Stephen's wife! Why can't that be acceptable?

The joyfully anticipated reunion at the end of the original is lost as Mary must first establish a career as a fashion designer before her friends will allow her to consider reconciling with her husband. She must be "true to herself" before she can be true to him, they explain. Yet early in the film she is seen happily gardening, cooking, parenting. Why can't a woman be "true to herself" in the kitchen? Is a paycheck the only measure of value today? This is peer pressure in the extreme, and it goes unnoticed and unresolved in this unnecessary film. □

Reflections, from page 32

to follow a higher code than mortgage lenders or car salesmen. It's been clear for some time that America's top civilian leaders, almost without exception, have trouble telling the truth. One had clung to the hope that our soldiers, sailors, and airmen, and their leaders, were of a higher caliber. Increasingly, it seems they were not. — Jon Harrison

Fish market — There is a sort of order, a thermostatic process, built into the free market system. Amazingly a similar model of checks and balances resides in nature: more predators, less prey — and vice versa.

This obvious observation came to my mind when I read in my local paper that government suppression of bear hunting in the Appalachians had led to the attrition of the southern Appalachian brook trout. I think most 3rd graders who couldn't even spell "Appalachian" could have deduced that fewer bears, more fish. The situation is complex but, trust me, fish didn't like it. Good thing they don't vote.

Now another violation of the order of checks and bal-

ances: a \$700 billion intrusion into the credit markets. No, it won't decimate the southern Appalachian brook trout, but it might decimate the taxpayer. Here again, government has the same thin understanding of the financial system as we do of dead fish.

Man is the only creature that has the hubris to think he controls the world he lives in. He pays for this sin with dead fish and empty pockets. Ecology or economics, it's all the same. — Ted Roberts

Who sees what — The great story of 2008 is not only government inability to deal with economic crises but public realization of the truth, long familiar to libertarians, that economic disasters can't be solved by government, just as the great story of 1989 was that command economies collapse.

State-jiggled capitalism suffers from contradictions causing its own demise. Will the worldwide intelligence gained by this realization inform the current elections first in Canada and then in the United States? — Richard Kostelanetz

San Diego, Calif.

Provocative suggestion to help reduce airport congestion, as reported in the *Los Angeles Times*:

A San Diego City Council 8th District candidate has proposed that a second major airport be built in San Diego so that Lindbergh Field "can be used just for incoming flights."

Hayden, Idaho

Advance in exorcism technology, recorded in the *Seattle Times*:

A man who believed he bore the "mark of the beast" amputated one of his hands, put it in a microwave and summoned authorities, Kootenai County sheriff's deputies say.

"He put a tourniquet on his arm before, so he didn't bleed to death," sheriff's Capt. Ben Wolfinger said.

Seattle

Legal note, from the *Seattle Post-Intelligencer*:

Seattle City Councilman Richard McIver used city money to pay a \$1,000 fine levied by the Seattle Ethics and Elections Commission last month after finding that he had given the appearance of favoritism in awarding city contracts to a longtime friend.

Ethics and Elections Director Wayne Barnett said he will return the money to the city's law department, which issued the check. "It is absurd," Barnett said. "It violates the public trust to pay the fine with public money."

In a brief response, McIver said he and the law department believe the Municipal Code allows the city's judgment claims fund to pay the fine, because the violation happened during the course of his work as a city councilman: "It is regrettable that I am now caught in the middle of a disagreement over the interpretation of the law."

Bucharest, Romania

Putting on a happy face, from the AFP wire:

Upbeat news would have to make up half of all newscasts on all of Romania's radio and television stations, under legislation adopted unanimously in the senate.

The measure is the idea of two senators who bemoan the "irreversible effect" of negative news "on the health and life of people." Its aim, they said, is to "improve the general climate and to offer to the public the chance to have balanced perceptions on daily life, mentally and emotionally."

Zheleznovodsk, Russia

The unveiling of a masterpiece, from the *Moscow Times*:

A monument to the enema has been unveiled at a spa in the southern Russian city of Zheleznovodsk. The bronze syringe bulb, which weighs 800 pounds and is held by three angels, was unveiled at the Mashuk-Akva Term spa.

"There is no kitsch or obscenity, it is a successful work of art," spa director Alexander Kharchenko told reporters. "An enema is almost a symbol of our region."

Narva, Estonia

New take on the underground economy, from *The Telegraph* (U.K.):

A group of suspected smugglers are to go on trial for pumping thousands of liters of cheap Russian vodka into the European Union through an underwater pipeline.

Prosecutors said the men had tried to sell a vast amount of vodka in November 2004, but found no takers since the quality was so poor. They later sold their stock in Tartu, an idyllic university town that is Estonia's second largest city.

Hundreds of Russians die each year from drinking ultra-strong homemade vodka, and many who live in the country's poorer regions resort to drinking shoe polish and cologne in an attempt to get drunk.

Hilton Head Island, S.C.

Ridding our schools of the scourge of school supplies, from the *Hilton Head Island Packet*:

A 10-year-old Hilton Head Island boy has been suspended from school for having something most students carry in their supply boxes: a pencil sharpener. The problem was his sharpener had broken, but he decided to use it anyway.

A teacher at Hilton Head Island International Baccalaureate Elementary School noticed the boy had what appeared to be a small razor blade, according to a Beaufort County sheriff's report.

It was obvious that the blade was the metal insert commonly found in a child's small, plastic pencil sharpener, the deputy noted.

Canton, Ohio

A peculiarly specific message, passed along by the *Peoria Journal-Star*:

The liquor license for a Canton business will be suspended for 60 days because two women wrestled topless at a recent "midgert wrestling event." Bar owner Kim Scott said she had a contract with the Micro Wrestling Federation for male wrestlers to perform. When the group arrived, Scott said, two women in oil were wrestling topless while she was outside smoking.

The penalty is substantial, Mayor Kevin Meade said after the city liquor commission voted unanimously to suspend the license for Outskirts Bar and Grill. "It's meant to send a message to other businesses in town that this won't be tolerated."

Seattle

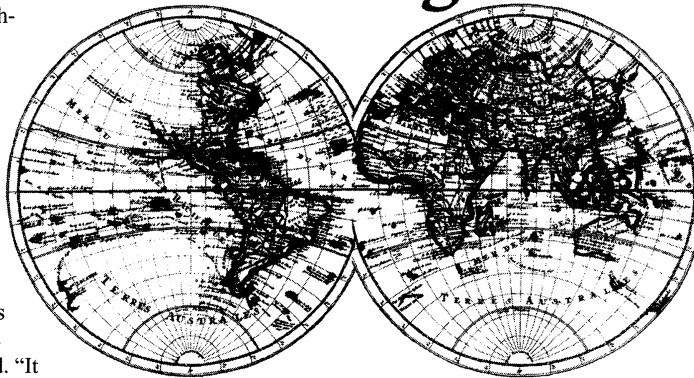
New direction in immunology, from the abstract of a presentation made at the Seattle Bioneers Conference, Oct. 17-19, 2008:

Gaia's Immune System: Restorative and Sustainable Medicine
Presented by Christy Lee-Engel

A presentation on what "natural medicine" is and how it relates essentially to environmental restoration and social change work.

This presentation will be followed by a facilitated discussion, tapping into the group's collective wisdom to find out how we can all support each other in being Gaia's immune cells.

Terra Incognita



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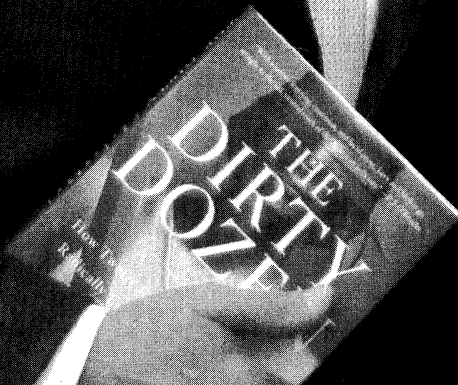
(Readers are invited to forward news clippings or other items for publication in Terra Incognita, or email to terraincognita@libertyunbound.com.)

We've challenged judicial activism where it invented new rights out of whole cloth.

We've challenged judicial passivism where it refuses to protect rights that are clearly stated in the Constitution.

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