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December 2009

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by Elizabeth Weiss

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by Carl S. Milsted, Jr.

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Letters

Quagmire

In the October Letters section, Jacques Delacroix makes some statements that don't conform to known facts. In his response to a letter from L.A. Rollins, Delacroix states that there were no plans to establish permanent American military bases in Iraq. In fact, during the negotiations for a U.S.-Iraqi security pact, the Bush administration sought the establishment of some 50 long-term bases for U.S. forces (it did not seek a "permanent" presence, because such is not done in international treaty-making). The Iraqi negotiators, however, refused to agree to this.

The Bush administration also granted no-bid contracts to Western oil firms to service the Iraqi oilfields. These were withdrawn when objections were raised both in and outside Iraq.

These facts have been reported in the mainstream media, and I was surprised to learn that Delacroix apparently had not heard of them.

Delacroix is on more solid ground when he states that the Bush administration "invaded Iraq largely to try and rearrange the political map of the Middle East." But rearrange the map to what end? Delacroix implies that the United States fought the war simply to turn Iraq into a democracy. Such a belief is simplistic if not naive.

It's well known that from the outset of the Bush administration some of its key figures — Vice President Cheney, Paul Wolfowitz, and others — were urging Bush to get rid of Saddam Hussein.

It's quite true that these men wanted to "change the face of the Middle East" by first smashing Hussein's Iraq, then doing the same to Iran and Syria. The fiasco that succeeded the march to Baghdad — six years of occupation and counterinsurgency warfare — is what prevented steps two and three from being carried out.

The motives of these men were never publicly aired, of course. The American people have never been moved to fight wars overseas except by fear or idealism. So Saddam's supposed weapons of mass destruction (fear) and fine words about establishing a free and democratic Iraq (idealism) were the tools used to obtain congressional and public support for the campaign.

Why Bush gave the go-ahead is not entirely clear to this day. But it's hard to imagine that America would have invaded and occupied Iraq for years had that country been a mere desert without oil. Oil had to have been a factor in Bush's decision — which is not to say that it was the only or even the primary motive for the invasion.

In any case, the men who really made the war held two hardcore beliefs: first, that American and Israeli interests are essentially identical, and second, that the United States must have unimpeded access to the oil and gas resources of the Persian Gulf and Central Asia. That does not make them the evil tools of corporations, as Delacroix rightly points out. They were motivated by what they saw as America's vital

Letters to the editor

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interests. That they were nevertheless wrong is obvious — except perhaps to those who believe that establishing a brittle and unfriendly “democracy” in a far-off land was worth over 4,000 American lives and around a trillion dollars.

A final point: Delacroix says, “I think the adage well supported that democracies don’t attack other democracies.” Well, let’s see. America declared war on Britain in 1812, and tried to invade Canada. Britain and France came close to war over Fashoda in 1898, and it wasn’t their democratic systems that prevented conflict. Although Germany in World War I was not as democratic as its Western opponents, it could only carry on the war so long as its democratically elected Reichstag continued to vote for war credits. America overthrew the democratically elected governments of Iran (1953), Guatemala (1954), and Chile (1973) because it didn’t like the

election results. Nations follow their perceived interests, and while it may be true that democracies are more likely to have common interests, history shows that that’s not always enough.

Jon Harrison
Poultney, VT

Delacroix responds: I am going to try to overcome my simplicism and my naivete to answer Harrison. (Forgive me, O Cox, for this needed neologism!) Harrison appears to be missing significant parts of his own story.

First, I stand corrected on the list of attacks of democracies against democracies, or maybe, a little corrected. In 1812, the United States was a democracy by any definition, Great Britain hardly. In that case, the United States attacked what would later become a democracy. And, by the way, there is a lot of room for looking at 1812 as a war of self-defense. The United States

From the Editor

A few days ago I attended the opening concert of the San Diego Symphony. The program began with “The Star Spangled Banner,” which I always like to hear, but the major offering was Dvorak’s Eighth Symphony. I had never heard that one before.

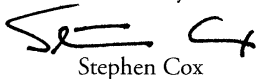
It’s a big work, with a huge orchestra — eight double basses, eight cellos, four flutes, four clarinets, innumerable violins. And its form is unusual. When it debuted it was roundly criticized for its refusal to introduce its themes in a normal way, with the usual kinds of relationships and the usual kinds of repetition. Instead, it introduces one theme and allows it to suggest another theme, then another . . . and so on, in all the shapes that a great imagination could create. Surprise follows surprise, and in the end one finds that the symphony has included everything, from cheerful country dances to the somber notes of fate.

The San Diego performance was terrific; and as the excited audience shouted bravos at the happy but exhausted orchestra, I suddenly realized that the music reminded me of someone. It was R.W. Bradford, the founder of this journal, who died at this season, four years ago.

Bill’s interests were as wide as the world, and he pursued them with the kind of excitement that made you eager to hear his next remark about the Chaco War or the natural history of the Ohio Valley or the evil nature of Andrew Carnegie. Bill devoted his life to the cause of human freedom; he was as serious about that as those eight double basses. But he had the charm and wit and vitality of the other instruments too. Ideas, for him, weren’t dogmas to which he continually returned; they were constantly in motion, spinning off new ideas, in new and surprising ways.

Bill was an orchestra within himself, and he wanted *Liberty* to be like that as well. He didn’t want just one instrument, playing one tune; he wanted all the instruments in the orchestra, developing as many melodies as they could — all the tunes related, but all richly individual and therefore surprising and exciting. He got his wish. But as varied and individual as *Liberty*’s writers are, you can hear Bill’s music on every page. When you applaud, you’re applauding him.

For Liberty,


Stephen Cox

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did intervene in Chile in 1973 but there was no war. The United States also intervened in French and Italian elections in the '40s, to help democratic forces in those countries beat back Communism. I guess if what the CIA did in Chile was an attack, those were attacks too. The United States — through the CIA — intervened also in Guatemala, with a Guatemalan rebel force numbering fewer than 500. (I got the number from a Norman Mailer novel. If it's wrong, I will graciously accept correction.) The deposed president, Arbenz, was himself a former coup leader. Fragile democracy, indeed! The German example speaks for itself. If 1914 Germany was an example of what Harrison calls a democracy, he and I, and many others, have some conceptual issues to debate. And Great Britain and France did not go to war because of Fashoda (an obscure village in the Sudan), which makes my point nicely. Had one of the two been Fascist Italy, or Red China, or even the colonels' Argentina, the chance of war would have been higher. The Fashoda example supports my case, which is that democratic systems impose restraints on bellicosity.

This being said, I should have stated my point with more reserve: "Democracies are less likely to attack democracies militarily than are totalitarian regimes."

There were no plans to establish permanent military bases in Iraq as I was writing. Of course, President Bush tried to get some. I wish he had succeeded, for the same reason I was glad, throughout my childhood, that there were American military bases in Europe. For the same reason, I am glad there are some in South Korea today. I realize this is a hanging offense for many libertarians precisely because it's so inimical to our grand project, but I am against defending our country on the beach at Malibu, or on Long Island. Countries of the near Middle East are not particularly belligerent against us, it's true. (Except the one whose regime keeps calling the United States the "Great Satan," but what's a little jiving between friends!) Yet, they are largely failed societies that breed large numbers of viciously anti-American fanatics. Any of those countries might turn any day. As the case of Libya showed and as the case of Iran continues to suggest,

nuclear terrorism is not out of the picture. I want to keep a close eye on them and military planes at their doorsteps. Light American bases in Iraq would serve this purpose.

Here is where Harrison misses what is, to me, the main part of his own story: the Iraqi negotiators for what he calls a "democracy" were able to say "No" to U.S. bases. Pretty good for a country that is militarily occupied and that has been under a bloody dictatorship for 30 years. Perhaps the United States did something useful there, pretty much of the form sought by the neocons.

Yes, Iraq is a "brittle" democracy. As I said, it's not Switzerland. Nevertheless, it's a polity with representative institutions whose citizens often vote in larger proportions than do Americans. Most of the time, they do this at great risk to their lives. It's also a country where mass murderers receive a reasonably fair trial — not a bad basis on which to establish a future rule of law. There is no consensus that the Iraq liberation was a fiasco. Get used to it!

The question of whether it was worth 4,000 American lives is, I think fundamentally, if unwittingly, dishonest in its form. It's not absurd to argue that it was not "worth" a single American life. And, by the way, it's not impossible to imagine that FDR could have avoided war with Germany and with Italy. That would have saved about 200,000 American lives. In the meantime approximately 40,000 Americans are killed every year in car accidents, about half with alcohol involved. I hardly ever hear good souls lament this utterly meaningless slaughter.

Incidentally, being attacked and losing does not save lives. France, with one third of the population, lost as many military personnel in WWII as did the United States.

Yes, the Bush administration gave some oil maintenance contracts without bidding. It was a war emergency. (One of the reasons we don't like wars: they generate emergencies, sometimes real emergencies.) I wish the administration hadn't done this. Fortunately, the establishment of representative government in Iraq quickly put an end to this breach of good manners. At any rate, the amount involved was peanuts. I don't know what this has to do with the real reasons for the military ac-

tion in Iraq. As an argument to sustain the case that it was blood for oil, it's underwhelming.

Harrison makes the vague statement that had Iraq been "a mere desert without oil," there would have probably been no American invasion. Two answers. First, by this reasoning, the United States attacked Serbia — twice — because some constituency in this country lusted for the skinny Serbian cows. Second, if the thesis is that the Bush administration invaded Iraq to preserve physical access to the oil resources of the whole Middle East for the whole world, America included, I hope that's true. Oil is to the world economy like water is to irrigation farmers. Avoiding being cut off suddenly and suffering abrupt economic recession is well worth going to war over. (Note that in such crises, the first to die are poor children in poor countries, not suburban Americans.)

Unfortunately that rational explanation is clearly wrong. The fastest way to expand the global oil supply before the liberation of Iraq would have been to eliminate the sanctions that prevented Saddam Hussein from selling as much oil as he wished. Such a measure would have also earned the United States the approval of some or most of its allies and it would have made Bush more popular in some domestic quarters.

I don't know how Harrison knows that the men who made the decisions to invade Iraq held a "hardcore" belief that this country's and Israel's interests are "identical." It's self-evident, I think, that they overlap today more clearly than they did 20 or 50 years ago. But that's another story.

The most interesting part of Harrison's letter is what's missing from it. Of course, whether one thinks that the Bush administration honestly believed Hussein had weapons of mass destruction matters a great deal. I think it believed it. The British government, the French government, and Vladimir Putin all said they believed the same at the time. For me, this is a dead horse; it's not worth discussing anymore. I just mention it because it may have been a cheap shot in Harrison's letter. I am not certain it was.

Finally, Harrison seems not to contemplate the possibility that common

continued on page 23

Reflections

Imperfect world — True capitalism, much like true Marxism, has never existed. However, imperfect capitalism has been shown to rise head and shoulders above imperfect Marxism. Prosperity, human rights, and human wellness have all flourished under the imperfect capitalism that Americans are saddled with. So if one has to pick a noble goal, it is the capitalists who are on the side of the angels. — Tim Slagle

An ignoble end — The death rattle of General Motors Corp. includes some heartbreaking stories. A few months ago, the Penske Automotive Group broke off talks with GM about buying the Saturn division and its dealership network. This was an ignoble end to a noble experiment.

In the early 1980s, Saturn was launched as a new division that would operate outside of GM's moribund corporate culture. It would build small cars at a new plant in Spring Hill, Tennessee, to compete with Toyota and Honda. Saturn had an innovative labor contract with the United Auto Workers union; the deal gave line workers fewer assurances but more involvement in management decisions that affected the plant floor. The Saturn cars weren't great products; but they were adequate, economy vehicles, which was more than you could say for most GM products.

Saturn dealerships operated under a no-haggle pricing mandate and early buyers applauded the service and attention they received. But two factors were constantly working against Saturn: corporate politics and labor union collectivism.

Within GM, other division heads thought that Saturn grabbed resources that should have been going to the older, established brands. The jealous corporate siblings damaged Saturn by choking its ability to develop new models in a timely manner.

Within the UAW, hard-line collectivists saw Saturn's "progressive" management as a corporate trick for breaking labor solidarity. The scheming unionists used their influence over GM parts suppliers to damage Saturn's efforts to develop a just-in-time logistics system (modeled on Toyota's state-of-the-art system) that would keep inventory costs down.

In auto-making circles (and perhaps in all industries), high inventory costs are the critical metric of union power. They are bad for business but good for goldbrickers.

A series of UAW-sponsored strikes at parts suppliers during the late '80s and early '90s wounded Saturn's just-in-time inventory model.

And now the Penske Group passes. Saturn dies. And the Ellsworth Tooheys of the world savor another miserly victory.
— Jim Walsh

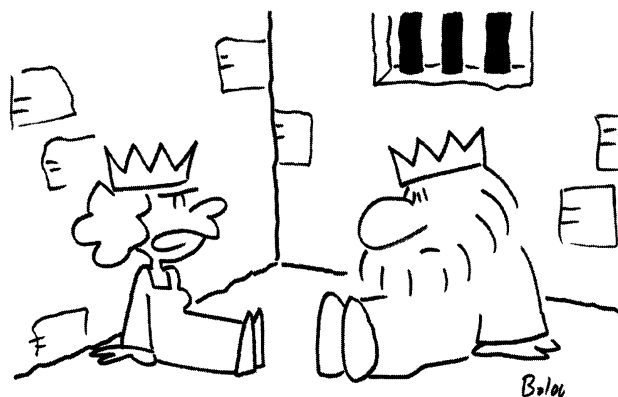
A new curtain drawn — Twenty years ago one of the world's leading practitioners of central planning finally collapsed because of the inherent inefficiencies of such systems and the inevitable misuse of power by the central planners in charge. That was the USSR, of course.

This year, the anniversary of that event went mostly unnoticed here in America, because most of our self-proclaimed intelligentsia were too busy urging our all-too-willing president to place more of our economy — and healthcare in particular — under the control of (what else?) central planners. President Obama has been busy appointing central-planning czars over every segment of our society that he believes will gain him votes from some constituency, or pay back some constituency for votes already rendered.

But central planners can never have as much information about the needs of people as the people themselves make known through their voluntary actions in a proper free market. The czars and planners always misuse the arbitrary power they grasp at, and ultimately ruin the very systems they claim they want to save "for the people."

More freedom from central planners is what we need, not more central planning.

— John Kannarr



"I can't believe you hired your National Security Advisor from Craigslist!"

Another 16 tons — I recently escaped from California.

Part of the reason for my move was the new load of taxes piled on top of the already ridiculous mountain of taxes. Another part was the fact that the only plan California politicians can formulate these days is to raise taxes still further.

Unfortunately, I couldn't take my house with me when I left. And with the collapse of house prices, this is not a good time to sell. So I plan to hold onto it until the bubble reinflates. The major decision of when to sell my house now comes down to a race between the distorting economic intervention by the Fed and the inevitable repeal of California's Proposition 13, which will mean a big property tax increase for me.

Come on Ben, dispatch more helicopters! — Jeff Wrobel

Partied out — An interview conducted by Reason's Matt Welch finds Libertarian Party Chairman Bill Redpath holding forth on the failure of the LP to make any sort of dent whatsoever on the 2008 presidential election. This, despite

having easily the highest-profile name ever to run under the Libertarian banner — and a situation tailor-made for the LP to snatch a chunk of GOP voters dissatisfied with the party's geriatric speech-silencer of a candidate.

As chairman, pulling some good out of this failure and concentrating on “where we go from here” is Redpath's job, and judging from this performance he's not any good at it. While Welch wastes no time getting straight to that most important question, Redpath verbally contorts himself to avoid talking about Barr's collapsed campaign. Remember, this was a candidate who once talked up his aim of polling himself into the national TV debates — and while everyone who heard that at the time recognized it for standard-issue political-convention horseshit, even Barr's most vehement critics expected him to approach 1% of the popular vote. Instead he polled around 0.4%, the barest statistical significance more than Michael Badnarik did in 2004. So the party went from a “self-taught constitutional scholar” to a former U.S. Congressman and added one-tenth of 1% of the vote.

This rebuts one of Redpath's talking points, in which he conceded that Barr had gotten clobbered by Ralph Nader, but attributed it to the “name ID” advantage Nader had — “and our politics today are so name ID driven.” Yet Barr's name ID made almost no difference at the polls; in fact, he lost to Nader by a greater percentage than did Badnarik, and this in a year when the Democrats were actually excited to vote for their candidate. Redpath's tangential admission of this was tempered by the congratulatory assertion that at least

the Libertarian Party had outdistanced the Constitution and Green Parties — which is to say, hey, it could have been a lot worse! At least we're in the front seat of the electoral short bus! This smacks of what Thomas Sowell dubbed “the vision of the anointed”: confronted with the evidence of a failed policy, the advocate or overseer of that policy defends himself by averring that without his advocacy or oversight, the problem in question would have been far more serious.

Perhaps I'm being too harsh. The nominee was chosen by the LP as a body, after all, not by Redpath. Still, with that chance bungled, Redpath *must* own up to that failure. After a strong start, with appearances on the Daily Show among others, Barr and his advisers seemed to settle on a platform of states-rights conservatism designed to play well in the South, and poorly almost everywhere else. (Not that it did play well, as Barr got only 0.7% in his home base of Georgia, but that's what the design seemed to be, anyway.) Is this neo-Dixiecrat message — “peckerwood populism,” in the phrasing of Thomas Knapp — really what the LP wanted to put forward in its few high-profile media appearances?

Redpath didn't mention message, so there's really no telling. Instead he sidestepped into a discussion of ballot access, which — while everyone with an interest in third parties generally accepts that “greater access is a good thing” — leaves unanswered the rather important question of what the LP should do with those ballots once they're accessed. At a time when small-government activism is at its strongest in over a decade, as demonstrated by events such as the Tea Parties, the

Word Watch

by Stephen Cox

When it comes to political utterances, I am strictly, even enviably nonpartisan. I regarded Ronald Reagan's program — at least his stated program — as a welcome relief from the alternatives, but no one could ever convince me that President Reagan was the Great Communicator. Outside of “Mr. Gorbachev, tear down this wall!” and a few other inspired remarks, I thought his words were pretty typical political oratory.

By contrast, there is Abraham Lincoln, whose guiding ideas strike me as big-government dogmas masquerading as principles of liberty. In his debates with Stephen Douglas, it's hard to tell which one is a bigger sophist, although it's probably Lincoln. Yet honesty requires me to stipulate that Lincoln — and Douglas, too, when it comes down to that — was 100 times better at talking politics than anyone on the scene today.

The two debaters were speaking *ex tempore*, with no benefit from ghostwriters or teleprompters. Yet they spoke for hours, intelligently, amusingly, instructively, with much more knowledge of American history than any 21st-century college professor discussing the same topics. And in his written words, Lincoln had a unique, virtually unanalyzable ability to give every phrase an impact. The Great Communicator? Yes, that was Lincoln.

Now we come to President Obama. Even his detractors concede his “eloquence.” Their formula is, “Despite the eloquence of the president's remarks, he offered few facts to support his views.” Well, they're right about the facts, but they're wrong about the eloquence. Where, precisely, is it to be found?

John Kennedy's ghost-written inaugural address contains much that is foolish, much that is magniloquent: “We will pay any price, bear any burden . . .” Yet its phrases are so resonant that it has never stopped being quoted. Kennedy can take credit for his taste in writers. Barack Obama has writers too — of his speeches, and perhaps of his books — but who can tell what they wrote? His utterances are all alike. They have no distinction. He pours out words, but none of them is remarkable in any way. He has the “eloquence” of the op-ed writer, and that's it. There isn't any more.

He also has the besetting defects of the op-ed writer. No thought is ever developed. No counter-argument is ever seriously entertained (contrast the Lincoln-Douglas debates, which consist almost entirely of replies to counter-arguments). It's all just hit and run — whatever will fit in a given space, with enough buzzwords to advertise the topic. And that is all.

The press loves this stuff; it represents the noblest aesthetic of The New York Times. But there comes a moment when those who hit can no longer run, a moment when their rhetoric, however jejune, succeeds in becoming memorable, because it is quoted and criticized. That time came for Obama, and the other leading members of his political party, in mid-September.

The kickoff was the president's great healthcare address to Congress on September 9. The address itself was a sodden failure. Obama's flacks had blanketed the media with promises that he would lay out all the details of his healthcare program, so as to

organizers of those events (as Redpath admits) have still kept the LP at arm's length. This suggests that what the LP faces right now is very much an existential crisis: if the party can't get buoyed up on a surge of sympathetic sentiment, what good is it?

If the only answer the national leadership can provide is grubbing over hundredths of percentage points with, in Redpath's words, the other "minor parties," then the national LP has become nothing more than a luxury, distracting attention and diverting funds from the city, county, and occasional state elections in which the party, and any libertarian elected to those posts, could actually make a difference. As it stands now, the party would get far more bang for its buck by decentralizing and running a skeleton-crew national organization that does little more than coordinate recruitment and ballot access efforts with various state parties — oh, and toss in a couple lawyers to make the appropriate filings for whichever schmuck feels like getting 0.3% of the nation to circle his name for president. As this is not substantially different from the results we are seeing now, the onus is on Redpath and others at the national level to make the case for their continued employment. The Reason interview does precisely the opposite.

— Andrew Ferguson

Debate sponsored by Acme, Inc. — A big complaint in any political debate is that the opposition "wants to do nothing." Yet sometimes "nothing" is the only intelligent choice. For instance, would you rather jump off a cliff holding an umbrella, or an anvil? There are those who would

opt for the umbrella, because it's the best option once in free-fall. I, on the other hand, would prefer not jumping off the cliff.

— Tim Slagle

Mock the vote — Despite the fetish that most Americans harbor for the act of voting, a few groups of citizens are so far outside the pale that not only are they deemed ineligible to join in on the Election Day fun, but they are doomed to suffer legal persecution should they choose to do so. Such is the case with New York's John O'Hara.

Joining the famous suffragist Susan B. Anthony on the small list of New Yorkers who have been prosecuted for the crime of casting a vote, O'Hara was in 1996 accused, tried, and convicted for a felony — voting from a residence that was not his "primary" home. Supposedly, he used the address of a girlfriend's apartment. If this seems like much ado about nothing, welcome to the sordid world of New York City machine politics.

O'Hara, a long-time political junkie dubbed "Mad Dog" for his endless, futile runs for office, had the habit of throwing his hat into rings where he was neither wanted nor approved by the local powers that be. Seeing a chance to make his life miserable, they pounced. Doubly unfortunate for O'Hara, the fact that he is now a convicted felon has resulted in his being disbarred in his home state.

Usually, nothing gives this writer more of a chuckle than to see a lawyer in dire straits — but in this case such a reaction would make me no better than the most enthusiastic ambulance chaser. If O'Hara can be unfairly persecuted under a

allay public suspicions that it was nothing but a pig in a poke. (They didn't say "pig in a poke," because, to an even greater degree than Obama, they lack the common touch. But that's what they meant.) Strange to say, Obama laid out no details.

The surprise was that a member of Congress actually shouted "You lie!" at him. The shout had several effects. One of them was that Obama scuttled back to try to fix his proposals so that the lie he told would become the truth (or seem like it). Another was that all people talked about thereafter was the congressman's shout.

The Republicans kept criticizing the shout in order to get credit for their own good manners — and also to keep the partisan's protest in the public's mind. The Democrats, together with their friends the mainstream media, kept criticizing the shout in order to divert attention from the president's poor performance. USA Today, the national hotel-lobby newspaper, followed the other MSM in denouncing Rep. Wilson's "appalling outburst." When the president enters the halls of Congress, he must, it seems, be given the awed respect of an Etruscan priest, to ensure that his spells will work.

By taking this position, the media not only made themselves ridiculous. They also emphasized their steadily increasing irrelevance. They portrayed themselves as a conventicle of maiden aunts, peering from behind lace curtains at the loud people going by outside, and brimming with "shock" and "outrage" at the bad manners of kids these days. The media's *faux-naïf* performance will long be remembered. But try as they might, Obama's friends could not return the public's attention to the "eloquence" of Obama's speech. "You lie!" was still more "eloquent" than any

words of his.

What to do? It wasn't enough to denounce Rep. Wilson for his "incivility." His words had legs. Investigation showed that the president *had* been lying. What Wilson said was literally true. So a decree went forth that on a given day all friends of the administration must seize the nearest mouse or microphone and testify that the actual meaning of "You lie!" was "I hate you because you're black."

Former President Carter gladly led the pack, with a TV interview on September 15 that was so insipidly self-righteous that I can't bear to watch it again. If you want quotations, go watch it yourself. The substance, though not the idiotic words, will long be remembered, despite the fact that their style was the same as that of Carter's other rhetorical offerings, these past four decades; and despite the fact that their content was the same as that of the addresses he gave in 1980, when he began to be seriously concerned that Reagan was going to win the election and deny him a second term as president. Carter went about the country charging Reagan and his supporters with racism. Of course, this was nonsense, like everything else he ever said. He might as well have announced that his opponents were mastodons or centipedes; it would have had the same relationship to truth — and the same effect on voters.

So in September, Carter made a buffoon of himself again, but the mainstream media did their best to make it look as if he had Risen Up Prophetically and must therefore be heeded as closely as if he had been reciting the Holy Gospel. (Don't worry about the Religious Right; what matters inside the Beltway is the pronouncements of the Religious Left.) Once again, that is to say,

vague, arcane law, then anyone can. Besides, O'Hara seems to be guilty of nothing more than annoying the powers that be and living with a woman he was not married to. The former is well within his right; the second is between him, the woman, and God.

After the waste of tens of thousands of dollars in taxpayer money, and the unjust removal of O'Hara's ability to earn a living in his chosen profession, it's high time New Yorkers agreed that O'Hara should be reinstated to good standing. Then we can all get on with our lives. — C.J. Maloney

Getting jobbed — A recent piece by Richard Wilner in the New York Post ("The Dead End Kids," Sept. 27) caught my attention as much for what it didn't say as for what it did.

Wilner reports that the unemployment rate for young people (those in the 16–24-year-old bracket) has just hit a post-World War II high of 52%. He notes the baleful effects: unemployment delays these people's entrance into the world of work, giving them a lower step on the escalator to high-paying jobs, as well as depriving the economy of their productivity and purchasing power.

In discussing this rise in unemployment of the young, Wilner targets the fact that the Obama economic team is composed of academics and people from big business; nobody has a background in small business, a sector that contributes disproportionately to net new job creation.

Now, I have no doubt that the Obama gang neither knows nor cares anything about small business. Indeed, their campaign to saddle business with massive cap-and-trade taxes and mandates to provide complete health insurance for all workers amounts to a veritable jihad against small business. But Wilner doesn't mention another culprit: the recent rise in

the minimum wage, now at its all-time high.

Of course, those who engineered the minimum-wage hike will never admit that it is a deterrent to hiring young people, especially the untrained. No, what matters is that the legislators and activists are able to appear compassionate, getting credit for their humanitarian feelings but suffering no blame for the consequences.

— Gary Jason

Legislative pandemic — For some time now I have written about how in the United States, the rule of law — originally a concept providing for governance by law as opposed to governance by the whims or caprice of men — is steadily becoming "Rule by Law," a type of legal tyranny in which virtually every aspect of our lives is controlled by multiplying sets of "well-intentioned" statutes, laws, regulations, and litigation. Massachusetts, in the name of protecting the public, has provided us with a most unsubtle example of this dangerous shift.

Massachusetts State Senate Bill Number 2028, the "Act Relative to Pandemic and Disaster Preparation and Response in the Commonwealth," a revision to existing state law, was recently passed unanimously by the state senate. This piece of legislation grants Massachusetts state and local health authorities sweeping, unconstitutional powers to "protect" the commonwealth during health emergencies.

It begins, "Upon declaration by the governor that an emergency exists which is detrimental to the public health or upon declaration of a state of emergency . . . the [health] commissioner may . . . take such action and incur such liabilities as he or she may consider necessary to assure the maintenance of public health and the prevention of disease." The commissioner's emergency power ends when the emergency ends. But despite the bill's provision that an emergency

the media demonstrated their distance from political as well as semantic reality.

The Democrats and the MSM live within the same charmed circle. Carter spoke; the media took grave notice; and immediately other Democratic potentates started maundering about racism. Their point was that when you are *not* emphasizing or even mentioning race, as Wilson wasn't, you're a racist; and when you are insisting on race, as they were, you're an antiracist.

Needless to say, these deconstructionist tactics didn't work. Few Americans think that shouting at an African-American president means you're a racist. So on September 17, Nancy Pelosi tried another trick. With her usual subtlety and judiciousness, she warned reporters that the nation's outbreak of incivility ("You lie!") was more serious than even Carter had imagined. Mawkishly she summoned the ghosts of Harvey Milk and George Moscone, San Francisco political hacks (yes, I said *political hacks*) who were murdered by another San Francisco political hack, 31 years ago. Yup, that was incivility for you. So you see where it leads, this interrupting of political speeches. Pretty soon, some politician finds a gun and . . .

You see her logic, don't you? Well, don't you?

Pelosi's deep commitment to civility, her fear that bad manners may lead to violence, can be measured against her statement of October 1 concerning Florida Representative Alan Grayson's joyous assaults on Republicans as "knuckle-dragging Neanderthals" who want sick people to die because they (the Republicans,

but most of the sick people, too, if we can judge by the public opinion polls) are against the president's healthcare plans. Asked whether Grayson should do the civil thing and apologize, Pelosi said, "If anybody's going to apologize, everybody should apologize." It was one of the most nonsensical remarks of the political year, and that's saying something. Then she waved her arms, indicating that the issue was settled.

Pelosi's antics were so absurd that even the MSM shied away from them; yet her performance, like Carter's, will be remembered as a low point in American civic discourse. What's better worth remembering is the statement of constitutional theory with which she began her comments on September 17. Here it is:

"We are a free country, and this balance between freedom and safety is one that we have to carefully [here she paused, seeking the right word] *balance*."

"Balance"? What "balance"? What is this "balance" that we have to "balance"?

The United States of America was not founded on "safety," or "civility" either. It was founded on individual thought and action. In the good old days of civility, members of Congress used to fight duels with one another, cane one another, get roaring drunk on the legislative floor with one another. Instead of a decline in civility in Congress, we should hear more about the decline in its intellectual standards. I know, that's like hearing about the decline of intellectual standards in the public schools: what is less than zero? But take any Congress of the 19th century

automatically ends after 90 days (or sooner, by governor's decree), an emergency can be repeatedly renewed for additional 90-day periods, without limit. That is a lot of discretion to grant any government actor or agency.

The bill, with a provision that it go immediately into effect once it's passed, requires all Massachusetts agencies responding to such an emergency to consult and cooperate in the exercise of their powers over transportation routes and over materials and facilities, including but not limited to communication devices, carriers, public utilities, fuels, food, clothing, and shelter. Anyone who renders assistance or advice during the emergency is protected from liability (subject to some other statutory provisions).

Under such an emergency, with the commissioner's approval, local public health authorities may require an owner or occupier of premises to permit entry and inspection; compel evacuation or decontamination of premises; destroy any material; restrict assembly of people; control ingress and egress from any stricken or threatened area, and control the movement of people and materials within that area.

If the commissioner determines that there is reasonable cause to believe that a disease or condition dangerous to the public health exists or may exist, and that certain steps must be taken to eliminate this risk, he or she can issue an order "including but . . . not limited to" requiring the owner or occupier of premises to permit entry for investigation, closing the premises until danger is passed, and requiring disinfection or destruction of the premises. Violating such an order can result in a fine of \$1,000 per day and up to 30 days' incarceration.

There are two especially alarming aspects of this blatantly unconstitutional legislation.

First, the looming H1N1 (swine flu) threat is manufactured, as is the hysteria that surrounds it. As with so many

other "imminent epidemics" before it, nothing has really happened with H1N1. Over the past ten years, we've seen many attempts to manufacture health crises. Before H1N1, it was bird flu. Before that it was West Nile virus. Before that it was terrorist-sponsored anthrax. Before that it was the obesity epidemic — still invoked to enable the creation of do-gooder legislation, such as trans-fat bans.

I bet that most of us don't know anyone who has contracted H1N1. The closest I have come is hearing of a friend of a friend who got it. He recovered in about five days, as one normally would with the flu. Yet governments everywhere appear to be ramping up for the coming H1N1 scourge as if it were the bubonic plague. The population is right to be suspicious. Citizens have not asked for broad state "protection."

Second, legislation in this area is ripe for exploitation by government actors. The language of the Massachusetts bill gives the governor broad discretion regarding declaration of "health emergencies." When such an emergency is declared, state agencies and actors will have vast coercive powers over the citizenry.

The bill exemplifies how "rule of law" mutates into "Rule by Law," with the attendant dangers to a free society. In the name of protecting the public, the bill provides state agencies an unprecedented amount of control over the population under an emergency condition that is initiated and defined by the state itself. In this current big-government era, citizens are rightly suspicious of the intentions of those who passed the bill, both those who supported it and those who sponsored it — especially considering that the bill passed unanimously.

Fortunately, this bill has generated considerable citizen concern in opposition. The Massachusetts House of Representatives is being bombarded with citizens' calls telling their delegates not to vote for it. The bill represents a turning

and compare it in thought and word with today's Congress, and the former will come off looking like the Council of Nicaea, the Royal Society of London, and the Constitutional Convention, all combined. Certainly no Speaker of the House in the 19th century would have babbled about balancing a balance of freedom and safety.

So Pelosi is illiterate; fine. The more dangerous thing is that she is speaking for many Americans, and almost all American politicians and judges, when she suggests that rights — "freedoms" — are things that have to be balanced by other things. We hear this all the time; it's the greatest verbal weapon of people who neither know nor care about true liberty, and thus would destroy it.

But words have meanings. A right is a right. It is absolute. It is not balanced by anything. That's why people appeal to their rights when all else fails. The function of "rights" is to trump all other considerations. The First Amendment to the Constitution does not say, "Congress shall make no law abridging the freedom of the press, except for the purpose of balancing the freedom of the press with the people's need for safety." If you want to talk like that, go ahead; but use some other word than "rights." It's obvious that you don't have a conception of rights; you just have some conception of social management that you want to dignify by talking about "rights" and how you can "balance" them. By acting as if she had a concept of rights, and intended to "balance" their "balance," Pelosi advertised her intellectual nonentity.

The next act of the ruling party (September 20) was the president's appearance on five very respectable, very mainstream talk shows, as a way of marketing his healthcare program. This was another disaster — another verbal trainwreck. Despite his habitual finger-pointing and constant interruption of his questioners in order to make some "eloquent" remark, Obama said only two things that were memorable. The first was that he had no idea that ACORN — the nutball organization for which he used to work — gets a lot of federal money. That was a lie. The second was that the Democratic proposal to force everybody to get health insurance, or pay a tax, wasn't a proposal to impose a tax. That was another lie.

It's a measure of Obama's political vulnerability that the questioner who stuck it to him on this subject was Democratic Party hack George Stephanopoulos, and that Stephanopoulos, preparing himself for Obama's tendency to lie, had looked up the definition of "tax" in the Merriam Webster dictionary. (Admirable research, for a contemporary journalist, though it didn't go far enough to reveal that the bill embodying the Democratic tax idea explicitly calls it an "excise tax.")

It's a measure of the president's literary vulnerability that after Stephanopoulos told him what Merriam Webster had to say, Obama objected to his searching for definitions in something called "Merriam's dictionary." Merriam's dictionary? Have you ever heard that phrase before? Clearly, the president had never consulted the book.

point for our society. It could mark the acceptance of the legal tyranny of Rule by Law, or it could mark the moment when citizen opposition rolled back legislative control of society. I'm hoping for the latter.

— Marlane White

Too much freedom of speech — I once criticized Whole Foods founder John Mackey on these pages (Reflections, Oct. 2007); now I feel the urge to rise to his defense.

It seems that some on the Left don't like Mackey's calling 'em as he sees 'em. Mackey put his two cents into the healthcare reform debate with an op-ed in *The Wall Street Journal*. He had the temerity (or should I say guts?) to liken the Democratic healthcare plan to "socialism" — which in fact it is. Lefties don't like that. They know that socialism remains anathema to a majority of Americans. So they started an online petition urging a boycott of Whole Foods. Last I read, over 25,000 people had signed on.

Boycott is a perfectly legitimate weapon in some circumstances. Boycotting the 1980 Moscow Olympics was an excellent (albeit merely symbolic) way to express opposition to Soviet totalitarianism. Boycotting a restaurant or store that refused to serve blacks in the old South was a great way to hit back at racism. But boycotting Whole Foods because John Mackey writes something about his opposition to a government-run health system is akin to burning books. Mackey is simply exercising his right to free speech, and in doing so he isn't advocating anything terrible or out of bounds. He's a citizen with a legitimate opinion on a public policy matter; as such he deserves a hearing, not a declaration of economic warfare.

I wonder how many of the petition-signers actually shop at Whole Foods. No doubt the company's clientele includes bleeding-hearts and limousine liberals, but I suspect that many if not most of the signers are simply leftists who secretly wish they could afford to shop there. What Nietzsche called *ressentiment* is doubtless playing its part (perhaps a large one) in *l'affaire Mackey*.

Mackey wrote an excellent piece for *Liberty* (June 2006), part of which dealt with his views on healthcare reform. Agree with him or not, his views on this subject are well thought out and deserve a hearing. What they, and he, don't deserve is a campaign to silence his side of the argument. — Jon Harrison

Big tent — I've recently returned from an 11-day train vacation. One thing you learn when on long-distance trains is that whenever Amtrak changes crews, it's time to get out and look around, in the hope of finding better (or at least different) food than Amtrak offers. So when I had an hour's layover in Fort Worth, I decided to head for some tents nearby. They looked like a farmer's market, and I'm always happy to support local farmers.

What I found was the Fort Worth 9/12 demonstration.

There's been a good deal of press about tea parties, 9/12 rallies, and the like. I'm sure there are "fringy" people at some of these events, but it wouldn't surprise me if journalists found the three weirdest people at a demonstration and used their remarks to paint a portrait of a frothing right-wing mob.

I didn't see a mob in Fort Worth. The crowd, which was in the thousands, was civil. I didn't see any banners comparing President Obama to Hitler or calling for killing anybody.

There were many banners mocking the president, but the last I heard, questioning authority wasn't yet a crime.

Most of the 9/12 people would say they were angry, and I talked to a woman who was proud to be "the angriest person in Stumptown, Texas." But it's important to note the difference between anger and rage. I didn't see any red-faced screamers, or anyone who was about to pop a blood vessel. Most of the people I talked to were having a good time, marching in the rain on a muggy Saturday afternoon.

I didn't take a count, but it appeared that the protesters were about equally opposed to the healthcare plan, the stimulus, and high taxes and big government in general. Some of the marchers had concerns that seemed a little eccentric to me (I wished I could find out the concerns of the gentleman whose banner read "No Cass Sunstein"), but I agreed with nearly everything the protesters said.

There were booths for several Republican candidates for the Texas state legislature as well as one Libertarian Party booth. But no one was marching to support a political party. All were against specific administration programs and big government in general.

As I left for the train, the marchers went to hear a speech by Fox News Channel commentator Andrew Napolitano. If his interview in *Reason* is typical of his thinking, Judge Napolitano seems like a sensible person. I'm sure he gave the marchers good advice.

I'm not a pundit, so I don't know whether the 9/12 movement will amount to anything. But what I saw in Fort Worth is that there's a lot of anger against the Obama administration's relentless efforts to bloat the government. Most of that anger is justified. Administration strategists — and their allies in the press — who dismiss this anger or pretend that it doesn't exist may find themselves looking for work in January 2013.

— Martin Morse Wooster

Wealth of notions — George Gilder's book, "Wealth and Poverty" (1981), was a paean to the entrepreneur. Gilder was for the free market, though he was little interested in market mechanisms. "The quality of capitalist society depends not on automatic mechanisms, but on the quality, creativity and leadership of the capitalists," he wrote. Government should leave entrepreneurs alone to reap the rewards of daring and luck, and not try "unduly to shape" the future.

I was impressed by the book, and still am, but there was an odd chapter, "The Inflationary State," that made a no-big-deal argument about cheapening money. Gilder argued that the history of the price level over the past millennium showed that inflations had been associated with progress.

"Japan worked its postwar miracle of growth with a steady siege of inflation, which allowed its capital-hungry corporations in effect to tax its heavily saving citizens," he said. "Through the '60s and '70s, Japan has led the industrial world both in inflation and in growth." Taiwan and South Korea had done the same.

Writing in 1980, when the U.S. Consumer Price Index for urban workers jumped a record 13.58%, Gilder thought Americans worried too much about inflation. He said people should quit fretting so much about monetary measures such as M1 and M2. "Rather than attempt to rigidly control unruly aggregates," he wrote, "we should focus on the impact of

specific policies on the incentive to work and invest.”

On October 5, I attended a talk by Gilder at Seattle’s Discovery Institute and asked him if he still held to that view about inflation.

He did not. He was emphatic that the dollar should be a stable unit of value, and that shrinking it, which he believed the U.S. Treasury was trying to do, was as dishonest as changing the definition of pounds and ounces. Inflation was destructive. It would chase investment away from the United States. He didn’t want it.

“My views have developed since ‘Wealth and Poverty’ on that subject,” he concluded.

— Bruce Ramsey

Learning by degrees — As I have said before in these pages, the higher-education marketplace is full of flaws. It’s composed of nonprofit and government entities, it’s suffused with third-party payments, and its successes are based on reputation, not factual information about what students learn. That last fact has led reputable commentators to propose that the government force universities to make their “learning outcomes” transparent.

But in an extended email roundtable on learning outcomes not too long ago, I was won over to — you guessed it! — the market as the appropriate monitor.

Michael Rizzo, an economics instructor at the University of Rochester, said that the current “equilibrium” in higher education (lots of demand, plenty of supply) suggests that the customers (parents and students) are fairly contented with the system. A degree may be costly, but all in all, the value of the product (the diploma) seems to provide what people want at current prices.

Roger Ream, president of the Fund for American Studies and parent of a high school student, said that he doesn’t need more data: “I don’t find a compelling need for information beyond what is already available. I can find average SAT scores, graduation rates, breakdowns of cost, average class size, full-time faculty per student, course offerings, majors, etc.” Add the information one gets from college guides, campus visits, and meetings with alumni.

If Ream and Rizzo are right, then insistence on “learning outcomes,” especially federally mandated outcomes, is misdirected. But must we be content with left-wing professors, grade inflation, and rising costs? No.

Until now, few parents have searched as carefully as Roger Ream has. They haven’t needed to. They have been satisfied that a college degree, any degree, is worth a lot, and a degree from an elite school worth even more. They have heard that college graduates earn a million dollars more in their lifetimes than high school graduates. Although that figure is bogus, the benefit is still real — at the moment.

But the flaws in higher ed are having their effect on jobs, especially in this recession. Many college graduates (by one professorial estimate, 25%) are working at jobs that don’t require a college degree (and don’t pay as if they did). For those graduates who took on sizeable debt to get that degree, the financial impact is even worse.

Sad though that may be, the discrepancy between the price and value is going to become evident. It won’t take too many Facebook and text messages for prospective students to learn that the degree from State U may not be worth

what it’s cracked up to be, and they will start thinking about alternatives.

A startling alternative recently made the news. It’s a company called Straighterline.com, which offers college-level courses for \$99 a month — as many courses as a student can handle. Straighterline won’t take over the market overnight (it may lose out on the accreditation front, for example), but something like Straighterline could make serious inroads, blasting the system into smithereens. And a whole new higher education market could emerge.

— Jane S. Shaw

The twilight of the race — A rehab clinic in Fall City, Washington, has become the first in the country to treat internet addiction. I remember all the old movies when I was a kid about how supercomputers would take over the world. Usually they linked up and became one massive world consciousness and then took over the launch codes for all the nuclear missiles.

But the computers didn’t have to take over our nuclear arsenal to defeat humans — they just showed us pictures of hamsters eating Cheetos and cats with arrows through their heads, and the humans deactivated themselves.

— Tim Slagle

Smoke break — On September 24, the United States government put into effect a ban on “flavored” cigarettes. As usual, this legislation is “for the children”; specifically, lawmakers objected to any “fruit, candy, or clove flavors” which might trick impressionable youths into picking up that first cancer stick.

The flaws in this legislation are, as one might expect, myriad; not the least of these is that menthol cigarettes — by a huge, huge margin the most popular cigarette flavor — remain legal, if not exactly FDA-approved. Menthols are a major source of income for the nation’s two largest tobacco companies, R.J. Reynolds and Philip Morris, and it’s understood that exempting them from the ban was the price of their support for the bill. After all, since neither of the two makes cigarettes that qualify as “flavored” under this legislation, they lose nothing by supporting it; only tiny competitors such as Kretek, which imports clove cigarettes from Indonesia, will be hurt by it.

The other provisions of the bill are annoying — for instance, Congress has approved increasing warning-label size to cover half of any given cigarette pack, and putting pictures of diseased lungs on them; I can assure them from the sheer number of smokers and discarded packs I’ve seen in only a couple weeks in England that this will do nothing but increase sanctimony — but none so annoying as this blatant example of the collusion that drives our crony-corporate state. Our congressional nannies have succeeded in recreating a two-class economic system of haves and have-nots, except in this case the divide is between companies that can afford lobbyists, and companies that can’t. Increasingly, rent-seeking is the most important aspect of any corporate business plan: companies hire ever more lobbyists to curry ever more favor, such that the boomtown of our times comprises those counties and cities of northern Virginia which neighbor the DC Beltway.

Why, then, pause to note a bill which scarcely merits a footnote in the vast and ever-growing history of corruption in the corporate-congressional complex? Two reasons. First, the absolute sanctimony accompanying this bold move that targets

only the smallest, most inconsequential cigarette producers; second, because it hits me right in the personal freedoms.

As I noted in these pages many months ago (Reflections, January 2006), I enjoy the occasional clove. In small, concentrated doses — say, a single cigarette — nicotine is a wonderful stimulant, perfect for an idle conversation or a few moments of solitary contemplation in the midst of a hectic day (for that reason, deadline days, whether for Liberty or for one of my academic papers, usually have a smoke break built in). Yet as an asthmatic, I can't inhale tobacco smoke. But with cloves, as with cigars, the smoke is held in the mouth — a much safer delivery system, incidentally, not that anyone would know it from the puritanical statements issued by the FDA — allowing me to indulge my infrequent vice without wheezing the whole next day like a Victorian-era factory worker.

And now even this small comfort has been denied me by those rampaging, grandstanding tyrants who dare call themselves our representatives, working hand-in-hand with executives whose only concern is that I am not smoking the correct brand. Smoking may be a filthy habit, but it's got nothing on these toxic quid pro quos that now adulterate every piece of legislation belched forth from Capitol Hill.

Now, if you'll excuse me, I'm off to commit a small but intensely satisfying act of civil disobedience.

— Andrew Ferguson

Giant sucking sound — Two articles published this fall reawakened my interest in a topic on which I have reflected a number of times before — the issue of how quickly America's economic and technological lead is evaporating, because we are rejecting the free-market economy while much of the rest of the world embraces it.

The first article was "Why Chile is More Economically Free than the United States" (Cato Institute, Sept. 17), by José Pinera. Pinera is famous for convincing his fellow Chileans to privatize their Social Security system — a quarter of a century ago! He is now able to note that in the new "Economic Freedom of the World Report," Chile has replaced the United States as number five on the list, with us falling to sixth place.

For a country ranked second-to-the-bottom in 1975, Chile's ascension is nothing less than miraculous.

Chile's move to economic freedom resulted in (among other things) a doubling of its historical rate of growth. Chile averaged a remarkable 7% annual growth between 1984 and 1998, and the percentage of poor people dropped from 45 to 15. Chile is now in third place in terms of free trade (trailing only Hong Kong and Singapore), and it is ranked higher in transparency of governance and lower in corruption than most European countries. It is destined to take its rightful place in the list of "developed countries" in less than a decade, becoming the first Latin American country to do so.

The second article that piqued my interest, though not in a happy way, was a piece by Emily Bazar, "More of World's Talented Opt to Leave USA" (USA Today, Sept. 20). Bazar reports on work done by Prof. Vivek Wadhwa, who studies reverse immigration patterns.

It turns out that an increasing number of highly educated recent immigrants to the United States are deciding to return home. Wadhwa predicts that over the next five years, more than a hundred thousand immigrants will return to China, and a like number will return to India. As he puts it, "For the first time, we are experiencing the brain drain that other countries experienced."

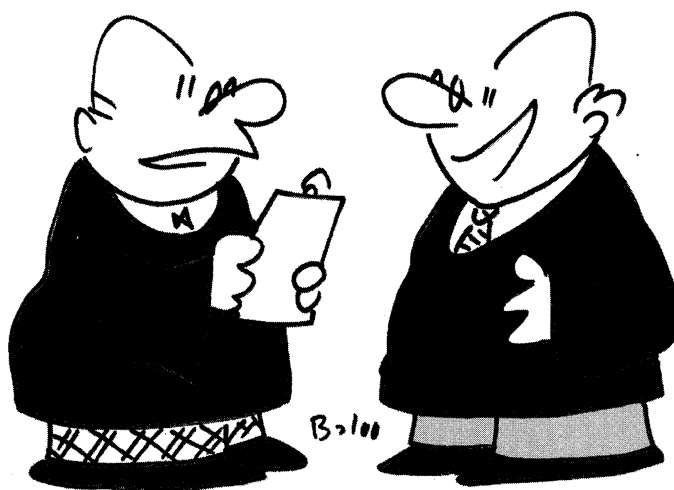
Relying on an extensive survey of returning immigrants, Wadhwa says they are being drawn back by family ties, and by money's greater purchasing power back home, but also by the rapidly increasing job opportunities in their home countries, both of which have high growth rates produced by the liberalization of their economies. Also, the immigrants are often frustrated by their inability to gain permanent immigration status after waiting for as long as a decade working here, dealing with our cumbersome and archaic immigration system.

I suspect that the brain drain will become a flood if Obama gets his cap-and-trade bill through the Senate. If that happens, American industry will be slammed with massive cost increases. We will thereby destroy our economy in a grotesque *Green auto da fé* — an action that the Chinese and the Indians have already indicated they refuse to emulate. — Gary Jason

Capitalism for dummies — "Capitalism: A Love Story," Moore's latest pseudo-documentary, is another deliberately misleading, emotionally charged, sometimes silly hodgepodge of loosely related scenes. Relying almost entirely on film and TV news clips, heart-wrenching anecdotes, spritely voiceovers, and ambush journalism, Moore once again manages to deceive his adoring fans — this time blaming capitalism for everything that is wrong with America.

The biggest problem with "Capitalism: A Love Story" is that it isn't really about capitalism; most of the people he "outs" are politicians. Moreover, he never offers a serious definition of capitalism; he simply uses it in his title and then implies that every travesty we see in the film is caused by it.

As readers of Liberty know, capitalism is simply a system by which private wealth is used to produce and distribute goods and services. Capitalists save their money and then invest it in businesses or properties with the hope of making a profit. Yes, capitalists often become wealthy. But so do the people whose enterprises they fund. Capitalists also go



"There's an obscenity case coming up about a topless restaurant."

"Let me be the judge of that!"

bankrupt, if they invest in businesses that go sour. That's the risk they take. Most end up somewhere in between.

A much better example of a film about capitalism is a wonderful old movie called "The Magic Box" (1952), with Robert Donat as William Friese-Greene, the man who invented the motion picture camera. Wait, you may be thinking, everyone knows that the movie camera was invented by Thomas Edison! In point of fact, Friese-Greene's camera was patented in England two years before Edison patented his own. Friese-Greene went on to experiment with celluloid film and color processing. But he died a pauper, while Edison became wealthy.

Why the difference? Friese-Greene had no capital with which to develop his products and sell them to the public. Edison grew rich because he had the capital to turn his inventive ideas into usable products. Americans as a group also grew richer. They now had light bulbs, phonograph players, and a growing number of labor-saving and entertainment devices. They had new jobs, too. All because Edison had enough capital to turn his ideas into products that people wanted to buy.

Michael Moore is a beneficiary of capitalism. He could not have made any of his movies without hundreds of thousands of dollars in upfront capital to pay for cameras, film supplies, crew salaries, processing, distribution, and myriad other expenses. In short, Moore himself is a capitalist — and a highly successful one at that.

— Jo Ann Skousen

Le déluge — I once wrote in these pages that California is the petri dish of America, the state where all nonsense legislation is tested out before the rest of the nation becomes infected. So it is with a great sense of urgency that I recommend all Americans pay close attention to the impending financial failure of the Golden State.

Religious zealots have been warning for years that the American version of Gomorrah would be punished and sunk into the ocean. Turns out that God never had to lift a finger; California is sinking all by itself.

— Tim Slagle

Civil disobedience on two wheels — Adam Marino is not a number. He is a 12-year-old boy who likes to ride his bike to school in leafy Saratoga Springs, New York. This poses a problem. Local education apparatchiks don't allow elementary school students to ride bikes to school. Walking to school is not permitted either.

The showdown actually started at the end of the last academic year. School district officials notified Marino's mother that the boy was violating school rules by biking to class. His round-trip ride is about seven miles, which keeps him in pretty good shape. He only rides on days whether the weather is clear. His mother rides with him, so she stays in good shape too.

The official reason that the apparatchiks offer for their bicycle ban is that they fear being held liable for any harm that might come to a student as he rides to school along city streets. They may also be protecting the self-esteem of the porky little classmates who see a 12-year-old fellow exhibiting some measure of hearty self-reliance.

Last spring, Marino's mother challenged the school district policy and asked the local board to change it. She thought that she had a verbal agreement with school officials to

allow her son to ride his bike while a new policy was being promulgated.

But, on the first day of school, when mother and son arrived at the Maple Avenue School, they were met by school administrators. And an armed New York state trooper. The stats emphasized that biking to school was *verboten*.

Marino's mother told a local paper: "I guess you can say that we continue to do what we feel is our right. We feel strongly we have a right to get to school by a mode of transportation we deem appropriate."

Cheers to her. And justice is coming for the apparatchiks. At the rate New York is going, their precious pensions may be worthless; on retirement, they may be bicycling because they have no other choice. Or so we can hope.

— Jim Walsh

The end of racism, interrupted — Not that I am so naive as to hope that America, post-Obama, will ever see racism go the way of the dodo bird, but it is disheartening to see cracks appearing so quickly in our wall of racial harmony. Nothing was more predictable, or more depressing.

From Jimmy Carter's looking up from his peanut patch to smear all critics of Obama with a broad brush as racists to Rush Limbaugh's turning a school bus beatdown of a white student by a gang of poorly raised black youths into a strident declaration that "this is Obama's America," our country's sad, irrational fixation with skin color can, seemingly, survive anything — even a black president.

— C.J. Maloney

Last one out turn off the lights — Lately, I have seen and heard many media stories about looming state government shutdowns because of overwhelming state budget crises. This is not the usual political posturing, often seen in state legislature showdowns, in which the party opposing the budget makes dramatic threats to "shut down the government!" This time, state governments are facing real shutdowns as one of many measures to cope with budget shortfalls amid the economic downturn.

I've heard ominous reports that states will close parks, stop construction projects, shutter offices, discontinue lotteries, and mothball roadside rest areas. But these reports invoked no fear in me. A day without government! I thought. That could be nice.

Where would I begin? Besides closing government offices, I would do some other things. I constructed a long list. I'll hit the highlights.

First and foremost, I would cease state and municipal collection of taxes. When the state or municipality isn't *open*, it need not collect any tax money for that day or set of days. How refreshing it would be to have that money back in my pocket to use at my own discretion! I wouldn't need to play the lottery, so that could remain shut as well.

Next, I would take police patrols off the roads. Why? Other than chancing onto the occasional fugitive through routine computer checks of license plate numbers for expired registrations, road patrols accomplish very little. (They certainly do not prevent speeding.) And without them, we would do without the sudden, jostling slow-downs of traffic that attend motorists' spotting a police car by the side of the road. Police in my area patrol the roads primarily during the morning and evening rush hours — hardly prime times for crime. Issuing tickets to employed citizens zipping to and from work

generates easy money and is considerably less dangerous than running down criminals.

As a former prosecutor I am not convinced that police are generally an effective deterrent to crime. They respond to crime, mostly after the fact. They rarely, if ever, prevent crime. An armed and vigilant citizenry is a much greater deterrent. I agree with Doug Casey's suggestion that everyone should "have a loaded gun in their bedstand, at a minimum."

So, on each day without government, I would give a segment of the police an unpaid furlough (some of them, especially detectives, will need to be on the job to investigate any crime that does occur), arm the citizenry, and expand the legal parameters and protections for self-defense. I'll wager that with this plan, crime rates on government shut-down days will be significantly lower than crime rates on the days when government is running.

Next, I would shut off all cameras on traffic lights. The sole purpose of these cameras is to generate money for the municipality through fines issued to motorists going through yellow lights. Cameras have had no measurable effect on accident rates and only add energy costs to already strained budgets.

I would also stop most government entitlement programs for every day the government shuts down. For each day without government, the money that would have been spent on entitlement programs by the state or municipality would not be taken out of taxpayers' paychecks. Taxpayers would be free to keep and spend this money in any way they deem appropriate. For example, if certain taxpayers fear for their safety on days without government, they can use that money to hire security (perhaps offer the job to someone just stripped of his or her government entitlement), purchase a handgun, or erect an effective security fence around his or her home.

I could go on, but you get the picture. I am sure many of you have created similar lists.

Our creativity need not be in vain. After all, a crisis should never go to waste.

— Marla White

Congressional killers — Perhaps to burnish his street cred for evenhandedness, Joe Scarborough of MSNBC's "Morning Joe" has been making disapproving noises about Sarah Palin's use of the expression "death panels" to characterize President Obama's healthcare plan, declaring that such demagogic hyperbola only inflames passion and identifies the GOP and the conservative cause with the most extreme elements of the party.

Hmm . . .

"Death panels" applies literally to a stipulation in the plan, since removed, for panels of medical experts to provide end-of-life counseling for the terminally ill. Presumably we spend a disproportionate amount of money keeping people alive in the final year of life. Somehow it got about that the real purpose of these panels was to euthanize, i.e., pull the plug, on the old folks.

Most old people have more sense than to credit such an outlandish rumor. Moreover, I think most people who have less than a year to live would decline to have a \$50,000 hip replacement simply because it would violate their sense of economy — not to mention having to endure a painful period of recovery and side effects. So the literal interpretation of the phrase "death panels" appears to be a red herring and is

probably moot as far as dear old granddad and grandma are concerned.

However, the expression does resonate on a metaphorical level. It stands for the unease we all feel about the arbitrary rationing of medical care. For example, to ensure that his health plan is revenue-neutral, President Obama plans to defund Medicare Advantage private insurance plans to the tune of \$177 billion over the next ten years. But will siphoning off these funds be patient-neutral? Democrats have been voicing strong opposition to private plans within Medicare for some time because capitated payments to the insurers have been on average 14% higher than Medicare's fee-for-service payouts, amounting, they maintain, to a taxpayer-subsidized windfall for the insurance companies.

The administration proposes cutting federal payments to the insurers that run the plans by requiring them to bid competitively. The government would then pay them based on the average bid, saving \$ 177 billion over ten years. Sounds sensible enough, but according to Karl Rove, Medicare Advantage already has built-in incentives to encourage insurers to offer lower costs and better benefits. Says Rove, "It's a program that puts patients in charge, not the government, which is why seniors like it and probably why the administration hates it." He adds that Obama's cuts will "likely force most [seniors] to lose the insurance they have now."

So, even if the expression "death panels" isn't strictly factual, it has the ring of poetic truth: it is a metaphor, not only for Obama's half-baked medical reforms, but also for the disastrous process and direction of government itself. Indeed, what an apt name for the two houses of that august body, the inept U.S. Congress, which if past performance is any indication, could very well be negotiating the euthanasia of the republic, through such ruinous legislation as cap-and-trade, and the stimulus package. Wasn't Congress at the helm when the ship of state foundered in the financial storm? Is it any wonder alarmed citizens are raising holy hell at town hall meetings?

The leftist furor over "death panels," arose because the liberal press insisted on a literal interpretation of the expression. I suggest that we reinstate the phrase "death panels" to the healthcare debate as a legitimate characterization not only of President Obama's incoherent and ill-conceived healthcare plan but also as a metaphor for the U.S. Congress — at least until it produces a medical reform bill that doesn't kill Americans and bankrupt the country, and until it restores to the nation the financial health it once enjoyed before it was so casually destroyed by lazy, incompetent, and venal legislators.

— William B. Fankboner

Approaching equality — In March 2008 this reflector told you that it was high time for the U.S. military to get rid of "don't ask, don't tell" and let gays serve openly. Well, the time is near.

On September 30 The New York Times reported that Joint Force Quarterly, the official journal of the Joint Chiefs of Staff, was publishing an essay by an Air Force colonel that calls explicitly for gays to be allowed to serve openly. According to the Times, the article states that current policy is at odds with the American credo of equality for all, and actually hinders rather than helps unit cohesion.

The author of the article works in Secretary of Defense Robert Gates' office. The essay won the 2009 Secretary of Defense National Security Essay competition. While its appearance in Joint Force Quarterly does not necessarily mean it has the endorsement of the Chiefs, it's hard to believe that the chairman, Admiral Mike Mullen (who writes a column for each issue), would let it run if he were opposed to its thesis. In other words, the tea leaves are telling us that the military is laying the groundwork for an end to "don't ask, don't tell."

And good for them. As I pointed out back in 2008, some of the finest soldiers and commanders throughout history have been homosexual. Our military undoubtedly has been behind the curve on this, but I'm convinced that change is coming and soon the entire matter will be a non-issue. — Jon Harrison

Time lapse — I just don't understand the federal government. Only that august body could take several years to inform the public about the switch from analog to digital TV, while allotting Americans two weeks to digest the 1,017 pages of the law that would switch us from private to public healthcare. — Tim Slagle

Socializing Sallie — The Obama administration, not content with taking over major elements of the mortgage financial and automotive industries, as well as trying to take over the healthcare industry, is on the verge of taking over the financing of higher education.

In mid-September, the House of Representatives passed a bill that will cut banks and Sallie Mae (the government-sponsored entity that was set up in the 1970s to help students get college loans) out of the education loan business almost entirely. As Democratic Rep. George Miller put it, "Today the House made a clear choice to stop funneling vital taxpayer dollars through boardrooms and start sending them directly to dorm rooms."

This means that the government will control virtually all college loans, so we can now expect the usual crap. There will be corruption. (Will ACORN be given funds to organize students and maybe hookers to get loans?) And of course, there will be inefficiency. While backers of this bill have claimed that it will save money that now goes to the banks, government bureaucrats don't earn any less than bank loan personnel, and we can expect that the bureaucrats won't particularly care if the loans have a high default rate.

Naturally, affirmative action will come in. "Approved" minorities — that is, those who vote Democrat — will get the loans, while everyone else will get the shaft. Government control will be absolute "Is your college teaching free-market economics? Sorry, none of your students qualify for loans."

Very quickly, similar legislation was introduced in the Senate. It will likely pass, and by signing it Obama will have socialized another chunk of America's economy.

— Gary Jason

Easy being green — Yes, Van Jones is a pinko radical and another in a long line of ethically questionable Friends of Barack, like Jeremiah Wright and William Ayers. Sad as that may be, the real scandal is that there is such a thing as Green Jobs Czar at all, which I presume comes with a six-figure salary. What, precisely, does such a czar do?

And what is a green job, anyway? Manufacturing fluores-

cent rather than incandescent light bulbs? Building BMW's small 1-series cars rather than their larger 6-series?

"Creating green jobs" is another nice-sounding phrase signifying little more than an excuse for giving away public money. "Creating jobs" sounds better than "throwing money at companies" whose primary skill, in many cases, is getting subsidies from the government.

— Bob Marcus

Preventive maintenance — Recently I took my car to my corner mechanic for an oil change. I do this every 3,000 miles or every three months. While checking the rest of my belts and fluid levels, the mechanic noticed that my brake shoes were wearing thin. I could replace the shoes now, for \$187, or replace the rotors later, when the shoes wore completely through, for ten times as much. I opted for replacing the shoes. I'd also noticed that my door feels a little funny when I open it. Maybe it's a sign of age, or maybe it's something serious. The mechanic couldn't detect anything when he opened the door, so rather than pay for expensive diagnostic tests, I decided to watch it for further signs.

When the mechanic was finished I did not plunk down a \$25 co-pay and tell him to bill my insurance company for the rest. I pulled out my checkbook and paid the bill. Auto insurance is designed for catastrophic expenses — body work and medical bills that result from accidents. And it's plenty expensive as it is. Imagine how much it would cost if it also covered our normal wear-and-tear expenses!

Meanwhile, my daughter is a college student with little income. We bought her a new car when she started school, and it came with a warranty that covered 100% of repairs for three years. When those three years ended, she chose to purchase the extended warranty plan for \$1,500 rather than worry about how she would pay unexpected repair bills of several hundred dollars. If her car breaks down she'll pay a \$50 deductible and the warranty will cover the rest. For her, at this stage of her life, and the life of her car, peace of mind is worth the \$1,500.

We handle our health insurance in the same way. My daughter is insured through her school. She pays \$20 for each visit, with no annual deductible. Her choice of doctors is extremely limited, and her annual cap is relatively low. But it works for her. Meanwhile, as a middle-aged self-employed individual who doesn't qualify for group coverage, I would have to pay close to \$1,000 a month for a full-coverage policy, even though I have no preexisting conditions. I chose a major medical plan with a \$5,000 deductible that costs just \$300 a month, and I save the difference. My state does not allow Health Savings Accounts, so I don't enjoy the tax savings that residents of other states receive when they use the HSA option. But I pocket the difference in my long-term savings account and use that money when I have to go to the doctor. In just one year I saved enough to cover my annual deductibles in the future.

Two stages of life, two income levels, two different choices. Such considerations are at the core of a sound economic policy. I've written before in these pages about the advantages of Health Savings Accounts, expanded medical options, and appropriate selection of care: physicians' assistants and nurse practitioners for simple illnesses, specialists for major problems. Simple supply-and-demand suggests that we need more

doctors and nurses, not more government control. Obamacare is nothing more or less than a wealth transfer tax of gargantuan proportions. It must be stopped before they storm the Bastille and cut off our heads.

— Jo Ann Skousen

Adventures in paradise — I live on a military base that occupies the entirety of a tiny island. The only people here are military members, engineers, their families, and support personnel.

The average education level is far higher than a standard American community. We also have full employment (if you don't have a job, you don't get on base). And you have to pass a fairly thorough background investigation to get a job here. This combination naturally makes for an extremely low-crime population. Andy Griffith could easily police this town without the help of Barney Fife.

But for some reason we have a ratio of about one policeman to every 70 citizens. Compare this with my ex-home metro area of San Diego, which has approximately one policeman for every 600 citizens.

We all get around by bicycle. The only ways on or off the island are through two high-security points. The perimeter of the island is constantly monitored and defended by various means. The only way you could steal a bicycle from this island would be to launch a full-scale military assault from sea and air, and even then you'd probably go away empty-handed. About the only time a bike is "stolen" is when someone gets a flat and borrows someone else's bike because he's in a hurry.

This is unacceptable behavior in our community, so it rarely happens. But if your bike does get stolen, you just go to the main gathering places, find your bike, and take it home. To make it easy to locate their bikes, people tend to paint them in unique ways. So there is really no problem at all with bike theft. Yet we're required to register our bikes with the police and apply a numbered sticker.

Since this is an incredibly low-crime community with a ridiculously high police presence, the police have nothing better to do than cruise around in their air conditioned vans looking for unregistered bikes. If they find one, they take it and hide it in a locked area. If you fail to find your bike in the usual places, you have to assume that the police took it. To get it back, you have to go to the police station, hat in hand, and receive an admonition for failing to comply with the law.

For some people, their bike is too decayed and the reprimand is too high a ransom to pay for their bike, so they never go to the police. Every few months the police hold an auction of these unclaimed bikes. I know of at least one person who made the high bid — \$5 — on his own bike.

So the major threat to your property here is from the police themselves. And the people who buy your property from the police are never even charged with receiving stolen goods.

— Jeff Wrobel

Catching a predator — What to make of the Roman Polanski episode? Establishment media types beclowned themselves rationalizing the has-been film director's admitted rape of a 13-year-old girl. Child rape is a terrible thing because it denies a young person the ability to develop and define her sexuality on her own terms. Even if that definition involves bad choices and mistakes, they are the young person's own. Child rape undermines her self-ownership, plac-

ing an older person's (and usually an authority figure's) will before her own. There is no valid defense for — or even qualification of — this.

Some self-styled "realists" argue that chasing down a fugitive three decades after his crime is a waste of dwindling government resources. To those I say: why choose *now* to start worrying about government spending?

In any event, I see the best defense of returning Polanski to California as a matter of avoiding moral hazard. If the state doesn't enforce its prohibition against child rape in the case of this film-industry hothouse flower, it risks undermining that prohibition completely. And, in this instance, the law is a valid one.

— Jim Walsh

Able was I ere I saw Aetna — "Afghanistan is the graveyard of empires." It's a popular statement circulating throughout the political sphere, ever since it was announced that the American military campaign in Afghanistan is not going well. But here in the United States, the president is too busy to notice. The damage-control machine is at full throttle, trying to keep him above water in the polls as his healthcare initiative travels through the legislative process.

I am reminded of Hillary Clinton's proposed healthcare reform in 1993 that led to the Republican takeover of the House and Senate in '94. It would seem that socialized medicine is the graveyard of Democrats.

— Tim Slagle

Cap-and-spend — As the Senate gets ready to vote on cap-and-trade legislation (which has already passed in the House), yet more reports on its bad effects are surfacing, and these may prove to be the most damaging of all.

Earlier this year, the independent thinktank CRA released a report estimating that cap-and-trade will cost America 3.2 million jobs over the next 15 years. While the Obama administration was able to pooh-pooh that report as propaganda from the Vast Right Wing Conspiracy, a second report, showing that cap-and-trade will increase electricity prices by 20% over 20 years, could not be dismissed so easily, because it was from the administration's own Department of Energy.

Now come several reports pried from the reluctant hands of Obama's own Treasury Department by the Competitive Enterprise Institute (CEI). Using the Freedom of Information Act, the CEI got Treasury to release several internal memos and papers, or at least redacted versions of them. These memos are amazing, indeed.

One is an internal memo by Judson Jaffe, of the Treasury Department's Office of Environment and Energy. In the memo, Jaffe estimates that under Obama's own plan, the federal government will be collecting \$100–200 billion a year in new taxes, a higher figure than the administration has publicly estimated.

To put this in perspective, \$200 billion — the upper end of Jaffe's estimate — is equivalent to \$1,761 per family per year, or roughly a 15% increase in the federal personal income tax.

Another memorandum, prepared for Obama's transition team after he won the election, said his environmental program generally would exact a yearly cost to the nation's economy of about 1% GDP, roughly equal to the costs of all the then-existing environmental regulations. Put in other terms, Obama's environmentalist plans, if enacted, will double the drag of environmental regulations on our economy.

Several other memos make damaging predictions. One suggests that Obama's cap-and-trade legislation will actually cost \$300 billion. Another is that his environmental policies will cost several percent of the GDP (equal to the existing corporate income tax). Yet another suggests that cap-and-trade will devastate our energy-intensive industries (read: manufacturing firms), handing foreign industries a greater market share.

What makes these particular reports especially problematic for the administration is that they were its *own internal reports*, so there would be no reason for the authors to spin the figures.

It would be interesting to see what else is in these memos, but they were heavily redacted by the Treasury Department. The CEI is trying to get the redacted parts released as well, but the administration is fighting it tooth and nail. And it would be nice to see all other reports that have been done on cap-and-trade by the Treasury Department, not to mention all the other federal departments. But the administration is not releasing them. All this secrecy, by the way, is from an administration that promised us unparalleled transparency in government.

In the face of public shock over all this, environmentalist groups were quick to respond that any taxes collected by cap-and-trade would be used to cut payroll taxes, and so would be net neutral for American workers.

That claim doesn't pass the smell test. First, if these taxes are going to be rebated, why all the secrecy?

Second, given the huge deficit that Obama has already run up, and his massive spending plans going forward, who of sound mind could believe for one second that all these new taxes will be rebated to workers?

Finally, it is clear that cap-and-trade will kill the jobs of millions of American workers. So how in Hades can energy taxes be used to lower their payroll taxes — when they will no longer be on any company's payroll?

— Gary Jason

The Late Night harem — News flash: powerful executive screws women who work for him!

Was anyone surprised to learn that comedian David Letterman has had affairs with women in his employ? It's a dog bites man story. If it had been Jay Leno, well, I would have been a bit surprised. But this kind of stuff goes on every day all over the world. So why the fuss? The women were of age and apparently felt no pressure to perform for the gap-toothed one. Life goes on.

More interesting is Letterman's reaction to the revelation of his affairs. On the air he termed himself "creepy" for indulging his libido. His production company (aptly named Worldwide Pants) rushed out a statement proclaiming that since his marriage last March, Dave has refrained from poontanging anyone but his wife.

Calling himself creepy was by far Letterman's biggest mistake. If a person has the opportunity and the desire to sleep around, what's wrong with that? What's creepy about indulging one's sensuality? And why the desperate effort to show he's been monogamous since his marriage? Surely no more than two people (Dave and Mrs. Dave) really give a damn.

The CBS producer who is accused of trying to blackmail Letterman is interesting, at least in one sense. Here, it seems,

we have man so incredibly stupid that he thinks he can extort millions of dollars from a celebrity over the rather mundane details of that celebrity's love life. This perhaps tells us something about why so much of television is so awful.

Personally, I've always preferred the middlebrow humor of Jay Leno (a native of my hometown) to Letterman's shtick. But if I were a watcher of "The Late Show" I wouldn't change the channel over this.

— Jon Harrison

Hollow man — It may seem premature to write off the Obama presidency as a failed experiment in messianic politics, i.e., the politics of deliverance and hope; but I do not think so. The flaws of Mr. Obama, and of his administration, are too deep and structural to be salvaged by any desperate, last-minute remedies. The fissures in the woodwork are too deep to be glossed over with varnish and furniture polish. And if things look bad now, they can only get worse in the months to come.

President Obama is glib, even eloquent, to a fault — that is his saving grace and his special curse. Americans felt so embittered and let down with such inarticulate Republican dolts and mediocrities as the Bushes that Obama's soaring rhetoric seemed to promise a new day in presidential politics. Who was not moved by the announcement in his inaugural address of the death of Washington's favorite pastime, petty political bickering and partisanship? It was one of those singular moments in history when the will to do good was high. Never has the mood for meaningful change been so puissant. Even the eyes of stalwart unbelievers on the right misted over with the afflatus and the exaltation of noble aspirations.

Yet, what was Obama's first piece of legislation but the now infamous stimulus bill?

The stimulus package was by any measure a steaming pile of liberal special-interest philanthropy, a spoils-system largesse that would have made Andrew Jackson blush, and one that was doubly irresponsible in this hour of economic crisis. It was a reversal so cool, casual, and blase, so destructive and so encompassing, that it raised political cynicism to a historic level. What an unmitigated fraud! What a blatant, bald-faced deception! What an unimaginative, slimy-green, mildewed



"There'll be a short delay, sir — your businessman's lunch is under investigation."

piece of liberal policy-making! Call it the audacity of political manipulation.

Psychologists doing research on the subject of leadership have found that the people who aspire to positions of power the most aggressively are frequently those least qualified temperamentally and intellectually to wield it. (No surprise — history has been telling us this for centuries.) And so it is with Obama. Those around him, and even his bitterest adversaries, tell us that he is a very intelligent man. But the facts seem to indicate that he is rather stupid, at least with regard to his duties as the leader of the world's leading republic and superpower. His early opponents complained correctly that he lacked seasoning and policy experience, that his intellectual accomplishments were essentially academic, and that his personality tended to be narcissistic. And now the crows have come home to roost.

On his July 28 broadcast, Fox News commentator Glenn Beck called President Obama a racist with a deep-seated hatred of white people. In response, Geico pulled its sponsorship of Beck's show, leading several other advertisers to defect as well. For what it's worth, President Obama is not a racist. Racism implies some firmly held beliefs, however noxious and misguided. Obama has no convictions at all. He believes in nothing but himself. He is a narcissist and an opportunist who dreamed of being president. To achieve this he campaigned as a centrist and after he was elected emerged, willy-nilly, as a leftist. He is neither a good man nor a bad man. He is a cipher, a man devoid of principle. There is something wanting in Obama — that essential, indispensable component of humanity that separates men of honor from ordinary mortals. Who would have guessed that beneath all his oratory he was hollow to the core?

For those mystified by how Obama could sit in the congregation of Reverend Jeremiah Wright and listen to his lunatic race-baiting and other filthy claptrap for 20 years, the answer is now at hand. They need wonder no longer.

— William B. Fankboner

Anarchist's playbook — Over the years, the people I've met who self-identify as "anarchists" tend to be among the dumbest and the smartest people I've had the pleasure or displeasure of knowing. Very few reasonable people attach that label to themselves. In an attempt to avoid being lumped with the dumbest, I thought I'd distill my reasons for adopting that label, from the least to the most important.

1. Anarchism as the conscience of law. Given democratic notions of legitimacy, the fewer people who believe in "the rule of law" (i.e., the more who believe it is just a veiled imposition of power), the more the law has to obey its own rules in order to maintain legitimacy. When rule-of-law marketing and propaganda are insufficient to create legitimacy, the powerful have to limit the arbitrary use of their power and shrink the number of cases they can treat as extraordinary. Anarchists weaken the faith element within law, and by doing so force it to obey its own rules.

2. Anarchy as a vector. Through very gradual change, we've created societies in which nearly every aspect of our day-to-day life is controlled. I tried to go to a sunny outdoor bar at a lake with my 3-year-old son the other day. I was told that (a) I had to wear a shirt; (b) my son couldn't be in the bar

even without drinking; and (c) I couldn't get beer to go. These were all rules created by my neighbors, though none of the rules had any effect on them. I don't want to live in full-blown anarchy, except perhaps in a small anarchic community where all the individuals are highly educated and empathetic. But I do think we need to go in the direction of less order.

When you put a frog in water and turn the heat up suddenly, it will jump out. When you turn the heat up gradually, it will stay in and cook. Human beings work the same way, and we have cooked ourselves with rules to the point where (shifting culinary metaphors for a moment) our modern societies have become a porridge in which you can no longer tell whether you started off with fettuccine or fusilli or, for that matter, with frogs. If full anarchy is raw pasta, then yes, perhaps it's hard to chew; but when you're starting with a tasteless overcooked mess, raw sounds pretty good.

At any rate, I don't believe in utopias. There are no stable end points, only movement and vectors. Given where the world is today, I'm an anarchist.

3. Anarchism as ontologically authentic. Groups, being soulless, don't exist except in the abstract. The individual human — who is born, lives, and dies — is the only relevant metric by which any non-abstract phenomenon in this universe can be measured. Kafka said, "The meaning of life is that it ends," and Heidegger spelled out in magnificent nuance the importance of being-towards-death as the only possible structuring mechanism for life, authenticity, and meaning. Institutions, organizations, corporations, unions, countries, societies, religions, legal systems — soulless collectives of all sorts — don't live towards death. An immortal abstract entity without subjectivity or a soul can never understand the concept of authenticity, let alone sort through the ever-present ambiguity between what is authentic and what is not. And any individual who abdicates his personal sovereignty to the value system of a group gives up his own chance at authenticity and meaning. These require responsibility, or the ability to respond to specific situations on a subjective level.

Each individual can find meaning and authenticity only by personally rolling in the mud. By climbing a tree (considered "disorderly behavior" in many U.S. cities). By facing death. By stealing fire from the gods and slugging it out with the angels. By exercising personal responsibility and care. The only political system I know of that doesn't clash with these criteria is anarchism.

4. It's fun to break the rules.

— Alexander Boldizar

The dog not barking — Our president, surprisingly for a man who ran on a platform of bipartisanship, has turned quite nasty in his treatment of the critics of his plan for healthcare reform.

He talks of Republicans as nothing but obstructionists (if only, dear Lord, they were!). He says he doesn't want to hear from the side that "messed things up" to begin with. And he openly demonizes the insurance industry.

But — amazingly! — tort reform doesn't figure into any of the bills he is pushing. (The recent Baucus "compromise" bill, which Obama hasn't endorsed, at least as of this writing, only talks vaguely about setting up some test program in some unnamed state.) This is passing strange, since presumably even our transcendently post-partisan president would

concede that our tort system is responsible for some, if not much, of the escalating healthcare costs about which he professes to care so achingly.

Malpractice awards, many of them perfectly unjustified, cost about \$20–40 billion a year. The insurance premiums that doctors are forced to pay in order to protect themselves in court are astronomical — often in the range of \$300,000 per year per physician. The result is higher charges for patients and less compensation for physicians' employees. When a John Edwards wins hundreds of millions by convincing some hick jury that not giving an expectant mother an early C-section caused autism in the infant, we need to remember that the money such people get and spend comes from the rest of the healthcare system.

Worse yet, to guard themselves against the onslaught of frivolous lawsuits, docs have to practice "defensive medicine" — ordering every conceivable test and procedure, even when the nature of a patient's ailment is clear, so that no lawyer can later accuse anyone of having overlooked anything. The costs of defensive medicine are hard to calculate, but a recent estimate by the American Academy of Orthopedic Surgeons puts it at between \$100 and \$178 billion per year — all pure waste that drives up costs.

Until recently, Obama has uttered not a squeak about tort reform. Finally, in his major speech before Congress, he made a comment indicating that he would be "open" to it. But this is vintage Obama: faced with a major criticism, feign openness to it by uttering a few vague promises, and then later just ignore what you said. In ordinary life, this is called lying.

The examples are endless. The president promised to support offshore drilling and nuclear power, but that was a lie. He promised not to hire lobbyists, but that was also a lie. He promised to end pork-barrel spending, but that was a massive lie. He promised to cut a dollar in spending for every dollar spent in new programs, but that was a grotesque lie. He promised bipartisanship and transparency in government, but that was an insane lie.

Obama has bashed doctors plenty, insinuating that they may do nothing to prevent a person from developing diabetes, because that might keep them from being able to earn \$50,000 by cutting off a leg. But he has nary a critical word to say about lawyers. Could that be because he is himself a lawyer? Or could it be because the biggest source of funding for him and his party is the trial lawyers of America?

— Gary Jason

Stop the impotence! — How could such an allegedly smart group as libertarians take a winning philosophy and turn it into a total loser in every presidential election?

The libertarian philosophy — which is, in broad terms, economically conservative and socially liberal — has significant public support. Surveys by Rasmussen and the Cato Institute have found, respectively, that 16% and 15% of respondents held basically libertarian views on key issues. Gallup consistently puts the number at 20%. Either way, that's enough votes to decide presidential elections.

The number might well be double those percentages if libertarian ideas were more effectively defined, promoted, organized, and mobilized, especially during presidential campaigns when people are paying attention.

Instead, libertarians sideline themselves and waste millions in time and money by running their own presidential candidates, who get next to nothing at the polls. For the average person, what was the message about libertarianism in 2008 when Libertarian Party candidate Bob Barr received less than half of one percent of the popular vote, 214,789 fewer votes than perennial gadfly Ralph Nader?

Barr could have received a percentage that was 16 times higher and still have ended up with fewer people than those who think that Elvis might be making a comeback tour. (Eight percent of respondents in a 2002 FOX News/Opinion Dynamics poll said they believed there's a chance that Elvis is still alive. Another 11% said they weren't sure.)

Libertarians would do better if they called a convention to develop positions on a dozen key issues. In both the presidential primaries and the general election, candidates of the two major parties could then be rated on those positions and subsequently endorsed or rejected. Past voting records of candidates could also be evaluated and publicized, rated against libertarian positions.

That's how libertarians can become key players — by determining winners, by making it clear that they're a significant percentage of the voting public, a powerful voting bloc, not a four-tenths-of 1% fringe group.

— Ralph Reiland

Pen and tell — Washington was all a-flutter in mid-August as news surfaced that Dick Cheney would be writing a "tell-all" about his time in the Executive Office. "Will he be critical of Bush?" people wonder.

I'm not particularly interested in reading this book, but I do look forward to his next anticipated project, when he'll write Bush's "tell-all" memoir.

— Ross Levatter

The best syndicated medicine — I've lately taken to reading Ron Hart, an up-and-coming humorist whose weekly columns are hilarious and shrewd, loosed as they are from the moorings of political correctness and other orthodoxies. Whiling away the hours on Saturday or Sunday mornings, I'll browse the archives at Ron's website and delight in the deliciously derisive prose, an inventive troping of Mark Twain, H.L. Mencken, Lewis Grizzard, and P.J. O'Rourke (whom Ron dubs his hero).

They're like temporary holidays, these weekend reading sessions, for Ron's commentaries froth with playful irreverence. He referred to the Oval Office as the "Oral Office" during the Clinton administration, and claimed that George W. Bush, during the final years of his presidency, was so weakened by missteps and hubris that he couldn't pass a bill giving away free ice cream on the Fourth of July.

Ron deftly neutralizes stinging comments with a light-hearted tone; he delivers punch lines quickly and often subtly, as when he submits that Obama's teleprompter fell over from exhaustion, or when he declares, "I don't know if you have heard yet because the media is really playing it down, but entertainment icon Michael Jackson died recently."

One evening last summer, in the downtown library of West Virginia University, I came across a lady who seemed engrossed in some article that was taking up her computer screen. Having heard her chuckle intermittently for several minutes, I decided to peer over her shoulder.

"Excuse me," I interrupted, "that wouldn't be . . ."

"Ron Hart," she supplied.

"Yes, I *know* him."

"Oh, really?" she said. "I just lost my job a week ago and haven't laughed until now. This guy's hysterical."

"You're kidding me," I said. "How do *you* know Ron Hart?" (I had assumed that Ron's reputation was purely regional.)

"Don't *all* libertarians?" she retorted. And I made a new friend that day.

Southern by birth, libertarian by the grace of God, Ron is something of an oddity. An independently wealthy man — part private investor, part stock analyst — he's also a redneck rascal at heart who very probably sports a "Don't Tread on Me" tattoo, or at least wishes he did. His prose is hardly high-brow (unlike his outfits). But that's what makes it good. "I have found that pretentious people tend to read trendy, big and eclectic books," Ron once grumbled, "and the annoying thing is they like to tell you about it."

Ron's columns, though sarcastic and satirical, aren't *all* fun and games: they draw their lexicon of intelligibility from classical liberal philosophy. Adam Smith, Thomas Jefferson, Ayn Rand, Friedrich Hayek — these are just some of the folks Ron regularly cites. "Hundreds of my readers have emailed me asking why I am a Libertarian and to define it," he wrote in 2005, adding in self-deprecating fashion that "by hundreds I mean about 12." His lengthy response to these 12 is significant. Jokes aside, his response amounts to this telling line: "We Libertarians want simplicity, common sense and the right to decide for ourselves (based on our religious, cognitive, personal conclusions) how we should lead our own lives."

It's well worth the time to visit Ron's website and read his columns for yourself. As Mark Twain remarked, "The human race has only one really effective weapon and that is laughter."

— Allen Mendenhall

Irving Kristol, R.I.P. — Irving Kristol died on September 18. I have old notebooks of clippings from the time when I used to read the editorial pages of *The Wall Street Journal* every day. I liked Kristol's style and much of his thinking, and still have some of his pieces, replete with underlines. Here, for example, is Kristol on Aug. 12, 1976:

In politics the language we use to ask questions is always more important than any particular answer.

This is a piece about "social justice" — a term Kristol keeps in antiseptic quotation marks. In the piece he writes:

The distribution of income under liberal capitalism is "fair" if — and only if — you think that liberty is, or ought to be, the most important political value. If not, then not. The distribution of income under capitalism is an expression of the general belief that it is better for society to be shaped by the interplay of people's free opinions and free preferences than by the enforcement of any one set of values by government.

I thought that was a perceptive statement. Fairness depends on what your values are.

Another quotation from two decades later, Dec. 18, 1997:

The state cannot and should not be a risk-taking institution, since it is politically impossible for any state to cope with the inevitable bankruptcies associated with economic risk taking.

During the late 1970s and early '80s, Kristol promoted the tax-cutting, supply-side current in the Republican Party. After

the initial election of Ronald Reagan in 1980, he wrote this call to radicalism:

Administration is only a part of government. In periods of stability it may even be the most important part. At moments of radical change, however, it is the political-entrepreneurial aspect of government that must be dominant. At such moments, the guiding idea of leadership ought to be, not, "Manage it" but — to borrow a slogan of the 1960s — "Do it!" Cut tax rates; cut unnecessary spending; attack the regulatory establishment . . .

You can argue about what the Reagan administration did with that opportunity. Kristol thought Reagan did far too little with it. He thought the old Republicans in the Senate and House in the early '80s were timid compromisers, and that the only hope was with the young ones. In a column run on January 4, 1983, he reminded them that back in the 1930s, the New Dealers in Congress "prevailed in the end by being determined, factional and 'divisive.'" That advice the House Republicans heeded a decade later.

Here, on Feb. 2, 1998, Kristol predicts that Europe "will be increasingly 'statist' — not 'socialist' or 'collectivist', just 'statist,'" and that unemployment of 10% and more will be tolerated for long periods. He adds: "Bankers never do feel that unemployment is their problem. Neither, in Europe, do trade union leaders."

Kristol was perceptive. He was sensitive to political changes, and called some of them early. He wrote with style and maturity. He had good advice for his friends. I didn't agree with everything he wrote, and never understood why anyone would expect that.

— Bruce Ramsey

Norman Borlaug, R.I.P. — A prophet is seldom honored in his own country, especially when his actions offend the regnant religious worldview. So I cannot help but note the passing of Norman Borlaug on September 12, at age 95, and accord him some honor. He was a man I deeply admired.

Borlaug, agricultural scientist extraordinaire, was born in 1914 in a small Iowa town, attended a tiny public school, and grew up on his father's farm. He barely got into the University of Minnesota, being assisted by his high school wrestling and other athletic achievements. He majored in forestry, receiving his B.S. in 1937. After a brief stint in the forestry service, he returned to the University of Minnesota as a grad student, receiving an M.S. in 1939 and a Ph.D. in 1942, both in plant pathology.

He put in several years of research with the du Pont de Nemours Foundation, where he worked on bactericides and fungicides for agricultural use. In 1944, he was selected by the Rockefeller Foundation to work as a geneticist and plant pathologist, organizing and directing a joint project with the Mexican government to find a way to fight a devastating form of wheat fungus. He helped set up the International Maize and Wheat Improvement Center, training young scientists for continuous improvement in crop yields. In large part thanks to him, Mexico became a net wheat exporter in 1963.

His formidable basket of attributes — tenacity in research, pragmatic philosophy of science, and willingness to work generously with others and to train indigenous scientists to carry on the work — served him and all the organizations he worked for well.

In Pakistan and India, his methods led again to massive improvements in crop yields. In just five years, 1965 to 1970, those two countries doubled their grain production, ending a famine in that region. By 1968 Pakistan had become self-sufficient in grain production, with India gaining the same status shortly thereafter. Journalists dubbed this “the Green Revolution.” In the 1980s it spread to China. Once known for horrific famines, that country is now the world’s largest producer of food.

But when Borlaug tried to extend his methods to Africa, the environmentalist lobby pushed back. His support from the Ford and Rockefeller Foundations was cut, and many environmentalists targeted him personally, while attacking the whole concept of genetic modification of foods. (Borlaug’s own work was in standard plant crossbreeding, but he approved of genetic modification as a new and more effective way of doing what farmers had done for millennia.)

Of course, joining the opposition to Borlaug’s Green Revolution were comfortable farmers in the developed countries who were fearful of Asian and African farmers competing with them (i.e., exporting cheaper food to “first world” markets). He nailed the protectionists and the environmentalists brilliantly when he noted that the only opposition to the new agricultural products came from countries where “governments collectively subsidize their very small farming populations to the tune of \$350 billion a year and where many of the major problems of human nutrition are related to obesity.”

For years, Borlaug was No. 1 on the environmentalist religion’s hate list. Its disciples despised him for increasing crop yields by aggressively creating new varieties of grain (which they derided as “Frankenfoods”) and enhanced fertilizers and pesticides. Yet his work made possible the end of famines on

this planet — at least famines caused by crop or climate failure, as opposed to failure by government. His work refuted all the Malthusian prophets of the environmentalist faith, and the worshipers of the Green God hated him for it intensely.

The Greens would have much preferred to see hundreds of millions of people starve, a necessary sacrifice for “saving” the planet, rather than witness the rise of what they would never admit was the true “Green Revolution.” I have no doubt that this is why his death went unnoticed by the mainstream media, which found ample time to lionize Ted Kennedy.

Yet Borlaug earned many high honors: 50 honorary doctorates; memberships in learned academic societies in a dozen countries, the National Medal of Science, the American Medal of Freedom, the Vannevar Bush Award, the Public Welfare Medal of the National Academy of Sciences, the Congressional Gold Medal, the Padma Vibhushan award (India’s second highest civilian award), and the Nobel Peace Prize (in 1970). And we certainly should not leave out his induction into the American Wrestling Hall of Fame (he was a high school and college wrestler)! Perhaps most important, however, were the streets and buildings named after him in poor countries around the globe — humble tributes to the savior of millions of lives.

More than millions — *hundreds of millions*. Borlaug is estimated to have saved from starvation anywhere from 250 million to a billion lives — all by his calm, pragmatic, disciplined use of scientific skills. He didn’t counsel the desperately poor and render some slight temporary aid; he offered them new forms of agriculture by which they could feed their *own* families with their *own* work, using their *own* hands — a much nobler achievement.

If ever someone deserved the heroic epithet of “a man in full,” it was surely Norman Borlaug.

— Gary Jason

Letters, from page 6

decency and disgust with massive state crimes may play a part in a nation-state’s decision to go to war. I believe that this kind of cynicism is, at bottom, simplistic, not to say naive.

Of course, underlying this whole discussion is the big issue of libertarian isolationism. We don’t deal with this issue often enough, and seldom frontally. I suspect it’s at the root of libertarian near-stagnation in the actual political arena.

Market Imperfect

In his review of “Causes of the Crisis” (November), Bruce Ramsey writes, “[R]emember that the Marxists used to excuse the failures of communism by saying that the people were not good enough for it. We laughed at them when they said that, so let’s not say it ourselves.” I think we can point to failures of the market (and therefore

failures of the people) without crawling in the same leaky lifeboat with the Marxists.

In the case of communism, basic social functions required either the perfection of New Soviet Man or (in reality) massive coercion. In the case of markets, only “perfect” markets require “perfect” people; basic functions do quite well with imperfect people and imperfect markets.

I’ve yet to find a source for the journals he reviews and I’m sorry for that; they sound like a good read. I’d propose (without having read them) that in this case, the market did what markets do: pursued gain in a distorted market and also “failed” as a result of the herd instinct Ramsey mentions.

I’d further propose that the damage done was far greater as a result of the distortions, and absent those, would have been just one more blip in an in-

constant market. Any brief look at the history of financial markets shows a rising “trend,” not a constant rise.

Unfortunately, my theories won’t be tested, as I’m sure the “cure” will be further distortions.

Ron La Dow
San Francisco, CA

Defining the Market

In the introductory paragraphs of Bruce Ramsey’s review of “Causes of the Crisis,” he seemingly agrees that laissez-faire capitalism has failed, and he faults libertarian Austrian-school adherents for not being able to account for recessions and depressions. ‘Tain’t so!

Economics, politics, and the discussions of same are in dire need of applying Ayn Rand’s mandate: “Define your terms!” Two terms that really do need clarification are capitalism and free markets.

It just so happens there are two “capitalisms.” To fully understand economic and political events, a distinction must be made! Ramsey makes none whatsoever, and this failure to distinguish also pervades the entire volume that he reviewed. To clear up this confusion, we must distinguish truly free-market systems, with absolutely no governmental intervention into transactions between parties, and “mixed-” or crippled-market systems, with varying degrees of governmental interventions into transactions between parties.

The truly free (*laissez-faire*) economy is self-regulating. The rules for regulation evolve continuously without compulsion from the customs, habits, practices, and traditions of the participants, not by design from an “overseeing, regulating authority.” Government may have a legitimate role in a *laissez-faire*, free-market economy. However, it must be strictly limited to that which the Declaration of Independence set forth: protecting the lives, liberty, and property of individual citizens. Government’s job in a truly free society is to seek out and punish fraud, misrepresentation, theft, and unprovoked initiation of violent physical aggression against others.

The crippled-market economy is not self-regulating. It is the fruit of “social engineering” in which designers, do-gooders, planners, politicians, and “progressives” seek to “eliminate the ‘cruelties,’ inequities, and unfairness” in the *laissez-faire*, free-market system. “Level playing fields,” “compassion,” and “social safety nets” are three of the key concepts of a crippled-market economy.

Ludwig von Mises laid it all out in his booklet entitled “Planned Chaos.” He showed clearly how the first governmental intervention into an economy causes unforeseen problems that inevitably demand even more governmental intervention as a “cure.” The net result is that, ultimately, the economy is dominated by governmental controls. There may be small remnants of market interactions, but a truly free market under such circumstances is impossible.

Murray Rothbard wrote an excellent treatise on the effects of governmental intervention into the economy entitled: “Power and Market.” In it, he describes every possible type of governmental in-

tervention that he had discovered. He set forth the effects of each. Today’s political climate seems to have spawned a few more that might be added to his lists.

Every rule, regulation, and statute has an effect on the way people act and react. Most people act so as to minimize their losses and maximize their gains. It’s human nature. When people see prices rising rapidly, many think to themselves: “Why should I try to save? I had better spend it quickly before it loses any more purchasing power.” That is basically what is behind booms and the (inevitable) busts. Recessions and depressions are caused solely and entirely by the effects of governmental intervention into the economy.

David Michael Myers
Martinsburg WV

Population Control

I do not know if Jon Harrison’s response to Susan Frensey (Letters, November) was serious or sarcastic. He said, “Government could do something beneficial for society by starting a program to instruct the citizenry that parenthood is not in fact a right.” Really? How is that working in China? If Harrison is serious, he is not libertarian on this issue. If he is sarcastic, he is not funny.

Politicians and bureaucrats have difficulty finding either of their buttocks with both hands! How are they to “instruct” us poor citizenry? Will they use the gentle arts of persuasion and reason? If the politicians and bureaucrats fail, as they sometimes do, in their educational efforts, will they import forced abortion from China? Or maybe forced sterilizations; after all, that would nip the problem in the bud. If there remain those of us who disagree, will they use the business end of a gun? If our ears cannot take the hypocrisy, may we please use the 2nd Amendment?

About this “instruction,” Harrison says, “I would gladly pay taxes for this.” What about those of us who disagree? Will the politicians and bureaucrats endure our protests and disobedience? Maybe they would need labor or educational camps: two types of camps — one with men, the other with women, no fence-jumping allowed. Do they have the know-how, the means and the experience? What do you think?

Harrison asserts that poor people having babies “is the number one social problem in the United States today.” I disagree; I believe the problem is the lack of wealth, which causes poverty. Without wealth, large-scale human existence is impossible. Without wealth, life is harsh and short. And what produces wealth? The division of labor, free trade, and the rule of law (laws which protect the rights of the people to live as they choose) are the major sources of wealth. There is a single word that describes these conditions: libertarianism. History has shown that the more peace and liberty that people have, the more prosperity and progress there will be.

Jim Burns
Beatty, NV

Harrison responds: I was indeed serious. Whether or not I am considered a libertarian on this issue doesn’t really matter to me. I don’t submit to litmus tests. If Mr. Burns or anyone else feels I’m not ideologically pure enough, I could care less.

I would indeed pay taxes for a program that attempted to educate the poor about the responsibilities of parenthood. I would not employ bureaucrats to do the educating, but would provide seed money for pilot projects created in the private sector, and see if they achieve any results. Should they succeed, welfare rolls would decline, saving us all money (perhaps the program might even pay for itself!). If they fail, well, that’s a few million dollars lost. The fact that Burns disagrees with my idea is okay with me. It’s alright, isn’t it, to propose a public policy initiative even if some people (including — gasp! — libertarians) disagree?

I don’t know why Burns brings China into the discussion. I certainly don’t favor compelling people to limit births. But I don’t think others should have the right to compel me to devote a portion of my income to the raising of their kids. Logically, then, I should support cutting off benefits. However, I’m not prepared to see children go hungry. To me the only possible way out of this conundrum is to try to educate people that it’s wrong to bring children into the world unless they have sufficient means of support. That’s all I was saying. And if that’s enough to make Burns huff and puff so much, then I’d say he needs a hobby.

Killing the Big Three

by Edmund Contoski

One of the methods used by statists to destroy capitalism consists in establishing controls that tie a given industry hand and foot, making it unable to solve its problems, then declaring that freedom has failed and stronger controls are necessary.

— Ayn Rand

The Detroit automakers were “perfectly viable businesses that have been slowly murdered over 30 years,” according to Wall Street Journal columnist Holman W. Jenkins, Jr., who follows the industry closely. He was referring to the CAFE (Corporate Average Fuel Economy) standards, which he calls “the most perverse exercise in product regulation in industrial history.” In his view, the recently updated mileage standards will cost the manufacturers \$100 billion and “make a mockery of the idea that government money will render the companies profitable, even as the same bailout bill demands that the Big Three drop their legal challenge to a California mileage mandate even more unsustainable than the federal government’s.” The California standards would render most auto designs, profit centers, and tooling unsalvageable.

CAFE requirements have effectively required the Big Three to lose tens of billions of dollars making small cars in unionized factories. GM and Ford can make small, efficient cars profitably all over the world except in North America. Buick is one of the best sellers in China, and GM president Rick Wagoner testified at a congressional hearing that GM’s China operations were profitable. In April this year GM sales in China hit a monthly record, up 50% from a year earlier. Meanwhile, GM’s sales in the United States slumped 33%

from a year earlier, to only 172,150 vehicles. And in July, 2009, GM reported first-half sales in China rose 38% to 814,442 vehicles, a record for the company. GM has also been strong in Latin America and, until quite recently, in Europe. Small cars are popular in Europe, where gas is commonly \$6 per gallon and has ranged as high as \$9. Foreign profits of the Detroit automakers helped to offset their huge losses in the United States, said Wagoner.

Detroit couldn’t make small cars profitably in the United States because of ruinous wage contracts with the United Auto Workers resulting from government favoritism. The average cost of Detroit’s Big Three prior to the Chrysler and GM bankruptcies was \$73 per hour compared to \$44.20 for American workers in foreign auto company factories (“transplants”) in the United States. GM had legacy costs, for health-care and pension benefits, of \$2,000 for every vehicle it sold.

Meanwhile, 12 foreign auto companies were making cars across America's South and Midwest and employing 113,000 workers, who make 54% of the cars Americans buy.

The quality of the Big Three's cars in the United States fell behind that of the transplant companies because they skimmed on them in order to invest in the quality and features of the big vehicles (SUVs and trucks) on which they could reap large profits. In return for the companies shoveling money to the unions while incurring losses on the cars being produced, says Jenkins, "Washington compensated them with the hothouse, politically protected opportunity to profit from pickups and SUVs. . . . Washington's latest fuel-economy rules actually reward manufacturers for increasing the size and weight of some vehicles." In addition, a 25% federal tariff on imported trucks, plus other quirks of the fuel-economy regulations, further encouraged the companies to push trucks and SUVs.

The EPA's "two-fleet" rule means that a company's corporate average fuel efficiency in the United States doesn't include cars it produces abroad and imports into the United States. If those cars were included, GM's problems would

From 1983 to 2007, BMW paid \$230 million, Volvo paid \$56 million, and Daimler paid \$55 million in CAFE fines. That's peanuts compared to GM's legacy costs.

have been much smaller. Those cars are excluded because of the Democrats' concern for the votes of the environmentalists and organized labor, which are important for maintaining their political power.

Of course, the fuel-economy rules also apply to foreign brands, some of which make big, powerful vehicles, too. But they have an out. They simply pay fines. From 1983 to 2007, BMW paid \$230 million in CAFE fines; Volvo, \$56 million; and Daimler, \$55 million. In 2008, Daimler paid one of the largest single-year CAFE fines ever, \$30 million. But that amounted to only \$118 per car, peanuts compared to GM's legacy costs and the tens of billions it lost by producing small cars that American buyers didn't want. The Government Accountability Office says the Big Three didn't choose to pay the fines because they feared political repercussions and being accused of "unlawful conduct." And they would also have big problems with the UAW, which makes their big, profitable vehicles. So they just kept making the small cars at a loss in order to be able to average their fuel economy in with that of the big vehicles on which they made a profit.

Until 2008, Detroit's reliance on SUVs and trucks made sense. Fuel costs were low, and Americans liked the larger, more powerful — and safer — vehicles. The Big Three all made money on trucks — as much as \$8,000 per vehicle. Mike Jackson, chief executive of AutoNation Inc., the nation's largest dealership chain, says federal rules caused Detroit "to cede the car market and make all their money in trucks. If they had been forced to compete up front, they would not have become overdependent on trucks."

The UAW collective bargaining agreement with Detroit's Big Three doesn't exist at all in the nonunionized foreign transplants. The agreement is the size of a small telephone book and covers not only work rules but fundamental business decisions, such as selling, closing, or spinning off businesses. Logan Robinson, a law professor with much experience in the auto industry, says both the UAW and the Big Three maintain large staffs of lawyers, contract administrators, and financial and human resource representatives at all levels, from factory floor to corporate headquarters. "Typically, each plant or warehouse is a 'bargaining unit' and has a union president and a staff. If the company consolidates its facilities, there will be no need for two presidents and two staffs. . . . As a result, unnecessary facilities are not sold, but kept open, lit and heated, just to preserve a redundant bargaining president and his team."

Some jobs under union work rules could be performed in 5 or 6 hours. After that workers could sit idle or simply go home and still be paid for 8 hours. If they did any further work, they got paid overtime even though they never worked more than 8 hours. That doesn't happen at the transplant factories.

Another union rule allowed six unexcused absences before a worker could be fired — a rule that still exists in the post-bankruptcy GM. That's another rule the transplant factories don't have.

The Obama administration also favored the UAW by requiring GM to agree to build its compact green car state-side as a condition of exiting bankruptcy. No company, not even the Japanese or Korean ones, makes a compact inside the United States. Ford plans to make its new Fiesta in Mexico.

According to Robert Crandall and Clifford Winston, senior fellows at the Brookings Institution, Daimler dumped Chrysler and the possible joint venture between GM and Renault-Nissan went nowhere "because the Detroit-based operations could not improve their labor relations measurably and otherwise restructure sufficiently to be competitive."

Similarly, an article by Paulo Prada and Dan Fitzpatrick notes "Labor flexibility has emerged as a key advantage during the industry downturn, allowing foreign-owned plants to rapidly downshift in ways their unionized U.S. competitors cannot." For example, BMW laid off workers at its Greer, SC, plant, and Toyota laid off workers at its Georgetown, KY, factory and shuttered another factory it was planning to open.

The management of the auto companies, GM in particular, has been criticized for having too many brands of automobiles and too many dealerships, far more than Toyota compared to the number of vehicles each sold. But because of government regulations, it was cheaper to keep extra brands and redundant dealerships than to get rid of them. This is where state regulations got into the act. Almost every state has franchise regulations which make it very expensive to close dealerships or eliminate a brand of automobile. When GM eliminated the Oldsmobile brand from its lineup, it cost \$1–2 billion, and the lawsuits dragged on for four years.

The UAW contract long provided for the infamous "jobs bank," a euphemism for paying vast numbers of employees when the companies had no work for them. It also extracted healthcare and pension benefits from the companies that

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Intellectual Property and Libertarianism

by Stephan Kinsella

Intellectual property is a contradiction
in terms.

Most libertarians find some areas of libertarian theorizing more interesting than others. My own passion has always been rights theory and related areas such as the theory of contracts, causation, and punishment theory.

Intellectual property (IP), which has garnered greater attention in recent years, was never my strongest interest, even though I have specialized in this field in my legal practice for more than 16 years. But I've ended up writing a great deal on it from a libertarian perspective anyway.

One reason for this is that there are not many libertarian patent attorneys. Commentary by those familiar with IP law is usually devoid of libertarian principle. Most IP experts are, unsurprisingly, proponents of the status quo, just as government school teachers tend to favor government schooling and astronauts cheer NASA. And libertarian discussions of IP often confuse the details of the law under debate. In fact, it's common for libertarians to conflate trademark, copyright, and patent (Murray Rothbard talked about a copyright on a mousetrap, which is an invention and therefore the subject of patents).

Another reason is that from the beginning, the IP issue nagged at me. I was never satisfied with Ayn Rand's justifi-

cation for it. Her argument is a bizarre mixture of utilitarianism with overwrought deification of "the creator" — not *the* Creator up there, but Man, The Creator, who therefore has a right to property. Her proof that patents and copyrights are property governed by such rights is lacking.

So, I kept trying to find a better justification for IP, and this search continued after I started practicing patent law.

Many libertarians abandon minarchy in favor of anarchy when they realize that even a minarchist government is unlibertarian. That was my experience. And it was like this for me also with IP. I came to see that the reason I had been unable find a way to justify IP was because it is, in fact, unlibertarian. Perhaps this would have been obvious if Congress had not enacted patent and copyright statutes long ago, making them part and parcel of America's "free-market" legal system; and if early libertarians like Rand had not so vigorously championed such rights. But

libertarianism's initial presumption should have been that IP is invalid, not the other way around. After all, we libertarians already realize that "intellectual" rights, such as the right to a reputation protected by defamation law, are illegitimate. Why, then, would we presume that other laws, protecting intangible, intellectual rights, are valid — especially artificial rights that are solely the product of legislation, i.e. decrees of the fake-law generating wing of a criminal state?

But IP is widely seen as basically legitimate. Sure, there have always been criticisms of existing IP laws and policies. You can point to hundreds of obviously ridiculous patents, and hundreds of obviously outrageous abuses. There are

Copyright is now received automatically, whether you want it or not. The patent office is an inefficient bureaucracy governed by laws that are arbitrary, ambiguous, and vague.

absurd patents on ways of swinging on a swing and faster-than-light communications and one-click purchasing; there are \$100-million and billion-dollar patent lawsuit awards; there are millions of dollars in copyright liability imposed on consumers for downloading a few songs. Books are even banned — quite literally — in the name of copyright. The terms of patents (about 17 years), and especially copyrights (which expire 70 years after the author's death, or 95 years in the case of works made for hire), are ridiculously long — and Congress keeps extending them at the behest of Mickey Mouse (a.k.a. the Disney company). Copyright is now received automatically, whether you want it or not, and is hard to get rid of. The patent office is an inefficient government bureaucracy; and the laws that govern it are arbitrary, ambiguous, and vague (generating more work for me — thanks).

So there are plenty of reasons to oppose the current IP system, as well as the abuses of the system. There are many calls for "reform" of IP, just as there are always calls for reform of the tax code, welfare, public education, and the way we are fighting the current war. But I became opposed not just to ridiculous patents and outrageous IP lawsuits but to patent and copyright per se, root and branch. IP laws should be abolished, not reformed, just like the Americans with Disabilities Act and the tax code.

Why, exactly, is this? What is the libertarian case against IP? To answer this question requires a clear, coherent understanding of libertarian principles. I thus take a brief detour here to sketch out the libertarian framework.

The Libertarian Framework

What is the essence of our libertarianism? It is said that libertarianism is about: individual rights; property rights; the free market; capitalism; justice; the nonaggression principle or axiom. But capitalism and the free market describe the market conditions that arise or are permitted in a libertarian society, not all aspects of libertarianism.

What about individual rights, justice, and freedom from aggression? Well, in my view, these are all derivative; they are defined in terms of property rights. As Rothbard explained, all rights *are* property rights. And justice is just giving someone his due, which depends on what his (property) rights are.

The nonaggression principle itself is also dependent on property rights. If you hit me, it is aggression *because* I have a property right in my body. If I take from you the apple you possess, this is trespass, aggression, only *because* you own the apple; if it is my apple, it is not trespass. In other words, to identify an act of aggression is implicitly to assign a corresponding property right to the victim. (This is, incidentally, one reason why it is better to refer to the nonaggression *principle* instead of the nonaggression *axiom* — because property rights are more basic than freedom from aggression.)

But mere "belief in property rights" does not explain what is unique about the libertarian philosophy. This is because a property right is the exclusive right to control a scarce resource; property rights just specify who owns, who has the right to control, scarce resources. Yet no political system is agnostic on the question of who owns resources. To the contrary: any given system of property rights assigns a particular owner to every scarce resource. None of the various forms of socialism, for example, denies property rights; each socialist system will specify an owner for every scarce resource. If the state nationalizes an industry, it is asserting ownership of these means of production. If the state taxes you, it is implicitly asserting ownership of the funds taken. If my land is transferred to a private developer by eminent domain, the developer is now the owner. If the law allows a recipient of racial discrimination to sue his employer for a sum of money, he is the owner of the money.

Even a private thief who steals something of yours is implicitly acting on the maxim that he has the right to control it — that *he* is its owner. He doesn't deny property rights; he simply differs from the libertarian as to who the owner

There are many calls to "reform" the current Intellectual Property system. But just like the tax code, IP laws should be abolished, not reformed.

is. In fact, as Adam Smith observed: "If there is any society among robbers and murderers, they must at least, according to the trite observation, abstain from robbing and murdering one another."

Thus, protection of and respect for property rights is not unique to libertarianism. What *is* distinctive about libertarianism is its particular property assignment rules — its view as to who is the owner of each contestable resource, and how to determine this. So the question is: what are the libertarian property assignment rules that distinguish our philosophy from others?

There are two types of scarce resources: human bodies and external resources found in nature. Let us first consider the property assignment rules for bodies.

Of course, one's own body is a scarce resource. As Hans-Hermann Hoppe has explained, even in a paradise with a superabundance of goods,

every person's physical body would still be a scarce resource and thus the need for the establishment of property rules, i.e., rules regarding people's bodies, would exist. One is not used to thinking of one's own body in terms of a scarce good, but in imagining the most ideal situation one could ever hope for, the Garden of Eden, it becomes possible to realize that one's body is indeed the prototype of a scarce good for the use of which property rights, i.e., rights of exclusive ownership, somehow have to be established, in order to avoid clashes.

The libertarian view is that each person completely owns his own body — at least initially, until something changes this, such as if he commits some crime by which he forfeits or loses some of his rights. Now some say that the idea of self-ownership makes no sense. You *are* yourself; how can you *own* yourself? But this is just silly wordplay. To own means to have the right to control. If A wants to have sex with B's body, whose decision is it? Who has the right to control B's body, A or B? If it is A, then A owns B's body; A has the right to control it, as a master to a slave. But if it is B who has the right to decide, then B owns his own body; he is a self-owner.

And of course, self-ownership is what is implied in the nonaggression principle. Ayn Rand famously said, "So long as men desire to live together, no man may *initiate* . . . [n]o man may *start* — the use of physical force against others." To initiate force means to invade the borders of someone's body, to use his body without permission or consent. But this presupposes that that person has the right to control his body: otherwise his permission would not be needed, and it would not be aggression to invade or use his body without his consent.

So the libertarian property assignment rule for bodies is: each person owns his own body. Implicit in the idea of self-ownership is the belief that each person has a better claim to the body that he or she directly controls and inhabits than do others. I have a better claim to the right to control my body than you do, because it is *my* body; I have a unique link and connection to my body that others do not, and that is prior to the claim of any other person. Anyone other than the original occupant of a body is a latecomer with respect to the original occupant. Your claim to my body is inferior in part because I had it first. The person claiming your body can hardly object to the significance of what Hoppe calls the "prior-later" distinction, since he adopts this very rule with respect to his own body; he has to presuppose ownership of his own body in order to claim ownership of yours.

The self-ownership rule may seem obvious, but it is held only by libertarians. Nonlibertarians do not believe in complete self-ownership. Sure, they usually grant that each person has some rights in his own body, but they believe each person is partially owned by some other person or entity — usually the state, or society. Libertarians are the only ones who really oppose slavery, in a principled way. Nonlibertarians are in favor of at least partial slavery.

This slavery is implicit in state actions and laws such as

taxation, conscription, and drug prohibitions. The libertarian says that each person is the full owner of his body: he has the right to control his body, to decide whether or not he ingests narcotics, works for less than minimum wage, pays taxes, joins an army, and so on. But those who believe in such laws believe that the state is at least a partial owner of the body of those subject to such laws. They don't like to say they believe in slavery, but they do. The modern liberal wants tax evaders put in jail (enslaved). The modern conservative wants marijuana users enslaved.

In addition to human bodies, scarce resources include external objects. Unlike human bodies, however, external things were initially unowned. The libertarian view with respect to such external resources is very simple: the owner of a given scarce resource is the person who first homesteaded it — or someone who can trace his title contractually back to the homesteader. This person has a better claim than anyone else who wants the object. Everyone else is a latecomer with respect to the first possessor. Note that we are here speaking of scarce resources — material objects — not infinitely reproducible things such as ideas, patterns, and information.

This latecomer rule is actually implied in the very idea of owning property. If the earlier possessor of property did not have a better claim than some second person who wants to take the property from him, then why does the second person have a better claim than a third person who comes later still (or than the first owner who tries to take it back)? To deny the crucial significance of the prior-later distinction is to deny property rights altogether. Every nonlibertarian view is thus incoherent, because it presupposes the prior-later distinction when it assigns ownership to a given person (because it says that person has a better claim than latecoming claimants); while it acts contrary to this principle whenever it takes property from the original homesteader and assigns it to some latecomer.

But what is relevant for our purposes here is the libertarian position, not the incoherence of competing views. In sum, the libertarian position on property rights in external objects is that, in any dispute or contest over any particular scarce resource, the original homesteader — the person who



"I couldn't get Parliament to outlaw Lady Godiva, but they agreed to *regulate* her!"

appropriated the resource from its unowned status, by embordering or transforming it (or his contractual transferee) — has a better claim than latecomers, those who did not appropriate the scarce resource.

Libertarianism on IP

Now, back to IP. Given the libertarian understanding of property rights, it is clear that the institutions of patent and copyright are simply indefensible.

Copyrights pertain to “original works,” such as books, articles, movies, and computer programs. They are grants by the state that permit the copyright holder to prevent others from using their own property — e.g., ink and paper — in certain ways.

Patents grant rights in “inventions” — useful machines or processes. They are grants by the state that permit the patentee to use the state’s court system to prohibit others from using their *own property* in certain ways — from reconfiguring their property according to a certain pattern or design described in the patent, or from using their property (including their own bodies) in a certain sequence of steps described in the patent.

In both cases, the state is assigning to A a right to control B’s property: A can tell B not to do certain things with it. Since ownership is the right to control, IP grants to A co-ownership of B’s property.

This clearly cannot be justified under libertarian principles. B already owns his property. With respect to him, A is a latecomer. B is the one who appropriated the property, not A. It is too late for A to homestead B’s property; B already did that. The resource is no longer unowned. Granting A ownership rights in B’s property is quite obviously incompatible with basic libertarian principles. It is nothing more than redistribution of wealth. IP is unlibertarian and unjustified.

Why, then, is this a contested issue? Why do some libertarians still believe in IP rights?

One reason is that they approach libertarianism from a utilitarian perspective instead of a principled one. They favor laws that increase general utility, or wealth. And they believe the state’s propaganda that state-granted IP rights actually do increase general wealth.

The utilitarian perspective itself is bad enough, because all sorts of terrible policies could be justified this way: why not take half of Bill Gates’ fortune and give it to the poor?

Utilitarianism justifies terrible policies. Why not give half of Bill Gates’ fortune to the poor? The total gains to the recipients would be greater than Gates’ reduced utility.

Wouldn’t the total welfare gains to the thousands of recipients be greater than Gates’ reduced utility? After all, he would still be a billionaire afterwards. And if a man is extremely desperate for sex, couldn’t his gain be greater than the loss suffered by his rape victim if, say, she’s a prostitute?

But even if we ignore the ethical and other problems with the utilitarian or wealth-maximization approach, it is bizarre to think that utilitarian libertarians are in favor of IP when they have not demonstrated that IP *does* increase overall wealth. They merely assume that it does and then base their policy views on this assumption. It is beyond dispute that the IP system imposes significant costs, in monetary terms alone, not to mention its costs in terms of liberty. The usual argument, that the incentive provided by IP law stimulates additional innovation and creativity, has not even been proven. It is entirely possible (even likely, in my view) that the IP system not only imposes many billions of dollars of costs on society but actually reduces or impedes innovation, adding damage to damage.

But even if we assume that the IP system does stimulate some additional, valuable innovation, no one has established that the value of the purported gains is greater than the costs. If you ask advocates of IP how they know there is a net gain, you get silence (this is especially true of patent attorneys). They cannot point to any study to support their utilitarian contention; they usually just point to Article 1, Section 8 of the Constitution, as if the backroom dealings of politicians two centuries ago were some sort of evidence. In fact, as far as I’ve been able to tell, virtually every study that attempts to tally the costs and benefits of copyright or patent law concludes either that these schemes cost more than they are worth, or that they actually reduce innovation, or that the research is inconclusive. There are no studies showing a net gain. There are only repetitions of state propaganda.

Responding to the available evidence, anyone who accepts utilitarianism should be opposed to IP.

Libertarian Creationism

Another reason why many libertarians favor IP is their confusion about the origin of property and property rights. They accept the careless observation that you can come to own things in three ways: through homesteading an unowned thing, by contractual exchange, and by creation.

The mistake is the notion that creation is an independent source of ownership, independent from homesteading and contracting. Yet it is easy to see that it is not, that “creation” is neither necessary nor sufficient as a source of ownership. If you carve a statue using your own hunk of marble, you own the resulting creation because you already owned the marble. You owned it before, and you own it now. And if you homestead an unowned resource, such as a field, by using it and thereby establishing publicly visible borders, you own it because this first use and embordering gives you a better claim than latecomers. So creation is not necessary.

But suppose you carve a statue in someone else’s marble, either without permission, or with permission, such as when an employee works with his employer’s marble by contract. You do not own the resulting statue, even though you “created” it. If you are using marble stolen from another person, your vandalizing it does not take away the owner’s claims to it. And if you are working on your employer’s marble, he owns the resulting statue. So creation is not sufficient.

This is not to deny the importance of knowledge, or creation and innovation. Action, in addition to employing scarce

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Liberty

P.O. Box 20527, Reno, NV 89515

December 2009

President Barack Obama
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear President Obama,

As a fellow alumnus of Occidental College, I am writing to you about healthcare reform. You did say that all ideas were on the table. Bear with me, please. I am hoping you are a smart guy with an open mind, who will listen to a better means to reach the same end.

The first point is that we have to recognize we aren't making healthcare more affordable just by making someone else pay for it. Asking your wealthy uncle to pay two-thirds the price of some \$180 tennis shoes does not mean you are buying affordable tennis shoes. Affordable tennis shoes are ones that have a lower price tag. So how could we make healthcare more affordable? We should do it the same way that other things in our economy have become less expensive over time - computers, Lasik eye surgery, DVDs.

When they are new, innovative products or procedures are expensive. Only wealthy people can afford them. Others look at them and say, "That's too expensive, I'm not going to buy the Blu-ray disc," or whatever the latest innovation is. Eventually the makers of the new thing run out of wealthy people; then they must figure out a way to sell it for less or they won't be able to get more clients. Whoever can figure out how to do it (it isn't always the same people who first made it) begins to offer it for a lower price. The company then operates at a lower profit margin but with higher volume. And that lowering of price keeps happening until pretty much everyone can afford to buy.

About the only time that doesn't happen is when the government (or an insurance company) steps in and says, "this is too expensive for ordinary people to pay for, so we are going to buy it for them." Under those circumstances, there is no incentive to make it cheaper. That's fundamentally why medical procedures aren't coming down in price. Nearly all medical procedures are paid for by someone other than the recipient.

Here's the hard part. When Medicare sets a lower price (defining how little it will pay for a given procedure), it seems like it would be the same thing as when a lot of people say, "That's too expensive; I won't pay that much." But it doesn't work the same way. Instead of having an incentive to offer something more cheaply, because there are more clients to be obtained if you do, the service provider has just suffered an income cut, with no way to make it up. So the provider raises the price on some other service to make up for it - or makes the people with "better" insurance pay a higher price to make up for the lower price obtained from Medicare patients. Or the provider just goes out of business. And that's one reason why we are short of primary care doctors.

So for a thing to become more affordable, there must be millions of people who look at it and say, "No, that's too expensive. I won't pay that much." For prices to come down, that kind of price discussion has to enter the doctor's office. People need to say, "Isn't there a less expensive treatment or test?"

To increase the number of those conversations in the doctor's office we need to continue to encourage the spread of high-deductible health insurance with a health savings account or HSA (a savings account of your own pre-tax dollars that can only be spent on health care) to cover the deductible. I just got one of those at work and it changed my behavior immediately. Suddenly I had an incentive to ask the doctor if I could choose

generics over the brand-name medicines I was being prescribed. I did, and saved a lot of money immediately. If I can spend less on my health care than the amount of the HSA (and don't have to make insurance claims), I get to keep the rest of the money in the HSA. Now I have a reason to shop for bargains in medicine. We need to do the same thing with Medicare patients as well. They need to have high deductible insurance with an HSA so they will start asking about the prices of medical procedures and treatments. We need to give everyone the incentive to shop for bargains - and at the same time the ability to have insurance that will cover the more expensive alternative if it is important to them.

What about people losing coverage, being denied coverage, or the uninsured? First, let's get health insurance out of employers' hands and into our own. If we all bought our own insurance, we could keep it as we change jobs. Some people think their health insurance is free if the employer pays for it, so we would have to help everyone see that they just get a lower salary than they would otherwise, so the employer can pay for the insurance. People would be able to get guaranteed-renewable health insurance and keep it for their whole lives, so they would be covered when they contract some life-threatening illness when they are old.

But we want prices to go down there as well. A government-backed "public option" insurance company will have the support of taxes, which means it can lose money and still stay in business, and it is likely to drive the private insurance companies out of business. That will reduce choice and competition. Instead, let's open up health insurance across the country, so anyone can buy policies from companies in any state. Let's allow people to get around these expensive mandates that require certain things be covered in all the health insurance policies offered in the state. People can buy policies that cover those things that are important to them, but they should be able to see the cost and decide for themselves. The more that people are free to choose their own health insurance the more demand there will be for lower-cost policies - and more of those will be created.

Another reform we should make is to let all the people now on government-managed health insurance be free to purchase health insurance on the open market. This will get more people into that private market and increase the number of choices available to all of us. We should offer people now receiving government health insurance such as Medicare, the same amount of money that it is costing us to care for them now, but let them use that money to choose their own health insurance program. They should be allowed to pick less expensive policies if they don't want certain things to be covered.

What about people with preexisting conditions and people who are being denied coverage? We know there will be fewer people with this problem if everyone has individual health insurance and so aren't forced out of their policy when they change jobs or become sick and can't work. But still there are problems when people get really sick and the insurance company wants to raise their premiums through the roof. There is a new idea, an idea you might not have heard of, that would help. It is called health-status insurance. You buy it to protect against the rise in premiums that would come if you get sick. It could be used to guarantee you the right to buy health insurance in the future. Typically, health-status insurance costs are quite low.

But what about people who are sick right now with cancer, or diabetes, or who have had heart attacks? Of course, the government could simply pay the extra cost of the premiums. That might include a lot of people currently on Medicare, although if we give them the money being spent now on their care it ought to be enough to buy medical insurance that would provide roughly equal coverage. The cost of paying for people with preexisting conditions is much smaller than paying for everyone's healthcare - and eventually there will no longer be people needing this help.

I agree that medical care is important. But let's see that it's provided in a way that will help keep down costs for all of us.

Thanks for listening.

Sincerely,

Don Crawford

Don Crawford

Robbing Hood and the Undeserving Rich

by Bob Marcus

What happens when Robin Hood becomes
Sheriff of Nottingham?

To paraphrase Kafka's "Metamorphosis": I awoke one morning from uneasy dreams and found myself transformed in my bed into a gigantic cockroach.

President Obama sees himself as a modern day Robin Hood. He wants to reshape society by taking from the rich and giving to the poor. But the original Robin Hood was a highwayman. His grand larceny was rendered heroic because his victims, owing their riches to no innate advantage or social usefulness, were properly vilified. But that was Old England; America is more of a meritocracy. Taking from one to give to another might be morally suspect to modern Americans. Hence the need for Newspeak.

First, "taking" and "giving" must be redefined. Ninety-five percent of taxpayers are to receive refunds. Their giving is to be a tax rebate, notwithstanding the fact that almost 40% of the people who receive rebates pay no federal income taxes and therefore can't logically get a "refund." With the use of Newspeak, however, the problem goes away. A payment that should more properly be called welfare becomes a rebate; never mind the fact that there was no payment to refund. Since the money the government disperses comes from taxpayers, the 5% of Americans who do not get refunds are pay-

ing the tab for all the others. No one is taking the money from them; they just don't qualify to get this very special refunding of their tax.

Robin Hood's merry band and the other recipients of his lighthearted lighthandedness were for the most part honest and hardworking yeomen (except for Friar Tuck, who made up for it by being merrier than most). In Newspeak, the merry band becomes the deserving poor and the hardworking middle class. The terms are never clearly defined, although they are clearly not used to identify the poor who deserve what they get, or the middle class that should be taking it a bit easier.

So now that Robbing Hood and his band have put a spin on *give*, *take*, the *poor*, and the *middle class*, who are left? Oh, yes, the rich, the arrogant, insensitive, and socially suspect gang that ran with the likes of the Sheriff of Nottingham. These are now the undeserving rich, another concept of ambiguous meaning, loosely defined to include the top 5%

of income earners. The poster children of the undeserving rich are Ponzi-scheme fraudsters, incompetent bankers, and greedy public-company CEOs, clearly unsympathetic characters all. But the vast majority of the undeserving rich who comprise the top 5% of income earners is a much larger group — doctors, lawyers, and Indian chiefs, at least some of whom deserve respect.

And then I had that Kafkaesque realization: I myself was a member of the undeserving rich! I hadn't realized it before; I guess I'd been too busy earning a living. I possessed no corporate jet; I couldn't even afford first-class travel, although I

I joined in my Chinese hosts' enthusiasm and exclaimed that we had a name for such people — capitalists. With that, the smiles disappeared from their faces.

worked harder than most people and had less time to play golf than a worker on the GM assembly line. This is not a plea for sympathy. I actually prefer working to playing golf. In fact, though I'm now beyond standard retirement age, I still work harder than 95% of my fellow Americans, my education level is in the top 5%, and I take more entrepreneurial risks than the great majority of my countrymen. So, if my current earnings are in the top 5%, I do not think this is purely a matter of coincidence. Neither do I think it is necessarily undeserved, especially considering that there were lean years, too.

Flashback to 1975, when I went to China on a businessman's tour. I had the pleasure of visiting a factory that produced the first mercury switches made in China. My hosts explained that during a period of economic liberalism under communist rule, three men left their jobs and founded the factory. I sensed that there was an interesting story here and asked my hosts whether the three invested their own money (a smiling "yes"), borrowed more (another "yes"), and took an entrepreneurial risk ("ditto"). I then joined in my hosts' enthusiasm and exclaimed that we had a name for such people — capitalists. With that, the smiles disappeared from their faces, and they left the area to go into a huddle. When they came back, they pronounced the founders of the company heroes.

I could hardly argue with them. In later years, when I founded my own first company, I mused that in the eyes of my communist hosts I too would have been a hero, at least if I had been Chinese. Hero. I like that term a little better than Undeserving Rich.

My Chinese friends continued their story. It seems that during another, less liberal, period the factory was nationalized. I could not help asking whether the founders got back their capital. I was duly informed that they had, though the manner of the reply left me in some doubt. By then the entrepreneurs had probably become parasites or class enemies, maybe even cockroaches. I was tempted to inquire whether they were allowed a fair return on their capital, but an acute

sense of delicacy (and a desire not to be declared persona non grata) prevailed. Why open old wounds? In any case, by the time of my visit they had been rehabilitated.

I wonder if I will do so well.

Fast forward to 1990. An unfortunate meeting between a baseball and a bedroom window led me to meet the glazier in my hometown in California. I think his name was Don. A couple of years later, a home improvement project brought me back to Don's place and now, an old customer, I traded stories with him. Business was good and he was contemplating opening another store. But by the time I came in to buy a mirror the next year, he had decided against it, citing too much government interference; it was too much effort to expand his operation. He thought he would play more golf instead. A few years later I looked around and his store was gone. Early retirement.

I'm pleased to say that my own business is surviving the economic crisis. What really worries me is the political crisis — badly designed bailouts, an even worse stimulus package, the threat of higher personal and business taxes, heavier regulation, a Congress displaying even more than its usual venality and economic ignorance, pork-ridden spending bills, and a budget that fecklessly assumes an early end to the recession. And when that doesn't happen, what next? More new taxes?

Fiscal stimulus doesn't work in economies without a consistent and reliable set of rules. Sometimes this is referred to as the rule of law. Even the World Bank, one of the most profligate and unsuccessful developmental organizations on the planet, has lately come around to that realization; it is now more careful about throwing money at countries that do not have the appropriate underpinnings for economic growth. The Chinese Communist Party has come to a similar recognition, resulting in one of the fastest growing economies in the world. But in America we seem to be going backwards.

Congress is falling over itself with game-changing rules: "too big to fail" rescues, new entitlements in health care, cap-and-trade schemes to curb greenhouse gases (schemes that are, whatever their virtues, disingenuously disguised taxes). That will raise energy costs. Uncertainty does not put people

Because the fruits of successful enterprise might be taken away, there was no incentive to invest. We apparently have forgotten that lesson.

in a mood to invest. That was a lesson we should have learned from the Great Depression, when people with money decided to keep it safe rather than risking much needed investment. Because even the fruits of successful enterprise might be taken away, there was no incentive to invest. We apparently have forgotten that lesson from the past.

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Bridging the Two Libertarianisms

by Carl S. Milsted, Jr.

What does the nonaggression principle
really mean for libertarianism?

Liberty. Some love it because it provides wealth, opportunity, and other good things. Others declare that any denial of liberty is unacceptably evil, that liberty is a fundamental right of man. Both call themselves libertarians, and so they gather together at political conventions, seminars, and blog forums — to call each other nasty names and do battle over the meaning of a word.

The first school, the consequentialists, derides the second, the moralists, for being impractical and politically impotent. Meanwhile, the moralists deride the consequentialists for offering a tepid defense of liberty that inspires little zeal in the youthful idealist and often leads to dangerous compromise whenever the utilitarian case for government is strong. Both sides have data to back up their derision, and deride they do.

At its extreme, moral libertarianism calls for the Zero Aggression Principle (ZAP), a mandate that one should never initiate force or advocate the initiation of force, regardless of the social benefit. This principle is enshrined in the Libertarian Party's membership oath — "I certify that I do not advocate the initiation of force to achieve political or social goals" — but it is also advocated by groups that routinely attack the Libertarian Party for its lack of principle. According to ZAP, it is immoral to advocate *any* taxation. Applied consistently, ZAP requires calling for the *immediate* repeal of all taxation.

Or, as Murray Rothbard wrote in his libertarian manifesto, "For a New Liberty" (1978):

Cleaving to principle means something more than holding high and not contradicting the ultimate libertarian ideal. It *also* means striving to achieve that ultimate goal as rapidly as is physically possible. In short, the libertarian must never advocate or *prefer* a gradual, as opposed to an immediate and rapid, approach to his goal. For by doing so, he undercuts the overriding importance of his own goals and principles.

Consequentialists note that the immediate abolition of taxation would likely lead to economic collapse, civil war, invasion, or all three. Default on the national debt and Social Security obligations would shatter the current economic system. Failure to pay our soldiers could leave the country undefended, put weapons of mass destruction in the wrong hands, or lead to the rise of a Napoleon.

History has plenty of examples of governments collapsing, but few of these collapses led to anything close to a libertarian society. In nearly every case, the fall of a government was succeeded by the rise of a new government, often with an unpleasant period of violence in between. The result of this process can be seen by looking at a map of the world. Most of the world's habitable surface is under the domain of a government. Areas that are not are under the control of local warlords. The closest modern example of the anarchocapitalist

The Bush Administration listened to the libertarian Cato Institute, then went on to violate civil liberties and run record deficits. Milton Friedman got a Nobel prize, after giving us income tax withholding.

ideal is Somalia, which is hardly a libertarian paradise. While the current state of tribal anarchy is preferable to the communist government that preceded it, Somalia is inferior to a Scandinavian welfare state for doing business or exercising personal freedom.

Overnight implementation of the Zero Aggression Principle would likely lead to economic collapse, civil war, or military invasion. Since most voters can foresee these dire consequences regardless of how sweetly a ZAP-based platform is crafted, libertarians of the moralist school have difficulty getting elected. In terms of presidential vote totals and state house members elected on non-fusion tickets, the Libertarian Party peaked around 1980, before a large group of consequentialists left the party.

The moralists have a strong comeback: "Does consequentialism actually work?" How many callow college students get fired up over a tax reform proposal? Compare that with the life-changing impact of an Ayn Rand novel, its message firmly based on moral principles. As for anarchy, sure it's iffy and edgy; but so is Che Guevara, and look at all the T-shirts with his face on them. A radical message makes for good street theatre. True, consequentialist moderates have more success getting the ear of those in power, but so what? The Bush Administration listened to the libertarian Cato Institute, then went on to violate civil liberties and run record deficits. Milton Friedman got a Nobel Prize, after giving us income tax withholding. Alan Greenspan did a decent job as Federal Reserve chair, and thus gave the Federal Reserve credibility. So why sacrifice principle if you're going to fail anyway?

With such intellectual ammunition, the two schools of libertarianism continually attack each other, using arguments that range from the subtle to the infantile. Given the depths of these differences, R.W. Bradford ("The Two Libertarianisms," *Liberty*, reprinted in March 2008) wondered how these two schools of libertarianism could work together. Upon investigation he found that many moral libertarians resort to consequentialist arguments when pressed, and consequentialist libertarians resort to moral arguments. The glue holding the

two schools together is that most libertarians find elements of both beliefs within themselves.

But this prompts a further question. How can these conflicting philosophies coexist not only within the same movement, but inside the same brains? There must be some intellectual bridge connecting the two libertarianisms.

Indeed, there is. In fact there are two.

The Bridge of Denial

The simplest way to bridge the two schools is to deny any conflict between consequentialism and the Zero Aggression Principle. Libertarian presidential candidate Harry Browne epitomized this line of thinking with his mantra "Government doesn't work." Mary Ruwart also implied this bridge in "Healing Our World" (1993), in which she freely mixed ZAP and consequentialist arguments.

The denial bridge is extremely popular within the Libertarian Party. By my guesstimate around a third of the delegates to the 2006 LP National Convention were of this school. At the time I was leading a major effort to reform the LP (the Libertarian Reform Caucus) to widen the LP's definition of "libertarian" so as to include a large fraction of voters who say they support both personal liberties and economic liberties, and to soften the party's platform away from its call for anarchy next Wednesday. We failed to change the LP's definition — the ZAP-based membership oath remains — but we succeeded in repealing most of the platform. (The deleted planks were replaced by more moderate language in 2008, due to the efforts of Brian Holtz and others who took over the Caucus after I left; however, the LP membership oath remains.) We succeeded despite being a minority faction at the convention. Many borderline anarchists voted with us because they regarded the old platform as poorly written. For them, getting the public to accept borderline anarchy is simply a matter of better wordsmithing.

But while the denial bridge holds the Libertarian Party together, it fails to unite the broader movement, because many people simply believe it is wrong. And Harry Browne's mantra is definitely, even laughably, wrong. Government does

Moral libertarians resort to consequentialist arguments when pressed, and consequentialist libertarians resort to moral arguments.

work. People routinely send mail by government post, drive on government roads, rely on government food inspections, walk on government sidewalks, and enforce contracts in government courts. Crime may be bad in places, but most people safely leave home without having to lug around a sidearm. The military may be inefficient, but it has successfully prevented any major invasion since the end of the War of 1812.

Yes, governments can be ineffective, bloated, and brutal. We can all cite areas in which the private sector can do a better job than government. But government works, even bad government. Rome did not fall in a day.

Complete lack of government, however, is highly problematic. Modern examples of anarchy (witness Somalia) are further from the libertarian ideal than any European welfare state. Anarchocapitalism *may* be workable in the modern world, but we have scant evidence to date to support this proposition, and a great deal of evidence and economic theory against it.

Moral Consequentialism

The Zero Aggression Principle demands *immediate* elimination of all taxation, and perhaps monopoly government in general. Yet eliminating these things would result in tribalism, warfare, and eventually dictatorship — that is, *increases* in aggression. ZAP applied to government violates its own underlying value. Aggression will always be with us. Complete elimination of aggression is a fantasy.

So moral libertarians have two choices when they confront reality:

- Practice Zero Aggression as a semi-religious discipline like pacifism or vegetarianism.
- Advocate and enact policies that *minimize* aggression.

I'll call the latter path *moral consequentialism*. It is the second bridge, and the only firm one, between the two schools of libertarianism. It combines the underlying moral value of the libertarian moralist with the eye for reality of the libertarian consequentialist. Moral consequentialism could mean advocating anarchocapitalism if circumstances were such that anarchocapitalism would indeed result in less aggression than some form of government. This might be the case, for example, in an island nation with a uniform culture. But under most circumstances, moral consequentialism will mean advocating reform of the existing government.

At the end of "The Two Libertarianisms" Bradford concluded that we should "consider the two libertarianisms to be two aspects of the same belief, or different emphases on that same belief." Well, that belief is "freedom is good," or conversely, "initiation of force is bad." Libertarian moral consequentialism simply demotes these sentiments from first principle to core value.

Libertarian moral consequentialism comes in multiple flavors. A pure libertarian moral consequentialist is one who treats minimizing aggression as the only value worthy of consideration (in regard to government). Impure libertarian moral consequentialists consider reducing aggression as one of several values to be advanced. But no matter what flavor individuals may prefer, moral consequentialism is the primary means by which the libertarian movement as a whole (not just its LP sector) is held together. Libertarians of all varieties frequently resort to moral consequentialist arguments. Anarchists emphasize the evil results of monopoly government. Minarchists point out examples of increased aggression resulting from anarchy. Neolibertarians point out the increases in freedom that can arise when U.S. military might crushes genocidal tyrants. Antiwar libertarians point to the many instances in which U.S. military might backfired, or collateral damage outweighed the benefits of military action.

But while moral consequentialist arguments are commonplace in libertarian circles, explicit moral consequentialists are fairly rare. Moral consequentialism is not an easy philosophy. It provides no pat answers. Instead, it requires

mucking about with real data and acting on imperfect knowledge. Furthermore, it calls for admitting our own moral compromises.

The Veil of Euphemism

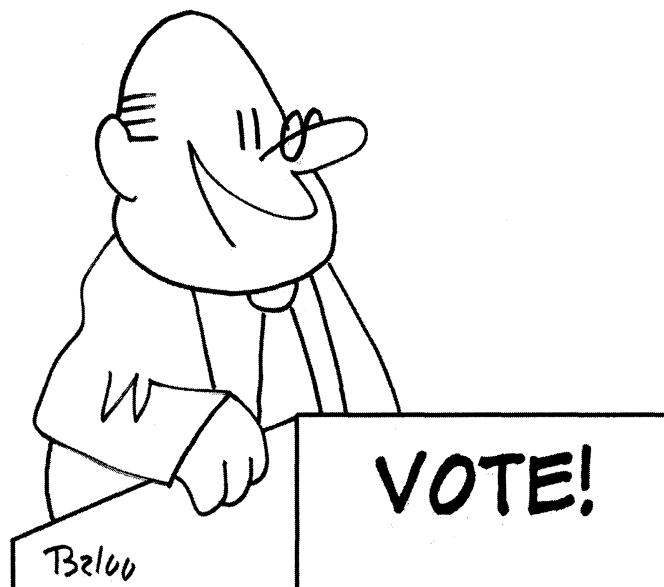
It isn't easy to admit you are a thief, even when theft is morally necessary to prevent a greater evil. But uneasiness can be salved with fresh words: tax, confiscate, regulate, eminent domain, and so forth.

Such moral anesthesia is dangerous. It allows people who are scrupulously moral in their private lives to become rapacious plunderers in the voting booth. If the libertarian movement did nothing other than strip away the euphemisms and get the electorate, including nonlibertarians, to come face-to-face with their moral tradeoffs, government would shrink dramatically. We need to ask: "When do I point a gun at my neighbor?" (For a humorous example see "Would You Kill Your Mother to Pave I-95?" by P.J. O'Rourke, in "Parliament of Whores.")

And even libertarians resort to moral anesthesia. Moral consequentialist arguments get cloaked behind definitions of the "proper role of government." The Constitution provides a particularly popular set of definitions, which many minarchist libertarians use as a starting point for their arguments.

Constitutionalism is appealing and borders on being mainstream, but it suffers from the slippery slope problem. Emergencies happen. Special situations happen. It is extremely difficult to anticipate all contingencies at a constitutional convention. With proof-by-definition or Constitution-as-authority, every emergency and special situation can be construed as providing constitutional authority for invasions of liberty; the "proper role of government" broadens. Two centuries of stretching have given us a legal definition of "constitutional" that has only passing resemblance to the actual text of the Constitution.

Constitutionalist libertarians are very aware of this dangerous malleability, and many of them resort to brittle thinking as an antidote. If deviations from the Constitution (or any



"I'll never lie to you, figuratively speaking."

other standard) can result in a slide down a slippery slope, then deviations must not be tolerated. Thomas Jefferson should be condemned for the Louisiana Purchase. Franklin Roosevelt should be condemned for aiding the British and interfering with Japanese efforts to control Southeast Asian oil prior to our official declaration of war. The 13th, 14th, and 15th Amendments to the Constitution were ratified by the Southern states under duress and are thus invalid.

But brittle thinking is bad politics. It pits one's thought against the best bargain the U.S. government ever made; it puts it on the side of Nazi Germany, Imperial Japan, and slavery. It also leads one to advocate unsound policies in the present.

Consider the recent Ron Paul campaign for president. Unlike most LP candidates, Paul had plenty of publicity, money, and volunteers. He also had enough experience in

The standard excuses for libertarian failure do not apply. The Ron Paul campaign failed because he promised to do bad things.

government to be taken seriously and was running in the primary of an established party. The standard excuses for libertarian failure did not apply. The Ron Paul campaign failed mainly because *he promised to do bad things*. During the first Republican debate he said:

Well, in my first week, I already got rid of the income tax. In my second week — (laughter) — I would get rid of the inflation tax, the tax that nobody talks about. We live way beyond our means with a foreign policy we can't afford and an entitlement system that we have encouraged. We print money for it, the value of the money goes down, and poor people pay higher prices. That is a tax. It's the transfer of wealth from the poor and the middle class to Wall Street. Wall Street's doing quite well, but the inflation tax is eating away at the middle class of this country. We need to get rid of the inflation tax with sound money.

It would be fantastic if the United States never had an income tax, never switched to fiat money, and had never gotten involved in World War I. But alas, we did, and this has major consequences for the amount of government today.

We have a huge national debt and gigantic entitlement obligations. Eliminating the income tax without a workable replacement would lead to national bankruptcy.

The middle class is mortgaged to the hilt, on the expectation of continuing inflation. An immediate return to hard money would magnify the current mortgage crisis many times over, as those with fixed-rate mortgages saw their real interest rates double and their equity go negative.

Much of the world is dependent on U.S. military might for protection. An immediate withdrawal would result in wars, arms races, and a new authoritarian superpower filling the power vacuum.

Ron Paul's promises would have long-term merit, if the policies he suggested were phased in intelligently (and he did

put out a much more reasonable economic plan late in the campaign, though by then it was too late). Explicit moral consequentialism provides a mental framework in which people can come up with intelligent transitions. Instead of hiding the moral tradeoffs inherent in government within a static definition, explicit moral consequentialism allows one to ask, "Which course of government action minimizes aggression *today*?" But Paul's promises failed this test. Tax cuts to the point of debt default constitute a retroactive tax on bondholders. Default on Social Security is a retroactive tax on retirees. Sudden withdrawal of U.S. military power can result in more wars. More limited options, however, could result in much less aggression, even though the near term amount of government would be higher than the libertarian ideal.

As a bonus, having a dynamic view of the ideal amount of government makes it easier to get elected and actually begin implementing reforms. Bad policies are often bad politics, but the best policies in theory may still be politically impossible. If one asks, "How much liberty can I as a libertarian politician advocate and still get elected?", one is asking a *moral* question: "How much can I actually reduce the amount of evil today?"

Moral consequentialism provides guidance not only for the optimal amount of government but also for how to get there.

The Denial of Empathy

Moral consequentialism provides a framework for reasonable action under a wide variety of circumstances, from near-utopia to lifeboat scenarios. But it does not provide pat answers from simple syllogisms. The consequences of action are uncertain. The value metric is messy and uncertain as well: how many extra tax dollars for more police are justified by a 10% drop in the murder rate? Moral consequentialism is thus a tough discipline for the Vulcans who dominate the libertarian movement. Indeed, one prominent school of Vulcan libertarians goes so far as to say that the aforementioned value metric is completely uncertain and thus invalid.

Moral consequentialism involves messy, asymmetric moral calculations. Consider the current situation in Darfur. Intervention by U.S. forces could produce a huge net reduction in aggression. In return for some taxes on U.S. residents and a small number of U.S. casualties, thousands of people could be saved from rape, murder, and starvation. *Could be*. The common assessment of the situation in Darfur could be wrong. Exaggerations of war crimes have happened before. Military action could have unintended consequences. It's an example of the fact that moral consequentialism involves messy calculations with many uncertain factors. Moral consequentialists can be expected to disagree with one another about proper courses of action, although their arguments can be civil, focusing on issues of data and science. Arguments and research can be messy and imperfect, but they can at least be reasonable.

Or maybe not. Those who mix anarchism and Austrian-school economics have a deeper objection: any weighing of moral tradeoffs requires knowledge of other people's utility functions. Even with absolute certainty of military success, how do we know that the harm to U.S. taxpayers would be

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The Attack on Scientific Freedom

by Elizabeth Weiss

For the federal government, creation myths
take priority over scientific research.

Church and state are separated by the First Amendment of the United States Constitution: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." The Native American Graves Protection and Repatriation Act (NAGPRA) is a major violation of the amendment.

NAGPRA (lovely acronym) is a federal law, passed in 1989, that requires agencies receiving federal support to allow federally recognized tribes to obtain "culturally affiliated" Native American human remains and artifacts — in other words, to reclaim bones, body parts, and burial objects from museums, research organizations, and other current owners. That may sound innocuous. But NAGPRA actually incorporates religious animism — traditional beliefs regarding spiritual forces active in nature, and the practices relating to these beliefs — into federal law.

Writing in the journal "Academic Questions," James Springer, an Illinois attorney, describes the problem in this way: "With the repatriationist movement . . . governmental policy has adopted and incorporated religious belief and practices. This situation is unique in modern American law, and the courts would not tolerate it in the context of enforcing the majority religion." He notes with surprise that academics who reject other religious intrusions into federally sanctioned

institutions often support repatriationism, which "attempts to substitute animistic religion for history, anthropology, and the natural sciences."

NAGPRA's uniting of church and state is not just implied. NAGPRA states that federally funded institutions must act "in consultation with . . . traditional religious leaders," and it stipulates that the review committee established by the act must include at least two "traditional Indian religious leaders." During the administration of George W. Bush, one of the highest offices established under NAGPRA went to Donna Augustine, a Thunderbird Turtle Native American from Maine, who according to a 2006 article in the *Native American Times* is "recognized as a traditional religious leader by Indian tribes in the United States." The quest to incorporate religious leaders into state functions is not surprising. The word "sacred" appears 12 times and "religious" appears five

times in NAGPRA, which also endorses the use of religious creation myths in deciding who owns what — or, to use federal language, who today is “culturally affiliated” with the remnants of the past.

Under the NAGPRA regime, cultural affiliation boils down to the acceptance of creation myths and oral traditions that allege geographic continuity for tribes from the beginning of time. For example, the Buhl burial, the skeleton of a woman more than 10,000 years old found in Idaho together with grave

NAGPRA unites church and state by mandating that federally funded institutions act “in consultation with . . . religious leaders.”

goods — one of the oldest human remains so far discovered in North America, and valuable evidence of the peopling of the continent — has been repatriated by the Shoshone-Bannock tribe and reburied. Why? Apparently because oral traditions held by the tribe claim that its ancestors have lived in the Americas since time immemorial.

Interestingly, however, the NAGPRA review committee does not have to make the reasons for its decisions known. One cannot know for certain how many reburials resulted from oral-traditional evidence, as opposed to scientific evidence. Yet nowhere does NAGPRA require scientific evidence of affiliation before remains are repatriated. Genetic testing, cranial comparisons, and other scientific methods are not considered more valid than oral traditions. These traditions usually embody origin myths suggesting that tribes were created in specific locations and have never migrated; thus, any remains found in that location must belong to the same ancestral line. In short, decisions will be made on the basis of religious belief, not a showing of fact.

The late Stephen Vincent, an investigative journalist, made it abundantly clear that NAGPRA is a religious law that destroys the separation of church and state. His article on the subject for Reason Online starts in this way:

Imagine an America where the federal government takes an active role in promoting the spiritual values of a certain cultural group. This group rarely documents its largely unknown religious practices and in fact considers many rituals too secret for public knowledge. Yet should outsiders violate its beliefs, the government can threaten them with lawsuits, fines, or prison sentences.

Vincent went on to show why this isn’t imaginary: NAGPRA encourages the use of religious rationale to claim human remains and artifacts and provides for punishments of fines or imprisonment for up to a year for improperly selling or buying Native American remains and objects. A second violation brings additional fines, or a prison sentence of up to five years. Arizona art dealer Rodney Tidwell was sentenced to six months in prison for selling Native American masks. Another Arizonan, Richard Corrow, was arrested and sentenced to five years of probation and 100 hours of “community service” for trying to sell “sacred” objects that he had purchased years earlier from Native Americans. Courtney

Smith, Jr., was fined \$17,500 for selling Native American remains. The \$17,500 was ordered as a statutorily required cost for the reinterment of skulls and foot bones sold in interstate commerce. From 1996 to 2008, over 130 allegations of failure to comply with NAGPRA were filed against 42 museums. During 2008, three museums were found guilty of failing to comply with NAGPRA, and each was fined over \$5,000. Every year, new allegations of noncompliance arise.

But creation myths and the vexed concept of cultural affiliation become especially worrisome in regard to Paleo-Indian skeletal remains. The famous example is Kennewick Man. In 1996, a skeleton that had Caucasoid features was discovered eroding out of the Columbia River bank in Kennewick, Washington. X-rays revealed an arrowhead lodged in the hip bone and a radiocarbon dating of over 8,000 years ago. Soon after the discovery of Kennewick Man and the identification of his features, a coalition of Columbia River tribes headed by the Umatillas of northeastern Oregon filed a formal NAGPRA claim to the skeleton, even though there was no direct evidence linking them to him. They used their creation myth as the backbone for their claim. This myth can be paraphrased as “we know that our people have been part of this land from the beginning of time.”

After a decade-long legal battle between the Army Corps of Engineers, which planned to give the remains to the Umatillas using NAGPRA regulations, and eight scientists led by Douglas Owsley of the Smithsonian, Kennewick Man can finally be studied by scientists. The ruling by the 9th Circuit Court of Appeals states that examination of Kennewick Man is essential to determine whether the remains are related to modern Native Americans. During the period when Kennewick Man was in custody a leg bone was removed (likely when religious groups got access to the relic, while scientists were kept at bay), and even now access to Kennewick Man is difficult. The remains are stored at the Burke Museum in Seattle, but the Corps of Engineers retains guardianship and does not

Richard Corrow was arrested for trying to sell “sacred” objects that he had purchased years earlier from Native Americans.

allow study that duplicates data collected by Owsley. It may be another couple of years before research on Kennewick Man is published in the scientific journals.

If scientific evidence of affiliation were required for repatriation, Paleo-Indians would likely be safe from reburial, especially when they differ significantly from modern Native Americans in cranial features. But NAGPRA requires no scientific evidence of affiliation, and the emphasis on sacred objects and traditional folklore militates against it. Although scientific methods are available to determine affiliation or lack of affiliation, these are used only in extreme circumstances, such as DNA tests and cranial metric comparisons. Most commonly location, and the myth that a tribe has always been in that location, are enough for the tribe to claim remains.

"How would you feel," it may be objected, "if your relatives were dug up and studied by scientists?" But of course, we all have relatives who died thousands of years ago, and whose remains have been found, preserved, and studied by scientists. But considering that evidence for biological relatedness isn't used in most NAGPRA cases, the question that ought to be put is "Would you attend the funeral of a stranger?"

NAGPRA's establishment of religion is not merely a question of sentiment. In 2006, NAGPRA grants, which were authorized by the Secretary of the Interior and dependent on funds secured through congressional appropriations, provided over \$2.4 million to Native American tribes to assist their religious endeavors. Some Native groups have been extremely successful in getting federal funding. Gordon Pang of the Honolulu Advertiser, for example, reported that the Hui Malama, a Native Hawaiian group formed in 1989 to rebury human remains, received over a million dollars in less than ten years, money that the group claims has been mainly used for travel. The government pays for ceremonies and supports the various rituals and methods that Native American groups insist upon for the treatment of remains, even though most Native Americans converted to Christianity, and many had previously sold so-called sacred objects.

Many academics deny the link between religion and repatriation by emphasizing that NAGPRA is really about respect, human rights, the need for more than one way to gain knowledge, and redressing the wrongs committed by past anthropologists. To cite just one instance of this common view: David Hurst Thomas, who is currently curator of anthropology at the American Museum of Natural History, has said that NAGPRA is an important human rights act that allows living Native Americans to practice their traditional religious responsibilities toward the dead.

But many Native people involved in the NAGPRA regime see a more direct link between repatriation and religion. A leading member of the Hui Malama says that he "firmly believes that the repatriation and reburials were a direct result of intervention by God and the ancestors to inspire and energize us." An email I received from Matthew King, chief of the Lakota Nation, states: "After the immigrants came into our country, they started digging for graves, I don't know why . . . They don't know God . . . It [the land] is, a burial ground and also a church for our Indian people."

In "The Future of the Past" (2001), Ronald Grimes, a professor of religion at Wilfred Laurier University in Canada, discusses religion's importance for Native Americans. He points out that one interesting aspect of the NAGPRA discussions before the act was passed was the continual declaration by the Native Americans themselves that the issue was essentially religious in nature. In a review of newspaper articles published from 1996 to 2008, I found that Native Americans always used religion as the reason for reburial, whereas no non-Native academics made the same connection.

And it is not just Native Americans who clearly see that NAGPRA is a religious law. Support for NAGPRA has come from many religious organizations. C. Timothy McKeown and Sherry Hutt observe, in an article published in 2003, that a May 1990 letter to House and Senate members urging the passage of NAGPRA was signed by representatives of the American Baptist Churches, the Church of the

Brethren, Church Women United, the Evangelical Lutheran Church in America, the American Episcopal Church, Jesuit Social Ministries, the Mennonite Central Committee, the Presbyterian Church (USA), the United Church of Christ, and the United Methodist Church.

At the 2006 meeting of the American Association for the Advancement of Science, I reported on the consequences of NAGPRA for anthropological research. My findings were that osteological studies of Native American remains have decreased, that fewer sites are used, and that fewer geographical locations are examined. Additional consequences include losses of data, funding, time, and scientific freedom.

Since NAGPRA has been enacted no one knows for sure how many remains have been repatriated or reburied. Federally funded institutions are not required to keep this information, and neither is the federal government. But estimates have been published. According to an Associated

Genetic testing, cranial comparisons, and other scientific methods are considered no more valid than oral traditions.

Press article that appeared in 2004, the remains of more than 27,000 individuals have been repatriated since the passage of NAGPRA. In 2006, The New York Times ran an article by Edward Rothstein that suggested even higher numbers; Rothstein stated that "by 2005, remains of more than 30,000 individuals" had been repatriated. A Rocky Mountain News article by Jim Erickson about Pueblo reburials states that by 2006, when the article appeared, 32,052 individuals had been repatriated through NAGPRA. The Department of Interior's NAGPRA website estimates that over 34,000 individuals have been repatriated. Additionally, over half a million funerary objects have been returned to tribes.

Not surprisingly, some anthropologists are aghast at the prospect of the permanent loss of access to so much knowledge. Mike O'Brien at the University of Missouri has said that returning bones is like burning books. Yet each year, thousands of remains discovered through excavation are returned to Native Americans almost immediately and without any scientific study. Universities are continually approached by tribes that desire skeletal remains which are being held for research. A typical episode, reported by Gale Courey Toensing for "Indian Country Today" (June 24, 2009):

The University of Massachusetts at Amherst faces a complaint, which could result in loss of funding, fines, and other legal repercussions, by tribes that are not happy with anthropologists' classification of some remains as "unaffiliated." The tribes point to a historical connection to the area and the fact that the Springfield Science Museum repatriated similar remains to them. The University of Massachusetts attempted to stop the Springfield Science Museum's repatriation, knowing it would be used to argue that the university remains should also be repatriated. The chair of the anthropology department continues to maintain that the remains held at the university are not affiliated to the complaining tribes.

Claims and legal battles plague anthropology departments across the country. Not only have data been lost, but funding and research time too. It is impossible to calculate the impact of NAGPRA on museums and other institutions, which are forced to employ people on inventories and repatriations instead of research. Professional anthropologists have curtailed their own efforts to help people understand the past, in order to aid in repatriation. Amy Dansie of the Nevada State Museum wrote in a 1999 paper in the *Society for American Archaeology Bulletin* that efforts to abide by NAGPRA have "resulted in 10,000 hours spent over the past nine years of my life," and that NAGPRA work is "sucking day after day, year after year, out of our careers." These lost hours are spent on sincere but debilitating attempts to be in compliance — hours expended on inventories, consultations, and just trying to figure NAGPRA out.

But to me, the scariest aspect of repatriation and reburial is the loss of scientific freedom. Scientists should be able to investigate all sorts of questions about the world around them, a

In 2006 alone, NAGPRA granted over \$2.4 million in federal funds to Native American tribes to assist their religious endeavors.

world that includes the past; and the attempt to answer these questions should not be hampered by political or religious sentiments. Scientific freedom is lost when tribal consultation or supervision is required. Tribes are not likely to allow the study of remains if they judge that the questions that the remains might answer are controversial or conflict with their creation myths.

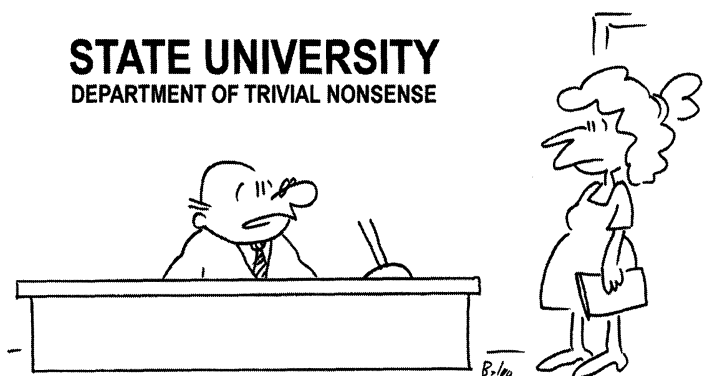
Amy Dansie and her colleague Donald Tuohy wrote in the 1997 issue of the *Anthropology Newsletter* that "despite the general assumption that science is free to inquire where it will, science is no longer free in the realm of human prehistory." In her 1999 paper, Dansie stated that in Nevada Native Americans attempted to stop studies on Spirit Cave Man and Wizards Beach Man (both Paleo-Indians with no affiliation to modern Native American populations), since studies could support the idea that modern Native Americans replaced earlier populations and thus are no "better" than the Europeans who came after them. Scientific evidence might also negate the validity of creation myths alleging that modern tribes have been here from the beginning of time. Dansie added that Paiute tribes denied anthropologists the right to finish studies on Paleo-Indian remains and display facial reconstructions, since these reconstructions would have revealed that Paleo-Indians did not resemble modern Native Americans and would again raise questions about the validity of oral traditions.

Another good example of scientific freedom under threat comes from the experience of Karl Reinhard, an anthropologist at the University of Nebraska. He conducted legitimate, high-quality scientific research on skeletal remains from

Nebraska Indians. He told of their lives at the point of contact with Europeans over 200 years ago. His work was published in the much-heralded book *"In the Wake of Contact"* (1994). The December 1998 issue of the *Ojibwe News* covered the story of Reinhard and reported that Native Americans who were dissatisfied with the research conclusions sent a complaint to the university demanding that Reinhard be fired. The Native American tribe requested repatriation of the remains and accused Reinhard of mishandling them. He flatly denied that he had, and filed a libel suit. In the end, charges against Reinhard were dropped, but the damage had been done. He ended up moving out of the hostile environment and has since been working on South American remains.

What was so offensive about Reinhard's research? He examined skeletal remains to determine diet and health in the pre-contact and post-contact eras of Nebraska and found that contact with Europeans had both good and bad effects. Good effects were the introduction of the horse and gun, which allowed for more efficient hunting, more nutritious food, and an increase in the distance available for gathering, which increased food variety. Data showed that Native Indians ate better after being contacted by the Europeans. On the downside, women seemed to have greater osteoarthritis in the post-contact era, perhaps as a result of preparing hides for the fur-trading economy. But the Native Americans who contended with Reinhard may have wanted to see nothing but bad effects from contact with Europeans.

Yet another example of a threat to scientific freedom comes from a graduate student who requested access to repatriated skeletal remains for study. Since not all remains handed to tribal members are reburied, some people believe that anthropologists may still be allowed to study them, if Native American tribes realize the importance of the studies. Yet it appears that once human remains have been repatriated, they are gone forever. The graduate student, who is interested in taking measurements of remains and does not conduct any destructive data collection, confided to me that he could not get access to remains that had been repatriated but not reburied; many tribes have a procedure for applying to study remains, but none of them actually grants access. He reported that there are no documented cases of a repatriated skeletal collection being studied by anthropologists. Once remains



"I'm worried — It's getting harder and harder to qualify for federal grants!"

are repatriated, they are no longer available for study regardless of the research questions or the methods that would be employed for the studies.

The other situation, that of bones that have been reburied, is far more dismal. Prehistoric skeletal remains are fragile; anthropologists are fortunate to be able to work with remains that have been carefully excavated and are in good condition. To keep them in good condition, universities and museums maintain them in non-acidic boxes, temperature controlled rooms, and vermin-free environments. As soon as they are placed back in the ground, they are lost. An anthropologist colleague of mine who works in the public sector of archaeology has described the horror of reburying remains. She said that once the boxes are put in the ground and dirt is put on top of them, you can hear the bones starting to break and crack. This is especially true for baby and child remains, which are of great value to anthropologists who want to understand the health of prehistoric populations.

Anthropologists study to be objective scientists and learn the true prehistory of the peoples they are examining; the loss of freedom to function in this way is an affront to our training and ethics. It is appalling when Native Americans — or any other people — express strongly anti-science feelings. Armand Minthorn, who was appointed by President Clinton to serve on NAGPRA's review committee has been quoted in the Pittsburgh Post-Gazette as saying, "We already know our history. It is passed on to us through our elders and through our religious practices"; and in the Nevada Journal as saying, "We didn't come across no land bridge. We have always been here." In the 2007 article "Rooted in Native Soil," a spokesman for Hui Malama says "We advocate against scientific study. In our view, such actions amount to desecration." Scientists are being asked to get permission to study human remains from religious people who are often vehemently anti-science.

A major theme in the repatriation literature concerns Native American questioning of the good that has come through the study of human remains. Devon Mihesuah, editor of "The Repatriation Reader: Who Owns American Indian Remains?" (2000), asks, "How has the study of Indian skeletal remains helped to alleviate the problems Indians face today?" The answer is that science and the search for knowledge should never be considered a luxury. The search for knowledge encourages people to think critically and to apply this skill to current problems. A society that sees science as a luxury or allows it to be attacked is opening the door to attacks on intellectual freedom across the board.

Is collaboration with Native American religious believers an option for scientists interested in learning the true prehistory of the Americas? Unfortunately, collaboration often means participation in religious rituals. I remember my first experience in field school through Cabrillo Community College, south of San Francisco. We were excavating a Native

American site at Big Sur on behalf of the state government, which wanted to improve parking and bathroom facilities on a gorgeous beach location. The college was hired by the government to excavate and make sure that the site was not a burial ground. The only things of interest we found were a couple of broken arrowheads. But what I remember most about the experience was the complete embarrassment I felt when the Native American who was required to be onsite led us into Native American rituals, such as circle dances and songs. I also remember his sermons on spirituality. His practices were a religious intrusion on scientific study, financed in part by the government.

In 2005, the American Journal of Physical Anthropology published an article by Stephen Ousley and colleagues, addressing many issues surrounding repatriation and

Anyone not troubled should substitute "Christianity" for "Native American religious practices," and see if he has the same reaction.

reburial. Ousley works with a large skeletal collection at the Smithsonian in Washington, DC. The article describes concessions made to Native Americans after consultation. Some of the concessions included "'feed[ing]' human remains by leaving pollen, tobacco, or foodstuffs nearby." Since museums usually try to avoid having food in curation facilities (to keep bugs and rodents out), curators have actually placed the offerings in plastic containers to meet the "spiritual need" for feeding the remains. Other unnecessary activities include handling warriors only in the early morning or facing all the skulls east. Some requests have involved separate rooms with special ventilation systems for ritual smudging or other forms of burning. These requests, whether they are easy or hard to follow, are religiously motivated. It is unfathomable to me that the U.S. government and some of the brightest minds in anthropology support and follow through with these religious intrusions.

More worrisome still is the way in which collaboration can shape research. I was sitting at a student competition watching two young people present their research on violence, using the prehistoric collection housed at the university, when a judge asked whether they had obtained permission to conduct this research from the affiliated tribe. No other presenters were asked whether they had obtained special permissions or had gone through an internal review process. But these particular students had actually had to ask the "affiliated" tribe for permission to conduct their research! It appears that this was

"Reburying the Past: The Effects of Repatriation and Reburial on Scientific Inquiry"

addresses the problem of separation of church and state in America's current treatment of Indian remains.

By Liberty author Elizabeth Weiss, available from Nova Science Publishers.
https://www.novapublishers.com/catalog/product_info.php?products_id=7348

Discount for Liberty readers: use promotional code Leaf40

the standard procedure. Does this mean that certain types of research questions cannot be asked?

Darby Stapp, an anthropologist working in Cultural Resource Management in Washington state, claims that the involvement of Native American tribes in anthropology has had good effects, one of which is dissemination of knowledge. This is right, of course. Getting knowledge to as many minds as possible is a highly valued ethic for me as a scientist. But the knowledge must be based on the scientific method and on analyses of data. It must not be tainted by political agendas, such as the ones revealed by the Native Americans who opposed Reinhard's findings. Stapp thinks that "archaeology has been infused with new ideas through its contact with tribes and exposure to tribal perspectives." I wonder which new ideas and what new perspectives Stapp is considering in his research. Do they include oral traditions that we know to be lacking in substance when they describe events of more than a few generations past?

Another example of collaboration comes from Kent Lightfoot, an archaeologist at University of California, Berkeley. In the Winter 2005–2006 issue of *News from Native California*, he talks of the importance of including Native Americans in research and fieldwork. His collaborative field school holds lectures in the evening on oral traditions and religion. Native Americans are consulted on the research plan; their religious observances are thus considered seriously. Again, there can be no objection to the diffusion of knowledge, or to the involvement of Native Americans in scientific work. But the guidance of scientific work by anything other than science is always disturbing. The Native Americans with whom Lightfoot works have strict taboos about the menstrual cycle. Women cannot do fieldwork or visit archeological sites while they are menstruating; they also cannot participate

in ceremonies, or prepare foods, since they are considered unclean during this time. Lightfoot has obliged this religion-driven discrimination against women, ensuring that menstruating women did not work with the other people at the site or touch their food, even though field schools are run in part with government funding. He jokes about how the Native Americans had a lockdown because he accidentally put his wife's dishes with others while she was menstruating: "The Kashaya elders were not amused. The word on the North Coast is that Lightfoot has a long way to go before he makes the transformation into a real man."

Is it obligatory to inform everyone in camp when one is menstruating? What other forms of discrimination are accepted or will be accepted? What if a Native American group happens to have religious rules about homosexuals? Lightfoot refers to his experiences in a light-hearted manner, but underneath is the cold truth that the Native Americans he works with are apparently not accepting of cultural variation. Lightfoot claims that Native American elders can provide a "sensitivity training for both non-Indians and young Natives raised off the reservation." But field school should focus on scientific (or at least methodological) training, not on conformity to religious sensitivities.

Anyone who is not troubled by what is said here should simply substitute "Christians" and "Christianity" for "Native American groups" and "Native American religious ideas and practices," and see whether he or she has the same reaction. The point isn't who is joining religion with science, and religion with the state, but the simple wrong of doing so. If fundamentalist Christians insisted that their belief in the story of Adam and Eve should have consequences for scientific study, there would be no doubt that both the First Amendment and the canons of scientific inquiry were under attack. □

Killing the Big Three, *from page 26*

are far more generous than in any other American industry. For every UAW member working at a U.S. car factory, three retirees were collecting benefits. At GM, the ratio was 4.6 to one. Professor Robinson says the auto industry was not capable of dealing effectively with the UAW.

How did the UAW acquire such power? Not through the free market. It's the transplants that operate under free-market principles. The UAW acquired its power from FDR's New Deal, specifically, the 1935 National Labor Relations Act, better known as the Wagner Act.

According to Hans Sennholz, who received his Ph.D in economics under Ludwig von Mises:

This law revolutionized American labor relations. It took labor disputes out of the courts of law and brought them under a newly created Federal agency, the National Labor Relations Board, which became prosecutor, judge, and jury, all in one. Labor union sympathizers on the Board further perverted this law, which already afforded legal immunities and privileges to labor unions. The United States thereby abandoned a great achievement of Western civilization, equality under the law.

The Wagner Act was passed in response to the Supreme Court's voidance of NRA and its labor codes. It aimed at crushing all employer resistance to labor unions. Anything an

employer might do in self-defense became an "unfair labor practice" punishable by the Board. The law obliged employers to deal and bargain with the unions designated as the employees' representative; later Board decisions also made it unlawful to resist the demands of labor union leaders.

Dr. Lawrence W. Reed, president of the Foundation for Economic Education, has written:

Armed with these sweeping new powers, labor unions went on a militant organizing frenzy. Threats, boycotts, strikes, seizures of plants, and widespread violence pushed productivity down sharply and unemployment up dramatically. Membership in the nation's labor unions soared: By 1941, there were two and a half times as many Americans in unions as had been the case in 1935. Historian William E. Leuchtenburg, himself no friend of free enterprise, observed, "Property-minded citizens were scared by the seizure of factories, incensed when strikers interfered with the mails, vexed by the intimidation of non-unionists, and alarmed by flying squadrons of workers who marched, or threatened to march, from city to city."

Obama has adopted FDR's economic policies and said he intends to strengthen the union movement, just as FDR did. He said he will sign a "card check" bill if Congress passes it, which will eliminate the secret ballot for workers in voting

whether or not to join a union — thus exposing workers to potential intimidation to join.

The president — in just his first six months in office — made unprecedented power-grabbing moves. These included firing the CEO of a private corporation, dictating the makeup of boards of directors, forcing private corporations and their stockholders to surrender shares to the government and other shares to the union, compelling the merger of private companies, and using money appropriated by Congress for the banking industry to instead bail out the automakers. He has also overturned a century of federal bankruptcy law. Where is the legal or constitutional authority for all these actions? He has also called for imposing new regulations not only on the auto industry but throughout the entire economy.

During his presidential campaign, he spoke often of “fun-

damentally restructuring” this country. Millions of people who voted enthusiastically for him didn’t really know what he meant by that, but it sounded good. Obama was careful not to be too specific, and the media’s love affair with the candidate precluded their raising any potentially embarrassing questions on this issue. Now, however, it should be obvious that this Marxist president’s “fundamental restructuring” means the destruction of capitalism and replacing it with what Jefferson feared when he wrote: “The greatest calamity which could befall us would be submission to a government of unlimited powers.” That will prove economically destructive, but more importantly, it is destructive of something even more precious — that which makes capitalism, economic progress, and our fulfillment as human beings possible — freedom. □

Robbing Hood and the Undeserving Rich, *from page 34*

There are other lapses of memory, such as memory of the infamous Smoot-Hawley Act, the protectionist legislation that started an international trade war and helped make the Great Depression great. Congress recently passed a Buy American clause into the fiscal stimulus bill, to the consternation of our international trading partners. And we just terminated a program to allow Mexican truckers to carry goods into the United States, a clear violation of our NAFTA undertakings. Did anyone think Mexico wouldn’t notice? In retaliation, it imposed tariffs of up to 45% on targeted American imports. I do business with Mexico; so far I’m unaffected. But maybe I won’t be so lucky next time.

Worse yet, the House just passed a bill to confiscate 90% of the bonuses paid to the executives of AIG, the “too big to fail” insurer that was bailed out with taxpayer funds. These bonuses, contractually obligated before the meltdown, were paid out even to those in the Financial Services Division, which brought the company down. Unfortunately, the government in its rush to action — any action — didn’t make the bailout contingent on a renegotiation of bonuses. The House, perhaps

embarrassed by its earlier incompetence and responding to popular outrage, embarked on an ill-advised course of action to punish this politically unpopular group *ex post facto*. This is both morally and constitutionally dubious. It constitutes a bill of attainder, a form of legislation designed to punish specific individuals without benefit of due process or trial. You may be forgiven if you are not familiar with the term; there has been little use for bills of attainder since we unceremoniously kicked the British out in 1776, in part for issuing such things. They were so repulsive to the Founders that they got a special injunction in the Constitution.

Now I personally have little sympathy for people who destroy their companies and waste taxpayer (that is, my) money. In fact, I would like to see them get their comeuppance — but not at the expense of the rule of law. It raises the troubling question of “Who’s next?”

So this just doesn’t seem like the time to take financial risks. Not with America beginning to look like Sherwood Forest with Robbing Hood and his Merry Bandits running riot.

Last night I had a dream. I was playing golf with Don. □

Intellectual Property and Libertarianism, *from page 30*

owned means, may also be informed by technical knowledge of causal laws or other practical information. To be sure, creation is an important means of increasing wealth. As Hoppe has observed:

One can acquire and increase wealth either through homesteading, production and contractual exchange, or by expropriating and exploiting homesteaders, producers, or contractual exchangers. There are no other ways.

While production or creation may be a means of gaining “wealth,” it is not an independent source of ownership or rights. Production is not the creation of new matter; it is the transformation of things from one form to another — the transformation of things someone already owns, either the producer or someone else. Using your labor and creativity to transform your property into more valuable finished products gives you greater wealth, but not additional property rights. (If you transform someone else’s property, he owns the resulting transformed thing, even if it is now more valuable.) So the

idea that you own anything you “create” is a confused one that does not justify IP.

Many libertarians also argue as if some form of copyright or possibly patent could be created by contractual tricks — for example, by a seller selling a patterned medium (book, CD, etc.) or useful machine to a buyer on the condition that it not be copied. For example, Brown sells an innovative mousetrap to Green, on the condition that Green not reproduce it. For IP to work, however, it has to bind not only seller and buyer, but all third parties. The contract between buyer and seller cannot do this — it binds only the buyer and seller. In the example given above, even if Green agrees not to copy Brown’s mousetrap, Black has no agreement with Brown. Brown has no contractual right to prevent Black from using Black’s own property in accordance with whatever knowledge or information Black has.

Now if Green were to sell Brown’s watch to Black without Brown’s permission, most libertarians would say that Brown still owns the watch and could take it from Black. Why doesn’t

a similar logic apply in the case of the mousetrap design? The difference is that the watch is a scarce resource that has an owner, while the mousetrap design is merely information, which is not an ownable type of thing. The watch is a scarce resource still owned by Brown. Black needs Brown's consent to use it. But in the mousetrap case Black merely learns how to make a mousetrap. He uses this information to make a mousetrap, by means of his own body and property. He doesn't need Brown's permission, simply because he is not using Brown's property. The IP advocate thus has to say that Brown owns the information about how his mousetrap is configured. This move is question-begging, however, since it asserts what is to be shown: that there are intellectual property rights. If Black does not return Green's watch, Green is without his watch, precisely because the watch is a scarce

good. But Black's knowing how to make a mousetrap does not take away Green's own mousetrap-making knowledge, highlighting the non-scarce nature of information or patterns. In short, Brown may retake his property from Black but has no right to prevent Black from using information to guide his actions. Thus, the contract approach fails as well.

A final problem remains: IP rights are statutory schemes, schemes that can be constructed only by legislation, and therefore *have always* been constructed by legislation. A patent or copyright code could no more arise in the decentralized, case-based legal system of a free society than could the Americans with Disabilities Act. IP requires both a legislature, and a state. For libertarians who reject the legitimacy of the state, or legislated law, this is yet another defect of IP, and a conclusive one. □

Bridging the Two Libertarianisms, *from page 38*

less than the harm to the inhabitants of Darfur from doing nothing? Maybe some U.S. taxpayers have a greater aversion to an extra bit of taxation than the southern Sudanese have to being raped and killed. Or, as Stephan Kinsella wrote in a response to one of my earlier attempts to promote explicit moral consequentialism ("The Need to be Anarchists"):

In any event, the appeal to utilitarianism is problematic on several fronts. It is, first and foremost, ethically bankrupt because it is an unproven, and indeed, false, assertion that it is justifiable to rob one man if the robbery benefits others. It is also economically incoherent because the subjective and ordinal nature of value makes it impossible even in principle to ever determine whether a given invasive action results in a "net" benefit or "surplus."

In principle I cannot prove that allowing genocide in southern Sudan is worse than inflicting American taxpayers with a small tax increase. Then again, in principle, I cannot prove that either the Sudanese or the American taxpayers exist; they could all be in my imagination. But personally, I'll ditch the philosophy and resort to common sense.

Empathy exists. It is commonplace. It exists at the core of our being. It allows us to raise babies and have societies. Empathy even crosses the species barrier. I know what my dog likes, and he can read my moods. Empathy is not a perfect instrument — individual choice should be the norm — but it can be pretty good, sometimes better than revealed preference.

The Austrian model of ordered preferences and diminishing marginal utility, to which Kinsella's last sentence refers, is not Truth; it is a crude model of human decision making. We have many options in mind and many inclinations for and against each option. But we cannot examine all our options at once, much less all our inclinations for each option. There is no neatly ordered set of preferences. Indecision and buyer's remorse are common phenomena. Successful advertisers and car salesmen build their careers on exploiting this limitation of human thought and praxeology. So why should I reject common sense in favor of an abstract philosophy based on demonstrably flawed premises?

But even were I to accept the anarcho-Austrians' argument and reject all asymmetric moral calculations, I would have to reject the Zero Aggression Principle as well and opt for pac-

ifism. Self-defense is usually an asymmetric application of force. Restraining a shoplifter is not the equivalent of shoplifting. Pulling a gun on a burglar is not equivalent to burgling.

The Power of Messiness

The world is messy. To thrive within it requires acting on approximations.

The electorate is also messy. To succeed politically requires putting together a coalition of activists who have many differing opinions. And it requires appealing to an even broader base of voters who have still more differing opinions.

Moral consequentialism is likewise messy. This is a feature, not a bug. It allows for a broader coalition of moral libertarians. It allows for civil discussion of differences of opinion. It fosters concentration on optimal answers for today, instead of endless arguments on the ideal libertopia. Should pure moral libertarians embrace pure moral consequentialism, they could have a much bigger movement.

But the movement would still be too small to win more than a few significant elections. For example, it would not include me. I am an *impure* moral consequentialist. While I do regard the initiation of force as bad, I do not regard it as the only evil worthy of political consideration. Given a choice between taxing a billionaire and letting poor people starve, I'll choose the tax. Given the choice between burdensome regulations on nuclear power plants and risking a domestic meltdown, I'll choose the regulations. Such stark choices arise far less often than statists would have us believe, but they do arise.

Millions of Americans hold similar beliefs, yet earnestly desire to cut government substantially (50% or more). Educate the electorate in sound economics and remind them of the moral tradeoffs inherent in taxation and regulation, and millions more will desire similar cuts.

But should we call these people libertarians? Am I a libertarian?

Perhaps we need a new word for such impure freedom lovers. The Left has adopted multiple forms, depending on its degree of radicalness: communist, socialist, social democrat, liberal. Maybe the libertarian movement needs to split in similar ways, instead of indulging in endless arguments over the meaning of a single word. □

Reviews

"How Rome Fell: Death of a Superpower," by Adrian Goldsworthy. Yale University Press, 2009, 560 pages.

Does Empire Work?

Jamie McEwan

It should come as no surprise that the chief character of this history of the last 400 years of the Roman Empire is the empire itself. The empire was the one constant in a confused swirl of people and events; and it is the protagonist that binds the various individual stories together, from Marcus Aurelius to Atilla, from Julia Domna, the wife and mother of emperors, to Constantine and his mother Helena, patrons of the Church.

But Goldsworthy pushes the personification much further than his subject requires. When the author leads off a sentence with the modifier "Unfortunately," the reader is left with little doubt that the empire is not just the main actor in his story, but also its hero. I suppose it is natural that Goldsworthy adopts the point of view of the empire as his own, given that the empire was established by the protagonist of his award-winning biography, "Julius Caesar." Goldsworthy assumes the reader's allegiance as well. But

even if we wholeheartedly accept the pathetic fallacy of endowing the Roman Empire with something like personality — aims, desires, preferences — it is still hard to see why we should lend it our support or sympathy.

Goldsworthy makes only a brief case for the benefits of empire to its inhabitants. It is not, admittedly, an entirely unconvincing case. A common coinage and free trade across the Mediterranean no doubt fostered prosperity. Advanced irrigation and agricultural practices opened up vast territories for cultivation. Most striking, perhaps, is the evidence offered by the many "invaders," prominently Gothic tribes, who were convinced to stop their wandering and pillaging by the promise of land within the empire — and without transition began supplying the Roman legions with fresh recruits. Officers and administrators of Gothic descent rose to prominent positions within the empire.

But ultimately it is impossible to weigh the possible benefits against the tremendous human cost of empire, the slavery, slaughter, and waste.

Goldsworthy gives us little help in imagining any individual benefit at all. With only a few exceptions — for instance, a striking moment in which he wonders at the heartfelt inscription on the grave of a trader's wife in Britain — he treats his characters as pieces in a game of power, not as human beings. Extraordinary stories such as that of the leader of the Goths, Ataulf, and his prisoner and wife, Galla Placidia, sister of the emperor, are told in bare and lifeless summary.

Yet almost every individual depicted in these pages, from emperor to legionnaire, seems to have suffered from a surfeit of empire. Of the almost 50 emperors whose chronicles encompass the bulk of "How Rome Fell," only a handful died of old age; the rest were deposed and killed. The women at the highest possible stratum of society — the mothers, sisters, and wives of the emperors — could be counted lucky if they were not done away with in the next regime change.

Goldsworthy's underlying assumption that there was some sort of faceless,

nameless mass that was reaping the benefits of the empire's stability, is so vague and unsubstantiated that with the best will in the world, the reader will find it hard to maintain. We are, inevitably, more struck by abundant tales of cruelty and murder — the 25,000 young men slain in the streets of Alexandria by the moody Emperor Caracalla, to cite but one example; not to mention the 20,000 rumored to have been killed by him in purges back in Rome.

Having failed to find individual meaning, let us go ahead and play the fascinating, if artificial, game of dealing with history in broad strokes. What do we make of the overall cultural influence of the empire? Did the Romans spread Greek culture to the world — or did they disseminate only its mechanical applications?

In many areas Roman culture seems to have had little if any lasting effect; the Romans held Britain for over 350 years without leaving anything but the barest traces, a couple of baths and a lonely wall. Against this, place the destruction of the fabled Library of Alexandria — probably the greatest cultural loss of all time. Julius Caesar himself is rumored to have taken the first step toward destruction, burning some portion in a fire he set to escape his enemies. At the end of the 4th century, Christians of the Roman Empire may have finished the job of wiping out the vast majority of the literary legacy of the preceding nine centuries. We should remember that during the last century of the Western Roman Empire, and the many centuries of the Eastern Empire, Christianity was the state religion, persecutor of heretic and pagan alike.

The Romans added very little to the Greek cultural legacy. Like the contemporaneous Chinese Empire, the Roman Empire was an impediment to progress, a stultifying and retrograde regime. The Romans preserved culture, in the sense that they froze it into place. The institution of slavery in itself guaranteed that there would never be a Roman Industrial Revolution; with labor so cheap, there was no incentive to find a substitute. For civilization to advance, the empire needed to be cleared away. Thoroughly cleared away, it would seem: the cultural climb toward the Renaissance did not follow on the Roman Empire but began only after the

300-year hiatus of the early middle ages — or, as it used to be called, the Dark Ages. If the Roman Empire had fallen 400 years earlier we might — who knows? — have colonized the solar system by today.

Such are the wild speculations engendered by the broad scope of "How Rome Fell." The epic sweep of

Goldsworthy's narrative can invigorate the reader with feelings of power and superiority. We have the impression that we and Goldsworthy can together coast omnisciently above the fray, able to view and judge the flow of centuries. This is great fun, with no harm done — as long as we recognize how entirely illusory the impression is. □

"The Lost Symbol," by Dan Brown. Doubleday, 2009, 509 pages.

Another Merry Romp

Jo Ann Skousen

The much-anticipated next installment in Dan Brown's Robert Langdon series of "symbolological" thrillers has finally arrived. It sold 2 million copies in the first week, worldwide, and hit the top of The New York Times bestseller list in a matter of days — although it has a long way to go before matching, or even nearing, the record of Brown's debut blockbuster, "The Da Vinci Code" (2003). That book sold over 18 million copies and remained on the bestseller list for nearly three years — in hardcover, no less.

Brown is known for his shocking openings, his hairpin plot twists and red herrings, his focus on symbology (protagonist Robert Langdon's professional field), and his controversial "revelations" about saints and sacraments. "The Da Vinci Code" spawned multiple "code-breaker" books and "truth about" lectures, as well as fan tours following the symbologist's trail through European churches and art museums.

Meanwhile, Brown's three previously published (and promptly forgotten) novels ("Digital Fortress,"

1998; "Angels and Demons," 2000; and "Deception Point," 2001) were reissued to the waiting arms of fans who couldn't get enough.

Part of Brown's artistry is his clever weaving of fiction and purported truth. He begins his novels with an author's preface, identifying what is "true" in the book with a list of pictures, places, and organizations that actually exist (he says), even though the story is fiction. This infuriated people who made it their mission to prove Brown wrong, and spawned their code-breaking refutations.

What readers didn't realize is that the author's preface was not a serious announcement. Rather, it was part of the novel, as fictional as the story itself. Like Washington Irving, who framed his tales with made-up documentation to lend them an air of authority, Brown makes up fictional documentation to make readers think his tales might have more than a grain of truth.

His latest book begins in the same way, with a list of places and organizations he presents as real. But this time he goes one step further. Knowing that readers can now check up on him with

a simple Google search, he has created actual websites for his fictional organizations. A phone number that he uses in the book reaches an answering machine announcing the name of one of his characters. Diabolically clever! And many readers will fall for it.

The plot of "The Lost Symbol" starts like other Brown books, with a gruesome, ritualistic attack involving a secret organization — this time the Freemasons. The right hand of Master Mason Peter Solomon has been tattooed with mysterious symbols, severed at the wrist, and placed in the shape of a Masonic gesture in the middle of the rotunda of the U.S. Capitol. Symbologist Langdon is the only one who can help the authorities solve the mystery, find Peter Solomon, and prevent the end of the world as we know it. It's a tall order for a simple tenured professor, but Langdon quickly sets to work, chasing down clues all over Washington. The story leads us on a wild race around the capital, visiting actual buildings with actual decorations that may or may not actually be associated with Freemasonry. I suspect there are tour operators in DC already gearing up to advertise "Lost Symbol" tours.

The novel, which might have stirred up the same kind of controversy with Masons that "The Da Vinci Code" did with Catholics, was reportedly finished three years ago under the title "The Solomon Key" (Solomon is an important figure in Freemasonic mythology) but was held back from publication until now. I suspect it is not the same book that it was three years ago. Although the story is entertaining, with the twists, cliffhangers, and misdirected identities that Brown's fans have come to expect, it lacks the controversial contentions it once promised. Look elsewhere if you are expecting to read about Masonic rituals, ceremonial clothing, secret handshakes, or sinister leaders run amok.

Yes, some background and symbolism are revealed, but no more than you are already likely to know: Franklin and Washington were Masons; Masonic symbols appear on the dollar bill; Masons have secret meetings; that sort of thing. Ever the professor, Langdon responds to every question and discovery along the way with a lecture — even while he and his companions are

running down dangerous hallways trying to escape the bad guys.

In Brown's previous books I found such lectures fascinating. In this book they are tedious, and surprisingly unenlightening about an organization that was supposed to have heralded the Age of Enlightenment. The good stuff is missing, and I can't help but suspect that somebody "got to him." I would

love to see *this* story published: "The Lost Three Years: The Real Story Behind Dan Brown's Delayed Publication."

Unfortunately, no one will be stirred up enough by this book to bother with a rebuttal. In fact, Freemasons seem to be delighted with the new publicity they are receiving and the light the book shines on their philanthropy. Perhaps this is the strangest twist of all. □

"In the Loop," directed by Armando Iannucci. BC Films, 2009, 107 minutes.

How We Went to War

Andrew Ferguson

It is no coincidence that democracy and satire developed side by side. Aristophanes' annual eviscerations of politicians and celebrities had for their audience the *demoi* of Athens — a hereditary class, to be sure, composed of military-trained male Athenians whose citizenship was in good standing, but still a much wider franchise than that offered by the oligarchic systems predominant elsewhere.

It is also no coincidence that Aristophanes' most fruitful subject was war: specifically, the savage mockery of those who counseled war because of the personal gains they expected to realize from it — those whom we have come to call "war profiteers." In this respect, one can trace a direct descent from the plays of Aristophanes (in particular "The Acharnians" and "The Knights") to Armando Iannucci's "In the Loop," which shows how political profiteers lead nations into wars by exploiting the basic human vices (lust, pride, the desire to be noticed) of those around them.

First things first: "In the Loop" is basically an extended episode of the BBC show "In the Thick of It," which is roughly a much more caustic version of "The Office" set among the petty squabbling grounds of British governmental departments. There is a time-tested formula for stretching half-hour premises to meet a cinematic running time: namely, take one or more characters and send them off to a new location. "In the Loop" does not deviate from it, taking the vitriolic Malcolm Tucker (Peter Capaldi) and shipping him and a small delegation from the UK to the United States.

Capaldi as Malcolm is one of the great on-screen political figures: as an "unofficial" member of the British cabinet, freed from the restraints of Robert's Rules, his sheer kinetic force is sufficient to bully the various agents and ministers unfortunate enough to cross the perpetual torrent of obscenity (most of it improvised) that spews forth from his craggy, evil-eyed Scots face. But once in America, he meets his match in the form of Linton Barwick (David Rasche), who, like Malcolm, is an unelected and unaccountable appointee, but is his

polar opposite in personality. Barwick is based, as Iannucci has confirmed in interview, on a combination of Donald Rumsfeld and John Bolton — as Malcolm will say in his parting shot, “I’ve run across a lot of psychos, but none so boring as you.”

Strangely, this isn’t even the film’s central conflict. The film may not *have* a central conflict, not even the war its characters are trying either to hasten or (in a very few cases) prevent. The entire mess gets started when bungling MP Simon Foster (Tom Hollander), fresh off being humiliated at a public appearance, unwisely attempts to restore some pride by facing the media head-on. There, Foster, whose appointment as Secretary of State for International Development ought to keep him well out of the public eye, makes headlines around the world by first declaring that war is “unforeseeable,” and later that it is “inevitable” — in each case searching for, and finding, the wrong word. This tragicomic escalation culminates in Foster’s declaration, this time in America and in front of a hastily assembled gathering of state and military officials, that in order to have peace we must sometimes “climb the mountain of conflict.”

This of course is bulletin-board material for those in both American and British governments hungry for war — Barwick, in particular, moves to make Foster’s ill-chosen words into the rallying cry for a Middle Eastern escape. Yet there is the pesky matter of a paper analyzing the intelligence on the ground and determining that, as there have been no WMDs found and no risk to American or British security, the cons of such a campaign greatly outweigh the pros. If this sounds familiar, so will the tack Barwick takes to overcome this obstacle: so as not to spoil everything, I’ll just note it involves the deletion of a rather important segment of the analysis before presenting it to the UN as a new piece of intelligence supporting immediate military action.

Oh, what the hell, I can’t resist a short quotation: “You can’t just delete the arguments against the war.” [A computer key is pressed.] “Hey, you could delete it after all.”

As mentioned above, “In the Loop” is not just about this squabble over one report, and other actors turn in fine

supporting performances — especially James Gandolfini, as a general who actually knows what war entails, and is thus in no hurry to get back to it. A few other characters and subplots are less successful in themselves, but necessary to show the chaos surrounding even the most urgent affairs of state: namely, that these decisions are made by people who have neither the experience nor the perspective to make them; who are often distracted by their own turbulent lives; or who, like Foster in particular, are nobodies desperate to be somebodies.

Add in a predatory newsmedia des-

perate to keep its 24-hour cycle spinning along, and the Malcolms and Barwicks of the world adding spin of their own, and what you get is a high-velocity game of Hot Potato: for any given political matter, the last one to touch it loses, no matter how little he had to do with it up to that point. Everyone else is free to play on.

And so the movie’s ultimate tragedy is not that Simon Foster gets fired — for an unrelated and metaphorically heavy-handed failing, no less — but that all the others don’t; in fact, most of them make a tidy profit in that perverse commodity, political capital. There is

Notes on Contributors

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

Alexander Boldizar is a lawyer and writer who spends much of his time defending the anomic, drinking the chthonic, and using large rocks.

Edmund Contoski is a columnist for FORCES International Liberty News Network, a blogger, and author of three books. He is a retired environmental consultant.

Don Crawford is an educator who has worked in universities and with charter schools and standard public schools in several states in the union.

Stephen Cox is a professor at UC San Diego. His most recent book is *The New Testament and Literature*.

William B. Fankboner is the author of *The Triumph of Political Correctness*. He resides in Indio, California.

Andrew Ferguson is a contributing editor of *Liberty*. At present he is working on a biography of science-fiction writer R.A. Lafferty.

Jon Harrison is a contributing editor of *Liberty*.

Gary Jason is a contributing editor of *Liberty*.

John Kannarr is a retired director of information systems and ex-actuarial analyst for an insurance company.

Stephan Kinsella is a registered patent attorney, editor of *Libertarian Papers*, and author of *Against Intellectual Property*.

Ross Levatter is a physician living in Phoenix.

C.J. Maloney lives and works in New York City. His first book, on Arthurdale, West Virginia, during the New Deal, will be released by John Wiley and Sons in February 2011.

Bob Marcus is a long-time reader of *Liberty*, an entrepreneur, CEO, world traveler, and libertarian living in San Francisco.

Jamie McEwan is a canoe bum and sometimes author.

Allen Mendenhall is a freelance writer living in Georgia and West Virginia. A recent law school graduate, he’s currently finishing an M.A. in English and an LL.M. in transnational law.

Carl S. Milsted, Jr. lives in and writes from Asheville, NC.

Bruce Ramsey is a journalist in Seattle.

Ralph R. Reiland is the B. Kenneth Simon professor of free enterprise at Robert Morris University.

Jane S. Shaw is president of the John William Pope Center for Higher Education Policy.

Jo Ann Skousen is entertainment editor of *Liberty*. She lives in New York.

Tim Slagle is a standup comedian living in Chicago. His website is timslagle.com.

Jim Walsh is an assistant editor of *Liberty*.

Elizabeth Weiss, Ph.D. is a physical anthropology professor at San Jose State University and author of *Reburying the Past: The Effects of Repatriation and Reburial on Scientific Inquiry*.

Marlaine White is a former government attorney completing a Ph.D. in international relations and comparative politics at the University of Maryland.

Martin Morse Wooster is a writer living in Silver Spring, Md.

Jeff Wrobel is an engineer who blows up missiles in the Marshall Islands.

no parting shot, no ending sermon; the credits roll over people just getting on with the business of their countries' new war.

Aristophanes always gave his audience at least the solace of a happy ending; often, as in *"Lysistrata,"* in the form of a climax within an anticlimax (think of maybe a hundred different South

Park episodes, or of *"Caddyshack,"* with Rodney Dangerfield announcing to the world at large, "Hey everybody! We're all gonna get laid!"). Though quite a funny film, *"In the Loop"* offers no such comfort; it doesn't so much end as dissipate. By the end we're not all getting laid, but we are all getting screwed. □

***"The Hurt Locker,"* directed by Kathryn Bigelow. First Light Production, 2008, 131 minutes.**

Why Men Fight

Gary Jason

In previous reviews, I have touched upon what I call the War Movie Dilemma. In this review, it is best to face it outright; a well-received war flick soon available on DVD is a great vehicle for the discussion.

"The Hurt Locker" is a much discussed war movie, directed by Kathryn Bigelow, and based upon a story by journalist Mark Boal, who had been "embedded" in various U.S. Army units during the peak of the Iraq War. The story is about an elite U.S. Army bomb disposal unit — the Explosive Ordnance Disposal (EOD) unit with Bravo Company — plying its trade in Iraq in 2004, a time when the war was going badly, with multiple insurgent-planted bombs exploding daily.

Bigelow has directed a fair number of well-reviewed movies, including *"Near Dark,"* *"Blue Steel,"* *"K-11: The Widowmaker,"* and *"Point Break."* This is her first war movie, and her perspective is certainly interesting.

The film starts with a tense scene in which the EOD team leader, Staff Sergeant Thompson (Guy Pearce), dies

while attempting to defuse a bomb. In the next scene we meet the new head of the team, Staff Sergeant William James (Jeremy Renner). His role is to do the actual disarming of the IEDs ("improvised explosive devices"), while the others in his team — Sergeant J.T. Sanborn (Anthony Mackie) and Specialist Owen Eldridge (Brian Geraghty) — provide backup, covering him against snipers as he works and feeding him information through his headset.

James decides to check out a possible IED without first sending in a bomb disposal robot, leading the others to think he is reckless. This reveals James' character and frames the incidents in the rest of the movie. I say "incidents," because the movie is almost picaresque, with disconnected scenes of characters involved in disjointed actions, such as rescuing a besieged company of British contractors (mercenaries) under sniper fire, and trying to disarm a man who has a bomb strapped to him.

Filming battlefield action has almost always been the province of male directors, and director Bigelow has rightly been given tremendous credit for conveying the battlefield action of this film with a gritty intensity. Less realistic to

me were the scenes showing the guys in the unit getting wildly drunk back in the barracks and pummeling each other for recreation.

But least satisfactory to me was Bigelow's portrayal of the motives of these warriors. Why would bright young men volunteer for such grotesquely hazardous duty? One explanation might be dedication to a cause, belief that their efforts are helping create a free Iraq. But there is no hint of such philosophical commitment in the movie. To be fair, in 2004, when things were going badly in the war, perhaps not many troops felt that way. On the other hand, it appears that a disproportionate majority of soldiers in serving in Iraq voted to reelect Bush, indicating their support for his policies. Perhaps the lack of discussion of the war's merits reveals more about the filmmakers themselves than about the men whose lives they are filming.

To be honest, for decades now Hollywood has not been supportive of pro-war flicks. The last war that Hollywood portrayed as justified was WWII (with a brief nod of appreciation by John Wayne to the elite forces during the Vietnam War in *"The Green Berets,"* 1968). By the 1980s the memory of military heroism was beginning to fade for movie audiences who were, then as now, largely made up of young people.

Instead, the view Bigelow slyly advances is that the lead character — and by extension, most of the other troops — are adrenaline junkies, fighting because the thrill of combat and the risk of death create an irresistible high. Lest the viewer miss this, Bigelow opens the movie with writer Chris Hedges' famous comment that "the rush of battle is a potent and often lethal addiction, for war is a drug." Indeed, this is a theme that runs through many of her prior films, especially *"Point Break"*: young men take risks because it turns them on.

So in one scene, when James' tour ends and he returns home to his wife and child, we see him wandering through an ultra-safe and sanitized supermarket, buying groceries for the family; and he looks almost like a sleepwalker, a man completely bereft of passion. After he re-ups, we see him returning to combat with a big smile on his face.

All this has, it seems to me, confused many reviewers of this film. The movie clearly, as is now *de rigueur* in Hollywood, eschews any support for war (even including in the film score explicitly anti-Iraq and anti-Bush music by the group Ministry). Yet it appears to be covertly pro-war. Others interpret the main character (who exudes bravado) as John Wayne *redivivus*.

This, it seems to me, greatly misapprehends the character. The characters Wayne played, in his war flicks and even in his Westerns, were not men who got a thrill out of fighting. They were men who acted reluctantly out of duty and honor (understandable or not, depending on the film). This sense of duty doesn't seem to be what motivates the main character in "The Hurt Locker," so far as I can see.

In my view, what Bigelow doesn't get is the concept that many soldiers are motivated by a desire to exercise their moral virtue. Here I think Aristotle had an insight. What makes a person happy is not experiencing pleasure from some buzz, but exercising his or her excellence — that is, virtue — either intellectual or moral. For men especially, the major moral virtue is courage, the ability to master legitimate fears without being reckless or foolhardy. Stephen Crane examined that problem in his Civil War story "The Red Badge of Courage," which manages to ignore the cause for which the characters are fighting while focusing simply on whether a young soldier can master his fear and perform courageously in front of other soldiers.

Yes, there is often a feeling of duty — of being there to do what is right. But separate from that is this experience that comes (for some) from the subordination of fear by the rational component of the soul. This form of happiness (or *flourishing*, to be more precise), is, please note, different from the thrill of encountering danger.

Here we have a dilemma. If for many people, including young men, happiness lies in exercising courage, and courage involves rationally mastering appropriate fear, and the arena of greatest risk and fear is war, then war is for them the greatest opportunity for flourishing. Yet war is of necessity a great evil, even when justified. A dilemma, indeed.

To elaborate a bit: war is distinctly different from other venues for exercising virtue. Hospitals and clinics are excellent venues for exercising moral virtues such as compassion and intellectual virtues such as medical skill. Universities and thinktanks are excellent venues for exercising intellectual virtues as well. But hospitals, universities, and thinktanks don't inherently require the massive destruction and infliction of harm that war does.

So to portray the ennobling aspects of war without appearing to approve of it is hard; it is, as I said at the outset, the War Movie Dilemma. It is a dilemma few war movies satisfactorily solve.

Still, though I disagree with the admirable Ms. Bigelow's take on the reasons our soldiers volunteer to do what they do (to wit, serve in conditions as harsh or harsher than earlier soldiers endured — and most of those earlier soldiers were drafted), I cannot praise the overall result highly enough.

Start at the level of cinematography. Visually, this movie is a stunner. It imparts a feeling of what this strange desert war is all about. The characters

are compellingly drawn and display a variety of desires. Especially poignant is the portrayal of the relationship between James and a young boy nicknamed "Beckham."

The acting is superb. Standing out is Jeremy Renner as the insouciant James. Ralph Fiennes gives a nice cameo performance as the leader of a team of British contractors trapped by a team of enemy snipers. Christopher Sayegh is great in support as the seemingly ill-fated Beckham, as are Anthony Mackie as Sgt. Sanborn and Brian Geraghty as Spc. Owen Eldridge, the two other members of James' EOD team.

All in all, this is a film not to be missed. It is a thoroughly compelling action thriller, a war movie about the toughest duty in a tough war. That the film keeps the viewer enthralled, despite lacking some standard Hollywood narrative devices — such as a single, identifiable antagonist, or rising action leading to a climax — is a testament to Bigelow's directorial ability. And it certainly provokes thought, especially about the conundrum of why they fight. □

"The Informant!," directed by Steven Soderbergh. Warner Brothers, 2009, 108 minutes.

The Corn Syrup Inquisition

Jo Ann Skousen

"The Informant!" is sometimes great, sometimes precious, occasionally manic, and unfortunately as unbalanced as its protagonist, famed whistleblower Mark Whitacre.

A brilliant, precocious biochemist with more than half a dozen college degrees, Whitacre was one of the head researchers and executives at Archer

Daniels Midland in the 1990s, where he developed a process for manufacturing an amino acid called lysine. As a company executive he was also a player in ADM's multinational price-fixing scheme. Eventually he called the FBI and embarked on a three-year corporate spying scheme in which he taped over 200 meetings and was a key witness in one of the largest antitrust cases in history.

As portrayed by Matt Damon, Whitacre is a socially inept, mildly off-balance, quixotic hero, trying to save the world from higher prices of corn syrup additives while at the same time trying to save his job. He blows the whistle on the company, he says, because he believes in being honest. FBI agents Brian Shepard (Scott Bakula) and Dean Paisley (Allan Havey) take full advantage of his naivete. They use him to get the information they want while side-stepping his hopeful but obviously hopeless belief that ADM's Board of Directors will make him president after he takes down the corrupt company executives. He doesn't seem to realize that when all this is over, he won't have a job.

But subtle clues belie Whitacre's down-home innocence. He owns many cars, one of them a Mercedes. He lives in a huge Grecian-revival mansion. His wife Ginger (Melanie Lynskey), an elementary school teacher, wears expensive jewelry. Her hair is professionally coiffed in different styles for every scene. Lynskey (who plays Charlie's neighbor Rose in "Two and a Half Men") is perfect as the fresh-faced, all-American girl

who stands by her man and her flag — which is proudly flown from their front pillar, even after dark. Yet something doesn't feel quite right. The second half of the film is more interesting than the first, as Whitacre's story of all-American wholesomeness begins to unravel.

In point of fact, it appears that Whitacre was embezzling from ADM even as he was blowing the whistle on it. I say "appears," because no one knows how much of Whitacre's story really happened and what he made up — perhaps not even Whitacre himself. Whitacre suffers from bipolar disease and should never have been used as an untrained FBI informant for even one sting operation, let alone an investigation that spanned three years. He changes his stories midstream with a gleeful grin, always portraying himself as the good guy just trying to help out.

The film itself suffers from a similar bipolar crisis, trying hard to be a comedy when it doesn't succeed as a spy thriller. This flaw is punctuated by Marvin Hamlisch's manic musical score, popping up at odd moments with so much zeal that one almost expects the secre-

taries in the background to jump out of their desks and form a chorus line. The music is zany and loud, reminiscent of old 1960s TV shows like "The Dating Game" or "Love, American Style." Director Steven Soderbergh may have been trying for the cool, jazzy feel of his "Oceans" soundtracks to give the film a sense of humor. But, like Whitacre himself, the music tries too hard to please. It ends up reminding us that the film is neither funny enough to be a comedy nor tense enough to be a thriller.

In the film Whitacre often bumbles through the tapings with innocent bravado, narrating the tapes to identify the people he is speaking to and rechecking the angles on cameras that have been planted in hotel room lamps — even while the people he is spying on are in the room. But while the film's trailers use clips of these scenes to create the impression of a comedy, the film actually represents Whitacre as quick-witted and highly skillful as a corporate spy, resolving potentially dangerous situations with cool aplomb. Comedy or thriller? Soderbergh never quite decides.

Like the tapes, much of the film is

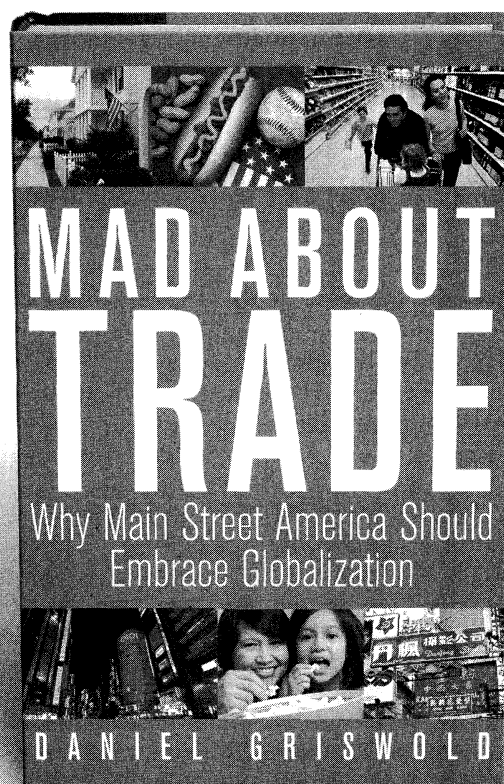
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narrated by Whitacre, using voiceover. It's a technique that some reviewers have criticized as evidence of the screenwriter's inability to tell the story effectively through dialogue. However, I think the technique works extremely well to demonstrate Whitacre's mental condition. Quite simply, he talks to himself. Lots of mentally ill people do. And this time, the audience listens in.

Damon shines as the self-important and disingenuous Whitacre. His FBI handlers and his lawyers never know for sure when he's telling the truth, and neither do we. That's where the fun begins in the movie. Whitacre presents himself as an innocent bystander trying to save the company from its corrupt CEO, but his own white-collar crimes are much more serious than the price-fixing he's trying to uncover.

Joel McHale, the gleefully cynical host of "The Soup," tone downs his persona as FBI agent Bob Herndon. And yes, that really is Tommy Smothers as ADM owner Dwayne Andreas, and his brother Dickie Smothers as the Judge in one of the final scenes. As Whitacre's attorney, Tony Hale is appropriately aghast at his client's continued revelations of personal crimes against the company that ultimately outweigh the price-fixing deals.

And what about those price-fixing deals? Let's face it: this is corn syrup we're talking about, not enriched plutonium. So what if producers in Japan and Germany agree to form a cartel and charge an artificially high price for their product? Whitacre's boss gloats in one meeting with the Japanese producers, "We'll be able to raise the price of a liter of soda by a nickel!"

Yes, that adds up to a lot of money for the producers — billions, according to the "where are they now" notes at the end of the film. But no one is forced to buy soda, or any of the myriad food products made with corn syrup (which isn't good for you, by the way). Left on its own, the market fixes itself. If prices go too high, people will buy less. If even one producer decides to undercut the cartel, the whole price-fixing scheme falls apart. Yes, price-fixing is illegal. But that isn't what makes it a bad idea. Moreover, embezzling, extortion, and entrapment are a whole lot worse.

"The Informant!" is a reminder of the risks whistleblowers face when they

try to take down the big guys. If the whistleblower has something to hide (and Whitacre was hiding an amazing amount), it will come out. Just witness how Joe Wilson's rudeness in shouting out "You lie!" to the president overshadowed the fact that Obama was

indeed lying about the details of the House health plan, or the way investigators are now going after the documentary team that blew the whistle on ACORN.

Caveat sibtador: whistleblower, beware! □

"The Children of Huang Shi," directed by Roger Spottiswoode. Australian Film Finance Corp., 2008, 125 minutes.

Orphans on the Silk Road

Gary Jason

"The Children of Huang Shi" is a dramatization of the real story of George Hogg, an English AP reporter who managed to sneak into Nanking in 1937, as the Japanese were invading China. He witnessed the Japanese atrocities firsthand, and was saved from being beheaded himself by a Chinese Communist partisan, "Jack" Chen Hansheng.

Chen (Chow Yun-Fat) hides Hogg (Jonathan Rhys Meyers) in an orphanage in the town of Huang Shi, a wretchedly poor institution holding 60 boys of varying ages. Here he meets Lee Pearson (Radha Mitchell), a beautiful, free-spirited Australian nurse. He reluctantly agrees to become the boys' teacher, but soon learns to love and care for them.

As the Japanese move closer, Hogg realizes that the Nationalist Chinese army intends to conscript his boys. He faces a dilemma: where to move his children to keep them safe. He chooses a trek of over 500 miles along the ancient Silk Road, over the Liu Pan Shan Mountains to a city on the edge of the Mongolian desert — a feat later dubbed "the Long March in miniature."

In this endeavor he is helped by his friend Chen, as well as the remarkable

Lee, with whom he falls in love. The story of these three people is fascinating in its own right. This is a moving film on several levels, especially at the end, which features some of the now long grown-up children, recalling the remarkable Mr. Hogg.

If I have one caveat, it is about the Manichean presentation of the Communist partisans as flawlessly good and the Nationalists as completely malign. I suppose that is the price the filmmakers had to pay for permission to film on location in China.

The acting is excellent, which is to be expected, given this cast. Radha Mitchell is perfect as Lee Pearson, strong on the surface but with a hidden weakness. Chow Yun-Fat is, as always, compelling on the screen. And Michelle Yeoh gives a pretty performance as the worldly Mrs. Wang. But I think it is fair to say that this is Jonathan Rhys Meyers' movie; he puts in a tremendous performance as George Hogg.

More impressive still is the cinematography. The landscapes through which the characters move are amazing in their stark beauty, especially as the party reaches the desert.

Next time you are at one of the dwindling number of video rental stores, or online with Netflix, keep this film in mind; it is well worth viewing. □

Merced, Calif.

All in a day's work for California's finest, from the *Merced Sun-Star*:

The Merced Police Department's Internal Affairs Division is investigating whether an officer twice used a Taser on an unarmed, wheelchair-bound man with no legs.

The man who was Tasered, Gregory Williams, 40, a double-leg amputee, spent six days in jail on suspicion of domestic violence and resisting arrest, but the Merced County District Attorney's office hasn't filed any charges.

Kiev, Ukraine

Profile of an unordinary man, from *The New York Times*:

Leonid M. Chernovetsky, Kiev's unpredictable mayor, likes to answer his critics in his own special way.

When parliament members said he was acting bizarrely and needed a psychiatric exam, he went to a stadium where he jogged for the cameras before yanking off his shirt and doing pull-ups. He swam laps and flexed his muscles like Charles Atlas. Then he held a news conference — in his tiny bathing suit.

He is widely regarded as a problem. But the nation's leaders cannot stop squabbling long enough to agree on what to do about him. "Everyone wants me to leave, except the people who elected me," Mr. Chernovetsky said. "My voters are ordinary people, and I speak to them in one language, the language of ordinary people, even though, of course, I am not an ordinary person."

Portsmouth, N.H.

Enlightenment truth, relayed by a beat reporter at the *Los Angeles Times*:

The president used his appearance at a high school in Portsmouth, N.H., to frame his view of the healthcare crisis, to counter what he said were outlandish fallacies in arguments by Republicans and conservatives.

But the outpouring of anger continued from those who see healthcare reform as misguided, even destructive to the country's fabric. "I think it is very hard because [Democrats] don't have the message machine the Republicans do," said George Lakoff, a UC Berkeley linguistics professor who has advised some Democrats on how to sharpen their message. "The Democrats still believe in Enlightenment reason: If you just tell people the truth, they will come to the right conclusion."

Spokane, Wash.

The thin blue line separating society from chaos, from the *Spokane Spokesman-Review*:

When Donald Ross' sister passed away, more than 100 people attended her funeral mass in Spokane. The burial was scheduled for a nearby cemetery, but Ross and his family only made it a quarter of a mile when flashing lights forced them to the side of the road.

The Rosses missed the interment while the deputy wrote up five citations because the driver and the passengers were not wearing seat belts. And the sheriff's department says he had every right. "We're out here trying to prevent funerals, not disrupt them," said Dave Reagan of the Spokane County Sheriff's Office.

Dhaka, Bangladesh

Via AFP, a correction in the pages of the *Daily Manabzamin*:

A Bangladeshi newspaper has apologized after publishing an article taken from a satirical U.S. website which claimed the moon landings were faked. The article stated that astronaut Neil Armstrong had shocked a news conference by saying he now knew it had been an "elaborate hoax." The apology noted that the story had "drawn a lot of attention."

"We've since learned that the fun site runs false and juicy reports based on a historic incident," it said. "The Moon landing one was such a story, which received numerous hits on the internet. The truth is that Neil Armstrong never gave such an interview. It was made up. We are sorry for publishing the report without checking the information."

Kent, England

Heightened security alert, noted in the *Kent Register*:

Kent Police set a new legal precedent as they arrested a photographer on the unusual grounds of "being too tall."

Register photographer Alex Turner was taking snaps in Chatham High St., when he was approached by two unidentified men. They did not identify themselves, but demanded that he show them some ID and warned that if he failed to comply, they would summon police officers to deal with him.

Turner took a photo of the pair, and was promptly arrested. It is unclear precisely what he was being arrested for. However, a police constable recorded that she had felt threatened by him when he took her picture, referring to his size — 5'11" and about 168 pounds — and implying that she found it intimidating.

Baltimore

Romantic gesture gone horribly right, in the *Baltimore Sun*:

City police are investigating why on-duty marine and helicopter officers helped a Baltimore County state delegate propose to his girlfriend by pretending to raid a boat the couple were aboard.

Officers boarded the boat, owned by a friend of Del. Jon S. Cardin, in the Inner Harbor. As a helicopter hovered overhead, adding to the sense of tension, one report says officers pretended to search the vessel and even had the woman thinking she was about to be handcuffed before the delegate got on one knee and proposed.

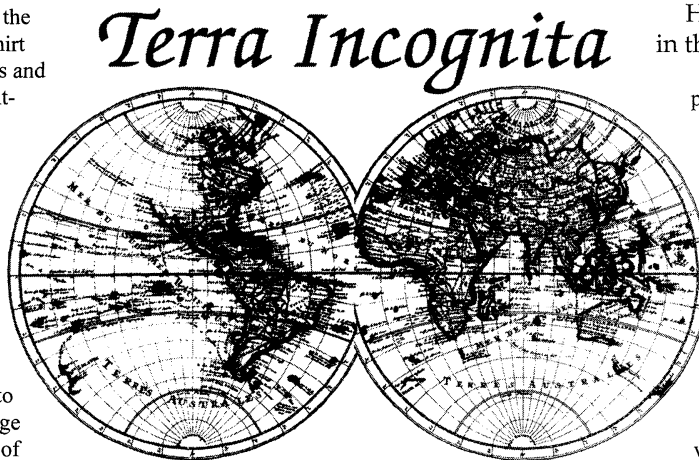
Megan Homer said "yes."

Baton Rouge, La.

Cutting-edge legislative theory, from the *Baton Rouge Advocate*:

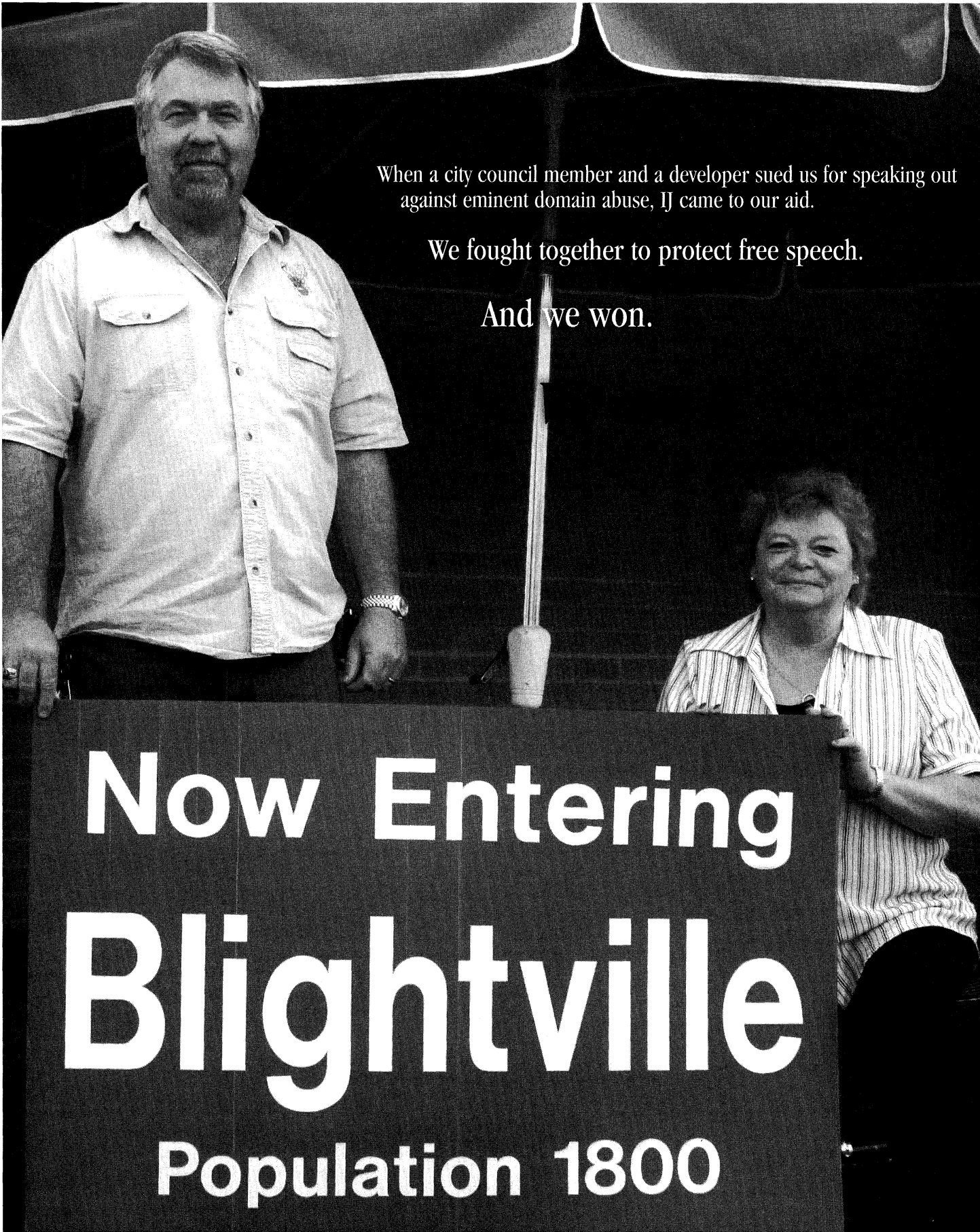
Sen. Joe McPherson, D-Woodworth (Louisiana), chairman of a committee mulling a bill banning cellphone use while driving, said that data the committee asked for on hands-free versus handheld cellphones was not available.

McPherson said lawmakers required that information before they acted. "We don't want to take away the rights of Louisiana citizens unless we think we are doing something for them," he said.



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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.)



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