Liberty

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McCain's War Against Free Speech

Drug Paranoia: America's Leading Export

by Shannon Seibert

The Strange Case of Robert Downey Jr.

by Stephen Cox

Fraud in the Libertarian Party

by R. W. Bradford

Tobacco *vs* the Constitution

by Robert Levy

Also: *Jeff Riggenbach* looks at the latest collapse of civilization, *Bruce Ramsey* discovers that money doesn't make the world go 'round, and *Timothy Sandefur* explores the uncharted world of cartography ... plus other articles, reviews, and humor.

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CSI Directors: Daniel Klein **dklein@scu.edu**

Laurence Iannaccone **liannaccone@scu.edu**

Civil Society Institute Web site: **www.scu.edu/csi**

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Inside Liberty

July 2001
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Features

Reviews

Letters

Land-Use Planning: The Inside Story

I've just read the wonderful article by Randal O'Toole in the May issue, "One Thousand Enemies of Oregon." While I agree with the writer on general principles, there is just one item I'd like to take him to task on. He fails to explain adequately the motives behind the planners' actions — why do they do what they do?

As a reformed land-use planner (with a master of urban planning degree and a long-canceled membership in the American Planning Association), I can readily assure you that most land-use planners are not motivated by greed or the innate desire to control; rather, we are motivated by the desire to "do good," the devil's own invention.

We tend to be governed by the perverted desire to see American cities reflect a 21st century version of a Norman Rockwell painting. Yup, that's right; we land-use planners are difficult to deal with because our progressivism and liberalism mask our tacit but real nostalgia for the past. This leads land-use planners to love cities and small towns, while despising the suburbs and "sprawling middle America."

I understand this way of thinking, and sometimes I still do think that way. However, I saw the light, and I'm no longer going to try to ram my ideas down anyone else's throat.

Fred Bluestone
Lauderhill, Fla.

All Aboard for Afghanistan!

I can only hope that "Robbing Peter to Pay Mary" in your April issue was some sort of joke, perhaps a demonstration of how *not* to argue for liberty.

What exactly is the article advocating? That women march back into the kitchen? That's not going to happen in this country. For a country in which this has happened, I would recommend libertarians take a vacation to Afghanistan, where women have been disenfranchised. Libertarians might find that despite women being forced into traditional roles, Afghanistan is not exactly on the leading edge of a global libertarian revolution. If what the author wants is a country in which the state controls what people do in their bedrooms so that he can save less than ten percent on his federal income taxes by eliminating welfare, then he should come out and state that he supports a theocratic police state, and never mind the libertarianism.

Joseph Miranda
Northridge, Calif.

¡Literacy Si, Numeracy No!

With apologies for my tardiness (I am currently living in the People's Paradise of Spain and receive my mail rather tardily), I'd like to object urgently to one aspect of R.W. Bradford's suggestion in the January *Reflections* section.

He wisely suggests that the anti-literacy provision of the Voting Rights Act of 1965 be repealed and that a simple literacy test be administered to "ensure that the demented and moronic do not determine the fate of the republic." I applaud his initiative and support it, but I must in turn point out that the second of his two questions, "What does two times four equal? 1 2 4 6 7 8 10 24 42," while requiring the testee to demonstrate literacy in determining that "two" is "2" and "four" is "4," also contains a mathematical test. I believe it is unfair to ask voters to be literate and be able to multiply. This seems extreme.

Andy Hanlen
Valencia, Spain

Matching Wits With the GOP and Democrats

As a hard-core libertarian, but not a party member, allow me to weigh in on the Libertarian Party strategy issue. If the LP wants to be more than just an intramural debating society, its presidential candidates need to accept federal matching funds. Without matching funds, the LP candidate is at a severe disadvantage to the major parties, and most voters don't care how ideologically pure we are. We have to let people know we are serious. We don't have 100 years to build the party gradually.

We need massive television advertising campaigns to make our fellow citizens aware of the LP and understand our views. There is no shame in using all the resources at hand. We can continue to oppose the federal election fund while using it, just as we oppose the monopoly U.S. Postal Service while using it.

Thomas Clark
Sugar Land, Tex.

A Spy Plane From the 1950s

Thank you for the article on the Chinese mini-crisis ("China: The 'Crisis' and the Facts," June). I know a little bit about aircraft, and there's much more to this incident. The EP-3 is actually a much upgraded makeover of the Lockheed Electra, a 1950s airliner. For a history, see http://orion.pspt.fi/orion.html.

The notion that it could ram a Chinese F-8 is beyond bizarre.

Geoffrey S. Nathan
Carbondale, Ill.

Gays and Morality

Ever since I came out at the age of 13, I've been fighting the impression that gays are out to destroy the moral fiber of the world as we know it. When Republicans like Jerry Falwell or Ralph Reed say we're "threatening the well-being of children," it's one thing — but when a libertarian like Edward Feser writes it ("In Defense of Virtue," June), I realize libertarians aren't nearly as enlightened as they claim to be.

We're much more traditional than most seem to think we are: Camille Paglia once said that she was amazed that gays wanted to do the two things that the rest of society wasn't interested in doing anymore — get married and serve in the military! We're not the bogeymen that the right portrays us to be. The vast majority of pedophiles and child abusers are straight. Most teachers convicted of crimes against students are straight. Most murderers, rapists, and criminals of all kinds are straight. As for Feser's claim that we have a "tendency toward promiscuity," most gays I know are more happy cruising the aisles of the local Ikea store than they are cruising

Continued on page 28

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Reflections

The political spectrum — Bill Clinton was our first black president. Who would have thought that George W. Bush, that scion of Preppiedom, would be our first Hispanic president? — Brien Bartels

Collateral benefits — On a recent trip to northern Michigan, I learned that local vegetable packers are no longer freezing and canning asparagus. Thanks to a War on Drugs initiative intended to help farmers in Peru find profitable alternatives to cultivating coca, the United States has eliminated the tariff on Peruvian asparagus. The result: Peru's asparagus exports to the United States have tripled, consumers are paying less for asparagus in the supermarket, and asparagus farmers in Benzie County, Mich., can no longer find a packer to buy their crop.

Since its launch by Richard Nixon over 30 years ago, the War on Drugs has put millions of innocent people behind bars, undermined the American family by encouraging kids to turn in their parents and vice versa, diverted billions of dollars from the enforcement of laws against violent crime, enabled police forces to engage in highway robbery, made a travesty of the Constitution, brought violence and death to the streets of America's cities . . . but at last it's done something good: it's lowered the price of canned and frozen asparagus. — R. W. Bradford

A tale of two statues — After Mexican President Ernesto Zedillo left office, we learned that he had broken ranks with every president since 1936 by not leaving a statue of himself in "La Calzada de los Presidentes" ("Road of Presidents") at the presidential residence in Mexico City.

Such modesty does not prevail in Trujillo, Peru. This city of about 550,000 people is in La Libertad ("Liberty") department, but it is not doing well in the artistic liberty department. The mayor recently spent $20,000 for a statue of a siren 20 meters high. Perhaps owing to his anatomical predilections, the statue has "generosos y tremendos gluteos" (a large behind). Perhaps the sculptor was trying to give new meaning to "ars longa, vita breve."

¡Viva Zedillo! And down with El Alcalde de La Libertad! — Martin M. Solomon

This page intentionally left secret — Two missing pages from the voluminous federal budget delayed crucial votes on the Bush tax cut. What was the big deal? Why didn't they just classify the pages as secret and go ahead with the vote anyway? That's how the Department of Defense has operated forever. It's not as if members of Congress *read* the silly budget. — Brien Bartels

A furphy of rorts — "Chad" is a colorful term, but it pales in comparison to Australian vernacular about election-law violations. Recent stories from Down Under feature discussion of "rorts," "furphies," and "branch-stacking." The euphonious "rort" leaves our "fraud" in its dust. Their mellifluous "furphy" replaces our mundane "rumor." And "branch-stacking" beats the tar out of "registering in the wrong district." — Martin M. Solomon

Power from the people — It occurs to me that California has ignored an untapped energy resource that is more abundant in California than anywhere else on the planet. I refer, of course, to hippies.

If we could harness the power of hippies, it could provide electricity for years to come. Hippies are a 100% renewable resource; the University of California system churns out thousands of the dirty little scoundrels every year. Rather than letting the kids travel the continent protesting WTO meetings and breaking windows, why not put them to work in vast warehouses filled with stationary bicycles hooked up to generators to power air conditioners across the California desert?

Since hippies eat practically nothing but beans, methane would be produced as a by-product. This valuable resource, now wasted filling coffeehouses with additional "atmosphere," could be pumped from the generating facilities, and diverted to firing up barbecue grills. We could position pinwheels in front of their mouths, and show them pictures of George W. Bush or of trees being cut down so their "raping Mother Earth" rants could provide additional power generation.

Since they subscribe to the Marxist notion of "from each according to his abilities," they wouldn't ever question whether anyone has a right to make them pedal their youths away, and they could take solace in the knowledge that their generators recharge the batteries of electric cars, thereby helping single mothers drive their children to a public school. They will revel in the glory of helping provide emission-free energy to the state.

When we release them from public service after ten years they will be more mature, in terrific shape, and have a much better understanding of why labor is personal property. — Tim Slagle

Battlefield ethics — Ex-senator Bob Kerrey's admission about a 1969 Vietnam atrocity might have generated a media feeding frenzy, but it's not news to me.

Nine years ago at *Newsweek*, I got a call from a man who claimed he was a "former SEAL" and whispered last week's headline news. But after some picking and shoveling, editor Maynard Parker and I walked away. Years later, another *Newsweek* reporter, Gregory Vistica, came up with the same story, and it, too, was spiked.

We never ran with my story because:

- The allegation couldn't be backed up. Participants had conflicting recall, common among warriors even immediately after a fight and especially decades later. No big surprise. Most eyewitnesses to a traumatic

experience — battle-related or civilian — remember it differently.

- The whisperer couldn't explain why, since military law was on his side, he didn't stop the massacre. You know, "Lt. Kerrey, cease/desist or I'll shoot you." Or why he didn't immediately report the "war crime" per Navy regs. Or why he then sat on it for so many years.

Another reason was based on my almost five years in Vietnam, where, during that shameful war, there were thousands of such atrocities. My parachute battalion's first big "kill" in 1965 was a night ambush at An Khe that destroyed a tribal family who hadn't gotten the word about the curfew. The draftee unit I skippered in 1969 — as I've recently discovered while doing interviews for a new book — had at least a dozen such horrors. Most were reported at the time as "enemy killed." Thirty-two years later, the participants say: it was the easy way out; we couldn't handle the shame; the command was constantly pushing the body-count figure.

Everywhere our young men fought in Vietnam where there were civilians, there was carnage. Especially in the Mekong Delta — where Kerrey's commandos were hunting and being hunted by an armed enemy who was everywhere.

Most of us have heard of William Calley's My Lai massacre, where hundreds of noncombatants were cut down in a bloodbath led by a madman. But ask anyone who fought in the delta, where 35% of Vietnam's population lived, if civilians got caught in the middle of the cross fire — and the answer has to be "yes."

Few innocents were killed on purpose. But it was a war with no front, and few of the enemy in the delta wore uniforms or fought by the rules of war. Also, many women, children, and old men were "freedom fighters" not unlike Americans during our War of Independence.

My division in the delta, the 9th, reported killing more than 20,000 Viet Cong in 1968 and 1969, yet fewer than 2,000 weapons were found on the "enemy" dead. How much of the "body count" consisted of civilians?

John Paul Vann told me in April 1969, when he was in charge of pacification in the delta, that "at least 30% were noncombatants" and that he'd spoken to President Nixon about having the 9th immediately pulled out of the delta. A month later, the division got its marching orders.

Gen. Julian Ewell, who commanded the 9th, never ordered his soldiers to kill civilians. Nor did I. Nor, in my judgment, did Bob Kerrey. Nor did most of the scared young men — lying out in the mud night after night thinking every sound was an enemy who'd soon take their lives — purposely kill civilians.

The Vietnam War was a 25-year running sore in which more than five million Southeast Asians died, nearly half a million Americans bled, and millions of others still bear the pain and the shame and the scars.

Last week, Vistica finally presented his sensational story of events long ago in print, followed by Dan Rather on television. But neither was on that op; neither has been a combat grunt. Vistica never served; Rather did have a go at becoming a Marine but never completed boot camp. As far as I'm concerned, neither is qualified to pass judgment on soldiers or sailors.

Matter of fact, neither of these frequent military bashers is fit to shine Kerrey's one jungle boot — the other having been left behind in Vietnam with his foot in it while he bravely answered his country's call. — David Hackworth

Battlefield ethics II — They were a long way from their boat in a place they had never been but had thought about and worried over and trained for for months.

They were young and scared and surrounded by enemies, and by unreadable civilians, in a land where they could not speak the language and did not understand the ways. They could call for help but, at that moment and at that place, the only people they could rely on were themselves. When they had to decide, they had less than an instant and, if they decided wrong, they died.

At least in hindsight, they screwed up. They shot unarmed prisoners for no reason that makes sense to those of us who weren't with them. In other times and in other places they would have been called to task. They would have faced tribunals and the scorn of the civilized world.

But it didn't work out like that. Instead, a few days later, they went on to show themselves heroes. But not before screwing up the other way by taking such care not to commit the same crime, again, they opened themselves to the danger they all knew was there. And got hit, hard.

In the end, their leader became a national symbol of decency, battlefield courage, and personal integrity. Still, the heroism of that last fight can never erase the crime of the first.

For years, nobody wanted to examine too closely what really went on. Many think it's foolish to drag up such long-

They were young and scared and surrounded by enemies, and by unreadable civilians, in a land where they could not speak the language and did not understand the ways.

ago events now. Others will tell you in private that killing someone who may have been shooting at you a few minutes earlier is no sin. Still others believe we are overdue for a national dialog on what was done so long ago in our name.

One thing most can agree on is that, regardless of what those boys did, their mission seems foolish now, so much effort and waste for so little gain. But they weren't asked to judge, only to trust those who sent them.

When old men heap weapons onto their sons and send them into terrible situations, terrible things can happen. For these particular young men, terrible things did happen. But to say it's the crime of the young men is wrong. And to condemn young men to carry the burden of what they did into their own old age, as if they could ever have done something different, is its own crime.

When I look at the old photographs all I see is innocence. Faces heartbreakingly young. Filled with patriotism and duty and courage. In my heart, I know gunning down unarmed Nazis trying to surrender on the cliffs above Normandy was wrong. But I can't find it in me to judge Tom

Hanks and the rest for doing it. This evil was not their evil. All they wanted was just to get through the moments and come home. The evil was with those who sent them to such a place. — William E. Merritt

Central planning, smart growth, and property values — When Randal O'Toole began writing about the "smart growth" movement in Oregon a few years ago, I thought that he was talking about regulations inflicted on a few idiosyncratic neighborhoods suffering under the domination of 1960s college professors. Only gradually did I learn that "smart growth" is a national movement that has infiltrated government planning in towns as small and remote as Bozeman, Mont.

Smart growth has taken hold. One reason is that it gives the planning profession something respectable and new with which to enliven their journals now that central planning has been discredited. Smart growth is the best thing for planners since urban renewal, which (they have to admit) didn't turn out too well.

Today, town and city planners talk as if they share an inherited wisdom that goes back many decades — although in fact it's pretty new. They assert the value of high density, which supposedly encourages people to walk and bicycle rather than drive; big porches, which supposedly lead people to converse with their neighbors; and mixed uses — apartments atop offices, corner grocery stores near residences, gridded streets with alleys and garages in back — anything that predates the ubiquity of that ghastly irritant, the automobile. Indeed, smart growth is an attempt to bring back the life in small towns of the 1920s, as imagined by people who never lived there. Mouthing their communitarian-sounding precepts, the planners come up with ways to stop growth, especially in the suburbs.

Don't get me wrong. There are vestiges of good ideas here and there in the smart-growth movement, most of them derived from Jane Jacobs' *Death and Life of American Cities* — the smart-growth scripture, which, like much scripture, is more often cited than read. But for the most part the ideas are flaky nostalgia, readily refuted by research.

Unfortunately, the refutations are likely to fall on deaf ears. For smart-growth planners have a tremendous ally in towns and cities all across the nation — homeowners. What fuels popular enthusiasm for smart growth is, I fear, self-interest. Every time a suburban resident succeeds in slowing or stopping growth — whether through an urban growth boundary, an open-space bond issue, or impact fees — that resident adds to the value of his or her property. Supply dwindles, and the price goes up. It's a grand bourgeois marriage of convenience: rising property values and sentimental nonsense. — Jane S. Shaw

Now that I've enslaved my people, I'm going to Disneyland! — The 29-year-old son of Korean dictator Kim Jong-Il was detained by Japanese authorities when he tried to enter the country on a false passport.

"I am Kim Jong-Nam," Kyodo news agency quoted the man as telling police investigators. He wanted to go to Disneyland.

There are so many directions a riff on that could take:

• The North Korean heir presumptive apparently was trying to blackmail the little Korean kids in the Small World ride to support their relatives still in the small communist nation. Such payments are usually extracted from Koreans living abroad and go to Kim Jong-Il's personal checking account. Disney security officials say the plot failed.

• Kim Jong-Nam was seeking ideas for North Korea's newest theme park. The park, located just outside Pyongyang, currently features exhibits of socialist-realism art and triumphs of proletarian invention, such as the steam engine, in StalinLand. GulagLand features a train ride and housing accommodations considered among the finest on the northern Korean peninsula. Most recently the park opened HungerLand, in which animatronic characters reenact instances of mother-on-infant cannibalism.

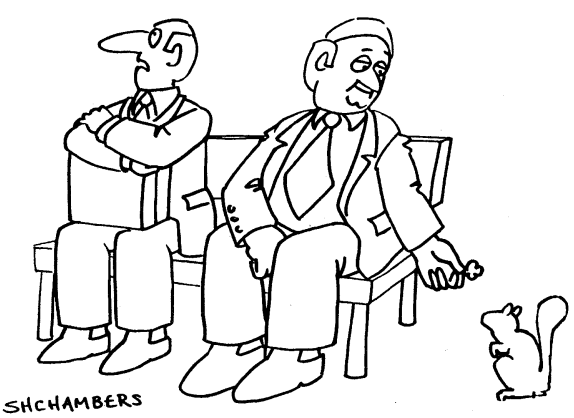
• The heir presumptive to the longest surviving unreconstructed Stalinist tyranny immediately demanded to see "the big mouse" in order to request political asylum.

• Disney chairman Michael Eisner hired Kim as a consultant for an animated movie on the life of Kim's grandfather, Great Leader Kim Il-Sung. "We see it as *Mulan* with tanks," Eisner said. — Brien Bartels

"F" is for Fed — The revelations that Dr. Alan Greenspan had been targeting stock prices during the better half of the last five years has caused little anxiety among the populace. Why? Like most central planners, his forecasts are always behind the form. And like all of them, he cannot tap into the spontaneous order and changing dynamics that send us the signals we need to determine what, how, and when to produce the goods and services that make up the economy . . . the fatal conceit and all that.

But in Doc Greenspan's case, the situation is exacerbated by the "old man" syndrome. He is very proud of fooling the markets — i.e., waiting until they are not expecting something and then doing it. This of course raises the risk premium in stocks, and lowers all of our wealth. He also is the kind of board chairman who apparently insists on unanimity among the board, thereby stifling any insights and education that diversity might create. To foment a less centrally planned society, I have offered him a pair of sneakers if he will change places with Patrick Ewing.

Like many bureaucrats, Doc Greenspan likes to pretend he



"I mean, the moon *was* in the seventh house, right? And Jupiter *did* align with Mars . . . Stanley? What the *hell* went wrong?"

has academic credentials. To this aim, he received a Ph.D. from NYU some 20 years after he completed his master's degree. I suspected at once that there was the usual kind of exchange of prestige and imprimatur for perks and funding that we all know is so commonly involved in granting honorary degrees and the like. To get to the bottom of this one, I entered into a bargain with Larry Ritter, author of *Glory of Their Times*, and also one of Doc Greenspan's thesis advisers. I promised that I would write about 100 relations between baseball and the markets if he would give me the skinny on the merits of Doc Greenspan's degree. Larry paid up recently and said that he now gives the "Doc" an RF, a Retrospective F.

— Victor Niederhoffer

Who are you and what have you done with the Democrats? — In April the Progressive Policy Institute published *The Metropolitan New Economy Index*, a 49-page report that ranks U.S. metro areas on various measures of the "new economy" — patents, high-tech jobs, venture funding, Internet use, etc. The report made the news in various cities because of what it said about them. But it is interesting also in what it says about the New Democrats, because the PPI is their institute.

"Innovation and change mean uncertainty and disruption," it says. "But it is becoming increasingly clear that dynamism is central to growth. The more churning in a metro in terms of new business start-ups and existing business failures, the faster the metro's rate of economic growth." Here is a study that says (correctly) that a high rate of business *failure* is a sign of progress.

The study begins and ends with a quote from Charles Darwin: "It is not the strongest of the species that survive, nor the most intelligent, but the one most responsive to change." The study does not weep for the poor or argue for the protection of unions. It pounds the drum for flexibility and adjustment. It argues for retraining workers in failed industries, not in protecting either the workers or the industries.

On education, it says, "Public school choice — *with real and meaning-*

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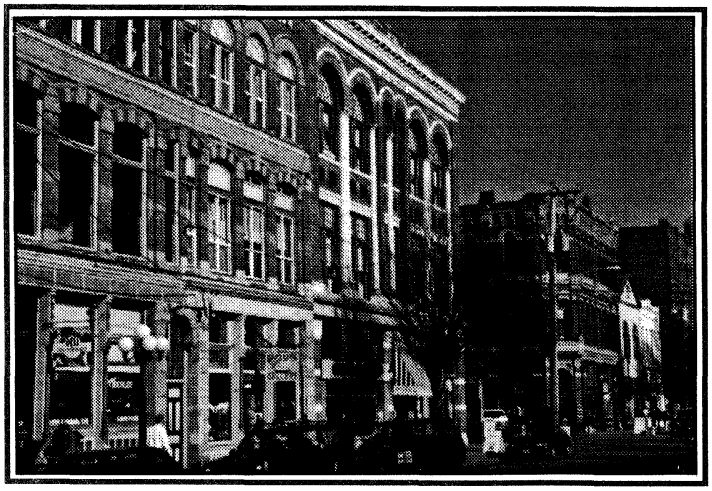

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ful choices for parents — is critical to improving schools." There is that crucial adjective, "public." These *are* Democrats. It calls for experiments in "innovative ways to reward high-quality teachers" and to "weed out chronically underperforming teachers."

That's bold stuff for the party that represents the teacher unions.

It also has blunt talk on traffic. "Environmentalists and other anti-growth activists," it says, "have succeeded in convincing many decision makers that 'sprawl' is principally responsible for traffic congestion, that 'new roads just make things worse,' that road pricing schemes are unfair, and that only demand reduction strategies (e.g., transit, carpooling, urban growth boundaries) can improve mobility. In fact, empirical evidence demonstrates that these claims are untrue or grossly exaggerated." The report then calls for "road pricing and even road privatization."

Well. Democrats for school choice. Democrats for road pricing. Democrats quoting Darwin on a social issue.

— Bruce Ramsey

"Tragedy" among the stars — Throughout the furor over who killed Bonny Lee Bakley (the Wait! Is That Really How It's Spelled? Girl who was shot to death in Studio City, Calif., on the night of May 4), Ms. Bakley's not-yet-excluded-from-suspicion husband, former television star, former movie star, and former *Our Gang* comedy nitwit Robert Blake, has been portrayed as a pathetic ex-person, relentlessly pursued by "personal demons" and reduced to a poverty that cannot even be called genteel: thus is it ever in Hollywood (sniff, sniff).

Like hell it is.

After wading through several vast media wetlands of sentiments like that, I encountered the following stray indication of something more interesting: "Police plan to interview Blake's bodyguard and assistant, Earl Caulfield, who has said he saw someone lurking around the Blake Studio City, Calif., home shortly before Bakley was killed."

Apparently, Blake retained some measure of social respectability. He managed to keep a "bodyguard and assistant." And after all, who could face the world without a bodyguard and assistant tagging along behind him? I would give up my chauffeur, my gardener, my maid, my houseboy, my longtime companion, and every horse in my stable, so long as I was able to keep my bodyguard and assistant.

The Psalmist says, "I have been young, and now am old, yet have I not seen the righteous forsaken, nor his seed begging bread." I have lived in southern California for 29 years, yet I have not seen a former "star" standing in a welfare line, or even in a supermarket line. From time to time, people run into Pete Wilson, former governor of the state, in hardware store checkout lines, but you don't see the Brady Bunch hoisting their own wood panelling. At least I haven't.

As an inveterate watcher of those TV biography shows that specialize in down-and-out stars, I have witnessed hundreds of them confessing to interviewers that they're "reevaluating their careers" or revealing the still more lamentable fact that they're "about to stage a comeback." I've seen thousands of their friends recalling that magic moment when a star first told them that he was out of work, hopelessly addicted to drugs, and in hock to Bankamericard for a million times more than his life was worth. But the interviews always take place in snazzy digs overlooking the Pacific, and the recollections always involve something that transpired on a vacation trip to the Riviera. And when did you ever hear of a washed-up star who couldn't produce the money for his ninth stay at the Betty Ford?

I find this irritating. I don't really care who killed the wife of Robert Blake; there are hundreds of murders a day in the United States, and I can't worry about all of them. But the apparent fact that if you make enough bad movies you will never run out of dough is disorienting, disturbing, depressing, and above all, un-American.

If the capitalist system won't punish bad art, what will? Am I never going to hear that Oliver Stone has been kicked out of his one-room walk-up for nonpayment of rent? Is there nothing that can ever force Barbra Streisand to seek cheaper accommodations in the Elko, Nevada, area? Is it *impossible* that I will ever see Jane Fonda shopping the K mart specials?

— Stephen Cox

Betting on the state — A proposed state lottery was defeated in Alabama a couple of years ago. Now the issue is legalized casino and video gambling.

Standard libertarianism holds government responsible mainly for protecting life, liberty, and property but not for enforcing private morality. Laissez faire is a sensible position on gambling.

Quite different is a government-run lottery or even government favoritism toward gambling of particular types and in particular places. Opportunities for corruption and rent seeking arise. Against a general background of suppression, gambling favored by exception tends to have concentrated effects. While not taking active charge of morality, government should at least refrain from setting a bad example; it should not help make gambling seem respectable and the hopes of the players seem reasonable.

For these reasons, it seems to me, a consistent libertarian can favor *general* toleration of gambling while opposing *selective* promotion.

— Leland Yeager

Atestay ottoesmay arekay upidstay — In March, the 8th U.S. Circuit Court of Appeals dismissed a lawsuit filed by the ACLU, which argued that the Ohio state motto — "With God, All Things Are Possible" — was an

unconstitutional establishment of religion. Conservatives strutted (which is always awkward: they're not very good at it, being out of practice) and called the lawsuit an example of the godlessness running rampant in America, whose consequences can be read in the blood of Columbine High School, the immorality of prime-time television, and the high price of auto insurance. Of course, a state motto is nowhere near as important as the conservatives try to make it out to be. Nor can they make a reasonable argument that the American founders would have thought such things acceptable. They often cite George Washington's insistence that without a belief in God, republican institutions would fail, or the fact that the Northwest Ordinance of 1787 included a clause sending government-paid religious teachers to the new states in the West: "Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged," Congress declared.

They rarely mention that in 1791, James Madison said that the idea that "Congress might even establish religious teachers in every parish, and pay them out of the Treasury of the United States" was an "inadmissible" one. In defending the motto, conservatives often point to the currency, and its phrase, "In God We Trust" — but that was not added to the currency until nearly a century after America's founding, when the Victorian era brought the public expression of religion back with a vengeance. One modern conservative writer, Douglas Kmeic, in discussing a Supreme Court ruling that a prayer said before the opening of the New York County Board of Supervisors meeting was unconstitutional, asks, "What would George Washington have thought?" Washington would probably have been upset. But not James Madison. "The Constitution of the U.S. forbids everything like an establishment of religion," Madison wrote. "The law appointing Chaplains establishes a religious worship for the national representatives, to be performed by Ministers of religion . . . to be paid out of the national taxes. Does not this involve the principle of national establishment, applicable to a provision for a religious worship for the Constituent as well as of the representative Body, approved by the majority and conducted by Ministers of religion paid by the entire nation? The establishment of the chaplainship to Congress is a palpable violation of equal rights, as well as of Constitutional principles."

But Madison then went on to say something that today's left would do well to learn: "Rather than let this step beyond the landmarks of power have the effect of a legitimate precedent, it will be better to apply to it the legal aphorism *de minimis non curat lex* [the law does not concern itself with trifles]."

Conservatism is growing more and more upset because the left is continuing to push its crusades further away from reasonableness. That the ACLU would think it *mattered* whether God appears in the Ohio state motto is an example of this silliness. It accomplishes nothing for them to challenge these things in court — even if they win — but it does rouse the ire of groups within this country that really are genuinely hostile to all civil liberties.

Another example is abortion. No reasonable pro-choice advocate could have any objection to regulating so brutal and unnecessary a procedure as partial-birth abortion, and the Nebraska law that the Supreme Court struck down last year was hardly a barrier to a woman seeking an abortion. Yet the left insisted that this law was tantamount to a reversal of *Roe* v. *Wade*, and the law was struck down. If the left really wants to protect the rights of women, it can do nothing more self-defeating than rabidly to oppose even reasonable regulations of that right, and by doing so, appear to be the bloodthirsty baby-killers they are so often portrayed as.

A third example happened more recently: a school in New York banned Mother's Day because too many kids in the school have, say, two mommies, or no mommies, or whatever sorts of arrangements have become popular since the family died. Now, for at least 20 years, conservatives have tried to paint gays as enemies of God, the flag, motherhood, and apple pie. It seems all that's left is for the schools to ban apple pie!

It is self-defeating for advocates of abortion rights rabidly to oppose even reasonable regulations of abortion, and by doing so, appear to be the bloodthirsty baby-killers they are so often portrayed as.

In all of these cases, the left is teasing a lion. There are far, far more religious conservatives in this country, or people willing to back them up, than there are atheists, or gays, or rigidly ideological advocates of abortion. Arousing their ire is not something to be taken lightly, and there is no possible way that the left can win in such a confrontation. In Iran, when the shah's program of forced modernization — including everything from neon casinos to leather miniskirts — finally grew to be too much for the fundamentalist Moslem population, the result was a collapse into theocratic despotism and the eradication of civil liberty. Oh, but I forgot: it can't happen here.

For decades now the ACLU and other radical leftists have been pushing an American cultural revolution. It's not going to happen. Until the left stops concerning itself with trifles, it runs the risk of bringing with it a backlash of orthodoxy that will teach the ACLU what oppression is really all about.

— Timothy Sandefur

I see chaos in your future — It is time to give urban planners the respect they deserve: the respect we give psychic readers, spiritual channelers, and astrologers.

— Randal O'Toole

All aboard! Next stop, Congestion! — On May 7, the Texas Transportation Institute released its annual report on urban congestion. The Surface Transportation Policy Project, an anti-auto, pro-transit group, immediately released its report claiming that the "burden" of congestion was lower in cities that had spent more money on transit.

In reality, transit investments have no measurable effect on congestion anywhere outside of the New York metropolitan area. Even in such transit-intensive regions as Chicago,

Boston, Washington, D.C., Philadelphia, and San Francisco, transit carries fewer than 4.5% of all passenger miles. In all other urban areas it is under 2.5%.

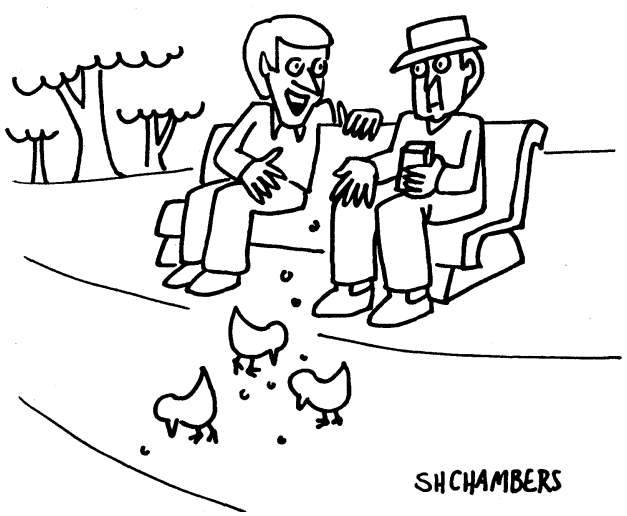
Congestion is increasing partly because highways are funded out of a cents-per-mile gas tax that can't keep up with inflation and actually declines as people buy more fuel-efficient cars. The only solution is toll roads, charging higher tolls during rush hour (a system known as "value pricing").

But most urban leaders are afraid to propose value pricing lest voters rebel against tolls. So instead they jump on the transit bandwagon, forking over billions of taxpayer dollars for gold-plated rail-transit projects that do nothing about congestion. The result is more congestion and more demands for transit subsidies. This spiral won't stop until people start demanding toll roads and value pricing. — Randal O'Toole

Spartan accommodations, great view — On April 28, a Russian rocket launched the first space tourist into orbit. My heart soars as the frontier of space opens for the first time to all of mankind. The face of Dennis Tito wearing a $20 million grin as he floated into the International Space Station somehow made me feel closer to space than I have ever felt before.

Back in 1968, a boy sat in a darkened theater mesmerized by Stanley Kubrick's *2001* and he has dreamed of this day for over three decades. Many of the promises made in that film were excessively optimistic. The movie promised Pan Am flights to the moon by 1999, and Pan Am even made advance reservations. (I don't know if the reservations were transferred to a competing airline when Pan Am went out of business 23 years later.)

Last year, I lamented that the new millennium was arriving without any of the promises of the movie being realized. I guess Kubrick assumed that since TWA was capable of providing passenger service 27 years after the first flight of the Wright brothers, and commercial trans-Atlantic flights 19 years after Lindbergh, it could handle passenger service to the moon within 30 years of the first moon landing. Kubrick obviously underestimated the ability of government agencies to stifle innovation.



"I used to watch regular TV. Then I watched reality TV. Then it dawned on me: why not try reality itself?"

And, thanks to Russian desperation, the moment is finally here when anyone with sufficient resources can travel out into the universe. Now all I have to do is find $20 million. — Tim Slagle

Looking for Liberty — One of the perks of my job in Washington, D.C., is working across the street from a B. Dalton's bookstore, which is a frequent lunchtime pit stop. Even though it's not very big, it carries *Liberty* in the magazine rack. Bookstores like this ordinarily save their upper displays and front rows for mainstream magazines, so it's not too surprising to find that magazines like *Liberty* and Z usually sit on the back tier of the bottom shelf, virtually out of sight.

That changed when the April 2001 issue hit the stands. One day I walked into the store, and *Liberty* had been placed out front on the middle shelf, within comfortable reach. Everyone walking by the racks could easily see the magazine and make out the cover titles. Why the sudden change, I wondered? Then I noticed — "Bill Clinton: A Celebration" had top billing on the cover of this issue.

I almost immediately chided myself for thinking that a Clinton-friendly headline would be enough to warrant choice placement on the magazine racks. After all, the subtitle called him "a liar, a thief, and a sociopath" — qualities that were evidently not barriers enough to keep Bill from being "a wonderful president." I decided the bookstore had probably just rearranged the placement of some magazines, and that this was *Liberty*'s new spot.

I kept an eye out anyway, and sure enough, as soon as the May issue arrived, *Liberty* had returned to the back of the bottom shelf, relegated to crouching-customer status.

One month in one bookstore doesn't signal a trend by any means, but it may warrant some experimentation. Paying apparent lip service to big-government partisans on the cover may lead to more curious readers, and more opportunities to trounce them with the full-fledged arguments within. — Eric D. Dixon

Drunk with power — For years, England's pub-goers have found themselves subject to strict rules on how long they can stay in their favorite haunt drinking, playing darts (always an adventurous combination), and attempting to eat the legendary pub cuisine. Come 11:00 p.m., last call is always made, with the mad rush for booze quickly followed by a rush out the door. They flood the streets, taxing night-time law enforcement officials to the very limits of their patience. But Tony Blair has vowed to change, in the words of the Home Office Minister, this "antiquated and bureaucratic" licensing system to give pubs the power to sell drinks after 11:00 p.m.

Needless to say, calling a licensing system "antiquated and bureaucratic" is somewhat like calling pub food "not easily devourable." If antiquated bureaucrats hadn't seen fit to impose hours on pubs out of line with what customers and local communities wanted, the current claim that stopping the practice would "give business greater freedom, protect local residents, help the police deal with law and order and give the public more opportunities to socialize" would be seen for the voluminous emission of hot air that it is. Hopefully, most revelers will see that the new change is less

of a carrot and more a realization that meddling in how businesses run themselves is a very twisted stick. Of course, for the change to happen, Blair's Labour Party has to get re-elected. Too bad they don't have shorter polling hours.

— Eric Raetz

You deliver for me? — I don't like the idea of anybody going hungry, and I don't like to see any food get wasted. But on Friday, May 11, I lost my own appetite for dinner when I discovered a certain something in my mailbox, a certain something about food.

It was a notice from the National Association of Letter Carriers, with "Postage & Fees Paid" by the United States Postal Service and the whole "Co-Sponsored by" Campbell's Soups, the United Way, and guess what? — the United States Postal Service. It featured an icky cartoon by Bil Keane, showing two little kids with two bags of groceries. Fat little girl: "Mommy said all this food is *nonperishable*." Fat little boy: "Yeah, but hungry people aren't!"

Wrapped around this noxious molecule of Americana was an announcement of my own personal opportunity to "Stamp Out Hunger" on Saturday, May 12. I could "stamp" just by dropping my (nonperishable) "food donation" next to my mailbox. My "letter carrier" (i.e. postman) would pick it up and "take it to the Post Office," whence it would "be delivered to a local food bank or pantry" and then, presumably, to the mouth of some starving fellow citizen.

Now, what do you make of that?

Some of the Letter Carriers' missive seemed quite appropriate. Naturally, their call was exclusively for nonperishable goods, since my mail delivery often arrives as late 6 or 7 p.m., and if the groceries had to wait as long as I do for a mailman to show up, they would be in a very advanced state of decay by the time they finally reached the "food bank or pantry."

I could also appreciate the post office's desire to instill a spirit of trust in its ability to route my groceries to the right place once they were obtained. This is the same outfit that commonly routes all my mail to my neighbors' boxes, and all their mail to mine.

The post office's trust in me, its customer, was even more to be admired, given the circumstances that bind us together. What other bunch of #!&#*!# — to suggest some language seldom to be seen in a Bil Keane cartoon — would constantly raise its rates, diminish its services, defend its monopolies, and then expect me to rejoice when the people who are supposed to be delivering my mail decide to spend their time carting off my groceries and giving them to other people? (Note: Another one-cent rise in postage is expected later this year.)

And talk about trust! You gotta be mighty gullible to accept the fantastic assumption that there are people who are actually starving in this country, and starving because *the post office* hasn't been delivering enough groceries to them. Welcome to Fantasy Land.

But don't forget the Main Street section of this giant amusement park that we call America. Don't forget the thoughtful, and doubtless expensive, sponsorship of the Letter Carriers' little project by those high-minded capitalists over at Campbell's Soups. Once again, upper management justifies its existence by helping out dear Uncle Sam.

Well, I dunno. I used to like their soup, but now . . . as I say, I think I've lost my appetite. I'm not putting that soup out for the Letter Carriers, though. — Stephen Cox

You have the right to be tried by a jury of twelve robotic peons — The California Supreme Court has made it official: jury nullification is not allowed (*People* v. *Williams*, 2001). This despite centuries of common law tradition and federal Supreme Court rulings that have repeatedly held that the practice does fit with the Constitution.

The popularity of jury nullification among the libertarian crowd is a bit of a mystery to me: perhaps some hope that it will be used to end the drug war. That's hardly likely, and I suspect jury nullification would result in more harm than good, but despite that, it is clear that jury nullification is within the tradition of the jury right, and the California Supreme Court's unanimous opinion is illogical in every conceivable way.

For instance, the court writes that "it is important not to encourage or glorify the jury's power to disregard the law. While that power has, on some occasions, achieved just results, it also has led to verdicts based upon bigotry and racism." True. But everything a government body does can achieve either just results, or results based on bigotry. And in fact, while jury nullification can lead to verdicts based on racism — the most obvious recent case being that of O.J. Simpson — it can likewise protect defendants who are brought in for show trials: a juror can refuse to convict a defendant whose only crime is the color of his skin. The court itself noted that in a footnote when it referred to the fugitive slave cases of the 19th century, in which juries refused to return runaway slaves.

Another fallacy occurs in another footnote, where the court says, "We observe that these cases refer to the ability of the jury as a whole to return a verdict that is contrary to the law or the facts. No case of which we are aware refers to an individual juror's ability to disregard the law." In other words, a jury as a whole may nullify a verdict, but not any

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individual juror. But juries are only groups of individual jurors, and if no one of them may nullify a verdict, then no group of them can, either.

"Jury nullification," the court concluded, "is contrary to our ideal of equal justice for all and permits both the prosecution's case and the defendant's fate to depend upon the whims of a particular jury, rather than upon the equal application of settled rules of law." But that is precisely what the jury system was designed to do. If the jury exercises no judgment, then it is not a judging body, and the defendant's fate can be sealed by an executive's promulgation. That's why federal courts have repeatedly held that "the jury has the inherent power to pardon one no matter how guilty" (*U.S.* v. *Schmitz*, 1975). Individual liberty is protected by juries — or by their "whims" — because the jury is equally permitted to convict or acquit. To block off all the exits as the California Supreme Court has done is to eliminate its very reason for existing.

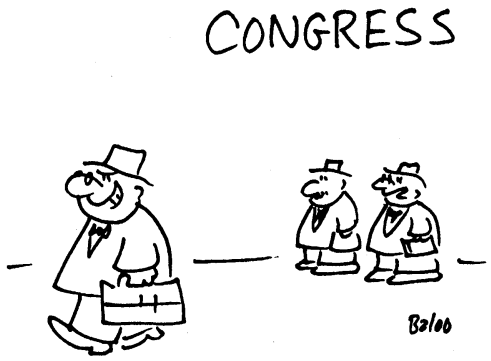
— Timothy Sandefur

Culture war — A polarization in American politics is becoming increasingly evident. While manifested by an almost even split between Democrats and Republicans in Congress and in the popular vote for president, this divide runs deeper. It's a split that Ayn Rand clearly discerned, and one that Amity Shlaes, columnist for the *Financial Times*, recently observed. Shlaes termed it a gulf between the ideologies of the businessperson and the lawyer; Rand saw it as the split between productive creators (the Bill Gateses of the world) and unproductive appropriators (Rand might say, "the Bill Clintons of the world"). This author sees it as an ideological split between the two "camps" that make up all societies — free enterprise (entrepreneurs) and government (governors).

In no other country at no other time in history has free enterprise made the progress it has enjoyed in the United States. In all other times and places, wealth has gone hand-in-hand with power derived from the control of armies, accrual of captured riches, taxation, and the exercise of eminent domain; that is to say, from creating and maintaining caste systems that clearly divide societies into ruler and ruled.

In the United States, power and wealth has flowed to practitioners of free enterprise in entirely different ways: the creation of real wealth and the proliferation of technology to the common citizenry.

Those sectors of free enterprise not as subject to the whims and will of the governors have fared best. While the auto industry, the tobacco industry, and the medical profession are continual targets of litigation and regulation, high-technology finds itself a target only occasionally, and then usually as a result of antitrust issues. The one firm that best defines this new era of wealth creation, Microsoft, has clearly been bowed by the attack it has sustained from the other camp, and whether it becomes permanently crippled remains to be seen. But before the mass antitrust actions, Microsoft (and thousands of other firms) steamed along, creating a product that causes no injuries, creates virtually no pollutants, and is subject to almost no consumer-oriented litigation.



"True, Glickenspiel has never been bought, but several powerful interest groups have him on layaway."

We have observed, in both the presidential election crisis and Microsoft antitrust case, not an exercise of law over chaos or of jurisprudence over crime, but a power struggle that is more evident today simply because creators have become more powerful and more visible. Whereas newscasts used to focus primarily on the actions of government, entire networks now devote themselves to the activities of business. We have come to expect our livelihoods from entrepreneurship, rather than government grants.

We've also witnessed the peculiar phenomenon of corruption in our highest elected office being mostly ignored by the populace. Bill Clinton's actions were ignored not because they were trivial, but because the conduct of the president has become less important in our daily lives. In an era of wealth-creating free enterprise, the president who governs best governs least. And a president engaged in sexual activities on government time is clearly not governing.

The ideological tug of war we observed between the man of government, Al Gore, and the man of business, George W. Bush, played out in an entirely predictable manner. Each candidate marshalled the resources best suited to his temperament. Gore called upon the "disenfranchised" who have long found themselves the recipients of government largesse, and those most skilled at manipulating this population — Jesse Jackson, William Daley, and Al Sharpton. Bush called upon a true management team, which includes a former CEO, Dick Cheney, and a staunch steward of laissez faire, James Baker.

Furthermore, that portion of the press whose bread is buttered by government-generated news supported Mr. Gore — CNN, and many of the baby-boomer journalists who came of age during the governmentcentric crises of the 60s. That part of the press engaged in the news of free enterprise — *The Wall Street Journal*, Fox News Network, and CNBC — favored Bush.

But to the victor may have gone hollow spoils — the mantle of a government that is becoming increasingly less relevant in the lives of its citizenry, who have discovered the tax-free, unfettered communications of the Internet and the power of personal wealth and individual ideas. Government is not, as commonly portrayed, primarily a device to prevent anarchy, nor is free enterprise purely an outgrowth of greed or envy. Rather, government and enterprise are manifestations of the two most rudimentary ideologies in society, battling for people's souls, opposites in goals and ideals. And after millennia of rule by one ideology, we may be witnessing the opening pitch of a whole new ball game.

— Michael J. Martin

Browne Campaign Manager Admits Fraud

by R. W. Bradford

Campaign manager Perry Willis has finally confessed to committing fraud against the Libertarian Party on behalf of himself and the Browne campaign. What happens next?

On May 11, Perry Willis wrote an extraordinary memo to the Libertarian Party's national committee. He confessed that he had consciously disobeyed one of the terms of his employment contract with the LP, at that time his employer. In 1995, he had worked for the campaign of Harry Browne, at the time seeking the party's 1996 presidential nomination. The party's "conflict of interest" rules prohibited its employees — Willis was national director at the time — from supporting, working for, or showing favoritism to any person seeking the party's nomination.

He was called onto the carpet at that time and confessed to having worked for Browne — explaining that working as a paid contractor for Browne did not constitute "support" for his candidacy. He was reprimanded, but allowed to do his job after he promised he would cease all work, paid or volunteer, on behalf of the Browne campaign.

He continued to work for the campaign, in secret. Critics of Browne voiced suspicion that Willis had continued to work for Browne, but he continued to deny it. Early last year, *Liberty* made a thorough investigation of the charges. We could find no hard evidence. We examined Browne's filings with the Federal Election Commission, but found no records of payments to Willis after he had agreed to stop violating the terms of his contract.

The reason we hadn't found any evidence of further payments to Willis is now apparent: Willis had the Browne campaign make payments to an enterprise owned by his friend, Jack Dean, which was already doing contract work on behalf of the Browne campaign, Dean then forwarded the money to Willis. In the words of the 2001 memo to the LNC, Willis "concealed [my] actions from" his employers, "or lied to them."

Neither the blatant violation of his contract with the LP nor the lying and deceit he engaged in to cover it up bothered Willis one bit. His confession contains not even a hint of regret or contrition. He didn't consciously deceive his friends and colleagues and violate his employment for his own gain. Far from it. He had heroically put "friendships, career and reputation at risk" to "save the LP from a meltdown." What was this "meltdown"? The prospect of nominating a candidate who was not Harry Browne. And, he had saved the day: "Even with my help, the Browne campaign struggled to make it to Election Day. Without my help I don't think they would have made it through the winter of 1995–96."

His 20-page memo is an elaborate argument that the end justifies the means. The party, the movement, freedom itself could have survived only if he gallantly sacrificed himself by defrauding his employer, an action which harmed no one and benefited everyone except him. ("We all benefited from what I did. Fortunately, only I have suffered for it.")

Cynics might charge that he may have benefited a little bit. After all, the Browne 1996 campaign made payments to him, laundered through the firm of his friend Jack Dean. And, according to documents the Browne 2000 campaign filed with the Federal Election Commission, the Browne 2000 campaign made payments to him totalling $165,267.28 for "campaign management," another $88,404.34 to a business entity which he apparently owns, and another $165,905.21 to members of his family. The total was $419,576.83. Of course, not all this went into his own pocket; he had expenses. But it isn't as if he had taken a vow of poverty, either, though curiously his memo gives another impression: " . . . during the

2000 Browne campaign I constantly went without pay and lived off my credit cards, many of which are now cancelled because I forgave huge amounts of salary and couldn't pay my bills." One has to wonder exactly what "huge amounts of salary" he forgave, considering that the salary that he didn't "forgive" amounted to more than $165,000 through March of this year.

Why did Willis wait until May 11 to confess? He didn't say, but it seems likely that he wrote his memo in response to a series of events touched off by two documents that former LP Secretary John Famularo delivered to LP staffers and National Committee members at their meeting of April 21.

Neither the blatant violation of his contract with the LP nor the lying and deceit he engaged in to cover it up bothered Willis one bit.

The first was a memo addressed to LNC members, in which Famularo noted that the LP was considering entering into a contract to make substantial payments to various entities in which Willis and Jack Dean (who had laundered the Browne campaign payments) were principals, and observed that the LNC was relying on representations made by both Willis and Dean. "I believe," wrote Famularo, "that the following information is germane at this time."

There followed a brief, but explosive, paragraph:

> Mr. Willis, the national director at the time, assured the LNC in early 1995 that any paid work for the Browne campaign has ceased. There is evidence that Mr. Willis continued to work for the Browne campaign throughout the balance of 1995 and into 1996 prior to the July 1996 nominating convention, through a mechanism of billing Jack Dean's company, Dean & Spear for work done by Willis for the Browne campaign. This type of transaction would not appear on either Browne's or the LNC's FEC reports. Attached is a copy of an invoice from Perry Willis to Jack Dean referencing a contract for payments to Willis for work done for the Browne Campaign. There is other evidence available.

Attached to the memo was a copy of an invoice from Willis to Dean, Spear & Associates, Jack Dean's company. It was dated Feb. 28, 1996 and specified various payments due Willis "for February 1996 Browne for President contract."

The LNC, most of whose members were longtime Browne supporters weary of the charges that have dogged Browne's campaign for over five years, expressed little interest; and no discussion was held. But the members took the documents home with them, and over the next week read them and drew the inevitable conclusion.

Also on April 27, Famularo sent e-mail copies of the memo and the invoice to several individuals, including me. The documents circulated among party activists. It was becoming plain to a lot of people that if the Willis invoice was as genuine as it appeared to be, it was proof positive that the charges of Willis' and Browne's critics had been true: Willis had indeed consciously violated his contract and deceived his friends, colleagues, and employer about it for half a decade.

Two weeks later, Willis issued his memo.

The episode is far from over. Libertarian Party members have shown a tremendous tolerance for chicanery by the Browne campaign and LP leadership, and it is not yet evident whether they will forgive this espisode as well. It's possible that members of both the party and the National Committee will simply not care.

But if I had to guess, I'd say that the party is over for Willis and others who were part of the fraud and deceit. Libertarians have never cared much for the notion that the end justifies the means. It's the most common rational for expanding state power, for violating individual rights, and for ignoring fundamental principles.

It strains credibility to believe that neither the candidate, the campaign manager, nor the money launderer knew about what was happening.

The party may be over for others who were party to Willis' deceit. Among his co-conspirators are almost certainly Browne himself, as well as Sharon Ayres, who was Browne's campaign manager and a member of the LNC during the episode, and Jack Dean. The Browne campaign was making substantial payments to Willis and laundering them through Dean. It strains credibility to believe that neither the candidate, the campaign manager, nor the money launderer knew about what was happening.

There's one further interesting question. When the LP discovered that a firm that had rented its mailing list had used it once without authorization, they sued at great expense, despite the fact that LP officers were aware that the firm would be unable to pay. They defended their action on the ground that they wanted to discourage future fraud of this sort.

Stay tuned. Next month, *Liberty* will have a detailed report on how this story is developing. ❑

"Schneider here is our 'go-to' guy on spiritual-journey issues."

Exposé

The Corrupt Crusade

by John Samples

Everybody thought John McCain could never get his fellow senators to agree to abolish freedom of speech in the name of campaign finance reform. Everybody was wrong.

In early April, the U.S. Senate passed S. 27, which carries the beguiling title, "Bipartisan Campaign Finance Act of 2001." If both parties support this bill, the sponsors seemed to be saying, it must be good for America. As any sensible person might guess, the truth is somewhat different. McCain-Feingold-Cochran (the more common name for S. 27) directly forbids raising so-called "soft money," i.e., unregulated contributions to political parties. It also prohibits corporations, labor unions, and most interest groups from running ads on television or radio for 60 days prior to an election if the ad mentions a candidate for federal office. The bill also vastly increases the ambit of federal election law by demanding ever more disclosure of the sources of campaign money. While it doubles the contribution limit for individuals, that ceiling in real dollars is only about two-thirds the value of the original limit set in 1974. As I write in early May, it seems possible that the House of Representatives will pass something like McCain-Feingold-Cochran, and President Bush will sign it into law.

The struggle over campaign finance regulation is not normal politics. Normal politics involves trade-offs, bargaining, and compromise. Campaign finance "reform" is more like a religious crusade that aspires to purify the political world by cleaning up corruption and banishing the wicked (or at least keeping the wicked off the television for 60 days before an election). The first Puritans had their Jonathan Edwards. Campaign "reform" has John McCain.

McCain has successfully defined the debate over campaign finance regulation as a question of political corruption, rather than as a question of political liberty. He speaks of political decay and the corruption of "the system," recasting his campaign to restrict Americans' right to speak out during an election into a moral crusade. McCain lacks the natural charisma of JFK, but his suffering during the Vietnam War gives him a moral gravitas that is not easily denied. The public understands what he does not explicitly say. "I have suffered much for this nation. My suffering is a measure of my love. Such a great love could never be wrong about what is right for the nation." They also understand his silent equation of his torturers in the Hanoi Hilton to the "big money" interests that oppose his "reforms." He carries this aura with him to the floor of the Senate, where he fights one last battle for the soul of American politics.

Yes, McCain has sinned. But he fervently seeks redemption. He was one of the Keating Five, the senators who putatively obtained favorable regulations for a savings and loan operator in return for campaign contributions. Like St. Augustine, John McCain sinned greatly before becoming a saint. In politics, as in life, it is difficult to argue with emotion, and McCain's power on this issue is profound.

Until now, McCain's prophetic talents have led to few legislative achievements. Apolitical prophets may change the world, but in Washington, D.C., even preachers of purity need a winning coalition, and his fellow senators loath his moral smugness and despise his prickly personality. His presidential campaign found little support among Republican partisans. Even his crusade on campaign finance has made little impression on the general public. Polls indicate majority support for "reform," but few people see new regulations as a high priority for the nation.

But McCain has found support among one constituency, the media. And that has been sufficient. Editorialists and reporters at the *Washington Post* and *The New York Times* inveigh against corruption and for reform. Television talk hosts toss him softball questions. The very people whose livelihoods depend on freedom of speech seem intent on denying it to everyone else.

McCain made good use of the media during the Senate

debate on his bill. He forced Senate leaders to use two entire weeks of floor time debating and voting on his regulations. The relentless coverage on CNN and in the major papers meant that senators opposed to the bill had to go public and be denounced by McCain and his cohorts as "corrupt." Democratic senators had many reservations about the bill, but in the end only three were willing to act on their doubts about its constitutionality or fairness. The media acted as McCain's enforcer for wavering Democrats.

The concerns of Senate Democrats also testify to McCain's new political adroitness. In the past, campaign finance "reform" has usually been a Democratic issue, and McCain's bill got most of its support from Democrats. Most

Apolitical prophets may change the world, but in Washington, D.C., even preachers of purity need a winning coalition.

Democrats believe that a ban on "soft money" would help them because Republicans have traditionally had a substantial edge in such fund raising. For this same reason, Republicans had convincing reasons to oppose "reform."

In the 2000 election, the Democrats caught up with the Republicans in soft money fund raising, thereby changing the partisan calculations. Democrats began to worry that a soft money ban would leave them relatively worse off because they badly trail Republicans in "hard money" contributions (that is, in contributions regulated by federal election law). For the same reason, Republicans may have begun to see the wisdom of banning soft money.

To shore up GOP support, McCain threw into the measure a ban on labor union purchase of political ads on television and radio.

The Senate is evenly split between Republicans and Democrats, but every member is an incumbent, and McCain crafted the bill to appeal to them. Contribution limits make it harder to challenge incumbents. The ban on soft money in McCain's bill makes it more difficult for both parties to attack each other's weak incumbents. The restrictions on broadcast ads reduce criticism of incumbents, as does the provision lifting contribution limits for candidates facing a wealthy challenger and imposing airtight price controls on ad time.

In the end, McCain got support from all but three Democrats, and eleven Republicans the rest slowly realized that "reform" could be good for the GOP.

Thus the prophet transformed himself into the crafty politico, a master of media manipulation and builder of winning coalitions. He has played the political game well.

But this is hardly the most important aspect of McCain-Feingold-Cochran. How will it effect free elections and free speech?

We need not wonder long: McCain's reform is a disaster, undermining freedom of speech and the very same electoral process it purports to strengthen.

McCain-Feingold-Cochran clearly violates our natural and constitutional right to free speech. It bans contributions by individuals and groups to political parties. It blocks exchanges between willing buyers of broadcast time (individuals, corporations, labor unions, interest groups) and willing sellers (television and radio stations). It establishes disclosure requirements that will chill political participation. The bill is an affront to the idea that Americans should be free to participate in politics as they wish.

McCain-Feingold-Cochran is largely an effort by incumbents to control their political environment, to reduce their risks, and to silence those who create problems during campaigns. How else can one explain the appalling ban on broadcast ads by corporations, labor unions, and for good measure, most interest groups? Who else threatens the reelection of sitting members of Congress?

Incumbent protection also explains why the Senate freed candidates from contribution limits if they face a wealthy challenger (the Domenici amendment). Incumbents believe ceilings on contributions prevent corruption unless an incumbent faces someone with enough money to make a real challenge.

The ban on soft money itself will make challengers to incumbents scarcer. In 2000, only about a dozen challengers ran competitive races against House incumbents; on average, those challengers spent $1.3 million. Raising a sum like that in $2,000 increments (the proposed new ceiling on individual contributions) will be difficult enough to deter most challengers. And no challenger in 2002 and beyond will receive soft money from his or her party.

McCain's bill gained support in some surprising places. Journalists Deroy Murdock and Andrew Sullivan, both largely libertarian in outlook, supported McCain's effort. There are two rationales by which libertarians might support the bill. The restrictions it imposes might curtail rent seeking by interest groups. And ending soft money contributions would make it more difficult for politicians to extort campaign contributions from individuals and businesses subject to government regulation.

Neither of these arguments is very convincing. Compared to lobbying, campaign contributions play a relatively small role in rent seeking. Limiting soft money contributions might make extorting contributions from the private sphere more difficult, but politicians would still find ways for their victims to pay them protection money. The real problem is the size and ambit of government. If members of Congress did not regulate businesses, they could not extract contributions from them. The only effective campaign finance reform is to reduce the size of government.

The Future

Will McCain-Feingold-Cochran become law? Not unless it passes the House, is signed by the president, and passes constitutional muster with the courts. The political speech regulation game is far from over.

The Republican leadership in the House opposes the bill and has scheduled hearings on it that will drag out over the summer and into the fall. House Democrats could force a vote on McCain's bill by supporting a petition to discharge it from the committees holding hearings, but so far they have not and some are having serious second thoughts about its

Continued on page 26

The Extension of Drug Paranoia by Other Means

by Shannon Seibert

Welcome to Colombia, where the American-directed drug policy is to shoot first and ask questions never.

Last year, the United States agreed to spend $1.3 billion on Plan Colombia, its latest effort in the War on Drugs. As part of the plan, America will give the Colombian military 16 Blackhawk, 30 Huey II, and 15 UH-1N helicopters. It will also send some 500 ground troops and 300 contract civilian workers to act as "advisors," as well as 85 Green Berets to train Colombia's soldiers in anti-drug operations — mostly destroying coca fields and fighting narcotraffickers.

Because of its focus on crop eradication, Plan Colombia promises to fail spectacularly. Eradication efforts typically result in a temporary decrease in the amount of illegal crops in the targeted area, with increased production in regions that are not under attack. In 1995, the United States stepped up its anti-drug campaign in Peru and Bolivia, spending nearly a billion dollars over the course of five years in military assistance and "alternative development" programs in an effort to eradicate coca fields in those two countries. And while land dedicated to coca cultivation in Peru and Bolivia fell from 361,250 acres in 1995 to 122,500 acres by 2000, land under coca fields more than doubled in Colombia, from fewer than 168,000 acres in 1995 to 340,250 acres in 2000.

Last December crop spraying began in Colombia in the southern provinces of Caqueta and Putumayo, where about 75% of Colombian coca was grown at the time. The campaign against coca fields there resulted in a region-wide doubling of coca leaf prices over the last six months, encouraging farmers in other regions to discard "legitimate" crops in favor of coca. And an estimated 10,000 farmers from Putumayo have moved to the neighboring province of Narino to re-establish themselves in the coca business. As for the long-term effectiveness of eradication efforts, the United Nations Drug Control Project (UNDCP) recently released a report that Peruvian farmers who had abandoned their fields in the late 1990s are once again returning to coca cultivation in response to the increased value of the crop.

While Plan Colombia won't have much effect on the flow of illegal drugs, it is helping the United States get its foot back in the door to South America, and it gives a great boost to Colombia's military in their efforts to put down a 40-year-long insurrection by leftist revolutionaries.

The leftist guerrilla movement in Colombia originally formed in the 1960s as a militant political movement with the stated intent of toppling the National Front government. The guerrilla's methods of acquiring capital to support their efforts against the government have never been pleasant — extortion, bribery, and kidnapping have long been standard practices. In the past two decades, the guerrillas have lost most, if not all, of the political idealism they held in the 1960s, and the movement is now no different from any other criminal organization. In addition to the continued extortion, bribery, and kidnappings, the guerrillas take in enormous amounts of money for providing "protection" for coca growers and drug traffickers in Colombia.

In the early 1980s, the Colombian military began training and supplying right-wing paramilitaries to protect banks, businesses, and farmers from guerrilla strong-arming. The military's support of the paramilitaries was openly acknowledged for nearly ten years, until the abysmal human rights record of the paramilitary groups and the para's self-

professed involvement in the drug trade finally forced the Colombian military to withdraw official recognition of them in 1989. The Colombian government now claims that it no longer holds any ties to the paramilitary groups, despite considerable evidence to the contrary. Consequently, the U.S. is feeding $1.3 billion dollars of aid to a government that supports paramilitaries who are themselves involved in drug trafficking, undermining the entire cause of the drug war.

As the military beefs up its forces with U.S.-supplied helicopters and surveillance equipment, and adds American-trained battalions to its forces, the guerrillas have, in turn, stepped up their recruitment efforts among Colombia's native Indians. Boys and girls as young as twelve are being enticed to join the ranks of the guerrillas with tales of great profit and adventure — and, when that doesn't work, they are simply threatened or coerced. As a result, guerrilla forces have swelled to 17,000, up 5,000 in the past year. Paramilitary groups, in response, have stepped up their attacks and have become more ruthless and indiscriminate in targeting "suspected" guerrillas or guerrilla-sympathizers. And as violence escalates in Colombia, it is crossing the borders into neighboring countries.

Aside from the occasional newspaper headline, most Americans are unaware of the destruction caused by drug eradication efforts in South America.

In Ecuador, Colombian paramilitary groups pursue and battle Colombian guerrillas, who are attacking Ecuadorean oil pipelines. Violence has broken out along Colombia's borders with Peru and Brazil, as Colombian guerrilla and paramilitary groups clash with the Peruvian and Brazilian militaries. In southern Venezuela, Colombian guerrillas have begun kidnapping Venezuelan ranchers and oil workers to generate further revenue, and Panama is voicing concerns that Colombia's war will soon threaten her boundaries. Ecuador, Peru, Brazil, and Panama have all requested increased U.S. aid to help them contain the violence streaming over their borders; Ecuador alone has requested $400 million over the next four years. The Pentagon is already spending $62 million in Ecuador this year to build an "advance post for combatting narco-trafficking" (military officials prefer to not call it a "base" — though living quarters for 200 American military and civilian contract personnel are being built there).

Further complicating matters is the election of Hugo Chavez as president of Venezuela last year. Chavez is disdainful of United States involvement in the area and has barred U.S. "counternarcotics" flights over Venezuelan airspace. Chavez is widely believed to sympathize with and even support the Colombian guerrillas, though he publicly denies it. He played host to a group of Colombian guerrillas last year, even allowing one to have time on the speaker's floor of the Venezuelan Congress to denounce the Colombian government; and Venezuelan military weapons have been found in the possession of Colombian guerrillas. As America becomes more heavily involved in Colombia's campaign against the "narco-guerrillas," the situation threatens to progress into a war between sovereign nations.

President Clinton presented Plan Colombia last year as "vital to national security interests" because it is instrumental in protecting America "from the threat posed by illicit drugs imported from other nations." "National security interests" and "threats posed by drugs" were more than sufficient justification for Congress, and the plan passed with overwhelming support. Though a few dissenting voices over human rights abuses by Colombia's military came from Democratic quarters, many Republicans requested that even more than the proposed $1.3 billion be given Colombia to help fight the War on Drugs. The Bush administration is gearing up to expand Plan Colombia to encompass Bolivia, Peru, Ecuador, and, if Chavez agrees, Venezuela to help keep the Andean region "safe from drug traffickers."

Public opposition to the plan was a non-issue. Aside from the occasional newspaper headline, most Americans are unaware of the destruction caused by drug eradication efforts in South America. (See "Bush's War On Drugs," below.)

Given the repeated incidences of drug-war violence, the

Bush's War On

Twelve years ago, Nobel laureate Milton Friedman wrote an "Open Letter to Bill Bennett" warning about the policies that Bennett and former President George H.W. Bush were advocating to fight drugs: "The path you propose of more police, more jails, use of the military in foreign countries, harsh penalties for drug users, and a whole panoply of repressive measures can only make a bad situation worse. The drug war cannot be won by those tactics without undermining the human liberty and individual freedom that you and I cherish."

Last month, American missionary Veronica Bowers, 35, and her 7-month-old newly adopted daughter, Charity, found themselves at ground zero in America's War on Drugs when a fighter jet shot their private Cessna seaplane out of the sky over the jungle canopy of Peru. Veronica had been in South America for nearly a decade, raising her children on a houseboat and delivering food, medicine, and Bible stories to villagers along the Amazon.

Five people were in the Cessna that morning — the pilot, Veronica, Charity, Veronica's husband Jim, and their 7-year-old adopted son, Cory. TIME.com provided the details:

> Jim Bowers was feeding Charity Cheerios when the Peruvian jet dived toward them. He handed the baby to Veronica. Seconds later, bullets ripped through the cabin — one entering Veronica's back and going into Charity's skull. Both died instantly. The plane was thrown into a steep spiral, and flames erupted all around them. Seriously wounded in both legs, pilot Kevin Donaldson somehow managed to land the plane. In the chaos, Bowers pulled the bodies of his wife and daughter from the burning wreckage. Bowers and his son perched atop the capsized plane's pontoons until

documented futility of crop eradication and the common-sense understanding that shifting coca crops around the Andes will do nothing to keep cocaine from flowing into our country, one is left with the question: "Why are we so strongly committed to fighting the drug war in Colombia?" The answer to that question lies in the United States' thirst for increased presence in Latin America for political and economic reasons that are in no way related to the "dangers" posed to American citizens from imported narcotics.

After its debacle in Vietnam, the United States found it more difficult to openly pursue its pro-American (though not necessarily pro-democracy) agenda in Latin America. The "fight against communism" no longer proved sufficiently popular to warrant outright military activity and the loss of Americans' lives on foreign soil. However, by virtue of its control of the Panama Canal, the United States maintained a military presence in Panama at Howard Air Force Base — the United States' southern headquarters for military operations. Howard provided the United States with a hub from which to monitor activity — drug-related and otherwise — throughout Latin America. At the turnover of the canal in December of 1999, the United States was forced to withdraw completely from Panama — leaving the U.S. military effectively locked out of Latin America, until Colombia's President Kastana approached President Clinton with his proposal for Plan Colombia.

United States' involvement will only serve to fuel the flames of violence within Colombia, a violence for which the country has long been notorious. The past 200 years of Colombian history have included four dictatorships, two official civil wars, a military coup, and perpetual unrest in the countryside. From 1948 to 1958, Colombia was engulfed in what was universally called "La Violencia," a period of civil violence that killed and displaced hundreds of thousands. In the last decade alone, 35,000 Colombian civilians have been killed in the political crossfire. The present conflict is merely the latest chapter in this long tale of political violence — the continuation of an unofficial civil war that has raged for nearly 40 years. Throughout its long history, this civil war has become increasingly complicated as it has evolved into a triangular conflict between the government, leftist guerrillas, and right-wing paramilitary "death squads," where questionable alliances have formed and defining lines between "right" and "wrong" have become virtually undetectable.

In the end, Plan Colombia will mean spending billions of dollars for nothing, except more violence, death, and destruction in a long-suffering land. ❑

Drugs: Just Jail 'em and Shoot 'em

natives arrived in a canoe half an hour later.

The downing of the U.S. missionary plane occurred as both President George W. Bush and Peruvian Prime minister Perez de Cuellar were attending the Summit of the Americas in Quebec City. Bush explained the American role in the shoot-down: "Our role was simply to pass on information." Translation: our role was to have a U.S. surveillance plane track the missionary plane before it was shot down, mistake it for a drug-smuggling flight, and "pass on information" to the Peruvian air force — information like the plane's location and tail numbers.

"Our government," said Bush, "is involved with helping our friends in South America identify airplanes that might be carrying illegal drugs." Might be. White House spokesman Ari Fleiser said the U.S. crew of the CIA-operated surveillance aircraft tracking the missionary plane "did its best to make certain that all the rules were followed."

Closer to home, Pedro Oregon Navarro is also no longer among the living. It was 1:40 a.m. when six members of Houston's anti-gang task force barged into Navarro's home and shot him to death. They thought they were raiding the home of a drug dealer but they were mistaken.

Timothy Lynch at the Cato Institute's Center for Constitutional Studies tells the story:

> It all began when two police officers pulled over a car occupied by three young men. One of the occupants was placed under arrest for public intoxication. Now in serious trouble because he was already on probation for a previous drug offense, the street-wise arrestee thought fast. He told the officers that he would give them the name and address of a drug dealer if they would just let him go. The cops agreed. The drunk told them a bunch of lies and gave them Navarro's address.

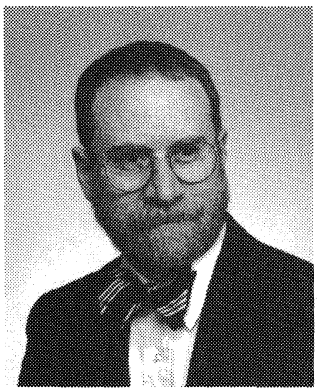
Making no attempt to corroborate the information, the two police officers called for a backup of four more cops and set out for Navarro's address. "When Navarro's brother-in-law opened the door, the police rushed in," reports Lynch. "Navarro, who'd been asleep for several hours, heard the ruckus and grabbed a handgun he kept in his bedroom. It was all over in just a few moments. The police kicked in his bedroom door and bullets started flying. Oregon was shot twelve times. His own gun was never fired."

And so, after decades of studies showing that treatment is far more effective in reducing drug use than are midnight raids, jails, informants, wiretapping, racial profiling, property confiscation, border interdiction, and the shooting down of planes over Peru, here we go again, one more time, with George W. Bush's nomination of John Walters as our next drug czar — a shoot-'em-down and lock-'em-up guy who says it's an "all-too-common myth" that we have too many small-time drug users in prison. Walters is a guy who's declared that treatment for drug addiction is just "the latest manifestation of the liberals' commitment to a therapeutic state."

As it has turned out, Friedman's words were prophetic: "Every friend of freedom, and I know you are one, must be as revolted as I am by the prospect of turning the United States into an armed camp, by the vision of jails filled with casual drug users and of an army of enforcers empowered to invade the liberty of citizens on slight evidence. A country in which shooting down unidentified planes 'on suspicion' can be seriously considered as a drug-war tactic is not the kind of United States that either you or I want to hand on to future generations." — *Ralph R. Reiland*

A Nation of Children

by Sheldon Richman



President Clinton took some flak in the closing weeks of his administration when he told a *Rolling Stone* interviewer, "I think that most small amounts of marijuana have been decriminalized in some places and should be."

The negative reaction was so strong that a Clinton spokesman said that the president was not endorsing decriminalization. You figure it out. I guess it all depends on what your definition of "should" is.

Shepherd Smith, president of the Institute for Youth Development, responded, "Decriminalizing 'small amounts of marijuana' is simply a euphemistic way of saying it's fine to smoke it, just don't sell it. So we now have the president of the United States on record again saying to young people that smoking marijuana is basically OK."

Oh really?

Let me rush to the former president's defense. Since when is it an endorsement of an activity to say that it shouldn't be treated as a crime? There are many things that are perfectly legal to do that would best be avoided. Bungee jumping is the first example that springs to mind, but there are many others. Did you ever hear anyone say, "By making bungee jumping legal, we are sending a message to our kids that such risky behavior is OK?" Some people enthusiastically endorse bungee jumping. Search the World Wide Web and you'll find people who call it "the ultimate rush."

But is it accurate to say "we" — meaning Society or The Country — are telling kids that they should bungee jump? I don't think so.

Some people just don't get the point of a free society. The freedom to do something doesn't mean you *ought* to do that thing. How basic can you get?

Yet we seem to want to teach our children the opposite lesson: if something *is* legal, then it is OK to do it. And that leads to the view that we should legalize only those things we want people to do. That's just nutty.

Under what used to be known as "liberalism" (today we say "classical liberalism"), people were free to do *anything* except that which was expressly (and justly) prohibited by the law, such as murder, robbery, rape, and the like. On the other hand, government could do *nothing* except that which was expressly (and justly) permitted to it. To use the imagery of political philosopher Stephen Macedo, government power constituted a few islands in a sea of liberty.

All that has changed now, thanks to the gang that appropriated the word "liberalism" about a century ago. Today, continuing with Macedo's analogy, liberty constitutes a few islands in a sea of government power. We are quickly heading toward a situation in which, as someone once put it, everything that is not forbidden is required. In other words: total government.

The price is the liberty, self-responsibility, and dignity of the individual. Contrary to the attitude of so many people today, that is no small price. As Charles Murray, author of *What It Means to Be a Libertarian,* self-responsibility is what keeps our lives from being trivial. Everyone pays lip service to self-responsibility. But what is so misunderstood is that self-responsibility requires freedom. Try imagining one without the other. It's like trying to square the circle. It cannot be done.

The American political system has been seized by the idea that there are areas in which individuals may not be permitted liberty and self-responsibility. Drugs are one such area. A hundred years ago people were trusted with the freedom and responsibility of self-medication. They could freely buy opiates and marijuana; Coca-Cola contained cocaine. A small percentage of the population harmed themselves with those substances. But there was no *drug problem.* The drug problem was born the day government began passing laws depriving people of freedom and responsibility. Those laws gave us black markets with their attendant violence, organized crime, and law-enforcement corruption. They did something worse — if worse can be imagined. They infantilized the American people. The results were predictable. The sphere of freedom and self-responsibility shrank radically — to a point where no one is responsible for anything anymore.

If you treat adults like children, many of them will come to believe that that is what they are.

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

THE FUTURE OF FREEDOM FOUNDATION
11350 Random Hills Road, Suite 800
Fairfax, VA 22030
Phone: (703) 934-6101 • Fax: (703) 352-8678
Email: fff@fff.org
www.fff.org

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Analysis

Why Waste Your Vote?

by R. W. Bradford

In last year's presidential race the Libertarian Party spent 75% more than it had in 1996, but got 27% fewer votes. Can its abysmal showing be explained by the susceptibility of voters to the "why-waste-your-vote" argument?

When the first partisan of the anti-Masonic party approached a friend in 1832 and asked him to vote for William Wirt, the anti-Masonic candidate, rather than Democrat Andrew Jackson or National Republican Henry Clay, his friend no doubt responded, "Why would I want to waste my vote? It's obvious that Wirt has no chance of being elected." For three decades, partisans of the Libertarian Party have received the same response.

Most Libertarians and partisans of other fringe parties believe that a major impediment to their cause is people's strange inclination to vote for a candidate who has a chance of winning, lest they lose their opportunity to affect the outcome of an election.

As I looked through the dismal results of Libertarian Party presidential candidate Harry Browne a few days after the November election, it occurred to me that the data offered a chance to measure the impact of the "why-waste-your-vote" argument.

My theory was simple. In some states, one or the other major-party candidate held such huge leads in the polls that it was virtually inconceivable that the state's electoral votes would go to any other candidate.

Meanwhile, the likely closeness of the national electoral vote made people extraordinarily aware of whether their state was "in play." Television was full of reports of left-oriented Democrats in states like Minnesota, where polls showed a virtual tie between the candidates of the two major parties, who were exchanging their Nader votes for the votes of Gore supporters in states like Texas where Bush had an insurmountable lead. Indeed, there were Web sites set up to facilitate these exchanges.

The "why-waste-your-vote" argument presumably had greater appeal among reasonably well-informed voters in states likely to be close rather than in those likely to be swept by a landslide for a major-party candidate. By comparing how the Browne campaign did in these two types of states we should be able to see just how important a factor the classic worry about vote-wasting was.

I compared the performance of the Browne 2000 campaign in states where the difference between major-party candidates was 2% or less to its performance in the same states in 1996, when all agreed the presidential race was a blowout nationally and the fear of wasting one's vote in a close election would have had negligible impact. I found that in these states, Browne did 12% worse than in 1996. Then I examined Browne's performance in states where a blowout was predicted in 2000 and compared it to his performance in those states in 1996. Again, Browne's performance averaged 12% worse in 2000.

Last year, Browne's campaign underperformed the 1996 effort by exactly the same amount in states where the wasted-vote argument would have its greatest impact as it did in states where the impact would be the least. These results strongly suggest that fear of the wasted vote was not a major factor.

There is one other bit of hard evidence about the wasted-vote argument. In 1996, the Browne campaign had purchased full-page newspaper advertisements on election eve in Denver, Honolulu, and Anchorage, pointing out that the election would inevitably be a huge victory for Bill Clinton, so that votes cast for Browne could not possibly affect the outcome. To measure the impact of these ads, I compared

how Browne did in 1996 to how the LP candidate had done in 1992 in these states to how Browne fared in comparison to the 1992 candidate in states where Browne's campaign had not purchased advertisements to counter the wasted-vote argument. The election results showed the Browne campaign performing worse in Colorado, Hawaii, and Alaska than in states where such ads had not been placed.

In the January *Liberty*, which went to press a few days after the election, I reported these data and the inescapable conclusion that the wasted-vote factor "had much less impact than is generally believed." This seemed like important information for the Libertarian Party: it could now confidently stop worrying about — and spending money trying to deal with — this factor.

The analysis I offered in the January *Liberty* was based on returns available only five days after the election. Fringe party returns come in irregularly, and reliable returns are not generally available for some time.

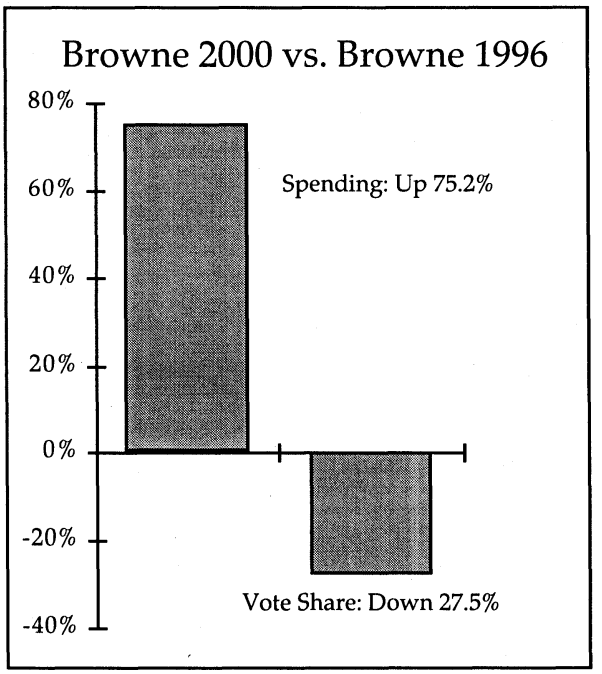
I was naturally curious to see whether the final, more reliable returns supported the conclusion that the wasted-vote syndrome was a relatively minor factor in the LP's stunning decline.

So I gathered the more reliable data. And instead of analyzing it myself, I turned it over to assistant editor Andrew Chamberlain, a recent graduate of the University of Washington with a major in economics and a concentration in econometrics. To further ensure that his analysis would be unbiased, I gave him the data "blind," that is, without identifying the two variables.

His conclusions (see "Blowouts, Tossups, and Wasted Votes," p. 26) were similar to mine: he found the impact of the size of the lead on LP performance to be "irrelevantly small."

A Problem for the Browne Campaign

The Browne campaign had blamed its abysmal showing in 1996 on its lack of money. So it had stepped up fundraising efforts for its 2000 campaign, and raised 75.2% more than it did for 1996. It then followed the same strategy that had failed in 1996: the campaign focused its resources on getting its candidate on talk radio and cable television, while spending very little on advertising. The results had to be disappointing, of course: despite increasing spending by 75.2%, Browne vote share dropped by 27.5% fewer votes.



What's more interesting about Browne's response is that it doesn't offer a shred of evidence to support its conclusion.

The Browne campaign had never shown an inclination for introspection or accepting responsibility for its own failures in the past — in May 2000, it blamed critics within the party for the fact that it had already spent so much of the money it had raised that it had to close down operations! — and it needed some way to blame its utter failure in the election on someone else. And the wasted-vote argument offered it a scapegoat: voters susceptible to the fallacious but potent wasted-vote argument.

It took the Browne campaign more than five months to try to undermine the evidence that the wasted-vote syndrome was not a major factor in its terrible showing at the polls. Its response came as part of a campaign evaluation written by Browne himself and sent to the campaign's e-mail list of more than 10,000 people. It is reproduced in full in the box to the right.

The response attempts to undermine the methodology of the analysis I offered. "The average voter," Browne observes, "doesn't study political Web sites, read detailed analyses of the campaign, watch CNN and C-SPAN, or in any other way stay abreast of the fine points of a presidential campaign."

This observation is true. But is it relevant? Do LP candidates get their votes from "average voters"? If they do, then why did Browne's campaign spend nearly all its resources getting him onto cable channels favored by political groupies like "CNN and C-SPAN," the two networks Browne uses to exemplify networks that "average voters" do not watch? Browne reports that he made 53 national television appearances. Only three were on commercial over-the-air networks, two on late-night ABC programs and one on a Sunday morning show.

A polls commissioned by the LP in 1997 showed that only 4% of Americans who had heard of the LP could identify Browne as the its presidential candidate from a list of six individuals. Presumably, nearly all Browne's votes came from this tiny and decidedly unaverage segment of voters. But the simple fact remains that the "average voter" has never even heard of Harry Browne or the Libertarian Party. This leaves open the possibility that the wasted-vote argument had some impact — but only among the tiny portion of voters who'd heard of Browne.

Of course, the wasted-vote explanation has the same appeal to LP activists that it has to the Browne campaign. It puts the blame for failure on someone else. None of us likes to face the fact that he has failed. There is always a temptation to put the blame elsewhere.

Now, there is some evidence for the wasted-vote argument, though Browne neglects to cite it. It is the evidence that nearly every LP member has encountered: when we ask friends and neighbors to vote for our candidates, they some-

times respond that they would do so except that they don't want to waste their votes. But this is purely anecdotal evidence, and anecdotal evidence is weak.

Like all anecdotal evidence, it is undermined by two factors:

1) There is no reason to believe that the people we encounter are representative of the larger body of voters. Merely having a friend or acquaintance who is a libertarian is quite unusual. A total of about 75,000 Americans are libertarian enough to have purchased a subscription to *Liberty* or *Reason*, got themselves on the Libertarian Party mailing list, or purchased a book from Laissez Faire Books. There are almost 280,000,000 who have not. That means there are approximately 3,700 non-libertarians for each identified libertarian. Obviously, most Americans do not even know a libertarian, and the subset who do are quite likely different from the overwhelming majority who do not.

I offered two data sets that undermine the wasted-vote explanation of the poor LP showing. Browne responded without a single datum to support his theory.

2) When data are gathered by identifiable partisans, the subjects' responses often are inaccurate. That's one of the reasons major parties hire professionals to conduct polls. Surveys conducted on friends are even less reliable. Friends and acquaintances are inclined against hurting your feelings. And few want to argue with you. Answering your plea by saying, "Well I think your candidate is a fine person with an excellent program, but I really don't want to waste my vote by casting it for someone who has no chance of winning" solves both these problems.

Data gathered from small, unrandom samples of the population by partisan friends is simply not very reliable.

What's more interesting about Browne's response is that it doesn't offer a shred of evidence to support its conclusion. I offered two data sets that undermine the wasted-vote explanation of poor LP showing. Browne responded without a single datum to support his theory.

In this sense, it is all-too-typical of LP analysis. An ideological party like the LP is in the business of selling its ideas to the voters, yet after 30 years, LP professionals have virtually no idea what issues win support.

Any real business in the real world that failed to do market research or analyze sales data wouldn't last long if its sales remained abysmally low. Before a sales campaign is rolled out, it is tested in a smaller market. Before it is tested in a smaller market, it is bounced off focus groups. Sales data is analyzed. A real-world enterprise learns whether a product can be sold successfully, and if it cannot, it doesn't waste resources on futile sales efforts.

If the managers of real businesses had lousy sales and refused to do market research or analyze sales data, they would be fired by the owners.

This has not happened in the LP. Its management has shown skill at only one activity: raising funds. It hasn't even attempted to do market research or to analyze voting data, aside from trying to spin the results in a way to expedite fund raising.

And LP members seem to remain quite satisfied with the party's management. Which suggests that the LP may not be a real-world enterprise engaged in promoting its agenda.

There is truth to the old saw that "if you always do what you've always done, you'll always get what you've always got." The Browne campaign conducted its 2000 campaign almost identically to the way it conducted its 1996 campaign. It failed even more miserably, for reasons that remain to be determined. But one thing is certain: its abysmal results should have surprised no one. ❑

The Wasted-Vote Syndrome

by Harry Browne

How much were we affected by the perceived closeness of the race?

A great deal, I'm afraid.

The Clinton-Gore administration generated such hatred among many small-government people that a great many of them would have done anything to keep Al Gore out of the White House. I've received a number of e-mails from people who say they voted Libertarian in 1996, but couldn't bring themselves to do so in 2000 — for fear that not voting for Bush would help elect Gore.

I've read an analysis of the campaign that maintains that, because we didn't do any better in states that were very one-sided either for Gore or Bush, the "wasted vote" syndrome wasn't the cause of our lower vote total. Anyone who lives in a state where his vote wouldn't tip the election one way or the other would have freely voted Libertarian if that's what he really wanted. The fact that so few people chose to vote for us supposedly demonstrates that virtually no one likes what we're offering.

That argument doesn't hold up, however. The average voter doesn't study political Web sites, read detailed analyses of the campaign, watch CNN and C-SPAN, or in any other way stay abreast of the fine points of a presidential campaign. All he knew was that the news broadcasts were saying this would be one of the closest presidential races in history.

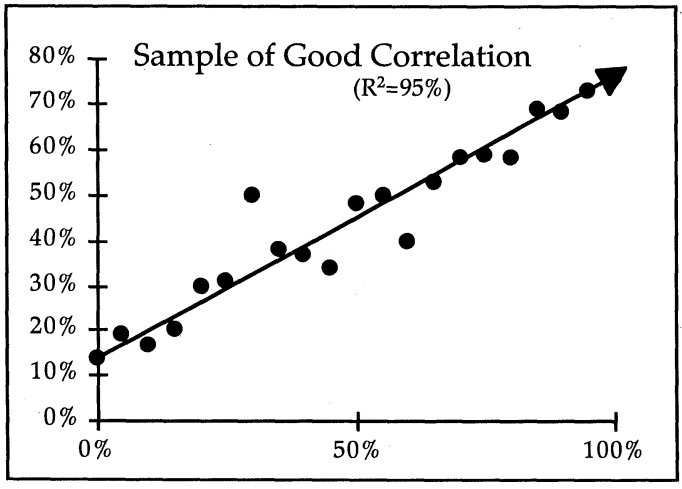
He may live in a state like Nevada (that went almost 2-to-1 for Bush) or a state like New York (that voted overwhelmingly for Gore), but he still thought he must vote for Bush or Gore in order to keep a worse alternative out of the White House.

Not only were most voters ignorant of statewide polls, many of them (I was surprised to find out during the campaign) didn't even understand how the electoral vote works. It was only after the post-election recounts repeatedly explained how Bush won in spite of Gore's larger popular vote that those people understood the significance of a statewide total.

Blowouts, Tossups, and Wasted Votes

by Andrew Chamberlain

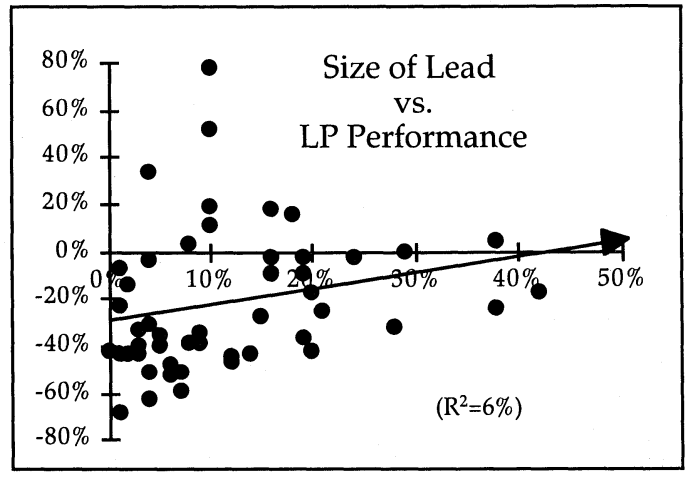
Checking correlation between two data sets is straightforward. The most widely employed method is "least-squares" regression analysis, which builds a mathematical model linking the data and then checks how well that model actually fits. In most cases, the "model" that results is just a straight line through the plot of data, summarizing the relationship. (See example below.) The equation for this "best-fitting line" enables us to gauge quantitatively which variables correlate and which don't, but says nothing about true causation.



Customarily, one begins with the assumption that one set of data "causes" the other before running a linear regression. This provides a theoretical base for the model by discouraging "data mining," or searching for spurious chance correlations between obviously unrelated things, like swimming deaths and ice cream sales. The thing that "causes" the other is called the "independent variable," and sits on the horizontal axis of graphs of the data.

In this case, we are checking the hypothesis that the perceived closeness of the major parties' campaigns, as indicated by pre-election polls, is a factor in determining the Libertarian Party's presidential vote. In other words, we're checking to see if closeness of races correlates with LP performance. Correlation is measured by a number called "R-square," which measures how closely the data points lie to the "best-fitting" regression line. Intuitively, R-square is interpreted as "the percentage of variation in 'y' that's explained by changes in 'x'." An R-square of 100% implies a perfect correlation, while an R-square of zero implies none at all. Models with high R-squares have better predictive value than those with a low R-square.

The R-square for this model was around 6%. That's the level of correlation one might expect between full moons and dog bites. There is no support for the notion that closeness of a race has any impact on LP electoral performance. See the chart below, which shows the correlation (poor as it is) between LP performance (on the vertical axis) and the size of the lead enjoyed by a major party candidate.



While correlation this poor makes it dicey to read much into regression results, this model suggests one startling result: a full doubling of the difference between major party candidates would lead to a tiny 8.4% increase in LP performance. This suggests that even if the correlation between "state leads" and "LP performance" were perfect (i.e., R-square = 100%), the impact of one on the other is irrelevantly small. If there's any truth to the "wasted vote" theory, it doesn't show up in the data at all. ❑

The Corrupt Crusade, *from page 18*

wisdom. The longer the bill stalls in the House, the more likely it will die as attention wanders to other, more important, items on the public agenda.

Should the bill come out of Congress and be signed by President Bush, the Supreme Court is almost certain to gut the bill; indeed, McCain and his co-sponsors have written backup provisions into the law to replace sections likely to be struck down. The justices will very likely void the prohibitions that prevent corporations, labor unions, and interest groups from buying broadcast time to run ads. The soft money ban may survive judicial scrutiny, depending on whether the court accepts Congress's rationale that banning soft money prevents corruption.

Even if the bill is ultimately defeated or gutted, however, it will remain a disturbing episode. John McCain has convinced a majority of the U.S. Senate to pass a law restricting political speech in open violation of the Constitution. There is an old saying that your pocketbook is never safe when a legislature is in session. The easy Senate passage of this bill — whose supporters virtually admitted violates the First Amendment — shows the fragility of free speech and free elections in this country. ❑

Dope

by Stephen Cox

Children of the future age,
Reading this indignant page,
Know that in a former time,
Drugs, "hard" drugs, were thought a crime.

But I guess you knew that. You may not know that in this former age there lived a second-rate actor named Robert Downey Jr. (son of Robert Downey Sr., a third-rate film director), who continually used illegal drugs and continually got caught doing it. Junior once got so stoned that he walked into a neighbor's house, went into a bedroom, lay down on the bed, and passed out. He was arrested for that. He was arrested a lot of times, not for doing anything particularly harmful, but for using illegal substances. He once went to prison for a few months. At other times, he submitted to the "diversionary treatment" that well-off white boys often used to evade the slammer.

This is a boring story, one that reflects no credit at all on either Robert Downey Jr., or the paranoid fear of "drugs" that flourished among the early 21st-century middle classes. What's mildly interesting is a statement that Junior came out with in one of his brief moments of cunning self-interest. Hoping to curry favor with the forces of law and order, Downey told an interviewer that he wouldn't wish his prison experiences "on an enemy. But there was value in it." It "motivated him to change his life."

It also motivated him to exchange one stupid interpretation of the law for another: "I would have been the first to say it's unconstitutional, to put drug abusers in jail or prison. Well, it's unconstitutional to be a human being and screw your life up that way." Right. The Constitution exists to protect people like Downey from themselves.

Downey's insights into the real meaning of the Constitution were reported on Sept. 19, 2000. Within a few months, he had been rearrested twice and was using all legal means to stay out of another motivational trip to jail. So what else was new? Nothing, including the two great warring ideas of America's drug war: (A) Drugs are harmful, and the way to deal with them is to send the people who use them to prison. (B) The only problem with drugs is the fact that the people who use them are liable to be sent to prison.

The first idea represents the insanity of the mainstream; the second, the insanity of . . . well, us, the libertarians.

(Here I can drop the pretense of speaking for the blissful Future Age, and enter the war myself.)

There's no point in refuting notion A, which I've dignified as an "idea" only for the sake of parallelism. Prison as a cure for drug abuse? It certainly cured Robert Downey Jr., didn't it?

But the use of Downey as a poster boy for abolition of the drug laws is almost equally loony. Downey would be a jerk no matter what he ingested, but it's pretty clear that drug use didn't make him any cannier. If drugs were legal, as they should be, I suppose he would have used still more of them. I suppose he would have gone wandering into more people's bedrooms, or automobiles, or lanes of freeways.

If drugs had been legalized in, say, the 1970s, crime rates would have fallen precipitously in inner-city neighborhoods, instead of rising astronomically. Young males would not have been tempted to run drugs instead of taking entry-level jobs that offered greater prospects for advancement and

security. The prison population would not have doubled. Solid citizens would no longer have suffered police terror simply because they wanted to enjoy the occasional recreational or poetic snort, or because they needed to take drugs to help them deal with the effects of AIDS or bone cancer. Government would no longer have employed wandering bands of hooligans to ferret out "abuse" and punish it with savage terms of incarceration whenever the "abusers" lacked the fame and money of Robert Downey Jr.

That's the good side of drug liberation, and it's good enough for me. But there's a bad side, too. Abolition of the drug laws would certainly result in a relatively small but significant rise in drug use, as people of all social classes found it easier and cheaper to purchase a good time. Some of these people would certainly set about making asses of themselves a la Robert Downey Jr. Some of them would drive through stoplights and obliterate other motorists. A few of them would suddenly discover that their spouses were the spawn of Satan and proceed to liquidate the menace. A few of them would even ruin their careers in film! Would they do the same thing without "the influence of drugs"? Probably not.

It's important to realize that elimination of the drug laws is a worthwhile object, but that, like all other worthwhile objects, it is not a panacea. The quest for panaceas is, indeed, the source of all authoritarian delusions, and it ought to be countered at every turn. Its demand for perfection must never be allowed to pass unchallenged, because liberty will never win an argument for perfection. Liberty is not a solution to every problem. There is no solution to every problem. When people ask, "How will we prevent all the harm that drug use causes, if we don't enforce the drug laws?" the answer is, "We cannot prevent all the harm that drug use causes." Period.

Sixty-five years ago, Isabel Paterson, the mother of libertarianism, addressed this panacea problem. She was writing a weekly column in the *New York Herald Tribune*, where she spent a lot of time demanding reductions of government meddling in every area of life. Her reward was a deluge of angry letters calling her a "snob" and a "hypocrite" because she claimed to desire the best for all people while advocating nothing better than merely leaving them alone. How, her enraged readers wanted to know, could laissez-faire capitalism guarantee that all babies would have milk, all old people would have pensions, and all young people would find "a solution of their troubles"? A solution for everything — was that too much to ask?

Yes, Paterson replied; it was. "What these correspondents really demand," she said, "is dope. If we don't believe in their dope, what dope can we suggest in place of it?"

In this sense, Robert Downey Jr., the pathetic druggie, is exactly like the nice folks who demand to know "how legalization will *solve* the drug problem." What all these people really desire is a pill that, once swallowed, will bring the age of bliss, square the circle, recover the Holy Grail, and unearth the Applegate Treasure. Sorry, that pill is unavailable.

What dope did Paterson have to offer? "None whatever," she said. "We do not even know a remedy for gullibility." Neither do I, and neither do you. But we do know something. We know the plain, unintoxicated truth about the individual's proper relationship to government. That's something unique, and something uniquely powerful. And that's what will get us from the current age of panaceas to the age when the worth of ideas is no longer measured by their ability to solve each and every problem of the Robert Downey Jr.'s of this world. ❑

Letters, *from page 4*

the local gay bar.

Feser claims that homosexuality — like alcoholism — leads to unhappiness. I'll tell you what makes gay libertarians unhappy: that our gay friends don't want us because we're not in lockstep with the Democrat-leaning political machine, and that many libertarians don't want us because we bring up uncomfortable issues.

A movement with folks who think I'm no better than an unhappy child-endangering alcoholic is one I'm not terribly thrilled with being a part of.

Robert Hansen
Austin, Texas

Making the World a Dangerous Place

Liberty's May issue contained several letters praising Israel's genesis and continuance. In the 1920s residents of Palestine were approximately 80% Moslem, 12% Christian, and 8% Jew. A generation later Jews arbitrarily declared it to be *their* nation, and have used it as an armed base to assault neighbors who know differently.

The United States now confiscates many billions of dollars each year from its citizens to enrich the Zionist occupiers of Palestine, thus continuing to enrage the Palestinians who lost their land, homes, and farms through brazen conquest by these subsidized foreign Jews.

This may seem fair to a few strange souls, but others saw it more objectively. It ignited worldwide hatred of these oppressors and it has been responsible for a meteoric rise of fundamentalist Islam. Even some who still fiercely defend Israel admit that the creation of a Jewish nation in Palestine was a huge mistake.

This is not to suggest that a nation immersed in Islamic culture is preferable to a Jewish nation. Not at all. Rather, threats of holy wars bring out the worst in a nation. That act of imposed aggression by Jews was against the best interest of intelligent Jews, Moslems, and world peace — to say nothing of the damage to American taxpayers. Our cost has been much greater than that provided directly to Israel; we pay huge yearly grants to Egypt to buy off Moslem rage at our meddling. An even greater cost is the support we have given to many despotic regimes in the Middle East. The result has been a great loss of respect for the United States throughout the world, and a jeopardizing of peace and stability.

Charles Schisler
North Palm Beach, Fla.

Liberty Goes PC

It is unfortunate that *Liberty* has chosen to publish a piece of politically correct Israel-bashing by Imad-ad-Dean Ahmad ("The Dark Side of Israel," April).

Ahmad states that the hatred of

Continued on page 52

Attack Anti-Tobacco Lawyers, Not the Constitution

by Robert A. Levy

Do two wrongs make a right? They do if you're a conservative critic of the tobacco settlement.

Anti-tobacco lawyers stand to collect about $11 billion in fees from the 1998 multi-state settlement that arose out of coordinated litigation against the nation's major cigarette makers. According to the Hudson Institute's Michael Horowitz ("Can Tort Law Be Ethical?" *The Weekly Standard* March 19, 2001), some attorneys could make $200,000 an hour for late-filed, copycat suits. Unfortunately, that led Horowitz to recommend a remedy that will raise more problems than it solves. Essentially, he would treat anti-tobacco lawyers as fiduciaries under the Internal Revenue Code, then limit their fees to amounts that are "reasonable and risk-based" — perhaps as high as six times normal hourly rates. Any excess would either be refunded to the states in whose names the original suits were brought or, if the offending lawyer is sufficiently dimwitted, taxed by the feds at a 200% rate.

Meanwhile, several lawsuits have challenged the tobacco settlement on antitrust and constitutional grounds, so the lawyers are concerned that they may not collect their booty. They're actually selling their fee claims to investors, discounted by a whopping 70%. That process, "securitization," yields cash-in-hand for the attorneys and shifts the risk of non-payment to the investors. In phase one, investors coughed up more than $300 million in cash for roughly $1 billion in fees due over the next twelve years. That leaves $10 billion yet to be "securitized."

Naturally, the business community and its allies are eager to turn off the spigot that is lavishing riches on attorneys, who doubtlessly use part of their newfound wealth to subsidize more lawsuits and part to fatten the coffers of mostly Democratic politicians. That's why corporate America has embraced the Horowitz proposal. On March 14, James Wootton of the U.S. Chamber of Commerce wrote in *The Wall Street Journal* that the plan is a "simple but ingenious reform." On the same day the Wootton Op-Ed appeared, the Chamber of Commerce announced that it had filed Freedom of Information Act requests in 21 states seeking documents and contracts related to the hiring of outside counsel for tobacco litigation.

Horowitz has also garnered support from President Bush, who says in his budget that he will generate more money for the states by "extend[ing] fiduciary responsibilities to the representatives of States in tobacco lawsuits." That support is a tribute to Horowitz's eloquence and undeniable passion. Indeed, his goal is noble. But his too-clever idea is bad public policy and destructive of core constitutional values.

Conservatives have long justifiably railed against abuse of the tax code for social engineering — effecting schemes that reward special interests and penalize the politically disfavored. How, then, can they advocate altering the Internal Revenue Code in order to punish unpopular anti-tobacco lawyers?

Horowitz wants to apply fiduciary standards to all attorneys who are paid contingency fees in large class-action litigation. He does not distinguish between cases in which the government is the plaintiff, like the Medicaid recovery suits, and cases in which contingency fees are paid by private parties. If the right to contract and respect for free markets mean anything, they mean that private parties should be able to negotiate fee arrangements for legal representation without government interference. Otherwise, we should not be sur-

prised when left-liberals seek to extend fiduciary standards to the fees charged by doctors, accountants, or investment managers, you name it.

Public-sector contracts with private lawyers are different. A member of the private bar hired as a government subcontractor bears the same responsibility as a government lawyer. He is a public servant beholden to all citizens, including the defendant, and his overriding objective is to seek justice. This is hardly the case when lawyers are paid a percentage of the lawsuit's winnings. Imagine a state attorney paid a contingency fee for each indictment that he secures, or state troopers paid per speeding ticket. The potential for corruption is enormous — especially when contracts are awarded, often without competitive bidding, to lawyers who bankroll political campaigns.

A federal tax law singling out trial lawyers probably violates the constitutional ban (Article I, Section 9) on bills of attainder — broadly defined as legislative acts, civil or criminal, that inflict punishment on an identifiable group without a trial. Legislative bodies are supposed to enact general rules, broadly applicable. The judiciary, operating under procedures designed to assure fairness, then resolves disputes over whether a specific person is covered by the rule. In this instance, a court could readily conclude that it was Congress' intent to punish anti-tobacco lawyers rather than to regulate for a legitimate public purpose.

The Horowitz proposal would be brazenly retroactive. It is well known that retroactive laws in the criminal arena are constitutionally infirm under the ex post facto clause; but according to a 1798 Supreme Court case, *Calder* v. *Bull*, that clause does not apply to civil matters. Still, a retroactive civil law may violate the guarantee of due process in the Fifth Amendment. Indeed, *Black's Law Dictionary* labels as ex post facto any law "which, assuming to regulate civil rights and remedies only, in effect imposes a penalty or the deprivation of a right [for engaging in conduct] which, when done, was lawful." As the court observed in *Landgraf* v. *USI Film Products* (1994), in response to political pressures, powerful legislatures "may be tempted to use retroactive legislation as a means of retribution against unpopular groups or individuals."

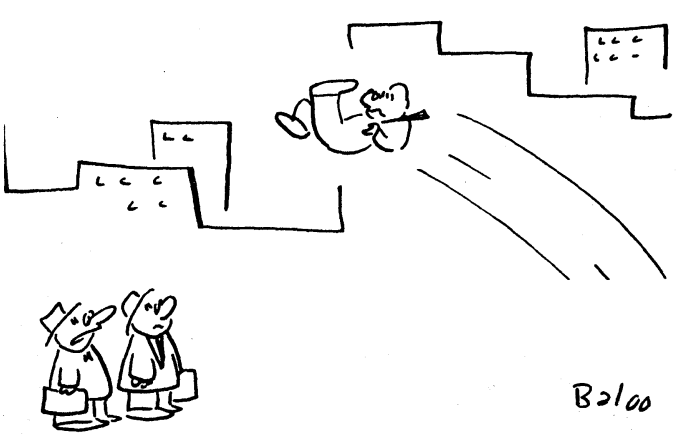
Finally, Horowitz's scheme would flout principles of federalism. Some 60 years after the New Deal Supreme Court eviscerated the constitutional doctrine of enumerated powers, the Rehnquist court has begun reviving it and reinvigorating federalism — not merely states' rights, but rather dual sovereignty, with the federal and state governments serving as checks on one another's powers. That revival, long overdue, would be dealt a body blow if conservatives, the supposed champions of federalism, attempt to vest the national government with powers it doesn't have, merely because the outcome might be congenial to business interests and adverse to the hated trial lawyers.

That doesn't mean the instant billionaire anti-tobacco attorneys have carte blanche to use their loot to finance extortionate lawsuits while recycling megabucks to their political pals. State governments should act promptly to prohibit new contingency fee contracts between government and private attorneys. Government is the single entity authorized to wield coercive power against private citizens. When that government functions as plaintiff in a legal proceeding in which it also dispenses punishment, adequate safeguards against state misbehavior are essential. In a free society we cannot condone private lawyers enforcing public law with an incentive kicker to bring the boot of government down more heavily on the neck of the defendant.

In a nutshell, 46 state attorneys general sold antitrust immunity to the major tobacco companies for a quarter of a trillion dollars. Not bad work, except it's illegal and unconstitutional.

States can also implement a "government pays" rule for legal fees when a governmental unit is the losing plaintiff in a civil case. By that device, access to the courts would be preserved for less affluent, private plaintiffs seeking redress of legitimate grievances. But defendants in government suits would be able to resist meritless cases that are brought by the state solely to ratchet up the pressure for a large financial settlement.

Those measures look to the future. But steps can also be taken to wage war against the contingency fees previously awarded under the multi-state settlement. To the extent that state statutes or bar rules already impose a fiduciary obligation on attorneys, those laws ought to be vigorously enforced. Even more important, the settlement itself can be undone. In a nutshell, 46 state attorneys general sold antitrust immunity to the major tobacco companies for a quarter of a trillion dollars. Not bad work, except it's illegal and unconstitutional. An antitrust challenge is now pending before the 3rd U.S. Circuit Court of Appeals. A second challenge, on commerce clause and compacts clause grounds, will soon be appealed in the 4th Circuit. The Bush Justice Department should take its cue from an editorial in *The Wall Street Journal* ("Smoke Screen" February 20, 2001) and join those lawsuits, "sending a message that nothing about this corrupt bargain authored in the Clinton era is written in stone." ❑



"*Another* leveraged buyout!"

Hermeneutic

Fireworks & Old Glory

by William R. Tonso

The 4th of July should mean more than fireworks, hot dogs and beer.

Mel Gibson's *The Patriot* garnered no Academy Awards nominations for acting or best picture, and it probably made the British seem nastier than they really were. But it certainly provided my wife and me with an enjoyable and rousing Fourth of July afternoon before we ate supper out and headed down to the Ohio River to watch Evansville's annual fireworks display last year on the last Fourth of July of the 20th century. Not only was *The Patriot* a perfect movie for the Fourth of July because it's about the American Revolution, but it's a good old-fashioned movie with heroes and villains, violence grounded in a moral context, and romance without panting bedroom scenes or even hints of premarital sex. We could use more movies grounded in traditional morality. And we could certainly use more movies about the Revolution, because most Americans seem to know nothing about our nation's founding.

When *The Tonight Show* host Jay Leno did a pre-Fourth of July "Jaywalking" interview of people on the street in the vicinity of his Burbank studio last year, asking them questions related to our founding, one young man guessed that George Washington had been president around 1920. When an Evansville TV reporter asked people on the street when the Declaration of Independence was signed, one woman guessed somewhere in the 1900s, or was it the 1800s? An older woman tentatively answered, "the English?" when asked who we won our independence from. While it's tempting to dismiss these people as atypical, Leno, who swears that he doesn't select only the most ignorant for airing on "Jaywalking," regularly presents people who don't know when World War II was fought or who we fought in that war, and others who don't know which foreign countries border the United States. And a study publicized through the mainstream press found that over a third of the seniors at our 55 top colleges "didn't know the Constitution established the division of power in American government," and 40% didn't know when the Civil War was fought.

How representative are these people of the public as a whole, the people whom pollsters regularly ask questions about the restriction of speech, press, religious expression, and gun ownership? We may be lucky that most of them don't vote. Look at what those who do vote put in the White House in 1992 and kept there in 1996, and consider the Florida fiasco that almost gave us an extension of the Clinton legacy last year. As Thomas Jefferson said, "if a nation expects to be ignorant and free it expects what never was and never will be."

But back to last year's Fourth of July. What *The Patriot* started in grand style, the fireworks display down on the Ohio ended in grand style. The fireworks themselves were awesome, but their accompaniment by the Evansville Philharmonic Orchestra and Symphonic Band made them even more so — "Music for the Royal Fireworks," "Theme From *Star Wars*," "1812 Overture," "Stars and Stripes Forever," and others. The Philharmonic Orchestra and Symphonic Band had been playing for about two and a half hours before the fireworks started at 9:30 p.m., and as set-off

time approached a medley of service songs were rendered and past and current service personnel and their families were asked to stand as the song of their branch was played. We don't always get to the fireworks in time for this annual salute to the services, but we made it this time, and I stood when the orchestra played "Off We Go Into the Wild Blue Yonder."

I'm proud of having served my country in the military, even though I was only a Cold War warrior and didn't get shot at. All I did was sit in a dark room at first one and then another isolated radar station up along the border between Montana and Canada waiting for the Soviets to try to sneak bombers down through the arctic region to nuke targets in the United States. Had they come, I would have done my best to set my jet interceptors up on attack vectors that would have enabled them to blow those bombers out of the sky. I'm glad they didn't come, to put it mildly. But I'm also proud to have been in a position to try to stop them if they had come. My job was purely defensive. Any bomber that I enabled my interceptors to shoot down would have been in our airspace for the express purpose of doing harm to my country.

We could certainly use more movies about the Revolution, because most Americans seem to know nothing about our nation's founding.

In my younger days, I made no distinction between defensive and offensive warfare. I was eight when the Japanese bombed Pearl Harbor, and I remember hearing the radio report of that event. They started it, so all of our offensive effort after that was grounded in our defense of everything we held dear. To me there were bully nations like Nazi Germany and Imperial Japan, and later the Soviet Union and Communist China, and then there was us, the good old United States on the side of right, and Hollywood and the popular culture in general regularly reinforced my views. Of course, things were never so simple. After reading Robert B. Stinnett's *Day of Deceit: The Truth About FDR and Pearl Harbor*, I find it difficult to believe not only that Franklin Roosevelt didn't know that the Japanese were on their way to attack Pearl Harbor but that he didn't provoke that attack.

However, even after the world became less black and white to me, and I recognized that our government's motives at home and abroad weren't always pure, I still continued to think of us as morally far superior to the Nazis, Japanese Imperialists, and Communists. But now that we are the only remaining superpower, we seem on our way to becoming a bully nation at home as well as abroad. At home, particularly during the Clinton administration, our federal police have become ever more menacing, staging risky and sometimes bloody SWAT raids on, among others, a religious sect *suspected* of violating constitutionally questionable gun laws, and on a private residence to remove a Cuban refugee child who was in no danger whatsoever. The British probably didn't burn down a church full of people during the Revolution as depicted in *The Patriot*, but our federal police may well have burned up a bunch of nonmainstream religionists in Waco, Texas.

We have used our professional military to occupy countries that have yet to fire a shot at us, taken sides in civil wars in which our national interests weren't at stake, and lobbed cruise missiles at targets *wrongly suspected* of terrorist activities against us. Even though our government claims its motives are humanitarian and we are far from Nazis, we're straying further and further from the ideals of the Founders who were fearful of professional militaries and would have been just as fearful of federal police forces. George W. Bush's administration won't put a halt to this straying, but I suspect that it will be better than his dad's administration, and far better than a Gore administration would have been.

But *The Patriot* and the beautiful fireworks display last year added greatly to my enjoyment of a holiday that has become ever more important to me as I wonder more and more about what that holiday means to others. The public as a whole seems blissfully unconcerned about what the armed agents of our government, civil as well as military, are doing, and even of the rights that our Constitution guarantees and upon which our government tramples.

For several years now, a local real estate company has been sticking little American flags in the front yards of all the homes in selected neighborhoods at the beginning of Evansville's Freedom Festival, which centers around and culminates with the hydroplane races on the Ohio in late June. People usually keep those flags in their yards through the Fourth of July. My wife and I like that, and one year we were quite disappointed when our neighborhood was skipped. Last year we got our flag, but before the Fourth of July it was somewhat shabby so we replaced it with one that we had bought the year we were skipped. We kept the bedraggled flag, rolling it up with those from past years and putting it on a shelf in the garage. Most of the neighbors' flags were gone by the Fourth of July. On the day after the Fourth of July, a friend of mine took a photograph of a garbage can near our neighborhood. Along with trash, it was stuffed with 20 or more of those little American flags that had made it to the Fourth of July on nearby front lawns.

Now that we are the only remaining superpower, we seem on our way to becoming a bully nation at home as well as abroad.

The Patriot did okay at the box office, but I'm afraid that too many of its viewers saw it as no more than an action flick starring actors dressed in funny clothes. "If a nation expects to be ignorant and free it expects what never was and never will be." ❑

Dictionary Control

By Dave Kopel

Because vocabulary controls thought, there are those who seek to control vocabulary.

Words have consequences. "Whoever controls the language, the images, controls the race," observed the beat poet Allen Ginsberg. For instance, when Madison, Hamilton, and other backers of the proposed Constitution called themselves the "federalists" and their opponents the "anti-federalists," the cause of ratification was greatly helped. Critics of the new Constitution, who opposed increasing the power of the central government, were furious that "federalism," an attractive term connoting a decentralized federation of equal sovereigns, had been appropriated by persons who wanted the opposite of "federalism" as traditionally understood.

In the abortion debate, the anti-abortion folks, knowing that being "anti-" anything sounds negative, style themselves "pro-life," while the proponents of abortion call themselves "pro-choice" rather than "pro-abortion."

In an energetic display of sensitivity, the *Los Angeles Times* a few years ago issued a stylebook (later withdrawn as a result of ridicule) forbidding its writers to use terms such as "gyp," "Dutch treat," and "illegal alien."

In today's politics, the contest for vocabulary control is as heated as ever. So here's a quick guide to some of the dictionary locales where our political future is being determined.

Affirmative action: This term was first used in the Eisenhower and Kennedy administrations as an admonition for nondiscrimination and an encouragement for outreach in hiring. For example, President Kennedy's Executive Order 10925 (March 1961) required that federal contractors "take affirmative action to ensure that applicants are employed, and that employees are treated, during employment, without regard to race, creed, color, or national origin."

Today, almost everyone still favors "affirmative action" as defined by President Kennedy. Not only is nondiscrimination a good idea, Americans tend to be in favor of "action," and everybody likes being "affirmative."

One of the most effective language coups ever was pulled off in the 1970s by advocates of racial quotas (which were being attacked as "reverse discrimination") who managed to get "quotas" defined as "affirmative action."

This Orwellian language reversal has helped keep quotas going many decades after Congress outlawed all forms of governmental racial discrimination in the Civil Rights Act of 1964. The fate of the 1996 California Civil Rights Initiative largely depended on whether voters thought that the CCRI was about "quotas" or about "affirmative action."

Anglo: Now used as a synonym for "white" or "European." Slightly more narrowly, *Microsoft Bookshelf* says that an Anglo is "an English-speaking person, especially a white North American who is not of Hispanic or French descent." But more properly, an "Anglo" is someone who is descended from the Angles, a Germanic tribe that invaded Britain around the fifth century A.D. "England" (Angle-Land) is named after them. So while Americans of English or German descent might plausibly be called "Anglos," Americans from Italy, or Lithuania, or Russia are definitely not Anglos, even though they speak English. Calling them Anglos is as mistaken as saying that Americans who came from Cuba or Chile are "Spanish" because Spanish happens to be their native language.

Assault weapon: According to the Defense Intelligence

Agency, "assault rifles" are "short, compact, selective-fire weapons that fire a cartridge intermediate in power." In other words, battlefield machine guns carried by infantry; examples include the American M-16 and the Soviet AK-47.

In another brilliant linguistic coup, the gun prohibition lobbies popularized the term "assault weapon" with predictably frightening effects. Bill Clinton insisted, and most Americans agreed, that military weapons with automatic fire had no place in civilian life. The trouble was, not one of the "assault weapons" banned by the 1994 Clinton crime bill is used by a military force anywhere in the world, and not one can fire automatically. (In an automatic, bullets will fire as long as the trigger is depressed.)

In the rest of the English-speaking world, semiautomatic firearms are called "self-loading" firearms. The "assault weapon" ban never would have passed Congress by a single vote (in each house), if the legislators had been voting on a ban on "self-loading" guns. Nobody likes "assault" and many people don't like "weapons" (with the implied anti-personnel usage), but "self-loading" invokes a rather benign image of some kind of useful gadget.

Civilian: Traditionally used to distinguish the military from everybody else. Increasingly used these days to distinguish the military and the police from everybody else. The usage helps to further militarize the American police, particularly the federal and big-city forces, and to reduce the degree to which police officers see themselves as peace officers, a term which is becoming quaint.

Illegal alien: See "undocumented worker."

Illegitimate: A term still used by conservatives to describe children born out of wedlock. Like the almost-moribund "bastard," the term is under fierce assault by persons who believe that having a child with no father is merely a lifestyle choice, rather than an irresponsible, immoral act virtually guaranteed to inflict severe harm on the child.

In an energetic display of sensitivity, the Los Angeles Times issued a stylebook forbidding its writers to use terms such as "gyp," "Dutch treat," and "illegal alien."

Quite a lot — perhaps the fate of modern civilization — hangs on whether illegitimacy continues its rapid progress of the last three decades towards becoming normal, and thus no longer illegitimate. One difficulty for defenders of the word "illegitimate" is that the adjective attaches to the child, who of course has no control over the circumstances of his birth, rather than to his mother and his (biological, non-) father, who are the real illegitimate actors.

Piker: See "welsh."

Rental car, a very good: Former Attorney General Janet Reno explained that since the tanks at Waco were not carrying ammunition, they were nothing more than "a very good rental car" for delivering items to the Branch Davidians' home. I have, however, never been able to rent a car, even a very good one, which is suitable for bashing down walls of a building, destroying rooms known to contain women and children and killing them with falling rubble, and firing massive quantities of chemical warfare agents banned by law from international warfare.

Modern federal law enforcement is permeated with similar euphemisms to paper over violence and militarism. Breaking down someone's door is a "dynamic entry." When concussion grenades are thrown at "civilians," all that results is "a rapid expansion of gases."

Undocumented worker: I have a valid driver's license, but I sometimes forget to pick up the wallet containing the license when I leave home in the morning. When I drive to work without my driver's license, I am an "undocumented driver."

Now suppose that my driver's license is revoked for drunken driving, so that it is a criminal offense for me to drive. If I get behind the wheel of a car, am I just an "undocumented driver"? In fact, I would be an "illegal driver."

But persons who want to ignore the problems caused by illegal aliens now call them "undocumented workers," as if they were merely missing a bureaucratic slip of paper. But people who have entered the nation unlawfully are not merely lacking in paperwork, they are lacking in legality, and thus are properly called "illegal aliens."

Unfortunately, the "undocumented worker" euphemism may actually turn out to be useful. Congress has cracked down on the illegal 1.5 percent of the American population by making every American get permission from the federal government to be hired at a new job by showing their papers to prove their citizenship. For folks whose papers aren't in order, no job; they're American citizens, but "undocumented workers."

War on Poverty/Crime/Drugs/etc.: Government in a civil society is not in the business of conducting domestic wars. The use of "war" for domestic policy objectives promotes a mentality of limitless resources, ruthlessness, and refusal to accept anything less than total "victory."

Welfare benefits: The word "benefit" is derived from the Latin "bene facere," meaning "to do well." The word "welfare" comes from the Old English "wel faran," meaning "to fare well." The pre-1996 American system of "welfare benefits" was grossly misnamed, although the misnaming helped to preserve that awful system for many years. Too often, recipients of "welfare benefits" were not provided with something that helped them "to do well" or "to fare well." Instead, "welfare benefits" paid women to bear children that they would have difficulty raising properly. "Welfare benefits" discouraged truly beneficial acts such as marriage and work, which have always been the cornerstones of escaping poverty.

In another inversion, "corporate welfare" is applied not only to laws which give money to corporations as an act of charity (such as trade adjustment assistance), but also to laws which simply reduce a company's tax burden. Unless one presumes that all property belongs to the government, reducing how much the government takes from private parties is not "giving" those private parties "welfare."

Welsh: In a strenuous display of sensitivity, Bill Clinton once apologized for uttering the words "It is basically saying you're going to be a piker and welsh on your debts."

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Reviews

From Dawn to Decadence: 500 Years of Western Cultural Life, 1500 to the Present, **by Jacques Barzun. HarperCollins, 2000, 877 pages.**

From Venice to Venice Beach

Jeff Riggenbach

In writing this, his 30th book (give or take a volume or two), the 93-year-old Columbia University professor emeritus of history Jacques Barzun tells us, he had "hope[d] to show that during this span the peoples of the West offered the world a set of ideas and institutions not found earlier or elsewhere." The "span" he refers to is the 500 years mentioned in his subtitle, and the ideas and institutions are those which, in his judgment, have set off modern times in the West from all other times everywhere.

For Barzun, modern times have been shaped by four "revolutions," by which he means "the violent transfer of power and property in the name of an idea." The first of these four revolutions was the religious revolution (more commonly known as the Protestant Reformation) of the 16th century. The second was the monarchical revolution of the 17th century. The third was "the liberal, individualist" revolution "that straddled the 18th and 19th" centuries. And the fourth was the "social and collectivist" revolution of the 20th century.

The religious revolution, Barzun writes, "did indeed cause millions to change the forms of their worship and the conception of their destiny. But it did much besides. It posed the issue of diversity of opinion as well as of faith. It fostered new feelings of nationhood. It raised the status of the vernacular languages. It changed attitudes toward work, art and human failings. It deprived the West of its ancestral sense of unity and common descent. Lastly but less immediately, by emigration to the new world overseas, it brought an extraordinary enlargement of the meaning of the West and the power of its civilization."

The monarchical revolution, which began in the 17th century but continued into the 19th, gradually transformed Europe from a plenitude of mostly tiny, perpetually unstable realms run by kings who shared their power with a traditional "noble" class into a handful of much larger nation-states, whose centralized governments were run by absolute monarchs.

The "liberal, individualist" revolution established a new political philosophy that recognized certain fundamental rights shared by all individuals as limitations on the power and authority of centralized governments.

And, finally, the "social and collectivist" revolution established the welfare state, the entitlement mentality, political correctness, and a host of other evils with which the readers of this publication are already too familiar.

One of the pleasures of reading *From Dawn to Decadence* is the pleasure of meeting a highly intelligent, widely read, articulate, and witty mind that looks upon the liberal revolution of the 18th and 19th centuries in much the same way libertarians do. Yet, a close look at his discussions of political and social theory and practice scattered throughout this book suggests that whatever Barzun may be politically, he is no libertarian.

For example, he writes admiringly of the Venetian Republic that "all offices were filled by men who had been trained in the most direct way. A young patrician who showed talent was enlisted as a teenager, watched the Great Council at work, and as soon as eligible was tested in successive posts. Nobody could refuse or resign office." After all, there was much work to be done:

> The means of trade, and at the same time the well-being of the citizens, were closely regulated. There were inspectors of weights and measures and of the Mint; arbitrators of commercial disputes and of servants and apprentices' grievances; censors of shop signs and taverns and of poor workmanship; wage setters and tax leviers, consuls to help creditors collect their due; and a congeries of marine officials. The population, being host to sailors from all over the Mediterranean, required a vigilant board of health, as did the houses of resort, for the excellence of which Venice became noted.

Now *that's* what we need! A system in which no one can "refuse or resign office"! Inspectors, arbitrators, censors, wage setters, tax leviers, consuls! We may also need "strong measures" to "fix prices and hunt down . . . black marketeers" — measures of the sort Robespierre put in place as head of the

Committee of Public Safety during the French Revolution. Price fixing, Barzun explains, "protected the common man, as well as helped to keep the troops supplied." (Regrettably, he provides no details; it would be fascinating to learn how price fixing in this instance had the opposite of its usual effect, to wit, the creation of shortages.)

It may be that we also need to reconsider our conviction that "pornography and violence in films and books, shops and clubs, on television and the Internet, and in the lyrics of pop music cannot be suppressed, in the interests of 'the free market of ideas.' Under that rubric, speech (at least in the United States) has enlarged its meaning to include action: one may burn the flag with impunity; it is a statement of opinion. The legalism would seem to authorize assassination." Would that it did.

On the other hand, Barzun does fancy himself to be in sympathy with the "liberal, individualist" revolution of the 18th and 19th centuries, and he is frequently instructive and insightful — and just as frequently inconsistent and mystifying — in his explorations of its origins and eventual destiny. He places more emphasis than many commentators do on the Puritan origins of the liberal revolution, which is odd, in a way, because he also argues that "monarchism and monotheism go together," a thesis reminiscent of Rudolf Rocker's argument in his classic *Nationalism and Culture*. Nonetheless, Barzun tells us that in the 17th century, there were "Puritans who appealed to reason in support of popular rights." These thinkers argued that "human institutions were a matter of choice designed for a purpose and maintained by custom. They should be changed when the purpose was no longer served. Mere length of time — custom — is arbitrary, not in itself a reason." Still other Puritans proposed that "man is the reasoning animal by nature," that God had given man this faculty because He intended it to be used, and that if one used it one concluded speedily enough that there was a natural law and there were natural rights and that this natural law and these natural rights should be taken into account in the actions of governments.

It is this "Puritan legacy of libertarian ideas," as Barzun calls it, that has given rise to what he calls "the national myth" of the United States: "that the Pilgrims were the first English-speaking colonists in North America and that they brought with them the doctrine of freedom for all." Barzun calls this notion an "error." In fact, he writes, "[a]mong the principal actors in the founding of the colonies, only two were thorough liberty-men: Roger Williams and William Penn — and Roger Williams himself showed a small flaw: he wanted any dissenter to earn his freedom by first denouncing the Church of England."

Of course, this is no "small flaw"; it is, in fact, a rather large one. Still, Barzun's caveat is well taken; though libertarian ideas had a certain influence among Puritans, this does *not* mean that all Puritans were libertarians or that the New England society

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they created was any sort of libertarian paradise.

Nor was the American Revolution truly libertarian, Barzun maintains. In fact, it wasn't even a true revolution. In the first place American grumpiness about English rule had been a feature of American colonial life from the beginning. As Barzun writes,

> [w]hen the original settlement had been by charter — akin to the statutes of a corporation — the colonists felt they lived under a constitution affording permanent privileges, such as an assembly. If established otherwise and subjected to a governor appointed in England, or if a governor was sent to supersede charter rule, the desire for self-government turned into rebelliousness. Add to this the democratic animus of the poor against the landed class that was part of the Puritan tradition and it is evident that colonial resistance to English rules and rule was inherent and incurable.

In 1689, Barzun points out by way of example, the British crown sent Sir Edmund Andros to govern the Massachusetts Bay Colony. "The Bostonians, however, revolted, put Andros in prison, and restored the charter provisions that Charles had annulled."

The fact that the preamble of the American Declaration of Independence

The impending collapse of Western civilization is, and has always been, in the eye of the beholder.

"read like the doctrines of Locke and Montesquieu," Barzun writes, "only showed that there was an elite that had visited Paris or read imported books. But the list of grievances showed that the armed resistance to the English imposts was not a revolution. The war acquired that name by confusion with later events in Europe."

Barzun continues:

> If anything, the aim of the American War of Independence was reactionary: "Back to the good old days!" Taxpayers, assemblymen, traders, and householders wanted a return to the conditions before the latter-day English policies. The appeal was to the immemorial rights of Englishmen: self-government through representatives and taxation granted by local assemblies, not set arbitrarily by the king. No new Idea entailing a shift in forms of power — the mark of revolutions — was proclaimed. The 28 offenses that King George was accused of had long been familiar in England. The language of the Declaration is that of protest against abuses of power, not of proposals for recasting the government on new principles.

It is noteworthy, according to Barzun, that "[t]he colonies that became independent states contrived only a feeble Confederation and wanted to remain the semi-aristocratic societies they had always been. Even during the war, national spirit was wanting. If one scans the facsimile of the original Declaration one notices that the heading reads 'of the thirteen united States.' That small *u* promises no future *U*." Albert Jay Nock, a writer whom Barzun clearly admires and quotes several times in this book, used to insist that the event in 1789 that created today's United States "was effected with great difficulty and only through a *coup d'Etat*, organized by methods which if employed in any other field than that of politics, would be put down at once as not only daring, but unscrupulous and dishonorable."

Barzun does not go this far. But he does write that "[i]n sum, the American spectacle that Europeans rejoiced at or deprecated at the end of the 18th century was not the Democracy in America described by Tocqueville half a century later. Nor was it a model for the French revolutionists of 1789-93."

Nor was the liberalism Tocqueville found in operation in America in the 1830s anything like the liberalism that has dominated American life since the 1930s. It was around the turn of the last century, Barzun tells us, that we see

> . . . the onset of the Great Switch. It was the pressure of Socialist ideas . . . that brought it about. By Great Switch I mean the reversal of Liberalism into its opposite. It began quietly in the 1880s in Germany after Bismarck 'stole the Socialists' thunder' — as observers put it — by enacting old-age pensions and other social legislation. By the turn of the century Liberal opinion generally had come to see the necessity on all counts, economic, social, and political, to pass laws in aid of the many — old or sick or unemployed — who could no longer provide for themselves. Ten years into the century, the Lloyd George budget started England on the road to the Welfare State.

"Liberalism triumphed," Barzun writes, "on the principle that the best

When a culture is in a decadent phase, the stature of tradition and traditional authorities wanes. People feel freer than usual to experiment, to try the unconventional, to choose not to conform, to go their own way.

government is that which governs least; now for all the western nations political wisdom has recast this ideal of liberty into liberality." Moreover, "[t]hroughout the West nowadays no other type of government is dreamed of; the only debate between opposed parties is whether the government shall be fatter or leaner and it appears that sustained dieting is something bureaucracies find as hard as individuals."

By the end of the 20th Century:

> [t]he welfare ideal did not merely see to it that the poor should be able to survive, but that everybody should be safe and at ease in a hundred ways. Besides providing health care, pensions ("social security"), and workmen's compensation for accidents, it undertook to protect every employee by workplace regulations and every consumer by laws against harm from foods, drugs, and the multiform dangers that industry creates. All appliances were subject to design control and inspection. The citizen must moreover be protected from actions by others that are not visibly hostile or inherently criminal, those, for

example, that can be committed by the imaginative in trade, investment, and banking.

At the same time, it was also held that the state had the duty of supporting art and science, medical research, and the integrity of the environment, while it must also make sure that all children were not simply literate but educated up to and through college . . .

By the end of the 20th century, as a result, "[t]he cost of welfare in money was huge and in mental effort exorbitant. As a kind of afterthought there was the old-fashioned role of government that had to be attended to: military defense, policing the land, building roads, dispensing ordinary justice, delivering the mail, and running the political and executive institutions themselves. The task of distributing benefits was alone overwhelming. High taxes were unavoidable, and so was waste." So was litigation, for "rules, definitions, classifications, and exceptions = indignation — and litigation. The welfare state cannot avoid becoming the judiciary state."

The American Revolution wasn't really libertarian. In fact, it wasn't even a true revolution.

Neither can it avoid becoming a corrupt state ("inevitable when inspectors are afoot"). And, on top of everything else, the modern welfare state had utterly failed to fulfill its original aim. "There was still poverty, derelicts on the street, unattended illness, and complaints of 'not enough' from every welfared group in turn — workers, farmers, businessmen, doctors, artists, scientists, teachers, prisoners, and the homeless."

This state of affairs is a good deal of what Barzun has in mind when he calls our present times "decadent," but it is not all he has in mind. There's also the ubiquitous slovenliness of turn-of-the-century Western society — "[t]o appear unkempt, undressed, and for perfection unwashed, is the key signature of the whole age." Then, on a more somber note, there's the violence: by the end of the 20th century, Barzun assures us, "crime was endemic in the West. Assault in the home, the office, and on city streets was commonplace and particularly vicious." In part, he tells us, this was a result of the decline of proper child rearing.

> [A]n increasing number of children found at home no encouragement to schooling, no instruction in simple manners, no inkling of the moral sense. Some of the waifs bred in that way were those who took to drugs, became thieves before their teens, and committed the conscienceless crimes falsely called mindless. They formed gangs, boys and girls together, with able leaders and strict rules. It was *they*, not prime ministers, who reinvented government. And when they joined to it so-called Satanism, they rediscovered ritual if not religion. The larger group that executed graffiti on city walls were in line with the makers of disposable art, bent on destroying the medium as well as the culture.

This, you see, is what "modern artists" have been up to ever since the time of Cubism, in the years just before the outbreak of World War I: destroying art itself and the culture itself. The great villain behind this attack on everything that is decent and good is Marcel Duchamp (1887–1968), French Cubist painter ("Nude Descending a Staircase" is his most famous canvas) and practical joker. One never knew, when Duchamp submitted a "work" for a show, what it might be. It might be an original painting, of course. But there was an at least equal chance that it might be a reproduction of the Mona Lisa onto which Duchamp had painted a mustache. Either way, Duchamp would have a straight face. He had a straight face when he submitted a green vest on a hanger to one show. He had a straight face when he submitted his most notorious work, "Fountain" — a urinal that he had picked up in a plumbing supply store — to a 1916 exhibition organized by the Society of Independent Artists in New York.

These works and others like them have had an incalculable influence on the development of modern art; at least, Jacques Barzun thinks so. And he is not alone. As Barzun writes, "[t]hese jokes were serious, and must be taken so. Helping to destroy a culture is, in fact, no joke if one is bursting with talent and technical skill and must bend them to a sort of reductionism, instead of giving their expansiveness free rein."

The problem is that the facts of the case, and of Duchamp's life generally, suggest a different interpretation. Duchamp was a prankster and practical joker. He was known for his "playful wit," as Louis Torres and Michele Kamhi call it in their recent book, *What Art Is*. They quote psychologist Louis Sass as saying that Duchamp's entire career was devoted "to a series of mockeries, of ironic comments on art and its purported relationship to life."

In the particular case of "Fountain", as Torres and Kamhi explain, Duchamp and a friend, the collector Walter Arensberg, were among the organizers of the show to which the "work" was submitted. He and Arensberg went together to the plumbing supply company to buy the urinal, Duchamp submitted it under the assumed name "R. Mutt," and when another of the organizers suggested the "work" be rejected as a joke, Arensberg defended it "with an air of great seriousness." Torres and Kamhi quote Calvin Tomkins, Duchamp's biographer, as saying that Duchamp and Arensberg had "obviously planned the whole thing as a deliberate provocation" and "milked it for all it was worth." The two even briefly established a little magazine called *The Blind Man* whose purpose was to make a theoretical argument in defense of "Fountain" and "works" like it. The whole thing was what people of my generation would call a "put on."

"Liberalism triumphed on the principle that the best government is that which governs least; now for all the western nations political wisdom has recast this ideal of liberty into liberality."

The fact that some foolish people (like the curators at San Francisco's Museum of Modern Art, where

"Fountain" is permanently on display) have taken Duchamp's juvenile stunt seriously should not blind us to the fact that for Duchamp it *was nothing but an amusing stunt*. His purpose was not to destroy Western art and culture. It was to have a good time.

And what of those "artists" who followed in his footsteps? Barzun lists among them the purveyors of "Found Art (jetsam from the beach), Junk Art (the discarded refrigerator door), Disposable Art (objects, magnified, or made of flimsy materials; bridges and buildings draped in cloth) . . . aleatory art (based on random points generated by dice or a computer); mobile art, including 'sculptures' in the form of small useless machines in purposeless motion, or the pair of shoes that step back and forth; the canvases that show simple or complex geometrical lines (a whole series 'exploring the square')" and so on, and so on. Are these people consciously working to destroy Western art and culture?

Has everything that makes civilization worth having — scholarship, philosophy, science, technology, the arts, many and varied human relationships — really been going steadily downhill for thousands of years?

No, of course not. As Barzun himself points out, "when the ground is cleared as it was by revolution and rebuilding is called for, every kind of thing is attempted, but not everything is pursued and much turns out wasted effort." He is writing here about the beginning of the Romantic period, 100 years before Duchamp's antics, but one might hope he could see the obvious connection to our present period. When a culture is in a decadent phase, the stature of tradition and traditional authorities wanes. People feel freer than usual to experiment, to try the unconventional, to choose not to conform, to go their own way. In such times, many feel quite as though a revolution had just passed through, clearing the ground and leaving room for new construction. The modern "artists" whose "works" Barzun cites with such horror — "[t]he stuffed goat with a tire around its middle entertained at the Tate Gallery in London; the ladder against the wall inviting a walk-through at the Whitney in New York; the 22 small television screens around the room just oscillating in South America; the man's suit of gray felt on a hanger in Munich" — are just pursuing everything and wasting their effort. There's no need to fear the end of civilization.

Barzun discusses the development of Western art, literature, and music throughout his book, but he employs a kind of double standard when doing so. He invariably discusses the art of the 16th, 17th, 18th, and 19th centuries in terms of its best and most representative examples. The art of the 20th century he discusses almost exclu-

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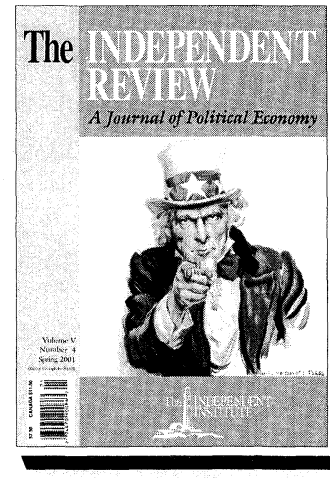

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sively in terms of its worst, most ridiculous, and least representative examples. This is, of course, a common phenomenon. As people get older, they commonly find themselves taking an increasingly dim view of the younger generation and its irresponsible and disrespectful behavior; those among them of a literary bent soon begin writing screeds against the "decadence" of the times and imminent end of all that is good and fair in the world. People have been doing this for at least 2,000 years that I know of. Probably, if I were more widely read in the literature of ancient Athens, I'd know that they've been doing it a lot longer than that.

But clearly, they can't all have been right. Has everything that makes civilization worth having — scholarship, philosophy, science, technology, the arts, many and varied human relationships — really been going steadily downhill for thousands of years? The very idea is preposterous. The impending collapse of Western civilization is, and has always been, in the eye of the beholder.

But there is much more to this book than its historical perspective on liberalism and its jeremiad against contemporary life and art — so much more that even a review twice as long as this one could only touch on a fraction of its riches. Barzun has interesting things to say about religious publishing (did you know that "1900 was the first year in which religious works . . . did not outnumber all other publications"?); about vituperation in intellectual argument ("[i]n the 16th century and for a good 200 years more, insult was the accepted seasoning of intellectual debate"); about Christmas (a Christianized pagan holiday that was never accepted or celebrated by the Puritans who founded the American Colonies); about having more than one language ("for the first time in over a thousand years [the] educated class is not expected to be at least bilingual"); about Leonardo (no "Renaissance man" he!); about surnames and when and why they were created; about Shakespeare and *Hamlet*; about Oliver Cromwell's foreign policy; about the role of backgammon in suggesting his famous "wager" to Pascal — and at this point you're only a little more than a third of the way through the book; there's much, much more to come.

I found particularly interesting Barzun's remarks on two of his many secondary subjects: history and science. The first — history — he compares repeatedly and pointedly, as he moves through the 500 years of the modern era, to imaginative literature, particularly fiction, and, while he himself never makes the point in so many words, his analysis could very well form the foundation of an argument that history as a discipline is most properly and most profitably regarded as a branch of literature. The second — science — he compares repeatedly and pointedly to religion, and though he himself never makes the point in so many words, his analysis very adequately backs up the charge that science and its intellectual handmaiden scientism (the belief "that the methods of science must be used on all forms of experience and, given time, will settle every issue") together constituted the dominant Western religion of the 20th century.

Altogether, this is a splendid book — highly readable, densely packed with interesting information, anecdotes, and portraits of important figures. It is not a book for the beginner, who wants a basic course in Western civilization. It presupposes a basic familiarity with its subject. What it offers is a kind of commentary on the basic story, a commentary which, though wrongheaded at times, is for the most part quite astute and always literate and companionable. ❑

***The Island of Lost Maps*, by Miles Harvey. Random House, 2000, 405 pages.**

Mapmakers & Bookbreakers

Timothy Sandefur

What a curious little book this is. It's part of the new literary genre of following the intricate and often dark details of esoteric literary pursuits. But unlike Simon Winchester's fascinating history of the *Oxford English Dictionary* — in *The Professor and the Madman* — Miles Harvey's *The Island of Lost Maps* is more of a study in postmodernism: the entire book is about how Harvey wrote it. From the first lines — "As I sit down to write this book" — the reader is following along with Harvey's plans for writing, and one gradually grows impatient for him to get on with it and write the book! But then, Harvey is very clever, and *The Island of Lost Maps* takes full advantage of the fascinating culture of cartography — from the great mapmakers of the 15th century, with their imaginative sea monsters and obscure lands, to the modern computer-generated maps drawn by sophisticated satellite technology. Harvey has frequent recourse to clever analogies to the world of mapmaking, and the book is thus a sort of map in itself — laying out the distances and the obstacles he encountered while tracking down his quarry, the elusive map thief Gilbert Bland.

Bland built a successful but short career stealing antique maps from rare-book libraries across the country. A nondescript man who passed himself off as a student to gain access to centuries-old mapbooks, Bland would take along a razor blade, and in a swift motion, cut out a map which he might sell at auction for thousands of dollars. Intrigued by the crimes, Harvey spent years following and studying Bland for *Outside* magazine. But in telling the

story, Harvey describes also the interesting world of map collecting — a hobby that has become a wildly successful business. The financial incentive for Bland's thefts has come from the recent growth in popularity of old maps for wall hangings in homes and offices. Harvey spends a good deal of his time with the bookish scholars and weird collectors who move the map-making world. But the biggest mover and shaker of all is Graham Arader, a hard-driving Wall Street type, who, Harvey writes, "has the hard-eyed, hard-boned look of a boxer, and a combative spirit to go with it. Even his name carries a certain belligerence: it's pronounced not air-uh-der but uh-raider, as in someone who attacks his target by storm."

Arader is widely detested in the antique book world for his business tactics. He purchases old books at low prices only to jack them up more than a hundred times on resale. He has made his millions by leading

> a dramatic transformation in the market for antique maps over the past quarter century, turning a historical artifact into a hip commodity. Before he entered the business in the early 1970s, old maps were mostly the province of librarians, historians, and a few tweedy collectors. [His father] Walter Arader typically paid one or two hundred dollars for individual maps by great Age of Discovery cartographers such as Willem Janszoon Bleau, Gerard Mercator, and Abraham Ortelius. Today those same maps are listed in Graham Arader's catalogs for prices ranging from five thousand to fifteen thousand dollars.

But more heretical than his profit-making — which is very heretical among antique-book people — is Arader's practice of book-breaking: taking whole antique books apart to sell the pages separately in frames, for far more in aggregate than the book could fetch whole.

Book-breaking is a troubling practice. One of my most cherished possessions is a 1651 edition of John Milton's *First Defence*, an important book by one of the overlooked heroes of libertarian history. The idea of someone destroying it — tearing it apart page by page, each to be sold separately — makes me cringe. Yet obviously a fairly purchased book belongs to the person who wants to break it — and presumably doing so raises the value of my unbroken book. In fact, those of us who love old books should recognize that when the pages are displayed separately, they're actually being enjoyed by people — instead of sitting, invisible, in a closed book in a locked room. Arader has probably done more to increase the cultural appreciation of these wonderful old maps than any of his critics: these maps are finally seeing the light of day — or, since daylight damages their old paper — the carefully UV-filtered light of hallways.

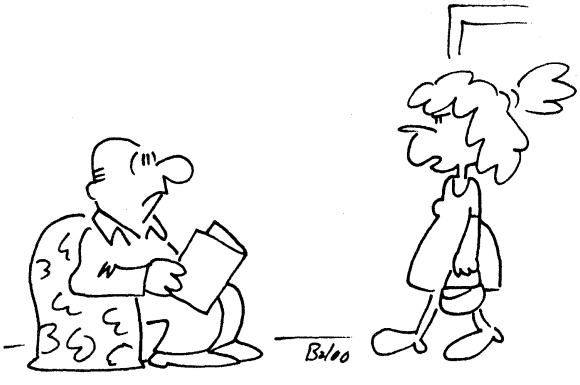
The attitude of collectors who despise Arader is not only jealousy — though that is part of it: he is a driven businessman who has made his own opportunities. It has also contributed to what might be described as a variation on the old tragedy of the commons. Gilbert Bland's map stealing and Graham Arader's book-breaking are seen by many collectors as much the same act: a sort of "enclosure" of a resource that was formerly "open to all." Not that these books were public property — they weren't: they were and are owned by private university libraries. But the collectors and scholars — the book culture in general — looked upon them as a public resource, freely accessible to all. This isn't surprising, given the generally leftist attitudes of much of the book culture, but it is destined to failure, just as all common property is. As Aristotle observed 2,000 years ago, property "which is common to the greatest number has the least care bestowed upon it." And Harvey points out that many libraries to this day don't even know their maps have been stolen. Many libraries have $100,000 assets sitting on their shelves, only lightly policed by bored university librarians.

I admit that I share their idealism, just as I share their disgust at those who would tear apart old books to sell their guts. George Washington's first draft of his inaugural address was snipped to pieces by people wanting samples of his handwriting, much to the frustration of Washington scholars today. My old hometown of Pasadena, Cal. watched, horrified, as a Texan investor purchased a city landmark — the craftsman masterpiece called the Blacker House — and sold all its fixtures piecemeal, from the copper rain-gutters to the Tiffany lamps, an act still referred to as the "Texas Chain Saw Massacre." But it remains an elitist attitude to insist that "these things belong in a library." If people are willing to pay a great deal of money for them, that is a sign of the high value that a culture puts on something. When an artifact becomes the stuff of museums, its culture is dead. On the other hand,

A nondescript man who passed himself off as a student to gain access to centuries-old mapbooks, Bland would take along a razor blade, and in a swift motion, cut out a map which he might sell at auction for thousands of dollars.

when a formerly public — or pseudo-public — resource is made private (be it the commons of 17th century England, the privatization of the Soviet Union, or our own Homestead Act) the result always includes a little bit of stepping on toes — what some economists have called "shock therapy." Graham Arader is an encloser of the commons, but what he has done is, in a way, to preserve the value of what would otherwise go neglected.

The free-market environmentalists like to say that the best way to pre-



"Boy, you run over one traffic cop, and they *all* gang up on you!"

serve a scarce resource is to let people own it. The book culture's emphasis on the public accessibility of old books has long been a recipe for Gilbert Bland's sort of vandalism. Harvey concludes by citing reforms libraries across the country are making to prevent future map thefts: cameras in the rare-book rooms and more attentive security staff. Arader has "proposed nothing less than the complete elimination of most traditional rare books rooms, in favor of a few centralized and hypersecure research libraries." At first blush it seems unfortunate that such security measures must be taken. But on the other hand, perhaps it is a good sign that the libraries must care more for their security; how much sadder it would be if nobody even wanted to steal the books. "It's sad, but it's not sad," one librarian told Harvey. "A lot of these places have stuff that just shouldn't be handled very much. I mean, you really should need to have a good reason to look at this stuff, because it's got to last, well, basically forever." ❑

***The Cash Nexus: Money and Power in the Modern World, 1700–2000*, by Niall Ferguson. Basic Books, 2001, 552 pages.**

The Folklore of Money

Bruce Ramsey

In *The Cash Nexus*, Scottish historian Niall Ferguson sets out to prove that money is not the only thing that makes the world go around. That is easy enough: as he notes, if economics always won wars, the United States would have bested Vietnam, and if voters always supported the ruling party during a boom, John Major would be prime minister of Britain and Al Gore would be president of the United States.

Economics is not everything, but it is a lot. And Ferguson, who spent a year digging through the records of the Bank of England, produced a romp through history and numbers concerning taxes, money, central banking, and debt, all with a perspective of a century or more.

Consider gold. From 1881 to 1913, Ferguson reports, the average inflation in 20 gold-standard countries was just 1.2% a year. In the same countries from 1974 to 1990, the average inflation was 19% a year. Gold was an excellent monetary anchor but a terrible investment. If you had an ounce of gold bought in the 1890s, it would still be one ounce of gold; if it had been invested in a British stock-index fund in the 1890s that investment could buy 88 ounces of gold today.

Consider globalization. One measure of it is the ratio of foreign assets to world GDP. In the gold era, that figure peaked in 1913 at 17.5%. It declined in the war and socialism that followed, and did not reach the 1913 level again until 1980. The ratio is now 56%.

Consider debt. It is not true, Ferguson says, that a large central government debt necessarily raises interest rates. Japan's debt is now in excess of 100% of GDP, and yet the interest rate is nearly zero — the same situation as U.S. government debt during World War II. The cost of debt, he says, is related much more to the perceived risk of currency depreciation or default.

Nor is Britain's national debt, close to 50% of GDP, abnormally high. British debt briefly topped 250% of GDP in 1820 and again in 1945. Between 1818 and 1854, more than half of British government spending went to pay down debt — and it was paid down, quite dramatically.

Many countries have defaulted on debts. Defaults, writes Ferguson, "seldom scare lenders away for long." Bondholders have been suckered by governments again and again: by Russia in 1917 (a default that was "perhaps the biggest in financial history"), by Germany in 1923 ("a jubilee in which all debts were simply wiped out"), and by the United States and Britain in the 35 years after World War II in a slow-motion confiscation of wealth through inflation.

Taxes and government employment, he writes, have risen with the broadening of the right to vote. He quotes free-trader Frederic Bastiat's definition of the state as "the great fictitious entity by which everyone seeks to live at the expense of everyone else," and says: "Hyperbole in Bastiat's own day, this nicely describes the welfare state of the late 20th century."

Ferguson thinks the practical limits to the size of the state are about half of GDP and one-third of employment, figures which have been met or exceeded in Scandinavia. Government jobs as a percentage of total employment have declined slightly in the United States since the 1970s but among major countries dropped substantially only in Britain — from 22% in 1983 to 13.6% in 1999.

Ferguson provides perspective to the debate on the financing of political parties. "Today — startlingly — private sources of funding count for more than public sources in only three major democracies: the Netherlands, Britain and the United States," he writes. "Indeed, it is not too much to say that the political parties of the West are slowly being nationalized. They run the risk of becoming mere appendages of the state."

That is an interesting thought. But that is all it is, and it is the trouble with this book. It touches on an intriguing thing, then moves on.

Another big idea is the connection between trade and peace. Ferguson quotes historian Norman Angell, who

wrote in *The Great Illusion* that interdependence made war unprofitable, and thus unlikely. Angell was right about the first part — it did make war unprofitable for every country that undertook it. But four years after Angell's book came out Europe plunged into World War I.

Which brings us back to Ferguson's central point: the world is not ruled by economics.

Ferguson quotes *The New York Times* columnist Thomas Friedman on his "Golden Arches Theory of Conflict Prevention." Friedman's theory is that no two countries with a McDonald's restaurant will ever go to war, because by the time they are advanced enough for McDonald's, they are beyond conflict. In fact, it was true for a long time. But in 1999 one nation finally broke the rule: the United States, by attacking Serbia. Ferguson adds, "This does not make Friedman as wrong as Norman Angell, of course; not yet, at least."

American wars, says Ferguson, have become distant enforcement actions, using troops in ways similar to Imperial Britain under Queen Victoria. The military itself has shrunken. In the century of 1814–1914, Britain never mobilized as much as 2% of its population for war. By contrast, in World War I it mobilized 9%, and in World War II,

If economics always won wars, the United States would have bested Vietnam, and if voters always supported the ruling party during a boom, Al Gore would be president of the United States.

10.4% — a greater mobilization than Nazi Germany's. By 1997, the proportion of Britons in the service had fallen to 0.37%, the lowest since 1816.

Or consider money. The United States currently spends 3.2% of GDP on the military. Britain spends 2.6%, and Germany, 1.5%. "These are figures reminiscent of the 1920s, if not the nineteenth century," Ferguson writes.

He does not approve: he thinks the world needs a hegemonic power, and that the United States lacks the will to do a crack-up job. He writes:

> The United States should be devoting a larger percentage of its vast resources to making the world safe for capitalism and democracy. This book has tried to show that like free trade, these are not naturally occurring, but require strong institutional foundations of law and order. The proper role of an imperial America is to establish these institutions where they are lacking, if necessary — as in Germany and Japan in 1945 — by military force.

Once again, he merely asserts the idea rather than arguing for it. In what way is Iraq, for example, comparable to Germany and Japan? How much would a more active imperialism cost? Five percent of GDP, he asserts. No mention of the dead and wounded.

And so it goes. The book is delightful when you agree with it and irritating when you don't. In either case it prances along from one topic to the next, as befitting a Christmas decorator with lots of fascinating ornaments but no one tree on which to hang them. ❑

Notes on Contributors

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

Brien Bartels is a free-lancer and political consultant living in Ellensburg, Wash.

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

Harry Browne was the Libertarian Party's presidential candidate in 1996 and 2000.

Andrew Chamberlain is an assistant editor at *Liberty*.

Scott Chambers is a cartoonist living in Arizona.

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

Eric D. Dixon is the computer specialist for U.S. Term Limits.

David Hackworth won a battlefield commission in Korea and was shamelessly hounded into premature retirement after criticizing the Vietnam War in 1971.

John Hospers is the author of *Libertarianism* and other books; he was the Libertarian Party's first presidential candidate.

David Kopel is the author of *The Samurai, the Mountie, and the Cowboy*.

Robert A. Levy is senior fellow in constitutional studies at the Cato Institute.

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

Michael J. Martin is a senior science correspondent for United Press International.

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

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

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

Eric Raetz is an editorial assistant at *Liberty*.

Bruce Ramsey is a journalist in Seattle.

Ralph R. Reiland is the B. Kenneth Simon Professor of Free Enterprise at Robert Morris College in Pittsburgh.

John Samples is director of the Center for Representative Government at the Cato Institute.

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

Shannon Seibert is a student at George Washington University Law School in Washington, D.C.

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

Tim Slagle is a stand-up comedian living in Chicago.

Martin M. Solomon is an attorney living in south Florida.

William R. Tonso is a professor emeritus of sociology at the University of Evansville, Ind.

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

Writings on an Ethical Life, **by Peter Singer, New York: Harper Collins, 2000, 362 pages.**

The Price of Happiness

John Hospers

Peter Singer is an Australian philosopher who skyrocketed to fame with the publication of his book *Animal Liberation* in 1975. Principally because of this book and his subsequent *Practical Ethics,* his highly controversial views have gained considerable attention among philosophers, with the result that he was appointed professor of philosophy at Princeton University.

By his own account, Singer is a utilitarian, and the policies he favors are applications of the utilitarian system of ethics to particular cases. But it is not always clear what utilitarianism asserts, and there are different versions of it. The most popular form is summarized in the formula "the greatest happiness for the greatest number," but it is far from clear what specific policies are implied in these words.

"Happiness is that at which all men aim," said Aristotle in the opening of his *Nicomachean Ethics.* They may aim at other things, such as money and fame, but these are aimed at only as a means to happiness; happiness is what is aimed at for its own sake. One may ask "Why do you want money?" or "Why do you want to be famous?" but the question "Why do you want to be happy?" would strike most people as quite strange: happiness, said Aristotle, is not a means to anything else, but an end in itself.

Utilitarians do not take Aristotle's statement to be merely an empirical assertion about what people like or want. They take it to be a normative statement about what is *good* — good intrinsically, that is, good considered apart from its consequences, good even if it stood alone. All other things, if they are good, are good *instrumentally,* that is, as instruments to the achievement or increase of happiness.

But whose happiness? It could be one's own, or that of others. If it is only one's own happiness that one should consider, one is an *ethical egoist* — and there are many varieties of this view. An ethical egoist might say, "I admit that happiness is good wherever it exists — but what has that to do with what *I* should aim at? Let people be as happy as they can be, but I should consider only my own happiness."

Singer nowhere attempts to refute this view. Like other utilitarians, he goes from "Happiness is good" to "I should try to bring about happiness for everyone — i.e., I should try by my actions to maximize the amount of happiness in the world." This is, in fact, the principal tenet of utilitarianism, ushered in by John Stuart Mill, which led to the adoption of utilitarianism in the 19th century as the cornerstone of numerous reform movements, such as the reform of working conditions and the liberation of women.*

One should not confuse this view with "pure altruism," the view that one should consider *only* the happiness or well-being of others and ignore one's own happiness. In utilitarianism, you count yourself in the total, but as only one of many. If there are only two people involved (should it be you or I who sweeps the floor today?), each of the two should count equally. But if there are thousands of people to be considered, as with some highly desirable social policy that if enacted would cause you considerable distress or inconvenience, your own probable happiness or unhappiness wouldn't count very much in what would be a huge total.

The opposite of happiness is unhappiness: the more happiness there is in the world, the better, and the less unhappiness there is, the better. Unhappiness includes not only pain, but other states such as depression, dread, distress, and terror. (Similarly, happiness includes not only pleasure and similar "positive hedonic states" such as exhilaration and experience of "a high"; first and foremost happiness is the result of the realization of one's potential, which is a long-term affair — not merely a momentary state but the culmination of effort expended over a considerable period of time, through the cultivation of productive habits. Normally happiness doesn't just come to you, but is the result of your own prior activity.) If happiness in all its forms is labeled as plus, and unhappiness in all its forms is labeled as minus, we can say that the goal in utilitarianism is to maximize the amount of plus in the world and minimize the minus.

But one must be careful with this: the experience of pain is always a minus, but sometimes the infliction of pain by a surgeon is the only way to bring about the cure of the disease, so the minus (the pain) is more than counterbalanced by the plus. Though the pain was not intrinsically good (who would want pain for its own sake? — even a masochist desires it only for a special kind of satisfaction), it was in this case instrumentally good since it led to restored health. Similarly, anxiety and worry are hardly worthwhile states of mind of themselves, but if a person feels worried or distressed about something he may think of ways to alleviate that worry or distress, after which he no longer feels them.

If these results occur, we say "the result was worth it," or "the end (cure of the disease) justified the means (having the painful surgery)." Another example: a murderer is punished for

* John Stuart Mill, *Utilitarianism.* Longmans Green, 1859.

his crime, and punishment involves the infliction of various kinds of unpleasantness, which are intrinsically bad. What justifies the punishment according to utilitarianism is that this unpleasantness may become salutary to the murderer as well as known to others so as to lead them to avoid committing crimes in the future.

Suppose now that two acts, A and B, either of which you could perform, would have ten units of happiness as their total consequence (not only on oneself, but on everyone affected). So far, they would be equally worth doing, at least if there were no better alternatives. But if A has a consequence the occurrence of five units of unhappiness, but B does not have this consequence, then it is B that should be done: that is to say, B produces the greater amount of *net* happiness — that is, happiness produced after the unhappiness has been subtracted: 10 - 0 = 10, but 10 - 5 = 5. Utilitarianism strives always to maximize the amount of *net* happiness. Sometimes the alternatives open to you are both unhappiness-producing, such as when you have to choose between hurting Alice's feelings and hurting Barbara's, or between leading a military retreat involving one casualty and another involving two casualties — we call this "choosing the lesser of two evils": -5 is preferable to -10.

Suppose you have dreamed for years of buying an expensive new car, and now you finally can afford it. Should you buy it? No, says Singer; you can use the money to save the lives of quite a few Bengali refugees.

But as the last example illustrates, we have to consider not only the total quantity of happiness and unhappiness resulting from our actions, but the *probability* that these results will occur. If I win the lottery I'll be very happy, but the probability against this happening may be a million to one, so it would be unwise to count on it in my calculations for the future. By trying a new procedure, a physician may cause his patient's wounds to heal quickly, but the probability of its succeeding may be less than 50%, whereas if he sticks to a tried-and-true procedure the result is slower but there is a 95% probability that it will succeed. One multiplies the total net good to be achieved by the probability that it will occur. If some good outcome has only a 25% probability of occurring, one would be unwise to adopt it unless the results would be so stunningly good that even the low probability would justify it. One-hundred units of good x 50% probability is preferable to 60 units of good x 70% probability.

Of course, we cannot quantify these states of happiness or unhappiness, nor, for that matter, the probability of their occurring, with any precision. Even in simple cases we cannot do this: we can't even say that Johnny likes his ice cream cone exactly 1.7 times as much as Betty likes hers. About all we can say is "he likes it ever so much more than she does," or "he's willing to give up X, Y, and Z for it, but she's willing only to part with X for it." Considering the practical impossibility of exact quantification, we manage quite well in calculating probable consequences, at least in fairly simple cases: "even though all the children want to go on the picnic today, and the picnic had been promised, the sky is now extremely overcast and it seems nearly certain that we'll have rain before nightfall, so on the whole we'd better postpone the picnic."

Singer does not go in for quantification, but he uses the "approximate" method in his examples. A child is born both blind and deaf, and with such physical disabilities besides, as will cause what life she has to be filled with pain and discomfort — not only for her but for her mother or caretaker. In that case, though it is just possible that a cure will one day be found, it would be preferable to let her die rather than live a brief, agonized, and physically restricted life. Or, if a man has advanced Alzheimer's disease and has expressed a wish to die if he is ever in that state, he should be allowed to die, for no happiness or even much physical comfort can any longer be possible for him; on the other hand, if a patient's situation seems quite hopeless but he clearly wants to live, we would be depriving him of something important to him if we were to pull the plug, and so we let him live . . . and so on through countless examples. We consider the plus and minus consequences, and the probability of their occurring, before we reach the conclusion as to what should be done.

Now, however, an ambiguity arises. If doing act A would produce a total net happiness of 100 and doing act B would produce a total net happiness of 60, is it incumbent upon us to do A (assuming again that there are no better alternatives)? Yes, says classical utilitarianism: the alternative we should choose is always the one whose consequences contain the maximum possible net happiness. It is the *total quantity* that counts. This is the version presented, though not necessarily defended, by G. E. Moore in the opening chapters of his book *Ethics*.**

For any enterprise that is going to keep other people employed, you need working capital. Wouldn't Singer's scheme make it impossible for anyone to accumulate enough money to get a business enterprise going?

What if that quantity will be enjoyed by only one person, or a few people from a large group? That doesn't matter, says classical utilitarianism; we should do whatever will probably yield the best result, and the best result is the maximally happiness-producing result, regardless of to whom it goes. "But no," some will respond, "the benefit should go to as large a group as possible: a total net happiness of 60 would be preferable to a total net happiness of 100 *if* those 60 units benefit everyone, or a very large group rather than a very small one. The total amount is smaller, but the distribution is better." (Of course, hap-

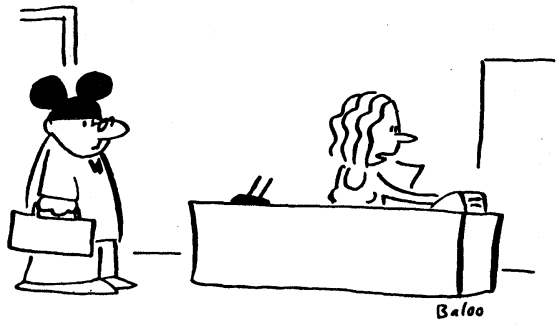
** G. E. Moore, *Ethics*. Oxford University Press, 1910.

piness is hardly the sort of thing that one person can distribute to others, since each person must strive to realize it in himself; talk about distribution would be applicable only if we are referring to some benefit conferred by some people upon others, as in a charity.) "Is it better, with the limited facilities we have, to give 100 patients a mini-psychoanalysis, which may help some of them temporarily just a bit and some not at all, or would it be preferable to forget 90 of them and give a thorough psychological analysis to just ten, with far greater probability of lasting help?" This can be a very pressing question when there is a large number of potential beneficiaries and the resources available are very limited. Singer does not commit himself to either the total-quantity view or the equitable-distribution view; he wants the greatest benefit possible to be conferred, but he is also committed to spreading the beneficence-net as wide as possible. But, of course, sometimes one has to choose between them.

Sometimes the total-quantity accounting will turn out in your own favor — you will benefit more than most others from someone's act or the application of some general rule. But sometimes it may work against you. It doesn't matter either way as long as the maximum-total-happiness criterion is fulfilled. If there is an outcome favorable to you, that is only because the outcome fulfills the maximization of happiness criterion, not because of any partiality in the utilitarian criterion. Utilitarianism is person-indifferent, but not outcome-indifferent; it always favors the best outcome, regardless of which individuals it benefits most.

There is one more complication. Usually it is to your benefit to be honest and truthful to others: the liar and the cheat will sooner or later be found out for what they are. But not always. Sometimes a person can repeatedly defraud another person and get by with it (particularly if he changes victims frequently), perhaps not just sometimes, but all the time (though figuring on it is risky). Sometimes nobody ever finds out. In fact, if you are benefited by a +50 and the total detriment to others because of your act is -40, there would be less harm in your cheating someone than there is benefit to you in doing the cheating. In such a case, according to utilitarianism, wouldn't it be all right for you to cheat?

Indeed it would, as we have considered utilitarianism thus far. We have considered what has come to be called *act-utilitarianism*, which considers the consequences of the individual act in question. But examples such as the one just given have led some persons to adopt *rule-utilitarianism*, the view that one should estimate the consequences not of the individual act but of the rule under which it falls. Maybe sometimes it pays to defraud someone (you are never found out), and maybe sometimes they aren't harmed by it as much as you are helped, but still, one can't be sure that things will ever turn out this way, and the advisable course of action is to go by the consequences of adopting certain *rules* of action rather than focusing entirely on the consequences of individual acts. Thus, following the rule "Never defraud others" would probably be a better rule, a rule whose adoption would have better consequences, than following the rule "Defraud others when you feel like it" or even "Defraud others when you think you can get by with it." In general, it's better (more happiness-producing) to be honest than to be dishonest; there may be occasional exceptions, but you can't really know what they might be, and if you disobey the rule even once and anyone finds out, they will be unlikely to trust you again; so, *stick to the rule!* In deciding on family policy, and most of all on which rules in a society should have the force of law, adopt those rules which will be maximally happiness-producing, even if some individual applications of them might not be so. Unfortunately, Singer never mentions rule-utilitarianism as a possibility, though it might present a way out from some situations in which one might find act-utilitarianism to be unacceptable or implausible.



"Sir, the man from the Federal Regulatory Agency is here."

Poverty Relief

The number of people in the world who are hungry or near starvation is almost incalculable — it runs in the hundreds of millions. A gift of a comparatively small amount of money from us would save many lives — a gift of less than $100 would keep a starving child in Asia or Africa alive for a year. When so small a sacrifice by us would give food to the hungry and renewed life to the starving, can there be any doubt, asks Singer, that utilitarianism requires of us no less than this? So small a cost, so great a benefit; surely it is clear where our duty lies.

That in all these pages in which Singer exhorts us to give and give there is no mention of the main reason why there is such great need, seems to me inexcusable.

"But by not giving I'm not *doing* anything — I'm not committing any action, like murder, against anyone else." Not so, says Singer; by not rescuing a drowning child, I am committing a wrong. It is not only overt actions, but also failures to act, which cause harm. Failing to give to famine relief is as much a wrong as failing to rescue the drowning child.

> Because giving money is regarded as an act of charity, it is not thought that there is anything wrong with not giving. The charitable man may be praised, but the man who is not charitable is not condemned. People do not feel in any way ashamed or guilty about spending money on new clothes or a new car instead of giving it to famine relief. (Indeed, the alternative does not occur to them.) This way of looking at the matter cannot be justified. When we buy new

clothes not to keep ourselves warm but to look 'well dressed,' we are not providing for any important need. We would not be sacrificing anything significant if we were to continue to wear our old clothes and give the money to famine relief. By doing so, we would be preventing another person from starving. . . . We ought to give money away, rather than spend it on clothes which we do not need to keep us warm. To do so is not charitable or generous. Nor is it the kind of act which philosophers and theologians have called 'supererogatory' — an act which it would be good to do but not wrong not to do. On the contrary, we ought to give the money away, and it is wrong not to do so. (p. 110)

But how much should we be required to give?

One possibility . . . is that we ought to give until we reach the level of marginal utility — that is, the level at which, by giving more, I would cause as much suffering to myself or my dependents as I would receive by my gift. This would mean of course, that one would reduce oneself to very near the material circumstances of a Bengali refugee . . . [Earlier I put forward] both a strong and a moderate version of the principle of preventing bad occurrences. The strong version . . . does seem to require reducing ourselves to the level of marginal utility. I should also say that the strong version seems to me to be the correct one. I proposed the moderate version — that we should prevent bad occurrences unless, to do so, we had to sacrifice something morally significant — only to show that even on this surely undeniable principle, a great change in our way of life is required. On the more moderate principle, it may not follow that we ought to reduce ourselves to the level of marginal utility, for one might hold that to reduce oneself and one's family to this level is to cause something significantly bad to happen. Whether this is so I shall not discuss, since, as I have said, I can see no good reason for holding the moderate version of the principle rather than the strong version. Even if we accepted the principle only in its moderate form, however, it should be clear that we would have to give away enough to ensure that the consumer society, dependent as it is on people spending on trivia rather than giving to famine relief, would slow down and perhaps disappear entirely. (115)

Suppose that you have dreamed for years of buying an expensive new car, and that now by dint of economizing and denying yourself luxuries you finally can afford it. Should you buy it? No, says Singer; you can get by just as well with a used car, and then you can use the rest to save the lives of quite a few Bengali refugees. Better still, you can do without a car and take the bus to work — or better yet, save the bus fare and walk to work.

Can he really mean all this? Let's see:

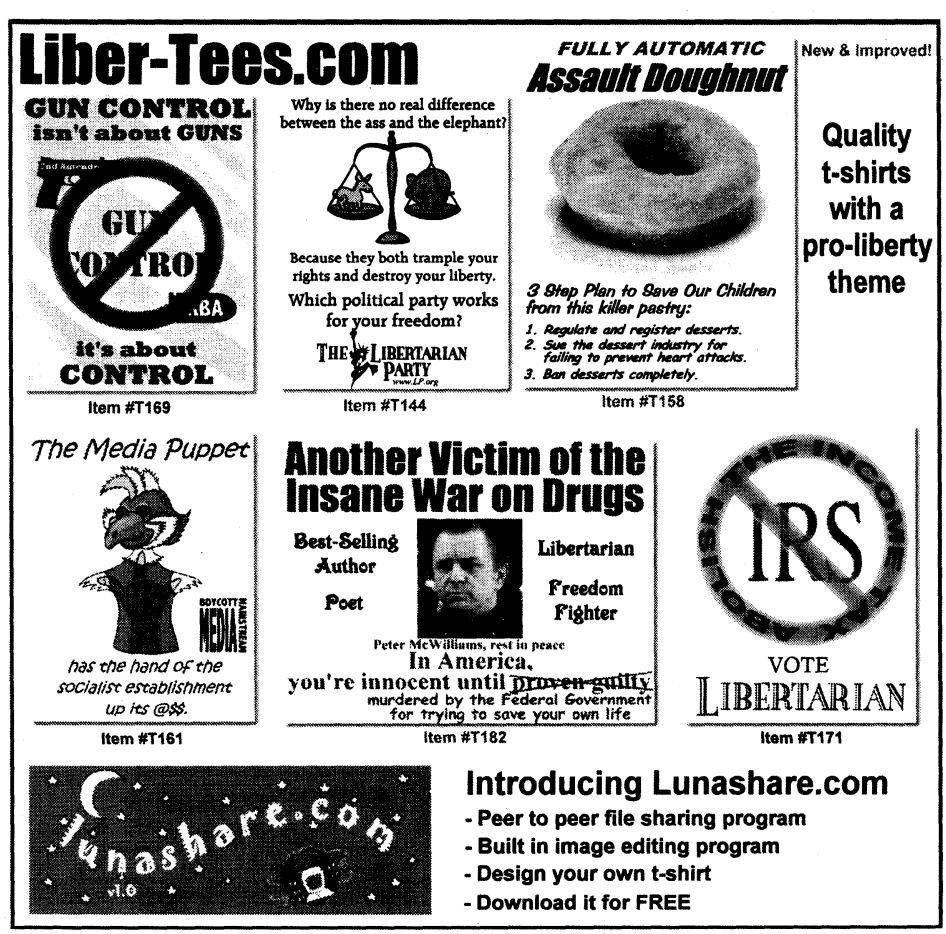
> How about treating yourself and your partner to dinner at your favorite restaurant? But wait. The money you will spend at the restaurant could also help save the lives of children overseas! True, you weren't planning to blow $200 tonight, but if you were to give up dining out just for one month, you would easily save that amount. And what is one month's dining out, compared with a child's life? There's the rub. Since there are a lot of desperately needy children in the world, there will always be another child whose life you could save for another $200. (121)

How far should one go with this? Singer writes,

> I can see no escape from the conclusion that each one of us with wealth surplus to his or her essential needs should be giving most of it to help people suffering from poverty so dire as to be life-threatening. That's right: I am saying that you shouldn't buy that new car, take that cruise, redecorate the house, or get that pricy new suit. After all, a $1000 suit could save five children's lives.

How does this break down in dollars and cents?

> An American household with an income of $50,000 spends around $30,000 annually on necessities, according to the Conference Board, a nonprofit economic research organization. Therefore, for a household bringing in $50,000 per year, donations to help the world's poor should be as close as possible to $20,000. Then the $30,000 required for necessities holds for higher incomes as well. So a household making $100,000



could write a yearly check for $70,000. Again, the formula is simple: whatever money you're spending on luxuries, not necessities, should be given away.

I have quoted Singer at length in order to convince the reader that I am not distorting his meaning. Now, what is one to make of it all? I do not propose here to introduce some other theory of ethics, such as some form of Randian egoism, intended to refute Singer at the root. I shall confine myself to asking a few questions about his account, such as whether it really implies what he says, and that if it does, should we find it all acceptable? Some assorted reflections:

I knew of course that cows and pigs were raised to be killed, but I reflected that they do not dread death as people do, and that when the fatal day came for them, their end was unanticipated and relatively painless.

(1) Can we really write that $70,000 check *after* paying income taxes? I know of no family that could. Perhaps then what are called necessities aren't "really" necessities? Maybe they aren't, if we are prepared to live on algae or dried leaves. But how can we do it in a modern industrial society, which requires large outlays of capital, and vehicles for getting to work, and lots of money to pay employees (or are they supposed to work on starvation income too)? And what about property taxes and paying on the mortgage — or are we not supposed to own our own homes (but someone has to)? And meanwhile, are you not supposed to save something for your own retirement or to have no cushion to keep you from bankruptcy in case of dire emergency? And if you can't save for retirement, who is going to take care of you when you yourself retire? Are you supposed to keep yourself forever financially vulnerable, with all the insecurity that goes with it? Are you condemned later to rely on the generosity of others? And how could they be generous if they too are giving $50,000 a year to famine relief?

For any enterprise that is going to keep other people employed, you need working capital; for many things you need lots of money to start with. Wouldn't Singer's scheme make it impossible for anyone to accumulate enough money to get a business enterprise going? When you start a business you have to have some reserve capital to insure yourself against sudden reverses — but how is this to be done if you can't accumulate the capital? You can't conduct a million-dollar business while living on the margins.

Singer himself says, "The value and necessity of economic growth are now being questioned not only by conservationists but by economists as well" (116). I scarcely know how to respond to this in a finite space, other than to say that without economic growth there will soon be no wherewithal for giving these huge amounts of money to overseas poor, or, for that matter, to the poor in our own midst.

(2) Much of the poverty in the world is self-caused. If your friends haven't taken care of themselves, such as eating healthful foods and taking some exercise, their own health will deteriorate and the medical results may be very costly. Hospitals are full of patients whose conditions could have been prevented with a little effort; are we supposed to help pay for these expenses? Are you supposed to pay them for making the mistakes you warned them against?

With regard to overseas poverty, we have less control over that than we may have over our friends, but some suggestions are still in order. What if our agronomists advise the Bengalis how to cultivate their land more fruitfully, or to grow more healthful crops, or in other ways to improve their lot, and they don't do it, as a result of habit or superstition? What if they catch diseases as a result of ignorance or carelessness? Most important, should we pay for the women who become pregnant once a year? Must we pay to sustain their oversize families because they do not or will not institute methods of birth control? Why shouldn't "family planning" be a prerequisite for continued aid? Or must we continue shelling out regardless of circumstances? Singer doesn't give us much help on this.

(3) If we adopt Singer's recommendations, what will this do to human motivation? You work hard to pay for that new car. If you can't have it, and give the money to overseas famine relief, what will that do to your future motivation to keep working? One may say that you *ought* to be motivated to help others in need as strongly as you are to buy something for yourself with the money you've earned, but, in fact, people are not motivated in this way, and there is no prospect of any such radical change in human nature in the foreseeable future (even assuming it to be desirable). If a child is repeatedly forced to give away his toys without getting any new ones, he may develop such a frame of mind that he will not feel like helping anyone else ever again.

(4) Nowhere does Singer mention totalitarianism as a cause of poverty. But if one is to list the causes of poverty, surely living in a nation that lacks economic freedom is number one on the list. People are poor, not as a rule through lack of enterprise, but because the regime under which they live does not permit them to prosper. Yet Singer says not a word about the poverty-causing nature of totalitarian regimes. He condemns the Nazis for the killing of Jews (including Singer's own grandparents), but he has nothing to say about the vast slave-system which was the Soviet Union and how such sys-

Sooner or later you will be faced by the choice: it's either you or the rats, both can't live together under the same roof. Is it wrong to get rid of them by killing them — as painlessly as possible, of course? Or would Singer tolerate their presence no matter what the cost?

tems keep everyone except a few at the top living at virtual starvation-level. That in all these pages in which we are exhorted to give and give, there is no mention of the main reason *why* there is such great need, seems to me inexcusable. Would Singer still be exhorting us to help to sustain leprosaria even after leprosy had been cured? I cannot help but wonder.

(5) The positive good in human life, according to utilitarianism, is happiness. But whenever Singer gives examples, it is almost always the prevention of famine and starvation overseas (as if North and South America did not have enough examples). There is little mention of positive goods, such as having a pleasant vacation or just enjoying life in general. It's true of course that if you are starving you can't really enjoy yourself (though some excellent books have been written on something less than a full stomach), and perhaps Singer wants us to help the poor so that they can enjoy themselves as we can. Perhaps so. But the impression left is that his conception of happiness is itself somewhat poverty-stricken. It does not evoke any images of what is, in Aristotle's terms, "the good for man."

Animal Rights

Reading Singer's *Animal Liberation* was a traumatic experience for me. Having been brought up in rural Iowa, I was accustomed to seeing cows and horses grazing in a pasture in apparent contentment. They would also be fed and watered regularly, and provided with shelter in cold weather. On the whole, I often considered them better off than many people, especially poor people, and often envied their lot. I knew of course that cows and pigs were raised to be killed, but I reflected that they do not dread death as people do, and that when the fatal day came for them, their end was unanticipated and relatively painless.

Then when *Animal Liberation* appeared, I was so disturbed by Singer's description of what cows and pigs, and veal calves most of all, are made to endure in slaughterhouses that I had nightmares about it. I was anxious to get laws passed, not to prohibit the raising of pigs and cattle, but to prohibit the cruel practices that Singer described, and wanted very much for the owners of factory farms to be imprisoned until these practices were abolished. But I soon realized what a huge enterprise the meat industry is, and what enormous difficulties one would encounter in trying to change the situation: an army of enforcers would be required, and probably the only long-run solution would be a total ban on the raising of livestock. In view of Americans' appetite for meat, such a change, I thought, would be well-nigh impossible, and could only take place very gradually over a generation or more of educating the public and changing its tastes.

Many people who are far from indifferent to the fate of their fellow human beings are quite indifferent to the suffering of animals. More than 200 years ago Jeremy Bentham wrote in his *Principles of Morals and Legislation*:

> The day may come when the rest of the animal creation may acquire those rights which never could have been withholden from them but by the hand of tyranny. The French have already discovered that the blackness of the skin is no reason why a human being should be abandoned without redress to the caprice of a tormentor. It may one day come to be recognized that the number of the legs, the villosity of the skin, or the termination of the *os sacrum* are reasons equally insufficient for abandoning a sensitive being to the same fate. What else is it that should trace the insuperable line? Is it the faculty of reason, or perhaps the faculty of discourse? But a full-grown horse or dog is beyond comparison a more rational, as well as a more conversable animal, than an infant of a day or a week or even a month old. But suppose they were otherwise, what would it avail? The question is not, Can they *reason*? Nor Can they *talk*? But Can they *suffer*?

Animals have interests — that is to say, there are things that they seek and other things that they avoid, some things in which they have a positive interest and others in which they have a negative interest, some things which turn them on (such as food and drink) and others which turn them off (discomfort and pain). A stone does not have interests: however much it is kicked or dropped, it does not suffer. But animals do, and Singer uses the same arguments to condemn cruelty to animals as he does to condemn cruelty to people. He doesn't tell us how primitive an organism must be (worms? amoebas?) in order to be described as experiencing pain. I assume that he would include fish. I assume that he would refrain from eating lobster because, he believes, the lobster experiences pain when the temperature of the water in which it is immersed rises to near the boiling point. Singer in fact is a total vegetarian (vegan), eschewing even the use of milk and eggs.

One implication of Singer's view is clear: we should not kill, torment, or in any way harm non-human animals, any more than we should harm humans.

The mistake of his opponents, he says, is *speciesism*.

> Racists violate the principle of equality by giving greater weight to the interests of their own race when there is a clash between their interests and the interests of those of another race. Sexists violate the principle of equality by favoring the interests of their own sex. Similarly, speciesists allow the interests of their own species to override the greater interests of members of other species. The pattern is identical in each case. (35)

Most human beings are speciesists. Not just a few cruel and heartless people, but the vast majority, take an active part in sacrificing the interests and the very lives of members of other species in order to promote even the most trivial interests of their own species. There are some interests that a cow does not have; it does not reflect on the inevitability of its own death; but there is no doubt that mammals feel pain as much as human beings do. If you have seen a dog whose leg has just been severed in a mowing machine, you can hardly deny that the dog is in great pain — and the same for a cow who is dismembered while it is still alive in the slaughterhouse, making all the noises we associate with pain and terror. The cow's nervous system is also highly similar to ours,

rendering still more implausible the idea that it merely "gives off behavior but has no feeling." "The nervous systems of animals evolved as our own did," writes Singer, "and in fact the evolutionary history of human beings and other animals, especially mammals, did not diverge until the central features of our nervous systems were already in existence."

What are the implications of this for our behavior? One implication is clear: we should not kill, torment, or in any way harm non-human animals, any more than we should harm humans. We can see at once what Singer's view does to hunting, bullfighting, cockfighting, even horse-racing (maybe the horse gets to like it, but not when it is being broken in, or hitched to a wagon). In all these cases we force animals into activities that are unwelcome to them, and in most cases quite painful to them, however much amusement they may bring to their human spectators.

The case of medical experiments conducted on animals is divided: Singer believes that most animal experimentation is unjustified — those doing the experiments endlessly repeat one another's experiments, perhaps to finish a doctoral dissertation, and meanwhile the animals are subjected to imprisonment, electric shock, and countless tortures. There are especially moving cases, such as the one shown on television in which a chimpanzee has gained considerable affection and mutual understanding with his keeper over a period of time, and the keeper's job then changes to another state, but when he returns some six years later, the chimpanzee, who has been imprisoned in a small cage all these years, greets him with all the affection and emotionality of a lost brother. The similarity of human emotions to chimpanzee emotions is here clearly shown. Still, there are occasions when animal experiments help to cure diseases of both humans and animals.

Singer's conception of happiness is itself somewhat poverty-stricken. It does not evoke any images of what is, in Aristotle's terms, "the good for man."

But is the taking of animal life always wrong? If Singer says yes, I would be interested in his response to this familiar situation: you find a few rats somewhere in your house. Being no speciesist, you let them be. But in a few months they have spawned many more rats. Not only do they make noises at night, they eat your food, and if permitted to continue they would become not merely a pest but a scourge. Are you supposed to continue to have your house invaded by rodents until they multiply into the thousands? "Get a few cats," we may say; but the cat would be there just to do your dirty work for you. Sooner or later you will be faced by the choice: it's either you or the rats, both can't live together under the same roof. Would it be wrong in these circumstances to get rid of them by killing them — as painlessly as possible, of course? Or would Singer tolerate their presence no matter what the cost? (Or would he say that killing them is all right if it can be labeled as self-defense? But this opens the killing-door quite wide.)

We are quite sure that we should condemn the trapping of animals, and the smoking out of young coyotes in their lair by the government agents who are paid to kill them. "But if the coyotes survive, they will kill our cattle. That's why we hired you to get rid of the coyotes." It does seem to be an either/or situation; you can't train coyotes not to hunt and kill. There is a dilemma here which occurs whenever we are confronted with situations in which animals left on their own will destroy one another. We like the baby lion in *Born Free* and cheer when it is successfully returned to the wild; but in the wild it will eat the antelopes and other prey which we also like. We are presented with the difficult choice of which to kill. Some years ago rabbits were introduced into Australia, and multiplied until they endangered many of the native species; finally Australians killed them in droves, by any means possible, in order to keep the native fauna in existence and so as not to be overrun with the newly imported mammals (Australia has no native mammals). Was it wrong for them to do so?

"Sometimes then the taking of animal life is necessary." Yes, but the question is, necessary *for what*? For continuing to live in our own house? For safety from wild animals and poisonous snakes? Or perhaps for our very existence? Or, more likely, for our existing in a certain part of the earth. Suppose you had been a member of the Lewis and Clark expedition in 1802; you could hardly have survived on fruits and vegetables — there were hardly any, and the Indians didn't grow them. Lewis and Clark, as well as the Indians, had to kill animals to survive — and the same for most human beings in history, since agriculture was unknown until less than 10,000 years ago. Or is someone going to say, "Then human beings shouldn't have survived at all"? Or perhaps, "It would have been wrong for them to settle in areas where there were no fruits and vegetables"?

We like the baby lion in Born Free and cheer when it is successfully returned to the wild; but in the wild it will eat the antelopes and other prey that we also like.

Whatever we conclude about these controversial matters, I deplore the practices current on factory farms as perfectly unnecessary cruelty. I am far less confident about the wrongness of raising cattle for market if they are humanely treated throughout their lives, as they often were in the pre-factory-farm era. Weighing the enjoyment people derive from the taste of meat against the discomfort of cattle before their demise in the slaughterhouse on their last day of life, I am not at all sure that the enjoyment of meat-eaters, which is considerable, is worth the price.

According to classical utilitarianism, it would seem to be acceptable to cause ten units of discomfort to Smith if I could thereby bring about 20 units

of enjoyment to Jones. Twenty is greater than ten, to be sure. But one argument against this conclusion is that nobody asked Smith whether he would willingly take on ten units of discomfort in order to increase Jones' comfort by 20 units. And if you were the cow, it is doubtful that you would be willing to give up your life, even painlessly, in order to provide beef-eaters with their favorite enjoyment. But of course the cow, not having free will, cannot exercise such a choice, so we make the choice for the cow. Fortunately for simplicity, Singer seldom distinguishes between the discomforts we willingly endure and those which are forced on us by others.

It cannot be said that the pains that animals endure are endured willingly.

> The ways in which creatures in nature die are typically violent: predation, starvation, disease, parasitism, cold. The dying animal in the wild does not understand the vast ocean of misery into which it and billions of other animals are born only to drown. If the wild animal understood the conditions into which it is born, what would it think? It might reasonably prefer to be raised on a farm, where the chances of survival for a year or more would be good, and to escape from the wild, where they are negligible. Either way, the animal will be eaten. Few die of old age. The path from birth to slaughter, however, is often longer and less painful in the barnyard than in the woods . . . The misery of animals in nature — which human beings can do much to relieve — makes every other form of suffering pale in comparison. †

Human beings have caused only a small part of the vast suffering that exists among non-human animals. To make that part smaller is our responsibility as human beings. But where the limits should be placed on that area of responsibility remains a matter of dispute between Singer and his critics. ❑

† Marc Sagoff, "Animal Liberation and Environmental Ethics," *Law Journal* 22.2 (1993), 297. Reprinted in John Hospers, *Human Conduct*, Harcowt Brace, 1996, Third edition, 256.

Erratum

In the June issue of Liberty, our typographers failed to indent passages quoted by Jeff Riggenbach in his review of *The Art of Political War and Other Radical Pursuits* by David Horowitz. We apologize to Riggenbach and Horowitz and to our readers. The quotations should have appeared as follows:

Horowitz makes no bones about his answer.

> Republicans often seem to regard political combats as they would a debate before the Oxford Political Union, as though winning depended on rational arguments and carefully articulated principles. But the audience of politics is not made up of Oxford dons, and the rules are entirely different.
>
> You have only thirty seconds to make your point. Even if you had time to develop an argument, the audience you need to reach (the undecided and those in the middle who are not paying much attention) would not get it. Your words would go over some of their heads and the rest would not even hear them (or quickly forget) amidst the bustle and pressure of daily life. Worse, while you have been making your argument the other side has already painted you as a mean-spirited, borderline racist controlled by religious zealots, securely in the pockets of the rich. Nobody who sees you this way is going to listen to you in any case. You are politically dead.

Consider as an example, Horowitz suggests, the issue of the capital gains tax.

> Most Americans do not know what "capital" is, let alone a capital gain. If you had an hour (instead of thirty seconds) and were able to explain to them why a capital gains tax might be a double tax, it would probably make no difference at all. When you were finished most of them would shrug their shoulders and say "Let them pay it anyway. They're rich enough." They have no idea of how the economy works, what an incentive system is, or why the stock market is more than a gambling casino. Talk about capital gains tax cuts is only important to those who understand them, and they are already mostly Republicans.

What, then, would Horowitz have Republicans do?

> When you speak, do not forget that a sound bite is all you have. Whatever you have to say, make sure to say it loud and clear. Keep it simple and keep it short – a slogan is always better. Repeat it often. Put it on television. Radio is good, but with few exceptions, only television reaches a public that is electorally significant. In politics, television is reality.
>
> Of course, you have a base of supporters who will listen for hours to what you have to say if that is what you want. In the battles facing you, they will play an important role. Therefore, what you say to them is also important. But it is not going to decide elections. The audiences that will determine your fate are audiences that you will first have to persuade. You will have to find a way to reach them, get them to listen, and then to support you. With these audiences, you will never have time for real arguments or proper analyses. Images –symbols and sound bites – will always prevail. Therefore, it is absolutely essential to focus your message and repeat it over and over again. For a candidate this means the strictest discipline. Lack of focus will derail your message. If you make too many points, your message will be diffused and nothing will get through. The result will be the same as if you had made no point at all.

Again, addressing the matter of what might be called Democratic versus Republican style, Horowitz writes that an

> advantage of the Democrats' rhetoric is that it speaks directly to the American people about things they understand – the concrete lives of their fellow human beings. Speaking about women, children, minorities, working Americans, and the poor makes the connection. It establishes a link between speaker and listener, appearing to come from the heart. If it comes across sincerely, it immediately identifies the speaker as a friend. Republicans, by contrast, tend to speak in abstract language about legalistic doctrines and economic budgets. They sound like businessmen, lawyers, and accountants. They argue the virtues of flat taxes versus value-added taxes. They talk about capital gains tax cuts. They speak from the head instead of the heart.

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Israel by nearly all the Arab countries is the product of Israel's "culture of expulsion," not religious hatred. This is patently untrue. From laws that in many cases forbid Jews from being carried as passengers over their countries, to Syria's and Egypt's publication of Holocaust denials, official and unofficial anti-Semitism has been a hallmark of Arab statehood. It stems from the Koran, which depicts Mohammed's adoption of anti-Semitism after the Jews of Medina refused to accept his religious and political claims.

A resentment of expulsion doesn't explain why Syria, Jordan, Egypt, and Iraq joined in an attack on Israel as soon as it was proclaimed a state — an attack that received rhetorical and material support from nearly all the other Arab states. That they did so in defiance of the very same United Nations that they embrace now adds to their hypocrisy. Of course, Egypt and Jordan could have created a Palestinian state within their own borders at any time, had that really been their concern.

Finally, I have yet to see Ahmad or the "world opinion" express any sympathy for the hundreds of thousands of Jews expelled from Arab countries in the middle of the last century. The family of a friend of mine had their homes and businesses looted and destroyed, their persons assaulted, and two even killed in Tunisia — a land they had inhabited for centuries.

Richard Solomon
Los Angeles, Calif.

Israel, Democracy, and America

My learned friends who wrote in to disagree with Imad-ad-Dean Ahmad's views could not confine themselves to discussing those views; instead, they went out of their way to denounce Arab governments, despite Ahmad's own statement to the effect that he was not defending them. I am no fan of regimes in Moslem countries, but I feel that changing those regimes is a job for the people who live there, as they are far better suited to coming up with something that suits them than we are, with our unhappy track record of applying the belief that one solution will fit all cases.

I have long wondered why we in the United States seem to feel that no matter what, we should support Israel. Israel may be more democratic than its neighbors, but democracy in and of itself is not necessarily a good thing — most pirate ships were run along fairly democratic lines, after all. Also, we have never chosen our allies purely on the basis of their adherence to democratic ideals; had we done so, we'd have had to spurn the assistance from France and Spain that enabled us to win independence from Great Britain.

Our leaders act as though we're in debt, somehow, to Israel. Can someone kindly identify for me precisely when this debt was incurred, and its extent? I cannot think of a single thing that Israel has done for us that we couldn't have done better for ourselves, and our adherence to it has cost us a great deal of trouble and given our enemies abroad loads of wonderful free ammunition to fire at us. We started out in the Middle East with a clean slate, but we're now so identified with Israel that our attempts to broker a peace agreement are futile.

If some Americans wish to support Israel with their own money and efforts, they may do so with my blessings. However, I object strenuously to being dragged into this quarrel by virtue of my American citizenship, and being dragged in on the side that I honestly think is wrong infuriates me. I do not wish to be used as cannon fodder or a money mine so that some of my compatriots can scratch various itches.

Eric Oppen
Iowa Falls, Iowa

What Kind of Magazine Is This?

I love your magazine but I will never read it again. You published an article that had a point of view opposite to my own, thoughts and ideas so reprehensible that I can't believe you endorse them. You published them so you *must* endorse them. I have never been so insulted in all my life. What are you trying to do? Do you really expect your

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readers to think about what they are reading? You should only print opinions and ideas that we all agree upon, otherwise readers will have to refute the thoughts of others with facts and opinions of their own. This could lead to debate! You are anti-libertarian by forcing us to rethink our own positions. This could cause people to change their points of view, or worse, it could strengthen what they already believed!

Matthew Welkley
Los Angeles, Calif.

Trashing Republicans

In the June issue of *Liberty*, Jeff Riggenbach published what professed to be a review of David Horowitz's *The Art of Political War*. He spent the first third of the article discussing the book, and the rest on attacks of the GOP — attacks that had no connection to the book.

For example, many Republicans support the drug war. For this reason, Riggenbach claims that he can divine the contents of Horowitz's mind and that Horowitz favors the drug war as well — even though Horowitz doesn't mention it in his book. As well he shouldn't — bringing up opposition to the drug war just drives away many who otherwise would recognize themselves as firm libertarians, and who could have eventually been convinced of the failure and stupidity of the drug war, if only the subject had been brought up after they had accepted libertarian thinking. Support of drug legalization does not correlate well with other libertarian sentiments.

Riggenbach employs the almost obligatory libertarian attacks on the GOP. Republicans have done little to shrink government. True, but they have not had real political control in America since 1932; Republican presidents have been faced with Democratic majorities in Congress. The Republicans since 1994 have had majorities in Congress, but only very slim ones, and the left has held all the other levers of power: courts, media, universities, and unions. Republicans must accept some of the blame for their failure to grasp political tactics — but this is precisely why Horowitz wrote his book.

Riggenbach ignores the fact that Republicans have had a few successes in battling expansion of the federal government. They have ended deficit spending (a prime weapon of the statists in expanding government), defeated the nationalization of the entire health-care industry, and ended the welfare entitlement. The purists who spend their time and energy attacking the GOP are almost all associated with the Libertarian Party, which has done exactly nothing to shrink the growing megastate, or accomplish anything else.

Edward Rahn
North Miami, Fla.

Drugs — A Moral Question?

David Friedman's "The Economics of Drug Violence" (June) is well written, but drug prohibitions are based upon morality, and thus morality must become the issue in drug debates if the public is ever to support drug legalization.

The average reader wants to know "what can I do" with regard to drug laws, and probably the most productive approach is not to discuss the market economics of illicit drug distribution.

Mark Davis
Kansas City, Kan.

"Words" *by Dave Kopel from page 34*

Etymologists are unsure of whether "welsh" (swindle) actually derives from a slur on the Welsh, and thus whether the word should offend Cambrian-Americans.

"Piker," on the other hand, meaning a person who does things in a petty or stingy manner, is a slur first applied to people from Pike County, Mo., and then to Missourians in general. The slurrers were Californians annoyed by the influx of rural Missourians during the 1849 Gold Rush. Perhaps if Clinton had apologized, Gore might have carried the Missouro-American vote, and wouldn't have needed to invent extra votes in Florida.

Finally, if we really want to ensure that our choice of words doesn't divide Americans along ethnic lines, we ought to stop referring to blacks as "African-Americans," since, as Theodore Roosevelt put it, "There is no room in this country for hyphenated Americanism." ❑

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Terra Incognita

Washington, D.C.

Curious episode in the fight against gun violence, from a dispatch in *Gun News*:

> A woman has been found guilty of shooting a 23-year-old she thought responsible for her own son's shooting death. The woman spent last Mother's Day at the Million Mom March where she "'spoke out against gun violence.'"

Coquitlam, B. C.

A mother's love can penetrate the toughest prison, from a report in *The Tri-City News*:

> To get her son to stop smoking, a woman has contacted the authorities of the mental hospital where her son has been involuntarily committed for 18 years. She has requested that he be put "in a non-smoking ward" so that he would use the $48 he spends monthly on a carton of cigarettes for "healthy treats, like fruit."

Britain

Advance in consumer protection, reported in the *Seattle Post-Intelligencer*:

> A man has been found guilty of selling produce in pounds and ounces, contrary to the Weights and Measures Act. The man, dubbed the "Metric Martyr," faces a $1,500 fine for each count and about $90,000 in court costs.

Seattle, Wash.

Encouraging news, in the *Seattle Weekly*:

> King County "wastewater leaders" have announced that people should not worry that mass flushing during the commercial breaks of major sporting events will flood sewage treatment plants. A leading figure has proclaimed that people "can flush freely . . . without fear of consequence."

Wisconsin

New priorities in America's heartland, from the *Milwaukee Journal Sentinel*:

> Shoe stores were recently besieged by people searching for Nike Air Jordan XIs, a new basketball shoe style. In their rush for shoes people dented door gates, tore a door off its track, beat on store windows, and one man even "threatened to shoot somebody."

Mesquite, Texas

An advance in safety, or perhaps pollution control, from the *Mesquite Morning News*:

> Police have announced that motorized scooters are "illegal to ride on public streets and sidewalks" and have started ticketing users. The Department of Transportation said that scooters could not be registered as motor vehicles because they would not pass a safety inspection. Said one officer: "Unless you've got land or a private place, you can't ride them."

Gastonia, N.C.

Enlightened jurisprudence from the Tarheel State, from a dispatch in the *Seattle Times*:

> A man who skinned and beheaded his mother's mixed pit bull received three years probation and an order from the judge "to read the 'Lassie' books."

Milwaukee, Wis.

The thin blue line that separates lawfulness from anarchy, from a dispatch in the *Milwaukee Journal Sentinel*:

> Police recently initiated a crackdown on ticket scalpers at sporting events. As a result, numbers of people with no prior record of illegal ticket sales, some of them season ticket holders, were arrested. They were then placed in a van, told they were no longer welcome at the arena, searched, placed in a "bullpen" for hours without a phone, fingerprinted, and required to sign a statement saying they wouldn't return to the arena.

Austria

The progress of eco-tourism in central Europe, reported by the *Seattle Times*:

> The province of Vorarlberg will no longer use explosives to dispose of cow carcasses in remote areas. Among the reasons cited was a concern that tourists would "be put off by the exploding cadavers and possible contamination of ground water."

Burien, Wash.

Curious religious practice in suburban Emerald City, noted in the *Highline Times/Des Moines News*:

> Two teen-age males were seen "riding their bicycles almost naked" through a park while "screaming loudly about the Lord." Police investigated, and the situation "was settled without further incident."

Terre Haute, Ind.

Interesting development on the banks of the Wabash:

> The Chamber of Commerce has asked for government aid to compensate local businesses for lost revenue from the postponement of the execution of Timothy McVeigh.

Britain

Curious advance in military science, reported by the British Broadcasting Company:

> Several women have received breast-enlargement operations at a military hospital, the operations have been defended as "medically necessary" by the Ministry of Defence.

New York

Curious remark from an anti-gun activist, from *The Washington Times*:

> "Something must be done to get . . . guns off our streets. If Cuba can do it, why can't we?"

Thanks to Clark Stooksbury, Ivan Santana, Russell Garrard, George Mason, Paul Geddes, Don Gough, and Matt McCally for contributions to *Terra Incognita*.

(Readers are invited to forward news clippings or other items for publication in *Terra Incognita*, or e-mail to terraincognita@libertysoft.com.)

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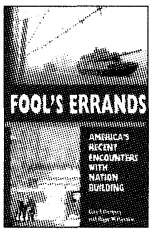

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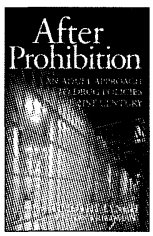

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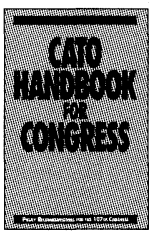

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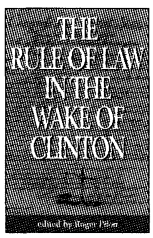

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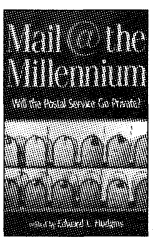

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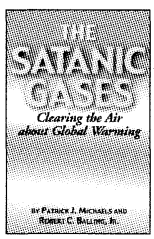

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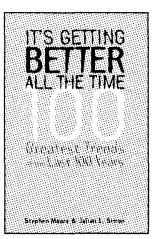

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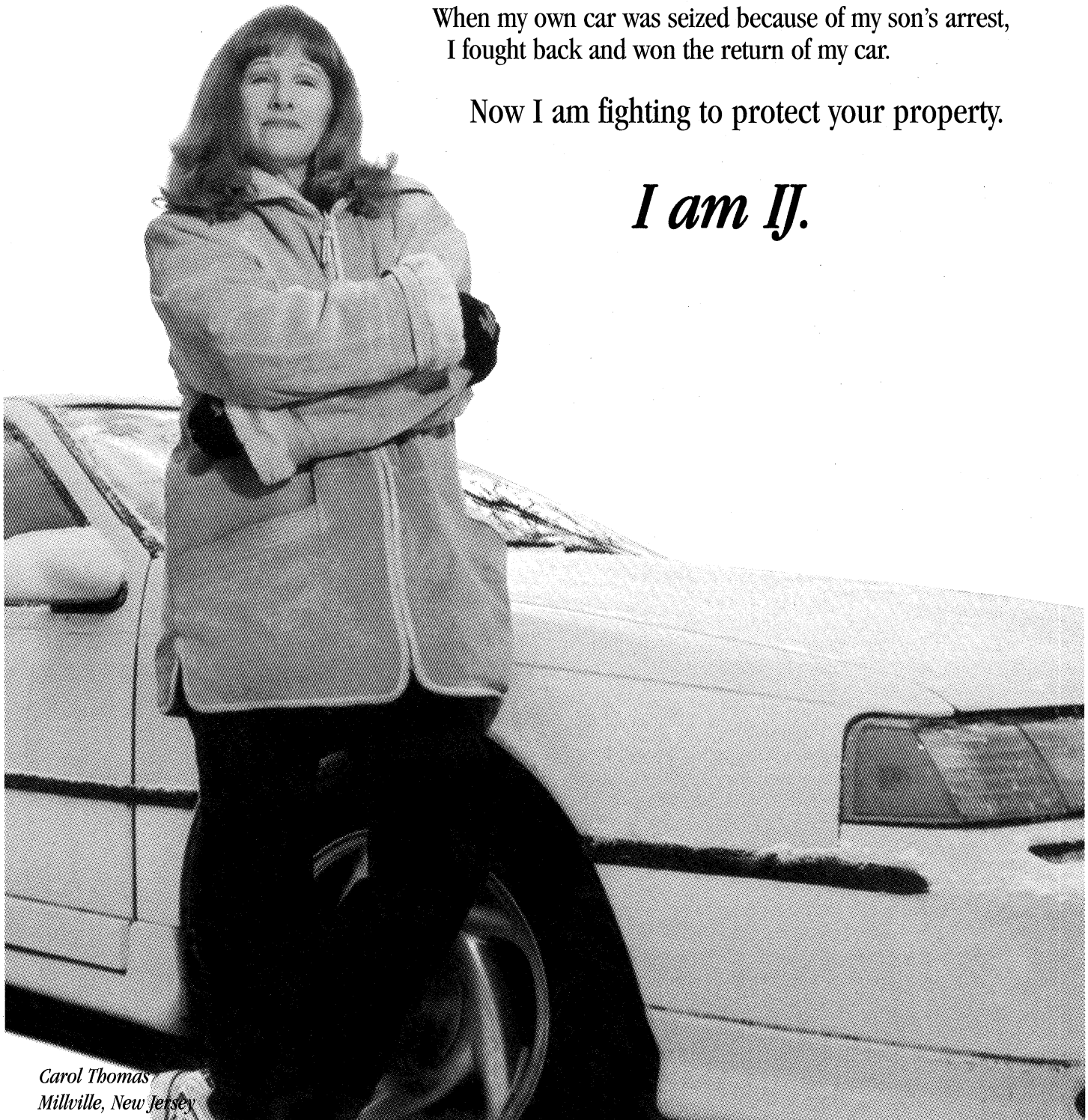

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