

# Liberty

Sparta 300  
Persia 0

June 2007

\$4.00

## How I Won an Electoral Vote

*by John Hospers*

## The Court's Two Ways of Being Wrong

*by Timothy Sandefur*

## A Generation of Slackers

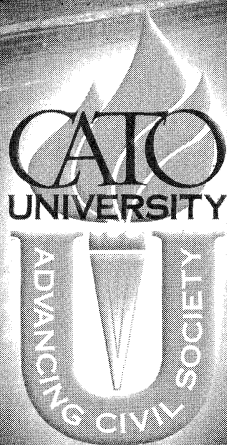
*by Michael Christian*

## A Freewheeling Debate

*by Brian Doherty, Lanny Ebenstein, and Bruce Ramsey*

Also: *Richard Kostelanetz* remembers a Goldwater anarchist, *Gary Jason* hands out demerits to bureaucrats and teachers' unions, *Jo Ann Skousen* watches blondes take Broadway . . . plus other articles, reviews & humor.

*"The loss of Liberty is worse than death." — Andrew Hamilton*



# CATO UNIVERSITY

JULY 22–27, 2007 • SAN DIEGO

**C**ato University is the Cato Institute's premier educational event of the year. This annual program brings together outstanding faculty and participants from across the country – business and professional people,

PRICE  
**\$925**  
the lowest we have been able to offer for a number of years. Take advantage!

retirees, small business owners, high school and college students, employees of large and small firms, families, and many others who share a commitment to liberty and learning.

This year's Cato University – the Graduate School of Liberty – will be held at the Rancho Bernardo Inn, a luxurious resort near San Diego.

It's the perfect way to vacation while learning about liberty and receiving a one-of-a-kind grounding in economics, law, history, and philosophy. This year's faculty includes some of the most dynamic speakers in the country:

**PROFESSOR MARCUS COLE** of Stanford University Law School

**PROFESSOR GLEN WHITMAN** of California State University, Northridge

**PROFESSOR DAVID BEITO** of the University of Alabama

**DR. TOM G. PALMER**, senior fellow of the Cato Institute and director of Cato University

**PROFESSOR ROBERT MCDONALD** of the U.S. Military Academy at West Point

**BRIAN DOHERTY**, senior editor at *Reason* magazine and author of *Radicals for Capitalism: A Freewheeling History of the Modern American Libertarian Movement*

**DAVID BOAZ**, executive vice president of the Cato Institute

Please join us and enjoy expert lecturers, stimulating discussions, and compelling ideas in the company of active minds – all combined with a relaxing vacation. It'll also be a tremendous opportunity to form new and enduring friendships.

Full details are available [www.cato-university.org/liberty](http://www.cato-university.org/liberty).

CATO'S Graduate  
School of  
**Liberty**

CATO INSTITUTE • [WWW.CATO-UNIVERSITY.ORG/LIBERTY](http://WWW.CATO-UNIVERSITY.ORG/LIBERTY)

R.W. Bradford  
(1947–2005)  
*founder*

Stephen Cox  
*editor*

Patrick Quealy  
*publisher*

Andrew Ferguson  
*managing editor*

John Hospers  
Bruce Ramsey

Jane S. Shaw  
*senior editors*

Jo Ann Skousen  
*entertainment editor*

Kathleen Bradford  
Mark Rand  
*assistant editors*

Brien Bartels  
David T. Beito

David Boaz  
Alan W. Bock

Douglas Casey  
Eric D. Dixon

Brian Doherty  
Lanny Ebenstein

David Friedman  
Bettina Bien Greaves

Leon T. Hadar  
Gene Healy

Robert Higgs  
Gary Jason

Bill Kauffman  
Dave Kopel

Bart Kosko  
Richard Kostelanetz

Sarah McCarthy  
Wendy McElroy

William E. Merritt  
Robert H. Nelson

Randal O'Toole  
Ross Overbeek

Durk Pearson  
Scott J. Reid

Ralph R. Reiland  
Sheldon Richman

Jeff Riggenbach  
Timothy Sandefur

Sandy Shaw  
Mark Skousen

Tim Slagle  
Fred L. Smith Jr.

Martin M. Solomon  
Clark Stooksbury

Thomas S. Szasz  
Martin Morse Wooster

Leland B. Yeager  
*contributing editors*

S.H. Chambers  
Rex F. May

*cartoonists*

**4 Letters** Our readers fight the power.

**7 Reflections** We stroll through Baghdad, score at the World Bank, corner the chicken market, breed less sheepish sheep, wrestle a bloodthirsty lion, diagnose an old malady, smuggle light bulbs, break a leg, and add a venerable American species to the endangered list.

## Features

**21 A Freewheeling Debate** Bookstores across the nation are featuring *Brian Doherty's* history of the libertarian movement. *Bruce Ramsey* and *Lanny Ebenstein* study the phenomenon; Doherty provides his own account.

**29 Borking Up the Wrong Tree** When it comes to legal principles, modern conservatives can be as dangerous as modern liberals. *Timothy Sandefur* shows what's under the sheep's clothing.

**35 The Founding of the Party** *John Hospers*, one of the select group of Americans who have ever received a vote in the Electoral College, tells how it's done.

**38 A Generation of Slackers** *Michael Christian* surveys the age of porcelain and skateboards.

## Reviews

**41 Lies Your Teachers Are Telling You** *Gary Jason* runs down the myths that keep public school budgets high and test scores really low.

**46 Sparta 300, Persia 0** The story told in "300" is a great one, *Liam Vavasour* admits. But the story told by history is even better.

**47 Fondly Remembering Karl Hess** *Richard Kostelanetz* savors the heyday of American anarchism.

**48 Pax Reagana** Reagan may have muffed his lines about domestic matters. But, as *Martin Morse Wooster* finds, he played his part on the international stage almost to perfection.

**49 A Wake for the West** The death of the West: are the reports exaggerated? *Garin Hovannisian* weighs the evidence.

**51 Curtain Calls** *Jo Ann Skousen* takes in a hit, a flop, and a guilty pleasure.



**50 Notes on Contributors** Our boon companions.

**54 Terra Incognita** One measures a circle, beginning anywhere.

# How to Subscribe to

## Liberty

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

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

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

### Act Today!

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

Use the coupon below or call:

**1-800-854-6991**

Please enter my subscription to *Liberty* immediately!

12 issues (One Full Year) \$29.50

24 issues (Two Full Years) \$56.00

Add \$5 per year for foreign subscriptions.

name \_\_\_\_\_

address \_\_\_\_\_

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

phone number \_\_\_\_\_

I enclose my check (payable to *Liberty*)

Charge my:

VISA  MasterCard  Discover

signature \_\_\_\_\_

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

expires \_\_\_\_\_

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

# Letters

## Occupation Nation

Jon Harrison's article ("Why the Surge Will Fail," April) is correct in not using the word "war" to describe what we are doing in Iraq. We are not at war; we are involved in an occupation of a country we conquered. The analogy is France and Poland by Germany during WWII, or India for many years by the British. In those days, they called the "resistance" guerrillas, and here in the U.S. we honored them for fighting their occupiers.

Here is what I believe the surge really means to the Bushies: when the Democrats won in the fall, it was mostly an antiwar vote. This meant when they took control of the House and Senate, they would probably ask for a withdrawal date. The Dems would say that the American people want us out of there, so let's make a plan to leave ASAP.

Bush's advisers saw it coming and proposed an increase in troops. They didn't really believe a few thousand more boots on the ground would help much, but that wasn't the point. It changed the argument from whether to withdraw to whether to add more troops. They snookered the nation with a classic misdirection move.

Now Bush will not leave because that would mean admitting he was defeated. He wants to pin our "retreat" on the Democrats. Arguing about whether the "surge" is working or not is just a time-eating camouflage, nothing more.

Meanwhile my son is in the Marines, serving in Fallujah. He doesn't like what he sees, but like all good young soldiers, is doing his job to the best of his abilities.

Dick Geyer  
Las Vegas, Nev.

## Surge by Numbers

I am a libertarian in the defense industry and, in my 30 years here, I have

assimilated a working knowledge of military operational art. From that perspective, I am critical of Jon Harrison's assessment of the surge.

Harrison's first argument amounts to simple troop-counting, as might be appropriate in frontal attrition warfare — which the campaign in Iraq is not. For one thing, it makes a difference whether one is counting actual combat troops (which the 21,500 are) or a fielded mixture of combat and support troops (which the 153,000 are). The normal ratio of combat troops to total expeditionary force is variably between 20 to 50%. Thus, the increase in combat capacity is far greater than simple numbers indicate. More important, however, is the nature of the operational strategy they will be called to execute, of which Harrison is ignorant. At present our troops are not numerous enough to impose secure control perimeters, within which "housecleaning" operations can commence. The new numbers will correct that deficiency, so we can impose the methods that were successful in Fallujah.

The second argument purports to be a critical analysis of the incoming deployment. He states that to "expect [our forces] either to defeat or to overawe and disarm thousands of well-armed religious fanatics, is sheer fantasy," and inexplicably compares the problem in Baghdad to the siege of Stalingrad. The expectation is entirely within reason, considering that U.S. forces successfully accomplished the extirpation of insurgents within Fallujah, killing 1,300 outright, with only 13 fatalities on our side. This action was accomplished largely with the advantage of night-vision equipment and pervasive overhead surveillance by unmanned aerial vehicles, to implement a new, information-dominated tactical approach. (It was not well-reported in the mainstream press; I had to read it

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

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

Subscriptions are \$29.50 for twelve issues. Foreign subscriptions are \$34.50 for twelve issues.

The editorial offices can be reached at (360) 379-0242. Please do not call with proposals for articles. Rather, request our writer's guide, which includes manuscript submission guidelines, by sending a SASE to Writer's Guide, Liberty, P.O. Box 1181, Port Townsend, WA 98368. It is also available at our website, [libertyunbound.com](http://libertyunbound.com). For information about advertising with *Liberty* or about reprints, email [patrick@libertyunbound.com](mailto:patrick@libertyunbound.com) or call (206) 367-0454.

Opinions expressed in *Liberty* are those of the authors and not necessarily those of the Liberty Foundation. Copyright © 2007 Liberty Foundation. All rights reserved.

in the pages of Popular Mechanics.) But Harrison refers to the success at Fallujah as involving "a relatively small number of insurgents." Well, he can't have it both ways: it cannot be the case that defeating thousands of insurgents is an insuperable task — and also that the Battle of Fallujah did not involve thousands of insurgents. At present, we have killed 20 insurgents for every one of our troops that has been killed, so let us not doubt that it is possible to cope with "thousands" of the enemy.

The third argument is not really an argument, but a digression on the nuisance of Muqtada al-Sadr. At the moment, the Baathist and al-Qaeda insurgency is the more important problem, so it makes sense to deal with it first.

His fourth argument is nothing more than a groundless dismissal of Gen. David Petraeus, who, it turns out, authored the Army's latest field manual on counterterrorism. Harrison can muster nothing but commendable facts about Gen. Petraeus, but wishes to nullify these facts with shadowy speculations that "a case can be made" against his competence — but does not make such a case. This is innuendo, not argument.

Finally, his fifth argument is again no argument, but a free-floating collection of aspersions against President Bush and Vice President Cheney, ending with another bizarre comparison to frontal, mass-attrition warfare (the Battle of the Marne). If Harrison thinks we are somehow at pains to obliterate the entire citizenry of Baghdad, he may

rest assured that a mere handful of 100-kiloton nuclear weapons can achieve in moments what took days in the Marne or longer at Stalingrad. But, thank God, we are not engaged in such wholesale destruction, and I am more comforted by our armed forces' understanding of that fact, than by Harrison's failure to understand.

In the end, Harrison's article gives me newfound confidence that the troop deployments to Iraq could be successful. If these are the best arguments he can muster, we should wish our troops great success.

Michael J. Dunn  
Federal Way, Wash.

**Harrison responds:** Mr. Dunn is entitled to his opinions, though in my view they cast little light on the situation in Iraq. He misrepresents most of my arguments, but I do not feel compelled to instruct him. Time will tell whose analysis is correct, his or mine.

### Can It

The April Reflections include a couple of pieces of misinformation about Speaker of the House Nancy Pelosi that should be corrected.

First, Tim Slagle states that Pelosi is a hypocrite because of "her request for a private 737 jet." As the House Sergeant at Arms Bill Livingood reported in a Feb. 8 statement, it was he who requested a 757 (not a 737) for Pelosi. Pelosi did not request any particular kind of aircraft, nor demand one capable of nonstop flights. Livingood wrote: "In a post 9/11 threat environment, it is reasonable and

prudent to provide military aircraft to the Speaker for official travel between Washington and her district. The practice began with Speaker Hastert and I have recommended that it continue with Speaker Pelosi. The fact that Speaker Pelosi lives in California compelled me to request an aircraft that is capable of making non-stop flights for security purposes, unless such an aircraft is unavailable. This will ensure communications capabilities and also enhance security. I made the recommendation to use military aircraft based upon the need to provide necessary levels of security for ranking national leaders, such as the Speaker. I regret that an issue that is exclusively considered and decided in a security context has evolved into a political issue."

Second, Gary Jason states that "Pelosi managed to tack on an exemption [to the minimum wage increase] for American Samoa, because the big tuna-canning companies StarKist and Del Monte (which pay Samoans \$3.26 per hour) screamed that they would be hammered by the new wage standard" and "StarKist, by the way, happens to have its corporate headquarters in her

### LEGAL SERVICES

*Attorney Mark K. Funke*

Emphasizing Commercial Real Estate Transactions and Litigation. Licensed in WA. [www.funkelaw.com](http://www.funkelaw.com), P.206-632-1535

**We don't need  
no stinkin' badges.**

[www.freedomfest.com](http://www.freedomfest.com)  
1-866-266-5101

### Letters to the editor

Liberty invites readers to comment on articles that have appeared in our pages. We reserve the right to edit for length and clarity. All letters are assumed to be intended for publication unless otherwise stated. Succinct letters are preferred. Please include your address and phone number so that we can verify your identity. Send email to:

[letters@libertyunbound.com](mailto:letters@libertyunbound.com)

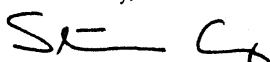
Or mail to Liberty, P.O. Box 85812, Seattle, WA 98145.

"Those who cannot remember the past are condemned to repeat it." So said George Santayana. But I wouldn't mind repeating the past of the libertarian movement — a lot of it, anyway. I'd like to be there watching Milton Friedman teach his classes, or listening to Isabel Paterson's brilliant conversations with Ayn Rand, or watching H.L. Mencken hammer out an essay.

Three years ago, when I published a book about Paterson's life and the birth of modern libertarian thought, I complained that very few researchers seemed to be interested in the history of our movement. So in this issue of Liberty I am especially pleased to welcome John Hospers, Brian Doherty, Bruce Ramsey, and Lanny Ebenstein, authors with the best possible qualifications to discuss the subject.

That doesn't mean that in this issue of Liberty we are living in the past. There's plenty of the present too. Libertarian thought has a distinguished history, but it's always building on the accomplishments of the past. "What's past is prologue," says a character in Shakespeare's "Tempest." For the friends of liberty, those words are true, and in the best possible way.

For Liberty,



Stephen Cox

# About Your Subscription

**Q: When does my subscription expire?**

**A:** Please look to the right of your name on your mailing label. There you will find (except in some cases when receiving your first issue) the number of issues left in your subscription, followed by the word "left," as in "3 LEFT."

**Q: I've moved. How do I change the address to which my magazines are sent?**

**A:** Write us at the postal or email addresses below. Be sure to include your previous address, your new address, and a telephone number or email address where we can reach you if we have questions. It's best to send us your current label and your new address. Allow 4–6 weeks to begin receiving Liberty at your new address.

**Q: I'm receiving duplicate copies of Liberty. What should I do?**

**A:** Clip the mailing labels from both copies and send them to the postal address below. We'll make sure you receive all the issues you've paid for.

**Q: How can I buy gift subscriptions for friends and family?**

**A:** Call the toll-free number below. We'll be happy to assist you.

**Q: Is Liberty on the Web?**

**A:** Yes. Selected articles from each issue are published online. Visit our website at [libertyunbound.com](http://libertyunbound.com).

To subscribe, renew, or ask questions about your subscription

E-mail: [circulation@libertyunbound.com](mailto:circulation@libertyunbound.com)

Write: Liberty Circulation, P.O. Box 1181, Port Townsend, WA 98368

Call toll-free: (800) 854-6991 during regular West Coast business hours

Outside the U.S., call: (360) 379-8421

home district." In fact, Pelosi didn't "add" this exemption — it has been present in every proposed minimum wage increase (as well as previous minimum wage law) for over a decade, long before Del Monte acquired StarKist, which is the largest employer in American Samoa. Del Monte, which is headquartered in San Francisco, has given contributions almost exclusively to Republicans, and nothing to Pelosi or the major Democratic committees. There was previously also an exemption for the Northern Marianas Islands (for which Jack Abramoff lobbied), which is phased out over two years in the new increase.

It would be appreciated if Liberty contributors and editors would make greater efforts to verify the accuracy of Republican talking points before repeating them in print. I can go watch Fox News if I want that kind of misinformation — I prefer not to see it in this magazine.

Jim Lippard  
Phoenix, Ariz.

**Jason responds:** I don't believe Mr. Lippard addresses my point. The Democrats campaigned on a pledge to govern in a bipartisan manner, and to "restore" ethics in Congress. But Rep. Pelosi rammed through her agenda with no input from her Republican opposition, so they weren't responsible for the exclusion of American Samoa from the minimum wage bill. No, sorry, this is Pelosi's bill completely — she had total control over the process and the product — so it is irrelevant as an excuse that prior bills had similar exclusions. She made the choice, not me, not Bush, not Lippard, not anyone else. She cosponsored a similar exclusion in 1999, so this exclusion was deliberate. And it certainly benefits a major player in her district, who will be in a position to help her in the future.

To address what I take to be the point behind Lippard's dig, by making fun of Pelosi's hypocrisy, I am not excusing prior similar behavior by Republicans. I don't have to watch Fox News to understand public choice theory: when in office, all politicians (Republican, Democrat, Green, Communist, or even Libertarian) tend to pursue their self-interest. This typically includes putting things in bills that are in the perceived interest of voters and businesses in their districts. Pelosi is not worse in this regard, but she certainly is no better.

I have argued elsewhere that the solution to special interest legislating lies in structural reforms that diminish the power of representatives to insert their own preferences along the way. If Fox News ever hires me as a commentator, I would be happy to rehearse my arguments. And I sure as hell could use the income. In the meantime, Lippard can find the article on my website, [profgaryjason.com](http://profgaryjason.com).

## Vox Depopuli

Gary Jason's reflection "Population Bombs" (April) pronounces the overpopulation concerns of the 1970s misguided, celebrates the prospect of population stabilizing at "roughly 10 or 11 billion late in the century," and brands population shrinkage a new, critical problem. On each count Jason is in error; the population crisis (yes, there is one) offers lessons that libertarians ought to recognize, even celebrate.

It's popular to say, as Jason does, that Paul Ehrlich was dead wrong with his 1970s predictions that overpopulation would lead to calamity. True, the specific disasters he foretold did not occur: as Julian Simon predicted, commodity prices generally dropped; food riots did not scar the Second World. But for all the details Ehrlich got wrong, his broader argument has in fact been vindicated. There are too many people, consuming too many resources and discharging too many effluents. Look at aquifer depletion, the overexploitation and pollution of rivers from the Colorado to the Yangtze, exhaustion of farming soils, desertification in Africa. Look at global warming, if you go in for such things. Or just get behind the wheel and try to drive across any big U.S. city during rush hour. The world we live in today is an Ehrlichian dystopia, thickly burdened with problems that a smaller population could relieve, problems that a larger population can only exacerbate. This suggests that even the current global population is unsustainable. If that is true, stabilizing at "10 or 11 billion late in the century" is a prescription for suicide.

Experts have been raising alarms on overpopulation since the late 1950s, when the global population was about 2.5 billion. On a horizon of 150–200 years or so, that's what we ought to be aiming to get back to. The fact that reproduction rates are plunging below

*continued on page 53*

# Reflections

**What's past is prologue** — It was mid-March on the campaign trail when the story broke: Sen. John Edwards, running for the Democratic presidential nomination, and his wife Elizabeth announced that her breast cancer, thought cured, had recurred, metastatic to bone. She would likely have to undergo chemotherapy, an often painful and debilitating procedure, in which the close presence and assistance of loved ones can make all the difference. So Sen. Edwards faced one of the most difficult decisions of his political career: just which doctors would he sue for malpractice now that his wife's cancer has come back?  
— Ross Levatter

## Rudy's honey-

**do list** — Rudolph Giuliani was recently embarrassed by a reporter who asked him whether he knew the cost of a loaf of bread or a gallon of milk. As you might expect, he was unable to provide either. Of course, we're all supposed to gather from this that Rudy is too far out of touch with the average American to ever be president.

What I would like to have asked that reporter is whether there are any candi-

dates who *can* answer that question. By the time a person has reached a position in society where he might be considered for the highest office in the nation, grocery shopping is one of those tasks best left to assistants. Here's a secret: they probably don't know how to change their oil or start a lawnmower, either.  
— Tim Slagle

**Step into my office, baby** — Paul Wolfowitz's tenure as president of the World Bank is in danger after revelations that he has been carrying on a relationship with a subordinate, and rewarding her with pay raises and generous perks.

I think I speak for every American — Republican, Democrat, Libertarian, or other — when I say "Paul Wolfowitz has sex? Eww!"  
— Andrew Ferguson

**We the sheeple** — Scientists at the University of Nevada announced recently that they have created the world's first human-sheep hybrid which, although it has the body of a sheep, has semi-human organs. The goal of their research is

to hasten the day that animal organs can be transplanted into humans.

They say the sheep have 15% human cells and 85% animal cells, but I'm more of a glass-half-full kind of guy. I say that making humans that are only 85% sheep is a step in the right direction.  
— Tom Isenberg

**Hors de combat** — On April 3, Arizona senator and presidential candidate John McCain announced (according to the AOL News note I read) that "Baghdad is getting safer." Thus, in his mind, the surge he supported must be working.

The accompanying photo shows McCain covering his eyes with dark sunglasses, wearing a bulletproof vest, and surrounded by soldiers in camouflage fatigues and helmets. I agree, it must be getting quite safe. This is exactly how McCain dresses, and how he is chaperoned, whenever I see him in Phoenix.  
— Ross Levatter

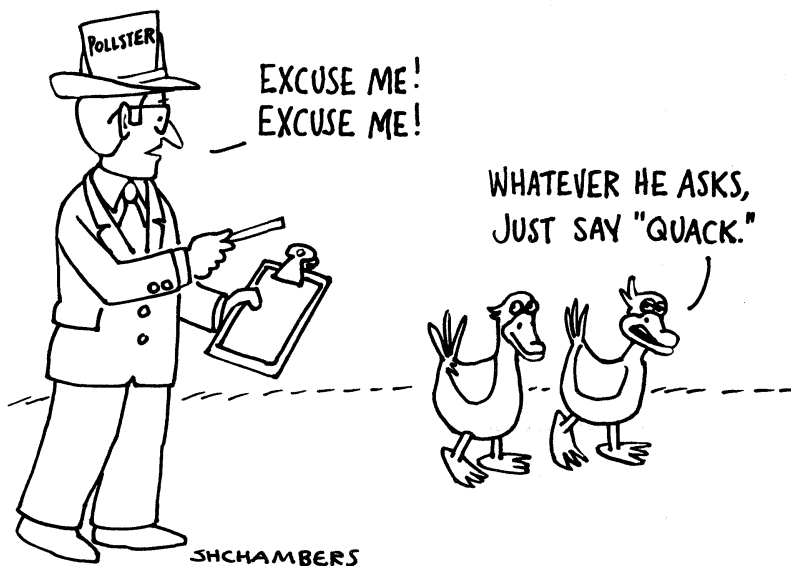
## Hindsight in the dying light

— Jeane Kirkpatrick always impressed me as among the most

hardheaded and realistic of the neocons. While this neo "god-mother" was usually wrong, she also showed a much better grasp on reality than, for example, her fire-breathing successor as UN Ambassador, John Bolton. For this reason, I am not terribly surprised to see that Kirkpatrick wrote the following on Iraq before her death last December:

"Unfortunately, what we face in Iraq today is a vacuum of power, a lack of stable institutions needed to govern, and the problem that the promise of democracy for which our nation stands may be lost in the essential scramble for safety and stability in the streets. This is one of the reasons I am uneasy about the war we have made here — for we have helped to create the chaos that has overtaken the country, and we may have reduced rather than promoted the pace of democratic reform."  
— David Beito

**Soul food futures** — Well, that old sin of insider trading is back in the news. On March 19 the Wall Street Journal told us that Joseph Nacchio, ex-CEO of Qwest, began



his day in court, fending off an accusation dating back to 2001. "A case about cheating," the government calls it. Blatant insider trading, they say. Not so, says Nacchio. In fact, when he dumped — uh, sold — he had exclusive knowledge of several huge, pending government contracts. Qwest stock, he forecast, was soon to zoom, not tank. But meanwhile the wily prosecution is plea-bargaining with a former Qwest manager who also relieved himself of his shares during this period. Then his conscience sprang up and overruled him. "I knew it was wrong," he declared from the witness chair.

To most of us, insider trading is a murky and questionable legal violation. Not a single word in the Decalogue prohibits this arcane "crime." Biblical scholars have checked and rechecked our translations of those stone tablets, looking for a rule in Hebrew, Aramaic, or even English that hints at a ban. The closest prohibition is one forbidding business on the Sabbath, but the government admits that Joe sold on a Wednesday, so what's the problem?

(Someone did find a papyrus roll from 2000 B.C. indicating that Bernie sold two oxen hindquarters after he learned, by climbing a tree and surveying the entire valley, that a whole herd of oxen was headed for his meadows. He marked up the price by 40%. But nowhere does it say he was prosecuted.)

The Decalogue's lack of sentencing guidelines didn't stop the prosecutorial scholars. They went to the U.S. Constitution. Nothing in there, either. Zero. Zip. So the government decided on its own penalty. It pronounced Joe's transaction a venial sin, punishable merely by rape of the accused's assets and his personal freedom. But such convicts are usually assigned to a federal pen that doesn't even have a subscription to the Wall Street Journal. What's an ex-CEO to read? Better Homes and Gardens?

If Joe Nacchio dumped his shares in full knowledge that tragic financial news was coming, I say that's unethical and unworthy of a CEO who believes in loyalty, leadership, and corporate responsibility. It ain't nice. But I still wonder about the act's criminality.

Such a shabby law. A flimsy set of rules that begs to be violated if corporate executives have any stock at all. Execs will always have more information than the street investor — and buy, sell, or hold can always be attributed to impure motives. Best to leave judgments of guilt to professors of ethics, or theologians, or even Judgment Day, instead of law courts whose expertise is *not* the reading of the human heart.

I do admit that occasionally there may be blatant, palpable exceptions. Consider the events at my office last week. First, there was a buzz going around. Whispered words in the corridor. "Chicken leg quarters!" I heard twice; and three times that sweet adjective "cheap." The low, urgent voices implied that this "cheap chicken" information was non-public. Many offices open onto the corridor, so the insiders could have poked their head into every office, shouting, "Cheap chicken! Cheap chicken!" But no. They just clucked, softly.

For ten years, astute observers of clucker quarters have noted that the bargain price usually hovers around 59 cents a pound. At least it did until last year. That's the typical, full-colored grocery ad price. Imagine! Roughly five minutes of minimum-wage labor gets you a pound — a generous helping of chicken. That's a banner economic headline. Bargain hunters like me load up our carts.

And you don't even have to shoot the chicken. Or pluck it or clean it. Or pull out those sharp pin feathers. Five dollars and ninety cents gets you a ten-pound bagful. Ten pounds of poultry protein for less than an hour of the lowest-paid labor. If you're a Wall Street analyst, those ten chicken dinners might cost you two blinks of your eye over the AT&T P&L sheet.

Now back to the conspiracy in the hallway, which is clearly a manipulation of restricted information to the advantage of a select group of fried chicken lovers, including me — a potential defendant. If this isn't insider trading, then Eliot Spitzer is a Citigroup director. This is forbidden fowl, as delicious as kisses in church.

But as I plan my trip to the store and anticipate my savings, I envision a dark, wood-paneled courtroom ringed with pistol-packing deputies — all of them Imclone and Enron shareholders. The judge — a ruined bondholder. The jury — laid-off employees. These guys hate insiders like me. No matter; my fear melts before the prospect of a ten-pound bag of luscious loot.

So, five minutes later I'm in the aisles of my local supermarket. I'm dodging a clumsy, plutocratic shopper with a cartful of \$5.95-a-pound sirloin steak. Then I see it: a gaudy red and white banner above the big refrigerator bin that's heaped with ten-pound bags of my favorite barometer of the easy life. "Chicken leg quarters — 39 cents a pound."

Breathless with excitement, I blurt out, "That wasn't in your ad. The ad said 59 cents a pound."

"No, it's a store special," replies the butcher.

Uh oh. In other words, the newspaper-reading public is unaware of this steal. Now I'm in double jeopardy. First my office info. Then this sinfully unadvertised price. My friends and neighbors and fellow citizens do not have these data. Even worse, the butcher would make a great witness for the prosecution. The jury would love his wide, frank face.

So, I say, don't worry about insider trading. Forget about unethical execs who play hide and seek

What do  
Metallica and  
John Stuart Mill  
have in common?

Find out in a selection  
from the forthcoming  
collection *Metallica  
and Philosophy*, online  
for free exclusively on  
Liberty's website!

**libertyunbound.com**



with expenses and cook their books instead of battered chicken parts. All is well, because the system still churns out cheap chicken dinners for us tired, poor, and huddled masses — just like the Lady in the harbor promised. — Ted Roberts

**Patriot's games** — On March 27, Sen. John McCain appeared on CNN's "Situation Room" with Wolf Blitzer. McCain told Blitzer that the situation in Iraq was improving. "Our new strategy is succeeding" was McCain's take on the surge. He even went so far as to say that Gen. David Petraeus "goes out almost every day in an unarmored Humvee." A few days before his appearance with Blitzer, McCain told radio host Bill Bennett (the former chain-smoking drug czar and compulsive gambler) that there are "neighborhoods in Baghdad where you and I could walk today."

CNN's man in Baghdad, Aussie Michael Ware, set the record straight, reporting, in effect, that Petraeus can no more drive around in an unarmored Humvee than pigs can fly. Death or kidnapping awaits any unprotected Westerner on Baghdad's streets, Ware said.

Events, even more than Ware's reportage, confirmed that McCain was spouting nonsense. Within hours of his television appearance, two suicide bombers killed 63 people in Baghdad, bringing the day's death toll in Iraq to over 100. Among the total were two nuns slashed to death in a sectarian killing in Kirkuk. Even the heavily fortified Green Zone of Baghdad provided no safety, with two Americans dying in a rocket attack there.

McCain paired his absurd optimism with some bizarre projections. He told Blitzer that U.S. troops would be required in Iraq "for a long period of time," comparing the situation there to Korea after the 1953 armistice. McCain is deluded if he thinks American troops are going to remain in Iraq for another 50 years. Neither the American nor the Iraqi people would accept such a long-term American presence.

McCain also repeated the tiresome mantra that failure in Iraq means the terrorists will "follow us home." If an American expeditionary force 6,000 miles from home is the only thing keeping al Qaeda pinned down, preventing them from reaching the American homeland, we are in deep trouble.

Of course, it isn't so. Islamic terrorists may strike the American homeland again, but it will not be because we have left Iraq. There can be no doubt that bin Laden would still have dispatched the 9/11 hijackers to America even if al Qaeda had been fighting U.S. forces elsewhere in the world. The hijackers' grisly mission was clearly more valuable to him than anything they might have accomplished as guerilla fighters.

John McCain is a great American. His ordeal in the Hanoi Hilton is a monument to his courage and endurance. However, that doesn't change the fact that his ideas about Iraq and the war on terrorism are badly muddled. As a thinker, and as a maker of public policy, he represents a clear and present danger to the Republic. — Jon Harrison

**Neologic note** — By the time North Carolina Attorney General Roy Cooper stepped to the podium to address the Duke lacrosse case, every observer knew that he would announce that the sexual assault charges against the players

had been dropped. What we didn't know was that Cooper would go on to call the players "innocent," and label district attorney Mike Nifong, the case's Torquemada, a "rogue prosecutor."

The forcefulness of Cooper's statement not only increases the chances of the players' families recouping through civil suits the millions of dollars they've been forced to spend defending their sons, but also the chance that Nifong will be disbarred and perhaps prosecuted for criminal misconduct. The DA's handling of the case throughout was so inept and malicious (concealing exculpatory DNA evidence, failing for months to interview the accuser . . . well, I'd be here all day listing it, go to [durhamwonderland.blogspot.com](http://durhamwonderland.blogspot.com) for full details) that it has given rise to the term "Nifonged," used to describe a person who has been railroaded into prosecution or otherwise harmed without justifiable cause, except for the gain of the prosecutor. (See the entry in [urbandictionary.com](http://urbandictionary.com) for illustrative examples.)

It's a rare coinage from politics that lasts beyond its immediate context — the Watergate Hotel's gift of the silly -gate suffix is one — but I have hopes that "Nifonged" will survive for a while. Like all good slang, it's explosive and antiauthoritarian: that *f* in the middle can carry as much contempt as the speaker cares to put into it. And as long as the word circulates, it will serve as a reminder to those who need reminding: it's a poor thing to build a career on the backs of the innocent.

— Andrew Ferguson

**The rich white woman's burden** — Don't tell me that racism, ageism, and class prejudice don't persist in America. For giving false testimony about her dealings in common stock, a rich old white lady named Martha Stewart went to jail, had her name besmirched, and paid a fine. For giving false testimony against three members of the Duke University lacrosse team, a poor young black woman stays home. Don't tell me that the rest of the world doesn't notice our double standards. — Richard Kostelanetz

**Nuclear winner** — A USA Today article (March 22) picked up on an interesting religious phenomenon. It would appear that the Gospel of Global Warming is creating a schism within the neo-Romantic faith called environmentalism. Within the environmentalist movement, hitherto implacably and uniformly opposed to nuclear power, some people are beginning to think more kindly about it. They are becoming aware of three of its major virtues.

First, nuclear power, unlike oil, natural gas, ethanol, coal, and biodiesel, doesn't generate greenhouse gases. Second, nuclear power, unlike fusion power and the other "exciting new technologies just around the corner" that taxpayers keep paying for other people to invent, *actually exists*. Third, nuclear power, unlike wind, geothermal, and solar power, is practical (i.e., inexpensive and able to supply as much energy as we need, wherever and whenever we need it).

An early apostate from the Green antinuke tenet was Patrick Moore, founder of Greenpeace. He is now one of the heads of the Clean and Safe Energy Coalition, a pro-nuke group. Four major environmentalist organizations have now said they are willing to reconsider nuclear power: Environmental Defense, the Natural Resources Defense Council, the Pew Center

# Word Watch

by Stephen Cox

Professor Leland Yeager asks a good question: “Whatever happened to the straightforward word ‘before,’ which has been replaced practically everywhere by ‘prior to’?” He notes, however, that he hasn’t “yet seen advice not to put the cart prior to the horse.”

And I hope he never does. But once these things get started . . .

“Prior to” is one of a thousand samples that Professor Yeager might have drawn from the great hoard of inflated terms that forms the linguistic currency of modern America. It’s as large as Scrooge McDuck’s money bin, but it isn’t nearly as valuable. Linguistic inflation usually starts in the same place as monetary inflation: it’s produced by bureaucrats. Then, like inflated money, the bad linguistic currency gets passed from one social class to another, beginning with the most credulous classes (e.g., politicians, college professors, and other people hard up for brains). And just as bad money drives out good, so bad words tend to drive out good ones. The pathetic thing is that some people believe a brand new thousand-dollar bill must be worth a thousand times more than the little old one-dollar bill that it recently replaced.

Thus, “previous to,” “previously to,” “immediately antecedent to,” “during the ramp-up to,” and all the other relatives of “prior to” must be a thousand times better than the lowly word “before.” They just *sound* so much *bigger*, don’t they? Opening a book about (what else?) popular culture, I read that “in the immediate years that followed” such and such, such and such other things happened. I remain puzzled by what an “immediate year” might be, but I’m certain that a simple “after” couldn’t possibly have satisfied the author. Bigger is better. Or that’s what some people think.

The same can be said of “positive,” instead of “good”; “negative,” instead of “bad”; “similar to,” instead of “like”; and (my thanks to Paul Beroza for bringing this one up) “utilize” and “utilization,” instead of “use,” a syllable that is always perfectly synonymous with those larger terms, but could never be *considered fit for utilization* in any committee report, zoning regulation, or congressional speech.

I’m sure I could manage just to *leave* the vehicle I’m traveling in, without being told that *passengers may now exit*, or that *passengers may now deplane*, or that (for God’s sake!) *passengers may now detrain*. All you need to do is tell me to *go*. Nevertheless, I’ve come to expect the pompous term. And I’ve developed a sneaking fondness for “detrain.” I enjoy the unintended suggestion that the vehicle itself will be turned into something entirely different (*detrained!*), by the simple act of my leaving it. Watch me! I will now detrain!

Jon Harrison suggests that “the president” will do very nicely for George Bush or anybody else who gets elected to that job. So why do some people insist on saying “*this* president”? Do they imagine, Jon asks, that we might have more than one president at a time, so they have to distinguish *this* one from all the rest? My own idea is that they’re trying to get some drama into their sentences, but do it on the cheap. By using debased verbal currency, they can point with either horror or applause to *this* president, as if he were something essentially different from the rest of the

species, and they never have to do the work of explaining why.

Not all pomposity is political, of course. Some is just verbal self-adornment. I think it was Time magazine (in the days when people still read Time) that popularized a pomposity that Carolina Barnes has written to decry: the random substitution of “individual” for “person”: “Before he decided to take that job, he turned to other individuals for advice.” This substitution has nothing to do with the glory of individualism; its dollop of drama aggrandizes the writer, not the “individual” under discussion. I’m sure you know people who were rewarded by their parents for using big words.

But when Carolina brings up the substitution of “allege” for “say,” and “facilitate” for, well, just about everything else, she’s back on high bureaucratic ground. Modern government could not exist without somebody *facilitating* something. I doubt that there’s a government-funded building in the country that isn’t a *facility*. Once, “facilitating” meant making something easier. Today, even prisons “facilitate”; they are “correctional facilities.” But ask yourself: What are you doing when you build a “correctional facility”? Are you making “corrections” any easier? Maybe. More likely, you’re just building a bunch of cells where you can stow some convicts.

As for “allege,” can you think of a better sign that America is becoming like old Athens, only not in a good way? In one of Aristophanes’ comedies, someone is shown a map of Greece. “There’s Athens!” he’s told. “No!” he replies. “Where are the law courts?” Americans, like Athenians, have become convinced that if something important is going to happen, it will happen in court. So it isn’t enough to *say* things; you have to *allege* them; you have to put yourself *on the record*, so you can *have your day in court*. If that doesn’t work, you can always fall back on the idea that *the jury is still out*.

Well, not in this court, it isn’t.

But now, as they used to say on “Monty Python,” for something completely different. Sen. John McCain, who heroically defied communist torturers during the Vietnam War, caved in without a fight this spring when it was suggested that he had uttered racist speech. Why was this suggested? Because he had used the term “tar baby,” as in “I don’t want to get stuck to that tar baby” (i.e., a controversy involving American divorce law). Queried about the phrase, he apologized: “It was wrong.”

“Tar baby” comes from Joel Chandler Harris’ “Uncle Remus” stories, which are derived, in turn, from African-American folk stories — and they’re good stories, including the one about the Tar Baby, which has nothing to do with race. “Tar baby” has been a cliché of American English for over a hundred years. Anyone who thinks that it’s even remotely akin to a racial slur is totally, and probably willfully, ignorant of what he’s talking about. Anyone who thinks that Sen. McCain woke up one morning and thought, “How shall I show my insensitivity to black people today?”, then ransacked 19th-century stories to find the term “tar baby” and waited expectantly for an opportunity to release it on his audience, is undoubtedly insane. But Sen. McCain surrendered — which shows how much scarier the language police have become than even the old communist torturers.

on Global Warming, and (can you believe it?) the Union of Concerned Scientists. As Judi Greenwald, director of “innovative solutions” at the Pew Center observed, “You can’t just write nuclear off.” Gee, babe, ya think?

Of course, many of the Green Faith (environmentalists, not Muslims—although Muslims are embracing nuclear in a big way) are still unyieldingly opposed to recognizing reality. Both Greenpeace (Moore’s old group) and the Sierra Club are bitterly opposing nuclear power. They will continue to do so until hell freezes over or the Antarctic melts, whichever may come first. — Gary Jason

### **“Local Couple Survives Long, Bloody Fight With Lion”**

— Now that’s a headline! — the headline to a terrifying story with twists, turns, gore, and triumph. Well it happened, and I’ll tell you exactly how. But there’s something even more amazing than the couple’s stubborn struggle to avoid being consumed by a wild beast. It’s the fact that the press can write boring headlines and stories about such a topic as this.

Here’s one: “Hiker Saves Husband From Mountain Lion.”

Read that headline in the Dallas Morning News and you will assume that the hiker said “Boo!” to a lion 20 yards away, or waved a bandanna, or honked the horn of her car. Or perhaps she did what all the experts advise: stand tall and wave your arms.

But no. In fact, she didn’t see the lion until it had her husband’s head in its mouth. In fact, she was walking just ahead of her husband when the incident happened. In fact, she was 65 years old and he was 70. All these facts, and many more, are exciting and interesting, but oddly, none of them made it into the headline.

Many of the interesting facts failed to make it into most of the other published stories, either. I had to piece it together. They were hiking. They heard nothing. They saw nothing. Without warning, the lion attacked from behind. Mr. Hamm went down face first. The lion shortly began to remove Mr. Hamm’s scalp. Mr. Hamm, his head still in the lion’s maw, fought back, as did his wife. She screamed at the lion. She grabbed a big stick and began hitting it on the back, then on the head. Again and again, harder and harder: she hit it so many times, so hard, and for so long that her arm got tired. She hit it until she could barely lift the stick.

Still partly inside the lion, Mr. Hamm suggested that she take an ink pen from his pocket and stab the cat in the eyes. She did so. She stabbed until the pen broke. “That lion never flinched,” she said. “I just knew it was going to kill him.”

She got the stick again and jammed it into the lion’s snout. Finally the cat dropped Mr. Hamm, stepped back, and faced her with its ears pinned back. She thought it would kill her. Instead it disappeared into the brush.

They feared it would return. They had to get help fast, but Mr. Hamm was losing a lot of blood . . .

Well, you get the idea; it’s a hell of a story. How can you write a lousy headline with such a story? For that matter, how can you write a lousy story with such a story?

I think something is wrong with our journalists. Most of them write poorly, and in the same way. How does that hap-

pen? Did they learn it in school? Are there no individuals among them ready to break the unwritten rule against good writing?

In this case, most of the journalists had to add something like this: “Mountain lion attacks are extremely rare. From 1890 to 2006 there have only been 17 verified mountain lion attacks in California.”

What they don’t tell you is that twelve of the verified attacks occurred between 1990 and 2006. Is there a trend? Five in a hundred years, then twelve in sixteen years, many of the

---

*Again and again, harder and harder: she hit the lion so many times, so hard, and for so long that her arm got tired.*

---

attacks fatal. They also don’t tell you that “attacks” doesn’t include the incident in San Diego County when for several terrifying minutes a lion aggressively confronted a woman on horseback, or the time in Los Angeles County when a lion grabbed a 120-pound dog from a man’s backyard and jumped over a six-foot fence with it, or any of the reported attacks that aren’t verified by Californian officialdom.

Write a good headline. Recount the most interesting facts, with vigor. Pick out a trend. Simple. But all of this seems beyond the talents of the men and women who write our newspapers. — Michael Christian

**R-E-S-P-E-C-T** — Nancy Pelosi traveled to Islamic Syria, and the press had a grand time publishing photos of the scarf she wore in accordance with shariah law. I found it irksome to see arguably the most powerful woman on Earth, wearing a garment indicating her secondary status in society. No American leader, regardless of sex, should appear subservient to a goat-horn dictator.

I’m certain the American multiculturalists (many of whom spent time in college protesting the traditional American ban on women appearing in public without a bra) did not take issue with the scarf. To them, Nancy Pelosi was simply respecting Islamic culture. I wonder if they wanted Nancy to respect some other elements of the culture, like honor-killing, wife-beating, and the stoning of women who allow themselves to be raped. — Tim Slagle

**Two steps back** — The recent victory for free choice in education in Utah has, alas, been followed by a couple of defeats — no surprise, considering that organized labor is riding high after the recent election of Democrats, their faithful lackeys.

In Ohio, new Gov. Ted Strickland started his administration with a concerted effort to annihilate both vouchers and charter schools. Strickland was the recipient of tons of money and other forms of political support from the teachers’ unions, and he is now paying the rent-seekers back. He has proposed abolishing the small voucher program that offers

a \$5,000 tuition scholarship to 14,000 kids who have been victimized by lousy schools (sorry, schools that the state labels as being in “academic emergency”), which means about one-third to one-half of the schools in some parts of the state.

In addition, Strickland is pushing for a halt to the creation of any new charter schools. He calls them “dismal failures,” despite the fact that fewer than 10% of the more than 300 charter schools have failed. Of course, no regular public schools ever get closed, no matter how pathetically bad they are.

There was a heartbreaking defeat in South Carolina. The state House narrowly defeated a proposal to give \$4,500 vouchers to poor kids in bad schools, and defeated, by a bigger margin, a proposal that would have given middle-class kids more choice.

The Republican representatives screwed up in an especially annoying way. On a Wednesday evening, they apparently had enough votes for a narrow victory, but they adjourned without completing their business. The other side rallied its forces. Teachers’ union lobbyists threatened and cajoled legislators to kill freedom of choice for the poor and middle-class. Rep. James Smith, a Democrat and captain in the Army National Guard, flew in from a training base in Kansas to deliver an emotional speech opposing vouchers. When the vote was held the next day, school slavery was upheld.

Smith’s own son, by the way, attends an elite private school. I must say that I find nothing more disgusting than politicians who oppose free choice in education while sending their own spawn to cushy private schools. “Progressive” politicians make sure their own kids get the best education, while working with teachers’ unions to devastate the lives of other people’s children.

No, let me retract that. There is something more disgusting still: the sight of all those members of the teachers’ unions who send their own kids to private schools, but cheer their unions on to deny choice to others.

So a couple hundred thousand South Carolina children, the bulk of them members of minority groups, will continue to languish in bondage to wretched schools, thanks to the heartless rent-seekers.

The next fight shaping up is in the District of Columbia,



where three years ago Bush managed to get a modest voucher system. This year it will offer 2,200 scholarships (of \$7,500 per student) to students in failing schools. The scheme expires in 2008, and teachers’ unions together with Democrat activists have targeted it for extermination. We’ll see whether they succeed.

— Gary Jason

**The new pandemic** — I was asked today to interpret a chest radiograph. Provided history: “Tobacco Use Disorder.” This is a very dangerous disease indeed, though fortunately a noncontagious one, dangerous only to the patient. Tragically, the patient’s practitioner suffers from “Everything I Don’t Approve Of Is a Disease Disorder,” a much more dangerous malady, and, sadly, highly contagious.

— Ross Levatter

**Imusissimus** — Who can believe the ruckus over the admittedly crude and tasteless remarks by Dapper Don Imus, in referring to the Rutgers women’s basketball team as “nappy-headed hos”?

Remember Jimmy the Greek? (Is that okay to say? “Greek” has a bite to it. But that’s what they called him.) He dared comment on the superior genetics of black athletes. Poor, dumb Jimmy waved goodbye to his career. The words “black” and “genetic,” appearing in the same sentence, are verbal quicksand awaiting the unwary; and Jimmy the Grecian (that’s better) was as unwary as they get. Then there was Howard Cosell. “That little monkey gets loose, doesn’t he?” Oh my. A slip of the lip, a career can flip. And a couple of months ago we had Michael Richards eating crow. Oops, I mean, uh, humble pie.

Well, dragon breath (is it appropriate for me to use that expression?) first apologized, which I thought was a tactical — not ethical but tactical — error; and then he tried to pacify those two well-known professional racists, Al S. and Jesse J.: also self-defeating, in my humble opinion. It’s like Hillary buying a deer rifle and hunting Bambi in the New Hampshire woods during primary season. Yes, you’ll pick up a few NRA votes, but you’ll wipe out your basic constituency. I would think there’s a bunch of Imus fans who rightly or wrongly love his crudities — racial or otherwise — and admire a brashness that passes for honesty. None of his apologies helped. He was still canned.

Don Imus, as far as I understand, is a professional talker with a big mouth stocked with insults that shock and delight his listeners. His newfound humility may have burned his arsenal and his army. It didn’t help with his current critics and it will damage his search for a new gig.

About his apology. Something along the lines of: I’m sorry if I offended you, but that’s me, a wild and crazy guy — might have been pragmatically appropriate. But on a Sharpton-hosted show, Imus said: “Our agenda is to be funny. . . . This time we went way too far.”

His new show, assuming he gets one: what’s it to be? A series of apologies to every racial, social, occupational, and religious group he ever offended? That’ll take months. And talking about “hos,” didn’t he once say that lawyers are intellectual prostitutes? Give ‘em money and they’ll accept your definition of the truth. He must have said that. Most people do. Where do we go to apologize?

— Ted Roberts

**Nasty no more** — On the morning when Don Imus was fired, Howard Stern was profanely jubilant about the prospect,

predicting gleefully that Imus' wife would leave him within the year. And so, the rappers will continue their garbage, the Ann Coulters will continue their cruelty, and an excellent show by a man who was a blunt truth-teller with a nasty "humor" streak will be gone. He could have been reformed and rehabilitated with a word from the MSNBC executives who are now waxing so sanctimonious that they had to remove him from their pristine airways. Unlike the misogynistic Coulter and Stern, he could and would have willingly changed. We lost a talented old curmudgeon with an exceptionally good show who was a leading spokesman against the war in Iraq and the hypocrites in government.

Imus in no way targeted specifically blacks or women with his nasty-as-he-wanted-to-be humor. His biggest attacks were on white males — usually powerful ones like Dick Cheney, whom he called "pork chop butt," and Bush, "the war criminal in the White House." He made everyone cringe at the journalists' dinner when he attacked the Clintons with his nasty jokes, and he embarrassed Rick Santorum by laughing in his face when Santorum said that the Senate had just doubled the survivors' benefits of the soldiers killed in Iraq to a paltry \$12,000. Imus needled Santorum until he got Congress to legislate a large increase. He ridiculed Congress and the pharmaceutical companies for refusing to review the possible effects of vaccines on autism. He ridiculed the formerly esteemed Cardinal Egan of Boston by featuring sidekick Bernard McGuirk, who wore a cardboard FedEx box as a cardinal's hat and spoke in an Irish brogue. Their humor was outrageous, but hilarious.

Now we have the predictable ballet of outrage. Nothing will change; people will continue to switch their dials away from bores like Soledad O'Brien, who was just dropped from the CNN morning show, and away from the Katie Courics of this world.

The girls of the Rutgers basketball team are strong women who will not be "scarred for life" by a nasty joke. So far, their achievements have been based on the power of their own brains and bodies. May they continue on this path and not fall prey to the temptations of Victim Power. — Sarah J. McCarthy

**Tossing fuel on the barbecue** — Few if any contributors to this magazine have been more critical of the Bush administration than I have. I even welcomed the Democratic sweep in the 2006 elections — not because I have any sympathy for the Democrat Party or its program, but because the Republicans needed an object lesson in the wages of sin.

Sins aplenty there are for Republicans to repent. The explosion in federal spending, the earmarks, the giveaways and subsidies that amounted to nothing more than buying votes, the usurpation by the federal government of control over education — an almost inexhaustible list of violations of Republican principles at home. Then there is Iraq. There we have a quintessential "Democrat war" — yet perpetrated by a Republican, so-called conservative administration. Sins aplenty there are, indeed.

Now, though, with the election past, the Bushites are lame ducks. Their damage is already done, save for the ongoing, lamentable toll in Iraq. The Democrats have taken power, led by Speaker of the House Nancy ("the Tuna") Pelosi and her acolytes. In the Senate, the egregious Harry Reid has gained the majority leadership, while new power accrues to the likes of Ted Kennedy, Chuck Schumer, and the two full-mooners

from Vermont, long-serving Patrick Leahy and the socialist freshman, Bernard Sanders.

The Democrats led off with an increase in the minimum wage. Fine by me, although I know most libertarians are opposed in principle to the minimum wage law. However, nothing about the Dems is straightforward. As reported by Gary Jason in April's *Liberty*, Pelosi made sure to exclude American Samoans from the increase, so that the tuna-packing companies could continue to pay those poor islanders a mere \$3.26 an hour. Had the Republicans done this, the leftist cry of "Exploitation!" would have been deafening.

Since 2001 the Republicans have been the party of spend and spend. They gave us tax cuts, but no cuts in spending to keep the deficit under control. With the return of the Democrats, we will be getting tax and spend, that is, the worst of both worlds. In separate budget resolutions adopted by the Democrat majorities in the Senate and House at the end of March, tax increases of \$300–400 billion over the next five years were proposed. The tax increases are mostly regressive. In addition to increasing personal income tax rates, the Dems would like to slash the child tax credit, reinstate the marriage penalty, and increase the government's take on dividends and investment earnings. Some 5 million Americans too poor to pay taxes today will have to start paying them in a few years' time.

This tax program can only hurt the economy and the vast majority of the citizenry. The middle class and the 5 million poor who will have to start coughing up their meager and often hard-earned dollars will suffer most. Its purpose is to

### *News You May Have Missed*

## **Bimbo in Limbo, Feds Declare**

WASHINGTON — The United States Department of Wildlife and Conservation announced this week that the bimbo, the State Mammal of Southern California, has been put on the Endangered Species List. It will now be illegal to stalk, shoot, stuff, cook, eat, fondle, or attempt to educate bimbos, not only in fragile native habitats like West Hollywood, Rodeo Drive, Malibu, South Beach, Las Vegas, Congress, and the bottom drawers of Bill Clinton's desk, but anywhere. The untimely demise of Anna Nicole Smith, Britney Spears' decision to shave her head and her repeated retreats into rehab, and Paris Hilton's latest arrest, this time for driving without headlights, without a valid I.D., and without a valid I.Q., plus a sharp decline in reported sightings of Lindsay Lohan, Tara Reid, and Jessica Simpson, have all "put the plight of the native North American bimbo into stark relief," according to a spokesperson for PETTA (People for the Ethical Treatment of Tawdry Airheads). Unless something is done, representatives of the newly organized Save the Bimbos campaign fear the bimbo may go the way of the floozy, the doxy, the trollop, the popinjay, the poltroon, and other extinct American fauna. — Eric Kenning

make the populace more dependent on government — a Democrat-dominated government that will take the people's money so that it can dispense services in return for votes. The Republican program, over time, would have bankrupted the federal government. This Democrat program will bankrupt us all.

In seeking to pass an Iraq funding bill that would essentially end U.S. involvement in 2008, the Democrat leadership, not content to fight this battle on its merits, packed the bill with enough pork to give the nation a serious case of indigestion. Handouts for everybody from ranchers to shrimp fishermen are in the bill, not to mention millions for improved peanut storage. I, naive person that I am, thought it was all about war and peace, and the men and women dying in the hellhole of Iraq. I stand corrected, and I thank the Democrats for disabusing me of this foolish notion.

Such are the depths to which this crew will go. And (if I may paraphrase Churchill) this is just the first foretaste of a bitter cup that will be proffered to us, year by year — unless, by a rediscovery of conservative and libertarian principles, combined with real political courage, the Right in this country takes its stand for liberty once more — as in the olden time.

— Jon Harrison

**The union jack** — The Democrat Congress is working hard to pay Big Labor back for its monolithic support of Democrat candidates in the last election. The effect of the payback promises to be less liberty and security for the rest of us.

First, Congress has passed the deceitfully named Employee Free Choice Act, under which the right of employees to vote for or against union representation by secret ballot will be taken away. Union organizers would only need to get just over half the employees of a company to sign a card (publicly, under threat of retaliation if they refuse), and the company would be unionized. The right to a secret ballot in union elections, a right that is crucial to truly democratic elections and which is guaranteed by the 1935 Wagner Act, would be gone.

Second, Congress has passed the 2007 Water Quality Financing Act, which reauthorizes and vastly expands a loan fund for state and municipal water projects (a fund that lapsed more than a decade ago.) Tucked into this trough brimming with tax dollars is an unprecedented extension of the Davis-Bacon Act. That act, passed in 1931, requires workers on any construction project receiving federal support to be paid "prevailing" (read: union) wages. Under the new exten-

sion, the Davis-Bacon regulations will now be imposed even on water projects *solely funded by the states*. Of course, this will hurt all of us financially, because it will jack up the cost of the projects. Worse, it trashes the principle of federalism, under which states have broad latitude to set up their own regulatory systems. And it especially hurts minority workers, who will not be allowed to compete for jobs and contracts by offering lower-cost services. Indeed, the Davis-Bacon Act was originally designed to stop the rising competition by black workers for construction work being done by unionized white workers.

Third, the Democrats in Congress are trying to ram through a right to unionize for the airport screeners of the Transportation Security Administration. Need I spell out how much that will endanger those of us who use airports? Union rules would make it virtually impossible to fire screeners who cannot or will not do their jobs diligently enough. And it would be impossible to change work rules rapidly, in the face of new discoveries about terrorist methods.

Finally, the International Longshore and Warehouse Union used its clout in the Democrat-controlled Senate to kill a provision by Sen. Jim DeMint (R-S.C.) to ban certain types of convicted felons from working in American ports. Again, isn't it obvious that a convicted burglar, say, or a contract killer, might be bribed by a terrorist group to steal the plans for the port and its security system? A person who has stolen or killed for profit in the past will be more likely than someone without a criminal record to steal on behalf of foreign agents, not to mention stealing for his own gain. Why put him in a position to threaten security?

As the old saying goes, payback's a bitch. But in this case, it's a union bitch sinking its teeth into the rest of us.

— Gary Jason

**Illhumorate** — When New York radio clown Don Imus was fired for a lousy extemporaneous joke that offended Al Sharpton in particular, I was reminded of this principle: people who get upset about bad jokes are liable to miss better ones. Truly good ones fly through their ears without landing. Great ones never even get that far. Lacking any sense of humor, they are essentially illhumorate, to coin a word that is a subset of illiterate, and should have that word branded onto their foreheads.

— Richard Kostelanetz

**Disenfranchisement or bust** — A few years back I was watching "The Man Show," starring Jimmy Kimmel



and Adam Carolla, and saw a delightful piece. Kimmel and Carolla went to a feminist fair and set up a booth to collect signatures on a petition. The booth had a sign saying, "Help Stop The Suffrage of Women" and the petition registered the signer's belief that "Women's suffrage must come to an end." Hundreds signed.

The joke, of course, is on people eager to sign petitions that claim to help, yet not sufficiently well versed in the language to know the difference between "suffering" and "suffrage."

That program came to mind while I was thinking of some libertarian conferences I attended in the '70s and '80s (my reminiscences stimulated by Brian Doherty's excellent "Radicals for Capitalism"). The irony is that, had Kimmel done the same bit there, he would have gotten even more signatures. And every one of the signers would have known the meaning of "suffrage." And most would have added, "Shouldn't we end men's suffrage, too?"

— Ross Levatter

***Knut as a button*** — Some days it seems that the entire content of the internet is split evenly between ads for pornography and pictures of cute baby animals. In the latter category, the star of the month for March was undoubtedly Knut, a polar bear born in the Berlin Zoo in December and raised by zoologists after his mother rejected him and left him to starve.

Videos of the little cub wrestling with a soccer ball, taking a bath, and plopping down for a nap have drawn "Awwws" from people all over the world — except, of course, from the local animal-rights activists, who want the cub euthanized.

That's right: the activists argue that Knut should be killed by lethal injection, because it's "inhumane" to subject him to "the humiliation of being brought up as a domestic pet." There's an awful lot of stupidity shoved into those words, but is it really worth unpacking it? Better to echo the words of the Berlin Zoo's chief vet, Andre Scheule: "Their criticisms would make me angry if I could take them seriously."

— Andrew Ferguson

***Filling the ditch*** — One good thing to come out of the Iraq War — quite possibly the only wholly good thing — is that it relieves us of any obligation to read or listen to the pathetic media idiots who urged us into it and egged it on.

If they were dead wrong, spectacularly dead wrong, on the most consequential matter of our time, what are the chances of them having something intelligent to say on lesser matters? Yes, pundits make mistakes, but mistakes shouldn't make pundits. Bill Kristol, the editor of the Weekly Standard, has been rewarded for his consistent stupidity on Iraq by being given a column at Time. Thomas Friedman and David Brooks are still squawking on their op-ed perches at The New York Times. Friedman, Brooks, Andrew Sullivan, Peter Beinart, and others have offered half-hearted and hedged regrets but have continued to bloviate, as, without any real apologies, have Christopher Hitchens, Marty Peretz, Leon Wieseltier, Paul Berman, Kenneth Pollack, Rich Lowry, Fred Barnes, Charles Krauthammer, David Frum, Ann Coulter, Sean Hannity, and dozens of other pompous hacks. It's too bad that they can't all be put into uniform, handed a rifle, and dropped by parachute into the middle of the Sunni Triangle for a taste of their own medicine. There's a surge I could support.

As it is, the armchair warriors still have their well-upholstered media armchairs, from the depths of which some of them can now be heard braying for new wars. But at least their reputations are secure. They were the blind leading the blind.

— Eric Kenning

***Calling names*** — "Retained by the People" (Basic Books, 2007) is a book on the Ninth Amendment written by a liberal, Daniel Farber. He clerked for Justice John Paul Stevens and now teaches at the University of California, Berkeley, School of Law. Farber wants the 9th Amendment for the same general purpose libertarians want it — to support rights not explicitly listed in the Constitution. The mechanism is the same, but the list of wanted rights is somewhat different. Farber's list includes rights to abortion, to the ending of medical treatment, to gay marriage, to travel, to privacy of information, and to education from the state.

Why these? What's his theory? He doesn't offer one, other than his assertion of rights that a majority wants, such as abortion, or that society is evolving toward but not yet ready for, such as same-sex marriage. Essentially, when people are "ready" for a certain "right," Farber would have the court pop it into the Constitution through the Ninth Amendment.

### *News You May Have Missed*

## **Bush: Middle East Solution Imminent**

WASHINGTON — President Bush said he was urging the U.S.-backed government of Iraqi Prime Minister Nouri al-Malaki to enter into a trade agreement with the Iranian government of President Mahmoud Ahmadinejad, in which the two countries would exchange the last letters of their names. That would mean, he pointed out, that U.S. troops would then be completely out of Iraq, as many Democrats have been demanding, and would be right in the middle of Iran, as the more rabid and frothing elements of

the Republican party have been demanding. Iraq would have a relatively stable, Shiite-dominated government in control of the whole country, a major aim of U.S. policy, while Iran would have a leader with a much shorter, more pronounceable name who has not yet publicly denied any well-known facts of history. Bush further proposed that the entire Mideast region become known from now on as the Midwest, since it is actually to the west of many places just to the east of it, which would make its chief problems

the misfortunes of the Chicago Cubs and the lack of a really good restaurant in Indianapolis, while the Midwest, which is, he pointed out on a map, mostly in the eastern half of the United States, would become the Mideast, and a peace settlement could then be very quickly reached between Iowa and Ohio. Turning to Europe, Bush also strongly urged Slovakia and Slovenia to negotiate a similar agreement to trade differing areas of their names, "just for the hell of it."

— Eric Kenning

His book rejects the unenumerated right established in *Lochner v. New York* (1905), which is the right of a worker to sell his labor on his own terms. Following Justice Oliver Wendell Holmes' dissent in that case, Farber dismisses the *Lochner* ruling as a product of an "ideological agenda." The next time he refers to it, he calls it a product of "political ideology." The third time, he names the principle in *Lochner* as "a human right to be free of labor regulation." He then spends a couple of pages describing *Lochner* as about "freedom of contract," which he defines as "complete freedom to do what you want," which he in turn dismisses as ridiculous.

# Liberty

## is hiring!

Liberty seeks to hire an

## Assistant Editor

We're looking for a computer-literate individual with good language skills. Be part of the team behind a leading libertarian publication, in a working environment where the individual is important. Salary commensurate with skills and experience.

We are accepting applications for full-time, paid

## Internships

Interns work closely with the editors. Responsibilities may include editing, fact-checking, circulation, and advertising. Internships generally last three to six months.

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

For further information about either position, email [patrick@libertyunbound.com](mailto:patrick@libertyunbound.com), or write Liberty, P.O. Box 85812, Seattle, WA 98145.

And I think: can't a professor of law have the decency to name the thing he wants to knock down? The right of abortion, for example, is customarily defended as "the right of a woman to control her own body." That is the statement that encapsulates the strongest argument for it. You might disagree that this is the best way to think about the proposition, but to argue against it you'd have to start with the idea and deconstruct it. You couldn't just dismiss the right of abortion as "a right to be free of medical regulation."

But that is what the professor does about labor. He calls the principle in *Lochner* "political," "ideological," and part of "an agenda." Each of these names is correct. The right of a worker to control his labor is part of an ideology and an agenda. It is political. So are the author's proposals, all of which (surprise!) fit the zeitgeist of liberals. But why are his proposals better? Only because he calls them by different names.

— Bruce Ramsey

***The dangers of mediation*** — On April 12, New Jersey Gov. Jon Corzine was critically injured in an automobile crash while on his way to "mediate" (that is, have a photo-op) with the Rutgers women's basketball team and the newly unemployed Don Imus.

Corzine, just out of one operation and facing at least two more, was said to be suffering from a clavicular fracture, sternal fracture, multiple bilateral rib fractures, a lumbar spine fracture, and a comminuted open-femur fracture. The commentator on Fox Daily News talked about it being an example of "No good deed goes unpunished." Seems to me more like an example of "No predicting what can happen when you keep sticking your nose into things that are none of your business."

A Fox "journalist" "covering" the story offered this fascinating fact: each of the last three New Jersey governors has broken his leg (not, to clarify for non-New Jersey residents, "has had his leg broken") while in office. The Fox moderator responded, "It's a powerful office. I doubt that will keep anyone from running." You'd think it would at least slow them down . . .

— Ross Levatter

***Makes the world go 'round*** — March 2007 marked a strange shift in American politics. Not only was the presidential campaign running at full steam 20 months before the election, but candidates' fundraising totals for the first quarter were published on the front pages of the nation's newspapers. Never in my waning memory have campaign finances been used as a barometer of public opinion. Up until now, popularity polls were always the pie-chart of choice.

Frontrunner Hillary Clinton was the leader at the first turn with \$26 million raised, followed closely by Barack Obama with \$25 million. The candidate with the most money usually wins. These totals caused pundits to speculate that this will probably be the first presidential campaign to break the billion-dollar ceiling.

All this in spite of McCain-Feingold. When campaign finance legislation was passed back in 2002, it was supposed to get the money out of politics. But like most government goals, it has failed miserably. I wonder if people will ever recognize the futility of trying to separate politics and money; they are joined as surely as supply and demand. The adage has forever been that money is the mother's milk of politics,



and I don't think even the awesome power of government can alter that.

A friend of mine once suggested that perhaps we should scrap the entire primary process in favor of a market-based solution: sell the party nomination to the highest bidder. Whoever can raise the most money gets the party nomination, no primary needed. It certainly is a capitalist approach to elections. And considering the high public cost of holding a primary, which is only a formality to affirm what the donors have already decided, it's probably a good idea. — Tim Slagle

**Centralizing spontaneous order** — For quite some time, David Horowitz, the ex-New Left rabble-rouser turned militant conservative, has through his magazine *FrontPage* pushed a wide range of dubious causes. Two of the best known rely almost wholly on a top-down, governmental approach. The effect of his Academic Bill of Rights, for example, would be to use government to micromanage free speech on campus. His support for deploying American federal power in the service of a worldwide "democratic" revolution shows an even more ambitious top-down mentality.

Through it all, Horowitz has described himself as a fan of F.A. Hayek, a leading champion of spontaneous order and critic of central planning. What, then, does Horowitz think of the only candidate in the presidential race who consistently champions a Hayekian spontaneous order and rejects central planning? The answer: not much, according to an interview with Horowitz in *FrontPage*:

"Some of my best friends are libertarians and the greatest intellectual influence on me was Hayek. However, in practical political matters, libertarians tend to live in [an] alternate universe, without regard for the real world consequences of their actions. Ron Paul — the only Libertarian in Congress — is a disgrace. He has waged a war against America's war on terror, in lockstep with the left, and against the state of Israel, the frontline democracy in this war." — David Beito

**Earning interest** — The economist Paul Heyne once wrote a criticism of the concept of self-interest in economics, and concluded that economists ought to remove it. "Economic theory assumes only that people pursue the projects that interest them," he wrote. "That was true of Mother Teresa, Jack the Ripper, Henry VIII and Augustine of Hippo."

It's a statement I sometimes pick at. Are we profit maximizers? One usually sells one's house to the highest bidder, and so is acting in a commercial way. But one may have bought the house for entirely emotional reasons, and decided to sell it for nothing more than a whim. A better case is one's line of work. Some people choose the career that pays the best, but many don't. I didn't. Obviously money matters, else employers wouldn't pay wages at all; but often what matters in the realm of money is simply having enough.

Economists get around this with the concept of "utility." The stage actor who lives on nickels and dimes may not be maximizing his cash, but he has a life in which he can strut on the stage in front of the crowd. He maximizes not his money but his utility. Economics is thereby saved, but in a damaged condition. It has lost its power of measurement. Utility has no units, and its measurements cannot be falsified. And that means the theory is not telling us very much.

Here is another way of thinking about it. When you make money, people are paying you, and you are working for them. Maybe you are working at what you want to do and maybe not, but definitely you are working at what *they* want you to do. To be money-oriented is to be other-directed. But if you want to be self-directed, it's more useful to think of the world in Paul Heyne's way, as "projects that interest you."

— Bruce Ramsey

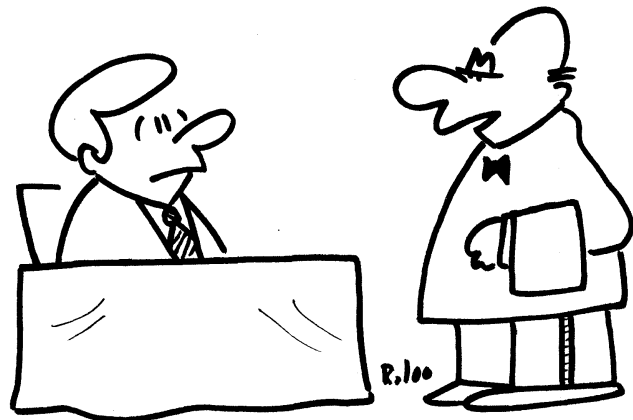
**Spend cycle** — A continuing cause for reflection is why spending keeps increasing no matter who wins elections. One reason, as I have suggested before in these pages, is that Americans in fact like pork-barrel projects. Another related reason was highlighted by the most recent IRS annual study of income tax data, this time for 2004. It shows that the upper 1% of income tax filers (people with an adjusted gross income of over a million bucks) are now paying 35% of the total income tax.

The newly empowered Democrats scream that the rich aren't paying their "fair" share. Yet we have reached the point where the majority of eligible voters pay nothing in federal income taxes. These people can continue to vote for ever-increasing social programs with no concern for cost, because they pay none of the cost.

The bad news here is for those of us who favor a flat tax, under which everyone above a certain threshold of income would pay the same rate (say, 17%) but be allowed no deductions. This would no doubt spur economic growth, as it has in the countries that have adopted it (such as Russia and Slovakia). But with most people paying nothing, I wonder if reform is even remotely possible.

— Gary Jason

**The crank file** — Journalist and social critic H.L. Mencken once described his function as "stirring up the animals." That's occasionally the result of my newspaper column, especially when I step on some pretentious and overly delicate toes. The evidence of stirring usually arrives by way of email a few hours after the papers hit the morning driveways.



"We don't have Noodles Romanoff anymore, sir — it's been purged from the menu."

My favorite feedback is this one-liner from a guy who went a little nuts after reading my column about ex-Senator Rick Santorum's new job as head of the America's Enemies program at the Ethics and Public Policy Center, a Washington-based thinktank: "Given a choice between the reasoning of Sen. Santorum and a Liberal Jewish College Professor, I'll pick Sen. Santorum." The description of me was in caps, as if Liberal Jewish College Professor were a species (perhaps even a race). He got it three-fourths wrong. I'm not Jewish, I'm not getting my talking points from MoveOn.org, and I teach at a university, not a college. My reply was even more concise than his response: "Sounds like Germany, 1935."

Here's another e-mail that arrived following the aforementioned column on Rick Santorum: "I was an idiot in the '60s. I was involved with the SDS (Students for a Democratic Society) at the University of Colorado and was partially responsible for getting a kid killed when a couple of my nut-case friends set off a bomb in what they thought was an 'empty building.' I grew out of that stuff. Hope you do too." That guy's idiocy stopped in the '60s? I write a column that doesn't correspond to his particular perspective, and I'm in the same boat as some nut making bombs in a dorm room?

Another emailer wasn't happy with something I wrote regarding Rudy Giuliani's success in turning New York City around. Crime, unemployment, poverty, deficits, and taxes may all have gone down, but the writer charged that I was hiding Giuliani's unorthodox sleeping arrangements. "Giuliani shacked up with gays," he emailed. "There are photos of him in drag." That's true, and Rudy doesn't look bad as a blond, but nothing was calculatedly hidden. My focus, with limited words, was on Giuliani's job performance, especially in economics.

The "shacked up" part refers to Giuliani, in the middle of a divorce and recovering from prostate cancer, moving out of Gracie Mansion and into the upper East Side apartment of his close friend Howard Koeppel, 64, the wealthy owner of a

string of car dealerships, and Koeppel's partner of 10 years, Mark Hsiao, a classical pianist.

The dirt? "It's like the odd couple," explained Koeppel to Frank Rich at the New York Times. "When Rudy leaves after breakfast, I ask, 'What time are you coming home?' and he calls me 'Mother.'" — Ralph R. Reiland

**Light under a bushel** — As part of the effort to fight climate change, it is expected that within two years incandescent light bulbs will be banned across Europe, forcing the entire EU to switch to compact fluorescent light bulbs (CFLs).

Great, another reason to avoid traveling to Europe. Not only is it dirty, crowded, smelly, rude, and impoverished, but now their overpriced hotel rooms are going to be as dim as their leaders. It supports what those of us referred to as "deniers" have been saying for years: that global warming is just another excuse for power-hungry bureaucrats to micro-regulate our lives.

If CFLs were so great, you wouldn't need legislation to get people to use them. If someone wants to switch bulbs in their own house, fine; but I hate fluorescent lighting. It's blue, buzzy, and annoying (much like California). Fluorescent lighting is one big reason why most people can't stand being at work. I can't imagine how such legislation would be enforced, although Europeans are not unfamiliar with tactics such as random home searches, and encouraging children and neighbors to report other citizens to the police.

I imagine incandescent light bulbs will be the next big thing to smuggle into Europe. My friend who works in an emergency room informs me that there are many ways to accomplish such a task. — Tim Slagle

**Second opinion** — In the April issue of Liberty (Reflections) I discussed my doubts about intelligence tests. As an aside, may I express doubts against other kinds of tests? The results of my first MRI recently showed that I should have "lower back pain." The specialist reading the images said this in his written report to my doctor. However, this pain I do not feel. At 67 I do high dives and backflips off a springboard. What are you going to believe more — your own body or some guy with a license and a white smock? — Richard Kostelanetz

**Robbing the rich to give to themselves**

— One of the selling points of our state and federal tax system is its egalitarian redistribution of wealth. For marketing purposes, whether wealth redistribution is a legitimate function of government or the tax codes are truly designed with egalitarianism in mind is only relevant to honest, i.e. unsuccessful, politicians. This bastardization of Robin Hood is a hit with voters.

What are the prospects for genuine tax reform? A recent study entitled "Egalitarian motives in humans" may shed some light on the issue.

The researchers assigned 120 subjects to groups of four, and gave each subject a number of tokens. The number of tokens varied within the group — some subjects were born rich and some were born poor. Each subject knew the state of his finances and the states of all the others' finances. Tokens could be spent either to increase or decrease the wealth of another participant, or they could be saved. In all groups the general pattern was that the rich gave to the poor and the poor spent

I USED TO BE A SUB-PRIME, NEG-AM  
MORTGAGE BROKER. NOW I SELL CRACK.



SHCHAMBERS

their tokens to confiscate more tokens from the rich. It seems that egalitarianism (and spite) are near-universal motivations.

Those who tend to view the metaphorical glass as half empty may conclude this study confirms the futility of hoping for tax reform. And those who view the glass as half full? I can't be sure — someone's confiscated most of my drink.

— Mark Rand

**Point, counterpoint** — I study the political science textbooks, which explain the many virtues of democracy, the importance of universal suffrage, the need to do whatever is needed to get out the vote.

I then turn on the television and watch Jerry Springer.

— Ross Levatter

**Stopless buck** — A story in the local paper: a 26-year-old woman drowns in a public swimming pool and her parents have filed a lawsuit seeking \$15 million in damages, claiming neglect of duty. Her boyfriend is quoted as saying that she was a beginning swimmer and should not have been in the deep end of the pool. The director of the city parks department said she had passed the swimming test and was competent to be there.

My thought is: probably the lifeguard was not paying attention. Maybe he was talking to somebody or was bored and had zoned out. But what does a \$15 million penalty do to remedy it? The lifeguard does not pay it. The lifeguard's boss does not pay it. Neither of them can imagine paying it. They get in trouble on account of it, but they would get in plenty of trouble anyway. The \$15 million is supposed to "make sure this never happens again," but it's not going to happen again with these people. On the off chance that they get to keep their jobs, they're going to be extremely vigilant.

Who pays the \$15 million? If the city is uninsured, the taxpayers pay it, and it will not change their behavior regarding the pool in any way. If the city is insured, an insurance company will pay it. Maybe the city's cost of insurance will go up, and the taxpayers will pay more, but that will not change their behavior in any way.

Perhaps a city official will review the safety procedures at the pool. But there is no guarantee of it, and the procedures may, in fact, have been good. Maybe the problem was not the procedures at all, but simply the lifeguard. Maybe the legal system should punish him, not the taxpayers. But if you're going to lay that kind of threat on lifeguards, then you'll have trouble finding anyone willing to take the job.

I don't have an answer. I just don't like the current one.

— Bruce Ramsey

**Real estate opportunity** — One of the tenets of what I call the Grand Theory of Global Warming (see "Global Warming, Global Stifling," in the May issue of *Liberty*) is that the consequences of continued global warming will be economically catastrophic. That is, the costs of a warmer climate (such as increased flooding, storm damage, and so on) will dwarf any economic benefits. I've seen little sustained economic argument to prove this, and a recent AP report (March 25) gives food for thought on that score.

It turns out that as ice retreats in the Arctic, countries are battling to take advantage of newly accessible wealth: oil, minerals, shipping lanes. Start with oil. The U.S. Geological Survey says that the Arctic holds upward of 25% of the world's undis-

covered oil and gas. This point is not lost on the Norwegians and Russians, who have already begun to exploit their offshore fields. Further, as the ice retreats, various islands become open for the mining of such minerals as diamonds and gold. Russia estimates that its share of the Arctic contains about \$2 trillion worth of minerals.

Regarding sea lanes, the latest Arctic Climate Impact Assessment says that global warming will open the Arctic Ocean to safe navigation five months a year. That would shorten the voyage from Germany to Alaska by 60%, and shorten the voyage from Europe to Asia (through an expanded Northwest Passage) dramatically.

All this has led Canada, Denmark, Norway, Russia, and the United States to start pressing their various claims to the Arctic. There is squabbling already over who controls or owns fishing rights in what waters, who owns which islands, and how much of the seabed under the Arctic Ocean belongs to the country that owns the adjacent coast.

Now, if warming does continue, and it opens up the Antarctic, things will get even more interesting, because there is a huge continent rather than an ocean beneath all that ice. Besides the minerals, there is developable land. I can see it now: Penguin Terrace Condominiums — Magnificent Ocean View!

— Gary Jason

**Tubal ligation** — Decades after the beginning of the microcomputer revolution, the cultural and political elites still haven't figured out that they hold their power only at the whim and by the leave of hackers — teenage kids in their bedrooms, subsisting on code and Mountain Dew, and highly paid 20-somethings in Redmond and Mountain View who design the software that runs the world.

The internet is opaque to parliamentarians and judges, presidents and ministers, governors and attorneys general, as they are to most white-collar people during whose lifetimes they were introduced into general use. One day the IT guy came into the office and declared, "Now we're using this thing; click here to send an email, click here to visit the company intranet," and that was that.

Even the hackers aren't entirely sure what they're doing. To understand how well refined the discipline of software engineering is today, mere decades after the first computer programs were written, ask yourself how well civil engineers understood their craft a few decades after the first arch was built.

It is in this context that the mid-April White House email "scandal" should be understood.

The White House came under fire because some of its staffers used email in ways that were not compliant with the Presidential Records Act. That law requires communications related to official duties of executive branch staff to be preserved for historical purposes — and to leave an audit trail for inquisitive Congresscritters.

Thing is, the Presidential Records Act was written in 1978, when "preserving a document" meant keeping a carbon copy of a paper document in a filing cabinet.

It's important to consider whether the authors of a law were aware of its implications as technology changes. More specifically, lefty enemies of the president who criticize Karl Rove for carelessly firing off emails on his BlackBerry should hold their tongues. If an arcane 1978 law can apply to BlackBerries

and email, why can't the Second Amendment apply to an assault rifle with a large-capacity clip filled with armor-piercing ammunition?

One of the talking points is that White House staff sent emails from nongovernmental email addresses, i.e., using domain names belonging to the Republican National Committee. Dan Froomkin of the Washington Post complained that "Rove deputy Scott Jennings repeatedly used an RNC e-mail address (sjennings@gwb43.com) in his official communications," and that an "e-mail to Rove was sent to a kr@georgewbush.com address."

A simplistic but reasonably accurate comparison would be if an individual rented a couple of post office boxes, numbered 100 and 200. For a long time, he used P.O. Box 100 for all of his mail, and forgot about the other one. Then one day he sent a couple of letters in the mail, and wrote P.O. Box 200 as the return address on the envelopes. And then one of his correspondents wrote him back at P.O. Box 200.

It doesn't sound criminal, and it patently isn't. It's just two addresses for the same guy.

Likewise, the default email program on your home computer, and many webmail services, can be easily configured to send email "from" any email address you like. If you spend the winters in Florida and live the rest of the year in Chicago, owning a home in each city, you may properly write either address as your return address. As for mail that you receive, you can't control whether somebody else chooses to write to you in Chicago or Florida, can you? The same goes for email.

But anything can sound sinister to a public that doesn't understand the internet, reported to by members of the media who don't understand the internet, covering government officials who don't understand the internet. The White House email system apparently is set up to archive all email sent to and from its government email addresses, but it doesn't cover, say, Google email addresses, or Yahoo addresses, or Hotmail addresses, or RNC addresses. The IT people who revamped the system to comply with the Presidential Records Act understood that, but nobody else — including the people who would actually use the system — necessarily understood it.

Ironically, the first publicly accessible copy of the Presidential Records Act I find on a government server is displayed

on a page titled "WAIS Document Retrieval." WAIS stands for Wide Area Information Servers. It was a technology that existed in the early '90s, quickly supplanted by the World Wide Web. Most people, probably including the authors of the Presidential Records Act, don't know it ever existed.

It's a treat when government officials profoundly embarrass themselves in talking about the internet, as when Sen. Ted Stevens described the internet as "a series of tubes" in a rambling speech about internet legislation he couldn't begin to understand. Mostly, however, officials' stupid remarks about, and stupider legislation of, the internet go unreported by the media and so unnoticed by the public. That's a shame. It's bad enough when, as public choice theory predicts, those in government say deceptive things out of sheer self-interest. But it's especially pathetic when they say inaccurate things because, even with the aid of their own dedicated staff and the Congressional Research Service, they honestly have no idea what they're talking about.

— Patrick Quealy

### *Suboptimal bureaucratic outcome verified* —

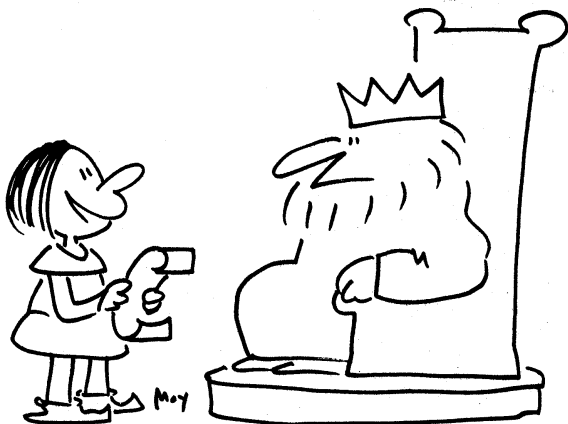
To no one's surprise, except to that colony of bumptious, squawking ninyhammers kept isolated on a parcel of swampland along the Maryland-Virginia border, an extra three weeks of Daylight Savings Time saved the nation no energy whatsoever. This, according to any number of power companies and the Department of Energy, was exactly the result that would be expected by anyone with the sense God gave a flamingo.

A Reuters article explains, in the slow, steady voice one might use to address a cow-eyed child whose homework papers sometimes earn a silver star for effort, why this should be so: "Households may draw less electricity for lights at night, but will use more power early in the day as they wake to darker and chillier mornings." Or, as a farmer friend of mine says, "Do you have any idea how hard it is to reprogram that rooster?"

I'm resigned to the continued use of Daylight Savings Time. It's outlived its usefulness — we're no longer facing air raid blackouts or coal shortages — but it's kept around, despite the expense, despite the wrecked sleep schedules, because we're accustomed to it, and because we want to be reminded to check the batteries in our smoke alarms.

Now those batteries have to hold out an extra month; come autumn, it's possible that some family's house will burn to the ground, perhaps with them in it, because they were waiting till "fall back" to check. And if that hypothetical is admittedly extreme, let it stand in for the myriad problems created by this whimsical shift: computer programs that may or may not update, or may update twice, even after tens of thousands of hours of testing; schedules put out of sync with customers and business partners around the globe; three weeks of added grump from having to get up when it's just too cold and dark to do so. All with the goal of reducing energy consumption in a way that the relevant federal agency, as well as private power companies and straightforward common sense, insisted would not work.

Congress has done, and is doing, and will continue to do much more harmful things than playing around with DST. But of their lunatic belief in the efficacy of their powers, trying to change human nature and indeed time itself by legislative fiat, there can be no better illustration. — Andrew Ferguson



"The economy has turned around, sire — 360 degrees!"

# Where Libertarians Come From

*Brian Doherty's "Radicals for Capitalism: A Freewheeling History of the Modern American Libertarian Movement" (PublicAffairs) came out this spring. The book is a subject of major interest for people in the individualist movement. We asked two experts to assess the book; then we asked the author for his response. There's obviously a lot to debate in the history of the movement — so I hope you enjoy debate!*

— Stephen Cox

## **Bruce Ramsey on "Radicals for Capitalism"**

At least this book was written by a libertarian. If the author were one of these snotty liberals, he could have called it "Zanies for Capitalism." Libertarians have done some libertine and loopy things over the years, and Brian Doherty, whose previous book is about the Burning Man festival in the Nevada desert, has included all the best of them in his "Freewheeling History."

There was Leonard Read of the Foundation for Economic Education, one-time manager of the L.A. Chamber of Commerce, bringing his businessmen high-rollers into the orbit of a spiritualist guru — and maybe (though Leonard denied it) some experiments with LSD; the novelist Ayn Rand, and her Nietzschean adultery with Nathaniel Branden; the political theories of Andrew Galambos, which were so proprietary that no paying customer was permitted to disclose what they were; the survivalists of the Vonu movement, who wanted to disappear into the woods, and did; and the various attempts to start a new country in the Bahamas, on a South Pacific reef or on a concrete barge.

I knew about some of this stuff already, and I expect that most of it is true. I am not old enough to remember things from the 1940s and 1950s, but I was in on a bit of it in the 1970s, and Doherty has the flavor of it right.

I remember, at age 18, driving with three other University of Washington students from Seattle to Los Angeles to attend the Left-Right Festival of Liberation, Feb. 28, 1970, on the campus of the University of Southern California. We were fans of Ayn Rand and Ludwig von Mises, fascinated by ideas we found in the world of books; and all the libertarians we knew could have been counted on our fingers.

At USC there was a crowd to hear the speakers. And what speakers! Some were respectable professors of free-market economics, such as the Chicagoite economist Harold Demsetz, who said, "If you're worried about

being misinformed, stay away from the polling place; take the marketplace."

Others were more fringy, to use a word from those times. A few had strange names, such as Skye d'Aureous (now Durk Pearson and a contributing editor of *Liberty*), speaking on "Alternatives to the State," and Filthy Pierre (also known as Erwin Strauss, at present the publisher of *Libertarian Connection*), speaking on "Proposals for Living on the Sea." Two men made presentations about "gay liberation," a concept I had not heard, or expected to hear, discussed at a public forum.

There was a soft-spoken man named F.A. Harper who talked about the dark days of the 1940s, when libertarians such as Garet Garrett could not get published, and how the outlook in 1970 was much, much better for liberty. There was a Fidel Castro-like man named Karl Hess, who had been a speechwriter for Barry Goldwater and who claimed the future for anarchism. Hess came with a squad of black-clad groupies, who would raise their fists and chant, "Right on!" — a phrase new to me — whenever Hess said something profound, like, "No crime is so grave or repulsive that I would cooperate with the police. My rule is that if it oinks, it is your unalterable enemy — the hired mercenary of the State." (This from my notes.) There was also Philip Abbott Luce, who had been a communist, and Dana Rohrabacher, who would become a Republican congressman.

That conference is not in Doherty's book, but the milieu of it is. The average libertarian was younger in those days, more radical and less connected with institutions trying to look respectable.

The book doesn't start out with all this. It begins with such distant ideological relations as Benjamin Constant, Josiah Warren, and Gustave de Molinari. Doherty should have left them out. He is trying to explain the genealogy of the libertarian idea, and that is not necessary for this book. A "Freewheeling History of the Modern Libertarian Movement" should begin with the New Deal and World War II, against which the arguments of Rand, Mises, Isabel Paterson, Rose Wilder Lane, and Friedrich Hayek — the modern founders — presented an antithesis.

But the book is *freewheeling*. That is its attraction and its affliction. It drops a hundred names — picks them up and drops them. Writing about the fantasist Robert Anton Wilson, Doherty says, "One can become a Wilson Head without reaching his libertarianism. Through Wilson's influence one might become an Aleister Crowleyan, a Wilhelm Reichian, an old-fashioned Tuckerite, a techno-future-optimist in the manner of Buckminster Fuller or Timothy Leary." The head spins.

Some of the characterizations are sloppy: to call Rand, Paterson, and Lane "the three furies of libertarianism" is not really accurate. Maybe Rand was a "fury," and Paterson was some of the time, but Lane was not. She was the most radical of the three, and the sweetest.

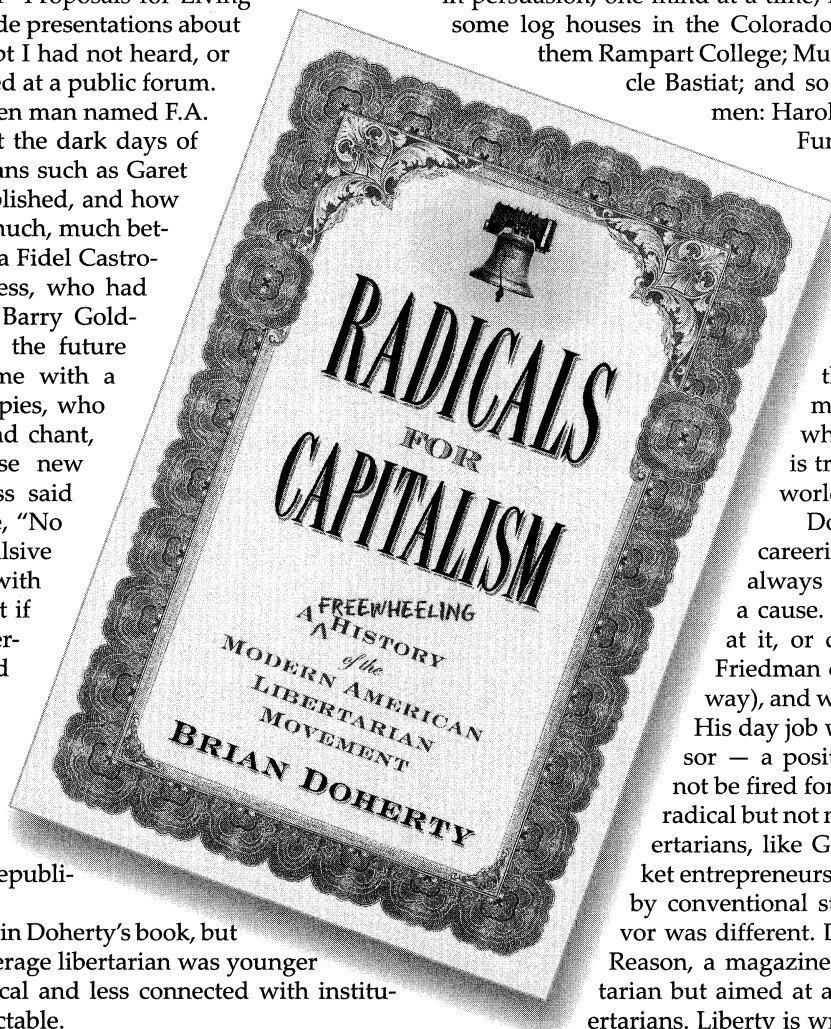
Much is fascinating: Hayek and his internationally influential Mont Pelerin Society; Read, the radical who believed in persuasion, one mind at a time; Robert LeFevre, who built some log houses in the Colorado Rockies and proclaimed them Rampart College; Murray Rothbard and his Circle Bastiat; and so on. There are the money

men: Harold Luhnow and the Volker Fund, which financed a university spot for Mises and paid travel expenses to Mont Pelerin; also the Koch family, the oilies who provided seed money for the Libertarian Party and the Cato Institute. Money matters in a movement which, as Doherty points out, is trying to sell something the world is not clamoring to buy.

Doherty's story includes careerists and amateurs. This is always an issue for anyone with a cause. Do you make your living at it, or do it on the side? Milton Friedman did it on the side (in a big way), and was enormously influential. His day job was being a college professor — a position from which he could not be fired for his opinions. He could be radical but not nutty. Some of the early libertarians, like Galambos, were niche-market entrepreneurs who could be radical and, by conventional standards, nutty. Their flavor was different. Doherty is an employee of *Reason*, a magazine which is avowedly libertarian but aimed at an audience outside of libertarians. *Liberty* is written for libertarians. Each of these has different institutional constraints, and tends to attract a different kind of mind.

One of the virtues of Doherty's book is that he often tells how these people were first turned on. You can see the libertarian idea replicating itself, a kind of virus of the mind. What spread it was an individual who could express it colorfully and forcefully, which also meant radically. Hayek, who considered himself pretty radical, was about as moderate as the movement allowed. Mises was more hardcore, Rand more still, Rothbard, in a political sense, even more. In inspiring people to become libertarians, radicalism works. But it works mainly on those never inoculated by prior commitment.

Radicalism also comes much of the time with the edgy *machismo* of "I'm more radical than you." Doherty treats this posturing with some humor, at one point quoting professional rightist Grover Norquist about libertarians who insist on staking out a position that alienates everyone. Their attitude, he says, seems to be, "Then I win!" He asks: "Win *what?* 'Most



Pure Person in the Room' award? A cookie?"

Reading this book, one naturally wants to compare the figures who have taken different roads, and different levels of radicalism, and ask who has had the greater influence: Ludwig von Mises or Milton Friedman? Murray Rothbard or Alan Greenspan? Durk Pearson or Dana Rohrabacher? And

then you realize how pointless it is to argue the point. The one was not going to be the other. Imagine Rothbard working for the Fed — or Durk in Congress. Liberty is an idea for people who want to go their own way; it is oxymoronic to condemn them for inattention to the herd. Individualists do what they do because it pleases them.

---

## Lanny Ebenstein on "Radicals for Capitalism"

Brian Doherty's "Radicals for Capitalism" provides an opportunity to explore the idea that there are at least two kinds of libertarianism. We may call them, at least for the sake of argumentative distinction, conservative or Right libertarianism and liberal or Left libertarianism ("conservative" by the sharing of some ideas with modern conservatives, and "liberal" by the sharing of some ideas with modern liberals).

At this time, Left libertarians appear to constitute the majority of the movement. Doherty, who works with the Reason Foundation, is a Left libertarian, as are the Cato Institute, Reason, the Independent Institute, and, to a lesser extent, the American Enterprise Institute. There is, however, another version of libertarianism, a version that offers a different approach on many issues. The conservative variety of libertarianism emphasizes, in particular, the idea that associational rights should be ranked among the central libertarian concerns. As John Stuart Mill said in "On Liberty" (1859), the possession of a social or political right includes the ability to associate with others of similar views. Too many liberal libertarians, it seems to me, underemphasize the importance of freedom of association and the importance of the secondary, nongovernmental institutions — churches, clubs, professional associations, and the like — that form so much of a free society's framework. And there are other important differences between the Left and Right of the libertarian movement.

Doherty well states the Left libertarian view. He says that the "eventual goals" of libertarianism "include the abolition of all drug laws, . . . the abolition of the income tax, the abolition of all regulations of private sexual relations (from marriage to prostitution and everything in between), an end to public ownership and regulation of the airwaves, an end to overseas military bases and all warmaking not in direct defense of the homeland, an end to the welfare state, and an end to any legal restrictions whatsoever on speech and expression."<sup>1</sup>

Yet it is possible to dissent from most of these goals, and still consider oneself a libertarian. With respect to the abolition of all drug laws, Left libertarians often talk as though their vision of utopia with respect to drug policy would be to use the military to impose on every community a policy of the legal use and exchange of crack, heroin, and methamphetamines. If this is not the meaning of "the abolition of all drug laws," what do these words mean? Left libertarians underemphasize or ignore the right of different communities to set different standards and laws.

With respect to abolition of the income tax, libertarians

both of the Left and of the Right favor lower taxes, usually substantially lower taxes. But why must this general preference necessarily take the form of abolition of the income tax? Why not property or sales taxes? Why not capital gains taxes?

With respect to the abolition of all regulations regarding private sexual relations, many of the same objections that would hold with respect to unitary drug laws across the United States are also applicable in this area. What if different communities and states wish to enact different laws? What if different communities and states wish to have different standards about pornography or to allow covenant marriage as an alternative to traditional marriage?

With regard to the issue of marriage, Left libertarians' views seem particularly inconsistent. Do they really believe that there should be no regulation of marriage? What of age restrictions? What of polygamy? But if liberal libertarians would allow regulation of marriage in such cases, why can't they concede that states can properly pass laws to define marriage as a bond between one man and one woman? If there can be some regulations with respect to marriage, why cannot there be others?

With respect to ending the welfare state, most libertarians, whether liberal or conservative, support a society in which government plays a considerably smaller role in providing welfare and in which private charities and nonprofits play a larger role. But to define a libertarian as someone who sup-

---

*Karl Hess came with a squad of black-clad groupies, who would raise their fists and chant "Right on!" whenever he said something profound.*

---

ports the complete abolition of the welfare state, particularly as a proximate goal of public policy, strikes many who have considered themselves to be libertarians, including Milton Friedman and Friedrich Hayek, as unrealistic and even undesirable when taken to an extreme.

Respecting the contentious and controversial issue of the war in Iraq, military policy, and foreign intervention by the United States, there is no unanimity of views among those who consider themselves libertarians. Left libertarians tend to favor an isolationist foreign policy. Right libertarians tend to support an interventionist one. All libertarians acknowledge the right of self-defense, and this is often taken to include preemptive self-defense. To be sure, there is always a strong presumption against military intervention, which can be justified only in the most serious circumstances. But on the practical versus the philosophical question of when it is appropriate to engage in military intervention, and whether an isolationist United States would lead to a more peaceful world, Left and Right libertarians often differ.

Hayek was reasonably interventionist. He remarked in 1983, "I am convinced Reagan is right not to reduce arms expenditures. World peace depends upon America staying strong. The real problem is whether we have got ourselves into a situation in which the Soviets can intimidate us to such an extent that we knuckle under completely. The West must stay at least as strong as the Soviet Union."<sup>2</sup> He wrote the following letter to the editor in 1983 in Britain during the Falklands crisis: "Argentina ought perhaps to be reminded that no rule of international law would forbid to retort to another attack on what for 150 years had been under the jurisdiction of Britain by some counter-attack on the geographical sources of such bellicose action."<sup>3</sup>

A few years earlier, Hayek wrote the London Times, during the Iranian hostage crisis, that he was "genuinely puzzled by the restraint shown by the United States in the recent emergency. It seems to me that the future of peaceful international relations and the safety of persons in foreign countries would have been much better served if the United States government had at once sent an ultimatum saying that, unless every single member of the embassy staff were within forty-eight hours handed over unharmed to representatives of the United States Government, bombs would be falling at an increasing rate at the seat of the Iranian Government."<sup>4</sup> These are not typically the sorts of sentiments issued by Left libertarians, nor were they the particular policy recommendation favored by Left libertarians at the time.

Doherty's study focuses on the explicitly libertarian movement in the United States in the 20th century, and he does not much consider in this place the British philosophers and economists who laid the rhetorical groundwork for libertarianism. Particularly in the area of international relations as practiced

---



---

*The idea of an unregulated market is chimerical.*

---



---

by the United States, the thought of the great British political and pure philosopher John Locke should be considered. Locke was clear that the existence of law requires its enforcement. If there is no enforcement of law, then law does not exist.

Law includes its physical execution. From the perspective of many conservative libertarians, the United States is the primary physical executor of law in the world today. If the United States were to withdraw from the world militarily, chaos, from the perspective of many Right libertarians, would ensue.

Generally, the principle of libertarians is to minimize the use of force. Whether this would be the outcome of a policy of military disengagement from the world is an open question. Withdrawal from the world might result in the use of less

---



---

*If the United States were to withdraw from the world militarily, chaos, from the perspective of many Right libertarians, would ensue.*

---



---

force in the short run, at the expense of much greater force in the intermediate and long run, as increasingly perilous conditions required reintroduction of a military presence in diverse places around the world.

Doherty gets Hayek and Friedman spot on in some of their central political and philosophical views. He writes of Hayek that "[r]ules, defined by Hayek as 'simply a propensity or disposition to act or not to act in a certain manner, which will manifest itself in what we call a practice or custom,' are the sine qua non of both civilization and government; we could not possibly achieve what we have achieved without following them. It is only when rules are followed that what Hayek calls the 'spontaneous order' can develop."<sup>5</sup>

For Hayek, liberty was the supremacy of legitimate law, a view shared by Right conservatives, often in opposition to Left libertarians, who tend to veer more toward anarchism, or lawlessness or normlessness. With respect to the central Hayekian topic of the rule of law, Hayek was fond of quoting Locke, including the words that follow, which Hayek used to preface his chapter on "The Origins of the Rule of Law" in "The Constitution of Liberty": "The end of law is, not to abolish or restrain, but to preserve and enlarge freedom. For in all the states of created beings capable of laws, where there is no law there is no freedom. For liberty is to be free from restraint and violence from others; which cannot be where there is no law: and is not . . . a liberty for every man to do what he lists [wishes]. (For who could be free when every other man's humour might domineer over him?) But a liberty to dispose, and order as he lists, his person, actions, possessions, and his whole property, within the allowance of those laws under which he is, and therein not to be the subject of the arbitrary will of another, but freely follow his own."<sup>6</sup> Hayek also approvingly quoted Locke in "The Road to Serfdom": "There can be no liberty without law."<sup>7</sup>

So from the Right libertarian point of view, libertarian order cannot be an order without law. There can be no freedom (in the sense of maximum material development) without political liberty (in the sense of a lawful social order that minimizes coercion). Right libertarianism recognizes that law is necessary to the optimal society. Left libertarianism often sees this



differently. The jacket covers of books are the products of the publishers; authors do not always write them; nevertheless, I do not think that Doherty would disagree with the first paragraph of the jacket cover of his book, which says: "It is a simple but radical idea: The sole purpose of government, if it has a purpose, is to protect the lives and property of its citizens. A free people in an unregulated marketplace will maximize both human potential and economic growth."

This is, again, not exactly the situation that conservative libertarians perceive. To take Hayek, again, as an example: he recognized, and indeed affirmed, that the idea of an "unregulated" market is misleading; markets will always need to be enabled and protected by law. Left libertarians, on the other hand, often talk as though "property" were something that existed ineluctably in nature, irrespective of the absence of commonly held rules defining it. Hayek wisely rejected this view. He wrote early, in "The Road to Serfdom," that the functioning of a competitive order "depends, above all, on the existence of an appropriate legal system, a legal system designed both to preserve competition and to make it operate as beneficially as possible. It is by no means sufficient that the law should recognize the principle of private property and freedom of contract; much depends on the precise definition of the right of property as applied to different things. The systemic study of the forms of legal institutions which will make the competitive system work efficiently has been sadly neglected."<sup>8</sup> In "The Road to Serfdom" and in "The Constitution of Liberty," he saw a "wide and unquestioned field for state activity. In no system that could be rationally defended would the state just do nothing."<sup>9</sup> The idea of an unregulated market is chimerical.

When compared to Left libertarians, Right libertarians are more tolerant, less exclusive, less extreme, and more evolu-

tionary in approach. They are less likely to put forward a list of positions and say that individuals who do not support these positions are not libertarians. Coinciding with greater toleration is less exclusiveness. Conservative libertarians' conception of the holders of their creed embraces many individuals not considered libertarians by Left libertarians. Doherty himself notes that many libertarians have been famous for factionalism and for excluding people they don't consider sufficiently pure.

William F. Buckley exemplified the more judicious approach of conservative libertarianism: "We must not, if we are to pass for sane in this tormented world, equate as problems of equal urgency, the repeal of the social security law, and the containment of the Soviet threat."<sup>10</sup> Left libertarians often appear to equate the welfare state or government regulation with the conditions that prevailed in Nazi Germany or Stalinist Russia. Right libertarians are more likely to recognize that there are degrees of evil, that to equate all disagreeable aspects of government policy is not productive. Coincident with the less extreme nature of conservative libertarianism is its greater emphasis on gradualism and working within the system. Utopias may, as both Friedman and Hayek held, offer guiding ideals toward which to aim. But utopia is difficult to achieve on earth — that is why it is called *utopia*, "no place." As technological knowledge grows, our conception of utopia will continually change. If individuals wish to involve themselves in the public policy process, their proposals must generally be for incremental changes from the status quo, at least if they wish these proposals to be successful.

Conservative libertarians are less ideological and more practical than liberal libertarians. They also have different heroes. For Doherty, the key libertarian figures are Hayek and

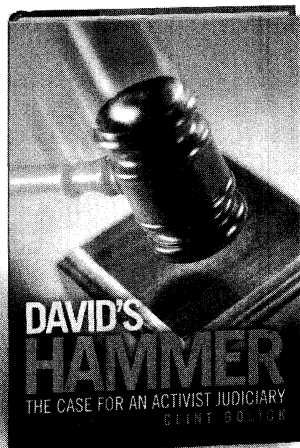
# New Books from the CATO INSTITUTE

## David's Hammer: The Case for an Activist Judiciary

BY CLINT BOLICK

**D**avid's Hammer reclaims the judiciary's role as the ultimate safeguard of our society, protecting constitutional rights and keeping the other branches of government in check. Author Clint Bolick showcases numerous real-world examples of people whose rights to free speech, economic freedom, and private property were violated by government—victims of government oppression whose only recourse is the courts.

\$19.95 • hardcover • 978-1-933995-03-8  
\$11.95 • paperback • 978-1-933995-02-1

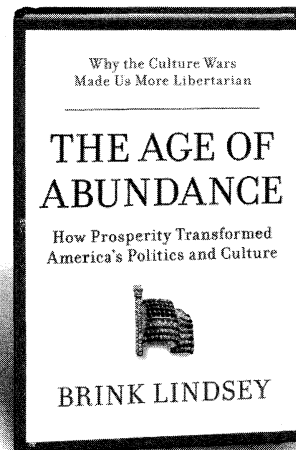


## The Age of Abundance: How Prosperity Transformed America's Politics and Culture

BY BRINK LINDSEY

**B**rink Lindsey offers a bold reinterpretation of the latter half of the twentieth century. In this sweeping history of postwar America, readers learn how and why the contemporary ideologies of left and right emerged in response to the novel challenges of mass prosperity. Lindsey shows that what is struggling to replace the stale conflicts and divided ideology is a new consensus that mixes the social freedom of the left with the economic freedom of the right into a potentially powerful libertarian perspective.

\$25.95 • hardcover • 978-0060747664



Buy your copy at bookstores nationwide, by calling 800-767-1241 or visiting [www.cato.org](http://www.cato.org)

Cato Institute, 1000 Massachusetts Avenue, N.W., Washington, DC 20001

Friedman, but also Murray Rothbard, Ayn Rand, and Ludwig von Mises. For conservative libertarians, such figures as Ronald Reagan and Barry Goldwater would also enter the pantheon; and from the more intellectual side, Buckley and even Russell Kirk, for his emphasis on the value of social customs and values beyond the state. Nor is this a dry historical issue. Our heroes, our inspirations, our models of human attainment tell a great deal about our concepts of normative fact and ethical belief.

Left and Right libertarianism are as one on the issue of free speech. Both kinds of libertarianism recognize that there is no higher value than truth, and that the only way to achieve it is to create an environment in which freedom of discussion and debate is encouraged.

Right libertarians and Left libertarians also agree, of course, that government should become smaller. Conservative libertarians generally believe that if, over the next quarter of a century or so, the size and scope of government could be reduced from that reflected by the current 30 to 35% of GDP in the United States to 20 to 25%, this would be great progress. Liberal libertarians, on the other hand, sometimes talk as if even a society in which government controlled 10 to 15% of GDP would be a slave regime tantamount to that of pharaonic Egypt.

But to return to the book that prompted this discussion: "Radicals for Capitalism" sets a standard for new works in the history of libertarianism, particularly of a liberal variety.

Its extensive research, which included many interviews, will make it a reference work for decades, if not longer. Doherty's presentations of the views of libertarian authors are particularly useful. He is correct, for instance, in his interpretation of Friedman's methodology. He emphasizes that, for Friedman, the most crucial aspect of a theory is its capacity to predict, and what it predicts. Theories that do not predict are usually of little worth.

Doherty should be commended for his substantial contribution to the history of a diverse and exciting field. He should also be commended for inspiring the kind of debate that reaches beyond his book — the kind of debate that naturally arises when libertarians define and discuss their beliefs, methods, and models.

#### Notes

1. Brian Doherty, "Radicals for Capitalism" (2007), 3.
2. In Alan Ebenstein, "Friedrich Hayek: A Biography" (Palgrave, 2001), 301.
3. *Ibid.*, 300.
4. *Ibid.*
5. Doherty 220–21.
6. Ebenstein, 196–97.
7. *Ibid.*, 197.
8. F.A. Hayek, "The Road to Serfdom" (University of Chicago Press, 1994 [1944]), 43.
9. *Ibid.*, 45.
10. Doherty, 305.

---

## Brian Doherty responds

I want to thank Liberty for giving me a chance to respond to comments on "Radicals for Capitalism." An author could not hope for better equipped reviewers.

Lanny Ebenstein is author of the definitive biography of one of my book's central characters, F.A. Hayek, and is freshly out with the first major biography of another one, Milton Friedman, a book I look forward eagerly to reading — and one that I wish I'd had access to when writing my book. Bruce Ramsey, long one of Liberty's most dynamic contributors, has recently edited and introduced wonderful volumes of writing by the old-Right hero Garet Garrett. I thank them for their general appreciation of my book.

However, neither reviews nor comments on them would be optimally interesting to readers without *some* scrapping, or without branching out into a larger discussion.

Lanny Ebenstein frames his review with thoughts on a distinction within libertarianism that is not explicitly drawn in my book, at least not by name — the distinction between "Left" and "Right" libertarians (or, as he also says, "conservative" and "liberal" libertarians).

I can't say I don't know what he means, roughly, when he makes this distinction. Without any specific examples, or any obvious necessary philosophical connection between thinking, for instance, that local communities should be able to ban gay marriage and drugs and thinking that the U.S. military should

legitimately be used for preemptive strikes, it's hard to know exactly what one can say overall about the phenomenon of the "Right libertarian," or if there are any clearly defined principles underlying his beliefs.

I hope I am not completely mistaken in imagining, absent the naming of many specific thinkers and institutions, that Ebenstein considers himself, as well as William Buckley and "even" Russell Kirk, an exemplar of "Right libertarianism." For "Left" libertarianism, however, Ebenstein does give many specific examples, including the magazine for which I now work, Reason, and a thinktank where I used to work, the Cato Institute.

I don't think it's true that the institutions he lists as "Left libertarian" lack a solidly libertarian version of associational rights. Certainly, both Cato and Reason have published works that attack affirmative action and any other restrictions on people's right to choose with whom they associate, and I don't think they have ever denied, though perhaps in Ebenstein's mind they don't sufficiently emphasize, the importance of social-not-governmental institutions in meeting human needs. I think this particular accusation needs more citation, although I believe that Ebenstein is echoing (I'm sure not intentionally) Murray Rothbard in his final "paleolibertarian" phase. Rothbard believed, without, I think, much good evidence, that many so-called libertarian institutions had sold out to Martin

Luther King-esque principles of diversity and egalitarianism and had set them above true liberty.

As for Ebenstein's examples about community control of drugs and marriage, it has been mostly definitive of libertarians to believe that government — federal, state, or local — should be restricted in its functions, generally to the protection of citizens' lives against force or fraud and the provision of a small set of so-called public goods that could not be provided by free markets. Indeed, I can't imagine much that is libertarian about thinking it's all right to arrest or fine people merely because of something they chose to eat, whether that restriction comes from a local cop or a federal bureaucrat. Almost everyone involved in the movement whose history I tell would agree.

As for the "Right" or "conservative" libertarian, as Ebenstein describes him, the average politically savvy American would identify a person with such views as a "conservative," full stop. A streak of libertarianism has always run through the conservative coalition. But libertarianism has been only part of the larger conservative identity, and it has often been buried by other considerations: by traditionalism and nationalism; by militaristic anticommunism, in the early days; and in these latter days, often by militaristic anti-Islamicism.

So I'm not sure that someone with the views Ebenstein identifies as those of the "Right" or "conservative" libertarian ought properly to be considered a libertarian at all, rather than just a conservative. I know that saying this raises what might be called the "Hayek perplex": surely, if anyone was a libertarian, Hayek was! I'll return to this point later.

While I don't think I said this explicitly in "Radicals for Capitalism," I was obviously using the term "libertarian" in a descriptivist, not prescriptivist sense. I was chronicling the adventures of the thinkers and institutions that people who identify themselves as libertarian have tended to identify as part of "their team." I wasn't trying to enforce a deductive definition, casting out all those who fail to meet it.

Nevertheless, as Ebenstein notes that I note, this desire to cast out heretics is a central character trait of many modern libertarians. The list of libertarian stances that Ebenstein quotes from the introduction to my book was meant to give a reader I had to presume was ignorant of the topic a general sense of what most libertarian thinkers and institutions have believed,

---

*Rescuing libertarianism from the impression that it is merely the right wing's wacky, over-enthusiastic little cousin was one of my book's historical and rhetorical missions.*

---

especially those beliefs that have made libertarianism *distinct* from conservatism and the Right in general. Rescuing libertarianism from the impression that it is merely the right wing's wacky, overenthusiastic little cousin was one of my book's historical and rhetorical missions. At the same time, I warned the

reader of "Radicals for Capitalism" that the libertarian world is a feisty and contentious one. As Liberty contributing editor Fred Smith wisely put it, "When two libertarians find themselves agreeing on something, each knows the other has sold out." Libertarianism is a fighting faith — even if only with other libertarians!

But Ebenstein's distinctions do get at an important issue. Clearly, there is something philosophically questionable about calling thinkers as diverse as Hayek and Rothbard the same

---

*I can't imagine much that is libertarian about thinking it's all right to arrest or fine people merely because of something they chose to eat.*

---

thing — libertarian. It is equally true, however, that most people who self-identify as modern American libertarians do consider both Hayek and Rothbard as part of their intellectual heritage, arsenal, or team — even while remaining critical enough to suggest that a Hayek gives too much credence to the state's role, or a Rothbard too little, to be "properly considered a libertarian." (This also is detailed in my book.) Each side at least recognizes that it needs to grapple with the other — whereas too much of the rest of the intellectual world is happy to ignore both the more classically liberal and the more anarchistic arenas of the modern American libertarian Big Tent.

Ebenstein draws another important distinction among libertarians, that between the roughly Hayekian notion of rule-under-law, with law seen as requiring a monopoly of force to work properly, and the Rothbardian notion of anarcho-capitalism, which was in broad strokes also accepted by such libertarian teachers and influences as F.A. Harper, founder of the Institute for Humane Studies; R.C. Hoiles, founder of the Freedom School (Rampart College). I found the near-dominance of anarchism (though not under that name) in the libertarian movement in the 1950s one of the more interesting things that needed to be explained in my book.

It is important to realize, though, that anarcho-libertarians do not deny the need for law. They merely deny that anyone needs to possess a monopoly of force to establish and enforce it. This is a complicated subject, and admittedly sounds on its face absurd to most people, but the idea is certainly familiar to most within the libertarian movement, even if they ultimately reject it. For some explanations of how the idea might work and why it might be appropriate, see Murray Rothbard's "Power and Market," David Friedman's "The Machinery of Freedom," and Randy Barnett's "The Structure of Liberty." (All three books are discussed in "Radicals for Capitalism," the first two at greater length.)

I applaud Ebenstein's ecumenism in declaring that his sort of libertarian is more tolerant than the other — though isn't he trying to explain how Left libertarians are mistaken? Still, the

fact that he hews to the word “libertarian” shows a willingness to be grouped with a bunch of people whose views he clearly does not accept. I earlier suggested that I’m not sure that people with his “Right libertarian” viewpoint deserve the name of libertarian, so I suppose he wins a point on tolerance here!

The thinker who causes the most trouble for unified definitions of “libertarian” is Ebenstein’s own F.A. Hayek. Reason’s editor, Nick Gillespie, has called Hayek the “capo di

---

*A joke has it that Hayek’s real first name was Even: “Even Hayek agrees we need a government-supplied income floor . . .”*

---

tutti capo” of libertarianism. The Cato Institute has named its auditorium after him. The Institute for Humane Studies has used his image on postcards. His combination of the Nobel Prize and complicated, wide-ranging social theory makes him one of libertarianism’s classiest cards to play. But a lot about Hayek rubs against a lot of the conclusions of other libertarians — a point my book makes clear. Indeed, I quote a lot (pages 553–54), mostly from the later Hayek, that makes him sound conservative indeed. Ebenstein does the same in his review, especially in regard to hawkish foreign policy.

I’m no longer as sharp at the game of “What Would Hayek Do?” as I once was — but certainly many libertarians have felt frustration, as I put it in my book, at how often opponents of more radical libertarianism can use Hayek as a weapon against them. As a joke has it, Hayek’s real first name was “Even”: “Even Hayek agrees we need a government-supplied income floor . . .” I note in one of my book’s notes (a side note to libertarian readers: don’t skip the notes! — lots of nuggets considered too recondite for the general audience are there as special treats for the very interested) that Murray Rothbard considered Hayek’s classic “Constitution of Liberty” so full of concessions to the state that he told the Volker Fund, the great libertarian funding group of the 1950s, for whom he vetted manuscripts and thinkers, that it was “an extremely bad, and . . . even . . . evil book.”

Hayek is a complicated case. I think the kind of libertarianism (not quite so hard on the state, willing to countenance overseas interventionism) that Ebenstein seems to support could also, in some ways, be called “Hayekian libertarianism.” At least Ebenstein seems to think so. Hayek wrote a famous essay on why he was *not* a conservative — yet, as Ebenstein notes, a Hayekian libertarianism could rightly be called “conservative” in its reliance on tradition, and its allowance of a wider scope for government action than (say) a Rothbardian would.

But I question whether the attitude toward control of drugs and gay marriage, even on the local level, that Ebenstein discusses can be supported on Hayekian principles. To quote

from “Why I Am Not a Conservative”: “Liberalism [Hayek’s term for his own position] is not averse to evolution and change; and where spontaneous change has been smothered by government control, it wants a great deal of change of policy . . . [T]here is in the present world very little reason for the liberal to wish to preserve things as they are. It would seem to the liberal . . . that what is more urgently needed . . . is a thorough sweeping-away of the obstacles to free growth.” For very solid reasons, most libertarians think that quick change in laws related to drugs, sex, and marriage is perfectly Hayekian and perfectly libertarian.

While Ebenstein uses Hayek as an example of a wise, gradualist libertarianism, Hayek himself argued for a liberal radicalism that “is not too severely practical and which does not confine itself to what appears today as politically possible.” That has been the dominant spirit of modern libertarianism — which has mostly been what Ebenstein segregates as “Left libertarianism.”

Let us say that libertarians are in many cases children of Hayek who mutated the antistate gene for stronger expression. But if Dr. Ebenstein is willing to let both sides of the divide he limns be named “libertarian,” then so be it. (Certainly, there is more to the intellectual game of figuring out the implications of Hayek’s thought than merely quoting Hayek, particularly the Hayek of the 1980s, whose active, sharp intellectual life was largely over.) As to the unquestionable tensions that remain between Hayek and the larger libertarian tendency, I am grateful for Ebenstein’s efforts in clarifying our thinking on what we are talking about when we talk about libertarianism.



Bruce Ramsey’s review provides less for me to argue with. I especially appreciated the skilled and knowing way in which he brought out the flavor of the book and its characters. This is sadly rare in professional reviewing, where all too often a book is assigned, believe it or not, to people with no demonstrated knowledge or even interest in the topic. An author always wants reviews of his books to stand alone as interesting essays, hoping that the reader will imagine that the book which launched the review is similarly interesting. And Ramsey’s review stands alone as a great summoning of the spirit of the libertarian movement, circa the early 1970s.

It’s a glorious thing to grapple with a reader who is deeply learned in your topic, and fascinated by it. Of course, with the glory may come the painful experience of the disagreements and second thoughts of the learned and thoughtful reader.

I’ll take on a few disagreements.

The “three furies” phrase is a chapter title, and is by no means the only clue I give to the personalities of Isabel Paterson, Rose Wilder Lane, and Ayn Rand. Their stories are told over the course of dozens of pages of the book. If Ramsey thinks it inaccurate to call Lane a “fury,” well, no one phrase comprehensively defines these complicated women’s characters. But the Rose Lane who stars in the anecdote on page

*continued on page 34*

# Borking Up the Wrong Tree: Conservatives and Judicial Activism

*by Timothy Sandefur*

The judicial philosophies of Robert Bork and Stephen  
Breyer aren't that far apart.

Ask a conservative — or even, nowadays, a liberal — what the biggest problem in constitutional law is, and he'll probably answer "judicial activism." With recent court decisions upholding certain types of affirmative action, legalizing gay marriage, and banning the death penalty for criminals who committed murder before turning 18, it's not surprising that Americans look at courts with some suspicion. Recently, a series of books with titles like "Men in Black: How the Supreme Court Is Destroying America" and "The Constitution in Exile" have brought even more attention to the power of the judiciary.

It's undeniable that courts have sometimes overstepped their bounds, causing terrible damage to America's social and political institutions. Yet the conservative campaign against "judicial activism" is profoundly misguided.

Instead of calling for restricted judicial power, Americans ought to demand that judges act in defense of constitutional principles, even when doing so means striking down politically popular legislation.

Conservative misunderstandings of the judiciary are largely the fault of Robert Bork, the federal judge who was denied a seat on the U.S. Supreme Court in 1987 and went on to write such influential books as "The Tempting of America: The Political Seduction of the Law." The theme of his writings is that the judiciary is exceeding its constitutional boundaries and forcing liberal social theories on the nation through such judicial doctrines as "substantive due process" — the courts' power to declare a law unconstitutional for violating the 14th

---

Amendment's "due process of law" clause. The judiciary, Bork argues, should exercise greater "restraint" and respect the original intentions of the Constitution's authors.

But despite his own claims to respect them, Bork's ideas have almost nothing to do with their actual views, and his criticisms of judicial excesses are, in reality, attacks on the Constitution itself.

Consider, for example, Bork's assault on judicial review. He has repeatedly attacked the court's power to declare laws unconstitutional, even calling the famous 1803 *Marbury* decision — in which Chief Justice Marshall first held a law to be unconstitutional — "intellectually dishonest" and an example of judicial "misbehavior." He has even proposed amending the Constitution "to permit the overruling of Supreme Court decisions by the full Congress or by the Senate."

These arguments are disturbing, first because they demonstrate a basic ignorance of the founders' ideas, and second

because they embrace a principle that the founders explicitly rejected: the idea that the majority is always right.

The power of “judicial review” existed long before the *Marbury* decision. Fifteen years earlier, Alexander Hamilton had explained the principle in the Federalist Papers. The Constitution embodies the will of the people, he wrote, but a

---



---

*Bork's ideas have almost nothing to do with the founders' actual views, and his criticisms of judicial excesses are, in reality, attacks on the Constitution itself.*

---



---

law only embodies the will of a particular legislative majority at a particular time. When the two come into conflict, therefore, the judiciary is *enforcing* the will of the people — not subverting it — when it declares the law to be void. “To deny this,” he concluded, “would be to affirm, that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid.”

But Hamilton did not imagine that the will of the people was always correct. America's founders believed that there were standards of right and wrong, justice and injustice, by which constitutions and laws could be judged. Bork, by contrast, has argued that majority will is the very definition of justice. In “The Tempting of America,” he claims that America's “Madisonian system” means that “in wide areas of life majorities are entitled to rule, if they wish, simply because they are majorities.” Yet this is the exact opposite of what James Madison and other founders believed. In their view, majorities were *never* “entitled” to rule — instead, they were *authorized* to rule, and there were moral and political limits to the authority under which they acted.

“The sovereignty of the society as vested in & exercisable by the majority,” wrote Madison, “may do anything that could be *rightfully* done by the unanimous concurrence of the members; the reserved rights of individuals (of conscience for example) in becoming parties to the original compact being beyond the legitimate reach of sovereignty, whenever vested or however viewed.” In other words, there are some things that no government — whether a monarch or a majority — may ever justly do to us. The same principle appears in the Declaration of Independence, which explains that the states may “do all other Acts and Things which Independent States may of *right* do” — not anything they want; but only those things that are rightful.

Bork has been particularly outspoken in attacking the idea of natural rights. For him, individual rights are not the natural rights that America's founders considered to be the moral

entitlement of every person. Rather, he regards rights as simply permissions that society grants to individuals for society's own reasons. Since the majority is entitled to rule as it wishes, it can grant, withhold, or revoke rights as it wishes. In such cases, judges should not block the majority's preferences.

The only rights that deserve judicial protection, Bork claims, are those explicitly listed in the Bill of Rights — although this argument is clearly foreclosed by the Ninth Amendment, which stipulates that people possess “other rights” than those listed. Yet when confronted with this point, Bork has asserted that “there is almost no history that would indicate what the ninth amendment was intended to accomplish” — which is simply not true. Randy Barnett and other legal scholars have established beyond doubt that the Ninth Amendment was intended, in Madison's words, to protect certain rights without “imply[ing] powers not meant to be included in the enumeration” of federal authorities. By declaring that the Bill of Rights is not an exhaustive list, the founders hoped to avoid precisely the sort of misinterpretation that Bork has proudly adopted.

Another important part of Bork's theory is his attack on “substantive due process.” This is the notion that some things are off-limits to government under any and all circumstances, because those things would not qualify as “due process of law.” Bork claims that the idea originated in the infamous decision in *Dred Scott v. Sandford*, where the Supreme Court used it to uphold the constitutionality of slavery. Since that day, he claims, courts have been using substantive due process to declare that laws they don't like are unconstitutional. Bork's argument on this point has been so influential that President Bush referred to it during the 2004 presidential election debates. Yet the argument is almost entirely false. *Dred Scott* was not about “substantive due process” but about Congress' power to ban slavery in the western territories. In fact, the “due process” clause was mentioned in only a single sentence of that 60-page opinion.

The Bill of Rights forbids government from depriving people of life, liberty, or property without “due process of law.” But this does not mean that the legislature can do what it likes simply by passing a law to that effect. Legislatures can sometimes do things that lack the elements of justice, equal

---



---

*The danger of wrongly upholding a law is far greater than the danger of wrongly declaring it void.*

---



---

ity, and generality that make something a law instead of a mere command. As the Supreme Court put it in 1874, a legislative enactment that takes property from one person and gives it to another simply because the government likes one person more than another might be “done under the forms of law” but still “is not legislation. It is a decree under legisla-

# A NEW BOOK BY LIBERTARIAN WRITER

## DAVE DUFFY

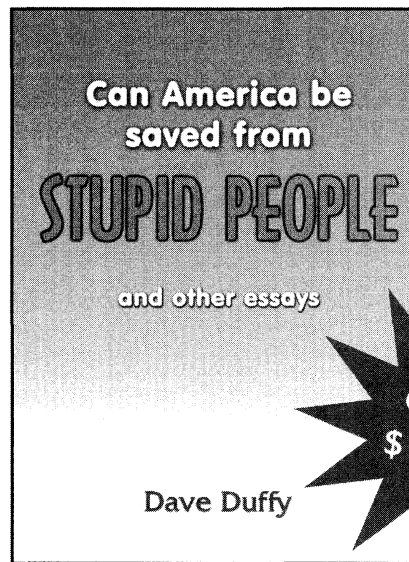
Fifty-eight eloquent and powerful essays have been collected in this must-read anthology.

Open this volume anywhere and read just a few paragraphs. You'll have trouble putting this book back down.

"...but the topic of stupid people can no longer be ignored, because for the first time in history stupid people have more political power than anyone else, and the consequence of allowing them all that power now looms like the shadow of doom over America." — page 13

"...As it has always done, somehow Government, like some monster from the past, has again outwitted the freedom-loving masses and has convinced them that they don't need protection from Government, but from everything else. And so the age-old beast our founding fathers had tamed is once more banging at our door." — page 145

"...Burglars, and all criminals whose deeds risk violence, destroy parts of society. They are like arsonists, setting little fires all over the place, burning down what the rest of us try to build up. We build hope for the future, and they burn it down." — page 233



Order now and receive a **FREE 1-year subscription to *Backwoods Home Magazine*, a \$23.95 value!**



Please send my book and free subscription to:

Name \_\_\_\_\_

Address \_\_\_\_\_

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

- Check enclosed for \$19.95
- Bill my credit card:
  - Visa
  - MasterCard
  - Discover
  - American Express

To order your copy of  
***Can America Be Saved From Stupid People***  
Call 1-800-835-2418 or 541-247-8900  
Order online at [www.backwoodshome.com](http://www.backwoodshome.com)  
Mail check to  
**BHM, PO Box 712, Gold Beach, OR 97444**

Card # \_\_\_\_\_

Expiration Date \_\_\_\_\_

CVV2 (usually the 3 digit number on signature line) \_\_\_\_\_

Phone (required for credit card orders) \_\_\_\_\_

tive forms." And since it is not law, such a "decree" deprives the victim of the "due process of law."

The due process clause therefore requires government to act in the service of general public goals, treating like cases alike, without using its powers as a pretext for benefiting powerful or influential private interests. These requirements — that the law treat like cases alike and different cases differently — are probably the most important distinctions between a rule of law and a rule of men. Ever since the requirement and the theory behind it were first explained by an American judge — in the 1798 case of *Calder v. Bull* — it has been an important mainstay of American government. Yet Bork claims that "there could be no intellectual structure to support this concept of substantive due process."

In the end, Bork's argument is that majorities are virtually always right under the law, and that minorities should have no constitutional defense except to lobby the legislature to change its mind. This theory is strikingly similar to the views of Supreme Court Justice Stephen Breyer, whose recent book "Active Liberty" also argues that courts should almost never interfere with the majority's power to enforce its will on individuals.

The "active liberty" to which Breyer's title refers is "what [Benjamin] Constant called the people's right to 'an active and constant participation in collective power'" — that is, in practice, the ability of some people to use government's power to enforce their desires on others, who may not agree. Because this type of "liberty" is more important than the individual's right to be free from interference, says Breyer, judges ought to exercise "modesty," meaning that they must defer to legislative decisions in all but the most extreme cases, and even then only in the service of "participatory self-government."

In some cases, Breyer's "modesty" would even allow judges to ignore the Constitution's explicit language. Take the First Amendment, for example, which declares that Congress "shall make no law . . . abridging the freedom of speech." While some might interpret this as meaning that Congress cannot enact a law that will abridge freedom of speech, Breyer offers a more "democratic" view, one that dispenses with "rigid or fixed" or "too mechanical an application" of the First Amendment. The argument goes in this way: the purpose of the First Amendment is to foster the sort of debate that is necessary for democratic decision-making. Therefore,

---

*Breyer and Bork share the wolf's definition of liberty: that politicians have a fundamental right to control other people's lives.*

---

campaign finance laws — which clearly abridge freedom of speech by forbidding individuals to promote their political views in the public square by means of campaign contributions, or even by barring them from making political

statements themselves — can be justified in terms of broad "democratic" goals. Moreover, because the First Amendment "facilitate[s] a conversation among ordinary citizens that will encourage their informed participation in the electoral

---

*By declaring that the Bill of Rights is not an exhaustive list, the founders hoped to avoid precisely the sort of misinterpretation that Bork has proudly adopted.*

---

process," it is even conceivably justifiable for government to limit some speech and promote other speech that politicians believe is underrepresented in the public square.

All these errors originate in Breyer's belief — shared with Bork — that the Constitution's primary purpose is to empower "citizens to govern themselves and to govern themselves effectively." Bork and Breyer regard this "right" as an end in itself. In a speech he gave at Princeton University in April 2006, Breyer claimed that "the most important part" of the Constitution, and "what it's about," is "democracy." This would have come as a shock to the authors of the Constitution, who did not even use the word in the document. Instead, they described their purpose as securing "the blessings of liberty" — the individual's freedom to pursue happiness free from interference by others.

Three score and eleven years after they wrote the Constitution, Abraham Lincoln noticed a serious problem with American political dialogue. "We all declare for liberty," he said, but for some the word "may mean for each man to do as he pleases with himself, and the product of his labor; while with others the same word may mean for some men to do as they please with other men, and the product of other men's labor. . . . The shepherd drives the wolf from the sheep's throat, for which the sheep thanks the shepherd as a liberator, while the wolf denounces him for the same act as the destroyer of liberty. . . . Plainly the sheep and the wolf are not agreed upon a definition of the word liberty."

The liberal Breyer and the conservative Bork share the wolf's definition of liberty: they believe that politicians (and the people they supposedly represent) have a fundamental right to control other people's lives, and when the judiciary interferes on behalf of one of the people whom they wish to control, it is exceeding its proper scope.

University of Pennsylvania law professor Kermit Roosevelt III has offered a more reasoned view of the judiciary in his book "The Myth of Judicial Activism." But while Roosevelt, a liberal, avoids some of Bork's and Breyer's more extreme arguments, he also fails to understand the proper role of the judiciary in America's constitutional system.

According to Roosevelt, courts ought to stay out of most issues because legislatures are better equipped to weigh the



costs and benefits of legislation, and because when legislatures act wrongly, the voters can “throw the bums out.” Courts should strike down laws only when a “defect in democracy” has caused the legislature to act on irrational prejudices or “reprehensible” motives.

This argument rests on a naive view of the actual workings of legislatures. Astonishingly, Roosevelt never mentions what Madison called the problem of “faction”: the tendency of politically influential groups to exploit legislative power for their own benefit, often under the guise of social improvement. Modern economists call this problem “rent-seeking.” Whenever government can help one group, while hurting some other group, every group finds it worthwhile to put time and energy into trying to persuade government to act on its own behalf. The more someone stands to gain from a government subsidy, the more he or she will spend trying to get it. As Madison wrote, factions “united by a common passion or interest” will try to use government power “to sacrifice the weaker party or an obnoxious individual.”

Roosevelt’s failure to mention the problem of faction is especially remarkable in light of the fact that the judiciary has always been seen as an extra layer of security against this kind of legislative overreaching. Perhaps he is silent on the issue because discussing it would require him to acknowledge that the judiciary should protect economic freedom and property rights more than it does today. Under current law, courts are much less serious about protecting economic rights than they are about protecting certain so-called “fundamental” rights, such as freedom of travel and the right to an abortion. Roosevelt acknowledges that there are cases in which minorities are at an unfair disadvantage in the legislature, and that they deserve greater judicial protection, and he cites the obvious examples — cases of racial or sexual discrimination. Yet he refuses to acknowledge that entrepreneurs and property owners are often in the same position. He assumes that legislatures can be trusted to act for society’s welfare when it comes to these subjects, but that would come as news to workers whose livelihood is stifled by oppressive occupational licensing laws, or to business owners who must spend priceless hours negotiating the state’s regulatory maze, or to home and business owners who discover that their property is going to be seized through eminent domain to make way for a new shopping center. As law professor Robert McCloskey once put it, entrepreneurs “are about as impotent a minority as can be imagined.” To “speak of their power to defend themselves through political action is to sacrifice their civil rights in the name of an amiable fiction.”

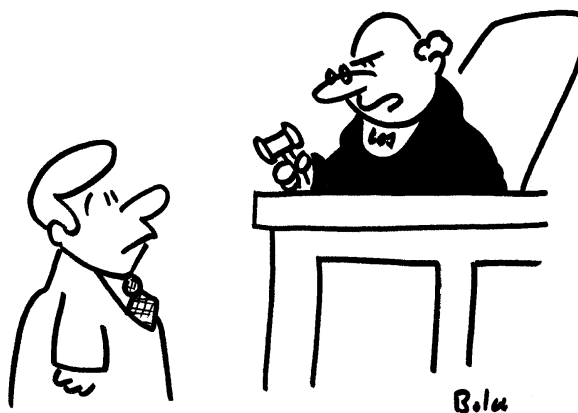
Even more remarkable is Roosevelt’s offhand claim that “a decision erroneously striking down a law is harder to correct than a decision erroneously upholding a law.” The reality is just the opposite: the danger of wrongly upholding a law is far greater than the danger of wrongly declaring it void. Compare any two cases from the list of bad, or allegedly bad, decisions. *Lochner v. New York* is widely regarded (though not by Roosevelt) as one of the worst instances of judicial activism. It struck down a law prohibiting bakers from working more than ten hours per day, or 60 hours per week, as a violation of “substantive due process.” But its outcome hardly compares with that of such notorious cases of judicial over-

restraint as *Buck v. Bell*, in which the Supreme Court declared it constitutional for the state of Virginia to forcibly sterilize Carrie Buck and other people whom the state regarded as “unfit” to have children.

When a court declares a law unconstitutional, it is simply saying “no”: the law has exceeded the boundaries of the Constitution. Sometimes that is harmful, but the legislature usually retains the power to enact a different law to accomplish the same purpose. On the other hand, when a court upholds a law, it often deprives an individual of his rights irrevocably. If we take seriously the proposition that the law should err on the side of protecting the innocent, we cannot justify Roosevelt’s presumption in favor of upholding doubtful legislation. But because Roosevelt shares the wolf’s definition of liberty — and the view that the Constitution is primarily aimed at preserving democracy, rather than freedom — he focuses only on the powers of the legislature, rather than the freedom of the individual.

Bork, Breyer, and Roosevelt all overlook one of the most important lessons the framers taught: that individual rights come first, and that when government deprives us of our rights, it should be required to give a good reason for doing so. The Declaration of Independence explains that all men are created equal, endowed with certain rights, and that “governments are instituted among men” for the purpose of securing these rights. The powers of these governments are derived from the consent of the governed, and whenever government becomes destructive of rights, the people may alter or abolish it, and create new safeguards. The ontological order could not be clearer: individual rights come first, government comes second.

Of course, there are cases in which courts have gone far beyond their legitimate bounds. In *Guinn v. Legislature* (2003), the Supreme Court of Nevada issued an order commanding the legislature simply to ignore the state constitution’s requirement that any tax increase receive approval from two-thirds of the lawmakers. The court ordered the legislature



“‘Been there, done that’ is *not* an acceptable plea!”

to “proceed expeditiously . . . under simple majority rule.” This ruling, the judges claimed, was justified because public schools were provided for in the state constitution, and a legislative impasse on tax increases was preventing funding for those schools. “When a procedural requirement that is general in nature prevents funding for a basic, substantive right,” they concluded, “the procedure must yield.”

This decision — which the Nevada Supreme Court overruled only three years later — was so inexcusably contrary to centuries of constitutional law that it is difficult to describe it as anything other than judicial activism, motivated by a desire to accomplish a particular result despite directly contrary constitutional language. Yet the decision seems perfectly consistent with the pro-democracy theories of Bork, Breyer, and Souter. After all, the two-thirds vote requirement has been criticized by many for interfering with majority rule. The *Guinn* decision itself declared that it was “concerned with the interest of preserving the democratic process. A majority of legislators, representing a majority of the citizens of this state, make decisions on the services to be provided and the future of the state. . . . Where these matters have been discussed and duly voted upon, the Constitution requires that the decision of the majority be respected.”

What the *Guinn* case shows is that the judiciary can abuse its powers through omission as well as commission. Judges can corrupt the constitutional order, and violate the rights of individuals, precisely by giving too much scope to legis-

lative majorities, or by advancing “basic democratic objectives” in the face of constitutional limits.

In discussing the role of courts, what Americans ought to insist on is not a more *restrained* judiciary. After all, is there a better example of a “restrained” judiciary than the recent *Kelo* decision, in which the Supreme Court allowed legislatures to seize private property and give it away to politically influential developers? A “restrained” judiciary just gives government more power to interfere with our freedoms. What citizens should demand, instead, is that judges focus first and foremost on the constitutionally protected freedoms of individuals. Giving legislatures more room for “democratic” control over individual freedom does not fulfill the judicial duty — it abandons it, because the judicial duty is to defend the Constitution, especially against legislative encroachments.

The Constitution, and the Declaration that underlies it, embody the shared principles of the American people: principles deeply rooted in individual freedom. Today, the legislature, executive, and judiciary all routinely disregard these principles in the name of “higher goods” or “necessary” expedients, rationalizing their infidelity on the ground that whatever the majority wants is right. This must not be allowed to continue. A principled return to our nation’s commitment to “the blessings of liberty,” as a guidepost to our future, will be a long, hard struggle, but one very much worth the effort. □

---

## Where Libertarians Come From, *from page 28*

---

132 of my book, in which she thunders to a young cop sent to investigate her for potential sedition because she wrote on a postcard her objections to Social Security (both she and Paterson refused money from the program): “Then I’m subversive as all hell! . . . I say this, and I write this, and I broadcast it on the radio, and I’m going to keep right on doing it ‘til you put me in jail. Write that down and report it to your superiors!” — this Rose Lane had some of the fury about her. At any rate, people who read the whole book, not just the chapter titles, will get a pretty thorough sense of what type of writers and thinkers these women were.

On one of Ramsey’s other points: perhaps I do sometimes assume too much background knowledge of people whom I found it necessary to refer to, without thoroughly explaining — people such as Wilhelm Reich, the post-Freudian radical psychiatrist, whom libertarian science fiction writer Robert Anton Wilson doted on. It is difficult to balance too much information against too little, and certainly for specific readers one will always find oneself erring one way or the other. (But “techno-optimism” is explained, I think, at sufficient length in the epilogue.)

I disagree that I should have left out my survey of pre-20th-century precursors of libertarianism. I wish I’d had space to discuss more of them, and in more depth. Libertarianism did not arise Athena-like from the brow of my book’s five central 20th-century characters, Mises, Hayek, Rand, Rothbard, and Friedman, and I think it important for the reader to have at least some sense of that.

Ramsey’s last paragraph offers a particularly wise, kind, and ecumenical take on the topic of libertarian internal warfare, one that I know I’ll be thinking about, and quoting, in the future. It provides a fitting capstone both to Ebenstein’s parsing of libertarian differences and to my own issue-taking with Ebenstein.

Warriors for liberty inevitably have different personalities, different intentions, different goals, different time horizons. This is as it should be, because the audience for the message of liberty — the educational mission that has been at the heart of the active libertarian movement since Leonard Read launched the Foundation for Economic Education in 1946 — is similarly varied. When contemplating the libertarian movement’s past and future, it is wise to accept and even to celebrate the division and the variety of labor.

While I have this forum in *Liberty*, I want to honor both the magazine — in whose pages I learned much of the general shape and tenor of the movement’s history and its great figures — and the memory of the man who gave me my first gig as a “professional libertarian,” as an intern at *Liberty* in 1990. He was the first person thoroughly educated in movement history whom I had the pleasure of spending a lot of time with: this magazine’s founder, R.W. (Bill) Bradford. Bill would undoubtedly have written a very detailed and thoughtful and certainly very critical review of my book. I wish to hell that I — and the rest of the world — were able to read, and learn from, and pleasurably argue about, everything he’d tell me was wrong with it. □

# The Founding of The Party

by John Hospers

A founding father of the Libertarian Party reveals  
what it was like at the start.

A few months ago, at a libertarian-related meeting in Los Angeles, a man whom I remembered by face but not by name sought me out: “Don’t you remember me? I was with you at the first Libertarian Party convention.”

It was not the first time I had been greeted in this way — although it doesn’t happen often anymore. Memories are fading with the passage of years. Yet I have been told that someone should write a record of those exciting three days in which the national Libertarian Party was formed. I had no plans to try to write such a record, and held off for years waiting for an observer, rather than a participant, to write it, in the interest of greater objectivity. Finally I was pressed by the editor of *Liberty* to take on the job. In doing so I will write only my impressions and recollections of the convention, with no claim to getting it all quite right.

Political activist David Nolan founded the Libertarian Party of Colorado in 1971, in a meeting in his living room in Colorado Springs with his associate Pip Boyles. Later he sent letters to a few hundred people who had shown interest in a nationwide get-together of libertarians and the possibility of organizing a national party. He invited all members of this undefined group to meet on a June weekend in 1972 in the Radisson Hotel in Denver — an ordinary middle-class hotel, with a big ballroom in which meetings could be held. Nolan had no idea how many people would show up. Fewer than a hundred people did.

I had attended some meetings of the recently formed California Libertarian Party in Los Angeles — just a few dozen of us who met to discuss issues. We were encouraged that a

---

national meeting was being organized, and some Californians were among those assembled in Denver the following June. Bill Susel, who had got me into the California Libertarian Party, insisted that I make the trip to Denver too. On arrival, I found that the interests of the group varied considerably, but we shared a contagious enthusiasm for the task. Anyone visiting the Radisson Hotel today could have no conception of the atmosphere of excitement and anticipation that pervaded the ballroom during the convention.

One thing was soon evident: there were not many anarchists in attendance. After all, it was a *political* party that was being founded. The most famous anarchist, Murray Rothbard, wanted no part of a national party and was not present at the convention. He joined a year later, and for many he became Mr. Libertarian, a title he well deserved in view of his numerous writings on libertarian themes.

The meetings, which went on for three days, were chaired by Nolan and his wife; she took over when his voice gave out.

Both were very adept at parliamentary procedures, and properly took a no-nonsense approach to those who wanted to hog the discussion.

The main problem on which time was spent was the party platform. A platform committee was organized by Pip Boyles, who did an excellent job, and issue after issue was discussed

---

*There were not many anarchists in attendance. After all, it was a political party that was being founded.*

---

in open session. Foreign policy was not emphasized; the nature and scope of the United States government received most of the attention.

The first problem was what activities the government should stay out of, and why, and to what extent? Then, what constitutes a right, and how far do such rights extend? What should replace the growing welfare state? Should there be taxation, and if so, for what things? What should libertarians have to say about roads, railroads, and transport in general, in relation to government regulation? And the same in regard to public utilities, rental properties, prescription drugs? Should dangerous drugs be regulated? Which matters should be left to the states (age of consent? traffic rules?), and which to each person's individual judgment? These issues, and more, came to be discussed at length, pro and con, in the pages of *Liberty*.

Issues that didn't come up on the convention floor were discussed in small groups, meeting informally after dinner. These were the most enjoyable times of all for me. We would sit on the patio in the summer evening, clad usually in sandals and shorts, and chart the course of the world we wanted to bring about.

The theme that most concerned me was the hope of achieving a truly limited government. Suppose a government begins by being limited by its constitution. How can it remain limited? Neither education nor religion is mentioned in the original U.S. Constitution, but government easily intrudes into such areas. Most of us were well aware that when the government intrudes in one area, the scope of its involvement always expands: one interference follows another, in a seemingly endless sequence: "We need a law for this"; "That has to be regulated." Finally the government controls most of the activities we once thought were voluntary.

Some of the delegates had read books by Ludwig von Mises, the great libertarian economist; but the vast majority of them had read Ayn Rand's novels, particularly "Atlas Shrugged," in which she laid out in fictional form a full-fledged political philosophy. Her work was cited again and again during the convention. I myself had been greatly influenced by discussions with her, over a period of several years, in her apartment in New York. Without Ayn Rand I would not have been at this convention.

During the late '60s I had been writing a book, "Libertarianism." It had been published in September 1971, while I was spending two weeks in the Soviet Union. Many of my experiences there inspired my strongly anti-Soviet stance. (I later wrote about this trip for *Reason*, which was only three years old at the time.) Some of those at the convention had read all 450 pages of my book, and had copies with them, which they quoted on the floor of the convention to establish or refute a point. I think they had no idea I had written other books.

The convention agreed that the people present should try their hand at composing a Statement of Principles, briefly presenting libertarian ideas. Many obliged, and read their proposed statements aloud to the assembled group. Some of these authors did so at great length. One person's statement was more than a dozen pages long, and at least half of it was devoted to a lengthy condemnation of altruism (Ayn Rand's *bête noire*). There were several other lengthy ones, all of them influenced by Rand.

I had been influenced by her too, but I limited my proposed statement to a few brief sentences, in which I hoped to match, in some way, the style of the Declaration of Independence. This was the statement that won the convention's majority vote, and except for a sentence on property rights, added (with my approval) by journalist Tonie Nathan of Oregon, and a few verbal changes instituted during the next LP convention (Dallas, 1974), it remains the party's Statement of Principles.

By the afternoon of the third day, most of us felt satisfied that something had been achieved. But one task remained, a task on which not everyone was agreed — the nomination of a candidate for president of the United States.

None of us thought very highly of Nixon, nor did we care much about big-government McGovern. Wouldn't it be nice if we could vote for a libertarian for president?

I was neutral on the matter of whether to run a candidate or not; I could see the arguments on both sides. Some of the members felt that such an action would be insanely premature. We didn't want the party to descend into political wran-

---

*MacBride disclosed to me that he had been nominated by the Republican Party as a member of the Electoral College for the coming election, and that he would switch his vote from Republican to Libertarian.*

---

gling like the others, and most important, we had just started out, and nobody knew that we even existed. Still, what did we have to lose? Others might hear about us in time. And if that happened, there would have to be a name at the head of the ticket.

There were several names put into nomination for president, including mine. As a result of the voting, I was selected

as the presidential candidate, and (as I was delighted to see) Tonie Nathan was selected as the vice-presidential candidate.

That I was nominated had little to do with my qualifications or lack of them. The convention wanted a "respectable" candidate, who wouldn't strike the public as a pompous fool or an ignoramus. They didn't really know me; they had no idea whether I could generate votes for the new party, and neither did I. But they did know that I was chairman of the philosophy department at the University of Southern California, and perhaps this was qualification enough.

I had given countless lectures and participated in countless discussions, but they were in a classroom setting, as teacher to students. I had never really ventured into the Great Wide World outside. As the delegates cheered their new presidential candidate, my positive emotions (joy? gratitude?) were combined with a considerable measure of dread: could I possibly live up to these expectations? But I was willing to give it a try.

When I arrived at the Los Angeles airport at midnight after the last day of the convention (my 3-year-old nephew had been taken from his bed to the airport so that in later years he could recall the event with his Uncle John), the dread had not been dispelled from my mind, though it was gratifying to be cheered on by so many people I had not known before. I sensed at once that this was a Big Departure in my life. Previously, teaching and writing; but from now till the presidential election five months away, a different life, dominated, as it turned out, by media interviews and live speeches, and trips to about a dozen states of the Union.

Gradually, I became adjusted to "speaking to the multitudes" and to fielding hostile questions from the media. What was most difficult for me was to keep my responses uncomplicated, and not to question mistaken presuppositions in the questioner — a degree of acquiescence in ignorance and stupidity that would never have passed muster in a classroom. Some questions demanded far longer answers than the questioner thought were needed, but I had to learn to shorten my replies.

I learned not only to inform but also to *move* an audience to feel as I did about an issue — especially about the extreme importance, to all of us and to the world in general, of the mortal danger of allowing government to make our decisions for us. I would often cite the historical record; and although some audiences were appallingly ignorant of the historical examples I used to illustrate the points I raised, time after time they remembered the examples even after they forgot the principles they were designed to illustrate.

About a month before the national election I received a phone call from Dave Nolan, about a call he had just received from Roger MacBride. I had never met MacBride, but I knew his name as a friend and inheritor of the libertarian writer Rose Wilder Lane. Roger disclosed that he had been nominated by the Republican Party as a member of the Electoral College for the coming election, and that he would switch his vote from Republican to Libertarian — i.e., that he would give

his electoral vote to Tonie and me. But it was a big secret, to be told to no one, for if the Virginia electors heard of it they would surely drop him as an elector. So absolutely no one except Tonie and me would know of this.

It was quite a surprise, of course, and we kept the secret. On the appointed day in December, Spiro Agnew as vice-president fulfilled his constitutional duty by announcing the results of the election — the votes for Nixon, then the votes for McGovern, and then, apparently to his own surprise, he read, "and one electoral vote for John Hospers as president and Theodora Nathan as vice-president" (of course, he didn't know her nickname, Tonie). Millions of radio and television watchers heard these words, and the news came to everyone as a complete surprise. Members of the recent convention were surprised as well, and I started to receive phone calls and letters of congratulation. Obviously, I was delighted, and it seemed to me that my various

audiences began to take the libertarian message with greater seriousness.

"Beware," runs a libertarian motto; "the government is armed and dangerous." I believe some libertarians get this wrong: the government *has* to be armed, in order to be able to defend our rights. But it has to be dangerous only to those who would attack and destroy — and a thin line may separate those who would defend us from those who would destroy us. In a trice the first can turn into the second. We may not even know at the time that this fatal transition has taken place. It does not require a sudden coup d'état, only a sustained public indifference, a fatal habit of thinking: "let the government take care of it." What government can do for us, it can do against us. Eternal vigilance is, as always, the price of liberty.

But there is joy in that vigilance. Let me return for a final moment to my encounter with the participant in that first convention. "Do you want to know something?" he asked. If nothing else of consequence had been accomplished at the event, his words alone would have made the convention memorable for me. "Those were the most exciting three days of my life." □



John Hospers, 1972

# A Generation of Slackers

by Michael Christian

Growing older and growing up don't go together anymore.

"No grown-up hierarchy." "No ambition." "No responsibility." "The new, super-prosperity." "Forty-something is the new eight." For a couple of years these ideas have been tugging at a loose thread in the fabric of my mind. They are part of a phenomenon that I'm trying to identify.

I and most of my friends don't feel like real adults. In our 40s now, we still feel like impostors, children in adult bodies. Indeed, some of the adult bodies are looking pretty youthful, having avoided hardships and physical labor. Our age is supposed to slow us down. That hasn't happened yet. I'm cycling 200 miles a week, often with state-champion bike racers. One of my friends is an amateur bullfighter, and a good one. My friend from junior high school, now pushing 50, recently ran the Boston Marathon, nearly beating his personal record, set 25 years ago. But it's our lack of responsibility, not our fitness, that most makes us childlike.

## No Grown-Up Hierarchy

Where Los Angeles goes, other cities follow. When I moved to Los Angeles in the mid-'80s, I had just spent three years in Boston, a city that I found to be socially regimented. It had college kids and townies and bankers and Brahmins. The hierarchies seemed to have been reliably defined for a long time. It had grown-up industries, like insurance and banking. It was a grown-up town.

Los Angeles was different. I worked downtown in a big law firm. I lived downtown. My firm had plenty of serious business to work on — billion-dollar deals. Yet it had nothing at all to do with what many Angelenos think their town is all about: "the industry." You had to go to the west side for that. Many people living on the west side of Los Angeles never went downtown, ever. They didn't even know what happened downtown. From the Hollywood perspective, I didn't

---

really live in L.A. Plenty of other industries had nothing to do with "the industry" — computer businesses, small manufacturing, the garment district, Korea town. Even on the fringes of the movie industry, many of the participants didn't give a fig for the industry hierarchy.

Think about the hierarchies of earlier generations. When I was a child in age, not just in mind and spirit, a successful adult man was probably a "company man." I never saw any of those in Los Angeles.

In L.A., nobody rules the roost. I like that. There are so many hierarchies running in parallel that there may as well be no hierarchy at all. Los Angeles is a city that heeds the hippie directive: do your own thing! Of course most people end up doing things that the hippies would not have approved of.

## No Ambition

One of my law firm's clients was a very young businessman, a boy really. A few years before I met this fellow, his father was at wit's end. The boy had no ambition and no job. To inspire the boy, his father bought a little bottling plant. I think it was somewhere in or near New York. The boy began to bottle and brand alternatives to popular sugary, sweet, car-

bonated beverages. His beverages too were sugary, sweet, and carbonated, and they were called "Original New York Seltzer." Dad, who used to be in the beer business, helped with distribution. The brand took off. After capturing close to 5% of the soda pop market nationwide, father and son sold the business for several tens of millions of dollars. The boy threw a huge party with his pet mountain lion on display along with a busload of breast-augmented female humans.

The phenomenon that I'm trying to identify goes well beyond what I saw in Los Angeles in the late '80s. It involves dropping out more convincingly. I believe that a certain

---



---

*Our economic freedoms and the energy and innovations that they release have produced so much material wealth that it doesn't just trickle down; it spills over.*

---



---

minority of the U.S. population has realized, consciously or not, that work (at least serious, staid, consistent work) is no longer necessary. I myself became one of those people in the most cowardly and backward way: I worked diligently until I had enough to retire early. I still get honors for being a half-assed slacker, because I was never a careerist or company man, and when I thought I had enough to retire, I retired. Without some slacker bones in your body, you would just keep working and spending more or saving more.

Along the way, before retiring, I took baby steps toward this new slacker attitude. After law school, I dramatically and irresponsibly changed jobs two or three times, badly injuring my career. The wounds to my career were real enough. Unlike many of my classmates, I did not become a partner in a big law firm. I expected the wounds to affect my prosperity too, but they never did. I prospered. In the short run, I prospered more than they. Then I just stopped. I had enough prosperity to try something else.

### **No Responsibility**

My generation takes comfort for granted. We didn't get drafted. We didn't go to war. We didn't have an economic depression. We didn't have a civil war. We didn't have a revolution or a plague. Many of us didn't get married or have children. I don't even have a mortgage or a dog. This lack of responsibility, combined with prosperity, leaves us free to ponder deeper things, such as what movie to rent tonight.

### **Forty-Something Is the New Eight**

Given the opportunity to persist in childhood, most folks will do just that. More and more people are living in a perpetual childhood. They don't knuckle down. They goof off. They develop deep hobbies. My wife and my closest friends are an underemployed actress, an unemployed former schoolteacher, a bullfighting instructor, and a law professor — all middle-aged, all goofing off (no, "law professor" is not a real

job). That's why I say, "forty-something is the new eight."

Youth need not be wasted on the young. As a boy I spent my time reading, dreaming, riding my bicycle, and playing with my chemistry set. Now, at 46, I spend my time reading, dreaming, riding my bicycle, and fermenting wine in my garage.

### **The New, Super-Prosperity**

In the 18th century, John Adams prophesied, "I must study politics and war, that my sons may have the liberty to study mathematics and philosophy, geography, natural history, and naval architecture, navigation, commerce, and agriculture, in order to give their children a right to study painting, poetry, music, architecture, statuary, tapestry and porcelain." We live in the age of porcelain and skateboarding.

There is a lot of prosperity going around. And you don't have to be prosperous to benefit from it. The Motley Fool, an investment website, says: "Certainly, we have more money to spend. From 1970 to 2000, real household income rose by more than 50%, according to the authors of 'Trading Up: The New American Luxury.' Today, there are 15 million households that take in more than \$100,000 a year. Our paychecks and portfolios are fatter than ever, and thanks to mass-manufacturing and merchandising (think Wal-Mart, Kohl's, Circuit City), our everyday necessities can be had at a fraction of what our parents and grandparents paid."

In simple, material terms, being poor today can include having a car, three televisions, a refrigerator, a DVD player, a stereo, and a computer. I think that's a symptom of a super-affluent society. As far as I can tell, the trickle-down theory proved out. Our economic freedoms and the energy and innovations that they release have produced so much material wealth that it doesn't just trickle down; it spills over.

If the poor live rich, what does it mean to be rich? Past generations would have accumulated wealth for security, power, and status; whereas a growing, childish minority of my generation doesn't seek power or status in a conventional hierarchy. And this group of people seems not to worry about security, never having suffered privations.

My brother-in-law has a very young client with a problem. The client is a skate punk. All he ever did was ride his skateboard. Most of the guys in my brother-in-law's firm have

---



---

*Something in me needs an existential challenge. I have apocalyptic dreams, dreams of war and violence. They are euphoric.*

---



---

a hard time communicating with the skate punk. They are too buttoned-down. They make him nervous. My brother-in-law's profession? Money manager. The skate punk's problem? What to do with the great wealth he earned by riding his skateboard. To help solve this problem, my brother-in-law has to remove his tie and say "dude" a lot.

My nephew is a good student and a fine young man. Rock and roll is his thing. At 14, he is already making money playing in a rock and roll band. His parents don't mind. They aren't pushing him to be a doctor or a lawyer. My sister manages his band. I'm convinced he will make a fortune in music. He'll be like the skate punk, just doing what feels good, and the wealth will pour in.

You don't have to make any money at all, however, to enjoy the new super-prosperity. My unemployed friend is impecunious and has been for more than a decade. He lives among millionaires in a beautiful cottage a block from the beach in La Jolla, Calif. There he spends his time wondering where he went wrong and what it's all about and which diet is right for the human organism (macrobiotic? vegetarian? sugar-free? low glycemic index?) and whether his upbringing is the cause of his frequent physical malaises and what to do next, if anything.

I know that some of this high living involves other people's money and resources — friends and relatives. But the friends and relatives are volunteers. These aren't forced redistributions.

Look at the trends and follow my speculations. How far can this go? In material terms, our poor are richer than everyone in earlier generations except a wealthy minority. Productivity continues to rise. It takes less and less to earn more and more. Sure, a lot of people work long, hard hours, but their motive is more likely to be power and wealth than food and shelter.

Does the average middle-class worker like work that much? What will he do if ten hours of work a week will earn a comfortable living? Will he still work 40 hours? If we get prosperous enough, will many more people drop out? Will they conclude that working hard at jobs they don't like is a bad bargain when the consequences of quitting are so comfortable? Will they work only jobs they like or none at all? Will they take long, frequent sabbaticals?

Prosperity took me too much work and time. I got to be 44 years old. That's 25 years of hard work without goofing off! Well, okay, I did take more than a year off, twice, before retiring. Was I a fool to prosper at all before walking away from the table and cashing in my chips? Perhaps the ambient prosperity is enough. I'm not talking about being on the dole; I'm

talking about being a slacker, a layabout, a navel-gazing perpetual student (without, of course, taking any courses).

## Classes Turned Upside Down

Is this in fact new? In 1906, William Jennings Bryan complained: "The theory that idleness is more honorable than toil — that it is more respectable to consume what others have produced than to be a producer of wealth — has not only robbed society of an enormous sum, but it has created an almost impassable gulf between the leisure classes and those who support them." But then and before, the leisure classes were always the rich and privileged classes. Now most of the rich are the working rich. They have, or give themselves, less leisure than almost anybody else. They work all the time — in their cars, at their offices, in airports, at home. From them the spillover economy flows.

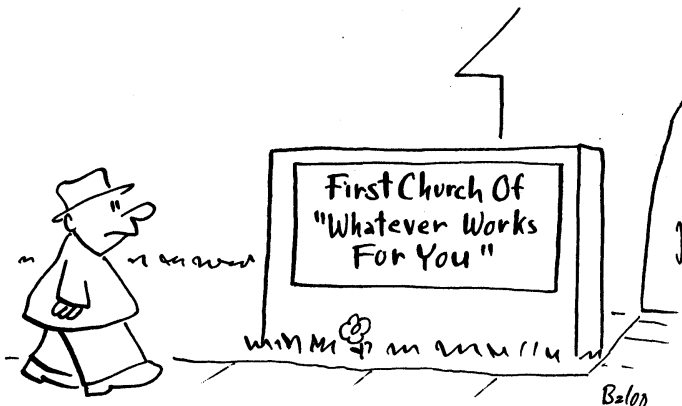
These are the new serfs. Our economy feeds on their labor and creativity and risk-taking and taxes. I have seen it close up. The new serfs are the company executives, who work longer and harder than their own employees. Thirty years ago, that was not typical. Today, it is the rule in new businesses. In every high-technology company that I know, the bosses are the slaves. And when the labor market is tight, they must coddle their employees just to keep them working nine to five.

So, many among the exploited masses have become the new leisure class. I admit that most of this class have some advantages (my description of the world will seem all wrong to some working-class people), but they are not just the wealthy or even mostly the wealthy. That's what's new. It's a middle-class revolt against middle-class values, and it has never happened before. Aristocrats, artists, and intellectuals have done it, but now the successors of the company man are doing it.

The Wikipedia entry for the word *slacker* includes this: "[P]hilosophers such as Plato and Aristotle made it clear that the purpose for which the majority of men labored was 'in order that the minority, the elite, might engage in pure exercises of the mind — art, philosophy, and politics.'" In our upside-down world, the apparent elite work miserably hard so that the enlightened bums of my generation and the next can engage in pure exercises of the mind and body — writing screenplays, skateboarding, playing guitar, indulging in aimless speculation (like this essay), and racing bicycles.

Or perhaps these childlike, unambitious people are simply petty and blind to the challenges that could make them more worthy. Perhaps the very opportunity to be a slacker is an illusion, a brief calm before a storm. Perhaps war and pandemic and depression loom just over our close horizons.

Perhaps, even if our prosperity and stability continue, man is not made for the age of porcelain and skateboarding. I'm already seeing symptoms of a revolt against slackerdom among the slackers themselves. I feel it in my own heart. Something in me needs an existential challenge. I have apocalyptic dreams, dreams of war and violence. They are euphoric. I feel a sort of allergic reaction to the obvious question: "Is this all there is?" The more I ask myself that question, the more I break out in a rash of crazy ideas — I'll walk across the entire Indian subcontinent or move to Spain or climb Everest or take LSD or join the CIA or get a job. It's the urge to awaken the inner zombie. It's the next step in societal evolution. And it's the topic of an essay I might write someday. □





# Reviews

**"Education Myths: What Special Interest Groups Want You to Believe About Our Schools — And Why It Isn't So,"** by Jay P. Greene. Rowman & Littlefield, 2005, 267 pages.

## *Lies Your Teachers Are Telling You*

Gary Jason

Jay P. Greene, senior fellow in the Economic Research Office of the Manhattan Institute, has published widely on education topics. His research has been cited four times in Supreme Court decisions. This book brings together his views on the state of contemporary American K-12 education. His ideas are clear and compelling, backed up by extensive research.

He considers 18 myths about education — views that are both pervasive and demonstrably false. He groups these myths into four categories: myths about resources, myths about outcomes, myths about accountability, and myths about choice.

He starts with six myths about resources. First is the view that public schools perform badly because they are underfunded. This is a common refrain among modern liberals, not to mention teachers' unions, but Greene notes that the average person accepts it as well. He demolishes the myth — in part by showing that national inflation-adjusted per pupil spending has increased nearly linearly every year from 1945 (when it was only \$1,214) to 2001 (when it hit \$8,745),

while the NAEP (National Assessment of Educational Progress) scores stayed essentially flat from 1971 to 1999.

The NAEP is the most reliable and representative national measure of scores we have. During the period when it has been used (1971 to the present), per pupil funding went from \$4,479 to \$8,745, while average scores increased only an insignificant three to five points out of 500 possible. High-school graduation rates from 1971 to 1999 were nearly flat. They went from 75.6% *down* to 72.5%.

Greene attributes the prevalence of the "underfunding" myth to people's reluctance to believe that more spending has been useless, and the fact that during the period for which outcomes can be reliably measured, funding rose only slowly, while the number of students dropped. People therefore didn't notice the per-pupil rise. The prominence of this myth may also be attributed, as Greene maintains, to well-publicized anecdotal accounts of funding problems.

There is also the myth that schools are doing poorly because of a rising tide of developmentally disabled ("special ed") children. Greene refutes this

myth by noting that while the number of kids enrolled in special ed classes has mushroomed (from 8.3% in 1976-77, to 13.3% in 2000-01 — an increase of over 50% in less than 25 years), this has been because of changes in diagnostic practices, not to an increase in actual disabilities. For example, during the same period the number of mentally retarded kids dropped from 961,000 to 599,000. Greene suggests that the drop was caused by better prenatal care and improved safety devices, but doesn't mention a more plausible explanation: abortion. He does provide a good deal of evidence that funding incentives are important to the increase in students in special ed: "Not only is the Special Ed Myth false, it is the reverse of the truth: special education is not draining school budgets, it's inflating them" (34).

The next myth he explores is the claim that schools are doing poorly because of social problems (broken homes, poverty, poor parenting, or the like). Greene and his co-researcher Greg Forster addressed this hypothesis by developing a "teachability index" of 16 social indicators, establishing it as a reliable predictor of student success. They then examined each state's level of achieve-

ment compared to what would be predicted by its teachability index score. If social problems in a student population trump the type of schooling which that population receives, you would expect not to see much variability in student achievement among states with similar teachability indexes. But you do. This means that student achievement has to do with something more than the social advantages the students have. It has to do with the sort of education they are given. Greene urges four school strategies that have been shown to improve student achievement: accountability programs, school choice, early intervention for struggling students, and instruction based upon specific sets of skills and factual knowledge.

Greene then addresses the theory that small class sizes produce dramatic gains in student achievement. There are some data supporting the idea that lowering class size improves performance, but as Greene shows (in a probing evaluation), they are not powerful. The gains are small and the costs quite large. For instance, when California adopted a small class program, the number of teachers went up from 62,226 to 91,112 in just three years (you can see why teachers' unions push this myth so aggressively), without any commensurate increase in educational quality. And again, we have nationwide statistics that undercut the theory: from 1970 to 2001, the average number of students per teacher dropped by 29% (from an average class size of 22.3 down to 15.9), while achievement scores and graduation rates remained flat.

Next is the myth that professional credentials and experience make a big difference in teacher effectiveness. Here again Greene does an excellent survey of the literature. The evidence shows that possessing a teaching credential doesn't result in any significant increase in teaching effectiveness, and neither does possessing an advanced degree in education — though he does note that one study has found that having a master's degree *in the academic subject one teaches* results in a significant improvement of performance among high-school teachers. In other words, what is taught in ed schools is of dubious value. As Greene nicely puts it:

The main focus in education courses is the study of pedagogical theory, and it is possible that the formal study of pedagogy might not contribute substantially to the teacher's ability to actually teach. It is certainly true in many other fields that the study of theory, although important to scholars, does not contribute much to professional performance. Economic theory is not the main focus in schools of business, legal philosophy is even less important in law schools, and biological theory (which includes, for example, debates over evolution) is either peripheral or totally absent in medical schools. (70)

The evidence also indicates that teaching experience improves effectiveness only for the first few years of a teacher's career, and is associated with a *decline* in effectiveness later on — probably because of the role of tenure in deterring teachers from striving for better performance.

Then there is the myth that teachers are paid badly. Greene notes the obvious: teachers work far fewer hours than other professionals. They work only nine months a year, have many more holidays, and work about 7.3 hours per day. Factor this in, and the average teacher salary of \$44,600 (in 2001) works out to a full-time equivalent salary of \$65,440. The common reply is that teachers do a lot of work offsite, such as grading papers and "keeping up with the field" (as if that were similar to what a science professor at a research university or medical doctor has to do). But most other professionals do offsite work as well.

If we look at the 2002 Department of Labor figures on *hourly* compensation, teachers do quite well indeed: elementary school teachers earn \$30.75 per hour and high-school teachers earn \$31.01. Teaching compares well with other professions: architecture (\$26.64); biology (\$28.07); civil engineering (\$29.45); mechanical engineering (\$29.46); physics (\$32.86); computer science (\$32.86); electronic engineering (\$34.97); and even dentistry (\$35.51). And this doesn't include the notoriously generous benefits that teachers receive — medical insurance, retirement programs that are defined benefit (pension) rather than defined contribution plans, and the king of all perks, tenure.

Turning to myths about outcomes, Greene starts with the idea that schools are performing worse than they used to. He argues, surprisingly, that test scores show that students are performing roughly as well now as at any time over the past 30 years. For instance, twelfth-grade scores on the NAEP have been essentially flat from 1971 to 1999. So have the percentages of students scoring at the highest levels of proficiency. ACT and SAT scores were roughly stable over this period, and graduation rates stayed about the same, or declined only slightly. Fine — but I cannot refrain from emphasizing the fact that Greene's figures don't address the period before 1971. Even if schools are doing as well now as they did in 1971, how does their performance compare to that of the 1960s? Or the 1940s?

But to continue . . . Greene considers the myth that almost all kids graduate from high school. This makes a most enlightening chapter. The official

### ***Calling All Economists!***

Since the Left depends entirely on the assumption that taking from the rich to give to the poor reduces inequality, it would be utterly demolished by the opposite-most conclusion, that it didn't reduce but increased inequality.

That is the "new idea" regularly offered here, and almost completely ignored, for you can lead a libertarian to victory but you can't make the jackass drink.

"He's made a new kind of cloth. It never gets dirty and it lasts forever . . . That may be nonsense, of course. Maybe he hasn't really done it. Maybe he's talking through his hat. On the other hand, maybe he has . . . The point is you don't know and you're too pig-headed to find out." *The Man In the White Suit*

So the question is not simply whether the "idea" is right or wrong but whether libertarians are "living in the sunshine" or the shadows.

Those who won't even question the essential assumption of the Left concede it, and are certainly not the leaders but the jackasses of the Right.

When you're ready to drink, see *Intellectually Incorrect* at [intinc.org](http://intinc.org).

figure, put out by the U.S. Department of Education in the year 2000, puts the high-school graduation rate at 86.5%, with many states claiming even higher rates. Greene reviews various methods of estimating graduation rates, and shows them to be flawed — for example, the National Center for Education Statistics (NCES) method that was used to come up with the official U.S. graduation figure excludes from the sampling anyone who is incarcerated (even though incarcerated persons are often dropouts), and counts anyone who gets a GED as having graduated (even though a GED is not really comparable to a real diploma). Greene's more accurate method involves dividing the number of diplomas actually awarded in the year 2000–01 by the average of the enrollments of this twelfth-grade cohort in its eighth, ninth, and tenth grades (modified to reflect an actual slight increase in the high school population). His method yields a more realistic figure of 71%. This is disquieting enough, but when he does the breakdown by ethnicity, the results are horrific: only 51% of black and 52% of Latino students graduated in 2001.

Greene debunks another bogus notion: that the primary reason for low college enrollment figures for minority students is a lack of financial aid. He shows that this claim is based on an unrealistic notion of what counts as “college-ready.” If you believe (as the NCES does) that “college-ready” just means having graduated with a 2.7 GPA, then it will indeed appear that qualified students are not attending college. But if

---

*Greene attributes the prevalence of the “underfunding” myth to people’s reluctance to believe that more spending has been useless.*

---

you believe (as Greene does) that “college-ready” students are only those who have graduated with a regular diploma, taken the minimum courses required for admission by a college, and demon-

strated basic literacy, then nearly all college-ready students wind up entering college. That is true of minority students as well as white students.

The third group of myths is about accountability. Greene first considers the prevalent idea that the results of “high-stakes” tests are unreliable because of extensive cheating, student stress, and teachers “teaching to the test.” By “high-stakes” tests he means tests with substantial consequences for poor performance, consequences such as students not being allowed to graduate, or schools receiving less funding. He again reviews the evidence, and shows the flaws in some highly touted studies. His own, properly designed study (conducted with Marcus Winters and Greg Forster) shows that there are strong correlations between high-stakes and low-stakes test results. This correlation would be unlikely if high-stakes tests had more cheating, coaching, or stress-induced failure than low-stakes tests (such as the SAT-9). He makes an excellent point regarding the buzz phrase “teach to the test.” Teaching to the test is bad, if what you mean by that is coaching students with the correct answers (i.e., cheating by the instructor) or forcing students to memorize unimportant facts. But teaching to the test is good if you mean changing curricula and methodology to make all teachers focus more on the skills that the *public* (which pays for the whole educational system) deems important.

Greene critiques the similar misperception that high school exit exams increase dropout rates. He begins by noting that employers are becoming increasingly dismissive of the worth of a high-school diploma. In response, some states have instituted high-school exit exams, which in turn have caused concern that dropout rates will soar. But a study he conducted with Marcus Winters found that “changes in graduation rates in states that adopt exit exams are not significantly different from the normal fluctuations in graduation rates that are present in states that do not adopt such exams” (131).

This is surprising, and he considers three possible explanations. First, exit exams might be so easy as to affect almost no students. Second, the fact that students can take these exams repeatedly (and get additional instruction to

help pass them), means that even students with poor academic skills can get through by chance. Third, the number of kids who are weeded out may be offset by the number of kids whom the schools

---

*Possessing a teaching credential doesn't result in any significant increase in teaching effectiveness, and neither does possessing an advanced degree in education.*

---

are forced to help. Greene argues that the third explanation is the most adequate: exams do weed some people out, but they also encourage some students who would otherwise drop out to work harder, and some schools to give them the requisite remedial education. The tests take diplomas away from unqualified students and put them in the hands of qualified students . . . what a revolutionary concept!

Greene reviews the common lament of school administrators that accountability programs, such as the admittedly flawed No Child Left Behind Act (NCLB), are unduly burdensome. (Translation: give us the money, but don't require that we test students to verify the results). Numerous “experts” testify that instituting NCLB's mandates will require expensive reforms. But Greene wryly notes that “No field other than education makes important financial decisions solely based on claims made by experts . . . without demanding empirical evidence to back up those claims. The reason for this is simple: expert professionals often have a large financial or political interest in the recommendations they make” (137). I would add that no other field has lower quality “experts” than education.

The real costs of accountability programs, Greene argues, are only the costs

Readers are raving about *The Liberal Mind, The Psychological Causes of Political Madness*. Visit [www.libertymind.com](http://www.libertymind.com) to see why.

of test preparation and administration, not the cost of preparing students for the tests — after all, that is what the education budget is for to begin with. He cites one careful study (by Harvard economist Caroline Hoxby) that shows the cost of testing as at most 0.35% of the education budget, even under the most onerous testing regimen. This is quite modest, especially when one considers the increase in quality that testing can produce.

The discussion of the fourth group of myths, those regarding choice in education, is the most valuable in the book, because consumer choice is the precondition for all other reforms (such as testing). Accountability is great, but unless parents can remove their children from lousy schools, it must be of limited effect. Greene's chapter 13, on the issue of choice, is perhaps the most useful of all. It targets the pernicious myth that there is no evidence that vouchers work.

Vouchers have been introduced in various places in the United States. They have been around for a century in Maine and Vermont. Arizona, Florida, Ohio, and Pennsylvania have launched publicly funded voucher programs, as has the city of Milwaukee (where 15% of children now attend private voucher schools). Philanthropists have set up privately funded voucher programs in Charlotte, Dayton, New York, Washington, and other cities. Numerous studies have been conducted on these limited voucher experiments. In addition, vouchers have been introduced in

a number of foreign countries, including Denmark, New Zealand, and Sweden, although strangely, Greene doesn't appear to regard their experiences as useful in discussing the American system. (I will return to this point later.)

Major media outlets, such as the New York Times, Time magazine, and the Washington Post, say that the evidence about these programs is inconclusive. Greene, in a detailed literature review, strongly argues that it is not in the least inconclusive. He rightly focuses on random assignment studies, which are statistically the most reliable. (In these studies, subjects are assigned to the experimental or control group randomly. This helps guarantee that the two groups are matched, with confounding variables ruled out.) There have been eight random assignment studies of vouchers, and all but one have shown statistically significant gains on test scores for students in voucher programs. The one exception showed a gain in test scores, but it wasn't statistically significant. Every voucher program proved tremendously popular with parents. All this, from programs that cost half what public schools spend per child. None of the American voucher programs is *pro rata*; none gives parents a share of public taxes equal to what is spent per capita by public schools.

Greene discredits the common perception that private schools are elite, expensive institutions that can dump low-performing students. U.S. Department of Education figures for the year 2000 show that the average private school charges \$4,689 per year tuition; religious private schools charge only \$4,063, with Catholic schools charging only \$3,236. Public schools — or, I should say, the taxpayers — spend an average of \$8,032 per pupil. Nor does the research support the claim that

most private schools are very selective, or that they expel a lot of students. Greene doesn't make the point, but it seems clear that the *possibility* of expul-

---

*If you consider everyone who graduates with a 2.7 GPA to be "college-ready," it will indeed appear that qualified students are not attending college.*

---

sion tends to concentrate the students' minds. Indeed, many private schools — especially Catholic ones — wind up taking in and dealing with students expelled by public schools.

Private schools are often accused of hurting public schools by draining them of all the decent students. Greene grants that this claim is plausible, when considered *a priori*, but argues that the *a posteriori* evidence belies it. His review of studies of voucher programs suggests that they actually tend to improve public schools. The reason is clear if we think dynamically rather than statically: competition forces public schools to improve the quality of their service out of fear that they will lose some of their students, and thus some of their government funding. Hoxby's study of the Milwaukee program found that public schools that were exposed to greater voucher competition made significantly greater test gains than those that were less exposed. Charter schools force similar improvement, as does the kind of school districting that makes it easy for people to choose their public school.

By another close review of the evidence, Greene dispatches the view that private schools don't and won't serve disabled kids. The evidence shows that private schools do accept disabled students and (especially in the case of religious schools) educate them for far less money. The parents of disabled students tend to be more satisfied with private schools, especially because these



"If 'x' is unknown, why do you expect me to know it?"

schools are better at protecting their children from bullying, and at teaching them good behavior.

Greene likewise tears down the myth that private schools don't teach tolerance as well as public schools. Studies show that they do a better job of inculcating such civic virtues as tolerance and volunteerism. Why? Well, first, private schools teach everything better. Second, it appears that students who are enabled to exercise a better sense of self-identity — as they often are in private schools — are less threatened by people who are different. Third, private schools are typically smaller and have more student and parental involvement, which encourages more civic spirit than large, bureaucratic schools manage to do.

The last myth that Greene takes up is the notion that private schools are more racially segregated than public schools, and that vouchers will therefore make segregation worse. This is a myth fomented by hysteria from teachers' unions and civil rights organizations. Here again the evidence argues to the contrary — though there are fewer relevant studies on this matter. For one thing, most measures of "racial diversity" are flawed. Greene's own study (based on the 1992 National Education Longitudinal Study) showed that racially segregated classrooms were more prevalent in public schools than private ones. This whole subject is tricky, however. A school can be "integrated" as a whole, but there can still be segregation within it; and after decades of busing, people have already done a good deal of self-segregation.

Greene concludes that the various myths he debunks are all part of a "mega-myth," namely, "that education is different from other policy areas in that the types of incentives that normally shape human behavior do not shape educational behavior" (218). We think that rewarding good behavior and penalizing bad behavior works in parenting, and in every kind of business — but not in K–12 education! He reasonably urges us to begin to think in more economically realistic ways.

Greene's work is a testament to the usefulness of libertarian and conservative thinktanks. The academy is thoroughly dominated by leftists. Most humanities and social science depart-

ments are inhabited almost exclusively by people of the Left, with the possible exception of economics departments, and even those are changing rapidly. Add to that the creation of new departments, such as "labor studies," funded by labor unions (including teachers' unions), and the difficulties in doing research that reflects both sides of certain issues, or even addresses certain issues, become truly formidable. Thinktanks are a desperately needed counterbalance to a politically biased academy. Indeed, I recently heard a leftist radio commentator lament, "We need our own thinktanks!" I immediately shouted at the radio, "You have them already — they're called universities!"

Yet as valuable as Greene's analysis is, he might, in some cases, have looked at broader categories of data. This is especially true about the issues surrounding consumer choice in education (which encompasses charter schools, private schools, home schooling, and most importantly voucher programs). He rightly notes that parents are very happy with vouchers when they can get them, but I think more light could be shed on this preference if we were to examine, not just testing and attendance data, but also measures of social pathology, such as rates of adolescent drug use, pregnancy, assaults and other violent crime, and so on. That is, we should look at data from criminology and sociology as well as pedagogy to determine in what other ways private and voucher schools may be superior to public schools.

I believe you will see that parents are just as interested in schools that are safe and that uphold high standards of conduct as they are in schools that generate high test scores, as important as those may be. Indeed, recent work by the psychologist Judith Harris strongly supports the theory that peer groups are even more important in older children's lives than parental training, and that vouchers enable poor parents to put their kids in schools where the peer groups are competing to see who gets into the best colleges, rather than who is handiest with a switchblade.

Another area where Greene's data sets might be enhanced is the experience that other countries have had with vouchers. While comparing an American system with some other

country's system is subject to the danger of false analogy, it can be enlightening as well as rhetorically effective. For years, this country has debated the idea of privatizing retirement systems, but the fact that Chile and other countries have actually done it adds immensely to the argument for doing it here. For years, we have argued about the theoretical benefits of a flat tax, but the fact that Russia and several other Eastern European countries have successfully implemented flat taxes is immensely instructive. Again, the case for "loser-pays" tort reform is greatly strengthened by the fact that Britain and most other Western nations use it.

The Swedes have successfully introduced a voucher system. While Sweden is more racially homogeneous than America, it is (as we are) a country with economic classes. And its experience with vouchers has shown that they *decrease* segregation by class. The reason should be obvious: there, as here, the rich and the upper middle class *already have* full school choice and mobility, and can therefore avoid underperforming schools. But when vouchers give everyone mobility, and schools spring up specializing in science, the arts, and other subjects, both wealthier and poorer families are attracted to them. Swedish opponents of vouchers argued that they would suck all the good students out of the public schools. In fact,

---

*We think that rewarding good behavior and penalizing bad behavior works in parenting and in business — but not in K–12 education!*

---

the public schools lost only about 15% of their students, because they quickly improved their quality of service.

Greene's book would have been better if he had made it broader, but it's more than good enough as it is. It is an indispensable compendium of data and argument on fundamental issues of American education. □

**"300,"** directed by Zack Snyder. Warner Brothers, 2007, 117 minutes.

# *Sparta 300, Persia 0*

---

Liam Vavasour

---

Zack Snyder's new film, "300," is a story of the Battle of Thermopylae (480 B.C.), told from the perspective of the 300 Spartan soldiers who died, almost to a man, in that battle. Led by their king, Leonidas (played in the film by Gerard Butler), the Spartans fought against great odds and inevitable defeat. Nonetheless, they managed to hold the pass at Thermopylae for three long days against the mighty Persian army that was trying to force a way past them, during its invasion of Greece. Though ultimately a victory for the Persians, the battle came at great cost to them, too. It presaged their eventual defeat at the hands of the combined Greek forces.

The makers of "300" took their inspiration from Frank Miller's graphic novel of the same title. Both the novel and the film, though generally adhering to the story of the historical battle, especially as told by the ancient historian Herodotus, take a number of liberties with the facts. To mention one of the more glaring examples: the ephors, Spartan potentates of whom the movie makes a very big deal, are depicted as hideously inbred members of a corrupt priestly caste. In fact, they were civil magistrates elected to year-long terms of office. They exercised political, not religious, power. To cite another example: the movie mentions

neither the Spartan system of dual kingship nor the Greek helots whose ruthless enslavement made the Spartan warrior elite both possible and necessary. Indeed, we are continually told that the Spartans fight for "freedom." Surely they fought for their own, but the context in the film is radically different from the reality.

Yet another instance of deviation from the historical record concerns the Greek traitor, Ephialtes, who is said to have told the Persian king how to get his troops around the Spartans. Though portrayed in both the novel and the film as a hunchbacked Spartan, Ephialtes was neither Spartan nor, as far as anyone knows, deformed. Add one more: the film's major subplot involves the Spartan queen, Gorgo (Lena Headey), who wages a political contest back home in Sparta, against leaders corrupted by Persian gold. This also is complete fiction. Many more examples of Hellenic fictions could be listed, and I haven't even started on fictions about the Persian side.

In a recent review of "300," historian Victor Davis Hanson notes the many historical inaccuracies, but remarks that the movie is still "Hellenic in spirit" and "does demonstrate real affinity with Herodotus in two areas. First, it captures the martial ethos of the Spartan state . . . And second, the Greeks, if we can believe Simonides, Aeschylus, and Herodotus, saw Thermopylae as a 'clash of civili-

zations' that set Eastern centralism and collective serfdom against the idea of the free citizen of an autonomous polis. That comes through in the movie, especially in the fine performances of Butler and Lena Headey." Hanson is right, and his comments should be borne in mind when considering the criticisms leveled against the film. This is especially true of criticisms of its portrayal of the Persians.

One petition circulating online labeled the film an "unethical movie picture" and "fraudulent and distorted" because it portrays the Persians as "some monstrous savages" rather than rulers of the "most magnificent and civilized empire." To do so, in the eyes of the petition's authors, was nothing less than a "heresy." Passing over the odd notion of history that is evident in the use of such a term to describe dramatic license, it should be conceded that the petitioners have a point: the film is inaccurate in many respects about the Persians — as it is about the Greeks. Indeed, the Greek examples are all the more glaring, as they are the more easily checked, Greek sources being more readily at hand.

But as the film's departures from the truth about the Greeks are clearly deliberate choices, the question becomes one of why? Why diverge so broadly from fact, when you have one of the world's great historical stories to begin with?

In some cases, the answer is fairly obvious. The ephors are portrayed as they are to create an ideological contrast between their hidebound "mysti-

---

*The story of Thermopylae is one of brave men, however flawed, who fought and died for liberty, however imperfect.*

---

cism" and the progressive "reason" of Leonidas. The ephors' deformities, like those of the traitor Ephialtes, serve to emphasize their moral corruption and

villainy. Queen Gorgo is given prominence to provide a feminine (or feminist?) touch to a film that is so much about men. Any mention of the helots, or of the other more unseemly aspects of Spartan society, of which there were many, is omitted as likely to make the Spartans, cast here as heroes and martyrs of freedom, repellent to modern sensibilities. And, as Hanson's comments indicate, the Persians are shown as they are because that is how the Greeks frequently saw them: slavish, savage, monstrous, barbarous.

One can take issue with these choices for a number of reasons, but it seems peculiar to call them "fraudulent," for neither the film nor the graphic novel lays any claim to historical accuracy. Both are *stories* of the battle, not *the* story of the battle, and they do not pretend to be otherwise. The real question, perhaps, is, should they have tried to be?

I must confess myself of two minds. Historical accuracy is certainly a good and desirable thing; yet novelists and filmmakers should not be held to the same standards as historians and the makers of documentaries, except when the former claim to be the latter. Since the makers of "300" do not, and, indeed, glory in the fact that they do not, it strikes me as strange and unfair that their flagrant historical errors should be held against them.

It cannot be denied that "300," with its stunning visual style, full of the grotesque, the gory, and the surreal, its impressive performances, particularly those of Butler and Headey, and its fidelity to Frank Miller's graphic vision of the story, achieves something that is all its own. Fans of Miller's work will be delighted to see just how faithful the filmmakers are in most respects to *it*, even to the extent of using the novel's graphics as storyboards for the movie. Nor will these fans be alone in their enjoyment of the film. Though it will hold particular interest for them and for students of the period, the story of Thermopylae is so moving that, when well rendered, as it is here, it should strike a chord even with those unfamiliar with the history.

And yet, for all that, the film falls short of what it could have been. It is good, when it might have been great.

The fault is not to be found with the actors. They played their parts well. Nor is it to be found with the many others whose hard work made the film what it is. Rather it is that, with such rich history to work with, the filmmakers chose to be more faithful to their graphic novel than to the truth. It is not that they had an obligation to adhere to the facts, as some have claimed. It is that had they done so, they would have made a better film. Where the movie departed from the facts, it generally

was for the worse. In making the battle of Thermopylae into a simplistic struggle between good and evil, the filmmakers robbed their story of much of its complexity and thereby much of its depth. That is unfortunate, because the story of Thermopylae is one of brave men, however flawed, who fought and died for liberty, however imperfect. Theirs is a story that should not be forgotten. Had the filmmakers chosen to, they might have done it justice. It is to be regretted that they did not. □

## Fondly Remembering Karl Hess

AK Press, the most successful distributor of self-consciously anarchist books and DVDs, recently released a single disc with two older documentaries produced by Stephen Fishler and Joel Sucher: "Anarchism in America" (1982) and "The Free Voice of Labor: The Jewish Anarchists" (1980). For the former alone this is worth every libertarian's \$19.95. The featured commentator appearing frequently is the great Karl Hess at his most articulate best.

Acknowledging the intellectual influence of Murray Rothbard, this sometime speechwriter for Richard Nixon and Barry Goldwater explains succinctly why he didn't pay federal taxes and how Emma Goldman "consciously or not [is] the source of the best in Ayn Rand," which a quarter-century later would still surprise those calling themselves libertarian no less than self-identified anarchists. (Those of us committed to the avant-garde know that the measure of a classic is a capacity to surprise long after its creation.)

The film includes footage of Goldman addressing reporters during her brief return to the U.S. during the 1930s. Oddly, though this footage demonstrates her famous genius for public speaking (even in her 60s, more than a dozen years after her disgusting deportation), it was not included in the recent NET feature about her. Instead, as is customary in films sponsored by the National Endowment for the

(In)Humanities, the NET's "Emma" featured footage of "accredited scholars."

Otherwise, enjoy "Anarchism in America" for its memorable scenes: Kenneth Rexroth reciting his poetry; the 1980 Libertarian Party presidential candidate Ed Clark unnecessarily evading the question of his connection to anarchism; a long-distance trucker complaining about excessive government regulation; Jello Biafra and the Dead Kennedys performing; an older sometime draft evader named Brand talking before the Statue of Liberty; the other Murray (Bookchin), also at his best on the evolution of his politics and his advocacy of "libertarian behavior"; Hess' testimonial that "Most people in the Libertarian Party have pretty decent anarchist impulses."

As Hess was the last American to earn great respect both from those who call themselves libertarian and from those who call themselves anarchist, even serving as a fellow of the leftish Institute for Policy Studies, his appearance here reminds us of an ecumenical presence that has been lost.

The other film on this DVD, likewise by Fischler and Sucher, traces the 87-year history of a Yiddish New York anarchist newspaper, the *Freie Arbeiter Stimme* (whose English translation becomes the film's title). Shorter and slighter, it inadvertently makes "Anarchism in America" seem yet stronger, as indeed it is. — Richard Kostelanetz

**"Ronald Reagan: Fate, Freedom, and the Making of History,"** by John Patrick Diggins. Norton, 2007, 430 pages.

# Pax Reagana

---

Martin Morse Wooster

---

For Baby Boomers, Ronald Reagan is too recent a figure to be part of the past. But it's now been 26 years since Reagan became president. That's more than enough time for historians to assess what sort of president he was.

There are all sorts of interpretations of Reagan out there, but at first you might find the thesis of Diggins, a historian at the City University of New York, puzzling. Reagan, he argues, was a liberal. Moreover, he contends, Reagan was one of the greatest liberal presidents in American history!

For most of us, Diggins' thesis is somewhat odd. But Diggins, author of many books on American intellectual history, has arguments that are provocative but not persuasive. You won't believe that Reagan was a liberal after reading this interesting book. But you will believe that Reagan was not a neoconservative — and that, at least in foreign policy, he did a great deal to advance freedom.

Diggins' "Ronald Reagan" is not really a biography, although it covers all aspects of Reagan's life. Rather, it's a book about Ronald Reagan's ideas and how they changed during his career. Recall that Reagan was someone who had read Frederic Bastiat in college and F.A. Hayek's "The Road to Serfdom" in the 1950s. Reagan succeeded as an

actor, the most entrepreneurial of professions. His administration, at least at its start, was rife with bombthrowers who were going to slash government. Yet by 1989, most domestic programs had grown rather than shrunk. Pick your favorite awful, useless agency — the Rural Electrification Administration, say, or the National Endowment for the Arts — and you'll find its leaders were scared in 1982 and blissful in 1988.

Diggins doesn't really discuss Reagan's domestic failures. He's more concerned about Reagan's greatest foreign policy achievement — persuading the Soviet Union to work with the U.S. to dramatically reduce nuclear arsenals. Diggins persuasively shows that the cliché that Reagan was a silly old duffer is wrong. Reagan had firm convictions and acted on them. One of these convictions was that the Cold War scenario of nuclear brinkmanship had to be stopped.

Recall that in the early 1980s frightened old men whose greatest fear was that America would launch a first strike controlled the Soviet Union. The Soviet mindset of this time was best expressed by their response to a 1983 NATO war game called Able Archer. The Soviet leaders feared that this war game was a pretext for a NATO invasion. During the exercise, a malfunctioning warning system reported that

five Minuteman missiles were heading towards Moscow. Soviet missiles were rapidly mobilized, until the high command realized that the machine malfunctioned, and they dropped the threat level. The world came closer to nuclear war than at any time since the Cuban missile crisis in 1962.

For most of his first term, Reagan seemed to be the frostiest of Cold Warriors. Given the paranoia of the Soviets at the time, some of this toughness was justified.

But then, on Feb. 16, 1984, Reagan gave an address in which he said that "reducing the risk of war — and especially nuclear war — is priority number one." He added that "we must and will engage the Soviets in a dialogue" to reduce the threat of nukes. America's "dream is to see the day when nuclear weapons are abolished from the face of the earth."

Why did Reagan say this? One reason, according to Diggins, was "The Day After," a drama about atomic holocaust broadcast by ABC in November 1983. The TV movie, Reagan said, "was very effective and left me greatly depressed." But Diggins shows that Reagan had decided to try to cut nuclear arsenals from the start of his administration. Until 1985, the Soviet leaders thought Reagan's comments were another capitalist ruse. But Mikhail Gorbachev and Reagan gradually came to trust each other — and together they made sure that weapons were actually dismantled.

Liberals, Diggins says, talk about peace. But Reagan caused nukes to be destroyed — a goal of liberals and libertarians. And when Reagan stood at the Berlin Wall and demanded that Gorbachev tear it down, he was making a libertarian point.

It's true that Russia today is a scary, autocratic nation. But it's far less of a menace than the Soviet superpower it superseded. And while there were many reasons why the Soviet Union fell, Ronald Reagan's steadfast commitment to ending communism advanced liberty and made the world better. And for that, Reagan — a conservative who believed in advancing liberty — deserves a great deal of credit. □



**"America Alone: The End of the World As We Know It,"**  
by Mark Steyn. Regnery, 2006, 224 pages.

# A Wake For the West

Garin K. Hovannisian

H.L. Mencken said that "a cynic is a man who, when he smells flowers, looks around for a funeral." Successive generations of writers have convened the funeral of all things true and beautiful on the back page of *National Review*, which went misanthropic in the 1990s with Florence King, then downright eschatological with its current occupant, Mark Steyn. King and Steyn remain among the finest cynics of our age, as Mencken was for his. Their obits are delightful to read, whether the death really happened or not.

In his latest book, "America Alone," Steyn acknowledges that prophesying doom is ordinarily a bankrupt enterprise. From John the Baptist in the Judean wilderness to the global cooling cranks of 1970s New York, the forecasters have choked on their forecasts. Those who have denied history its charms and mysteries have met its mockery.

Embarrassed by such associations, Steyn christens his book "the apocalypse with laughs." The cuteness is meant to disarm us of our assumptions; the humor, like a strategic sex scene, to keep us content through consecutive too-big-to-be-true revelations, until we realize that these are actually true. "America Alone" is evidence that

Steyn's cynicism is born neither of literary fashion nor of his famous mischief. The man who writes obituaries for the *Atlantic Monthly* has found a real funeral. The kid in the coffin is Western Civilization.

Drawing a picture that is larger than most can see, Steyn captures the demographic landscape of the West's War on Terror. Globalization may be planting McDonalds in the desert soil of the Near East, he says, but it is also bringing the scimitar of Islam to the throat of Western culture.

Steyn argues that as Islamic populations swell on soaring birth rates — e.g., Somalia's 6.76 children per capita, or Yemen's 6.58 — Western populations are dwindling. By 2050, Italy's population will fall by 22% and Estonia's by 52%. England, Spain, Canada, and France are all depopulating, and Muslim immigrants eagerly book the vacancies. Of all the Western countries, only the United States is registering as many births as deaths. As Europe inevitably becomes a Muslim continent, America alone can defeat Islamic terrorism.

Steyn's case is epic. But so is his presentation. His literary flourishes are often dangerously sufficient; his words can overpower their meanings. But the meanings are valuable enough not to require (and gloomy enough not to justify) the insertion of "laughs" to make us read. The apocalypse

can't quell Steyn's funny bone, but it shouldn't fatigue our own. The transmittable personality of Mark Steyn is a bonus, not a substitute, for the strong message.

Yet there is obviously something unpalatable about the message. The idea that a growing Muslim population implies that we're losing the war offends our basic postmodern sensibilities. So what if the most popular boy's name in Amsterdam is Muhammad? And so what if Muhammad was the name of the 9/11 hijacker-in-chief, the Washington sniper, and Theo van Gogh's assassin?

The fact that Muslim populations are flourishing in the West has long been used to show that the West can win the war. In his book "The Case for Democracy," Natan Sharansky uses the numbers to prove that freedom is a universal value; if Muslims accept the free institutions of their adopted homes, they may invite those institutions into their countries of origin. A recent report from Freedom House finds that "Islam is not inherently incompatible with democratic values. Indeed, if we take into account the large Muslim populations of such countries as India, Bangladesh, Indonesia, Nigeria, and Turkey, and the Islamic populations of North America and Western Europe, the majority of the world's Muslims live under democratically constituted governments." A string puppet is sen-

---

*The man who writes obituaries for the Atlantic Monthly has found a real funeral. The kid in the coffin is Western Civilization.*

---

sitive enough to tell you that most terrorists might be Muslim, but most Muslims are not terrorists.

Steyn charts the data toward more pessimistic ends. Citing example after example, he explains that Muslims have not assimilated to democracies but

have forced democracies to assimilate to them. One year after the London Tube bombings of 2005, a London Times poll recorded these numbers: 16% of British Muslims said that although the attacks

might have been wrong, the cause was just; 13% thought that the perpetrators should be considered "martyrs"; and 7% agreed that suicide bombings of innocent British civilians can be justi-

fied. In other words, there are around 70,000 Londoners who admit to supporting terrorism.

As to the complexity of our problem, Steyn offers the clearest analysis to date:

## Notes on Contributors

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

David T. Beito is an associate professor of history at the University of Alabama, and author of *Taxpayers in Revolt* and *From Mutual Aid to the Welfare State*.

Scott Chambers is a cartoonist living in California.

Michael Christian is in early semi-retirement in a semi-paradisaical corner of California.

Stephen Cox is a professor of literature at the University of California San Diego and the author of *The Woman and the Dynamo: Isabel Paterson and the Idea of America*.

Brian Doherty is a senior editor of *Reason*, and is author of *Radicals for Capitalism: A Freewheeling History of the Modern American Libertarian Movement*.

Lanny Ebenstein is author of *Friedrich Hayek: A Biography*.

Andrew Ferguson is managing editor of *Liberty*.

Jon Harrison lives and writes in Vermont.

John Hospers is a philosopher and author of *Human Conduct: Problems of Ethics, Meaning and Truth in the Arts, Libertarianism*, and other books. He was the presidential candidate of the Libertarian Party in 1972.

Garin K. Hovannisian is editor of *The Bruin Standard*, UCLA's monthly journal of opinion and cultural review.

Tom Isenberg is a writer living in Idaho.

Gary Jason is a writer and philosophy instructor. His books include *Critical Thinking: Developing an Effective Worldview* and *Introduction to Logic*.

Eric Kenning is the pen name of a writer in New York. He can be reached at [eric\\_kenning@hotmail.com](mailto:eric_kenning@hotmail.com).

Richard Kostelanetz has written many books about contemporary art and literature.

Ross Levatter is a physician in Phoenix.

Sarah J. McCarthy, a Pittsburgh writer, is a contributing editor of *Liberty*.

Patrick Quealy may be found in his natural habitat, a Seattle coffee house.

Bruce Ramsey is a journalist in Seattle.

Mark Rand is an assistant editor of *Liberty*.

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

Ted Roberts' humor appears in newspapers around the U.S. and is heard on NPR.

Timothy Sandefur is a staff attorney at the Pacific Legal Foundation and the author of *Cornerstone of Liberty: Property Rights in 21st Century America*.

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

Tim Slagle is a standup comedian living in Chicago. His website is [timslagle.com](http://timslagle.com).

Liam Vavasour is a student of history who lives in Northern California.

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

The terrorist bent on devastation and destruction prowls the streets, while around him are a significant number of people urging him on, and around them a larger group of cock-sure young male co-religionists gleefully celebrating mass murder, and around them a much larger group of "moderates" who stand silent at the acts committed in their name, and around them a mesh of religious and community leaders who serve as apologists for the inciters, and around them a network of professional identity-group grievance-mongers adamant that they're the real victims . . .

And around them is what's left of Western Civilization — tactful politicians, culturally sensitive media, complicit academics, and a poisonous politically correct climate. Even Fox News can't produce a single Muslim leader who will uniformly condemn Islamic terrorism. The sultan is wearing wardrobesful of overcoats. The more time we take disrobing him, the fatter he gets.

Confident though he is in his expansive theory, Steyn is suspicious of the omniscient pretenses of today's academics. You may recall the ease with which Francis Fukuyama once announced the "end of history" (with little more support than pretentious references to Hegel, Nietzsche, and the known-only-

---

*Prophesying doom is ordinarily a bankrupt enterprise: those who have denied history its charms and mysteries have also met its mockery.*

---

to-academics Alexandre Kojève). He told us of the happy end "of mankind's ideological evolution," which had produced "the universalization of Western

liberal democracy as the final form of human government." To adopt that view was to underestimate the threats to liberal democracy (however narrowly or broadly one defines those words) and encourage an unhealthy indifference. The theory will be fully falsified if Iran acquires a nuclear weapon. If that happens, we may be dealing with a more literal kind of end of history.

Steyn rightly distances himself from Fukuyama, but he cannot distance himself from his methodological arrogance. It's hard to discern a trend, while you're in it; there are simply too many variables. And predicting its conclusion is usually a hopeless enterprise. If current trends continue, California will be 100% Mexican (but it won't). If current trends continue, everyone in the world will die of AIDS (but we won't). If the trends discerned by sages in the 1970s had continued, we would now be deep in global cooling. The law of trends is unpredictability. Demographics help illuminate the present; they rarely predict the future.

It would be a misreading of Steyn, but one he does not adequately thwart, to reason that the ultimate solution is for Western liberals and libertarians to get off our rockers and jump into bed, lest our children's generation consist of little Noam Chomskys. But important as demographics are, they are impotent if they aren't combined with our will and ability to resist Islamic fascism. Is the ideological enemy gaining willpower, as ours dwindles and shifts to false conciliation? Morale is still the first front of the War on Terror, and one that (*I* predict) will prove decisive years before Europe joins or becomes the Islamic Caliphate. As terrorist states move toward nuclear capacity, the West will either act to prevent them or refuse to act, making any future intervention impossible. That decision will determine the course of our present war, and it will be a decision we'll have to make before 2050.

But even if we act, the front line will be held and pushed by our ideas. In the suburbs of Tehran, where satellite dishes hidden in cupboards are pointed at Brit Hume, and in Damascus, where an underground intelligentsia reinvents debate, the outcome of the battle is unclear. It is that outcome — and our role in it — that matters. □

# Curtain Calls

---

Jo Ann Skousen

---

Three new musicals opened on Broadway this spring, but only two are likely to stay afloat. Blondes rule the stage this season, but it's curtains for "The Pirate Queen."

## "Curtains," Al Hirschfeld Theatre

Hurray! A new musical has opened on Broadway that is *not* a revival, *not* a jukebox compilation of rock songs, *not* a sung-through imitation of opera, and *not* based on a movie or a Disney cartoon. "Curtains" is a breezy new show with an impressive pedigree: music and lyrics by Kander and Ebb ("Chicago," "Cabaret," "Kiss of the Spider Woman"), original book by Peter Stone ("1776," "The Will Rogers Follies," "Charade"), and a cast starring a trunkful of Tony-winning stage veterans who take turns stealing the show.

The play is a backstage murder mystery as well as a lavish musical. Mayhem ensues when the leading lady of an out-of-town play dies during her curtain calls. David Hyde Pierce (Niles Crane on "Frasier" and Sir Robin in Broadway's Monty Python spinoff "Spamalot") plays a homicide detective with greasepaint in his blood who spends more time redirecting the play than investigating who-did-it. With his droll delivery and spot-on timing, Pierce could probably carry the show, but thanks to the broad shoulders of his fellow cast members, he doesn't have

to. Particularly memorable are Edward Hibbert as the arrogantly foppish director and Debra Monk as the overbearing producer of the show within the show.

"Curtains" has everything a Broadway musical needs: memorable score, clever lyrics, big dance numbers, a romantic *pas de deux*, and a witty story delivered by a talented cast of comic veterans. I predict it will be a long time before they say "curtains" to this show. But see it this year, with the original cast.

## "The Pirate Queen," Hilton Theater

Unfortunately, a classy pedigree isn't enough to ensure a blockbuster hit on Broadway. "The Pirate Queen," written by Alain Boublil and Claude-Michel Schonberg ("Les Misérables," "Miss Saigon"), ought to be selling tickets for the next decade, but I will be surprised if it doesn't sail into the sunset before the end of the summer. Like its older sisters, "Pirate Queen" boasts lush orchestrations, talented singers, and big cast numbers, but it is more like the foundling child than the legitimate sister of those earlier productions. The songs are vaguely familiar, yet not at all memorable.

Part of the problem is that the sung-through opera style made popular by Andrew Lloyd Webber in the 1970s and

Where will you be on  
7-7-7?  
www.freedomfest.com  
1-866-266-5101

perfected by Boubil and Schonberg in the 1980s has simply run its course. Audiences have grown weary of listening to dialogue warbled in long musical recitatives as the play moves from song to song; the style has not produced a genuine hit in over ten years. But what this play really lacks is the musical magic Boubil and Schonberg created in "Les Miz" with Jean Valjean's "Who Am I," Javert's "Stars," Fantine's "I Dreamed a Dream," Eponine's "A Little Fall of Rain" and Marius' "Empty Chairs and Empty Tables." I can't remember a single tune from "The Pirate Queen." The most memorable part of this show was the Irish dancers — another throwback to the 1990s.

A more serious problem with this particular play is the story itself. Based on the life of Grace O'Malley, an Irishwoman who fought the British, spent time in prison, and met face-to-

face with Queen Elizabeth I, the play seems stuck in the 1970s feminist movement. The young women seated near me almost swooned during the curtain calls, but here in the 21st century I find it difficult to get in a tizzy over a woman lifting a sword, steering a ship, or talking back to a man.

Even the climax of the story (don't worry about a spoiler alert — this show won't be around long enough for you to see it) is laughably simplistic. Grace and Elizabeth talk woman to woman about the British invasion of Ireland; Elizabeth yields, the curtain falls, and the audience cheers. You go girl! Nancy Pelosi, take heart! But O'Malley's courage notwithstanding, doesn't anyone remember that the British continued to rule Ireland long after that 16th-century meeting?

### "Legally Blonde: The Musical," The Palace Theater

I'm almost embarrassed to be writing about "Legally Blonde" for Liberty magazine — shouldn't I be sending this review to Teen Beat instead? But I liked the 2001 movie's optimistic message about being true to one's self while ignoring criticism and insults, and I liked this new musical version just as much. Sure, it's as fluffy as a strawberry pink birthday cake, but sometimes fluff is just the ticket for an entertaining night out.

Elle Woods is the stereotypical sorority girl who has majored in fashion and boyfriends in college. Now it's senior year, and she's expecting a ring. When her hunk breaks up with her to find a girlfriend more "suitable" to his hoped-for career as a senator, she follows him to Harvard Law School where she discovers that she has a brain. Who knew? Add to that her sense of integrity, compassion, and common sense,

and she is miles ahead of her fellow law students.

The music and lyrics by newcomers Laurence O'Keefe and Nell Benjamin are surprisingly witty and sophisticated for a show that could easily have slipped into Valley speak and stayed

---

*Here in the 21st century  
I find it difficult to get in a  
tizzy over a woman lifting a  
sword, steering a ship, or talk-  
ing back to a man.*

---

### *How to buy discount tickets in advance* —

Broadway ticket prices broke through the \$100 barrier a couple of years ago, and now stand at \$111.25 a seat for most shows, with premium seats at \$250 or higher. Most tourists know about the half-price TKTS booth at Times Square, where tickets are sold the day of the performance for discounts of 25–50%, plus a handling fee of \$3. Fewer are aware of its sister booth at South Street Seaport in the Battery, where lines are usually shorter and tickets for matinee performances are sold the night before. But there are drawbacks to the TKTS booths: the lines back up for two hours or more, making it difficult to do anything else during the day. Seats are generally located in the perimeter of the theaters (first four rows and along the sides), where views may be obstructed. Worse still, the availability board is often inaccurate, so you don't really know which shows are available until you get to the ticket window. By that time you've spent so much time in line that you go ahead and buy tickets for a show you didn't really want to see, and kick yourself for not planning ahead.

Skip the booths and go instead to [broadwaybox.com](http://broadwaybox.com), which posts discount codes worth 25–50% off most shows. Tickets can be purchased in advance online or by phone with a handling fee, or you can avoid the fee by printing out the code and going directly to the theater. The website also offers user reviews, which can be helpful as you decide which shows to see. — Jo Ann Skousen

there. I hope this is the first of many offerings from this team. Veteran Jerry Mitchell's choreography is young and contemporary, especially the athletic prison block number, "Whipped Into Shape," that opens the second act.

Laura Bell Bundy is perky and intelligent as Elle Woods, more Kelly Ripa than Hilary Duff. The real standout, however, is Nikki Snelson as Brooke Wyndham, the accused murderer Elle defends in Act 2. Snelson dominates the stage whether she is singing, dancing, or just being beautiful. Orfeh seems oddly miscast as Elle's trailer-trash beauty shop friend Paulette, until she begins singing the clever ballad, "Ireland" — what a voice! Several actors turn small roles into big parts: Andy Karl struts his stuff as the UPS man with a package, Manuel Herrera and Matthew Risch are hilarious as the pool boy and his boyfriend in "Gay or European," and Natalie Joy Johnson stands out as the butch law intern, Enid.

The movie-based musical is becoming as popular as jukebox musicals on Broadway, with "Hairspray," "Dirty Rotten Scoundrels" and "The Wedding Singer" leading the way for this latest offering. The genre offers producers the safety net of a proven story and a ready audience of tourists looking for a play that sounds familiar. A little fluff after a long day of sightseeing isn't such a bad way to spend the evening. □

## Letters, from page 6

replacement rate all over the developed world is a step in that direction. Far from being a crisis, demographic shrinkage is the best news we've had in decades.

It's doubly sad when libertarian thinkers get this material wrong, because its lessons amplify core libertarian principles. The first lesson concerns demographic shrinkage, the so-called "baby bust." Until recently, population activists had little choice but to be statists. Population decline seemed achievable only as the result of government initiatives like China's draconian one-child policy. What a delight, then, to find that market forces and individual choices are driving reproduction below replacement level across the developed world. Without state coercion, without focused propaganda campaigns, without central planning, free individuals are doing the right thing. They're working toward a long-term goal of a four- or five-fold reduction in human numbers without even knowing that such a goal exists! Far from joining alarmists who bleat for open immigration and baby bonuses, libertarians ought to be trumpeting the "baby bust" to the heavens as a vindication of our ideas.

To appreciate the second lesson, consider the economic implications of any serious, multigenerational voluntary reduction in human numbers. Clearly the first casualty would be social-welfare systems across the West that depend on each successive generation of workers being larger than the previous generation of retirees. From Social Security to the Scandinavian welfare states, they're all Ponzi schemes. A serious prospect of sustained population decline will demonstrate that libertarian critics have been right to call these systems hollow and unjust. More important, it will compel mainstream economists, social scientists, and, yes, politicians to seek a better way.

Replacing Ponzi economics is the underappreciated challenge of the 21st century. People worldwide have spoken; it appears almost certain that population will decline. Can we respond in time with alternative economic approaches whose inefficiencies do not require the lubrication of continual

growth just to maintain a steady state? Now if only Jason had written about that . . .

Tom Flynn  
Buffalo, N.Y.

**Jason responds:** I don't feel that I made any errors of substance, or missed any opportunities for libertarian thinking. Instead, I think Mr. Flynn is trying to fuse two paradigms that I regard as not really fusible — classical liberalism and neo-Romantic environmentalism. Specifically:

1. Flynn acknowledges that Ehrlich's predictions were wrong: no mass starvation (certainly none caused by overpopulation, as opposed to vicious government), no exhaustion of resources, etc. But Flynn claims his broader argument has been vindicated — overpopulation has caused pollution of rivers, exhaustion of soils, rush-hour traffic jams, and the like. I regard such problems, which have been with us as long as recorded history (including when the population was an infinitesimal fraction of what it is today), as the result of bad governmental policies rather than overpopulation. American farms continue to be productive (we even pay farmers not to grow stuff!), generation after generation. If another government chooses not to allow its farmers to buy fertilizer, or has such a corrupt, lousy statist economy that no farmer can afford fertilizer, soils will indeed deplete. But it has nothing to do with overpopulation. Similarly, if there is a shortage of freeways — and there is, here in California — that is because of the deliberate choice of government.

2. I see absolutely no reason why classical liberal or libertarian philosophy should aim at telling people how many kids they should have, period. Indeed, it is a hallmark of a totalitarian regime that it coerces citizens into either having few children (like Communist China) or having many children (like Nazi Germany). On the contrary, I take the classical liberal position to be that people should be free to have as few or many children as they prefer and can support. It's called liberty.

3. Flynn says that I've gotten the demographic material wrong, and that we should favor seeing the global popu-

lation shrink to the 2.5 billion that the experts told us in the 1950s was already too many. (If 2.5 billion is too many, why does Flynn want us to stop there? Why not go back to a quarter of a billion?) Pardon me, but I don't think any experts including Flynn have proven that there is some population optimum or even some theoretical limit to population sustainability. Where is it proven that the Earth can't support 10 billion? Or even 100 billion? Don't give me some arbitrary figure (which is what doomsday scenarists tend to do), but prove it. Again, any claim that there is a population optimum — that (to use Flynn's figure) a population of 2.5 billion will, over time, become wealthier or better off than one of (say) 10 billion — must be proven. Frankly, I don't think it can be proven — and, note well, the world today (at 6.5 billion) is far wealthier than it was in the 1950s. (I am not saying I want to see the population increase to 100, or 10, or 8 billion. Nor do I particularly want it to shrink to 5, or 2.5, or .25 billion. Unlike Flynn, I don't pretend to know what population size is optimal, or even if there is such a thing as an "optimal" population size.)

4. Flynn attributes the drop in reproduction in European welfare states to the market. I find that doubtful. It is arguable that the cradle-to-grave support promised by such states, together with the viciously high level of taxation required to pay for that support, actually pushes people to have fewer children than they would otherwise have.

5. Where Flynn and I are in perfect agreement is the need for the complete privatization of Social Security. As to how to achieve that, I have expressed my opinion upon that elsewhere — Flynn is welcome to go to my website or the archives of LewRockwell.com to read the particulars. In a nutshell, I would allow everyone to put their retirement funds into a personal account, like they do in Chile, and what they've contributed to Social Security in the past would be given back to them. To pay for this, I would want the Feds to sell off much of their vast assets, especially the large amount of surplus land.

## Olympia, Wash.

Legislative theory enters the quantum age, reports the *Seattle Times*:

In the first two months of the 2007 session, Sen. Ken Jacobsen (D-Seattle) has introduced 99 bills, more than any other lawmaker in the state legislature. He believes they all serve a purpose, even if most of them die.

"I'm into the theory of chaos. And in the theory of chaos, if this particle exists and this one comes into existence and this one doesn't know that one exists? It still affects the behavior of the other one," he said, moving his hands around as if they were giant particles.

## Beijing

There is a market for everything, the *New Zealand Herald* reveals:

A Chinese businessman has advertised on the internet for a stand-in mistress to be beaten up by his wife to vent her anger and to protect his real mistress. "When the woman found out her husband had a mistress, she insisted on beating her up," the *Beijing Youth Daily* said, citing the advertisement posted on a popular online jobs forum. More than 10 people had applied for the job; the "successful" candidate would be 35 and originally from northeastern China and would be paid 3,000 yuan (\$388) per 10 minutes.

## Hobart, Ind.

In God we trust, but His agents must use cash, the *Indianapolis Star* reports:

Kevin Russell was arrested after he tried to cash a check for \$50,000 at the Chase Bank in Hobart that was signed "King Savior, King of Kings, Lord of Lords, Servant."

Police were called to the bank after Russell tried to cash the check, which was written on an invalid Bank One check with no imprint. Russell had several other checks with him that were signed the same way but made out in different dollar amounts, including one for \$100,000.

## Sacramento, Calif.

Innovative plan for reducing recidivism, from the *San Diego Union-Tribune*:

At least 40 state prison medical workers have been receiving full pay while they've been on disciplinary leave for up to four years, corrections officials reported. Most were pulled from their duties for failures or neglect that sometimes resulted in inmates' deaths.

Dr. Peter Farber-Szekrenyi, director of the Division of Correctional Health Care Services, said that he will order the employees to return to assignments that will not put them in contact with inmate patients. "I'll put them in the library and let them read books. They're not going to sit at home," he said.

## Sydney, Australia

Saving the planet not with a bang, but with a whimper, described in the *Sydney Morning Herald*:

The Opera House's gleaming white-shelled roof was darkened Saturday night along with much of the rest of the city, which switched off the lights to register concern about global warming in an hour-long gesture organizers said they hoped would be adopted as an annual event by cities around the world.

"It's absolutely fantastic, there's a mood of enthusiasm and hopefulness and action," said Greg Bourne, chief executive of World Wildlife Fund Australia. "I have never seen Sydney's skyline look so dark."

The amount of power saved was not immediately known.

## England

Theological refinement, tracked by the *London Times*:

"Brits are set to spend a massive £520 million on Easter eggs this year — but many young people don't even know what Easter is all about," said a press release from supermarket chain Somerfield.

It went on to claim that the tradition of giving Easter eggs was to celebrate the "birth" of Christ. An amended version changed this to the "rebirth" of Christ. Finally a third press release accepted Church teaching that Easter celebrated the resurrection of Christ.

## London

He is watching indeed, reports the *London Evening Standard*:

It may have taken a little longer than he predicted, but George Orwell's vision of a society where cameras and computers spy on every person's movements is now here.

On the wall outside his former residence — flat number 27B — where Orwell lived until his death in 1950, a historical plaque commemorates the anti-authoritarian author. And within 200 yards of the flat, there are 32 cameras scanning every move.

Orwell's view of the tree-filled gardens outside the flat is under 24-hour surveillance from two cameras perched on traffic lights. The flat's rear windows are constantly viewed from two more security cameras outside a conference center in Canonbury Place.

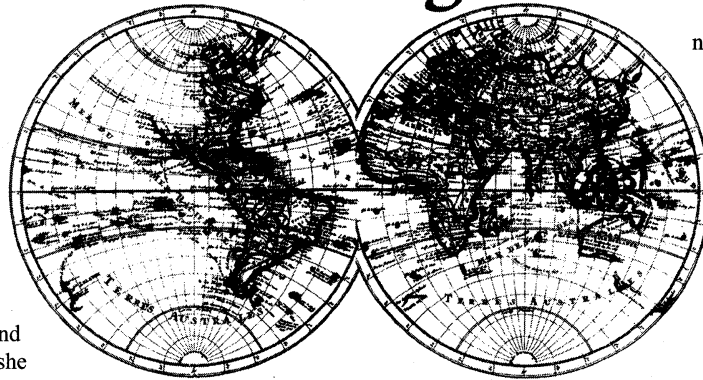
## Deutschland

The high costs of free speech, from *Der Spiegel*:

They refuse to rally for neo-Nazis, but otherwise, as long as the price is right, a new type of mercenary will take to the streets and protest for you.

More than 300 would-be protesters are marketing themselves on a German rental website. Next to a black and white posed picture, Melanie lists her details from her jeans size to her shoe size and tells potential protest organizers that she is willing to be deployed up to 100 km around Berlin. Six hours of Melanie bearing your banner or shouting your slogan will set you back 145 euros.

# Terra Incognita



# 7-7-7 in Las Vegas!

# FREEDOMFEST 2007

July 5-7, 2007, Bally's/Paris Resort

7 Themes • 77 Speakers • Over 777 Like-minded Attendees

Co-sponsored by Laissez Faire Books, Official Bookstore

"The most intense, rewarding, intellectual, create-your-own 3 day conference I've ever attended." — **Bob Poole, Jr.**, *Reason*

"FreedomFest is a great place to talk, argue, listen, celebrate the triumphs of liberty, assess the dangers to liberty, and provide that eternal vigilance that is the price of liberty." — **Milton Friedman**

## 7 Themes:

History • Philosophy • Science • Economics • Geo-politics • The Arts • Investments

## 77 Speakers Including:

- **Muhammad Yunus**, 2006 Nobel Peace Prize winner: "Forget the World Bank: Here's a Private Solution to World Poverty that Really Works."
- **Art Laffer**, Guru of Supply-Side Economics, on "The Shocking Truth About China, the Middle East, Oil, Gold, Tax Cuts and Sarbanes-Oxley," plus "Why I Left California for Good!"
- **John Mackey**, Whole Foods Market: "My Personal Philosophy of Self-Actualization: How I Turned a Money Loser Into a \$9 Billion-Dollar Company."
- **José Piñera** (Cato Institute), on "The Greatest Worker-Capitalist Revolution in the World: Will China be Next to Reform Social Security?"
- **Nassim Taleb**, author of bestseller "Fooled by Randomness" on his new book "The Black Swan: How We Can Predict What Really Matters."
- **Charles Murray**, on "How to Write a Classic — What Constitutes a Perennial Bestseller."
- **Dr. Michael Shermer**, Scientific American: "Why People Believe Weird Things" and "The New Science of Liberty." Plus a debate with Dr. Michael Denton on evolution and intelligent design.
- **Eamonn Butler**, Adam Smith Institute: "Why the House of Lords and the Monarchy are Libertarian."
- **Jack Pugsley**, The Sovereign Society: "The Case *Against* Free-Market Think Tanks."
- **Michael Denton**, M. D., microbiologist, University of Otago: "Evolution, Yes; Darwin, No!"
- **Lanny Ebenstein**, philosopher: "History's Most Dangerous Philosopher: Karl (but Not Marx)."
- **Nelson Hultberg**, America for a Free Republic: "How Ayn Rand and Murray Rothbard Took Liberty Down the Wrong Road."
- **Brian Doherty**, *Reason Magazine*: "Radicals for Capitalism: A Freewheeling History of the Modern American Libertarian Movement."
- **Andy Olree, J.D.** (author, "The Choice Principle"): "The New Testament: For or Against Freedom?"

Plus other top speakers: **Nathaniel Branden** ("Self-Esteem and Its Enemies"), **Steve Moore** (*Wall Street Journal*), **Jerome Tuccille** ("It Usually Begins with Ayn Rand"), **Ted Nicholas** (marketing guru), **Tom DiLorenzo** (Loyola College), **Mark Tier** (Hong Kong/Philippines), **James O'Toole** (Aspen Institute), **Greg Lukianoff** (FIRE), **James Marsh** (University of Hawaii), **Jo Ann Skousen** (film panel), **Bill Westmiller** (Republican Liberty Caucus) **Terry Savage** (author and Chicago TV personality), **David Theroux** (Independent Institute), **Doug Casey** (author, "The International Man"), **Jon Utley** (Antiwar.com), and **Mark Skousen** ("The Big Three in Economics")...  
More speakers added daily at [www.freedomfest.com](http://www.freedomfest.com).

**Special Event:** Debate Between Conservatives (**Dinesh D'Souza** and **Larry Abraham**) and Libertarians (**Congressman Ron Paul** and **Doug Casey**) on America's dangerous foreign policy. **George Gilder** (author and technology guru) will be moderator of this Big Debate.

**Over 777 attendees** enjoying 3-full days of debates, bright new stars, exhibits, cocktail parties, and the incredible 7-7-7 Gala Banquet on Saturday night.  
"Still, the best conference I've ever attended!" — **Alex Green**, chairman, The Oxford Club

Skousen CAFÉ: Included for the first time at FreedomFest, a 3-day financial conference with investment stars **Alex Green** (Oxford Club), **Albert Meyer** (Bastiat Capital), **Dan Denning** (Strategic Investment), **Horacio Marquez** (Money Map Advantage), **Frank Seuss** (BFI Consulting), **Nicholas Vardy** (Global Bull Markets), **Keith Fitzgerald** (Skeptical Investor), **Frank Holmes** (U.S. Global Investors), **Dan Frishberg** (BizRadio), and **Doug Fabian** (Successful Investing).

## A Special Message from MARK SKOUSEN, *Producer:*

This year's FreedomFest on 7-7-7 is going to be the best ever, an intellectual feast that you will never forget. I created FreedomFest as an annual get-together of all freedom lovers who want to learn, strategize, network, debate, and celebrate liberty in a fun city. Please check our website, [www.freedomfest.com](http://www.freedomfest.com), for the latest details.

We've done everything possible to keep the price of FreedomFest reasonably low. We've arranged for a block of rooms at Bally's: **Only \$97 per room**. They will go quickly, so I suggest you sign up soon.

The registration fee for the 3-day conference is \$495 per person/\$595 per couple. This fee includes all sessions, cocktail parties, and the sumptuous Saturday night gala banquet.

**For more information, or to register, go to**  
[www.freedomfest.com](http://www.freedomfest.com),  
**or contact Tami Holland,**  
**our conference co-ordinator,**  
**at [tami@freedomfest.com](mailto:tami@freedomfest.com), or**  
**toll-free 1-866-266-5101.**

See you in Vegas on 7-7-7!

P. S. FreedomFest is an open forum. If you and your organization would like to exhibit or sponsor a session at FreedomFest, please contact us immediately.

In Arizona, parents of children with disabilities and foster parents have been set free to choose the best school, public or private, to meet our children's unique needs.

But the education establishment wants to stop us.

I am fighting for school choice because parents, not bureaucrats, know our children best.

*I am IJ.*



*Jessie and Tyler Geroux  
Phoenix, Arizona*

[www.ij.org](http://www.ij.org)

*Institute for Justice  
School choice litigation*