

Liberty

June 2008

\$4.00

Hayek Lives!

A Real Third Party?

by Bruce Ramsey

Liberty Poll Results

by the Editors & Contributors of Liberty

End the Tort Tax

by Gary Jason

Prince of Darkness

by Stephen Cox

Also: *Martin Morse Wooster* looks at economics for fun & profit, *Todd Skousen* visits Hollywood's Iraq, *Ross Overbeek* examines moral absolutes, truth, and Liberty . . . plus other articles, reviews & humor.



"Mankind is tired of Liberty." — Mussolini

“With wisdom and lucid prose, Levy and Mellor go straight to the sad, central truth of the American judiciary. We have created a system in which nine people are presumed to be smarter than 300 million.”

-P.J. O'Rourke, author of *On The Wealth of Nations*

“I've been looking for one place to examine all the structural damage done over the years by the Supreme Court. Here it is.”

- Hon. Andrew P. Napolitano, Senior Judicial Analyst, Fox News Channel

“Straightforward and clear...brilliantly reasoned and meticulously researched...*The Dirty Dozen* tells the story of how the Supreme Court has undermined our liberty.”

- Pat Toomey, Club for Growth

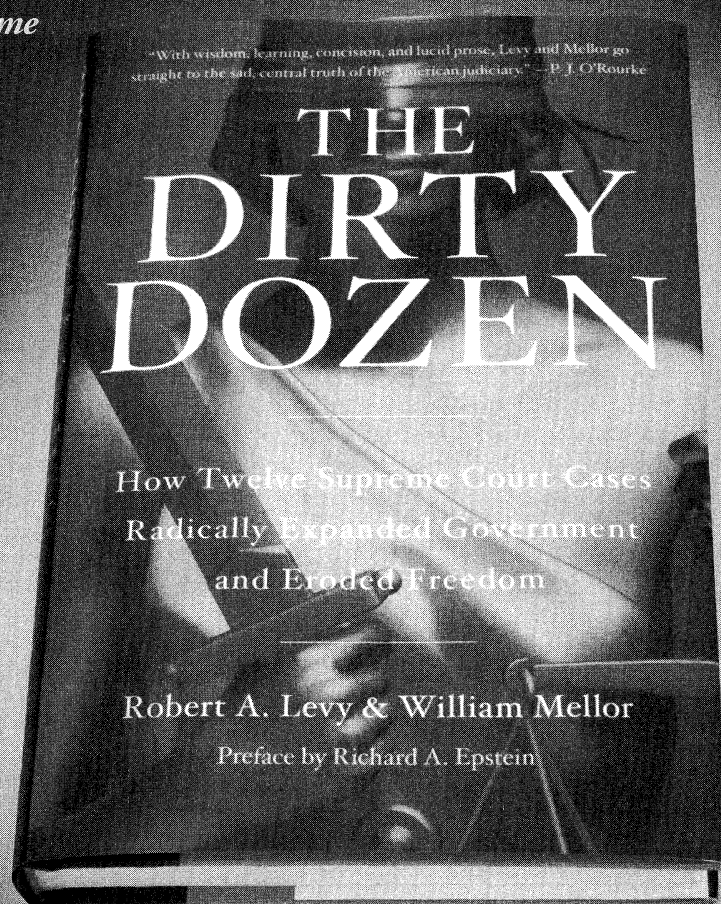
The Dirty Dozen: How Twelve Supreme Court Cases Radically Expanded Government and Eroded Freedom

is an unprecedented analysis of cases that changed the course of American history. Co-authors Robert Levy of the Cato Institute and Chip Mellor of the Institute for Justice reveal the on-going impact these cases have on free speech, economic liberty, property rights, private contracts, and much more.

\$25.95. Published by Sentinel,
an Imprint of Penguin Group USA.
Available in bookstores
nationwide, at 800.767.1241,
or at www.cato.org.



SENTINEL



Liberty

R.W. Bradford
(1947–2005)

founder

Stephen Cox
editor

Mark Rand
managing editor

John Hospers
Bruce Ramsey
Jane S. Shaw
senior editors

Jo Ann Skousen
entertainment editor

Kathleen Bradford
Jim Walsh
assistant editors

Brien Bartels
David T. Beito
David Boaz
Alan W. Bock
Douglas Casey
Eric D. Dixon
Brian Doherty
Lanny Ebenstein
Andrew Ferguson
David Friedman
Bettina Bien Greaves

Ronald Hamowy
Jon Harrison
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
Patrick Quealy
Scott J. Reid
Ralph R. Reiland
Sheldon Richman
Jeff Rigenbach
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

Inside Liberty

June 2008
Volume 22, Number 5

4 Letters Scribble, scribble, scribble.

7 Reflections We craft the perfect bill, snort space monkey, melt our pennies, visit the stupidest state, fawn over Lincoln, give pregnant women the boot, dodge bullets with Hillary, learn to love Big Brother, smoke easy behind the fourth wall, and remember Charlton Heston.

Features

19 A Real Party? Suddenly, everybody wants to run under the Libertarian Party banner. *Bruce Ramsey* watches the race.

23 The Ethics of Tort Reform *Gary Jason* shows how to remedy the excessive litigation that is costing us hundreds of billions of dollars a year.

Twenty Years of Liberty

29 The Liberty Poll Since its founding, Liberty has been trying to keep track of libertarians — who they are and what they think. We now present the results of the latest Liberty Poll.

46 Moral Absolutes, Truth, and Liberty *Ross Overbeek* revisits the survey of libertarian attitudes that he helped to create 20 years ago.

Reviews

51 Prince of Darkness or Angel of Light? For a change, as *Stephen Cox* discovers, a Washington insider's tell-all fulfills its promise.

55 Leave Us Alone! The Leave Us Alone Coalition: now there's a good name. *Bruce Ramsey* investigates the movement behind the moniker.

56 Economics for Fun & Profit *Martin Morse Wooster* reveals that economics is no longer the dismal science.

57 Hayek Lives The afterlife of Friedrich Hayek has been long and strong. *Lanny Ebenstein* investigates his posthumous influence.

59 Screwy Enough? Cary Grant, Rosalind Rusell, Thelma Ritter . . . is anybody today as funny? *Jo Ann Skousen* reviews the evidence.

60 Cut Your Losses *Todd Skousen* grabs a popcorn MRE and watches Hollywood get the Iraq war wrong.

61 Teach Your Punters Well *Jo Ann Skousen* visits "South Pacific" and is glad to stay for the second act.



58 Notes on Contributors Our hearty crew.

63 Terra Incognita It happens.

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!

☐ One Year — \$29.50

☐ Two Years — \$56.00

(U.S. prices only. To Mexico and Canada, subscriptions are \$39.50 per year; to other countries, \$59.00.)

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

Good Riddance

Buckley was evil. It's not right that he should be eulogized in *Liberty* ("Death of an Icon," May). Rather, his obituary should start with something like: "Buckley slouching with Judas and Quisling tonight . . ."

Seriously, I would think a posthumous Nuremberg would be in order and I am openly calling for one.

Looking at the list of those that he had the gall and arrogance to purge from the conservative movement, it is apparent that he was deliberately targeting those who would have insisted on a moral foreign policy.

I am glad that he left us — in his own hand — a rationalization for torture.

Let facts be submitted to a candid world.

James D. Armstrong
Alamogordo, NM

Remember the Amero!

I read with interest Bruce Ramsey's observations on the Ron Paul campaign ("The Paul Vote," May). However, I take exception with his suggestion that the people of the Cato Institute are "embarrassed by Paul's nationalist rhetoric over the supposed North American Union." It isn't nationalist rhetoric to realize that our Constitution is being overridden by executive agreements such as the Security and Prosperity Partnership. The Canadian prime minister and the president of Mexico have publicly admitted that the overall plan is to merge our economies. Our president denies this. We all know he wouldn't lie to us to further the interests of big banks and corporations, right?

If there is no plan for a North American Union then why were Mexican troops mobilized to New Orleans to "help" with the martial law that was imposed after Hurricane Katrina — martial law that involved door-to-door gun con-

fiscations by our own military? There isn't a 2nd Amendment in Mexico or Canada and there won't be one in the North American Union either.

The Tran-Texas Corridor is being built as we speak despite overwhelming opposition by the people of Texas. Over 500,000 acres will be confiscated to build a highway that doesn't go to any city in Texas. Our traffic-jammed cities are being loaded down with toll roads because of a phony money shortage.

Do you ever wonder why illegal aliens can open a bank account in America with a matricula card that can be bought on a street corner in Mexico, while a native-born American has to jump through hoops to open an account at the same bank? It is because of the plan for a North American Union. When the banks issue the amero to replace your collapsed dollar, please realize it won't be an accident.

Dr. Paul was the only presidential candidate to even mention the NAU. This was important since most Americans had no idea of any such plan, and oppose it once they realize the implications of what is being decided for them without a vote. The NAU is real. One doesn't have to be a fierce nationalist to be concerned about it.

Jimmy Gardner
Austin, TX

Ramsey responds: The correspondent throws in a lot of issues that seem to indicate the existence of something, but it is not a "North American Union."

First, the so-called NAFTA super-highway: there are already several that connect the United States, Canada, and Mexico. I live by one of them: Interstate 5, which runs from Tijuana to the border near Vancouver. I-5 was built in the 1960s and replaced the older US-99, which was built in the 1930s. It is not a threat to sovereignty, and I doubt if another highway across Texas is.

Liberty (ISSN 0894-1408) is a libertarian and classical liberal review of thought, culture, and politics, published monthly except February 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 eleven issues. International subscriptions are \$39.50 to Canadian and Mexican addresses and \$59.00 elsewhere.

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. For information about advertising with *Liberty* or about reprints, email patrick@libertyunbound.com or call (360) 379-0242.

Opinions expressed in *Liberty* are those of the authors and not necessarily those of the Liberty Foundation. Copyright © 2008 Liberty Foundation. All rights reserved.

I also live under NAFTA. In the past 15 years I have seen a modest increase in the number of goods that say "Made in Canada" and "Made in Mexico," but I don't object to them. Companies in my hometown, Seattle, are doing a lot more business in Canada, particularly, than they used to. I recently talked to one that remanufactures large diesel engines for the Alberta oil-sands industry. I also live near a Nucor steel plant that sells into British Columbia. These things do not bother me. I think they are good.

The John Birch Society has raised the alarm over the "Security and Prosperity Partnership." What is it? It is a large name for a limited thing. It is a PR man's puffball name for political cooperation on limited subjects. NAFTA is deeper and more definite than SPP, but is about the economy only. It is an agreement to coordinate our sovereignties on certain matters relating to trade and investment. Legally it is not a treaty — at least, not in the U.S. — and is not coequal with the Constitution. Above both the SPP and NAFTA is the lack of any political demand, in Canada, Mexico, or the U.S., for a surrender of sovereignty anything like the EU. None. The Bush administra-

tion flatly denies it is working toward a North American Union. U.S. Trade Rep. Susan Schwab said so to my face.

And yet the New American keeps tooting the horn about this "North American Union" and a supposed new North American currency, the amero, that will replace the U.S. dollar, the Canadian dollar, and the peso. Not that I'm feeling protective of the U.S. dollar just now. But the abandonment of the dollar would take a majority vote by both houses of Congress and the signature of the president, or else two-thirds votes of both houses, and that has about as much chance of happening as a gold standard under a President Ron Paul.

The Truther Will Set You Free

I am one of those "conspiracists" Jon Harrison mentions in "Prelude to Disaster" (April). I don't "believe" 9/11 was an "inside job" of some kind. I "know" it was.

I'm not smart enough to have figured that out immediately, I was only suspicious at first but as vast amounts of information have gradually come out I think it's been proven beyond a reasonable or even an unreasonable doubt.

This is the "mother" of all issues, the

most interesting question in my almost six decades of life.

All Harrison has to do is say the magic word "conspiracy theory" and supposedly that settles the argument. Aren't libertarians suspicious of government power, don't we suspect many criminal conspiracies are going on in government, don't we take Lord Acton seriously about the corrupting influence of power?

To analyze his attitude I think we have to look at this as a religious question. When he says "conspiracist" what he's really saying is "heretics" engaging in blasphemy and sacrilege against the "American Nationalist Faith" as truther theologian David Ray Griffin calls it.

This is why so many Americans are impervious to reason and evidence about 9/11, they're intellectually degenerate and have spastic brains.

Dr. Dan O'Connell
LaSalle, IL

The Best We've Got

Jon Harrison has honored me by his response (Letters, March). I cannot match his rhetorical skills. However, I wish to raise one small point.

Harrison mentions the death in Israel of Rachel Corrie. This brings to my mind another beautiful American, Marla Bennett. She was in the cafeteria at Hebrew University when a suicide bomber chose to detonate a charge of explosives in that same cafeteria. I am sorry to say that Ms. Bennett is not the only American citizen to die a violent death in Israel — at the hands of its enemies.

As an American, should these deaths not also concern me?

I believe it was Winston Churchill who said that democracy is not a perfect form of government, but it is better than any other form of government currently in existence. Neither the United States nor the Israeli government is perfect, but for all their faults, they are both democracies. As such, perhaps they hold some legitimate interests in common.

W. Luther Jett
Washington Grove, MD

Just Another Foreign Country?

Jon Harrison reveals himself a little too clearly for my taste in the closing words of his response to W. Luther Jett in the March letters column. He asserts: "Israel is just another foreign country to me. . . . Given that the Israelis killed a beautiful American girl, Rachel

From the Editor

Suppose you stroll into your local fast-food outlet, sidle up to the counter, and bespeak a hamburger and fries. "\$2.59," says the waitperson. You slap three bucks down on the counter, and — nothing. Nothing happens. The guy just looks back on you. "Have a nice day," he says.

"Where's my hamburger?" you say.

"I never promised you a hamburger," he replies.

"I gave you money," you say. "Give me my burger."

"Make me," he says.

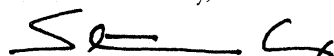
Clearly, this isn't the way things go in normal, civilized society, because this society works by contract and agreement, not by force. It's understood that the acceptance of money means the acceptance of an obligation to provide the specified goods. Nobody has to proffer money; nobody has to offer goods. But if you take my money, you will absolutely, positively, give me the goods I indicated — no more, no less.

A lot of people — politicians, mainly — think that contract society should be replaced by command society, a society in which Leaders provide plans and orders, and you must provide obedience. Of course, the plans are never fulfilled, but at least you have the orders.

Libertarians always prefer contract to command. It's fine with us if you don't want to fork over your money to buy this issue of *Liberty*. But if you do, you know you're going to get something in return. You're going to get the best we have to offer. Our best takes many forms, but one of them is our delight in a free society, and our interest in showing how it works.

Want to buy some?

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: 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.

Q: Is an electronic version of *Liberty* available?

A: You may receive *Liberty* conveniently by email each month, in PDF format, either instead of your paper subscription or (for a nominal fee) in addition to it. Call or email us for assistance.

To subscribe, renew, or ask questions about your subscription

E-mail: 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

Corrie, not to mention 34 sailors on the *USS Liberty*, I think my attitude is charitable."

For readers unfamiliar with his references: Rachel Corrie, an American protester, was crushed after sitting in front of an armored bulldozer operated by the Israeli Defense Forces in Gaza during the Intifada in March 2003. By all accounts, the bulldozer was occupied in clearing brush. Harrison's description of Corrie as "beautiful" can serve no purpose but to push emotional buttons. His failure to describe the factual circumstances of her death — or to mention the considerable testimony that the bulldozer operator may not have seen her — leaves a reader to infer the death was deliberate.

The *USS Liberty* was attacked by Israeli aircraft and torpedo boats during wartime in 1967 — 41 years ago. The controversy over the incident is widely published and must be known to Harrison. But again, there's no suggestion that the attack could have been anything but deliberate. In both instances, Harrison states "the Israelis killed" — a term that refers to the collective.

I'm afraid Israel is not "just another foreign country" to Jon Harrison. He considers his attitude charitable. A more candid description would be "virulent."

John C. Boland
Baltimore, MD

Arabian Knights

I was amused to read Jon Harrison's conspiracy-laden fantasy about a pro-Israel cabal pushing the poor, helpless U.S. into war. The tired, overused socialist slanders of Israel were dressed up in a thin veneer of pseudo-libertarian language.

In reality Israel is subject to the same strongarm tactics that other allies receive when it comes to toeing the line of U.S. foreign policy. This is why democratic Israel had to sit down with terrorist mass murderers at Oslo and Annapolis; finance, fuel, feed, and give emergency medical attention to Palestinian-Arabs whose fondest wish is to drive every Jew into the sea; and finally — at the insistence of Condi Rice and the Bushies — kick Jews out of their homes in yet another failed land-for-peace deal that only resulted in Hamas rocket launchers being moved closer to Tel Aviv.

The truth is that Saudi Arabia has as much influence and spends more money on lobbying efforts than the Israeli

lobby. Bush family friend and adviser James Baker's insistence that Arab despotisms be appeased at Israel's expense is evidence of Saudi success. It is telling to see the Israeli lobby receive such bombast and venom from Israel's critics while other interest groups and foreign influence peddlers are treated as just actors in a political drama.

Don Kenner
Georgetown, TX

Harrison responds: I thank Mr. Jett for his courtesy, and for continuing the dialogue. I cannot agree with him that the U.S. and Israel share common interests because we are both democracies. The United States has only one interest in the Middle East: access to the region's oil. Our relationship with Israel is an impediment to that access. In that sense, Israel is an albatross around our necks.

The other two gentlemen, frankly, have nothing of interest to say. I will mention that there is good reason to believe Rachel Corrie was killed deliberately, and that there is every reason to believe the attack on the *Liberty* was deliberate. I will refrain from presenting the evidence for the simple reason that partisans of Israel never, ever will accept facts that show that nation in its true light.

Let me say again that my concern is for the American people and their interests. Israel is a foreign country. I myself am of English descent. However, I don't waste a moment of my time worrying about Britain and its people.

Let me say, finally, that it is not that I'm pro-Arab. Nothing would please me more than to see America turn its back to the wretched Middle East and its peoples — both Arabs and Israelis. If tomorrow the earth swallowed up the entire region from Morocco to the Persian Gulf, I would wonder at it, but shed not a tear.

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

Or mail to Liberty Letters, P.O. Box 1181, Port Townsend, WA 98368.

Reflections

He has a dream — I can't help but notice that some of the charges leveled against Obama pal Rev. Jeremiah Wright were almost identical in nature to the charges made against certain groups who supported Dr. Ron Paul. As I watched Obama try to explain his relationship with the Reverend, I wondered if Dr. Paul would have been praised for a similar speech. Would he have been let off the hook if he claimed to understand the frustration of white separatists and declared himself the only man running who could truly heal that divide? — Tim Slagle

Labour vs. women in labor — Obama: are you listening? More than four out of ten maternity units in Britain are turning away women in labor. With no Tories to blame, the National Health Service bureaucrats are, of course, opting to stress the bright side. According to the London Daily Mail (March 20), a cold-blooded spokesman for the NHS has pontificated that "it is difficult to predict precisely when a mother will go into labour and sometimes, at times of peak demand, maternity units do temporarily divert women to nearby facilities. When this does happen it is often only for a few hours and to ensure mother and baby can receive the best care possible." — David T. Beito

Race to the bottom — AOL ran an interactive poll on March 31. Next to three pictures — of Obama, Clinton, and McCain — there were three blanks, numbered 1, 2, and 3. You were asked which candidate would make the best president.

There was some sort of bug in the program, though. No matter how much I tried, I couldn't place all three candidates in the #3 box. — Ross Levatter

Win-win — The Washington state House of Representatives recently amended Senate Bill 6809, which creates a sales-tax break for low-income families. Under the amended terms, the bill must be approved or declined anew with each budget. (The state, of course, has *droit du seigneur*, if not *ius primae noctis*.)

The budget will always have room for a committee, with expense accounts, to "study the issue." The legislators will always have time to prattle about the great work they're doing for "disadvantaged families." And best of all, every two years

the legislature will have an excuse to claim they have to raise taxes to pay for it.

It is, in short, the perfect bill.

— Mark Rand

Free trade to the fore — McCain and the two Democratic candidates seem to share many views, a fact that has caused the conservative talkerati to go ballistic. But one difference is already crystal clear: the Democrats intend to run on a protectionist platform, whereas McCain has staunchly favored free trade.

Clinton and Obama have been trying to outdo each other with protectionist rhetoric. Clinton, whose husband — oops, co-president — signed into law NAFTA and the WTO, has called for a moratorium on any new free trade agreements (FTAs). In particular, she has come out in vociferous opposition to the recently negotiated FTA with South Korea, as well as the FTA with Colombia, negotiated quite some time back and stalled in the Dem-controlled Congress.

Obama also came out against the Korea FTA (after cutting a deal with the Teamsters' union for its support), and hasn't supported the Colombia FTA, but he has gone further. He has bashed NAFTA as having cost a million jobs, called for us to withdraw from it (while giving back-channel reassurance to an enraged Canadian government), and sent out fliers attacking Clinton for having supported it when she was co-president.

Both Obama and Clinton are sponsoring the grotesquely named "Patriot Employers' Act," under which companies who "voluntarily" agree to a number of union-backed policies (including paying a higher minimum wage, setting up retirement programs for all employees, and covering 60% of their health care premiums) would have their corporate taxes reduced.

McCain has supported all these FTAs and many others as well, earning him a 100% rat-

ing from the Cato Trade Center as well as a recent commendation from the Club for Growth.

— Gary Jason

One flew over the East Wing — News story leads don't get better than this, from the AP wire on March 25: "Hillary Rodham Clinton said Tuesday she made a



"The meaning of life? — Do you have a need to know?"

mistake in claiming that she came under hostile fire in Bosnia 12 years ago. . . ."

Perhaps bullets whizzed overhead, nearly killing Clinton and her daughter, or perhaps not. It is an easy mistake: when you stopped to buy a quart of milk yesterday, did you narrowly survive a mortar attack on your way out of the grocery store? Surely you can't answer in the negative with complete confidence. Especially if you were sleepy!

You see, Clinton said that more important than her trifling confusion about bullets in Bosnia "is whether she would be a better commander in chief than Obama or Republican presidential candidate John McCain. . . . She told the Pittsburgh Tribune-Review: 'I was sleep-deprived, and I misspoke.'"

That is an unfortunate explanation from the woman whose campaign ran a commercial asking which candidate is best prepared to answer a phone ringing in the White House in the middle of the night. Never mind the question of who is best qualified to command more than a million active-duty military personnel and take possession of the nuclear football.

In any context but Clintonian politics, someone who mistakes a welcoming committee for an attacking platoon of soldiers might be regarded as having a paranoid psychosis.

You may have heard Sen. Clinton tell an audience, in an affected Southern drawl, "We have to stay awake! . . . On this Lord's day, let us say with one voice the words of James Cleveland's great freedom hymn: 'I don't feel no ways tired!'" That was on March 4, 2007. As Sen. Clinton was then already preoccupied with staying awake, and did not yet feel no ways tired, we may assume that she would have remembered events in Bosnia correctly on or before that date. One year later, the campaign has worn her down.

Another angle about this thing bothers me. Ron Paul couldn't catch a break when he was linked with bigoted things printed in his old newsletters. Despite Paul's repudiation of the newsletter clippings in the strongest terms — and a record of many years in which he'd never acted as though he believed the things the newsletters said — his critics offered them as proof that he was unfit for the presidency.

Word Watch

by Stephen Cox

Some are born foolish, some achieve folly, and others have folly thrust upon them. This column has folly thrust upon it.

So do you, if you care about words. Every visit to Google News, the TV news, the Newsweek news, or any other kind of news is a banquet of bumbles, a ten-course dinner of bizarre locutions. And friends are always happy to show up, bearing take-out food.

Here's Paul Beroza, who has served me many meals of this kind, with a weird little dish from The New York Times (March 16). I hope you aren't offended by the fact that it has to do with one of the Democratic superdelegates. These people, hitherto wholly unknown to the general population, or even to The New York Times, have recently become the most hated figures on the continent, the only race that is forced to provide reasons for its very existence (and the reasons are never good enough). Their very name inspires disgust and fear. Soon it will be unprintable.

Nevertheless, even superdelegates are allowed to whine. That's what one of these demons in the human form, "an uncommitted superdelegate from Iowa," was doing when, according to the Times, he, she, or it characterized the struggle for power in the Democratic Party as "everybody's worse [sic] nightmare come to fruition."

Well, at least there could still be something worst. But the thing that piqued Paul's curiosity was what the guy had in mind when he pictured a nightmare growing, blooming, and eventually coming to fruition. Is that what nightmares do?

No, they don't; not even in Iowa. Not even in a political party. What we have here is a classic example of a person who doesn't know what he's saying.

Here's another one, also delivered by Paul, in a little banged-up car with a "Word Watch" sign on its roof. This take-out is from CBS News:

"Eliot Spitzer's tumultuous tumble from the zenith of a prom-

ising political career to the nadir of a shocking sex scandal came as no surprise Wednesday [thank God; there's a concrete term] as the bright, bull-headed governor announced his resignation, effective Monday [there's another one], under bloating pressure from state lawmakers and the public."

"No surprise"? I think anyone would be surprised to see a glowing man with the head of a bull tumbling from the highest point in his orbit, falling in tumult because a lot of other people got all bloated up, somehow, and pressed him out of his . . . orbit. That's what the report says, but apparently this is another case of someone not really knowing what his own words say.

Paul assured me that he wasn't "going to get into a tumultuous tumble about it," but he did wonder "how many times a disgraced Republican is referred to as 'bright.'" The answer is: no times, never. Had Spitzer been a Republican, he would have been the abrasive political figure who has once more been implicated in unethical behavior. Which would, of course, have been true.

Ah, but think of everything you can do with words when you just don't care what you're saying! Here's an item chosen more or less at random from the Obama propaganda . . . I mean news reporting. It's an article in the International Herald Tribune (March 19). The headline is — I swear to God, this is the truth — "Obama Speech Captivates Americans."

Captivates. What does that mean? The dictionary definition is to "capture by special charm or beauty; enrapture." So is that what happened? Have "Americans," universally, or even on the whole, been sucked into a state of rapture by the charm or beauty of one of Obama's speeches?

The oration in question was the one in which the candidate tried to divert criticism of his pastor's paranoid anti-Americanism and radical leftism — his identification of the Supreme Court with the Knights of the Ku Klux Klan, his complaints about the U.S. government's having invented AIDS in order to exterminate

The sticking point was not necessarily the things published under his name, but that he could not or would not provide an explanation of how they came to be published. That is a fair and necessary criticism. (One plausible hypothesis is that Lew Rockwell wrote most of the bad stuff, but Rockwell denies it. If Rockwell is the author, Paul has chosen to fall on his sword for his former employee.) Enemies of *laissez faire* were quick to embrace the “Angry White Man” image portrayed by James Kirchick in the *New Republic*. One wonders whether the leftists among them will now recant everything they said about Ron Paul being an unsuitable candidate, or whether they will declare Clinton unsuitable.

Which, after all, is a more incredible claim: that Ron Paul didn’t read his newsletter, or that Hillary Clinton forgot whether she and her daughter were nearly killed? And if Clinton’s excuse is unbelievable (as it is), which is worse: a politician of such loyalty and character that he won’t throw an old friend under the bus, even at the cost of his candidacy, or a lying, power-mad senator whose excuse is that

being tired makes her stupid about matters of life and death?

— Patrick Qualey

Doing Kermit — It never fails: every year, round about spring break, an article appears in newspapers across the land — and, though the dateline might change, though the words may be slightly different, it is the same article every time. Parents! Your children are whacked out on this drug! Right this minute! Check the garage!

The article includes, in various permutations, the following elements: one, an anecdote of dubious provenance about how the substance in question is responsible for killing or seriously injuring some teenager who, apart from its nefarious effects, would surely have gone on to be, at the very least, Supreme Court Chief Justice; two, a statement from a sheriff’s deputy or other low-ranking governmental official about how this anecdotal evidence is “only the tip of the iceberg”; three, a list of “street names” for the drug that have never been used by anyone under 35; four, a list of signs you — yes, you! — can

black people, his contradictory contention that the U.S. economy depends on the exploitation of black people, his reference to black person Condoleezza Rice as “Condosleezza Rice” — by comparing the “Reverend’s” comments to one made by Obama’s white grandmother, “a woman who once confessed her fear of black men who passed by her on the street.”

According to the *Herald Tribune’s* report, this is the speech that the *Washington Post* called “an extraordinary moment of truth-telling,” that the *Seattle Post-Intelligencer* called “one of the most important of this century,” that the *London Daily Telegraph* called “a spellbinding display of rhetorical brilliance,” and that a more critical source, a Republican, still managed to call an “excellent and important speech on race in America.” Barack’s Excellent Adventure — and precisely the kind of compliments that can only be paid when adjectives no longer care what nouns they get attached to.

The last edition of this column promised that it would not spend the whole of 2008 identifying the verbal errors of this year’s presidential candidates. All right; I acknowledge that commitment. But Obama is an irresistible target. It’s true; the other candidates are awful, too. McCain talks like a cranky old goat; I mean, he actually has the voice of a goat, and he actually appears to be mad all the time. And Hillary screeches like a fishwife. Yet even their most fervent supporters recognize these defects. They laugh about them. Obama is a bigger danger to the national sanity. He’s a much better politician; in fact, he’s the archetypal American politician — a person who continuously convinces other people to blather about his blather.

Originally, of course, Obama must have been blathered to. Someone persuaded him (although this wouldn’t have been hard to do) that he had a Message for the People. Since he was, by nature, a self-righteous windbag, this Message turned out to be little more than an endlessly repeated Story of My Own Life. Thenceforth, throughout Obama’s long, dreary trek toward the White House, he peddled the same message, ten times daily, in the form of speeches that cannot be summarized, because they are devoid of content — devoid of knowledge, logic, observation, elegance, pathos, genuine self-reflection, or even deep and sharp offensiveness. He literally doesn’t know what he’s saying: no one could know it, be-

cause there’s nothing to know. Hence, anything that his supporters say in praise of his rhetorical efforts is itself pure rhetoric, wholly devoid of substance.

But I must admit that Obama is far, far from the worst instance of not knowing what you’re saying. How about the Los Angeles City Council, which on April Fools Day (but not with ironic intent) passed a resolution calling on denizens of the city to spend 40 hours, beginning on April 4, the anniversary of Martin Luther King’s assassination, “promot[ing] peace” rather than murdering one another. It was a moratorium on crime — how about that for meaningless verbiage?

The council’s words were so grossly meaningless that a former director of the city’s Human Relations commission commented, archly, “I’m sure that the people who are doing the killing [gang members, rather than disciples of Dr. King] will hear that the council is calling for a moratorium and then cease and desist.” To which one councilman replied, “That’s the kind of attitude that Martin Luther King had to step over and step across in order to get the job done.”

No. King had to step over a lot of real things.

But this just shows you what happens when somebody points out that somebody else doesn’t know what he’s saying. The result is that the other person just keeps proving the point. Yet there’s a cloud of unknowing even deeper than that.

This one is funny. Detroit, in case you didn’t know, has a mayor named Kwame Kilpatrick, who seems to have devoted his political career to auditioning for the part of the bungling mayor in “His Girl Friday.” He’s now under indictment, and everyone hopes he’ll resign, which so far he has refused to do. So Detroit City Council President Ken Cockrel came up with a “transition” plan in case His Honor leaves and Cockrel is forced to succeed him. Here’s what Cockrel said, according to the *Detroit Free Press* (good name, lousy paper):

“Even prior to becoming council president, the idea of if the unexpected should happen is something that I had started thinking about and began to draw up something probably approximating a rough plan.”

We peel and peel, and eventually we find ourselves at the heart of the onion — nothing real but the odor.

look for to see if your kids — yes, your kids! — are partaking; and fifth, a list of the drug's supposedly mindblowing effects, to ensure that, if your kids for some reason aren't huffing, snorting, popping, chugging, blasting, or mainlining the drug, they'll start doing so just as soon as they read that article (or hear about it secondhand, at even greater exaggeration).

An example, from the Washington Post. This one has killed "82 youths since 1995"; including a 13-year-old girl and a 13-year-old boy. The number per year has been tailing off but, says Robin L. Toblin, of the National Center for Injury Prevention and Control at the U.S. Centers for Disease Control and Prevention (note that, among all those words, there's no title, only an "of"), "It's not known whether fewer children are undertaking the activity or fewer media are reporting." Children killing themselves through hazardous behavior? The media would never report that! It's a blackout! which, coincidentally, is one of the street names, along with "scarf game" and "space monkey." The symptoms include "blood-shot eyes, severe headaches, and disorientation after spending time alone," which could also mean you're yelling at your kid while he's shaking off a migraine. But then, of course, he wouldn't just have gotten the "cool and dreamy feeling" that Toblin assures us accompanies — go on, guess — the super-cool activity of choking himself.

Now, this article is a bit of an anomaly, since there is one component missing. The language of the drug scare may have become pervasive enough that asphyxiation can be presented like inhalant abuse, but as there's not actually a substance involved, there's nothing in particular to be banned. And without that, there's a lot of legislators left without a grandstand.

Fortunately for them, there's another terrifying substance making the rounds — "the new marijuana," even: *salvia divinorum*. It has, of course, contributed to the suicide of a teen in Delaware (contributed, since none was found in his system at autopsy); and, as Mike Strain, Louisiana's Agriculture and Forestry Commissioner and former legislator, notes, that's enough to ban it: "You save one child and it's worth it."

The article (this one from something called the Treasure Coast Palm) adds: "Called nicknames like Sally-D, Magic Mint and Diviner's Sage, *salvia* is a hallucinogen that gives users an out-of-body sense of traveling through time and space or merging with inanimate objects." It's a description that could be applied to any hallucinatory drug; as if, failing to find out anything more specific, the writer fell back on the advertisements — Fly through space! Experience immortality! — circulated by online sellers of the drug.

No. If drugs could be said to have personalities (bear with me here), *salvia* would be a prankster. It's the black sheep of the hallucinogen family: first-time users, even fifth-time users, might get nothing, and the next time be completely incapacitated. The main benefit of marijuana is its utter predictability; as Stan's dad said on one of South Park's many great drug episodes, pot "makes you feel fine with being bored." *Salvia* is extremely unpredictable; anyone thinking of using it as a substitute for marijuana is likely to think that only once.

Of course, no one ever thinks to ask whether children would even bother with this "new marijuana" if the old stuff were legal. No, instead we get the likes of Florida state Rep. Mary Brandenburg, saying: "As soon as we make one drug

illegal, kids start looking around for other drugs they can buy legally. This is just the next one."

Keep plugging away, Mary. You'll get 'em yet.

— Andrew Ferguson

Bonnie prince collie — According to Nature, a recent "study might help to explain the money-grabbing tendencies of those with a Machiavellian streak — from national dictators down to 'little Hitlers' found in workplaces the world over. Researchers at the Hebrew University in Jerusalem found a link between a gene called AVPR1a and ruthless behaviour ..." Apparently the length of this gene will determine whether a person has a propensity to tyrannical behavior. If the gene is shorter, there is more chance. It doesn't surprise me, because it has always seemed that the tyrants I've known have been dealing with issues of shortness.

Since the behavior is genetic, it could explain why certain families become attracted to public "service." Families like the Kennedys, the Rockefellers, the Gores, and the Bushes have long histories of going into public service. Is it possible that they are just genetically predisposed to ordering people around?

Many people will buy a collie for their families, because of the legendary intelligence, the silky hair, and the irresistible faces these beautiful dogs possess. Of course people forget that these dogs were originally bred to herd sheep. Even though some of these dogs have been away from sheep farms for many generations, the instinct to herd sheep is still deep within their genetic code. Collies aren't always good with groups of children, because sometimes that genetic memory will kick in, and the dogs will instinctively start trying to herd a birthday party.

Now it seems that there is a similar genetic predisposition to herding within certain humans as well. Perhaps there was a wisdom in the ancient practice of killing the entire family of a deposed monarch. It is also an adequate warning for people who let their monarchies hang around the fringes of governments like purebred show pets, as is the policy in England. Just as you will never be able to breed the shepherd out of the collie, people like Prince Charles will always harbor an irresistible urge to nip at the heels of some disrespectful peasants.

And much like the inability of a collie to distinguish sheep from a birthday party, I think Prince Charles often confuses free men for peasants. Perhaps this was his motivation for getting behind the Global Warming movement. Being in charge of energy distribution would give this displaced tyrant an opportunity to rule once again. — Tim Slagle

The copper standard — I read in The New York Times that the copper content of the penny — the pre-1982 ones, which were 95% copper — makes them now worth about two cents. Somebody, I suppose, will start pulling them out to be melted, as the 90% silver dimes, quarters, and halves I remember from my youth were pulled out in the late 1960s. The American dollar, which used to be as good as gold, and in my youth was as good as silver, is now expressed in paper, clad copper, nickel, and zinc.

I am not as convinced as some libertarians that a gold coin standard is a problem-free idea. There were panics and resentments when we had it, and the supporters today tend to brush

over them. But using precious metals was surely a fine way to ensure that money remained valuable, and that it *felt* valuable. Recently I put a ten-dollar gold piece in my son's hand, and he said: "That's heavy." Gold has heft. So does silver. It feels good. Even the copper penny was substantial in comparison to the 97.5% zinc ones, which weigh 20% less, and feel almost like the aluminum slugs they used in East Germany.

Modern American currency is not only reduced in value. It looks cheap. The new paper money looks like it was designed by treasury bureaucrats. The coins look and feel cheap, and the designs — the Lincoln Memorial cent, the Jefferson nickel, the Roosevelt dime and the Washington quarter — all are inferior to the designs that preceded them. The new coins that have come out in my adult lifetime — the Eisenhower dollar, the Susan B. Anthony dollar, the Sacajawea dollar, the new Jefferson nickels, and now the John Adams dollars, etc., — are all hideous. These new "golden" dollar coins remind me of Chuck E. Cheese tokens.

— Bruce Ramsey

The chauvinism gap — Two recent events reminded me of the curse that the near-monopolistic public school system is for education in America.

First was the sickening ruling by the California Court of Appeals on February 28, holding that home schooling is illegal in the state of California, unless the parents have teaching credentials. The court warned parents who don't comply that the juvenile courts have the power to remove homeschooled children from their parents, or jail those parents. Even the state's castrated Governor Schwarzenegger called the ruling "outrageous."


Justice H. Walter Croskey, who wrote the decision, had the temerity to claim that "a primary purpose of the educational system is to train school children in good citizenship, patriotism and loyalty to the state and the nation as the means of protecting the public welfare." What fascistic fatuity! The purpose of an educational system is to educate. And the primary reason why so many people homeschool their kids or send them to private and charter schools is that manifestly most public schools are doing such a miserable job of education.

Rather than go for the obvious solution — i.e., liberating children trapped in failing public schools by mandating vouchers or some other mechanism for implementing free consumer choice in education — the state education apparatus uses dictatorial judges such as Croskey to force hapless parents to send their kids to failing schools. This,

despite the fact that homeschooled children perform well on standardized tests, and the fact that a teaching credential is meaningless as an indicator of teaching competence.

The second bad reminder was a report in The Wall Street Journal by Sara Murray (March 3) summarizing a study just out by economists Eric Hanushek of Stanford and Ludger Woessmann of the University of Munich. They have estimated the costs to our economy of our continuing mediocrity in science and math education. They estimate that had the United States, over the last 20 years, raised its K-12 educational level in math and science to that of Finland, Hong Kong, and South Korea, our GDP today would be 2% higher than it is, and would be fully 4.5% higher by 2015.

Murray makes two points, one to which there is no reply,




FREE STATE PROJECT
Liberty in Our Lifetime

**Celebrate and explore the
Live Free or Die spirit!**

Porcupine Freedom Festival

June 9th - 15th, 2008
Gunstock Mountain Resort
Gilford, NH



www.PorcFest.com

the other to which there is an obvious one. Her first point is that this study supports the notion that the U.S. approach of shoveling ever-increasing amounts of money into the burgeoning maw of the public education monopoly, hoping to see improvement of results, is wrong-headed at best and seriously delusional at worst. She doesn't note the figures, but all the school systems that outperform ours spend far less per capita on education than we do already. Nor does she note that since the famous "Nation at Risk" study a quarter of a century ago, which warned us of the failure of the American public K-12 system, we dramatically increased our spending, but the results have been a flat educational performance level, with virtually no improvement.

Murray's second point is that experts don't agree on how to improve this lousy educational system. Should we have scientists, mathematicians, and teachers — with their impressive teaching credentials — create national standards for schools to meet? Or will this just encourage "teaching to the test?"

To all this there is an easy reply. Schools fail kids and kids fail to learn for a host of reasons, including lousy teaching, insufficient discipline, toxic peer groups, and so on. There is no way some panel of experts can devise a universal template for instruction that will do the job. No, what is needed is a free market in schools.

All parents should have the power to choose a school that meets their children's needs. One child may really need discipline — in which case a military school may be the place to send him (and it usually is a him). Another may really need to not be around members of the opposite sex — her

hormones may be raging a tad too much. Fine — an all-girls school might just do the job. A third child might want nothing more than to focus on his studies, but is surrounded by peers who only value sports, social activities, or fighting. Fine — perhaps a school that specializes in arts or science will be the place for him. Or maybe the best thing for the kid is home school — unless, heaven forbid, patriotism should be instilled in the poor child!

The obvious solution is free choice for the consumers of education — all of them, not just the wealthy. Let the force of competition enforce quality, and allow different templates for different children. This obvious solution is — naturally — not mentioned in the article just cited. — Gary Jason

The Clinton money trail — After much delay, Hillary Clinton finally made her (and her husband, the former president's) federal tax returns public.

To be specific, the Clintons have released their returns for the years 2000 through 2006 and a note stating that they have sought an extension for their 2007 return. In 2000, while Bill Clinton was still president, their household income was approximately \$357,000; most of that came from his salary and they qualified for a \$3,000 refund from the federal income taxes withheld from his pay. She reported a modest income from work as an attorney; they had a few thousand dollars in taxable income from interest and investments. The form of their return was pretty simple — and it was prepared by an accounting firm in Rockville, Md.

In short, their finances looked like those of most families

The Liberty Editors Conference 2008

in conjunction with

FreedomFest 2008 in Las Vegas

The world's largest gathering of free minds!

In 2004, at our conference held in conjunction with FreedomFest, Liberty's editors spoke to standing room only crowds. *We're doing it again!*

Full details on page 22

Preparations are underway for the most exciting libertarian event of the year. With one low admission price, you'll be registered to:

- Attend talks by **Doug Casey, David Friedman, Gary Jason, Charles Murray, Randal O'Toole, Bruce Ramsey, Jo Ann Skousen**, and other friends of Liberty.

- Witness the big debate: **Christopher Hitchens and Dinesh D'Souza** take off the gloves in an explosive debate on religion, politics, and war.

- Dine at the sumptuous Saturday night banquet.
- Talk and shop with an expected 100-plus exhibitors.
- Enjoy the company of hundreds of other freedom-loving attendees!

To register, call

1-866-266-5101

We have secured an extension of the "early bird" rate of \$395 per person (\$595 per couple) until May 1, for Liberty readers only. To get this special Liberty rate, **be sure to mention when you call that you are signing up through Liberty**. After May 1, the price goes up to \$495 per person (\$795 per couple).

Rooms are only \$97 a night at Bally's Hotel & Casino, located right in the heart of the Las Vegas strip.

In order to keep rates as low as possible, cancellations must be received in writing **no later than June 15, 2008** for a refund.

July 10–12, 2008 • Bally's/Paris Resort

on the upper edge of the middle class.

As soon as Bill Clinton left office, their returns changed. For 2001, they reported a household income of more than \$15 million. In 2002 and 2003, their annual household income dipped under \$10 million; since 2004, it has stayed in the \$15 to \$20 million range. They also moved their tax work from the Md.-based accountants to the high-powered law firm Hogan and Hartson.

The overwhelming majority of this income is reported on Bill Clinton's Schedule C, from his business in "Speaking and Writing." This is a significant change. Middle-class people (even those on the upper end of middle class) have income taxes withheld from salaries; wealthy people have K-1s and Schedule C's.

Some critics emphasize the shadiness of Bill's business relations with controversial billionaire Ron Burkle's Yucaipa Companies and the data-management firm InfoUSA (which relies heavily on government contract work). Apparently, Bill Clinton works as a "finder" for InfoUSA, helping it land contracts with federal agencies. It's less clear what he does for Yucaipa Companies — other than draw distributions. But these relationships matter less to the Clinton household income than his speaking fees.

Overall, from 2000 to 2007, the Clintons had household income of \$109.2 million and paid taxes of \$33.8 million. Their tax lawyers point out somewhat weakly that, "They paid taxes and made charitable contributions at a higher rate than taxpayers at their income level." But it's likely that they've paid less in taxes than they would under a Hillary Clinton presidency.

And they cling to privacy like the wealthiest investors or hedge-fund managers. The details of how and from whom Bill Clinton receives his millions in fees don't come through in the returns — as is usual with Schedule C income. (It's been reported that most of those come from speeches he gives to Wall Street banks and other financial institutions.) In that vagueness, the Clintons' financial position has changed from middle-class to rich.

For those of us who advocate limited government and maximum personal privacy, the vagueness of federal tax return forms is a thin silver lining to an invasive process. It would be hypocritical of us to criticize Bill Clinton for monetizing his charisma and celebrity. Good for him.

But Bill and Hillary Clinton have never been advocates of limited government. Each, in turn, has pilloried the "greed" of capitalists. It's ironic — though not really surprising — to see their taxes looking a lot like the fat cats Mrs. Clinton so publicly rebukes. The Clintons are masters of "do as I say, not as I do" elitist hypocrisy. — Jim Walsh

The stupidest state — Last year, Liberty senior editor Bruce Ramsey and I concluded that Vermont is the most leftist state in the nation. Now I'm here to tell you that it's the stupidest state as well. (Many of you may reason that the one follows the other as night follows day. You're probably on to something.)

Vermont currently allows a tax break for capital gains accrued within the state. That is, if the gains come from a Vermont enterprise, the rate on them is lower than on out-of-state gains. It's a good idea in the absence of an even lower

rate (or no tax at all) on all capital gains.

Currently, with the economy in recession, Vermont is worried about running a budget deficit. A proposal was taken up in the legislature to "close the capital gains tax loophole" by taxing Vermont gains at the less favorable out-of-state rate. This would have raised \$21 million (real money in a state as small as Vermont).

Fortunately, the idea didn't have enough votes behind it, and the proposal was tabled. However, the Democrat leadership in the legislature stated that the proposal would be introduced again in the next session, if the economy worsened and state government needed the money.

If the economy gets worse, we'll raise taxes. Just how stupid is that?

Raising taxes in a recession to bring in more revenue — I mean, come on, even Lou Dobbs knows that's counter-intuitive. How the idea got even as far as it did, I can't think. Perhaps Vermont Democrats were too stoned in college to absorb the lessons of Economics 101.

We all know politicians do incredibly silly things — that's a big reason why we support limited government. But this takes the cake. Small stuff, to be sure, but ye gods, how stupid can they get? — Jon Harrison

Earthquake OMG! — There is an episode of "The Simpsons" in which Springfield installs a warning system to advise residents what to do in the event of a problem with the town's nuclear power plant. On a lighted sign visible across the city, one of four short messages may be displayed:

RELAX. EVERYTHING IS FINE.

MINOR LEAK. ROLL UP WINDOW.

MELTDOWN. FLEE CITY.

CORE EXPLOSION. REPENT SINS.

It may have been after watching this episode that some government official came up with the idea of a text-message disaster alert system. As USA Today noted on April 9, "Lack of a simple way to deliver vital warnings to residents has hindered emergency response in disasters such as Hurricane Katrina, recent college-campus shootings, and a spate of devastating tornadoes in the Southeast in February."

The text-message alert system, said the article, "could be used for a variety of incidents, such as severe weather, a terrorist threat or child abduction."

As in Springfield, the message must fit the constraints of the medium. I wonder what those text messages will look like.

hurricane coming, r u evacuated???

dude ur gettin pwn3d by a tornado

campus shooter, watch ur back!!!!

terrorist attack lol

— Patrick Quealy

To insure prompt nannying — As smoking bans sweep the nation, businesses that used to rely on smokers — like small bars, casinos, and charitable bingo nights — are seeing revenues plummet. While smokers are a small minority of the population, there are a lot of businesses that cater to them. Smokers tend to be compulsive people, and do everything to excess. They're people that have no regard for their health, no regard for fiscal restraint. They are the kind of people who buy rounds, and make stupid wagers. They like to drink, they often overeat, and will gamble away their

life savings. Smokers hold on to their money like Paris Hilton holds her virtue.

Consequently, there is a market that specializes in relieving smokers of their excess cash. Greasy spoons, liquor bars, and casinos all rely on the spending habits of overly compulsive smokers to help make their payroll. This is probably the reason that before the bans were passed, the majority of restaurants, bars, and casinos all catered to the 20% of Americans who smoke.

Nonsmokers are tighter with their pocket books. They tend to be the ones who pull out a calculator after a meal to check if the tab was added correctly. They also use that calculator to divide the tab equally and figure out an 8% tip on the pre-tax total. Smokers are the biggest tippers. They're the kind who throw 20 bucks onto the table before they leave.

I believe the various taxing authorities are aware of this tendency, and it is why up to two-thirds of the cost of a pack of cigarettes is taxes — a sort of mandatory added gratuity, for the privilege of having a dwindling number of areas in America where smoking is still permitted. — Tim Slagle

Spitzer's sex saga — The exposure of Elliot Spitzer's whoremongering was a delight. Here we have an incredibly arrogant, holier-than-thou lawyer who feels he is permitted to do that which he prosecuted others for — to see him humiliated before the entire nation was almost as pleasing as a night with Jessica Alba. (Well, not really. But it was swell.)

I am truly not one who rejoices in the misfortune of others. Normally I cringe at situations such as the one Spitzer put himself in. We are all less than perfect beings, and I know that I am farther from perfection than most.

But there's something about a hypocrite — such an arrogant hypocrite — that brings out in me a desire to gloat. To see such arrogance, hypocrisy, and stupidity laid low — well, it just made my day.

My fear is that the feds will let him off easy. The libertarian in me wishes they would, for what has he done that should be punishable by law? It's a sick society indeed that punishes someone for shunning a consenting adult. But karmically, Spitzer should do some hard time. Let him see, let him feel how it is to suffer the consequences of the Mann Act and the "structuring" statute that he, representing our semi-free society, employed to police the morality of others.

Above all, Spitzer deserves punishment for twice dragging his wife out before the cameras, forcing her to share his public humiliation. There's no shame in being married to an "unfaithful" spouse. But it's a shame to be married to a man so gutless he can't face the heat alone.

In his resignation speech, Spitzer spoke of a return to service in a private capacity. I wonder about that. I can't help but believe that he wants to pull a Marv Albert and return to his chosen career (for Spitzer, politics) when the heat dies down. John Profumo, a British Secretary of State for War whose career was ruined by a sex scandal in the 1960s, redeemed himself by taking his punishment and going on to lead an exemplary life. Profumo, however, was three times the man Spitzer is. Spitzer, I don't believe, is truly redeemable. He's just too damn arrogant and self-centered. No, Spitzer should do a spell in Danbury, followed by a return to "service" — perhaps as a janitor on the floor of the New York Stock Exchange. — Jon Harrison

Enter stage left — At the beginning of the year, the most likely nominees appeared to be Rudy Giuliani and Hillary Clinton. Now, barring something unforeseen (which is always possible), the contest in the fall will be between John McCain and Barack Obama.

It is a testimony to the progress America has made in recent decades in race relations and racial attitudes that Obama is now the likely Democratic nominee. Less than four years ago, Obama was an obscure state legislator. His meteoric rise has been matched by no major party presidential nominee since Wendell Willkie in 1940.

Will America elect someone as new to the national stage as Obama? Even presuming that he becomes the Democratic nominee, the answer is "probably not." Any change in the international situation probably favors McCain, and his personal story is more compelling. — Lanny Ebenstein

Living Constitution idealism — Much has been made in libertarian circles about a March 7 op-ed in The Wall Street Journal by former Senator (and former Democratic presidential candidate) George McGovern. McGovern, a strong (some prefer the term "raving") liberal (by 1970s standards!) has, it seems, partially recanted. As he's gone into small business ventures he's seen the dangers that onerous regulations place on people who just want to serve their customers.

Sadly, I have to report the transformation to libertarianism is not complete. McGovern appeared on the March 10 episode of The Colbert Report on Comedy Central. There, in response to Colbert's claim that he was an idealist as a presidential candidate and that idealists seldom win, McGovern responded:

"I'd say the two most famous [idealistic presidents] are Thomas Jefferson and Abraham Lincoln — one a Democrat, one a Republican. I'm doing a book on Lincoln's presidency and if that man wasn't an idealist I don't know what idealism means. He lived by the Declaration of Independence, the Constitution, and the Bill of Rights. To me those are ideals worthy of a great president."

So it seems that, in addition to not being a great candidate for president himself, McGovern is also not a great presidential historian. Claiming that a man who started a four-year civil war to prevent the breakup of the union lived by the Declaration of Independence, a document written to explain and justify the actions of one group of people breaking political bands with another group of people, seems a little bit off. Then there's this well known fact (from Wikipedia):

"On April 27, 1861, habeas corpus was suspended by President Abraham Lincoln in Maryland and parts of mid-western states, including southern Indiana during the American Civil War. Lincoln did so in response to riots, local militia actions, and the threat that the border slave state of Maryland would secede from the Union, leaving the nation's capital, Washington, D.C., surrounded by hostile territory. Lincoln was also motivated by requests by generals to set up military courts to rein in 'Copperheads' or Peace Democrats, and those in the Union who supported the Confederate cause. His action was challenged in court and overturned by the U.S. Circuit Court in Maryland (led by Supreme Court Chief Justice Roger B. Taney) . . . Lincoln ignored Taney's order."

To say that a man willing to suspend habeas corpus in part to accede to generals concerned about the dreaded "Peace

Democrats,” and who was as president willing to ignore an order from the Chief Justice of the Supreme Court, “lived by” the Constitution leads one to think that McGovern takes this notion of a “living Constitution” way too far.

I’m glad McGovern is reconsidering his earlier notions of small businesses as public enemy number one, and of government regulations as representing nothing but enlightened ideas for improving society. But is it too much to ask that a person who made a serious run for president of the United States, who was for many years a senator, have a better understanding of what does and does not contradict the founding documents of this country? — Ross Levatter

Welcome to the machine — With a victory in Texas and Ohio, Hillary Clinton became the Lazarus of the Democrat Party. It appears that my earlier predictions could not have been more wrong. (I predicted that the Republican nomination would go all the way to the convention.)

With McCain as the confirmed GOP nominee, it now looks like it’s the Democrats who will go all the way to August, and perhaps a brokered convention. The problem is that Obama, the obvious pick of the party, has run into the full force of the famous Clinton Political Machine, and she has no intention of quitting while there is still any chance she could win. It will be fun to watch Clinton and Obama fight over who’s the bigger socialist while avoiding the word, lest it be used against one of them in November.

The funniest part, for me, is seeing Democrats realize for the very first time that the Clintons are ruthless, conniving, power-hungry politicians; something those of us in the opposition have been complaining about for the last 15 years.

—Tim Slagle

More petro problems — I have ruminated before on an unintended side effect of our environmentalist-caused reliance on foreign oil: the flood of petrodollars into the hands of aggressive dictators. Our own petrodollars buy the rope with which they hope to hang us.

A fresh illustration of this comes from recent events in Latin America. Our beleaguered ally, Colombia, has been battling for decades a particularly vicious gang of Marxist revolutionaries called FARC (the acronym of the Revolutionary Armed Forces of Colombia). These thugs do what totalitarian guerrillas always do — kidnap, kill, and destroy — but these guys do it in the name of a philosophy long-dead elsewhere on the planet.

The democratically elected president of Colombia, President Alvaro Uribe, has been successfully fighting the Marxists for years, all the while working to clean up Colombia’s streets and give the economy some semblance of stability and growth. He has been succeeding on all fronts, much to the annoyance of his neighbor Hugo Chavez of Venezuela. Chavez, his running dogs Rafael Correa of Ecuador, Evo Morales of Bolivia, and — who else but that Stalinist fossil from the past — Daniel Ortega of Nicaragua, have been acting as general FARC cheerleaders, hoping to turn Latin America Red. Indeed, both Venezuela and Ecuador allow FARC to maintain bases inside their territories.

President Uribe recently had the stones to bomb a FARC base inside Ecuador, killing the second-highest guerrilla leader, one Raul Reyes. This was a major blow to FARC. The

attack caused a sharp spike in tensions between Colombia and the Ecuador-Venezuela axis. Very quickly Hugo Chavez was calling for an armed response, and moved troops to the Colombian border.

But the Colombians had captured two rebel computers, whose hard drives had quite a story to tell. The drives gave up a treasure-trove of fascinating information. In particular, it turns out that Chavez hasn’t just been supporting the FARC terrorists in spirit, but financially as well, to the tune of more than \$300 million. Chavez received numerous love letters from the FARC gang, but also communications indicating collusion in planning the attacks against Colombia. Moreover, there was extensive collusion between the Ecuadorean minister of security and the guerrilla leadership. This suggests that the Colombians were wise not to consult with Ecuador before the attack.

Even more embarrassing to the Chavez-led Fidelistas manqué, the drives reveal that FARC was trying to procure over a hundred pounds of uranium, apparently planning some kind of dirty bomb.

As all this information came to light, Ecuador and Venezuela backed down, and the chances of war are now nil. It is hard for even such an accomplished liar as Hugo Chavez to play the victim when it is revealed that he has been funneling money to the guerrillas who have attacked his neighbor, and allowing those criminals free haven in his country.

We have in all this another illustration of how our environmentalist-imposed dependence on foreign oil is biting us in our collective behind. Petrodollars sent to Saudi Arabia and Iran fund Islamicist terrorism intent upon annihilating us. Petrodollars also fund Russia’s hyper-revanchist Putinism, intent upon restoration of the Soviet Empire, whose passing has been publicly lamented in Moscow. And those petrodollars to Venezuela fund a Marxist revolution aimed at turning Latin America into a massive Cuba.

We have much for which we must “thank” the environmentalists. Their monomaniacal opposition to nuclear power and to the exploitation of America’s own oil resources enables people who hate liberty to flourish around the world.

— Gary Jason

Putting privacy on the map — The February 7 issue of the Christian Science Monitor has an article that weirds me out. The article appears on page 6, and is entitled: “UK bugging: too much Big Brother?” It is about the pervasive surveillance the British government inflicts upon its citizens, and comes equipped with a color-coded map of the world for quick visual reference, to show how government surveillance in Britain stacks up against government surveillance in other places.

Depending on the level of surveillance, a country can be painted one of six colors: violet, for Significant Protections and Safeguards, down through blue, green, yellow, and orange, to congeal in an ugly rust color for Endemic Surveillance Societies. Australia, Brazil, and South Africa, for example, are painted yellow, for Systemic Failure to Uphold Safeguards. Canada, Italy, Germany, and Iceland are green, for Some Safeguards but Weakened Protection. Violet seems to be aspirational only. No country achieves violet, but Greece does manage blue, Adequate Safeguards Against Abuse. No other

country even rates that high. Still, with one exception, things aren't bad in the remainder of the EU, in a relative-to-the-rest-of-the-world sort of way.

As you would guess, most of the ugly rust color shows up in Asia. Red China, Thailand, and Russia are Endemic Surveillance Societies. The only member of the EU that falls to rust status is Britain. No surprise there, given the title of the article. And the fact that the Mother of Parliaments isn't exactly world-famous for her checks and balances.

What does come as a surprise is the single country in the entire Western Hemisphere that also aspires to rustiness. It's us, and it's glaring. In the tiny kind of map that can fit into two columns in a newspaper, you have to squint just to make out Britain. But not the United States. The map is one of those projections that has Greenland bigger than South America. It turns Alaska into a rust stain the size of Western Europe. Unless you set your coffee cup in the wrong place, the rest of the United States, standing out in the center of the page in all its rustiness, is impossible to overlook.

The whole thing was enough to send me to the Privacy International website to check out the place where the Monitor got this map. I thought sure the paper had made some mistake.

What I found was, not only had it not made a mistake, but it had cooked the books to make the map look less damning than it really is. It had skimmed the entire top category, Consistently Upholds Human-Rights Standards, right off the key to the map so that readers never got the full flavor of American . . . er, British . . . failure in regards to privacy. In real life, the United States doesn't just fall in the lowest of six possible categories. It falls in the lowest of seven.

To decide what colors to paint the map, Privacy International assigned each country a rating of one to four in each of 14 separate areas. Four means that a country has significant privacy protections in that area. One means that it has no privacy protections at all. In eight of the categories, The Land of the Free earned a score of one: Statutory Protections (along with South Africa, Japan, India, and Singapore), Privacy Enforcement (with South Africa, Japan, Brazil, India, Philippines, Taiwan, Singapore, Russia, China, and Malaysia), ID Cards & Biometrics (Belgium, Poland, Spain, Netherlands, Bulgaria, Lithuania, Britain, Philippines, Thailand, Taiwan, Singapore, and Malaysia), Visual Surveillance (Hungary, Lithuania, Britain, Switzerland, Singapore, China, and Malaysia) Commercial Intercepts (the usual list of unsavory bedfellows), followed by Workplace Monitoring, Border & Transborder Issues, and Leadership. In these eight categories, Privacy International ranks the United States among "the world's worst."

The thing that really disturbs me isn't the company we keep; it's the fact that the Monitor only discusses lack of privacy as if it were a problem in Britain. It doesn't say thing one about what, to an American, is the most glaring feature of the entire map. Here is a serious American newspaper devoting almost an entire page to a major article about an issue that ought to scare the pants off every American who reads it, and that newspaper addresses the issue in terms of Britain? The Christian Science Monitor, published in Boston, the Cradle of Liberty, feels that it has to sidle up to what must be the most important civil-liberties issue in the history of our

republic, and discuss it as if it were only a problem in a foreign country? And, then, only after tweaking the results to make the facts seem less bad than they really are? I leave it to you, Canny Reader, to decide for yourself what may have caused the Monitor to make a decision like that. — Bill Merritt

Big boy pants — Matthew Yglesias' blog on TheAtlantic.com had an interesting discussion of Geraldine Ferraro's claim that, absent his blackness, Barack Obama would not be competitive in the Democratic nomination race.

Under the entry "The Contingency of Candidacy" (March 11), one respondent offered, in support of Ferraro's contention:

"Beyond that, [Obama] did nothing of note. Check the NY Times. There's no mention of Obama before his HLR [Harvard Law Review] appointment, and then there's no mention of him again until 2002."

In reply, another poster said, "I think it's hardly unusual for a currently prominent American politician to go unmentioned in The New York Times until they are in their late 20s. Did the Times cover Eliot Spitzer's bar mitzvah?"

I must agree. However, I note the Times was all over Spitzer's subsequent "today I am a man" story.

— Ross Levatter

My life for my art — Bar owners in the state of Minnesota have stumbled upon an interesting way around the recently passed smoking ban — the Theater Loophole. Apparently, politically correct lawmakers had decided to protect the performing arts from the oppressive regulations other entertainment venues have learned to live with.

Since live theater occasionally requires performers to smoke, and Minnesotans are purists when it comes to art, the Minnesota law permits an exemption from the indoor smoking ban for live theater performers. Apparently the health risk caused by exposure to SHS (secondhand smoke) is not as important as artistic integrity. It's okay for a bar or two to face bankruptcy from the exodus of smoking patrons, but God forbid we have actors using candy cigarettes during a show at the Guthrie Theater.

So bar owners have devised an interesting way to exploit the loophole: Theater Nights. Breaking the fourth wall of the stage, bars put on a "performance" where everybody in the bar is a part of the improvised show. The scene is a Minneapota bar, where a bunch of blue collar workers stop by after work for a smoke and a drink. The show runs about nine hours, and the dramatic conclusion is when the bartender announces "Last Call."

Local police, who never really liked the idea of enforcing a smoking ordinance in the first place, have respected the performing arts by letting these shows continue uninterrupted. Right now it seems that the only way around the loophole is to ban cigarettes from live performances, or appoint a state board endowed with the power to determine what is and isn't live theater. Either option whiffs of censorship, and is highly distasteful in a state where allegiance to the performing arts is considered paramount.

Don't you love ironic plot twists?

— Tim Slagle

What's good about bad? — There is good news for those of you who missed the first season of "Breaking

Bad" on AMC. All the shows can be downloaded at the program's website.

"Breaking Bad" provides a not-so-guilty pleasure, by virtue both of its entertainment value and of its subversive implications. The hero is a kindhearted high school teacher who opens up a crystal meth lab, and a chief villain is his boastful, stupid, and abusive narc brother-in-law. — David T. Beito

An end to illusions — On March 25, Iraqi government forces launched an offensive to clear the city of Basra, which dominates the oil-rich south of the country, of forces loyal to Muqtada al-Sadr's Mahdi Army. Prime Minister Nouri al-Maliki went to Basra to oversee the battle, which he termed "a decisive and final" one.

President Bush, speaking at Wright-Patterson air base two days after the offensive opened, said the following: "This offensive builds on the security gains of the surge and demonstrates to the Iraqi people that their government is committed to protecting them."

If anyone needed further evidence to show just how dim the president is, the Wright-Pat speech provided it. Bush should've waited to see how the offensive turned out before speaking. Instead, he recklessly threw what little intellectual and moral capital he still possessed behind an untried foreign government and military.

Maliki and Bush both came a cropper within days. The offensive stalled almost immediately. Iraqi forces made little progress; many abandoned their weapons and vehicles. While the Basra fighting was on, followers of al-Sadr staged massive demonstrations in Baghdad. Sporadic fighting also occurred in the capital, and the Green Zone underwent daily shelling by rockets and mortars, leading to some deaths. So much for the pacification of Baghdad.

Fighting also broke out in other southern cities such as Kut and Hilla. The Sadrists showed that they remain an untamable force in Iraq. The U.S. Army and Marines could crush them, but as I've stated many times in Liberty's pages, the U.S. leadership will never commit to such a fight, simply because our casualties would be enormous.

The result of Maliki's "final" offensive was humiliation for both his government and the U.S. Before a week was out, Iraqi politicians had to travel to Iran, where al-Sadr was ensconced, and negotiate a settlement that was virtually dictated by the radical cleric.

The Basra defeat revealed the weakness of the Iraqi Army and police. It showed that the surge has failed to undermine the Mahdi Army, the most powerful force in the country. The operation resembled nothing so much as the South Vietnamese incursion into Laos in 1971, which ended similarly in fiasco. The current Iraqi government has been weakened, perhaps fatally so.

Once again, we see U.S. policy in the Middle East teetering on the verge of bankruptcy. This time Bush can't call on an infusion of fresh troops to stabilize the situation. Where Iraq goes from here depends upon the will of Muqtada al-Sadr and his patron, Iran. The next U.S. president will need to reach out to both if it wishes to salvage anything from the Iraq debacle. — Jon Harrison

Future shock — I have finally realized that I don't have to wait for "The Future" any longer. It is all around me.

Perhaps I simply never took the time to notice

I have a mobile phone that is smaller, lighter, and more functional than the communicators used by Captain Kirk in Star Trek. I can use it to contact almost anyone on the planet and it only set me back about \$75. I am typing this on a computer with hundreds of millions of components, perhaps even more than a billion components; it functions nearly perfectly, and it cost a little more than \$1,000. The CPU has a clockspeed of more than 2GHZ. That is 2 billion cycles per second. The hard drive it contains can store millions of type-written pages, hundreds of thousands of images, thousands of songs, and hours and hours of video. All of this data can be instantly shared with any other computer in the world via the internet.

I am not dead, though I have contracted several infections in my lifetime that would have easily killed me 100 years ago, and I have a medical condition that would leave me dead or permanently disabled without modern treatment.

Millions of people regularly fly in jet-propelled, computer-controlled aircraft that can take us anywhere in the world in a matter of hours. Scientists have discovered more planets orbiting other stars than there are in our own solar system. If I were willing to bankrupt myself, I would be able to fly into space within the next two years.

The Soviet Union is gone and the United States is waging a global war against violent Islamic fundamentalism. A woman or a black man is going to be the next Democratic nominee for president of the United States.

If a novelist tried to pitch a book set in a future world like this 40 years ago he would have been laughed out of the room.

— Jerome Cole

Education in a state — California courts have decided that homeschoolers must be certified by the state in order for them to be excused from attending public school. At present, the state requires that children attend a school taught by a state-certified teacher, without exception. I would guess the success of the homeschooling movement has become apparent, and teachers are angry that they're being shown up by amateurs.

There is also probably panic within certain state chambers that kids are actually getting educated. Why, if kids learn math, there might be an entire generation of Californians that realize that the advantages of living in California are not proportional to the amount of taxation. That the amount of energy consumed statewide cannot be replaced with a couple windmills and a few solar panels. If you give kids the power of education, they might start thinking they're smart enough to operate their own thermostats!

I don't understand how people so obsessed with nature

Back by popular demand! The
2008 Liberty
Editors Conference
 held in conjunction with
FreedomFest
 See page 22 for all the details!

and ecosystems can be so ignorant of economics. The same people who want to limit human interference in wilderness areas seem unable to understand that an economy requires a similar freedom from human intervention.

Recessions cannot be prevented. A recession is a natural part of the Yin and Yang of a healthy economy. Just like any breathing creature must inhale and exhale, an economy must expand and contract. Nations that have tried to eliminate the natural behaviors of an economy with central control have only succeeded in killing their economies.

Keeping the economy dynamic is an important requirement of the free market. As we enter a recession, unnecessary jobs are sloughed off. It is a regretful but required price of progress. As the economy starts growing again, the lost jobs will be replaced with jobs better suited to the age. It's happened throughout history. Farmers move to the cities and take work in factories. Buggy whip plants lay off, auto plants hire. Ice delivery men become refrigerator repairmen. Cash register companies go bankrupt, computer companies open. — Tim Slagle

Time for a war on wars? — We declared war on poverty. Now we have homeless people panhandling at every freeway entrance ramp.

We declared war on drugs. Now we can buy drugs on nearly every middle-school and elementary-school playground.

We declared war on terrorism. Now we are more vulnerable to terrorism than ever before, and the terrorists have expanded their operations to the battlefield we have made, where terrorists never existed before.

Do you suppose it is time for us to rethink our strategy toward our problems? — Marilyn Burge

Healthcare vs. health — Something dangerous has happened to health care in this country. Before the socialists stole the phrase (and made it one word), "health care" was something *you* do, and "medical care" was something *done to you*.

Somehow, the "something you do" part has vanished, and health care got folded into medical care and called "health-care." You are now considered helpless to manage your own health. Instead, you are encouraged to rely on expensive professionals and exotic pharmaceuticals. This is dangerous nonsense.

My wife, a doctor, estimates that 80% of the problems she treats in her clinic are self-inflicted. Bad diets, sedentary lifestyle, substance abuse, and plain carelessness do far more damage than random misfortune or lack of medical intervention. People take better care of their cars than they do of themselves. It's as if they put sand in their car's oil and drive it through a brick wall, then expect the insurance company (or the government, or the wall owner) to fix everything.

Sorry. The human body is a wonderful mechanism, but it is way beyond medical capability to compensate for consistent neglect and abuse. The body requires proper inputs and functions poorly with substitutes. Too much sugar in the mouth can be as damaging as sugar in the gas tank.

Injure the body and it will attempt to repair itself, and sometimes a doctor can help that process. But no amount of expensive medical care can compensate for a lack of health care. Clean water and good diet do more for people's health than penicillin ever did.

Medical care is becoming increasingly expensive, because of the increasing lack of health care. We do indeed have a crisis, and it can be solved by throwing away the potato chips, turning off the TV, and spending a little time exercising instead.

The government cannot provide health care; it can only take away the tools that individuals need to care for themselves. The government can pay for huge amounts of medical care, but there is not enough money in the world to buy medical care that is as good as responsible, individual health care. — Keith Lofstrom

You swoon, I swoon, . . . — First it was the ladies fainting at the rallies, one city after another. It became so routine that Obama had a prepared response from the stage. "Could we have water over here? Please give her a little room. Could we have some water over here?"

Now it's worse. Now it's the guys.

MSNBC's political analyst Chris Matthews described on TV exactly what happens to his body when Obama speaks. "I have to tell you, you know, it's part of reporting this case, this election, the feeling most people get when they hear Barack Obama's speech. My, I felt this thrill going up my leg. I mean, I don't have that too often."

In another analysis, Matthews put Obama on an even more divine level. "I've been following politics since I was about five," he said. "I've never seen anything like this. This is bigger than Kennedy. Obama comes along, and he seems to have the answers. This is the New Testament. This is surprising!"

Even experience for the job doesn't matter, it seems, if you're crazy about the guy. Hendrik Hertzberg explains in the New Yorker that "experience is a problematic argument, especially when voters are hungry for a new beginning." Old Jimmy Carter finds Barack titillating. "Obama's campaign," he said, "has been extraordinary and titillating for me and my family."

Obama, with his "youthful unlined face," writes John B. Judis in his article "American Adam" in the New Republic, "is like Herman Melville's Adamic hero, Billy Budd, a foundling who was 'happily endowed with the gayety of high health, youth and a free heart,' and 'looked even younger than he really was.'"

Obama is "outside of America's racial history," according to Judis. As "the son of an East African whose ancestors were not shipped to the New World as slaves," Obama is Adam, the first man, someone who can "wipe clean the slate of history and begin from scratch." But to me, it looks as if these folks are trying to wipe clean the slate of memory, to erase what we've learned about the dangers of thinking that we've found a political savior, a strongman who will create a "new man." — Ralph R. Reiland

Cold, dead fingers — Charlton Heston, 84, died on April 5, 2008. He was a prominent film actor with a long career already to his credit when in 1998 he became president of the National Rifle Association, a position he held until 2003. He contributed to the NRA the benefits of his fame and likability, and his intelligence. He was a fine spokesman for an organization that libertarians should care about.

The NRA must be the most successful advocate of individual civil liberties anywhere in the world. I know that's a big,

continued on page 21

A Real Party?

by Bruce Ramsey

What will happen to the Libertarian Party
after it's invaded by professional politicians?

Bob Barr, who was a Georgia congressman from 1995 to 2003, said in early April that he would seek the Libertarian nomination for president. About a week earlier, Mike Gravel, who was senator from Alaska from 1969 to 1981, announced that *he* was joining the Libertarians and seeking their nomination for president. Such attention from two former members of Congress, one (Barr) a former Republican and the other (Gravel) a Democrat, is a noteworthy thing for the Libertarian Party, which in 35 years has seldom nominated anyone who has actually held office.

The big exception was Congressman Ron Paul, 20 years ago — and Paul, of course, is still a Republican.

The fervency of Paul's supporters over the past year is what entices Gravel and Barr. Wrote one voter on the Atlanta Journal-Constitution blog: "I voted for Ron Paul. And I'll vote for Barr if he is the libertarian candidate." Wrote another: "I would contribute to a Bob Barr campaign in a heartbeat!"

Barr, who was in the limelight during the impeachment of President Clinton, misses national politics. In one of his Journal Constitution columns he writes: "I spent three days last week in Washington, D.C., where, like a recovering alcoholic, I am not infrequently drawn for sustenance and comfort."

Barr's biggest exposure to the American public since leav-

ing office was his interview in the movie "Borat," an interview he was tricked into doing. It was hardly the sort of thing to satisfy the soul. Running for president would be a lot better. He would have to pretend he could win and, though he would not, he might be a player in the outcome.

Barr, who joined the LP two years ago, has morphed from conservative drug warrior to libertarian. Gravel comes from the Democratic Left. His No. 1 issue is opposition to Bush's War on Terror and the Patriot Act and, in that, he agrees with Paul. But he is also for state-guaranteed medical care and pre-school education; to pay for the necessary expansion of government, he is for a carbon tax and a national sales tax.

These are leftist positions — but then, a fair number of Paul's supporters have come from the Left, and some of those on the antiwar Right might vote for Gravel under the LP label.

And so he announced in March:

The fact is, the Democratic Party today is no longer the party of FDR. It is a party that continues to sustain war, the military-industrial complex and imperialism—all of which I find anathema to my views.

Roosevelt sustained war well enough. But to go on:

By and large, I have been repeatedly marginalized in both national debates and in media exposure by the Democratic leadership, which works in tandem with the corporate interests that control what we read and hear in the media. I look forward to advancing my presidential candidacy within the Libertarian Party, which is considerably closer to my values, my foreign policy views and my domestic views.

LP spokesman Andrew Davis said Gravel's advocacy of government health care, financed by a national sales tax, might be a problem at the party's convention, to be held May 22–26 in Denver. I imagine it will.

Indeed, there is a chance the Party of Principle would spurn both of these politicians and choose among Wayne Allyn Root, Daniel Imperato, Michael Jingozian, Bob Jackson, Christine Smith, Steve Kubby, Mary Ruwart, Daniel Williams, and other persons few Americans have ever heard of. But, like Gravel, the Libertarians have been marginalized and are tired of it.

Surely it must be tempting to become a vehicle for real politicians who, even if they could not win, could at least have a chance at getting some attention and affecting the outcome.

The Libertarians have never changed the outcome in a presidential race, though with victories by plurality and

the Electoral College, it would not be difficult. If Bush had gained a few hundred fewer votes in Florida in 2000, and Pat Buchanan hadn't been there, Harry Browne might have stolen the limelight from Ralph Nader.

Libertarians have probably tipped U.S. Senate seats several times: to Harry Reid in Nevada in 1998, to Maria Cantwell in Washington in 2000, to Tim Johnson in South Dakota in 2002 and to Jon Tester in Montana in 2006 — all of them Democrats.

I have met Libertarians who deny this actually happens, and insist that people who voted Libertarian would not have voted Republican, or voted at all. These people do not convince me. The best evidence of the second-choice tendencies of Libertarians comes from the Georgia senate election of 1992, where the initial result was Republican Paul Coverdell, 49%; Democrat Wyche Fowler, 48%; and Libertarian Jim Hudson, 3%. Georgia held a runoff election in which Coverdell picked up the Libertarian votes and won, 51% to 48%.

In my own state, Washington, I once argued with a Libertarian about the 2000 senate election, in which Maria Cantwell, Democrat, beat Slade Gorton, Republican, 48.7% to 48.6%. The Libertarian argued that most of LP candidate Jeff Jared's 2.6% share would have gone to the Democrat, because most of Jared's votes had come from Democratic precincts.

I thought of this magazine. Liberty has its offices in Jefferson County, which is the third or fourth most Democratic among 39 counties in the state. And that means — what? It means a lot of libertarians live in Democratic neighborhoods.

More libertarians than Republicans tend to be gay, or not go to church, or be like Democrats on some other social measure. But it does not mean a Democrat will be their second

Where's the *real* Straight-Talk Express?

Bob Barr, a former Republican representative of the 7th district of Georgia (1995–2003), former senior member of the Judiciary Committee, former vice-chair of the Government Reform Committee, former U.S. Attorney for the Northern District of Georgia, and former member of the CIA, has just announced he is running for the presidential nomination of the Libertarian Party.

Barr is certainly well known among political junkies. And Ron Paul has demonstrated there is at least a vocal minority of supporters for libertarian positions in this year's election, where the Republican and Democratic choices are so odious. What can Barr do to maximize his election results?

Bloggers have taken to this subject already: Get Ron Paul's endorsement. Buy Ron Paul's mailing list. Be more specific, focusing the campaign on a few specific issues (e.g., opposed to the War on Drugs, opposed to the Iraq war, in favor of civil liberties).

But I think there's one thing Barr is uniquely in a position to do that could make a major impact on the campaign, and on American politics, though I doubt he'll do it:

He should write a political tell-all book. He was in Washington, in Congress, for almost a decade. He

can write a book that, from the inside, deglamorizes Washington, correcting American's grade-school civics-class view of how government works. He can shine a light on backroom deals, how politicians get rich and powerful, what Obama, McCain, and H. Clinton really do in the halls of Congress, what both Republican and Democratic party operatives want the American public to remain ignorant of — how the media distorts the reality of Washington.

It could be a crippling book to those raised in the illusions of "democracy", and Barr has the name power to make it a much bigger seller than any book Ron Paul could write. And such a book (which should be equally as hard on Republicans as Democrats) could propel him onto the public stage and possibly into the national debates. It would certainly make clear which candidate running this year is really riding a Straight-Talk Express.

Barr is an attorney, and should be able to deal with the anticipated tsunami of heated responses that would come his way as a result of such a book. But in such a context all publicity is good publicity, they say.

Can we have the audacity to hope that Barr would write a book about his part of living history in Washington?

— Ross Levatter

choice in an election.

If I am wrong — and I may be, in an Obama year — then it means Libertarian candidates may start tipping elections to Republicans. That still makes them a spoiler party, and raises the question of whether that is what they want to be. Being a spoiler party *will* get attention, but it may not be the sort of attention they want.

Of course, if what they really want to be is a major party, inviting in politicians like Barr and Gravel is a step in the right direction. But what is the *next* step?

And the hijack strategy makes certain assumptions about Ron Paul that may not hold up. It assumes that when the good doctor says the Ron Paul Revolution is about ideas only, and not about him, we should take his modesty at face value. Granted that ideas are at the core of it, and that they could be represented by someone else.

But the pilot of this aircraft is, in fact, Dr. Ron Paul. He has said he will not run against the Republican nominee, but the Republican Party will not officially choose a nominee until September 1–4, and Paul has not officially quit the race.

He has sharply scaled back his campaign, but in early April he was holding “Freedom Rallies” on university campuses in Pennsylvania before the primary election there, and on April 30 he was scheduled to release his new 150-page campaign

book, “Revolution: A Manifesto.”

Paul’s supporters were winning delegate seats and party offices in Missouri, Texas, and Washington, and he was working on plans to use the \$4 million in cash remaining from his campaign. And there is also the Republican convention in Minneapolis.

On March 31, a Los Angeles Times blog quoted another blog, fitsnews.com, predicting that Paul would endorse Barr. Paul’s spokesman, Jesse Benton, torpedoed the prediction. In an interview with Liberty, he said, “Ron has no plans or intention now to endorse Mr. Barr,” and he said an endorsement in the future “is highly unlikely.”

I have written that if Paul intends to remain a Republican — which seems so, since he has just won the Republican primary for his seat in Congress — he will have to endorse McCain. On March 20, Paul said otherwise to Newsweek: “I’m not going to tell [my supporters] what to do, but I honestly can’t imagine any of them supporting him.” Benton confirmed that Paul was unlikely to endorse McCain.

If Paul wants to build his influence within the Republican Party, he will come under great pressure to hold his nose and change his mind. He is, of course, “Doctor No,” and is known for going his own way. His supporters are no doubt the same, and in November will have several choices. □

Reflections, from page 18

broad claim, but I think it’s true.

The NRA’s favorite liberty has plenty of enemies. Governments and the busybodies that they employ have the same persistent urge to restrain gun rights as any other rights.

The NRA makes a lot of noise about its setbacks and losses. But don’t let that fool you. The right to keep and carry arms is much more broadly respected by jurisdictions all over the United States than it was five, ten, or twenty years ago. What other civil rights can you say that about? In the case of gun rights, the opponents of liberty are losing. What a joy to be able to say that about the enemies of any individual liberty! I’ll repeat myself just for fun: they are on their heels and in retreat. In the tally sheets, their loss column is long and crowded.

According to the Washington Post, 48 states now have “processes that allow people to legally carry firearms for self defense, compared with six states in 1982.” In the same article, an opponent of a proposal to allow more guns in national parks whines about how good the NRA is at lobbying: “It’s a political maneuver by the NRA. They are using this as a political tool to build up support heading into the elections.” Don’t you wish the opponents of other liberties were crying the same tears over the antitax lobby or the drug decriminalization lobby or the tame-the-commerce-clause lobby or the private property lobby?

I predict that several obituaries will paint Charlton Heston’s presidency of the NRA as a blot on his career. Others will say that he honored the NRA by taking that office. I say that, more than any Oscar, his presidency of the NRA honored him. May he rest in peace.

— Michael Christian

Charlton Heston, R.I.P. — It seems like there have been a lot of obituaries and memorials to write in the last year or so. In journalism circles, obits are considered the basis of all good reporting. The best ones offer the basic facts of a notable person’s life — plus some small bit of insight that requires more than just reporting.

Recently, I received a couple of calls from readers who took issue with my memorial Reflection on William F. Buckley, Jr. I’d written that Buckley’s rationalizations against the civil rights movement in the 1960s were one of his significant errors; both callers complained that his states-rights arguments were better than rationalizations. One guessed (correctly, as it turns out) that I’m too young to remember firsthand how “troubled” the mid-1960s were.

I didn’t bring up Charlton Heston to those callers, but I should have.

Heston was on the right side of the U.S. Civil Rights movement in the early 1960s. He gave critical moral and financial support to Martin Luther King when King was fighting codified racial segregation and institutional racism in the South. He was friendly with writers and intellectuals like James Baldwin — when Baldwin was writing well about the toll that bigotry and hatred take on human dignity.

Later, when King was gone and a generation of mau-mau artists hijacked the Civil Rights movement, Heston moved on to other political activities. You’re probably familiar with his long tenure as head of the National Rifle Association.

To me, a person’s understanding of the 2nd Amendment is the clearest test of that person’s validity as a libertarian. The

continued on page 50

By popular demand, it's the

Liberty Editors Conference 2008

in conjunction with

FreedomFest 2008 in Las Vegas

The world's largest gathering of free minds!

July 10–12, 2008

Editors and Contributors of Liberty

At FreedomFest 2004, Liberty's editors spoke to standing-room-only crowds. Here's what we've got planned for this year's event:

- **IQ, Race, and Gender:** Charles Murray ("In Our Hands," "The Bell Curve") and David Friedman ("Future Imperfect," "The Machinery of Freedom") pull no punches and respect no taboos.
- **Killing for Public Health:** Bruce Ramsey and Jo Ann Skousen expose just how far government nannies go in their fervor to banish personal freedom.
- **Schools Against Education:** Gary Jason, David Friedman, and Jo Ann Skousen explain why public schools don't care about educating children, and debate the proper remedy.

Eight Great Debates in 2008

- "The Real Islam: Radical or Peaceful?" Robert Spencer argues with Daniel Peterson
- John Mackey and John Goodman debate Michael Perelman and David Himmelstein on universal health care.
- "Was the Civil War Necessary?" Jeff Hummel takes on Harry Jaffa about Lincoln, slavery, and the Civil War.
- The God Debate: Christopher Hitchens and Dinesh D'Souza take off the gloves.

World Economic Summit

- Congressman Ron Paul, 2008 Republican Candidate for President: "The Welfare-Warfare State: Danger Ahead!"
- Steve Moore, Wall Street Journal: "The Coming Tsunami: What An Obama Presidency Will Mean."
- David Boaz, Vice President, Cato Institute: "The Politics of Liberty."
- Warren Coats, former IMF official and expert on Bosnia, Iraq and Afghanistan: "The Truth About the Middle East."
- And much more!

The Secrets of Investing

- Jeremy Siegel • Doug Casey • Rick Rule • Larry Abraham
- John Mauldin • Keith Fitz-Gerald • Mark Skousen
- Bert Dohmen • Ron Holland • Peter Zipper • Frank Trotter
- ... and many more!

- **Our Next President:** Doug Casey, Randal O'Toole, and Bruce Ramsey take no prisoners in this lively argument about which candidate, if any, should get your vote in this year's election.
- **Future Imperfect:** David Friedman analyzes the technologies "Big Brother" will use to control the populace, and the tools that will enable you to fight back.
- **Teaching in Sing Sing:** Jo Ann Skousen
- **Hidden Taxes: Zoning Laws:** Randal O'Toole
- **Alien Legal Systems:** David Friedman
- **And More!** www.LibertyUnbound.com has details

Offbeat Topics

- Michael Shermer: "The Mind of the Market: The Darwinian Case for Free-Market Capitalism."
- Tyler Cowen: "Culture Wars: Does Western Capitalism Destroy Eastern Cultures?"
- Chuck Muth: "Freedom in Education: Give Choice a Chance!"
- Harry King, MD: "How to Live to be 100, and Enjoy it!"
- And many more speakers!

Register today — at the special Liberty rate!

We have secured an extension of the "early bird" rate of \$395 per person (\$595 per couple) until May 1, for Liberty readers only. To receive this special rate, **be sure to mention when you call that you are signing up through Liberty**. After May 1, the price goes up to \$495 per person (\$795 per couple). Here's how to register:

- Call 1-866-266-5101, or
- Email tami@freedomfest.com, or
- Visit www.freedomfest.com to learn more, and sign up online.

In order to keep rates as low as possible, cancellations must be received in writing **no later than June 15, 2008** for a refund.

For more details about the Liberty Editors Conference, please go to www.LibertyUnbound.com

The Ethics of Tort Reform

by Gary Jason

It's a long step down from Kant to John Edwards, but
the righteous and necessary realignment of the U.S.
legal system requires a philosophical approach.

This essay is concerned, as the title indicates, with a certain kind of legal reform — what it's for, what it's worth, and what should be done to get it. But I want to start by talking about why people often don't know that reform is needed, in this and other areas.

There are at least three basic kinds of bias in our sources of information.

There is description bias, in which the source colors its presentation of data by using loaded descriptions, such as using "ultra right-wing" or "ultra left-wing" to describe someone who is merely conservative or liberal, in the contemporary senses of those terms. (Mainstream media are prodigal in their use of the former phrase: Google-search "ultra right-wing" and you get 124,000 hits, compared to only 24,000 for the phrase "ultra left-wing.")

Then there is data selection bias, or what logicians call "special pleading," where someone presents only data that support his own perspective or conclusion.

Both of these sources of bias can reassure us that nothing needs to be done, at least if we're on the proper side of the political spectrum and have a lot of special pleaders around us.

But a deeper sort of bias is issue selection bias, where the source refuses even to mention certain worthwhile questions. This bias can be intentional. Some institutions have well-understood standards of political correctness that make various areas of inquiry unwelcome. It can also be unconscious. Relevant issues simply may not occur to researchers, or just not seem interesting.

Many years ago I was interviewed for a columnist slot at the major newspaper in the city where I worked, and the editor of the op-ed page (who was, like most of his ilk, "progressive" to the bone) asked whether I had any plan to do some columns about the Religious Right. I replied that the topic was well explored, but how about some columns on the Religious Left, such as the (then) popular "liberation theology" movement? He stared at me as if I had suggested slitting his mother's throat. The bias was unconscious, but very active.

One effective way to counter these various biases is to read or listen to information coming from people of markedly different ideological persuasions. Facts that support an idea will usually be presented in depth by the sources which favor that idea, and usually not mentioned by the sources which oppose that idea. And issues not even discussed by one source will fascinate another source of different ideological stripe.

This assumes, however, that you can find information sources representing all major ideological perspectives. Most social science and humanities departments are now essentially leftist thinktanks, with overwhelmingly left-liberal faculties (although economics departments are much more

A deeper sort of bias is issue selection bias, where the source refuses even to mention certain worthwhile questions.

ideologically balanced than the other social science departments). This is why thinktanks are so important. They are places where dissenters from academic orthodoxy can pursue their research and ask questions that wouldn't even occur to other academics. Of course, I don't pretend that such institutions are themselves free from bias; but at least their advocacy is clearly acknowledged. More to the point, they provide a counterbalance to the academy's incessant stream of leftist research.

Now let's consider a substantive issue, one that is vital to everyone affected by the American civil court system, whether they know it or not: "How much does the American tort system cost us?" This question has occurred to almost everyone who has ever run a business, but it is not a question that seems to interest many academic economists or other social scientists. Nor is it of absorbing interest to political leaders. Trial lawyers, who profit mightily from the present system, are also mighty contributors to political campaigns. Indeed, one of the major candidates for the Democratic nomination, John Edwards, made mega-millions from tort cases. It is especially hard for Democratic politicians, who get the majority of trial-lawyer money, to see trial lawyers, not as heroes, but as participants in an institution that (like any other) has socioeconomic costs.

So it is a welcome development that a group of scholars at the Pacific Research Institute have investigated precisely this neglected issue. The PRI is an independently funded free market thinktank. The group was headed by distinguished economist Lawrence McQuillan, and included Hovannes Abramyan and Anthony Archie. The McQuillan group has written a solid report on the costs of our tort system, with remarkable findings. The report, entitled "Jackpot Justice: The True Cost of America's Tort System," is downloadable in full from the PRI website.¹

The document is meticulously researched and extremely detailed. It looks at the various economic costs of lawsuits

aimed at giving an injured party compensation for damages suffered through the negligence of another ("tort" is French for "wrong"). The study focuses on class actions, medical malpractice suits, and product liability suits. It aims, in the investigators' words, to provide "a conservative first approximation of the total costs, both direct and indirect, as well as the total excess costs of the U.S. tort system."²

The McQuillan group is not attacking tort law itself. It stipulates that a good tort system is essential to the free market, because it helps ensure that businesses take care to make safe products and refrain from harming the environment, and that people who are truly harmed by some trade or industry — as inevitably happens in any economic system — are appropriately compensated. When critics of the tort system miss this point, their prose turns into mere lawyer-bashing, complete with the line from "Henry VI": "The first thing we do, let's kill all the lawyers."

Yet a bad tort system is a burdensome tax on the economy, killing jobs, lowering income, and increasing prices. Additionally, it exacts opportunity costs: every nickel a company has to plow into fighting lawsuits is a nickel less that it can plow into research and development, higher salaries for its employees, or lower costs for consumers. And to the extent that America has an unnecessarily burdensome tort system it will be at a disadvantage in the global economy.

The authors find that the direct and indirect cost of the current tort system was, in 2006, an astonishing \$865 billion: "To put the annual social cost of the U.S. tort system into perspective, it is equivalent to an 8% tax on consumption, a 13% tax on wages, the combined annual output of all six New England states. . . . The annual price tag, or 'tort tax,' for a family of four in terms of costs and foregone benefits is \$9,827."³

Comparison with other industrialized nations — which seem to be protecting their consumers well enough — shows that the U.S. tort system is grossly excessive. We spend 2.2% of our GDP on direct tort expenses; the other advanced nations

A bad tort system is a burdensome tax on the economy, killing jobs, lowering income, and increasing prices.

spend 0.9%. That 1.3% difference suggests that as much as 59% of U.S. tort costs are excessive. This means that about \$589 billion annually is drained uselessly from the American economy — about \$7,850 per family of four.

The McQuillan group unfortunately does not compare the number of lawyers in the U.S. to those in other industrialized nations. Back in 2000, The Economist pointed out that the United States had 281 lawyers for every 100,000 people, versus 94 for Britain, 33 for France, and only 7 for Japan.⁴ The percentage of lawyers in the U.S. has increased even more since then.

Along these lines, in a now classic study done in 1992,⁵ economist Stephen Magee, using international data sets comparing growth rates and relative numbers of lawyers as a percentage of white collar workers, concluded that there was an optimum of the percentage of lawyers in a population. Too many lawyers hurt the economy, *as do too few*. By his estimate, the U.S. had something like 40% too many lawyers.

It's a depressing subject. The McQuillan group does its best to leaven dry economic analysis with illustrations of crazy tort actions, but these tend to be depressing too. In one case,

The direct and indirect cost of the current tort system was, in 2006, an astonishing \$865 billion.

a small pharmacy owner was sued in a class action against a diet drug (Fen-phen) that had been approved by the FDA and was sold by the pharmacy only by prescription. The lawyers targeted the small pharmacy because it was in a county known to be "plaintiff-friendly," even though the drug maker was located in an entirely different state. The stress of the legal shark attack apparently induced a heart attack in the owner, killing him. His wife subsequently had to sell the pharmacy they had built. She was sued over a hundred times before the sharks had their fill.

And these things don't stop. Since the report was issued, several even more egregious examples of tort law abuse have made the headlines. Consider, for instance, an administrative law judge by the name of Roy Pearson, who sued his dry cleaners for *54 million bucks*, for losing his pants. He also lost his case, but he plans to appeal, putting the defendants (Soo and Jin Chung) through a living hell.

In another big news story, William Lerach, one of the most famous and successful class-action lawyers in the country, pleaded guilty to several felonies for his role in bribing people to become plaintiffs in big-buck lawsuits.⁶ Lerach won billions by suing major corporations, including AT&T, Enron, Lucent, Microsoft, and Prudential Insurance. His firm, Milberg Weiss, had paid over \$11 million in kickbacks to get people to be plaintiffs in lawsuits that netted the firm over \$250 million. (Lerach will do only one or two years, alas, but will have to disgorge the better part of \$8 million. Other partners in the firm have been charged, including co-founder Melvyn Weiss, who faces up to 40 years in jail.)

A third case of trial lawyers gone wild occurred recently in Kentucky.⁷ Three tort lawyers — Shirley Cunningham, Jr., William Gallion, and Melbourne Mills, Jr. — got a settlement (in 2001) for a group of 440 consumers who had purchased a diet drug containing Fen-phen. The settlement was for \$200 million, from which the attorneys were to collect a third for their contingency fees. The lawyers kept \$106 million for themselves and put another \$20 million into a charity

that they set up. So the plaintiffs got \$74 million rather than the \$132 million they were due. The judge who presided over the original settlement, Judge Bamburger, retired in 2004, and was promptly appointed "director" of that selfsame charity, at a hefty salary. Complaints by the plaintiffs led to a federal investigation, and the lawyers have all been indicted. The federal judge overseeing the case has even jailed them as flight risks. And the plaintiffs are suing to get the rest of the money. The Kentucky Bar Association has yet to disbar the crooks.

In a fourth recent case, Mississippi tortmeister Dickie Scruggs (an apt moniker, indeed) was indicted for attempting to bribe a judge, presiding circuit court Judge Henry Lackey.⁸ Scruggs' law firm had obtained massive settlements from insurance companies for Katrina victims, and Scruggs fell into a dispute with another attorney in the firm (John Griffin Jones) about how to divide the \$26.5 million in attorneys' fees. The *Jones v. Scruggs* suit was due to be heard by Judge Lackey.

According to the indictment, Scruggs sent an emissary (an outside attorney named Timothy Balducci) to offer a bribe to Judge Lackey. Lackey, however, refused to fulfill the promise of his name, and went to the FBI. Working undercover and likely wearing a wire, he agreed to take a \$40,000 bribe. Balducci then allegedly handed over \$20,000 in cash up front, and the rest later on. Scruggs and his four cohorts — lawyers all, remember — face 30 years in prison.

If you want to read other outrageous cases, the estimable American Tort Reform Association has a page on its website⁹ listing some of the more ludicrous ones. It also has a downloadable annual report on the areas of the country that have the worst record of judicial rulings in tort cases. These are called, appropriately enough, "Judicial Hellholes."

To return, however, to the McQuillan study: as useful as it is, it does not include the costs of other areas of civil law, such as employment, securities, the Americans with Disabilities Act, or contract lawsuits. So the study's "conservative first approximation" of the total costs of our tort system is very conservative, indeed.

More importantly from the philosophic point of view, the study explores only the utilitarian (or more broadly) conse-

Lawyers targeted the small pharmacy because it was in a county known to be "plaintiff-friendly," even though the drug maker was located in an entirely different state.

quentialist case against tort law abuse. That case is fairly obvious, so long as one does not suffer from any of the biases listed above. Yet there are also ethical perspectives to be invoked.

Begin with the Kantian perspective — the injunction to treat people as ends, not as mere means to our own ends. That would surely rule out suing someone (or some company) not because he actually harmed you, but because you can convince a jury that he did and thereby take his assets. It would

also rule out the “deep pockets” strategy employed by not a few trial attorneys, that of suing persons or companies that were only tangentially involved in a tort, and truly blameless of the harm, simply because they have more assets, or because they are located in a jurisdiction favorable to trial attorneys. And it would rule out juries’ occasional practice of award-

Such a Robin Hood approach clearly treats wealthy defendants as if they were cows to be milked.

ing damages to a plaintiff not because he was really harmed by the defendant but because the jury felt sorry for him and viewed the defendant (a large corporation, typically) as having the resources to help him. Such a Robin Hood approach clearly treats wealthy defendants as if they were cows to be milked.

There is also the natural rights perspective. If all people have unalienable rights, surely they have the right to be free from harassment by other people, from having their property wrongfully taken, and from having their privacy violated by unjust legal actions.

Finally, the recently regnant “virtue ethics” perspective would encourage us to look at the role of institutions in building or destroying character. From such a perspective, one must view with alarm a tort system so loose that it encourages people to steal legally from others. Ironically, it has been economists rather than moral philosophers who have been most aware of the moral hazards (especially rent-seeking) that come from a loose tort system. Moral hazard (in philosophic terms) is making people vicious by offering them perverse incentives to become so.

In sum, a number of consilient moral considerations argue for systematic tort reform.

The McQuillan study does not suggest how this might happen, though several approaches come to mind. I want to start, however, by reviewing some ideas for controlling tort abuse with which I do not agree. One is the general idea of limiting what people can gain from lawsuits, with an eye to lowering incentives for them to file frivolous ones.

We could cap non-economic damages (awards for pain and suffering over and above economic loss). There is some evidence that non-economic damage caps work to curtail tort abuse. For example, a recent article in the *Investor’s Business Daily*¹⁰ shows that since Texas, four years ago, passed a state constitutional amendment capping non-economic damages in medical malpractice cases, it has seen a 21% drop in medical malpractice insurance premiums. This, of course, helps healthcare consumers (aka patients) in two ways.

Directly, it lowers doctors’ charges, since any healthcare provider builds insurance costs into the price of services. Indirectly, in Texas it has led to a flood of doctors moving from states that have runaway tort systems. Since awards

were capped in 2003, applications for medical licenses have skyrocketed, from 8,391 in the four years before the cap was passed, to 10,878 in the four years since.¹¹

Nevertheless, capping non-economic damage awards is less appealing than some other approaches. For one thing, it limits the freedom of juries to address a proven harm as they see fit. While individual juries can behave irresponsibly, we still have to judge the institution as a whole.

Moreover, while the function of the tort system is primarily to compensate, “make whole,” the person injured, that is not its sole function. In some unusual cases (say, where people are permanently disabled or disfigured through extreme recklessness), punitive damages may well be just, both to punish the defendant and to deter future recklessness by others. In this regard, we should note that since 2003, Texas has witnessed a rise in investigations of doctors (up by 40%), complaints by patients (up by 25%), and disciplinary actions against doctors (up by 8%), though this could also be caused by closer regulatory scrutiny.¹²

We can agree that the punitive function should be kept strictly for egregious cases, not for ordinary negligence, but it seems legitimate in theory. There is recklessness that does not rise to the level of outright criminality. In fact, courts tend to peg the amount of punitive damages to the actual damages suffered by the plaintiff, and they require a greater burden of proof for punitive as opposed to other damages.

A second approach is to limit or even prohibit contingent fees, fees that lawyers get only if they win a suit. Contingent fees are not allowed in most European courts, and were not permitted in early America. Yet this again is an approach I do not favor, for the same reasons that the American legal system eventually decided against it.

We should be reluctant to tell autonomous agents engaged in negotiating a price for some service what they must agree to. The practice obviously violates their rights to negotiate freely. More specifically, there are some cases in which a person who has truly been harmed could not afford a lawyer, if a contingent fee arrangement were not available.

Besides attempting to limit awards for damages or fees for trial lawyers, reformers have suggested that we simply eliminate the jury system for tort cases, and rely on the

One must view with alarm a tort system so loose that it encourages people to steal legally from others.

judges instead. This is the norm in Europe, and makes a certain amount of sense. After all, judges are trained in law, and are (arguably, at least) less susceptible than juries to the irrelevant emotional appeals and flowery rhetoric — especially class warfare rhetoric — that trial lawyers too often dish out.

But trial by jury in common law suits of over \$20 is guaranteed by the 7th Amendment to the United States Constitution, so at least at the federal level the change would be practically

impossible to make. And I think the reasons for putting that right into the Constitution still apply. Not only are juries a check on the power of government but, except in a headline-grabbing minority of cases, jurors tend to be reasonable. I don't think they are the core of the problem.

My preference is for a number of other approaches, some rather narrow, and one very broad, that focus on making the tort procedures themselves (as opposed to the lawyers and jurors who work under the procedures) more rational and fair.

To begin with the narrower approaches, we first need to pass laws that limit liability for torts to agents who have the main direct causal role in the tort. (These laws to limit tort

The firm was living parasitically upon the small business community, and living well.

exposure will likely have to be industry-specific). Dragging into lawsuits people who had no real hand in the commission of the harm surely violates their rights. Remember the case of the pharmacist who was sued for selling an FDA-approved drug. Since the pharmacist didn't manufacture or prescribe the drug, he should have been held legally harmless in the matter. Pharmacists should be responsible for torts that occur in the normal specific practice of their business, such as mistakes in filling prescriptions or selling drugs that are past their declared shelf life, not for things they weren't involved in, such as the manufacture of the drugs they sell.

For this reason I support attempts to hold gun manufacturers liable only for damages that occur from defects in their products (such as guns that can explode when fired), as opposed to liability for the wrongful use of their products (such as the use of guns in criminal activities, unless the manufacturer had knowledge that the person buying a gun was criminal or mentally incompetent).

Second, a number of states (such as California) have enacted statutes that require compulsory arbitration in certain cases, and many contracts (especially for medical, legal, and other professional services) already contain arbitration clauses. But we need to get creative in setting up even more venues for compulsory arbitration.

Third, we need to follow a suggestion by Peter Huber, who argues in "Galileo's Revenge: Junk Science in the Courtroom"¹³ that the dropping of the *Frye* rule about the "general acceptance" of professional ideas has led to a proliferation of dubious cases in which clearly bogus science was allowed into the courtroom. For example, the aforementioned John Edwards won a lot of money from convincing juries that obstetricians caused cerebral palsy in the infants they delivered by failing to perform caesarian sections, a claim the vast majority of medical scientists would view as pseudo-science.

I will be brief, referring the reader to Huber's fine book for further details. In 1923 a federal appellate court ruled that expert testimony would be allowed in a trial only if the testi-

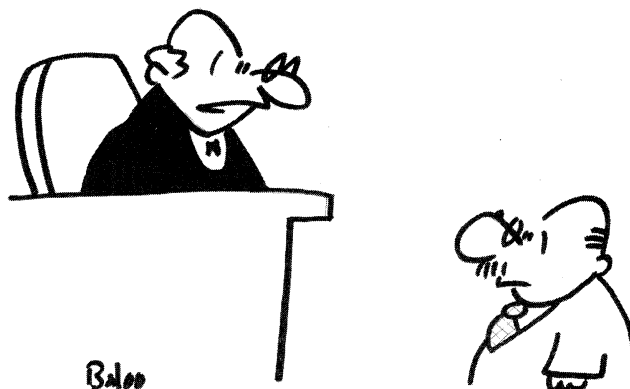
mony was based on theories and methods generally accepted by practitioners in the field. However, in 1975 this rule was weakened at the federal level, and in 1993 the U.S. Supreme Court (in *Daubert v. Merrell Dow*) rejected it and put in its place a requirement for independent judicial review of the scientific testimony. But absent the *Frye* rule or some other tight standards, judges (who are trained in the law but typically not in science or statistics) and juries (who are ordinary folk, not trained scientists from relevant disciplines) are put in the position of having to decide which scientific theories and practices are scientifically correct.

Fourth, we need to require that any person filing a lawsuit must actually have been harmed by the person or company he is intending to sue. Believe it or not, there are some states (such as my beloved state of California) that actually allow attorneys to sue companies for various consumer law or other infractions (such as infractions of ADA codes) despite the absence of an actual consumer even alleging harm. A recent case became notorious for this — a legal firm sent its employees out to various small businesses, studying the width of parking stalls, the accessibility of bathrooms, etc. The firm then filed hundreds of lawsuits against the businesses, usually settling for roughly what it would have cost them to contest the cases in court. This firm was living parasitically upon the small business community, and living well.

Fifth, we need sharp limitations on discovery during the early phases of the tort complaint. Allowing the plaintiff's attorney freedom to trawl through a defendant's records, searching for anything that might be damaging, is an invitation to frivolity and injustice. Most other legal systems in the industrialized world limit discovery to what is reasonably relevant to the alleged tort.

Sixth, and more broadly, we should move to the system of "loser-pays." Under this system — sometimes called "the English Rule," although it is the norm throughout Europe — if Jones sues Smith for any reason and loses, Jones has to pay Smith's legal fees. This would be a constant guard against frivolous lawsuits, such as the infamous \$54 million lost-trousers action.

From the ethical point of view, the loser-pays rule seems imperative. We need to remember that every frivolous lawsuit against an innocent person or company is itself a tort. It



"You've had enough litigation, Mr. Bemis — go on home to your wife and children."

causes stress, a kind of pain and suffering for the wrongfully sued person. It often hurts the reputation of the person sued, potentially causing large loss of income. (Indeed, precisely because being sued often results in tremendous amounts of bad publicity, lawyers are often able to extort money from public corporations.) The time and trouble of putting up a defense is an opportunity cost, because that time could be spent more profitably elsewhere. Worse, even if the victim prevails, he still typically pays his own legal fees, which complete the punishment of the innocent.

Let's return to the Kantian perspective for a moment. Kant had a second formulation for his ethical theory, one he termed the categorical imperative. I view this theory as essentially a demand for consistency in ethical reasoning. In his formulation, we should act under those, and only those, rules that we could will to be universally adopted. This is (as often noted) an abstract formulation of the Golden Rule: do unto others as you would have them do unto you.

Well, what are the reasons typically given for the tort system? That it makes people who have been harmed whole, i.e., compensates them fairly for their loss; that it acts as a deterrent to negligence or reckless behavior; that it helps to motivate those who have caused harm to negotiate in good faith with those they have harmed (or face a lawsuit).

If consistency has any meaning, these reasons should apply to the tort system itself

If one reason for a rightful tort case is to compensate the victim appropriately, then in a wrongful tort case the victim (the defendant) should be compensated appropriately. He or she has lost money in legal fees, and so having the plaintiff reimburse those fees would make the defendant whole.

If we accept the need to deter negligence and recklessness, then we also need to deter lawyers from carelessness or worse in bringing lawsuits. The loser-pays system would be such a deterrent. Why suppose that the tort law business needs any less deterrence against malfeasance or negligence than any other business? I don't believe that lawyers on average are any more prone to unethical behavior than are (say) people in the housing industry, but it beggars the imagination to suppose that they are less so.

And if we agree that the threat of a tort lawsuit can motivate those who have caused harm to negotiate fair compensation for those whom they have harmed, then consistency

We should move to the system of "loser-pays." If Jones sues Smith for any reason and loses, Jones has to pay Smith's legal fees.

should tell us that the threat of having to pay the defendant's legal fees, as well as one's own, should one lose, will encourage plaintiffs to seek reasonable settlements first, or accept binding arbitration to begin with.

That loser-pays is a moral imperative becomes even clearer when you reflect upon the fact that in a tort case, the level of proof is only "the preponderance of evidence," nothing near the high standard of "proof beyond all reasonable doubt" that is required in criminal trials.

I would anticipate a few objections to the loser-pays system, but none that strike me as morally compelling.

One is the objection that if we move to a loser-pays system, the average person harmed by defective products will not be able to get legal representation at all, because his attorney will be up against a huge team of lawyers for the evil Big Business that produced the defective product.

But the counterarguments are as obvious as they are numerous. To begin with, scaring off potential plaintiffs who have weak or frivolous cases is the whole idea. Next, most

It beggars the imagination to suppose that lawyers are less prone to unethical behavior than people in any other business.

business in America is small to medium-sized business, so in most cases where someone is genuinely harmed by a defective product or service, the legal representation will be roughly equal. In cases of genuine harm caused by truly big business other plaintiffs could join in a class-action lawsuit. Finally, the management of any business that has to employ a large team of lawyers to face a plaintiff in the loser-pays system will have motivation to enter into settlement negotiations in good faith. After all, it faces huge legal bills just from its own lawyers, and it knows that the plaintiff and plaintiff's counsel are, almost surely, sincerely convinced that they have enough evidence to prevail.

Another objection is the contrary argument: under loser-pays, poor plaintiffs will be more inclined to sue, knowing that they have nothing to lose, whereas the other side does have something to lose.

This is weak. Under the current system, that's precisely what we have for everyone: nothing to lose! More importantly, while any poor plaintiff inclined to a frivolous lawsuit has nothing to lose, his attorney certainly does.

A third objection: what about cases in which a person is harmed by a product or service, not by negligence, but by mere bad luck? That is, what about harms for which the company that produced the product or rendered the service was in no way really negligent, and in no way could have foreseen the harm, but still caused it? If such consumers can't collect from the company, aren't they forced to pay for their own medical bills? Is that just? And what about people who can't pay medical bills at all?

continued on page 62

The Liberty Poll Results

Who We Are and What We Think

by Mark Rand

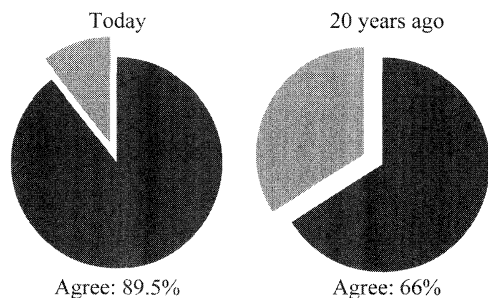
Liberty has always wanted to know more about its readers. What do they think about life, life's little problems, life's big problems, and some larger than life problems? What about God, sex, and Ayn Rand? Should any combination of them ever be mentioned in the same breath? Read on . . .

Liberty's publication of "The Sociology of Libertarians," a survey conducted by two non-libertarian social scientists (October 1987), led Liberty's editors to ask "what about the issues that vex libertarians?" We published the results of the first Liberty Poll in the July 1988 issue, and the results of the second in February 1999.

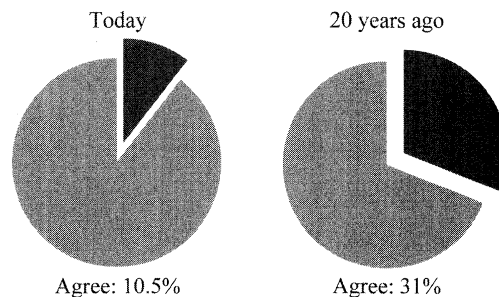
Times have changed, and the libertarian movement has (arguably) matured. A few months ago, we decided the time was ripe for the third Liberty Poll. Here are the results.

Moral Opinions

There is a proper role for government, but that role is much smaller than the role government plays at present.



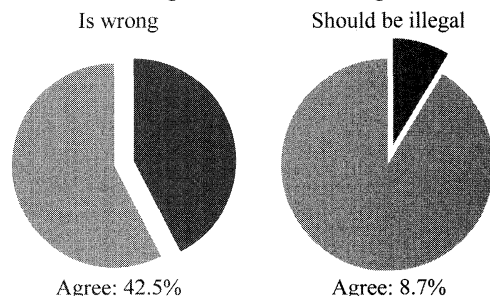
Government should be eliminated altogether.



Whether there should be some minimal government is one of the oldest controversies in libertarian thought. If the poll results are representative of overall libertarian opinion, the minarchists clearly are making their case more persua-

sively than are the anarchists. To my mind, the argument has a bit of an “angels on heads of pins” quality — we’re not in great danger of reducing the government’s scope by too much at any point in the near future.

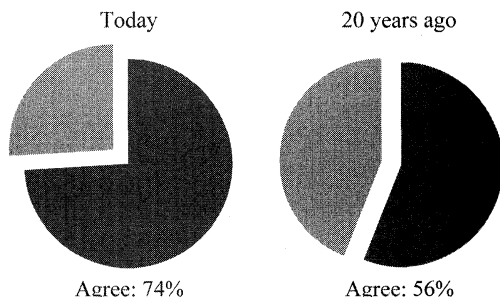
Is abortion wrong? Should it be illegal?



A smaller portion (37%) of the first poll’s respondents viewed abortion as wrong; a greater portion (13%) believed it should be outlawed. The consistent libertarian position on abortion awaits a definitive and popularly accepted proof of God’s existence or non-existence, and a definitive and popularly accepted consensus on when life begins. Stay tuned.

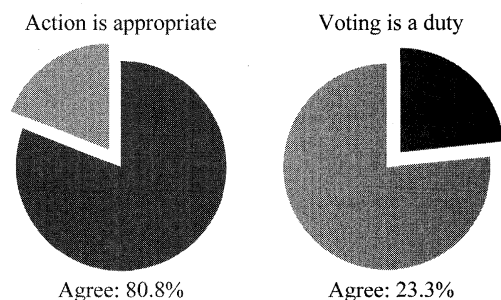
Interestingly, two individuals indicated that although abortion is not in their view wrong, it should be illegal. This first struck me as incompatible with any type of libertarian philosophy, but I was falling prey to a false dichotomy. Not agreeing with the statement “abortion is wrong” is not at all the same as agreeing to the statement “abortion is not wrong.” If abortion is in one’s view *possibly* but not *definitely* wrong, the doubt might reasonably be combined with the extreme consequence (certainly for the fetus) to produce the conclusion that abortion should be outlawed.

A person should have a legal obligation to support his or her offspring.



Some respondents note that any obligation ends once the offspring is 18 years old; one wonders if it ends at age 14.

Is political action an appropriate method of advancing liberty? Do people have a responsibility to vote?



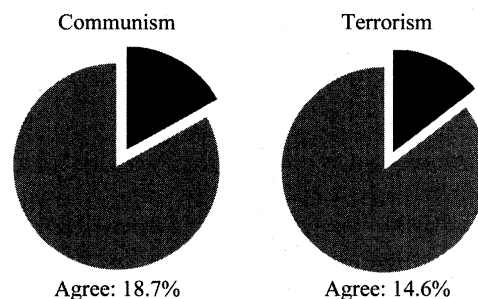
While the portion of respondents who consider political action appropriate is about the same as it was in the first Liberty Poll (77%), the portion who consider voting a responsibility has more than doubled (from 10% in the first poll). Taken together with the sample’s move from anarcho-capitalism to minarchism, it suggests that we are as a group becoming less disenchanted with the state.

If this is correct, it may be that individualists believe that government today is less invasive than it was 20 years ago. It seems unlikely that any significant number of our readers would have this delusion.

Another possible explanation, which in my view is much more likely, is that anarcho-capitalists are more likely than minarchists to have left Liberty’s fold.

I hope neither explanation is correct; I hope it is merely a statistical aberration permitted by our small and non-representative sample.

Is Communism the greatest threat to human liberty. Is terrorism?



Terrorism was not listed in the first poll, so the fact that Communism is considered the greatest threat to human liberty by a smaller portion of respondents today than 20 years ago (21%) is not particularly informative.

An analysis of this question’s responses also runs into some interpretive problems. First, what is meant by “communism”? Socialism is a natural interpretation; our glorious leaders, whether Republican or Democrat, work at nothing so consistently as increasing the level of socialism in the United States. Or is it “Communism”? The first poll was conducted before the fall of the Berlin Wall; respondents who recall the first poll may be assessing the threat of Soviet aggression. Second, as Stephen Cox wondered after the first poll: are respondents telling us what they consider the most extreme threat, or the most proximate?

Eight respondents indicated that communism and terrorism are each the greatest threat to human liberty.

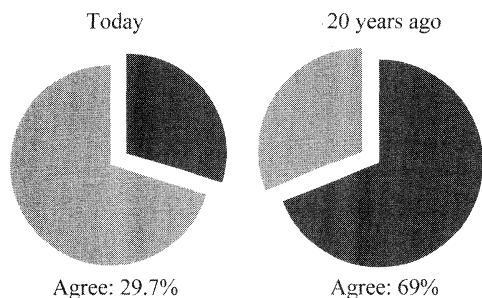
Patrick Quealy adds: The first two polls asked whether “Communism is the greatest threat to human liberty.” This time, we also asked whether “terrorism is the greatest threat to human liberty.” The number of respondents who regard Communism as the greater threat is four percentage points higher than the number who regard terrorism that way. That didn’t surprise me, because I figured it reflected the age and experience of our respondents: the commonest age indicated by respondents was 67, and the average was 55.

I am 27, and I only barely remember Soviet Communism being a terrifying threat. By the time I

was old enough to be politically aware, the Cold War was over. Before long, the militia movement in the mid-'90s, and then 9/11, made terrorism the new bogeyman. I guessed that people my age and younger would have the same experience, so I looked at the responses of those my age or younger.

I was surprised to find that two answered affirmatively to the Communism question, and none to the terrorism question. In fact, at the other end of the age spectrum, of the 34 respondents who specified an age of 70 or older, more believe terrorism is the greater threat (eight for terrorism vs. seven for Communism). The age groups I picked are arbitrary and too small to have statistical significance, but I'm a bit surprised terrorism didn't stick out as the new threat for everyone, and that the threat of Communism has such tenacity even for younger people.

The United States should remove all restrictions on immigration.



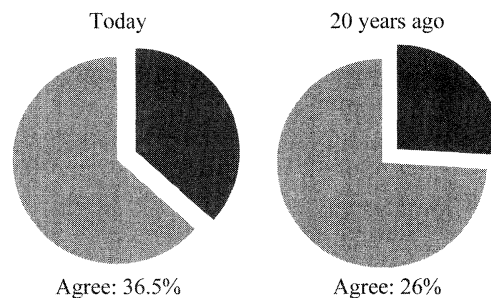
The subject of immigration remains controversial within the libertarian community. Advocates of open borders correctly maintain that a reasonable and consistent libertarian philosophy is incompatible with significant restrictions on human migration; advocates of significant restrictions can counter that 1) in our semi-socialist state, immigration has artificially high external costs, and 2) political philosophies are *never* actually followed consistently.

Unfortunately, this statement's wording is too broad to allow us to draw sweeping conclusions about libertarian opinion on the subject. Respondents who indicated that there should be no restrictions on immigration can't truly believe it. They've assumed the qualifier "significant." (Before you object to my assumption, envision the *reductio ad absurdum* of several thousand foreign soldiers crossing the border while claiming to be peaceful immigrants.) Some respondents who advocate more or less untrammelled immigration may have refrained from checking this statement because they did not assume any qualifiers. Of course, respondents who want significant restrictions on immigration will also disagree with the statement; we have no way of accurately determining the proportions.

It does seem likely that the percentage of respondents in favor of significant restrictions on immigration has at least doubled since the time of the first poll, as it is unlikely that the percentage of respondents who don't assume reasonable qualifiers — and who can blame them? — has increased

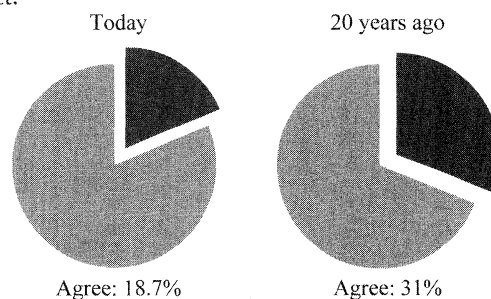
markedly enough to account for the bulk of the change.

There is a God.



When one considers that polls indicate that at least 73% and as much as 94% of the U.S. population believes there is a God, the reason for the common assumption that libertarians are nonbelievers is clear. A sizable and growing minority of respondents believe there is a God.

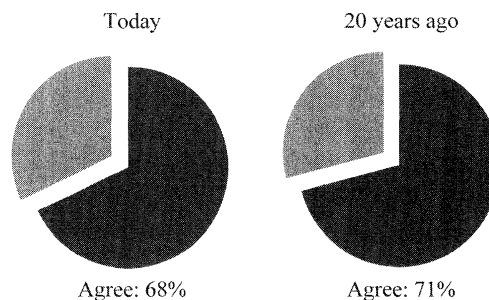
An employee of the state is a receiver of stolen goods and therefore is committing an improper act.



The direction of the change in response to this statement is exactly what one would expect given the respondents' move from the anarchist to the minarchist philosophies, but the magnitude of the change seems excessive. Some 13% of poll respondents believe both that some level of government is appropriate and that state employees are ipso facto committing an improper act.

Perhaps those respondents believe employees of a proper government would be paid from donations; perhaps they believed the employees of a proper government would be volunteers. Perhaps some did not trouble themselves with the details.

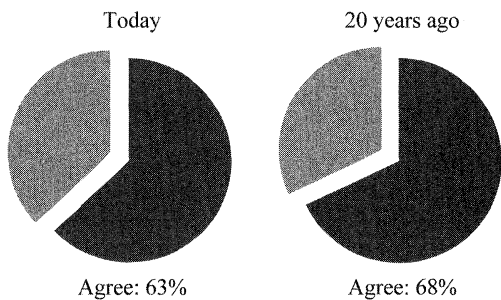
One can accept government services (food stamps, subsidized housing, use of roads, etc.) without committing an immoral act.



This statement seems to have been designed so as to minimize its utility. How else does one explain the inclusion of both the use of roads and the use of food stamps? Some

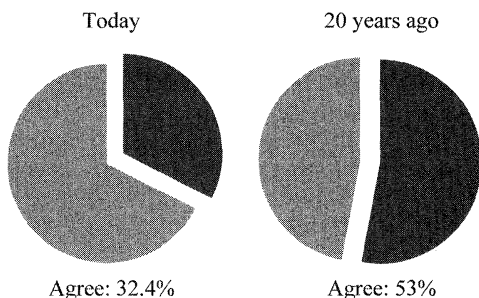
respondents treated this as though it were multiple choice, which it should have been.

If the state expropriated all wealth and one could not exist without accepting stolen goods, it would be moral and proper to accept such goods (i.e., live within the system).



A curveball. Although respondents today are more likely to believe some level of government is appropriate, they are slightly less likely to believe one should accept anything from a totalitarian state, even when one's survival is at stake. Respondents whose view of what they *should* do is in accord with what they doubtless *would* do account for 63% of our sample.

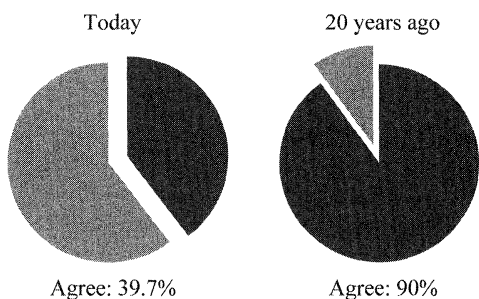
A proper government would have an absolutely isolationist foreign policy.



More evidence that libertarian opinion is moving in the wrong direction — towards *more* government. More than two thirds of the respondents believe the United States has, or at least might have, some good reason to meddle in the affairs of other countries.

Several respondents indicated that the proper foreign policy should be described as non-interventionist.

It is always wrong to initiate force against another human being.

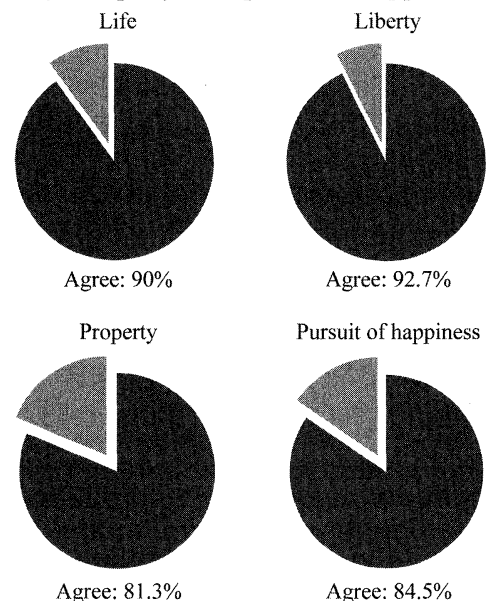


In the first Liberty Poll this statement was "No person has the right to initiate physical force against another human being." The second Liberty Poll (ten years ago) changed the

statement to its current form, and 50% of those respondents indicated agreement.

Patrick Quealy adds: Between 1988 and 2008, the proportion of respondents who believed it is wrong to initiate force against another human being dropped by 50 percentage points. The percentage who believe the U.S. should remove all restrictions on immigration dropped by 40 points. Both changes were graduated, with the percentage falling substantially both between 1988 and 1998, and again between 1998 and 2008, which may reflect a readership that's inexorably becoming pragmatic — as the Libertarian Party is believed in some quarters to be doing.

Do all men by their nature have a right to life? Liberty? Property? The pursuit of happiness?



Overwhelming majorities of respondents in each of the three Liberty Polls have agreed that all men by their nature have each of the listed rights. Not overwhelming enough, in my opinion.

Some respondents (about 6%) did not indicate that all men possess any of the listed rights. This might stem from a disagreement over the meaning of rights, and is easy to reconcile with a generally libertarian philosophy.

It is not nearly as easy to understand why some respondents believe that men have some but not all of the listed rights. Most baffling is that almost 4% of respondents think that men have some of the listed rights but not the right to life itself.

Problems

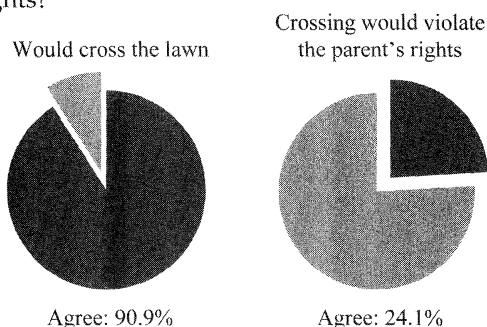
Few libertarians would argue that mainstream Republican or Democratic philosophies are internally consistent. Democrats' concern for the poor clashes with their desire to enfeeble the only system (capitalism) that has been shown to alleviate poverty. Republicans' desire for less intrusive government clashes with their support of laws turning consensual activities into crimes.

If the responses to the questions in this section are any indication, natural-rights libertarians also have some philosophical inconsistencies, at least at the extremes. *Reductio ad absurdum* is an appropriate tool for analyzing a philosophy that claims to derive its rules from clear, universal principles.

The contrived situations in the problems below won't shed as much light on a utilitarian-based libertarian philosophy.

Suppose that a parent of a newborn baby places it in front of a picture window and sells tickets to anyone wishing to observe the child starve to death. He makes it clear that the child is free to leave at any time, but that anyone crossing his lawn will be viewed as trespassing.

Would you cross the lawn to help the child? Would helping the child violate the parent's rights?

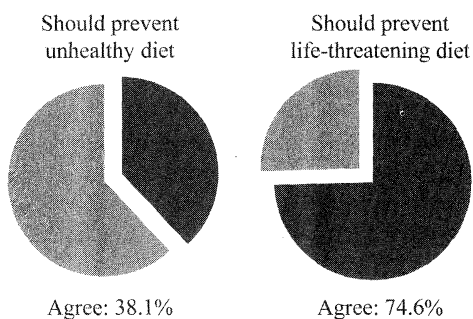


The overwhelming majority of respondents would cross the lawn to help the child. My opinion is, again, not overwhelming enough. I'm not sure which is worse — that almost 5% wouldn't help the child because it would in their view violate the parent's rights, or that over 4% would not help the child even though they do *not* believe it would violate the parent's rights.

The second question is of some importance only if one is concerned with the details of a moral framework. In every Liberty Poll to date, at least one respondent has added what I consider the most natural response. "Who cares?"

Response to this question was similar in each of the two earlier Liberty Polls.

Suppose that a parent decides to experiment with a radical new diet for his newborn child. Should you prevent the parent from trying the diet, if you had good evidence it would endanger the child's health? Suppose that you had good evidence that the diet would endanger the child's life?



This pair of questions elicited a few calls for clarification. What, exactly, is meant by "endanger" the child's health or life? A diet that slightly elevates the child's lifetime risk of coronary disease (and thus slightly reduces the child's life expectancy) could be said to endanger the child's health, and possibly the child's life.

What qualifies as "good" evidence? A double-blind study in which lab rats' lifespans were halved? Anecdotal evidence that conforms with one's own experiences?

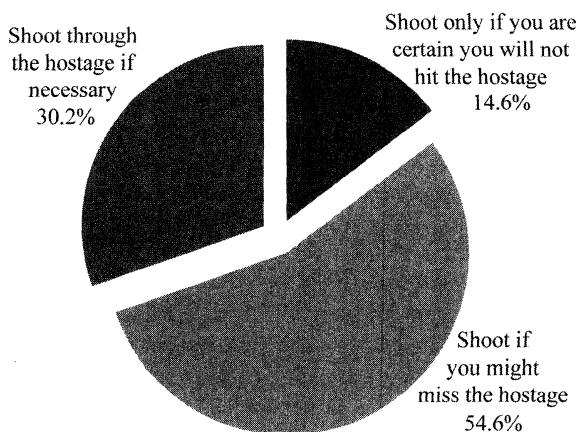
And what does "prevent" mean in this context? Presumably it means something other than "persuade" — the second question, especially, would not be much of a dilemma were that the case. Does an unqualified "prevent" imply "by any means necessary"?

Somewhat surprisingly, given the ambiguity of the questions, response has varied relatively little across the three Liberty Polls. In the initial Liberty Poll 41% of respondents indicated one should prevent the unhealthy diet and 62% of respondents indicated one should prevent the diet that endangers the child's life. In the second Liberty Poll the numbers were 30% and 61%, respectively.

Again, because of the question's ambiguity, one should not draw any overall conclusions solely from its response. Nevertheless, it is worth noting that the response for this question follows this poll's trend of moving towards a willingness to condone interventionism in general.

Suppose that you are a security guard for a large shopping mall. A terrorist has threatened to drop a bomb from a balcony into a crowd. He is moving toward the balcony's railing carrying an object that you believe to be a bomb. You have a gun. He has a hostage between himself and you (he knows that you have identified him). You have only a few seconds to react. Which of the following most accurately reflects the action you consider appropriate?

You should fire a gun at the terrorist only if you are certain that you will miss the hostage.
You should fire at the terrorist if there is a reasonable chance that you will miss the hostage.
You should fire through the hostage, if necessary.



Although almost 40% of poll respondents believe that

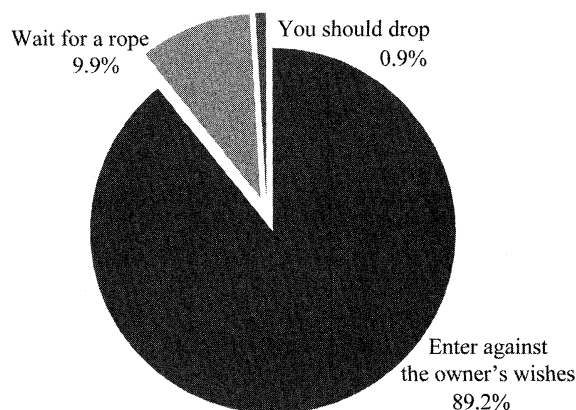
it is always wrong to initiate force against another human being, almost 80% of poll respondents (85% of this question's respondents) indicated a willingness to shoot through an innocent individual if necessary. The simplest way to reconcile this is to assume we have some closeted utilitarians in our sample.

Suppose that you are on a friend's balcony on the 50th floor of a condominium complex. You trip, stumble, and fall over the edge. You catch a flagpole on the next floor down. The owner opens his window and demands you stop trespassing. Which of the following statements reflects your beliefs?

You should enter the owner's residence against the owner's wishes.

You should hang on to the flagpole until a rope can be thrown down from above.

You should drop.



In each of the earlier Liberty Polls, about 15% of respondents indicated that one should wait for a rope, and about 1% indicated that one should drop. "Should" is not "would," and I wonder whether anyone believes he would in fact drop in such a situation.

I also wonder about those waiting for a rope. What do they consider the appropriate action should the rope fail to materialize? There's only so long one can hold on to a flagpole, after all. They may as well enter the condominium — the insane wing of Objectivist society has excommunicated them anyway.

As far as I'm concerned, the definitive answer came from the respondent who indicated she would enter the condominium "and proly smack him [the owner] for being a butthole."

Suppose that your car breaks down in an unpredicted blizzard. You are trapped and may well freeze before help can get to you. You know that there is only one house within hiking distance. You hike to it. The owner, a frightened woman whose husband is absent, refuses to admit you (she has no phone, so asking her to telephone for help is pointless).

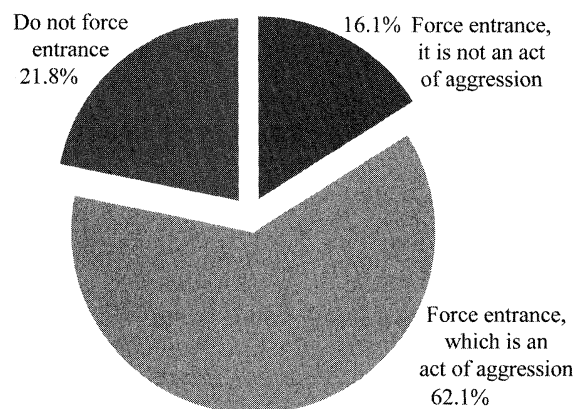
Which of the following statements reflects your beliefs?

You should force entrance, but in this case it

would not constitute an act of aggression.

You should force entrance, even though it would be an act of aggression.

You should not attempt to enter the house.



Although the situation in this question is almost equivalent to the situation in the previous question, in each of the three Liberty Polls, respondents have been far more likely to respect the cabin owner's wishes. It is unclear whether this is because the owner's actions are here more reasonable, or because the death in this question is less immediate.

One respondent indicated that she would take shelter in the shed that she decided was adjacent to the cabin. A wise choice, as the shed is doubtless heated, stocked with food and hot cocoa, and equipped with satellite television. Another respondent, fresh from smacking the condominium owner, indicated she'd force entrance and that "she'd [the cabin owner] get over it."

Suppose that you live in a large city. Your neighbor constructs an atomic weapon. He assures you that he would detonate it only as an act of defense. You believe that he intends to commit



SHCHAMBERS

an act of extortion. ("The city must pay \$1 million, or I will detonate it.")

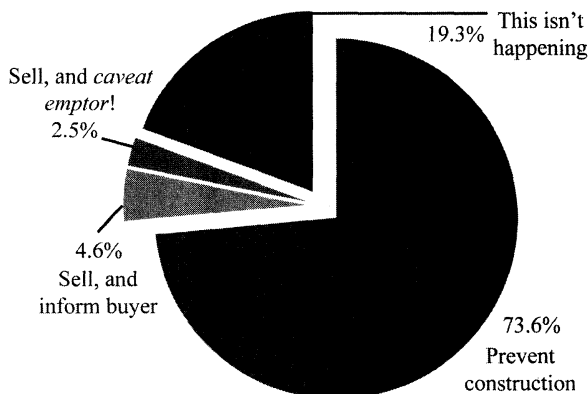
Which statement most clearly reflects your beliefs?

You (and your neighbors) should prevent the construction of the device.

You should put up your house for sale and move, and you are obligated to tell your prospective buyers of the situation. You should not interfere with his actions.

You should put up your house for sale and move, and you are not obligated to tell your prospective buyers of the situation. You should not interfere with his actions.

You should do nothing, since such a situation is unthinkable and, therefore, is not happening.



In the commentary to the first Liberty Poll, Bill Bradford wrote "[t]his problem is about gun control with bigger guns." This is one of the rare occasions upon which, in my view, Bill completely missed the mark.

The clear difference between this problem and an extreme version of a gun control question is the assumption of criminal intent. The (conventional) gun control analog to this question is "your neighbor is stockpiling small arms; you believe he intends to go on a rampage at the mall, . . ."

Recasting this situation with no assumed criminal intent would produce a much better tool with which to assess the perceived limitations of the right to bear arms; it would be interesting to see if a significant percentage of respondents would react differently to that situation.

Patrick Quealey adds: In response to the question about one's neighbor constructing a nuclear device, 7% (in both 1988 and 1998) believed they "should do nothing, since such a situation is unthinkable and, therefore, is not happening." In its July 1988 analysis, Liberty termed this option "gibberish" and supposed those who selected it did so "in an attempt to evade the issue or perhaps out of an appreciation of its silliness."

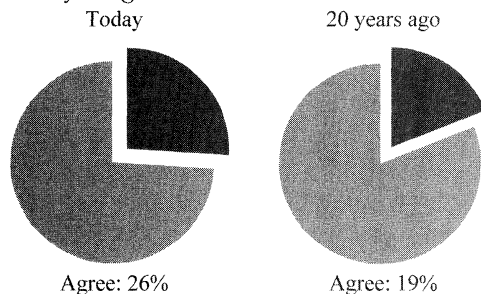
This time, support for the option rose about 12 percentage points, gaining most of its support from points lost on the answer: "You should put your house up for sale and move. You should not interfere with [your nuclear-armed neighbor's] actions." I suspect many of these respondents regarded it as gibberish, or almost

gibberish, but still concluded it was the best answer. That is reasonable if a greater proportion of our readership now approaches far-out hypothetical questions not as a libertarian giving a technically correct answer, but as a human being giving a reasonable answer to a very weird question. Both answers are fine with me — I'm just happy the percentage of people who would "prevent construction of the device" held steady at around 73%.

Intellectual Development

The Liberty Poll includes a variety of questions the aim of which is to determine, as Bill Bradford put it, "just how did libertarians get that way?"

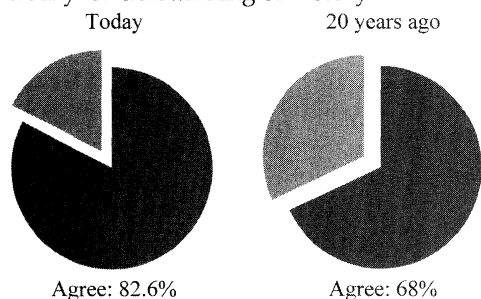
My political beliefs are based, at least in part, upon my religious beliefs.



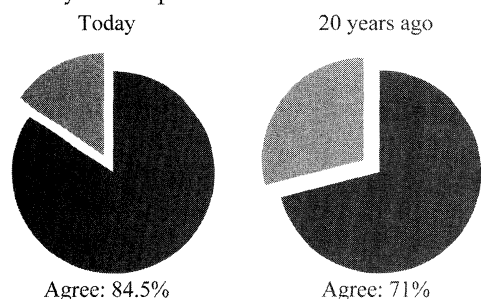
Respondents are more than three times as likely to base their political beliefs upon either history, life experience, rational analysis, or economics than upon their religious beliefs.

For the respondents who are not particularly religious, this is to be expected. It is surprising though, that 27% of the respondents who believe there is a God indicate that their religious beliefs don't at all influence their political beliefs.

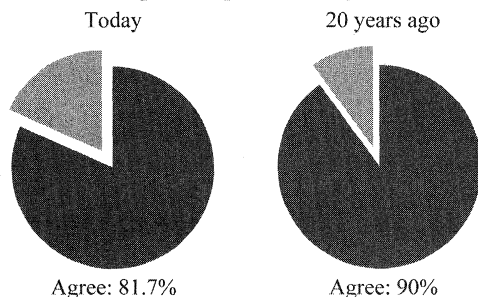
My political beliefs are based, at least in part, upon my understanding of history.



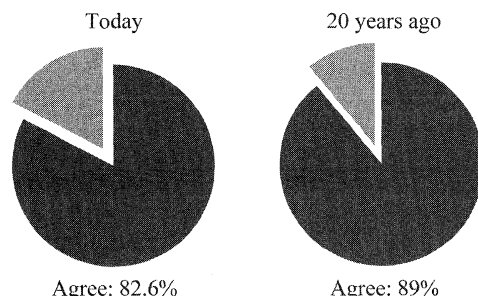
My political beliefs are based, at least in part, upon my life experience



My political beliefs are based, at least in part, upon rational, philosophical analysis



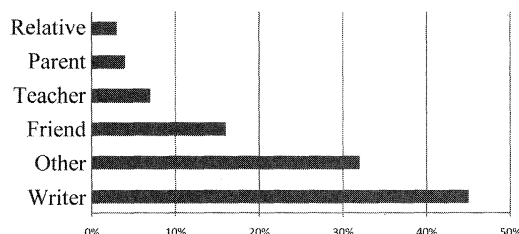
My political beliefs are based, at least in part, upon my understanding of economics



For some reason, in the second Liberty Poll, only 36% of respondents included economics as one of the bases of their political beliefs.

About 1% of this poll's respondents gave no indication that any of the above subjects has had any influence on their political beliefs.

Who introduced you to libertarian ideas?

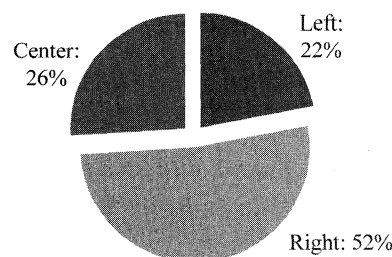


The choices in the first Liberty Poll were slightly different — "relative" was not a choice, and "advertiser" was — but it is still interesting that the percentage responses for "teacher" and for "parent" have each doubled. "Other" has tripled, and "writer" has declined by one fourth.

Do you consider yourself to be a libertarian?

Approximately 95% of respondents indicated that they consider themselves to be libertarians.

Before becoming a libertarian, how would you characterize your political beliefs?



The percentage of respondents who came to libertarianism from the Right was even larger (65%) in the first Liberty Poll, and fell to its current level in the second. Presumably the Right was more favorably disposed to individual liberty in the Reagan era, assuming the change is more than just a statistical anomaly.

If one describes the Left as socially and fiscally liberal, the Right as socially and fiscally conservative, and libertarians as socially liberal and fiscally conservative, it seems that libertarianism should appeal as much to Left as to Right. Clearly that is not the case. I suspect this is simply because there is no necessary conflict between social conservatism and allowing others to make their own lifestyle choices; whereas one can hardly support any of the programs that go with a fiscally liberal social policy while allowing others to choose whether to comply.

Respondents who came to libertarianism from the Right or Center were more likely to indicate belief in God (40% and 39% respectively) than those who came to libertarianism from the Left (22%).

Please rank the degree to which the following thinkers influenced your intellectual development, on a scale of one (little or no importance) to five (substantial importance).

We are *not* asking you to report the degree you agree with these individuals' thought — what we seek to know is how important each figure was in the growth of *your* thinking, especially with regard to social and political matters.

	Mean Response	Median Response	Mode Response
Your Mother	2.9	3	1
Your Father	3.1	3	5
Your Sibling	1.7	1	1

As a reminder to those who've forgotten, the mean is the number commonly called the average. The median response

www.LibertyUnbound.com

By popular demand, it's the

www.FreedomFest.com

Liberty Editors Conference 2008

Doug Casey Gary Jason Randal O'Toole Jo Ann Skousen
David Friedman Charles Murray Bruce Ramsey And more!

In conjunction with

FreedomFest 2008 • July 10–12, 2008 • See page 22

is best explained using an example: the median of the numbers 2, 2, 2, 4, 35, 36, and 38 is 4, as there are three larger and three smaller numbers in the group. The mode is the number that appears most often — in this group, the mode is 2.

The individuals are listed in order of their mean influence on our respondents. The descriptions were written by Bill Bradford, except for those which did not appear in earlier Liberty Polls, which were written by Andrew Ferguson (AJF), Patrick Quealy (PQ), or myself (MRR), as indicated.

	Mean	Median	Mode
Ayn Rand	3.7	4	5

The thinker who most influenced our respondents' intellectual development was Ayn Rand (1905–1982), the novelist-philosopher, author of "Atlas Shrugged," "The Fountainhead," "For the New Intellectual," "The Virtue of Selfishness," "Capitalism: The Unknown Ideal," and other works. Rand advocated a political philosophy based on the absolutism of individual rights, but eschewed anarchism.

Milton Friedman	3.6	4	5
-----------------	-----	---	---

Milton Friedman (1912–2006) was the leading exponent of the Chicago School of Economics and winner of the 1976 Nobel Prize in Economics. His writings in defense of capitalism and the free society — "Capitalism and Freedom" and "Free to Choose," for example — have been very influential.

Friedman is less radical than many libertarians, however, and his advocacy of "monetarism" rather than the gold standard or Hayek's controversial notion of "denationalized money" has been a source of many heated debates in the libertarian movement.

Thomas Jefferson	3.4	3	3
------------------	-----	---	---

Thomas Jefferson (1743–1826) was the third president of the United States and author of the Declaration of Independence of the United States. He is most admired by libertarians for the advocacy of a natural rights philos-

ophy and the right of revolution that is expressed in that declaration.

	Mean	Median	Mode
F.A. von Hayek	3	3	1

F.A. von Hayek (1899–1992) was a social philosopher and Nobel Prize winning economist. His book "The Road to Serfdom" (1944) challenged orthodox statist thinking and helped stimulate the post-World War II resurgence of libertarian ideas. He is the author of many works, including "Law, Legislation and Liberty," "The Counter-Revolution of Science," and others.

Like Mises, Hayek avoids the language of "natural law and natural rights," but Hayek is less narrowly utilitarian in approach. He rests much of his case for a free society on a complicated "evolutionary ethics" that emphasizes the "natural selection" of rules and societies. Hayek emphasizes the importance of tradition more than most other libertarian thinkers.

Ludwig von Mises	3	3	1
------------------	---	---	---

Ludwig von Mises (1881–1973) was a leading social philosopher and economist of the Austrian School, most famous for his development of praxeology, an approach to economics based on a priori, deductive reasoning from certain fundamental axioms. "Human Action," his magnum opus, is his best known work. He also wrote numerous other books and articles, including "Liberalism," "Socialism," "Theory of Money and Credit," and "Epistemological Problems of Economics."

Although a rigorous advocate of laissez-faire capitalism, Mises saw a role for government. His political thinking was based on utilitarian concepts.

Murray Rothbard	2.9	3	1
-----------------	-----	---	---

Murray Rothbard (1926–1995) was an economist, historian, and social philosopher who envisioned libertarianism as

Patrick Quealy adds: Most of the 36 options given in our question about which thinkers influenced respondents' intellectual development were conservative or libertarian figures. However, the question emphasized: "We are not asking you to report the degree you agree with these individuals' thought — what we seek to know is how important each figure was in the growth of your thinking." Our readers obliged this request, supplying many influences that are not considered traditional stepping-stones to libertarianism.

One reason must be that some of our readers aren't libertarians. They just enjoy good writing that is of interest to libertarians, and that is what Liberty publishes. Written-in influences included George Soros, Gore Vidal, the Beatles, British anarchist punk group Chumbawamba, former Dead Kennedys frontman Jello Biafra, social critic and education theorist Neil Postman (whom I quoted, coincidentally, in a Reflection appearing in the same issue as the latest Poll), and free-software evangelist Richard Stallman.

Indeed, asking libertarians to fill out a survey without write-in options is like asking a child to eat broccoli without melted Cheez Whiz. So we encouraged write-ins and explanations of any answers respondents

thought necessary. The fact that 122 names were written in reply to the question above — some written in by several respondents — shows our readers to be the freethinkers we know them to be. They know not only what they believe, but how they got there.

Murray Rothbard was suspicious of the precision, accuracy, and applicability of poll results. He wrote in our July 1988 issue about the above question: "How in hell could I hope to squeeze into multiple choice the process by which I became a libertarian? My father? A writer? Which one, on a scale from one to five? What impudence!"

I confess that I am sympathetic to Rothbard's view; my enthusiastic support for conducting a third decennial Liberty Poll was not for all the "right" reasons. I like the Poll because it doesn't produce a Libertarianism Quotient to tell how pure your laissez-faire ethic is, or any such thing. It is a little bit playful, while addressing itself to serious and worthwhile questions. It is thereby representative of what Liberty seeks to do, and the way Bill Bradford approached the projects with which he concerned himself, including this magazine. That the Poll tells stories about the evolution of libertarians and libertarianism is a bonus.

a new science, encompassing natural rights theory, Thomist philosophy, Austrian economics, 19th century American individualist anarchism, and the view that the United States was invariably at fault in its conflicts with international communism during the Cold War.

He became influential in the libertarian movement in the late 1960s. He joined the Libertarian Party in 1974 after having denounced it vigorously during the previous few years, and during the next 15 years was its most influential figure. He was a founding editor of *Liberty* in 1987.

In 1989 he resigned from the Libertarian Party and from libertarian organizations that he did not control, proclaiming himself a "paleolibertarian" and an ally of Southern agrarian conservatives centered around *Chronicles* magazine.

His works include "Man, Economy, and State," "Power and Market," "The Ethics of Liberty," and "For a New Liberty." Rothbard advocated an anarchistic society based on the absolutism of individual rights.

	Mean	Median	Mode
Barry Goldwater	2.8	3	1

Barry M. Goldwater (1909–1998) was a member of the U.S. Senate from 1953–1964 and again from 1968–1987. In the late 1950s he became a spokesman for political conservatism. He espoused his rather libertarian version of conservatism in several books and numerous newspaper columns and speeches. Although an advocate of a rather belligerent foreign policy, Goldwater strongly supported the notion of human liberty.

R.W. Bradford	2.7	3	3
---------------	-----	---	---

R.W. Bradford (1947–2005) is best known as the founder, editor, and publisher of *Liberty* magazine. He maintained that Randian or Rothbardian natural rights theories were philosophically indefensible, but nevertheless held for him great intuitive appeal. Consequentialist rights theories could be philosophically rigorous, but he could not, "in [his] gut," be a consequentialist. He advocated (and with *Liberty* provided a forum for) open debate on this and other issues of interest to libertarians.^{MRR}

John Locke	2.6	3	1
------------	-----	---	---

John Locke (1632–1704) is widely regarded as one of the most influential British philosophers. Though his "Second Treatise on Civil Government" has been subject to contradictory interpretations, libertarians have followed a long line of classical liberal and anarchist thinkers in taking from it a methodologically individualistic understanding of society and a powerful conception of natural rights. His writing was particularly influential on America's founding fathers, especially Jefferson, which probably accounts for his high rating in this poll. Given the obscurity and length of his major works, we doubt that very many respondents have actually read much Locke.

Henry Hazlitt	2.5	2	1
---------------	-----	---	---

Henry Hazlitt (1894–1993) was a philosopher, an economist of the Austrian School, and a prolific writer. His "Economics in One Lesson" (modeled on Bastiat's "Economic Sophisms") is his most well-known book, but he

is also remembered for "The Failure of the New Economics" (a thorough critique of Keynesian economics), and "The Foundation of Morality."

He was one of the early editors of *The Freeman*, and the vice-president of the Foundation for Economic Education at its founding in 1946.^{MRR}

	Mean	Median	Mode
Robert Heinlein	2.5	2	1

Robert Heinlein (1916–1987) was one of the most influential science fiction writers of all time. Both his life and his writings exemplify the ideal of the "competent man," and a lively streak of rugged individualism runs through all his writings.

Libertarians are especially fond of his several attempts to deal with political revolution, most notably in his fascinating account of a colonial revolt in "The Moon Is a Harsh Mistress."

Frederic Bastiat	2.4	2	1
------------------	-----	---	---

Frederic Bastiat (1801–1850) was one of the most accomplished stylists who has ever argued for liberty. Though he was more a popularizer than an original thinker, his importance should not be underestimated: his ranking over many contemporary libertarian writers in this poll serves as reminder of this fact.

He is best remembered for his brilliant attacks on the fallacies of state intervention in the economy (his "Economic Sophisms" was the model for Hazlitt's "Economics in One Lesson") and his powerful defense of natural rights and limited government in his pamphlet, "The Law."

Harry Browne	2.4	2	1
--------------	-----	---	---

Harry Browne (1933–2006) first achieved widespread attention with his book "How You Can Profit From the Coming Devaluation" in 1970. He followed this with the bestselling "How I Found Freedom in an Unfree World," and "You Can Profit From a Monetary Crisis."

He was the Libertarian Party's presidential candidate in 1996 and again in 2000. After the election of 2000, he was accused of violating the Libertarian Party's bylaws. He maintained his innocence, but was admonished by the Libertarian Party. He continued to write and speak on libertarian subjects until his death.^{MRR}

H.L. Mencken	2.3	2	1
--------------	-----	---	---

H.L. Mencken (1880–1956) was the author of many books and countless articles. He is best known for his literary and social criticism — and for his brilliant, witty style.

He was an early proponent of Nietzsche in America, and although he wrote frequently on political topics, Mencken's political thinking was not rigorous. He might best be termed a classical liberal in the tradition of Sumner or Mill.

John Stuart Mill	2.3	2	1
------------------	-----	---	---

John Stuart Mill (1806–1873), the leading British philosopher and economist of his time, wrote many influential works, including "On Liberty" and "Utilitarianism." His utilitarian moral philosophy has been widely discussed and subjected to a great variety of interpretations, as has his

defense of individual liberty. "On Liberty" was about the only 19th century work of classical liberalism to maintain a "good press" throughout the ideologically dark years of the 20th century.

	Mean	Median	Mode
Lysander Spooner	2.1	1	1

Lysander Spooner (1808–1887) was a writer and pamphleteer and perhaps the most eloquent 19th-century American anarchist. His fully developed political philosophy is best summed up in his brilliant pamphlet "No Treason: The Constitution of No Authority." Writing from within the natural law tradition and with an extensive knowledge of the common law, Spooner argued not only that the Constitution of the United States was binding on no one, but that *all* government, taxation, laws, etc. were inherently unjust.

	Mean	Median	Mode
Aristotle	2	2	1

Aristotle (384–322 B.C.) was not a libertarian in any way, but he was a powerful advocate of human reason. His influence on libertarianism comes mostly via Ayn Rand, who considered Aristotle one of the world's greatest minds (right up there with herself).

	Mean	Median	Mode
Nathaniel Branden	2	1	1

Nathaniel Branden (1930–) is best known to libertarians for Ayn Rand's designating him as her "intellectual heir." He was a member of Rand's inner circle for most of the 1950s and '60s. He fell out of Rand's favor in 1968, she repudiated him, and he remains persona non grata within some circles of Objectivists.

His post-Rand work has been mostly on the importance of self-esteem. His books include "The Psychology of Self-Esteem," "A Woman's Self-Esteem," "Self-Esteem at Work," and "My Years With Ayn Rand."^{MRR}

	Mean	Median	Mode
David Friedman	2	2	1

David Friedman (1945–) argued his case for "a radical capitalism" with force and vigor in "The Machinery of Freedom." Unlike so many other libertarian anarchists, natural rights argument plays almost no part in his case for anarcho-capitalism. In its place is a thoroughgoing engagement with the new scholarly discipline of "law and economics," of which he has been a pioneer.

	Mean	Median	Mode
Albert Jay Nock	2	1	1

Albert Jay Nock (1870–1945) was one of the most important writers to have been influenced by the economic theories of Henry George, and his own anti-statist views developed into something very close to anarchism. His classic work in political thought is "Our Enemy, the State."

	Mean	Median	Mode
Karl Hess	1.9	1	1

Karl Hess (1923–1994) was a speechwriter for Barry Goldwater who became an anarchist in the late 1960s and burst into a position of leadership within the libertarian movement with publication of extremely influential essays in *The New York Times* and *Playboy*, also in the late '60s. He brought Murray Rothbard into a prominent position within the movement, and the two jointly edited *The Libertarian*.

Within a few years, Hess resigned from *The Libertarian* in response to Rothbard's denunciation of Hess for deviation from the true Rothbardian line. In 1986 he became an editor of the *Libertarian Party News*, and he was an editor of *Liberty* from 1987 until his death.

Hess has been most influential as a proponent of community life and a "back to nature" simplicity. Though he wrote several books, his influence among libertarians was primarily as a speaker and friend. His political thinking was discursive and lyrical; he explicitly eschewed ideology.

	Mean	Median	Mode
Robert Nozick	1.8	1	1

Robert Nozick (1938–2002) was a professor of philosophy at Harvard and the author of the National Book Award winning treatise in libertarian political philosophy, "Anarchy, State, and Utopia," which gained academic attention to libertarian ideas like no book before or since. Nozick used Lockean state-of-nature theory and a Lockean conception of moral rights as the foundation for an argument that purports to show how a State could arise out of an anarchistic society without violating anyone's rights; that this minimal state is the most extensive state that can be justified; and that this conception of a minimal state is inspiring as well as morally proper. Though the classic work on minarchist theory, it is generally considered more successful at discussing its many brilliant secondary points than at demonstrating the validity of its main thesis.

During the 1980s, he gradually lost interest in libertarian thinking, and went on to other activities.

	Mean	Median	Mode
John Hospers	1.7	1	1

John Hospers (1918–) has retired from a long and successful career as a philosopher. Though his academic reputation largely rests on his work as an editor and in the field of aesthetics, he has also contributed to libertarian thought with many articles and his book "Libertarianism" — which advocated a more or less Randian political theory, though his thinking has developed considerably since — and his book "Human Conduct," an introductory text to the study of ethics.

He was the Libertarian Party's first presidential candidate, and wrote the party's "Statement of Principles." He has been a senior editor of *Liberty* since 1992.

	Mean	Median	Mode
Tibor Machan	1.7	1	1

Tibor Machan (1939–) is a professor of philosophy, syndicated columnist, and prolific author. He defends a natural rights theory of libertarianism. His books include "Libertarianism, Defended" and "Classical Individualism: The Supreme Importance of Each Human Being."^{MRR}

	Mean	Median	Mode
Robert Ringer	1.7	1	1

Robert Ringer (1938–) has written several best-selling self-help books, including "Looking Out for Number One" and "Winning Through Intimidation." He was at one time an admirer of Ayn Rand, and his 1979 book "Restoring the American Dream" offered classical liberal, free market solutions to some of the problems that were at the time facing the United States.

He has recently taken to describing himself as a “theoretical libertarian” and “practical conservative.”^{MRR}

	Mean	Median	Mode
Thomas Hobbes	1.6	1	1

Thomas Hobbes (1588–1679) was the first British political philosopher of repute, and is still considered one of the major figures in the history of political philosophy. Hobbes’ “Leviathan” is a pioneer work in social contract theory.

Though most classical liberals and libertarians — beginning with Locke — have used Hobbes mainly as a jumping off point and as a target, there is a strong *realpolitik* strain in some libertarians’ social philosophy that bears remarkable resemblance to Hobbes. His weak showing in this poll is no surprise, however.

	Mean	Median	Mode
Immanuel Kant	1.6	1	1

Immanuel Kant (1724–1804) was not only one of the most important German philosophers, he is widely considered to be one of the greatest philosophers ever. He wrote numerous works, including “The Critique of Pure Reason,” “The Groundwork for the Metaphysics of Morals,” and “Religion Within the Bounds of Reason Alone.”

Though he is probably best known among libertarians as — according to Ayn Rand — the chief source of evil in modern times, he was actually a classical liberal. A number of libertarian philosophers have recently written about the advantages of a “Kantian reconstruction of Utilitarianism,” and both Mises and Hayek were neo-Kantians in fundamental philosophy.

	Mean	Median	Mode
Herbert Spencer	1.6	1	1

Herbert Spencer (1820–1903) was an ambitious philosophical systemizer who advocated extremely limited government. He described his own ethical philosophy as utilitarian “in a broad sense,” but it is not easy to classify. Many of his arguments against political intervention in society bear remarkable resemblance to Hayek’s use of the notion of the limitations of human knowledge. His most familiar work today is probably “Man vs. the State.”

	Mean	Median	Mode
Robert LeFevre	1.5	1	1

Robert LeFevre (1911–1986) was a writer and teacher who inspired and instructed a whole generation of libertarians. He wrote numerous books including “This Bread is Mine,” “The Philosophy of Ownership,” and “The Nature of Man and His Government.” He was what is now (once again) called a *voluntaryist*, a libertarian who refuses to practice politics, and was an anarchist in everything but name (he strenuously objected to the term, preferring his own understanding of “autarchy”). His relatively low showing in our poll is surprising to us, considering his reputation in the 1960s and ’70s.

	Mean	Median	Mode
Peter McWilliams	1.5	1	1

Peter McWilliams (1949–2000) was an author and a prominent supporter of medical marijuana laws. Having been diagnosed with AIDS and cancer, McWilliams used medical marijuana (legal in California) to control vomiting, a side effect of his medications. His death, reportedly from effects of vomiting, after a judge forbade him to use cannabis drew considerable attention to the excesses of the drug war.

McWilliams wrote books, some of them New York Times bestsellers, on depression and relationships. He gave a well-received speech on medical marijuana at the 1998 Libertarian Party national convention; the speech was televised on C-SPAN and reprinted in *Liberty*. Aside from his battles with the DEA, McWilliams is best known to libertarians for his book “Ain’t Nobody’s Business If You Do: The Absurdity of Consensual Crimes in Our Free Country.” It made the philosophical and practical case against victimless-crime laws accessible to the general reader.^{PQ}

	Mean	Median	Mode
William G. Sumner	1.2	1	1

William G. Sumner (1840–1910) was one of the leading American sociologists of the 19th century and also one of the more vigorous advocates of *laissez faire*. Today known chiefly as a Social Darwinist and as the author of the sociological masterpiece “Folkways,” in his time he was respected for his polished essays and his dedication as a teacher. Probably his best known work to contemporary libertarians is his essay “What Social Classes Owe to Each Other.”

	Mean	Median	Mode
Morris & Linda Tannehill	1.2	1	1

Morris and Linda Tannehill (1926–1989, 1939–) collaborated to write “The Market for Liberty,” a powerful defense of natural rights-based anarchism which was influential among libertarians in the 1970s.

Libertarianism was only one stop in the ideological odyssey of the Tannehills, who earlier were associated (in chronological order) with the Minutemen, the American Nazi Party, and the Foundation for Economic Education, and subsequently managed a psychotherapeutic cult. Linda Tannehill later took back her maiden name of Linda Locke, and worked as a sandalmaker in New Mexico.

	Mean	Median	Mode
Benjamin Tucker	1.2	1	1

Benjamin Tucker (1854–1939) edited *Liberty*, the 19th century anarchist newspaper. Though not an original thinker, he was a fine stylist and an expert synthesizer of others’ thinking. He articulated what was later called “anarcho-capitalism,” but what he called “individualist anarchism.”

Write-ins

The individuals who were written in most often are listed below, in order of a) number of votes, and b) mean influence ranking. Their average response is inflated relative to the individuals listed in the poll, for obvious reasons of selection, but some would be ranked highly had they been included in the original list, even if they received the lowest possible score from all the respondents who did not (here) write them in.

	Mean	Median	Mode
George Orwell	4.4	4	4

George Orwell (1903–1950) was an English essayist and novelist best known for the anti-Stalinist fable “Animal Farm” and the dystopian novel “Nineteen Eighty-Four.” Early experiences researching poverty in England’s industrial North left him a committed democratic socialist, albeit one with a healthy anarchist streak: though he believed capitalism was a corrupt system, he saw the totalitarian options as far worse. Like many left-leaning authors of the time, he

went to Spain to fight against the military government of Gen. Franco; unlike many of the rest, he went on to describe atrocities committed by both Fascist and Communist forces, in his "Voyage to Catalonia."

His antipathy to both funneled into "Animal Farm," in which he summed up the totalitarian worldview in the barnyard motto "All animals are equal, but some animals are more equal than others." Additionally, he coined a number of terms in "Nineteen Eighty-Four" that have entered into popular usage to describe various encroachments of the surveillance state: Newspeak, doublethink, thought police, and Big Brother.^{AJF}

	Mean	Median	Mode
Friedrich Nietzsche	3.8	4	5

Friedrich Nietzsche (1844–1900) was a German philosopher who, between the publication of "The Birth of Tragedy" in 1872 and his mental breakdown in 1889, developed a complex, deeply influential body of work. His most-quoted line, "God is dead," is a formulation of the situation facing modern society: the collapse of shared belief that accompanied the "death," or devaluation, of the Judeo-Christian God. The problem facing humanity, then, is the reconstruction of morality in an age that is "beyond good and evil." In the book of that name, and the mock-Scriptural "Thus Spake Zarathustra," he suggests as an alternative the "will to power," embodied in the figure of the "Übermensch" (superman), who alone is capable of preventing a slide into nihilism by his creation of values within the moral vacuum. This essentially aristocratic vision of humanity is set in opposition to both traditional Christian morality and the measures of aggregate happiness espoused by utilitarianism.

Nietzsche's writing style, tending towards aphorism and oracular pronouncements, leaves his books open to being misquoted and otherwise taken out of context — by the Nazis, in particular, though there is considerable evidence that he never held any anti-Semitic sympathies.^{AJF}

Thomas Paine	3.6	4	4
--------------	-----	---	---

Thomas Paine (1737–1809) was an English philosopher and revolutionary whose pamphlet "Common Sense" converted many British colonists to the cause of American independence. Among the arguments he advanced were the near-impossibility of petitioning Parliament with grievances, and the near-certainty that ties with Britain would embroil America in foreign wars that were not properly her concern.

In the decade after independence had been won, Paine's popularity waned, and he turned his attention to the turmoil in France. During this time he had been preparing "The Rights of Man," a political tract written in defense of the French Revolution, putting forward a rights-based system of democratic governance to counter the aristocratic conservatism of Edmund Burke; the work contains perhaps the first proposal for progressive taxation. Briefly imprisoned during the Reign of Terror, and barely escaping the guillotine, Paine devoted himself to finishing his deistic treatise, "The Age of Reason," outlining the basic creed of a faith shared by many of the Founding Fathers. The work brought him, at first, cautious acclaim; in the wake of the Second Great Awakening, however, he was widely denounced. His reputation has continued to rise and fall since.^{AJF}

	Mean	Median	Mode
Thomas Sowell	4.8	5	5

Thomas Sowell (1930–) is an economist, syndicated columnist, and prolific author who emphasizes the necessity of using empirical data in all analyses. His books provide a wealth of material to support a utilitarian or consequentialist libertarian position. He is the author of "Race and Economics" (a book which Clarence Thomas credited with changing his life), "Economic Facts and Fallacies," "Black Rednecks and White Liberals," and "The Vision of the Anointed," among many others.

His political philosophy can be surmised from the quotation: "The first lesson of economics is scarcity: There is never enough of anything to satisfy all those who want it. The first lesson of politics is to disregard the first lesson of economics."^{MRR}

Leonard Read	4	4.5	5
--------------	---	-----	---

Leonard Read (1898–1983) founded the first libertarian thinktank in the United States, the Foundation for Economic Education. He wrote numerous essays and books, the best known of which is his classic "I, Pencil."^{MRR}

Thomas Szasz	5	5	5
--------------	---	---	---

Thomas Szasz (1920–) is a professor of psychiatry and author best known for his outspoken criticism of institutional psychiatry, most famously presented in "The Myth of Mental Illness." He maintains that a disease must have objectively measurable physical symptoms, and that the bulk of psychiatric disorders are therefore not actually diseases. He further maintains that psychiatry has been, and continues to be, used as a tool for the state to control and oppress the populace.^{MRR}

Mark Twain	4.7	5	5
------------	-----	---	---

Mark Twain (born Samuel Langhorne Clemens, 1835–1910) was an American humorist much beloved for his depiction of an idealized childhood in "The Adventures of Tom Sawyer" and much admired for his scathing satire of the slaveholding South in "The Adventures of Huckleberry Finn." His is one of the most recognizable voices in American letters, recognizable across the great many formats in which he wrote — essays, novels, tall tales, travelogues: all are shot through with a straight-faced sardonic wit, which only grew bleaker with age. His distrust of human institutions spilled out in a torrent of quotable sentiments on government, religion, and morality though, curiously, the statement most often attributed to him — "There are three kinds of lies: lies, damned lies, and statistics" — was, as he acknowledged, taken from Benjamin Disraeli.

(For more, see Timothy Sandefur's "Pained Twain," available online and in our November 2004 issue.)^{AJF}

Hunter S. Thompson	4.3	4	4
--------------------	-----	---	---

Hunter S. Thompson (1937–2005) was an American journalist, now inseparable from the manic first-person "Gonzo" style he used for the novel "Fear and Loathing Las Vegas" and the essay collection "Fear and Loathing on the Campaign Trail '72," which chronicles the Democratic Party's search

for a presidential candidate to run against Thompson's bugbear, Richard Nixon. Thompson's work dealt largely with the "death of the American Dream," in particular the failure of the drug-fueled political idealism of the 1960s; however, the iconic image of the Gonzo journalist he left behind after his shotgun suicide may outlive the applicability of any of one of his individual works.^{AJF}

	Mean	Median	Mode
Ron Paul	4.3	4	4

Ron Paul (1935–) is a physician, U.S. Congressman, was the Libertarian Party's 1988 presidential candidate, and was for a while a frontrunner in the race for the 2008 Republican Party's presidential nomination.

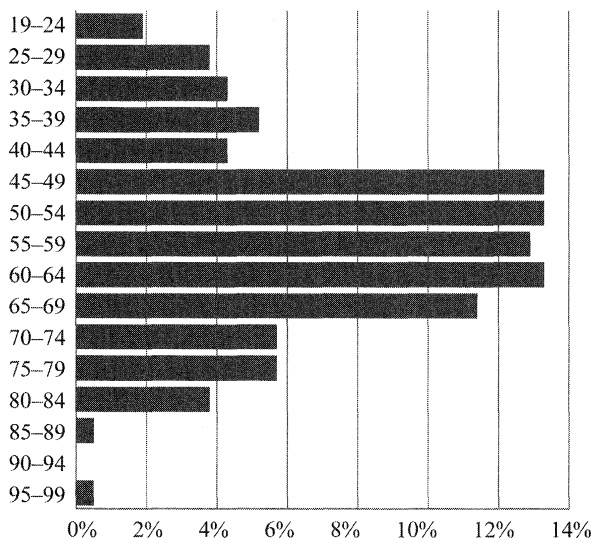
Paul is a devoted Austrian, and has written several books advocating a return to hard money (i.e., a gold standard). His 2008 campaign briefly thrust classical liberal philosophy into national discourse, although whether he managed to advance the cause of libertarianism is at best debatable. Some libertarians fear that Paul's candidacy may have become a net liability when racist columns published under Ron Paul's name became widely known.

(For more, see Bruce Ramsey's "PFY vs. RP: Is There a Racist in the House?" available online and in our April 2008 issue.)^{MRR}

Personal

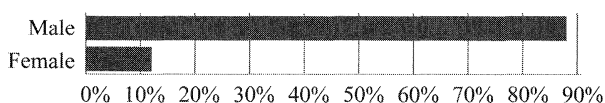
In 1987, our poll respondents' mean age was 40 years, 95% were male, and 100% were white. We're not quite as homogenous these days, and we're not quite as young.

What is your age?



The mean, median, and mode ages are (respectively) 55, 56, and 67 years.

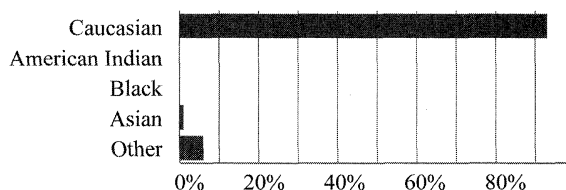
Are you male or female?



In the first Liberty Poll, respondents were 95% male, and closer to 100% than 99% caucasian. The demographic data from the second Liberty Poll was not mentioned in its summary article. The data was gathered and totalled, and a sig-

nificant change would have been notable, so it is fairly safe to assume that the demographic breakdown of respondents was similar.

What is your ethnicity?



Most of those who are listed as "other" were of mixed ethnicity, but six of them described themselves as "human." There are, of course, other ways to express dissatisfaction with the question; one can leave it blank (as several respondents did), or one can note that the question is offensive (or meaningless, or dangerous, etc.) — and our respondents were not, for the most part, hesitant to include comments. The decision to proclaim oneself "human" in this context seems, to me, sanctimonious. One other Liberty Poll question elicited a few responses that struck me as especially self-satisfied, so I looked for a correlation. The "humans" were almost ten times as likely as other respondents to report that the single individual who introduced them to libertarian thought was either "me" or "self."

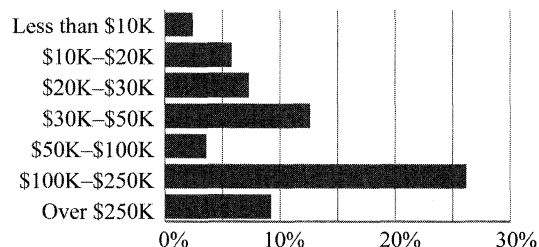
Maybe the correlation is meaningless. On the other hand, it's the first (and only) one I looked for.

Patrick Quealey adds: Six respondents to our poll wrote "human" as their race rather than checking one of the provided boxes. I take this to be a statement that race ought to be irrelevant to appraisal of a person's worth, or that race is a meaningless social construction, both of which are worthy points of discussion. In any case, I wondered if anything interesting could be determined about them as a group.

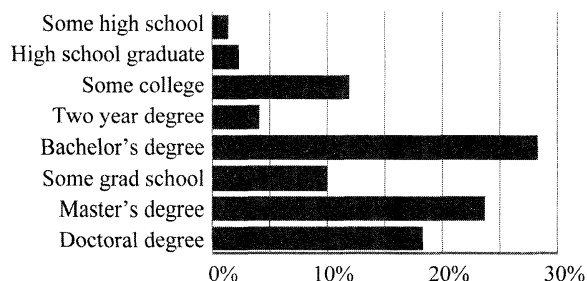
After poring over the data for a few hours, I came to an important conclusion: I need a life. The humans don't appear appreciably different from the blacks, whites, Hispanics, or others.

If I wanted to stretch, however, I could note the average number of times the humans ran for office was 0.83. For all respondents who answered the question, the average was 0.23. Among Liberty readers, humans run for office considerably more often than non-humans.

What is your annual income?

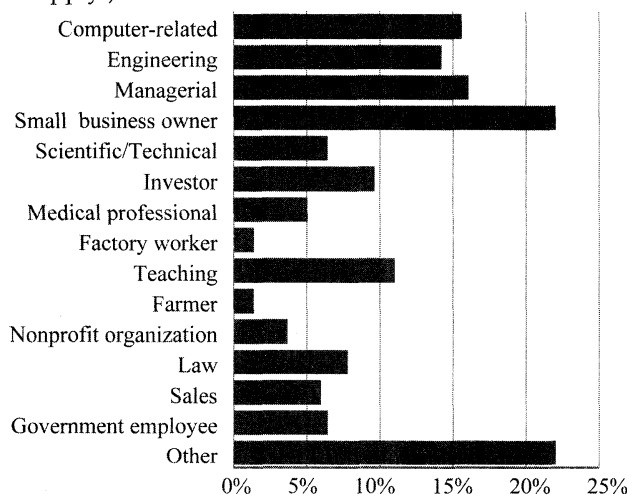


What is the highest level of schooling you have completed?

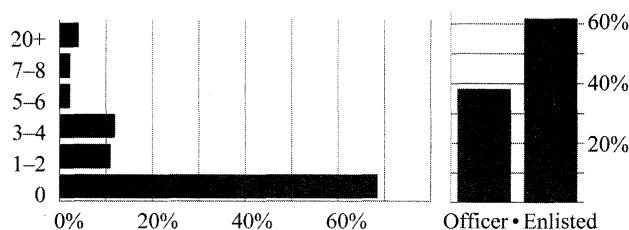


According to U.S. Census data, less than 30% of adults over 25 years of age in the United States have a bachelor's or higher level degree. Slightly more than 80% of our respondents claim that level of education. Is there a causal relationship? If so, which is cause and which is effect?

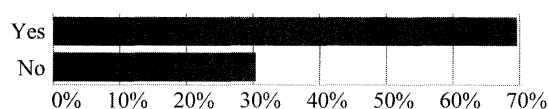
What is your occupation? (Check as many as apply.)



How many years, if any, were you in the military? Were you enlisted or an officer?



Are you married?



The poll question, simply "Married?" is ambiguous, so the percentages may be skewed. The most natural interpretation of the question is "are you married?" — unless you are divorced. In that case, an equally natural interpretation is "have you ever been married?"

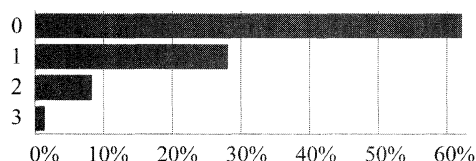
Married respondents were also asked whether their marriage was legal. Most (80%) married respondents answered,

and most (91%) of their marriages are legal. The actual percentage whose marriages are legal could be as high as 93% or as low as 73%, depending on the status of the 20% of married respondents who did not answer this question.

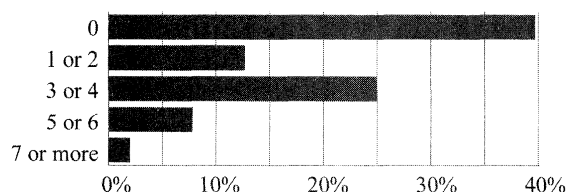
How long have you been with your current partner? (In years, zeroes excluded from averages.)

Min	Max	Mean	Median	Mode
0.5	60	21.5	20.6	19

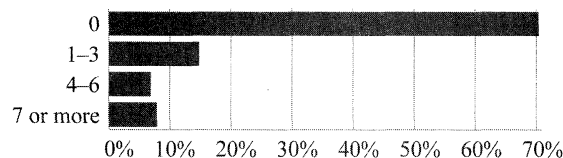
How many divorces have you had?



How many children do you have?



How many grandchildren do you have?



Patrick Quealy adds: It's commonly believed (especially by modern liberals, in my experience) that libertarians are merely libertine conservatives: sex-crazed, drug-addled, selfish people who don't like paying taxes or living near people who are different. But we know (and the poll suggests) that's not so.

True, the libertarians who answered our poll are like conservatives in their family values, when compared with the larger culture. The average married couple has been together for 21 years. One couple has been together more than twice as long as I have been alive. Of those poll takers who indicated whether they had children, three-fifths did. Of those respondents who described their sexual activity, 91% are monogamous or are not sexually involved with anyone. These are no libertines.

But if these people are like conservatives in some ways, their attitudes about marriage suggest they lack the irrational fear of all change that modern liberals believe to be conservatives' signature trait.

Had I been one of the editors who designed the poll 20 years ago, I would not have thought to ask married respondents to draw the distinction between marriage and being "legally married." Happily, persons more sensible to the nature of libertarians designed it, so we know that 7% of Liberty Poll respondents identify as married, but not legally so. That assumes the one-fifth

of those who did not answer the question about legality are all "legally married"; the number could be higher.

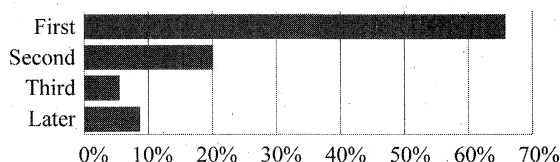
The nature of their marriages suggests they've realized it doesn't matter whether their marriage is solemnized by a justice of the peace and certified by a \$25 marriage license from city hall. What matters to them is whether it's solemnized in their hearts, or by their church, their God, or whatever institutions or deities matter to them.

"Legally" is open to interpretation. Its opposites could include cohabitating people who choose not to be civilly married for ideological reasons, or because they're of the same sex and can't be legally married, or because the state won't recognize their nontraditional relationship structure. Whatever the reason, the number is pretty cool.

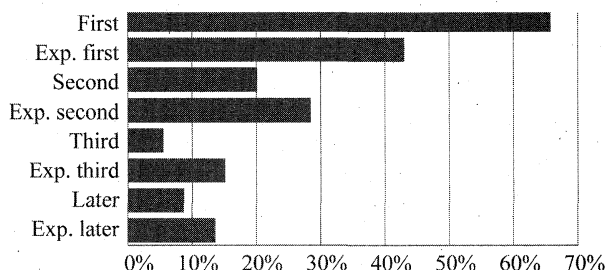
How many siblings do you have?

Min	Max	Mean	Median	Mode
0	12	2.2	2	1

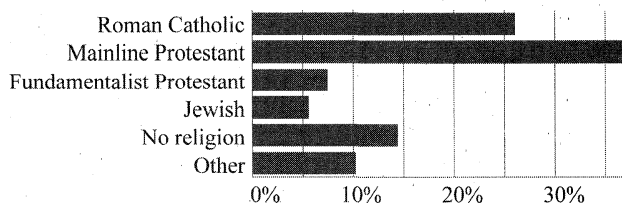
Are you first born in your family, second born, third born, or later?



Poll respondents were firstborn half again as often as chance would predict; the respondents to the first Liberty Poll were firstborn almost twice as often as chance would predict. The combination of small (and overlapping) samples and the observed regression towards the mean suggest that there's no significant correlation, let alone a causal relationship. Still, the discrepancy is enough to warrant a look.



Which of the following best describes your religious training as a child?

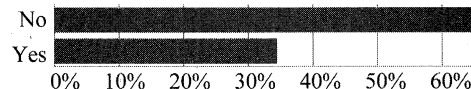


Respondents to our first poll were more likely to have been raised as Roman Catholic (33%) or Jewish (10%) than respondents today. They were less likely to have been

raised as Mainline Protestant (30%) or "other" (7%), and about equally likely to have been raised as Fundamentalist Protestant.

The change in proportion of Roman Catholics and Mainline Protestant is not particularly surprising — in the last 20 years, the number of non-Catholic Christians in the United States has increased by more than the number of Roman Catholics in the United States. The 40% decrease in the number of libertarians raised as Jewish is surprising. Given the disproportionate accomplishment of Jewish individuals in almost every field of intellectual endeavor, the decrease is also somewhat troubling.

Do you consider yourself religious today?

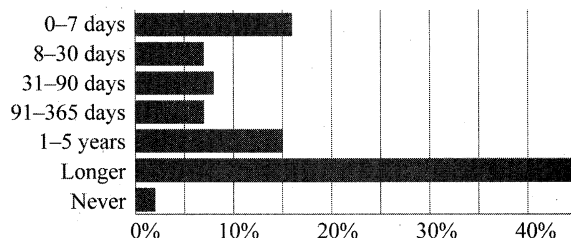


Of the respondents who consider themselves religious today, 41% practice a religion other than the one they were raised under.

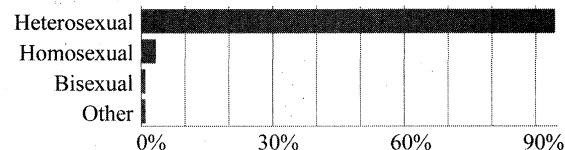
Incidentally, although it is of course possible to believe in God without considering oneself religious — and certainly possible to believe without following an organized religion — the percentage of respondents who consider themselves religious is almost identical to the percentage who agree with the statement "There is a God."

Almost 23% of the respondents who consider themselves religious today did not agree with the statement "There is a God." These individuals were all either Unitarians, Buddhists, Scientologists, or Jewish.

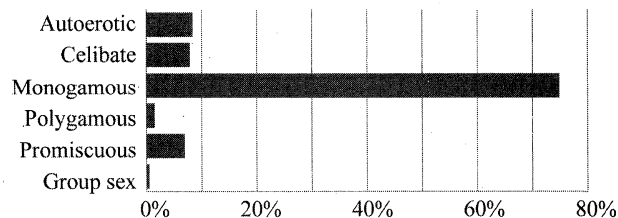
How long ago did you most recently attend a church or other form of worship?



What is your sexual orientation?



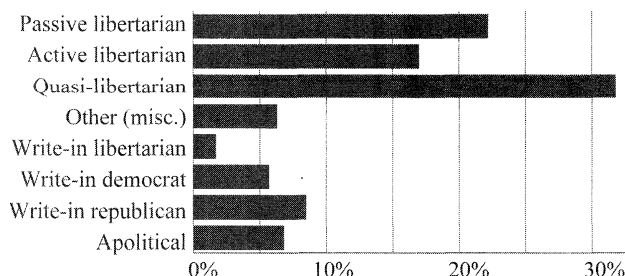
What is your typical form of sexual activity?



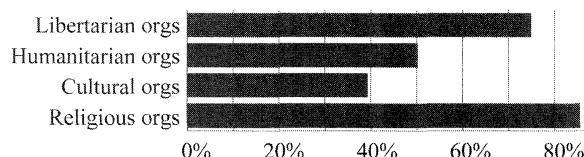
Most respondents answered the questions regarding their sexual orientation (98%) and activity (92% or 93%, depending on whether you count "you've got to be kidding" and simi-

lar comments as answers). The individuals who described their sexual activity as "other" did not explain what "other" might entail.

What are the political beliefs of your current partner?



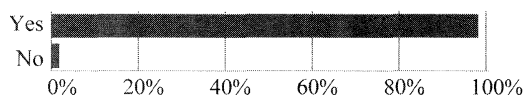
Do you give money to libertarian organizations? Humanitarian organizations? Cultural organizations? Religious organizations?



Less than 40% of those respondents who donate to religious organizations consider themselves religious. This supports my belief that libertarians are, on the whole, more concerned than the Left or the Right with the consequences of an action (as opposed to its appearance or its backers' intentions); the donations to religious organizations demonstrate that respondents have separated the action from the actor. The evidence for my supposition is usually found in the legislative arena, where Left and Right each support policies inimical to their goals.

Of course, it might mean only that respondents tossed a nickel into a Salvation Army bucket, for appearance's sake.

Do you talk to your acquaintances about libertarianism?



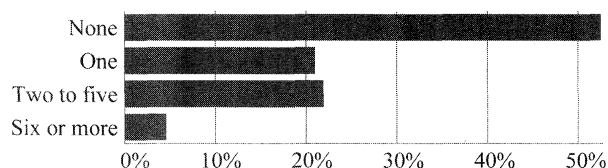
What percentage (if any) respond favorably?

Min	Max	Mean	Median	Mode
0%	95%	37.2%	30%	50%

Do you speak in public about libertarian ideas?



How many conferences, seminars, and conventions did you attend in the last year?



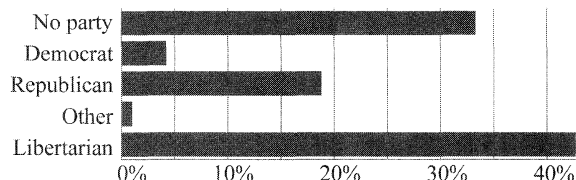
I think this question was too ambiguous to provide any solid data (even were our sample representative). Some respondents appeared to take it at face value, and included things like continuing education conferences. Other respondents appeared to assume that only events relevant to libertarianism, e.g., the 2008 Liberty Editors Conference (details on page 22), should be counted.

Both interpretations are natural; the question is simply not well phrased.

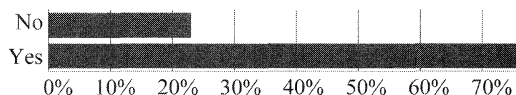
Are you a registered voter?



Are you a member of a political party? Which one?



Have you ever run for political office?



The commentary to the first Liberty Poll included some speculation as to its statistical validity as a tool for assessing the background and the views of the libertarian populace. It had none. As a tool for assessing readers of *Liberty*, it had *almost* none. The sample size was small, and (worse) not at all representative, unless by chance.

This, the third Liberty Poll, is no more valid than the first. We received more responses, but we have no reason to assume the respondents are typical Liberty readers. Quite the opposite — the mere fact that they filled out and mailed the survey sets them apart.

The responses to the three Liberty Polls have been fairly consistent in content. If we assume only that the subgroup of libertarians who respond to Liberty Polls has moved in the same direction as libertarian thought as a whole, the poll takes on some meaning. Alas, we have no justification for even that small assumption.

The questions are thought provoking, the responses sometimes more so. And the responses are entertaining. That should be enough. □

At last! It's the

Liberty Editors Conference

July 10–12, 2008 • Las Vegas

1-866-266-5101

www.LibertyUnbound.com • www.FreedomFest.com

in conjunction with

FreedomFest 2008

Don't miss it! Details, page 22

Moral Absolutes, Truth, and Liberty

by Ross Overbeek

The Liberty Poll asks the questions
Liberty was founded to answer.

The Liberty Poll statistics are in again, and again I find myself fascinated with the responses readers have made to the six ethical questions posed in the poll. The questions, which I helped formulate in late 1987, appeared in the 1988 Liberty poll, and again in the 1998 and the 2008 Liberty polls. (See box, next page.)

When the first Liberty Poll was run in early 1988, it included the following short statement:

Given the universal moral character of some libertarian precepts, it is not surprising that many are concerned about their implications for human behavior. The Liberty Poll posed six moral problems addressing the issue of whether there are circumstances in which it is morally proper to use force against innocent individuals, which would apparently violate such widely accepted libertarian principles like, "no person has the right to initiate the use of physical force against another human being" or "one should always respect the rights and property of others."

However, there is a great deal more to be said about the origin and motivation for asking these questions.

Why Those Questions?

When I was 15 or 16, I began my lifelong friendship with

Bill Bradford. We were in high school, and we were both trying to understand the world. We both read "Man, Economy, and State" by Murray Rothbard and "Atlas Shrugged" by Ayn Rand during this period, and they certainly had a major impact on our lives. Reading these books was simply intoxicating. One was a magnificent, carefully crafted introduction to the central ideas in Austrian economics, and the other was simply the best novel I have ever read. The effect on two impressionable youths was pretty intense.

Both Rand and Rothbard had a common characteristic: they wrote uncompromising, articulate defenses of the libertarian position from a natural rights perspective. They presented very similar arguments leading to the assertion that freedom from physical aggressive force was the primary right

of each individual. Rather than argue whether or not these formulations of a libertarian position were correct, let me simply recount the intellectual odyssey that Bill and I went through and how it led to the questions appearing in the Liberty Poll.

In the 1960s through the mid-1970s, the number of people discussing and adopting libertarian positions skyrocketed thanks to Ayn Rand's novels. Rand formulated a complete ethical system (which both Bill and I found extremely attractive; Bill eventually migrated from Rand's position, but I still fondly read the old essays). Her political beliefs centered on the nonaggression principle: "no man may initiate the use of physical force against others." Her ideas are best studied in the context of her novels, but she did also write a short summary of her views in a book that hit the newsstands in 1961 — "The Virtue of Selfishness." It was intentionally provocative, but if a person had the time and inclination to follow her arguments, it conveyed a great deal in a very few pages.

As two young students reading this stuff, it was immediately obvious to us that, if one believes

1. "No man may initiate the use of physical force against others" and

2. No group of individuals has rights other than those arising out of the individuals' rights,
then a government may not initiate the use of physical force (defense force was never in question). While Rand defended

the concept that governments could support themselves by selling services (enforcement of contracts, and so forth), the real issue centered on what distinguished the concept of government. If an organization offered services like police, a legal system, and defense against foreign aggression, but did so without itself initiating force in the form of taxation, was it really a government? Bill, myself, and many other young libertarians were grappling with these ideas which led to two distinct intellectual camps: those who believed in and supported a minimal state and those who adopted an anarchist position. I will not recount most of the details of the debates that took place, but they were intense, sincere, and fascinating. Bill wrote a remarkable essay that (I believe) was never published, arguing that the state, by definition, always existed (as the organization that had the most power in a geographical area), but left undecided how far you could contract it (and how you would support it). Much later in a debate with Charles Murray, David Friedman, and David Boaz (at the 2004 Liberty Editors Conference, published in the Dec. 2004 and Jan. 2005 issues of Liberty) he described his position as follows:

I got into a long discussion of this with Murray Rothbard once. He asked me how I would describe my political philosophy and I said, "Well, it's ultimately statist." And he asked me to describe what it was, and after a long discus-

The poll's ethical dilemmas:

1. Suppose that you are a security guard for a large shopping mall. A terrorist has threatened to drop a bomb from a balcony into a crowd. He is moving toward the railing carrying an object that you believe to be a bomb. You have a gun. He has a hostage between himself and you (he knows that you have identified him). You have only a few seconds to react. What should you do?

- Shoot at the terrorist only if you are certain you will miss the hostage.
- Shoot at the terrorist if there's a reasonable chance you'll miss the hostage.
- Shoot through the hostage if necessary.

2. Suppose that a parent of a newborn baby places it in front of a picture window and sells tickets to anyone wishing to observe the child starve to death. He makes it clear that the child is free to leave at any time, but that anyone crossing his lawn will be viewed as trespassing.

- Would you cross the lawn to help the starving infant?
- Would helping the child violate the parent's rights?

3. Suppose that a parent decides to experiment with a radical new diet for his newborn child.

- Should you prevent the parent from trying the diet if you have good evidence it would endanger the child's health?
- Should you prevent the parent from trying the diet if you have good evidence it would endanger the child's life?

4. Suppose that you are on a friend's balcony on the 50th floor of a condominium complex. You trip and fall over the edge. You catch a flagpole on the next floor down. The owner opens his window and demands that you stop trespassing. Which of the following statements reflects your beliefs?

- You should enter the condo against owner's wishes.
- You should hang on to the flagpole.
- You should drop.

5. Suppose that your car breaks down in a blizzard. You are trapped and may well freeze before help can get to you. You hike to the one house within hiking distance; the owner refuses to admit you. She has no phone. Which of the following statements reflects your beliefs?

- You should force entrance to the cabin, which is not an act of aggression.
- You should force entrance to the cabin, but it is act of aggression.
- You should not force entrance.

6. Suppose that your neighbor is constructing an atomic weapon. He assures you that it is for self-defense. You believe he intends to commit an act of extortion. Which statement most clearly reflects your beliefs?

- You should prevent construction.
- You should sell your house, and you are obligated to inform potential buyers.
- You should sell your house, but you are not obligated to inform buyers.
- This is unthinkable and therefore not happening.

sion he told me that he thought my position was more or less tantamount to his own. Murray, of course, considered himself to be an anarchist.

The first issue we must address is what do we mean by government. When I use the term, I use a slight variation of the classic Weberian definition: government is that man or combination of men that are capable of enforcing law within a certain geographical area.

The reason that I have such an ambivalent — I prefer to say, subtle — position is that it seems to me to be impossible to dispense with some core of government and still have a peaceful society. What I mean by that is, whether we have people actively engaged in coercion to enforce rules within a society, we still have people who are capable of doing so if so inclined. When you are in a situation where someone is capable of forcing you to do something, the fact that, for the moment, he chooses not to do so or that he shouldn't do so, doesn't make you substantially freer. So I concluded that government is ultimately not dispensable because as long as we have a substantial number of people peacefully interacting, we're going to have a combination of people who can impose their will.

What I want is a system that will minimize the initiation of force against peaceful individuals.

My response to the question of what government should do is what convinced Murray Rothbard that I was virtually an anarchist. I think that everything a conventional government does can be privatized, except for one: a supreme court, that is, a court that has jurisdiction over competing private courts.

In 1973 David Friedman articulated a remarkable defense of anarchism in "The Machinery of Freedom," a book which offered the most successful attack on the minarchist position in my view.

By the mid-1970s, I believe that Bill was actively refining his basic position, and the major influence was the works of Mises. Since high school he had been studying Mises, but it took years to really understand much of what he wrote. As an aside, we both noted that Mises, one of the true intellec-

I could not get into the Libertarian Party, since they required applicants to certify belief in the nonaggression principle.

tual giants of what might be termed classical liberalism, had argued that conscription into the military was in some cases defensible in "Human Action."

In any event, as the years rolled on, I went into science; Bill built a business. We would get together and I would complain that I could not get into the Libertarian Party, since they required applicants to certify belief in the nonaggression principle. Bill finally managed to get in without certifying it. Since

1. neither of us believed we could in good conscience certify it,

2. we both were eager to support the basic libertarian platform, and

3. we had spent years thinking about the issue trying to understand what we could seriously defend, we found the Libertarian Party's insistence that members sign the oath a remarkably destructive position.

Then, the day came when Bill decided to found Liberty. The magazine was to be a place where internal questions and disagreements could be openly aired and discussed. Bill emphatically rejected the idea of somehow presenting just the

I often railed against what I viewed as thoroughly objectionable nonsense that got into Liberty.

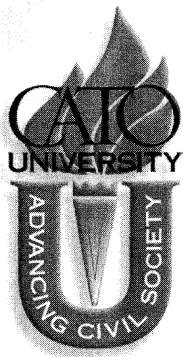
truth as he saw it. His view that the movement needed internal debate to strengthen its positions led him to publish a wide spectrum of authors. I must admit that I often railed against what I viewed as thoroughly objectionable nonsense that got into Liberty, but over time I have come to understand the wisdom of his position. In any event, when Bill suggested that the magazine publish a poll, I was still upset by the fact that the Libertarian Party would not even let me join and particularly shocked by many of the leading libertarians who defended that policy. Bill and I had posed a number of ethical dilemmas to each other over the years as a tool to help understand what we really believed. Bill suggested we include some, so I formulated a small, representative set and they appeared in the July 1988 edition of Liberty.

What Is the Point?

The six questions were formulated to provoke thought and uncertainty. Bill and I both felt that, ultimately, both Rand and Rothbard had argued for precise positions that would not stand up under criticism. In such cases, making arguments with complete certainty (and in some cases caustic criticism) was actually counterproductive. There was a need for people to reevaluate, or at least deepen, their grasp of many of the fundamental issues. While philosophic attack and counter-attack was not going to happen with a broad audience, perhaps these questions could lead to more thoughtful exchanges.

The responses to the first Liberty Poll in 1988 from the editors of Liberty were really worth reading. Murray Rothbard gave a very interesting account of key moments in his intellectual development, and then he ended with an interesting analysis of the ethical dilemma faced by the shopping center guard. His comments are still well worth reading, but let me just recount his final shot:

The moral of this story is not that all rights are relative, and that no firm position can be taken. The moral of this story is that everyone's rights are absolute, that pragmatism is inconsistent as well as pernicious, and that everyone is obligated to defend every innocent person's rights: in short that no aggression may ever be waged against an innocent victim regardless of excuse or alibi. And that the putative shopping center guard who shot and killed the hostage was a murderer and should be treated accordingly.



CATO UNIVERSITY

JULY 20-25, 2008 • SAN DIEGO

FREEDOM'S CAMPAIGN IN THE 21ST CENTURY

Cato 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 and from around the globe—business and

LAST YEAR'S
CATO UNIVERSITY
WAS SOLD OUT.
PLEASE TRY AND
MAKE YOUR PLANS
TO JOIN US AS
SOON AS POSSIBLE.

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

In addition, Cato University has become, for many, an opportunity to create a family legacy of liberty—with parents participating with children; grandparents sharing the experience with grandchildren; and, all three generations joining together.

PRICE

Cato University's low price of \$925 covers all meals, receptions, lectures, materials, books, and evening events, but not overnight room charges at the Rancho Bernardo Inn.

THIS YEAR'S PROGRAM

Freedom's Campaign in the 21st Century will be held at the Rancho Bernardo Inn, a luxurious resort near San Diego. It will energetically take you through the prospects for and threats to freedom in the United States and around the globe. The faculty includes leading U.S. and international experts:

REJOICE NGWENYA, a brave leader of the opposition to the brutal regime of President Robert Mugabe in Zimbabwe and a regular columnist for Cato's African initiative, *AfricanLiberty.org*.

PROFESSOR ROBERT MCDONALD

of the U.S. Military Academy at West Point.

DR. ANDREI ILLARIONOV, a senior fellow at Cato's Center for Global Liberty and Prosperity, who served as chief economic adviser to Russian president Vladimir Putin.

DR. TOM G. PALMER, director of Cato's Center for Promotion of Human Rights.

DR. PETER VAN DOREN, a senior fellow at Cato and editor of the quarterly magazine *Regulation*.

GENE HEALY, senior editor at Cato, whose new book, *The Cult of the Presidency: America's Dangerous Devotion to Executive Power*, is already receiving extensive praise.

FULL DETAILS ARE AVAILABLE AT
WWW.CATO-UNIVERSITY.ORG



CATO INSTITUTE • WWW.CATO-UNIVERSITY.ORG

Bill Bradford, writing as Ethan O. Waters, summarized his position:

To me, the most salient finding of the Poll is that libertarian moral thinking is not very rigorous. How else can one understand the fact that 11% believe a parent should be allowed to starve his kid to death, but 39% believe a parent should be allowed to kill his kid by malnutrition? Or explain why only 2% would face death by dropping from the 49th story of a building rather than violate property rights, but fully 22% would face freezing to death in a situation identical in other respects?

Although nearly all libertarians (89%) agree with the non-aggression axiom, a great many are willing to dispense with it when convenient: 47% will risk killing an innocent hostage to save a greater number of people in an emergency, and another 25% will kill the hostage outright if necessary; 89% will trespass to prevent a parent from starving his child for the fun of it; 98% would rather trespass than die in the flagpole question, including 14% who would restrict their trespassing to his flagpole and 84% who would go so far as to enter another's residence; 78% would force their way into an occupied building rather than face freezing to death; 73% would interfere with a neighbor's right to keep and bear arms if those arms are powerful enough.

It is apparent that many of those willing to dispense with the nonaggression axiom have no clear or consistent criterion for deciding when to dispense with it.

A Personal Note

When I consider the ethical situations posed in the Liberty Poll, I feel a great deal less emotion than I felt 20 years ago when we posed them for the first time. It all seems perfectly clear to me now:

1. In the case of the shopping center guard, you shoot through the hostage if necessary; in the case of the parent mistreating the child, you certainly prevent starvation, but you may or may not choose to interrupt the radical diet; in the case of the flagpole, you force entry; in the case of the blizzard, you force entry and it should not be considered aggression by the legal system; and, finally, in the case of the neighbor with an atomic weapon, you take it away from him.

2. It is important now that I have established what I want to achieve with my ethical system, that I work out a consistent set of rules that both leads to those conclusions and (within that constraint) maximizes individual freedom.

I realize how flippant and irresponsible this second point must sound, especially to those who have spent years trying to derive and maintain an ethical system from first principles. All I can say is that when I was young I did spend huge amounts of effort studying these questions. I benefited from exchanges with many wonderful libertarians and read many gifted authors. It is true that I ended up spending most of my creative energies in my later years in science, and I may well have acted imprudently in not spending more effort trying to strengthen my grasp of how social systems should be structured. However, I have come to appreciate efforts to formulate systems that, for the most part, achieve a set of desired ends, but do not pretend to achieve universal justice. That is, I see the merits in carefully considering things like the common law, Hayek's comments, and Richard Epstein's attempts to formulate a set of simple rules that don't need to work perfectly, but do work fairly well (I have only recently begun to study Epstein's work; I can only say that I wish I had encountered it earlier). Maybe this all means that the libertarian movement and I have drifted apart, but that is not how I see it.

It seems to me to be similar to the situation faced in physics when it was clear that Newton's laws explained a great deal, but that there were a few facts that seemed to clearly contradict what those laws predicted. A great many physicists chose to ignore the discrepancies, believing that the power and accuracy of Newton's insights were beyond question. However, it was out of careful analysis of the anomalies that Einstein was able to formulate the way forward. In a real sense, Einstein's work did not invalidate Newton's, but rather extended it. I believe that these quite rare emergency situations do focus attention on details that challenge the universality of the nonaggression principle. To be blunt, arguing for dropping off flagpoles is silly. It boggles the mind that some libertarians do so while claiming to base their arguments on an egoistic framework.

I believe that we live in a world in which the opportunities for individuals to achieve their potential are dramatically improving, thanks largely to the remarkable spread of capitalism and freedom, that there are still many truths to be clarified, and that intellectual ferment is a good thing. We should seek consistency, but not demand it; what we need to demand is an open, honest search for truth. □

Reflections, from page 21

2nd Amendment protects the individual right of a person to arm himself. Period. Arguments about "collective rights" are just statist sophistry. This sophistry is the reason I can't take a group like the ACLU — despite some good work that it does — seriously as a philosophical or political advocate.

Heston supported the clear meaning of the 2nd Amendment. And he did so even though he was mocked in some circles for it. With the early King as one of his models, why would Heston care about the ridicule of peevish minds?

After Heston died in early April, some eulogists said that he was "complex" for having bridged the gap between the Selma marches and the NRA. I doubt Heston would have considered this a complex matter. The right of a man to be treated

equally as all others is very close to his right to arm himself so that he and his family aren't beaten or molested.

If more black people living in the South during Jim Crow had been armed, there might have been fewer lynchings.

Of course, the way that Heston earned the money and reputation to afford his "complexity" was as a movie and stage actor. Critics say that he often overacted.

In the 1980s, I saw Heston in a stage version of the Caine Mutiny Court Martial. He played the damaged Captain Queeg, raving about frozen strawberries and rolling ball bearings obsessively in his hand. Maybe he was hamming it up. But, more than 20 years later, I can remember the performance very clearly. Firsthand. — Jim Walsh

Reviews

"The Prince of Darkness: 50 Years Reporting in Washington," by Robert D. Novak. Crown Forum, 2007, 662 pages.

Prince of Darkness or Angel of Light?

Stephen Cox

If you've ever seen Robert Novak in his natural element — a television panel in which he plays one of the Five Expert Observers of Our Nation's Capital — you know that he's likely to be the smartest, plainest-spoken pundit of them all. It's not just his deep growly voice that makes him special; it's his ability to cut through the jargon and the platitudes and the circumlocutions and say openly what others pussyfoot around. You don't have to agree with his specific views (I suppose I would call him a mildly libertarian conservative, but he's capable of surprising me) in order to respect his candor and individuality.

And now, just as one might predict, he has written a book that is unusual, even strange, in many respects.

One seldom encounters a biography — much less an autobiography — that says exactly how much money the protagonist made, either in general or on specific commercial transactions. Novak flouts tradition by making a detailed accounting of his earnings — and often of his spendings too. He goes further: he insists on translating the sums into contemporary dollars, which nobody

else ever does. Novak is neither boasting nor complaining: he made a lot less than one would expect a grade-A journalist to make, but his earnings weren't contemptible, either. What he's trying to do is explain the world he's lived in. If you're curious about how the mainstream media (familarly known as the MSM) actually run their business, this is the book for you. It doesn't just offer the financial facts; it also shows, in enormous detail, how the deals are done and the money is generated, as illustrated by colorful stories of Novak's experience as a reporter, columnist, and television commentator over many decades. (He's been a fixture on Meet the Press, Evans and Novak, The McLaughlin Group, The Capital Gang, which he founded, and many other shows.)

Few other self-biographers (at the moment, I can't think of one) tell how much they drank. Novak describes a typical day in the 1970s. First, "lunch with a news source," accompanied by one or two Scotches and a bottle of beer; then some afternoon work, followed by an hour at the bar and two Cutty Sark's; then cocktails at home, followed by dinner with wine: "That adds up to around eight alcoholic drinks for me during a normal workday. That's

a lot of booze, but there was considerably more intake for me on any day that I attended a dinner party or reception or was on the road, as frequently was the case. And there were occasions when I, a forty-something, would go on a collegiate-style drinking binge." The sorry details follow (298–99). You'll be happy to know that Novak eventually changed his ways; you'll be unhappy to know (though perhaps you would have guessed) that a lot of the elite journalism and politics of the 1950s, 1960s, 1970s, and 1980s floated on enormous tides of alcohol. Novak's passages about drinking make you wonder how either he or the republic survived.

Again, he's not boasting — in this case, about his toughness and masculinity. One of the strangest features of this book, given the author's aggressive approach to journalism and the obvious pride he takes in his gift for "making life miserable for hypocritical, posturing politicians" (14), is its remarkable degree of modesty. Where else can you find a writer who describes a column completed after an agonizing trip to the hospital as reading "no worse than usual" (626)? Where else can you find an inside-the-Beltway journalist excoriating one of his own reports as "the

worst kind of inside-the-Beltway analysis," completely isolated from America at large (402)? Where else can you find a Washington reporter worrying, after 25 years, about whether he'd pulled his punches on a high-level politician: "It bothered me in 1982 and still troubles me today" (389). Where else can you find the subject of a flattering article in Newsweek reporting that the story was written by "a close friend . . . Little in Washington is on the level" (115).

There's plenty more: "This was just about the worst column I wrote during four decades . . . I was such a sucker for an exclusive story that I sometimes committed errors indefensible even for a cub reporter" (235). "That reeked of overconfidence" (220). "They have not withstood the test of time" (said of columns written in the Kennedy administration [102]). "This poster [advertising the author's writings] was put in New York subway and commuter railroad stations, making my forehead a favorite target for obscene graffiti" (100).

If Novak's book has a fault, it's a fault that is virtually inevitable in a journalistic memoir — a good memoir, anyway: Novak doesn't spend much

time on issues that weren't his beat. Thus, you will see a good deal of commentary on Vietnam, which Novak visited repeatedly while the war was on, but very little on the student rebellions against it — events with which he had little contact and, apparently, little intellectual engagement.

Yet on issues that he did cover, he is perfectly willing to get down and dirty. I think it's unfortunate that he highlights his involvement in the Valerie Plame "CIA leak"; he was the central journalistic figure in that affair, yet the affair itself was of no importance, as he himself recognizes. The hue and cry over the revelation that Ms. Plame-Wilson had a desk job at the CIA was nothing more than anti-Bush agitation, to which the Bushites lent their asinine cooperation. Still, something can be learned from Novak's revelations of the folly and pomposity of other participants. Thank God, he is not a member of the smarmy, humorless, pseudo-statesmanlike, Walter Lippmann school of journalism; so there's some chance of getting the truth out of him.

A lot of that truth has to do with the biases of other high-class journal-

ists. Other mainstream Washington reporters routinely express round-eyed bafflement over the impression — generated somehow — that they are dedicated partisans of modern liberalism and the Democratic Party. Novak offers a lifetime of evidence substantiating the charge.

One of my favorite episodes in the book features Joseph Alsop, a "conservative" news guru of the '50s and '60s. Hearing John Kennedy deliver some remarks that he'd heard many times before, Alsop "jumped on the press table and began chanting: 'Jack! Jack! Jack!'" Odd behavior for a nonpartisan reporter. Yet Alsop, Novak observes, was simply "more ostentatious than other journalists . . . [T]he press corps was solidly for Kennedy. Traveling with Nixon the last week of the campaign, I was having drinks with other reporters in a hotel bar. Somebody mentioned to star reporter William Lawrence of the New York Times that it was tough duty on the Nixon tour. 'No,' Bill said, 'I think I can do Jack more good when I'm with Nixon'" (73).

Flash forward to election night, 2004, when exit polls indicated that

NEW BOOK FROM THE CATO INSTITUTE

"This splendid book provides the best account yet of how the Imperial Presidency, abetted by Democrats and Republicans alike, came to pose a clear and present danger to our republic."

— ANDREW J. BACEVICH

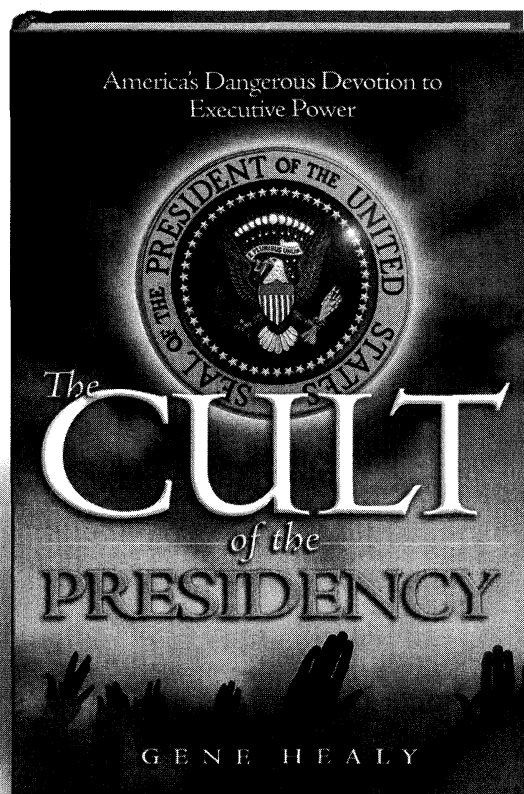
Author, *The New American Militarism: How Americans Are Seduced by War*

"Gene Healy provides an important public service by puncturing the inflated hopes and dreams of an all-wise, informed, and well-intentioned president. This fundamentally flawed conception of executive power makes us less safe, less free, and less constitutional."

— LOUIS FISHER, Author, *Presidential War Power*

Americans have increasingly expanded presidential power over recent decades by expecting the president to provide solutions for all national problems, prosperity for all, and protection from harm. Healy demonstrates how the president's role needs to return to its properly defined constitutional limits, with its powers held in check by Congress and the courts.

\$22.95 • HARDBACK • 978-1-933995-15-1



Buy your copy at bookstores nationwide, by calling 800-767-1241 or visiting Cato.org

John Kerry, the Democratic nominee, was going to win. At CNN studios in New York “a celebration was in place . . . CNN staffers were ecstatic” (626–27). The fact that the Democratic Party of 2004 stood for very different things from the Democratic Party of 1960 appears to have made little difference to the ecstatic MSM. “Whither thou goest, I will go” — so long as thou art a Democrat.

But journalistic bias isn’t necessarily limited to political parties or causes. It is also extended to power per se. Novak recalls abominable personal behavior by both Republicans and Democrats, by politician after politician, that no reporter ever considered reporting. Novak was there, during Richard Nixon’s 1960 campaign, when the candidate discovered that a TV set had not been arranged to his liking. He exploded, and he “continued his profanity-laced rant up to airtime, but not a word appeared in print or on the air. The wire service, radio-television, and periodical press pool reporters did not report his conduct. Neither did I as the daily press pool reporter. That’s the way journalism was in those days” (76).

Novak makes a similar report about Bill Clinton’s 1992 campaign. Clinton and his people could simply lie in the face of the few reporters (Cokie Roberts of NPR was one of them) who dared ask questions about his remarkably repul-

Elite journalism and politics of the 1950s–1980s floated on enormous tides of alcohol.

sive “private” life, without any fear that the MSM would make an issue out of it. Clinton and his handlers knew that the MSM “shared my view that Clinton’s dalliance with Gennifer Flowers and however many other women was not grounds for political inquiry” (although, of course, the displays of marital bliss doled out by Mr. and Mrs. Clinton were eagerly retailed). “I had not seen the press corps so excited by a presidential candidate since John F. Kennedy . . . They did not want Clinton

brought down by the tabloid press” (494–95). Novak later repented of his paternalistic attitude toward voters. His colleagues, basically, didn’t. They had to be driven like cows into reporting on Clinton’s corruption, and they found plenty of ways of evading the part that went beyond sex.

For over 40 years Novak has been known by the unflattering title of “Prince of Darkness” — a name first given him by a Washington reporter who noted his “unsmiling pessimism about the prospects for America and Western civilization” (102). In a way, his book lives up to the phrase. One reads it with the grim pleasure of finding one’s worst imaginations confirmed. If “what’s past is prologue,” if the events he chronicles and the important people he knew are Act IV of American history, we may see complete disaster in Act V.

It’s not that most of the people he describes were evil; it’s that there was a total disjunction between their professional competence and their vision of the world. Novak identifies many journalists and other opinion leaders (even politicians) as smart, competent, and fun to be around; but these good qualities exist in isolation from their ignorant, reflexive politics, whether modern liberal or neo-conservative (Novak hates both kinds). One doesn’t care how nice a guy Al Hunt or Jack Germond may be, when off the TV set; their intellectual quality still appears to be nonexistent. Even Novak’s longtime journalistic partner, Rowland Evans, a man he liked and even respected, lost his head over Bobby Kennedy. Most of the people we meet in this book never had a head to lose.

Among major politicians, only Ronald Reagan and Daniel Patrick Moynihan come out looking really good — Reagan for understanding the threat of collectivism, both internal and external, and working cleverly to meet it; Moynihan for understanding the dangers of social planning and issuing courageous warnings about its effects. Yet Reagan is depicted as a man surrounded by mediocre assistants and allies, and Moynihan (a personal friend of Novak’s) as a politician who withdrew into a protective shell of official liberalism.

“I found it hard,” Novak says, “to fall in love with any presidential candi-

date (even John F. Kennedy and Ronald Reagan, both of whom I liked personally) because, as a reporter, I observed them at close range” (497). As for other politicians: Eugene McCarthy was little more than an embittered “cynic” (155–56). Al Gore “demonstrated that

Only Ronald Reagan and Daniel Patrick Moynihan come out looking really good.

he was even more of a phony than I had thought” (566). Newt Gingrich exemplified “the desire of politicians without inherited wealth to become powerful and rich . . . As politicians dealt with fabulously rich benefactors benefiting from their legislative decisions, they yearned for their share of the gold” (519). “Jerry Ford, the nicest person to be president during my career, was ill equipped for the job. He was a quintessential product of the House and of the minority Republicans, suffering from a pernicious side effect of perpetual minority status: lack of a clear ideology guaranteeing the absence of a clear agenda” (261).

John Kennedy’s anticommunist idealism was “mostly posturing,” while “Nixon’s conservatism was mainly rhetorical. Nobody can claim he was less committed to big government than Kennedy, who had the saving grace of being a tax-cutter — a quality that eluded Nixon” (77). And there was the inimitable Lyndon Johnson: sometimes a disgusting drunk, always a crude manipulator and sufferer from “megomania” (82). Kennedy was “a failed president,” but “Johnson was a disaster” (103).

It is Jimmy Carter, however, who fares worse than any other president in this book. From Novak’s point of view (and who can differ?) Carter was a self-important nobody, a silly demagogue, “a liar and charlatan” with a “manic grin” and a phenomenal degree of stupidity (289, 295, 283). Novak reports that Carter’s treasury secretary, proposing to inform him about problems of taxation, recommended that he read

some books. "I'm way ahead of you," Carter replied. "I've started reading the Internal Revenue Code." "It was," Novak comments, "as if somebody interested in automotive engineering

Jimmy Carter was a self important nobody, a demagogue, "a liar and a charlatan."

had started by reading a mechanic's manual word for word." The treasury secretary tried to argue: "Mr. President, I really don't think that's the way to go about it." Carter, invincible in self-righteous ignorance, "flashed the frozen smile and steely gaze, saying, 'But, Mike, I do, and I am the president.' That summed up the Carter presidency" (302).

By the time Clinton rolled around, Novak's appetite for stupidity was well nigh sated. But I do like his anecdote about Clinton's way of choosing an attorney general. After two nominees, both women, had to withdraw because of scandals over illegally employed nannies, "Clinton, in a temper tantrum, demanded a woman who did not have and never would have any children and, therefore, no nanny. That peculiar standard for an attorney general produced Janet Reno . . . Reno critics in Miami [where she came from] could not have cared less about her sexual preferences, but they were stunned that this woman of minimal talents was to be attorney general of the United States" (502). Not everyone was capable of such objectivity. Because Reno was suspected of being a lesbian, the MSM unleashed a "deluge of praise for a woman nobody knew" (502). The nation would endure this Frankenstein's monster, this hero of Waco, Texas, for eight long years.

Novak regarded the first George Bush as a blunderer, hopelessly out of touch with the American people, and his White House as a place "where the spin doctors believe their own spinning" (479). Even before the second George Bush was in office, he detected "an ominous tendency by the Bush inner circle toward secrecy and decep-

tion" (568). In Novak's opinion, Bush Jr. is plainly a failure, a person who has accomplished almost nothing of the conservative domestic agenda, has led the nation into an unnecessary war in Iraq, and now refuses to "let the Iraqis sort out their own problems" (628). Novak's skepticism about Iraq has led to violent attacks by fellow conservatives. He responds by suggesting that the Republicans may have run "out of [useful] things to say" (628). It's hard to disagree with him.

The really bad part of this is the fact that the Republican Party used to be a major vehicle for many essentially libertarian ideas, ideas that Novak espouses: "limited government, economic freedom, and a strong, prudent America" (14). To give this another formulation: "small government, low taxes, individual economic freedom, civil liberties, defense preparedness, restraint in foreign policy, free trade, and [opposition to] reliance on politicians" (637). You can argue about "defense preparedness" (though I wouldn't); and it's evident that Novak came to some of these ideas in the midst of his career, not at the start. But this only makes his narrative more interesting, and more poignant. He frequently projects the attitude of a person who embraces important ideas just at the moment when other influential people are rejecting them.

But is that true? Do the misfortunes of the Republican Party advertise the eclipse of libertarian-conservative ideals? I doubt it. I believe we have entered an era of confusion, in which certain libertarian ideas, those most directly associated with free expression, in the broadest sense of that term, are becoming more firmly established every day; and in which other libertarian ideas, while contested, have nevertheless rooted themselves deeply in major political communities: property rights, tax limitation, small government, skepticism about foreign intervention and alliance.

Yet I am troubled (as Novak is) by the fact that the advocates of these various ideas often turn out to be advocates of other ones, too — ideas inimical to liberty. I think, for example, of modern liberals who are firm on certain kinds of "personal" rights but crusade to destroy "economic" rights. And, overshadowing every debate, there remain

the commanding heights of state power: vast and ever-growing institutions and institutional cultures devoted to "education," "healthcare," "security," "minority advancement," and meddling of every kind. Any additional meddling could prove disastrous to American liberty and American well-being.

Novak anticipates a continued regime of bad ideas and destructive policies. Yet one ray of optimism appears, at least by contrast: Novak's copious notes on past journalistic and political practices indicate that the American public now has much more opportunity to learn the truth than it had before.

One pungent example can stand for many: Novak spends several amazing pages discussing the career of Edmund Muskie, a man who, by the grace of God, is now forgotten but who was Hubert Humphrey's running mate in 1968 and might have been nominated for president in 1972. Publicly known for his somber judiciousness, Muskie was actually "an erratic personality with an uncontrollable temper . . . dull and devoid of ideas." Novak describes a bibulous luncheon with Muskie, during which the candidate "dron[ed] on about his agenda for America." Novak was nearly asleep when the senator surprised him by asking for his views. Novak started to answer, but in only a minute Muskie himself dropped off — "a deep slumber with snoring. I stopped

The nation would endure this Frankenstein's monster, Janet Reno, for eight years.

speaking, but that had no effect on the sleeping senator. At last, I cleared my throat loudly. Muskie awoke with a start, and I said: 'And those are my views, Senator.' 'Very interesting, Bob,' he said" (212–213).

Later, Novak joins Muskie for an interview on his campaign plane, and Muskie occupies the whole ride by yelling at an aide for arranging his schedule so that he missed a Sunday mass. But here's the important part. Even Novak, who was outraged by Muskie's

behavior and considered him wholly unfit for public office, never divulged his experience. He merely reported that "irrational scheduling, uncoordinated speechwriting and tardy organization" weakened the Muskie campaign: "I didn't write about his Sunday morning temper tantrum. Reporters permitted close access to candidates did not reveal such incidents in those days. Nor did I write about whether a person with a hair-trigger temper was the right man to be president" (214). As always, Novak's candor is refreshing. Still more refreshing is the implication that today, this behavior might possibly be reported.

But another example makes me wonder. This one comes from Teddy Kennedy's campaign for the presidency in 1980. An incident took place in which Kennedy's psychological and marital problems came to light. The press response was silence: "We all knew that Joan [Kennedy] was an alcoholic, that Teddy had a severe drinking problem, and that the marriage was doomed. But nobody, myself included, wrote about those things. . . . I strongly suspected he never would be president of the United States" (346).

The good thing about this is that the dynamic forces within American society — the competition of ideas and interest groups that are bound to arise in a free economy — meant that a demagogue like Kennedy could be beaten in the primaries even by such a ludicrous failure as Jimmy Carter, whether or not Kennedy's problems of character were insisted upon by the national press. The bad thing is that even Chappaquiddick couldn't oust him from the Senate. Meanwhile, the internet and the ever-to-be-cherished tabloid media, with some lagging assistance from the MSM, have demonstrated that Bill Clinton has virtually all the characteristics one associates with the villain in a Victorian novel, and his wife is probably worse. Still, he has supporters, and she may be president.

In other words, if you're looking for the final battle between good and evil, I don't think we've arrived at it yet. That may come in Act V. In the meantime, Act IV, scene 7, Robert Novak's autobiography, provides a welcome relief, at once comic and tragic, entertaining and disturbing. □

"Leave Us Alone: Getting the Government's Hands Off Our Money, Our Guns, Our Lives," by Grover Norquist. William Morrow, 2008, 360 pages.

Leave Us Alone!

Bruce Ramsey

Grover Norquist is the doyen of politically active rightists in Washington, D.C. Every Wednesday some 120 of them meet in the offices of his Americans for Tax Reform to find out what's going on. These meetings have made Norquist influential on the Right and reviled on the Left.

The interest to libertarians in Norquist's book is how he defines his alliance. It is the Leave Us Alone Coalition — such disparate groups as antitax activists, business owners, stockholders, gun owners, landowners, homeschoolers, religious believers, and parents'-rights folks. They make the same demand of the state regarding the thing they care about: to be left alone.

The reality of the Right is messier. But you have to accept messiness in politics — and Norquist is a practitioner, not an academic.

The key idea that libertarians might take from Norquist is that people believe many things but vote on one thing. "Yes, there are disagreements among members of the Leave Us Alone Coalition," he writes. "But the key question is always . . . do you vote on this issue? As a member of the board of directors of the National Rifle Association, I can assure you that many NRA members have what I consider the oddest views on free trade with China. But they vote on guns."

To illustrate his idea, he draws a Venn diagram of three overlapping cir-

cles. The small area inside all three circles is the consistent Leave Us Aloner. That is the person libertarians want, because it is the person like them. Norquist is after the much larger group that exists inside at least one of the circles. He wants a coalition that can define the Republican Party and win elections. His long-term goal, he says, is to fashion an America that is individualistic and competitive, and that continues to be different from Europe.

His opponents, whom he calls the Takings Coalition, want to expand the American welfare state into a full social democracy. He defines these people with a Venn diagram of government employees, nonprofits, trial lawyers, academics, and leftists. Together, he says, they set the direction of the Democratic Party, whose goal, he writes, "is to maximize the number of Americans who believe they are totally dependent on politics for some key zone in life: their retirement income, their children's education, their health care, or their parents' health care, housing, food stamps, or even their employment."

Like other divisions of humanity into two groups, this is idealized. A lot of the local Ds and Rs in politics fit neither of these definitions. Some things directly contradict them. The Takings Coalition includes women voting on the single issue of the freedom to have abortions. Norquist says the abortion question hinges on how many persons are involved: a woman only? or a woman and a baby? The abortion ques-

tion, in his view, is outside of his definition of "Leave Us Alone" and is more a matter of belief.

Norquist leaves out some groups that don't fit into the conservative coalition: recreational drug users, for example. There is no mention of leaving them alone (but no call to persecute them, either). Norquist's coalition includes the military and police, who are government employees. He writes, "If the government employee in question is doing a job whose job description can be found in the Constitution, he or she is a strong candidate for the Leave Us Alone Coalition."

And what of war? The conservatives' usual definition of their position is "pro-market, pro-traditional values, and pro-defense," with "pro-defense" meaning something more than defense. It is notable that Norquist does not include defense in his definition of the Takings Coalition. He has left it out. He is not interested in it.

My lefty friends would point out these seeming contradictions with smirks and chuckles. Leave us alone? Ho, ho, ho! But Norquist's Leave Us Alone Coalition is not meant to be a sociological description of the American Right so much as a principle for organizing it. He wants the Right — and, particularly, the Republican Party — to think in these terms about itself.

Surely libertarians would approve of that. "Leave us alone" is their idea.

To win elections, and win them decisively (i.e., with a majority of 60 in the Senate), Norquist says the coalition has to grow. What counts in that regard, he argues, is to use the power of government to defend each of the groups in your coalition. Follow policies that will foster more self-employed people, more gun owners, more stockholders, and more homeschoolers. Promote individual accounts in Social Security and individual health insurance and parental choice in education — all policies that require individuals to take responsibility. And always work to

cut taxes, because tax money is what the government uses to turn us into dependents.

"The greater the number of dependent Americans, the stronger the left," Norquist writes, arguing that the goal of the Republican Party should be "to

reduce the number of Americans who need such aid and see the government as their parent."

This is not a book aimed at libertarians — which is good. Let the conservatives read it, and see where it gets them. □

"Discover Your Inner Economist: Use Incentives to Fall in Love, Survive Your Next Meeting, and Motivate Your Dentist," by Tyler Cowen. Dutton, 2007, 221 pages.

Economics for Fun & Profit

Martin Morse Wooster

A few years ago University of Chicago economist Steven D. Levitt made an astonishing discovery that would change the nature of economics forever. Economics, he discovered, didn't have to be boring. In fact, economics could be fun, wacky, and sprightly.

In collaboration with journalist Stephen J. Dubner, Levitt wrote "Freakonomics." The market rewarded Levitt and Dubner handsomely, and ever since then, other economists have tried to see if they can write bestsellers too. Libertarians wrote many of these books, most notably "The Undercover Economist" by Financial Times columnist Tim Harford.

Now Tyler Cowen steps into the fray with "Discover Your Inner Economist." Cowen, an industrious man, heads the Mercatus Center, a free-

market thinktank. He also is a George Mason University economist and runs Marginal Revolution, one of the more popular economics blogs. Cowen has written several other books, and has shown a commendable interest in art and culture.

"Discover Your Inner Economist" is lighter than Cowen's other books, although there's plenty of research cited in it. There are also all sorts of fun facts; I enjoyed learning, for example, that there's a book about competitive eating called "Horsemen of the Esophagus."

Cowen's book is an entertaining, if uneven, look about how economic thinking can help shape the way we live, love, and do business.

For most of us, one's "inner economist" is that little calculator in your head that tells you, "Don't buy the regular size can. Buy the giant can. You'll save with the giant can."

But Cowen shows that your inner economist can do much more. It can tell

www.LibertyUnbound.com

Don't miss the

www.FreedomFest.com

Liberty Editors Conference 2008

Your favorite Liberty editors and contributors; your favorite subjects!

In conjunction with

FreedomFest 2008 • 866-266-5101 • See page 22

you how to end a meeting, or start that classic novel you've ignored for years; it can tell you where to find a good ethnic restaurant.

This book is an amalgam of an economics text and Miss Manners. Cowen offers advice that's certainly original. For example, he suggests that when your sweetie complains, "You're treating me like property!" it's wise not to respond, "Do you mean private or public property?" But some of his advice is simply odd. For example, the Inner Economist doesn't just buy a ticket to a movie; he buys a ticket, watches the first 20 minutes of the movie he's paid for, and then if he doesn't like it, walks out and sees part of another movie: "If I can walk out of a movie, I can see other parts of the movie the same day. One day I saw parts of four movies. I was happy, not frustrated by the experience. Three of them were better than I expected."

Cowen is on somewhat sounder ground when dealing with ethnic restaurants. A famous foodie, Cowen has compiled an extensive list of his favorite restaurants around the world. His suggestions for picking a restaurant are interesting: Choose strip malls in edgy areas with many minorities. Ask the server, "What is best?" and listen carefully to any serious suggestions. And, particularly in Chinese restaurants, let the server know that you actually know something about his country; you may get to eat an entree that isn't on the English-language menu.

A still better chapter is Cowen's advice on charity. All of us want to help others, but our desire to give runs into formidable obstacles. Give to one charity and you get flooded with "urgent" appeals from scores of others. Give to a beggar and you encourage begging. What should you do?

First off, don't give to beggars. Giving does increase begging (a process that economists call "rent exhaustion"). Cowen thinks it better to give to a poor person who didn't ask for the money — a sleeping homeless person, for example. But it might be equally effective to patronize the struggling people who are trying to offer something useful. Buying dinner in an inner-city restaurant with really good food helps. Or give to buskers — but only if they play

music you like.

As for organized charities, Cowen suggests you might find a few you like, write them, and tell them you'll contribute every year — but only if they agree not to sell your name to other nonprofits. Fundraisers prize regular donors — and they should readily agree that your steady checks are worth more than any money they'd make from selling your name.

"Discover Your Inner Economist" isn't an explicitly libertarian book. But what Cowen quietly teaches is that economics matters, and that you can use the lessons it teaches (time matters; scarcity matters) to live a better life.

You'll get a deeper knowledge of markets from Cowen's enjoyable book. And, I believe, the more you understand about markets, the deeper is your appreciation of liberty. □

"Socialism After Hayek," by Theodore A. Burczak. University of Michigan Press, 2006, 181 pages.

"The Cambridge Companion to Hayek," edited by Edward Feser. Cambridge University Press, 2006, 359 pages.

"A Life of Friedrich August von Hayek," by C.E. Cubitt. Authors on Line, 2006, 391 pages.

Hayek Lives

Lanny Ebenstein

The recent appearance of these three works (among many), written from different perspectives, indicates that interest in the Viennese sage is alive and well. This is a strong sign of his greatness. Hayek once commented on the eclipse that almost all great minds suffer in the generation or so following their demise. That interest in him is, if anything, increasing shows his stature among the intellectual benefactors of humanity.

Burczak's work has attracted some attention among Hayek scholars, including Richard Ebeling and Steve Horwitz. Burczak writes from the perspective of postmodern Marxianism and is well read in much of the Hayek literature, as well as the literature of Marx. Burczak thus continues the more than a century of mutual interest between Marxian and Austrian economists.

Burczak begins his work with an excellent analysis of the problems that the division of knowledge — problems that Hayek so effectively discussed — must cause for many aspects of traditional Marxianism. When Burczak writes that Hayek's "work is unified by a common concern: to understand the limited and socially constituted nature of human knowledge and to trace the implications of this radical epistemology for the theory of human action and social evolution" (1–2), he states a conception of Hayek's work with which many Hayekians would agree. Students of politics and economics can learn much from Burczak's presentation of Hayek's thought, together with his insistence that it be incorporated in any accurate theory of human action.

Burczak's own analytical problem, as he defines it, is whether there can be socialism without planning and with private property, since he largely

accepts Hayek's idea that large-scale planning is unfeasible and private property is necessary to communicate economic information. Burczak's response is that such socialism is possible, through workers' cooperatives that retain decentralized planning and private property.

Although Burczak does not cite him, John Stuart Mill stated some similar views in the 19th century. From the perspective of this writer, both Burczak and Mill underemphasize the importance of the entrepreneur. The great failing of collectivist planning, in either governmental or private form, is that individual decision-making appears to be vital for much economic productivity. Democratic decision-making, via workers' councils (as Burczak and Mill propose), has usually been unsuccessful in economic endeavors. Democratic forms of economic management cannot compete with individual entrepreneurship, even if this entrepreneurship is exercised by a CEO. To the extent that individual entrepreneurship is essential for economic growth and prosperity, even private workers' cooperatives would be ineffective and uneconomic.

"The Cambridge Companion to Hayek" is a great contribution. I have looked at many such collections on various thinkers, as well as collections on Hayek, and have usually been underwhelmed. Contributions are ordinarily of uneven quality, and there is no unifying theme. This is not the case with Edward Feser's Cambridge collection. It is the best collection of articles on Hayek assembled to date. All future serious Hayek scholarship will have to incorporate this volume.

One of the best aspects of this compendium is that its contributions track the historical development of Hayek's thought, beginning with his youth and early adulthood in Austria, through his work in technical economics in England in the 1930s, continuing with his emerging interest in political topics from the later 1930s through the 1970s, and including discussion of his developing interests in philosophical and psychological subjects. It is a tour de force.

In a collection of so many exceptional essays, it is hard to pick the best, but this reviewer thinks that the contributions by Andrew Gamble, on

"Hayek on Knowledge, Economics, and Society"; by Chandran Kukathas, on "Hayek and Liberalism"; and by Gerald Gaus, on "Hayek on the Evolution of Society and Mind" are among the best pieces on Hayek's thought that have been written. Other fine, thought-provoking essays include those by Robert Skidelsky, Roger Backhouse, Meghnad Desai, Anthony O'Hear, Eric Mack, and Feser himself. It is interesting to see that both Mack and Gaus note interpretive problems with respect to

Hayek's "The Fatal Conceit."

Gamble calls Hayek's theory of knowledge "his most distinctive contribution both to economics and to social science," and emphasizes that for Hayek this theory is based upon "'our irremediable ignorance'" and the "'dispersion and imperfection of all knowledge'" (111). Hayek argued that human imperfection with respect to the possession of knowledge rendered central control of a diverse economy impossible. Gamble concludes: "Hayek's last-

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 a member of the Liberty and Power blog at the History News Network.

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

Marilyn Burge lives in Portland, Ore.

Jerome Cole is a student living in Guangzhou, China.

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

Lanny Ebenstein teaches economics at the University of California Santa Barbara and is the author of biographies of Friedrich Hayek and Milton Friedman.

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

Jon Harrison lives and writes in Vermont.

Gary Jason is an adjunct professor of philosophy and a contributing editor to *Liberty*. He is the author of *Critical Thinking: Developing an Effective World View* and *Introduction to Logic*.

Ross Levatter is a physician living in Phoenix.

Keith Lofstrom lives in Beaverton, Ore.

Bill Merritt is a sometimes-novelist living in Gaborone, Botswana. If you are offended at what he has to say, you are welcome to try to pursue him through the Botswana legal system.

Ross Overbeek is a cofounder of the Fellowship for Interpretation of Genomes.

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

Bruce Ramsey is a journalist in Seattle.

Mark Rand is managing editor of *Liberty*.

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

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

Todd Skousen is a graduate of Rollins College with a degree in Economics. He currently lives in Utah working in the film industry as a screenwriter as well as on varied commercial film shoots.

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

Jim Walsh is an assistant editor of *Liberty*.

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

ing achievement was to focus attention on the limited and fragmentary nature of knowledge in modern societies and the need for social and economic theorists to make that the cornerstone of their thinking" (131).

Chandran Kukathas, who holds a chair at Hayek's old stomping grounds, the London School of Economics, offers a thoughtful consideration of Hayek's role in the continuing development of liberalism. "Hayek's liberalism is best understood as a response to socialism" (183), Kukathas observes. Like Gamble, Kukathas emphasizes Hayek's views on the importance of knowledge: his "distinctive contribution is his account of social institutions and rules of conduct as bearers of knowledge" (184).

Kukathas emphasizes that, for Hayek: "Liberalism was not merely a universalist creed but an internationalist one which did not recognize the moral significance of national boundaries" (196). In this element of his thought, Hayek followed a little-known predecessor at the London School, Edwin Cannan, who preached internationalism as an essential component of true liberalism.

Gaus' essay puts Hayek's view of institutions in the broader context of his ideas. Here is a very thoughtful and careful discussion of Hayek's views on the evolution of society and mind — and how the two are connected. Gaus notes that Hayek linked the notions of evolution and spontaneous order. Evolution is what makes spontaneous order possible. As institutions and knowledge evolve, they become increasingly complex. Knowledge is embedded in institutions. Optimal institutions allow evolution. Gaus comments on the "genius of Hayek's linking of complexity theory, spontaneous ordering, social evolution, and neural networks into an overall account of mind and human society" (254).

Turning now to the biographical field: Charlotte Cubitt's memoir of her years with Hayek, from 1977 until his death in 1992, will be an essential source for every future biographical treatment of these years of his life and for every sustained treatment of his entire life. There is no other document like it.

Much of the value of Cubitt's work comes from the circumstance that the author, who is not an academic, writes

from a personal point of view about Hayek the man. She provides important information, for example, about his physical condition in his later years, when, from the summer of 1985 until his death in March 1992, he was largely incapacitated. She also has a good deal to say about his relationships with Hayek collected works editors William

Bartley and Stephen Kresge, and provides considerable detail about Hayek's marriages.

Although this plethora of good work about Hayek demonstrates his continuing interest and importance, one hopes — and expects — that more such work is to follow. Hayek's was a mind for the ages. □

"Miss Pettigrew Lives for a Day," directed by Bharat Nalluri.

Focus Features, 2008, 92 minutes.

"Leatherheads," directed by George Clooney. Universal, 2008, 113 minutes.

Screwy Enough?

Jo Ann Skousen

The screwball comedy, a mainstay of the 1930s film industry, gave Depression-era audiences a chance to laugh at the foibles of the upper class. The films were populated with "madcap" young ladies who flaunted societal rules while still wearing their white gloves and girdles. These women were high-spirited and audacious, but they never let the audience forget they were ladies. In the 1934 masterpiece "It Happened One Night" (which has been remade at least five times under different titles), Clark Gable erects a "chastity blanket" between himself and Claudette Colbert that remains firmly in place until a wedding ring is placed on her finger in the final scene.

The screwball comedy purports to be back this season with not one but two entries — the charmingly titled "Miss Pettigrew Lives for a Day" and the less romantically titled but more satisfying "Leatherheads." Both do a fine job of recreating the costumes, hairstyles, music, and settings of the 1930s, but only one succeeds in creating the innocent atmosphere and snappy rep-

artee of the genre.

"Miss Pettigrew Lives for a Day" tries very hard to achieve a frenetic pace, and it seems to fit the screwball formula: set in the 1930s, it begins with Miss Pettigrew (Frances McDormand), down on her luck and out of a job. She stumbles into a position as personal assistant to Delysia LaFosse (Amy Adams) through a classic case of mistaken identity. Miss Pettigrew then spends what is intended to be a madcap day following her new employer around, helping her juggle the affections of three young men, and ultimately deciding which one is best for her.

The premise is fine, but the film falls flat. Much as I have admired Adams and McDormand in other works, I couldn't help longing for the cool wit of Irene Dunn and the moralizing wisecracks of Thelma Ritter. Depression-era romantic comedies were frothy and effortless, witty and genteel. In this film the luscious Amy Adams simply tries too hard to carry the show, and McDormand settles for being Mary Poppins. There is no genuine chemistry from either actress, and no biting wit from the script.

The film fails also because the

screenwriters forgot the first rule of 1930s comedy: nice young women keep their gloves and their girdles on. Adams does her best to display wide-eyed innocence, but that innocence is hard to swallow when theater-producer Phil is lying naked in her bed, nightclub owner Nick is on his way up to the apartment for a roll in the same hay, and pianist Michael is due under the covers this evening. Even in the 21st century we have a name for that kind of woman, and it isn't "madcap." Come to think of it, "screwball" is probably a more accurate moniker than the producers intended. (Forgive me for that unladylike pun.)

"Leatherheads," on the other hand, works on several levels. Set in 1925, the story purports to chronicle the birth of professional football, as a down-but-not-quite-out football player (George Clooney) figures out how to tap into the popularity of college football and lure its fans to professional sports. The dialogue (written by Sports Illustrated columnists Duncan Brantley and Rick Reilly) is smart and sassy, the cinematography sepia-tinted and nostalgic, the musical soundtrack jazzy and authentic. The scenes of the team members traveling by train reminded me of another classic Clooney film, "O Brother, Where Art Thou?", also a parody of films of the '30s. He must really like that era.

It does suit him. As professional football player Dodge Connelly, Clooney seems to be channeling Clark Gable, with a generous dose of Cary Grant thrown in. A master of the double-take and the raised eyebrow, Clooney always seems to have just thought of that cocky comeback himself. Moreover, he exudes upper-class charm even when he's covered with mud — and upper-class charm, albeit with a thumb of the nose at upper-class snootiness, was always the draw of screwball comedies.

Renee Zellweger, who with her squinched-up eyes and smug sweetheart mouth can sometimes be hard to look at, nevertheless performs well as Lexie Littleton, the smart and smart-alecky girl reporter looking for dirt on war hero turned football star Carter Rutherford (John Krasinski). Zellweger doesn't quite rise to the standard set by Rosalind Russell in "His Girl Friday," but she comes close. And she keeps her girdle on. □

"Stop-Loss," directed by Kimberly Peirce. Paramount Pictures, 2008, 113 minutes.

Cut Your Losses

Todd Skousen

"Stop-Loss" takes its title from a favorite media buzz phrase, referring to the practice of forcing active-duty soldiers to return to the battlefield when their tours are up. Despite a good cast and a provocative subject, the film is what you would expect to see if MTV attempted to make a modern-day "Deer Hunter." Though it brings out the true costs of war, borne by the soldiers who fight it, director Kimberly Peirce ("Boys Don't Cry") beats the viewer over the head with these costs, employing overly dramatic and clichéd devices rather than giving a realistic portrayal of the men fighting in Iraq.

For all its drawbacks, "Stop-Loss" actually starts out quite well. Several soldiers are joking around at a checkpoint when a taxi full of insurgents opens fire. The soldiers load up and chase the taxi, only to be led into an ambush in a narrow alleyway. Taking cover from the tense shootout, the U.S. soldiers end up moving room to room in an apartment building filled both with families and enemy combatants. As might be expected, some women and children are killed, as well as an American soldier named "Preacher." Let the post-traumatic stress disorder begin.

When boyhood friends and fellow soldiers Brandon King (Ryan Phillippe), Tommy Burgess (Joseph Gordon-Levitt), and Steve Shriver (Channing Tatum) return to civilian life in their small Texas town, life does not begin unraveling slowly as it did for Tom

Cruise's character in "Born on the 4th of July." Instead, their lives completely collapse in a matter of hours, like a bad country song. Burgess turns to the bottle and his wife leaves him by midnight. Shriver beats his girlfriend and trashes his house. And then, the bombshell: Brandon King, the levelheaded one, is stop-lossed.

Of course, in real life King would probably complain a lot, go see his family's lawyer, and in the end give up and report back to base. But hilariously, preposterously, the cinematic King instead decides to take a road trip with his best friend's girlfriend to Washington, D.C., to see his senator. This road trip consists of war flashbacks, fistfights, soldiers with missing limbs, and, of course, random stops at bars for shots. Finally, King comes to an important realization: turning to the U.S. government in order to solve your problem with the U.S. government might not be the best plan.

In the end, it's a pretty standard, if unbelievable, war-veteran formula. Peirce merely takes the stories of Vietnam veterans and attempts to apply them to the Iraqi conflict. But by focusing only on the emotional trauma suffered, Peirce overlooks the more interesting problem with the Iraq war: that is, that none of the soldiers in Iraq really seem to care what they are fighting for. Today's all-volunteer soldiers have varied reasons for enlisting: family tradition, funds for college, boredom, wanting to blow stuff up, and yes, a desire to serve the country. But is anyone there because he felt Iraq was a

threat to the United States?

A lot of films and literature about the Iraq war reflect this attitude. Curtis Brizell's book *"My War"* tells the story of a bored young man who enlists in the army because his life sucks. In his book, he describes his first firefight, in which about 100 Americans are unloading on a mosque while yelling things like "Woohoo," "Get some," and "F you Mosque" as they fire away. In *"Shooter,"* Marine sniper Jack Coughlin describes his desire to improve American efficiency, become the best sniper, and collect the most confirmed kills — but not to free Iraqis. These books confirm the characterizations in movies like *"Jarhead"* that portray American soldiers as a bunch of gun-happy yahoos

fooling around in Iraq. If you've ever watched Iraq war highlight videos on YouTube, you know that these stereotypes aren't too far off.

Had Peirce focused on the question of why we're fighting in a conflict that our people don't really care about, *"Stop-Loss"* could have made a compelling film. But by the end, you don't care at all about this poor guy who failed to read the small print in his army enlistment contract. Instead, you find yourself reflecting on the original meaning of stop-loss, a predetermined point at which you sell off a poor investment. You wonder what bad information led you into this mess and if you can possibly cut your losses and get your money back . . . kind of like the war in Iraq. □

***"South Pacific,"* directed by Richard Rodgers and Oscar Hammerstein. Vivian Beaumont Theater, Lincoln Center, New York.**

Teach Your Punters Well

Jo Ann Skousen

During World War II, while serving as a lieutenant in the navy, James Michener wrote a collection of vignettes about island life, calling it *"Tales from the South Pacific."* The book won the Pulitzer Prize for Fiction in 1948, and launched Michener's career as a prolific writer of sweeping epics.

Meanwhile, Broadway superstars Richard Rodgers and Oscar Hammerstein were searching for a new vehicle with which to follow their gigantic musical hits *"Oklahoma!"* (1943) and *"Carousel"* (1945). Securing the rights to Michener's *"Tales"* they used two

of the stories as the intertwining plots for *"South Pacific,"* one of the finest musicals of the 20th century and arguably the best of the R&H canon. (In fact, their adaptation won another Pulitzer, this one for Drama, in 1950.)

Hammerstein used Michener's melodramatically titled *"Our Heroine,"* about a "cockeyed, optimist[ic]" young nurse who falls in love with an older French planter, as the main story line, which introduced such well-loved songs as *"Some Enchanted Evening,"* *"I'm in Love with a Wonderful Guy,"* and the richly remorseful *"This Nearly Was Mine."* The equally important subplot, about a Tonkinese souvenir seller named Bloody Mary who arranges an

affair between her daughter and the American sailor Joe Cable, is based on Michener's *"Fo' Dolla'"* and introduced the beautiful standards *"Bali Ha'i"* and *"Younger than Springtime."*

These songs are as familiar as the Beatles songbook, yet here's the amazing thing: *"South Pacific"* has not been seen on Broadway since the original production closed in 1953, after a lucrative 4-year run. I saw a wonderful production of it at the Prince of Wales Theater in London's West End in 1988, and most musical aficionados have seen the 1958 film version. High schools across the country perform it every year. But, incredibly, *"South Pacific"* has never been revived on Broadway. Until now.

"South Pacific" opened this April to a limited run at the Vivian Beaumont Theater at Lincoln Center, and it is marvelous, with Kelli O'Hara as Nurse Nellie Forbush, Brazilian basso Paolo Szot as French planter Emile de Becque, and Matthew Morrison as doomed lover Lt. Joe Cable. If you will be in New York this summer, you simply mustn't miss it. The music soars, song after glorious song.

Stage technology has come a long way since 1948, with massive sets moved around by hydraulic lifts; it's not unusual these days to find helicopters landing on stage or cars seeming to fly into the audience. But set designer Michael Yeargan chose to remain true to the original format, creating a gorgeous but simple beach as the main background and then moving uncomplicated props in and out to create a navy base for one scene, de Becque's terrace for another, the navy war room for a third. The simplicity draws one's eye to the shimmering beach and Bali Ha'i, looming in the distance with the promise of "your own special hopes, your own special dreams."

So why has it been so long since *"South Pacific"* has been seen on Broadway? One reason may be that, despite its marvelous music, its theme of prejudice against interracial marriage doesn't transfer well to post-civil rights audiences. We're uncomfortable even with the history of racial intolerance. In fact, the people sitting in front of me were so offended by Nellie's rant against Emile's "half-blood children" at the end of Act 1 that they did not return for Act 2. And that's a shame because,

of course, by the end of Act 2 Nellie has faced her bigotry and overcome it. She has learned to love the children as if they were her own, bringing the audience along with her.

When Nellie wails, "I can't help it. I can't accept who they are, who their mother was; it's the way I was raised," and later, when Joe Cable tries to explain to his Tonkinese sweetheart how cruelly she would be treated if he brought her home to Philadelphia, Hammerstein was deliberately playing on the prejudices of the 1950s audience. He wanted them to go into the intermission nodding sadly in agreement, "It would never work. Surely Nellie will end up with that handsome Joe Cable."

But then comes Act 2. Joe's bitterly cynical lament, "You've got to be taught / To hate and fear . . . It's got to be drummed/ In your dear little ear/ . . . You've got to be taught before it's too

late . . . To hate all the people your relatives hate / You've got to be carefully taught!" guides the audience to face its own prejudices and make room in its heart for tolerance. The song was considered so subversive in the 1950s, when it began its national tour, that the House Committee on Un-American Activities tried to have the song removed from the score, with one Southern legislator proclaiming, "A song justifying interracial marriage is implicitly a threat to the American way of life."

Of course, Rodgers & Hammerstein refused and the song remained. In fact, challenging audiences to overcome prejudice was the underlying theme in most of their plays. In "Oklahoma!" they urged, "The farmer and the cowman must be friends"; in "The Sound of Music" they reminded audiences of Nazi chauvinism; in "The King and I" a British schoolteacher falls in love with

the Siamese king and dances joyfully with him. Even earlier, Hammerstein had teamed up with Jerome Kern to produce "Show Boat," in which a woman of mixed race is banished and destroyed by bigotry.

In 2008, we may think we have overcome such bigotry; we cringe when we hear words as offensive as Nellie's desperate confession spoken in public, even by a fictional character set in WWII. We have become accustomed to interracial marriages, and are poised to nominate the product of one such marriage to run for the presidency of the United States. But bigotry is still alive in the 21st century, and nothing has been more topical or divisive during the presidential campaigns this month. Perhaps it is good to be reminded, "before it's too late," that bigotry of any kind is "carefully taught," and that tolerance can be just as easily learned. □

The Ethics of Tort Reform, *from page 28*

My reply is that the vast majority of people have health, auto, home, and other insurance, for just this reason: to protect against what are in effect the acts of nature. And if I am harmed by a product that I chose to buy, a product that was not negligently designed or produced, and turned out to harm me through no fault of the producer, it is as if an act of nature caused the harm.

But what about all those people who can't afford health and accident insurance? Well, the pricing and financing of healthcare is a serious social problem (and the topic for another essay), but social problems require social solutions. In the meantime, it is simply unjust to allow juries to force an innocent party to pay.

It is worth reiterating that one U.S. state and virtually all the major nations in Europe already have the loser-pays system. Yet I must admit honestly that getting it enacted into law in this country is a daunting task.

There are two major barriers.

The first is the power of the chief rent-seekers in this field, the trial lawyers. They are articulate, skilled in using the law to their own ends, well-connected politically, and in danger of losing a great deal of income if reform triumphs. This power explains why only one state (Alaska) has enacted loser-pays (although Oklahoma and Oregon both have some form of loser-pays in a few areas of their tort systems).

The second is that tort reform needs to be passed on both

the state and the federal level, because the U.S. Congress — under the "Erie Doctrine" — has limited power to mandate state court rules and procedures.¹⁴

Any meaningful, just tort reform will face a long struggle, state by state and nationally. Is it worth it? Yes, it is. □

Notes

1. www.pacificresearch.org.
2. *Op. cit.*, x.
3. *Op. cit.*, xii.
4. The Economist (Dec. 16, 2000) 35.
5. Stephen P. Magee, "The Optimum Number of Lawyers: A Reply to Epp," Law & Social Inquiry 17 (Autumn 1992) 667–93. This article is downloadable from the website jstor.org.
6. AP report in the Orange County Register (Oct. 30, 2007). See also the AP report in the Orange County Register (Sept. 19, 2007).
7. "Kentucky Trial Derby," The Wall Street Journal (Aug. 20, 2007).
8. See "The Trial Bar on Trial," The Wall Street Journal (Nov. 30, 2007).
9. www.atra.org
10. "The Doctors Are In," Investor's Business Daily (July 13, 2007).
11. Ralph Blumenthal, "More Doctors in Texas After Malpractice Caps," The New York Times (Oct. 5, 2007).
12. Blumenthal, *op. cit.*, 2.
13. Peter Huber, "Galileo's Revenge: Junk Science in the Courtroom," (New York: Basic Books, 1991).
14. The Erie Doctrine originated in a 1938 Supreme Court decision, written by Judge Louis Brandeis, which requires federal courts to follow the state common law when deciding issues concerning that state's law.

Liberty Editors Conference 2008

In conjunction with

FreedomFest 2008 • July 10–12, 2008 • See page 22

866-266-5101

www.LibertyUnbound.com

www.FreedomFest.com

Brattleboro, Vt.

Community initiative, noted in the *Rutland Herald*:

Brattleboro residents will vote at a town meeting on whether President George Bush and Vice President Dick Cheney should be indicted and arrested for war crimes, perjury, or obstruction of justice if they ever step foot in Vermont. "It is an advisory thing," said Kurt Daims, the organizer of the petition drive.

Daims said people in Brattleboro were willing to "think outside the box" and consider the issue. "If Hitler were still alive and walked through Brattleboro, I think the local police would arrest him for war crimes."

San Antonio

Novel exercise in academic integrity, from the *San Antonio Express-News*:

It seemed like an honorable goal: draft an honor code for University of Texas at San Antonio students to follow, exhorting them not to cheat or plagiarize. But when students threw a draft of the new honor code onto the internet for feedback, some noticed a problem: parts of the code appeared to have been lifted word for word from another school's honor code, without attribution. Even the definition of plagiarism was plagiarized.

Akshay Thusu, the student in charge of the honor code effort, said it was an oversight, the result of a draft that was crafted five years ago and passed through different students and faculty advisers before landing in his lap. "We believe there might be a citation page," Thusu said. "We are still looking for it."

London

A new hero comes to the big screen, from the *Guardian*:

Thomas Sangster, the young boy who gets the girl in the film "Love Actually," has been chosen by Steven Spielberg to be his Tintin for a three-movie adaptation of the boy reporter's adventures.

Sangster admitted to the *Guardian* that he had not read Tintin until a few days ago. "But I've always loved the cartoons. I never saw the books because I was never that big on reading. When I was really young I watched some episodes and loved it. Tintin would hit people over the head with bottles and shoot people. He probably wouldn't kill them but he'd shoot them in the shoulder. He was cool."

Shivpuri, India

Proliferation of sawed-off shotguns on the Subcontinent, reported by the *India Times*:

A bandit-infested region is trying to persuade men to undergo sterilization by offering to fast-track their gun license applications.

Officials decided to adopt the policy to increase the low vasectomy rate. "I came to know that it had to do with their perceived notion of manliness," said Manish Shrivastav, administrative chief of Shivpuri district, part of the Chambal region, which is famed for its lawlessness and bandits. "I then decided to match it with a bigger symbol of manliness — a gun license," he said. "And the policy worked."

Dharamsala, India

Explanation of the peculiar machinations of destiny, captured by ABC's foreign-affairs blog:

U.S. Speaker of the House of Representatives Nancy Pelosi made one of the highest-ranking U.S. official visits ever to Dharamsala, India, the exile home of the Tibetan spiritual leader, the Dalai Lama.

This visit by ten members of Congress to the Dalai Lama's home in exile was planned long before the current protests in Tibet began. But Pelosi said, "Little did we know, we would be coming at such a sad time. Perhaps it was our karma, perhaps it was our fate . . . it was our karma because we are here to help the people of Tibet."

Manatee County, Fla.

Respect for our elders, in the *Sarasota Herald-Tribune*:

Prosecutors are moving ahead with a case against a 93-year-old man picked up during an undercover prostitution sting.

Frank Milio, according to police records, tried to pay \$20 in November to an undercover officer on 14th Street West. Milio recently told the *Herald-Tribune* he was only flirting with the woman. "I haven't had that in years," he said. "Ninety-three is kind of old."

Mexico City

Artistic advance in street-fight choreography, from a dispatch in *Wired*:

A series of attacks on dyed-hair, eye-makeup-wearing emo kids began in early March when several hundred people went on an emo-beating rampage in Querétaro, a town of 1.5 million about 160 miles north of Mexico City.

But the so-called emos are organizing, too. Last week, they demonstrated against the violence, and some met with police in Mexico City. "They're organizing to defend their right to be emo," wrote Daniel Hernandez of *LA Weekly*.

Riverside, Ohio

Innovative approach to computer repair, spotted by the *Dayton Daily News*:

Police say a pastor who was reported missing from his home in western New York has been found at an Ohio strip club.

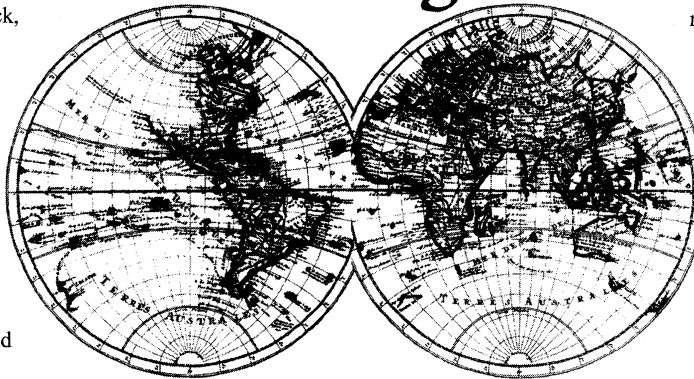
A police officer patrolling the K.C. Lounge parking lot in the Dayton suburb of Riverside spotted out-of-state license plates on 46-year-old Craig Rhodenizer's car. The FBI and New York authorities had been searching for Rhodenizer, who disappeared Wednesday after telling his wife he was getting his computer fixed at Best Buy.

Boston

Addition to the Transportation Security Administration's No Fly List, noted by the *Boston Globe*:

The crew of an Alitalia flight made an emergency landing at Logan International Airport after being overcome by noxious fumes. However, the reports of a toxic chemical leak that sent Boston firefighters and emergency workers into their hazmat suits turned out to be five tons of minced onions.

Terra Incognita



Special thanks to Russell Garrard, Jon Harrison, Tom Isenberg, and David Martin for contributions to Terra Incognita.

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

Like any small business, my family's furniture store depends on effective advertising.

But the City of Lynnwood told me I couldn't use portable signs that it allowed others to use.

I fought back for free speech.

And I won.

I am IJ.



John DeRaspe
Lynnwood, WA

www.ij.org

Institute for Justice
First Amendment litigation